



The  
University  
Of  
Sheffield.

# **The Attrition Problem in Rape Cases: Exploring the Role of Police Officers' Decision Making**

**By:**

Olivia Sinclair

A thesis submitted in fulfilment of the requirements for the degree  
of  
Doctor of Philosophy

The University of Sheffield  
Faculty of Social Sciences  
School of Law

May 2020



# Abstract

The conviction rate for rape in England and Wales is exceptionally low, this is termed the 'attrition problem'. A large proportion of case attrition occurs at the policing stage of a complaint.

This thesis explores the role that police officers' decision making takes in shaping the attrition of rape cases in England and Wales. Twenty-nine qualitative interviews with recently retired or serving police officers were conducted. Hypothetical rape vignettes were used to elicit how they would make decisions and handle rape cases. Furthermore, an enquiry was made into their own views of the barriers to gaining rape convictions.

The findings of this thesis explore a multitude of factors that influence the way police officers make decisions when handling rape cases. Police officers were found to employ a legal rationality when deliberating over cases and essentially to 'second guess' their outcome. This resulted in cases deemed more likely to be convicted having more resources and time channelled into them and not being discontinued; the opposite was true of cases deemed to be weaker. This finding mirrored earlier research studies, this thesis highlights that this process is still occurring. Numerous extra-legal factors also influence how police officers assess the strength of cases. A further original finding highlights how the predictions on cases officers make, by their own admission, are often inaccurate. This is a salient flaw in the legally rational decision making.

A further key finding was that officers who work on rape cases can become disheartened and demotivated due to a lack of occupational reward from rarely seeing a case reach a conviction. Further, officers stated that the main difficulty with investigating rape offences was often a lack of independent evidence to prove the absence of consent.

A central recommendation is to explore alternatives to the traditional criminal justice response to rape offences.



# Acknowledgments

I would firstly like to thank my Ph.D. supervisors Dr. Maggie Wykes and Dr. Gilly Sharpe. I could not have wished for more supportive and dedicated supervisors to guide me in this process. Thank you for looking over countless chapter drafts and always being there to offer inspiration and new ideas for the thesis, I could not have done this without you.

Thank you to all those who kindly gave up their time to participate in my fieldwork, without your fascinating insights this project would not have been possible.

I would like to thank my family and friends for their support and patience with me through the ups and downs of doctoral research. Especially, my mum and dad, and also my grandparents who sadly passed away during this process. Without your endless support and belief in me I would not have had the courage to take on the challenge of undertaking doctoral research.

Lastly, I would like to thank my partner, Calum, to who I am eternally grateful for his unwavering love and support and for always being there for me through this process. This thesis is dedicated to you.



# Table of Abbreviations

CPS	Crown Prosecution Service
CJ	Criminal Justice
CJS	Criminal Justice System
HMIC	Her Majesty's Inspectorate of Constabulary
HMCPSP	Her Majesty's Crown Prosecution Service Inspectorate
HOCR	Home Office Counting Rules
ISVA	Independent Sexual Violence Advocate
NARPO	National Association of Retired Police Officers
NFA	A crime recording of no further action
RVLO	Rape Victim Liaison Officers
SARC	Sexual Assault Referral Centre
SOIT	Sexual Offending Investigative trained
STO	Specially trained officer
SEBP	Society of Evidence Based Policing





# List of Tables and Figures

<b>Table reference</b>	<b>Title</b>	<b>Page</b>
Table 1.1	Rape Monitoring Group Data	12
Table 4.1	A summary of participants responses to the question of whether they believe the vignette to legally depict a rape offence	92
Table 4.2	A summary of the participants responses to the question of how likely they feel each vignette would be to make it to a trial	110

<b>Figure reference</b>	<b>Title</b>	<b>Page</b>
Figure 3.1	A chart to display the age range of the sample	67
Figure 3.2	The theme of victim credibility	77
Figure 4.1	A chart to display the participants response to the question of how likely they feel each vignette would be to end in a conviction	112
Figure 4.2	A Diagram to Display the Journey Each Vignette Would Take from the perspective of the participants	118
Figure 5.1	A summary of the participants view on the available evidence in each vignette	121
Figure 5.2	A graph to summarise the participants responses to the question of how what they feel a fitting sentence would be for each vignette	142



# Contents Page

<b>1. Introduction</b>	
<b>1.1 Sexual Violence against Women</b>	<b>1</b>
<b>1.2 The Attrition Problem</b>	<b>4</b>
<b>1.3 Aims of the Research</b>	<b>6</b>
<b>1.4 Overview of the Thesis</b>	<b>6</b>
<b>2. Literature Review</b>	
<b>2.1 The Attrition Problem</b>	<b>10</b>
Table 1.1: Rape Monitoring Group Data	12
<b>2.2 The Story of the Attrition Problem</b>	<b>13</b>
2.2.1 Early Research	13
2.2.2 Research in Recent Years	16
<b>2.3 Explaining the Sources of Rape Case Attrition</b>	<b>27</b>
2.3.1 A Culture of Scepticism	27
<b>2.4 Extra-legal Factors around the Victim</b>	<b>28</b>
<b>2.5 Literature with a Perpetrator Focus</b>	<b>33</b>
<b>2.6 Rape Mythology</b>	<b>34</b>
2.6.1 Rape Myth Acceptance within the General Public	36
2.6.2 Police Officers' Rape Myth Acceptance	40
2.6.3 Evaluating the Rape Myth Literature	43
<b>2.7 Police Officers' Decision Making in Rape Cases</b>	<b>46</b>
2.7.1 Legal Rationality	48
<b>2.8 Implementation Gap</b>	<b>49</b>
<b>2.9 Policing Cultures</b>	<b>51</b>
<b>2.10 Conclusion</b>	<b>55</b>
<b>3. Methodology</b>	
<b>3.1 Feminist Methodology</b>	<b>59</b>
<b>3.2 Accessing and Recruiting Participants</b>	<b>65</b>
<b>3.3 Demographics of the Sample</b>	<b>66</b>
Figure 3.1: A chart to display the age range of the sample	67
<b>3.4 Rape Units</b>	<b>67</b>
<b>3.5 Special Training</b>	<b>69</b>
<b>3.6 Interviews</b>	<b>70</b>
<b>3.7 Analysis</b>	<b>75</b>

Figure 3.2: The theme of victim credibility	77
<b>3.8 Reflexive Practice</b>	<b>77</b>
<b>3.9 The Response from Participants</b>	<b>78</b>
<b>3.10 Validity</b>	<b>80</b>
<b>3.11 Ethics of the Research</b>	<b>82</b>
3.11.1 Free and Informed Consent	82
3.11.2 Data Protection and Confidentiality	83
3.11.3 Risk of Harm	84
<b>3.12 Conclusion</b>	<b>84</b>
<b>4. Pathways to Attrition: The Role of Process, Policy and Law in Guiding Police Decision Making in Rape Cases</b>	
<b>4.1 Applying the Law on Rape</b>	<b>88</b>
Table 4.1: A summary of participants responses to the question of whether they believe the vignette to legally depict a rape offence	92
<b>4.2 The Word of the Victim</b>	<b>92</b>
4.2.1 False Allegations	93
<b>4.3 Crime Recording</b>	<b>100</b>
<b>4.4 The Investigation</b>	<b>103</b>
<b>4.5 The Decision to Charge or Discontinue a Case</b>	<b>108</b>
<b>4.6 Crown Prosecution Service Decision to Prosecute</b>	<b>109</b>
Table 4.2: A summary of the participants responses to the question of how likely they feel each vignette would be to make it to a trial	110
<b>4.7 Overall Chance of Conviction</b>	<b>111</b>
Figure 4.1: A chart to display the participants response to the question of how likely they feel each vignette would be to end in a conviction.	112
<b>4.8 Victim Withdrawal</b>	<b>112</b>
<b>4.9 Conclusion</b>	<b>116</b>
Figure 4.2: A Diagram to Display the Journey Each Vignette Would Take from the perspective of the participants	118
<b>5. Understanding the Factors Influencing Police Officers' Decision Making in Rape Cases</b>	
<b>5.1 Weighing up the Evidence</b>	<b>120</b>
Figure 5.1: A summary of the participants view on the available evidence in each vignette	121
<b>5.2 Legal Rationality</b>	<b>122</b>
<b>5.3 Extra-legal Factors Related to the Victim</b>	<b>125</b>
5.3.1 Credibility of the Victim	125
5.3.2 The Behaviour of the Victim	134
<b>5.4 Extra-legal Factors Relating to the Perpetrator</b>	<b>138</b>

5.4.1 Credibility of the Suspect	139
5.4.2 Assessing the Reasonable Belief of the Suspect	140
Figure 5.2: A graph to summarise the participants responses to the question of how what they feel a fitting sentence would be for each vignette.	142
5.4.3 Typologies of Perpetrators	144
<b>5.5 It All Comes Down to Performances at Court</b>	<b>147</b>
<b>5.6 Conclusion</b>	<b>148</b>
<b>6. Influences on Police Officers in Rape Cases: Myth, Prejudice, and Cultural Values</b>	
<b>6.1 Rape Myths</b>	<b>154</b>
<b>6.2 Group Biases and Stereotypes</b>	<b>164</b>
<b>6.3 Sex Workers</b>	<b>167</b>
<b>6.4 A Hierarchy of Rapes</b>	<b>170</b>
<b>6.5 The Influence of Participants' Life Experiences</b>	<b>171</b>
6.5.1 Gender Differences	172
<b>6.6 Predicting Jury Decision Making</b>	<b>176</b>
<b>6.7 It All Comes Down To Proving Consent</b>	<b>177</b>
<b>6.8 Conclusion</b>	<b>182</b>
<b>7. A Police Insider View on Structural and Institutional Influences on Police Decision Making</b>	
<b>7.1 Pressures on the Police: High Demand and Scarce Resources</b>	<b>186</b>
<b>7.2 A Working Culture of Attrition</b>	<b>195</b>
<b>7.3 Poor Police Practice in the Past</b>	<b>200</b>
<b>7.4 The Negative Effect of Attrition on Police Officers</b>	<b>202</b>
<b>7.5 Police Officers' Ideas for Improvements</b>	<b>207</b>
<b>7.6 Conclusion</b>	<b>210</b>
<b>8. The Role of Police Officers' Decision Making in Shaping the Attrition Problem in Rape Cases</b>	
<b>8.1 Summary of Key Findings</b>	<b>215</b>
8.1.1 The Guidance of Procedure, Policy, and Law in Police Decision Making in Rape Cases	215
8.1.2 The Factors Influencing Police Officers' Decision Making in Rape Cases	218
8.1.3 Police Officers' Insider Views on Institutional and Structural Influences on Rape Case Attrition	225
8.1.4 How Decision Making by Police Officers Shapes the High Levels of Case Discontinuances	228
<b>8.2 Methodological Reflections</b>	<b>230</b>

<b>8.3 Policy and Practice Recommendations</b>	<b>232</b>
<b>8.4 Questioning the Suitability of an Adversarial Justice System</b>	<b>234</b>
<b>8.5 Suggestions for Future Research</b>	<b>236</b>

## **References**

## **Appendices**

<b>Appendix One: Poster Used to Recruit Participants</b>	<b>267</b>
<b>Appendix Two: Participant Information Sheet</b>	<b>268</b>
<b>Appendix Three: Table Outlining Participant Details</b>	<b>270</b>
<b>Appendix Four: Vignettes</b>	<b>272</b>
<b>Appendix Five: Interview Schedule</b>	<b>278</b>
<b>Appendix Six: Summary of Research Findings for Participants</b>	<b>281</b>
<b>Appendix Seven: Example of Coding</b>	<b>283</b>
<b>Appendix Eight: Thematic map</b>	<b>284</b>
<b>Appendix Nine: Ethics application</b>	<b>286</b>
<b>Appendix Ten: Participant Consent Form</b>	<b>297</b>
<b>Appendix Eleven: Participant Debrief Sheet</b>	<b>299</b>







# 1. Introduction

---

This research project focuses on sexual violence against women, a long standing and unrelenting phenomenon that has been the subject of much academic debate and feminist concern for more than sixty years. However, the levels of victimisation women face have remained high, and England and Wales are yet to formulate an effective strategy to provide justice for rape victims. This chapter provides a rationale for the focus of this thesis, sets out the aims of this study, and gives an overview of the proceeding chapters.

## 1.1 Sexual Violence against Women

Sexual violence against women in England and Wales, and also around the world, is a prevalent issue. This includes the offence of rape which is legally defined in Section One of the Sexual Offences Act 2003 as:

- (1) A person (A) commits an offence if—
  - (a) he intentionally penetrates the vagina, anus, or mouth of another person (B) with his penis,
  - (b) B does not consent to the penetration, and
  - (c) A does not reasonably believe that B consents.

Imprisonment for up to a life sentence can be given for a conviction of rape. It has been asserted that rape lies on a continuum of violence (Kelly, 1988). Sexist abuse and violence that are less extreme than rape, such as sexist comments or groping a woman, lie on one end of a continuum. This abuse and violence on the continuum then ranges to rape and the murder of women. The violence all stems from a sexist culture and is interconnected; instances of violence against women are not isolated events (Kelly, 1988). The focus of this project is on instances of rape (as this is a common and extreme form of abuse). An accurate numerical representation of the levels of rape offences is difficult to ascertain because of a lack of reporting of offences to the police and a tradition of victims not coming forward with allegations (Hohl and Stanko, 2015). Nonetheless, statistical information is available to give an indication of the prevalence of rape offences. The Crime Survey for England and Wales for the year ending March 2017 estimates that 12.1 percent of adults aged sixteen to fifty-nine have experienced a sexual assault since the age of sixteen, equivalent to an estimated four million victims (Office for National Statistics [ONS], 2018b). The Crime Survey for England and Wales is a large scale survey carried out by the ONS that enquires into whether individuals in society have been a victim of crime. This is necessary, as it is estimated that only four in ten crimes are reported to the police (ONS, 2015). The Crime Survey aims to supplement the levels of recorded crime by the police to provide a more accurate picture of crime in society. For the year ending March 2018, the police recorded 54,045 crimes of rape in England and Wales, this increased by nine percent for the year ending March 2019 which saw 58,657 police-recorded rape crimes (ONS, 2019). The levels of police-recorded rape crimes has drastically increased over the last ten years; for the year ending March 2009 there were 13,096 recorded rape crimes for England and Wales, this has increased by 348% to year ending March 2019 (ONS, 2019). With regards to the outcomes of police-recorded rape offences, only 2.9% of cases for the year ending March 2018 were charged/summonsed, compared to 10.7% for violence against the person offences for the same period (Home Office, 2018). For rape cases that had been prosecuted by the Crown Prosecution Service (CPS) for the year ending March 2018, 2,635 rape cases ended in a conviction, equating to 58% of rape prosecutions ending in a conviction (ONS, 2018c). The official statistics outlining sexual offending in England and Wales are

detailed in a report formed by the Ministry of Justice (MoJ) and the ONS. The most up to date statistics that gave a more in depth statistical picture were published in 2013 (MoJ, 2013). Official statistics based on the crimes recorded by the police show females are significantly more likely to be a victim of a sexual offence than males, with men more than likely to be the perpetrator of a sexual offence (MoJ, 2013: 11). Younger women are most likely to be a victim of a sexual offence; those between the ages of sixteen to nineteen are most at risk (MoJ, 2013: 14). Furthermore, females who are single or separated and those in a lower income bracket show an increased chance of sexual victimisation. Those females living in urban areas are also more at risk (MoJ, 2013: 14). The statistics also show that female respondents who have been a victim of rape reported that offenders were most likely to be young males, with 47% of offenders being males aged between twenty and thirty-nine (MoJ, 2013:15). Likewise, the most commonly reported victim-offender relationship among victims of the most serious offence types was a partner (current or former) (MoJ, 2013: 16).

Rape is unique from other forms of assault in that it violates personal, intimate, and psychological boundaries (Kelly, 2008). The lasting effects of rape victimisation can be vast and may cause significant physical, emotional, and financial harm to victims. Research has documented the mental and physical health implications that being a victim of rape incurs (Thomas et al., 2008). Physical injuries can be wide ranging and even lead to disability if a woman is abused over a period of time by an intimate partner. A rape survivor will likely feel stressed for a variety of reasons which can have further effects, such as physical health problems (Thomas et al., 2008). Victims of rape have to face the prospect of potential sexually transmitted infections and pregnancy (Wheatcroft et al., 2009). Furthermore, rape is not just a violent attack, it is also a violation of a victim's intimate and psychological space carrying additional emotional impacts (Kelly, 2001). Rape survivors are likely to suffer mental health problems which can cost money in terms of paying for therapy as well as a loss of earnings (Loya, 2015). Rape survivors suffer high levels of post-traumatic stress disorder (PTSD), anxiety, withdrawal, and substance abuse (Thomas et al., 2008). Mental health symptoms may interfere with a person's performance at work, or if they are in education they can adversely affect their

attainment, leaving future earnings reduced (Loya, 2014). Furthermore, many rape survivors need time off work and can experience job loss and further professional implications (Loya, 2014). On a wider level, sexual violence against women causes symbolic harm. Susan Brownmiller's iconic statement that rape "is nothing more or less than a conscious process of intimidation by which all men keep all women in a state of fear" (1975: 15) is still relevant today because of the high levels of rape victimisation women suffer. Rape causes symbolic harm as it reinforces traditional sexual identities and values. The fact that some men rape provides a sufficient threat to keep all women in a constant state of intimidation, forever conscious of the knowledge that the biological tool must be held in awe for it may turn to a weapon (Brownmiller, 1975: 209). Stanko (1990) reiterates this notion that women have to manage the danger they could face on a daily basis from men by altering their behaviour. An example of this is women not feeling safe or free to walk in public spaces at night when they are alone, so they change their behaviour to reduce the risk of an assault. The ideology of rape is aided by cultural values that are perpetuated at every level of society (Brownmiller, 1975: 389).

## 1.2 The Attrition Problem

The criminal justice response to rape has long faced criticism, adding to the trauma victims experience through their encounters with the police and the impact of taking part in a rape trial (Lees, 2002). Additionally, most rapes are never reported to police and those that are rarely result in a conviction. The research attesting to this has named the phenomenon the attrition problem or justice gap (Hohl and Stanko, 2015). Evidence points to the fact that many different countries have high attrition rates for rape (Daly and Bouhours, 2010). England and Wales, according to the latest official statistics, has a conviction rate as low as seven percent (Home Office and Ministry of Justice, 2013), one of the lowest rates of convictions in Europe (Lovett and Kelly, 2009). It is paradoxical that even more victims are coming forward and reporting rapes to the police, expecting to be treated with sympathy, despite this not translating into more men being convicted of rape (Gregory and Lees, 1999). How the criminal justice system treats rape offences is not only important for victims, but also sends a powerful message to society (Hohl and Stanko, 2015). A

robust response to rape including delivering justice for victims is necessary to help prevent rape and one way to counter the fear that women (have to) live with. As it is, the response to rape against women indicates women's (unequal) position in wider society.

Given that rape victims rarely receive justice, are often re-traumatised by their experience of complaining, and now more women are reporting a rape to the police, there is a pressing need to find a solution to increase justice for victims. In line with this, Kelly et al. (2005, 83) assert that "perhaps the greatest challenge to the criminal justice system is to rethink what rape is, and from this to then develop new understandings of how to approach, investigate and prosecute it". When a rape victim makes a complaint, the police are the first agency within the criminal justice system tasked with investigating the offence. The police act as gatekeepers to justice for victims, insofar as the police must record and investigate the allegation fully for the complaint to progress any further through the criminal justice system. The policing stage of the criminal justice system has the highest levels of attrition in rape cases (Brown, 2007). Very little is known about the way police make decisions around which cases to channel investigatory resources into, why some cases are discontinued and others are passed to the CPS, and the factors that such decisions are based upon. Ultimately, the role of police decision making in the attrition of rape cases is little explored.

In recent years, violence against women and sexist abuse have increasingly become the focus of grassroots movements, public discourse, and legal reforms. High profile cases, such as Jimmy Saville and Ched Evans, coupled with campaigns such as #MeToo and the Everyday Sexism project<sup>1</sup> orchestrated by Laura Bates have contributed to an apparent public desire to eradicate violence against women as part of a larger challenge of securing gender equality (Silvestri and Crowther-Dowey, 2016). The issue of sexual violence against women and the failings of traditional criminal justice in responding effectively to the phenomenon is increasingly topical. Despite numerous reforms in the area, rape fails to be responded to in a robust and

---

<sup>1</sup> The official website of the project can be found here: <https://everydaysexism.com>

effective manner by the criminal justice system. Now more than ever there is a growing call from members of the public for an effective strategy to tackle violence against women. Throughout the duration of this project, the treatment of rape victims by the criminal justice system and the low levels of convictions achieved has been heavily debated in the news media, and the issue is increasingly topical. For example, a recent news article reported outrage at reports that rape victims were being forced to hand over their mobile phones to the police or face their case being discontinued (BBC, 2019).

### 1.3 Aims of the Research

This thesis sets out to explore the impact police officers' decision making has on shaping and contributing to the attrition problem in rape cases in England and Wales. Stemming from this aim are four research questions:

- How do police officers make decisions in rape cases?
- What influences, including legal and extra-legal factors, are taken into account when deliberating and making decisions over rape cases?
- How do police officers account for and understand the attrition of rape cases?
- How may such decision making by police officers impact on levels of case discontinuances?

By understanding the sources of rape case attrition, this study aims to formulate ways that higher levels of justice can be achieved for victims.

### 1.4 Overview of the Thesis

Chapter Two reviews extant literature showcasing theory and evidence around the attrition problem in rape cases. There is a large body of literature that investigates the criminal justice response to rape. This review focuses primarily on the literature looking at the policing of rape and the low levels of convictions garnered to best frame the aims of this study. Numerous explanations have been posited to give reasons why attrition occurs and such theories are reviewed here, including the topic of rape myths which is a large area of

scholarship. This chapter ends with a discussion of the literature on police cultures, and how a consideration of occupational culture can assist in understanding decision making. Chapter Two summarises the originality of the current research project by highlighting gaps in the academic literature. Most research in this area is quantitative, survey-based, and originates in a US context. Furthermore, most research focuses on belief in rape myths. Police officers' decision making, rather than just their opinions in a more abstract form and their own perspectives, have rarely been explored thus far.

Chapter Three documents the methodological approach employed to answer the above research questions. This project takes a feminist methodological approach. How the project embodies this approach is outlined along with my own reflexive account of the experience I had conducting fieldwork. The method employed for this project is qualitative interviews with police officers (serving or retired) with the use of vignettes depicting rape offences. This chapter explains how I analysed my data to generate my findings and details ethical concerns raised.

Chapters Four to Seven outline and discuss the findings of this project and provide answers to the research questions. Chapter Four lays out how police officers go about working on rape cases and the key decisions they make. This chapter explains the journey that each of the hypothetical rape vignettes would take from the perspective of the participants, who presented their way of working in a case as very formulaic and standardised. The issue of false allegations of rape is explored to assess how this impacts on police perspectives and decision making. Chapter Five begins the discussion of what the underlying values and perceptions are that shape and influence the decisions police officers make when working on rape cases and how that impacts on case outcomes. A multitude of legal and extra-legal factors relating to the victim and the perpetrator are demonstrated to impact on the journey rape cases take (Sleath and Bull, 2017). Legal rationality and personal prejudice are shown to shape how decisions are made. Chapter Six continues the theme of what influences police decision making, including the influence of rape myths. I argue that the presence of extra-legal thinking when making decisions that impact the outcomes of rape cases contributes to a covert

systemic bias operating against women. Chapter Seven focuses on wider systemic and institutional factors that provide the contextual backdrop to decisions by police officers working on rape cases. Police officers' insider views on the barriers to gaining prosecutions and their understandings of case attrition are explained.

Chapter Eight concludes this thesis by summarising its main findings and its original contribution to knowledge. Limitations of the research are considered. Furthermore, policy and practice suggestions stemming from the findings are made along with a consideration of whether the current criminal justice system is best placed to respond and secure justice for rape victims. This chapter concludes with suggestions for future research.



## 2. Literature Review

---

This chapter reviews the existing scholarship relating to the attrition problem in rape cases and the explanations posed to understand the sources of attrition. Firstly, the details of the attrition problem and the patterns that this takes in England and Wales is outlined to provide an overview of the problem that is the focus of this study. Furthermore, reforms brought about in the area are outlined. Research that posits explanations for the high levels of case discontinuances at the policing stage of the process are reviewed. The main areas of explanations relate to police officers embodying negative and sceptical attitudes over rape and rape victims. Additionally, the influence of extra-legal factors in shaping the progression of cases is documented. There is a large amount of literature exploring the prevalence and impact rape myths have over the outcomes of rape cases; this body of literature is reviewed and evaluated. The way in which such negative opinions underpin the decisions made in rape cases, and perhaps contribute to case attrition, is lesser researched and these studies are reviewed next. A further area of explanation for the low levels of convictions garnered is the allegation that policies and procedures guiding practice are not being carried out as designed, and so evidence around this debate is reviewed. The majority of studies to date have examined the criminal justice response to adult sexual assault quantitatively to document final case outcomes or to survey attitudes (Murphy et al., 2013). Less has been done to understand how police officers view the problems in the criminal justice system and what they think the solutions are. Furthermore, much of the research on rape is victim focused; the perpetrator has been

omitted, yet the problematic behaviour lies with them. Police officers also have a unique perspective to offer that is little researched (Murphy et al., 2013). Finally, literature outlining the occupational culture of the police is reviewed to determine which elements of police culture may help understand the perceptions police officers have, and how they respond to rape cases.

## 2.1 The Attrition Problem

Many rape victims do not report the offence to the police, for those that do, the police are essentially the gatekeepers to justice for victims (Brown et al., 2007). When a complaint is made to the police they must record the crime and initiate an investigation of it. Once a crime has been recorded it can later be cancelled or transferred to another police force, in line with the Home Office Recording General Rules, this process results in the crime no longer being recorded as a crime, thus no action will be taken on the case (Home Office, 2019). This process was formerly known as ‘no criming’<sup>2</sup> in previous years the rate of rape offences that were ‘no crimed’ formed a substantial source of case attrition. In 2012/13 the average no crime rate for rape was twelve percent, four times as high as grievous bodily harm (Home Office and Ministry of Justice, 2013) (Crime recording is explored in section 4.3). The police can opt to record a complaint as no further action (NFA) when the evidence in a case is not deemed strong enough to pass the case to the CPS. Often in cases the CPS will provide early advice to the police to shape how a case will progress. The policing and investigative stage has the highest attrition rate, with victims withdrawing the complaint accounting for a large proportion of this. The CPS is the next point cases fall out of the system, when the CPS choose to not prosecute a case. There has been a six percent decrease in defendants proceeded against in magistrates courts for sexual offences since 2010 (Home Office and Ministry of Justice, 2013). Cases that make it to a trial will also face a jury (unless the defendant pleads guilty) that must be persuaded beyond reasonable doubt that sexual intercourse took place in the absence of consent

---

<sup>2</sup> At the time of conducting fieldwork the Home Office crime recording rules referred to cancelled crimes as ‘no crimes’, due to a change in the terminology that took effect in April 2019. The terminology used in the thesis refers to ‘no crime’ in places to reflect the terminology that was in place when the participants were working on rape cases.

or a reasonable belief thereof. Attrition is still high and getting worse, at every stage of the criminal justice system (Hohl and Stanko, 2015: 326).

In order to illustrate the high levels of rape case discontinuances and at what point in the CJ process the cases are discontinued statistical data is outlined to give a current picture of rape case progression. Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) part of the UK government, set up and coordinate the Rape Monitoring Group, a multi agency group which aims to improve the response to rape in England and Wales. Each year the Rape Monitoring Group publishes data on the outcomes of rape cases at different stages in the CJS, by bringing together data from police forces, the CPS, and the Ministry of Justice. As there is a time lag in between cases being recorded at different stages of the CJ process and there are differences in the way data on cases is recorded by different CJ agencies, it is not possible to follow a specific cohort of cases through the system to ascertain an overall attrition rate of cases. However, the data published by the Rape Monitoring Group is useful to illustrate the trends in rape case outcomes. The latest data published displays data up to the financial year 2017/18. The table overleaf sets out the latest data published by the Rape Monitoring Group (Rape Monitoring Group, HMICFRS, 2019).

**Table 1.1: Rape Monitoring Group Data**

	2015/16	2016/17	2017/18
<b>Police Data</b>			
<b>Total Police Recorded Rape Crime</b>	35,704	41,186	54,045
<b>Police Recorded Rape Crimes that are transferred or cancelled</b>	2,366 (6.2%)	2,645 (6%)	4,006 (6.9%)
<b>Cancelled or transferred crimes due to AVI, no notifiable crime occurred</b>	661	556	690
<b>Police Recorded Rape Crimes that are Charge/Summons</b>	3,867 (10.83%)	2,793 (6.78%)	2,238 (4.15%)
<b>CPS Data</b>			
<b>Total cases referred to the CPS</b>	6,854	6,606	6,012
<b>CPS Decisions to Charge</b>	3,910 (57%)	3,671 (56%)	2,822 (47%)
<b>CPS Decisions not to charge</b>	2,944 (48%)	2,935 (44%)	3,190 (53%)
<b>Convictions</b>	2,689	2,991	2,635

From the data displayed above, it is evident that police recorded rape offences have been increasing since 2015. However, the proportion of offences that result in a charge/summons, which is necessary for the case to progress further towards a trial, have been decreasing each year. Four percent of the police recorded crimes in 2017/18 resulted in a charge/summons. The proportion of crimes that are transferred or cancelled (formerly ‘no crimed’) has remained fairly static at around six percent. Within the recording category of transferred or cancelled crimes there is a sub category of cancelled crimes. This classification is where there is alternative verifiable information to show that no notifiable crime occurred, this recording is the closest to a proxy for false allegations, this recording is a small proportion of the overall recorded crimes. Despite the number of reported rapes increasing, the number of cases referred to the CPS has slightly decreased. The proportion of cases that are opted to be charged by the CPS out of all the cases referred to them has been slightly decreasing, for 2017/18 47% resulted in a CPS decision to charge. There has been little fluctuation between the number of convictions between 2015/16 and 2017/18. The next section reviews the evidence and literature that further outlines the shape rape case attrition takes.

## 2.2 The Story of the Attrition Problem

### 2.2.1 Early Research

The attrition problem in rape cases has been highlighted as an issue for many years in academic literature and government reports. There have been a number of key studies published to provide more detail of where the key attrition points are and some of the factors influence case attrition, these earlier studies are reviewed next.

