

“Fear or Favour - Sexual Assault of Young Prisoners”

Book Review*

[David Heilpern, Fear or Favour: Sexual Assault of Young Prisoners, Southern Cross University Press, 1998, pp 254, RRP \$A 29.95 (Softcover only), ISBN 1 875855 25 4.]

The current state of our prison system, not only in New South Wales but in all Australia States, is in great need of reform. The rate of male sexual assault is excessive and its occurrence inexcusable. “Fear or Favour” is based on a study of the incidence of sexual assault on young male prisoners aged 18 to 25 years and their experiences of sexual assault whilst in custody in New South Wales prisons. The book addresses the issues surrounding such assaults and suggests possible solutions to a problem which, in the words of Justice Michael Kirby, “needs urgent attention”.

The foreword by The Hon Justice Michael Kirby outlines the seriousness of sexual assault of young prisoners and recognises that “There are few more serious affronts to human dignity than the instances recounted in this book”. He also states on page iv:

“The problem of sexuality and prisons is complicated, but rape is no more acceptable in prisons than in society at large. I defy anyone to read this book without feeling the need that our society should do much better.”

The book was researched and written by David M Heilpern, in furtherance of a University Masters Degree. It is divided into two parts. In the first part, the author explains the basis of his research. In Chapter One, “Introduction”, the author begins with a disturbing statement of a young prisoner who describes how he was sexually abused whilst incarcerated in one of New South Wales’ prisons. The author tells of his experience as a practicing lawyer and the frustration in dealing with a court system that does not recognise the existence of such abuse in our prisons. This chapter sets out the research questions on which the study was based. These questions include:

- What is the extent of sexual and other assaults on prisoners aged 18 to 25 in New South Wales prisons?
- Are there any identifiable risk factors for sexual assault of prisoners aged 18 to 25 in New South Wales prisons?
- What are the causes of sexual assault in prison?
- What are the effects of sexual assault on these victims and ultimately, on society?
- What legal, policy and administrative measures can reduce sexual assault in prison?

The research methodology, and the full content of the survey are outlined in Chapter Two, "The Research". In all, 300 prisoners were surveyed and their information formed the conclusions of the research. One hundred and eleven of these were surveyed by way of self-administered questionnaire and the remaining 189 had the questionnaire administered during interviews with the author/researcher.

The research results are provided in Chapter Three "The Rule of the Cruel: This Study". The most striking figure in the results is that one in four male prisoners aged 18 to 25 is assaulted in New South Wales prisons. Almost half of the prisoners surveyed stated that they had been threatened with sexual assault and half said they had been assaulted other than sexually. The author also found that the assaults are "exclusively not reported".

The book also recognises that sexual assault is not only a serious problem in male prisons but also occurs in female prisons. In the research, ten women prisoners were surveyed by way of the same self-administered questionnaire, and statements of three of these women who reported being sexually abused appear in the book.

This chapter also includes statements made by prisoners in the course of interviews with the author, portraying the destructive effects that these assaults have on the victims of this crime. There are also statements from an interview with one of the perpetrators who makes some attempt to explain what he has done.

Chapter Four, "The Dominant Metaphor: Other Studies", recognises that the author's study is unique in that it targets 18 to 25 year olds and not the general prison population. Some studies have been conducted in the United States but there are few studies such as the one undertaken by the author. This is what makes *Fear or Favour* so important. It is evidence of what is actually occurring behind the walls of our prisons. Notably, the findings of some US studies have been similar. In one such US study the researchers describe sexual assault as being the "dominant metaphor" in the interaction of prisoners and the prison environment.

Heilpern also looks at other countries such as Canada and the United Kingdom. The history of sexual assault in Australian prisons is covered, revealing that sexual assault in prisons has been a problem since the time of Australian convict settlement.

