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An examination of consensual sex in a men's jail

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Abstract

Purpose ——The purpose of this paper is to use secondary data from qualitative interviews that examined the sexual behaviors, HIV attitudes, and condom use of 17 gay, bisexual, and transgender women housed in a protective custody unit in the Los Angeles County Jail (Harawa et al., 2010), to develop a better understanding of the consensual sexual behaviors of male prisoners.

Design/methodology/approach ——Study eligibility included: report anal or oral sex with another male in the prior six months; speak and understand English; and incarcerated in the unit for at least two weeks. Data analysis consisted of an inductive, qualitative approach.

Findings ——Findings illuminate participants' experiences concerning how the correctional facility shaped their sexual choices and behaviors, and the HIV-risk reduction strategies they employed.

Originality/value ——This study contributes to the prison-sex literature, and is timely, given current federal and local HIV/AIDS priorities. Recommendations that address male prisoners' sexual and health needs and risks are posed.

Keywords

Criminal justice system; Offender health; HIV/AIDS; Qualitative research; Sexual health; Harm reduction

Background

People of color disproportionately bear the burden of both HIV/AIDS and mass incarceration in the USA (Carson, 2015; Center for Disease Control and Prevention, 2016a). Black men are especially affected, as one in three will spend time behind bars in his lifetime (The Sentencing Project, 2013). Men in jail and prison settings also accounted for 91 percent

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of all state and federal inmates who were living with HIV/AIDS (20,093) in 2010 (Center for Disease Control and Prevention, 2015). The concentration of HIV in correctional settings for men thus raises concerns about the health of incarcerated men of color. This also poses a public health issue for disadvantaged communities, as they are plagued with high rates of incarceration and people returning from correctional facilities (Morenoff and Harding, 2014).

Jail and prison conditions and prisoners' risk behaviors, including overcrowding, injection drug use, tattooing, sexual violence, and unprotected sex are identified as factors that may contribute to HIV transmission in correctional settings (AVERT, 2016). Among these factors, sex and tattooing are identified as high-risk, intraprison behaviors that influence HIV transmission (Krebs, 2002). Researchers therefore often associate high levels of HIV in correctional facilities for men with sexual victimization (Howard League for Penal Reform, 2014; Kunzel, 2008; Human Rights Watch, 2001; Robertson, 2003; Stop Prisoner Rape, 2005). Yet, it is unknown how many men in jail and prison settings acquire HIV from a particular risk factor.

Although limited, literature confirms that consensual sex between people in correctional settings for men does occur (Tewksbury, 1989; Saum *et al.*, 1995, Hensley *et al.*, 2001; Hensley, 2002; Howard League for Penal Reform, 2013, 2014). For instance, Hensley *et al.* (2001) mixed method study that examined the consensual sex activities of men found that 36 percent of the sample ($n = 142$) reported receiving consensual oral sex from another inmate.

However, because such data are sparse and because fear and stigma surrounds the topic of sex in correctional facilities for men (Arreola *et al.*, 2015), it is difficult to determine the scope of consensual sex among men in jails and prisons. It is also just as hard to determine if a sexual relationship between people in jail and prison settings is coerced or consensual, because relations in these settings are often based on complicated, protective, and exploitive allegiances formed in an oppressive, confined culture. A better understanding of the consensual sexual behaviors of men in jails and prisons is therefore needed, as this knowledge can inform policy, practice, and interventions that address their sexual health needs and risks for HIV infection and transmission. This is also timely given advances in HIV prevention efforts, such as Pre-Exposure Prophylaxis (PrEP) (Center for Disease Control and Prevention, 2016b).

This paper uses secondary data from a qualitative study that examined the sexual behaviors, HIV attitudes, and condom use among male-to-female (MTF) transgender women and men who have sex with men (MSM) housed in a protective custody unit in the Los Angeles County Jail called "keep-away designation 6G" (K6G) (Harawa *et al.*, 2010). Given there is little quantitative and qualitative data on consensual sex activities within a correctional facility for men, this paper uses this unique opportunity to explore the following research questions:

> *RQ1.* How and under what circumstances does consensual sex occur in a men's correctional setting designated for sexual minorities?

