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Behind prison walls: reported sexual assaults in men's prisons in England and Wales

by

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Abstract

Behind prison walls: reported sexual assaults in men's prisons in England and Wales

This thesis provides the first insights into prisoner on prisoner sexual assaults recorded in adult men's prisons (N=844) in England and Wales. Findings are based on a ten-year reporting period (2004-2014) using the Incident Reporting System (IRS) data from Her Majesty's Prison and Probation Service (formerly known as the National Offender Management Service).

Empirical studies, mostly from the United States, have focused on prevalence measures and the characteristics of individuals and institutions most likely to be involved in reported sexual assaults. Evidence about sexual assaults in prison settings from England and Wales is sparse. This thesis examines trends in reporting and the characteristics of victims and perpetrators involved in these reports. Analysis of the IRS data was influenced by using an adaptation of Carlen's (2008) concept of 'imaginary penalties' as a theoretical framework. Explanations for the continuation of staff and prison service responses to sexual assaults that produce limited formal outcomes are considered in the context of new managerialism. The methodological approach was pragmatic given the data quality and scale of the IRS and its origins as an administrative dataset rather than a research tool. The mixed methods design produced three datasets; the first formed from the predominantly quantitative IRS data, the second from coding of the sole qualitative data field consisting of incident descriptions, and the third from small-scale interviews with prison staff. This thesis finds that insights into prison sexual assaults and their impact on the pains of imprisonment have been restricted by the opacity of headline figures routinely published in Ministry of Justice *Safety in Custody Bulletins*. Official statistics neglect to disclose the paucity of data quality used to compile them, and lack context and detail, failing to grasp the brutality of prison sexual assaults and the absence of consistent criminal justice outcomes for victims and perpetrators. Evidence of continued staff activity in response to sexual assaults suggests a preference for short-term measures with low prospect of formal outcomes. Finally, the rationale for collating data about sexual assaults lacks purpose and clarity. Future changes to the administration of recording sexual assaults are required to deliver justice, reduce risk, and improve future practice.

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Declaration of Authorship

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I declare that this thesis and the work presented in it are my own and has been generated by me as the result of my own original research.

I confirm that:

1. This work was done wholly or mainly while in candidature for a research degree at this University;
2. Where any part of this thesis has previously been submitted for a degree or any other qualification at this University or any other institution, this has been clearly stated;
3. Where I have consulted the published work of others, this is always clearly attributed;
4. Where I have quoted from the work of others, the source is always given. With the exception of such quotations, this thesis is entirely my own work;
5. I have acknowledged all main sources of help;
6. Where the thesis is based on work done by myself jointly with others, I have made clear exactly what was done by others and what I have contributed myself;
7. None of this work has been published before submission

Signature:		Date:	
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Abbreviations

ACPO Association of Chief Police Officers, disbanded in April 2013. Some functions have been replaced by the National police Chiefs' Council

BAME Black, Asian and minority ethnic

CM Custodial Manager

CPS Crown Prosecution Service

GBH Grievous Bodily Harm

HMIC Her Majesty's Inspectorate of Constabularies

HMCPIS Her Majesty's Crown Prosecution Service Inspectorate

HMIP Her Majesty's Inspectorate of Prisons

HMPS Her Majesty's Prison Service

HMPPS Her Majesty's Prison and Probation Service

HOCA Home Office Counting Rules

IDs Incident Descriptions

IRS Incident Recording System

LGBTI lesbian, gay, bisexual, transgender and intersex

MOJ Ministry of Justice

NCRS National Crime Recording Standard

NOMS National Offender Management Service

NOMIS National Offender Management Information System

NPS New Psychoactive Substances'

NRC National Research Council

ONS Office of National Statistics

PLO Police Liaison Officer (a role in place during data capture period 2004-2014)

PIO Prison Intelligence Officer (new police role which has replaced PLO role)

POA Prison Officers' Association

PREA *Prison Rape Elimination Act 2003*

SPSS Statistical Package for Social Scientists

UK United Kingdom

US United States

Chapter 1 Introduction

1.1 Research context

The reporting, recording and initial response to sexual assaults in prisons in England and Wales has been a neglected area of academic enquiry. While there has continued to be a focus on criminal justice responses to rape and sexual assaults committed in the community, this interest has not extended to those incarcerated in prisons in England and Wales. In contrast, international research, mostly from the United States, has sought to elucidate levels of sexual abuse in prisons and the characteristics of incidents, even passing legislation to require prisons to adhere to reporting and prevention standards (Gaes and Goldberg, 2004; Struckman-Johnson and Struckman-Johnson, 2013). Some formative efforts, such as those based on health improvement agendas (Green *et al.*, 2003) or prisoners' rights (Stevens, 2015), have sought to ascertain staff and prisoners' experiences and views of prison-based sex and sexual assaults. Efforts were made by the Howard League for Penal Reform (from here referred to as 'The League'), a UK based, campaigning charity whose mission is to work towards less crime, safer communities, and fewer people in prison.

In 2012 The League, instigated an academic-led investigation, referred to as an independent 'Commission', into sex and sexual coercion in prisons. The League's research proposal was blocked by a ministerial intervention from the Justice Secretary, Chris Grayling, who denied the Commission access to prisons, prison staff and those currently serving sentences, including those released from custody but still on licence (Green, 2014). Compromises made by the National Offender Management Service¹ (NOMS) that larger samples could be developed from four prisons using a survey (which may have provided an initial prevalence rate) were rejected by the Commission. Alisa Stevens, academic lead for the League, argued that attempts to steer the work of the Commission towards quantitative research were evidence that NOMS placed 'emphasis on "outcomes" and "impacts" [which] indicate[d] governmental preference for research which is primarily administrative, technocratic and policy-related - not critical, sociological and theoretical' (Stevens, 2019:9). Although research was completed and published under the auspices of the

¹ NOMS was replaced by HMPPS on 1 April 2017. As NOMS was the agency that gave permission for access to the IRS and was the data owner for the dataset, references throughout the thesis are made to NOMS rather than HMPPS.

Commission (Stevens, 2013;2014;2014a;2015), the findings were limited to volunteer samples drawn from former prisoners and staff. The decision to refuse the Commission access to prisons, people and data was made by the government and justified by NOMS, partly on the basis that permission had been approved for a doctoral student to access their centralised sexual assault data held on the Incident Reporting System² (Green, 2014; Stevens, 2019:6). This thesis is the product of the NOMS approved request for access to the reporting data.³ The data analysed by this thesis holds a fundamental key to understanding the ways in which sexual assaults are reported by prisoners in England and Wales and how these incidents are responded to by staff and then recorded. Its findings are based on an analysis of previously unavailable data from the IRS providing a stronger and more nuanced understanding of reported sexual assaults in prisons. The analysis of this data presents a unique opportunity to revisit the debate about criminal justice outcomes for prisoners.

Rather than adopting an uncritical, un-sociological and non-theoretical standpoint, as implied by Stevens (2019:9), this thesis has analysed all of the reported incidents involving adult men in England and Wales. It has used an adaptation of Pat Carlen's (2008) 'imaginary penalties' theoretical framework to explain the unrealised outcomes of reported sexual assaults. Despite the Commission's claim that NOMS' research priorities were unduly focused on 'outcomes and impacts' (Stevens, 2019:9), the IRS data has highlighted that incidents are rarely fully realised as formal criminal-justice based outcomes. Lack of outcomes has not, the data suggests, deterred staff from continuing to practice without the prospect of an outcome or record their unrealisable activity in the centralised IRS.

1.2 Foregrounding data and men

Calls for access to the reporting data from the centralised IRS have been made by researchers who understand it to be the only current source of prison population based information about

² The Incident Reporting System, introduced in the late 1980s, is a database, used by all prisons in England and Wales to record safety in custody information. It includes reports of deaths, self-harm, and assaults, including sexual assaults. The IRS has now been incorporated into the National Offender Management Information System (NOMIS), although the recording processes and information capture remains broadly the same

³ The data capture period from the IRS addressed by this thesis is 2004-2014. The request for access to the IRS was made to the National offender Management Service (NOMS) in 2013. NOMS was replaced by HMPPS on 1 April 2017. The IRS is now managed by Her Majesty's Prison and Probation Service (HMPPS.)

sexual assaults in England and Wales (Banbury, 2004; Stevens, 2019). The harm caused by imprisonment, coined by Sykes (1958:63) as the 'pains of imprisonment', collectively describes five main deprivations or losses experienced by prisoners: liberty, goods and services, heterosexual relationships, autonomy and security. The significance of loss of security is central to this thesis and raises the question of whether loss of security may extend to exclusion from legal protection or as Goffman (1961:25) termed it, 'civil death'. Although relatively rarely reported and recorded, sexual assaults have been documented across the prison estate by almost every prison in England and Wales. Each of the 844 incidents discussed in this thesis and drawn from the IRS, represents a personal violation, described by Goffman (1961:35) as being a dramatic example of 'mortification of the self'.

The chance to examine a full administrative dataset, including all of the reported cases, presents an opportunity to provide a descriptive statistical overview of characteristics of incidents and those involved in them. It also allowed for an exploration of the reporting process itself. Alternative methods, such as ethnographic study or prisoner life stories (Crewe, 2006;2013), might have provided detailed first-hand accounts from serving or former prisoners and staff, but they would not have been able to match the scale and scope that this analysis of recorded assaults has enabled. Emerging patterns of victimisation, such as those linked to prisoner on prisoner drug searches and the dangers of assaults which occur in cells, would not have been identifiable or accessible from smaller-scale, detailed methodologies.

The lack of research on sexual assaults in the prison system in England and Wales applies to prisoners and staff. The focus of my career to date, has been on improving policing and criminal justice services, primarily for women. However, as highlighted by Sloan (2016:8; 2018:123), although men make up the vast majority of the prison population, their experience of imprisonment is normalised. Sloan (2018:123) argued that male prisoners are 'seen (while simultaneously going unseen) as the norm, the stereotype and the population that prison was designed for in the first place'. The IRS data system mainly contains reports of sexual assaults made by men. Initial analysis of the original IRS data showed that of 2,250 people involved in reports of adult sexual assaults (as victims, perpetrators and 'others'), 218 were women. Overwhelmingly, data shows that sexual assaults in prison are an issue for men. To have focused

this thesis on marginal groups may have provided a false start for future researchers with a curiosity about reporting and recording in prisons in England and Wales.

1.3 Research questions

This thesis is led by an overall research question:

What are the initial responses by the prison and police services to adult male prisoners' reports of prisoner on prisoner sexual assaults in prisons in England and Wales?

The overall research question is answered by two subsidiary research questions:

- 1. What are the patterns and characteristics of reported and recorded prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?**

The first question is answered, primarily by descriptive statistical analysis of 'incidents' (N=844) and 'involvements' (N=2,032 victims, perpetrators, and others) from the IRS. Patterns and characteristics of victimisation and reporting, identified by an empirical literature review, have informed the analysis framework. The results of which are reported in Chapter 5.

- 2. What insights do the prison officer-generated incident descriptions (IDs) from the IRS provide about the initial response to prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?**

The second question is answered, primarily from coding of the only qualitative data fields which describe the prison officer's summary of the incident. This thesis refers to the qualitative data fields as Incident Descriptions (IDs). The IDs are derived from incident level IRS data (N=844). Qualitative software was used to code all 844 incident descriptions to identify themes and develop more detailed information than was available solely from the IRS dataset. The results of the analysis of the incident descriptions are included in chapters 5 and 6.

1.4 Overview of the thesis

Chapter 2 provides the theoretical literature review for the thesis. It examines the origins and parameters of Pat Carlen's (2008) 'imaginary penalties', contextualising them in an era of crime

control and new managerialism (Garland, 2001; Bennett, 2016) where prison staff have less interpersonal contact with prisoners (Crewe, 2009). The merit of using an adaptation of Carlen's (2008) theoretical framework as an explanation for prison-based responses to sexual assaults is based on her case study of an Australian prison, in which staff knowingly continued to deliver rehabilitation programmes which were not fully realisable. Process and policy driven imperatives for recording sexual assaults (in and out of prison) are explained in this chapter, which also discusses the barriers to reporting sexual assault. The prominence of the inmate code (Sykes, 1958) and its impact on reporting sexual assault is considered from the context of international empirical evidence. Goffman's (1961) concepts, taken from *Asylums*, have been used in Chapter 2 to frame the experience of the reporting and recording of sexual assaults by 'inmates' and staff charged with responding to them.

Chapter 3 continues the literature review by initially exploring the origins of early prison research which identified the pains of imprisonment (Sykes, 1958). Losses associated with heterosexual sex and security are considered with prisoner adaptation. Empirical studies of sexual behaviour and assaults are traced in Chapter 3, alongside research-based insights into drugs in prisons and their impact and contribution to prisoner on prisoner sexual assaults. The latter half of the chapter provides an overview of the international literature on prevalence and incidence rates and characteristics of institutions and individuals, associated with the reporting of sexual assaults.

Chapter 4 summarises the methodological approach and rationale for the research element of the thesis. It defends the research questions, the inclusion criteria adopted and the justification for adopting a mixed methods approach to the analysis of the IRS. This chapter includes a summary of the processes undertaken to gain access to the data, prepare the data and engage in quantitative analysis and detailed, qualitative coding of the 844 incidents. The research design combines descriptive statistical analysis of the IRS data and qualitative analysis of text-based incident descriptions which are written by prison staff as a summary of the incident. Details of the coding approach taken to analyse the incident descriptions are also discussed. Finally, five small-scale interviews with prison staff are noted, providing the researcher with a clearer understanding of the context in which the data and recording practice is situated.

Chapter 5 reports the results from the descriptive data analysis of the IRS and the qualitative coding, including trends and types of sexual assaults. Results are analysed according to the empirical research outlined in Chapter 3. For example, the type of prison and location of sexual assaults, the offence background of those involved, their age, ethnicity and time spent at the prison. Statistical findings are linked to the empirical studies raising discussion points about the context and implications of the findings.

Chapter 6 discusses the results of the analysis of the IRS in the context of the theoretical framework presented in Chapter 2. Its focus is on the staff practice in prisons in relation to sexual assaults, and how this practice relates to the concept of 'imaginaries'. This chapter draws on the research of Carlen (2008) and others, to consider the 'outcomes' of responses to sexual assaults. The chapter questions whether 'outcomes' were realisable and the extent to which this position may have been understood by staff. Chapter 6 draws upon data from Chapter 5 and additional analysis of the IDs, written by staff. It also introduces explanations provided by interviews with prison staff to extend themes identified by the research and explained by the theoretical framework. The final chapter concludes the thesis, returning to the context of the research and the research questions posed. Chapter 7 provides insight for further research and recommendations for future practice.

Chapter 2 Literature Review: Adaptation of ‘imaginary penalties’ to theorise about sexual assaults in prisons

This chapter draws upon the work of Pat Carlen (2008), Erving Goffman (1961) and other theorists (Garland, 2001; Hope, 2008; Sim, 2008; Crewe, 2009) to describe the social system of prisons, changes to the ideological organisation of the penal system and the introduction and sustained use of new managerialism and centralised performance measuring systems. The chapter argues that the collation of sexual assault recording data in England and Wales has, to some extent, become part of the performance management system which reports on safety in justice, rather than delivering its aims and realising prisoner safety. It contains an adaptation of Carlen’s (2008) theory of ‘imaginary penalties’ and Garland’s (2001) ‘new public management’ of prisons to propose theoretical explanations for prison staff administrative and activity-based responses to sexual assaults in England and Wales. It assesses the potential of Carlen’s (2008) ‘imaginary penalties’ to be applied to *imaginary recording* and *imaginary investigations* of reports of sexual assaults in adult men’s prisons. Using Carlen’s (2008) theoretical framework, it assesses the extent to which the recording of practice and activity, intended as a response to prison-based sexual assaults, are either under-enforced or unrealisable (or both) at the outset, therefore constituting *imaginary responses, investigations and outcomes*.

The analysis of the role of prison staff draws on wider organisational research (Bennett, Crewe and Wahidin, 2012; Liebling, Price and Shefer, 2012; Bennett, 2016), critical sociological perspectives on the power relationships between staff and prisoners (Garland, 2001; Sim, 2008; Crewe, 2009; Crewe, Liebling and Hulley, 2011), the constraints involved in maintaining the prison regime (Goffman, 1961; Crewe and levins, 2019) and the pains of imprisonment (Sykes, 1958; Goffman, 1961; Crewe, 2011a). Goffman’s (1961) work on the impact of total institutions on the self, has shaped the framework used for the analysis of the National Offender Management Service (NOMS) Incident Reporting System (IRS) data. Goffman’s (1961) concepts of the inmate world, the degradation of self and his insights into the features of total institutions have influenced interpretations of the IRS administrative data with the individual prisoner in mind. Carlen’s (2008) structural insights into the futility of unrealisable prison policies and practice have been combined with Goffman’s (1961:1) perceptiveness about the impact of institutions on the people who enter them and, in the case of prisons, how they presume to provide ‘reformed inmates’ in spite of the complexity of processing ‘human objects’. As a literature review, this

chapter focuses on theoretical constructs about the social systems of prisons, their functions and place in society. The second part of the literature review, in Chapter 3, focuses on empirical studies of sexual assaults in prisons. Chapters 2 and 3 combine to provide a full review of the available literature.

2.1 Changes from penal welfarism to crime control ideologies

Fundamental changes to the ways in which formal and informal social control have developed since the 1970s were described by Garland (2001:6) as being so elemental that they have 're-made' society's views on maintaining social order. Garland (1996; 2001:8) argued that from the 1970s there was a 'decline of the rehabilitative ideal', which established penal welfarism focused on the treatment and care of offenders had changed to a penal system based on retribution and protecting the public from offenders. Both the United States of America (US) and the United Kingdom (UK) have, since the 1970s, developed harsher, more punitive criminal justice policies (Garland, 2001; Owers, 2007; Carlen, 2008; Crewe, 2009). Garland (1996;2001) argued that harsher criminal justice sanctions originating in response to a perceived unfairness in the distribution of penalties. Changes to criminal justice policies in England and Wales, such as the implementation of sentencing guidelines and the criminalisation of certain behaviour, have precipitated significant increases in the prison population, inflating the prominence of prisons and their role in maintaining social order (Garland, 2001:14). Similarly, US policies, based on the ideological position that prison provides a deterrent to offending, have vastly increased its prison population leading to the 'warehousing' of prisoners (Irwin and Austin, 1997:156).

In the UK, mobilisation of the crime control model during the Blair government saw a proliferation of criminal legislation. The new legislation and consequent raft of new criminal offences have been identified as being responsible for the inflated prison population (Garland, 2001:14; Carlen, 2008:14). However, a counter argument to the impact of new legislation and increased punitiveness is that, particularly in the US, stringent 'managerialist' enforcement of breaches of community sanctions have been responsible for the swelling of the prison population (Matthews, 2005:189). The ideological rhetoric of the crime control model can be argued to be based on the moral need of governments to be *seen* to support the law-abiding majority while providing tough punishments for the convicted minority, particularly during periods of economic and social insecurity. Carlen (2008:14) argued that the combined forces of a climate of insecurity and the public perception of increased threat was exploited by Blair's government to justify tough populist

penalties on individuals identified as presenting a risk; including young people, people with mental health problems, sex offenders, released prisoners and immigrants. These populist, 'punitive ideologies' relied upon the public perception that previous governments had been unable to curtail the threats of crime (Sim, 2008:136). Extended crime control and auditing measures contained within the *Crime and Disorder Act 1998* were implemented apparently to uphold the views of the moral majority about reducing risk associated with criminals (Carlen, 2008; Sim, 2008). However, as Matthews (2005:179) pointed out, the era widely recognised by criminologists as having been dominated by populist crime control rhetoric also included the development of diverse approaches to reducing crime, including restorative justice techniques implemented as an alternative to imprisonment and criminal justice sanctions. Matthews, in his critique of Garland (2005:175), argued that the 'loose-knit consensus' of criminologists about increases in punitiveness and crime control strategies had ignored the diversity of sanctions and improvements to the treatment of prisoners, and represented a form of theoretical laziness.

The decline of penal welfarism is arguably responsible for less support for rehabilitation, and empathy and concern for prisoners (Garland, 2001). For Garland (2001:4), the focus on actuarial, new managerial approaches to implementing crime control, led to staff, who had trained during the era of penal welfarism, 'bewildered'. In contrast to Garland, Matthews (2005:194) argued that in the UK, during the same period, there had been significant improvements to the physical conditions of prisons and prisoners' rights had also gained some traction. Although, increased punitiveness has been associated with risk-based actuarial systems, these systems may also have increased fairness by operating largely on an administrative basis, without moral judgement (Matthews, 2005:186). Analysis of the sexual assault data, drawn from one of those centralised administrative systems (the Incident Reporting System) is at the heart of this thesis. Assessment of the recording practice and information about the incidents was informed by the criminological debate about welfarism and crime control.

Carlen (2008:18) suggested that crime control rhetoric has been boosted by the suppression of independent academic critique because access to prisons has been restricted to research methodologies which support 'official descriptions of risk'. Studies most likely to have gained access to prisons, prisons data and staff have tended to adopt and argue for an 'appreciative inquiry' approach when studying prisons and prison officers (Liebling, Price and Elliott, 1999;

Liebling, Price and Shefer, 2012:6). In doing so, they may have failed to fully consider the negative consequences and pains of imprisonment (Sykes, 1958). Similarly, research focused on prison architecture (Jewkes and Johnston, 2007) by academics formerly critical of imprisonment (Jewkes, 2005) may have marginalised the central, but fundamental, question of whether prison works (Villettaz, Gillieron and Killias, 2015).

Lack of access to prisons, prisoners and reporting data has been highlighted by academics as a serious impediment to the development of an understanding of the prevalence and nature of sexual assaults in prisons in England and Wales (Banbury, Lusher and Morgan, 2016; Stevens, 2019). It is also possible that generating knowledge relating to sexual 'activity' in prisons has not been the focus of academic researchers and prison authorities because of a conscious 'culture of denial' (Cohen, 1993), in which they would prefer to 'not confront nor feel compelled to address' the issue (Stevens, 2017:1379; 2019).

Hall (2016:2) argued that academics have largely ignored the 'lived sentence' or the prisoner's experience of sentencing; tending instead to focus on the processes associated with the agents of the criminal justice system. Failure to recognise and incorporate prisoner experiences of serving time has led to a form of 'imaginary penalty' because by omission of the lived experiences of prisoners, the real cost of prison on justice and rehabilitation has been excluded from efforts to theorise about criminal justice (Hall, 2016:2). Early theories and commentaries on the lived experience in total institutions (Goffman, 1961) and prisons (Clemmer, 1940; Sykes, 1958; Toch, 1992) have included some scrutiny of the pains of sexual victimisation as well as the absence of sexual contact. However, it is noteworthy that empirical insights into prisoner experiences and staff attitudes have not yielded theoretical explanations which address the lack of institutional response and commitment to realising outcomes from reports of sexual assaults in prisons. Efforts have been made to conceptualise reporting patterns, mainly based on epidemiology and health research (Kubiak *et al.*, 2016). Kubiak's (2016) work, referred to as being based on 'ecological theory', has been limited to US research on individual and institutional risk-based characteristics. Unfortunately, it has not developed into wider theoretical explanations of central questions which address why initial responses to incidents lack the vigour of comparable community-based productive investigations.

2.2 Introduction to the concept of the ‘Imaginary’

The concept of the ‘imaginary’ was first expressed by Althusser (1971:152) to describe ideologies as ‘illusions’ because they represented an interpretation of the world which was different from the reality experienced by the majority of people. Althusser (1971:154) argued that the cause of imaginary inversion of real conditions in society was a dominant minority of ‘cynical men’ who based their exploitation on false notions of the world in order to ‘enslave other minds by dominating their imagination’. As explanation of the reason for the distortion of reality and application of ‘the imaginary’, Althusser (1971:154) argued that people suffered from material alienation in which men [sic] ‘make themselves an alienated (i.e. imaginary) representation of their conditions of existence because these conditions are themselves alienating.’ For Althusser (1971:156), ideologies and imaginary representations exist in the material world and are not simply unconscious beliefs, because they are transposed into practice in ideological state apparatuses.

Carlen (2008:7) applied Althusser’s (1971) theory of ‘the imaginary’ to describe a ‘mode of knowing’ which was exercised by prison staff to suppress ‘other’ knowledge in order to make sense of the ‘anomic contradictions’ and requirements of the strategy and governance of the prison. In arguing that the gap between the reality of the actual social conditions in which the prison practiced rehabilitation, and the ideology (or ‘the imaginary’), Carlen (2008:7) argued that the prison operated by suppression of ‘the other’ knowledge. In this example, ‘the other’ was the fact that there were no effective support or rehabilitation services outside the prison, making it unworkable to assess reintegration of released prisoners and therefore, meaning that rehabilitation was almost impossible. Suppression of knowledge of ‘the other’ allowed staff to continue to deliver (and refer prisoners to) rehabilitation services as if the rehabilitation programmes fully realised their outcomes.

2.3 ‘Imaginary penalties’ in prisons

Carlen (2008:1) used the term ‘imaginary penalties’ to describe what she saw as the futile prison-based policies and rehabilitation practice in which ‘agents’ of the prison (or staff) continued to invest time and money, despite collectively knowing that their efforts did not work because the

rehabilitation objectives were unachievable. Carlen (2008:6) argued that staff in the Australian women's prison which she studied, were conscious that the stated outcomes of the rehabilitation treatment programmes were unrealisable and that they colluded, at all levels, to continue to deliver programmes upon which the funding of the prison depended. Rehabilitation programmes were doomed to fail for several institutional and structural reasons, including the lack of support mechanisms for prisoners both inside prisons and outside in communities (where societal or external factors continued to impact on the resettlement realities of released prisoners). Although accepted failures were integral to the prison programmes, they continued to receive financial support as if they worked (Carlen, 2008:3).

Failure to deliver rehabilitation was also a central theme in Goffman's *Asylums* (1961:73) where the contradiction between what an institution was supposed to do, and what it actually did 'formed the basic context of the staff's daily activity'. For Carlen (2008:12), the 'risk-crazed governance' by government and prison management primarily focused on reducing risk of crime to the general public, partly by funnelling resources from affected communities back to the criminal justice system: an approach that she argued created the ideal conditions for crime. Carlen (2008:5) contended that laudable objectives to reduce offending by implementing rehabilitation schemes were unrealisable because of prisoner vulnerabilities to problems following release (such as homelessness, substance misuse and unemployment). The structural conditions in the community into which prisoners were released remained outside the control of prison authorities. Therefore, released prisoners lacked support services, undermining the objectives of the prison and its system of rehabilitation. As a result, prisoners faced the same problems which had contributed to their original offending and were likely to cause relapses to criminal behaviour (Carlen, 2008:4).

Carlen (2008) went further by suggesting that the prison rehabilitation ideals were 'imaginary' because they were conceived on 'imaginary prisoners' due to the large proportion of prisoners receiving short custodial sentences. Short sentences were widely known by staff to inhibit completion of in-prison 'imaginary' rehabilitation programmes, which did not actually take place because they had been designed to take place over longer time periods/prisoner sentences (Carlen, 2008:2). Despite this, penalties continued to be applied by agents of the criminal justice system because judges and magistrates remained unaware of the shortcomings and accepted the prison governance narratives that they worked (Carlen, 2008:3). The 'imaginary' status of the prisoners and their associated rehabilitation programmes was underpinned by 'imaginary back-

up' (or support services) in 'imaginary communities' (without structural inequalities), neither of which existed in the real world.

Goffman (1961:87) also recognised the contradictions for staff working in 'total institutions' and acknowledged that some staff joined the institutions as professionals, expecting to practice according to their 'calling' and instead discovered that they were exploited to 'add professional sanction' to the system. The imagined or intended focus of professionals, Goffman (1961:88) argued, was invalidated by the need for staff to ensure that 'inmates' were obedient whilst 'giving the impression that humane standards are being maintained and the rational goals of the institution realized'. Garland goes further (2001:18). The pretence that rehabilitation programmes have an impact on prisoner outcomes has, he argued, now given way to an acceptance that the primary role of UK prisons is the protection of the public from the offenders who are contained in them. The concept of 'imaginary penalties' has been applied in this thesis, to explore the recording and initial response to sexual assaults by prison staff.

2.4 Doomed to succeed: Imaginary penalties and imaginary auditing

For Carlen (2008:10), the requirement for prisons to audit and publish their achievements, rather than admit to policy failures which may undermine their 'imaginary' ideological status as agents of crime control, has been central to maintaining the legitimacy of short custodial sentencing. Any challenge to the legitimacy of prisons to continue to carry out 'self-serving' evaluations based on actuarial evaluations of 'ideal prisoners' would also undermine the jobs and terms of employment of the staff and question the existence of the prison itself. Bennett (2016:82) identified a number of strategies employed by prison managers to provide the appearance of achieving targets, coined as 'gaming', and involving the provision of inaccurate or obscured performance information. One example of 'gaming' was carrying completion rates of offending behaviour programmes over the accounting year to give the impression that targets had been met. Bennett (2016:97) suggested that use of gaming 'presented a more positive façade' and that rather than being isolated practice, it formed a routine response to performance management, amounting to the creation of 'imaginary penalties'.

In Carlen's (2008) case study of the Australian women's prison, although prison staff had agency to influence minor adjustments to the rehabilitation programme outcome measures, they retained no power over influencing the overall rehabilitative ethos and objectives of the prison or the wider system. Therefore, staff continued to work towards accreditation, evaluation, and personal appraisals in receipt of the knowledge that goals were broadly unrealisable. The theoretical framework of 'imaginary penalties' as the outcome of 'risk-crazed models of governance' emphasised the need for positivistic social accounting to generate the misapprehension of policy realisation, rather than acknowledging failure (Carlen, 2008:9).

2.4.1 Editing and gaming: Imaginary impacts of prison programmes

Practical and ideological challenges in achieving and measuring the impact of crime reduction programmes have been well-documented (Maguire, 2004; Hope, 2008). However, Carlen's (2008) unique contribution to the debate on whether crime reduction programmes worked, was her assertion that problems with operationalising crime and risk reduction programmes were well known and accepted by prison staff. The concept of 'imaginary' referred to the state of consciousness of the prison staff, describing their continuation of rehabilitation programmes, as if these objectives were fully realisable. Furthermore, it contended that staff and the prison governance met auditing requirements by editing performance measures to ensure that they recorded the 'effectiveness' of programmes. Auditing activity was carried out in full knowledge that it supported the 'official story that prison works' therefore increasing commitment to that system and inflating prison populations (Carlen, 2008:6).

Carlen (2008:6) went further and identified staff use of discretion in performance management as being part of 'institutional worker consciousness' where they made modifications to the auditing frameworks. Modifications to the objectives of rehabilitation programmes then became achievable allowing staff to exercise some individual power. In the Australian prison, the continued role of staff discretion in the 'organisational consciousness' supported the development of and implementation of more expensive programmes of rehabilitation interventions, which allowed them to continue as if the stated outcomes were realisable (Carlen, 2008:7). Editing of performance measures was also described by Bennett (2016:97) as being a tolerated feature of prisons' management which also encouraged a competitive environment in which rivalry between prisons, and even within prisons, thrived as a contest. Bennett (2016:97) argued that 'gaming' or adjusting performance presented an 'appearance of compliance' and was

sometimes carried out because it was viewed as an inevitable response to coping with unrealisable demands.

Conscious over-estimation of the successful impact of programmes, including prison itself, was identified by Hope (2008:45) as being the result of the politicisation of the 'imaginary' assertion that interventions alone could reduce crime without structural changes such as the eradication of poverty. The evidence-based 'movement' that Hope (2008:49) described relied not on professional expertise and discretion but instead on identifying crime trends, through audits and profiles, and selective interventions, all of which responded to crime trends but circumvented professional expertise and discretion. Carlen's (2008:3) focus on the role of evaluation in emphasising the value of interventions, observed that the prison staff in her study, 'informally modified' the measurable outcomes to reflect units of staff activity rather than the unrealisable goals set to reduce crime. Changing measurable 'outcomes' to achievable units ensured that audits reported positive evaluations, even though the broader outcomes of interventions were unrealisable. Carlen's (2008:8) examples of crime reduction measurements, such as recidivism, were replaced with assessments of how programmes were run, satisfaction levels and less stringent measures such as the length of time between imprisonments. These modified outcomes were presented by prison staff as being statements about the effectiveness of the intervention.

The bureaucratic processes associated with the measurement of interventions in Carlen's (2008) study, did not translate into outcomes for real prisoners. However, they did allow the prison to continue to attract political support and funding because the judiciary was unaware that the penalty outcomes they meted out were unrealisable (Carlen, 2008:3). Meanwhile, prison staff continued to behave as if therapeutic rehabilitation was fully achievable and measurable even though the only realised impacts were costs, influence on sentencing and consolidation of the rationale for the continued existence of the prison (Carlen, 2008:5). Goffman (1961:70) also argued that the premise of rehabilitation, that the inmate would maintain standards set by the institution when leaving, was 'seldom realized'. Unrealised rehabilitation for Goffman, was partly due to the impact of a sense of civil freedom on release causing much of what happened in the institution to be forgotten, even though an ex-prisoner's status or 'social position on the outside' had changed permanently.

The erosion of discretion from agents of the current criminal justice system (Garland, 2001; Carlen, 2008; Tombs, 2008; Hall, 2016) and suppression of knowledge about the failure of the system to reduce crime, enabled prison staff to continue the day to day activities of the prison as if prisoners could realise rehabilitation on their release (Carlen, 2008; Bennett, 2016). The ways in which prisoners undertake their sentence and manoeuvre their ways through the prison system and their sentence has been described by Crewe (2011a:510) as a modern embodiment of the 'pains of imprisonment' described by Sykes (1958). Although conditions in prisons have improved from earlier models of incarceration (Matthews, 2005; Owers, 2007), Crewe (2011a:514) argued that current approaches to imprisonment and rehabilitation have impacted on prisoner engagement in programmes, partially because their own performance, progress and potential for release may be hidden from them. The impact on prisoners of their perception of aspects of prison life, such as fairness and openness (Crewe, 2009;2011a), may also be a factor in determining their willingness (or not) to report sexual assaults, allowing their details to be recorded in centralised systems, such as the IRS.

2.4.2 Handling crime in prisons: What the protocol says

The notion of the 'imaginary' provides a useful theoretical lens to examine any activity which may have an unrealisable goal and yet continues to operate in a system, or state apparatus, which simultaneously supports and encourages belief in it. The jointly published *Appropriate Handling of Crimes in Prisons Protocol* (NOMS, CPS and ACPO, 2015) stipulated that agreed principles should be applied to criminal acts committed in prisons to ensure that they are 'properly addressed' and referred, investigated and prosecuted. The *Protocol* (2015:1) was prefaced in terms of maintaining order and control in prisons, protecting prison staff and giving them confidence in the criminal justice system and keeping prisoners safe, noting that prisoners were often vulnerable. The 2015 *Protocol* has since been supplemented by the *Crime in Prisons Referral Process* (HMIC, NPCC and CPS, 2019) which provides greater detail on the ways in which police and the Crown Prosecution Service (CPS) should be informed of criminal activity in prisons. However, the IRS data analysis period under examination in this thesis pre-dates both policy documents, although the concern about responding to crime in prison that led to their publication does not⁴.

⁴ Personal communication with the National Offender Management Service Police Liaison Officer and other NOMS personnel prior to my application for the IRS data, confirmed that there were considerable concerns about crime levels in prisons, although sexual assaults on prisoners was regarded as being a low priority. Other crimes involving theft, minor violence and affray, if fully recorded, had the potential to become local crime hotspots for police forces and an endless source of undetected crimes.

The Protocol (NOMS, CPS and ACPO, 2015) reinforced the importance of recognising and responding to crime in prison by stating that ‘a crime in prison that goes unpunished or that is not dealt with effectively undermines the safety and security of the prison and the effort of the police, the CPS and the criminal justice system as a whole’ (2015:1). In relation to sexual offences, the *Protocol* stated that the normal CPS *Director’s Guidance on Charging* (2013) should be applied. However, in serious cases involving death, rape or other serious sexual assault, referrals the police should result in them seeking charging advice from the CPS, particularly, when a suspect/s has been identified or named. Prisoners reporting crime were defined as ‘victims’ by *The Protocol*, which required them to be treated according to the *Victim’s Code* (MOJ, 2015a).

The Protocol detailed the processes triggered when a crime in prison was reported. For example, prisoners should be able to specify their preference to have their allegation reported to the police and their views should be communicated to the police and the CPS, even in circumstances where a full criminal investigation and prosecution would not take place. *The Protocol* also specified that the police must follow recording practices as set down in the *National Crime Recording Standard* (2003) (NCRS) and the *Home Office Counting Rules* (Home Office, 2016) (HOCR). The HOCR underpin the NCRS. They are a detailed set of rules governing the ways in which police record crimes and crime-related incidents. The NCRS was introduced originally to improve the consistency of crime recording by reducing police discretion (Fleming and King, 2013:16) and facilitating a victim-centred approach which accepted a victim’s perception of whether a crime had taken place. Police forces in England and Wales adopted the NCRS in 2002 which applies to community and prison settings. The timing of police recording of a crime is addressed by the HOCR (Home Office, 2016:13), which instructs police officers to record a crime as soon as the officer is satisfied that it ‘is more likely than not’ that a crime has been committed. This rule was established to reduce delays and the practice of ‘no-criming’ incidents, where it is judged by the police that no crime took place. According to the rules, a ‘no-crime’ label should rarely be applied to a report of a sexual offence, and only where there is verifiable information that the report is false. Attempts to stop police officers and prison staff from subverting systems to ‘adjust’ crime data has presented challenges for researchers and managers alike. Fleming and King (2013:14) argued that police organisations were vulnerable to the organisational demands presented by new managerialism which had caused a ‘growing preoccupation with data management, crime statistics, and crime clearance figures’.

Misuse of the 'no crime' category to close cases with no verifiable counter evidence, or where it was unclear if an offence had taken place, was identified as an example of the police reducing the 'not detected' rate (Saunders, 2012). Similarly, mis-application of the counting rules has been the source of continued criticism by policing and prosecution inspectorates in England and Wales (HMIC and HMCPSI, 2012:18). In particular, the practice of 'no-criming' of reported rapes and building in delays to the recording process, have been subject to scrutiny because they indicate a misuse of police discretion and wilful manipulation of detection statistics. Unethical practices, have been noted as being employed to allow extra time for police and prosecutors to decide if a detectable or 'real rape' has taken place to influence their decision-making and drop cases which are weak and unlikely to result in a detection or conviction (HMIC and HMCPSI, 2012; HMCPSI, 2019).

Risks associated with the dropping of certain cases were addressed by Burton's (2013:206) comparative analysis of 1,200 cases of non-prison based grievous bodily harm (GBH) and rape cases (involving female victims) which identified that 'no criming' amounted to 12% of the overall rape cases. Further breakdown of the 'no-crimes' among the rape cases showed that 46% were recorded as 'no crime'. The remainder were largely marked as 'no further action' (compared with 2% no-criming rate for GBH cases). Burton (2013) argued that the 'no-crimes' rape cases included a predominance of case features which were often linked to victim characteristics such as, intoxication, mental health problems, previous false complaints, no physical injury and no medical evidence to corroborate the report. Police officers often cited lack of physical injury as being the main reason for their perception that there were more false reports in rape cases than in GBH cases. Although there have been improvements in police recording processes for sexual offences (ONS, 2017:16), an HMIC (2014) inspection of police crime recording concluded that one in four sexual offences should have been recorded as such and were not. In the non-prison environment then, the extent to which standards and rules are adhered to remains questionable and inconsistent across different reporting and investigation regimes (HMIC, 2014). Weaknesses in crime-recording, ineffective case-building (HMIC and HMCPSI, 2012) and low prosecution and conviction rates for rape and other serious sexual offences (HMCPSI, 2019) have been identified as being a feature of sexual offence cases during, and following, the IRS data capture period.

Weaknesses in responding to and investigating sexual assaults in prison environments were reported by the Prison and Probation Ombudsman (2013:6), which noted that 'abusive sexual behaviours' were sometimes not taken seriously and that internal investigations were 'variable'

in quality. The Ombudsman's (2013:6) report also stipulated that the 'prison's PIO⁵ should be informed in a timely manner and a police investigation facilitated and, if necessary, encouraged'. In this thesis, relevant elements of the *Appropriate Handling of Crimes in Prisons Protocol* (NOMS, CPS and ACPO, 2015) have been used to examine the initial responses to reports of sexual assaults and their outcomes, as defined by the IRS. Although the *Protocol* was published in 2015, the discussions and work in preparation for publication were prompted by concerns about crime reporting practices in prisons, early investigations and referrals to the police and CPS from prisons, all of which are relevant to the data captured from 2004-2014.

2.5 Reporting sexual assault: What do we know from non-prison reporting?

Reporting sexual offences which have taken place in a non-prison environment has stimulated a wide body of research, most of which is concerned with the impact on victims of reporting to the police (Kelly, Lovett and Regan, 2005). Reasons for choosing not to report sexual offences are also well documented (Grace, Lloyd and Smith, 1992; Feist *et al.*, 2007) but mostly focus on women as victims. Kelly *et al* (2005:32) argued that women choose not to report rape for a range of reasons, including fear that they would not be believed, not naming the activity as an offence, shame and guilt, distrust of authorities, fear of reprisal, language barriers and the challenges presented by reporting a partner or family member to the authorities.

Real levels of sexual victimisation have been impossible to establish (HMIC, 2014), and emphasis has been placed on the Crime Survey⁶ (formerly known as the British Crime Survey) to ascertain

⁵ Prison Intelligence Officers (PIOs), formerly known as Police Liaison Officers (PLOs) are police officers who are responsible for managing prison intelligence collection. They are usually based in prisons in their force area, and act as the single point of entry for police colleagues into the prison security unit and oversee intelligence and evidence requests. They liaise with a prison's security unit (and the Custodial Managers and Governors) to obtain advice, secure authorisations and facilitate access to prisoner-related information. For more information on their roles, see: <https://www.app.college.police.uk/app-content/intelligence-management/intelligence-cycle/>

⁶ The *Crime Survey* aims to provide a more holistic understanding of patterns of crime, victimisation and reporting. Typically, the Crime Survey identifies higher levels of crime than those recorded by the police. Since 2004, the Crime Survey has included a self-completion module about sexual offences which is

information about crimes and victimisation in England and Wales, which might not have been reported to the police. The most recent analysis of the Crime Survey (ONS, 2017) found the highest ever level of reporting of sexual offences and suggested that this might be due to improvements in police recording practices and a greater willingness on the part of victims to report sexual crime. The Crime Survey (ONS, 2017:16) estimated that 2% of people aged 16-59 had been victims of sexual crime during the year ending March 2016. Of those recorded offences, 80% related to offences which had happened in the last 12 months and the remaining 20% were linked to non-recent cases which had happened more than a year ago. Police recorded rapes and sexual offences breakdown as being 89% female and 83% female respectively (ONS, 2016). However, these estimates are not transferable to prison environments. Equivalent reliable estimates for the sexual victimisation of prisoners in England and Wales are not available. International studies which attempt to estimate sexual victimisation rates of men in prison are discussed in Section 3.3.

Distinctions have been made between reasons for male and female under-reporting of rape to the police. There are similarities between reasons for both men and women choosing not to report offences, including shame, self-blame for the offence taking place and practical problems relating to friends and families becoming aware of the offence. However, it is widely accepted that men may face additional barriers to reporting, based on masculinity and rape myths particular to male rape (Scarce, 1997; Mezey and King, 2000; Connell, 2005; Javaid, 2014). The public perceptions of the response to male rape by criminal justice agencies and support organisations has been highlighted as a factor affecting men's decisions not to report rape (Javaid, 2015). Although notions of masculinity have been well-documented as being a contributing factor to the under-reporting of male on male sexual assault, the context of victimisation in prisons is an essential element when considering additional barriers faced by prisoners.

administered to 16-59-year olds as a self-completed survey asking respondents if they have been a victim of sexual offences in the last 12 months.

2.6 Better to fight than report: The Inmate Code

The 'inmate code' (sometimes referred to as the 'convict code' or 'prison code') was first described by Clemmer (1940) and Sykes (1958) and represented an enforced and explicit code which regulated prisoner behaviour, relationships with prison staff and fellow prisoners. Sykes and Messinger (1960:6) argued that the code was formed of five main precepts; being loyal to other prisoners and never reporting disagreements to prison authorities, resisting arguments with fellow prisoners, not taking advantage of fellow prisoners (by conning them), not showing weaknesses and not trusting prison officers. Although Sykes and Messinger (Sykes, 1958; Sykes and Messinger, 1960) and Goffman (1961) suggested that the inmate code can serve as a cultural guide, Irwin and Cressey (1962:142) pointed out that the code also reflected the criminal code by which prisoners had lived before and during incarceration. Whether culture is imported into prisons or not, Kupers (2001:114) described prisons as being an 'extreme environment' in which any signs of weakness held the potential to label and target an inmate as a victim. The publicly accepted (within prisons) and established inmate code requirements of visible shows of strength and fighting were described by Toch (1992:207) as having only two possible responses to aggression: either to 'admit defeat' and seek help/go to a protected wing or to be seen to attack the aggressor.

The term 'fight-flight' was coined by Toch (1992) to describe the culture of responding to aggression with aggression in which the 'flight' response was regarded as the 'norm' in men's prisons. Shows of aggression in men's prisons are commonplace (Edgar, O'Donnell and Martin, 2003) because the prison environment itself fosters tension and suspicion (Sykes, 1958; Butler, 2008). Johnson's (1961:528) early study of prison 'rats' suggested that the 'sociology of confinement' in prisons created suspicion of prisoners who deviated from the norm, including those with middle class characteristics or those who communicated with prison staff. Although prisoners were identified by fellow prisoners as 'rats', they performed an important role in maintaining the inmate code by 'dramatizing loyalty', discouraging transgression and creating an 'in-group' (Johnson, 1961:528). However, Crewe (2009:229) in his study of an English Category C prison⁷ identified a 'collective passivity' in which there was limited resistance to the introduction

⁷ Prisoners are classified and then categorised according to factors such as, their risk of escape and the danger posed to the public or the police or the security of the State posed if they should escape. Categories range from A to D. Prisons may hold a range of eligible categories of prisoners. For example, Category A prisoners can only be housed in dedicated Category A units. For more information <https://researchbriefings.files.parliament.uk/documents/CBP-7437/CBP-7437.pdf>

of controversial new measures, because 'very few prisoners were prepared to risk their release date for the sake of peer solidarity'. Even though resistance to authority and adherence to the inmate code are commonly used sociological concepts, their application by prisoners may vary across the prison estate.

Sykes (1958:85) identified prison 'argot' or common 'parlance' which he believed had developed in response to the pains of imprisonment to 'order and classify' prisoners' experience of prison. The first example of prison argot provided by Sykes (1958:87) related to 'snitching' or 'ratting' on fellow prisoners, which Sykes described as a breach of the 'most obvious social boundary' in a prison. Use of sex role specific prison argot has been identified in men's prisons as being a method of reinforcing power and male hierarchies (Wooden and Parker, 1982; Einat and Einat, 2000; Hensley *et al.*, 2003). Openly identifying as having been sexually victimised by making a report, may change a prisoner's status to being vulnerable (Bowker, 1980:1). Therefore, fear of becoming a target for rape and sexual victimisation may also lead to pre-emptive violence or prisoners choosing segregation or self-harm rather than reporting. The drive to confront threats rather than negotiate was explained by Butler (2008:858) as being part of a prisoner's attempt to reinforce their masculinity, command respect and status, prevent victimisation and self-defend. Confrontational men, Butler (2008:863) argued, experienced frustration at being separated from their families and expressing masculinity in what they considered to be 'normal' circumstances. Instead, confrontational men exercised violence in prison as an alternative expression of masculinity and used aggression as a mechanism to combat their insecurity. Masculine aggression was identified by Butler (2008:868) as a method of 'self-validation', which allowed men to (be seen to) regain their sense of masculinity and reinforce their own self-narrative. Even though the inmate code has been recognised as being widely established and 'known' feature in prisons, reinforced by a full lexicon or argot (Sykes, 1958), some prisoners may find it hard to interpret and may be susceptible to revealing perpetrator names when asked. Kupers (2001:112) reported that prisoners suffering from mental illness were prone to seeking advice from prison staff and, when pressed to provide the names of perpetrators, were inclined to reveal them to comply. However, Kupers (2001:112) noted that informing on fellow prisoners frequently resulted in permanent segregation as the staff could not guarantee their protection.