Part Two of the book is concerned with the causes, effects and possible solutions to the current situation. "The Causes" of sexual assault in prison are assessed in Chapter Five, where Heilpern deals with issues such as power in an environment where most prisoners have no power at all. Sexual assault, argues Heilpern, is a means by which male prisoners can exert some power in an environment where they have had all basic powers taken away. In doing this the author discounts sexual release as a reason for sexual assault in prison. Another cause discussed is the overcrowding of prisons and the fact that prisoners have to share cells, leaving them open to sexual abuse by cell mates.

Prison administration is seen as a major contributing factor due to the fact that prison authorities "(a) pretend it does not exist, and (b) acknowledge it does, but justify it by claiming it serves a deterrent function". Other possible contributing factors are "age, low educational levels, Aboriginal over-representation and mean sentence length". As the author indicates, such "selective blindness" on behalf of the authorities is itself a serious criminal offence. The final causative factor discussed by Heilpern is the "spiral effect" whereby those prisoners who have been sexually assaulted are more likely to commit sexual assault themselves.

The psychological and physical effects of sexual assault in prison are considered at length in Chapter Six "Every Day Since I Died: The Psychological and Physical Effects". In this chapter Heilpern discusses both the short and long term effects of sexual assault on prisoners, including the four short term

psychological effects of "guilt, shame, suicidal tendencies and fear of becoming homosexual". One powerful conclusion made by the author and other researchers is that on release these young men "become time bombs that explode among us". The physical effects covered in the chapter include issues involving "Blood Borne Communicable Diseases" and how they relate to the prison environment and to the community on release of these young men.

Chapters Seven and Eight are concerned with potential remedies. In Chapter Seven, "The Right to Protection: Some Potential Remedies", the author raises issues such as the responsibility of the state in relation to allowing the sexual assault of prisoners in its care. The chapter examines the provisions of NSW legislation and Australian common law in relation to these issues. Chapter Eight "The Human Way: Sentencing Policy and Practice" suggests less incarceration and a more humane prison environment. In doing so the author discounts certain myths such as the belief that a softer prison system undermines the deterrent effect. This chapter also discusses sentencing policy and the effect of mass media. The author tells of his studies in countries such as the Netherlands and Scandinavia. It is suggested that there are alternatives to prison and that "courts should adapt their sentencing policy to take into account the findings of this research".

Methods of reducing the incidence of sexual assault and its effects are outlined in Chapter Nine "Administration and Management" and topics include the views of prisoners, the training of prison staff, training of prisoners, the effect of conjugal visits, women in prisons, issues involving blood borne communicable diseases, condoms, homosexuality, the empowerment of prisoners, counselling, oversight of complaints, and single cells for prisoners. In doing so the author compares the current position in New South Wales with that of other countries.

In Chapter Ten "Conclusions and Recommendations" the author summarises the conclusions drawn from the study and makes recommendations that include the special housing of prisoners aged 18 to 25, the need for training of prison officers, the classification of prisoners into those likely to be victims and those to be perpetrators, counselling for victims of sexual assault, education of prisoners, further research and the need for authorities to keep records of reports of sexual assault, the possibility of a Prison Ombudsman, the introduction and availability of condoms to prisoners, a change in legal

practices, allowing conjugal visits and an increase in the number of women prison officers. In conclusion, the author notes that this is the first study of its kind in New South Wales, and states on page 229:

"If we do not address this issue - now - we will reap the results. Those who have been sexually assaulted in prison will be released as time bombs, waiting to obtain their revenge in inappropriate and destructive ways."

This book is the result of Heilpern's zealous research and is an excellent and comprehensive overview of the incidence, nature and effect of sexual assault of young male prisoners in New South Wales. Although the contents are disturbing, it is hoped that the book will foster the reforms as suggested by the author in an attempt to reduce, if not eradicate completely, the incidence of sexual assault, not only in New South Wales, but in all Australian prisons. Empirical research is imperative in facilitating such reform and demonstrates how important this book is, not only for the victims of this terrible crime, but for the community as a whole. As Heilpern notes, this is a problem which needs addressing by all members of society and the study should be read not only by criminology students but also lawyers, law students, victims counsellors and anyone interested in social justice. It is the reviewer's opinion that *Fear or Favour* is a book which should be read by every Australian.

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