A Home Office research project was conducted by Harris and Grace in 1999 entitled 'A question of evidence? Investigating and prosecuting rape in the 1990s'. The research aimed to understand what factors lead to case attrition, whether these factors have changed over time and what policy changes should be made to reduce attrition. The method employed in this study was a case file review of 483 rape cases involving women from five different police or CPS areas to analyse the outcomes and attrition points in the sample. Alongside the quantitative element of the study, qualitative focus groups were undertaken with police officers and CPS caseworkers and prosecutors. During the focus groups vignettes were used to generate discussion and questions were asked about the participants' experiences of working on rape cases. Individual qualitative interviews were also held with five judges and five barristers experienced in dealing with rape cases. Seven trials at the Old Bailey were also observed and four women who withdrew their complaint were interviewed to understand the reasons behind them withdrawing from the process (Harris and Grace, 1999).

The results from the case file review demonstrate that of the cases sampled, 12% could be considered as a stranger rape, 45% an acquaintance rape and 43% an intimate rape. An intimate rape refers to situations where the suspect has a previous relationship with the victim, such as a partner, ex partner or close family member. Furthermore, in 82% of the sample there was some degree of consensual contact between the suspect and the victim and 73% of the offences took place in a private setting (Harris and Grace, 1999). The progression of the cases was as follows: 75% were recorded as a crime, 64%

were detected<sup>3</sup>, 31% saw a defendant get charged, 23% were prosecuted by the CPS and 21% were taken to trial. The overall conviction rate for any offence (including downgraded offences) was 13%; specifically for rape offences this drops to six percent, meaning 94% of cases suffered from attrition (Harris and Grace, 1999).

The research details reasons why some cases were more likely to progress than others. It was found that acquaintance rape cases were 'no crimed' at the highest rate of 30%, whereas stranger rapes were the most likely to be undetected (48%) also intimate rapes were most likely to be recorded as a crime but also most likely to be discontinued after the investigative stage (45%). Intimate rapes were the most likely to be charged (36%). 'No criming' was also least likely with victims under the age of thirteen and where violence was present in the commission of the offence. Overall stranger rapes were less likely to have an outcome of 'no further action' but more likely to overall be prosecuted, due to it being difficult to locate the perpetrator (Harris and Grace, 1999).

The results of the case file review demonstrate that the outcome of 'no further action' was most common with intimate rapes where victims were aged between twenty-six and forty-five and where there was some consensual contact previously between the suspect and victim. Furthermore, a lack of injury or violence and victim withdrawal were strong predictors of attrition. With regards to the police view when deciding to take 'no further action' on a case the victim's demeanour was seen as central, although this factor should not be relevant in determining case outcomes (Harris and Grace, 1999).

The research also stated that in 20% of detected cases the CPS were asked for advice and in 75% of those cases their advice was to take 'no further action'. Furthermore, the police reported that often the cases they ask for

---

<sup>3</sup> A detected crime refers to an offence where a suspect has been identified, there is sufficient evidence to charge the suspect and, the victim has been informed that the offence has been cleared up. This outcome is no longer utilised by police forces. A new police outcomes framework introduced in 2013 (Home Office, 2018) contains twenty-two outcomes that a case will be designated to. Such outcomes can be grouped into cases where action has been taken and some where no further action has been taken.

advice on they already have the view they are the weaker cases. When a case is deemed to be weak by officers they can inform the victim of this view and this can have the unintended consequence of deterring the victim from staying engaged in the CJ process. A lack of communication with victims was also found to have the same impact (Harris and Grace, 1999).

A central conclusion of the report was that the police 'second guess' what the CPS will choose to do with a case and what a potential jury will think to a case and make decisions accordingly. Harris and Grace argue that the police should send cases to the CPS regardless of any assumptions about their strength and still investigate all cases fully. This is because cases can appear weak but can still be convicted at trial. According to the case file review results half of the crimes detected by the police were sent to the CPS, who in turn discontinued just over a quarter of those cases (Harris and Grace, 1999).

The report concludes with recommendations for policy and practice. Namely, the practice of 'no criming' must be used appropriately and in line with policy. Further, there should be robust and appropriate support for victims. In terms of the investigative stage the police should not discount cases too early as there are examples of weaker cases getting convictions (Harris and Grace, 1999). This recommendation essentially leads to an approach where a higher volume of cases would be taken to trial in the hope that more cases would result in a conviction.

Gregory and Lees in the same year (1999) produced a foundational piece of work which led them to claim that rape is essentially decriminalised because of the low level of prosecutions achieved. They conducted a case file review of 109 London Metropolitan Police rape cases to document which cases were more likely to succeed. They also interviewed survivors who had reported their crime to the police. Their interview data highlighted that the treatment received from the police was sympathetic and respectful on the whole, especially treatment by female officers. However, many victims still felt they were treated with suspicion. The analysis of the case files showed that cases where the victim and perpetrator did not know each other – and where force was used in the rape – were more likely to result in a conviction (Gregory and Lees, 1999).

Such circumstances are in line with the 'real rape' stereotype. The real rape myth is the conception that a stranger rape – with the use of violence, occurring in a public place, where the victim sustains injuries – is viewed as the idea of how rape offences occur. Consequently, when a rape deviates from this it is not conceived as being a real rape or it is viewed as less serious than other types of rape (Kelly, 1988) (See section 2.6 on Rape Myths ).

### **2.2.2 Research in Recent Years**

A joint inspection focussing on the response to rape offences was carried out in 2002 by Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS). The report displayed the results of a review of 1,741 police crime reports of rape. The outcomes of the cases were highlighted to track the journey the cases had. The results showed that 27% of cases resulted in a charge/summons. Of the 230 cases in the police file sample 42% proceeded to court, 61% of cases that were prosecuted garnered a conviction and 70% of cases that proceeded to trial resulted in acquittal (excluding guilty pleas) (HMIC and HMCPIS, 2002). Other criticisms the report raised were over a lack of specially trained officers available and a lack of robust training for officers. The report concludes with a number of recommendations to aid in bringing down attrition in rape cases. Namely, that there should be closer monitoring of police investigations, file quality and crime recording should be improved, there needs to be more robust support for vulnerable victims, and to lessen the impact that the victim's sexual history has on the progression of a case (HMIC and HMCPIS, 2002).

A further case file review was conducted by Lea et al. (2003) over five years with rape cases within a constabulary in the south of England. This was supplemented with a questionnaire completed by 179 police officers. The evidence showed high attrition rates and lower rates of 'no criming' (now referred to as cancelled crimes). In some cases, 'no further action' was taken as there was a lack of evidence: even when the police wanted to take it further they could not. Often the victim would be pressured into withdrawing by the perpetrator if they still had some kind of relationship. Some police officers felt it may not always be the best thing to prosecute as there was a low chance of



success and a great deal of trauma for the victims to endure. It was concluded that only a minority of officers held stereotypical harmful views about rape (harmful views include subscribing to rape myths).

A formative Home Office Research Study published in 2005 by Kelly, Lovett, and Regan set out to tell the story and outline the issue of case attrition in rape cases in England and Wales. The project drew on multiple sources of data to analyse and draw conclusions from. The data the project relied on came from three Sexual Assault Referral Centres (SARCs) which provided details of the victims who had used these services and the journeys they had experienced through the CJS, results from questionnaires with victims who had used the SARCs, and qualitative interviews with those who had used the SARCs. Further, content analysis of witness statements from the police, an audit of forensic medical reports and qualitative interviews with agents in the CJS was also carried out (Kelly et al., 2005). The methodology relied on case tracking of a large sample of rape cases using data from the SARCs and the police to assess case outcomes. The project analysed 2,643 cases; however, only 2,244 cases were reported to the police (Kelly et al., 2005). Of those cases 26% (575) were 'no crimed', 39% (882) were undetected and 35% (787) were detected by the police. Only 467 cases out of the sample progressed past the police investigation stage; of those remaining cases less than one percent (2) led to a caution, in nine percent (40) the victim withdrew, 13% (59) were discontinued by the CPS, 15% (72) were pending trial, 22% (104) led to an acquittal at trial and 39% (183) resulted in a conviction. The overall conviction rate was just eight percent.

Only 467 cases out of the sample progressed past the police investigation stage, of those remaining cases less than one percent (2) lead to a caution, nine percent (40) the victim withdrew, 13% (59) were discontinued by the CPS, 15% (72) were pending trial, 22% (104) lead to an acquittal at trial and 39% (183) resulted in a conviction. The over all conviction rate from the total of 2,244 was eight percent.

Kelly et al. (2005) also carried out a more detailed analysis using different classifications than the above analysis on a sample of 2,284 cases, of which

80% were reported to the police (1,817). The main reasons found for not reporting the crime to the police were that victims were fearful of going through the criminal justice process, of not being believed by the police and other agents, and when the offence was a historic one.

Out of the 1,817 cases, 21% had insufficient evidence to proceed, in two percent there was no prospect of conviction, and in five percent there was no evidence of an assault. A concern was raised in the report as insufficient evidence included a situation where a vulnerable victim gave an unclear account of the offence. However, the fact that their vulnerability probably led to issues with the retelling of the offence was not considered and the case was deemed to lack evidence. Furthermore, in cases classified as evidentially weak a number of them were considered by police to be consensual and therefore not an offence of rape. Additionally, cases deemed to have insufficient evidence were judged as unlikely to garner a conviction at trial. The report outlines that often cases would be submitted to the CPS for advice and there were often concerns over the weakness of the victim's testimony. This was exacerbated where there were other witnesses to the crime: the witnesses could be deemed as more credible than the victim and used to prove the offence was consensual. Kelly et al. (2005) argue that evidential difficulties should not be used to judge the genuineness of a complaint. The veracity of victims' claims was judged through the lens of how the system would perceive them, sometimes without a full investigation. This is unfair: compared to other crimes, rape offences almost need more evidence (Kelly et al., 2005).

Kelly et al., (2005) go on to explain that in 13% of the cases the offender was not identified, and in some instances where there was no suspect a DNA test had not always been carried out and the officers had not always fully pursued the case to find sufficient evidence. If more investigatory effort was applied to cases there may have been more chance of securing evidence. Twelve percent of cases were believed to be a false allegation, such cases were mostly 16-25 year olds and acquaintance rape. There were a variety of reasons why the police believed an allegation to be false, including where the victim could have mental health issues, a lack of evidence and the victim could be lying. Furthermore, many police officers believed levels of false allegations to be high

and victims to blame for risk taking behaviour. This in turn placed unreasonable pressures on victims to prove they were deserving, in some cases leading to victims adjusting their testimony to appear more credible and thus later perceived to be making a false complaint or the case being weak evidentially.

In 17% of Kelly and colleagues' sample the victim withdrew, whilst a further 17% declined to complete the initial process. The remaining 13% were classified as 'other' or unknown. Early withdrawal by the victim accounted for the biggest loss at the police stage, with police officers interviewed agreeing that this was due to a fear of going to court. The study also found that victims felt disappointed and may have dropped out when they did not feel believed, which was exacerbated by a failure to keep them informed (Kelly et al., 2005).

Six percent (145) of Kelly et al's sample of 2,284 suffered attrition at the CPS stage or were still pending trial. Out of these 145 cases, six percent ended with a caution, 26% were discontinued by the CPS, 23% of cases saw the victim withdraw from the process, and in one percent of cases the suspect fled. The remaining 50% were pending trial (Kelly et al., 2005). The influence of the CPS in shaping case attrition can appear minimal when looking at the statistics, as large numbers of cases are discontinued at the police stage. However, the CPS play a crucial role in advising the police in the course of action they take through the investigation stage by giving early advice and commenting on the strength of cases, thus influencing attrition at the police stage.

Fourteen percent (322) of cases progressed to a trial out of the total of 2,284. Out of the 322 cases at trial, in five percent the victim withdrew, six percent were discontinued, 32% led to an acquittal, 28% had a guilty plea, in five percent of cases victims were unclear whether there was a guilty plea or not, there was a part conviction in three percent of cases and 21% of cases garnered a conviction. Furthermore, the overall conviction rate was eight percent (183), the same proportion as the above sample, with half of the convictions following a guilty plea. Cases with victims who are less than sixteen years old were more likely to end in a conviction as were those more in line with a 'real rape' stereotype (Kelly et al., 2005).

A central finding of the study (Kelly et al., 2005) was that both victims and agents in the CJS 'second guess' the likely outcome of trials, a similar finding to Harris and Grace (1999). This led to around 80% of cases being discontinued at the early stages of the process. The report concludes by arguing that to have a proper impact on case attrition the complex interactions between each stage of the process must be understood and addressed systematically. A key recommendation was that police investigations need to become more rigorous and aim to build a case rather than focusing on discrediting the victim's testimony (Kelly et al., 2005).

A further Home Office research study was conducted by Feist et al. in 2007 to build upon the work of Harris and Grace (1999). Feist and colleagues aimed to further understand the reduction in detection rates in rape cases since 1997 and reasons why different cases progress to various stages of the CJS. The method utilised in this study was a police case file review, a similar method to that of Harris and Grace (1999), to allow for comparisons to their earlier findings. The sample was taken from eight police forces, and made up 42% of all rape offences in England and Wales in the financial year 2003/04. All the cases involved female victims and occurred before the Sexual Offences Act 2003 was enacted. Feist et al. (2007) report a disadvantage when relying on police case files to understand the response to rape cases as the quality of the files can vary, with gaps resulting in somewhat unreliable data. Furthermore, from case files alone the quality of the investigative action is not observable: only what happened, but not how well it was carried out or how well the victim was treated, can be discerned. The data from the case files was analysed quantitatively (Feist et al., 2007).

The sample contained victims who were under sixteen years old in just over a quarter of the cases, and victims aged sixteen to twenty-five made up more than two-fifths of the sample (Feist et al., 2007). Furthermore, eight percent of the sample were cases where the suspect had been or was being investigated for a sexual offence with another victim. With regards to the victim-suspect relationship, stranger offences accounted for 14% of the sample, while partners/ex-partners accounted for 22%. The largest single group was acquaintances, who constituted 27% of the sample (Feist et al., 2007).

Feist et al., (2007) collected a sample of 676 cases, the pattern of attrition was found to be as follows: 85% of cases were recorded as a crime (576); an arrest was made in 54% of cases (364); there was a charge or caution in 26% of cases (173); 19% of cases went to trial (130), 13% ended with a conviction or a caution for rape or an alternative offence (71); for rape alone the conviction rate was six percent. With regards to 'no criming' the study found lower levels of inappropriate 'no criming' than Harris and Grace (1999), suggesting some improvements had been made.

Feist et al., (2007) concluded that the point between the offence being recorded and a failure to achieve a charge, caution, or non-sanction detection represents the greatest overall loss of offences: only 32% of crimed cases end up being detected through any means. The main two reasons for offences not reaching a charge were the victim withdrawing (35%) and insufficient evidence (40%). The main pieces of evidence that assisted in bringing a charge were victim statements and forensic medical reports. The report goes on to state that the attrition of cases is less steep post charge. The vast majority of cases discontinued by the CPS are on evidential grounds. Furthermore, convictions were more likely in cases where the victim-suspect relationship was that of a parent or relative, compared with cases involving suspects who were friends (Feist et al., 2007).

Feist et al. (2007) found victim withdrawal was a salient factor in case attrition, 39% of crimed cases were withdrawn by the victim. With regards to the victims who withdrew, around ten percent occurred after a suspect had been charged, but the vast majority withdrew during the police investigation stage. The main reasons victims withdrew from the process were worries over going to court, a desire to move on, not wanting to have an impact on loved ones and a fear of reprisal. Following this finding the report makes the recommendation that care and support for victims should be improved.

The report found five variables to be statistically significant in predicting a case getting to court and garnering a conviction. These were: that the assault was linked to a sexual offence against a separate victim; the victim's medical

history was obtained; the offender threatened the victim; forensic evidence was recovered; and witnesses were present (Feist et al., 2007).

A subsequent study was published in 2007 by HMIC and HMCPSI jointly that attempted to understand the continuing reasons for high levels of attrition in rape cases and reflect on progress made since the inspection report in 2002 was published. The report concluded that there were still ongoing issues with crime recording and compliance with the Home Office Crime Recording rules across police forces. Furthermore, the use of 'no criming' was still synonymous with beliefs that allegations are false, rehearsing the same finding in 2002. A more positive finding was in relation to the training officers are provided with. Generally special training was good; however, this was not the case for front line first response officers, meaning early evidence could suffer (HMIC and HMCPSI, 2007). It is generally accepted that a large amount of attrition occurs during the investigative process. The 2007 report emphasised the importance of victims being treated respectfully and sensitively without judgment by agents of the CJS to alleviate fears as far as possible so victims stay engaged with the process. It was further argued that, as consent is often the central focus of rape cases, there is a need for 'consent' defences to be challenged more rigorously and greater consideration to be given to the use of 'bad character' evidence in court. Furthermore, interviews with suspects need to be better planned and interviewers must be properly trained (HMIC and HMCPSI, 2007).

The later inspection report (HMIC and HMCPSI, 2007) presents a picture of case attrition from a sample of 752 rape cases sampled in 2005. 24% of the sample was 'no crimed' and of those fifty-seven (31.8%) were non-compliant with the HOCR and should have remained as recorded crimes (HMIC and HMCPSI, 2007). The reasons found for complaints being 'no crimed' were when victims withdrew from the process and the victim was deemed to lack credibility. Out of the sample there were 573 recorded crimes, and the suspect was known to the victim or identified following investigation in 491 cases (85.7%). Of the 491 cases where the suspect was identified, the victim chose not to complete the initial process or withdrew support for the investigation or prosecution in at least 102 cases (20.8%). Of the 389 cases where there was

continued support by the victim, the offender was charged in 160 (41.1%), the main reason for no charge being brought was a lack of evidence. A concern was raised in the report that cases were identified where lines of enquiry had not been fully explored and where further enquiries might have resulted in sufficient evidence to prosecute. The sample contained seventy-five cases where a defendant was charged and the case was taken to court. Nineteen (25.6%) of those cases ended in an acquittal after trial. There was a total of thirty-nine convictions (53% or just five percent of the whole sample), made up of twenty guilty pleas and nineteen jury guilty verdicts.

Another research report was funded by the European Commission in 2009 to compare rape attrition rates across Europe. The attrition problem is not unique to England and Wales as many European countries in the last two decades have seen increases in reports of rape and no proportionate increase in prosecutions, resulting in falling conviction rates (Lovett and Kelly, 2009). The study analysed rape attrition in the following twelve countries: Austria, Belgium, England, Wales, France, Germany, Greece, Hungary, Ireland, Portugal, Scotland and Sweden. The methods used in the study were quantitative analysis of national rape statistics, a case file review of one hundred rape cases in each country and qualitative interviews with criminal justice experts.

The research found that England and Wales have the highest volume of reports of rape in Europe. However, this does not translate into the highest annual reporting rate per 100,000 of the population, for this measure England and Wales are the fourth highest after Sweden, Iceland and Belgium. The report goes on to state that the conviction rate was a mere five percent in 2003 and 2004 in England and Wales, with a slight upwards move to six percent in 2005-2006, and six percent in 2006-7. This is the second lowest conviction rate in Europe after Scotland (Lovett and Kelly, 2009).

The case file review from England and Wales found that in 86% of cases the victim was interviewed, the lowest rate of all countries analysed. 63% of suspects were arrested, which was the highest rate in the study. However, England and Wales displayed the second lowest charge rate for suspects at 27%. Subsequently, 21% of the cases in England and Wales were taken to

trial. There were twenty cases that were tried in court and only seven resulted in a conviction and 13 were acquitted, equating to the highest acquittal rate and one of the lowest conviction rates (Lovett and Kelly, 2009).

The research identified factors that dictated where cases were less likely to result in a conviction, including failures in investigations to interview victims and/or suspects and high rates of victim withdrawal. Furthermore, cases that are in line with the 'real rape' stereotype were more likely to result in convictions, despite few cases actually fitting the stereotype. The countries with higher conviction rates were legal systems where prosecutors took control of the investigation and made most decisions about whether cases proceeded (Lovett and Kelly, 2009).

The study concluded that the attrition pattern of increased reporting but falling conviction rates is now the dominant trend across Europe in both adversarial and inquisitorial legal systems. Concerns were raised over low reporting rates as reporting is often a gateway for victims to access support. Furthermore, the report argues that falling conviction rates are indicative of states failing due diligence responsibilities under international law in protecting women and providing justice to them (Lovett and Kelly, 2009).

A later joint inspection was carried out in 2012 by Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI), examining rape investigations and prosecutions. The report outlines a number of improvements witnessed in police forces in England and Wales, namely that call handling systems had become more responsive, specially trained officers had been introduced, training for police and prosecutors had improved, access to SARCs was either in place or planned and the use of early evidence kits was widespread (HMIC and HMCPSI, 2012). The report also documented some areas for improvement. Police forces were advised to improve their intelligence gathering and analysis surrounding rape cases, for example, in relation to links between investigations to highlight where a serial perpetrator may be in operation (HMIC and HMCPSI, 2012). A related issue the report highlighted stems from the emphasis placed on performance management initiatives in the police. Such initiatives stress the



need for high conviction rates which might account for police reluctance to crime cases that they feel have little chance of a positive prosecution outcome. Alternatively, more emphasis could be placed on gathering intelligence by fully recording offences, leading to a greater number of recorded crimes and a fuller understanding, albeit with a lower charge rate. A further concern raised in the report was a lack of reviews undertaken on major rape investigations from which to learn and drive improvement (HMIC and HMCPSI, 2012).

Hohl and Stanko (2015) conducted a case file review of the London Metropolitan Police's rape cases. The patterns they identified mirrored the findings laid out in the official statistics:

[...] seven percent of allegations were police 'no-crimes', forty percent ended with a police decision to take 'no further action', and, of the remaining allegations, thirty percent dropped out through a CPS decision to take no further action rather than prosecute in court (Hohl and Stanko, 2015: 335).

They found that victim withdrawal accounted for almost half of the case attrition, but withdrawal was less likely once the case had been passed to the CPS. When the perpetrator was a stranger to the victim, they were less likely to withdraw and more likely to secure a referral to the CPS. Only partial support was found for the 'real rape' myth. Voluntary alcohol consumption prior to the rape, a history of consensual sex with the perpetrator, mental health problems and learning difficulties, and a woman's 'misunderstanding' of the meaning of consent explained most police decisions to discontinue a case. This points to the influence of the 'respectable woman' image and rape myths around the victims demeanour and appearance. In relation to the perpetrator, black men and men with a criminal record were more likely to face prosecution. One of the most influential factors observed was the perceived credibility of the allegation in light of the evidence as seen through the eyes of the investigating police officer and prosecutor.

The majority of research that uses case file reviews to examine case attrition has not differentiated between different types of rape cases to assess differences in attrition trajectories. Hester (2016) reviewed 87 rape case files

from three police forces in the UK using qualitative and quantitative analysis and conducted interviews with victims and criminal justice professionals. In her study, one in five rape cases ended in a charge brought against the suspect and ten ended in a conviction. Hester looked into differences in outcomes for domestic, acquaintance, and historical rape cases. It was found that domestic and historical cases were more likely to be 'crimed' than acquaintance rapes. Historical cases were most likely to result in a charge and acquaintance rapes least likely. Historical cases were significantly more likely to result in a conviction. Hester (2016) concluded that the police viewed different types of cases in various ways evidentially which relates to how they would investigate them. Consequently it seems crucial to understand how different types of cases are dealt with if the goal is to reduce case attrition.

Since the 1970s, it has been well documented that rape cases are less likely to end in prosecution and conviction than other types of offences. This is especially strange in light of the fact that the perpetrator is often known to the victim (Grace et al., 1992; Gregory and Lees, 1996; Kelly et al., 2005). Criticism has been incredibly consistent over the years towards the police's ability to investigate rape offences (Horvath et al., 2011). The professional development of detectives has followed the 'craft model' (Hallenberg et al., 2016) of learning until relatively recently, with low levels of supervision and high levels of discretion. It has frequently been assumed that detective work required common sense alone. This, coupled with a lack of research, a slow pace of change, and a continuing presence of negative attitudes towards marginalised groups, remain as barriers to improving investigative standards in England and Wales (Horvath et al., 2011) (See section 2.9 on policing cultures for further explanation of models of detective work). Nonetheless, there have been reforms aimed at improving victims' experience when bringing a complaint in attempts to tackle the attrition problem. The main changes are outlined below.

Perhaps foundational in effecting change was a documentary in the 1980s by Roger Graef entitled 'A Complaint of Rape' which spurred concern over the way rape victims were treated by the police by broadcasting scenes of police interviews with victims (Horvath et al., 2011). By the end of the 1980s, new training courses for police officers were established alongside rape suites (see

section 3.4 for Sexual Assault Referral Centres, section 3.5 for special training). Hohl and Stanko (2015) report that the use of a Sexual Assault Referral Centre halved the chances of victim withdrawal. Through the 1990s, a number of notable changes in the law occurred. In 1991 marital rape became a criminal offence and in 1994 male rape was recognised as a crime (Horvath et al., 2011). Research continued to report low levels of victim satisfaction with the police. Myhill and Allen (2002) found using British Crime Survey data that only a third of their sample of rape victims were very satisfied with the police response and 22% indicated they were very dissatisfied with the way the police handled their case. A complete reform of the law on rape came into effect with the passing of the Sexual Offences Act 2003, but there is little evidence it has increased convictions (Horvath et al., 2011). Statutory charging was enacted in 2006 (see section 4.1) and specialist rape units within police service areas have been set up in recent years (see section 3.4 and section 2.8 on an implementation gap).

## 2.3 Explaining the Sources of Rape Case Attrition

Alongside the literature tracking the attrition of rape cases there is also a body of literature that attempts to explain what factors and circumstances are behind a large majority of rape cases failing to reach a prosecution and conviction. Most of the academic focus has been on police officers holding problematic views over rape and rape victims. Research that presents an explanation behind the high levels of case discontinuances is reviewed next.

### 2.3.1 A Culture of Scepticism

Jordan (2004b) investigated rape complaints in New Zealand by reviewing police case files and interviewing police officers. The influence of the real rape stereotype was prevalent in the interviews. Jordan concluded that the police demonstrated a persistent disbelief towards female rape victims. Furthermore, Kelly et al. (2005) highlighted the presence of a culture of scepticism, with police officers overly concerned with the possibility a woman could be making a false allegation. As a consequence, they found little evidence of adequate attempts by police to build cases, leading victims to lose confidence and

withdraw. Research from around Europe shows that the scale of false reporting in rape cases is no higher than other crimes (Kelly, 2010). When the police put rape complaints into a 'no crime' category (now referred to as cancelled), or an unfounded category, such categorisations are rarely synonymous with a false allegation, but are often cited as though they are (Kelly, 2010). Such practices stem from the historical approach to rape law where the word of women was considered unreliable and the use of unique evidentiary rules and burdens. Although the explicit discriminatory rules have been removed from the letter of the law in many jurisdictions, the legacy of centuries of disbelief have become sedimented into the cultures of criminal justice systems. This is not a case of individuals with 'bad attitudes', but of widespread cultures of scepticism, which are institutionally reproduced (Kelly, 2010).

The problem also persists in the US. Spohn and Tellis (2012) carried out a case file review with the Los Angeles Police Department (LAPD). The results show that there are high levels of attrition with most cases not even getting as far as an arrest being made. They claim more than two-thirds of the cases that were unfounded by the LAPD in 2008 were false allegations in which complainants deliberately lied about being raped. However, out of those two-thirds of cases that were unfounded by the LAPD, the researchers found most of them could not conclusively be seen as a false allegation (55 out of 81). Claims of this kind serve to reinforce the stereotypical sexist beliefs that women make up allegations of rape for attention or to spite somebody. They also leave the accused free to act again. Chapter Four explores this issue further in relation to this project's findings.

## 2.4 Extra-legal Factors around the Victim

Numerous studies have highlighted how extra-legal factors impact on the way rape cases are handled through the criminal justice system, especially in relation to the victim. Legal factors are those that are expected to influence decision making, that is, the elements that are set out in the statutory definition of an offence. Extra-legal factors are legally irrelevant considerations that are not set out in laws or policy around an offence that can shape the progression of a case. Extra-legal factors are shaped by culture, personal views, and

experiences, and gendered norms and stereotypes. Examples of extra-legal factors that can influence a police officer's view of a case are the demeanour of the victim or use of a weapon (O'Neal, 2017). The literature reviewed here explores the extra-legal factors mostly in relation to a victim's characteristics that have been found to influence the attrition of cases.

Campbell (1995) explored police officers' accounts of their beliefs and experiences of policing rape. Two police forces in the US Midwest with a sample of around ninety police officers completed a survey that included three qualitative questions and a series of quantitative ones. Results suggest officers with more experience, those who perceived their training as helpful, and those with heightened awareness of sexual harassment in the workplace, held more favourable attitudes toward women, which, in turn, predicted less victim-blaming perceptions of date rape. The qualitative questions showed that past experience with rape victims and departmental training led to a more sympathetic response to victims thereafter.

Brown and King (1998) conducted an empirical study in the south of England exploring the opinions police officers hold in relation to rape. Questionnaire surveys were given to a sample of university students and police officers from one police force. The surveys aimed to gather opinion on attitudes towards sexual aggression, gender role socialisation, and rape. Statistical analysis was carried out on the survey data and there were no differences found in responses between the two samples, suggesting that occupational socialisation does not affect opinions given by the police. However, gender role socialisation was implicated in forming opinions. Women in both samples had more liberal and progressive views on gender and were more condemning of sexual violence. Opinions on the perpetrators of rape were omitted from the survey questions, this leaves an incomplete picture of the elements to a rape case that can form the perspectives police officers may have. Furthermore, the use of a questionnaire filled in by the participants themselves does not access rich data as the reasoning behind why the answers given are not collected; my research is designed to address these deficiencies. Since this study has been published, there have been significant changes to the recommended practices for policing rape in England and Wales. Indeed, much research on the policing

of rape in England and Wales pre-dates the Sexual Offences Act 2003, so this research also provides a current account of policing rape after a legal change.

Maddox et al. (2011) conducted qualitative interviews and quantitative questionnaires with police officers in the US. Three key themes were identified from the qualitative interviews regarding the way the police viewed victims. They saw a real victim as intelligent, well dressed, emotionally distressed, and vulnerable. Victims that appeared to be unemotional, angry, or overtly sexual were seen as having an ulterior motive and unreliable. Furthermore, the police officers viewed the attrition problem as being down to the CPS refusing to prosecute, or the victim withdrawing from proceedings. Overall, the police officers appeared to care about the victims of rape, but still held stereotypical views in line with some rape myths. A further study in the US conducted by Alderden and Ullman (2012b) examined the decisions made for the handling of rape cases for one police force. An extremely low number of cases ended in a prosecution. Whether the victim wished for an arrest to be made or not, and any other preferences they held about the response they wanted to receive, was found to influence whether an arrest of the perpetrator was made. If the victim had resisted the attack in some way, the likelihood of an arrest being made was increased.