A small scale Swedish study (Akerström, 1989:26) on 'snitching', suggested that snitchers sometimes exchanged information with prison staff in anticipation of realising benefits, such as cell moves. Those benefits were seldom realised. Crewe (2009:395) noted that prisoners identified

'grassing' as incremental. Informing on activities which did not impact or infringe on other prisoners' welfare, such as gambling or stealing from the prison, were seen as 'doing staff work on their behalf' and as 'interference with another prisoner's private practices'. However, Crewe's (2016:396) study identified several exceptions and changes over time to the application of the inmate code. Exceptions or 'grey areas' were generally based on prisoner consensus about the potential for harm to other prisoners. For example, escape plans, which may result in wider lockdowns, could be interpreted as acceptable grounds for informing staff. Excusable contexts, where breaching the code was acceptable, included those with the potential for serious harm. Crewe (2009:397) argued that prisoners acknowledged that informing staff about suicide risks or passing on information to prevent rape were seen as exceptions to the rule.

A general unwillingness to report bullying and violence was identified by a UK Home Office study (O'Donnell and Edgar, 1996:3), which found that reports of victimisation were infrequent. Less than 10% of O'Donnell and Edgar's (1996) sample of young men stated that they were prepared to report incidents of bullying and violence to prison authorities, and 40% of their sample of adult prisoners stated that they did not report because they did not want to become identified as informers. Although there is very little UK research evidence about prisoners' willingness to report any type of incident, results from *Surveying Prisoner Crime Reduction*⁸ (Hopkins and Brunton-Smith, 2014:3) indicated that, of prisoners asked about their experiences in custody, about half of those who reported being physically assaulted by another prisoner had not reported this to prison staff. This survey did not ask prisoners about their experiences of sexual assaults in prison, however, the low rate of reporting of physical assaults might suggest even lower levels of reporting for incidents that are more sensitive.

In terms of reporting sexual assaults, Miller (2010:793) identified embarrassment as the primary reason for men in prison deciding not to report sexual assaults that they had experienced. Fowler (2010:232) found that male prisoners were 81% less likely to recommend reporting sexual victimisation than female prisoners, suggesting that men were more likely than women to obey the inmate code and not report. Reporting sexual victimisation in prison may require victims to overcome additional cultural and physical barriers. While it is generally accepted that sexual

⁸ This report presents the findings from a longitudinal study of male and female prisoners, including those in custody, pre-release and post-custody. All participants were adult prisoners sentenced to between one month and four years in England and Wales between 2005 and 2007.

victimisation is under-reported in men's prisons (Fowler *et al.*, 2010; Miller, 2010; Garland and Wilson, 2013), one of the main reasons for this is that reporting is viewed as 'snitching'. To some extent, any reporting of crime or human rights infringements in a prison carries the risk of being seen as 'snitching', but the reporting of sexual victimisation potentially carries the additional risks of loss of masculinity (Sykes, 1958:78; Lockwood, 1980:80; Miller, 2010) and risk of revictimisation (Fowler *et al.*, 2010). Many of the same reasons for deciding not to report sexual offences in a non-prison environment are mirrored in prisons. Reasons included feelings of embarrassment and shame (Struckman-Johnson *et al.*, 1996; Banbury, 2004; Miller, 2010), lack of evidence and seeing no hope of an investigation (Fleisher and Krienert, 2006), discouragement from prison staff (Lockwood, 1980), fear of reprisal (O'Donnell and Edgar, 1996; Kupers, 2001) and an unwillingness to be seen to go into protective custody or segregation (Davis, 1968; Toch, 1992; Kupers, 2001).

In an expansion of the inmate code, Wooden and Parker (1982:15) argued that men's prisons had a 'convict sexual code' in which vulnerable men were feminised and subjected to sexual abuse. Early US studies of prison sexual victimisation (Davis, 1968; Bowker, 1980; Lockwood, 1980) highlighted staff reluctance of taking reports of sexual assaults, amounting to a culture of discouragement. Davis (1968:333) suggested that this culture prevailed, highlighting that staff tried to suppress reports because incidents could be seen by managers as evidence that they had neglected their duties. Davis (1968) acknowledged that when reports of sexual assaults were made formally to staff, this often served to disadvantage the victim, for example, by placing them in protective custody or confining them to their own cell.

In the US context, Cooley (1993:490) noted that a significant proportion of sexual victimisation incidents went un-reported and unnoticed by staff. These findings were supported by Nacci and Kane (1983:36), who found that prison staff did not find out about assaults in 63% of cases, and that 68% of those targeted for sexual assaults did not take any 'official' action to resolve the situation. Struckman-Johnson *et al.* (1996:74) found that of those prisoners targeted for sexual assault, half did not tell anybody about their experience. Of those who did make a disclosure about the sexual assault, 23% told friends or family outside prison and 23% told another inmate. A further 18% confided in the prison clergy and 10% reported to prison medical staff; the latter perhaps because this disclosure facilitated access to medical services. The issue of reporting rape in prison is not a 'simple matter' because reporting sexual victimisation to prison staff requires prisoners to 'break the prison code' of not 'snitching' or 'grassing up' fellow prisoners (Kupers, 2001:112). Kupers (2001) argued that the prison code did not allow for prisoners to show any

signs of weakness and that reporting on another prisoner would be identified as a fundamental sign of exactly that by fellow prisoners. Reporting a sexual offence has also been identified as a risk factor for becoming a 'target' of future sexual violence (Lockwood, 1980:53). Lockwood's (1980) study, based on interviews with staff, indicated that they allowed targets to resolve risky situations with violence and were prone to turn a blind eye to violent 'resolutions' because staff held similar cultural beliefs to prisoners about preserving masculinity with violence.

More recent US research (Fowler *et al.*, 2010:235) conducted following the implementation of the *Prison Rape Elimination Act 2003*, indicated that new prisoners were more likely to self-report sexual victimisation; perhaps because of new reporting initiatives, or because they were less impacted by the prison code and the cultural 'standards' of other prisoners. Garland and Wilson (2013) hypothesised that a number of prisoner characteristics (such as race and sexuality) may impact on the decision to report sexual victimisation, as well as the generally held belief that reporting was 'snitching'. Their study identified very few predictors of a willingness to report and no links between the level of violence used in a sexual assault or previous imprisonment and the potential to report (Garland and Wilson, 2013:1208). Concurring with Fowler's (2010) study, prisoners were less likely to regard reporting of rape as 'snitching' early on in their sentence. Secondly, Garland and Wilson (2013:1201) proposed that because prisoners designated as being 'White' were more likely than their Black counterparts to view reporting as snitching, reception stage interventions should tackle the cultural differences towards sexual victimisation.

2.7 Bureaucracy and keeping prison regimes in place

The maintenance of daily routines or 'prison regimes' have been the focus of criminologists concerned with the power dynamics between prisoners and prison staff (Sykes, 1958; Goffman, 1961; Toch, 1992; Crewe, 2009; Liebling, Price and Shefer, 2012). Also of interest has been the translation of that power into the running of prisons, either based on traditional coercion (hard power) or legitimacy (soft power) (Crewe, 2009). The challenge of maintaining 'humane standards' alongside achieving 'institutional efficiency' was noted by Goffman (1961:76) as a factor influencing a number of processes designed to improve the efficient running of the institution. The focus on maintaining the prison regime has been identified as a possible cause of staff ambivalence at addressing issues related to consensual sex in prisons (Stevens, 2017:1385)

and may also contribute to the rarity of criminal justice outcomes for reported sexual assaults. The following section examines the impact of prison regimes on staff and prisoners, the role of discretion in bureaucratic centralised systems of information management and staff values, all of which may influence the reporting and investigation of sexual assaults in prisons.

Liebling et al (2012:135) argued that following high profile prison escapes and disorder, prison staff were denied 'exchange power' (based on negotiation) and instead were required to increase coercive power, which included use of segregation, removal of privileges and 'lock-down'. The transition in the type of power used by prison officers has, Liebling et al (2012:136) argued, been acknowledged by prisoners by their alertness to prisoner staff relationships, which 'oil the smooth flow of the prison' in their role as instruments of control and justice. The central role of prison officers in contributing to the daily prison regime has been described in detail by Liebling et al (2012:139), evidencing the wide array of officer roles, duties and interactions with prisoners; including the use of discretion in the application of prison rules, which can be enforced (or under-enforced).

2.7.1 Imaginary discretion

Early penologists such as Sykes (1958:53) recognised that prison bureaucracies suffered defects in translating rules and regulations into practice when guards 'must see to the translation of the custodial regime from blueprint to reality', making formalisation of all rules unrealisable in prisons. The focus of institutions on the enforcement of standards was also noted by Goffman (1961:75) as being a process by which staff were 'reminded of their obligations' not only by their managers but also via oversight by 'watchdogs'.

Systems for monitoring staff and their adherence to policies are not a new revelation. Goffman (1961:73) observed that in total institutions, work was 'followed by a paper shadow showing what has been done by whom, what is to be done, and who last had responsibility for it' forming a 'chain of informative receipts'. Garland (2001:125) argued that modern 'redistribution of crime control' caused by the partial privatisation of prisons had served to insulate governments from blame related to recidivism-related failures. Instead, fault could be firmly placed on systems, professional indiscipline and deviation from policies (Carlen, 2008:17). Carlen's (2008:16) argument that there has been a shift away from professional discretion and experience to

actuarial approaches was based on government attempts to distance itself from blame by attributing systemic failures to staff and their (mis) application of stated policies. Use of actuarial systems were highlighted by Garland (2001:19) as a form of new managerialism which deployed complex centralised systems for monitoring and controlling activities carried out by staff.

The central role of prison staff in delivering prison regimes has arguably been adapted from systems which were based on post-welfarism to managerial or bureaucratic approaches (Garland, 2001) where prison officers have more regulated contact with prisoners (Crewe, 2009; Liebling, Price and Shefer, 2012) but less front-line decision-making discretion (Crewe, 2009:108). Crewe (2009:210) argued that prison officers had been distanced from day to day discretionary decisions about prisoners and from formal considerations affecting prisoners' lived experience of their sentence (and release). The impact of staff distancing from decision-making had, Crewe (2009:108) argued, reduced prisoners' confidence in the system and their perception of their ability to challenge decisions made about them. Bureaucratic prison systems founded on auditing, paperwork and deferred decision-making, which had been designed to increase legitimacy, may instead have made decision-makers seem inaccessible to prisoners and, by default, made prison officers less powerful agents of control (Crewe, 2009:210). New managerial prison reporting and auditing systems, with less interpersonal contact between officers and prisoners (Crewe, 2009:81), had diminished the motivation of prisoners to report incidents and concerns to staff. Increased detachment between prisoners and prison staff has, Crewe (2009:108) argued, increased prisoner suspicion that reporting incidents or concerns has a negative impact on decisions relating to prisoners' incentives and issues such as applications for parole.

For prisoners, the impact of remote higher level managerial decision-making about issues has meant that they feel less able to challenge decisions or negotiate (Crewe, 2011a:514). In addition, the withdrawal of legal aid for prisoners challenging re-categorisation decisions has been acknowledged as a controversial issue (Grimwood, 2015) contributing to prisoner powerlessness. Carlen (2008:11) argued that categorisation and 'imaginary penalties' were based on the concept of 'imaginary individuals' and therefore 'imaginary criminals' because, in the process of classification (in which prisoners are given a category to determine the type of prison they are sent to), prisoners have become imitations of real people. Application of rehabilitation or

'imaginary penalties' has been based on the premise that crime can be ultimately abolished. Yet UK governments have criminalised more behaviour and protected centralised knowledge rejecting critique and compelling prison professionals to both know and 'not know' that rehabilitation objectives or 'penalties' are unrealisable (Carlen, 2008:12).

Removal of operational discretion, the development of prison bureaucracies and the continual search for 'what works' in reducing crime has required that prison staff activity maintains high levels of compliance to meet the demands of implementation strategies. Carlen (2008:9) argued, these circumstances have led to a staff culture based on the avoidance of blame and risk in which staff have conceded to unrealisable institutional ambitions which have been set by political and management agendas. In doing so, staff know that their surrender of real outcomes and concessions have upheld an 'imaginary order' or hypothesis about 'what works', which has become a belief or a 'dogma'.

2.7.2 Imaginary prison staff

Maintenance of staff to prisoner ratios allow for the running of the regime. Under-staffing has a direct impact on prisoners when staff are not available to facilitate meaningful out of cell activity (HMIP, 2014:8). Sim (2008:146) argued that modern prisons were boosted by the concept of 'imaginary staff' carrying out 'imaginary' rehabilitation but in practice, prisons were staffed by officers who did not believe in the behavioural change policies and rehabilitation interventions that they were responsible for implementing. Sim (2008:146) maintained that media reports about the ostensible staff focus on reform and rehabilitation were far removed from the reality. Instead, Sim (2008:147) suggested that, officers had routinely humiliated and degraded prisoners while staff continued their practice of 'sticking together'.

'Sticking together' has, according to Sim (2008:147), been the main purpose of the Prison Officers' Association (POA) which had fostered a general acceptance of an 'imaginary lack of resources' (including staff numbers, time and management), provoking public and political sympathy. Political discourse and ideological acceptance that 'prison works' has underpinned and legitimised the routine arguments made by the POA that if the system had the correct resources and support it could deliver the promised benefits of a reduction in harm and offending (Sim, 2008:139).

Staffing shortages, sick leave and recruitment issues were acknowledged by Crewe (2009:42) as a factor which impinged on the delivery of the regime in his study of an English prison.

Sim (2008:148) claimed that assaults by prisoners on staff were exaggerated, in terms of their frequency and severity. In contrast, assaults by staff on prisoners were individualised and staff perpetrators were presented as 'bad apples'; an approach which had diminished the nature and extent of violence against prisoners who remained in the care of the state. However, Sim's dismissal of the dangers faced by prison staff is no longer borne out. Official statistics, up to December 2019, showed that although decreasing slightly, almost 10,000 assaults on staff had been reported (MOJ, 2020). Liebling et al (2012:68) acknowledged high rates of assaults on staff and found that officers reported feeling isolated and unsupported by prison management in deploying their custodial and care duties which often created role conflict.

The harsh environment of prisons and the 'sticking together' response adopted by staff has, according to Sim (2008:148), led to the marginalisation of staff who seek to reform prisons and support prisoner rehabilitation because their views are outside of the legitimised, dominant staff culture. The predominant culture has maligned these officers and their efforts; reinforcing the majority held staff beliefs that reformers are unsuitable for the role because they lack the control to maintain prisoner stability. Sim's (2008) perspective of prison staff 'sticking together' may be over-simplified and in conflict with accepted occupational cultural norms, like 'solidarity' which serve to combat negative aspects of the job such as isolation (Crawley and Crawley, 2012:138). Sim (2008:150) argued that despite pockets of 'reformist' staff, the reality of prisons was that coercive prison staff, purporting to be a part of an 'imaginary community' which was focused on rehabilitation, remained the dominant group. Sim (2008:150) suggested that those most capable of challenging the 'imaginary prisons' and 'imaginary prison staff' by presenting the realities of prison life, were prisoners, although their experience has been mostly invisible and largely unheard.

2.7.3 Imaginary prisons

Prisons have become the central focus of the criminal justice system, fuelling the delusion that building more prisons and extending sanctions will result in less crime (Garland, 2001:168; Sim, 2008:140). Sim (2008:140) argued that 'prison has become the starting and the finishing point for the debate about crime control' and that this ideology has driven the expansionist stance to UK prisons in which the focus has been on delivering more prison places (HMIP, 2014). Overwhelmed prisons had been rendered unable to fulfil the needs of prisoners and the requirements of their sentences until the final six months of their imprisonment, when training and rehabilitation became available, disconnecting the purpose of sentencing from the reality (Hall, 2016:265). The increasing prison population, expansion of and refurbishment of the prison estate, along with the promise of prison staff focused on prisoner rehabilitation and wellbeing have all been based on the false ideology that 'prison works' (Garland, 2001:132; Sim, 2008:142).

Sim (2008:142) suggested that the gap between political rhetoric and the reality of recidivism rates following custodial sentences ignored the essential structural reasons for offending (such as poverty and lack of opportunity). Explanations for offending have continued to rely on individualistic explanations based on suggestions that offenders make rational choices to offend, taking opportunities and weighing up consequences of being caught (Irwin and Austin, 1997; Garland, 2001:130). Prison reforms and the 'imaginary' focus on rehabilitation have failed to make prisons safe, either physically or psychologically (Sim, 2008:144). The reported prisoner on prisoner and prisoner on staff assaults, reported at three monthly intervals (MOJ, 2020) attest to prisons being dangerous places, as do rates of self-harm and suicide in prisons. This thesis examines the levels of harm caused by prisoner on prisoner sexual assaults. Although assaults by, or on staff are not addressed in any detail, the destabilising context of increased violence and drug use and its impact on working and living conditions, are relevant when considering the levels of reporting and victimisation, which are discussed in more detail in Chapter 3.

2.8 Imaginary responses to sexual assaults

Application of the concept of the 'imaginary' to initial responses to reports of sexual assaults provides a useful framework to examine the approaches adopted by prisons and their staff. Although responses typically involve early activity based on procedures (such as sending victims to healthcare and making referrals to the police), much of this work is unrealised in terms of

progressed investigations. In the same way that Carlen (2008) argued that rehabilitation programmes were non-productive, and that staff colluded in continuing to deliver them despite their unrealisable outcomes, sexual assault investigations reveal patterns of *practice without prospect*. Continued staff collusion in perpetuating initial investigative activity (such as ‘securing the scene’) and recording information, could also be identified as activity, which is widely known not to work.

Similarly, initial responses to sexual assaults and early investigations may be doomed to fail for institutional and structural reasons. These may include, lack of access to investigation mechanisms for prisoners (such as direct reporting to the police and effective protection) and appropriate in-prison facilities for staff supporting investigations (such as forensic medical examination facilities and victim-interviewing suites). Carlen (2008) observed that prisoners engaging in rehabilitation programmes lacked respite from poverty and support mechanisms, such as post-release drug services. It is possible that the systemic lack of emotional support for victims of sexual assaults in prisons may also reduce prisoners’ requests for police involvement or their inclination to support investigations, where referrals have been made.

Carlen (2008) argued that staff were aware of the failures of prison rehabilitation programmes, despite continued strategic and financial support for the programmes from prison management. When considering the response to sexual assaults, it is possible that staff and prison managers also identify and accept that formal criminal justice-based outcomes, such as prosecutions and adjudications are often not fully unrealisable. Furthermore, staff may also continue to ‘deliver’ responses and abundant activity as if these *imaginary outcomes* were realisable. Based on the Australian prison case study, Carlen (2008:10) suggested that staff continued to deliver programmes to maintain their positions because their livelihoods depended upon the continuation of their unrealisable work and the auditing of it. This thesis examines the extent to which the IRS data indicates that staff working in prisons and at strategic levels, are aware of the shortcomings of the recording and initial response to sexual assaults, but continue to respond as if the prison governance narratives that interventions ‘worked’ had substance.

2.9 Chapter summary

As the first part of the literature review, this chapter has outlined cultural changes to ideologies about imprisonment and rehabilitation. It summarised the approaches to tackling offending behaviour and the movement away from penal welfarism to crime control ideologies, which have increased the prison population, led to the creation of new laws and have altered populist opinions about the role of prisons and the status of prisoners. The chapter has contextualised changes to the socially constructed discourse about prisons and prisoners, which, to some degree have been designated by theorists as 'imaginary' in so far as they deny the material reality of prison, ignore the lived experience of prisoners and include rehabilitation objectives which are unrealisable. The concept of 'imaginary penalties' has been applied to a number of structures and processes in the criminal justice system, casting doubt on the authenticity of widely held political claims about prisons, prisoners and prison staff – including the myth that 'prison works'.

The chapter has analysed new managerial approaches to prisons and the bureaucracy involved in recording realisable outputs (such as offending programmes) rather than realisable outcomes. It has presented a picture of prisons as concentrating staff efforts in recordable and auditable activity in support of a harm reduction model. Carlen's (2008) proposal that prison staff, at all levels, silently accepted the unrealisable mission of the prison system, has provided a powerful lens to examine the processes and recorded activities related to prison officers' response to sexual assaults in prisons. It has summarised the backdrop of increased reports of violent assaults and the steady increase of sexual assaults, that have created prison 'crime hot spots', which have remained unresolved.

The chapter identified problems for prisoners and staff in their adaption to life in a total institution (Goffman, 1961), and has focused on the inmate code, victimisation for infractions of the code and the wider reasons for male under-reporting of sexual assaults and rape, both in prison and in non-prison environments. Chapter 3 assesses the social construction of reporting in prisons by examining the attitudes of staff and the challenges they face in distinguishing sex from coercive sexual behaviour in men's prisons. It summarises the broader context of sexual behaviour in prisons, examining the range of explanations for sexual activity in prisons, starting with the sexual typologies of prisoners and their respective power in prisoner hierarchies. It provides insight into the international empirical research on patterns of sexual victimisation, the

targeting of prisoners and the characteristics of those prisons most likely to have a higher incidence of sexual assaults.

Chapter 3 Literature Review: The pains of imprisonment, typologies of sexual behaviour, empirical overview of victimisation and risk

This chapter summarises the theoretical and research-based frameworks of the relevant studies about sexual victimisation in prisons. Much of the broader literature on sexual victimisation in prisons is based on studies from the United States focusing on prevalence, in anticipation of, or in response to, the US legislative intervention of the *Prison Rape Elimination Act (PREA)* in 2003 (Nacci and Kane, 1984; Gaes and Goldberg, 2004; Wolff, Blitz and Shi, 2007). Other US research on victimisation in prisons has concentrated on sexual roles – consensual and coercive - adopted by prisoners (Bowker, 1980; Lockwood, 1980; Donaldson, 2001). US researchers have also focused on prison officer perceptions of sexual behaviour, homosexuality, risk and sexual victimisation (Eigenberg, 2000;2000a; Hensley and Tewksbury, 2005; Moster and Jeglic, 2009). While there is a wealth of US research-based information on prevalence and observational studies of sexual behaviour in men’s prisons, research from the United Kingdom (UK) generally is sparse. The research that does exist is open to criticism for being small scale, often relying on ex-prisoners and having no published comparative research about the perceptions and responses of prison officers and police to sexual victimisation (Banbury, 2004; O'Donnell, 2004; Stevens, 2015; Banbury, Lusher and Morgan, 2016; Stevens, 2017).

Essentialists, that is, the doctrine that essence is prior to existence (Clemmer, 1940; Sykes, 1958; Donaldson, 2001) and social constructionist (Eigenberg, 1992; Hensley *et al.*, 2003; Gibson and Hensley, 2013) theories and typologies of male sexuality in prisons are reviewed in this chapter to provide the context for consensual sexual activity in prisons; the majority of this work is US research. The chapter considers the extent of consensual and coercive sexual activity in prisons, alongside the complexities of measuring the incidence and prevalence of rape and sexual assault (Gaes and Goldberg, 2004). It examines staff attitudes towards sex and sexual assaults in prisons and the challenges associated with distinguishing between consensual relationships and coercion (Eigenberg, 2000;2000a; Hensley and Tewksbury, 2005; Stevens, 2013). This literature review chapter describes the institutional (or prison-based) characteristics (Toch, 1992; Jenness *et al.*, 2007) associated with sexual victimisation (such as overcrowding, cell-sharing and the nature of

the prison regime itself) as well as the individual characteristics of victims (and 'targets') and perpetrators of sexual assault (Lockwood, 1980; Eigenberg, 1992; Banbury, 2004; Hensley, Koscheski and Tewksbury, 2005; Banbury, Lusher and Morgan, 2016).

3.1 Typologies of prison sex and sexual victimisation in men's prisons

Early criminologists and penologists used typologies to describe both the sexual and violent behaviour of prisoners, often dividing their 'personas' into the 'predators' and the 'victimised' and the 'masculine' and the 'feminine'. Explanations for sexual behaviour in prisons have focused on two opposing approaches. Essentialists have argued that sexuality is a static and permanent trait and therefore any changes in sexual behaviour or orientation in prison are due to sexual deprivation. In contrast, social constructionists suggest that sexuality is fluid and based on a spectrum which is much wider than 'homosexual' and 'heterosexual', and is subject to change based on cultural contexts (Eigenberg, 1992; Hensley *et al.*, 2003; Gibson and Hensley, 2013; Stevens, 2017).

Early essentialist theorists argued that because sexuality was a permanent and static trait, men could be classified as either 'homosexual' or 'heterosexual'. Typologies of sexuality in male prisons were originally developed to explain the phenomenon of male 'temporary' or 'situational' homosexuality (Clemmer, 1940; Sykes, 1958). The central focus of essentialist typologies was that situational homosexuality was a direct result of deprivation from 'normal' heterosexual activity. However, these typologies also described coercive sexual behaviour, such as rape, alongside homosexual consensual activity (Eigenberg, 1992:219) and failed to distinguish between them, effectively 'blurring the lines' between homosexuality and sexual offending (Gear, 2007).

Clemmer (1940:255) first introduced the idea that sex between male prisoners was largely a result of deprivation from 'normal' heterosexual relationships. He suggested that the phenomenon of sex in prisons presented a major risk to their stability and organisation. In his study of a New Jersey prison, Sykes (1958:70) argued that for heterosexual men, the pains of imprisonment and lack of sexual contact with wives and girlfriends amounted to 'castration by involuntary celibacy'. For Sykes (1958:95), sexual orientation consisted of 'habitual homosexuals' and those for whom homosexuality was a temporary consequence of sexual frustration because they could not survive prison without committing rape or engaging in homosexual activity. Sykes' (1958) terminology of

'wolves, punks and fags' described sex roles and their relative associations with masculinity and femininity in the prison environment. The 'wolves' were described as masculine, active and aggressive; in contrast, the 'fags' as outwardly feminine, passive and submissive (and identifying as homosexual) and the 'punks' as masculine, but submitting to wolves because of some 'inner weakness' and lack of ability to defend themselves. Typologies of prison sexual behaviour have often distinguished between those giving (active) and receiving (passive) penetrative sex. The 'givers', usually constructed as the most strong and masculine, are described as maintaining the male role (Clemmer, 1940; Donaldson, 2001).

Early theorists, such as Clemmer (1940:255), often influenced by their 1950s' perspectives of homosexuality as an 'abnormality', reflected that removing heterosexual relations, the sexual stimuli (from for example, pictures or music), plus the impact of cell sharing and its lack of privacy all contributed to causing imprisoned men to 'yearn' for sex. However, sexual deprivation theories have failed to examine sexual behaviour and identity prior to imprisonment and assume that male prisoners have both a high sex drive and a high level of sexual activity which must be maintained when they are incarcerated (Lockwood, 1980:127). Suggestions that sexual victimisation occurs as a direct result of sexual deprivation neglect to explain why sexual aggression is often perpetrated early on in the sentence, when sexual frustration and deprivation should be at its lowest (Lockwood, 1980; Banbury, Lusher and Morgan, 2016).

The focus of essentialist theories on deprivation was a feature of the work on prison sex until Groth's (1979) insight into male rape in prison. He identified that to view men who raped other men in prison as being 'heterosexually oriented' was misleading. Groth (1979:125) argued that such a description failed to explain the nature of their relationships, which he described as 'ambiguous' and 'more based upon exploitation than sharing'. The possibility of rape being used as a mechanism for 'playing' masculine roles, rather than being an outlet for heterosexual sexually deprived prisoners, identified the wider problem of masculinity in men's prisons (Bowker, 1980:12). The studies which reported the causes of prison rape to be largely based on deprivation of heterosexual sex (Clemmer, 1940; Sykes, 1958) lost traction to studies which identified nuances and cultural influences of sexuality, beyond the pains of imprisonment caused by enforced heterosexual celibacy. Eigenberg (1992) argued for a social constructionist approach which would emphasise that sexuality was fluid and subject to change, because it was influenced

by social and cultural circumstances. For Eigenberg (1992), the challenge for social scientists was to develop a deeper understanding of men's sexuality in prison, and, in doing so, answer questions about whether situational homosexuality led to permanent changes in sexuality and behaviour.

Social constructivist studies which focused on sexuality in US prisons and included a specific emphasis on finding out about the behaviour and attitudes of, and towards, gay and bisexual men (in protective custody settings) have provided some insights into the impact of incarceration (Wooden and Parker, 1982; Alarid, 2000). Alarid's (2000:90) research found that gay men in protective custody were more likely than bisexual men to express satisfaction with their identities than bisexual counterparts, who were more likely to adjust their behaviour in prison. Bisexual men who preferred women over men were also more likely than their counterparts (who preferred men over women) to be seen as 'jockers' or heterosexual men who engaged in aggressive sexual behaviour as the 'giver' in prison rape. Sexuality and masculinity have been the focus of a number of studies of behaviour in men's prisons in the US (Bowker, 1980; Lockwood, 1980; Wooden and Parker, 1982; Saum *et al.*, 1995; Toch, 1998; Sabo, Kupers and London, 2001) and less so in the UK (Schinkel, 2014; Sloan, 2016; Maycock and Hunt, 2018). Literature examining masculinity in prison contexts is reviewed in the next section, however, the UK literature which examines masculinity rarely refers to its impact on sexual assaults.

3.1.1 Hypermasculinity, sexual aggressors and targets

The term 'hypermasculinities' was coined by Toch (1998:173) to describe the ways in which men in prison were expected to live up to masculine 'scripts', which reinforced male behaviour and induced men to target any display of more 'feminine' behaviour to differentiate themselves from it. US research has provided commentaries and typologies of sexual aggressors in prisons. Lockwood's (1980:114) typology was based on descriptions provided by his sample of 'targets' or victims; 'gorillas' used force and surprise to rape victims, 'players' used a combination of force and threats (often using tactics to feminise their victims) and 'propositioning' in which aggressors simply made non-violent requests. Lockwood (1980:80) observed that 'targets' had a strong fear, not only of being raped in prison, but of the connection between prison rape and what they perceived as the permanent loss of their masculinity. He used the terms 'homosexual virginity' or 'manhood' (shortened by prisoners to 'hood') to describe this process. Published in the same year as Lockwood's study, Bowker (1980:11) noted that prison rape allowed heterosexual men to

engage in 'sex' without damaging their self-reported heterosexuality because it allowed them to redefine male rape as being 'heterosexual' when prisoners viewed the victim as having been 'feminised'.

Prisoner subcultures which assigned particular status to sex roles, in terms of giving or penetrating and 'receiving', were described in more detail by Donaldson (2001:119) as being a stratified system in which 'men' could maintain and validate their masculinity and heterosexuality as a 'jocker' or 'giver'. In contrast, 'receivers' or 'queens' were described by Donaldson as 'effeminate homosexuals' who were highly desirable in prison subcultures as 'prostitutes' (but available only in low numbers) because of their feminine traits, which are both assigned and adopted by them. The term 'punks', used by both Wooden and Parker (1982) and Donaldson (2001) referred to the lowest status group of prisoners who had been subjected to rape in prison and therefore became targets for further sexual victimisation. These victims or 'punks' become targets or 'marks' for other prisoners by virtue of their previous victimisation. This vulnerability sometimes led to them being forced into taking a submissive 'receiving' role, rather than an active male penetrating role (Wooden and Parker, 1982 p.100; Trammell, 2011:319). The role of passive 'receiving' penetration, as identified by Donaldson (2001), was perceived by both staff and prisoners as being low status. The low status role assigned to 'receivers' was reinforced by the demographics of men's prisons as being almost exclusively male domains in which socially constructed and culturally dominant views of women as weaker were reinforced by both prisoners and staff (Trammell, 2011:310).

However, essentialist and social constructionist typologies of prison sex and victimisation have failed to acknowledge the occurrence and impact of prisoner on prisoner drug or contraband searches⁹ as being sexual assaults until Banbury et al's (2016) study which developed the first typology based on UK research, including drug searches as a dimension of sexual assaults. Banbury et al's typology is discussed in more detail in Section 3.3.1.

⁹ From this point on, unless specified as distinct, where reference to prisoner on prisoner drug searches is made, this term also includes searches for other items regarded as contraband in prisons, for example, mobile phones and sim cards.

3.2 Consensual sexual activity in prisons

Contrary to Donaldson's (2001:120) view that 'there is no niche in the prisoner structure for a sexually reciprocal or masculine-identified gay man', some UK studies (Strang et al., 1998; Green et al., 2003; Stevens, 2013; Taylor et al., 2013; Stevens, 2015) have addressed the issue of sex in prisons. These studies have argued that prisoners manage their sexual needs through masturbation and, to a degree, consensual sexual contact. Although there is a paucity of research about sex in UK prisons, it has been recognised as a significant health and equalities issue (Stevens, 2013). Prison sex researchers have argued that there is a reticence at government level, to actively support their research in terms of giving access to prisoners and prisons (Stevens, 2017;2019) and reporting data (Banbury, Lusher and Morgan, 2016). The relative lack of developed slang terms or 'argot' used in UK prisons to describe roles adopted in sexual assaults, in comparison to those identified by US studies (Sykes, 1958; Bowker, 1980; Lockwood, 1980; Donaldson, 2001; Hensley *et al.*, 2003) has been suggested to be an indication that there is relatively less sex and abuse in UK prisons (Edgar, O'Donnell and Martin, 2003:48), although this presumption is speculative.

The sparse UK research on consensual sex has focused on sexual contact in the context of reducing high risk behaviours associated with the transmission of sexually transmitted diseases (Prison Reform Trust, 1988; Farmer et al., 1989; Power et al., 1992; Strang et al., 1998; Green et al., 2003; Taylor et al., 2013). The only available UK estimates of the number of prisoners engaging in consensual sexual activity in prison have been based on self-reported information about sexual behaviour. Studies suggest a prevalence rate of between 1.6 (Strang et al., 1998) and 2.4 (Green et al., 2003) percent of prisoners engaged in consensual sex in prison. A more recent study found that 2.5 percent of Scottish male prisoners reported having had consensual anal sex with other prisoners (Taylor et al., 2013). Conclusions drawn from studies based on estimating risky behaviour and disease transmission have concluded that levels of consensual sexual activity were low (Farmer *et al.*, 1989:64; Power *et al.*, 1991:1507; Edgar, O'Donnell and Martin, 2003). A Prison Reform Trust pamphlet (1988:4) published during the same period, focused on prison-related HIV transmission risks such as drug use, sex and tattooing. It estimated that 20-30% of long-term prisoners were sexually active whilst in prison but this figure was not empirical and therefore the provenance of this information is limited.

In one of the most extensive studies of men's sexual behaviour in prison, Wooden and Parker (1982:51) found that of a random sample of 200 prisoners in California, 65 percent self-reported as having engaged in one or more 'homosexual acts' while in prison, and over half of heterosexual prisoners reported having anal sex. Of Wooden and Parker's (1982:50) sample, all participants had masturbated during their prison sentence. This finding is consistent with a more recent US research study (Hensley, Tewksbury and Wright, 2001:68), which also indicated that educated prisoners were more likely to frequently engage in masturbation. The assertion that consensual sexual activity is a common part of prison life is generally supported by US studies (Wooden and Parker, 1982; Nacci and Kane, 1983; Saum *et al.*, 1995; Hensley, Tewksbury and Wright, 2001; Trammell, 2011) and small-scale UK research (Stevens, 2013;2015;2017) which have suggested that sex takes place under the radar of authorities in cells during 'lock-up' and other areas not under surveillance.

3.2.1 Being 'heteroflexible' in prison

In terms of sexuality in prison, UK ex-prisoners suggest that heterosexual men might not identify their prison-based sexual behaviour as being homosexual but instead viewed same-sex activity as a necessity whilst they are in prison; sometimes described as being 'heteroflexible' (Stevens, 2015:8). The fluidity of sexuality in prison contexts has encouraged the use of the term 'men who have sex with men' to describe activity rather than sexual identity (Hensley, Tewksbury and Wright, 2001:61). The flexible or 'situational' nature of prison sexuality has, in part, been explained by the notion that normal 'rules' do not apply to prison settings and subcultures in prisons allow alternative sexualities to be constructed from a different set of values (Miller, 2010:707; Gibson and Hensley, 2013:356).

Formal UK prison rules do not explicitly prohibit sexual activity between prisoners. However, under the prison service instructions on incentives and privileges, it is specified that behavioural expectations require, '[a]cting with decency at all times remembering prisons/cells are not private dwellings (this includes not engaging in sexual activity' (NOMS, 2015). In spite of the behavioural expectations of the prison service, Stevens (2017:6) argued that her ex-prisoner interviewees suggested that prison officers either 'knew' or 'strongly suspected' that prisoners on their wing were sexually active but chose to ignore it because this type of rule-breaking was a low priority.

The idea that prison officers' main concerns are the continued stability of the prison and the proficient running of the regime (or the structure of the prison day) is well-documented (Sykes, 1958; Crewe, Liebling and Hulley, 2011; Liebling, Price and Shefer, 2012). Although not specifically focused on sexual victimisation, Edgar et al (2003:185) argued that prisoners (particularly older ones) valued the efficient running of the prison regime and recognised that prison violence had the potential to disrupt it.

In the US, most of the research focus is related to the incidence and prevalence of coercive sexual behaviour and victimisation in prisons (Nacci and Kane, 1983; Eigenberg, 1994; Hensley, Struckman-Johnson and Eigenberg, 2000; Struckman-Johnson and Struckman-Johnson, 2000; Gaes and Goldberg, 2004; Hensley, Koscheski and Tewksbury, 2005; Struckman-Johnson and Struckman-Johnson, 2006; Jenness *et al.*, 2007; Beck *et al.*, 2013). In the UK there have been no equivalent large-scale prevalence or incidence studies to estimate the frequency of sexual assaults in prisons in England and Wales; where available, international research is discussed in detail in the following sections.

3.2.2 Distinguishing between sex and sexual assault

Prison staff may also experience problems in determining the exact nature of some sexual behaviour in prisons (Eigenberg, 2000;2000a; Hensley and Tewksbury, 2005; Stevens, 2013:1), particularly in identifying coercive 'relationships'. Problems in distinguishing between coercive and consensual relationships may also arise from a prison officer's own perceptions about women and homosexuality (Eigenberg, 2000a:444). Issues faced by prison officers in determining the existence, and nature, of sexual activity were also noted in the Prisons and Probation Ombudsman (2013:5) report which stated that staff often sought to move prisoners (particularly cell sharers) if they suspected that there was an ongoing sexual relationship. Fearful about being moved, prisoners were often secretive about relationships, making it hard for staff to take action to protect prisoners who might be vulnerable to self-harm or distress (Prisons and Probation Ombudsman for England and Wales, 2013:5). Stevens (2014:3) argued that male prisoners were less willing than female counterparts to be open with prison staff about sensitive matters, making it more challenging for prison staff to intervene in either consensual or coercive situations.

Studies about US prison officers' perceptions of sexual abuse provide some insight into the extent to which they are able and willing to differentiate between sexual behaviour which is consensual and that which is coercive. Eigenberg 's (2000:429) study of US prison officers' definitions of rape identified that they perceived sexual behaviour in male prisons to be a result of deprivation of heterosexual contact during their sentence. Although the study found prison officers generally rejected stereotypes about homosexuality, they were less likely to respond to 'consensual' activities. Additionally, this study identified that prison officers experienced challenges in understanding the (sometimes coercive) nature of selling sex or other services because of debt and were prone to accept that sexual activity was consensual without further analysis.

Eigenberg's (2000:430) findings suggested that prison officers' reluctance to intervene or even discuss intimate issues with prisoners may be problematic as it is unlikely that observing behaviour alone would identify whether activity was consensual or coercive. In a second study, Eigenberg (2000a:442) found that prison officers were likely to blur the lines between consensual sex and rape; often failing to recognise coercion as a mechanism for perpetrating rape and focusing only on violence and restraint as *modus operandi*. 'Liberally minded' prison officers with a stronger focus on rehabilitation, and more egalitarian attitudes to women, tended to adopt a more empathetic, wider definition of male rape in prison (Eigenberg, 2000a:444). The demographics and attitudes of prison officers has also been identified as an important factor in accurately estimating levels of consensual sex and sexual victimisation, in which being female and White increased the accuracy of estimation; suggested by the authors as being because these groups held less homophobic views (Hensley and Tewksbury, 2005:194). In Eigenberg's (2000a:445) study, one quarter of the sample of prison officers wrongly identified rape as consensual sexual activity in circumstances where a prisoner was threatened with being identified as a 'snitch' by the perpetrator and forced to pay off a debt.

The problem for prison staff in successfully distinguishing between consensual sexual relationships and coercive relationships was also acknowledged by Stevens (2013:3) in her report *Sex in Prisons*, which noted that prison governors in England and Wales had expressed concerns about whether sex could be truly consensual in prison environments because rational choices were restricted. Stevens (2017:1379) described the failure to distinguish between sex and coercion as being symptomatic of a culture of denial (Cohen, 1993) resulting in prison officers

adopting a 'don't ask, don't tell' approach. As consensual sexual contact did not represent a threat or interruption to the effective running of the prison regime, Stevens (2017:1385) argued that prison officers exercised the practice of 'knowing and not knowing' to avoid confrontation which they identified as being unnecessary.

3.2.3 Coercion, protective pairings and 'prison wives'

Social constructivists (Bowker, 1980; Lockwood, 1980; Wooden and Parker, 1982; Eigenberg, 1992; Donaldson, 2001) have argued that behaviour in prisons, rather than being imported from pre-prison behaviour or as a result of deprivation, is based on the need to gain power and reward within the prison hierarchy. As such, prison-based sexual identity and behaviour is constructed and defined differently from pre-prison lifestyles, often as a form of protection from (further) victimisation. Bowker (1980:14) described a case study, from his Washington State Penitentiaries research, in which a young prisoner was subjected to multiple perpetrator rapes over a period of months and eventually accepted the position of 'kid', limiting abuse to that carried out by the 'aggressor' and the aggressor's friends. The fate of this victim of multiple perpetrator rape was identified by Bowker as being an example of 'forced homosexuality', in which rape victims were coerced into becoming 'homosexuals against their will' (Bowker, 1980:15).

The term 'protective pairings' was first coined by Donaldson (2001:120) to describe coercive sexual pairings in US men's prisons. These 'pairings' described arrangements where prisoners adopted gendered roles, often using prison argot, as the 'man' or 'pitcher' (using baseball terminology) and the 'wife' or 'catcher'. Although the term 'protective pairings' implies a mutually agreed relationship, this assumption belies the coercion and rape of the weaker prisoner. The weaker individual is forced to be the 'catcher' and becomes a long-term victim of sexual assault, enduring other forms of exploitation such as undertaking a 'housewife' role for the 'husband'. In return for the slave-like behaviour of the 'catcher', the 'man' or 'jockey' provides protection to the 'catcher' from the threat of physical or sexual assault from other prisoners and, in doing so, also risked discipline from prison staff (Donaldson, 2001:120).

Donaldson's (2001) study was updated by Trammell's (2011:314) study of US male parolees who referred to the concept of protective pairings as 'prison wives' and confirmed that these coercive relationships continued to exist post implementation of the *Prison Rape Elimination Act 2003*.

Trammell's (2011:315) study identified sexual coercion as an important facet of protective pairings but also revealed that the prisoner taking the 'weaker' or feminine 'wife' role was forced to carry out domestic chores in a subordinated role, in which the burden of the division of labour fell to the 'prison wife'. Protective pairings, by their nature, are coercive, but the 'decision' to become the 'weaker' party in a protective pairing, rather than report abuse to the prisoner authorities, has been described as the 'lesser of two evils' (Trammell, 2011:319).

3.3 Sexual assaults

Research-based estimates of the incidence and prevalence of sexual victimisation in prisons have been dominated by US studies (Gaes and Goldberg, 2004; National Institute of Justice, 2006). Australian studies have provided some analysis of incidence levels (Steels and Goulding, 2009; Yap *et al.*, 2011; Simpson *et al.*, 2016) with a modicum of early, small-scale studies from other countries (Gear, 2007; Einat, 2013; Papadakaki *et al.*, 2019). These studies have employed a wide range of measures and definitions of sexual assaults and victimisation, sometimes measuring rape and/or assaults and sometimes restricting studies to counting 'targets' or victims. Measuring sexual victimisation is based either on prevalence or incidence rates. The concept of these measures is borrowed from studies of epidemiology; prevalence is the total number of a given population which have been infected and incidence is the number of cases over a set period. Pre 2003, the wide range of definitions and measures of sexual victimisation used (including rape, sexual assault, sexual coercion, sexual targeting, sexual abuse) by US studies, along with variance in data collection methods (including prisoner self-reports, surveys and interviews), made it impossible to establish the nature and scale of the issue (Gaes and Goldberg, 2004; National Institute of Justice, 2006).

Dumond (2003:354) argued that prisoner sexual assaults had 'plagued' American prisons since the nineteenth century. Sexual assaults had, Dumond (2003) suggested, been ignored by prison managers, compromising the safety and security of prisons which could only be addressed by implementation of legislation in the form of the PREA. The PREA mandated that state and local prisons enforced a zero-tolerance policy on sexual assaults and required that the Bureau of Justice Statistics completed an annual statistical review of the incidence and effects of prison rape. Fleisher and Krienert's (2006:11) post-PREA study of sexual violence in high security prisons, identified that prisoners had a multiplicity of interpretations of sexual violence. Their

interpretations depended on several factors such as the pre-assault behaviour of the victim, perpetrator, and other prisoners' perceptions of the causes of the sexual violence. Insights derived from the Fleisher and Krienert (2006:11) study highlighted the importance of using mixed method approaches to understand prison-based sexual assaults, because statistical information alone could not provide sufficient contextual information about the incidents. The 2011-2012 large-scale survey of 106,532 male and female prisoners (Beck *et al.*, 2013) estimated that 4% of prisoners in state and federal prisons and 3.2% of prisoners in jails (local prisons) reported experiencing one or more incidents of sexual victimisation (by another prisoner or staff member) in the last 12 months, or since reception. Of these incidents, about half involved other prisoners (Beck *et al.*, 2013:6). These rates have remained stable since the first review conducted by the Bureau of Justice Statistics in 2007 (Beck and Johnson, 2012), which was based on the same collection methodology. An Australian incidence study (Butler *et al.*, 2002:390) based on a sample of 745 men, found that 0.4 percent of them reported 'non-consensual' sex. When asked if they had been sexually harassed or threatened by another prisoner, 4.6 percent reported being victimised and most of these incidents were verbal harassment.

Green et al's (2003:254) research based on a random sample of 1009 adult male prisoners from short, medium and long-term sentence prisons found that a quarter of the men who had had 'sex' in prison stated that they had been coerced into 'same-sex activity' whilst in prison. The research team noted that their results corresponded with both the prisoners' estimates and knowledge of sexual activity in prison and the expected rates of sexually transmitted diseases. They concluded that the overall level of sexual activity, both consensual and coerced, was lower than had been expected. Green et al (2014:253) noted that prior assumptions of a relatively high level of sexual activity had largely been based on the findings of US studies (Gaes and Goldberg, 2004).

Banbury's UK study (2004) which focused solely on sexual victimisation rather than health outcomes, estimated sexual coercion to have been experienced by 5% of the male and female ex-offender sample. A further 4% of Banbury's (2004:119) sample reported having been subjected to prisoner on prisoner 'forced drug searches'. Banbury's (2004) study highlighted that threats of 'coercive sexual behaviour' and prisoner on prisoner drug and contraband searches were the most commonly experienced sexual assaults in the UK prison context. In contrast, US prevalence studies have generally focused on rape and serious sexual assault (Gaes and Goldberg, 2004), mostly ignoring less serious assaults and prisoner on prisoner drug and contraband searches as a form of sexual assault. Banbury (2004:124) highlighted that a significant number of participants

suffered both fear of rape and fear of drug searches but that experiencing rape was relatively rare.

The Howard League Commission on Sex in Prisons (Stevens, 2013) examined consensual sex, coercive sex and healthy sexual development among young people in prison, despite restrictions to access to prisons and prisoners (Green, 2014; Stevens, 2019). With the exception of the Howard League Commission (Stevens, 2013;2014;2014a;2015) and Banbury's studies (2004; 2016), UK-based research has largely remained focused on the public health aspects of sexual behaviour in prisons, the inconsistent application of prison rules and access to condoms, and has not provided any realistic estimates of the extent of sexual activity (Stevens, 2013:6) or an understanding of sexual victimisation. Given the lack of research-based evidence about the extent of sexual activity in prisons, the Prisons and Probation Ombudsman for England and Wales (2013:1) observed that sexual abuse in prisons has remained a largely hidden issue, highlighting that complaints of a 'sexual nature' made up less than 0.5% of the complaint caseload between 2007 and 2012. The proportion of these complaints, deemed as eligible for investigation, was identified as being broadly similar to other types of complaints.