RQ2. Does this group of people employ strategies to reduce their risk of HIV infection or transmission?

RQ3. If so, what strategies do they use?

Methods

A secondary analysis of semi-structured interviews with 17 individuals who "represented the diverse backgrounds and sex-related custody experiences of K6G inmates" was conducted (Harawa *et al.*, 2010, p. 1074). The approximately 300-person unit across three dormitories is limited to individuals who self-identify as gay, bisexual, or MTF transgender at jail entry, and pass further questioning intended to confirm their status. To be eligible for the study, participants had to: report anal or oral sex with either a male or MTF transgender woman in the prior six months (correctional and community settings); speak and understand English; and have been incarcerated in the K6G unit for at least two weeks. Interviews were conducted by a male researcher who was trained in ethnography. Discussions focused on participants' sex life before and during current and prior periods of incarceration, condom use, and participation in and attitudes toward the K6G condom distribution program. Institutional Review Board approval was granted by the Charles Drew University and the Los Angeles Sheriff's Department Correctional Services Unit (see the following citation for a detailed description of the original study's recruitment, enrollment, and interview procedures: Harawa *et al.*, 2010).

Data analysis consisted of Grounded Theory procedures, including coding, cross-case comparisons, and memoing (Charmaz, 2014). Using Atlast.ti, the two-person research team coded five interview transcripts separately to form the basis of a formal codebook. The codebook was finalized following an iterative coding process of all interview transcripts, and inconsistencies were discussed and resolved. Data matrices were used to compare data across interviews, and memos were written to account for bias and to document and define the boundaries of specific concepts.

Findings

Participants reported witnessing and engaging in protected and unprotected consensual sex during periods of incarceration. While the K6G condom distribution program was viewed as a protective strategy against HIV, the one condom per week policy and inmates' perception that most people in this unit were living with HIV influenced other inmate-driven HIV risk-reduction strategies. In the themes that follow, we discuss the participants' experiences regarding in-custody consensual sex and the risk reduction strategies they employed.

Sex while incarcerated opinions and experiences

"People do it all the time". This theme illuminates the normativity of consensual sex in the K6G Unit. Participants estimated that 75 to 90 percent of people in the K6G unit have sex regularly. According to one, "My first night there were tents going up [sheets placed around the bunk bed to obstruct view] and beds moving, you know, just hearing the moaning and the groaning […] and people went from bunk, to bunk, to bunk." Another participant explained,

"I've seen people around here just straight out, just do whatever they were gonna do right out in the open […] people do it all the time." While reported incidents of consensual sex were more common in the K6G Unit, it was not the only setting where people engaged in consensual sex, as participants witnessed and engaged in sex in facilities without segregated units for people who identify as gay, bisexual, or transgender. One participant, who was "scared" other inmates would learn he was "gay," described his consensual sex experiences upon receiving a cellmate:

> Two days went by and nothing bad happened […]. The next night I observed him masturbating and he caught my eye, and from there it just kind of developed into a sexual relationship […]. Eventually, they put another guy in there […] he picked up on what was going on during the night and he started getting involved […]. The only thing was, in [that facility], they didn't have the condom distribution […]. The whole barebacking thing was there.

Transgender women also highlighted non-segregated facilities and units as settings where their consensual sex activities commonly occur, as some perceived that the men in K6G "aren't attracted to women." As one transgender participant explained, "If I go on the mainline [referring to the general population of the jail], heterosexual men are more attracted to me than anything because I live as a woman."

"Just bound by the walls". The confined nature of correctional facilities also limited and shaped many participants' sexual choices. In particular, several reported serving lengthy sentences, in which some engaged in consensual sex to release their sexual frustration. One participant explained, "I was so limited in my choices, just bound by the walls, and I was here for eight months. I just gave in." Additionally, given their limited sexual choices, a number of participants broadened their pool of potential sex partners to include individuals they would not normally have sex with, such as HIV-positive individuals. For instance, one participant stated, "I was confined. I was stuck in here and everybody had HIV, so we really don't have nobody to choose from." Thus, even when they might prefer to avoid sex because of the setting, their perceptions of their choices of partners, or health concerns, the above examples show that some people do not deprive themselves of their sexual needs and willingly engage in high-risk sexual behaviors in correctional settings for men.