A more recent empirical study utilising a questionnaire to assess police officers' perceptions examined the influence of ambivalent sexism and empathy on attitudes towards partner violence directed at women (Marisol et al., 2013). Ambivalent sexism is where individuals hold stereotypical ideas about women linked to traditional gender roles. The conclusions drawn suggest that regardless of the level of empathy, police officers who scored highly in benevolent sexism were those with a stronger preference for pursuing a prosecution depending on the wishes of the victim. Furthermore, in violence against women situations, empathy does not always act as a prejudice-reducing factor, it could be that male police officers actually empathise with the perpetrators more than the victim (Marisol et al., 2013).

Murphy et al. (2013) conducted one of a minority of studies in the US using qualitative structured interviews with members of the criminal justice system,

including police and prosecutors and workers from related NGOs including crisis centre advocates. The researchers found wide acknowledgment that public perceptions of sexual assault affect the way cases move through the criminal justice system and effort must be put into changing them. The victim being able to retell the story consistently multiple times, and absence of things such as alcohol use or a previous relationship with the perpetrator, also help cases go through the criminal justice system. Cases are not treated consistently because of staff availability and the training of people involved.

Kelley and Campbell (2013) investigated why some adult sexual assault cases move on for prosecution, but others drop out of the system. It was found that victims who were unconscious at the time of the assault because of alcohol or drug use were more likely to withdraw from the investigation. If there was medical forensic evidence, and the suspect was interviewed, the case was more likely to be referred to a prosecutor. Victims were less likely to withdraw from the process in cases in which law enforcement invested moderate to a great deal of investigational effort.

O'Neal (2017) sought to assess how judgments over the victim's credibility were made by police and how they affect the progression of cases. O'Neal conducted quantitative analysis on 400 case files from the LAPD. It was found that cases which resembled a real rape scenario are more likely to be seen as a credible account, whereas certain victim characteristics are considered to be an indicator that the victim is not credible. Delayed reporting, inconsistent statements, reputation issues, and mental health issues would be seen as a reason to question credibility. Furthermore, if the victim went to the suspect's residence, or became voluntarily intoxicated, her credibility was questioned. In sum, credibility perceptions were predicted by the same character variables that influence police case processing decisions.

In a more recent study, Hine and Murphy (2017) investigated the impact of victim-perpetrator relationship, victim reputation, and initial point of resistance on police officers' judgments of victim responsibility, perpetrator responsibility, and the degree to which the scenario presented was considered a case of rape. They used sixteen hypothetical vignettes with varying details to measure

the effect of the variables listed above. A total of 808 police officers from the London Metropolitan Police completed an online quantitative survey where they were asked a series of questions related to the vignettes. They found that officers' judgments of victim responsibility were unaffected by victim-perpetrator relationship. The participants judged victims with a 'bad' reputation as significantly more responsible for their victimisation than those with 'good' reputations. When the victim resisted the rape earlier, the responsibility assigned to them was lower and higher for the perpetrator and more likely to be seen as a rape compared to a late resistance.

Bows and Westmarland (2017) researched instances of rape where the victim was older than sixty, a lesser researched area within the broader area of sexual violence against women. Older victims of rape do not fit the 'real rape' stereotype of a young attractive female targeted for her sexual desirability by a stranger. Older women are viewed as asexual and undesirable and society does not view older women as at risk of sexual assault crimes. Bows and Westmarland (2017) argued that there has been a lack of attention, activism and research on older victims of sexual assault and critique feminism for its focus on younger women. The stereotype of rape of older women centres on their fragility and vulnerability as to why they are targeted. Also, rape can be a secondary offence alongside burglary, for example. Further, rape of older women is seen as worse than rape of younger women as the perpetrator is viewed as sick and perverse for desiring an older woman. A similar perception can be seen in relation to child sexual offences with the perpetrators also seen as sick and the child victims vulnerable (Bows and Westmarland, 2017).

Bows and Westmarland (2017) sent freedom of information requests to forty-six police forces in the UK. The data requested was the total number of rape and sexual assault by penetration offences recorded by the force between January 2009 and December 2013, broken down by year and offence type; and the number of these offences that involved a victim aged 60 or older. Further details of the cases, such as victim-perpetrator relationship and where the offence took place were also requested. In total forty-three police forces responded. Analysis of the data showed that of all the rape and assault by penetration offences 0.75 percent were against victims over sixty and 92% of



these were female victims. The most common victim-perpetrator relationship was acquaintance (26%), followed by partner or husband (20%) and stranger (20%). Additionally, the majority of offences were committed in the victim's home.

Bows and Westmarland (2017) argue that the 'real rape' stereotype for older victims depicts a female victim attacked by a stranger, considerably younger than they are, usually in the victim's home (or a care home) or in an outdoor public location. In contrast to the 'real-rape' stereotype, their study found that women aged sixty and over were most likely to be raped by an acquaintance, not a stranger. Furthermore, the vast majority of perpetrators were younger than the victims. In sum, rape against older women has many similarities with rape against younger women, with the main differences being the age of offenders and the incidences of rape in care homes.

The studies documented above highlight how police officers can hold problematic views when it comes to rape and victims. However, there is very little consideration of the perpetrator. The small amount of research that does have a focus on the perpetrator will be reviewed next.

## 2.5 Literature with a Perpetrator Focus

There is very little research in the area of rape or policing rape that has a focus on the perpetrators, rather than the victims. Certainly, we know a little about public perceptions, but very little about policing perceptions. This led Egan and Wilson (2012) to suggest that future research should examine attitudes towards the perpetrators of rape. There have been a few studies conducted that have incorporated opinions around the perpetrator as well as the victim in different contexts to demonstrate the deficiencies my research addresses.

Some studies have used a mock rape scenario to elicit people's views. One study examined the influence of the rapist's characteristics on people's perceptions of their culpability (Alicke and Yurik, 1995). The participants were more confident of the rapist's guilt when he was depicted as aggressive and dislikable, and females were more confident in guilt than males overall. As the

sample used here was confined to university students in the US, it may not be indicative of wider society and other jurisdictions. Furthermore, only a correlation was identified, and the reasons and justifications behind the answers given were not collected. A further study in the US collected opinions of a sample of students using a sexual assault scenario (Gerber et al., 2004). This study concluded that the role of the perpetrator was central to how participants formed their opinions. Men attributed less blame to the perpetrator than women did, regardless of the gender of the perpetrator, in a similar finding to Alicke and Yurik (1995). Stuart et al. (2016) examined the influence of offence, victim, and perpetrator stereotypes on case evaluations and perceptions of defendant and complainant behaviour in the context of an alleged case of rape. They found how the victim was perceived contaminated and shaped the views held around the perpetrator.

Some studies have looked at attributions of responsibility for rape. A well-dressed assailant was seen to hold less responsibility for raping a woman than one who was poorly dressed (Yarmey, 1985). Lower attributions of responsibility were given to an attractive defendant (Vrij and Firmin, 2001). When a defendant had drunk alcohol, they were also more likely to be perceived as guilty (Schuller and Wall, 2006).

The majority of the findings in such research suggest police officers and members of the public have victim-blaming attitudes. This relates to the concept of rape myths and has come to dominate research analysing opinions of rape with police officers and the general public. The literature exploring this concept is reviewed next.

## 2.6 Rape Mythology

Many myths and stereotypes surrounding sexual violence reflect the way society views, understands, and reacts to sexual violence against women. A rape myth can be defined as a belief or description about rape that seeks to deny, downplay, or justify the offence (Ellison and Munro, 2010b: 782). Rape myths, though highly spurious, are believed to be widely held by the general

public and agents of the criminal justice system. Even when a member of the criminal justice system does not personally subscribe to these beliefs, they are still influenced by their popular acceptance when deciding whether and how to proceed with an individual rape allegation, in other words that jurors will hold such views (Ellison and Munro, 2010b).

The theoretical foundation leading to the development of rape myths came about in the 1970s through feminist academic discourse. For example, Brownmiller (1975: 312) highlighted the mistaken belief in society that “women are asking for it” which places the onus on women to deter male advances rather than expecting men to manage their own sexual behaviour. In the UK, Kelly (1988) describes rape myths as steeped in sexist, victim blaming, and perpetrator exonerating attitudes. She identifies a number of these myths and the harm they generate. One of the most popular rape myths refers to the real rape scenario. A stranger rape – with the use of violence, occurring in a public place, where the victim sustains injuries – is seen in people’s minds as the archetypal example of how a rape offence occurs (Kelly, 1988). People may believe that victims want or enjoy non-consensual sex and when they say ‘no’ they actually mean ‘yes’. This can lead men to believe that women are actually consenting and enjoying being raped when in fact they explicitly said no. A further rape myth is when people believe that women deserve or are asking to be raped while another is that men cannot be expected to control their sexual behaviour if women behave in a certain way, such as wearing provocative outfits or going out alone. Furthermore, a common myth is that only certain (‘bad’) women are raped; meaning women from a lower socio economic position. It is also believed that women lie or exaggerate allegations of rape to protect their reputation or to be malicious. If women did not resist the violence, they are seen as being responsible and that they could have prevented the rape. The final myth actually refers to the perpetrator rather than the victim, where the men who rape are ill, out of control, or under stress. For example, men who are on drugs or mentally ill are seen as rapists far removed from the average man in society (Kelly, 1988).

A predominant perception closely related to rape myths that becomes most apparent in the situation of a rape trial is named the ‘pedestal myth’, which

holds women to a higher standard of moral conduct over men (Stewart et al., 1996). Essentially, women are expected to be virtuous, polite, and 'lady like'. Women should not be sexually active or use rude language, for example. This expectation privileges men over women and allows others to believe that if a woman is raped they got what they deserved if they behaved in an inappropriately provocative way (Stewart et al., 1996). Belief in rape myths are also closely related to a belief in a 'just' world. This alludes to the idea that in general people get what they deserve (Lerner, 1980). A rape where a victim is innocent is a direct threat to a just world belief as it proves that people do not always get what they deserve, or that bad things may happen to good people (Lonsway and Fitzgerald, 1994). Rape myth research began with a groundbreaking study conducted by Burt (1980) who set the precedent for a plethora of research to follow. There have been a variety of methods created to measure the acceptance of rape myths.

### **2.6.1 Rape Myth Acceptance within the General Public**

Rape myth research is a very well established field of enquiry. The area is saturated with quantitative surveys, mostly with student samples using the scales documented below. The research in this area has progressed from merely establishing the prevalence of rape myth acceptance to understanding the interrelated nature such beliefs have with other systemic ideas in society such as sexism and belief in a just world (Sleath and Bull, 2015). Although the focus of my research project is around police officers' views, I summarise firstly the rape myth work done with non-police samples. As police officers are also members of the public who read news, watch films, and take part in popular culture, so their views may reflect non-police practice and broader cultural norms and values which may impinge on professional judgments. Furthermore, the methodology developed in such studies has also been utilised with police samples, and police often consider a potential juror's opinion in decision making about proceeding with cases (See section 2.6.2 Police Officer's Rape Myth Acceptance).

Burt (1980) tested the relationship between sexual conservatism, adversarial sexual beliefs, and acceptance of interpersonal violence, and how such factors

correlate with acceptance of rape myths. In order to elicit the way people view aspects of themselves and others, a series of statements were given to participants with a seven point scale used for them to express how far they agree with each statement. An example of a statement on the questionnaire was “a woman who initiates a sexual encounter will probably have sex with anybody” and “a woman shouldn't give in sexually to a man too easily or he'll think she's loose” (Burt, 1980: 223). A large random sample of members of the public from one state in the US completed this questionnaire. Quantitative analysis was carried out on the responses given. The results showed that acceptance of interpersonal violence were the strongest attitude predictor to rape myth acceptance. Older people proved to be less satisfied with their own sex role performance and reported less interfamilial violence and more illiberal views. The higher the occupational status and educational attainment, the greater the romantic self-image and self-esteem, and the more liberal the attitudes expressed on sex role stereotyping, sexual conservatism, and adversarial sexual beliefs. Experience with intra-familial violence seemed to make women less sexually conservative, but did not have this effect on men. Media exposure produced less rape myth acceptance in men, but not in women. Overall, many respondents appeared to believe in rape myths in this early research.

The scale Burt created to measure rape myth acceptance has been widely adapted and used in research since its publication (Bohner et al., 2009). However, this scale has been criticised for containing items that are too long and complex and contains several concepts within one statement. Consequently, participants may find this difficult to understand and answer unambiguously. Furthermore, the scales contained the use of colloquialisms that not everyone would interpret in the same way or even understand (Bohner et al., 2009). There is an inherent difficulty with identifying language that occurs in every day usage that people can connect with, but also ensuring participants are familiar with any slang terms.

A number of studies have taken the scale first devised by Burt and used it to research samples of university students. One study established that among students, being from a hometown that is rural or urban does not affect opinions

on gender roles and rape myth acceptance (King and Roberts, 2011). Whereas traditional gender role acceptance and being male was the biggest predictor of rape myth acceptance (King and Roberts, 2011). Vonderhaar and Carmody (2015) found that when rape victims scored higher for rape myth acceptance they were also more likely to hold just world beliefs. Hockett et al. (2013) found that individuals who accepted rape myths and held negative attitudes toward rape victims may do so as part of an overall intolerant belief system.

Burt's scale has been further developed. Payne, Lonsway, and Fitzgerald (1999) first devised the Illinois Rape Myth Acceptance Scale as they noticed the disadvantages to existing rape myth acceptance methodology. They set out to devise a scale that improved on the existing problems with rape myth acceptance scales. The Illinois scale included the use of slang terms; they felt this was unavoidable as so much of the talk around sexual behaviour included slang terms (Payne et al., 1999). The Illinois Rape Myth Acceptance Scale is clear, more valid, and more reliable than previous methods, but the content of the established myths may have evolved over time (Bohner et al., 2009).

Gerger et al. tried to update the scale in 2007, designing a new rape myth acceptance scale developed from earlier conceptions and improving on their disadvantages. They designed a 30 item Acceptance of Modern Myths about Sexual Aggression Scale and wanted to ensure that subtler, newer forms of sexism were being recognised. Their results demonstrated strong correlations between strong masculine values, hostility to women, and rape myth acceptance. Furthermore, victim blaming attitudes went hand in hand with rape myth acceptance. There is a distinct lack of qualitative research accessing members of the public and the police's perceptions of rape. Using quantitative measures of police beliefs can serve to limit the scope of research to issues of interest to researchers which may not be consistent with the issues important to the participants themselves (Campbell, 1995).

It is often argued that low levels of rape prosecutions are down to the fact many people believe rape myths and stereotypes to be true, thus making their decision accordingly (Dinos et al., 2015: 37). A piece of research has been conducted to review published research into how rape myths affect jury

deliberations (Dinos, 2015). It was concluded that rape myths do have an effect on jury decision making. In particular, rape myths significantly impact upon whether a jury will attribute guilt to a defendant. Individuals who hold stereotypical attitudes towards rape are more likely to judge defendants as 'not guilty'.

Research has sought to situate the public's beliefs about rape to explore how they affect the outcomes of mock jury trials (Ellison and Munro, 2010b). A mock jury trial is necessary as it is illegal to study the deliberations of a real jury as they are confidential in England and Wales (Section 8, Contempt of Court Act 1981). Ellison and Munro (2010) conducted a mock jury trial with members of the public and an acquaintance rape scenario. Before and after the mock trial took place, questionnaires were administered to the participants to gauge their opinions on rape in the abstract sense and to see how they compared to those expressed when deliberating over the guilt of a defendant in a trial. The deliberations in the jury room were recorded and analysed. It was found that the participants were aware that the real rape scenario was not representative of the configuration of most rape offences. However, a reluctance to convict may instead be born from the fact that an acquaintance rape situation mirrors elements that routinely animate modern heterosexual seduction scripts based on male dominated, adversarial, sexual interaction such as the location in a person's home, the consumption of alcohol, and the existence of some level of previous intimacy through flirting, touching, or consensual kissing which may blur the distinction between consensual and non-consensual sex, thus making it difficult for a juror to be sure of guilt beyond all reasonable doubt (Ellison and Munro, 2010b). It was also found that victims of a stranger rape were believed to respond by 'freezing' out of fear, whereas a victim of an acquaintance rape was assumed to have the capacity to voice dissent and fight back. Furthermore, it was believed that men get carried away and it is women's burden to communicate clearly to avoid any misunderstanding. With regards to the veracity of a victim's claims in a trial, Ellison and Munro (2010b) conclude that the Victorian conception depicting women as 'mad, bad, or sad' retains influence. The jurors believed that women desire commitment in a relationship and men want gratification and freedom. Furthermore, a woman's reputation was tarnished by promiscuity, whereas a man's is enhanced, and women are

seen as vengeful and men are uncomplicated. Overall, jurors may be harsher on the complainant and more sympathetic toward the defendant than their responses to rape myth acceptance surveys may suggest. The questionnaires administered limit participants responses and may present a more socially desirable image than the opinions actually relied upon when deliberating over a trial (Ellison and Munro, 2010b). The disconnect between answers given in a survey and those expressed in a jury scenario suggest the validity of rape myth acceptance surveys may not access genuine opinions.

Overall, the extant literature suggests that victim blaming and rape myth accepting attitudes are still prevalent in society and influence the deliberations of juries in rape trials. My study explores the extent to which police officers also reflect those prevalent public attitudes.

## **2.6.2 Police Officers' Rape Myth Acceptance**

The extent that rape myths are present within police populations, and the effect they can have in the handling of rape cases, is under researched compared to rape myths within the general public (Page, 2008). The existing research on rape myth acceptance within the police is also largely US focused, quantitative, and victim focused.

Krahe (1991) is one of few studies that do not rely on measuring participants' responses to narrowly formulated answers using a self-completing questionnaire. She used a much more open methodology to allow police officers to articulate their own definitions of rape. East German police officers were given a questionnaire, garnering a 72% response rate, which was a much higher rate than similar studies. The results indicated that police officers were more likely to view an offence as a rape when it matched the 'real rape' stereotype. This study was conducted in Germany and is outdated now as it was more than twenty years ago so may not be as applicable to England and Wales today.

Dellinger Page (2010) assessed police officers' attitudes towards rape in the south east of the US. This study formulated a postal questionnaire containing



statements that the police officers expressed their level of agreement or disagreement with. Burt's (1980) original rape myth acceptance scale was updated and revised and formed one section of the survey. The second section of questions assessed the credibility of victims using an original scale. Just fewer than 900 police officers completed the survey. The findings indicated that the majority of police officers surveyed (93%) agreed that "any women can be raped" and "any man can be raped" (66%) (Dellinger Page, 2010: 325). The issue with asking for agreement or disagreement with such statements is participants' true perspectives can be masked and simplified. In the sense that the values and opinions behind the responses given are not collected, so it is not documented why a police officer would be unlikely to believe a married woman, for example.

Sleath and Bull (2012) conducted a study in the UK to examine police officers' views on victim and perpetrator blaming in relation to rape myth acceptance and belief in a just world. The main focus of this study was to establish any differences in victim and perpetrator blaming between police officers who received specialist training compared to those police officers who did not. Vignettes and questions were sent out to a variety of police officers from two UK police forces, the officers filled in their answers and sent them back to the researchers. The Illinois Rape Myth Acceptance Scale was used to measure rape myth acceptance. The results showed that police officers' rape myth acceptance significantly predicted victim blaming, in line with studies on general population samples. Higher levels of acceptance were found for myths alluding to the fact that women make up false allegations for various reasons. Rape myth acceptance did not relate to perpetrator blaming because of the orientation of the questions to be about the victim. This study found that acquaintance rape victims were blamed more than stranger rape victims. In line with this, perpetrators of stranger rape were blamed more than perpetrators of acquaintance rape. Male police officers were found to blame the perpetrator at a higher level than female police officers. No significant effect was found for specialist rape victim training regarding levels of victim blaming. A further study to distinguish gender differences was conducted by Rich and Seffrin (2014). They devised a quantitative survey with a large sample of police officers in the US. They were asked about specific job related

perceptions and activities concerning rape cases. Female officers were more enthusiastic and had better personal contact with victim advocates, they had more sexual assault training and found it more useful than their male counterparts. They were also more likely to notice negative remarks and have low rape myth acceptance.

Smith et al. (2016) found differing findings regarding the influence of training. They conducted research with university campus police officers. The Illinois Rape Myth Acceptance Scale was used in this study. Campus police officers who attended training on victim sensitivity, the identification of drug-facilitated sexual assaults, and the role of alcohol and/or intoxication in sexual assault were significantly less likely to accept rape myths than those who had not received such training. How much blame was assigned to the victim, their criminal history, and the relationship between victim and perpetrator were all significantly correlated with rape myth acceptance. Rape myth acceptance had the most influence on officers' perceptions of victim blameworthiness and the impact of blameworthiness on case clearance. The length of time an officer worked on a campus did not affect their perceptions.

A more recent assessment of police officers' rape myth acceptance in comparison to university students' opinions has been conducted by Sleath and Bull (2015) in the UK. This research took place after a number of reforms had been made as summarised above therefore presenting a more up to date view. A sample of psychology undergraduates (147 people), law undergraduates (82 people), and police officers (123) completed a questionnaire based on the Illinois Rape Myth Acceptance Scale. Rape myth acceptance was generally low across all samples, with men demonstrating higher levels than women. The police sample accepted rape myths at a higher level that deny a rape occurred, whereas it was students who accepted myths which excuse the occurrence of rape at a higher level. Overall, there was little difference between police and members of the public's perceptions.

### 2.6.3 Evaluating the Rape Myth Literature

Reece (2013) views the arguments made in the rape myth literature as hegemonic and essentially reducing to one simple point. For example, criticism of failures in implementation and enforcement of policies equates to dismay at the attitudes of criminal justice system agents, principally the police. There is little dissent within the academic literature on rape myths from the view that there is an attitudinal problem with all levels of society and that must be addressed to fix the justice gap. Reece concludes that rape myths are actually a mixture of fact and opinion created by putting the worst possible interpretation on ambiguous and complex statements. Labelling people's beliefs as myths functions to close down a productive public conversation about such important issues. Consequently, there is a risk of creating myths about myths (Reece, 2013). Gurnham (2016) agrees with this point, finding that the studies of rape myth acceptance achieve the effect of framing apparently common and popular attitudes about aspects of ordinary sexual life in terms of rape myth acceptance. He goes on to state:

If nothing else then this research further demonstrates ways in which we might view the affirmation of stereotypes as another example of a self-defensive reaction against the troubling implications of being too closely associated with the perpetrator of rape (Gurnham, 2016: 137).

When Reece argues that she wants to open up the terms of the debate, this seems like a worthwhile project, however Conaghan and Russell (2014) argue she is actually doing the opposite. Reece deploys a range of theoretical tactics to discredit rape researchers and those who rely on their work, leaving little room for a constructive conversation. Reece adopts a discursive frame that is crudely reductionist and over simplifies a rich and nuanced area of research, as elaborated below. Her arguments are framed in terms that paint her stance as value free and impartial against a flurry of elitist academic opinion. She offers common sense explanations to ideas that have come about over years of research and improvement. The real rape myth, Reece argues, is not in fact a myth, but rather just a stereotypical version of rape that people view as more serious than an acquaintance or partner rape. Whether we label such a bias as a belief or a myth, or just a prejudiced view, seems irrelevant and just a matter

of semantics. Reece does not account for the bias in the types of cases that get to a prosecution. This is demonstrated with stranger rapes being more likely to end in a prosecution than other types of rape (Gregory and Lees, 1999). Reece also turns her attention to the myth that women make up false allegations, arguing that there is very little evidence to suggest whether that is true or not, however there are feminist studies that suggest the levels of false allegations are incredibly low (Reece, 2013). Such a belief can lead the police to be overly suspicious of a victim and even disbelieve them or lead victims to not wanting to carry a prosecution forward.

Reece highlights that there is very little research documenting what consent looks like in real life sexual relations, academics only study situations where consent is absent. This is because of the fact that real life situations where sexual relations play out are contingent on gaining consent in different circumstances and contexts. Eliciting people's ideas based on abstract scenarios, as much research relies on, does not represent what happens in real life. Reece illustrates this point using a common rape myth that if a woman asks a man back to her house after a night out for coffee, she is inviting sex. People may view this scenario in a variety of ways; some may see this as a just coffee, a chance of sex, or a polite way of inviting sex. Reece suggests it is not a myth and many women may do this as a legitimate way of initiating sexual relations, nonetheless it is not safe to assume this is an invitation for sex as even if 'coffee' is a metaphor for sex, anyone can later change their mind. What Reece does not take account of here is the patriarchal context within which courtship behaviours are situated.

There is, in fact, research investigating people's views of what consent is like in real life. A clearer way to assess people's conceptions of consent is to take into account a wider culture underpinning isolated instances of rape. Research has found that young people claim to have egalitarian attitudes towards sexual relationships, yet their courtship behaviours are steeped in the traditional gender stereotyped roles (Bouffard and Bouffard, 2011). Gendered patriarchal expectations of behaviour in courtship situations include male control and female dependence, obedience, and sexual access. Men are expected to initiate dates, drive, and pay for the dates while women are supposed to go

along with it. Women are not expected to play an active role in initiating sex; they often give a token resistance regardless of their actual feelings. Furthermore, when women resist and say no, it is not taken seriously; rather women are seen as conforming to gender stereotypes by denying their desire. This set of behaviours can easily lead to sexual violence as some amount of coercion and force is deemed necessary. Coercion and force can be justified as not a 'real' rape. For example, a scenario where a man plies a woman with copious amounts of alcohol in the hope she will be easier to coerce into sex is deemed acceptable and even something men are proud of. It is often documented in the academic literature that in the perpetrator's mind, they do not see themselves as a rapist (Bouffard and Bouffard, 2011). The 'inviting in for coffee scenario' Reece speaks of is not as straightforward as she makes out, and assumptions people make in a situation are influenced by sexist norms that dictate behaviours.

Reece (2013) implies that rape researchers who blur or collapse the line between rape and wider cultural factors and norms are straying beyond their proper remit (Conaghan and Russell, 2014). Reece also implies that rape myth researchers are trying "to impose upon the general population a singular, feminist-instigated sexual vision" under the guise of tackling rape myths (Conaghan and Russell, 2014: 30). That is why she ignores the wider context rape myths are situated in so she can manipulate them to make her points. Conaghan and Russell (2014: 44) explain:

Rape myths are not necessarily mutually exclusive being tied, as they are, through a logically linked genealogy to a discourse of heterosex which continuously reproduces itself in the image of masculine desire... Moreover, such attention to context immediately calls into question Reece's liberal, atomized, gender-neutral legal subject who negotiates sex from a position of absolute equality.

Reece (2013) overlooks concerns over the attrition problem or the treatment of victims by the police. Again, the gendered dimension of rape is ignored, as is the trauma victims can face going through the criminal justice system. How far views such as rape myths impact on the decisions taken in rape cases at the policing stage is explored below.

## 2.7 Police Officers' Decision Making in Rape Cases

Research attesting to a culture of scepticism and negative attitudes about rape and rape victims held by those in the criminal justice system is well documented. On the other hand, it is lesser known how such negative views, such as rape myth acceptance, actually inform and shape the way police officers make decisions in rape cases and how in turn case outcomes are impacted. Most previous literature explores perceptions in an abstract context to show how such opinions are suggestive of influencing the policing of rape, rather than investigating actual decision making. In other words the relationship between opinions and behaviour is not well established (Sleath and Bull, 2017). Some factors that have been demonstrated to impact on assessments of blame for example, may not actually impact on case progression in the same way. There is a small amount of research that attempts to study police officers' decision making specifically and how that may shape the progression of cases.

A study that tried to illuminate some of the decision making processes involved with police officers when faced with sexual assault cases used a sample of Australian police officers (McLean and Goodman-Delahunty, 2008). They were given a questionnaire with various vignettes depicting rape offences. Police officers were more likely to believe the victim was sexually assaulted and recommend that the alleged offender be charged when there was evidence that the victim was physically injured. Charges were also more likely when the alleged offender was an ex-boyfriend than when the offender was her husband and when the alleged offender was a stranger than when the offender was known. The likelihood of officers charging the alleged offender with sexual assault was related to perceptions of credibility of the victim, believability of the suspect, and responsibility attributed to the perpetrator.

Goodman-Delahunty and Graham (2011) investigated how victim intoxication and victim dress impacted on police decision making in rape cases. A total of 125 police officers from New South Wales in Australia were sent one of two sets of case information including statements and pieces of evidence. Here, victim intoxication did not have an effect on decisions when responding to a

case. Furthermore, when the victim was perceived to be more sexually provocative, she was attributed significantly more responsibility for the alleged offence. The dress of the victim did not impact on any measure. Participants who subscribe to rape myths (measured with the Illinois Rape Myth Acceptance Scale) perceived the victim as less credible, attributed her greater responsibility for the incident, were less likely to believe that she communicated non-consent, were less likely to regard the alleged perpetrator as guilty of sexual assault, and were less likely to recommend that he be charged.

Barrett and Hamilton-Giachritsis (2013) conducted a mock rape investigation with twenty-two UK based detectives. They drip fed information about the case to the participants and recorded their comments as they talked through what decisions they would make and why. The comments were qualitatively analysed. It was found that the alleged rape victim was perceived primarily as a source of information to progress enquiries, with her welfare needs taking second place. Although some police officers revealed sceptical attitudes to rape allegations, the investigative approach they all took was professional and pragmatic. They presumed the report to be true and focused on corroborating the victim's account. Although this study explores decision making, it was largely in the context of how the victim would experience the process.

A recent study conducted by Hine and Murphy (2019) sought to assess how a police officer's level of rape myth acceptance influenced their judgements of victim and perpetrator responsibility and rape authenticity; essentially, to bridge the understanding of the link between rape myth acceptance and how it can impact on how police officers handle a case. A total of 808 police officers from the Metropolitan Police Service in London who were categorised as having a high or low level of rape myth acceptance, of varying ranks and experience, completed a vignette based quantitative survey. The Acceptance About Modern Myths About Sexual Aggression scale was utilised to measure the participants' level of rape myth acceptance (see section section 2.6). The results demonstrate that officers who had high levels of rape myth acceptance rated victims as more responsible and perpetrators less so for the offence and cases as less authentic than those with lower levels of rape myth acceptance.

Therefore, rape myth acceptance influenced the opinions officers had over various rape cases (Hine and Murphy, 2019). My project further explores police decision making and how it may impact on case progression. Further theories to explain what shapes police decision making in rape cases are now reviewed.