Lack of understanding of both the nature and prevalence of sexual victimisation in the UK has been described as a 'culture of denial', in which little is known about prisoners' experiences because little has been asked (Stevens, 2017:1379). This thesis is not a prevalence study and it cannot address questions about the level of under-reporting. It does not directly seek the lived experiences of sexual assault directly from male prisoners. The focus of this thesis remains on the central questions relating to existing reports of sexual assaults recorded in the Incident Recording System (IRS), what they reveal about the assaults and the process and experience of reporting them to prison authorities. There has been no attempt previously to deconstruct the nature of officially reported 'sexual assaults' from the IRS data, which includes a wide range of sexual assaults from verbal threats and touching to multiple perpetrator rapes, or to ensure that the statistics and reporting processes are fit for purpose (MOJ, 2015b).

3.3.1 Prisoner on prisoner drug searches

Early studies of prisoners and the 'prison code' (Sykes, 1958; Sykes and Messinger, 1960) suggested a form of prisoner solidarity existed in which prisoners operated complex rules as part of a 'prison society' or community. Penologists (Kupers, 2001:114; Jewkes, 2005:49) have argued that prisoner solidarity has declined because of the impact of drug culture in prisons, and that the lack of trust in fellow prisoners has instilled a 'dog eat dog' culture (Jewkes, 2005:49) in which the impact of drugs would be hard to overstate (Crewe, 2009:369). In 2014, the results of *Surveying Prisoner Crime Reduction* (Hopkins and Brunton-Smith, 2014:3) reported that the respondents' experience of prison indicated that most prisoners already had a drug problem when they entered prison and 30% admitted to using illegal drugs while in custody. Hopkins and Brunton-Smith (2014:3) noted that prisoners reported their most frequently used drug as cannabis (followed by heroin), and that their drug usage patterns prior to imprisonment tended to be mirrored during their prison sentence. Research about drugs markets and supply routes in prisons is sparse (Crewe, 2006:148), although evidence about levels of consumption are well-documented (HMIP, 2014; Hopkins and Brunton-Smith, 2014; HMIP, 2015). Penfold et al's (2005:vii) Home Office commissioned research on drug supply was carried out prior to the phenomena of synthetic drugs.¹⁰ It found that security measures and treatment programmes had a 'dual impact on drug supply and demand, particularly in terms of supply route displacement and the demand for non-prescribed medication'.

Later, research carried out by Ralphs et al (2017) in an English Category B Local prison followed the publication of the 2013-2014 annual report of Her Majesty's Inspectorate of Prisons (HMIP), which had raised concerns about use of new synthetic drugs in prisons (HMIP, 2014). Ralphs et al (2017) asserted that new prison drug markets presented high risks of harm for prisoners and staff because of unprecedented access to, and use of, synthetic drugs. Reasons for the demise of the traditional drugs markets of heroin and cannabis include the lucrative nature of synthetic drugs and the novel ways that they can be brought into prisons (Ralphs *et al.*, 2017:62).

Crewe (2009:374) described complex, strategic systems in place in prisons which ensured that drug dealers could avoid being caught by prison authorities and that influential prisoners were 'paid off' by benefaction of drugs. This system of drug dealing also involved high levels of drug-

¹⁰ Synthetic cannabinoid drugs, also known as 'new psychoactive substances' (NPS) are illegal substances designed and manufactured to mimic the effects of traditional drugs.

related prisoner debt which became impossible to resolve and frequently led to 'weaker' prisoners seeking segregation for their own protection (Crewe, 2009:382). The impact of drug culture and markets on sexual assaults has been associated by several studies in prisons in England and Wales (Green *et al.*, 2003:255; Banbury, 2004) with prisoners reporting coercive sexual activity. Coerced sexual activity takes place as 'payment' in exchange for drugs, money, phone-cards, and tobacco. Sexual victimisation has the potential to highlight a prisoner as being involved in other exploitative relationships between prisoners, such as sexual coercion in exchange for goods and services, either as blackmail or by prisoner on prisoner forced drug searches (Banbury, 2004; Garland and Wilson, 2013).

The lack of coverage of drug-related sexual assaults was noted by Banbury (2004:123) as a significant research gap because prisoner on prisoner forced drug searches had not been identified as an issue, even though they were the most frequently reported incidents by both male and female ex-offenders participants. Banbury (2004:124) stated that drug-related sexual coercion was identified by her sample of ex-prisoners as a source of fear, and that they invoked additional barriers to reporting to prison authorities because of fear of abstinence and concern about disciplinary action against them for their own drug-taking. Banbury *et al.*'s (2016:383) subsequent work identified that drug searches were more likely than other types of sexual assaults to involve more than one perpetrator.

Multiple perpetrator sexual assaults have been recognised and examined in US literature via prisoner sex roles and typologies (Groth, 1979; Bowker, 1980; Lockwood, 1980; Wooden and Parker, 1982; Toch, 1992) but only partially, and as a digression from the discipline's main focus on single perpetrator based rape and attempted rape. In contrast, Banbury *et al.*'s (2016) typology included distinct types of drug searchers: one involved orchestration of the search, where other prisoners were intimidated into carrying out the search on behalf of the 'watcher' who reported having possible sexual motivation (Banbury, Lusher and Morgan, 2016:377). The role of 'watcher' was first identified by US studies (Bowker, 1980; Wooden and Parker, 1982) in the capacity of a 'look-out'. Banbury *et al.*'s (2016:377) second type of drug search perpetrator used a hand or implement inserted into the victim's anus but reported no sexual motive. Perpetrators carrying out these drug searches described having some compassion for their victims and saw their victimisation as a means to an end, often avoiding intimate physical contact by using objects and

lubrication to accelerate the removal of drugs or contraband (Banbury, Lusher and Morgan, 2016:378). Forced drug searches were identified by Banbury (2004:126) as occurring frequently in prisons where multiple perpetrators were responsible for carrying out the search, restraining the victim or acting as 'look-outs'. Victims were frequently in prison for property or drugs-related offences. Prisoner on prisoner 'forced' drug searches, were identified as 'commonplace' by Banbury (2004:123), but they are recorded in the *Safety in Custody Statistics* as an integrated (but not singly identifiable) element of the 'sexual assaults' data (MOJ, 2018).

Given that nearly half of male prisoners reported that it was easy to get drugs in their prison and that 225 kilograms of drugs were confiscated during 2016 (Hewson, 2017:42), drug-related offending is likely to be under-estimated. Banbury's (2004) study is also out of date as it does not reflect the current prison drug markets and culture, including the use of synthetic cannabis substances such as spice and mamba which have been identified as being the most serious threat to prisoners (HMIP, 2015; Ralphs *et al.*, 2017). Escalation of use of synthetic cannabis has been reported to have far greater consumption rates in prisons than in the community and is associated with a decline in the use of opiates and cannabis by prisoners (Ralphs *et al.*, 2017:60). Research on the supply (and use) of synthetic drugs in prison drug markets is in its infancy but acknowledgement of traditional routes such as via post, visits, staff smuggling, and the extended risk associated with new and recalled prisoners have all been identified as sources for the general importation of drugs (Crewe, 2006:357; 2009:370).

It is noteworthy that Ralphs *et al.*'s (2017:62) study found that licence recalls, especially those involving prisoners serving short sentences, were used systematically as a route for drug supply. Prisoners and staff described opportunities exploited by prisoners on licence who purposefully broke licence agreements to be recalled to prison, allowing for drugs to be imported via 'plugging'. 'Plugging' is an idiom used by staff and prisoners to describe the way in which drugs or other contraband, such as mobile phones, are wrapped or put into containers (for example, using condoms or Kinder egg packaging) and inserted or 'plugged' into the prisoner's anus. 'Plugging' is a well-known method of drug and contraband smuggling in prisons, often carried out as part of maintaining the supply chain as a consensual and mutually beneficial illicit practice. Crewe's (2006:158) ethnography identified highly organised drug supply methods which included 'plugging' as a way of moving drugs around the prison and distributing them to customers. Ralphs *et al.* (2017:62) considered the financial benefits of plugging based on the use of Kinder egg packaging, specifically for synthetic drugs:

“It was reported that two to four ounces (approximately 50–100 g) of synthetic cannabinoids plant matter or powder could be compressed into each egg and three or four eggs could be packed or ‘plugged’ by a prisoner. It is conceivable that up to 10 ounces (280 g) with a prison value of £28,000 could be smuggled in by a new prisoner.”

A UK study of conflict (Edgar, O'Donnell and Martin, 2003) in male and female prisons highlighted the need to develop better contextual information about assaults because there were apparent differences in prisoners' understanding of the term 'sexual assaults'. Ambiguity in defining and recording sexual assaults in prisons, where the context and motivation of the assault might relate to theft or recovery of drugs or other contraband, was identified as adding additional complexity (Edgar, O'Donnell and Martin, 2003:49). Data analysis of prisoner on prisoner drug searches, as a new sub-category of sexual assaults, is addressed in Chapter 5.

3.4 Institutional risk factors related to sexual assaults

Research about institutional factors linked to sexual victimisation is scarce, and most of the available US research has focused on individual characteristics of prisoners likely to be targeted (Perez *et al.*, 2010:380). Some US research studies, have suggested that higher security prisons have had higher incidence of sexual victimisation (Cooley, 1993; Hensley *et al.*, 2003). Other research has suggested that higher incidence of sexual victimisation is linked to prison overcrowding, population turnover, living arrangements and the type and culture of prisons. The following sections identify where information from the literature can be linked to the analysis of the IRS data, and where it cannot.

3.4.1 Overcrowding and prison population turnover

Overcrowding is usually defined according to formulas which allocate a specific physical space per prisoner, resulting in a maximum capacity calculation for institutions (HMPS, 2001; Hewson, 2017). However, Toch (1992:39), as part of his analysis of how prisoners adapt to US prison environments, highlighted that individual differences and sensitivities to crowding are an

important factor in determining the impact of prisoner numbers and capacity. The effect of crowding on privacy and the strains of managing public and private activity, which often required concentration and freedom from noise and interruption, were identified by Toch (1992:42) as a contributor to stress and conflict in prisons. Increases in prisoner on prisoner violent assault, suicide and self-harm, rule-breaking and mental health problems have all been associated with prison-overcrowding (Cox, Paulus and McCain, 1984:1156).

In the UK, the rise in the prison population has been explained, not by an increase in criminality but by an increase in criminalisation (Garland, 2001; Crewe, 2009). Prison over-crowding in England and Wales is defined as any institution which 'contains more prisoners than the establishment's 'Certified Normal Accommodation'. By this measure, in 2016-17 two thirds of prisons in England and Wales were over-crowded, equating to almost 21,000 prisoners; most of whom doubled up in cells originally designed for single occupancy (Hewson, 2017). The impact of over-crowding in prisons goes well beyond hardships presented by cell-sharing, as it causes frustrations related to resources such as staff time, access to education and other rehabilitation services (Crewe, 2009:453).

Prisoners' perceptions of the danger of sexual assault and targeting have been associated with the turnover of prisoners in or out of an institution (or population fluctuation). Nacci and Kane (1984:50) found that prisoners perceived there to be higher risks of sexual assault in prisons with higher levels of population fluctuation. The authors suggested that perceptions of high risk may have been linked to prisoners' recognition that staff were preoccupied with processing new prisoners. However, the same study (Nacci and Kane, 1984:50) also found that prisoners did not necessarily associate over-crowding with increased risk of being targeted for sexual assault.

Struckman-Johnson and Struckman-Johnson (2000:386) identified that prisons with large prisoner populations which contained a high percentage of prisoners who had been sentenced for 'crimes against the person' were more likely to have a higher incidence of sexual victimisation. In UK terms there is very little research-based evidence about the type of prison which may present the highest risk for prisoner on prisoner sexual assaults. Although the IRS data provides the number of sexual assaults for each prison, reporting numbers are low for individual establishments, even over a ten-year reporting period. Changes to the type of prisoners housed in a prison and capacity levels may have altered the type and population over time. Chapter 5 examines general

trends of reported sexual assaults, over the entire prison estate in England and Wales, making links to reported over-crowding where the information is available.

3.4.2 Cells, cell mates and risky places

In his study of *Asylums*, Goffman (1961:35) suggested that forced interpersonal contact with cell mates formed part of the process of 'mortification of the self' because close proximity caused 'contaminative exposure of a physical kind'. Goffman (1961:35) noted that in wider society, rape was a form of 'contamination' which also occurred in total institutions alongside other forms of commonplace 'contamination', for example, searching and going through possessions. Jewkes (2005:46) argued that survival in male prisons depended upon prisoners managing the pains of imprisonment by making public displays of masculinity to negotiate their place in the hierarchy, whilst being able to retain and foster their 'private self'. Prisoners adhering to the inmate code might be compelled to adopt 'frontstage' and 'backstage' coping mechanisms, in which a cell provides a haven for 'backstage' behaviour (Jewkes, 2005:54; Crewe *et al.*, 2013). When assessing the strengths of the concept of 'frontstage' and 'backstage' behaviours, it is worth noting that most prisoners in England and Wales share cells which were originally intended for single occupancy (Hewson, 2017) and therefore, lack privacy for even the most basic human functions (Stevens, 2017).

When it comes to cell-sharing, prisoners may either suffer from having to maintain 'frontstage' highly masculine behaviour or, in contrast, may benefit from 'two-ing up' and having someone to talk to (Jewkes, 2005:51; Crewe *et al.*, 2013:11). Sloan's (2016:94) study in an English Category C prison identified that prisoners spoke about their cells in terms of a place where they felt safe and identified as being their own personal space. However, Sloan's study was mainly carried out in a prison using single cell accommodation and therefore, these safe spaces might have represented a real 'retreat' from 'front stage' and an opportunity for prisoners to take some control back from the general chaos and demands of prison life (Jewkes, 2005:54). Sloan (2016:97) also identified that sleep was an important coping mechanism for prisoners, allowing them to refresh, desist from the need for displays of masculinity, distract themselves from the reality of being in prison and pass the time. However, she noted that one prisoner had mentioned being victimised while

asleep. Generally, prisoners had discussed their desire to feel safe by being locked in to their cells (Sloan, 2016:98).

US research on living arrangements in prisons has often highlighted the problems associated with dormitory style accommodation (Jenness *et al.*, 2007). However, this style of housing prisoners is much less common in England and Wales (Hewson, 2017). US research (Nacci and Kane, 1983:35) identified that targets of sexual assault were often living in the same quarters as their aggressors and that these assaults occurred most often in cells or dormitories during periods of association; or free movement. Housing prisoners in dormitories has been highlighted as a factor contributing to higher levels of bullying in UK young offenders' establishments, as this type of housing presents challenges for staff to supervise young people during the night (McGurk and McDougall, 1991:131).

However, Toch (1992:279) argued that use of single cells did not automatically protect prisoners as perpetrators can gain entry to locked cells; either by using tools or by persuading busy staff to open them. Prisoner knowledge of areas which are not subject to staff surveillance, such as cells, may provide opportunities for sexual assaults to take place. Banbury's (2004:124) study of ex-offenders highlighted that prisoners identified cells as being high risk areas; particularly when they were shared. Results indicated that prisoners' fears were based on reality as most of the victims (65.0%) in her sample were 'coerced sexually' in a prison cell (Banbury, 2004:122). This was later confirmed by a second study of perpetrators (Banbury, Lusher and Morgan, 2016:374). Cell-sharing was identified as a risk factor in a case study published by the Prisons and Probation Ombudsman for England and Wales (2013:3), in which an incident of sexual assault was described to emphasise the importance of adequate information sharing between prisons when carrying out cell sharing risk assessments. Australian research (Steels and Goulding, 2009:34) based on interviews with ex-prisoners and staff, identified that prison cells presented the highest risk of sexual assault, particularly during night time periods of 'lock-up'. Paradoxically, O'Donnell and Edgar (1996:95) found that prisoners in their study felt safe in their cells, even though most victimisation took place inside them. A study of US federal prisons also reported that prisoners felt most safe from sexual assault in their own cells followed by the showers and the chapel (Wolff and Shi, 2008:47). The exact location or scene of the sexual assault was not recorded in the general IRS fields. Two-thirds of the coded qualitative data fields, or incident descriptions (IDs) referenced a location where the sexual assault took place, this is examined in detail in Chapter 5.

3.4.3 Type of prison

Research has mainly focused upon the likelihood of sexual victimisation associated with individual characteristics of prisoners, such as criminal history and age, which will be considered later in this chapter. However, the type of prison in which sexual assaults are most likely to be reported is also worth closer examination. It should be noted that most of the literature on this area relates to studies carried out in the US. Bowker (1980:156) suggested that prison architecture and inadequate surveillance was a contributing factor to higher rates of sexual victimisation in US prisons which had staff 'blind spots'. The failure of processes and equipment (such as doors being left unlocked) was also highlighted by Lockwood's (1980:134) study as a reason often given by prison staff for the occurrence of sexual assaults on prisoners. Beck et al's (2013:16) US research on the prevalence of sexual victimisation identified that pre-trial detention facilities reported high rates of prisoner on prisoner sexual victimisation. In one facility, housing male and female prisoners, and operated by the US military, the rate of victimisation was identified as being 5.1% of the population which was over double the 2.0% average from prisons and 1.6% average from jails. Although this research reported differences between types of facility, it did not discuss any possible explanations, such as the flux of the population or over-crowding.

Worrell and Morris (2011:146) conducted a snapshot study of Texan prisons and analysed violations of prison misconduct rules. The data showed that as the security level of prisons increased, the probability of misconduct, or 'rule-breaking', also increased. Worrell and Morris (2011:148) suggested that as prisoner classification and placement decisions were often based upon previous behaviour, labelling theory could be used to explain the ways in which prisoners in higher security institutions behaved in order to live up to expectations. However, the Worrell and Morris (2011) study did not differentiate between types of rule-breaking and did not consider sexual victimisation in their estimations. Lockwood (1980:25) suggested that in the US context, sexual assault incidents were more likely to occur in men's state or Federal prisons rather than county or local jails. He argued that local jails tended to house prisoners from similar cultural backgrounds, but that sexual victimisation was more likely to be common in prisons which housed a broader range of prisoners. Nacci and Kane's (1984:48) early study also suggested that sexual victimisation was most likely to occur in maximum security prisons in the US, and this finding has been supported by a number of subsequent US studies (Cooley, 1993; Hensley *et al.*, 2003; Perez *et al.*, 2010).

In the context of England and Wales, Banbury (2004:124) argued that a higher number of sexual coercion incidents took place in local prisons. This contrast to Lockwood's (1980) observation can be partly explained because local prisons in England and Wales house remand prisoners and recently sentenced prisoners (who were in the process of risk assessment in relation to their behaviour, drug dependency and other issues which might impact upon their categorisation). Local prisons therefore have a high turnover of prisoners received from local courts and possibly experience higher fluctuation in their prison population. Chapter 5 provides an overview of the IRS data's insights about the type of prison in which sexual assaults are reported. Most prisons in England and Wales house prisoners from a range of security classifications. The IRS data includes information about the security classification of those named as being involved in reports of sexual assaults and therefore, prisoner categorisation has been used for analysis in Chapter 5.

3.4.4 Culture of prison

Prisoner perceptions of culture and feelings of safety from rape have been addressed by a large scale US study, commissioned by the National Institute of Justice (Fleisher and Krienert, 2006). The study found that prisoners' perceptions were influenced by 'a complex system of beliefs and norms on sexual conduct' and that interpretation of sexual aggression was subjective allowing for varied interpretations, which were often led by the way that the victim responded following the assault. Furthermore, informal arrangements for the 'self-policing' of sexual violence were apparent alongside 'protective social arrangements' assumed by prisoner groups, for example, religious or recreational factions, who facilitated safety (Fleisher and Krienert, 2006:12). Overwhelmingly, Fleisher and Krienert (2006:13) found that prisoners believed prison rape was damaging to social order and that 'prison rapists ... [were] unwelcome in a prison community'. A further, large scale US study of federal prisons (Wolff and Shi, 2008:42) noted that most prisoners reported feeling safe from sexual assault although different prisons from the sample of thirteen prisons, elicited varied feelings of safety among prisoners. Prisons with a younger prisoner age profile, those housing violent groups and prisons with a culture of use of force by staff, engendered unsafe feelings.

Other than Stevens (2017), who argued that sex (and sexual coercion) had been subject to a systematic denial by prison authorities, most of the literature about prison culture has not directly addressed the hidden issue of sexual assaults. Matters associated with imported prison culture and the impact of staff culture have been addressed in the literature in some detail. A summary

of the issues which may have an impact of the reporting, recording of, and initial response to sexual assaults are briefly explored here. Jewkes' (2005:45) analysis of adapted masculinity in prisons asserted that the predominance of lower working class men in UK prisons was the most important factor influencing prisoner belief systems and moral standpoints. She argued that the imported prison culture, reflecting the values of lower working-class men, had created a 'fratriarchy', a term which described the dichotomy of accepted male power in society existing alongside individual male powerlessness. Jewkes (2005:45) suggested that prison 'unites men in powerlessness'. However, this may be a simplification of the complexity of prisoner hierarchies and the variations in the way that prisoners are 'feared, admired and denounced' (Crewe, 2009:291). Sociological studies about cultural power and the lived experience of prisoners in England and Wales are uncommon. When published, studies have focused on adaptation to prison life, drugs or violence (Crewe, 2005; Jewkes, 2005; Crewe, 2006;2007;2009;2011a; Crewe *et al.*, 2013; Schinkel, 2014) rather than sexual assault. Formative research on sex and sexual assaults in prisons in England and Wales has included insights on the impact of culture, but this work has been limited by being small-scale and based on former prisoners (Banbury, 2004; Stevens, 2013;2014;2014a;2015; Banbury, Lusher and Morgan, 2016; Stevens, 2017).

Published UK literature on workplace or staff cultures has evolved, often citing its foundations in gaining a fuller understanding of the harsh environment for staff and idiosyncrasies of camaraderie (Crewe, Liebling and Hulley, 2011; Bennett, Crewe and Wahidin, 2012; Crawley and Crawley, 2012; Bennett, 2016). The unique working environment of prisons and the requirement for prison officers to exercise control by consent has been recognised as a central tenet of their role, given that they are outnumbered by 'captives' (Sykes, 1958:19).

Arnold, Liebling and Tait (2007:485) conducted exploratory research in prisons in England and Wales to establish the relative cultural perspectives of staff and prisoners. The study found five distinct prison cultures characterised by values, organisational goals, and emotional responses to the prisons. For example, Belmarsh prison was identified as being focused on security with little contemplation about the impact of the regime on prisoners. In contrast, Wandsworth's regime was identified as focusing on discipline, creating a culture of intimidation where prisoners were restricted. Wandsworth Prison was also identified as an example of staff and prisoners sharing a common, but mostly negative, emotional perspective. Those prisons with the strongest

emotional disconnect between staff and prisoners were identified as being most at risk of experiencing disturbances. The culture of prisons has also been identified as a relevant factor in adaptation and desistance of prisoners and the ways in which they interpret their sentence (Schinkel, 2014:24). Although cultural distinctions between prisons have been examined by a number of UK prison researchers (Liebling, 2004; Crewe, 2009; Schinkel, 2014) these insights have not included the way in which cultural variances potentially impact on the incidence and reporting of sexual assaults. The IRS data does not allow for comparison between prisons because of the small numbers of reports over the whole prison system. Therefore, individual prison cultures and their implications for the reporting of sexual assaults remains a gap in the existing research.

Rule enforcement and the extent to which prison officers have adopted proactive roles to reduce incidents of violence and sexual victimisation have been a source of debate among prison researchers (Eigenberg, 2000; Crewe, 2009). Staff culture concerning responses to victimisation was identified by Ireland (1999:161) as a factor where bullying behaviour thrived because there were clear power differentials between prisoners and staff, low levels of staff supervision and circumstances where bullies were conferred high status by prisoners and staff. Arnold, Liebling and Tate (2007:487) examined the extent to which prisons in England and Wales could be identified as having 'traditional' cultures (where staff deferred to prison governors, had a sense of loyalty to the prison service, felt safe, trusted prisoners and thought that the level of power and responsibility prisoners' experienced was too high). Their study found that traditional prison cultures were commonly characterised by officers who felt disconnected from managers, the prison service, and prisoners. Prisoner distress was found to be higher in traditional prison cultures, partly because control mechanisms were based on aggression, initiating resentment, and reducing the legitimacy of prison officers. Moreover, in traditional prison cultures, prison staff did not use interpersonal skills to interact with prisoners or respond to help-seeking cues. Failure to respond to prisoner cues was identified as being based upon suspicion that prisoners seeking help might undermine the authority of staff. Bennett (2016:67) suggested that traditional features of staff and prisoner interaction were sometimes reinforced by 'macho displays of challenging prisoners' by prison officers, which remained unchallenged by prison managers. The role of prison managers in supporting and overseeing the initial response to reports of sexual assaults is key, as is deriving learning from adverse incidents. The extent to which prison managers drive improvements in responding to sexual assaults is an unresearched topic in the UK. Bennett's (2016:68) argument that managers are driven by managerialism and remain influenced by traditional prison officer masculine cultures, asymmetric relationships with prisoners and insularity presents challenges for researching their role in responding to sexual assaults.

Arnold, Liebling and Tate (2007:490) highlighted that reductions in staffing, in conjunction with a high turnover of new prisoners in local prisons, may have contributed to staff reducing interpersonal contact with prisoners. Reduction in contact may have reflected staff needs to protect themselves against becoming overwhelmed with a high volume or 'caseload' of prisoners with problems and anxieties. There is also some evidence that lower staff to prisoner ratios have been associated with staff perceptions that levels of misconduct or rule-breaking, including sexual abuse, are higher (Hensley and Tewksbury, 2005:195). The relationship between staff and prisoner perceptions of risk highlight that these can fluctuate, and that different contexts or disconnects between parties may account for inconsistencies (Nacci and Kane, 1984). The Nacci and Kane (1984:49) study of the perceptions of US prison officers demonstrated that when officers reported high job satisfaction, prisoners reported feeling safer from sexual assault. Incongruously, when staff reported higher morale, prisoners reported increased feelings of danger of sexual assault; suggesting that high staff morale could be associated with increased disconnection from the daily or lived experience of prisoners. The role of prison officer, their occupational culture, and the ways in which their interaction impacts on prisoners and prison life remains under-researched, particularly when compared to the analysis of police culture and its influence on practice and engagement. Crawley and Crawley (2012:135) argued that in studies of prisons, the 'sociological gaze' has mostly been directed at prisoners and not the staff who look after them.

The individual cultures of prison establishments, their inmates and staff are not recorded in the IRS data. Where types of prison provide insight into the culture, issues are included in Chapters 5 and 6, taking into account the perspectives of a small number of prison staff who were interviewed.

3.5 Individual factors related to risk of and reporting of sexual assaults

A significant amount of research, particularly from the US, has been directed at developing insights into prisoner characteristics which are most closely associated with being sexually assaulted and reporting sexual assaults in prisons. The following section explores the literature in detail.

3.5.1 Time since reception at the prison

Reception to prison has been recognised as being a particularly vulnerable stage of imprisonment (Bowker, 1980; Lockwood, 1980; Cooley, 1993; Crewe, 2009; Morash *et al.*, 2012; Stevens, 2014) both in terms of self-harm related risks, and being victimised. The reception process itself, which includes removal of personal possessions and searching and showering, has been noted as emphasising the prisoner's new powerlessness and lack of status while reinforcing the dominance of prison authority (Goffman, 1961; Toch, 1992; Crewe, 2009). Goffman (1961:51) understood that admission procedures in institutions were a means of imposing 'mortification of the self' in which new patients or prisoners were stripped of past support mechanisms and initiated into being ready to 'start living by house rules'.

The targeting of new prisoners (by established prisoners) through use of verbal abuse has been identified as an established tactic for probing vulnerability to future exploitation (Edgar, O'Donnell and Martin, 2003:33). The process of settlement into a new prison has been described as a 'culture shock' by Toch (1992:193) in which new prisoners search for information and cues from previous experience to help them transition to prison life, plan and stay safe. Lockwood's (1980:25) study of New York State prisons found that over three-quarters of sexual 'aggression' incidents took place within 16 weeks of the 'target' entering prison, suggesting that prisoner reception centres or first transfer prisons might present the highest risk of sexual assault. Nacci and Kane (1983:35) found that 57% of men who were victimised in Pennsylvania federal prisons had been in their current prison for less than one month when the assault occurred. Their research with prison officers identified that staff failed to recognise a prisoner's newness to the prison as being a risk factor. Bullying in a UK young offenders' establishment was also reported to occur most frequently on the day in which new trainees arrived and on days when the dormitories were not inspected by staff; suggesting that vulnerability could be linked to the first stages of a sentence or a move to a new institution, as well as frequency of staff supervision (McGurk and McDougall, 1991:133).

The majority of the sexual 'coercion' incidents reported by Banbury's (2004:124) study, took place early on in the served sentence of the prisoner. However, her findings did not determine whether the higher rate of sexual victimisation was because new prisoners were more likely to report than their more established counterparts. Garland and Wilson's (2013) research suggested that reporting is more likely to occur earlier on in a prisoner's sentence, and therefore prisons should

develop policies which provide information about attitudes to sexual offending on arrival in those establishments. Alternatively, high levels of victimisation and subsequent reporting of sexual assaults may be partially explained by the proliferation of new and recalled prisoners smuggling drugs into prison by 'plugging' (Crewe, 2009; Ralphs *et al.*, 2017) and established prisoners carrying out 'screening' for drugs through prisoner on prisoner searches.

Roles may be established early on during a sentence. Edgar *et al* (2003:72) argued that prisoners, when establishing themselves in a prison, may use violence to avoid being identified and labelled as a potential 'victim'. Establishing a role, or a series of roles, was identified by Edgar (2003) as an important component of staying safe because he argued that prisoners' roles become fixed. The suggestion that prisoner roles become fixed fails to account for changes in prisoner behaviour over the duration of a prison sentence and adaptations that they may make in response to the pains of imprisonment (Crewe, 2009:152). Methods employed by prisoners to establish their roles may provide some insight into the phenomenon of interchangeability of victims and perpetrators in prison contexts. Ireland's (1999:175) study of bullying identified a high frequency of violent offenders who had self-reported as being both bullies and victims and who were over twice as likely to defend themselves with violence. Similarly, Lockwood (1980:91) identified adaptations in US prisoner behaviour and described ways in which 'targets' of sexual assault received 'warnings' of future sexual victimisation and adopted different behaviours as protective factors; such as self-isolation. The targeting of victims in prisons in England and Wales is possible to establish based on some of the quantitative fields in the IRS data which reveals some clear patterns of victimisation which are discussed fully in Chapters 5 and 6. In particular, time since reception at prison has been linked to prisoner on prisoner drug searches.

3.5.2 Criminal background of victims and perpetrators

Earlier US studies have referenced the criminal background of men targeted or victimised by sexual assaults (Bowker, 1980; Lockwood, 1980). Lockwood (1980:25) argued that of his sample, 65% of 'targets' had served previous prison sentences and were therefore not vulnerable, first time offenders with no experience of prison. In fact, Lockwood (1980) asserted that men targeted for sexual victimisation had similar experience of prison life to those who were not targeted. Nacci and Kane's (1984:48) study supported Lockwood's findings, as the targets identified by their

research often had a substantial and obvious criminal history having been placed in the same high security prisons as their aggressor counterparts.

Banbury's (2004:119) UK study found that nearly half of her sample of self-reported victims of sexual coercion were on remand, and the remainder were mostly serving sentences for burglary, theft, drug offences, violence, motoring offences and robbery. These findings are in contrast to widely held beliefs, and some US research evidence, that sex offenders are over-represented as both victims and perpetrators of sexual victimisation (Morash, Jin Jeong and Zang, 2010; Morash *et al.*, 2012; Beck *et al.*, 2013). Morash and Morash (2010:10), in their single US state study comparing perpetrators and non-perpetrators of sexual assaults, found that being sexually abused as a child, having a life sentence and having adult sexual offence convictions were predictors for sexual assaults involving touching other men in prison. For more serious assaults, involving threatening, attempting or carrying out 'sexual penetration', Morash and Morash (2010:8) identified that a history of committing robbery as a young person, adult sexual offence convictions, longer sentences and being young were all predictors for perpetrating sexual assaults. Beck *et al.*'s (2013:19) much larger scale US research identified that prisoners in custody for violent sexual offences reported higher rates of sexual victimisation than counterparts convicted of other offences.

Morash and Morash (2010:11) in their examination of cases of substantiated misconduct in prison (equivalent to proven adjudications in England and Wales) found that prisoners with a history of aggressive acts in prison and convictions for sexual offences (rather than property, weapons, and drug-related offences) were more likely to be involved in sexual assaults involving threats, attempted penetration and penetration. Struckman-Johnson *et al.* (1996:71) suggested that 'targets' in Midwestern US prisons, who had successfully defended themselves against attempted rape or sexual assault were more likely to have committed sex offences over their lifetime, perhaps supporting the hypothesis that sex offenders may be over represented in prison sexual assaults.

Some of the complexities of using US research to provide context for examining reporting data from England and Wales, stems from its focus on male rape and offences connected to that, such as threats and attempts to commit male rape. US literature largely ignores less serious assaults, such as verbal threats and touching, as well as not acknowledging prisoner on prisoner drug

searches. Therefore, US research provides limited insight into the wider context of sexual assaults in England and Wales. The IRS data does not include full details of the criminal history or previous periods of imprisonment of those involved in reported sexual assaults. However, data is available on the offence related to the 'current' imprisonment at the time of the sexual assault, and this is used for analysis in Chapter 5. Data relating to the length of custodial sentence, as an indicator of the seriousness of the imprisonment offence, was incomplete and could therefore not be used in the analysis of the data.

3.5.3 Ethnicity

Literature from the US has included a mixed explanation of the involvement of Black men as victims and perpetrators. Early US studies, such as Davis' (1968:336) study of prison rape, suggested that there were proportionally more male Black 'aggressors' in the Philadelphia prison and that their victims were mainly White. However, Davis' (1968) early conjectures about the predominance of Black aggressors and White victims failed to take full account of the disproportionate incarceration of Black men in Philadelphia and the US generally. A number of other pre PREA studies reported Black men as being disproportionately involved as sexual 'aggressors' (Carroll, 1977; Lockwood, 1980; Struckman-Johnson and Struckman-Johnson, 2000; Hensley *et al.*, 2003). Like Davis, Bowker (1980:8) suggested that Black male prisoners were over-represented as sexual aggressors and that they targeted White prisoners as part of 'gang culture' and using rape and sexual violence to gain dominance. However, Bowker (1980) argued that in contrast, White prisoners, self-reported their use of alternative means of establishing dominance; such as stabbings and burning out cells. Other early pre PREA research (Nacci and Kane, 1983; 1984) speculated that higher estimates of Black perpetrators might support their hypothesis that Black prisoners tended to congregate to commit multiple perpetrator assaults. However, although both of the Nacci and Kane (1983; 1984) papers made claims about disproportionate Black perpetrators of sexual violence, they failed to include statistics or data as supporting evidence (Gaes and Goldberg, 2004:14). In a much later US study, Struckman-Johnson *et al* (2000:386) reported a racial dimension to 'sexual coercion' in their study of Midwestern prisons where it was identified that White men were often targeted by Black men. Their data suggested that 60% of targets were White and 74% of aggressors were Black.

Post 2003, PREA US studies have continued to report mixed results about the involvement of Black men in sexual assaults in prisons. When comparing the characteristics of victims and

perpetrators, Morash et al (2012:304), found that Black men were more likely than White men to be perpetrators and that substantiated cases identified that more than half of their matched perpetrator-victim pairs, included a Black perpetrator and a 'non-Black' victim. The same study also showed that other factors such as mass incarceration, poverty and educational background had an influence over the likelihood of becoming a perpetrator or a victim. In contrast, a number of post PREA US studies have asserted that Black men are more likely to be sexually victimised by White perpetrators, or are as likely to be victims of sexual assaults (Jeness *et al.*, 2007; Wolff, Blitz and Shi, 2007) or witness them (Rowell-Cunsolo, Harrison and Haile, 2014). Jenness et al (2007:42) for example, estimated that African American prisoners in US federal prisons were more vulnerable to sexual assault than their White counterparts. Beck et al (2013:17) reported that rates of sexual victimisation (including men and women) were higher among White prisoners (2.9%) or inmates of two or more ethnic backgrounds (4.0%) than incidents involving only Black prisoners (1.3%).

The US literature is hard to apply to adult male imprisonment generally in England and Wales, not only because of the differences between criminal justice systems and legislation, but also because of the higher rate of incarceration and the wider significance of the disproportional imprisonment of Black, Asian and minority ethnic (BAME) men in the US. In 2014, at the end of the IRS data capture period of 2004-2014, Rowell-Cunsolo et al (2014:55) reported that Black men were eight times more likely to be imprisoned than White men in the US and if this trend were to continue, one in three Black men should expect to be imprisoned during their lifetime.

From the perspective of the criminal justice system in England and Wales, disproportionality in the treatment of people from a BAME background has been consistently identified by official data. Published in 2015, the Ministry of Justice (2015:4) reported on rates of prosecution relative to the population. It noted that sentencing for the 'Black ethnic group' was three times higher than for the White group and twice as high for the BAME 'mixed group'. Similar patterns were identified for arrest rates and remand rates. Additionally, custodial sentences were longer for all BAME groups when compared to White offenders. In relation to the prison population, the report (MOJ, 2015:68) identified variation between ethnic groups. At that time, the rate of imprisonment was approximately 15 prisoners for every 10,000 people in England and Wales, and this figure was reflected for White and Asian people. However, when looking at the rate of imprisonment for mixed race and Black people, rates were 44 and 55 prisoners for each 10,000 population, respectively. Although there may be alternative explanations for some of the

identified differences, such as the unreliability of Census data, changes in the BAME population at the time, and variations in the types of offences committed, the report acknowledges that the imprisonment rate statistics were broadly aligned with disproportionate trends in remand and sentencing. Custodial sentencing trends were also highlighted as varying between BAME groups (MOJ, 2015:72) where Black offenders were given custodial sentences of over 50% longer than White counterparts, although both groups served 51% of their sentence in custody.

There is very limited research on BAME involvement in prison-based sexual assaults in England and Wales or the UK. One study of 'sexual coercion' in England and Wales (Banbury, 2004) reported that members of BAME groups were infrequently reported to be involved in 'sexual coercion'. However, the same study found that BAME prisoners reported frequently experiencing racial abuse and harassment during prison-authorized (staff on prisoner) drug and strip searches. Prisoners in Banbury's (2004:126) sample said that these incidents of racial abuse often went unreported to the prison authorities because the racial abuse had been perpetrated by staff. The divergence in evidence about ethnicity and risk of victimisation has been cited as a gap in the knowledge base, requiring further examination (O'Donnell, 2004; Perez *et al.*, 2010; Rowell-Cunsolo, Harrison and Haile, 2014). Explanations of Black men as predominate perpetrators in the US prison system have failed to consider or measure the impact of competing factors which might marginalise them or change their reporting behaviour (Morash *et al.*, 2012). Connell (2005:80) argued that marginalised groups, such as BAME men, existed within a hegemonic framework of masculinity needed to be considered when explaining underpinning concepts of subordination, dominance, complicity and hegemony (Connell, 2005:81). Data from the IRS on the BAME background of those named as being involved in sexual assaults is included in the analysis in Chapter 5. The ethnic origin data fields in the IRS were one of the most complete in the entire dataset.

3.5.4 Age of victims

Reliable evidence about the impact of age on reporting sexual assaults in prison contexts is limited (Miller, 2010:703). In the US context, Bowker (1980:11) argued that male victims of rape and sexual violence were more likely to be middle class, young, inexperienced, convicted of minor property offences and slight in build. He suggested that a key to their selection as a target for

sexual victimisation was other prisoners' assessment of their vulnerability to being overpowered. Wooden and Parker (1982:99) found that heterosexual men who reported being sexually assaulted were on average, 23 years old and younger than the average age of the prison population, which was 29 years old. The vulnerability of younger male prisoners being forcefully approached for sex, particularly on transfer or initial reception to a prison, has been the subject of discussion in several studies (Tewksbury, 1989; Perez *et al.*, 2010; Morash *et al.*, 2012; Stevens, 2014) but is not necessarily supported by reliable empirical evidence. Beck *et al.*'s (2013:6) large scale survey of US prisoners in prisons and jails between 2011 and 2012 suggested that juveniles (aged 16 to 17), who were housed in adult facilities, reported very slightly lower rates (1.8%) of sexual victimisation than adult prisoners in prisons (2%) and jails (1.6%). In the US, 'jails' typically house people awaiting trial and serving short sentences; while 'prisons' house longer-term prisoners. Among male and female prisoners, age was not identified as a significant factor in rates of sexual victimisation in state and federal prisons, with the exception that prisoners aged 55 or older reported slightly lower rates of victimisation. In jails, fulfilling similar functions to local prisons in the UK, sexual victimisation rates were lower for prisoners in older age categories (35 onwards) than for prisoners aged 20 to 24 (Beck *et al.*, 2013:18). This pattern of lower reporting for older age groups may be partially explained by Miller's (2010:703) observations that older prisoners in the US had 'aged behind bars' and may be more strongly compliant with the inmate code. The IRS data includes the age of those (where the identity is known) involved in reported sexual assaults as victims, perpetrators, and others. Analysis of involvement by age group is included in Chapter 5.

3.5.5 Stature and appearance

The appearance and stature of those targeted for sexual assaults has been referenced by prison researchers (Bowker, 1980; Lockwood, 1980; Wooden and Parker, 1982; Donaldson, 2001; Steels and Goulding, 2009). Generalisations have been made that those with a more feminine appearance, perhaps because of longer hair or a finer facial structure are more likely to be propositioned and perhaps be targeted as potential victims of sexual assaults (Nacci and Kane, 1984:47). Similar results were identified by a study of Californian prisons (Jenness *et al.*, 2007:42) in which physical stature and mental health were highlighted as 'robust predictors of sexual assault'. Wooden and Parker (1982:17) also referenced weight-lifting and tattooing as protective factors in prisons which enhanced the appearance of masculinity. However, most prevalence-oriented research studies have restricted comment to the age of victims, rather than reporting on stature and appearance. Omissions relating to stature and appearance have been due to the

impossibility of making objective assessments in research programmes with an over-reliance on self-reported surveys. Beck et al's (2013:17) large-scale US prevalence study confined comments about appearance to reporting that male and female prisoners, identified as being overweight or obese, had lower rates of sexual victimisation than their counterparts who were at, or below normal weight. Physical descriptions of those involved in sexual assaults (as victims, perpetrators, or witnesses) are not available from the IRS data and therefore cannot be commented on in the context of this research.

3.5.6 Masculinity, sexuality, and gender

Additional barriers in deciding to report in a male prison context were discussed earlier in this chapter 3, in the context that they often relate to commonly held myths about male rape (Scarce, 1997; Mezey and King, 2000; Turchik and Edwards, 2012). The IRS data, during the data capture period, did not include any information about the sexuality or gender of those recorded as being involved in the reported sexual assault. A short overview of issues from the published literature on masculinity, sexuality and gender and sexual assaults in prisons are provided here. These factors are not the focus of this thesis because information about masculinity, sexuality and gender are not recorded in the IRS.

Attitudes towards male rape can be counter-cultural to beliefs about masculinity and sexuality. For example, physical responses to the rape itself, such as arousal and the level of physical resistance by the victim, can be formed based on firmly held beliefs about sexuality and masculinity (Javaid, 2014). Scarce (1997:9) argued that failures to examine issues of male rape were a result of society's unwillingness to recognise masculine vulnerability and in particular, acceptance that men are often not able to put up physical resistance to rape. Structured masculinity in social institutions, including prisons, can be argued to be based on power derived from the socialisation of ideas about sexuality, in which 'doing heterosexuality' validated masculinity (Jewkes, 2005:59). The notion of less masculine men being labelled in prison as 'feminine' and therefore becoming targets for sexual victimisation (Bowker, 1980; Lockwood, 1980; Donaldson, 2001; Connell, 2005) has been discussed at length earlier in this chapter. Risks of emasculation have been identified as being central to determine a prisoner's role in sex or sexual victimisation in prison. Bowker (1980:11) reported that following sexual victimisation,

prisoners were often referred to as 'girls' by other prisoners, which emasculated them and served to 'reclassify' the rape as 'heterosexual' rather than 'homosexual'. Eigenberg (2000:437) made the point that theories of gender and sexuality traditionally examined relative male and female power, and regarded rape as an expression of patriarchy.

Common assumptions that homosexual men or men who have sex with men are at higher risk of sexual victimisation in prisons are supported by much of the research (Bowker, 1980; Eigenberg, 1994; Hensley, Koscheski and Tewksbury, 2005; Jenness *et al.*, 2007). One of the challenges of assessing risk associated with sexuality is the fluidity by which some men describe their sexuality while in prison (Stevens, 2013;2017) and their disinclination to self-report same-sex sexual behaviour (Taylor *et al.*, 2013). Bowker (1980:32) argued that prison victimisation allowed perpetrators to reinforce their masculinity and experience sexual release without the stigma associated with consensual homosexual sex, which might have reduced their status in the prison subculture. Wooden and Parker (1982:14) emphasised the role of masculinity in the socio-sexual patterns in prisons, arguing that sexual roles differ in prisons because subcultures focused on status, power and dominance, all placing high value on masculinity. Although levels of reported male rape in the UK have steadily increased (ONS, 2017), relative under-reporting of these types of offences (see Mezey and King, 2000; Connell, 2005) has meant that offences committed against men in wider society (and prisons) have remained a relatively hidden phenomenon with limited information about the characteristics of these offences.

In terms of sexuality and sexual victimisation, Nacci and Kane's (1983:35) US study identified that 28% of prisoners, from their single prison sample, reported having had a homosexual experience but only 3% of those self-identified as being gay or bisexual. The study (Nacci and Kane, 1983:86) also identified that 70% of the men who had self-identified as homosexual or bisexual were categorised by other prisoners as being potential 'targets' for sexual victimisation. A later publication by the same authors (Nacci and Kane, 1984:47), based on the same data, focused on the characteristics associated with being a willing 'participant' or a 'target' of sexual aggression. Apart from the association of self-identifying as homosexual or bisexual, Nacci and Kane reported that targets were more likely than non-targets to openly discuss sex with fellow prisoners and to have more positive attitudes towards homosexuality. The findings suggested that prisoners who adopted openly homophobic or hostile attitudes to homosexuality, perhaps best expressed as 'hypermasculinity' were less likely to become targets.

There is very little research about gender assignment and sexual victimisation. In a study of Californian prisons, Jenness *et al* (2007:30) prisoners designated as 'non-heterosexual' or transsexual (Jenness *et al.*, 2007:42) were more likely to become victims of sexual assault than their heterosexual counterparts. Miles-Johnson's (2013 :8) Australian research found that lesbian, gay, bisexual, transgender and intersex (LGBTI) victims of non-prison based crime were less willing to report crime to the police than their heterosexual counterparts. The lack of UK and US empirical evidence on the experience of trans prisoners, is notable.

3.6 Chapter summary

This chapter has summarised the relevant theories and research evidence on sex in prison and sexual victimisation in prison. It has outlined the essentialist and social constructionist approaches to explaining sexual behaviour in prisons along with explanations of how prisoners experience their sentence and respond to the 'pains of imprisonment'. In exploring prison cultures and consensual sex in prisons, this chapter has identified the role, (and challenges associated with the role) of prison staff in identifying consensual sexual behaviour and distinguishing it from sexual victimisation.

Issues relating to sexual assaults have been explored both in terms of estimates of the rate of victimisation and how these are impossible to ascertain from current reporting mechanisms, particularly in England and Wales. Prisoner on prisoner drug searches have been described based on limited UK research. Information and research (HMIP, 2014; Ralphs *et al.*, 2017) about the impact of synthetic drugs and new prison drugs markets and the pressures facing prisons towards the latter part of the data capture period of 2004-2014 have been discussed to provide context to the literature. Institutional and individual characteristics associated with reports of sexual victimisation have been provided with a brief summary of the research findings related to each one. Again, much of this research has been carried out in the US, with some significant studies from Australia. The challenges posed by generalising findings to sexual assaults in prisons in England and Wales have been discussed by this chapter.