"I've had a few partners, and I don't always use protection". While participants highlight the normativity of consensual sex in both segregated and non-segregated facilities and units, most reported that the majority of these sexual acts were unprotected. According to one participant, "last week, I was cleaning up the dorm, and we literally watched two people engage in a very raunchy sex act, right in the open without condoms." In addition to witnessing unprotected sexual activity, some participants also admitted to not using condoms. For instance, another participant explained, "I've had a few partners, and I don't always use protection because I have the attitude, 'well I already got it.' "

Although some participants attributed unprotected prison-sex to the perception that most people in this unit were already HIV positive, others pointed to the lack of available condoms. For instance, one participant explained, "they only give us one a week […] so when you pick one up, you use it and then, the other times, I don't use it. I just go for it."

Additionally, when another participant who is HIV negative was asked to estimate how many people in K6G he believed were living with HIV, he said, “like 65% that I know of. The rest aren’t telling.” Thus, although HIV-positive and negative participants perceived that no less than 50 percent of K6G inmates were living with HIV, much higher than the actual prevalence of around 30 percent, their assumptions did not prevent them from engaging in unprotected sex.

Correction-based HIV risk reduction strategies

“I have a whole bunch of condoms”. While participants witnessed and, in some cases, engaged in unprotected sex, some did employ strategies to reduce their risk of HIV infection or transmission. In particular, several participated in the K6G condom distribution program each week. Although some participants had not had a sexual encounter during their most recent incarceration, they still participated in the program to share condoms with other people who they knew were sexually active more than once during a given week. For instance, one participant explained, “I have like a whole bunch of condoms right now that I let people that come ask me have. I give it to them so they can, you know, stay safe.” Nevertheless, while the condom distribution program served as a protective mechanism for some, many participants identified the one condom per week policy, as a barrier to their sexual health needs. However, some reported that other sexually active people avoided the condom distribution program all together, as one participant explained, “There don’t be no more than 20 people in a line and in each dorm there is 100 and something people […]. They cannot say they all don’t be having sex because there’s always tents up.”

“Different dorms, different rules”. The participants explained that there are also inmate-driven rules concerning sexual behaviors within K6G. However, according to one participant, these rules vary from dorm to dorm:

> We have structure […] we don’t allow sex to go on in the shower because you have people that have compromised immune systems and things […]. If you’re in an area where you’re disturbing your bunkie or people around you, then, quickly, it has to stop […]. We have people that like to clean themselves, or douche, as you will […]. People are not allowed to put their bottles up to the faucet in the bathroom. You have to use a cup […]. In our dorm, we really care about the next person.

This appears to demonstrate some people in jail’s concerns about others’ health. Yet, while the actions described in this vignette may protect against some enteric infections, they make little-to-no difference in terms of HIV transmission. Nevertheless, in addition to developing unit-wide rules surrounding sex, some participants also developed personal rules. For instance, several participants reported only engaging in foreplay activities (e.g. oral sex and masturbation) with other people during periods of incarceration. Other participants reported buying lotion or Vaseline from the correctional store to prevent the tearing of tissues during unprotected anal sex, as many complained about the lack of lubricant. Participants’ correction-based, risk-reduction strategies thus highlight people in jails’ health concerns and their willingness to take preventive actions.

Discussion and recommendations

This study's findings contribute to the prison sex literature, as they illuminate how consensual sex occurs among people in some correctional facilities for men. Witnessing and engaging in unprotected sex was a common experience, likely because the K6G condom distribution program only provided people in this unit with one condom per week at the time of data collection (more condoms and lube are now provided). However, we note that unprotected sex also occurs in community settings where condoms are more accessible, and that some people in the K6G Unit collected and shared condoms. Availability thus only addresses one barrier to this form of HIV protection, highlighting the need for additional HIV prevention efforts in correctional facilities for men.