### **2.7.1 Legal Rationality**

A number of theories have been posited to explain what seems to be a framework that guides police officers to make decisions in rape cases. LaFree (1981) theorised that police officers operate according to legal rationality, namely they are more likely to put effort into cases they believe will end in a prosecution. They are essentially pre-empting the prejudices of the CPS and jurors, and this leads to attrition. Brown et al. (2007) carried out a case file review of rape cases with one UK police force, and a small number of qualitative interviews with police officers. The majority of cases were dropped at the investigative stage. The police decision making leading to this was found to display elements of both attitudinal prejudices (rape myth acceptance) and a rational legal logic, with the latter dominating. An example of the sort of prejudice that police officers may be pre-empting is their prediction of the sort of deliberating and decisions juries undertake when deciding a rape case outcome (see section 2.6.1). The earlier studies outlined in section 2.2.1 such as Harris and Grace (1999) and Kelly et al. (2005) critique how police 'second guess' the outcomes of cases as a basis for the actions they take, the concept of legal rationality builds on this initial finding.

Munro and Kelly (2009) argue that a mixture of legal rationality and prejudices become part of a vicious cycle perpetuating high attrition rates. They identified that perceptions of a real rape continue to shape outcomes of cases. They utilised mock jury trials and analysed patterns of attrition to show this. Police and prosecutors often correctly predict the jury deliberations a case will garner, with this allowing them to justify advising or pushing a victim not to pursue a conviction as they believe it will spare them the trauma of a trial for a small chance of a conviction. As 'real' rape scenarios are more likely to get a jury to convict, the police know this and will encourage such victims to take it further.



Consequently the public are not exposed to the majority of rape cases that do not conform to the real rape scenario (Munro and Kelly, 2009: 295) (see section 6.1). This reinforces the stereotypical view of rape creating a self-fulfilling prophecy and indicates a need for more accurate information and news.

## 2.8 Implementation Gap

A key area of debate that is attributed to playing a part in the high levels of case attrition has been named the 'implementation gap'. Many recommendations for reform have been suggested to improve the experience victims have when making a rape complaint to the police and to increase the levels of prosecutions and convictions. Consequently, this area has been described as "policy-rich and implementation-poor" (Brown et al., 2010: 6). A government commissioned report carried out by Baroness Stern into the handling of rape cases and how to tackle the attrition problem concluded that the policies and procedures to guide the handling of rape cases were in place and appropriate for the purpose intended (Stern, 2010). The problem lies in the implementation of such policies. Stern advocates more publicity around what the Sexual Offences Act 2003 states for there to be less confusion. Stern unequivocally calls for greater support for victims, but is unclear about the best way to achieve this.

Jordan (2011) takes a pessimistic view of Stern's recommendations and the hope they have of making a positive difference for the victims of rape. Jordan (2011: 236) states that, while we need to recognise areas where gains and improvements have been made, we also need to be cautious against lapsing into a haze of complacency that no substantive further action is required.

Jordan acknowledges that police officers are much better at responding to victims appropriately and more inclined to believe them. Nonetheless, Jordan asserts it is not good enough that rape victims just have a higher chance of being treated with respect or their case going to court to conclude things are getting better. Jordan (2011: 249) evidences the fact that nothing has been improving by highlighting that reporting rates are still low, attrition rates are still high, the adversarial justice system is still 'revictimising' complainants, the

agencies supporting rape victims are still inadequately funded, police specialisation is still not accepted as essential, and attitudes towards women who have been raped are still victim-blaming.

Jordan looks at a wider context as to why little improves the policing of rape. Laws, courts, and police services all developed within a patriarchal context oriented towards the perpetuation of gender inequalities. While this ethos has been strongly challenged, and some of the worst excesses of the systems erased, the legacy of patriarchy still infuses the central core.

Cook (2011) takes a similar, yet less pessimistic, view than Jordan asserting that we are waiting for an age-old set of patriarchal values to loosen their grasp on public policy and practice, essentially that things are staying the same. This is demonstrated by the fact that there has been a raft of legislative change, policy initiatives, and review processes that have yet to make much of a recognisable difference to the policing of rape. Cook asserts that the professionals are failing and rape convictions are scarce. Another government review comments on this patchy implementation of apparently improved law and policy; so reviews produce evidence of problems within patriarchy's prosecution of rape, but they appear to bring about limited change. This could be because there is always a focus in such reviews on the crime of rape, not the culture that informs it.

Brown (2011: 270) agrees that there is patchy implementation as in Stern's review, "but we simply lack the evaluative research to say whether it is individual resistance, systemic problems or incomplete implementation that results in either specific scandalous failures or limited increases in reporting or conviction rates".

Research documented in the above sections does not situate the opinions of the police within their wider occupational culture. Literature on the police culture can also shed light on what police officers' views of rape are, and the way they go about handling cases.

## 2.9 Policing Cultures

The opinions, actions, and behaviours police officers display are underpinned by an occupational culture specific to the police (Loftus, 2009). The way police culture interacts and effects the policing of rape has yet to be explored and theorised. To date, a research project has not yet explored how police culture guides and reflects the opinions the police may have around rape. Furthermore, the research accessing police officers' opinions on their experiences of policing rape barely considers the wider culture of the police in shaping such opinions. Police culture can be defined as a "convenient label for a range of negative, values, attitudes and practice norms among police officers" (Chan, 1996: 110). Although police culture is heterogeneous, Reiner (2010) synthesised its core elements.

First, a sense of mission is one core element, with policing not just being a job but a way of life centred on protecting victims of crime (Reiner, 2010). This vision of policing overlooks the mundane reality of policing (Reiner, 2010: 120; Banton, 1964). Police are representatives of the moral order and a part of it, they want to reinforce their own image of policing as one of action and danger (Van Maanen, 2005). Their commitment to the mission can lead to a cynical outlook on the world coupled with a hedonistic love for action (Reiner, 2010). Secondly, most police officers develop a sense of suspicion that stays switched on. Furthermore, police officers are said to show solidarity with each other, coupled with social isolation. A conservative outlook in the political and moral sense is another core element (Reiner, 2010; Baker, 1985). Additionally, it has been widely documented that police officers hold prejudiced views or as a whole are part of an institution that is racist (Reiner, 2010). Police officers conduct their job in a pragmatic manner, wanting to get the job done in the safest way with the least amount of paperwork (Reiner, 2010). Lastly, Reiner posits that an old-fashioned machismo sums up the police world. My research seeks evidence of this in relation to policing rape cases, so addressing a lack in research on both police culture and rape.

Chan (1996) criticises much of the police culture literature for painting police culture as though it is a homogeneous culture when that is not the case. Many

studies demonstrate how such elements of a culture are pervasive and influential depending on the rank a police officer holds and the situations they are in. A variety of studies have outlined the different working personalities and orientations police officers can embody (Broderick, 1973; Muir, 1977; Walsh, 1977; Brown, 1981; Shearing, 1981; Reiner, 2010). As well as similarities at the individual level, there are cultural variations within police departments (Wilson, 1968). Cain (1973) identified differences within a rural and urban police service. Furthermore, differences between management level and street level police have been highlighted (Reuss-Ianni and Ianni, 1983; Manning, 2015).

The research that the landscape of police culture is premised upon is gathered from ethnographic studies of police services. Such research was largely conducted around fifty years ago, and a common criticism is that such findings are now redundant as the landscape of policing has evolved substantially in this time, as well as the society around them (Bacon, 2014). Sklansky (2007) warns of what he terms 'cognitive burn in', the blueprint of police culture as documented above has come to be the presumed go-to model when understanding the police. This is despite a mass of changes over the decades altering the police's make-up. All of this has made the police subcultural schema, with its picture of police departments as insular, homogeneous bastions of unchallenged patriarchy, racism, and authoritarianism increasingly out of date (Sklansky, 2007: 35).

Loftus (2009) asserts that police culture is sustained by the society in which it operates. Loftus conducted an ethnography alongside qualitative interviews in a police service in the north of England. Despite many arguing to the contrary, Loftus still found a lot of evidence that the classic themes outlined above have survived despite changes to the policing landscape. There is still evidence that the original conception of police culture remains prevalent in a modern British police service (Loftus, 2009). The policing of rape has generally been theorised in relation to the wider idea of a police culture, but not empirically explored.

The danger and coercive authority central to police cultural norms are lacking in rape cases, and may explain the tendency to under investigate. The suspicious nature that police may have seems evident in the tendency to doubt

a rape victim's word according to her character. If police feel solidarity with each other, this could be challenged by rape, both male solidarity (as men commit it) and heterosexuality, indicating a tendency to blame an unworthy victim rather than men.

The values of police culture have been portrayed as an almost pure form of hegemonic masculinity. They highlight aggressiveness, competitiveness, exaggerated heterosexuality, sexism, and loyalty to an 'in group' (Fielding, 1994: 47). Connell (1995: 77) offers a definition of hegemonic masculinity as the configuration of gender practice that embodies the currently accepted answer to the problem of legitimacy of patriarchy which then guarantees the dominant position of men and the subordination of women. This definition essentially refers to a form of masculinity in a given societal and historical setting that structures and legitimates hierarchical gender relations between men and women, femininity and masculinity, and among men (Messerschmidt, 2005). Hegemonic masculinity relates to subordinate masculinities and emphasised femininities, and is distinct from subordinated masculinities. It is not assumed to be normal in the statistical sense and only a minority of men may actually enact it. It embodies the most honoured way of being a man, positions other men in relation to it, and ideologically legitimates the global subordination of women to men. Much of the theorising on men and masculinities is underpinned by the concept of 'homosociality'. This refers to social bonds between males, as men's lives are highly reactive to relations with other men. Males seek approval from other men by identifying and competing with them (Flood, 2008). Tight bonds among males are institutionalised in many workplaces and bureaucracies, including the police. Women are excluded through being marginalised and 'othered' with an ideological emphasis placed on men's superiority to women. Solidarity between men informs men's sexual violence against women, and norms of gender inequality foster and justify abuse, particularly in peer cultures. Continuing on this line of thought, men seek to prove their manhood in the eyes of other men; this is a product of sexism and seeks to uphold sexism (Kimmel, 1994). From this theoretical position, it is possible police officers may empathise and identify with some perpetrators.

Elements of police culture mediate the way laws, policies, and procedures are carried out in practice (Bacon, 2014). The investigating officers who shape and make decisions on rape cases are generally those of a detective police rank. The work of detectives entails piecing together fragments of information in order to determine what has occurred and who committed a criminal act in the eyes of the law (Bacon, 2016). The occupational culture of those who hold the rank of detective within the police is rarely the focus of studies within this area of scholarship (Bacon, 2016). Bacon (2016) summarises what characterises detective culture from existing studies, namely a pragmatic approach, an attraction to the action of crime fighting, a conservative outlook, an old fashioned machismo, pride and loyalty to one another, and a general suspicion of outsiders. This has led to a norm of bending rules and procedures to secure desirable investigative outcomes (Bacon, 2016). Police culture is always changing with the society around it and adapting to new ideologies and demand (Bacon, 2014). A recent change in policing is the creation of specialist rape units, but the culture embodied within those units has not been the focus of specific research (see section 3.4 for explanation of rape units). The way elements of police culture may be reflected in the findings of this study is considered in Chapters Four to Seven, where interviews are analysed.

There are competing perspectives about the nature of detective work, with the old regime being described as an art or craft. This is the craft of a seasoned detective who draws on experience and understanding of suspects and victims. They have the ability to manipulate the process and those involved to achieve justice (Hallenberg et al., 2016). Detective work as an art form refers to intuition and instinctive feelings towards problem solving. This is the ability to see truth and use a creative approach to lines of enquiry and reading criminal behaviour (Hallenberg et al., 2016). Furthermore, in recent times detective work is viewed as more of a science. This entails sophisticated crime scene and evidence management, and scientifically-informed interviewing and profiling skills. Police utilise social sciences and have evolved from the detectives of the past to take a more evidence centric approach (Hallenberg et al., 2016). These typologies are ideal types, and reality is more likely a mix of all elements (Tong and Bowling, 2006). Threads that runs through detective work depictions are a lack of oversight and significant discretion (Tong and Bowling, 2006).

## 2.10 Conclusion

In summary, there is a wealth of research investigating rape and the policing of rape. The attrition problem in rape cases is well documented with a variety of reasons given for the fact very few cases gain a conviction, mostly focused on the effect the characteristics of the victim can have on the outcome of a case. The methodology utilised to explore the attrition problem is mostly quantitative case file reviews or interviews with victims. Police officers themselves are rarely asked about what they see as the challenges of policing rape, even though their perceptions may impact significantly on the processing of rape cases that could be behind the case outcomes and statistics.

Numerous explanations for the attrition problem focus on individual level factors, such as negative attitudes and a culture of scepticism directed at victims. Most studies in this area are US focussed and quantitative. Those based in the UK are largely from London and the Home Counties. A further individual level explanatory factor is the presence of extra-legal thinking police officers apply when dealing with rape cases, this is especially prevalent in relation to rape myths. The majority of the rape myth literature uses student samples to ascertain findings, rarely police samples. A number of surveys have highlighted the fact that members of the public and police believe in rape myths. A disadvantage to using quantitative surveys is that they only record a surface opinion and do not access the reasoning behind why a participant gave the answers they did. How individual level opinions and perceptions impact on case outcomes by shaping decision making is largely unexplored, with existing literature highlighting the influence of structural factors intersecting with individual opinions. Structural level explanations such as the influence of legal rationality and demands of an adversarial system shape how decisions are made. A further structural level factor behind case attrition is an implementation gap between policy and practice. Police culture is an established school of thought, however the way police culture may underpin, shape, and be reflected in the views police officers hold around policing rape is largely unknown. The masculine ethos of the police is especially relevant to the policing of rape.

This project explores how police officers' decision making contributes and shapes the attrition problem in rape cases. My fieldwork explores individual, structural, and cultural level factors that can influence how decisions are made. My fieldwork also allows police officers to give an in depth perspective on what they see as the problems with policing and prosecuting rape. My research will address a number of gaps in the literature by exploring decision making rather than opinions in the abstract, including opinions on perpetrators rather than just victims and by utilising a qualitative approach.



# 3. Methodology

---

The previous chapter explained what the attrition problem is and the scholarship that attempts to understand and explain the causes of the high levels of rape case discontinuances at the police stage of the process. Numerous studies have highlighted how high levels of attrition remain a problem with cases that possess certain characteristics more likely to progress to trial, such as stranger rape cases. Existing theories to account for the causes of the attrition problem focus on police officers' opinions, that is, how police officers uphold a culture of suspicion towards victims and subscribe to rape myths (Kelly et al., 2005; Jordan, 2004a). On the other hand, some argue that organisational culture, rather than individual attitudes, influences police officers' perceptions and resulting case outcomes. That is the role policies and procedures play in how officers carry out their work, including the influence of a legal rationality (Martin, 2005). Conversely, a differing explanation highlights an implementation gap between policies and the way they are carried out. A further consideration is that rape offences are unique in the sense that an inherently legal activity is made illegal by a lack of consent, leading to a difficulty in collecting independent evidence on which to build a prosecutable case (Alys et al., 2013). Organisational, cultural, individual, and systemic factors are next explored through this study to determine what shapes police officers' decision making and influences case outcomes.

A large amount of extant literature examining the attrition problem analyses police case files to identify features in cases that predict whether they will be successful or not. This method does not access the reasons why certain cases are more likely to be prosecuted over others. When a police officer's perceptions and opinions are the focus of research, especially in relation to rape myth acceptance, quantitative surveys are the most utilised method. Therefore, rich and in depth explanations of the reasons behind such viewpoints and how they influence case proceedings are not considered. Self-report scales measuring rape myths may have missed out the subtle nuances that a qualitative interview captures. Furthermore, officers may have felt obliged to portray the police service in a positive light; although this is a factor in qualitative work, it is much easier for participants to respond in a 'politically correct' way when giving short written answers than having an in depth conversation (Page, 2008). Additionally, analysing opinions in an abstract fashion can only be suggestive of how practice is influenced by such views. A large amount of literature in this area is based in the US, and scholarship based in the UK is largely focused in the south of England with samples containing mostly male police officers (Sleath and Bull, 2017).

Little is known about police officers' decision making and how it affects case outcomes. Furthermore, a police officer's own understandings and accounts of the high levels of case discontinuances have been little explored. The primary aim of this study is to explore police officers' decision making in rape cases and how that contributes to and shapes the attrition problem in England and Wales. From this stem four research questions:

- How do police officers make decisions in rape cases?
- What influences – including legal and extra-legal factors – are taken into account when deliberating and making decisions over rape cases?
- How do police officers account for and understand the attrition of rape cases?
- How may such decision making by police officers impact on levels of case discontinuances?

The research method employed to answer the above questions is that of semi-structured qualitative interviews with police officers using vignettes. A research method can be defined as an instrument designed to identify and analyse the obdurate character of the social world (Blumer, 1969: 28). Firstly, the theory informing the methodology underpinning this study is outlined before explaining the method utilised, the sample, an evaluation of the method, and ethical considerations of the study.

### 3.1 Feminist Methodology

To outline the theoretical framework that justifies, guides, and shapes the methodological approach employed in this study, the epistemological and ontological position is first documented. Ontology is the nature of the social reality to be investigated; that is, what is out there to be studied (Mason, 2002). Ontology is a theory of reality or being (Stanley and Wise, 2002: 194). Personally, the ontological elements studied here are the perceptions, opinions, and accounts of practice which police officers display. An epistemology is a framework or theory for specifying the constitution and generation of knowledge about the social world and how to understand the nature of reality. An epistemological framework specifies not only what knowledge is, but also who are 'knowers' (Stanley and Wise, 2002: 188). This study can be considered as adopting a feminist epistemology and ontology to inform a feminist methodology.

Although there is no definitive definition or set of specifications that deem a study as one falling under the umbrella of feminist methodology within criminological research, broad themes have been recognised (Gelsthorpe, 1992). Firstly, the research should have a focus on women. Research guided by a feminist epistemology was originally the preserve of female researchers conducting research on women in the most part. Feminist methodology has been summarised by the concept that research is 'on, by and for women' (Stanley and Wise, 1983: 17-21). However, over the last thirty years feminist criminological theory and methods have been applied to wider topic areas and the study of men (Farrell et al., 2017). There is a noticeable lack of consensus on the methodological principles underpinning men's inclusion as

both researchers and researched (Campbell, 2003). Stanley and Wise (1990) argue that women's experiences with men contributes to their oppression, so there is no justification for excluding a focus on the ideological, discursive, and material means by which men, individually and collectively, construct and maintain relations of oppression. Further, within a criminological context, men make up a large part of the criminal justice system in the sense that most offenders and most police are men. My research, therefore, though feminist informed, includes both male and female police officers to best explore the policing of rape with the aim of securing justice for women who have been raped.

Secondly, a feminist epistemology determines that as knowledge is produced, not simply found, the conditions of its production should be studied, critiqued, and made explicit (Ackerley and True, 2010). I do not consider knowledge to be objective in nature, there is not an objective truth waiting to be discovered by an objective researcher. Rather, I hold the view that reality is something that is socially experienced and interpreted (Gubrium and Holstein, 2008). Furthermore, many realities exist (Stanley and Wise, 2002). Feminist methodology has a preference for qualitative research stemming from these assumptions. Qualitative research is appropriate to investigate an individual's thoughts, to find out their perspective, and to find out things from them not directly observable (Patton, 1990: 278). Furthermore, qualitative work is a way to uncover the meanings underpinning people's routines, behaviours, and emotions (Rubin and Rubin, 2005). A qualitative approach is most appropriate to investigate police officers' decisions and actions when working on rape cases to uncover the reasons behind why they opt to carry out their role in the way they do, and to provide a rich explanation to explain the high levels of case discontinuances.

Feminist epistemology does not view emotion as an element of research that needs to be eradicated or controlled, rather emotion can enhance knowledge and understanding of a phenomenon. Emotions and feelings are a natural part of research where emotions influence research and can have an impact on the researcher (Campbell, 2003). The findings presented in Chapter Seven do touch on the emotions of the participants when faced with challenges in their

work. When officers shared with me how their job could be stressful, and that they were struggling with high workloads, I allowed space for, and listened intently to, my participants as they shared what they felt were the problems they faced in their role in policing rape. Furthermore, the role of emotion was evident in the interviews when officers felt passionately about the role they perform, how they do care about victims, and were affected by hearing the traumatic events victims had gone through. I was mindful of my own emotions in how I responded to the answers the officers gave and how I felt throughout the experience of conducting fieldwork. I recorded my thoughts and emotions in a fieldwork diary that I completed after each interview. I used the presence of emotions to enhance my understanding of my data collected in line with a feminist approach. An example of this process that I recorded in my research diary was where I experienced the day to day interactions between male police officers in a police station. After I conducted an interview with a male police officer, we were having a general conversation as I was escorted back to the main entrance to leave. We stopped in a small office to speak to another two male police officers on the way out. I was introduced to them as a student who was visiting to research the response to rape offences. The police officers then proceeded to make rape jokes in front of me. This was a glimpse into what the police culture literature would call an old fashioned machismo. I felt uncomfortable and angered that this behaviour was seen as appropriate. Furthermore, when I witnessed responses to my questions that perpetuate victim blaming attitudes for example, I was disappointed that such opinions are still rife (see section 6.1). I embraced the presence of emotion of both the participants and myself rather than seeking to minimise and ignore this part of the process.

A further key theme in feminist methodology is that an interview situation should seek to dismantle power imbalances. An interview that aims to dismantle a power differential to align the researcher and participant as equal partners in constructing a discussion has obvious value in research on, by, and for women (Gelsthorpe, 1992: 216). It is often assumed that it is the researcher who has more power. The interview dynamic of a young female student conducting research with mostly older experienced police officers raises questions of who holds the power in the interview and whether a democratised

interview approach is most appropriate or possible. Democratised refers to a situation where the interviewee and interviewer are equal subjects in the construction of knowledge, essentially any power imbalance is minimised. Cain (1986: 262) argues that while some people are 'entitled' to become research 'subjects', others should legitimately remain 'objects' of research. Cain explains that if she were to interview members of the International Association of Chiefs of Police about their organisation, it would be neither productive nor useful to engage these men in feminist 'collaborative research'. This is because they already are in an empowered position and their role can shape women's experiences of oppression. Campbell (2003) suggests a critical dialogue is appropriate for feminist researchers to employ when interviewing police. This entails maintaining a connection to the police without the requirement to empathise and accept all viewpoints they hold. The critical element to the dialogue allows for challenge of, for example, anti-feminist views held. Campbell described her interviewing of police officers as sharing some moments of dissonance and a negotiation and understanding of their occupational world. Campbell states that power should not be seen as dichotomous, for example in my interviews this would mean that it was not always clear cut who has the power and power possession was liable to vary at different points. The training police officers are given develops advanced skills in steering and controlling interview situations. Although I was acutely aware of the skills my participants possessed, I did not notice many incidences of a participant wanting to dominate and steer a dialogue away from a topic I introduced. However, there were instances where it was clear the participant had a specific topic in mind that they wanted to bring up and discuss. This was most prominent with conversations around sex workers and their victimisation, and the prevalence of false allegations of rape (see section 6.3). I did not take steps to address power imbalances in the interview as my primary aim was to investigate the treatment and service women receive, rather than to improve the lives of the police officers. This element of my research raised ethical considerations as I am a researcher prepared to make robust criticism of the handling of rape complaints by the police, yet I still held an ethical duty to the participants. I took the same approach Cain (1986) did as explained above, adopting the stance that as the handling of rape offences by the police has long faced criticism, and has the potential to help or greatly further harm

women, it is appropriate for a feminist informed study that the participants remain objects of research.

A critical dialogue describes how I approached the interviewing of police officers. There were many moments of empathy and understanding I felt towards the issues I was discussing with participants, especially when the officers themselves showed they cared and wanted to do their best for rape victims. Notably, they were protesting others' reliance on rape myths and how they were also unhappy with how the current situation often failed victims. Conversely, I encountered the dilemma of how to react to participants espousing what could be considered as 'anti-feminist' views. I felt the need to challenge such views, and not be complicit by staying silent, but I also had to maintain rapport and respect my participants' opinions. This was especially salient when I witnessed participants expressing victim blaming views and accepting rape myths. Ultimately, the research aimed to critique the policing of rape, so it was not appropriate to empathise with and accept everything my participants said. I navigated this challenge firstly in the writing up of the findings, critiquing viewpoints that were anti-feminist. Secondly, at the end of interviews I had informal discussions with participants which gave me the opportunity to share the main concerns highlighted by feminist research in the area.

Finally, integral to feminist informed research is the necessity to be reflexive about the research process, as all research is an interaction between the researcher and the researched (Stanley and Wise, 2002). Reflexivity is a form of introspection around the experiences and drawbacks of conducting research. In this approach, there is no neutral point from which objective data can be collected, the researcher always influences the social interactions that constitute the data. A researcher must, therefore, interpret findings in light of these biases (Reiner and Newburn, 2008). Skeggs (1994) asserted that knowledge is context-specific. Therefore, the position of the researcher is central to the research process so it is important to be reflexive on the impact the researcher has on the data collected. Cain (1990) summarises that to strive towards good feminist research, the research should be politically and theoretically accountable and inclusive, methodologically demonstrative, and

reflexive to best scrutinise the research. The researcher must embrace and be open about their own values (Steier, 1991). Value free research is not an achievable aim, nor a desirable one (Harding and Norberg, 2005). It is important to acknowledge this and be reflexive of the values that the researcher brings to the fieldwork and the effect they can have on the collection of data and the subsequent analysis. The data I obtained was inevitably affected by my own characteristics, the way the police perceived me, and my relationship to the police. My own feminist values are influenced by the literature I reviewed for this project which highlighted the continuum of sexual violence women experience from every day sexism to rape and murder (Kelly, 1988). I approached the fieldwork with the knowledge of a culture of scepticism, rape myths, and disbelief directed at women. Furthermore, I believe the oppression of women in a patriarchal society underpins the scale of violence against women. The low levels of justice and historic poor treatment women have received when making a complaint to the police of sexual violence is part of the structural inequality women face. The current response to rape does not deliver justice for women and often re-traumatises them.

Questions have been raised over whether what is labelled as feminist methodology is, in fact, just good research (Gelsthorpe, 1992). The approach described as feminist methodology is evident in other epistemological approaches. For example, a constructionist epistemology can be seen as a similar approach to feminist methodology in the sense that data produced is viewed in light of the circumstances and conditions in which it is produced and the relationship between the researcher and researched (Holstein and Gubrium, 1997). Gelsthorpe (1992) asserted that what makes a study underpinned by a feminist epistemology distinct is an unequivocal commitment to women and socially significant problems women face in society. Stanley and Wise (2002) argued that a lot of feminist research identified the issues that cause women's oppression, rather than examining what and how that oppression functions. I examine the policing of rape of women, a gendered crime, to uncover an element of how the oppression of women could work and the outcomes that come from it. So, my research ultimately possesses feminist goals, although with subjects who may not self-perceive as being engaged in the work of



gender politics. I provide a reflexive account of my research after the details of data collection are documented below.

### 3.2 Accessing and Recruiting Participants

Locating appropriate police officers to interview was a much less arduous task than initially anticipated. I have never been employed by a police service nor conducted research with police before, nor has an official body commissioned the research, therefore my status can be described as largely an 'outsider outsider' (Brown, 1996). However, I do have personal contacts who are retired police officers, so I am not completely 'outside' the organisation but my status best fits with these criteria. Being an 'outsider outsider' often leads to barriers in gaining access because of a perception that the researcher will be overly critical of the police. Furthermore, the police may be anxious about how research outputs may portray them, or have highly charged secrets making complete trust in a researcher difficult, and they are known to be suspicious of those outside their organisation (Reiner and Newburn, 2008). In recent years, the police as a whole has faced ongoing allegations of institutional racism that were widely publicised when the McPherson report was published (MacPherson, 1999). The culture of the police as hyper masculine and dominated by white men has not dissipated (Loftus, 2009). It could be that because of the negative image of the police which is often projected, they may be hesitant to partake in research to not increase this view of them. I anticipated that gaining access to participants would be a difficult task, however the following sampling techniques I carried out enabled me to interview twenty-nine police officers.

I utilised snowballing, self-selecting, and purposive sampling techniques. Purposive sampling creates a sample that is relevant to answer research questions in a strategic sense (Bryman, 2016). The purposive sampling was necessary to ensure I recruited police officers who have experience of working on rape cases. I began by contacting relevant gatekeepers who work with, or know networks of, police officers to ask if they could circulate a poster (Appendix One) advertising for participants to take part in my research. The poster contained brief details of the study, the criteria for taking part, and my

contact details so potential participants could self-select if they chose to do so. Firstly, I contacted two retired police officers I knew personally. They circulated my poster to retired police officers they were in contact with from Police Force 1. The National Association for Retired Police Officers (NARPO) branch for Police Force 1 circulated my poster to its members via e-mail. I began to receive phone calls and e-mails as individuals self-selected to take part. A further contact I knew personally works at Police Force 2 and they circulated my poster (Appendix One) to relevant police officers in Police Force 2, who again self-selected and contacted me. The participants I recruited from Police Forces 3, 4, and 5 responded to a call for participants circulated via e-mail from a regional coordinator for the Society of Evidence Based Policing (SEBP). They sent my poster to all members nation-wide allowing them to self-select. The SEBP membership contains police officers, police staff (those who are not sworn officers but fulfil roles within the police), and research professionals. After each interview, while I was still recruiting for participants, I asked each participant if they knew of anyone else who would be eligible and interested to take part in order for me to snowball. Most participants were able to pass on contact details or give potential participants my contact details or poster.

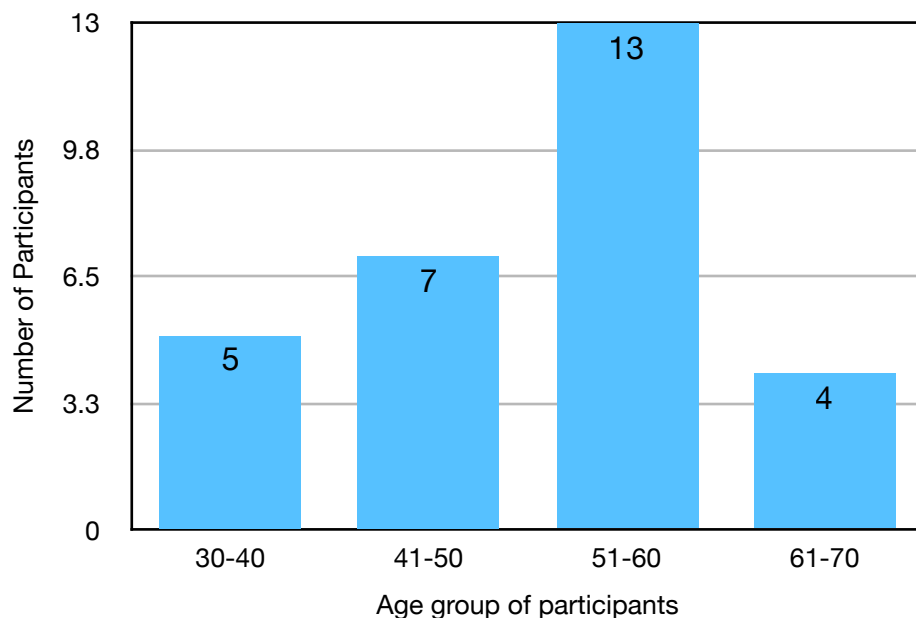
When a participant self-selected and contacted me, or I made initial contact with potential participants, I e-mailed each potential participant with an information sheet (Appendix Two) outlining the aims of the study, what participation entailed, what happened to the interview data, and my contact details. If the potential participant still wanted to take part in the study I arranged a date, time, and place for the interview to commence. All those who I sent further information to opted to take part in the interview. I always travelled to the location the participants felt appropriate to conduct the interview. I conducted five interviews in police stations in a private room, ten in cafés, and fourteen in the participant's home.