Chapter 4 outlines the methodological approach adopted for analysis of the National Offender Management Incident Reporting System data. It summarises the strengths and weaknesses of using administrative data for research purposes, the difficulties associated with accessing and using the data and the techniques applied to organise the data sets. The quantitative method used for analysis of the descriptive statistics are described for Dataset 1 (derived directly from the IRS) as well as the qualitative coding methods adopted for analysis of the prison officers' incident descriptions (Dataset 2). Small scale semi-structured interviews with five prison staff (forming Dataset 3) provide some valuable insights and into the data. The interviews are not intended to be a corroboration of IRS analysis but have assisted in contextualising the IRS data.

Chapter 4 Methodology

Chapter 4 summarises the methodological approach adopted in this thesis and describes the methods used to answer the overall research question: **What are the initial responses by the prison and police services to adult male prisoners' reports of prisoner on prisoner sexual assaults in England and Wales?**

This chapter examines general issues in carrying out prisons-based research and discusses the specific challenges posed by researching reported sexual offences in England and Wales. It establishes the rationale for adopting a mixed methods approach for the analysis of administrative data, taken from the National Offender Management Service (NOMS) Incident Recording System (IRS) to address Research Questions 1 and 2:

1. What are the patterns and characteristics of reported and recorded prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?
2. What insights do the prison officer-generated incident descriptions (IDs) from the IRS provide about the initial response to prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?

The chapter provides a justification for focusing analysis on a ten-year reporting period (resulting in a final sample of 844 incidents) and restricting the sample to adult men across the prison estate in England and Wales. It discusses the strengths and limitations of use of the IRS as an administrative dataset and explains how it was used to develop Dataset 1. A further dataset (Dataset 2) was formed via analysis of the sole qualitative data field in the IRS. Dataset 2 was coded to supplement the descriptive statistics and provide insight into new aspects of the data.

This chapter provides a rationale for analysis of the qualitative data fields or incident descriptions (IDs). The IDs are written and recorded in the IRS by prison staff, often CMs, based on information passed on by the person who received the initial report, most often a prison officer. The IDs have been interrogated using NVivo software to produce richer information about each incident, information that is not contained in the quantitative fields in the IRS. For example, the location where the sexual assault took place, whether the assault was a prisoner on prisoner drug or contraband search or other type of sexual assault. The ID text fields often clarify the initial

response activities undertaken by prison staff and police officers when a sexual assault is reported. Adaptation of Carlen's (2008) concept of 'imaginary penalties' influenced the analysis framework for Research Question 2. In particular, Carlen's (2008) theory that prison staff continued routine activity based on the rehabilitation of prisoners despite knowing that outcomes are unachievable, informed the initial themes and codes for Dataset 2.

This is the first time that detailed analysis of the IRS data has been carried out, and therefore, the results of this thesis provide a unique and original contribution to academic understanding of reported sexual assaults in prisons in England and Wales. Although most of the published research about sexual assaults in prisons is from the US, some insights from UK based literature and other countries have influenced the development of an analytical framework for interrogating the data. For example, victim characteristics (such as age, criminal background) and institutional characteristics (such as type of prison, location of sexual assaults) have been considered in the context of the experience and reporting behaviour of adult male prisoners in England and Wales. The combined analysis of Datasets 1 and 2 have produced a fuller picture of the reporting and recording of sexual assaults than has been published before, either as official statistics or by prison researchers. Previous knowledge available from the IRS system has been limited to reporting on the number of reported sexual assaults. Published analysis has, until this thesis, been restricted to the ambit of government researchers and analysts. The chapter outlines the approach adopted to gain access to the data, the subsequent challenges in organising it, managing it and cleaning it to be suitable for analysis in NVivo and SPSS.

This chapter also addresses the application of small-scale, semi-structured interviews (N=5) with staff at a Category B Local prison. Local prisons hold people on remand to the local courts, those awaiting classification and already sentenced prisoners. These interviews were carried out to assist with the descriptive statistics and the analysis of the qualitative data fields to provide some context to the data. Interviews were carried out with a Prison Intelligence Officer (PIO) who was based in the prison, and four prison-service employed Custodial Managers¹¹ (CMs) with specific

¹¹ Custodial Managers (CMs) are operational prison staff with line management responsibilities. Typical tasks (taken from job descriptions) include; developing and delivering the offender management unit, ensuring that all staff supervise, manage and control prisoners decently, lawfully, safely and securely whilst carrying out all activities, promoting Prison Service policy in all activities and behaviours by promoting diversity, decency, safety and reducing re-offending agendas, working collaboratively with other managers, responsibility for incident management documentation and logging onto the Incident Reporting System (IRS), ensuring actions arising from audits, inspections and Managing Quality of Prison Life surveys are delivered, staff rotas to plan and manage delivery of the regime, reviewing open Assessment Care in

responsibility for oversight of reported sexual assaults and for recording them in the IRS. The transcripts from these interviews formed Dataset 3.

Interviewees worked in in the same English Category B Local prison. Interviews were carried out following analysis of Datasets 1 and 2. The prison from which interviewees were identified is a busy, Victorian built, establishment with a capacity for approximately 700 prisoners. The prison draws prisoners directly from local courts, as prisoners on remand awaiting court hearings or sentencing, prisoners categorised as Category B and serving their sentence, those housed in its Category C resettlement wing and from a small unit for young offenders from age 18.

Custody Teamwork paperwork, investigating and managing prisoner's complaints, managing a safe working environment for staff, prisoners and visitors, health and safety, contributing to prisoner reports including sentence planning and parole reports when required, carrying out investigations as directed by commissioning authority, duties around managing challenging behaviour, discharging prisoners and carrying out management checks as required, including cell sharing risk assessment) and incentives and earned privileges. For more details about the CM role, see examples of role descriptions at: <https://justicejobs.tal.net/vx/lang-en-GB/mobile-0/appcentre-2/brand-15/candidate/jobboard/vacancy/1/adv/>

4.1 Summary of research questions and datasets

Table 4.1 Research questions and datasets

<p>Overall Research Question: What are the initial responses by the prison and police services to adult male prisoners' reports of prisoner on prisoner sexual assaults in prisons in England and Wales?</p>	
<p>Research question 1: What are the patterns and characteristics of reported and recorded prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?</p>	
<p>Dataset 1</p>	<p>Descriptive statistical analysis of 'incidents' (N=844) and 'involvements'¹² (N=2,032 victims, perpetrators and others) from the IRS to develop an assessment of the individual and institutional characteristics of reporting and recording of sexual offences in UK adult male prisons.</p>
<p>Research question 2: What insights do the prison officer-generated incident descriptions (IDs) from the IRS (besides Datasets 1 and 3) provide about the initial response to prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?</p>	
<p>Dataset 2</p>	<p>Qualitative data fields or prison officer-generated incident descriptions (IDs) from incident level IRS data (N=844). Analysed using NVivo to identify themes and create detailed information about reported sexual assaults.</p>
<p>Dataset 3</p>	<p>Semi-structured interviews with four CMs and one PIO, from an English Category B Local prison, used to assist with interpretation and validation of Datasets 1 and 2 and triangulate the findings relating to research questions 1 and 2.</p>

4.2 Practical and methodological issues in prisons research

The multiplicity of practical, methodological and ethical issues associated with conducting research in (and on) prisons have been well-documented by sociologists, medical researchers and psychologists (Sykes, 1958; Rubin, 1976; Day *et al.*, 2005; Rivlin *et al.*, 2012). These methodological issues span from general risks present in all social science research, to issues

¹² NOMS uses the term 'involvements' to describe all individuals known, or named, as being 'involved' in an incident. They may be involved as victims, perpetrators or 'others'. 'Others' includes witnesses or people present when the report was made.

which may be exacerbated in a prison context. For example, confidentiality risks which may have a bearing on protecting prisoners from abuse or extortion may present problems for researchers when attempting to develop reciprocity and rapport building while being observed by staff. Confidentiality issues, privacy and the sensitive nature of the subject (Rivlin *et al.*, 2012) may present further challenges such as, sample selection, participation and behavioural issues, and the potential capacity for managing any negative impacts on prisoners and staff from the research.

In his influential early study of a New Jersey prison, Sykes (1958:135) noted that the most valuable insights from his study had been derived from informal interviews with staff, which he had employed as an alternative to interviewing prisoners to avoid being 'conned' by those seeking advantage from their participation. Sykes' caution about the risk of participant untruthfulness has been identified as a factor in using prisoner volunteer samples where prisoners self-select; sometimes even when they do not fit the sampling criteria (Day *et al.*, 2005:191). The eagerness of prisoners to be included in research has also been identified by Liebling (1999:151), who acknowledged problems arising from researchers becoming an established and accepted part of prison life during their field work.

Researchers, often unfamiliar with the nature of prison life and the factors which may impact on prisoners' willingness to participate in research, can be subject to 'testing' or hostility by prisoners which may result in them making changes to their methodological approach (Rubin, 1976:230; Liebling, 1999:151). Implementation of research can also be affected by the researcher's inevitable reliance on prison staff to facilitate participation. Day *et al* (2005:191) cautioned that the presence of a prison officer subdued conversation with prisoners and that prison officers primed participants about the nature and focus of the research whilst collecting participants from their cells; impinging on the agreed participant information and consent process.

The short and longer-term impact of research on prisoner participants is often overlooked and the importance (and complexity) of monitoring this cannot be over-stated, particularly in research studies concerned with traumatic events, such as sexual assaults, self-harm and suicide. Research by Rivlin *et al* (2012:61) on prisoner suicide attempts which encompassed a self-reported mood measure, argued that the process of being interviewed had not been negative for

prisoners, and, in some cases had been beneficial. Perhaps one of the most frequent issues associated with prisons research is the problem of realising access to serving prisoners and staff (Liebling, 2001; Patenaude, 2004; Day *et al.*, 2005). Even in circumstances where access to prisoners and staff is agreed, time and prison regime constraints in carrying out interviews and observations can prevent researchers from achieving a realistic picture of prison life (Liebling, 1999:155). Practical issues, such as the order in which participants are engaged in the research process can also impact on the research. Liebling (1999:156) noted the suspicion aroused in staff when prisoners were occupied for hours at a time in explaining their experiences of prison life to researchers. Equally, research participation can arouse suspicion from fellow prisoners who might identify involvement as a form of informing or 'snitching' (Patenaude, 2004:74).

My decision to use administrative data analysis rather than request access to prisoners or ex-prisoners for qualitative, face to face methods was adopted due to the challenges and timescales involved in accessing and operationalising research in the context of prisoner on prisoner sexual assaults. Research indicates that many prisoners suffer from mental health problems and other complex needs while in custody (Hewson, 2017; Halliday, 2019). Prisoner vulnerabilities present practical and ethical issues for designing appropriate research and obtaining ethics approval for research involving prisoners currently serving a custodial sentence. Rivlin (2012:54) noted that some researchers actively advise against instigating prisoner research in sensitive areas, partly because such research proposals are more likely to be rejected by research ethics committees.

Liebling (2001) argued that compromises sometimes have to be made in gaining access to prisons, staff, and prisoners and that recognition of researcher values is a key element of understanding the social 'world'. Liebling (2001:5) recognised that the reach and impact of research may be limited as a consequence of negotiation access to prisons as the approach or findings may not support current political narratives or may present a negative perspective of an institution or a policy. The semi-structured interviews carried out for triangulation purposes (see Section 4.5), involved reassurances that the prison, and its staff, remain anonymous in this thesis to avoid interviewee concern about being frank and honest. However, the relative rarity of reported sexual assaults meant that, in practice, many of the staff responses to questions were hypothetical or involved references to third hand information or historical incidents because they had little or no experience of responding first-hand to reports.

Becker (1967:239) argued that all research is value-laden, in part because of the nature of the social problems under investigation, and also because researchers tended to feel sympathy or 'take sides'. In this research project, I acknowledge that a career of working with the police (often with senior officers and policy makers) to support their investigative skills and improve the prospect of criminal justice outcomes has impacted my standpoint and has influenced my choice of research topic. My standpoint exposes me to criticism of bias towards the staff hierarchy, referred to by Becker as 'superordinates'. In the context of my research, 'superordinates' includes prison staff and management, police, and those responsible for collating the prisons data (Liebling, 2001:472). However, my professional role has been strongly influenced by an aspiration to demand that the criminal justice system places the needs of victims of crime (particularly those relating to domestic abuse and sexual offences) at the centre of policy and practice development. My career focus on improving the experiences and outcomes for victims of sexual abuse has balanced my standpoint from a police-centric approach to one which has allowed me to maintain a juxtaposed supportive and critical stance on policing and criminal justice.

I have applied this standpoint to my study of reported sexual assaults in adult men's prisons; acknowledging that I do not approach this work value-free. The problem of 'taking sides' identified by Becker (1967:240), along with the tendency for researchers carrying out sociological studies of deviance to publish work with a bias towards the 'sinned against', presents a value-dilemma for researching prisoner on prisoner sexual assaults. The IRS data included victims and 'sinned against' prisoners who were also perpetrators (both inside and outside of prison). Edgar's (2003) research on prison violence acknowledged that there was often an overlap between victims and perpetrators. The position of prison staff as superordinates is interchangeable at times, when they face risk of victimisation by prisoners, and the system itself, which places them in harm's way. Using Becker's (1967:241) definitions of biases, my work may be interpreted as 'apolitical' because it has not sought to disrupt the hierarchy of prison staff in their position as superordinates nor change the prisoners' status as subordinates. However, Becker's assertion that risk of bias is introduced when 'telling the story' from the perspective of the prisoner (or subordinate) is hard to determine in my research because the sexual assault reports are taken and recorded in the IRS by prison officers; and they therefore remain in the words (and interpretation) of those superordinates. Bias is interwoven into the IRS records of sexual assaults because the victims cannot tell their story in their own words and are reliant on translating it through the voices of the prison officers and custodians in the prisons. Most accusations of sociological bias

stem from research which does not accept the 'hierarchy of credibility', that is, the right of the superordinates to define problems and to present superior knowledge in their roles as professionals (Becker, 1967:241). My standpoint has influenced my aim to analyse the way in which superordinates, or prison staff, have recorded reported sexual assaults in prisons and the impact on operational duties linked to taking reports. Given that the story of the subordinates has yet to be told, my aspiration is that this thesis will provide opportunities for further research in England and Wales to enable sexual assault victims in men's prisons to tell their own stories.

My initial focus was on prioritisation of analysis of the IRS data before carrying out any interviews with police and prison staff. Although research focused on the plight of subordinates (such as prisoners) can reduce accusations of sociological bias because it may give voice to both the subordinates and superordinates; this was not achievable given the challenges of access to prisoners and victims of prisoner on prisoner sexual assault. My methodological approach and the scale of the preparation and analysis of the IRS data, coupled with access and ethical concerns, confirmed that I should adopt a research option which did not involve using prisoners or ex-prisoners as research participants. To add context to the findings from the IRS, I sought the perspectives of the superordinates (prison officers and police) via small scale interviews, rather than the subordinates (prisoners). In Becker's (1967) terms, my approach aimed to reduce the risk of research bias because it sought to reflect and critique the perspectives of the criminal justice system via the data, which had been composed by prison staff. My research is structured by the hierarchy of the superordinates (prison officers and custodial managers) reflecting their perceptions of reports, which they have recorded as sexual assaults. I have sought to acquire an understanding of the nature of reported sexual assaults and the ways that these are described and responded to by prison hierarchies. This thesis complements and extends the literature on the 'pains of imprisonment' which go beyond loss of liberty and security to include the sense of (or lack of) safety and the powerlessness of prisoners (Crewe, 2011a:512; Schinkel, 2014; Sloan, 2016).

4.2.1 Adopting pragmatism as a methodological approach

Shannon-Baker (2016:4) described pragmatism as a perspective which

"...is characterised by an emphasis on communication and shared meaning-making in order to create practical solutions to social problems."

This perspective, or paradigm, which Morgan (2007:49) characterised as a 'consensual set of beliefs and practices that guide a field', provides researchers with the opportunity to include their own reflections in their research while undertaking objective research in data collection and analysis. Morgan (2007:71) noted that pragmatism is based on reasoning which:

"moves back and forth between induction and deduction - first converting observations into theories and then assessing those theories through action."

My own approach to generating descriptive statistics originating from several separate IRS datasets including analysis of the qualitative data fields, or IDs, prompted me to identify my research methodological approach as pragmatic. Pragmatism is associated with the adoption of an abductive approach to connecting theory, before and after data collection and analysis. However, my early reflections, which resulted in identifying prison research (which long pre-dated the research itself) as my area of study, could be associated with tension between wishing to adopt an objective approach (using qualitative or quantitative research) and what Liebling (1999:150) referred to as the adoption of a 'humanistic' stance, concerned with showing and understanding the 'pains of imprisonment'.

Liebling (1999:157) observed that her own research on incentive schemes in prisons had enabled the research team to use the quantitative element of the research to show their findings, but that the qualitative elements of the work had framed their discussion, analysis and understanding of the issue. Similarly, analysis of the IRS data in the form of descriptive statistics (Dataset1) informed the findings, but the large component of analysis of the qualitative data fields, or IDs (Dataset2), structured the project and has 'steered the search through the data' (Liebling, 1999:157).

4.2.2 Using a mixed-method design

My research originates from the perspective of combining methods to develop a deeper understanding; not only of the characteristics of reported sexual assaults in men's prisons, but also of the attitudes and values that underpin the recording and initial response to reports. If analysis had been restricted to quantitative descriptive analysis of the data only partial

information about the incidents would have been discernible due to the data quality and because the qualitative data fields, or IDs, included much more detail than the quantitative IRS fields alone. Analysis of the IDs has provided measurably more information about the sexual assaults and, employing an inductive approach to coding has supported detailed interpretation of the narratives by which prison officers record incidents.

The additional detail derived from the IDs has supported coding linked to Carlen's (2008) theory of imaginary penalties by allowing for development of codes and themes about the initial and longer term responses to sexual assaults and may also reveal the level of concern about a report. For example, very short descriptions of serious allegations of sexual assaults may be an indication that associated tasks were carried out in the full knowledge that they would not result in an investigation or criminal justice outcome. The combined data from Datasets 1 and 2 also informed the topic guide and approach to the semi-structured interviews in developing Dataset 3.

Table 4.2 shows the data derived directly from cleaned data, already available from the IRS quantitative data fields (Dataset 1), required extensive cleaning and grouping in both Excel and SPSS, to allow for analysis producing the descriptive statistics, although the data had been 'available' for analysis from the outset. Dataset 2 is a new dataset, based on the qualitative data fields from the IRS derived from text descriptions of each incident (IDs), which have not been subject to coding and analysis before. Table 4.2 shows examples of how information from each dataset has been analysed to contribute to an overall picture of sexual assaults in prisons. It also demonstrates that combining Datasets 1 and 2 has provided new insight into the characteristics of sexual assaults. For example, it has allowed for examination of the type of sexual assault with demographic data from Dataset 1.

Table 4.2 Comparison of information: Examples from Dataset 1 (quantitative analysis) and Dataset 2 (qualitative data fields)

Dataset 1 Descriptive statistics	Dataset 2 Incident descriptions (IDs)
Trends in reported sexual assaults in prisons	Type of sexual assault, including drug and contraband searches and identification of unspecified assaults
Number of perpetrators involved in each incident	Multiple involvements in type of sexual assault and role in assault
Roles in the sexual assault: perpetrator, victims, others	Role of person receiving and making the reports of sexual assault and mechanism of report Ting
Use of weapons	Use of weapons in type of sexual assault
Injuries (*not detailed enough for analysis, restricted to concussion)	Healthcare responses in the prison
Outcomes (restricted to referred to police, police investigation, adjudication, prosecution pending and other)	Activities carried out in response to report (including some 'outcomes') Collection of forensic evidence
Outcomes by the offending background (based on the offence for which in prison at the time of the reported sexual assault) and age of victims and perpetrators	Outcomes for prisoner on prisoner drug and contraband searches compared to other sexual assaults
Criminal offence background of those involved in sexual assaults	Over-represented groups. Mechanisms used to carry out sexual assaults.

Dataset 1 Descriptive statistics	Dataset 2 Incident descriptions (IDs)
Categorisation of prisoner by role in sexual assault, including those unclassified or awaiting classification	Involvements, role of perpetrators and relationships e.g. cell mate
Time since reception at the prison where the sexual assault was reported	Demeanor of victim.
Ethnic or BAME background of involvements in sexual assaults	Role and representation by type of assault.

The goal of providing research findings which meet the requirements of different groups or stakeholders (Betzner, Lawrenz and Thao, 2016:94) also influenced my methodological approach in terms of seeking answers to research questions from both positivist and interpretivist perspectives. In particular, the motivation for the research was to generate findings which could influence operational practice which required descriptive statistics and interpretation of the qualitative data fields, or IDs.

4.3 Dataset 1: Descriptive statistical analysis of the characteristics of sexual assaults in men's prisons

Aside from the practical and ethical considerations already discussed, the decision to focus my research on analysis of the administrative IRS data, collected by the prison service to record all reports of sexual assaults in prisons in England and Wales, was based on the fact that no previous analysis had been undertaken. Thus, there were significant gaps in knowledge about the characteristics of reported sexual assaults in men's prisons. Accessing NOMS data required a long-planning and application process resulting in the transfer of data from separate IRS ACCESS databases to my secure work laptop. In total, almost 20 years of recorded incidents were supplied by NOMS and this data set was reduced to the most recent ten year period in order to make the sample as recent as possible, to reduce the impact of changes to legislation, definitions and recording practices and to ensure that the data set was manageable. My pragmatic approach to this study supported the flexibility needed to complete the task of joining several IRS datasets and develop a thorough understanding of

the structure, scope, and limitations of the data. Descriptive data analysis was made possible by combining two ACCESS databases, initially in a single Excel spreadsheet, using the incident numbers as unique identifiers. Further information about the data analysis is given in the sections below.

4.3.1 Navigating access to the IRS data

This thesis is the first time that the IRS data has been accessed by an independent researcher. Several prisons researchers (Banbury, 2004; Stevens, 2015) have noted this omission and called for greater transparency, in particular, for the release of the IRS data for review and analysis. Prior to this research, the information collected as part of the recording of an incident has been unavailable for detailed review and has been restricted to trends published by the MOJ as *Safety in Custody Statistics*¹³). Regular publication of statistics about sexual assaults on prisoners have implied a culture of openness and learning lessons via the sharing of aggregated summaries of sexual assault trends in prisons. However, the lack of detail and analysis of the IRS data has prevented independent scrutiny of the reporting processes and has hidden the precise nature of sexual assaults. An early focus on ethics as part of the NOMS application ensured that potential issues were identified early as part of the application to meet ethical standards set by the National Research Committee (NRC). Ethical issues covering the transfer, analysis and secure storage of the IRS data were included in detail in my original NRC application (and later by the University of Southampton ethics approval process¹⁴) and the final approval letter gave full permission for analysis of the IRS data.¹⁵

¹³ The *Safety in Custody Statistics* are derived from the Incident Reporting System (IRS). The first annual *Safety in Custody Bulletin* was published on 11 February 2010. Prior to these statistics, information about safety in custody was generally provided via parliamentary questions and ad hoc briefings. *Safety in Custody Bulletins* were first published quarterly in July 2012, covering the period up to March 2012.

¹⁴ The University of Southampton approved the ERGO ethics request in full in October 2014 following some minor amendments (ERGO reference 9944). An amendment to this ethics submission was applied for in 2017 to cover the semi-structured interviews with prison and police officers. This was approved - with minor amendments required on 25 July 2017 (ERGO reference 26324). A further amendment to incorporate new GDPR regulations was approved on 26 June 2019.

¹⁵ NRC approval reference number 2013-089.

The IRS is used by all prisons in England and Wales and has been developed in an iterative manner¹⁶ because approaches to recording have changed over time. *MOJ Safety in Custody Bulletins*, based on the IRS data, have sought to provide a fuller picture of assaults and self-harm in prisons in England and Wales. Matthews (1999:93) argued that the presentation of official statistics, and the raw data from which they are derived, are often uncritical of their provenance. For example, the processes by which the statistics are recorded is often obscured and may change by region and over time. At the point of transfer of the data, I was unaware of missing information which would affect the final data analysis. For example, some data fields, such as previous periods of imprisonment, or details about adjudications, were not included as data fields, and therefore limited the final analysis. Further discussion about the limitations of using administrative data is included in Section 4.3.6.

Security and storage of the IRS data was a priority once the data had been transferred to me via my secure work email¹⁷ on an encrypted laptop. The data has been organised and analysed solely on an encrypted laptop using several software packages, including Excel, SPSS and NVivo. Additionally, as data was not able to be analysed on software provided by the University of Southampton because it could not be securely downloaded, university-based support services could not be used.

4.3.2 Securing policy-led support for the research

Gaining police and prison related policy support for carrying out the study, and accessing the dataset, involved a multi-step process in which I sought support for my research. I organised a series of meetings with senior police and prison policy leads to establish that the lack of knowledge about sexual assaults in prisons was a clear gap in both UK research and policy, which had the potential to deny the human rights of prisoners and leave criminal justice agencies vulnerable to complaints and legal recourse. Initially, I approached the national chief police officer lead for adult sexual offences to establish if sexual assaults in prisons had been identified as a priority for the various police-led working groups over the forthcoming five-year period. My authorship of the ACPO and CPS (2009) *Guidance on Investigating and Prosecuting*

¹⁶ Explained during personal correspondence and meetings with a NOMS analyst.

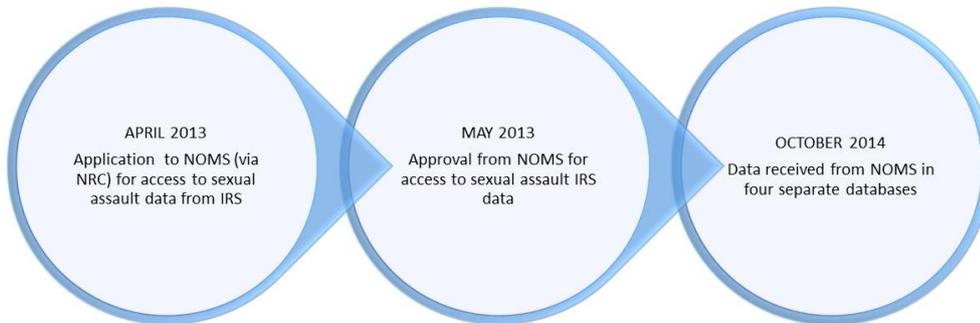
¹⁷ Data was transferred by NOMS in four separate emails which were password protected.

Rape provided me with an existing network of detectives and prosecutors and opportunities to discuss investigations in prisons. During this period, I established that prison-based sexual offences investigations were undeveloped and absent from the practice improvement agenda. The national chief police officer lead for adult sexual offences wrote a letter of support for my research proposal to NOMS, suggesting that this work may facilitate the development of improved joint working practices. I carried out three further visits to NOMS¹⁸ over a period of six months in preparation for my written application to access the data through the NRC access system.

My first approach to the NOMS Head of Research was made primarily to enquire about the suitability of my proposed study and establishing whether it met the parameters of the NOMS strategy and research priorities. This initial approach resulted in a further meeting with the NOMS Head of Safer Custody to discuss his perception of the status of reporting, prevalence and recording of sexual assaults in England and Wales. The tone of the meeting with the Head of Safer Custody was open and, while there was consensus that any real measure of prevalence was not possible without a large-scale primary research study, the merit of analysis of the administrative IRS data was agreed. A further meeting and email correspondence with a senior NOMS data analyst provided me with further information about the scope and limitations of the IRS to allow me to prepare the access request. I submitted a full access request to NOMS and awaited the outcome of this request before registering for doctoral studies in September 2013.

¹⁸ Visits were made to the Head of Safer Custody, the Head of Research, and a senior analyst. Several meetings and communications took place with the NOMS Police Liaison Officer during the same period.

Figure 4.1 Data access timeline



Following a year of preparation, my application to NOMS for the IRS data was successful in May 2013 and approved my access to all IRS data for all sexual assaults for a ten-year period, this is shown in Figure 4.1. Following formal approval and registration for studies at the university, I experienced considerable problems in obtaining the data. A further personal visit to the senior analyst and repeated email requests finally resulted in the data being transferred to me in October 2014, a gap of seventeen months.

4.3.3 The Incident Recording System (IRS) data

The IRS dataset is administrative data, introduced by the government in the late 1980s, for the purposes of recording and management of information relating to deaths in custody, self-harm and assaults. Sexual assaults are included as a sub-set of assaults. In terms of sexual assaults, IRS includes fields about some of the demographic characteristics of those involved and provides a recording field for brief text-based descriptions of the incident, which sometimes includes information about the initial responses by staff. The IRS has been used as the basis for the publication of official statistics in the form of *MOJ Safety in Custody Bulletins* which were first published in 2010. The Bulletins report the trends of deaths in custody, self-harm, and assaults (on staff and prisoners) in prisons in England and Wales. The MOJ (2018) has indicated that introducing the IRS had increased the range of safety in custody information, particularly in relation to self-harm and assaults. MOJ (2018:5) have specified that ‘improvements in centrally held data now mean that there are

consistent data sets for deaths (from 1978), self-harm (from 2004) and assaults (from 2002) from which to determine trends'. *Safety in Custody Statistical Bulletins* include information about sexual assaults as a sub-set of serious assaults which are defined, by the MOJ (2020:6) as:

“Serious assaults are those which fall into one or more of the following categories: a sexual assault, requires detention in an outside hospital as an in-patient; requires medical treatment for concussion or internal injuries; or incurs any of the following injuries: a fracture, scald or burn, stabbing, crushing, extensive or multiple bruising, black eye, broken nose, lost or broken tooth, cuts requiring suturing, bites, temporary or permanent blindness.”

In 2015, the MOJ published a special (MOJ, 2015b) management bulletin on sexual assaults which provided trend analysis of all incidents reported between 2002 and 2013. It also included a breakdown of the proportion of incidents occurring on each day of the week, the proportion resulting in minor and serious injuries, and the reporting of referrals to police, and incidents subject to adjudication. Although, this Bulletin was originally announced as being the first of a series of more detailed reports on sexual assaults, its status was described as ‘ad hoc’ analysis of sexual assaults in prisons which could not be included as part of the *Safety in Custody Bulletins* because the data did not meet the quality thresholds to be designated as ‘National Statistics’ (MOJ, 2015b). Outcomes of sexual assaults, recorded in the IRS, are **not** deemed to be of sufficient quality to be classified as being official or national statistics. The Bulletin (MOJ, 2015b:2) defined sexual assaults as including:

“a wide range of incidents from rape to inappropriate touching. Reported sexual assaults will also include incidents where there are attempts to retrieve drugs or other prohibited items that may be hidden on the victim. Whether an incident is deemed to be a sexual assault is determined by the perception of the victim. Any assault incident reported as a sexual assault is classified as a serious assault.”

In practice, this wide definition of sexual assault used to populate the IRS data remains a significant barrier to establishing precise information about the seriousness and nature of sexual assaults in prisons. An important element of the thesis was to de-code the wide range of behaviours and criminal offences masked by the single term ‘sexual assaults’ used by the IRS. Unpicking the precise nature of sexual assaults presented several difficulties, including overcoming my own discomfort with reviewing some of the more disturbing and offensive features of assaults that had been recorded by staff. My early intentions had been to map

incidents to sexual offence legal terminology, to reduce the impact of some of the more graphic incident descriptions, which could then be included and used as 'cleaner' illustrations of typical reports of sexual assaults. However, in agreement with Davis' (1968:9) opinion, from his early study of prison sexual assaults in Philadelphia, I abandoned this approach because 'the incidents [were] raw and ugly. Any attempt to prettify them would be hypocrisy'.

4.3.4 The original data set (19 years and 9 months of IRS reporting data)

The published *Safety in Custody Statistics* highlighted that most recorded sexual assault cases were based on reports made by adult male prisoners. Initial analysis of the published *Safety in Custody Statistics* also indicated that these incidents most frequently related to prisoner on prisoner sexual assaults. My data request to NOMS, via the NRC, was structured to meet the following criteria by requesting that the shared data provided the largest and least controversial sample, therefore avoiding prisoner on staff or staff on prisoner sexual assaults.¹⁹ My reasons for foregrounding men as the focus of my research were discussed in Chapter 1.

My access request included all cases in a ten-year period which related to:

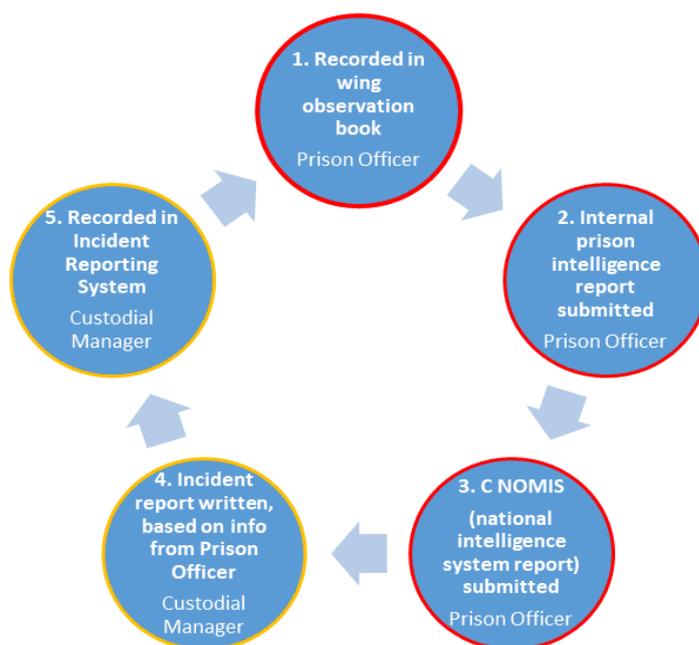
- Prisons in England and Wales
- Male prisoners
- Adults, aged 18 or over
- Prisoner on prisoner sexual assaults.

When the data was received in October 2014, it spanned from 05/09/1995 to 29/05/14 (19 years and 9 months). The years 1995 and 2014 were incomplete as the date capture period did not

¹⁹ My decision to focus on prisoner on prisoner assaults and not prisoner on staff or staff on prisoner assaults, meant that my new dataset included the majority of cases and avoided any potential practical and managerial problems associated with researching prisoner on staff/staff on prisoner related sexual assaults. Complaints of physical and sexual assault by or on staff are always subject to investigation and police referral and therefore the initial response to the reports, and their outcomes, may have varied significantly from incidents involving prisoner on prisoner.

include a full calendar year and was based on the financial year. The data was transferred by NOMS using a secure, password protected email and was in the format of four comma-separated values (CSV) files which had been extracted from four separate Access Databases. The original data transfer included all reports from both youth custody and adult prisons in England and Wales. An understanding of the process involved in recording details of reported sexual assaults was confirmed by informal discussion with prison staff which were later confirmed by the CM interviews which took place following the analysis of the IRS, this is described in Figure 4.2. It was apparent that there was no set, consistent process in place across all prisons. Therefore, the data is subject to some variation, depending on internal processes in different institutions and changes over time to roles and responsibilities.

Figure 4.2 Illustration of the process of recording a sexual assault in the IRS



The four separate CSV files, contained different elements of reported sexual assaults, as follows:

1. **Incidents** - included: date and time of incident, Incident number, name of prison, use of weapons, outcome of incident, injuries, a text description of the incident (ID) written either by the prison officer making the report or the CM and an incident number. The ID would have been noted by the prison officer taking the initial account from the victim/person

reporting and would then be verbally reported to the CM who had responsibility for 'writing it up' as a record in the incidents component of the IRS. It is not possible to deduce from the IDs how much they are based on verbatim accounts or whether they were subject to negotiation and change. Of note in the 'incidents' dataset was the lack of readily available information about the nature of the sexual assault. The NOMS recording process does not require the data entry operator (usually a CM) to add a 'category' of sexual assault to categorise sexual assaults.

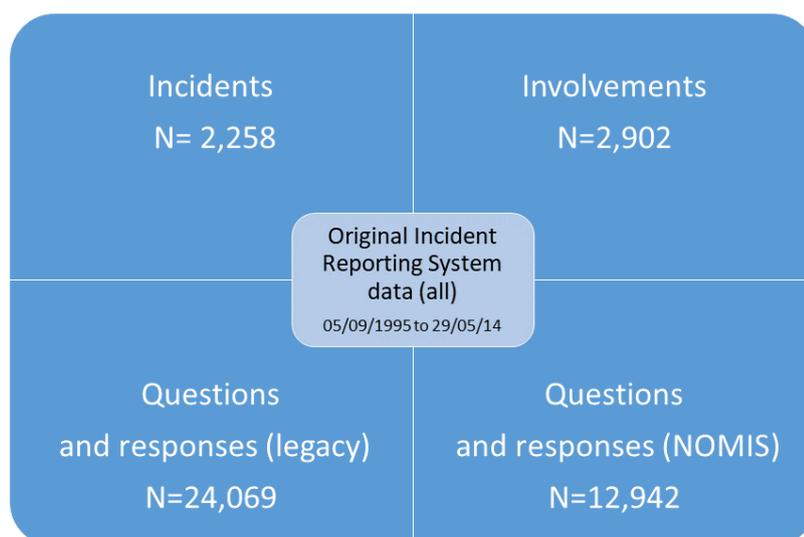
2. **Involvements** - included information relating to all those involved in the sexual assault in the roles of victim, perpetrator and 'others'). This dataset included details of the characteristics of the victim, perpetrator/s and others²⁰, ethnicity, age, time since reception at the prison, sentence length, offence for which imprisoned, status in terms of being on the escape list and the incident number.²¹
3. **Legacy system of questions and answers** - posed by staff following an initial report, often for staff to note ongoing activities relating to the initial response. This data was not used for the analysis for this thesis because it included questions which often related to information already recorded in the ID.
4. **National Offender Management Information System (NOMIS)** - questions and answers, e.g. Have the police been informed? This data was not used for analysis for this thesis because it often related to information already recorded in the ID. NOMIS was used by staff in tandem with the IRS throughout some of the data capture period.

Figure 4.3 describes the structure and scale of the original dataset, (spanning nineteen years and nine months) from all four of the transferred files.

²⁰ 'Others' roles were not clearly defined but included witnesses, prisoners who sought help for the victim or those near the incident but deemed to not be involved as a victim or a perpetrator.

²¹ The data was structured using one line per involvement (or known/named person), where there was more than one involvement, these were linked via a single incident number

Figure 4.3 Description of the scale and structure of the original IRS datasets (4)



Analysis of the four datasets revealed that the primary sources of information were the ‘incidents’ and ‘involvements’ datasets which, when cleaned (removing women ‘involvements’, prisoner on staff and staff on prisoner sexual assaults, involvements aged under 18 years of age) formed Dataset 1. The original data set clearly showed that most reported and recorded incidents of sexual assaults in prisons involved men (N=2040) rather than women (N=218)²². This imbalance reflects the differences in overall prison population of men and women in England and Wales and is mirrored by the published research literature on sexual assaults in prisons, which has mainly focused on men.

Dataset 1 was analysed initially using Excel and later SPSS. Dataset 2 was derived from analysis of the IDs using NVivo. Both datasets focused on providing descriptive statistics about sexual assaults in men’s prisons and adding context to the data by carrying out further coding. Further information about the coding process is provided in Section 4.4.

²² These numbers do not equate to the number of incidents. They show the number of people recorded as ‘involved’ in sexual assaults in all roles i.e. as victims, perpetrators and others.

Figure 4.4 provides an overview of the type of information included in each separate element of the database and includes some examples from the question and answer datasets.

Figure 4.4 Example information included in each database (not exhaustive)

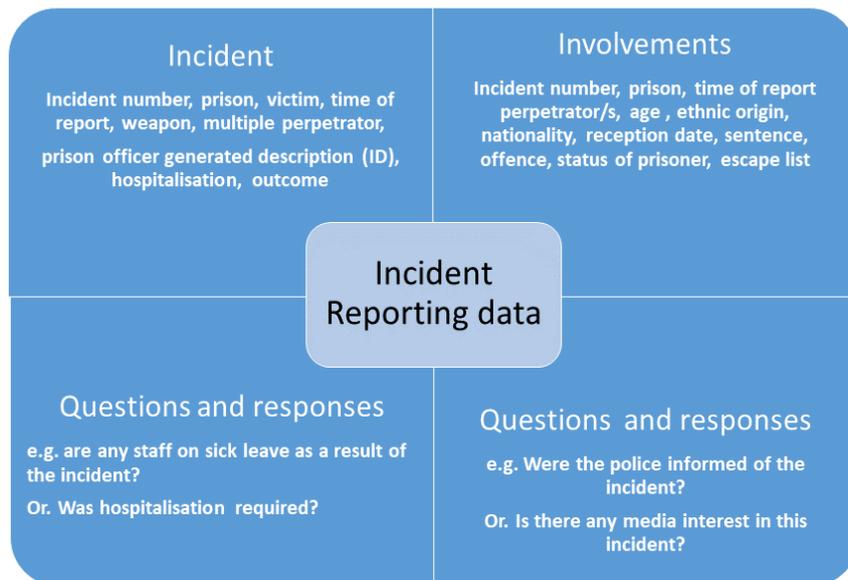
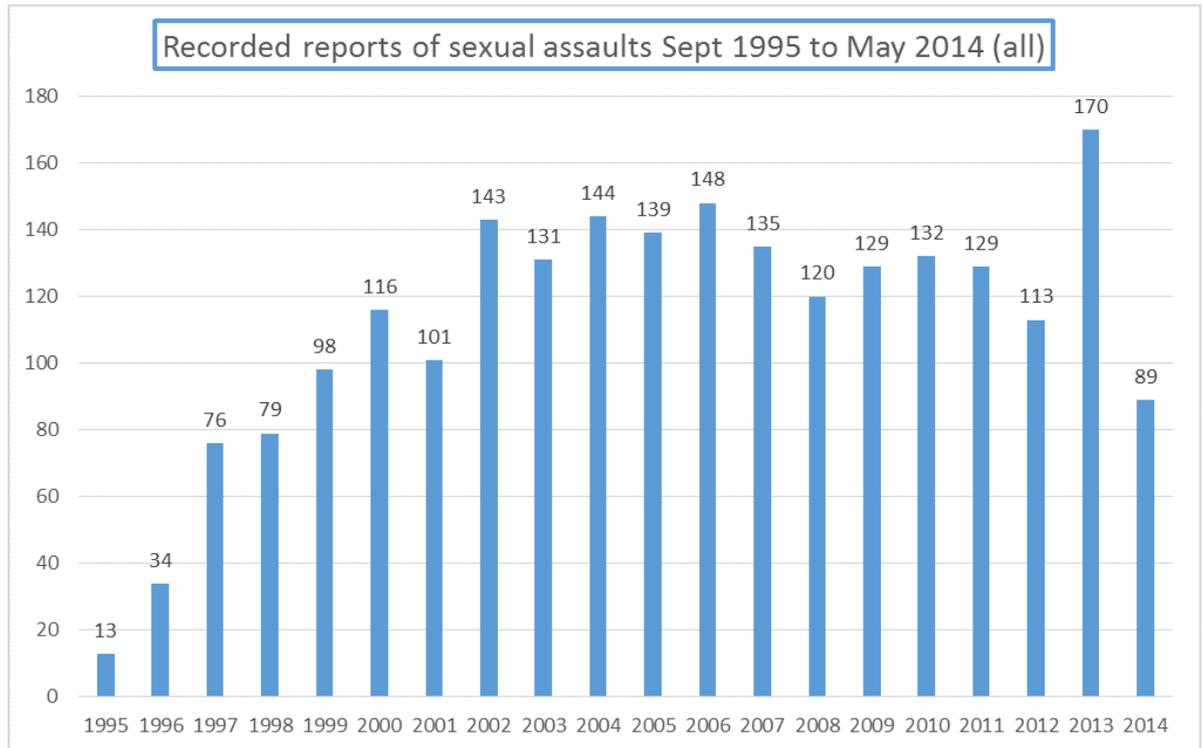


Figure 4.5 shows the pattern of reporting and recording for the full 19 year and 9-month period. Of note is the increased recording in 2013 which the published management bulletin (MOJ, 2015b:2) suggested might have been due to an increased willingness to report because of a greater awareness of sexual assaults resulting from high profile cases being reported in the media.

Figure 4.5 Recorded reports of sexual assaults - Sept 1995-May 2014 (all)



4.3.5 Developing Dataset 1

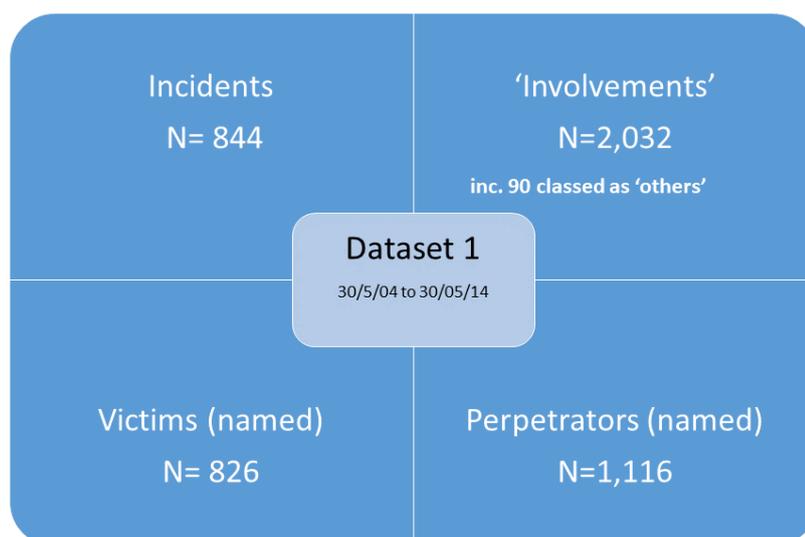
Because the IRS data had been collected for administrative purposes, it had not been subject to detailed analysis, organisation, or auditing by the data providers (NOMS). Therefore, considerable time was spent unravelling the four datasets (see Figure 4.3) and converting them into Excel files to determine their contents in terms of the fields of information available, and the way in which the data was organised. Once the data was imported into Excel files it was possible to remove older incidents to restrict the data to the study period: May 2004 to May 2014. This data capture period was selected to ensure that the most recently reported cases were analysed. A significant volume of data cleansing took place in both Excel and SPSS for analysis to be possible. Once prepared the IDs were uploaded to NVivo and the qualitative data fields were themed and coded, forming Dataset 2.

Dataset 1 was formed from the 'incidents' and 'involvements' datasets combined to create a single spreadsheet joining all information by the unique incident numbers. This part of the analysis was time-consuming but crucial to make sense of the vast amount of data. It also

enabled the data to be structured in both SPSS and NVivo using the incident numbers as identifiers. To reinforce the importance of the incident numbers, the original data described each person's involvement separately, so a single incident could have up to nine 'involvements'. The only method of linking people to incidents was the incident number. This was central to the development of Dataset 2 because the IDs did not consistently cross-reference other prisoners who were involved or the exact nature of their involvement. IDs listed involvements as perpetrator, victim or other. In incidents involving multiple perpetrators, it was sometimes impossible to distinguish the exact behaviour of prisoners involved beyond their data label of being a perpetrator. Excel and SPSS were used to organise and group the data for analysis and create:

- a derived sexual assault classification for each incident
- a Home Office crime grouping for the imprisonment offence
- separate groupings for prisoner on prisoner drug or contraband searches
- grouped age categories
- grouped ethnic status categories
- grouped sentence length
- detailed types of weapons
- prisoner categorisation
- time between reception at prison and incident
- year/month of incident
- number of people involved in each incident

Figure 4.6 Description of Dataset 1



In 97 cases, only one person was recorded as being involved in the incident. Although there are 844 incidents, the dataset records only 826 victims. Therefore, in 18 incidents, a victim was not recorded/identified. These eighteen cases may concern incidents where the sole person reported as being 'involved' was recorded in the capacity of 'other' i.e. present or as a witness or as the perpetrator where the victim was unnamed. Alternatively, this may be an example of a data quality error.