Some participants living with HIV avoided condoms all together because their perception that most people in the K6G unit were positive relieved them of any fears concerning HIV transmission. Moreover, although the condom distribution program was identified as a key HIV-reduction strategy, more people were engaging in sex than participating in the program. Fear concerning HIV infection and transmission in correctional dormitory settings for men differs from community settings, as inmates' sexual networks and behaviors, and HIV-related stigma and discrimination are likely shaped by living in close quarters with 100 or so potential sex partners. This context may lead individuals to assume they know more about their sex partners, including his or her HIV status, than partners encountered in the community. Nevertheless, while the cultural norms within the K6G Unit often facilitate high-risk sexual activity, participants' risk-reduction strategies highlight the ways in which the Unit's norms are also supportive of behaviors that protect individuals and others from HIV/STI risks.

Study findings also point to how identity and sexuality interact in ways that facilitate and protect against HIV transmission in correctional facilities for men. In particular, the K6G unit served as a protective environment for transgender women, to some degree, as they perceived K6G inmates were not "attracted to women." Their consensual sex activities are thus likely more prominent in general population settings, as they perceived that men in these units are attracted to them because they live as women. Identity and sexuality therefore likely interacts differently in specialized units for individuals who self-identity as gay, bisexual, or MTF transgender than in general population custody settings. Nevertheless, due to the stigma and discrimination that is associated with homosexuality in correctional settings for men, the risk of HIV transmission is increased for people in these general population dormitories given the lack of available condom distribution programs.

Although some US correctional facilities are implementing HIV prevention and risk-reduction programs to address the preponderance of HIV in jail and prison settings for men (Harawa *et al.*, 2010; Visher *et al.*, 2015), these programs are not universal and condom distribution programs are rare. As such, we propose the following recommendations concerning the sexual and health needs of people in correctional settings for men:

1. increase the availability and accessibility of condom distribution programs, regardless of sexual orientation and facility or unit designation;

2. explore the addition of peer-driven strategies in the provision of HIV education and condom distribution;
3. investigate the feasibility of offering HIV PrEP;
4. consider housing MTF transgender women in correctional facilities for women;
5. include serosorting as part of HIV transmission and prevention education programs; and
6. consider providing HIV and STI screening prior to release for all individuals who spend more than a pre-specified number of weeks in custody.

Limitations and conclusions

This study has several limitations. First, it uses secondary data, which prevented the researchers from probing participants as they were interviewed. A prospective study would have afforded a stronger examination of participants' prison-sex experiences. Additionally, data were collected from a non-random sample of 17 sexually active individuals in one county jail facility. The sample was also drawn from a highly specialized unit, and does not generalize to the overall jail setting. Nevertheless, study findings identify the need for correction-based policies, practices, research, and interventions that address the sexual and health needs of individuals in correctional facilities for men, regardless of their self-identified sexual orientation. Such efforts are critical given the prevalence of HIV in correctional settings for men.

While much attention has been paid to the subject of prison rape in both policy and the media, the much more mundane realities of consensual sex in correctional settings for men has been given little attention, despite their health implications. Our recommendations are timely in that they align with current federal and local HIV/AIDS priorities, such as The Affordable Care Act, the 2014 Prisoner Protections for Family and Community Health Act in California (authorizing condom distribution in California prisons), and the updated National HIV/AIDS Strategy, which aim to address the domestic HIV epidemic. Increased research on and normalization of discussion surrounding sexual activity in these settings is critical to efforts promoting the health and well-being of individuals at-risk and living with HIV/AIDS.

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Three key points (main points and/or recommendations)

1. the rate of HIV infection among the US penal population is five times greater than that of the general population;
2. although significant attention is given to non-consensual sex in correctional facilities for men, the greater risk for HIV transmission is likely to be consensual sex; and
3. need for correction-based policies, practices, and interventions that address the sexual and health needs of male prisoners, regardless of their sexual orientation.