### 3.3 Demographics of the Sample

I interviewed twenty-nine retired or serving police officers who have experience of working on rape cases. Eighteen participants were men and eleven were

women. Eighteen were retired and eleven were serving officers. The participants worked, or had worked, for one of five police force areas I labelled numerically to protect anonymity. Twelve participants were from Police Force one, ten were from Police Force two, four were from Police Force three, two were from Police Force four and one was from Police Force five. My participants held, or had held, varying ranks in the police and most were White British (26). Two participants informed me they were Irish and one was Welsh, all being White. The mean age of the sample was fifty one years old. The following graph illustrates the age groups of the participants.

**Figure 3.1: A chart to display the age range of the sample**



The participants' length of service ranged from seven to thirty-two years, with a mean length of twenty-four years of service. The earliest any participant retired was 2005. I checked all participants were serving when the Sexual Offences Act 2003 was enacted. This was to ensure they worked on rape cases under the law that is still in force today.

### 3.4 Rape Units

Since the enactment of the Sexual Offences Act 2003, and a raft of reforms to improve the response to instances of sexual violence, there are now increased levels of specialisation within the police service. It is not a mandatory

requirement that all officers who work on rape cases are specially trained to do so, however most now are. Furthermore, specialist rape units have been created where specially trained officers are based where they exclusively investigate rape offences. Baroness Stern, in her report in 2010, found all of the forty-three police forces in England and Wales had specially trained officers to deal with rape complaints and about a third of forces have special rape units. Westmarland et al. (2012: 5) found nineteen (44%) of the police service areas had a rape unit meeting the following definition:

A specialist rape team has dedicated, trained staff working together in an integrated way to provide the highest quality victim care and investigative standards. It investigates rape and other serious sexual offences and may also take investigative oversight of other sexual offences. It should have access to an analyst and also play a role in education and prevention. Close partnership working with the Crown Prosecution Service, Sexual Assault Referral Centres, Independent Sexual Violence Advocates, Rape Crisis, and other voluntary sector organisations is vital. The team should have strong leadership and coordination.

A rape unit is managed by a senior officer in Charge (detective inspector and above) to supervise the investigations. Individual detective rank officers then have their own caseloads and lower ranking officers such as a number of police constables may be specially trained to assist in the investigations also based in the unit. Each area's rape unit varies in the number of officers assigned to it. All services now have a Sexual Assault Referral Centre (SARC) that they work well with and are proud of (Westmarland et al., 2012). All my participants worked in police service areas that currently have a rape unit. However, nine participants retired before the rape unit was created, the remaining twenty were in service when it was created and nineteen had worked or were still working with a rape unit. Westmarland et al. (2012) conducted telephone interviews with representatives of all police service areas in England and Wales. The forces that have rape units reported the benefits to be: Improved victim care and investigations, more prosecutions and convictions; improved partnerships with other service providers, and improved trust in the police. They found the forces that did not have a specialist unit felt they did not have the resources or they did not have high enough levels of reporting to warrant setting one up. Forces that did not have a specialist unit would assign

a team of officers to investigate rape cases, meaning officers who work on rape cases had a varied caseload. Westmarland et al. (2012) concluded that police services without a specialist team left victims in something of a lottery as to which officers investigated their case, it may be a specially trained individual or it may not. Furthermore, service areas without a specialist team are more liable to contribute to an implementation gap between policy and practice as discussed in Chapter Two. A further study conducted by Rumney et al. (2019) confirmed the positive impact a specialist rape unit could have on victims and case outcomes. Rumney et al. (2019) carried out a case file analysis of rape cases from Avon and Somerset Constabulary dealt with through a specialist unit and a comparator sample of cases not dealt with by a rape unit. The analysis showed improved case outcomes such as prosecution and victim retention in the process for cases within a specialist unit. Rumney et al. also qualitatively interviewed a small sample of nine police officers based in rape units. The findings here indicate that the officers felt the right people with the right knowledge and expertise were present in a specialist unit, specialist units were best placed to respond to complex rape cases, and team working was most effective in a specialist unit. Further, the study concluded that victims whose case was dealt with by a specialist unit were more likely to be referred to the appropriate support services.

### 3.5 Special Training

To tackle the high levels of victim withdrawal from the investigative process, a number of policy changes have been made within the police, one of which was the creation of chaperones in the early 1990s which later became Specially Trained Officers (STOs). These are sometimes known as Rape Victim Liaison Officers (RVLOs) or Sexual Offences Investigative Technique Officers (SOITs) (McMillan, 2015). They have a number of responsibilities, such as arranging and supporting the forensic medical exam of the victim, briefing the investigating officer and crime scene investigator, and overall support and welfare of the victim. The first account and subsequent interview given by the victim must elicit the best quality of evidence, this is crucial to determining a strong start to the investigation and later charging decisions (McMillan and Thomas, 2009). The role of STOs is supposed to help with this element of the

process. STOs and SARCs have been evaluated by feminist academics to be beneficial to the overall experience the victim goes through as they have specialist support and can give their evidence in a safer more comfortable environment than a police station (Horvath and Yexley, 2012). Nonetheless, attrition has not been improved (Williams and Stanko, 2016).

All participants had significant experience of investigating and working on rape cases over a number of years. There are too many cases for a participant to be able to give a number of how many they had worked on over their career. I began by sampling retired officers because of the fact they had long careers which they could reflect and draw from. Furthermore, as they were no longer employed, they may be more able to speak freely and openly without any fear of consequence. They also had more free time than a serving officer. Appendix Three details each participant, their rank, experience, training, and length of service.

### 3.6 Interviews

I conducted semi-structured qualitative interviews to establish how police officers made decisions in rape cases. I ceased conducting interviews when I had confidently reached data saturation, and when the responses the participants were giving no longer produced any new insights and themes I had already found (Bryman, 2016). Each interview lasted between one to two hours. I presented each participant with three different vignettes in the form of three booklets depicting different rape scenarios (Appendix Four). A vignette has been defined as a short story about hypothetical characters in specified circumstances to whose situation the interviewee is invited to respond (Finch, 1987). When I was designing the vignettes, I sought advice from a retired detective sergeant from Police Force 1 to gain an insider understanding of the investigative processes and actions the police carry out when working on rape cases. Each booklet described the offence, firstly, from the perspective of the victim and then the perspective of the suspect. The booklets also contained photographs of the hypothetical scenes in which the offences took place (Appendix Four). Most research exploring police officers' perceptions of rape focused on rape victims rather than perpetrators. When vignettes are used,

they tend to present more information on the victim, this could in turn lead to more of a focus on the victim (Anderson et al., 2001). If there is a lack of information in vignettes documenting details of the perpetrator, it does not give participants an opportunity to then share their opinions on the perpetrator and how the perpetrator's behaviour shapes how a case would be handled. Therefore, previous studies may skew what participants take into account by presenting more information on the victim as opposed to the perpetrator. Furthermore, the guiding policy in the area is that police should focus on the behaviour of the perpetrator when investigating rather than the victim (CPS and Police, 2015). I ensured accounts from the victim and suspect were presented to the participants, allowing me to examine the influence of perceptions of the behaviour of both and to see whether the policy was carried out or not. I invited the participant to read and annotate each booklet if they wished to do so. After the participant had read each vignette I asked them a series of questions.

Vignettes can be used to ground participants' views in a particular context or situation. I presented plausible and life like depictions of rape offences to enable me to elicit how a situation could shape behaviour (Bryman, 2016). By presenting the participants with rape scenarios I was able to access their decision making, rather than their opinion in the abstract. Furthermore, the use of vignettes helps to standardise the social stimulus across participants and, at the same time, makes the decision making situation more real (Alexander and Becker, 1978). The decisions and reasoning put forward by the participants must be considered in light of the fact that there may be differences between what they say they do and what they actually do (for further discussion section below). A combination of events can be integrated into vignettes that are unusual and not easily observed in field research (Phillips and Varano, 2008). Vignettes also serve to make the interview questions less personally threatening, as they were not focusing on participants' own beliefs and experiences in such a direct way (Finch, 1987).

A number of studies utilised a vignette design to explore police officers' decision making processes (Lavoie and Hardy, 1989; Schuller and Stewart, 2000; Phillips and Varano, 2008; Phillips, 2009; Phillips and Sobol, 2010;

Robinson et al., 2015). Vignettes have also been utilised specifically for understanding police officers' perceptions in the context of the attrition problem. Such studies are mostly reliant on quantitative vignettes and focused on measuring rape myth acceptance. Quantitative vignettes are usually a written scenario the participant reads, followed by a series of mostly closed questions the participant then provides answers to on paper and returns to the researcher (Areh et al., 2009; Davies et al., 2009; Ask and Landstrom, 2010; Goodman-Delahunty and Graham, 2011). Many quantitative surveys take one factor in isolation and attempt to measure how it affects police officers' opinions or the outcome of cases. For example, the influence of intoxication of the victim has been examined to assess how the victim's credibility or likelihood of case progression is impacted (Schuller and Stewart, 2000). By relying on qualitative vignettes, participants' responses were not limited to highlighting one factor that can influence case outcomes, factors that the participants deem relevant and significant could be discussed in detail giving a more complete picture of decision making. Vignettes can improve upon studies that rely on police case file reviews as official police reports do not contain information on why decisions were made. Furthermore, they also improve upon questionnaire surveys as surveys do not develop a feel for real life scenarios in which participants are thinking and acting (Maxfield and Babbie, 2005). Previous research using vignette designs with police officers has found officers willingly admit to unacceptable behaviour, for example the misrecording of crime data. In other words, participants have responded in ways that do not reflect socially desirable answers (Eterno, 2003).

The first vignette can be classified as a stranger rape. In this scenario the victim was a twenty-one year-old woman who had been on a night out with friends and was heavily intoxicated. She was trying to walk home when she had lost her friends. She ended up sitting on the street. She remembers the suspect coming over to her, and hoped he was going to help her get home. She feels she passed out momentarily and remembers a man forcing his penis into her mouth. She began to gag and was eventually sick. She remembers the suspect leaving her there so she rang 999. The suspect asserted that he noticed a woman on the floor who he attempted to help. He thought she appeared drunk and noticed she was wearing a short dress and heels. He



became aroused and assumed she would be OK with him kissing her and initiating oral sex. When the victim was sick, and he heard people approaching on the street he swiftly left, concerned with how the situation may appear.

The second vignette was an acquaintance rape. This scenario included two students who had been on a night out and had been drinking heavily. The victim did not have enough money to get home from a party in a student halls of residence, so asked the suspect if she could stay in his room. The victim describes how she took some off her clothes off and got into his bed. She explains that the suspect started to kiss her, she tried to move his hands away and froze while he proceeded to have intercourse with her. The next day, after talking to her housemate, she decided to contact the police. The suspect felt that the victim had been flirting with him all night and thought she was interested in sleeping with him as she had slept with some of his friends. When he initiated sex, he described how he thought she was okay with it as she didn't say otherwise. He also used a condom. He feels it was all a misunderstanding and was surprised when the police came round.

The third vignette was a date rape scenario. Here, two middle aged individuals had met and been communicating on an online dating site. They arranged a date which they both felt went well. The suspect drove the victim home and asked if he could use the toilet. The victim offered him a coffee which he accepted. The suspect started to kiss the victim which at first she was happy with, but as things progressed the victim asserted she did not want to go any further. The suspect thought she was just being coy, so went ahead with intercourse anyway (Appendix Four for full vignettes in full).

The interviews were guided by an interview schedule (Appendix Five). Firstly, I collected biographical information on the participants. I asked the same series of questions for each vignette to best be able to compare responses for different types of rape offences. However, as the questions were open ended, I was able to pursue various lines of discussion, exploring topics and insights that the participant spoke about during the interview. The questions I asked relating to the vignettes elicited the way participants would handle each case if they were an officer working on it. I enquired why they would take the actions

and decisions they chose for each case to assess their decision making process and what influenced this. Once the participant had read each vignette, I enquired whether they thought the scenario met the legal definition of rape. I then went on to ask the participants how they would go about handling each vignette if they were assigned to work on the case. The participants described what evidence would be collected in each vignette and how they would assess the strength of the evidence in each case and why. The questions I asked then followed the key stages through the criminal justice system a case would take, from the decision to record the offence, the Criminal Prosecution Service stage, the trial, and sentencing of an offender. At each stage I asked the participants what decisions they would take which would shape the outcome of the case or how they think the case would conclude. Furthermore, I asked the participants what difficulties they could foresee when investigating each case.

I asked four closed questions with options on a Likert scale. They were: 'How culpable do you feel the suspect is for his actions?', 'How likely would it be to end as a no crime?', 'How likely is the case to get to trial?' and 'Overall, how likely would this case be to end in a conviction?' However, once the initial answer had been given I could then explore the reasons behind their answer in more detail. I included a number of closed questions to allow me to succinctly summarise and compare each participant's perceptions. Bryman (2016) asserted that qualitative researchers should engage in quasi quantification to sum up the frequency of phenomena being referred to in more precise terms to supplement rich explanation. A criticism levelled at qualitative research is the presentation of findings is often based on anecdotalism, giving the reader vague pointers as to how prevalent a theme or issue was in their data (Bryman, 2016). Throughout my findings chapters, I displayed the answers to the closed questions I asked and how prevalent themes were in numerical terms to present a more precise analysis of the data.

At the end of each interview I initiated a discussion with the participants about what they felt were the biggest barriers to gaining prosecutions and convictions in rape cases that they had experienced. This continued into discussions of the participant's own perceptions of the high levels of case

discontinuances, if they perceived this as a problem, and what they felt were the causes. I ended the interviews by asking how the participants thought the attrition of cases could be improved upon. This element of the interviews allowed me to explore the institutional and organisational level overarching factors that set the context in which decisions are made in. Once I had finalised my research findings, I wrote a short report summarising my project which I e-mailed to the participants, as they all stated they would be interested in seeing the findings of the research (Appendix Six).

### 3.7 Analysis

The interviews were recorded with a Dictaphone and transcribed in full by myself. I uploaded all the interview transcripts to Nvivo 11 to assist in my data analysis. Largely, the analysis was qualitative, however I carried out a small amount of quantitative analysis on the closed questions I asked as explained above. I took guidance from Layder's (1998) adaptive theory when analysing the interview data. Adaptive theory provides a middle way approach between carrying out an inductive based analysis, such as a grounded theory approach (Glaser and Strauss, 1999), and a theory testing approach based on deductive reasoning. A grounded theory approach does not allow existing research findings and concepts to guide and influence the analysis of a current study. Any findings are grounded in the data collected. Layder (1998) asserted that analysis cannot begin from an atheoretical perspective and to assume otherwise was naïve. Layder argued a more appropriate way of analysing data was to "target the theoretical pertinence of data as soon as possible", (57), meaning to understand where a project's findings relate to and agree or differ to existing theories. I did not force my data to fit with extant theories; rather, concepts and theories from existing literature were reflected in my data. I relied on the relevant literature to enhance my understanding and analysis of my data. Layder (1998) asserted that the dialogue between theory and data was constant when analysing to develop and reformulate theoretical ideas. My research questions, fieldwork interview questions, and data analysis were all influenced and shaped by the literature I reviewed at the beginning of this project (Chapter Two). Furthermore, theories around rape myths or police culture, for example, assisted in my understanding and analysis of my data.

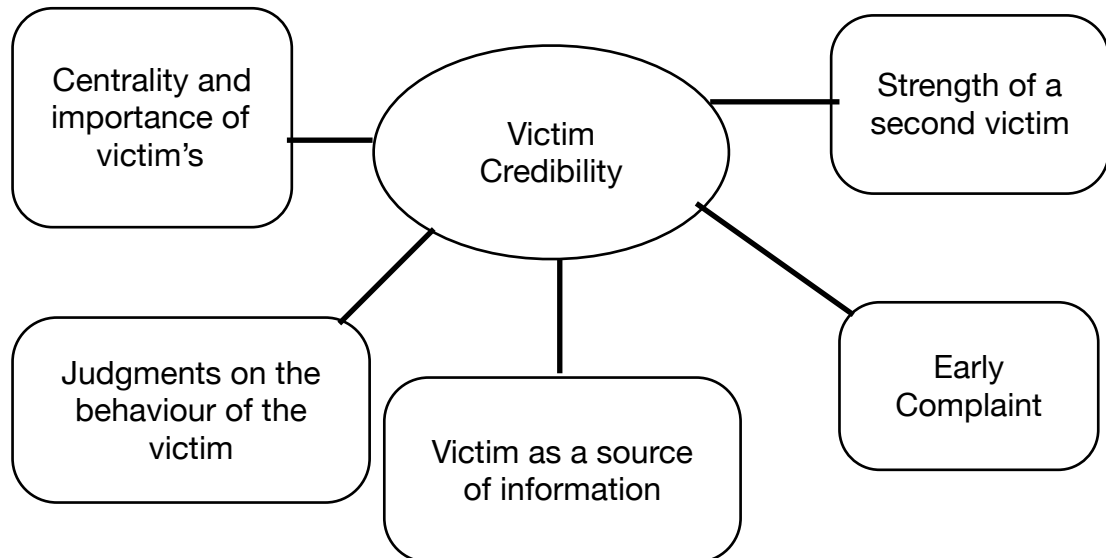
Existing explanations for the attrition problem centring on individual attitudes, such as a culture of scepticism and rape myths, assisted in my understanding and analysis of the perceptions my participants gave, as many of their opinions met the definition of rape myths and there were many instances of exhibited scepticism. This literature allowed me ascertain how my findings are understood and linked with the attrition problem (see section 2.1). Furthermore, the existing literature exploring police officers' decision making provided me with an overarching framework of legal rationality to assist in my analysis of how my participants make decisions in rape cases (see section 2.7.1). Literature documenting an implementation gap allowed me to assess the way my participants would supposedly meet policy and legal requirements or not (see section 2.8). Research into policing cultures assisted in my analysis by providing a background to the culture of the police and how to understand some of their perceptions (see section 2.9).

Thematic analysis broadly characterises the way I analysed my data. It is a method for identifying, analysing, and reporting patterns within data. Thematic analysis is a broad approach that can be used across a range of epistemologies (Braun and Clarke, 2006). I followed six stages laid out by Braun and Clarke. Firstly, I thoroughly familiarised myself with the data by reading the transcripts in depth and beginning to take note of analytic ideas. Secondly, I began to code the entire data set line by line using the software Nvivo 11. At this stage the codes were more grounded in the data than driven by pre-existing concepts (see Appendix Seven for an extract from my interview with Female officer 29 along with the codes assigned to the data).

Once the entire data set had been initially coded, I began to group together codes into a potential larger theme. I printed off the name of each code on a piece of paper so I could manually move and rearrange them into potential overarching themes until I was satisfied with a list of themes and all my codes arranged under them. I also wrote a short analytic description for each theme, this included any links with concepts and theories in the academic literature.

The diagram below lays out the theme of 'Victim Credibility' with the codes included within this theme as an example:

**Figure 3.2: The theme of victim credibility**



Following this, I moved on to refining the themes and checking that within each theme the coded data worked coherently together by reading all coded data extracts within each theme. Furthermore, I considered whether each individual theme fitted with the data as a whole. The fifth stage involved analysing each theme and identifying the 'story' of each theme. I wrote a detailed memo for each theme analysing what was important in the theme and why, and how that related to my research questions. I defined and refined my themes until I had a thematic map outlining each theme and codes that all of my data fitted within (Appendix Eight for thematic map).

### 3.8 Reflexive Practice

There is a gap in the criminological literature as to how feminist researchers have managed to interview police officers, especially regarding the interviewing process and related gender and power relations. Most existing feminist research focuses on interviewing women as victims (Campbell, 2003). I reflect on my own experiences of conducting qualitative interviews with police officers and the implications this has for a feminist informed study.

My approach is guided by Silverman (2013) who recognised three criteria indicative of quality in qualitative research. Firstly, it is important to consider how far research has mobilised conceptual apparatus of discipline and thereby helped to build useful social theories. That is how has my research incorporated and built on existing concepts from the literature to guide the project. My findings build and add to concepts and theories exploring the attrition problem by considering if those are reflected in my data and adding original insights. Secondly, Silverman asserted that findings must be reliable and valid. I fulfil this criteria as I chose to interview police officers by careful weighing of varying methods, rather than being guided by practical considerations. Lastly, research should offer something new to policy and practice. My findings have policy and practice implications, by furthering knowledge of the sources of rape case attrition (those within police decision making) policy and practice suggestions can be made with the aim of securing justice for victims. The implications of this research are documented in Chapter Eight.

### 3.9 The Response from Participants

Before I began accessing participants, I feared police officers might be reluctant to take part in my research and, if they did, that they may not want to divulge their opinions or be enthusiastic about answering my interview questions. I was surprised and relieved at the response I received when I advertised for participants; numerous officers contacted me wanting to take part and were very eager to do so. My experience did not match accounts warning of suspicion and secrecy the police possess towards outsiders (Horn, 1997). I did not feel as though anyone was suspicious of my motives or the purpose of the research. I believe participants enjoyed speaking about their experiences throughout their career; as some of my participants were retired they may have had more time available to take part in research as well as feeling there could be potential implications for their working life.

My participants did not question me about the aims of the research or enquire about any ethical concerns, such as what I might do with the data collected or who would the read research outputs. Campbell (2003) conducted qualitative

interviews with male police officers and left it open to the reader to determine whether it satisfied a feminist approach to methodology. Campbell (2003), when reflecting on her interviews with police officers, stated that their lack of questioning about anything that troubled them could suggest that trust was quickly established between herself and the participants, the officers did not care about the process, or they had already 'sussed her out' to their satisfaction. Any of those explanations could be plausible to explain why my participants were so open and engaged with the interviews and did not voice any concerns.

Horn (1997), unlike me, found the police to be highly suspicious of her. However, this was mediated by the fact she was a young woman and therefore perceived to be harmless so officers felt able to share information more easily. Horn (1997) concluded that the police she interviewed took a paternalistic stance towards her and at times she fell into something of a daughter role to the officers. She felt they viewed her as naïve and appearing clueless to their occupational world. There were times when I felt my participants assumed a somewhat maternal role towards me. At the time of the fieldwork I was twenty-four years of age and all the participants were aware of my status as a university student. I recall times when participants made remarks about my safety traveling home from the interview or the fact their children were a similar age to me. I believe the participants saw their participation as helping out a student, as opposed to facing critique or interrogation from a researcher. This worked to my advantage as, from the beginning of the interview, I was able to conduct an open dialogue with my participants and I did not have to overcome a defensiveness or suspicion that might hinder participants' sharing of perceptions. Overall, all the participants were happy to discuss their role in working on rape cases, I did not experience any instances of a participant becoming defensive over my questioning. There were times when the participants raised concerns and critique of the policing of rape themselves (see section 7.5). The research projects cited here providing a reflexive account of conducting research with men from a feminist perspective may provide a different experience than I experienced as the previous research was conducted twenty years ago or more. The earlier experiences of Campbell (2003) and Horn (1997) may differ from my own

because of societal changes and changes within the police. Evidence based policing is an agenda very much at the heart of policing practice, cooperating with a researcher based in a university may not seem out the ordinary or may be viewed more positively than previous years.

### 3.10 Validity

It is essential to be reflexive about the validity of research findings. Validity is interpreted as the extent to which an account accurately represents the social phenomena to which it refers (Hammersley 1990: 57). In other words, are my findings an accurate account of how police officers' decision making is carried out in practice, and are their stated perceptions honest and reflect their actions? Overall, my participants answered all my questions and engaged in what felt like an honest dialogue with me about the way they would carry out their work. Although this was the case, what the police reported to me about the way they would handle rape cases, and why, may not be what they actually do in practice. I needed to consider how responses given in a qualitative interview could reflect socially desirable answers with participants presenting themselves favourably and wanting to project a positive image of the way they conducted their work and their personal viewpoints (Gadd, 2004). They may have wished to appear as though they were happy to cooperate and had nothing to hide. Interviews on sensitive topics may also prompt some participants to give an official point of view, as opposed to a personal one, and the researcher may influence the participants' responses by expressing surprise or disapproval (Doody and Noonan, 2013).

Alternatively, I found there were many instances where the participants made remarks that were at odds with my own feminist values as reflected on above, would not reflect politically correct opinions, and the participants were aware of this themselves, yet they chose to share such views. Victim blaming attitudes were a pertinent example of this (see section 6.1). This demonstrates that I did not solely encounter socially desirable responses. Additionally, the participants did not view attrition as a problem, therefore they did not start the interview from a defensive position wanting to uphold the reputation of the police. As the participants were self-selecting, they did not face any pressure



to take part, they all came to the interview of their own accord. Further, the participants raised a number of concerns about the policing of rape themselves, showing they wanted to engage in an honest discussion about their role and did not want to avoid any criticism. Furthermore, the fact that I witnessed high levels of agreement from the participants' in the supposed approach they would take to handling each vignette, their perceptions and the influences on decision making can be taken to signify the responses garnered are a true reflection of the way police officers respond to rape complaints, as a unified consistent approach was presented suggesting that is how they would handle cases.

When officers are working on rape cases they are situated within an organisation and inevitably influenced by factors such as their colleagues' thoughts and actions, instruction from managers, available resources, and workloads. Such elements are not recreated when a participant reads a scenario and gives an account of how they respond to it. However, as I utilised vignettes with qualitative questioning I was able to gain an insider insight into why the levels of case attrition are high and how officers account for this, I am able to explore surrounding structural and cultural factors such as workloads and officers attitudes to their work that give a context to the working culture and configuration such decisions and actions are taken (see Chapter Seven). Additionally, the participants were also able to explain how and why different courses of action would be taken by considering situational factors. Gaining accounts of practice can never be a completely true picture of the actual practice carried out. Nonetheless, the method I have utilised is a close reflection of the influences on police decision making, their perceptions and insight into the attrition of rape cases that enhance knowledge in this area.

A large amount of previous literature examining the causes of the attrition problem at the policing stage seeks to understand police officers' opinions in an abstract sense, mostly in relation to levels of rape myth acceptance (see section 2.6 on Rape Mythology). The research often makes assumptions and suggestions about how such opinions underpin actions taken when working on rape cases and the treatment victims receive (Sleath and Bull, 2012). The relationship between opinions and actions is a difficult one to ascertain. It is

much more problematic if police officers subscribe to rape myths and their work on rape cases is influenced by their beliefs, as such beliefs are harmful to victims, than an officer who believes in rape myths but does not let them affect judgment when working on a rape case. Situating officers' opinions in a situation resembling the real life rapes by using vignettes furthers understanding of the relationship between problematic perceptions, such as rape myths, and how they may guide behaviour, thus enhancing knowledge on the sources of case attrition.

### 3.11 Ethics of the Research

An important consideration of research ethics and integrity is paramount to producing a sound research project. Rape is a sensitive research topic and requires rigorous ethical considerations prior to, during and after fieldwork has been conducted, to ensure ethical standards are upheld. Research relying on fieldwork with human participants exacerbates ethical risks around safety and harm. My academic institution, The University of Sheffield, puts forward strict ethical guidelines that must be adhered to when conducting research. A detailed ethical application outlining the details of my project was submitted for consideration by the university's School of Law ethical review panel. I received ethical approval from the School of Law Ethics Committee for the research to commence (Appendix Nine).

#### 3.11.1 Free and Informed Consent

I ensured that free and informed consent was obtained from all of the participants before I interviewed them. Before the date of the interview I sent via e-mail an information sheet (Appendix Two) outlining the purposes of the research, what participation entails, how the data will be processed and stored and details of who to contact with any questions or complaints at any point. I also explained to the participants that any information they provide will remain confidential, unless harm to another person is disclosed as likely to happen and the relevant action is not being taken to prevent this. For example, if the police officers disclose any malpractice or negligence in the course of their employment I may be obliged to report this to the relevant member of the

police. On the day of the interview I gave the participant the information sheet on paper and ascertained whether they had read and understood the contents of the document. I answered any questions the participants had. I then presented the participants with a consent form (Appendix Ten), to reiterate what participation entails and what happens to the interview data in the future. Each participant signed a consent form. The participants are all criminal justice professionals and have the capacity to make a free and full informed decision based on the information given to them. Police officers are not vulnerable individuals, they are used to partaking in interviews and dealing with sensitive matters. As my participants were self-selecting there was no external pressure from their employer or anyone else to take part. I made it clear that the participants had the right to withdraw from the research at any time in the information sheet, consent form and verbally before the interviews commenced. However, I explained that once material has been published withdrawing may be impossible. My contact details and those of my supervisors have been given to the participants so they can withdraw their participation after the interview has occurred.

### **3.11.2 Data Protection and Confidentiality**

Each interview was recorded using a Dictaphone and transcribed in full and analysed. The Dictaphone was stored in a locked drawer and wiped of any recordings after each interview, once the recording had been uploaded to my computer. The interview data will only be seen by me and my supervisors. The recordings on my computer have been encrypted and the computer is password protected. Notes made during the interviews and my research diary has been stored in a locked drawer. The recorded data will be destroyed when it is no longer needed for the purposes of analysis or publication. The data will not be used by any other researchers or projects. The transcribed interview data has been anonymised and a pseudonym (Male officer/woman No. 1-29) has been assigned to each participant. Furthermore, the police force the participant worked or works for has been assigned a number from one to five. Any details of real life rape cases or identifying details of individuals has been omitted from this thesis or any other reports of the research.

### **3.11.3 Risk of Harm**

At the end of each interview, I gave the participants a debrief sheet (Appendix Eleven) to signpost to any services or information sources they may want to access if they had been affected by taking part in the research. The debrief sheet also contained mine and my supervisors' contact details. The risk to my own safety was managed by informing someone of my whereabouts when I was conducting the interviews. I kept in contact with my supervisors during the fieldwork process to discuss any issues I faced. After each interview I completed a research diary to reflect on the interview and to help process my thoughts.