4.3.6 Using Administrative data

Administrative data is data that has been collected for monitoring or managerial purposes (such as registrations, transactions and record-keeping) and 'is rarely collected for the benefit of researchers' (Fleming and King, 2013:15). Comparability issues may arise when using administrative datasets because the data has not been constructed for research purposes and therefore may lack essential information, such as unique identifiers to link data sets (Wallgren and Wallgren, 2014:29). Use of prison-generated administrative data involves a number of risks, including the likelihood that the data may include undetected errors relating to the classifications applied to incidents, duplications and may also be based on prison staff perceptions (Matthews, 1999:95). Researchers have been reminded by sociologists (Bottomley

and Pease, 1986:159; Fleming and King, 2013:15) that official criminal justice data is not neutral, has been socially constructed and collected for a purpose usually associated with presenting attainment and productivity in the criminal justice system. Because this research is the first independent analysis of the IRS data, it also presents a unique opportunity to examine the strengths and weaknesses of the IRS as a data recording mechanism for sexual assaults. For example, aside from reporting descriptive statistics about sexual assaults, my analysis identifies missing data and fields which could need to be adapted or added to improve data quality. Bottomley and Pease (1986:169) argued that having and using official statistics is a better starting point for researchers than the position of having none. Nevertheless, official data are 'records of decisions, made in very personal, private or professional contexts', which are therefore subject to interpretation rather than neutrality.

Offence-related data provides only limited details of notifiable offences, with little or no contextual information. In contrast, offender-based data may provide more context about an incident (such as offender characteristics) but fewer details about the incident being reported. With this in mind, identification of the IRS as an administrative dataset to use for my research, required an acknowledgement that the official data could only reflect the data which had been reported and recorded and which met internally verified recording criteria. The MOJ's (2015b:2) statement that sexual assault outcomes data was not deemed to be of sufficient quality to meet the standards for official statistics confirmed that the administrative data was likely to be limited and include errors. It could also not be used to estimate prevalence rates or represent the 'dark figure' or the total number of offences or incidents (Coleman and Moynihan, 1996:31). The IRS also lacked detailed information for several elements of the sexual assault incidents. For example, it was not possible to establish the previous offending backgrounds of those involved in incidents because the IRS only recorded the offence for which they were currently serving a custodial sentence. Lack of consistency also presented significant problems for coding and analysis. For example, recording 'codes' for the imprisonment offences used various, non-uniform abbreviations and were often unintelligible.

Table 4.3 Advantages and disadvantages of using IRS administrative data

Advantages	Disadvantages
Large data set (844 incidents) which allowed for analysis of 100% of the population of interest within the sample time period	Not possible to capture all cases because of low reporting and recording rates and changing definitions and administration processes
Low cost as the dataset already existed.	No control over content. Analysis was limited to the fields and level of detail pre-determined by NOMS
No direct prisoner participation in the research required and therefore may have captured those individuals unlikely to participate directly in research	Access to data was dependent on successful application to NRC and NOMS, acting as formidable gatekeepers. Uncertainty about application and transfer of the data delayed analysis
Provides first insight into overall trends in reporting sexual assaults over a ten-year period	Lacks the richness and flexibility of inductive research methods involving direct contact with participants

The use of administrative data presents risks that it may contain undetected (and undetectable) errors because the method of data capture and recording may be constructed to fit rules, classifications and legislative requirements (Wallgren and Wallgren, 2014:29). Administrative data may also include categorisation errors, such as wrongly assigning a prisoner’s ethnicity. It may also be subject to prison recording policy changes over time, for example, age categories have altered to change the way that ‘young people’ are classified in prisons (Matthews, 1999:95). In the case of the IRS dataset, information about the ethnicity of those involved in sexual assaults (as victims, perpetrators and others) was the most complete data field (only 2% of the 2,032 people had an unrecorded ethnic status). A significant advantage of using the IRS dataset was that it contained the details of victims and perpetrators, allowing for analysis often not available from small-scale studies which tend to be based on self-report surveys of victims

only. However, the completeness of the ethnicity data may have obscured undetectable errors which could have occurred in the recording process or where the prison officer assigned ethnicity without verification.

Matthews (1999:95) highlighted that administrative information about prisoners may also be subject to ‘telescoping’ or collapsing errors, as their categorisation might be based upon their most serious or most ‘convictable’ offence, obscuring the range of offences that they might have committed. It is probable that the IRS dataset contained telescoping errors as well as omissions. Prison statistics, assembled based on police and courts’ data are likely to contain recording errors (Fleming and King, 2013:15) such as duplications, remand information and estimations of time to be served. Missing data on the sentence length of those involved in sexual assaults made analysis of the seriousness of the imprisonment offence impossible. For example, the data showed a predominance of sex offenders as both perpetrators and victims of sexual assaults. Detailed analysis by sentence length, which might have provided an indication of the seriousness of the imprisonment offence, could not be undertaken. Other data fields, although completed, may have included both detectable and undetectable errors associated with using administrative datasets.

When comparing the possible errors associated with survey-method generated data versus use of the IRS administrative data the following aspects of the data construction highlight the potential for errors:

Table 4.4 Comparison of possible errors in survey-based method versus IRS administrative data

Survey based data – possible errors	IRS Administrative data – possible errors
Anonymous: errors include self-selection samples and biases as prisoners can self-record their own experiences	Named and linked to prison records which are reliant on the accuracy of staff recording and the functionality of the

Survey based data – possible errors	IRS Administrative data – possible errors
	database, including availability of free text fields
Purpose: contributing to research and knowledge, requires cross checking with prison systems	Reports recorded for administrative purposes only. For example, to note access to health care, segregation or cell moves rather than research-focused data
Researcher deploys survey instrument and research might be influenced by researcher effects	Prison officer completes pre-determined fields ‘posed’ by the reporting system. Recording practices vary by prison officer, prison and over time
Risk that participant may not understand the question or may have limited literacy skills	Information may be withheld because there may be legal and practical implications linked to reporting. E.G. victims of drug searches may not provide full details because to do so implies drug use and supply or ‘snitching’
Risk of leading questions	Questions tailored to set outcomes/data fields which may be determined by performance measures
Includes qualitative or open questions	Single qualitative field is completed by prison staff (perhaps second or third hand) to describe the incident and any initial response

Survey based data – possible errors	IRS Administrative data – possible errors
Sample bias	Errors recording incidents, some reports not recorded and/or some duplication
Data can be linked to pseudonym or personal number	Data sets linked by incident number in which 844 incidents are identified and 2,032 ‘involvements’ recorded

4.4 Dataset 2: Qualitative interpretation of the prison officer-generated text-based incident descriptions (IDs)

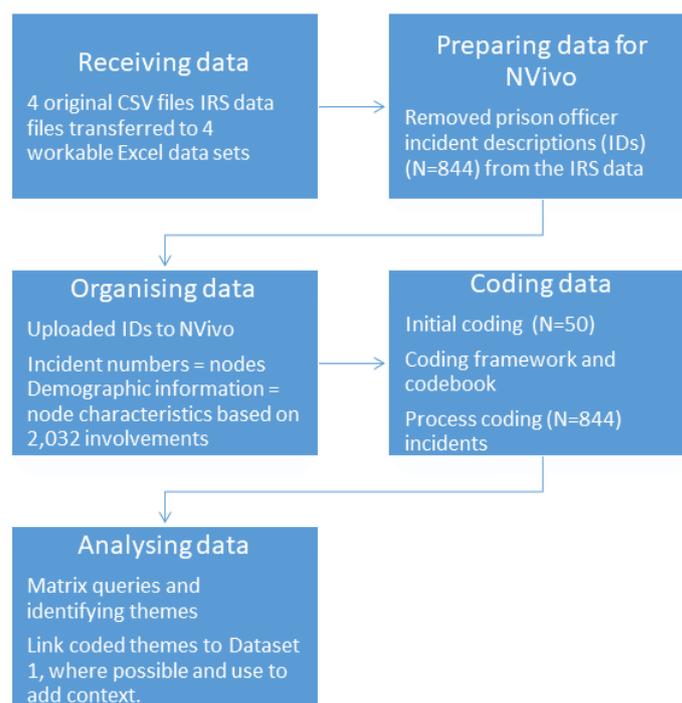
Each recorded incident in the ‘incidents’ element of the IRS data included a compulsory text description field for prison staff to record a summary of the reported incident. This summary was either (but more rarely) written directly by the prison officer who received the initial report or was written by the CM who managed the prison response to the report. The latter was more likely given that the incident descriptions often provided an overview of several hours of activity which would have been managed by a CM.²³ However, the name and role of the author of the ID was not required or always provided.

The decision to code the IDs was made for several reasons. Firstly, to ‘quantitize’ (Saldana, 2016:27) the data, particularly in relation to determining the types of sexual assaults which were barely described by the NOMS catch all category of ‘sexual assaults’. The IDs were the only possible source of information for gaining further insight into the precise nature of the sexual assaults. Coding the 844 short, text-based IDs allowed interpretation of the social actions of the victim/person reporting the incident, perpetrator/s, prison staff and initial police response into codes and themes.

²³ This was confirmed by the small-scale, semi-structured interviews with four CMs (Dataset 3).

Qualitative coding of the 844 IDs was carried out using NVivo 10.0 software. The selection of NVivo 10.0 as a tool for organising and coding the IRS data was based upon the requirement for a suitable method to manage the large dataset in a secure environment. NVivo was downloaded to a secure laptop to ensure that the IRS data remained on an encrypted computer. One of the benefits of using a computer assisted programme for qualitative analysis was the flexibility that it offered in terms of allowing codes to be developed, merged and altered as the analysis of the data developed (Silver and Lewins, 2014:16). The research adopted a pragmatic coding strategy, using a process by which the data was decoded (in order to understand its meaning) and then encoded to develop labels and categories therefore, combining different types of codes for analysis of the data (Saldana, 2016:354).

Figure 4.7 Qualitative coding and analysis process



4.4.1 Initial coding

Initial coding was carried out by hand, using an Excel spreadsheet. This process provided a picture of the data and informed the strategy to use software-based coding primarily because

of the scale of the sample and the complexity of identifying multiple codes in each ID. Preparation of the data from original CSV files to Excel files, and then for readiness to upload to NVivo, was a significant, time-consuming task. It also involved analysis of the costs and benefits of different approaches to coding when using large administrative data sets. Using qualitative software analysis tools meant that I was able to carry out the coding of the 844 incidents, record my progress, and annotate IDs as I coded. Each hour of concentrated coding allowed for approximately three to five IDs to be coded, depending on the detail included and the need to look up demographic information relating to the 'involvements'. Taking an average of four incidents per hour, initial coding took approximately 211 hours or 30 working days.

Once uploaded to NVivo, the first 50 IDs were initially coded to form a clearer picture of the scope of the data and to develop and test the initial codes, (which were based on an in-depth literature review). These initial codes included information about the incident which was not available from other data fields from the IRS. For example, the location within the prison and the mechanism used to carry out the sexual assault which had been identified by a number of empirical studies as an important dimension of incidents (Struckman-Johnson *et al.*, 1996; Struckman-Johnson and Struckman-Johnson, 2000; Hensley, Koscheski and Tewksbury, 2005). Easily identifiable gaps in the IRS data were also targeted during this initial phase of coding. For example, a theme and coding structure to describe different types of sexual assaults was prioritised because the IRS used a default 'label' of 'sexual assault' for all incidents. The new theme included codes for a range of assaults including verbal threats, drug searches, anal and oral rape, See Table 4.6 for more details of the coding framework.

Some incidents were identified as duplicate cases, as not being sexual incidents (usually based on violence only) or as involving young persons under the age of eighteen; these cases were not deleted from the sample in NVivo but were coded as 'RECLASSIFY'. Care was taken to retain the original sample and details of any incidents which had been excluded with the reason for the exclusion. This initial coding approach to incidents which had been identified for exclusion allowed for further work to be carried out on the original full dataset. Saldana (2016:17) suggested that qualitative researchers require experience to fully understand and appreciate what is important in the data. As the experience of the researcher builds, the obligation and foresight to retain information which might be useful in the future is supported by the initial development phase.

Initial coding of 50 IDs identified that the most appropriate method of coding the remaining IDs was to code the entire description with multiple codes, rather than coding the entire incident description with a single code. Using this technique, known as 'splitting' (Saldana, 2016), provided greater insight into the IDs, by highlighting nuances and creating more detailed analysis of each incident. Coding the entire ID by applying 'splitting' was the most practical approach given the variance in length and detail among the IDs. Table 4.5 shows some examples of IDs to demonstrate the variance in detail included in them.

Table 4.5 Example incident descriptions (IDs) and word counts

Example incident descriptions (IDs)	Word count
1. A kissed V on the cheek	6
2. Mr. V reported to SO X that he had been assaulted by MR P over a period of 2 weeks, the assault was Mr. P touching Mr. V's testicles	30
3. At approx. 1000 hrs. V pressed his cell bell when staff arrived, he stated he had been placed in a head lock and sexually assaulted by another prisoner. He stated that P had gone into his cell put him in a head lock, put his hand down his trousers and put his finger into his anal passage. Mr. V has asked for police involvement he was taken to the HCC were [sic] he was examined, and his anal area was swabbed by medical staff.	85
4. Prisoner V was taken to H/Care on x 2010 as staff were concerned with his behaviour - he was unable to recall the date or time. He reported to H/Care staff that he thought he had been raped whilst in the showers on B4. This was reported to Dep/Gov and PIO who interviewed him. He told them he had gone to the showers on x /2010 (time unknown) where he was hit on the side of his face and knocked to the floor. He was then hit in the back by an unidentified male who told him not to scream or he would be hurt further. The man then inserted what X believed to be the unknown man's penis into him and it lasted 1-2 mins. V was asked if he wanted police involvement and he agreed. His clothes and bedding in his cell in H/Care were seized and the cell he was located in prior to the move to H/Care was sealed pending police investigation. NOU was notified.	169

4.4.2 Focused coding

Process-based codes were used to provide fuller information (missing from other data fields) about the incident itself (e.g. where it took place and the response to the report: whether the report was referred to the police). Codes were also used to make sense of the IDs and add meaning to the data in order to translate it by finding patterns and examining the ways in which incidents were described. For example, an inductive or open-coding approach to the ID included use of codes which described emotional responses, such as the demeanour of the prisoner making the report and demonstrated empathy from the person taking the report.

Process codes are usually based on recording observable activity or concepts through time. Saldana (2016:296) argued that process coding can be applied to all qualitative research but is particularly applicable to those using grounded theory and methods such as participant observation where routines and rituals are recorded. This coding-based research did not involve primary research or participant observation, but it did use process coding to uncover some of the routine activities associated with receiving a sexual assault report by observing the activity recorded in the data. Some limited application of 'In Vivo' coding was also used. In Vivo codes are based on coding the actual words used by participants, or, in this case, those present in the recording data. In Vivo coding is more problematic to apply to an administrative dataset because spoken words used to describe activity may vary from the language used to record activity. However, the use of certain phrases was clearly identifiable (and therefore subject to In Vivo coding) throughout the data set. For example, some prison officers recorded incidents as being closed by "signing a police disclaimer" as a form of early case closure.

Emerging codes and ideas about making changes to codes were all recorded in NVivo as part of a single memo which allowed changes to the coding strategy to be tracked and provided set dates when changes had been made, allowing for reviewing and recoding IDs according to the 'codebook', see Appendix A for the full codebook. Most projects generate 80-100 separate codes which are organised into 15- 20 categories and sub categories which become five to six major themes (Saldana, 2016:25). My qualitative code book was developed during the focused coding stage of the research. Focused coding resulted in the following codes and sub-categories which were applied to all the incidents, shown in Table 4.6:

Table 4.6 Coding framework for Dataset 2

Codes	Sub-categories
Belief	Compassion from prison officers, disbelief
Evidence	Forensic recovery, injuries, verbal disclosure from victim or perpetrator, demeanor of victim, witnesses, letter/note
Feelings	Afraid, distressed, acceptance, hard to talk about
Involvements	Cellmate, multiple perpetrators, multiple victims, watchers, counter allegations
Location	Not specified, own cell, other cell, public area, room or workshop, shower/toilet
Mechanism	Not specified, blackmail/payment, drugged, during sleep, consent withdrawn, grooming, locked in/tied up, overcome with violence, physical force by perpetrator, punishment, restrained by other prisoners, threat of violence, vulnerability/impairment
'Outcomes'	Local prison investigation, no further action, perpetrator placed on report, relocation, referred to police, report only, signed police disclaimer, victim refused/requested police involvement, victim relocated, victim sent to healthcare, victim sent to hospital, victim withdrawal
Person receiving report	Prison officer, security, governor, other
Report initiator	Victim, witness, prison officer, family member
Repeated	Over long duration, more than once
Weapons	Any, sharp, blunt, type, bottles/enemas,

Codes	Sub-categories
Sexual assaults	Unspecified sexual assault, anal drug search object, anal drug search enema, anal penetration object, anal rape penis, attempted anal rape penis, digital penetration, digital penetration drug search, exposure, forced oral sex, forced perpetrator/victim masturbation, external genital drug search, masturbation near victim, oral rape, stripped, touching genitals, unwanted physical contact, verbal threat

The codebook was particularly effective when categorising the sexual assaults to provide a more nuanced insight than the IRS ‘sexual assault’ categorisation, and because it developed a deeper understanding and interpretation of sexual assaults in a prison environment.

Although codebooks are often developed for coding teams, where cases are subject to moderation and checking for consistency, the scale of this coding project (and the number of incidents) necessitated that the coding took place over a full year. Therefore, time gaps between coding sessions required the codebook to remind me of the coding strategy and ‘rules’.

4.4.3 Aims of the coding

Saldana (2016:22) suggested that when coding, qualitative researchers should retain a list of key objectives or questions to keep them focused on the aims of their coding. The following list of assumptions and goals served to remind me of the purpose for coding the IDs:

1. What extra information do they tell me about the incident (that can’t be found in any of the fixed or pre-determined data fields). For example, the victim’s preference for police referral?
2. What types of sexual assaults are identifiable from the data?
3. What do the types of sexual assault indicate about the mechanisms used by perpetrators carrying out sexual assaults?
4. How do prison officers describe sexual assault incidents reported to them?

5. What forensic opportunities and initial investigation activities are described by prison officers?
6. Are there differences between the recording of incidents related to prisoner on prisoner drug/contraband searches and other sexual assaults?
7. What is different (and similar) about sexual assault reports taken in prison contexts?

4.4.4 Analysis

As a solo-coder, interpretation and analysis of the incident descriptions and the extent to which information could be deduced from the text was often challenging. For example, in many of the incidents it is clear from the IDs that the incident happened at night, in a cell, but the relationship (if any) of the perpetrator to the victim was unspecified. In these cases, if the incident was reported to have occurred at night, during lock up, the perpetrator was coded as being a cell mate and the location was coded as the victim's own cell. Application of coding rules restricted analysis of the IDs to the information available by use of rules to ensure that aspects of the incident which were not directly referred to in the text were excluded and coded as 'unspecified'. Saldana (2016:37) suggested that solo-coders should code with a mentor or supervisor or even a participant to check their understanding. Inter-coding was carried out, over a number of supervision sessions, with the primary research supervisor. This involved dip-sampling IDs and co-coding them as a moderation process to ensure that the 'rules' used were appropriate, applicable and would not reduce the scope to analyse the data.

4.4.5 Memo writing

Analytic memo writing enabled me to record my thought process during the development of the coding framework and throughout the coding process itself. One of the main challenges of carrying out process coding on the data was the scale of the data set and the impediments to achieving a broad overview of the incidents. This overview was not available until the end of the coding process when NVivo matrix queries were used to create a visual impression of the incidents. For example, it was apparent that prisoner on prisoner drug and contraband searches featured frequently in the 844 incidents dataset, but because coding was generally carried out in sets of about 20 incidents at a time (over a twelve month time period), the impact of drug searches on the whole data set was not apparent until matrix queries were conducted. The importance of using analytical memos cannot be overstated because they allowed the recording

of thought processes (which otherwise might have faded over time) in developing new codes, identifying extraordinary cases, or 'outliers' which didn't seem to fit with other codes and to record for discussion with my supervisor. The analytical memos were clearly dated and included the sequence of incident numbers which had been coded as part of each coding session. This numbering in analytical memos was crucial to keeping track of the progress when carrying out block coding because the incidents were not sequentially numbered as incident numbers. This was because they were all derived from different adult men's prisons in England and Wales. Incident numbering practices also changed over the ten-year period from the data capture period. The analytical memos helped in generating new codes as occasional outliers became clusters of types of incidents, or my initial coding was challenged by emerging patterns from the data, which I had not anticipated.

4.5 Dataset 3: semi-structured interviews with prison-based staff to check the validity of the Datasets 1 and 2

Dataset 2 is qualitative, derived from IDs written by prison staff. Although Dataset 2 provides additional insight into the 844 incidents, further work was required to interpret some of the emerging trends and patterns of incidents and involvements. To provide context, small-scale interviews (N=5) were carried out in a local prison. The prison in which interviews took place housed categories B, C and D prisoners, youth offenders, unclassified prisoners, unsentenced and remanded prisoners. Given the small sample, findings were limited because of the potential for bias associated with small, non-random sampling techniques. The prison was undergoing refurbishment of one wing at the time of the interviews and its occupancy rate had been reduced from c 700 to 475²⁴.

Potential interviewees were identified by the Prison Intelligence Officer (PIO), based in the prison, who had already sought levels of interest in participating from his custodial manager colleagues.

²⁴ In June 2019, when the small-scale interviews were carried out at a Category B Local prison the security profile of prisoners was as follows: Category B 3.5% (N=17), Category C 43.5% (N=207), Category D 3% (N=15), Unclassified 9% (N=43), Unsented 37% (N=37%), Young Offenders 4% (N=18). For context, the profile of offending backgrounds for the prisoners was as follows; violence against the person 28%, sexual offences 12%, robbery 11%, burglary 12%, theft and handling stolen goods 6%, fraud and forgery 3%, drug offences 16%, motoring offences 2%, other offences 10% and not recorded 1%.

Contact with the PIO resulted in four interviews with CMs, all from the same prison. In total, the prison employed eighteen CMs in shift patterns. The prison was also staffed by one PIO who operated at several local prisons but was mostly based at the prison in question. He also agreed to be interviewed under strict anonymity and under the condition that I did not use his full name, even when speaking to or emailing other prison staff. All of the CMs were working in the same prison during the data capture period of 2004-2014. However, during the data capture period they were either in prison officer grade roles or acting supervisory roles. The PIO had not undertaken a prison-based role prior to 2019 and therefore, the data capture period was outside of his experience.

Access to staff for interviews was arranged through the PIO, with permission from the security governor from the prison. Planning interviews with prison staff was time consuming and sometimes frustrating because they were not contactable by phone and could only respond to emails. Shift patterns and the prison regime also influenced time and capacity for interviews. The length of interviews varied from 45 minutes to two and a half hours. Special arrangements also had to be in place for a gate pass to allow me to visit the staff. All interviews were recorded using a digital recording device which had to be approved in advance by providing the serial number of the device and the product information to confirm that it did not have photographic functionality. The semi-structured interviews were held in the prison in a private office used by the CMs. The office was small and located in a busy administrative area, close to the prisoner association area. The interviews were subject to interruptions from noise from the landings, radio messages and staff seeking information from the staff being interviewed.

A question/topic guide (see Appendix B) was developed for use during all of the interviews. This guide was used partly to keep the interviews on track, but also to reduce interviewer bias and ensure that the same questions and topics were put to all participants. The PIO was central to ensuring that the interview room was booked and available and he also reminded CMs of their interview time and place. Developing rapport in such a busy environment was sometimes demanding and relied upon using some of the interview time at the beginning of the interview to talk very generally about the prison and some of the daily or recent demands on staff. All transcripts were transcribed and kept anonymous by replacing names with participant numbers. The transcripts, and analysis of them, are referred to as 'Dataset 3'. The interviews were primarily used as a method of checking my interpretation of the IRS data. As analysis of the data continued, several themes and trends emerged which had not been predictable because of the

lack of UK literature and, arguably, an over-reliance on US published work. The process of carrying out a small number of interviews with prison-based staff helped to shape those questions for future research and increased my confidence in understanding the conclusions that can be drawn from the data, as well as recognising the limitations of my own interpretation (Mason, 1996:151).

Mason's (1996:146) principles for checking the validity and reliability of qualitative research, provided a framework for using the interviews to check my interpretation of the data. Using a number of methods to respond to the same set of research questions, has been suggested as a preferred research design to improve the prospect of validity, particularly when using datasets (Mason, 1996:148). Dataset 3 is therefore not intended to be a corroboration of Datasets 1 and 2 but has helped me to contextualise and interpret the IRS data. Trends identified from the data in Chapter 5, may have several possible interpretations or explanations. These may be drawn from the literature, or where there is no previous literature, posed as hypotheses for future research.

4.6 Chapter summary

This chapter provided a rationale for the methodological approach adopted in this thesis. It focused on how, as an independent researcher, I gained access to, and analysed, a previously unresearched dataset. Negotiation of access to the data has been discussed in this chapter, along with the time taken to receive, organise, understand, and prepare the data for analysis. The chapter provided a detailed explanation of the access process and the delays in receiving the IRS data to emphasise the difficulties confronted prior to conducting the research. The adopted methodological approach emerged from gaining a developed understanding of the scope and possibilities which were realisable from the IRS data. Adopting a pragmatic approach to the research methodology allowed me to examine different mechanisms for data analysis which combined mixed methods and extracted the most information for the thesis.

Despite challenges associated with gaining access to prison-based staff to gain insights into the data analysis results and prison 'know how', small scale semi-structured interviews were carried out with staff from a Category B Local prison following the analysis of Datasets 1 and 2. The

timing of the semi-structured interviews allowed for the researcher to direct formulated questions arising from the data analysis results in order to elicit contextual understanding. Although Dataset 3, derived from the semi-structured interviews cannot be used to draw conclusions, its value has been significant in providing insights into elements of prison life, which were outside of the experience of the researcher. For example, the daily routines of the prisons, the practical problems associated with responding to prison-based crime.

Chapter 5 collates and interprets the results from Datasets 1, 2 and 3 and provides insights into ten-years of recorded sexual assaults from men's prisons in England and Wales. The IRS data has been subjected to extended analysis; far beyond that carried out routinely by the MOJ. The combination of quantitative analysis and insights from the qualitative analysis of the IDs answers some the questions derived from the literature review about characteristics associated with sexual assaults. However, it also raises broader questions about gaps in knowledge and the priority with which these incidents are recorded, responded to, and risks reduced for future generations of prisoners. These issues will be addressed in more detail in Chapter 6 as a detailed discussion of the results and interpretation of Carlen's (2008) 'imaginary penalties' to explain the initial responses to sexual assaults in men's prisons.

Chapter 5 Results and discussion: the characteristics (individual and institutional) of sexual assaults in men's prisons in England and Wales

This chapter addresses Research Question One:

What are the patterns and characteristics of reported and recorded prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?

And Research Question Two:

What insights do the prison officer-generated incident descriptions (IDs) from the IRS provide about the initial response to prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?

The chapter combines the results of Datasets 1 and 2, drawing upon the semi-structured interviews (Dataset3) to provide additional context to the analysis of the Incident Recording System (IRS) data. Wherever possible, analysis of Dataset 1 has been included in the chapter. However, some limitations were encountered where missing data made analysis impossible. Insights and example IDs from Dataset 2 have been included in combination with Dataset 1, where they provide new information about sexual assaults which could not have been found solely from the IRS quantitative data fields. Chapter 6 examines the theoretical framework of this thesis and assesses the usefulness of Carlen's (2008) theory of imaginary penalties in explaining the recording and initial prison response to reports of sexual assaults in adult men's prisons.

Over the data period 2004/05 to 2013/14, 844 incidents of adult male, prisoner on prisoner sexual assault²⁵ were recorded in adult male prisons and youth offending institutions (YOIs) in England and Wales. This figure excludes all incidents recorded where a victim or perpetrator of under 18 years of age was involved and excludes reported incidents which appear to have been mis-

²⁵ See Section 4.3.6 for the National Offender Management Service (NOMS) definition of a sexual assault

recorded as sexual assault i.e. where there was no identifiable sexual element and the report described non-sexual violence only. Records include all incidents, substantiated or unsubstantiated, which were classified by prison staff as being a sexual assault and were then recorded on the IRS and managed during the data sample period by NOMS. The data presented in this chapter is dependent on incidents being identified, reported, classified and recorded by staff and therefore it should be assumed that the descriptive statistics may be incomplete and may not represent the full extent of prisoner on prisoner sexual assaults, which took place in men's prisons during the data period. Prisoner on prisoner sexual assaults can be assumed to be under-reported (Banbury, 2004; Stevens, 2014) for reasons already discussed in Chapter 3. Decisions on what to record and how to classify a sexual assault are likely to have varied by individual officer, manager, and prison, as well as being subject to variation over time. Although the IRS has the capacity to be updated to reflect staff responses to reports of sexual assaults (including prisons and police activities), Dataset 1 did not include any signifiers to show updates and so this detail is not included.

The outcomes of the recorded sexual assaults are a key aspect of this chapter and are discussed with insights from prison staff interviews. To verify the outcomes of cases, further research tracking police files and adjudication records would be required. The inability to linking sexual assault incidents to the outcomes of police referrals or investigations or referrals for adjudication was acknowledged by the Ministry of Justice (2015b:3) as a weakness with the IRS data. Data presented in the first part of this thesis is presented at incident level. Each of the incidents involves one or more individuals. In summary, A total of 2,032 prisoners²⁶ were reported as being involved in the 844 recorded incidents. Of these:

- 1,116 were reported as perpetrators
- 826 identified as victims
- 90 as being 'other' i.e. present during the reported incident, noted as witnesses or with an unclear role in the incident.

Charts and analysis in this chapter indicate whether the data is based on incident level data or individual level data. To supplement the data recorded in the quantitative IRS data fields, analysis

²⁶ The IRS database recorded details of all those involved in the 'involvements' part of the database. Details of perpetrators, victims and 'others' (people present at the time of the report being made or witnesses) were linked using the single incident number.

of the qualitative data fields or prison officer-generated incident descriptions (IDs) has been carried out to add context to the descriptive statistical analysis of the IRS. These IDs sometimes provide additional information about the incident, including more detail about elements of the report, such as the perpetrator, the location of the incident, the levels of violence employed in the assaults and the response of the victim. The IDs therefore provide some additional context generated either by poorly completed fields in the IRS system and/or the paucity of information required by the IRS about the incident.

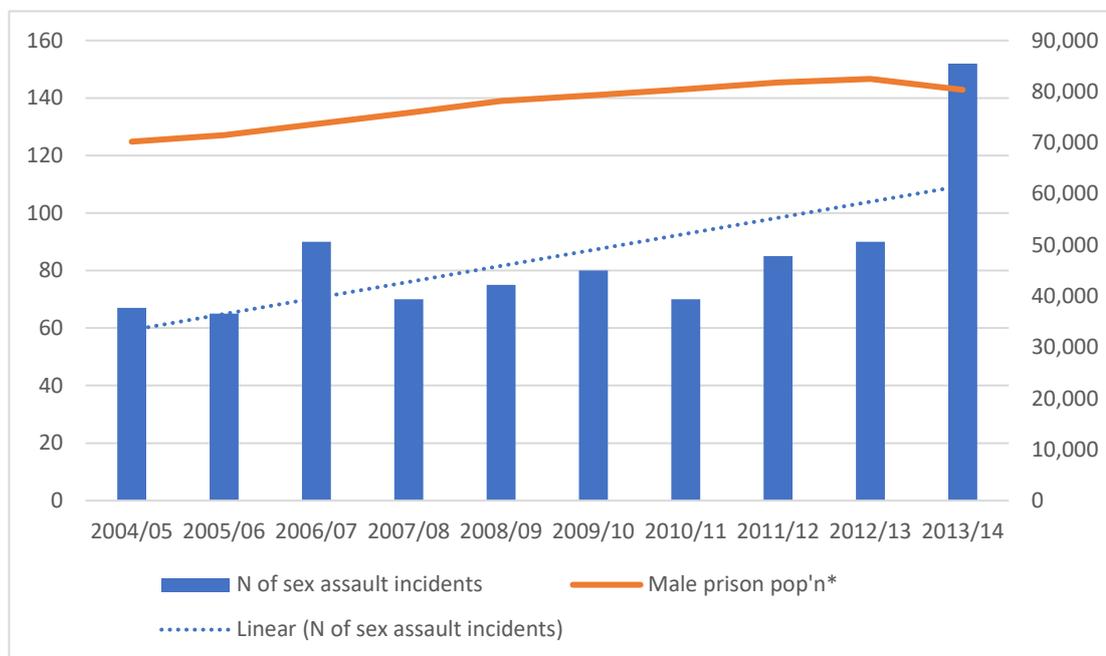
There is wide variation in the quality and coverage of the IDs which allows for commentary on their consistency across all 844 incidents. References to the IDs in this chapter, indicate how frequently they included information which could be coded and where they cannot be used to give a conclusive or 'whole' picture of the recorded sexual assaults. The IDs are a reflection of the prison officer's (and prison management's) perception of the significance of the sexual assault report and consequential need to record details about the incident. The omissions from the IDs have also been coded where possible to provide insight into gaps in information available to prison authorities and government oversight. This chapter and Chapters 6 include insights from a police Prison Intelligence Officer (PIO) and four prison Custodial Managers (CMs) derived from semi-structured interviews carried out in a Category B Local prison. These interviews included exploration of the reporting processes and staff perspectives on responding to sexual assaults. Further information about the staff and the prison in which they work has not been included to protect their identities and the institution where they work. Given the low numbers of sexual assaults reported by prisoners and recorded by staff, the names of prisons have been excluded to protect the identity of those who have experienced incidents in prisons.

5.1 Trends in sexual assaults

The IRS data shows that there was a notable increase in the number of adult male prisoner on prisoner sexual assaults in prisons in England and Wales recorded over the 10-year period. As shown in Chart 1, with the exception of 2007/08 and 2010/11, there was a year-on-year increase from 67 recorded sexual assaults in 2014/05 to 152 in 2013/14 with the greatest rise in the most recent year, where there was a 75% increase from 90 in 2012/13 to 152 incidents in 2013/14. The increase in reported sexual assaults was across prisoner on prisoner drug searches, other sexual

assaults and incidents which were unspecified and so, although there is evidence of increased use of synthetic drugs in the latter part of the data capture period (HMIP, 2014; Ralphs *et al.*, 2017), drug searches alone did not account for the steep rise in recording in 2013/14.

Figure 5.1 Number of sexual assaults from 2004-05 to 2013-14



*Note that the general population in England and Wales also grew during this period and the average prison population has remained relatively stable since 2010

Figure 5.1 shows a slight increase in the overall male prison population over this period. However, the increase in the male prison population cannot fully explain the increase in reported sexual assaults, with the rate of assaults per 10,000 prisoners nearly doubling over the period from 10 per 10,000 prisoners in 2004/05 to 19 per 10,000 in 2013/14²⁷. Other factors, such as an increased willingness to report sexual assaults may also be partly responsible for this increase (MOJ, 2015b:1) but interpretation of reporting trends remains a conundrum for criminal justice agencies. By the end of March 2014, the total prison population had increased beyond projections. Collectively the prison estate was using 99% of its capacity to house prisoners. This increase necessitated ‘doubling-up’ of cells designed for single occupancy and reducing time spent out of cells on meaningful activity such as work, education or exercise (HMIP, 2014:8). Her

²⁷ Note that the statistics on prison population are based on the calendar year and the IRS incident level data is based on collection by the financial year:

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN04334>

Majesty's Inspectorate of Prisons' (2014) annual report stated that overcrowding and the pressures of the system working at capacity were not evenly spread across the prison estate but may be concentrated in local prisons. The annual report for 2014 described some of the overcrowded conditions during 2014:

“Two-thirds of the prisons we reported on during the year as a whole were overcrowded. At its worst, overcrowding meant two prisoners sharing a six foot by 10 foot cell designed for one, with bunks along one wall, a table and chair for one, some shelves, a small TV, an unscreened toilet at the foot of the bunks, little ventilation and a sheet as a makeshift curtain. A few prisoners might spend 23 hours a day in such a cell – 20 hours was relatively common in a local prison. Prisoners would eat most of their meals in their cell. The food budget was reduced from £2.20 per prisoner per day in 2012 to £1.96 a day in 2013.”

(HMIP, 2014:11)

Some of the US literature has linked prison overcrowding with an increase in prisoner on prisoner violent assault, suicide and self-harm, rule-breaking and mental health problems (Cox, Paulus and McCain, 1984:1156; Toch, 1992). Although there is no UK research which directly links overcrowding to increased sexual assaults, there is some evidence that it causes frustrations related to access to meaningful activity, including rehabilitation services (Crewe, 2009:453).

Since the data capture period of 2004-2014 there have been several collaborative efforts to improve responses to crime in prisons (NOMS, CPS and ACPO, 2015; HMIC, NPCC and CPS, 2019). However, the impact of these policies on the day to day recording and investigation of crime in prisons is unknown.²⁸ Rates of reported sexual assault (and the recording of it) were varied across the prison estate during the data capture period, with several factors affecting institutional level of risk, these will be discussed later in this chapter. In line with Ministry of Justice (2015b) statistical summaries of reporting data and US research (Fowler *et al.*, 2010; Miller, 2010; Garland and Wilson, 2013), CMs acknowledged the likelihood of under-reporting of sexual assaults and that even when reported, they might have occurred some time before staff were told about the incident:

²⁸ At the time of the researcher's interviews with staff in 2019 (several years after the IRS data period 2004-2014) a new *Crime in Prisons Referral Process* had been published by HMIC, NPCC and CPS. The prison was introducing 'crime in prison packs' which aimed to increase recording of assaults and serious assaults and encourage staff to seek more detail about reported incidents to improve investigation opportunities.

"I don't think they are all recorded. I don't think we are told everything that happens ... Not everything is reported by prisoners. I mean, there's things like, little things that happen that we don't always know about. So maybe, on occasions, we are told three or four months later about a sexual assault. For example, a 'spooning' type assault where they try to gather drugs when they believe another prison's got drugs, and he's been too frightened to say; it's difficult to do any evidence gathering in those sorts of situations."

CM #02

A range of possible explanations for under-reporting were put forward by the CMs, including their own observations about the stigma and shame associated with admitting to having been assaulted by a man (Miller, 2010). As an example, one CM outlined the possible excuses used to disguise injuries from sexual assaults and referenced the danger of being seen to report on fellow prisoners:

"Yeah, well ... 'walked into a door. Door blew shut on my guv. Slipped over, slipped in the shower.' A lot of assaults don't get reported whether they be sexual or physical assaults. They don't like being called a 'grass', again that comes down to their reputation. If you are a grass in prison, you might as well be on the sex offenders' wing, because they would treat you the same as they would a sex offender."

CM #03

The combined impact of breaching the inmate code (Sykes, 1958) and the consequential loss of reputation was a theme in the CM explanations for under-reporting of sexual offences. Use of prison 'argot', such as 'grassing' or 'snitching', identified by Sykes (1958:87) was apparent from the interviews, suggesting that the social boundaries of the inmate code were still in place and understood and used by staff. One ID (below) went so far as to reference fear of being seen to be 'grassing' as the reason for not giving a statement:

"Several prisoners reported to Officer M that Prisoner V had been assaulted in his cell by 3 prisoners who were identified as X, Y and Z. Prisoner Z apparently held V in a head lock whilst Y punched him around the head. Prisoner Z apparently was trying to pull V's trousers down and he had a spoon in his hand which he was going to insert in V's rectum as they believed he had drugs concealed there. [A witness] saw what was happening and ran into the cell and prevented it going any further. [The witness] does not want to write a statement as he is frightened of being labelled a grass. V suffered bruising to face and head."

CMs also referred to geographic boundaries, often related to being a resident of a specific city, postcode or supporting a certain football club, which delineated membership of gangs in the prison. Gang membership was also raised by CMs as a barrier to reporting sexual assaults because gang members, besides their knowledge of current prisoners, may also be able to obtain information about new prisoners, including whether they had previously reported sexual assaults. One CM explained that gang membership and fear of loss of reputation might be a significant factor in deciding not to report a sexual assault:

“I think a lot of it is their pride. Who wants to report the fact that they've been sexually assaulted by another man in prison? Some of these people here are very ... how shall I put it? ... Reputation is what they live by. Well, they might be a big player somewhere, and then they come here and next thing they know is they're no longer big player because there's a bigger player and a gang from another area ... and they're doing that to them. Their whole street cred would be falling to pieces, hence why, with men, everything that happens doesn't get reported.”

CM #03

Over the ten-year data period (2004-2014), based on an analysis of the coding of the IDs (N =844), the majority of sexual assaults were reported directly by the victim to a prison officer (N=794) and most of the remaining cases were reported to other members of prison staff or Listeners²⁹(N=42). This reporting pattern has some parallels with non-prison based sexual assault research (Feist *et al.*, 2007:23) which indicated that, in most cases, reports were made directly by the victim to the police.

In most cases (N=740), reports were made verbally by prisoners. A smaller number of reports were made in writing (N=31) by passing notes to staff, as part of a review or complaint, or via letters. Very few IDs mentioned the presence of witnesses to the assaults (N=69). The apparent absence of witnesses is in line with observations from the Prison and Probation Ombudsmen (2013:3) report which noted that sexual assaults rarely took place in front of others, making allegations hard to prove. The lack of witnesses is supported by the literature which suggests that fear of retaliation acts as a disincentive to report sexual assaults or come forward as a witness

²⁹ Listeners are prisoners trained by The Samaritans to provide peer to peer support to prevent suicide. More details about The Listeners scheme can be found here: <https://www.samaritans.org/how-we-can-help/prisons/listener-scheme/>

(O'Donnell and Edgar, 1998; Banbury, 2004). The existence of witnesses to sexual assaults may also be reduced because of the common locations in which they took place. Where location was mentioned, most sexual assaults were reported to have taken place in the relative seclusion of a prisoner's own cell (N=314) or another cell (N=97), neither of which would be subject to CCTV monitoring. Data about the relationship between the victim and perpetrator (for single perpetrator cases) was unreliable; the nature of the relationship could only be established in 114 of the 844 IDs where the perpetrator was identified as the victim's cellmate, although this is likely to be an underestimate.

Other factors which may impact on levels of incidence, reporting and recording, such as institutional factors (type of prison, prison accommodation, staffing of the prison) and individual factors (age, ethnicity and the sentenced criminal offence of the perpetrator/s and victim) is, where data allows, explored in the following sections.

5.1.1 Type of assault

All sexual assaults were recorded only as 'sexual assault' by NOMS, contrary to assertions made by Banbury et al (2016:371) that sexual assaults are logged in the IRS as 'rape, sexual assault and drug search'. Over the data period from 2004-2014, unless specified in the ID, the exact nature of the sexual assault or the seriousness of the incident was not recorded. In order to glean more detailed information about the nature of sexual assaults, all assaults were coded based on the information provided in the IDs. Further details of the sexual assaults were coded for 583 (69%) of the 844 incidents. However, the remaining 261 incidents did not contain enough detail to determine the precise nature of the assault and these were therefore coded as being 'sexual assault/unspecified'. In the unspecified sexual assaults, IDs often noted the names and roles of the prisoners but lacked other essential information about the context and nature of the reported incident. As an example, the following ID is from a recorded incident in 2008 from a Category A prisoner. Additional information entered into other data fields indicated that no weapon was used by a single named perpetrator and the incident was referred to the police:

"Prisoner V claims that at times Prisoner X had forced himself upon him in numerous sexual assaults."

Incidents like this present a dilemma for researchers and prison managers as they do not specify whether the victim refused to disclose further information, the prison officer declined to ask initial investigatory questions or whether the information was available, but was not recorded in the IRS. In another example from a Category B Local prison in 2009, information recorded at the prison included some of the context of the sexual assault, but omitted information about the nature of the assault itself:

“Prisoner V informed staff that he had allegedly been sexually assaulted by another Prisoner, X, his cell mate, over a period of the last two days [sic]. The allegations were investigated by Senior Officer B, Prisoner X denied that he had acted inappropriately in any way. Both prisoners were subsequently seen by prison healthcare staff and Prisoner V declined a medical investigation, he also did not wish the incident reported to the police. The prisoners were separated, and all documentary evidence was submitted to the Security Department [of the prison].”

Some of the non-specified sexual assault IDs suggest a staff reluctance or inability to use clear language to describe sexual assaults or reference relevant body parts when describing offences. In some IDs the nature of the sexual assault is implied rather than recorded clearly. For example:

“An alarm bell was raised when the prisoners were being escorted back to C Wing after exercise. On attending the alarm, I saw a prisoner having a fit. He was taken to Healthcare for observations and when there, told staff that he had been assaulted from behind and gave the prisoner’s name who had done it.”

In other IDs, coded as non-specified sexual assaults, prison staff used ambiguous language to record a plethora of types of incidents/offences. Eigenberg (2000;2000a) suggested this may be because staff have difficulty in distinguishing between consensual and coercive activity or they may be unskilled in talking about sex and sexual assaults in prisons. The IDs supported the hypothesis that prison staff found it hard to articulate the precise nature of sexual assaults. They used a range of unspecific terminology, for example, ‘sexual advances’, ‘forced into a sexual act’, ‘receiving unwanted sexual advances’, ‘pressuring other prisoners into giving sexual favours’ and ‘asked him to perform a sex act on him’. These ambiguities were in keeping with Ombudsman’s (Prisons and Probation Ombudsman for England and Wales, 2013) assertions that prison staff were sometimes not equipped at discussing sexual assaults and sex between prisoners. In some cases, even when ‘rape’ was recorded in the ID, missing terminology and context meant that the specifics of the offence were implied rather than recorded. This approach to the recording of

serious offences such as rape indicates that the data may include incidents in which the term 'rape' or 'raped' is used interchangeably with 'sexual assault'. It is impossible to establish whether some of the scant reports which lacked detail about the type of sexual assault were caused by the inability or unwillingness of the prisoner to discuss the incident with members of staff, as suggested by Stevens (2014:3).

A further example below, from an ID, recorded in a privately run Category C Training prison in 2014, demonstrates that the ambiguity in recording is not suggestive of a lack of care for the victim but may be a result of an unwillingness (on the part of the victim, staff or both) to discuss the offence details. In this instance, the sexual assault was coded by the researcher as 'anal rape with a penis' as a classification decision was made to code the most serious named offence or aspect of the offence:

"At approximately 16:30 on today's date Prisoner A disclosed to me that approximately a month ago during the afternoon he was sexually assaulted/raped by Prisoner X. Prisoner A has not disclosed this before due to wanting to forget the event but has now heard of another prisoner coming forward and now also wants to come forward due to thinking people will now believe him ... (he) is aware of the support network for him and that he can use the Samaritans free phone number. Seen by the nurse...Police informed and Log no: X."

Interviews with CMs also revealed that there was recognition of the challenges that staff experienced when talking to prisoners about what had taken place. One experienced CM, when asked how staff approached prisoners who had reported a sexual assault, acknowledged the discomfort felt and noted that staff with less service might find it even harder to engage with prisoners about sexual assaults:

"At best, it's uncomfortable for anybody. It's not a conversation I would go in lightly to with any prisoner. But I think I could possibly do it better than some of the newest officers, purely because a lot of the younger guys in here ... to me, I'm the same age as their dad. I'm not what they would instantly perceive as a threat and those that know me up there will say, 'Oh, Mr X...he'll talk to you'. I'm not going to try to physically dominate them and impress my physical being. I think I would possibly be able to talk it through with them, more so than a younger person with less experience of life, the prison and everything else."

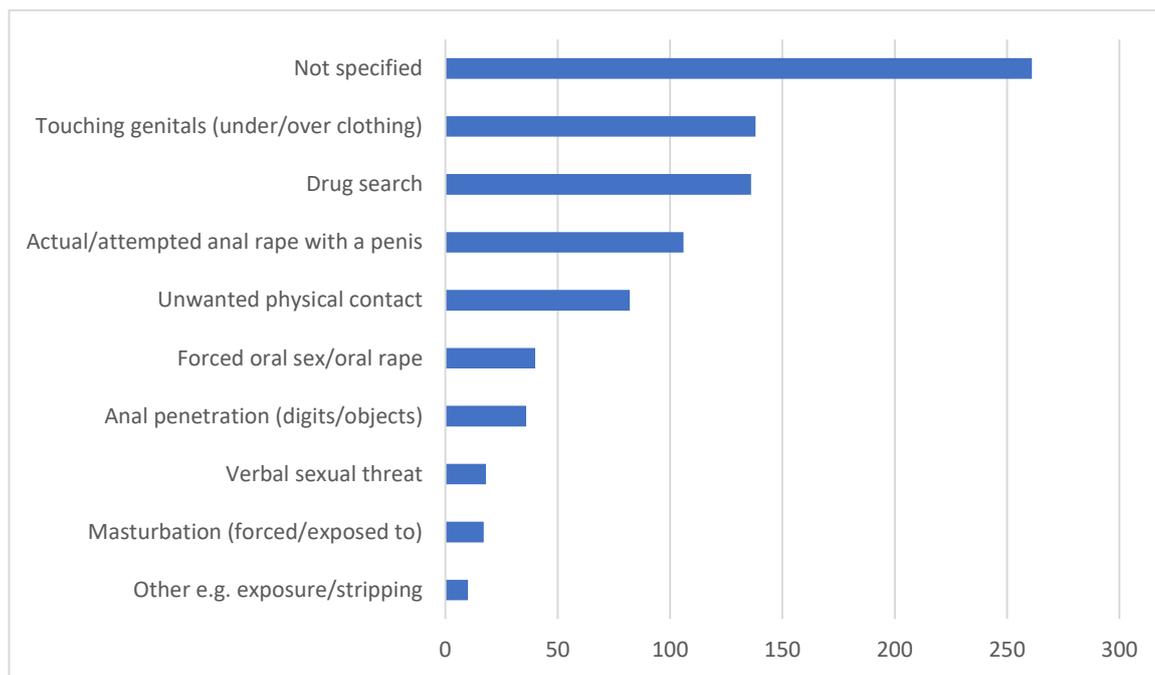
CM #04

Although CMs suggested that difficulties in talking to victims about sexual assaults were intensified by new and inexperienced staff, an alternative explanation for problems might be that prison officers apply rules inconsistently, label coercive activity as being consensual and perpetuate a culture of denial about sex and sexual assaults (Stevens, 2017:1393). The detailed sexual assault types cover a broad spectrum of occurrences from verbal sexual threats (18) to actual or attempted anal rape with a penis (106). The most frequent sexual assault recorded related to genital touching (138), followed by prisoner on prisoner drug searches³⁰ (136), actual or attempted anal rape with a penis (106)³¹ and unwanted physical contact (82). Banbury's (2004:123) study based on ex-offenders from British prisons found that threats of 'coercive sexual behaviour' and 'forced drug searches' were the most commonly experienced sexual assaults. Banbury's (2004) findings and the analysis of Dataset 1 indicated that drug searches are more commonly reported, and perhaps experienced, by prisoners than rape, which remains relatively rare in adult men's prisons in the UK. The finding that rape is relatively rare, is in contrast to US estimates (Bowker, 1980; Lockwood, 1980; Gaes and Goldberg, 2004) that report higher incidence rates of rape and attempted rape. The measurement and recording of the incidence of rape in US custodial establishments is now set by the statutory reporting requirements in place since the implementation of the *Prison Rape Elimination Act 2003*.

³⁰ Prisoner on prisoner drug or contraband searches include incidents where victims have been subject to an intimate internal search using objects or digits and incidents where victims have been subject to an intimate but external inspection of the genital area. Perpetrators may be searching for drugs or other contraband such as mobile phones.

³¹ This was broken down into 84 incidents where anal rape with a penis was specified in the ID and 22 incidents where an attempted anal rape with a penis was specified.

Figure 5.2 Detailed sexual assault by type*



*Coded using text description of incident written by prison staff and entered onto IRS. Note that detailed sexual assault types are not obtainable from IRS alone

Overall, the type of sexual offence could not be determined from the IRS records in 261 (31%) of the 844 incidents because the recorded information did not contain enough detail; these incidents have been coded as ‘not specified’. Of those where the type of offence was known (583), just under a quarter involved a prisoner on prisoner drug search (136). This figure is likely to be an underestimate because of the risks involved in being seen by other prisoners to be ‘snitching’ and the need to conceal drug dealing from staff. Other incidents coded as ‘digital penetration of the anal passage’ (27) and ‘anal penetration with an object’ (18) were also likely to be drug or contraband searches. These 45 incidents have not been added to the analysis of 136 prisoners on prisoner drug search incidents because they lacked contextual information in their IDs but are likely to be drug search related. Further cases coded as ‘touching genitals’ may also be associated with prisoner on prisoner drug or contraband searches but lacked enough information to be coded as such. External drug and contraband searches were a common feature of the sexual assaults and involved the victim being inspected for any hidden goods. Prisoners’ reluctance to implicate themselves as being associated with prison drug markets may also have resulted in them making partial disclosures. Interviews with CMs confirmed that they perceived victims of drug searches as even less likely to be reported than other types of sexual assaults, because they had the potential to highlight that the victim had been targeted by drug using prisoners. Being targeted by other prisoners implicated prisoners as being more likely to be carrying drugs or involved in the supply of drugs to the prison:

"Probably ... It's a double- edged sword, isn't it? ... So, you're telling me that you brought drugs into the jail and at the same time, you know, you are saying that you've been sexually assaulted.' In some cases, prisoners can exaggerate an awful lot, as well. I'm not taking anything away from sexual assault, but you might find prisoners try to manipulate to deter a bit of heat on them, so to speak."

CM #02

Issues of shame and stigma were not confined to more clearly sexually motivated incidents. One CM indicated that he thought that drug searches might be harder than other sexual assaults for prisoners to come to terms with:

"I think, from what I've seen, the reporting is the same. But there's a high level of damage done. Physical damage ... they've used implements to investigate and, how should I put it ... they can cause a great deal of internal injury. Sounds awful. Not only have you got the humiliation of the sexual assault, but you've also got the humiliation of the fact that you've been physically, internally injured as well. It's almost like doubling up on shame, isn't it?"

CM #04

Edgar et al (2003:49) commented on ambiguities in defining and counting assaults in a prison environment, where the context and motivation for the incident might relate to theft or recovery of drugs or other contraband. Other researchers have highlighted that reports of sexual assaults may be made for personal gain, such as cell moves (Akerström, 1989) or to avoid being placed in protective custody (Miller, 2010:705), particularly when the victim is from a marginalised group. Additional layers of complexity, such as motivation for the assault and for reporting, make interpretation of the IRS data complex. The IRS data frequently lacked contextual information which may have provided insights into reasons for reporting. In contrast to suppositions that the prisoners may not report sexual assaults for fear of recrimination (Miller, 2010:703) or as a mechanism to access better conditions, 62 of the IDs identified that the victim had requested a police response; although whether this actually took place cannot be easily determined from the data.

Interviews with CMs included distinctions between ‘sexually motivated’ assaults and ‘spooning’ or prisoner on prisoner drug searches. As an example, one CM, when asked if he thought it was easier to report a prisoner on prisoner drug search, said:

“‘Spoonings’. I think we tend to get told that more because ... to the victim I suppose, there’s no sexual motivation towards them; it is purely motivated by money. As there’s no sexual violence involved really, it must psychologically affect you badly ... but in a different way to being actually raped. I’m trying to imagine ... I’d say it is easier because, for a bloke, there’s not going to be one person who does that to you, there’s going to be a lot of people involved, a lot of intimidation involved, not many other choices. One on one, it’s different.”

CM #05

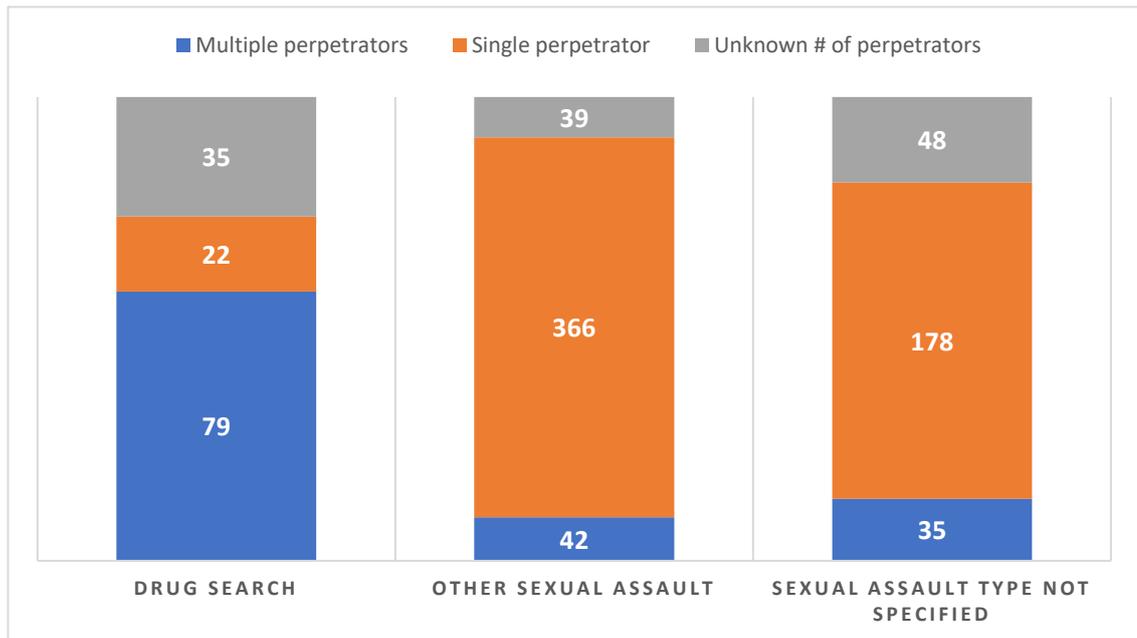
The previous quote providing insight into the CMs’ distinctions between drug searches and other sexually motivated assaults implied that it may be actually be easier for prisoners to report a drug search than other type of sexual assault because drug searches would involve multiple perpetrators providing little or no room for resistance. In contrast, a different CM based at the same prison, questioned why drug searches were not generally viewed by staff as being sexually motivated, given their nature:

“...it’s quite strange really because when you spoon somebody, surely you should be a sex offender because you’re sexually assaulting someone?”

CM #03

Incidents involving prisoner on prisoner drug searches were eight times more likely to involve multiple perpetrators than other types of sexual assaults: 78% of drug searches involved multiple perpetrators (where the number of perpetrators was recorded) compared to 10% of all other sexual assaults. In 14% of all 844 incidents the number of perpetrators was not recorded in the IRS system.

Figure 5.3 Number of perpetrators by type of sexual assault*



* Based on coding carried out on IDs. Note that sexual assault types are not obtainable from IRS alone

Based on the IDs, the most common type of drug search was anal penetration with an object (N=40) which is carried out to find contraband, usually drugs, but sometimes mobile phones and other items with a high market value in prisons. The ID below is an example of a contraband search for a mobile phone:

“At approximately 19:55hrs on the 0X/0X/2007 I received a phone call from Senior Officer X, he stated that his staff had just found a distressed Prisoner V. Upon interview it became clear to Senior Officer X that Prisoner V had been sexually violated over a mobile phone. Prisoner V stated that he had transferred to HMP X [Category C prison] 2 days ago and admitted that he had in his possession a mobile phone which he had inserted into his rectum. Tonight 4 prisoners approached him in his cell and asked him to hand over the mobile phone. He refused. These prisoners then forced him to the floor in Cell X and attempted to retrieve [sic] the phone themselves with a plastic spoon. Prisoner V’s cellmate came back to the cell, saw what was going on and went and reported it to the wing staff. The cell was sealed. The wing was locked away. Officer Z witnessed 3 of the 4 prisoners leaving Cell X they were Prisoner A, Prisoner B and Prisoner C and Prisoner V. All 3 prisoners and the victim have been [sic] had a full body search and put into sterile clothing. The spoon has been found. The police were called and a SOCO team have attended. All clothing was bagged and tagged into paper evidence bags.”

Prison staff, referring to these types of incidents involving weapons as 'spooning' clearly differentiated them from assaults that they identified as being 'sexually motivated'. However, some researchers (Banbury, Lusher and Morgan, 2016:7), in developing a typology of sexual coercion in UK prisons, argued that lines were sometimes blurred when considering the motivation in the context of drug searches and some incidents including elements of sexual motivation. Banbury et al's (2016) research suggested that although most drug searches were self-reported as being entirely motivated by power, sex or drugs, some uncertainty existed because perpetrators were reluctant to attribute their actions as being sexually motivated. Some IDs also demonstrated an ambiguity in motivation which may muddy the waters in making clear distinctions between prisoner on prisoner drug searches and other sexual assaults. This ID describes a prisoner on prisoner drug search from 2006 which includes a secondary offence of exposure:

"At approximately 15.30 hrs. on the X/X/06 Prisoner V approached an officer stating that 3 weeks previously Prisoners Y and Z had entered his cell and held him down on the bed. They then attempted to insert a pencil in his anus. Prisoner Y then allegedly lowered his trousers exposing himself and made towards V whilst Z held him down. After his struggling Z and Y left the cell."

Overall, the brevity and lack of context contained in the IDs made any coding for motivation of the sexual assaults impossible and therefore this element of drug searching cannot be explored by the thesis, although the role of those involved is discussed in more detail in Chapter 5.

IDs linked to multiple perpetrators included references to anal drug searches using digits (N=28) as well as anal drug searches using improvised enemas (N=10) which often involved use of water or shower gel bottles with soapy water and tubes, sometimes created from biros. Although all drug searches are likely to be under-recorded, the IDs also include other cases of anal penetration using a digit (N=20) and penetration with an object (N=33). Cases in both of these categories were not specified as being part of a drug search, but in practice, they probably were and have therefore, either not been reported as being a drug search by the victim or have not been recorded as such by the prison staff. The incident below is an example of a case which is likely to be a drug search, but this information is missing from the description and its motivation is unclear:

"Reporting officer states that on 0X/12/2008 at approximately 19:15 hrs Oscar1 attended X wing and was informed that a prisoner had been seriously assaulted. The suspects have been identified as Prisoner A and Prisoner B. Cell

X was sealed by Oscar 1 awaiting police arrival. Victim stated that they stabbed him in the leg with pens causing puncture wounds, hit him with tins, tied a belt around his neck and digitally penetrated his anus. Both suspects have been placed in the segregation unit. Police arrived at 20:15 hrs."

Analysis of the IDs shows that in these types of searches, perpetrators are often named by the victim and are therefore known to them. Multiple perpetrator drug and contraband searches also often included instances of stripping and an external visual and physical inspection (N=28) rather than internal intimate searches using objects. The ID below is an example of an external search:

"Mr V came to G5 landing stating that he was assaulted by 3 inmate [sic] in G4 shower room, they were checking his back side canal [sic] area for drugs, and Mr Y said 3 inmate [sic] had him pinned [sic] down on the floor while they check his back side. They said next time they will bring gloves to check him out properly Mr V was brought down to g-wing medication room and check for any mark and injury by the nurse."

The mechanisms employed by perpetrators in carrying out the reported sexual assaults is worth further examination. Although not a required field in the IRS, 337 of the 844 incidents did include some information about the mechanism of the assault. Where IDs did include information about the mechanisms used to carry out multiple perpetrator sexual assaults (N=145), victims were more likely to have been restrained by other prisoners, threatened, or overcome with violence. One CM with responsibility for security at the Category B Local prison accepted that violence was used frequently as a mechanism in unreported prisoner on prisoner drug searches:

"...we don't get to hear about half or even a third of what goes on. We don't get to hear about it because they just don't tell us. The most we probably get to know is the fact that they've been assaulted because they might have a black eye or something - after doing it, you might find that they got punched a few times to try to make them give it up and when they didn't give it up, they got spooned."

CM #03

Only 10 IDs, all involving a single perpetrator, gave any indication that the incident had involved some early consensual sexual activity and 46 incidents noted that the mechanism involved the perpetrator sexually assaulting (or initiating the assault) the victim during their sleep. Although

the notion of sexual assault occurring or being initiated during sleep might seem unusual, it was identified by Sloan (2016:98) as a factor considered by prisoners who stated that they felt safer when locked in their cells while sleeping. Details of individual characteristics associated with being a victim or perpetrator of sexual assault are examined in Section 5.3. Where appropriate, those involved in drug search-related sexual assaults are compared to other (non-drug search-related) perpetrators and victims, reflecting the differences identified by each type of case.

5.1.2 Use of weapons

In most recorded sexual assaults, no weapon was used (85%). A weapon was reported in 120 incidents, the most frequently reported was a spoon (N=49), followed by a bottle (N=13) and a knife (N=12). Other weapons included sharp objects such as razors, unspecified blades and forks or blunt weapons including brush handles, toothbrushes, toilet brushes, yoghurt pots and pens. Incidents involving drug searches with objects were colloquially referred to as 'spooning' by prison staff, reflecting that spoons were the most frequently recorded weapons. Interestingly, incidents which were reported to include multiple perpetrators were much more likely to involve a weapon (40%) than those with a single known perpetrator (6%). It should be noted that data on the number of perpetrators was missing for 108 (13%) of the 844 incidents.

Recognition of the presence and use of weapons was a theme in the staff interviews. The brutality of prisoner on prisoner drug searches was acknowledged by staff, not only because of the use of makeshift weapons, but also because of the potential for injuries and the seriousness of the assault. The CM quoted below differentiates between sexual assaults and prisoner on prisoner drug searches rather than seeing them as a sub-category of them:

"... [prison officers] are professional, they do recognise the difference between a rival gang going in assaulting an individual because they suspect that they have contraband items in their anal passage called 'spooning' ... that's the reality of it. That is actually what occurs. We've had two or three here where litre bottles of water are inserted and forced to try and flush out drugs, phones, SIM cards etc. And they do go in with spoons thereafter. So, it is a nasty physical invasive assault. The prison officers predominantly recognise that there isn't a sexual element to that, but the severity is always recognised ... and that is a nasty assault, and the ramifications etc. are on par with it being a sexual assault."

PIO #01

The ID below from 2009, provides some typical context about drug and contraband searches. It references multiple perpetrators, use of weapons and took place in a cell resulting in the victim visiting healthcare and being moved to segregation for his own protection. The ID identified that weapons were used as both a mechanism to threaten and overcome the victim and as objects to carry out an internal anal search:

“At approx. 16.45 on 0X/0X/07 Prisoners A, B and C assaulted Prisoner V in his cell. He was held in his cell for 1 hour 30 minutes and was threatened with a knife and a screwdriver and his anus was invaded with a plastic bottle and a fork. Prisoner A had the screwdriver and put a glove on and placed a finger up his bottom to see if he had a mobile phone plugged. Prisoner B held a 3/4" knife to his neck. Prisoner V sustained bruising to leg and back, had scratches to face, seen by healthcare and relocated to seg for own protection.”

5.1.3 Number of people involved in each incident

The number of people involved in a single incident ranged from one to nine individuals. Nearly two in three (N=531) of the reported incidents involved two people: a perpetrator and a victim.

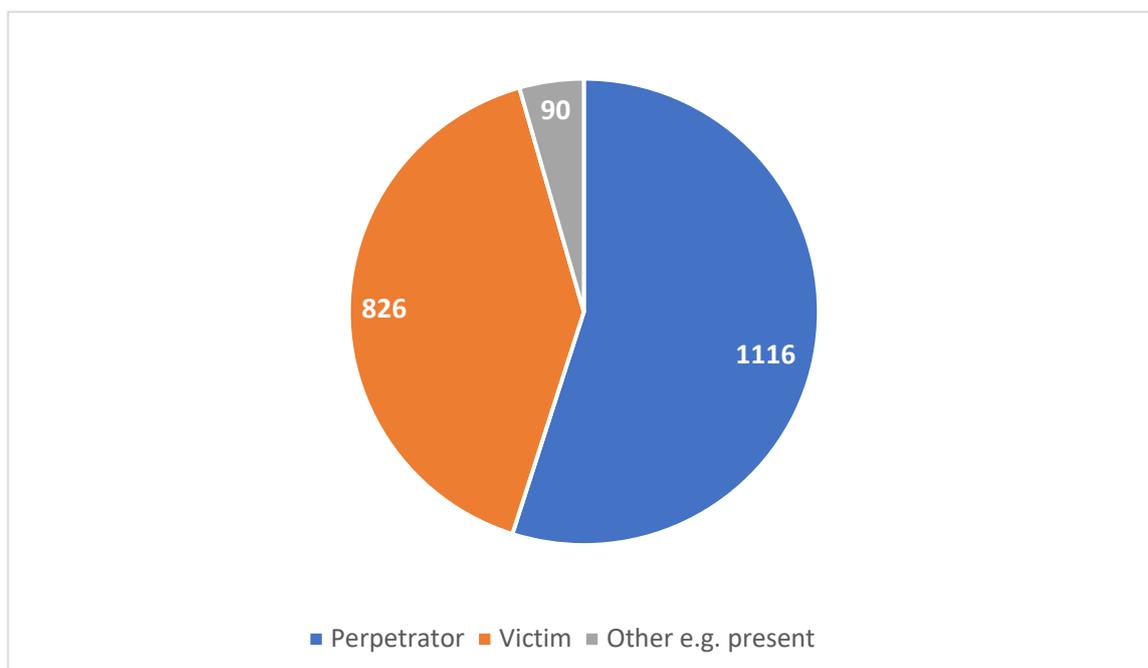
Table 5.1 Number of people involved in each incident

Number of individuals* recorded as 'involved'	# of incidents	% of incidents
1	97	11.5%
2	531	62.9%
3	99	11.7%
4	56	6.6%
5	32	3.8%
6	16	1.9%
7	9	1.1%
8	3	0.4%
9	1	0.1%
Total incidents	844	100%

* 'Individuals' include perpetrators, victims and those classified as 'other', the IRS data refers to these groups as 'involvements'. This analysis is based on individual rather than incident level data.

Table 5.1 shows the number of individuals or 'involvements' from the 844 incidents and Figure 5.4 describes their roles.

Figure 5.4 'Involvements' by their role in the sexual assault



Analysis of the IDs identified that cases involving one victim and one perpetrator often identified the cell mate as the perpetrator. In most IDs the relationship of the victim to the perpetrator was unstated. Where the ID specified that the sexual assault had taken place during 'lock up', IDs were coded as having been committed by a cell mate. Some IDs were very brief. For example, the following describes an unspecified sexual assault from 2011, with very little contextual information:

"Prisoner V told staff that he had been sexually assaulted by his cellmate Prisoner X but he couldn't recall the day when it occurred. The Police were informed of the incident and attended the prison on X/X/11. The Police will be investigating the allegations made by Prisoner V but as yet no charges have been made."

Most sexual assaults coded in Dataset 2 as 'anal rape with a penis' (84) or 'attempted anal rape with a penis' (20) involved one³² (N=15) or two people (N=76), the victim and the perpetrator. Twelve incident reports of anal rape with a penis involved three or more people. The following ID, from 2007, provides a description of a sexual assault which had taken place two days before.

³² Where the incident report involved only one person, the perpetrators were unknown or unnamed.

It was coded as 'masturbation of victim' reported to have been committed by a cell mate. The third cell mate was coded as being a 'watcher', and IDs revealed that assaults in cells shared by more than two prisoners were not uncommon:

"On X 2007 at 00:15 Prisoner V was with a listener in the B spur listener suite on house block 2. He had been taken there at his own request as he was highly agitated and upset. He revealed information to the listener and repeated to Officer A and later SO B that at 04:40 on X he had woken up in the cell to find Prisoner X was masturbating him and the third cell mate Prisoner Y was watching him do it. The allegation was recorded and Prisoner V removed to the segregation unit for his own safety. The duty governor ... was informed and Police informed by Senior Officer B."

The role of 'watchers' or 'look outs', originally identified by early US studies (Bowker, 1980; Lockwood, 1980; Wooden and Parker, 1982) was described by Banbury et al's (2016:377) typology as having ambiguous motivation, perhaps including sexual gratification from watching other prisoners carrying out drug searches. Suggestion of sexual motivation in prisoner on prisoner drug searches was generally rejected by CMs who firmly regarded 'spooning' as being a means to an end, motivated by money, drugs and power. However, several IDs did record the presence of 'watchers' in an ambiguous role and further work on the role of watchers and witnesses may highlight differences between watching, witnessing and intervening in sexual assaults. The ID below, from 2009, states that a third prisoner had kept watch while a brutal prisoner on prisoner drug search had taken place:

"X was on J-wing and received a phone call to attend the library by Officer Y. He attended and had conversation with Prisoner V in which he stated he had been sexually assaulted by another prisoner namely B, and another prisoner kept watch, which was C. Prisoner V told Senior Officer X that prisoner B has accused him of taking his mobile phone. He stated that prisoner B was carrying a blade. B made him strip naked and then proceeded to violate his anal passage with a spoon. V stated he hadn't brought it to staff attention earlier due to him been embarrassed. V was asked if he wanted to matter to be reported to the police, he said he wanted to discuss this with his wife on his visit. He has now informed staff he does want it reported to the police."

A number of the IDs referenced 'other parties' and their role was also often unclear. They were coded as 'watchers' in cases where they could not be coded as witnesses. The following ID, from 2010, is an example where the presence of a third person is acknowledged by the person recording the sexual assault, four days after the incident. There is no further information about the role of prisoner D:

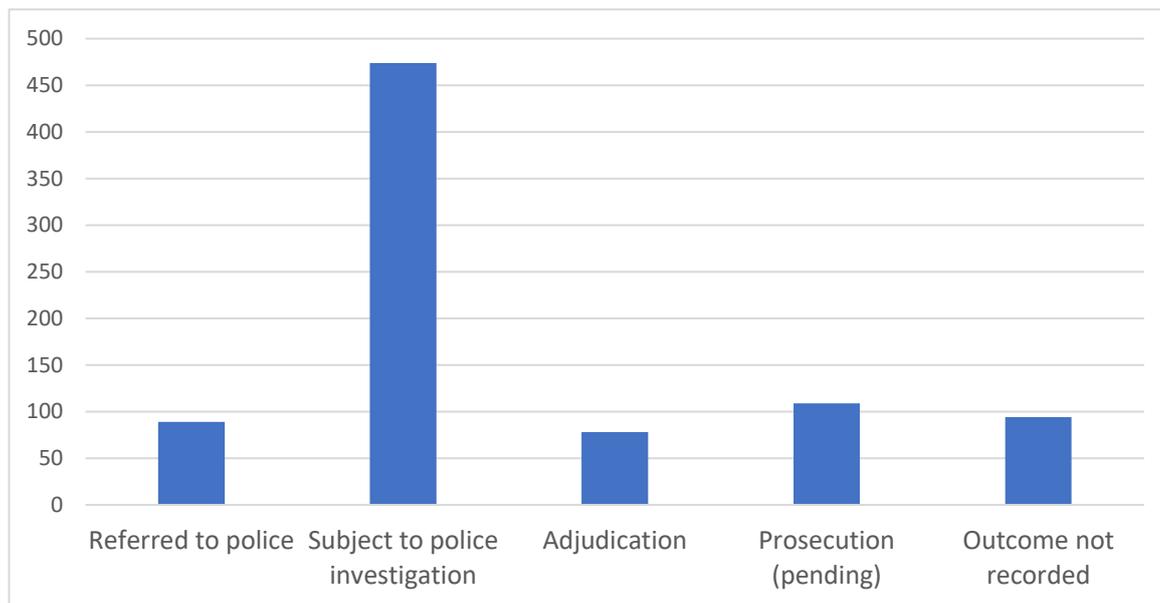
“At approx. 1530hrs on X it is reported that Prisoner B assaults [sic] Prisoner V by pulling his trousers down and held him round the throat in an attempt to get secreted drugs. ... victim and perp plans opened, incident report completed. Following this incident, V stated he was violated by B who he alleges inserted his finger into his anus and also tried to insert a fork in a bid to remove drugs while Prisoner C held him by the throat. Prisoner D was also present whilst this took place. Police have been informed even though V did not want police involvement.”

Just under 100 incidents involved one person, these tended to be a victim in cases where the perpetrator was unidentified, not named or not recorded. Incidents involving three or more people consisted of one victim and multiple perpetrators. The predominance of multiple perpetrators involved in prisoner on prisoner drug searches is discussed in more detail in Section 5.1.1. However, it is worth reinforcing that multiple perpetrator assaults were much more likely to involve prisoner on prisoner drug searches in line with previous UK research (Banbury, 2004; Banbury, Lusher and Morgan, 2016). Those reported as ‘involvements’ but recorded as ‘other’ (N=90) have been excluded from a number of the sections that follow as including them made it hard to draw out any meaningful analysis.

5.1.4 Outcomes

An outcome was recorded in the IRS for 750 (89%) of the 844 incidents. In three-quarters of these incidents the sexual assault was described as having been either ‘referred to the police’ (12%) or ‘subject to a police investigation’ (63%). In just over 100 (15%) incidents a prosecution was recorded as ‘pending’ and the remaining 78 (10%) were recorded as having been dealt with internally through adjudication.

Figure 5.5 Recorded outcomes of sexual assault incidents* based solely on IRS outcome classifications



When looking at outcomes by perpetrators and their offending background, a quarter resulted in a criminal justice outcome of either a prosecution pending (17%) or an adjudication (9%). Where known, other outcomes for sexual assaults were recorded as ‘referred to the police’ (10%) or ‘subject to a police investigation’ (63%). In ninety-seven of the 844 incidents an outcome was not recorded. It is of note that, those with an offending background of sexual assault (the offence they went to prison for) were slightly less likely than others to be described as having a prosecution pending (11%) and more likely to have received an adjudication outcome (13%) than those with other types of offending background. In this analysis it is assumed that a prosecution pending is a more serious outcome than adjudication.

It should also be noted that this data, although covering a ten-year period, is a snapshot of the response to reported sexual assaults. It is not clear whether outcome data is routinely updated and therefore it is possible that cases coded here as ‘referred to the police’ or ‘subject to police investigation’, later resulted in a more serious outcome such as adjudication and prosecution. Ambiguities in outcome definitions were acknowledged by notes added to sexual assault statistics in which the Ministry of Justice (2015b:3) stated that:

‘Police referrals are those cases referred to police whether or not they resulted in investigation or prosecution. Referrals for adjudications refer to

incidents where one or more assailants were referred for adjudications whether or not they resulted in a proven offence.'

The term 'prosecution pending' is not clearly defined and has been interpreted here as referring to all cases where charges have been brought against the perpetrator for a full court hearing. However, these 'pending' cases might not result in a prosecution or court hearing and these changes are mostly not updated in this IRS data. For a fuller picture of the outcome of these cases, case tracking based on police and courts data would need to take place retrospectively.

Outcomes recorded for perpetrators were proportionate to their age profile in the IRS dataset. The only notable disparity was that perpetrators under 30 years of age were less likely to have a recorded outcome of 'referred to police' (45%) than expected given that they accounted for 55% of the overall perpetrator population. However, given the lack of clarity about IRS outcome labels and that the label 'referred to police' does not describe an outcome in itself, this finding provides little reliable insight. The IRS outcomes showed that there were no clear differences for incidents involving drug searches when compared to all other sexual assaults. The same was true when comparing incidents involving single versus multiple perpetrators.

Lack of information in Dataset 1 hindered scrutiny of the outcomes of incidents (and updates to recorded outcomes) from the IRS data. To obtain a clearer picture of the response to reported incidents, the IDs were coded separately for 'outcomes', see Table 5.2. In practice, the IDs often combined outcomes with activities or processes in qualitative data field, making it problematic to distinguish when a case was resolved. In some IDs prison staff included a brief statement of the 'outcome'. For example, 'no further action', or 'referred to police', however, there were also examples where the ID consisted only of a record of the report. Although analysis of the IDs indicated that the actual range of outcomes was broader than the pre-determined IRS categories suggested, real distinctions between response activities and final outcomes were lacking. Requests made by victims for police involvement were sometimes recorded in the IDs (N=62), as well as refusals for police involvement (N=97). Although inconsistently recorded, these responses provide insight that prison staff were already carrying out some of the requirements of the *Handling Crimes in Prisons Protocol* (NOMS, CPS and ACPO, 2015) which, although published after the data capture period, included the requirement that prisoners should be able to specify their preference to have their allegation reported to the police and communicated to the CPS. The

extent to which seeking the views of victims was carried out during the data capture period is impossible to determine, although it is certain that sometimes this did happen, and was recorded as having taken place, albeit in a piecemeal manner.

Table 5.2 Responses/activities to reported sexual assaults: listed coded from IDs

Identified activity listed in IDs	Description of coded outcome
Local prison investigation (N=56)	Notes prison staff initial investigation but makes no mention of police referral or investigation
No further action (N=63)	ID includes this phrase
Perpetrator (s) placed on report (N=60)	
Perpetrator(s) relocated (N=186)	Includes segregation, cell move or prison move
Referred to police (N=377)	Includes the police force or the Police Liaison Officer (PLO role now known as Prison Intelligence Officer or PIO)
Report only (N=294)	No record of any other outcome
Signed police disclaimer (N=8)	ID includes this phrase and refers to the victim signing a disclaimer to accept no action by the police or no referral to the police
Victim refuses police involvement (N=97)	Includes incidents where victim withdraws the complaint by stating that they no longer wish to support the investigation
Victim relocated (N=66)	Includes cell move, segregation or other protective measures
Victim requests police involvement (N=62)	ID only notes this and does not include any detail confirming police involvement or action if involved

Identified activity listed in IDs	Description of coded outcome
Victim sent to healthcare (N=153)	Not as a permanent relocation but to be assessed, receive treatment
Victim sent to external NHS hospital (N=11)	
Victim withdrawal (N=23)	Victim states reported sexual assault did not happen

* IDs may include one or more outcomes and do therefore not add up to 844. ID outcomes total 1456

The ID coding indicated that prison staff often deployed several responses to reported sexual assaults. However, both Dataset 1 and Dataset 2 confirmed that recorded activities or agency responses to incidents were often not outcomes in themselves.

5.2 Institutional (prison) risk factors

The number of sexual assault incidents recorded in the IRS varied widely over the prison estate. The average number reported per prison was eight³³, with two prisons not recording any sexual assaults over the entire reporting period, and others reporting up to 34. However, data on the number of sexual assaults recorded in individual prisons might be misleading, and therefore data is not presented by named prisons. Prisons with the highest number of recorded sexual assaults may be representative of those with the most encouraging environments for victims to report and better recording processes, rather than being the highest risk for sexual assault. Numbers of sexual assaults recorded in prisons may also be influenced by the size of their individual prison populations, changes in the type of prisoners housed and other fluctuations over the ten-year data period.

³³ Based on the 112 prisons that reported at least one sexual assault over the ten-year period.

5.2.1 Type of prison

It is likely that the role, type and population of a prison has an impact on its level of risk and the likelihood of victims reporting sexual assaults. However, because in practice, prisons have mixed populations, it is challenging to establish which types of prisons might present higher risk environments for sexual assault victimisation. Adult male prisoner categorisations are made following risk assessment, and these classifications determine the type of prison where a prisoner may be housed (Grimwood, 2015:4). Male adult prisoners (those aged 18 or over) are classified as one of four security categorisations (A, B, C and D) soon after they enter prison. Category A is the most secure and Category D is the least secure which is generally for prisoners who could be considered for 'open' conditions (Grimwood, 2015). Categorisation is based on the severity of the crime committed, the length of sentence, the likelihood of escape and the risk posed should they escape.

Fluctuation across the prison estate over the reporting period (for example, their security classification, capacity, type, role and function) has impacted on conclusions which may be drawn from the IRS-based descriptive statistics. As a result, meaningful analysis comparing reported sexual assaults in private and public prisons across the estate has also not been possible. However, using prisoner categorisations as an alternative method of finding out about institutional risk has provided some clearer insights into the relationships between prisoner security classification and involvement in sexual assaults. Table 5 3 presents the security category of the 2,032 prisoners involved in the reported sexual assaults compared to the categorisation profile of the general prison population.³⁴

³⁴ Statistics on categorisation of the prison population are not routinely published. Comparisons for analysis of the IRS data were obtained from the response to a parliamentary question and relate to data as of 31 December 2018, the categorisation profile of the prison population during the data capture period of 2004-2014 could not be accessed: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-03-11/230750/>

Table 5.3 Prisoner security category by involvement in sexual assault (perpetrators and victims), including drug searches and other sexual assaults

Prisoner category	Individuals involved in sexual assaults (perpetrators and victims)		% of male prison population
	N	% of known	
Cat A	21	1%	1%
Cat B	247	12%	14%
Cat C	889	45%	57%
Cat D	24	1%	9%
YOI	97	5%	5%
Unclassified	648	33%	1%
Unsentenced*	61	3%	12%
Total known	1987	100%	100%
Not known	45	-	
Total	2032	-	78860

*Unsentenced includes remand prisoners and those convicted but awaiting sentence

As shown in Table 5.3, when considering the overall profile of the prison population, the proportion of Category A, B and YOIs involved in sexual assaults are broadly proportionate to their make-up in the general prison population. However, prisoners with lower security categories (C and D) or those unsentenced (convicted but awaiting sentencing in court) were under-represented. Forty-five per cent of prisoners involved in a sexual assault were Category C (this was true for both perpetrators and victims), 1% were Category D and 3% were unsentenced compared with 57% (Category C), 9% (Category D) and 12% unsentenced of the general male prisoner population. More notable is the over-representation of unclassified (convicted and sentenced) prisoners: a third (33%) of all prisoners involved in a sexual assault were awaiting classification, compared to only 1% of the male prison population. Possible reasons for the over-representation of unclassified prisoners are considered more fully in Section 5.3.1 because they relate to risks associated with the early or reception stage of being housed at a prison. Staff in Category B Local prisons take responsibility for the initial classification of prisoners as a category which then determines where their sentence will be carried out.

Prisoner categorisation is not a proxy for the category/type of prison the individual is housed in. While prisoners classified as Category C were under-represented in the reporting data; many were located in Category B Local prisons at the time of the reported sexual assault. This was also true of unclassified prisoners who were being held in Category B Local prisons while awaiting classification. Banbury et al (2016:382) noted that the ex-offenders in their study had 'coerced sexually' while on remand and in Category B Local prisons, and that there was likely to be variation in offending and reporting across the prison estate.

For Dataset 3, interviewees were initially asked about what it was like to work in a Category B Local prison that has a high turnover of prisoners because they receive prisoners directly from local courts as well as housing those serving their sentence. The flux in busy local prisons was acknowledged by some older US research (Nacci and Kane, 1984:50) as a factor identified by prisoners as being linked to higher risks of sexual assault, possibly because staffing levels were stretched. Beck et al's (2013:16) US research also suggested that pre-trial facilities reported high rates of prisoner on prisoner sexual victimisation. In one facility, run by the US military, the rate of victimisation was identified as being 5.1% of the population which was over double the 2.0% average from prisons and 1.6% average from jails.

All five of the prison staff interviewees referred to the busy atmosphere of the prison, the flux of the prison population and indicated that each day could be completely different because of the wide range or mix of prisoners. The Prison Intelligence Officer (PIO) made the following comments about his experience of working at the Category B Local prison:

"So, I've had 14 months here, it's been a very steep learning curve ... whilst I knew of, and kind of dabbled with the odd production and legal visit, I hadn't crossed the threshold, shall we say? It's been a baptism of fire. No two days are the same, which I love ... and [now] I say to myself, almost daily, nothing's going to surprise me, and by the end of day, it's like 'really? Okay, fine. I have been surprised'. So yes, it is an interesting road."

PIO #01

One theme that also emerged from the staff interviews was the humour shared with prisoners and pleasure derived from working in the prison, despite the pressures that such an unpredictable environment can yield. As an illustration of the culture of the prison, one experienced CM said:

"It's loud, it's noisy, it's busy. It's carnage. It's an absolute laugh. You can have four seasons in one day. You can come in and there'll be people cutting up and there'll be people fighting and then you'll see some lad in some way just doing something really off the wall, screamingly funny ... and you'll go from fighting to giggling like a little schoolboy; you can get everything on one day. You imagine it, we can do it."

CM #04

CMs noted that variations in reporting were likely between prisons depending upon the populations that they housed. One CM referenced the different staffing levels and how these might impact on levels of reporting:

"Depending on where you work, and whether A) they get reported to you and B) you might have more time, one to one time, with prisoners. We are doing key workers now, and where we weren't before, we were just warehousing prisoners. Where now, we have key worker sessions, where prison officers actually take prisoners to one side, sit and chat with them. In a lower category prison, you might find that they've had more time to do that over the years. So, when the sexual assault happens, the prison staff might have noticed something was wrong earlier, spoken to them and intervened."

CM #03

Staff proposed several possible explanations for differences in the recorded sexual assaults between prisons. One CM suggested that staffing numbers required for different types of prison was likely to impact on diverse recording levels:

"... if you are a Category B Local you will have more staff than a Category C, and then a Category D. So, you've got more people to actually see and report to and understand that sort of thing."

CM #04

5.2.2 Location of sexual assaults within the prisons

The IRS system does include a location field for recording where the assault took place. However, prison staff tended to use this field to note the wing or block and did not specify the exact location, such as, cell or landing. Because Dataset 1 does not provide specific locations it was impossible to identify 'risky' locations in prisons. However, in the qualitative data field, the coded

IDs sometimes included contextual information, such as the assault location as part of their description of the incident.

Qualitative analysis of the IDs revealed that in over a third (N=315) of the 844 incidents the exact location of the reported sexual assault was not specified in the IRS. Where the IDs did include information about the location of the sexual assault, 37% (N=314) happened in the victim's own cell and a further 11% (N=97) occurred in another cell. However, these percentages are likely to be lower than actual numbers, because of the under-recording of a range of details including the specific location of the sexual assaults. Banbury et al's (2016:374) research with ex-offenders found that 56% of the sexual assaults that they referenced occurred in cells. Where specified in the IDs, public areas such as corridors, stairways and landings on the wing (N=45) and shower and toilet areas (N=55) were much less likely to be recorded as the location of a sexual assault than cells.

Interviews with CMs also suggested that cells were known to be the most frequent locations for sexual assaults, including those which involved prisoner on prisoner drug searches. One possible explanation for this trend is that CCTV coverage is restricted to public areas in prisons. Cells are not covered for privacy reasons. When discussing CCTV coverage and crime in prisons, the PIO noted the prevalence of cell-based criminal activity and the subsequent problems of using CCTV evidence to build criminal cases:

"So, in a prison environment is difficult because CCTV, so within the prison..... there's a balance between respecting the rights of the prisoner versus detecting crime, shall we say, and preventing disorder. So, CCTV, predominantly looks down the wing. CCTV does not cover in cells and obviously, probably a good 75 to 80% of crimes occur within the cell environment as opposed to on the landing or in classes or workshops, exercise yard, etc."

PIO #01

CCTV blind spots, particularly in cells, were a well-recognised factor inhibiting evidence gathering in prisons. One CM noted that lack of CCTV in cells meant that other forms of evidence were crucial in investigations:

"So, that's the trouble you know, if it happens in a cell, we can't see what happens in cells. We've got CCTV on the wings ... it's not great ... you know we

could always do with improving on that system ... but if it happens in the cell it is more about what physical evidence can we get from the person ... or from the victim or the perpetrator. Before we lose it."

CM #03

Practical complications associated with securing physical and oral evidence in cell locations should not be overlooked. IDs showed that in 740 of the 844 incidents it was clear that reports had been made verbally directly by the victim to a member of staff. In 130 incidents reference was made to securing physical evidence, such as clothing or bedding. In 114 incidents clear reference was made to the cell mate as the perpetrator, although this is likely to be an underestimate. In cell-based incidents, where cell mates were implicated as perpetrators, witnesses or watchers it was noted, by several CMS, as being challenging for victims and staff to find ways to talk and collate evidence. Practical complications which may not be resolved by simply following set instructions or 'protocols' are illustrated below by one CM:

"... if someone discloses that something has happened to them or you have a strong suspicion because something has triggered your belief that something has happened in the cell. Obviously, two people share a cell, there's obviously the possibility, they then report it, you're gonna have to divide the two characters. The problem we sometimes have ... which makes it [your question] hard to answer is ... that even though we would report it to the police, they don't want police involvement. We have a duty of care; we have got to be very careful, very sneaky if you like, about how we deal with it, so the perpetrator doesn't get to know, while they're still in this jail, that they've been snitched on. That person who is already a victim, doesn't want him to know because that 'already victim', should we say is, his target, or known as being a liar or a snitch. So, you don't know what other prisoners will do. You have all of those impact factors that kind of make it hard to do protocol. It doesn't work, you could write it down, but it doesn't work like that."

CM #05

Coding of the IDs showed that although evidence is recorded as having been secured in many incidents (N=1075 across 844 incidents), most evidence was derived from the victim's initial verbal report (N=740). Although some IDs referenced a number of types of evidence which had been secured, other IDs made no reference to evidence secured and did not even specify that the victim made the initial disclosure. Although CCTV is not available as a resource for in-cell sexual

assaults, the IDs did include occasional use of it to corroborate people entering cells or keeping watch outside cells:

“During the morning of X February 2007, Prisoner V reported to unit staff that he had been assaulted the previous evening during final lock up at approximately 20.00 hours. He alleged that he had been sexually assaulted in cell 115 on D Wing, that of Prisoner A. He stated that offenders Prisoner B, Prisoner C, Prisoner D, Prisoner E and Prisoner A had all been present when he ... had been forced in to the cell, had his trousers and boxer shorts pulled down so that his lower half was naked and that, offenders listed above, had then searched under his testicles by moving them to one side and had also pulled apart his buttock cheeks to search his anal area. He stated that they told him they were looking to take possession of a mobile telephone they believed he had. Subsequent examination of CCTV evidence corroborated this and showed that Prisoner D had kept watch outside the cell. The offenders were relocated to the segregation unit pending adjudication for assault. The incident has been referred to police; crime reference xx C.I.D. refers [sic].”

Prison staff interviews alluded to recognition of the importance of the cell to prisoners in providing some personal space where prisoners could be themselves or be ‘off-stage’. However, the notion of private or ‘backstage’ space has been challenged by criminologists, particularly when cells have to be shared (Jewkes, 2005; Crewe *et al.*, 2013). One CM referred to the importance of having enough staff to enable prisoners to maintain their own cleanliness and that of their cell as a part of the daily regime to support their self-respect and rehabilitation:

“The regime is really so important, really important to prisoners and to everybody. We want to give them purposeful activity. We want to give them time out of their cell, allow them to maintain family contacts. To have a decent cell they need to keep it clean and tidy and, they need to be clean and tidy themselves, and the only time to do that, is if we have enough prison officers on the landings in order to open the doors and let a certain number of people on each time.”

CM #03

The common place use of cells as an ideal ‘hidden’ location for committing sexual assaults was revealed through ID analysis and was supported by insights from the interviews with prison staff. Risks associated with sexual assaults in cells are in stark contrast to perspectives which have suggested that shared cells may present opportunities for solidarity with cell mates (Jewkes, 2005) and may provide safety and relief from the demands of prison life (Crewe *et al.*, 2013; Sloan, 2016).

5.3 Individual (prisoner) risk factors for victims and perpetrators

The data previously presented in Sections 5.1 and 5.2 is based on the number of incidents recorded. Data presented in this Section 5.3 is analysed at individual or ‘involvement’ level. As reported in Section 5.1.3, 2,032 prisoners were reported as being involved in the 844 recorded incidents, of which: 1,116 were perpetrators; 826 were victims; and 90 as ‘other’ i.e. present during the reported incident, noted as witnesses or with an unclear role in the incident. Table 5.4 summarises the type of sexual assault by the role in the assault, or ‘involvement’. The following sections focus on the data about the individuals involved in the reports of sexual assaults. Analysis of the IRS has provided new insights into the individual characteristics of those referred to as ‘involvements’ by the NOMS data. Most of the literature discussed in Chapter 3 does not include information about both victims and perpetrators as it relies on self-reported survey-based information rather than actual reported incidents. For example, the literature described in Section 3.5.4 focuses mainly on the age of victims. Analysis of the IRS dataset allows for information to be gleaned about victims and perpetrators, where they are known or named in the report.

Table 5.4 Type of sexual assault by role/involvement

Type of sexual assault	Victim	Perpetrator	Other	Total
Sexual assaults (other than drug searches)	441	502	52	995
Drug search	138	320	15	473
Unspecified	247	294	23	564
Total	826	1116	90	2032

5.3.1 Time since reception at the prison

Table 5.5 below indicates that prisoners were most at risk of being a victim of a sexual assault in their first three months of entering a prison. Analysis of Dataset 1 showed that six out of ten victims were sexually assaulted within three months of being received into the prison. This finding is in line with US study estimations of sexual victimisation taking place in close proximity to reception (Lockwood, 1980; Nacci and Kane, 1983) and UK research by Banbury (2004:119) which also reported that 52% of victims, from her sample of ex-offenders (N=200), were assaulted within one month of being imprisoned and almost half of this sample had been subject to a multiple perpetrator sexual assault. In keeping with Banbury's (2004:114) study, Dataset 1 showed that perpetrators tended to be in prison for longer than victims at the time of the reported sexual assault; nearly half (45%) carried out the sexual assault within their first six months since reception at the prison. Risks associated with perpetrating sexual assaults early on in a prison sentence were reinforced by Banbury et al's (2016:374) later research in which all 43 participants admitted to committing 'sexual coercion' in the first twelve months of their sentence, the majority admitting that they had carried out multiple sexual assaults of different types.