### **3.12 Conclusion**

This study analyses qualitative interviews based on vignettes to improve understanding of how police officers make decisions in rape cases and how that process shapes the high levels of rape case discontinuances. The method employed in this study takes a largely original approach to exploring the attrition problem by utilising a qualitative methodology, as most existing research takes a quantitative approach. Furthermore, as most research is conducted in the US or the south of England this study sampled officers in the Midlands or the north of England and Wales. Most existing research samples are predominantly men, although I interviewed more men than women I had an improved gender balance. The theoretical underpinnings of this project are rooted in a feminist epistemology and ontology. There is a lack of published accounts of how female researchers have navigated conducting research on men or masculine institutions utilising a feminist epistemology. This study demonstrates how research with a focus on the police can still maintain a feminist epistemology, because the goal is improved justice for women and ultimately a reduction in the crime of rape.

Very few studies examine police officers' decision making in rape cases. By using qualitative vignettes as part of interviews with police officers I was able to situate their perceptions and opinions in life like situations to explore how their viewpoints influence the outcome of cases. Further, by assessing police

officers' own understandings of the difficulties with gaining prosecutions, and their understanding of the attrition problem, I was able to explore overarching broader factors that influence how decisions are made, such as available resources. There is very little evidence that explores police officers' insider views of the attrition problem.

Chapters Four to Seven chart the research findings of this study. Chapter Four explores how police officers make decisions in rape cases and charts the journey each of the vignettes would hypothetically take.



# 4. Pathways to Attrition: The Role of Process, Policy and Law in Guiding Police Decision Making in Rape Cases

---

This chapter sets out to document the journey the three hypothetical rape scenarios, detailed in Chapter Three would take through the criminal justice system, based on the perspective of police officers who work on such cases. I present how police officers go about responding to, handling, and investigating such rape complaints. That is how they would handle each vignette and the key decisions and actions they would take if they were working on such cases. This chapter follows the key stages through the criminal justice system: The police investigation, the Crown Prosecution Service stage, a criminal trial, and the outcome of any trial.

Firstly, I explain how participants viewed each vignette as meeting the legal definition of rape as codified in the Sexual Offences Act 2003 (legal definition below). Vignette one is seen clearly as meeting the legal definition of rape.

There is more uncertainty as to whether vignette two and three satisfy all elements of the law, and I still witnessed widespread concern over the perceived high levels of false allegations that victims bring to the police in the investigating process police applied to the vignettes. I explain the crime recording process and when NFA as a disposal is used followed by when it is appropriate to charge a suspect.

Over all, vignette one was seen as the most likely to end in a conviction, followed by vignette three. Vignette two was seen as the least likely. The chapter concludes with a consideration of victim withdrawal. This is an issue that participants raised as something that contributes to high levels of case discontinuances.

## 4.1 Applying the Law on Rape

Initially, I asked the participants for each vignette if they thought a crime had been committed in the scenario and, if so, what crime? I then asked if the participants saw the offence as meeting the legal definition of rape in England and Wales, thus gaining an insight into the way the participants understood and applied the law. The legal definition of rape is codified in the Sexual Offences Act 2003. Section 1(1) of the act states:

A person (A) commits an offence if—

- (a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis,
- (b) B does not consent to the penetration, and
- (c) A does not reasonably believe that B consents.

I asked the participants to assess whether they thought the victim consented to the penetration, and whether they thought the perpetrator reasonably believed that the victim consented. I asked the participants whether they felt the vignettes fulfilled each part of the legal definition of rape; as all three vignettes portrayed the victim and perpetrator being in agreement that penetration occurred, S.1(1)(a) of the act was clearly satisfied.



I asked the participants to assess whether they believed the victim consented to the act or not. For vignette one, all of the participants gave confident and unequivocal assertions that the victim did not consent to the sexual act. This is shown in Male officer 14's (Sergeant, SOIT, Police Force 2) statement:

She had no recollection of anything prior to finding his penis in her mouth. He throughout has said she didn't say anything so I assumed it was all right. Erm, so she couldn't have consented as she didn't know and his view of consent is a bit, well, it's dubious. He seems to think he can keep doing what he wants as long as nobody says no.

There were variable responses to the question of the victim's consent for the second vignette. All apart from three participants thought that the victim did not consent. However, the majority of those who felt the victim did not consent were not as clear cut or confident as in vignette one. For example Male officer 4 (Detective chief inspector, Police Force 1) stated:

I know the circumstances are difficult to get through court but nevertheless it's an allegation of rape that should be taken seriously. Especially in the first instance, they should work on the assumption that the allegation is genuine until it's proven otherwise.

Three participants were of the opinion that the victim was consenting in the second vignette with scepticism directed at the victim's claims she did not consent. One example of this sentiment is expressed in Male officer 6's (Detective inspector, Police Force 2) comments:

Well very difficult to say, it's a weak case, she said 'can I stay in your bed, in your room?' and got undressed and into his bed. There's got to be every chance that she's consented; you would really want to be examining her very closely.

A similar scepticism and suspicion over the victim's account arose with the participants' assertions in relation to vignette three as Male officer 6 (Detective inspector, Police Force 2) states:

That's very difficult to say, I mean, one thing that occurs to me is it takes a few days for her to get round to making her complaint. ... again you would really be assessing the people involved, it doesn't help perhaps that as soon as sex is over he says 'I need to get home'. Is that

why now she has suddenly decided she didn't consent, when maybe she did? It's a tough one.

However, all participants when asked about vignette three asserted that the victim did not consent to the act. As Female officer 10 (Police constable, STO, Police Force 1) explains:

No, erm, just from the circumstances really I'm a great believer in just because you offer someone a coffee doesn't mean you want to have sex with them. She did say he was kissing her neck then she said 'I'm not ready to sleep with him'.

Generally, although with differing levels of confidence, the participants concluded that they thought the victim did not consent in any of the vignettes. Therefore, S.1(1)(b) of the Sexual Offences Act 2003 was met in the participants' minds. In instances where a participant made an assessment that the case was not an offence of rape the reasoning was that they could not be sure the scenario fulfilled S.1(1)(c) of the act. I asked each participant 'Did the suspect reasonably believe the victim consented?' Again, the first vignette was distinctly viewed as completely unreasonable for the perpetrator to believe that the victim was consenting to the penetration in those circumstances. This position is summed up by Female officer 19 (Detective constable, SOIT, Police Force 1),

No, there was no evidence whatsoever of any consent, he never asked her, she never said anything that we know of. He's just saying he presumed all the time, I assumed she must have been on a night out, I realised she was attractive he kissed her, she didn't say anything, why make the assumption? He assumed what he wanted to assume... gagging is a sign she definitely doesn't want it, he has the audacity to insult her by saying he was no longer interested. I would want to punch him.

For the second vignette, eight participants did not define the scenario as a rape at this point in the legal definition. This is demonstrated by the comments made by Female officer 17 (Detective constable, SOIT, Police Force 2):

Yeah, I kinda do, you're not really supposed to side with the suspect but, erm, yeah it is difficult, I can see why a young lad in drink would think when a girl that may or not have been flirting with him during the

night and dancing with him ... She does say she shrugged him off and moved his hands away but whether that was enough when things move on to actual full penetrative sex, whether that's enough for him to realise, I don't know.

Even when vignette two was seen to meet the legal definition of rape, the participants were not as confident and sure in that opinion as they were for vignette one, as Female officer 1 (Police constable, STO, Police Force 5) stated:

Yes, because of the build-up all friends together knowing each other all going out to the club together flirting, he thinks it's flirting, maybe she didn't, other people see that's not flirting. He thinks he has got the come on basically and she turns round and asks if she can stay the night. Ooooh, I'm onto something here. She stays for whatever reason, probably not the same reasons he is thinking of. He's thinking I'm in here, she is up for it, and he goes for it he uses a condom and everything, very responsible.

For the third vignette, two participants thought it was reasonable for the perpetrator to believe the victim consented. However, the remaining participants were fairly confident that it was not reasonable and defined the situation as rape. Female officer 5 (Detective sergeant, Police Force 1) stated:

No, he was saying she was being coy as he put it, he knew she was trying to brush him off, he's a man that likes himself and thinks the ladies like him. They like it a bit rough, he's making excuses for not backing off.

In sum, all of the participants viewed the stranger rape scenario (vignette one) as a rape offence. In comparison only 72% of the participants defined vignette two (campus rape) as a rape offence, with the remaining 28% postulating that the scenario was not an offence at all. The vast majority of the participants, 93%, viewed vignette three (date rape) as a rape offence. The table below summarises the responses given:

**Table 4.1: A summary of participants responses to the question of whether they believe the vignette to legally depict a rape offence**

	<b>Vignette one</b>	<b>Vignette two</b>	<b>Vignette three</b>
<b>Defined vignette as rape</b>	29 (100%)	21 (72%)	27 (93%)
<b>Did not define vignette as rape</b>	0 (0%)	8 (28%)	2 (7%)

## 4.2 The Word of the Victim

Rape is a gendered crime as rapists are men and most victims are women. When the police have statements from a victim and perpetrator, this epitomises the classic dilemma of who to believe, him or her (Martin, 2005). During my interviews, I explored participants' perspectives on how far they believed the accounts of victim and suspect. Even though participants had differing views and scepticism over whether each scenario was truly a rape offence, in practice this should not affect how the case would initially progress. The participants explained that if a victim believed and claimed they have been raped their allegation would be treated as genuine and the necessary steps taken, unless proven otherwise. It does not matter whether the police are sceptical about whether an allegation is legally an offence of rape, the general practice is that the victim is believed and an investigation commences straightaway. As Female officer 10 (Police constable, STO, Police Force 1) explains:

You start off you don't disbelieve anything you believe to a point but you have to test it and prove it. I would err on the side of the victim until I found otherwise, I would continue searching. I would totally believe her, but I would want to explore everything else.

Although the police officers may not have thought an allegation was a rape offence, they still said they behaved and acted the same as if they believed it was. This does not lend support for an implementation gap; here it was posited to me that policies are carried out the way they are intended to be (see section 2.8 on implementation gap). In addition to scepticism and doubt surrounding

allegations of rape, I found all of the participants highlighted their concerns around false allegations of rape.

#### **4.2.1 False Allegations**

I did not directly introduce the topic of false allegations of rape to participants. Each participant I interviewed mentioned the problems they had experienced with false allegations themselves. It was at that point that I explored their perceptions and experience of false allegations further. Saunders (2012) asserted that the prevalence of false allegations of rape was a contested and controversial issue, with a conflict between research claiming false allegations are rare (Jordan, 2004b) as opposed to criminal justice professionals claiming they are a very common occurrence. Researchers in turn claim this disparity to be evidence of a culture of scepticism and disbelief within the criminal justice system adversely affecting outcomes for victims (Kelly et al., 2005; Saunders, 2012) (see section 2.3.1 on 'A culture of scepticism'). Nonetheless, the police staunchly maintain that false allegations are a common feature in rape cases (Jordan, 2004b; Brown et al., 2007; Kelly, 2010; Horvath et al., 2011).

All but one of my participants believed that the prevalence of false allegations of rape was rife. The following quote demonstrates this sentiment:

Huge, it's so sad, but it is a massive problem. We still do all the work if someone makes an allegation, everything gets done, there's no expense spared, you do everything you can. It's so frustrating when you realise things aren't as they are, it's usually when you get the suspect's account and it's not necessarily what she's saying (Female officer 23, detective sergeant, SOIT, Police Force 1).

Saunders (2012) argued that there is currently no empirical justification for the wholesale dismissal of criminal justice professionals' estimations of the frequency of false allegations. As it is yet to be determined what the actual levels of false allegations are, this would probably be an impossible task. Furthermore, there has been little, if any, attempt by researchers to ensure they understand or accurately reflect in their research reports what their interview respondents perceive as constituting a false allegation. Saunders (2012) found through qualitative interviews with police officers that false allegations are used

by them as an umbrella term to encompass a variety of circumstances. Saunders drew the key distinction between allegations that were wholly fabricated with those complaints that contained falsehoods within an account. Saunders believed what criminal justice professionals may instead be saying is that it is not uncommon for complainants to make false statements to the police when alleging rape as opposed to reporting a wholly fictional account. Essentially, researchers and police officers could be counting different things. It is notable that, in general, the greater the scrutiny applied to police classifications, the lower the rate of false reporting detected. This contradicts the still widely promulgated stereotype that false rape allegations are a common occurrence (Lisak et al., 2010).

McMillan (2016) explored precisely how and what police officers consider false and, crucially, why. McMillan ascertained that police officers have a number of reasons why they believe women make false allegations with varying degrees of malice involved from the victim. A number of reasons were not viewed as malicious reasons from the victim such as amnesia, victim withdrawal, mental health issues, and the facts of the account not adding up. Conversely, regretful sex and wanting to harm an innocent man were seen as leaving the victim culpable for the false allegation. I explored participants' perceptions of why they thought women made false allegations to the police.

Participants gave a wide variety of reasons to explain this phenomenon. Some of the opinions given are reflected in earlier research findings, such as Gregory and Lees (1999) or Brownmiller (1975). Earlier research highlighted police officers relying on sexist views of women to come to the conclusion that women would falsely accuse men of rape for malicious reasons or revenge, such as when a man has upset them or did not reciprocate feelings. For centuries this idea permeated popular opinion (Lisak et al., 2010) within a culture that considers women emotionally unstable and less trustworthy than men (Weiser, 2017) (see section 2.2.1 for earlier research). I found nineteen instances where a participant asserted that women made false allegations out of malice. The following quote from Male officer 8 (Detective inspector, Police Force 1) demonstrates this viewpoint with what he sees as a common scenario:

Nearly all resulted when a student would call in after a night out who woke up the next day. I had one girl rung and said she had been raped in a bar in the city centre, she could remember having sex, but said it was against her will. When we reviewed the CCTV evidence, she had actually instigated everything. She had given the guy a blowjob on the dance floor which was on video, she then stayed behind with the manager of the bar drinking all night. Then she dragged him onto a table and swiped all the glasses off the table so she could have sex with him on the table. The following day it came to light that she admitted to her boyfriend that she had cheated on him, he went crazy, 'you don't understand I was raped' and the investigations started. At the end of the day it was completely false.

This is an example of women being portrayed as having malicious intent and utilising a rape allegation to cause harm to an innocent man. Jordan's (2004b) more recent work generated similar findings. Here, police investigators indicated a variety of motives for false reports, including hiding infidelity, getting attention, covering up illegal activity (such as breaching a community sanction) and exacting revenge.

The reasons given by participants reflected some of McMillan's findings, but also with the addition of other reasons. Similarly to McMillan's research, the perceptions my participants expressed can be seen in a hierarchy, from the malicious type of false allegation through to mistaken ones. My participants asserted that malicious reasons were seen as situations where women had sexual intercourse and regretted it afterwards so they called it rape, when in fact it is just regretful sex (ten instances); some women are motivated by a desire for revenge and want to cause a man harm so accuse him of rape (twelve instances); women want attention from the police and those around them (three instances); women have been unfaithful to their partner so call it rape to exonerate themselves (four instances); women wishing to gain an advantage in child custody disputes will allege rape to increase their chances of gaining full custody of their child and to have a higher likelihood of receiving legal aid (three instances).

My participants expressed reasons behind false allegations that were not seen as rendering the victim culpable. Eight officers expressed views that many women who made false allegations had mental health problems or learning

difficulties. Essentially, these women mean no malice and they usually need help from the police. Ten participants asserted that women could be genuinely confused or mistaken about what had happened to them that they labelled as rape, and this can be because of intoxication. There was also a general belief that women may not understand the gravity of the accusation they have made, leading to rape allegations being made lightly when really victims did not mean to start an actual investigation. Below is a quote that demonstrates the viewpoint that women mean no harm when they make an allegation of rape that may not technically be rape:

False allegations, I would say it's people who don't understand the law who think they understand the law. We have a lot of cases where people go on a night out and have a lot to drink, not so much that they're comatose and unconscious and they engage in sexual activity with somebody... I'd say it happens more than I would care to put a number on personally. We have an issue with people who acquiesce; where the male pesters and pesters and the other party says 'go on then'. Someone who is misinformed tells them that's rape, they come to us, we then have to explain what rape really is, and that will be what a judge once referred to as reluctant consent. That doesn't make it a rape (Male officer 18, detective inspector, SOIT, Police Force 1).

Furthermore, I witnessed four instances where participants believed that women would make false allegations multiple times. Below is a further quote to demonstrate the view that women can be confused as to what rape is and mistakenly bring an allegation to the police:

Particularly in young people, teenagers, that are just starting out being sexually active and maybe not realising that there is that other part in the rape definition that says the suspect has to reasonably believe. They don't sometimes grasp that concept so they think that just because somebody is having sex with them and they don't want it then they haven't realised that they make that clear in what they are doing... Then we have to sit down with them and explain that as difficult as it is we can't investigate a crime if one hasn't taken place. That tends to be what we have more than the traditional false allegation (Male officer 17, detective constable, SOIT, Police Force 2).

My findings suggest there is more nuance to the perceptions police officers hold compared to earlier research suggesting women were purely viewed as vengeful. Now it appears women who bring allegations are seen to possibly be vulnerable in various ways. Although a majority of participants still cite



malicious reasons driving false allegations, non-malicious reasons are also posited alongside traditional explanations for false allegations. This can be viewed as an improvement as the needs and harm caused to women are acknowledged and recognised, which may lead the police to treat victims with compassion and signpost them to the relevant agencies to receive the help they need.

Yet, regardless of a police officer's instincts as to the validity of a rape complaint, they still undertake the same actions around that case. This can be linked to what McMillan (2016) explained as a conflict between cynicism and the belief police officers can experience. The policy when investigating a rape is to believe the victim and start an investigation, on the face of it believing the victim's account has to prevail. However, internally within individuals they are sceptical around the authenticity of the allegation. I found differences in the way different types of false allegations are dealt with. An allegation would be disposed of differently when the police believed the allegation was not rape, but was instead down to the victim being confused or misunderstanding the situation. Here, officers said how they would educate the victim and explain to them what a rape actually was and why the situation they described was not legally a rape:

Confused accounts are easy as you can educate, I've got enough experience to sit down with somebody and say 'this is a situation, try and turn it around slightly and look at what you would see if this was the other way around'. People tend to be able to understand a clear, concise explanation. If you can't provide that you just send people away confused, it's about having the confidence to say to people 'this is what we're doing, this is what we've done for you, this is where we're at, this is why we're here'. I'd like to think people leave in a far better position than what they come to us, if they don't feel like victims when they leave we have probably done a good job (Male officer 15, detective sergeant, SOIT, Police Force 2).

The last element to the above quote signifies that this officer aims to help a victim to feel better and explain that the police have made some effort to process the case, rather than aiming to pass the case to the CPS; if the victim feels better after making a complaint that is seen as a good outcome. The general trend within the police is that prosecuting someone for a false

accusation is very rare. This is because of worries over the possibility of deterring victims from coming forward to the police if they fear they will end up being prosecuted themselves. There can also be evidentiary difficulties in garnering proof that the allegation is false, which leads to an investigation still going ahead. My participants espoused that they were generally confident that they could tell when an offence was genuine or not:

I think it's far less since Christmas (6 months earlier) we've prosecuted four people for genuinely false allegations (referring to allegations made out of malicious intent). In seven years I've prosecuted a dozen, not more than that, you think if a case is difficult to prove it's also difficult to disprove. You very rarely have got injuries or a physical sign of an attack, so if somebody tells you they have been raped, ultimately you'd like to think they probably had, otherwise why are they with us? The only time we prosecute is when it's clear evidence to say it's not true, which is CCTV usually. Even then lack of forensics doesn't prove a false allegation, it just proves a lack of forensics. So it's rare I think (Male officer 15, detective sergeant, SOIT, Police Force 2).

Even when an allegation is believed to be false because of malice by the victim, it does not make a difference to the police response, it would still be investigated. Male officer 8 (Detective inspector, Police Force 1) explains the procedure here:

Generally when we investigated the matter, we either turned up evidence that wasn't the case and it wasn't genuine or when the victim realises the gravity of what they were doing they withdrew the complaint, normally this happened a lot. A lot with students a girlfriend/boyfriend situation, I dealt with one where a girl went to a party and she were gangbanged, she had consensual sex with 9 guys one after another. The tenth had ginger hair she says 'no gingers' and made a complaint of rape, it went to court and he got done but the judge says 'did you say no?' she says 'yeah'. 'She can't say no because I'm ginger', he got 5 years... you rely on your investigation bringing out the truth, in general it does do.

The culture of scepticism around rape allegations has continued. Whether it is completely justified is yet to be determined. Previous research ascertaining police officers' views on false allegations and their explanations for such a phenomena can only be suggestive of how this may actually translate into police practice and may impact on victim experience and case attrition. My findings add an insight into how perceptions around false allegations may

affect the policing of rape and impact on how a case will progress. In other words, they offer an insight into what police officers actually do when they suspect a lot of allegations are not legitimate. This does not impact on the way cases are handled to a great extent, as allegations will be dealt with at first in a standardised way. However, if a case is suspected to be a false allegation, it will be more likely to be recorded as no further action. Barrett and Hamilton Giachritsis (2013) also found their participants conduct investigations as if they believe the report to be true. I did find differences in the way apparently confused accounts could be discontinued and the victim turned away, whereas suspected malicious false allegations are dealt with the same as a perceived credible account, as demonstrated in the quotes below:

We still do all the work if someone makes an allegation, everything gets done, there's no expense spared, you do everything you can. It's so frustrating when you realise things aren't as they are it's usually when you get the suspect's account and it's not necessarily what she's saying. When it's clear it's not happened the way she said it has either it's consensual they still don't admit they've lied which is more frustrating. A lot of victims if it's not true and they've made it up they're too embarrassed to say so you never get a resolve (Female officer 23, detective sergeant, SOIT, Police Force 1).

My job was to investigate rape so I just did my job. It did get frustrating, I got sick of false allegations, the 14-15 year old girls were the worst, I couldn't bear to go through it and come to the same negative conclusion (Female officer 19, detective constable, SOIT, Police Force 1).

The above quote is alarming as girls under the age of sixteen are below the legal age of consent. The approach documented above is reminiscent of what the police culture literature would refer to as an evidence centric approach to investigation of a crime; here it is the fact that the evidence is seen as the most important factor and future lines of inquiry and action stems from evidence collected (see section 2.9 on Police Culture). In some instances, police officers will opt to record an allegation as cancelled (formerly no crime) when it is deemed to be a false allegation.

### 4.3 Crime Recording

Much of the academic literature exploring the sources of attrition in rape cases focuses on the police crime recording stage, particularly the process of a rape allegation being recorded and later being cancelled, this process was formerly known as 'no criming'<sup>4</sup>. When an allegation is recorded as such, the investigation ceases and the case is discontinued. Much controversy has been raised over the practice of no criming with allegations that the police use such a disposal in an overzealous fashion to filter out cases. Earlier research into the practice of no criming for rape cases found the rate at which cases were no crimed was 45% (Gregory and Lees, 1999). Gregory and Lees (1999) witnessed police losing cases that they had no intention of investigating by recording them as a no crime. Not only would they no longer have to investigate the crime, but it would not be recorded as an undetected crime as it was not seen as a crime at all. They suspect the 'no criming' rates were even higher as some victims who complained to the police never ended up on the books at all. Similarly, Kelly et al. (2005) concluded the recording of a 'no crime' was rampantly misused as a dustbin for cases the police did not want to investigate (See Section 2.2.2).

At present, the Home Office Counting Rules for Recorded Crime (2019) which took effect from April 2019 sets out the rules on when a case that has been recorded as a crime can later be removed from police records. The rules stipulate that when one of the five criteria contained in Section C of the Home Office Counting Rules for Recorded Crime is met the crime can be cancelled or transferred. The first criteria is when a crime is committed outside the jurisdiction of the force, the crime is then transferred to the appropriate force (C1). The third is when there is a duplicate record so is cancelled (C3), the fourth is when the crime was recorded in error and is then cancelled (C4), the final criteria does not apply to rape offences (C5). The second criteria

---

<sup>4</sup> At the time of the completion of my fieldwork 'no criming' was still the term documented in the Home Office crime recording rules, thus discussions of my findings may use the term 'no crime' to accurately reflect the language that was used in the interviews. Although the terminology in the counting rules has changed from no crime to cancelled or transferred the remainder of the rules remains unchanged, it is solely the name of the term that has changed. Findings around the process of 'no criming' are still relevant under the new cancelled crime recording as it refers to the same process.

contained in C2 is the one closely associated with false allegations which states when a crime can be cancelled, 'Where following the report and recording of a crime additional verifiable information (AVI) is available that determines that no notifiable offence has occurred the crime may be removed' (Home Office, 2019). There is no official definition of a false allegation. Rather, this is an administrative rule outlining when a recorded offence can be cancelled, thus ceasing any further action. The Home Office Counting Rules for Recorded Crime (2019) only describe when a suspected false allegation can be cancelled, not what such a situation actually entails. Saunders (2012) found that when police officers use the term false allegation it is not synonymous with a no crime or any official crime recording category. The same sentiment is mirrored within my own findings.

The rules go on to stipulate that decision making for all offences of rape to be cancelled where the C2 criteria stipulating additional verifiable information must be present, is considered should only be taken by a force crime registrar (FCR) (Section C, General Rules). Such a situation occurs when a detective inspector feels evidence pertaining to the fact that the allegation may not have occurred is found they can refer the case to the FCR to be cancelled. The crime registrar<sup>5</sup> is in turn accountable to the senior management of a police force (see section 2.2.2 for more detail on no criming rates).

My findings in relation to the practice of cancelling/no criming show significant improvement since the earlier studies referred to in the use of such a disposal. From the practices espoused from the participants I interviewed, there are very stringent standards applied to when it is appropriate that a case can be cancelled/no crimed. The rules detailed above appear to be carried out as standard practice, providing further evidence that any individual scepticism is halted by the internal procedures of the police. For each of the vignettes, I asked my participants if they think the case should end up as a no crime and

---

<sup>5</sup> The role of a crime registrar is explained as, 'Each force has a crime registrar who is responsible for overseeing compliance with the crime recording process. He or she is the final arbiter for the force when deciding whether or not to record a crime or make a decision cancel a crime... All forces also designate a senior officer (of chief officer rank, usually the deputy chief constable) as being responsible for overseeing the force's approach to crime recording' (Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, 2017)

how likely they felt that it would be recorded in that way. It was never seen as a desirable outcome to record the scenario as a no crime. With regards to how likely the participants thought the case would be to end up as a no crime across the vignettes the participants felt it was highly unlikely. The only circumstances where it would be legitimate to no crime an offence is when there is independent verifiable evidence proving that the offence could not have occurred, in line with the crime recording rules (Home Office, 2019). This could include CCTV images of the victim in a different location to where she claimed the offence took place. As stated by Female officer 29 (Detective inspector, SOIT, Police Force 4):

Cases can only (be no crimed) if there is additional verifiable information to say that it was untrue. Not many do these days. You have to go to a force crime registrar whereas, previously we used to make those decisions on division.

In the past, a senior detective could record an offence as a no crime. Now, the process of reaching the disposal is more time consuming. This could explain why it is not used as much. At times it felt as though the participants were almost confused as to why I was asking them about no criming. Showing this recording is not something they would normally come across or even consider. Male officer 22 (Detective inspector and a crime registrar during his career, Police Force 2) explains:

You wouldn't no crime it, that would be more work than to take it to court. Discontinuance in terms of the police, yes, they would stop the investigation but, in terms of the suspect, there would be a decision making process by the cops: Do we think there is enough evidence to go for it? Sometimes there's not.

He then went on to explain:

You can no crime a murder easier than a rape. Not all of them meet the threshold of no criming. I would turn down far more than not to no crime it than the ones I did. My mate who took my job has been checked on his no crimes for rape, he has kept a list of all those he's no crimed this last year, there was a total of seven in Police Force 2, that's no number is it?

Nonetheless, a number of participants acknowledged that ‘no criming’ in the past before the rules governing crime recording were overhauled was used as an easy way to dispose of cases they felt were weak, in line with the suggestions from previous research mentioned above. As Female officer 2 (Sergeant, STO, Police Force 1) explains:

It should never have been (no crimed) because a crime has been committed whether it has been pursued or not. Quite a lot of the problem, historically people thought that was okay to do it, I think people of a certain rank knew that it wasn’t okay and knew we were just fiddling figures, but no it shouldn’t ever be no crimed.

The process of no criming (now termed cancelling crimes) has significant scrutiny to ensure that only false allegations where it can be proved the offence did not take place are recorded as such. This is reflected in the approach the participants espoused in relation to the option of no criming offences. The practice portrayed in relation to the vignettes is that if a victim alleges a rape it is recorded as a crime accordingly and an investigation will commence. My finding based on my participants’ accounts of practice suggest an absence of an implementation gap in relation to the change in policy for cancelled crimes (see section 2.8 for implementation gap).

## 4.4 The Investigation

There is very little academic evidence showcasing and examining police officers’ perceptions and understandings of the practical way they go about investigating a rape case. That is, the actions and key procedures they take during an investigation and why. I asked the participants to imagine they were an officer working on each of the cases depicted in the vignettes. I asked them to talk through how they would go about investigating each case, and why they would choose such a course of action. This discussion captured the essence of the day to day working of a rape investigation, the setting in which key decisions are made and how a case is built. I discovered that the approach taken to investigating each of the cases across the participants followed a standardised set of procedures and actions. This was regardless of any

defining features within the case itself. The investigation was portrayed as taking an almost formulaic process.

Before a rape case is passed to detectives to investigate, it can be initially brought to the attention of the police when a 999 call is made, when a victim presents at a police station, or makes a complaint through a Sexual Assault Referral Centre (SARC). Some participants expressed concern about uniformed officers responding to a suspected rape, because they may wrongly label the incident as a rape, thus, starting in motion an investigation when in fact the case was not legally a rape and should have been diverted from the system. Two participants felt uniformed officers would err on the side of caution and label an offence as a rape to avoid criticism that they were not taking victims seriously:

We have more than probably is necessary a large amount that should never have been crimed as rape, as the initial attending officer should be able to understand what the allegation is and the points to prove and have the confidence to tell somebody 'you have not been a victim of rape'. But they don't, they choose the easy option and say we've done our bit over to you, it's recorded as a rape. That person's expectations haven't been managed properly. They perceive themselves as a victim. Then trying to persuade someone they haven't been raped is difficult they remain on the no further action rather than a no crime (Male officer 18, detective inspector, SOIT, Police Force 1).

Conversely, two participants raised concern that when initial officers were attending a scene, they may assess the circumstances and think the case would never get a prosecution and was a weak case, and tell the victim not to pursue the case and neglect to take any further action. Thus, allegations could also be lost at an early stage depending on the initial officer's response to the scene.