Table 5.5 Time since reception in current prison at the time of the reported sexual assault (perpetrators and victims only)

Role in assault*				
Time since reception in current prison	Perpetrator		Victim	
	N	% of known*	N	% of known**
<7 days	51	6%	127	16%
1 week to < 1 month	130	15%	144	18%
1 month to < 3 months	199	23%	209	26%
3 months to <6 months	157	18%	139	17%
6 months to < 12 months	166	19%	96	12%
1 to < 5 years	162	18%	81	10%
5 years or more	12	1%	7	1%
Total known	877	100%	803	100%
Not known	239	-	23	-
Total all	1116	-	826	-

* The role in the assault was recorded as 'other' for 90 prisoners and they have been excluded from the table

** Percentages were calculated based only on those individuals where the time since their reception at that prison was known.

Analysis of Dataset 1 also identified that unclassified prisoners were over-represented as victims of sexual assault. The unclassified 'involvements' identified in Dataset 1 would have been new to the prison and mostly received directly from local courts, post-sentencing. Category B Local prisons take responsibility for security classification which influences their prisoner categorisation determining the prison at which they will serve (at least the first part of) their sentence (Grimwood, 2015).

Victims reporting sexual assaults were slightly more likely to be unclassified (36%) than perpetrators (30%) and conversely, perpetrators were more likely to be already categorised as Category B prisoners (15%) than victims (9%). It is likely that proximity to reception processes at Category B Local prisons are a factor associated with higher risks of involvement (as victims and perpetrators) in sexual assaults. Unclassified prisoners, because they have recently been received at the prison, might be at a higher risk of being targeted by other prisoners because they may have fewer protective factors (such as links to other established prisoners or gang members) and/or are believed (by other prisoners) to have concealed contraband goods (such as mobile phones or drugs).

When solely examining incidents related to drug or contraband searches, thirty-eight per cent of these occurred less than a week from reception. The clear risk of being subject to a prisoner on prisoner drug search shortly after reception at a prison is supported by Ralphs et al's (2017:62) research in an English Category B Local prison. Interviews with staff and prisoners revealed the systematic practice of prisoners on licence using recalls to 'plug' drugs into their anus for drug supply purposes. Ralphs et al's research (2017) was carried out in 2015, just following the IRS data capture period of 2004-2014 for this thesis and it therefore provides useful contextual information about drug markets, smuggling and prisoner on prisoner drug searches. It is not possible to determine the frequency of drug searches specifically linked to licence recalls from Dataset 1, this represents a gap in the data. Only 51 prisoners were recorded as being in prison, at the time of the sexual assault, for breach of a licence or a recall. The IRS data may also exclude professional drug suppliers where they have the protection of gangs (and their customers) and are therefore not subject to 'screening' or prisoner on prisoner searches, because they import goods to order or specification. In these circumstances, recalled prisoners who are 'plugged' would not be searched by other prisoners by being subject to sexual assault because customers

would expect them to willingly defecate drugs or contraband to supply illegal drugs markets.

'Screening' possibly only takes place as a check on new prisoners or to interrupt supply.

In contrast, where sexual assaults were not identified as being related to drug searches, only 11 % occurred within the first week (this analysis excludes cases where the incident type was not known). Two thirds of prisoner on prisoner drug searches occurred in the first month compared to 28% of non-drug search related other sexual assaults. This analysis is based on 563 of the 826 victims where both time since reception, and type of sexual assault was known. In both prisoner on prisoner drug and contraband searches and non-drug searches, victims may also have been at an increased risk because of their individual characteristics. Previous literature, mostly from the US (Bowker, 1980; Hensley, Koscheski and Tewksbury, 2005; Trammell, 2011; Morash *et al.*, 2012) has suggested that characteristics such as appearance (related to age and femininity), sexuality or gender presentation may influence decisions made by established prisoners to target new entrants. It was not possible to interrogate the IRS data to analyse the impact of appearance, sexuality or gender presentation on sexual assault victimisation because this information was not recorded as part of the IRS reporting process. However, this information may be available in other databases which catalogue prisoners' appearance at the reception stages of imprisonment.

CM interviews revealed that reception processes had been altered, since the data capture period of 2004-2014, to assist prisoners to adjust to prison life and reduce risks associated with becoming targets for established prisoners:

"... we've changed the whole process here now, because before it used to be receptions would be just dumped where there was a space; now we actually have a dedicated wing for inductions. So, whenever they come in, they are on that unit for about five days and then they get moved off onto the normal wings."

CM #03

Analysis of Dataset 1 confirmed that reception and the early stages of imprisonment presented higher risks of sexual assault victimisation, particularly during the first three months. Higher levels of reported sexual assaults close to reception periods could be explained by a number of factors. These include: new arrivals being targeted because of widely held beliefs among prisoners that new or recalled prisoners may be plugged with drugs (Ralphs *et al.*, 2017); increased willingness to report early on in serving a sentence (Garland and Wilson, 2013) and

recognition that reception at prison represents a high risk period for most prisoners (Crewe, 2009).

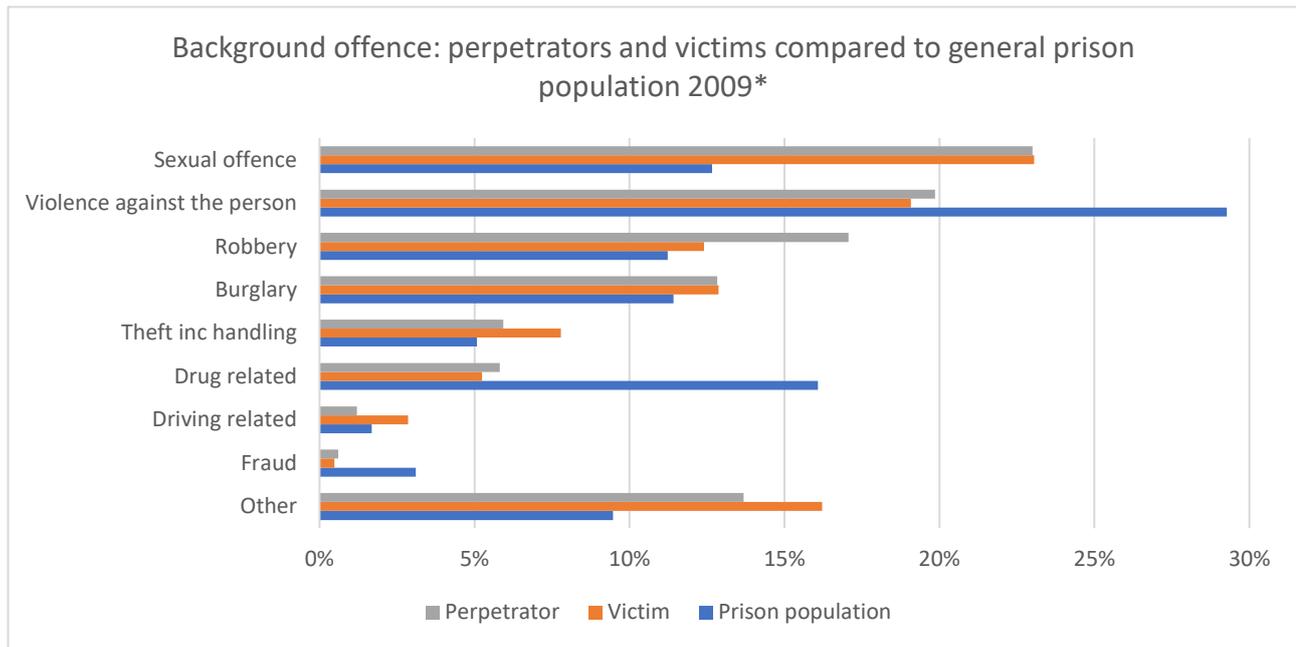
5.3.2 Criminal offence background of victims and perpetrators

The criminal offence background of those involved in sexual assaults has been based on the sentenced offence/s for which the prisoner had been imprisoned at the time of the reported sexual assault. The IRS data included a field where staff responsible for recording sexual assaults were required to describe the offence related to the current sentence/imprisonment. This data was challenging to interpret as it was based on a wide range of crime codes and descriptions, often presented in a non-uniform manner. Once cleaned and grouped as Home Office offence types (Home Office, 2019) the offence for which the prisoner was servicing a sentence was examined, as summarised in Figure 5.6. A limitation of the IRS data was that analysis could not identify previous offences and/or sentences or periods of imprisonment therefore, it was not possible to establish offending histories.

One of the most significant findings of the analysis of Dataset 1 (shown in Figure 5.6), is that victims and perpetrators who were remanded or convicted for a sexual offence were over-represented in the dataset (23%) when compared to the offence profile of the general male prison population³⁵ (13% of male prisoners). Conversely, those imprisoned for an offence of violence against the person were under-represented (20% of those involved in sexual offence incidents compared to 29% of the male prisoner population), as were those imprisoned for drug-related offences (6% compared to 16% of the general population).

³⁵ Where reference is made to comparisons with the general prison population, data from 2009 has been used as an example year because it is the mid-point of the data capture period. Prison population statistics were accessed from:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/218176/population-in-custody-may-2009.xls

Figure 5.6 Criminal offence type (grouped) of victims and perpetrators



Over-representation of sex offenders as perpetrators has been identified by US research (Miller, 2010; Morash, Jin Jeong and Zang, 2010:8; Beck *et al.*, 2013) suggesting that convictions for adult sex offences could be a predictor for committing sexual assault in prison. However, the over-representation of sex offenders as victims is less explicable. It is possible that because sexual offenders are usually housed separately with other sex offenders, they are more likely to be in contact with potential prison sexual assault perpetrators. Other US research (Struckman-Johnson *et al.*, 1996:71), suggested that sexual assault ‘targets’, who successfully fought off perpetrators, were also more likely to have been convicted of an adult sexual offence during their lifetime, supporting the contention that sex offenders may target other sex offenders in prison contexts.

One CM remarked on the risks that he associated with being a convicted sex offender and then being housed with other sex offenders:

“I mean recently we had it where a sex offender was grooming other sex offenders. Because there's a few younger, lads on there, young sex offenders, whether it's because they were dating young girls or grooming young girls or something He's an old boy who was convicted ... think his last lot of convictions was 79 on young girls. Then he was grooming the young 21-year-old lads on there [getting them to] ... perform sexual activities on him.

CM #03

Banbury et al's (2016:378) typology of drug search perpetrators proposed that they were likely to be drug dependent and that most of the crimes for which they were serving sentences were acquisitive in nature such as theft, burglary and drug offences. Dataset 1 also indicated that perpetrators of prisoner on prisoner drug searches (where known) were most likely to be serving a prison sentence for robbery or burglary. In contrast, perpetrators of other sexual assaults (where known), ranging from verbal threats to rape, were more likely to be in prison for violence against the person or sexual offences.

Analysis by length of a prisoner sentence, as an indicator of the seriousness of the offence, was not carried out due to the extent of missing data and the proportion of those in the dataset who were unclassified at the time of the report. Banbury et al's (2016:378) assertion that drug search perpetrators were repeat offenders who were frequently serving relatively short sentences (of 5 years and below) could not be confirmed as the previous offending/conviction histories of perpetrators was not included in the IRS dataset and the information about sentence length was unreliable.

5.3.3 Ethnicity of victims and perpetrators

Ethnic background was known for nearly all victims and perpetrators (98%). In fact, the ethnicity field of data was distinct as being one of the most complete and clean from the entire IRS data set. Of those involved (as victims or perpetrators) in sexual assaults, 80% were designated as White. The proportion of individuals from Black, Asian and minority ethnic (BAME) backgrounds, involved as perpetrators of sexual assaults were proportionate to their make-up of the general prison population (26% compared with approximately 25% of the general male prison population over the period).³⁶ However, BAME prisoners were under-represented as victims of sexual assaults (10%, N=83). Under-representation as victims in the data may be explained by BAME people being less willing to report sexual assaults, perhaps because of lack of confidence in the criminal justice system or as a result of a strong allegiance to the principles of the inmate code. The literature on ethnicity and reporting sexual assault is inconclusive and mostly based on US research. Garland and Wilson (2013:1215), identified that BAME prisoners were less likely than

³⁶ Prison population data for comparison from 2004-2014 was found from parliamentary briefings: <http://researchbriefings.files.parliament.uk/documents/SN04334/CBP-04334-PUBLIC.xlsx>

White counterparts to view reporting as 'snitching'. Similarly, Fowler (2010:236) found that Black prisoners in America were the most likely ethnic group to report sexual victimisation, going as far as suggesting that interventions aimed at encouraging reporting were targeted at White prisoners. However, disparities in the way that prisoners perceive reporting are unlikely to account for the difference in its entirety.

Table 5.6 Ethnicity (grouped) of victims and perpetrators

Ethnicity (grouped)	Role in sexual assault						Total	
	Perpetrator		Victim		Others e.g. present		N	% of known
	N	% of known	N	% of known	N	% of known		
White	813	73%	731	88%	74	82%	1618	80%
BAME total	286	26%	83	10%	12	13%	381	19%
Of which: Mixed race	53	5%	10	1%	2	2%	65	3%
Asian	48	4%	37	4%	3	3%	88	4%
Black	184	16%	36	4%	7	8%	227	11%
Any other	1	0%	0	-	0	-	1	0%
Not stated	17	2%	12	1%	4	4%	33	2%
Total	1116	100%	826	100%	90	100%	2032	100%

Ethnicity by type of sexual assault

BAME perpetrators were over-represented in prisoner on prisoner drug or contraband searches. 41% of perpetrators in these incidents were BAME, when BAME prisoners only accounted for a quarter of the overall perpetrator population and general prison population. Conversely, White prisoners were under-represented (making up 73% of the perpetrators overall but only 59% of those involved in prisoner on prisoner drug or contraband searches). Crewe (2006:362) noted, from his study of an English Category C prison, that different ethnic groups held different levels of 'social power' which shaped the organisation of drug dealing. It was not possible to accurately analyse ethnic background by role in prisoner on prisoner drug searches. In many IDs

'involvements' were listed but their specific part or role in the assault was limited to being listed as 'victim' or 'perpetrator' or 'other', with little or no additional information. In all other types of sexual assault, for example, verbal threats to anal rape, the ethnic background of the perpetrators was broadly in line with the overall perpetrator population.

Banbury (2004:126) argued that BAME prisoners were not frequently reported as being involved in 'sexual coercion'. However, she noted that BAME prisoners from her UK sample reported experiencing frequent racial abuse and harassment during prison-authorized (staff on prisoner) drug and strip searches. Prisoners in Banbury's (2004:126) study, attested that incidents of racial abuse were often not reported to the prison authorities because the racial abuse was perpetrated by staff. There is no additional UK literature on under-reporting of sexual assaults by BAME groups. However, the Garland and Wilson (2013:1215) research suggested that the extent to which prisoners experienced 'prisonization' or acceptance of prison life and culture, impacted on rates of reporting. This may provide a useful framework for further research to ascertain the reasons for BAME differences in reporting rates. Where prisonization may be strengthened by increased exposure to the criminal justice system, BAME groups may have stronger resolve to adhere to informal rules about 'anti-snitching' and weakened motivation to report sexual assaults. Although Garland and Wilson (2013:1215) reported that Black men were much less likely to view reporting of sexual assaults as snitching, they speculated that gang membership, delineated by race and the informal codes related to them, might have had a strong impact on reducing reporting levels. Beck et al's (2013:17) large scale US research on the prevalence of sexual victimisation for male and female prisoners reported that rates were higher among White prisoners (2.9%) or inmates of two or ethnic backgrounds (4.0%) than incidents involving only Black prisoners (1.3%).

Ethnicity by number of perpetrators

When looking only at those incidents where the number of perpetrators was known (722 of the 844 incidents), perpetrators from a BAME background were more likely to be involved, than their White counterparts in incidents involving multiple perpetrators. Comparisons of involvement in multiple perpetrator incidents showed that 61% (N=165) of BAME perpetrators (N=269) were named as being involved compared to 41% (N=318) of White perpetrators (N=779). This finding was in keeping with the hypotheses proposed by US researchers (Nacci and Kane, 1983; 1984).

However, these claims were made without empirical evidence (Gaes and Goldberg, 2004:14). BAME victims were also slightly more likely to be involved in incidents involving multiple perpetrators (27%) than White victims (20%). The majority (75%) of sexual assaults involved prisoners from the same ethnic background.

5.3.4 Age of victims and perpetrators

Younger age groups were over-represented in the sexual assaults, with two thirds of victims (66%) and over half of perpetrators (55%) being under 30 at the time of the assault, while only accounting for just under half of the average general prison population throughout the period. There was no difference between the proportion of those aged under 30 who were victims of drug searches (62%) or other sexual assaults (65%). As, already noted in Section 5.1.4, outcomes for perpetrators were proportionate to their age profile in the IRS dataset apart from those under 30 years of age who were less likely to have a recorded outcome of 'referred to police' (45%) than expected. Dataset 1 excluded prisoners and incidents involving any person under eighteen years of age and so analysis for this group is unavailable.

The average age at the time of the assault for both victims and perpetrators was approximately 30 years, although the age most commonly reported (the mode or most frequently occurring) was notably younger: 24 years for perpetrators (N=66) and 21 for victims (N=71). Banbury et al's (2016:378) study noted that the age of drug search perpetrators varied considerably but averaged at below 33 years. US literature on the incidence and prevalence of sexual assaults reported that being younger presented risks of sexual victimisation (Morash *et al.*, 2012; Beck *et al.*, 2013). However, Morash et al (2012) and Beck et al (2013) focused on rape and attempted rape in prisons, with no reference to less serious sexual assaults or prisoner on prisoner drug or contraband searches. Beck et al's (2013:6) survey of US prisoners in prisons and jails between 2011 and 2012 found that juveniles (aged 16 to 17), housed in adult facilities, reported very slightly lower rates (1.8%) of sexual victimisation than adult prisoners in prisons (2%) and jails (1.6%) but that older prisoners had lower than average rates of sexual victimisation. The same study (Beck *et al.*, 2013:18) reported that sexual victimisation rates, particularly in jails which are broadly comparable to local prisons in England and Wales, were lower for prisoners in older age categories (35 onwards) than for prisoners aged 20 to 24, in keeping with analysis of the IRS data. Miller's (2010:703) assertion that older prisoners were less likely to report sexual assaults because they had spent more time in prison and internalised the inmate code may explain patterns found

from the IRS data. Several US studies have identified that the likelihood of reporting declines as time served increases (Fowler *et al.*, 2010:232; Garland and Wilson, 2013:1213).

5.4 Chapter summary

Chapter 5 has summarised the descriptive statistics from the analysis of Dataset 1 which span the ten-year period, 2004-2014. The data, structured by incidents (N=844) and 'involvements', including victims (N=826), perpetrators (N=1,116) and 'others' (N=90) has been analysed in combination with qualitative analysis of IDs. Datasets 1 and 2 have addressed institutional and individual characteristics identified by the literature as being associated with risk of prison sexual assault. A small number of interviews with prison staff, CMs and a PIO, have been incorporated into the results to further the findings and provide context to the datasets derived from the IRS.

There are twelve main findings from analysis of the IRS data which are summarised here. Trends identified from the data show an increase in reported sexual assaults against a background of increased violence in prisons in England and Wales. These trends have continued since the end of the data capture period in 2014. Although the data shows an increase, the literature and the interviews with CMs and the PIO imply that levels of under-reporting are significant and the decision to report is likely to be influenced by shame, stigma, fear of 'snitching' and further harm from fellow prisoners. IDs revealed that sexual assaults were most frequently reported verbally by the victim directly to a member of prison staff, usually a prison officer. The location of sexual assaults was frequently not recorded in the IDs, but, when included, it identified the prisoner's own cell or other cell as the most likely place for sexual assaults to occur. Stereotypical 'anecdotes' about the showers being a high-risk location in prison for sexual assaults to take place are not confirmed by the data.

In almost a third of the IDs, there was not enough information to establish the precise nature of the sexual assault and these incidents remained 'unspecified'. The remaining 583 IDs provided a first opportunity to interrogate the IRS and reveal the type of assaults in more detail. The most frequently reported (and fully recorded) incidents included verbal sexual threats, prisoner on prisoner drug or contraband searches and actual/attempted anal rape with a penis. Most of the

prisoner on prisoner drug and contraband searches included use of an object, most frequently a spoon; resulting in the idiom of 'spooning' to be adopted by prison staff. Prisoner on prisoner drug or contraband searches were also more likely to involve multiple perpetrators than other types of sexual assault. Multiple perpetrator sexual assaults were also more often identified as using mechanisms such as threats, use of violence and/or restraint and this was supported by staff interviews. Other mechanisms of note included the sexual assault being carried out (or initiated) when the victim was asleep, with only a few suggesting that consent was present at some point during the incident. However, overall IDs were inconsistent in including information about mechanisms used by perpetrators, 510 of 844 made no reference to mechanisms or *modus operandi*, therefore hampering the potential development of effective interventions. In most incidents, weapons were not used. When weapons were recorded, they were most likely to be used during multiple perpetrator incidents. The range of weapons used was broad from spoons to blades, homemade enemas and common objects such as pens and brushes. The number of people involved in incidents ranged from one (these cases concerned victims who were unwilling or unable to identify a perpetrator) to nine. Most incidents involved two people and in these the victim was able to name the perpetrator.

Outcomes were recorded in 89% of recorded sexual assaults and cases were most likely to be recorded as being 'referred to the police' or 'subject to a police investigation'. The difference between these two outcomes were not clear and it should be noted that these are not outcomes in themselves. Analysis of the IDs identified a wider range of activities or responses to sexual assaults than had been available through the IRS fields. However, these 'outcomes' were often temporary measures involving access to medical care and removal of the perpetrator(s) and victims for a short period of time (often to allow for cell sharing arrangements to be reconsidered). A much lower number of incidents resulted in formal outcomes such as adjudications (15%) and pending prosecutions (10%). However, the final outcomes of any criminal justice processes were illusive and were not available from the IRS. Results from the staff interviews confirmed that outcome updates were not made to the IRS and that staff were mostly ignorant of any case progression.

It was not possible to carry out prison by prison analysis of reported sexual assaults because of low reporting numbers and the changes to the prison estate over the ten-year period. Instead, using prisoner categorisation, Dataset 1 showed that in most cases, categories of prisoner were represented proportionately as victims and perpetrators. Prisoners with lower categorisations

tended to be marginally under-represented in the IRS data. However, unclassified prisoners were over-represented in the data as victims and perpetrators. Unclassified prisoners were mostly housed in Category B Local prisons at the time of the sexual assault, awaiting classification. Prisoners were most at risk of being a victim of a sexual assault in their first three months of being received at a prison and almost half of perpetrators committed sexual assaults in the first six months of being at a prison. Risks associated with the early or reception stages at a prison were even starker for prisoners' subject to prisoner on prisoner drug or contraband searches, as 38% of these were reported as occurring less than a week from reception at a prison. Reception stage risks were also referred to during the interviews; partly because of the predominance of prisoner on prisoner drug and contraband searches and the higher risks associated with unclassified prisoners, but also because of the busy and volatile nature of Category B Local prisons.

Dataset 1 analysis showed that prisoners currently serving sentences for sex offences were over-represented as both victims and perpetrators. Most victims and perpetrators were of a White ethnic background (80%) and BAME perpetrators were proportionate to their make up in the general prison population. However, BAME prisoners were under-represented in the IRS data as victims of sexual assault and might therefore be less likely to report being a victim or be at lower risk of becoming a victim. Perpetrators with a BAME background were more likely than their White counterparts to be involved in multiple perpetrator sexual assaults and slightly more likely to be victims in multiple perpetrator incidents. Younger men were over-represented in the IRS data, with two thirds of victims (66%) and over half of suspects (55%) under 30 at the time of the assault, while only accounting for just under half of the average general prison population throughout the period.

While the analysis of the datasets has provided several clear indications about the characteristics associated with sexual assaults, these should be seen in the context of the time period analysed. Although the incident data set was substantial (N=844 over a ten-year period), analysis was limited to cases between 2004-2014. The possibility of significant changes to reporting, recording and responding to sexual assaults since 2014 cannot be fully examined. However, the semi-structured interviews, conducted in 2019 for contextual purposes, have provided some support for the view that responding to sexual assaults in men's prisons remains a rare but complex event.

Chapter 6 Discussion

This chapter, building on the analysis of the IRS data from Chapter 5, explores the possibility of adapting Carlen's (2008) concept of 'imaginary penalties' to explain the initial response to reports of sexual assaults in men's prisons. The research questions addressed in Chapter 5 provided the theses' first descriptive statistical insights into institutional and individual characteristics associated with reported sexual assaults in men's prisons in England and Wales. However, descriptive statistics alone cannot identify the underlying reasons for the continuation of a system of recording and responding with limited results and outcomes. The focus in this chapter is on explaining the initial response by staff and their fundamental role in the defining, reporting, and recording of sexual assaults in prisons in England and Wales. Widely held beliefs that prison-based crime is under-reported (Akerström, 1989; O'Donnell and Edgar, 1996; Kupers, 2001; Hopkins and Brunton-Smith, 2014), particularly sexual assaults (Fowler *et al.*, 2010; Garland and Wilson, 2013; Stevens, 2014), have revealed a research gap about the initial response to allegations of sexual assaults during the early stages of a prison report. This chapter focuses on the gaps which can be examined through the ways in which the Incident Reporting System (IRS) is used. It goes beyond the descriptive statistics described in Chapter 5, focusing instead on the government predilection for the use of centralised new managerial systems, such as the IRS, which define the boundaries of routine practice carried out by staff. Chapter 6 includes a critical perspective on the IRS as a centralised new managerial mechanism for recording sexual assaults and activities carried out in response to them.

Using Carlen's (2008) theoretical framework of 'imaginary penalties', this chapter addresses questions about unrealisable outcomes and the possibility that agency responses represent *practice without prospect*. It uses an adaptation of Carlen's (2008) theory, originally illustrated by the prison service's continued use and financial support of rehabilitation programmes or 'imaginary penalties', which were widely known not to work. Descriptive statistical evidence from Chapter 5 (Dataset 1), with analysis and examples of IDs (Dataset 2) and interviews with staff (Dataset 3) have been used here to examine five key elements of Carlen's (2008) theory:

1. Despite initial responses and investigation activity there is not a realistic prospect of an outcome³⁷ to most reports of sexual assaults.
2. Staff continue to deliver routine responses and initial investigations even though outcomes are unrealisable.
3. Problems associated with unrealisable outcomes are routinely known and accepted by staff.
4. Staff and prison managers 'edit' performance measures to demonstrate effectiveness.
5. New managerialism has supported complex centralised systems for monitoring and controlling staff activities which would previously have been left to staff discretion.

6.1 Unrealisable outcomes

Carlen's (2008:19) central 'imaginary penalties' proposition was based on her observation that there was a substantial gap between policy aspirations and the outcomes of practice in prisons management. This gap had been identified by audits and inspections and was well 'known' by prison staff. Carlen's (2008:2) case study of an Australian prison and observations of the justice system in England and Wales, endorsed her theory, in the UK context. Dataset 1 indicated that a number of different response activities were conducted to react to sexual assaults during the data capture period of 2004-2014. However, it is not impossible to ascertain the longer-term criminal justice outcomes from the IRS, because the IRS is not routinely updated to include them.

However, the data shows that in just over 100 of the 844 incidents, a 'prosecution pending' was recorded and a further 78 (less than 10%) were recorded as having been formally subject to the prison adjudication process. It is feasible that cases recorded as 'pending' were subject to further attrition and that a reduced number than those recorded went on to reach court. In most of the 844 incidents, 75% were simply described in the IRS as having been either 'referred to the police' (12%) or 'subject to a police investigation' (63%) with no additional explanation of the investigation or indication of the outcomes.

³⁷ Chapter 5 noted that, for the purpose of this thesis, a formal outcome is an adjudication (and the results of that process) although these cannot be identified from IRS, a pending prosecution or a prosecution (also not identifiable from the IRS).

Carlen's (2008:3) argument recognised that staffs' conscious knowledge of unrealised programme outcomes were derived from their awareness of the reality of prisoners' lives both before imprisonment and following release. Staff in the Australian prison knew that many of the programmes themselves were 'imaginary' because they were devised to take place over a longer period than many of the prisoners had been sentenced for, making outcomes negligible as attendance was short term (Carlen, 2008:3). Staff also knew that support services in the community were lacking and that economic deprivation and problems such as drug dependence, lack of housing and violence were likely to influence reoffending behaviour, representing structural barriers to rehabilitation, which were outside of the control of prison staff. In keeping with this observation, real outcomes of sexual assault cases were obscured from the stated IRS outcomes, which reflected activities and processes rather than information about the formal outcome.

The outcome codes used in the IRS ('referred to the police', 'subject to a police investigation', 'adjudication', 'prosecution pending' and no recorded outcome) reveal uncertainty about the real outcomes and a lack of candour about recording standards required for measuring realisable outcomes. Problems in IRS data recording were acknowledged indirectly by the MOJ's (2015b:2) relatively recent and ad-hoc analysis of sexual assaults in prisons that pointed out that beyond counts of incidents, the remaining IRS data was 'not deemed to be of sufficient quality to be published as National Statistics'. Acknowledging the systemic weaknesses of the IRS, analysis of Dataset 1 revealed that *real* outcomes were rare. Analysis of IDs from Dataset 2 also suggested that outcomes recorded as having been 'referred to the police' or 'subject to a police investigation' were often recorded in the same system (in the IDs), as having been dropped or processed as 'no further action'. IDs recorded a wide range of reasons for cases being discontinued, which included the victim's wish to withdraw the complaint or because there was a lack of evidence.

Lack of outcomes in prison sexual assaults may also be driven by the complex contexts in which investigations take place, not dissimilar from Carlen's (2008:3) acknowledgement of the hopelessness of realising desistance from 'imaginary programmes' which were essentially structured to fail. Issues faced by prison staff relating to the complexity of conducting initial

enquiries and developing criminal investigations in institutions, which strongly rely on the efficient running of a regime (Sykes, 1958; Goffman, 1961; Crewe, 2009; Liebling, Price and Shefer, 2012) cannot be underestimated. Any interruptions to the prison regime, present the potential for significant delays.

When explaining some of the complexities of carrying out initial criminal investigations in prisons, one experienced Custodial Manager (CM) used a physical assault to illustrate the pressures in a prison environment:

“Time is a major problem here because, I remember once, we had an actual assault take place in the servery where a bloke was punched and had his eye socket and jaw broken and there was blood everywhere, literally. We managed to get him off to hospital and before we could do anything, the cleaners had started to clean all the blood up.”

CM #03

Goffman's (1961:87) observations of total institutions provide a sense, not only of the hopelessness of achieving the stated or '... rationalised ... ideal aims or functions of the establishment', but also of staff dissatisfaction on realisation that they are unable to exercise their professional practice because of pressure for their functions to fit with those of the institution. Goffman (1961:87) argued that staff experienced being used and 'held captive to add professional sanction to the privilege system'. Such assertions cannot be tested in this research by analysis of Datasets 1 and 2, which simply provide insights into the characteristics of reported sexual assaults and the ways in which prison staff record and respond to them. Dataset 3, however, reveals some insights from prison staff about the notion of whether outcomes are identified as being realisable (Carlen, 2008). Additionally, Dataset 3 can be used to indicate if staff acknowledged having the professional freedom to carry out their roles or whether they were exploited, adding sanction to systems over which they have as little control as the prisoners themselves (Goffman, 1961). Insights derived from Dataset 3 can only be drawn on when supported with findings from Datasets 1 and 2 because of the small-scale and limited nature of the interviews.

6.1.1 Explanations for out- of-reach outcomes

The challenges of realising outcomes in prison-based sexual assaults were well-articulated by all four of the CMs and the Prison Intelligence Officer (PIO). When asked about the prospect of criminal justice-based outcomes, one CM noted the complexities associated with case building. CM #02 demonstrated that he was in possession of conscious knowledge of the unrealisable prospects of achieving formal criminal justice-based outcomes in sexual assault allegations. The factors outlined in the quote below are in keeping with Carlen's (2008) assertions that staff were conscious that outcomes were unrealisable and yet carried on delivering activities, defined by prison managers and policies:

"From when it happens to getting it there, the prisoner, the victim, can change his mind. He goes in and out of 'do I want to go forward with this, do I not want to go forward with this?' Historically, we are not very good with dealing with evidence, in terms of gathering it, securing it, keeping it all together. We're very good at losing things, you know, things go a bit AWOL. I don't think you get any convictions. I don't actually know the stats ... I suppose a lot of it would be dealt with in-house?"

CM #02

Goffman's (1961:87) concept that staff activity took place to endorse institutional aims might help to explain the context of apparent disengagement by staff and their lack of curiosity about the outcomes of sexual assaults. Their continued use and investment in rationalised systems such as the IRS, suggested that they complied with recording partly to demonstrate the need for their own roles and activities. The usefulness of Carlen's (2008:10) 'imaginary penalties', or in this case investigation protocols and policies about crime in prison, was the acknowledgement that at times these were open to criticism by staff, but when livelihoods depended on delivering them, they were not. Although CMs referred to their initial responses to sexual assaults being moderated, mostly to ensure that prison regimes continued uninterrupted, they continued to populate the IRS with information detailing activities and procedures as if they may realise outcomes. All of this was referenced, but without evidence of professional curiosity about the longer-term outcomes of cases. One CM, with twenty-nine years of experience in the prison service, when asked about criminal justice outcomes in reported sexual assaults cases, noted that:

"I haven't seen one in 29 years ... but I'm optimistic. No, I haven't. I have not seen or been involved ... personally in one. I may have given information that has dealt with one, but I've never been informed of a positive outcome. So, I'm not saying it hasn't happened."

CM #04

The day-to-day pressure of delivering the prison regime was described by another CM. This CM captured the multi-faceted role of prison officers, resonating with Crawley and Crawley's (2012:140) observation that the role of prison officers incorporated security and use of force beside the creation of social order in an intimate and primarily 'domestic' sphere:

"... generally, as a prison officer, we deliver the regime to the prisoners. We unlock them, give them their meds, their association, their telephone calls, facilitate their visits. We are like authoritarians when that is needed because they are not being compliant. We are like social workers to them because we have to listen to their issues. We are kind of everything from the authoritarian to the care worker ... and everything in between. We have to adapt, if you like, to all these different spectrums of characters that come into the system."

CM #05

CM #05 mirrored Goffman's (1961:88) observations that staff not only carried out the rationalised requirements of the institution, but that these often involved contradictory tasks such as, giving the 'impression' of humane standards while forcing obedience with the system.

Lack of time was identified by all four CMs as a reason for not seeking information about the case progression of sexual assaults. Staff obtained updates on incidents only when they proactively showed an interest by asking the CM responsible for police liaison. It is possible that staff lack of interest and knowledge about the outcomes of incidents was due to a tacit acceptance that outcomes were unrealisable and because of an expectation that little beyond initial actions would have taken place, or as noted, because of time pressures. Written or submitted updates to incidents do not appear to have been a routine aspect of the management of the IRS. Generally, once initial activity was completed and a record entered into databases, including the IRS, CMs mostly regarded the role of prison staff as being complete. Apart from ongoing safeguarding or health issues, they viewed responsibility for the sexual assault as residing with the police once a referral had been made to them. Outstanding initial response activities, such as identifying

witnesses, making statements in the capacity of being a witness of first complaint or seeking intelligence through prisoner contacts and networks, were either not recorded on the IRS, were passed on to the police ('somehow') or did not happen. Given that 794 of the 844 incidents were reported directly to a prison officer and, of these 746 were made directly by victim, there are some indications that opportunities were lost or were not recorded. In a non-prison environment, information ascertained by the person to whom the complaint was initially made, or the 'witness of first complaint' can form an important aspect of a criminal case as they are able to remark, not only on the description of the incident, but also on the demeanour of the complainant. In prisons, prison officers are overwhelmingly likely to be witnesses of first complaint when allegations are made. However, only 49 of the IDs referred to the victim's demeanour when making the report.

Lack of updates in the IRS suggest that referral to the police, which frequently resulted in no further action, effectively 'closed' the incident on the IRS. One CM, when asked if he found out about the progress or outcomes of sexual assault allegations said:

"No, not really. Unless I have gone out of my way to ask, I suppose. Everyone is busy so there's no time to go back and check out something."

CM #02

Recording of 'outcomes' as being the 'conclusion' of cases in the IRS, has masked a structural unwillingness to address the core question of whether sexual assault investigations in prisons routinely result in no *real* outcome. Resources and efforts, including detailed accounts of procedures and practice, were outlined by prison staff who also acknowledged the lack of formal outcomes. For Carlen (2008:19), a distinctive element of imaginary penalties was the focus on procedures rather than outcomes, which she argued were defined by having 'a teleological and closed focus on inputs instead of a concern about outputs and effective measurement of objectives'.

6.2 Practice without prospect

Carlen's (2008:7) contention that prison officers continued with routine rehabilitation programmes, while openly acknowledging them as 'on the prison's own criteria, a waste of time', also noted that staff said they 'work[ed] their socks off to compile a confetti of paperwork claiming just the opposite'. As previously discussed, the outcome measures, recorded in Dataset 1, were at risk of inaccuracies because they tended to reference part of the process of responding to a sexual assault rather than identifying the result or outcome of the incident. In contrast to the outcomes recorded in Dataset 1, analysis of Dataset 2 revealed a considerable quantity of activity, carried out by prison staff, but obscured by the IRS outcome data. Response activity described in Dataset 2 listed safeguarding and evidence preservation actions, giving a wider picture of the quantity and type of practice carried out by prison staff. These activities, not codified in guidance or training, had perhaps become a 'craft' in which the importance of experience and formal knowledge were combined (Fleming and Rhodes, 2018:8). When describing the actions which should be taken following a report of a sexual assault, one CM captured the 'craft' associated with responding and the complexities of formalising a set process:

"We have a duty of care; we have got to be very careful. Very sneaky if you like, about how we deal with it, so the perpetrator doesn't get to know, while they're still in this jail that they've been snitched on ... [The] victim, doesn't want him to know because ... [now they are] ... his target or known as being a liar or a snitch... [So] you have all of those impact factors that kind of make it hard to do protocol. It doesn't work, you could write it down, but it doesn't work like that."

CM #05

None of the CMs were able to recall any specific guidance or training that they had undertaken which related to either responding to or recording sexual assaults. All of the CMs referenced their reliance on seeking information from experienced staff (sometimes referring to themselves as the source of knowledge for 'novices' (or the new graduate intake of prison officers) as a form of 'passing on beliefs and practices from generation to generation' (Fleming and Rhodes, 2018:8). There was no systematised form of knowledge about sexual assaults other than responses which had been learnt on the job. CMs seemed to pluck activities from an unseen, or non-existent, master list of possibilities.

Sometimes, activities described in Dataset 2 IDs duplicated outcome codes, for example, by noting that the police had been informed ('referred to the police') or more specifically that the Police Prison Liaison Officer (PLO)³⁸ had provided advice/spoken to the victim ('subject to a police investigation'). Coding of the IDs for Dataset 2 revealed a wide variety of recorded activities, with some IDs describing multiple activities carried out in response to sexual assaults and others providing no information to indicate that any activity had taken place. IDs described and documented a significant amount of routine work and activity, carried out by prison staff. For example, IDs captured the following activities in various combinations: victim sent to healthcare, victim relocated, perpetrator/s sent to segregation, perpetrator/s placed on report, internal prison investigation, report only, victim requests police involvement and victim refuses police involvement. Interviews were alluded to in colloquial terms such as 'spoken to', perhaps because of an expectation that interviews would be carried out formally following police referral. However, in cases that were not referred to the police, it is not clear if any formal interviewing of victims, perpetrators and witnesses took place.

A wealth of activities recorded in the IDs were carried out but were unlikely to result in realisable *criminal justice* outcomes (adjudications or prosecutions). For example, 130 IDs referred to forensic recovery of evidence, often the victim and perpetrator's clothing and cell bedding, but no further indication of the usefulness or processing of the evidence was made. Evidence recovery involved 'bagging and tagging' of evidence and locking of cells using a 'coroner's lock' to ensure that the cells and evidence were sealed for the police. The widely recognised priority of maintaining the daily regime of the prison (Sykes, 1958; Crewe, Liebling and Hulley, 2011) was highlighted by one CM who described some of the activities which had to be carried out in response to sexual assaults, alongside delivering the regime:

"When you're running a regime, if something happens, we bang everyone away. It's simple, you know, if it's something major, that we may have to lock everyone away then start again ... but we try not to ... we also get told off, for not running the regime. So, if something happened in a cell, the easiest way would be that we coroner's lock the cell off, so no one can gain access to that cell. No one can see in there, and no one can do anything with it. And then we can enter that cell at any time, at our own convenience. So, we can contact police and ... they might say ok we'll be up. We could block that cell off and

³⁸ During the data capture period the Police Liaison Officer carried out a range of more general policing functions. These roles changed in 2019 to a dedicated Prison Intelligence Officer (PIO).

carry on with the regime ... [We can] run our regime ... they [police] could turn up at half past four when everyone is locked away after association. We can take them up there when everyone is locked away ... they can do their scenes of crime and we can seal it back up when we leave it. "

CM #03

Copious activity carried out by staff 'working their socks off' has parallels with Carlen's (2008) observations of staff running rehabilitation programmes which kept them busy by delivering and recording information, but all without impact. Given the apparent rarity of criminal justice and internal adjudication outcomes, the purpose and scale of initial response activity was likely to be unrealised. For example, work recorded to secure and preserve physical evidence from the scene would be unlikely to be formalised into criminal case preparation. Using Carlen's (2008:8) theoretical framework, the recording of these activities or *practice without prospect* may be analogous with her observation of the requirement to measure levels of staff activity or 'achievement', rather than focusing on 'unrealistic objectives', in this case, criminal justice outcomes. In doing so, Carlen (2008:8) argued that staff avoided challenging the wider objectives of the institution and instead recorded evidence of their response, including 'static and clearly defined objectives'. Based on the sexual assault data, examples might include making referrals to the police, protecting evidence, routinely sending victims to health care and moving prisoners around or putting them on report. CMs were asked to describe an 'ideal' response to a reported sexual assault, borrowing from Weber's (1949) concept of developing an 'ideal type', originally developed as a tool for describing pure or ideal characteristics of a phenomena. Although ideal types were primarily applied to religion and historical material by Weber, he also used them, as a method of deconstructing bureaucracies and rules and regulations. Typological approaches, which may have resulted in the development of an 'ideal' response to prison-based sexual assaults, were not pursued in detail because of complexities involved in comparing these with real and varied practice (Crewe, 2009:154) where only limited information was available from the IRS data.

When trying to describe an 'ideal' response, CMs, although they acknowledged either never having, or rarely having responded to a sexual assault, listed a range of activities, which they thought should take place. IDs in Dataset 2 broadly reflect the implementation of prison managers' 'ideal types' of initial response to sexual assault allegations in prisons. Instead of

providing full reports of the details and context of sexual assaults, likely to be of high value to criminal investigations and future prevention efforts, IDs generally listed staff activity. For example, from a report made after lock-up in April 2005, where a victim had reported to a prison officer that his cellmate had sexually assaulted him by masturbating him, the following activities were recorded in the ID:

"Victim was taken from G2-02 to an interview room on K2. All items of clothing were removed by him and sealed in evidence bags. He was then relocated to K4-10. Assailant was taken to an interview room on G2, where the single item of clothing that he was wearing (underpants) was removed and sealed in an evidence bag. He was then relocated to the CSU. Police were informed at 07.55 [the following day]."

Opportunities to provide contextual information about the incident itself, such as the relationship between the cellmates, the demeanour of the victim and perpetrator and other key aspects of the incident were lost. Instead, the ID focused only on listing activities that had been completed by staff. Similarly, a multiple perpetrator sexual assault, reported to have happened several times over an extended period, recorded the following activities:

"All three prisoners were located in the Segregation Unit pending Police investigation ... bagged all clothing to preserve evidence and the matter was reported to the Police for further investigation ... [The victim] was located in the HCC [health care centre] pending Police investigation."

The ID above listed four staff activities, the recording of which all took precedence over providing details of the sexual assault itself. This sexual assault was coded as an 'unspecified sexual assault'. In another ID, relating to a 2005 report where a Category C prisoner, was reported as having been 'sexually assaulted' by his cellmate over a period of time and had now 'had enough', staff activities were listed along with notes about the case outcome:

"He [the victim] was moved to the care suite and assailant to the segregation unit. Both prisoners' clothing was bagged for police evidence. Incident reported to staffs [sic] police [the following morning] ... Cell was sealed and key placed in security key safe. Police interviewed victim at 1400 hours ... and he decided that he no longer wished to make a complaint. Police therefore would not proceed."

It is notable that the ID above was recorded in the IRS as being 'subject to a police investigation'.

In reality, the IRS shows that the investigation did not materialise beyond the initial stages when the following day a single interaction between the victim and the police determined that the case was closed. However, the ID included enough recorded staff activity, including a police referral, to ensure that activities and practice-maintained resistance to potential outside criticism or comment.

At the time of carrying out the interviews for Dataset 3, both the PIO and the CMs referred to a new local system for reporting crimes in prisons, colloquially called the 'new crime in prison packs' and introduced in 2019. The new packs include a tick list detailing specific investigative processes, such as securing forensic evidence. These new processes aim to facilitate direct email referrals to a police unit responsible for crime in prison investigations as an intervention to improve initial responses to all crime types, including sexual assaults. Although the new processes described by the prison staff, and reinforced apparently by the 'crime in prison packs', their implementation presents an opportunity for future research to determine their impact, if any, on the initial response to reported sexual assaults. The PIO made a clear distinction between his current role, which was now focused on gathering prison intelligence and preventing crime, and the processes involved with investigating crime that occurs in prisons, which he stated would be managed by detective colleagues.

Professionalising criminal investigations in the prison was alluded to by several of the CMs. However, although clear references to criminal investigation processes were made during the interviews, CMs continued to demonstrate a lack of experience, training and certainty about the processes and logistics of carrying out sexual assault investigations. Often responses to questions about the initial prison response to reports consisted of hypothetical lists, which fell short of a full understanding of the possible needs of the victim and the police investigation. Given that the *Protocol for Appropriately Dealing with Crime in Prisons* (NOMS, CPS and ACPO, 2015) had been published immediately following the IRS data capture period, the CMs gave little indication of a marked shift towards criminalising sexual assaults in prisons since then. *The Protocol* (2015) specifies that the normal CPS *Director's Guidance on Charging* (2013) should be applied, but that in serious cases including serious sexual assaults, referrals for charging advice should be sought, particularly when a suspect/s has been identified. According to the *Protocol*, prisoners reporting crime are required to be defined as 'victims' and to be treated according to the *Code of Practice for Victims of Crime* (MOJ, 2015a, and updated in 2018) which established a set of 'entitlements'

for victims. Dataset 1 indicated that most victims had identified and named their perpetrators, suggesting that they were vulnerable and open to intimidation. Examples of the entitlements, taken from the Code of Practice (MOJ, 2015a:i), which now apply to victims include the provision of a written acknowledgement that they had reported a crime (outlining the basic details of the offence) and giving them an 'enhanced service' as they had been a victim of 'serious crime, a persistently targeted victim or a vulnerable or intimidated victim'. Future research efforts could potentially review the experience of prisoners who report sexual assaults while in custody. In reality, independent academic scrutiny of the initial responses to sexual assaults in prisons remains hard to achieve because of the already hidden nature of the offences, barriers to accessing prisons and data and reluctance to let researchers in to explore these issues (Banbury, 2004; Stevens, 2019).

Adaptation of Carlen 's (2008:8) argument that unrealisable rehabilitation objectives were audited and 'made public' to signify their achievements, it is probable that 'ideal type lists' of activities taken from the IDs (and supported by the CM interviews) have performed a similar auditing function. Listing elements of practice without prospect in the IRS may have been used as a technique to show that prison staff and managers were fulfilling the prison service mandate to take sexual assaults seriously, rather than *actually* providing a realised response. Bennett (2016:97) argued that most prison managers adopted a pragmatic approach to managerialism; accepting its limitations but at the same time, ensuring that they met their own commitments in the system. Such an approach, endemic throughout the prison service, may result in Carlen's (2008) imaginary penalties becoming routine and accepted practice by prison officers, managers and their criminal justice partners.

6.3 Routine acceptance of unrealisable outcomes

Given the limited number of interviews undertaken for this research, it is impossible to determine the extent to which prison officers and managers consciously knew and accepted that their activity and response to sexual assaults was mostly unrealisable as actual outcomes. Taken at face value, the IRS shows that over the ten-year data capture period, a significant amount of staff time and effort was directed towards responding to and recording initial responses to sexual

assaults. It may also be the case that the lack of analysis of prison-based sexual assaults has resulted in a knowledge gap which has made activities and processes which amount to 'practice without prospect' being indistinguishable from the 'rationalised' expectations of the prison service. In other words, the prison service may have accepted the risks that this practice presents, along with the partial response to sexual assaults in prisons. Interviews with the CMs, identified that they faced challenges in managing responses to sexual assaults (albeit mostly hypothetical because they had minimal, if any, experience of dealing with cases which had not involved prisoner on prisoner drug searches). Staffing shortages, managerialism and the central requirement to maintain the efficient running of the regime were cited by CMs as being the overarching problem, preventing an ideal initial response to sexual assaults. To illustrate the routinized low prospects of realised formal outcomes, prisoner on prisoner drug and contraband searches have been examined in detail in the next section.

6.3.1 Prisoner on prisoner drug searches: business as usual assaults without outcomes

In determining whether prison staff routinely accepted that outcomes or resolutions were unrealisable, the data indicates that substantial activity in response to reported incidents continued despite low numbers of real results or resolutions. One relevant example to illustrate the routine continuation of sexual assaults and responses to them, without real prospect of lasting sanctions, is the pattern of prisoner on prisoner drug searches. Descriptive analysis of Dataset 1 identified that of the 844 incidents of recorded sexual assault over the data capture period, only 583 included enough information allowing for detailed coding in Dataset 2. Of 583 cases, 136 were identified as prisoner on prisoner drug or contraband searches. Other incidents such as anal penetration with an object (N=63) and digital penetration of the anus (N=27) were also highly likely to be drug search related. Dataset 2 identified high risks of victimisation at the reception stage of imprisonment and showed that unclassified prisoners were over-represented in the sexual assault data. Unclassified prisoners were likely to be housed in Category B Local prisons at the time of the reported sexual assault awaiting classification. Analysis of the IRS data ascertained that prisoners were most at risk of being victimised in their first three months since reception, and almost half of perpetrators committed reported sexual assaults in their first six months of being at a prison. These reception-stage related risks were even clearer for prisoners subject to prisoner on prisoner drug or contraband searches, because 38% of these were reported as occurring less than a week from reception at a prison.

The patterns and risks associated with prisoner on prisoner drug searches are predictable in ways that other sexual assaults are not. Ralphs et al (2017) has noted the rising frequency of prisoners' use of licence recalls to smuggle synthetic drugs with a high value into prisons. The phenomena of sexual assaults being carried out to determine whether prisoners on licence recall were carrying or 'plugged' with drugs was consistently remarked upon in interviews with the CMs and the PIO. One CM, when asked about risks associated with reception at a prison, said:

"So, probably, as a remand, they've come in, off the street and they've probably got drugs or phones up inside them and they go on the wing and what they do is, they think they can make a quick buck, because we get a lot of it ... where we get licenced recalls. So, they go out, get recalled for 14 days and for the 14 days are in here, they're selling drugs. Because for a couple hundred quid's worth of drugs they can come in and make a couple of grand. Because drugs in here are five times the street value. That's the struggle. They get through the search process because we can't do cavity searches; when it's up inside them. Why we haven't got an X ray machine like customs have ... because customs have got X ray machines that scans their middle body and then you could say 'oh look you're packed full of drugs, sit in the cell for 72 hours until you produce it, or sit down to produce it.' The Prison Service doesn't have that option."

CM #03

The routine and transactional nature of drug and contraband searches did not detract from staff awareness that these incidents were frequently violent and injurious. However, in line with research (Eigenberg, 2000; Banbury, 2004) there appeared to be some ambivalence about identifying drug-related sexual assaults as a problem and instead they were sometimes seen as being an inevitable aspect of prison life. One CM, when asked if drug searches resulted in criminal justice outcomes such as adjudications and prosecutions, made clear reference to the risk of drug and contraband searches at reception (and re-reception) stages of imprisonment:

"The violence isn't nice in these incidents. So, in my experience, these are only present in prisons, you wouldn't necessarily hear about it in the outside community; they are very much prison isolated. We think they happen quite frequently. I think more so than we are aware of ... I mean, we have intelligence that people come into custody packed with drugs ... they know that stealing a leg of lamb will get them a six-week sentence ... they would do half of that. They pack themselves with drugs, it is their career, it's their job and that's their income. They come and deliver the drugs and then make twenty grand or whatever. So, they're going to be targeted and prisoners are aware of

this; they're going to be easy targets ... It is like a revolving door, they come in all the time and they will be a target and everybody will know that."

CM #03

The regular trade of carrying drugs into prison by 'plugging' was openly discussed as an accepted aspect of prison life by the CMs and the PIO. CMs tended to view prisoner on prisoner drug searches as an unavoidable risk or 'occupational hazard' for those involved in drug smuggling, on the basis that they had 'plugged' contraband goods with a high prison value (Ralphs *et al.*, 2017). Some of the IDs adopted a passive tone, implying a routine acceptance of drug searches, even when they described action taken in response to an incident. Crewe (2006:151) noted, during the early stages of an ethnographic study about drugs in a Category C prison, that staff asked no questions about illicit activity which had obviously already been disclosed to the author by prisoners. Rather generously, Crewe (2006:151) suggested that this apparent lack of interest was a result of staff having higher priorities associated with drug supply rather than consumption. Activities carried out to interrupt prisoner on prisoner sexual assaults related to the drug supply via prisoners (either those new to the prison or transferred from other prisons) was not obvious from the outcomes recorded in the IRS.

The ID below describes a brutal multiple perpetrator prisoner on prisoner drug search from a Category B prison where the outcome was recorded in the IRS as being 'subject to a police investigation'. However, the ID made no mention of the criminal context of the incident. Checks carried out on the data from NOMIS ³⁹) (now known as C NOMIS) indicated that information about the criminal context of incidents was not recorded elsewhere and that during the data capture period some double keying took place where similar information was entered twice into the IRS and NOMIS. Insights into possible links to organised drug smuggling, gang membership or hypotheses that it was an isolated incident, perhaps caused by mistaken identity or 'screening' were absent:

³⁹ C-NOMIS is a centralised intelligence system, previously used by the prisons to record intelligence about prisoners. Personal correspondence from the MOJ, dated 01.05.20 confirmed that prisons are now reporting all incidents on NOMIS. The IRS is now part of NOMIS. There have been no change to data recording practices or how it is received by the MOJ.

“At approx. 1530hrs on the X.X.10 it is reported that Prisoner A assaults Prisoner V by pulling his trousers down and held him round the throat in an attempt to get secreted drugs. [V]ictim and perp plans opened, incident report completed ... Following this incident Prisoner V stated he was violated by Prisoner A who he alleges inserted his finger into his anus and also tried to insert a fork in a bid to remove drugs while Prisoner B held him by the throat. Prisoner C was also present whilst this was taken place[sic]. Police have been informed even though Prisoner V did not want police involvement.”

A central challenge, identified by CMs, when responding to drug searches, was that they epitomized rule-breaking and yet also represented some of the most intrusive and violent sexual assaults which form ‘business as usual’ in many prisons. There were no differences between outcomes for drug searches and other sexual assaults and the IDs showed very similar patterns of routine activity in response to reports, most without any real prospect of a criminal justice-based outcome. Liebling et al (2012:149) argued that staff decision-making about rules and rule-breaking benefitted from open discussion between staff as part of their daily practice. Staff at HMP Whitemoor were observed by Liebling (2012:149) to comment on their own, and each other’s behaviour, ‘making the unconscious, conscious’ by a process of reasoning. Further research is required to determine the extent to which staff discuss sexual assaults among themselves, including the nuances between drug searches and other assaults. Lack of open discussion may reduce staff capacity and willingness to articulate drug searches and other prison-based sexual assaults and place them firmly in the spectrum of criminal offences.

Language used by CMs, particularly when discussing drug searches, tended to adopt the same idioms and argot (Sykes, 1958) used by prisoners, such as ‘spooning’ and ‘plugging’ (Ralphs *et al.*, 2017:62). Records of prisoner on prisoner drug searches also implied that they have been made without the prospect (or intention) of realising criminal justice outcomes but rather as a short-term means to an end for attaining access to medical attention and perhaps segregation from perpetrators. The ID below describes a prisoner on prisoner drug search following a prison move, in which multiple perpetrators targeted the victim. The officer noticed the prisoner’s facial injuries and prompted the victim to disclose the sexual assault. Although evident of vigilance, this report did not record any realised outcomes, only noting an internal prison investigation, which was recorded for information:

“At lock up after association it was noted that Prisoner V had received facial injuries. [He] stated that he had been grabbed by several unknown ... prisoners beaten with punches and kicks and held down whilst his anal cavity was searched with a spoon. V returned to Prison X on X/X/07 from Prison Y and was rumoured to be in the possession of drugs and a mobile phone anally secreted. Prisoner V refused to cooperate as to his assailants and did not want the matter referred to the police but went to HCC [healthcare]. The assault was believed to have occurred in cell GX3-0X.”

A further ID from 2007 recorded two separate multiple perpetrator sexual assaults, use of a weapon, physical assault and indications of pre-meditation, without any mention of the Category C victim's condition/injuries, staff responses or an outcome. The outcome code relating to this incident from the IRS was also recorded as being 'subject to a police investigation'. However, because the ID was not updated following the initial response, without access to police records, the final result of this incident remains unknown to the prison service and cannot be verified by this research:

“Prisoner V has alleged that he was assaulted by Prisoner A. V claims that Prisoner A produced a metal implement to force him onto the floor. It is then alleged that Prisoner A forced V to drop his trousers and undergarment, put on a latex glove and insert[ed] his fingers into A's anus in an attempt to retrieve 3 balls of heroin. Prisoner V was then allegedly assaulted by Prisoner B who pinned V against a wall and forced him to handover a further 3 balls of heroin. Shortly after this V alleges that he was dragged into another cell by Prisoner C and forced to drop his trousers and bend over but there was no more heroin to be found.”

Several CMs also referred to a process of 'screening' in which new prisoners (including those recalled) would be at risk of being routinely 'searched' or sexually assaulted by other prisoners to remove drugs and contraband. In some IDs, prison staff recorded that prisoners had been left to 'pass' products in their own time, when they benefitted from the protection of gangs and brought in contraband to specification:

“...from the perpetrator, the bully's point of view, there's the belief that they must have something ... they've just come in off the road. They've got something ... that's the driver. That gives them the motive to harass them. The person may well have something: you can flick a coin on that depending on who they are ... some people will come in with it, to sell it to make money. You can make more money in here, so they repeatedly commit crime to come into prison because to them, prison's that easy, and they make thousands of

pounds a year out of coming in with drugs. They tend to be connected so they don't tend to be made to defecate because they are part of an organised group of dealers."

CM #05

The same CM recollected a seventy-year-old new prisoner who had been subjected to an internal prisoner on prisoner drug search following reception as part of routine prisoner 'screening'. When asked if prisoner on prisoner drug searches and screening were accepted aspects of prison life, he noted that:

"Pressuring them to give stuff over, it starts off like that and it must escalate to the point where a lot of the time they make them sit on the toilet and defecate. So, they haven't actually touched them, but they've intimidated them, and the person goes to the toilet to prove they haven't got anything. Some people must sit on the toilet and can't go, and then they are spooned, which is fucking horrible. The ones I have heard more of are where they are made to sit on the toilet ... Inductions are coming in off the road and are being made to defecate on the toilet. We have to do something about it before we get someone who hangs themselves because they're scared of letting that happen to them, or some knock on affect like self-harm, which is massively on the prison's radar because of deaths in custody."

CM #05

Given the predictability and known patterns of prisoner on prisoner drug searches and that staff openly acknowledged 'screening' processes, there is some suggestion that these types of sexual assaults are routinely accepted by staff as being *business as usual*. Staff and management acceptance of drug-related sexual assaults as being an inevitable aspect of 'hypermasculine' (Toch, 1998) prison life, may also have served as a mechanism to refrain from open discussions of what they know and understand to be flagrant breaches of prison rules. If prison hierarchies do not support staff reflection about complex issues surrounding prison sexual assaults, dialogue may be limited to calculations of staff time, activity and the cost of resources dedicated to protecting victims, providing healthcare and preserving evidence, rather than outcomes for victims and perpetrators.

Although the issues of prevalence and harm associated with drug use in prisons has been established by both research and various government reports and strategies (Wheatley, 2007;2012; Ralphs *et al.*, 2017) it is notable that NOMS published its own *Strategy on Drugs* in 2005 (Wheatley, 2012:332). The NOMS strategy (launched near the start of the data capture period of 2004-2014) reflected the wider government targets to reduce harm caused by drugs, increase access to treatment programmes via the criminal justice system and reduce use of Class A drugs by young people. Although much of the focus of the NOMS strategy was on in-prison treatment and rehabilitation services, some emphasis was also placed on 'supply reduction services (such as CCTV, drug detection dogs, mobile phone detection) designed to deter, detect and disrupt illicit drug-related activity in prisons' (Wheatley, 2012:334). Given the extent of drug-related sexual assaults that were recorded in the IRS, and the likelihood of under-reporting and under-recording, it can be assumed that the strategy (and its updates) were largely unsuccessful in their endeavour to reduce drug supply and use.

The phenomena of prison drugs markets and their impact on the dynamics of prison life has been under-researched (Crewe, 2006:348). A partial explanation for the lack of scrutiny of drug supply markets in UK prisons is that research has identified that a common route is via staff, smuggling for financial benefit (Crewe, 2006:356; Ralphs *et al.*, 2017:62). However, failures to reduce drug smuggling and taking may be based on the pervasive importance of drugs to everyday prison life in the UK. During his study of an English prison, Crewe (2005:161) noted that 'drug taking and dealing were accepted by officers and prisoners as inevitable, almost banal, features of the inmate world'. Analysis of the prisoner on prisoner drug searches and the initial prison service response to them has indicated that they may also have become an accepted and commonplace aspect of prison life in England and Wales. Carlen (2008:9) argued that imaginary penalties flourished in 'blame-driven cultures which risk-crazed modes of government spawn' where they were part of actuarial and auditing systems which 'produced a mountain of hard copy testifying to responsible and effective government'. The next section examines the extent to which IRS data can be identified as having been subject to 'gaming' techniques used by staff to mask the reality of their *practice without prospect*.

6.4 Performance measures, recording and 'gaming'

The IRS is an auditable management information tool for the purpose of recording all adverse incidents in prisons, including sexual assaults. The MOJ (2018:24) described the IRS as 'a system first introduced in the late 1980s, to record a range of incidents in prisons including escapes, absconds, fire, drugs, damage to property, assaults etc.' Garland (2001:19) argued that prison administration had morphed into complex, new managerialist centralised systems for monitoring and controlling the activities carried out by staff. The monitoring of staff activity would, Garland (2001:19) argued, previously have been seen as outside of policy management control because these activities were improved by application of staff discretion. Removal of discretion from agents of the current criminal justice system (Garland, 2001; Carlen, 2008; Tombs, 2008; Hall, 2016) and the suppression of knowledge about its failure to reduce crime had allowed staff to continue running expensive interventions and recording outcomes as if they worked.

Bennett (2016:112) argued that from 2002 a new strategic prison service agenda emerged which emphasised the importance of 'decency' in running prisons and led to measures which focused on the 'moral performance of prisons'. Bennett's (2016:223) fieldwork, which was carried out during 2014-2015 (immediately following the data capture period of 2004-2014), demonstrated that the focus of performance management regimes in prisons had been altered to incorporate a wider range of measures, including more qualitative measures such as the views of prisoners. However, a strong managerial preference for quantitative performance management was identified by Bennett (2016:223). Managers perceived quantitative measures as being less complex and they limited the impact of qualitative measures which incorporated the views of prisoners and had been devised to increase legitimacy. The IRS is an example of a performance management mechanism, relying, almost exclusively, on quantitative data to describe adverse incidents, such as sexual assaults. The incident description (ID) element of the IRS is the sole qualitative data field containing information recorded about incidents and those involved in them.

As a performance management system, information recorded in the IRS has obscured the reality of prison-based sexual assaults, labelling unrealised outcomes as 'outcomes' and adapting goals which are commonly understood to be based on the principles of the criminal justice system.

Carlen (2008:4) acknowledged that there was nothing substantially new about 'organisational goal adaption' where managerial discretion was applied to change goals where significant material barriers made it impossible to realise them. For Carlen (2008:4) though, what marked the new 'era' of criminology, was the movement away from exposing hidden failures of the system to a culture of openness where staff overtly stated that organisational goals were unrealisable and they could not achieve them. The question of whether gaming techniques have been consciously applied to the IRS to adapt organisational goals is hard to ascertain without more robust research focused on staff attitudes towards recording responses to sexual assaults. However, it is possible to identify ways in which informal modification of measurable outcomes may have reduced the impact of the real reporting picture. The IRS includes clear examples where weak recording practices have obscured the incident details and responses carried out in relation to the sexual assault. Although the *Safety in Custody Statistics* have met the quality threshold to be classified as *National Statistics* (MOJ, 2018:4) for reporting on the number of incidents, other data recorded in the IRS has not met this threshold. The only analysis carried out from the IRS data (aside from this thesis), beyond the reporting of the incidence of sexual assaults, has focused on less controversial aspects of the data. For example, besides reporting on 'outcomes' between 2002-2013, the data provided analysis of sexual assault by days of the week⁴⁰ and the proportion of serious injuries as a result of sexual assaults (MOJ, 2015b:unpaginated).

Lack of clarity and consistency of outcomes data has presented significant issues in the quality of the administrative dataset. The poor quality of the data and the pursuant lack of knowledge of reporting, recording and case progression is an inhibitor to independent scrutiny and academic research. It is of note, that the same management bulletin (MOJ, 2015b:unpaginated) used a different term to the IRS when reporting on adjudications. The IRS itself, reports on the number of 'adjudications', however, the management bulletin used the term 'referrals for adjudications', adding yet another layer of uncertainty (and possibly gaming) to the data. Systemic failures to take account of attrition caused by a variety of factors (including victims deciding to withdraw their support for initial enquiries and investigations, or police and prison staff closing investigations/taking no further action after referrals have already been recorded) opens the IRS to accusations of 'gaming' (Bennett, 2016). The literature clearly states the significance of victims' decisions to withdraw their support for investigations (or not to report in the first place) as a key

⁴⁰ Analysis of the days of the week that sexual assaults were reported 2002-2012 showed no significant difference between any of the days of the week.

issue for recording outcomes from sexual assault allegations (Scarce, 1997; Mezey and King, 2000; Kelly, Lovett and Regan, 2005; Javaid, 2014;2015).

Additional barriers to reporting may be based on perceptions that male sexual victimisation is something to hide because it has the potential to emasculate (Bowker, 1980; Lockwood, 1980) the complainant in the eyes of other prisoners, thus making them visible to the prison population as future targets for sexual assaults (Lockwood, 1980; Hensley, Koscheski and Tewksbury, 2005). Analysis of IDs from Dataset 2 identified 97 incidents where the victim refused police involvement and a further 23 where victims withdrew their support for the case and stated that their allegation had been untrue. The impact of risks associated with breaking prison mores associated with masculinity (Toch, 1998) and breaching the inmate code (Sykes, 1958; Garland and Wilson, 2013) may increase under-reporting and attrition when cases are discontinued. Typically, IDs which referred to victims withdrawing allegations were couched in terms of allegations being 'dropped' with little additional contextual information. For example, in June 2004, this ID, although it seems to have been subject to minimal updating, failed to provide details about the outcome and was only recorded in the IRS as having been 'referred to the police':

"On X June 2004 at between 15:00 and 16:00 Prisoner V that Prisoner Y sexually assaulted him in his cell by touching his genitals. This matter was referred to Security for a police referral. Both prisoners located in the VPU ... waiting to speak to the PIO, it is believed the allegations were dropped."

A number of the IDs were coded In Vivo (see Section 4.4.2 for an explanation of this process) as including either 'no further action' (N=63) or, more controversially as 'signed a police disclaimer' (N=8). IDs that referenced cases as 'no further action' often attributed the decision as being a police decision following a referral. References made to 'signing police disclaimers' in the IDs were less frequent but appeared to be more menacing as they were suggestive of precautions taken to avoid blaming staff. For example, an ID from 2004 recognised the veracity of the report because it referred to measures taken to isolate the perpetrator. However, it also recorded staff dissuading the victim from continuation of the complaint:

"Between 0300hrs and 0600hrs on X Oct 2007 in cell D3 Prisoner V reported to staff (at 0800) that he would not return to D3 as between the time above, Prisoner Y would not stop masturbating and he had attempted to assault V."

Prisoner V was interviewed about the incident and he reiterated that Y had assaulted him and tried to get in his bed whilst masturbating continuously. Prisoner V was advised this was a serious allegation and [he was asked] would he want the Police informed, he declined and signed a disclaimer to that effect. Prisoner Y was moved to B wing at 1000hrs and his CSRA41 was raised to high.”

Examples of sexual assault incidents being recorded as having been ‘referred to the police’ as a recorded ‘outcome’ in the quantitative data fields while being identified in the IDs as having ‘no further action’ may suggest an element of ‘gaming’ (Bennett, 2016:82). Bennett (2016:82) noted that key performance indicators, such as recording safety in custody issues, may cause a form of ‘myopia’ in which staff focus only on the shorter term outcomes (such as recording) but lack a longer term focus on real outcomes (such as investigations, prosecutions and prevention techniques). Recording outcomes as activities or processes suggests that an incident has been met with a thorough and positive response, sometimes masking the longer-term outcome of the case being dropped and unrealised. Carlen’s (2008:6) perspective on staff application of discretion as a form of ‘institutional worker consciousness’ when modifying auditing frameworks can be applied to some of the ways in which the IRS system has developed (or not) to support staff discretion. Despite changes being made to the recording of deaths in custody, incidents of self-harm, assaults and serious assaults (MOJ, 2018), changes have been piecemeal and have not addressed ‘the elephant in the room’. The sustained failure to provide clear definitions of individual sexual assault types (e.g. rape, prisoner on prisoner drug search, verbal threats) and their outcomes has been a feature of the IRS. These are discussed in the following section.

6.5 New managerialism and recording sexual assaults

The IRS is primarily an administrative data system, which is also used by prison staff as a system for noting what has been done to whom in relation to adverse incidents reported in prisons. Although the IRS data is deemed to meet the quality thresholds for the recording of sexual assaults (enabling them to be published as the *Safety in Custody* data) it is impossible to determine the reasons for the institutional ambivalence towards recording different types of sexual assault. In particular, decisions to not differentiate between types of sexual assault

⁴¹ Cell-sharing risk assessment

masking the degree of seriousness of assaults, fails to connect incidents to criminal offences (or not) and does not address the issue of prisoner on prisoner drug searches which may include different patterns of offending, victimisation and outcomes. Goffman's (1961:73) insights into 'the staff world' in total institutions suggested that they had management rationales which hid the fact that organisations were 'dumping grounds' for 'inmates' by presenting themselves as producing 'a few officially avowed and officially approved ends'. Actions or methods of 'processing' inmates, were recorded (at that time using paper systems) 'detailing what had been done to and by the patient and who had most recent responsibility for him' (Goffman, 1961:73).

Garland (1996) argued that the failures inherent in the criminal justice system and the 'war on crime' had concluded that 'nothing worked'. The new criminological position described by Garland (1996) of admitting that governments and agencies could not reduce crime and could make 'modest improvements at the margin' could also be applied to the continued use of the IRS system as a performance management tool. The processing of cases via routine recording of activity in the IRS shows little evidence of focus on outcomes of cases or longer-term preventative action to reduce sexual assaults in prisons. It is possible that Garland's (1996) contention that the government of the late 1990s created more realisable targets for reducing crime (which included management of risks, reducing fear of crime, expenditure on prisons and the criminal justice system) scaling down more ambitious targets, such as tackling sexual assaults in prisons. Instead of reducing prison-based sexual assaults, government agency focus may have been directed towards the deployment and use of the IRS as a centralised recording system which 'supported' realisable outcomes, such as recording. Directing targets towards recording and publishing data to produce *Safety in Custody* data, which included sexual assaults, may have scaled down more ambitious goals to investigate, prosecute and prevent sexual assaults.

Although the *Handling of Crime in Prisons Protocol* (NOMS, CPS and ACPO, 2015) and referral procedures (HMIC, NPCC and CPS, 2019) have been published to coordinate responses to crime in prisons, the absence of specific guidance and training about responding to sexual assaults is notable. The *Guide to the Safety in Custody Statistics* (MOJ, 2018:4) includes a commentary on the history and provenance of the IRS, stating:

“[The IRS} started to increase the range of safety in custody information available, in particular that relating to self-harm and assaults. Improvements to centrally held data now mean that there are consistent data sets for deaths (from 1978), self-harm (from 2004) and assaults (from 2002) from which to determine trends.”

The MOJ does not, however, address the creation of the data or acknowledge the human factors in reporting and recording sexual assaults and some of the unique demands involved in reporting sexual assaults in prisons. In stark contrast to the international literature which has overwhelmingly recounted prisoners’ reluctance to report assaults (O'Donnell and Edgar, 1996; Hopkins and Brunton-Smith, 2014) and sexual assaults (Sykes, 1958; Irwin and Cressey, 1962; Bowker, 1980; Lockwood, 1980; Wooden and Parker, 1982; Toch, 1992; Donaldson, 2001; Fleisher and Krienert, 2006; Fowler *et al.*, 2010; Miller, 2010; Beck *et al.*, 2013; Einat, 2013; Garland and Wilson, 2013; Kubiak *et al.*, 2016), the Guide (MOJ, 2018:6), as part of its explanatory notes, states that:

“In prisons, as in the general population, self-harm is often covert, and assaults may go unreported. In prison custody, however, such incidents are more likely to be detected and counted. Recording of self-harm and assault incidents in prison custody has improved over the years, but it remains the case that they cannot be counted with absolute accuracy and represent reported incidents.”

It is hard to establish the validity of the guide’s (MOJ, 2018) counter intuitive suggestions that assaults and sexual assault incidents are more likely to be ‘detected’ and ‘counted’ in prisons. Although Dataset 2 indicated that the majority of sexual assaults had been reported directly by prisoners to prison officers, Crewe (2009:81) argued that the introduction of bureaucratic prison reporting and auditing systems had reduced opportunities for interpersonal contact between staff and prisoners. Bureaucracy may have reduced the prospect of prisoners and staff interactions which result in a report being made and recorded. Crewe (2009:108) also suggested that the power vested in staff to apply rules about incentive schemes presented a potential barrier or disincentive for prisoners to make complaints because these might reduce their access to privileges. New managerialist approaches and the introduction of ‘hard measures’ (Bennett, 2016:120), resulting in a shift away from staff use of professional discretion (Carlen, 2008:16) have made prison regimes more easily adaptable to managerial, bureaucratic systems (Garland, 2001).

Such systems and processes have served to regulate interpersonal contact between prison officers and prisoners (Crewe, 2009; Liebling, Price and Shefer, 2012), reducing front-line decision-making discretion (Crewe, 2009:108). Crewe (2009:210) argued that the distancing of prison officers from day to day discretionary decisions, as well as formal considerations had impacted on prisoners' lived experience of their sentence (and release). Social distancing between prison staff and prisoners may also have reduced prisoners' confidence in the wider penal system, partly because it has affected their ability to challenge decisions made about them, their privileges and release (Crewe, 2009:210).

Sexual assaults may have remained hidden, even from the 'risk-crazed governance and actuarial management' (Carlen, 2008:13) where they have been recorded, but not analysed, and published but not scrutinised. In Carlen's (2008:12) words, imaginary penalties exist where 'knowledge is centralised and essentialised and critique is negated via incorporative and other silencing techniques'. The IRS is an example of an actuarial, centralised managerial system, which has allowed staff to record sexual assaults in terms of 'practice without prospect'. In this system of governance, prison staff rarely encounter reported sexual assaults which they perceive to be *real* or, as they might phrase it, 'sexually motivated'. Assaults which do happen under the open gaze of prison staff take place in the form of prisoner on prisoner drug searches, which are regarded by staff as being an inevitable element of the unrelenting drug market, 'business as usual'. Sim's (2008:150) argument that those most capable of challenging the obfuscation of knowledge about prisons, by presenting their competing realities about prison life, were prisoners themselves. This thesis presents many opportunities for further research to be conducted directly with prisoners to ensure that their, mostly invisible and unheard, experiences of reporting sexual assaults are revealed.

Chapter 7 Conclusion

This thesis is based on an analysis of 844 adult male sexual assaults, involving 2,032 prisoners which occurred between 2004-2014 in prisons in England and Wales. This analysis signifies the first time that the Incident Reporting System (IRS) data has been interrogated by independent academic research. Its findings are the only existing published record of the patterns and initial responses to reported sexual assault incidents in England and Wales. When comparable sexual assaults are committed in the community they are regarded as being some of the most serious offences, attracting the attention of the media, soliciting public concern and initiating enquiry. Equivalent offences carried out in prison environments have not drawn the same concerns. This thesis contributes the first opportunity for transparency about a hidden world in which sexual offences continue to occur without scrutiny. Results from this thesis may initiate the first steps towards developing an appropriate response to prison-based sexual assaults; a response that takes into account the unique circumstances of prisons and 'the prisoner society' (Crewe, 2009).

Preparation of the IRS data for the purpose of analysis was a significant task which may have proved prohibitive for a smaller scale project, or less determined researcher. Lack of consistency in recording and incomplete data fields were evident over the data capture period of 2004-2014. The absence of independent or, indeed government scrutiny, of the sexual assault reporting data was notable. Data quality was weak making formal publication as more detailed official statistics impossible because, in its present condition, the IRS does not meet the required thresholds.

The MOJ's (2020:unpaginated) most recently published annual summary of the *Safety in Custody Statistics* provided sexual assault data aggregated with other 'serious assaults', making it impossible to distinguish sexual assault reporting trends without accessing the raw data. At the end of the statistical bulletin, the only clear reference made to reported sexual assaults, as a sub-category of serious assaults was:

"There were 393 sexual assaults in custody in 2019, a 15% decrease from 462 sexual assaults in custody in 2018 For females, there was a 12% increase in

sexual assaults in custody, from 26 in 2018 to 29 in 2019. For males, there was a 17% decrease, from 436 in 2018 to 364 in 2019.”

Without context, an apparent fall in the numbers of reported sexual assaults may appear to be encouraging. However, given the much lower levels of reporting and recording during 2004-2014 and the incremental increases since, these numbers should be a cause for concern or be the successful result of consolidated changes which have increased reporting levels. While there may be plans to improve the data quality of recorded sexual assaults, disinclination towards publishing even trend- based data, suggests a recognition of the weaknesses of the recording data and perhaps reflects the general response to sexual assaults adopted by the prison service. Future *Safety in Custody Statistics* should grant at least the same weight to the analysis and publication of data of reported sexual assaults as those focused on other elements of safety such as deaths, self-harm, and physical assault.

7.1 Research context

The overall research question for this thesis was: **What are the initial responses by the prison and police services to adult male prisoners’ reports of prisoner on prisoner sexual assaults in England and Wales?** This question was addressed through analysis of the IRS data which identified the patterns of reporting and recording of sexual assaults and the actions taken to respond to those reports. The administrative data accessed was not collected for the purposes of research. Fleming and King’s (2013:15) advice to researchers that ‘data should never be taken as given’ strongly applies to my research. My results are based on reported and recorded incidents and cannot provide a ‘true’ picture of victimisation and offending in prisons. Instead, the research has highlighted a gap in research about the reporting and recording of sexual offending in prisons which has proved challenging to expose, largely because of obfuscations in the recording processes and resulting data. Sifting through the complex data sets, the nature of assaults was revealed, highlighting that assaults had been carelessly labelled only as ‘sexual assaults’ in the IRS. Analysing the qualitative text fields, or IDs, allowed for a sharp focus on the pains of imprisonment which are embodied by the experiences of sexual assaults and the disregard for social mores in prisons. Although rarely reported and recorded, sexual assaults epitomize a *known unknown* for the prison service, both in terms of not revealing actual levels of victimisation

and the absence of knowledge about the precise nature of assaults suffered by victims and the offending committed by perpetrators.

Chapter 2 adapted a theoretical framework used previously to examine new managerialism and prisons as 'risk-crazed' organisations which concealed unrealisable outcomes (Carlen, 2008). The 'new' and most applicable element of Carlen's (2008) 'imaginary penalties', that staff at all levels openly acknowledged that outcomes were unrealisable, provided a lens to examine the IRS data which has been openly accepted as being of poor quality (MOJ, 2015b). This central tenet of Carlen's (2008) work provided observations which underpinned 'imaginary penalties', allowing for adaptation to assess their potential to explore whether sexual assaults involved *imaginary responses*, and *imaginary outcomes*. The concept of 'gaming' (Bennett, 2016) management information via centralised managerial systems was considered as a mechanism by which staff kept prison regimes running in spite of potential disruptions, such as sexual assaults. Inhibitions to reporting, such as adhering to the inmate code (Sykes, 1958) were reviewed in the context of the realities of reporting and the mechanisms and processes in place to ensure that incidents are approached as crimes in prison.

Chapter 3 reviewed the empirical evidence about sexual assault in prisons. The available international research, although often hard to generalise to England and Wales provided a meaningful framework for exploring and coding the data.

Chapter 4 provided a pragmatic rationale for the methodological approach to analysis of the IRS data. The research design was developed in an iterative manner to accommodate the complexity of organising, exploring (and understanding) the data. Mixed methods were used in the research, combining descriptive statistics with an analysis of the qualitative data fields to ensure that the IRS was *squeezed* to elicit as much insight as possible. A limited number of in-depth interviews were conducted with prison staff to assist in unpicking the patterns revealed by the descriptive statistics and the incident descriptions. These insights were not used to validate the results, but they did allow me to consider the data in the context of daily prison life, of which I had no first-hand experience.

7.2 Research question 1: What are the patterns and characteristics of reported and recorded prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?

The original contribution of this thesis to understanding sexual assaults in prisons in England and Wales is founded on the first insights from the official reporting data. Broad trends showing increases in reported sexual assaults during the data capture period of 2004-2014 have continued with some minor fluctuations.

One of the most striking findings from the analysis of the quantitative data was the challenges in determining 'outcomes' from reported sexual assaults. The commonly accepted, and continued practice of recording activities and processes (such as 'referrals made to the police'), rather than final outcomes (based on criminal justice results) raised concerns about recording standards and the possibility of 'gaming' (Bennett, 2016). A low number of incidents resulted in formal outcomes such as adjudications and pending prosecutions. However, the final outcomes of criminal justice processes remained unrecorded in the IRS.

Descriptive data analysis confirmed that in most incidents, weapons were not used. However, the multiple perpetrator incidents were identified as being most likely to include use of a weapon. Most reported sexual assaults involved two people. In the vast majority of cases the victim was able to name the perpetrator/s, highlighting the real problems associated with breaching the inmate code and making a report and investigating reported offences. Based on prisoner categorisation, unclassified prisoners were over-represented in the data as both victims and perpetrators. Category B Local prisons were identified as potential hotspots of risk for sexual assault, most often experienced in an individual's first three months of reception at a prison. Reception stage risks extended to perpetrators too, as almost half of them committed sexual assaults in the first six months of being at a prison. Prisoner on prisoner drug searches, only identifiable through analysis of the qualitative data fields or IDs, were clearly associated with the early or reception stages at a prison, as 38% of these were reported as occurring less than a week from reception at a prison.

When examining the backgrounds and characteristics of those involved, prisoners serving sentences for sex offences were over-represented as both victims and perpetrators. The data

revealed that most victims and perpetrators were designated as being White. BAME perpetrators were proportionate to their make up in the general prison population. However, BAME prisoners were under-represented as victims of sexual assault, raising further questions about victimisation levels and willingness to report incidents. The data revealed that BAME perpetrators were, however, more likely to be involved in multiple perpetrator sexual assaults and slightly more likely to be victims in multiple perpetrator incidents. Age was also identified as an important factor in prison-based sexual assaults, younger men (aged under 30) were over-represented as victims and perpetrators.

7.3 Research question 2: What insights do the prison officer-generated incident descriptions (IDs) from the IRS provide about the initial response to prisoner on prisoner sexual assaults in adult men's prisons in England and Wales?

Although quantitative data analysis provided some of the answers to research question 1, findings were enhanced by undertaking qualitative analysis of the IDs. The qualitative data fields provided rich data and meaning to the sparse details recorded in the other IRS fields. The most significant insight gained from this analysis was identification of the type of assaults which had taken place. Without this detailed analysis, it would not have been possible to distinguish between prisoner on prisoner drug searches and other sexual assaults. Even with detailed coding, the IRS data revealed that almost a third of incidents did not include sufficient information to identify the type of sexual assault which had taken place and these cases remained labelled as 'unspecified'. Systemic deficiencies in accuracy and information about the precise nature of each sexual assault persist in the current recording regimen, reports still do not differentiate between types of sexual assault. The implication that serious sexual assaults have remained outside of the scrutiny and dominion of new managerialism data collection standards, suggests that it is not, and has never been, a priority for the prison service in England and Wales.

Prisoner on prisoner drug and contraband searches were reported relatively frequently. However, reports of them are aggregated with the other sexual assaults, despite their distinctive features which are recognised by staff, who cannot easily identify them from their own data.

Drug searches were some of the most disturbing incidents to read and code, often involving brutality, violence, restraint, multiple perpetrators, and everyday objects adapted for use as weapons. Other findings, of particular interest should administration wish to design interventions to reduce sexual assaults, were that victims almost always verbally reported assaults directly to prison officers and that incidents often took place in the prisoner's own cell or another cell, away from the gaze of CCTV and surveillance by staff.

The IDs extended the IRS information about 'outcomes' by identifying a range of activities or *imagined outcomes*, recorded by staff as evidence of their response to sexual assaults. However, the detail of these *imagined outcomes* revealed that they mostly consisted of temporary fixes which combined, represent a range of *practice without prospect*. Returning to Carlen (2008), a pragmatic interpretation of the data analysis suggests that sexual assaults, and their unrealisable outcomes, exist as an open secret among prison staff and governance hierarchies. Prison staff evidenced their commitment to caring for prisoners by conducting a range of activities in response to sexual assaults, all apparently in the absence of visible strategic support, guidance and relevant training. The recording processes and the IRS itself, are reminiscent of Goffman's (1961:73) observation that work in total institutions was 'followed by a paper shadow showing what has been done by whom, what is to be done, and who last had responsibility for it'. Information has been recorded without a care for the 'outcome', and instead, persistent efforts have been made to present a culture where *imaginary value* is placed on recording *imaginary outcomes*. Aside from the administrative data analysis outlined in this thesis, opportunities which allow prisoners to speak candidly about their experiences have been lost (Stevens, 2019).

7.4 Implications for further research

The limitations of this research reflect the general limitations in research questions which are shaped by administrative datasets. The findings of this thesis identify knowledge that foregrounds men in prison and their direct (and indirect) experience of sexual assault and the routine practice of prisoner on prisoner searches. Given that all academic research raises questions and identifies new areas for research, access to prisons for independent research to address prisoner and staff experiences of sexual assaults would go some way to closing those gaps. Aspects of this thesis have raised specific areas where research has the potential to improve our understanding of prisoner groups who experience and perpetrate sexual assaults.

The role of licence recalls and reception stages of imprisonment in victimisation and drug importation and the impact of new processes designed to tackle crime in prisons are areas that are under-researched and would benefit from further enquiry. Governance practices expressed by recording activity as 'outcomes' and the 'gaming' of management information also require academic scrutiny.

Statistics alone can only provide information as it has been reported and recorded. They lack context. They assume incidents are reported and recorded neutrally and without intent. They cannot convey the prisoner experience, pains of victimisation and negotiation involved in deciding to report a sexual assault in a hostile environment.

7.5 Chapter summary

Chapter 6 has linked the findings of this thesis to the theoretical framework outlined in Chapter 2. Carlen's 'imagined penalties' (2008), has been used as a lens to examine the notion of sexual assaults having few realisable outcomes. The focus on IRS data 'outcomes' has been examined in detail, building on the analysis of recorded outcomes from Chapter 5. This chapter has described some of the challenges articulated by prison staff, albeit from small-scale interviews, including the complexities associated with developing investigations beyond their initial phases. The chapter has proposed that practical challenges as the focus on reporting rather than responding has led to staff listing their activities and processes as proof of a response having occurred, even though it is highly probable that cases have little or no prospect of an outcome. Lack of outcomes, or *imaginary outcomes*, have been described as routinely accepted by staff who continue to deliver a range of activities and responses which together, form *practice without prospect* of an outcome. Prisoner on prisoner drug searches have been used as an example of the way in which staff accept both the drug supply market and the smuggling methods in prisons, continuing to classify them as sexual assaults in the IRS data, even though staff may resist this definition in practice. Drugs markets and their real impact on prisoners, including those who risk or experience sexual assaults, have continued to burgeon, despite government declarations about strategies and initiatives designed to stop them. This chapter has also addressed the anomalies concerned with the recording of sexual assaults and the intrinsic 'gaming' techniques, which have been incorporated into recording practices to provide the impression of an organised and determined response to sexual assaults. It has focused on the impact of new managerialism on both centralised systems and processes connected with recording sexual assaults in prisons. Chapter 6 has grounded anomalies between the MOJ guide to the *Safety in Custody Statistics* and the collective, if limited, wisdom compiled from international research confounded by new managerialism with its misplaced focus on achieving targets.

Appendix A: Codebook - codes, sub-categories and descriptions

Code and sub-categories	Description/notes
Annotations	
Belief (of report taker)	May include more than one
Compassion from prison officer	Empathy demonstrated
Disbelief in truth of report	From prison officer, staff. Includes explicit disbelief
Evidence	May include more than one
Disclosure by perpetrator	Verbally or in writing
Forensic recovery	Includes bagging of clothes and bedding, sealing of cell (although actual recovery from the cell might not take place), coroner's locks, CCTV
Injuries	Visual or apparent from healthcare examination
Statement or forms	Includes formal submissions through paper based complaints systems as well as written notes passed to staff or complaints made as part of other processes/meetings
Victim demeanour	Any commentary on the emotional condition of the victim when they made their report
Victim verbal	Includes report initially made by others e.g. prison officer, witness, cell mate, where the victim goes on to disclose
Witnesses	Includes others present at the time of the incident but who provided no information
Feelings (victim)	May include more than one
Afraid	Reference to fear
Distressed	Includes crying, visibly shaken, shocked
Hard to talk about	Includes the victim saying it was hard to talk and/or the report taker noting that the victim found it hard to talk about
Involvements	May include more than one

Code and sub-categories	Description/notes
Cellmate	Specified or implied as sexual assault occurred during lock up
Counter Allegations	Two separate reports or mentioned as a counter allegation in the ID
Multiple perpetrators	Named or referenced by numbers e.g. six people
Multiple victims	
Watchers	Reference to those keeping watch and/or watching the incident in a passive role
Location	May include one
Not specified	No additional information included in ID or information too ambiguous to determine the nature of the sexual assault
Other cell	Clear reference to another cell, not including any assaults during lock up
Own cell	Clear reference to own cell or reference made to assault taking place overnight/during lock up
Public area	Corridor, stairs, landing
Room or Workshop	Includes listening room, classroom, work room. All private/closed
Showers	Includes toilets
Mechanism	May include more than one
Blackmail	Same as bribery, reference to bribery
Drugged	Includes drunk or where ID makes reference to behaviour linked to intoxication as they report and/or while the incident took place
During sleep	Includes woken from sleep or evidence of assault on waking
Early consent	Any reference to the incident starting as a consensual encounter or stating there had been previous consensual activities
Grooming	Includes coercive control
Locked in or tied up	Cell doors being closed/secured or ties used to restrain victim
Not indicated	
Overcome with violence	Includes being taken by surprise with violence
Payment	Prostitution and/or drug smuggling

Code and sub-categories	Description/notes
Physical force by perpetrator (not violent)	Pushing, restraining, holding but without physical assault. Single perpetrators
Punishment	Includes reference to payback, revenge, gangs
Restrained by other prisoners	Pushing, restraining, holding but without physical assault. Multiple perpetrators
Threat of violence	Verbal threats and/or use of weapon as a threat
Vulnerable and impaired victim	Includes doubt over capacity to consent, physical disability and temporary impairments such as epilepsy
'Outcomes'	May include more than one
Local prison investigation only	Prison investigation with no reference to making a referral to the police
No further action	In Vivo
Perpetrator placed on report	Includes perpetrators
Perpetrator relocated	Includes segregation, cell move, and prison move. Includes perpetrators
Referred to police	Prison Liaison Officer, Prison Intelligence Officer or local police via 999 or dedicated number
Report only	No reference made to any action taken other than recording the report
Signed police disclaimer	In Vivo
Victim refuses police involvement	Includes circumstances when asked by staff and when not
Victim re-located	Includes segregation, cell move and moves to another prison
Victim requests police involvement	Includes PLO, PIO or local police
Victim sent to healthcare	In the prison
Victim sent to NHS hospital	External hospital

Code and sub-categories	Description/notes
Victim withdrawal	Victim says it did not happen, claims injuries were self-inflicted injuries, fears reprisal or general withdrawal of complaint
Person receiving report	May include one
Governor	All grades and managerial roles
Other staff	Includes health, education, clergy and welfare, prisoner listeners
Prison Officer	Includes supervisory roles, senior prison officers
Security	Any security staff including staff transferring to prison/court
Aggravated	May include more than one
Long duration	Reference made to prolonged sexual assaults, same incident
More than once	During the same incident
Report initiator	May include one
Family member	By any means, including email, letter and telephone
Prison Officer	Without direct reporting from victim or witness
Unclear	Not enough information
Victim	Verbal and written
Witness	Included those named as a witness and reporters who did not witness the incident but had knowledge of the incident or had been told/suspected that the sexual assault had taken place
Sexual Assaults	May include one – the most serious aspect of the incident
Anal drug search with an object	Not a digit. Reference made to drugs, smuggling, and supply. Included cases where victim did not have drugs
Anal drug search with enema	References use of soapy water, bottles
Anal penetration with an object	No reference to drug search, although this may not have been disclosed/recorded
Anal rape with a penis	Includes where term 'rape' is used but details are not specified
Attempted anal rape with a penis	Falls short of penetration. Includes reference to the intention to rape
Digital penetration	No reference to drug search, although this may not have been disclosed/recorded

Code and sub-categories	Description/notes
Digital penetration drug search	Not an object, but may include use of lubricants and/or gloves. Reference made to drugs, smuggling, and supply. Included cases where victim did not have drugs
Exposure	Deliberate and not as a consequence of living in the same cell/being in the showers (as perceived by the victim/reporter)
Forced oral sex	Of perpetrator's penis
Forced perpetrator masturbation	Of perpetrator's penis
Forced victim masturbation	Of victim's penis
Genital or anal drug search	No penetration, includes touching or visual inspection
Masturbating near victim	Deliberate and not as a consequence of living in the same cell/being in the showers (as perceived by the victim/reporter)
Oral rape of victim	
Sexual assault not specified	
Stripped	Not including cases where trousers are removed for drug searches
Touching genitals	Over and under clothing
Unwanted physical contact – kissing	Includes touching over clothes and under clothes but not genitals or bottom), kissing
Verbal threat	Must be a sexual threat
Weapons	
Enemas	
Weapons all	Includes bladed and non-bladed and all other objects used to threaten or carry out the sexual assault

Appendix B: Topic guide for the semi-structured interviews

1. Tell me about your role.
2. Tell me about the process of recording and investigating a report of a sexual assault.
3. Tell me about the thinking behind recording details of sexual assaults.

PROMPT: Why should they be recorded? Are they all recorded? Is it necessary?

5. Tell me about any difficulties that you think prisoners might face in reporting sexual assaults.

PROMPT: Are they fearful? Is it different for drug searches?

5. Tell me about any challenges faced by staff in responding to prisoner reports of sexual assault.
6. Tell me about the staff perspectives on sexual assaults in men's prisons.

PROMPT: And recording and investigating them?

7. As far as your role and experience is concerned, do you think reports of sexual assaults in prisons have a realistic prospect of criminal justice resolution?
8. Thinking about prisoner on prisoner drug searches – do you think these differ from other sexual assaults – in terms of reasons for reporting or prospect of criminal justice outcome?
9. What is the role of the prison intelligence officer/prison officer/custodial manager in terms of the reporting line and/or investigation?

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