It was demonstrated above that the participants can apply the law on rape to a scenario in a variable manner. However, the key starting point and overarching theme is that they will take the stance of believing the victim first of all. Section A of the Home Office General Rules on Recording Crime (2019) dictate that when a report of rape is made to the police it must be 'crimed' straight away. In practice, when an allegation of rape is made, an investigation will commence,



weight is given to the way the victim defines the situation. This was summed up by Male officer 12 (Inspector, STO, Police Force 2),

It's important to understand that attitudes towards rape in the police have moved on significantly. We're at a place now where the victim is believed from the outset unless there's massive overwhelming evidence at the time, which there rarely is. So the only thing you can do is believe what the victim says.

The above quote contradicts the widespread belief held by participants that a large proportion of allegations are false. When an officer explains that all victims are now believed, the reality may be that actually all cases are treated the same as if they are believed to be true, even though an officer may be sceptical about the veracity of a complaint. Once the report has been crimed, police officers assigned to the case can start the investigation. Those investigating are usually specially trained officers and based in a rape unit (see sections 3.4 and 3.5 for special training and rape units). My participants explained to me that there are a number of actions required that were a matter of urgency when a report of rape had been made. Firstly, the primary concern is the victim, ensuring that they are safe and receive any medical help that they need. The victim would be sent to a rape suite situated within a SARC. In terms of the investigation, the forensic capture is a priority, and forensic evidence from the victim is collected in a rape suite with their permission. This can include a blood test to show their blood alcohol level. Notably, the forensic evidence does not prove to be very useful, as the vignettes depict the suspects admitting that sex occurred. Therefore, the forensics only go to corroborate what has been admitted in statements. If the victim has injuries inflicted when the offence was perpetrated, evidence documenting the extent of such injuries would be collected.

A further high priority for the participants is that as soon as the victim feels able they are interviewed to produce a thorough and detailed statement of exactly what happened when they were raped. A number of the participants highlighted how important it is that no detail is left out as this could leave open the possibility of the defence to draw upon something that was not brought to the attention of the police. Furthermore, the use of a video interview is

encouraged for the victim's account to better capture the way the victim was feeling and the trauma they faced. Concurrently, the scene that the rape offence took place in is searched for evidence by crime scene investigators.

Once the immediate procedures have taken place, a number of evidence gathering enquiries would begin. Participants explained to me how they would go about building the case for each vignette. Pieces of evidence collected over the course of an investigation were seen to fulfil the function of either corroborating the account of the victim or the suspect. CCTV trawls may be appropriate to ascertain the movements of the victim and suspect around the time of the offence. Witness appeals may also be useful as well as taking statements from witnesses. The first individual who the victim informed of the offence would give a statement (this could be a police officer). This is termed the 'evidence of first complaint' designed to ascertain the state the victim was in at the time.

When the suspect is located, he is arrested and brought into the police station for a detailed interview, the participants found it was rare to get an admission of guilt at the interview stage. There is an urgency to find the suspect to ensure that as little evidence as possible is lost. As soon as evidence from the victim is gathered, the police want to arrest the suspect. As summed up by Male officer 3 (Police constable, STO, Police Force 1):

I would say you would have to make sure what she wanted was to give a statement and have a comprehensive account from her. Then grab him quickly, things like his clothing that could be lost in the delay. His phone that has messages and the computer and their exchanges can be telling if they're positive since it's happened can undermine her account or bolster it... You would want to charge him or you would have to bail him after you've got forensics and a full statement from her, then you would be in a position to charge or not.

Forensics are to be taken from the suspect. The suspect is arrested by a team who have not had any contact with the victim to avoid cross contamination of evidence. Any correspondence between the victim and suspect prior to or after the offence can be used as evidence. Police officers investigate the background of the suspect and the victim. Materials such as social services

records, previous convictions, previous allegations made by the victim, and any legal or domestic family disputes involving the suspect and the victim would be collected as evidence. Generally, for each rape investigation the victim interview is undertaken and relevant evidence gathering enquiries stem from the information given by the victim. As the first vignette is characterised as a stranger rape, more resources would be attached to carrying out the investigation because of the hurdle of having to locate the suspect as he is not known to the victim. The budget and officers assigned to work a stranger rape was said to be greater than other types of rape. Often a stranger rape is dealt with by a major crime team, rather than a rape unit. Westmarland et al. (2012) raise concerns that one type of rape is given priority over others. This approach can be viewed as a two tier response with stranger rape offences receiving a more intense investigatory effort than other types of rape.

I asked my participants what they envisaged the main pieces of evidence would be that they would collect through the course of an investigation for each vignette. Female officer 17 (Detective constable, SOIT, Police Force 2) summarises the evidence for vignette one as:

The forensic evidence the swabs taken from her are key to identifying who he is. That's obviously what proves the contact, not necessarily the consent which is what he is making an issue of. His defence is she's consenting, so really I suppose we would be looking to prove how much she has drunk and whether she was in a fit state to consent, so maybe toxicology evidence. It's difficult, she is saying what she says is obviously important, erm, but people as witnesses can be flawed and I think the police these days like to put our faith in more concrete stuff like CCTV. If you see someone following somebody down the street dragging them that will stand up a lot better than somebody who will openly say 'I was really drunk, I don't remember a lot'. But I think he was following me. If you can see it or have forensics or bruising it paints a stronger picture.

Male officer 15 (Detective sergeant, SOIT, Police Force 2) sums up the evidence capture for vignette two as:

CCTV from the club, statements from people they were out with and people went back to the flat and the last people to see them. Then the last disclosure statement. Forensics would never be used we would look at probably doing bloods, seeing what alcohol levels would be

involved. I think a lot relies on witnesses and if they had been any kind of romantic interactions during the night, extremely difficult to prove.

Female officer 8 (Detective inspector, Police Force 1) describes the main pieces of evidence to collect for vignette three as:

The sexual act and the scene which you would preserve to protect that even though it's been admitted on the initial account. It could be denied later, 'well actually I just went along with it and nothing else happened', full forensic medical on both. Basically in any case you've got physical evidence so forensic, CCTV, then interviews and see what comes out of it you can have enough to charge or other lines of enquiries are needed.

There were very high levels of agreement between all my participants when I asked them what pieces of evidence they would envisage collecting throughout the course of an investigation. When the police have gone about collecting evidence and built a case, they come to the point where they have to decide to bring a charge against the suspect. Alternatively, a detective inspector can choose to record the allegation as no further action.

## 4.5 The Decision to Charge or Discontinue a Case

When detectives working on a case do not think there is enough evidence to pass the case to the CPS for a charging decision, a case can be recorded as taking no further action (NFA). A detective inspector, usually the senior officer in charge of the investigation, must make the final decision over recording the allegation as an NFA and preventing the case from progressing any further. The police can contact the CPS for early advice on a case they feel is weak to guide them in a possible decision to NFA the case. Vignette two was seen as the most likely to be discontinued at this earlier stage in the process. Conversely, all of the participants opted not to record vignettes one and three as an NFA.

If the police do not want to NFA the case, they have to approach the CPS and get a decision from them whether to charge the suspect or not. In April 2006, statutory charging was implemented nationwide across England and Wales. This means the CPS, rather than the police, make the decision whether to charge in rape cases. The police will compile a file with all the evidence

available on the case and send it to a specialist prosecutor in the CPS. The CPS will review the case and instruct the police whether to charge the suspect or not (CPS, 2009). Vignettes one and three were seen as likely to garner a charge of rape with the participants opting to push for a charge when communicating with the CPS, whereas vignette two was seen as less likely to end in a charge. I ascertained from the participants that the option of seeking a downgraded charge from rape to a lesser offence such as a sexual assault was not a common occurrence. This is because if there was penetration in the offence, the circumstances do not fit with another offence; it appears to be a rape charge or nothing.

#### 4.6 Crown Prosecution Service Decision to Prosecute

After the suspect has been charged, and the investigation has come to a conclusion, the case file is passed on to the CPS who review the case file and take the decision whether to prosecute the case at court or not. In some cases the police will seek early advice from the CPS at the investigative stage to aid in their decision if to progress with a case or not. CPS decisions are guided by the Code for Crown Prosecutors (Crown Prosecution Service, 2004). The code stipulates that it must be in the public interest to prosecute the case. The public interest test is secondary to the evidentiary test. This element involves judgement as to whether there is a realistic prospect of conviction. Thus, the CPS must make an objective assessment of what evidence is admissible, its reliability, and whether or not the court will find the evidence and witnesses credible (Brown et al., 2007). Further research has posited that prosecutors pre-empt whether a case can be proved beyond reasonable doubt and whether a jury will want to convict (Lievore, 2005; O'Neal et al., 2017). Spohn et al. (2001) argue that prosecutors' decisions reflect efforts at reducing uncertainty and securing convictions. Thus, the threshold to proceed with a case is whether the case is sufficiently persuasive to secure a conviction, and thus is potentially higher than that of a test of beyond reasonable doubt. Spohn and Holleran (2001) examined sexual assault cases and found that charging was more likely if there was physical evidence that corroborated the victim's testimony. Similarly, Lievore (2004) highlighted the centrality of the victim's credibility in prosecutors' thinking in adult sexual assault cases. Furthermore,

rape myths have been found to influence prosecutorial decision making as prosecutors are influenced by the popular acceptance of rape myths and prosecute cases accordingly (O’Neal et al. 2017). Angiolini (2015) found little evidence of the prosecution discussing strategies to combat these myths at trial (see section 6.1 on rape myths).

I asked the participants how likely they felt each of the vignettes would be to make it to a trial. Vignette number one was seen as the most likely to get to a trial with 90% of participants answering ‘extremely’ or ‘very likely’, followed by vignette three with 62% answering ‘extremely’ or ‘very likely’. Vignette two as the least likely to get to trial with 66% of participants answering ‘not very likely’ or ‘totally unlikely’, as summarised in the table below:

**Table 4.2: A summary of the participants responses to the question of how likely they feel each vignette would be to make it to a trial**

	<b>Vignette one</b>	<b>Vignette two</b>	<b>Vignette three</b>
<b>Extremely likely</b>	11 (38%)	1 (3%)	1 (3%)
<b>Very Likely</b>	15 (52%)	6 (21%)	17 (59%)
<b>Likely</b>	2 (7%)	3 (10%)	2 (7%)
<b>Not very likely</b>	0	7 (24%)	4 (14%)
<b>Very unlikely</b>	1 (3%)	12 (41%)	5 (17%)

When the participants were deliberating on how they would go about handling an investigation based on the vignettes, they discussed their working relationship with the CPS. Participants mostly reported a positive working relationship with the CPS and an appreciation of the task they undertake in a rape investigation. There was a general understanding that the CPS is bound by the resources available to them. Furthermore, the CPS can only work with the evidence presented to them and have to make decisions accordingly. The participants understood and appreciate that the CPS need a lot of evidence in order to take the case forward for a prosecution. My participants felt that if the CPS made the decision to charge it would almost certainly get to a trial.

Overall, a majority of twenty-two participants expressed positive views about the CPS:

From my experience 100% supportive absolutely, they would talk through with me any hiccups, what can't be proved. They will speak to me about how they can ensure it goes ahead. Or there is no way it will go through, there are good guidelines, they work closely with the police (Female officer 1, police constable, STO, Police Force 5).

I found that seven participants took a more negative view over their working relationship with the CPS:

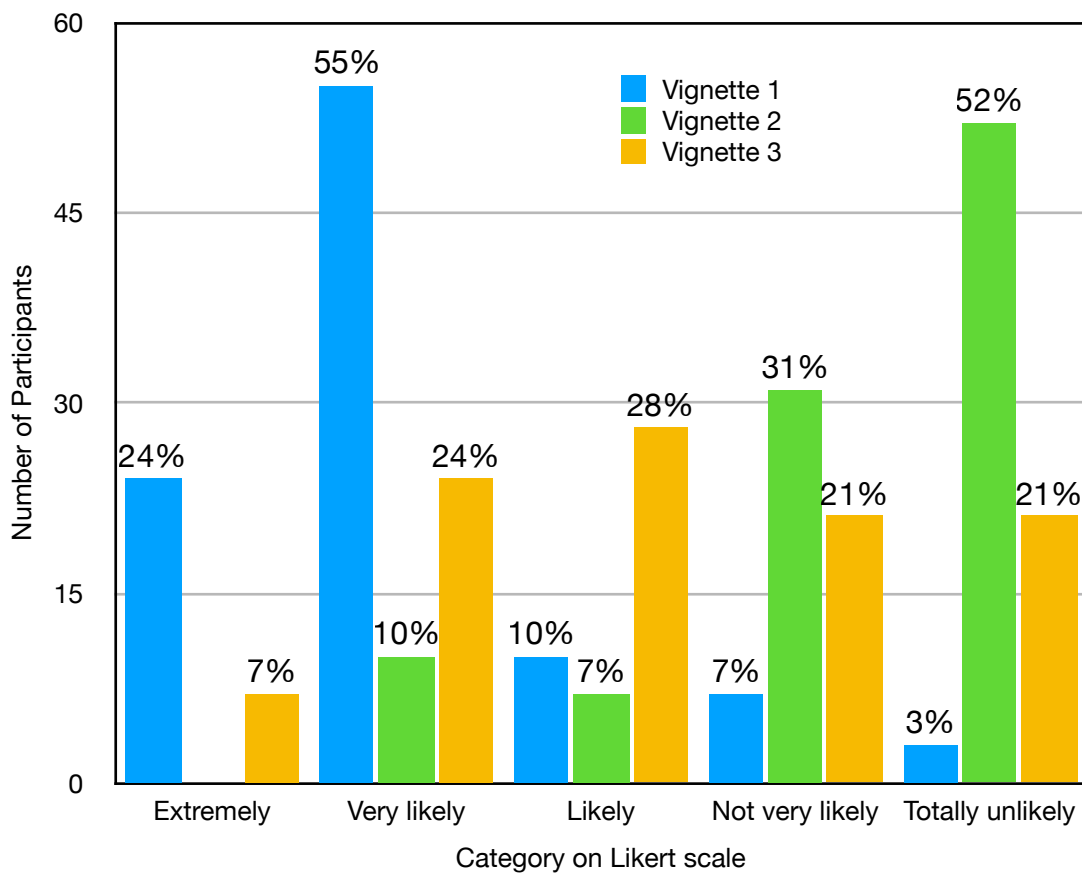
(sighs) I think if you've got a specialist rape prosecutor on it I think they would run it. The problem with the phone line advice is that you're very dependent on who picks up the phone; some are so gung ho it's outrageous and some are so risk averse I wouldn't think they would prosecute anything. I would say it would definitely be worth going to a specialist rape prosecutor and I think they would run it (Male officer 14, sergeant, SOIT, Police Force 2).

Such a perspective points to a variable experience with the CPS prosecutors, although generally positive. Often a lower ranking officer can be the individual who gets in contact with the CPS for early advice, it would not always be a detective.

## 4.7 Overall Chance of Conviction

Once the CPS has taken the decision to prosecute the case, and the victim is still on board, ultimately the case will be taken to a trial. For each vignette I asked the participants, 'Overall how likely would this case be to end in a successful conviction?' Vignette one was perceived to be the most likely to end in a conviction and vignette two as the least likely and vignette three in the middle of the two extremes, as the graph below sets out:

**Figure 4.1: A chart to display the participants response to the question of how likely they feel each vignette would be to end in a conviction.**



The opinions underlying these viewpoints are explored in the next chapter.

## 4.8 Victim Withdrawal

A successful prosecution of rape requires the victim to participate in the process, including contributing to a trial. When a victim decides they no longer want to continue with the process, the investigation will cease. A wealth of previous research findings have eluded to the fact that the victim choosing to withdraw from the criminal process accounts for a large proportion of case attrition (Brown et al., 2007, Hohl and Stanko, 2015). Even though victims have specially trained individuals there to liaise with throughout the process, other officers working on a case can still have a positive or negative impact on the experience the victim has and their decision to continue with the case. Negative influences, such as a suspicious demeanour towards a victim, are likely to contribute to victims withdrawing from the process (Temkin, 1999; Jordan, 2001) and Hamilton Giachristsis (2013) posit that a danger arises when



a pragmatic approach taken by officers can be mistaken by a victim for scepticism and disbelief in their account. Although there are now specially trained officers whose role is to be the primary point of contact for the victim and provide them with care, support, and information, victim withdrawal continues to be a significant problem contributing to case attrition (see section 3.5 for description of STOs).

Nineteen of my participants explained that victim withdrawal from the process was a prominent issue they faced. They gave a wide range of reasons why they felt victims no longer wished to continue with their complaint. Perceptions the participants had of reasons driving victim withdrawal were:

- Victims can feel guilt and shame about the allegation they have made (8 instances):
- A victim is highly traumatised by the offence and cannot face further re-victimisation by staying in the criminal justice system (7 instances).
- Victims may have pressures from other people in their lives to stop proceedings (5 instances).
- Victims may be scared of giving their testimony at trial (4 instances).
- The victim just wanted to go back to normal. This is exacerbated by long delays faced before a case gets to court (see section 7.1) (3 instances).
- The victim may have a perception that there is minimal evidence for their case so it will not end in a conviction (3 instances).
- Victims may not actually seek a prosecution, they just wanted assistance and support from the police, especially if the suspect is a family member (3 instances).
- Victims may lack a support network to help through the process (3 instances).

The guilt and shame she will feel, that generally stops people going ahead along with the fear of giving evidence in a court facing the attacker feeling like everyone is judging her (Female officer 24, STO, police constable, Police Force 3).

Furthermore, my participants had an appreciation of the hardship involved for victims who go through the criminal justice system as a rape victim:

You get into grounds of Domestic Violence and into areas of mental health as some people have genuinely got too weak an emotional mindset to progress and some people have got dependants at home. Those that are a stranger rape, I have never seen retracted, they have nothing emotional invested in the suspect. Retraction in those cases (referring to vignette 2) are where they lie, it's extremely common this scenario (Male officer 15, sergeant, SOIT, Police Force 2).

The above quote was given in relation to vignette two and highlights a common theme that, in cases of stranger rape, maintaining victim confidence and engagement was easier than other types of rape.

Participants were aware of the expectations placed upon the victim and how hard it could be for them. I enquired into the approach the participants would take towards whether they would encourage the victim to continue with the case or not. Such interactions with victims could influence their actions. Nineteen of my participants said they would always encourage the victim to continue with the case no matter who the victim was and regardless of any details of the case:

I always encourage, if they have come to us and said this has happened we owe it to them, irrespective of what they think to try and pursue that to the end. If they leave it and decide they want to come back to it, it becomes so much more difficult as we found with historic cases ... I would always encourage them to continue. You've got to, that's our job (Male officer 12, inspector, STO, Police Force 2).

On the other hand, five felt it was not their place to encourage or discourage the victim, but to simply provide support to the victim and respect their decision:

Regardless of the strengths of the case, I would never advise. It's not my job to persuade people. I would sit her down explain the strengths and weaknesses of the case, it's for her to decide, it depends on her situation. If she is in her first year of uni, it could be a stressful time. It might not be the right time for her, she would have to weigh that up, I

wouldn't say don't bother, it's pointless (Female officer 17, detective constable, SOIT, Police Force 2).

Five, however, left their advice dependent on the strength of the case at hand:

There is a good possibility of a conviction on this one (vignette 3), I would let her know that. There have been cases where you're turning round to people and saying I might not outwardly say you should go ahead if the evidence is not so good (Male officer 25, detective constable, SOIT, Police Force 2).

This approach would result in different advice being given to victims depending on the elements of the offence. Ten participants expressed the opinion that it was the lesser of two evils that the victim does not proceed any further in the criminal justice system as the trauma ahead was not worth it. As Male officer 17 explains:

When we have to tell people we can't progress their cases people are shocked or surprised that we can't go any further with it. It takes a lot of explaining to get people to understand why we can't. It's a shame because there are so many cases that don't end up going to court that are genuine jobs that we can't prove to the point where it's a good idea to take it to court. We don't want to put a victim through everything that entails, all the questioning, the tearing apart of their lifestyles, their history, everything, if you are 90% sure that there's no way a jury can convict (Detective constable, Police Force 2).

I would sit her down and go through all the evidence and if she really wanted to go to court I wouldn't discourage her from that, I would go through in detail everything that we had and explain the situation. If she really wanted to go to court I wouldn't try to stop her, I think in terms of the time in the box where, to be fair a barrister would tear her to bits, erm, I don't think in her interest it would be to go (Male officer 14, sergeant, SOIT, Police Force 2).

When participants expressed that they would encourage the victim it was often on the condition they had explained the hardship involved at trial and the low possibility of success; then allowing them space to make an informed decision. This is because of rape trials being traumatic for victims:

I would like her to have the right information as this one (vignette two), to me, is not as clear cut as the last one. She has to be aware that other people will sympathise with him if they've been in similar situations, it's not that unusual for young men to have a few beers and a bit of

bravado to think a girl is more keen than what she is. It is generally difficult to read some people's signals. She would need to know she could go through a court case and it would end up getting booted out and how would she feel about that. Sometimes it's better for people to not bother than try and fail (Male officer 3, police constable, STO, Police Force 1).

Overall, I witnessed differences in the approach to advising and encouraging victims the participants purported to take through the course of an investigation. However, there was a general sense that it was not acceptable to overtly discourage a victim from pursuing a prosecution. It was reassuring that police officers took a positive and largely supportive role when interacting with victims.

## 4.9 Conclusion

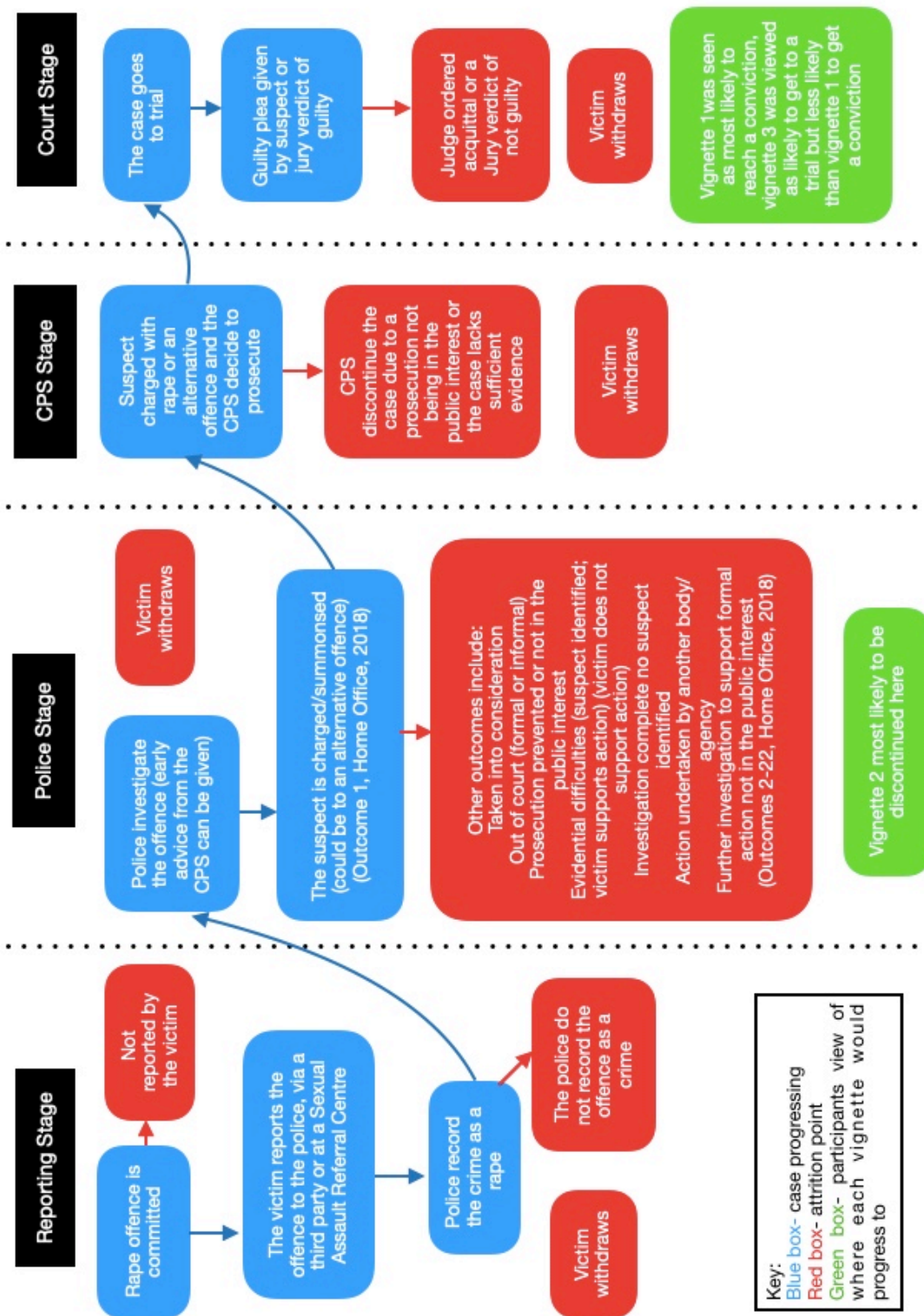
This chapter outlined the journey each rape scenario would take through the criminal justice system in the view of police officers who work on rape cases. Figure 4.2 overleaf assists in laying out the key decision making points and supposed journey each case would take from the perspective of the participants. The chapter began with an overview of the three vignette rape scenarios I used when conducting interviews with my participants. The first scenario depicted a stranger rape, the second an acquaintance rape, and the third a date rape. I ascertained that the stranger rape vignette satisfied all the elements of the law on rape in the participants' minds. However, for the second and third vignette, I witnessed suspicion around the victim's account and some doubt as to whether the perpetrator did reasonably believe that the victim was consenting. Overall, the majority of participants did believe all the scenarios met the legal definition of rape. Once an allegation of rape was made it would be recorded and an investigation would occur. Although officers take a standardised response laid out by policy to investigate all complaints, regardless of personal opinions about the veracity of a complaint, scepticism and concern over false allegations of rape is rife. My participants' view of the reasons driving false allegations are nuanced and range from stereotypes of a malicious woman to a vulnerable woman who do not mean any harm with their actions. If a complaint is believed to be false it will still be superficially investigated, but will be more likely to suffer from attrition. A number of studies

assess police officers' opinions over false allegations. My findings situate how such beliefs influence supposed actions taken when working on cases to view the interaction between opinion and behaviour.

Cancelling crimes (formerly no crimes) in the past has been misused to easily dispose of weak cases. However, such a disposal is now highly regulated internally within the police and only appears to be used when justified by the guiding policy. Thus, this area is not evidence of an implementation gap. The steps taken to investigate each case take a formulaic approach regardless of the details of the case. Evidence is collected from the victim and then lines of enquiry are established stemming from details provided by the victim. All participants expressed largely the same method of how they would go about investigating each case. In some instances, stranger rape cases may have more resources channelled into them. Once a case has been investigated, the police can record the offence as NFA; vignette two was seen as suitable to end in such a disposal, whereas vignettes one and three were viewed as suitable to garner a charge for the suspect and proceed to the CPS. Over all, vignette one was seen as the most likely to end in a conviction, followed by vignette three. Vignette two was seen as the least likely. My participants raised concern that many victims withdraw from the process before their complaint comes to a conclusion. My participants expressed sympathy for why it could be challenging for a victim to continue with a complaint. Most officers would allow the victim space to make an informed decision and support them either way. The concluding chapter of this thesis revisits and assesses the value of these findings.

The next chapter explains why the decisions and actions outlined above are taken and how this shaped the progression of each case. Furthermore, any legal and extra-legal influences that affect such decisions are explored.

Figure 4.2: A Diagram to Display the Journey Each Vignette Would Take from the perspective of the participants



# 5. Understanding the Factors Influencing Police Officers' Decision Making in Rape Cases

---

The previous chapter charted the progression each vignette would take based on the key decisions and actions my participants stated they would take if they were an officer working on each case. The stranger rape case was viewed as the most likely to end in a conviction, and the acquaintance rape was believed to be the least likely to end in a conviction. This Chapter and Chapter Six document the factors which influence and shape such decisions for each vignette, essentially, the reasons why my participants would handle the rape scenarios the way they chose to. Firstly, the likely pieces of evidence in each vignette will be outlined. This gives context to explore my participants' perceptions of how they evaluate the strength of the evidence in each case. I put forward an overarching framework of legal rationality to explain how my participants understand some of their reasoning in how they perceive the vignettes and how they deal with them. A multitude of legal and extra-legal factors were taken into account when my participants were deliberating over

how to handle the vignettes. Such factors relating to specific details in the vignettes are taken in turn and explored in relation to how they affect the progression of the case.

Firstly, extra-legal factors relating to the victim are explained. The credibility of the victim and the behaviour of the victim were key considerations influencing officers' deliberations. The chapter then goes on to discuss extra-legal factors around the perpetrator's credibility and what influenced the perception as to their reasonable belief of consent. The reliance on extra-legal factors contributes to a covert, systemic prejudice the police are complicit in maintaining. The chapter concludes with a consideration of rape trials and how the police pre-empt how victims and suspects will perform in a trial.

## 5.1 Weighing up the Evidence

As outlined in the previous chapter, the investigative approach taken towards each vignette would be to interview the victim and pursue avenues of enquiry stemming from the details the victim provided. I asked my participants to summarise the likely pieces of evidence that would be captured for each vignette. The table below displays which pieces of evidence my participants informed me would likely be available:



**Figure 5.1: A summary of the participants view on the available evidence in each vignette**

<b>Piece of Evidence</b>	<b>Vignette one</b>	<b>Vignette two</b>	<b>Vignette three</b>
<b>Forensic evidence:</b>			
DNA from the suspect	x		
Forensic evidence from the scene	x	x	
Forensic evidence from the victim, including possible injuries	x	x	x
Toxicology for the victim's and/or suspect's blood alcohol level	x	x	
A condom used		x	
Torn clothing from the victim			x
<b>Other types of evidence:</b>			
Interviews from the victim and suspect	x	x	x
Body camera footage from the officer of first response	x		
CCTV images	x	x	x
Evidence of first disclosure	x	x	x
Witness testimony from individuals who may have seen the victim or suspect on the day of the offence	x	x	x
Previous convictions made against the suspect	x		
Testimony from multiple victims			x
Phone and instant communication conversations			x

Once the elements of each of the vignettes had been discussed, I asked my participants to assess the strength of the evidence for each vignette and give reasons why they felt the case is weak or strong. There is minimal previous research eliciting how police officers construct and evaluate in situ evidence in rape complaints and its impact on attrition (Hohl and Stanko, 2015). My participants' assessment of the strength of the evidence in each vignette largely dictated what course of action they would opt to take when dealing with each hypothetical rape complaint. Therefore, the participants' view on how strong a case was made it central to deciding whether a case would progress through the criminal justice system or not. The stronger the evidence was deemed to be, the more likely the case would be thoroughly investigated and passed to the CPS.

Over all, vignette one was seen as the strongest case. Vignette two was seen as by far the weakest case, with vignette three stronger than vignette two. Vignette two was also reported as being the most common type of scenario reported to the police. Furthermore, vignette two was seen as the most likely to be discontinued at the earliest point in the process. The main guiding principle as to which cases are given a great deal of effort to investigate and passed to the CPS is that the evidence is deemed strong enough to stand a good chance of passing the CPS threshold tests and ultimately garner a successful outcome at trial.

## 5.2 Legal Rationality

There is a large body of evidence suggesting that police officers hold prejudicial views of rape victims and the crime of rape more generally. Such prejudicial views include rape myth acceptance and victim blaming attitudes. Such attitudes in turn lead to poor treatment of victims and high levels of case discontinuances (see sections 2.3.1 on the culture of scepticism and 2.6 on rape mythology). An alternative explanation rests on the premise that police officers make considered pragmatic legal decisions based on a case's reasonable prospect of conviction and accurately anticipating jury members' scepticism, rather than necessarily displaying their own (LaFree, 1981). Others argue that a mixture of the two approaches is what shapes the outcomes for

cases, with a legal logic dominating (Brown et al., 2007; Munro and Kelly, 2009). This led Brown (2007) to claim that criticism of the police may be overly negative in large amounts of the literature as they cannot control jury decisions. Police officers and prosecutors appear to reflect an accurate reading of the general public's prejudicial perceptions on rape offences, rather than necessarily having those prejudicial attitudes themselves (see section 2.7.1 on legal rationality). This focus on how others will perceive a case has been described as a downstream orientation (Emerson and Paley, 1992) starting with a prediction of the juries' thinking and working backwards downstream to the CPS decision resulting in a higher standard than beyond reasonable doubt (Brown, 2007). As the following quote encapsulates:

If you put any element of doubt in the mind of a jury you don't get a conviction. The bar is set so high. You have to look at that when you're sending cases to CPS. You can't waste their time if you look at it and think 'that won't get to a trial'. I have struggled with some when I thought it passes the threshold test but I know the CPS will discontinue the case. Do you send it for the sake of it? You shouldn't really (Female officer 29, detective inspector, Police Force 4).

The quote above lends credence to the concept that decision making processes operate according to a downstream orientation resulting in a higher threshold than those enshrined in law and policy. Here, the detective inspector explains how she felt that a case passed the legal standards applied at the CPS stage of the process, yet believed some cases still would not be taken forward by the CPS so the officer would discontinue those cases. This leaves some cases being held to a much higher standard than is legally necessary.

My findings suggest that whether a case is passed to the CPS or discontinued is based on how strong the case is deemed to be by the police. The assessment of strength focuses on how likely the case is to be taken forward by the CPS and succeed at trial, the application of legal rationality. A range of extra-legal factors influence and guide whether a case is deemed strong and therefore likely to be prosecuted, or seen as weak and should not be taken forward. Legal logic or legal rationality is an underpinning framework of how decisions are made. However, what informs a legal logic is a range of extra-legal factors. Therefore, it is artificial to separate legal and extra-legal factors

as it is hard to assess the strength of the evidence without considering extra-legal factors. On top of a legal logic, and pre-empting prejudicial views of a jury, I found through my interview data police officers themselves also held prejudicial views. How far such views influence decision making will be considered. As will be demonstrated, Brown (2007) should not dismiss the critique and concern over police officers' prejudicial views entirely, as they still permeate and interact with legally rational considerations.

All my participants displayed legally rational considerations throughout the interviews. The following quotes demonstrate the thought process of my participants when displaying archetypal examples of legal rationality:

A lot would depend on the corroboratory evidence, that's the thing that's missing from all three scenarios. You've got your basic circumstances, that's great, CPS would want more than 'he said, she said'. There's got to be one or two or three more pieces of evidence that say it adds weight to what the victim is saying. That's not to say that they don't believe the victim, but they have got to get it beyond all reasonable doubt (Male officer 12, inspector, STO, Police Force 2).

You have got to gather all the evidence on both sides. It's which way is it going to sway the CPS or not, if the evidence is no she was talking to him, yeah as a friend and that's it. Or if she was dancing with him, was all over him, et cetera, a jury will think perhaps she was consenting, rightly or wrongly (Female officer 5, detective sergeant, STO, Police Force 1).

The use of legal language, such as, 'beyond reasonable doubt' and 'sufficient evidence for a prosecution', shows the consideration of legal standards. I will now explore each extra-legal factor relating to specific elements within the vignettes and how they influence the assessment of how strong or weak a case is deemed to be to highlight the reasons behind why the cases took the journey they did as laid out in the previous chapter.

A multitude of extra-legal considerations, such as characteristics and credibility of the victim and suspect, influenced how my participants evaluated each vignette and decided what actions to take regarding them. Sleath and Bull's (2017) systematic review of the literature around police perceptions of rape victims and the impact on case decision making concluded there was

very limited empirical research using police samples. Research examining perceptions of the perpetrators of rape is even more limited. Firstly, each extra-legal factor relating to specific elements within the details of the vignettes will be explored. Extra-legal factors relating to the victim in the vignettes will be documented first, followed by a section outlining factors relating to the perpetrator.

### 5.3 Extra-legal Factors Related to the Victim

The victim's testimony acts as a framework for the initial police investigation and a story to be corroborated or disproved (Barrett and Hamilton-Giachritsis, 2013). A lack of corroborating physical evidence or witnesses to a rape leaves little to infer that consent to intercourse was absent (Brown, 2007). This leaves the credibility of the victim's account central to the investigation. My participants needed to ascertain whether the victim's account was credible and would stand up to scrutiny from the CPS and a potential jury, this ability is learnt through experience (Barrett and Hamilton-Giachritsis, 2013). The consideration of the victim's credibility is an extra-legal factor in itself, the perceived credibility of a victim has no legal or logical bearing on whether an individual was raped or not. Furthermore, deliberations around the victim's credibility encourage further extra-legal thinking to ascertain how credible a victim is. Thirteen of my participants highlighted the victim's credibility as a problem they encountered and all participants gave opinions on the possible credibility the victim could have in the vignettes. As Male officer 6 summarised:

You stand or fall on the evidence given by the victim (Male officer 6, detective inspector, Police Force 2).

#### 5.3.1 Credibility of the Victim

It has been claimed many times in the academic literature that victim credibility is crucial in determining the outcome of rape cases (Jordan, 2004; Lievore, 2004; Campbell et al., 2015; Morabito, 2016; Venema, 2016). However, few studies have investigated the factors that influence police officers' perceptions

of victim credibility (Alderden and Ullman, 2012). Sleath and Bull (2017) found the importance of victim credibility which may explain the high levels of attrition from the police stage of a case, where credibility decisions – that could be guided by misconceptions about rape – impact the amount of effort applied to investigating the case by the police. As the victim's testimony is the central piece of evidence in many rape cases, if for any reason that testimony is perceived as being unreliable, inaccurate, or incredible, the case is seen as significantly weaker. The victim's credibility is a fragile and easily diminished element in a rape case. My participants informed me that in an eventuality where more than one rape victim with the same suspected perpetrator came forward to make a complaint to the police, the case against the suspect was strengthened:

My colleague is working on one currently where a uni student's initially come through almost exactly the same as this (vignette two). But then we had afterwards a second complainant come forward saying actually he did that to me before. That has been able to show a pattern of offending with the suspect that we wouldn't have had otherwise if it had just been the first complaint it would probably not have been able to show what could have happened. The case is going to court (Female officer 17, detective constable, SOIT, Police Force 2).

It is deemed to be more persuasive if a second woman has had a similar experience with the same perpetrator, even if the evidence is sparse or circumstantial in either individual case. This raises the question, do women only have credibility en masse? A recent scandal in the Hollywood film industry provides an example of this. Harvey Weinstein, a prominent figure in the film industry, was accused of sexual abuse by a multitude of women he came into contact with through his work. The allegations portray a powerful man evading any kind of justice for decades of silenced abuse. It has only been since a large number of women have spoken publicly of their victimisation by Weinstein that it is widely accepted he has perpetrated against women habitually for many years. At the time of writing there have been no criminal convictions against Weinstein (Redden, 2017).

Campbell et al. (2015) found that victims were deemed more credible when their accounts of the rape did not vary and a consistent narrative was

presented. A further extra-legal factor diminishing the victim's credibility occurs if there are inconsistencies within the victim's accounts, or the victim can be demonstrated to be dishonest in some way:

Victim background, that's the part that's missing, it sounds really bad, but rape investigations are credibility based, they're half evidence half credibility. If she's got no reporting history or no false allegations or anything like that she's made an immediate report on this occasion there would be nothing stopping it. If she's made three reports in six months that have gone nowhere because of lies, then we wouldn't even get it to CPS. So background is more important in some cases, more than the evidence (Male officer 15, detective sergeant, Police Force 2).

If a victim has made a previous allegation (false or not), if they have committed any previous criminal offences, or if any third party materials could suggest a dishonest element to their testimony, their credibility is damaged. Third party materials are pieces of information the police gather in the investigation process from other governmental bodies, such as, social services records or any legal proceedings between the suspect and victim. For example, if a victim has a criminal prosecution for theft, this is construed to show they are dishonest and can be used to justify not taking the case forward. My participants highlighted that the defence lawyer at trial would capitalise on any material that could suggest the victim to have ulterior or dishonest intentions in making a rape complaint, as the below quote explains:

It sounds really bad but rape investigations are credibility based; they're half evidence, half credibility. If she's got no reporting history or no false allegations or anything like that and she's made an immediate report on this occasion there would be nothing stopping it. If she's made 3 reports in 6 months that have gone nowhere because of lies then we wouldn't even get it to CPS so background is more important in some cases than the evidence (Male officer 15, detective sergeant, SOIT, Police Force 2).

Male officer 15 drew parallels to a previous stranger rape case he worked on similar to vignette one:

Previous false reporting, it's almost impossible to get over. We had a stranger rape probably three years ago now, early 50s, alcoholic, three in the morning. Guy sees her on his way back from the club, no reason to be there, pulls her into a bush and rapes her. During the intervening

period after charge she made a report, clearly false and down to trauma and alcohol but they tore her apart. It got thrown out and it was heartbreaking for her but as soon as she made that second report it gave the defence what they needed to throw doubt on it. Whether it happened or not became irrelevant which is a sad part of what we do (Detective sergeant, SOIT, Police Force 2).

The fact that a previous rape allegation made by the victim would almost prohibit them from receiving a prosecution against someone they have recently alleged rape against is grossly unfair. This essentially means women have one opportunity to make a complaint and after that they will not be believed or taken seriously. Even if the police themselves may believe the victim has been raped, they do not have the option to pursue a prosecution. This links to the hysteria around false allegations (see section 4.2.1 on false allegations) and the issue becomes looking into the victim and her background rather than the perpetrator. Female officer 17 exemplifies how a victim's credibility can be damaged:

It's a difficult one in some situations, we can't prove the level of alcohol ... If somebody is open and honest from the very beginning and they say I had six Jägerbombs and a bottle of wine I was leathered. We can work with that, it's when people try and hide things from us that we struggle because all we have to do is send the bloods off and it comes back they've taken cocaine or something they shouldn't have and they haven't been honest about that. That's when we say you have damaged your credibility you've not been truthful with us so the jury may look at it as if you're not being truthful about other things. We always tell people to be honest (Detective constable, SOIT, Police Force 2).

There are many reasons why women may not feel completely comfortable about sharing certain details with the police without realising how it can diminish the chances of their case being prosecuted. Furthermore, some victims may not be trusting of the police and worried something they disclose could get them into trouble with the police.

The emotional response displayed by the victim to the police has been shown to be judged by the police to assist in their understanding of how and if the offence occurred (Bollingmo et al., 2008; Ask and Landstrom, 2010; Venema, 2016). Research suggests women can react in a multitude of different ways when they have been raped. Research into rape trauma syndrome begins to



understand the way victims of rape react and cope in the aftermath of the victimisation (Patton et al., 2015). Rape trauma syndrome is a recognised form of post-traumatic stress disorder (PTSD) and is the stress response a victim of rape may experience. Symptoms can include: Recurrent and intrusive recollections of the rape, nightmares, numbing of general responses, feelings of detachment, difficulty sleeping, outbursts of anger, and exaggerated startled response (Keogh, 2007). Some behaviours, such as the victim not seeming visibly upset when making a complaint, can be misinterpreted by the police to suggest the victim is not affected by what has happened, or can lead the police to believe the allegation is not true. Rape Trauma Syndrome (RTS) can explain why women may delay in reporting to the police, may not seem visibly upset, or claim that they froze during the offence (Rumney and Taylor, 2002). In sum, the behaviour of the victim when interacting with the police should not have a bearing on the way their credibility is interpreted or the veracity of their claim, as all victims may react differently.

The time lapse in the victim bringing the allegation of rape to the police from the time of the offence occurring is an extra-legal factor taken into account. When there is a time lapse, my participants saw it as weakening the overall strength of the case. The circumstances in vignette three depict the victim waiting several days before she brought the offence to the attention of the police. My participants showed sympathy and understanding in the reasons why it may be extremely difficult for a victim to bring an allegation of rape to the police, nonetheless they also acknowledged that it would have to be taken into account when deliberating whether a case should be proceeded with or not. Forensic evidence can deplete quickly if an allegation is not brought to the police in a timely manner:

What would handicap that case from the start would be the length of time it took her to report and the effect that had on the credibility of the allegation. There's a perception that if you've been raped you'll cry straight away and report it straight away. It introduces that doubt which is hard to get over. The effect on physical evidence too (Male officer 3, police constable, STO, Police Force 1).

The police officers themselves did not necessarily believe that the time lapse in reporting itself should affect the way proceedings would play out. Rather, they

were anticipating that the victim's perceived credibility would be dented as there was a perception among the public that individuals who have been raped should want to contact the police immediately.

Vignette one involved the victim being highly intoxicated, vignette two involved the suspect and the victim being intoxicated through alcohol consumption throughout the evening. Twenty-three participants asserted that they felt intoxication was a significant issue in increasing rape in society:

Alcohol affects things massively, we know that it affects people's inhibitions, it makes people loosen up when they've had a drink. Alcohol affects people in different ways some people become comatose, some people become more friendly or aggressive. I dealt with a stranger rape, a guy never been in trouble before walking home drunk, saw an attractive girl, attacked and raped her. He wouldn't have done that had he been sober...There's no doubt about it, alcohol and drugs cause people to do some terrible things. Also, if two people are in drink and they go to a hotel for the night, we've seen it in several high profile cases in the media, when people have sex and then both have different sides of the story: does not mean yes. Then people say that and no never means yes (Male officer 8, detective inspector, Police Force 1).

There was a general acceptance among my participants that if members of the public drank less alcohol then the prevalence of sexual offences would decrease. This belief shifts the focus onto drunken behaviour as the cause of sexual violence and not those who perpetrate the offence. Sexual interactions between two people where one claims they have been raped is attributed to confusion because of fact the parties were intoxicated. This gives the impression that instances of rape where intoxication is a factor are not as serious. All participants were wary of the fact that the victim's credibility would be damaged in court if her testimony was seen as unreliable because of her being intoxicated at the time of the rape. Furthermore, juries may feel the offence was down to the suspect and victim being confused and not a criminal offence. Vignette two was classified as having a victim whose credibility was hampered by the fact the suspect and victim were both intoxicated. It leaves open the possibility that events were a misunderstanding.

On an evidential perspective, my participants acknowledged that if a victim was intoxicated at the time of the offence, their memory of the event and events leading up to the offence could be patchy and unreliable:

Drink is an issue always, people don't have a clear recollection, so they may say 'well I think this happened' or whatever. You may disapprove of it and people think 'have you made this up?' and they start casting doubt on it (Female officer 9, detective superintendent, Police Force 1).

Vignette two was seen to possess this weakness. Conversely, as in vignette one the victim was highly intoxicated, which can be demonstrated by blood alcohol levels being taken from the victim. Then, the police can build a case around the premise that the victim was too intoxicated to be able to consent, therefore there was an offence of rape. The following quote given in relation to vignette one attests to this point:

Most people nowadays are aware alcohol is not a yes. You can say the victim is incapable of making consent and I would think that any judge would direct that towards a jury... she can't consent at the time, that's the only way it would get through really (Female officer 9, detective superintendent, STO, Police Force 1).

Furthermore, in vignette one the suspect was sober, limiting the scope that he could also be seen to be confused. Intoxication can strengthen a case if the victim is too intoxicated to consent, especially as this can be proven somewhat with forensic evidence. However, a case can be weakened when the victim was intoxicated, but not completely incapable to give consent as her credibility could be lessened in the eyes of a jury. Therefore, intoxication can affect the progression of a case in different ways depending on the circumstances of a case. My participants claimed that alcohol played a part in vast numbers of reported cases. Various studies have highlighted the negative effect intoxication can have on case attrition (Frazier and Haney, 1996; Spohn and Holleran, 2001). Schuller and Stewart (2000) found from their police sample that the more the victim was perceived to be intoxicated, the less credibility was attributed to the victim. It appears to be a no-win situation for victims, in some cases their chances of gaining justice are increased and sometimes greatly limited if they are intoxicated.

A further extra-legal factor considered is forensic evidence, showing the victim sustained injuries during the commission of the offence. This is one way a case is greatly strengthened. As Male officer 15 explains:

Injuries, if you've got a case with a victim that's black and blue it's far easier to say to a jury: would you consent after somebody had done that to you? Whereas, if they have no injuries a jury is going to find it more difficult as they don't understand that rape is not that sort of crime. We only get injuries in 5% of cases, they're a rarity... they're the biggest winner (Detective sergeant, SOIT, Police Force 2).

My participants knew cases were rare where the victim, upon medical examination, showed physical signs of a violent attack. However, the presence of injuries can be corroborated with medical evidence which juries find easy to rely on. All my participants felt injuries could have been sustained during vignette one or three, evidence of which would be discovered when the victim had a medical examination in a SARC. Furthermore, if the pattern of injuries to the victim matched the description of harm the victim portrayed in interview, this would further corroborate her testimony and enhance her credibility. Evidence of injuries was purported to be one of the strongest pieces of evidence by seventeen participants, making a case likely to be proceeded with. This assertion is supported by previous research (Kennedy, 2012; Venema, 2016) (see section 2.6 on rape mythology).

Page (2010) found police judgments over the character of the victim affected how credible they were seen to be. The victim in vignette three was an older woman considered to be of good character by my participants:

No, it's good from a victim point of view, she is of good character. Not that we discredit people on their background and history, but the defence will so we have to deal with that early on and make sure we can combat any issues the defence may raise. It's not us that are interested in it, but our job is to cut off their avenues before they get them. The fact that she's of good character and older in a situation that lots of people are in, a single mum, divorced, dating, it will be better for her there won't be anything the defence can jump on her for (Female officer 17, detective constable, SOIT, Police Force 2).

The above quote suggests police do not discredit victims based on their history. Even if they do not personally form their own opinions of the victim's

credibility, they do, however, anticipate CPS considerations and what a defence barrister would utilise to persuade a jury not to believe the testimony of the victim. The outcome is the same as, essentially, a victim's history is in fact held against her.

From a legally rational point of view, an older woman who was sober at the time of the offence was seen as having a better character that could be portrayed as such at trial. When the evidence in a case is weak, but the victim is perceived to have good character, that can counteract other weaknesses to the case. If two cases were evidentially similar, but one, such as vignette three, had a victim who would come across well in court, it would be more likely to be prosecuted than one where the victim was deemed to have elements of bad character, such as vignette two. An example of bad character includes previous criminal convictions, as the following quote demonstrates:

It would be on the credibility of both witnesses and how they present themselves in court. It looks the victim to many in society is someone who would seem credible. That is very sad, if she was a prostitute or a young woman at uni, her credibility is lesser. But it shouldn't relate to whether there has been a rape, but we have an adversarial justice system; it's what you can prove (Male officer 11, inspector, Police Force 6).

If a victim is young, they are seen to be less credible than an older woman. The same cannot be said for assumptions over a suspect (see section 5.4.1 on credibility of the suspect). Furthermore, it could be interpreted that older women are not seen as desirable any more, as in they are no longer sexualised individuals, so therefore cannot be seen to incite sexual relations in any way.

The credibility of a victim is perceived as central to a police officer's decision making and subsequent investigatory actions. The more credible the victim is deemed to be, the more likely it is that their case would not suffer from attrition. When police officers assess how credible a victim is, they pre-empt how a jury would view the veracity of the victim's testimony and whether the CPS would deem the victim credible enough to take the case to trial. Various extra-legal factors, as outlined above, shape the judgment of how credible a victim is. Such extra-legal factors often focus on personal characteristics of the

victim, such as age or class, factors that are beyond the control of victims. Therefore, some victims have a higher likelihood of securing justice for the same offence based on factors that should not legally influence criminal justice proceedings. In many instances the police involved in the process may not personally agree with the judgments they make and act on around the victim's credibility, they may prefer to progress with the case and would like to secure justice. In other instances, the officers may agree with concerns over the credibility of the victim and cast a sceptical gaze over their claims. Either way, the outcome for victims is the same, as they are still judged on arbitrary circumstances while each victim does not have an equal chance of having their offence prosecuted. The adversarial nature of the criminal justice system drives the act of pre-empting how a victim's testimony will be perceived. This results in covert systemic prejudice against victims, with the police as an institution being complicit in withholding the chance of justice to victims who are not seen as credible enough.

### **5.3.2 The Behaviour of the Victim**

In addition to the victim's credibility, the behaviour of the victim in the time leading up to the commission of the rape offence is pivotal to the way in which consent between the suspect and victim is perceived. When there are uncertainties over whether consent was given in a scenario, the behaviour of the victim surrounding the time of intercourse is used to draw inferences to suggest that consent may or may not have been given. Essentially, the actions in the time before the offence occurred are analysed by the police to try to shed light on whether consent was given or not and whether such actions could be reasonably interpreted as suggestive of consent. The way the victim was acting should have no bearing on whether, at the time of intercourse, she decided to consent to penetration. The victim's behaviour in each of the vignettes was taken into account when the participants were deliberating over whether they felt the scenario was a rape offence and how it would affect the progression of each case. As the circumstances in vignette one describe the victim as having minimal interaction with the suspect before the offence occurred, the absence of contact was taken to suggest a lack of consent.

Conversely, the victim's behaviour in vignette two was viewed by my participants to suggest the victim did want to consent to sexual intercourse, and it would make it more reasonable for the suspect to believe the victim was consenting. Furthermore, the victim's behaviour would be used as evidence to suggest consent by the defence barrister at trial, and my participants believe the CPS and a potential jury would view the victim's behaviour as suggestive of consent, thereby weakening the overall strength of the evidence. A number of aspects of the victim's behaviour were seen as important:

First of all she's asked if she can sleep in his room, then she presumes it's OK to get into his bed. Where does she think he's going to sleep? If she's been dancing with him and been in his flat he seems to have made reasonable assumptions. People don't say would you like to have consensual sex, they don't do it like that, it just evolves. His account sounds more reasonable than hers ...did she expect him to sleep on the floor? It's silly at the least (Female officer 19, detective constable, SOIT, Police Force 1).

The conduct of the victim and the way she's actually put herself in someone else's bed, her general conduct, they have been partying and drinking and then at her instigation staying in a guy's bed and expecting him to keep his hands off her, they're students (laughs) (Male officer 6, detective inspector, Police Force 2).

The fact that the victim here had been socialising and flirting with the suspect throughout the evening coupled with the fact she voluntarily instigated spending the night in his room were viewed as pointers to the victim wishing that sexual intercourse may occur. Furthermore, age is a significant factor again here. Being a young male student is seen as a mitigating factor, compared to an older man, whereas for women the opposite is true with young women viewed as less credible. A scenario like vignette two closely mirrors common courtship behaviours that are often means by which sexual intercourse between two people occurs with consent. This can signal to police officers viewing the circumstances from the outside that the situation is not problematic, it seems legitimate and not a serious criminal offence, compared to a stranger rape scenario where it is obvious that no one would want to be in the position of the victim and it is not similar to common, legitimate sexual relations. Any action by the victim that is perceived as suggestive of some level of romantic or sexual interest in the suspect is viewed as negative for the case.

The police officers used the victim's behaviour in a legally rational logic, but also formed their own preconceptions about the scenario. A recent Freedom of Information request outlining the levels of convictions in rape trials shows that younger men are less likely to receive a guilty verdict compared to older men who are on trial (Topping and Barr, 2018). For example, the conviction rate last year in rape trials involving eighteen to twenty-four year-old men was 32% compared to 46% for men aged twenty-five to fifty-nine (Topping and Barr, 2018).

Within vignette two, there would be a large array of witnesses to attest to the interactions between the victim and suspect throughout the night:

You've got the 'he said, she said' but because you've got a whole bunch of witnesses that have seen the preamble, that's very, very important. They've both been drinking heavily so you haven't got Mr Sober in an alleyway with a drunk girl, you've got two sober individuals. Also you've got a university setting so it's slightly more problematic (Male officer 12, inspector, STO, Police Force 2).

This would further corroborate the view that the victim was sexually interested in the suspect. Vignette two was viewed as a weaker case evidentially as there was evidence pertaining to the victim's sexual interest in the suspect. This, in turn, leaves open the possibility it may have been reasonable for the suspect to believe the victim was consenting:

If she had said 'look, no, keep your hands off me' then we would be in the pound seats and running but she hasn't. With two of them in a single bed I don't see how there can't be contact. The other thing is at no point has she said 'wait a minute, I'm going home' (Male officer 14, sergeant, SOIT, Police Force 2)

I mean, again she's put herself at risk, she's put herself in danger. You know when he started to kiss her neck and stuff why didn't she just get out of the bed and tell him to stop... It's not a good one, I wouldn't like to guarantee conviction on that one at all (Male officer 4, detective chief inspector, Police Force 1).

The act of the victim getting into the suspect's bed would leave the case too much of a challenge to persuade a jury beyond all reasonable doubt that rape was committed. On the other hand, in vignette three the victim's behaviour was



not seen to weaken the case as in vignette two, as the victim vocalised she did not want to have sexual intercourse and was not perceived to be inviting sex in the same way the victim in vignette two was:

She did say that she didn't want to and vocalised that. It's a great pity she didn't pursue that. He said he was rough and women like it, really? Erm, was that because she was resisting him? (Male officer 14, sergeant, SOIT, Police Force 2).

My participants asserted that the victim could have made it clearer to the suspect that she did not consent. However, the scenario depicted was not seen as suggestive or expected that sexual intercourse would occur under those circumstances whereas the circumstances in vignette two led my participants to think it could be reasonable for the suspect to expect intercourse to happen.

In vignette two the victim froze when the suspect began to have intercourse with her. Five participants were sceptical that this reaction is a genuine response to being raped that some victims cannot control. Most participants understood that it is a reaction some victims may have, but acknowledged that a jury may not understand that and doubt whether a rape actually happened.

If the victim vocalised that she did not want to have sex with the suspect, this was perceived to strengthen the case; if the victim did not do so, the case would be weaker. The victim in vignette two froze so did not explicitly say to the suspect she did not consent. By comparison, in vignette three the victim did explicitly say she did not want to sleep with the suspect. As Female officer 2 (Sergeant, STO, Police Force 1) explains in relation to vignette three:

You could suggest there is an understanding if someone invites someone into their house then they are happy to have the company. If she didn't say anything about not having sex then there could be an argument he reasonably assumed she was okay with it... but in the circumstances I don't think it was reasonable to think she consented. If she didn't say anything it would be reasonable to assume someone is okay with your actions.

If the victim unequivocally vocalised they did not consent, it is easier to argue to a jury that it would not be reasonable for a suspect to believe the victim was consenting. Without that vocalised dissent, it leads to a level of suspicion over the possibility that it was actually reasonable for the suspect to believe the victim consented. There was a suspicion among my participants, not just when anticipating jury decision making, that if a victim does not make it explicitly clear they are not consenting then it may not be a rape offence. This goes some way to explaining why some participants did not see vignette two as a rape offence to begin with (see section 4.1). The Joint CPS and Police Action Plan on Rape (2014) highlights that the focus for investigators and prosecutors should be the behaviour of the defendant, not the victim. My findings would go some way to supporting evidence of an implementation gap between policy and practice; here the policy in place would help the situation, but it is not carried out as intended. If investigations were focused less on the victim's behaviour and characteristics as the policy intends, then extra-legal factors around victims would not influence case attrition to the same extent (see section 2.8 on an implementation gap). Angiolini (2015) also suggests that this training has not been adequately implemented. The judgments police make around the victim's behaviour further support the allegation of covert systemic prejudice within the working practices of the police. In relation to judgments over the victim's credibility and the other extra-legal factors documented here, the approach to detective work resembles the art form of working (Hallenberg et al., 2016) (see section 2.9 on police culture). Intuition and instinct is relied upon when assessing the veracity of a victim's claims, this is especially prevalent in the absence of independent evidence. When trying to understand whether consent was given in a case, officers rely on previous case experience and instinct to guide their opinions over how strong a case is.

## 5.4 Extra-legal Factors Relating to the Perpetrator

Section 1(1)(c) of the Sexual Offences Act 2003 stipulates that if the perpetrator reasonably believes the victim consents to the penetration, the act is not rape. This element of the law enables and encourages extra-legal factors to influence the response to rape as, when considering what is reasonable from the suspect's position, it is difficult to ascertain where legal factors stop and extra-

legal factors begin. The line between legal and extra-legal factors is blurred as the law essentially opens the door to extra-legal thinking. O'Neal (2017) states that legal factors include how strong the evidence in a case is. However, the process of determining the strength of the evidence relies on extra-legal factors. It is artificial to see them as separate entities, as in practice the distinction between what should be legitimately considered as relevant to the progression of a rape case and what is not relevant are intertwined. This is exacerbated by the adversarial nature of the criminal justice system, as jurors will rely on extra-legal factors to decide on a case. The way police officers view the actions and perceptions of the suspect at the time of the offence are important, as the law allows for the suspect to reasonably believe the victim was consenting to the penetration for the incident to not be a criminal offence. Therefore, the subjective view of the suspect is considered. Police officers who are investigating a case will have to consider how they view what would be reasonable for the suspect to understand as confirming the victim's consent.

#### **5.4.1 Credibility of the Suspect**

Parallel to concerns over the victim's credibility were concerns about the suspect's credibility. My participants asserted that if the suspect could appear credible and reliable at trial, this could sway a jury's decision making in favour of a not guilty verdict. The suspect in vignette two was viewed by seven participants to be able to come across well in a courtroom:

Difficult, I don't think it would get before a jury, you've got two uni students, both intelligent people, both been drinking, depends how he presents himself, comes in a suit, bright lad (Female officer 10, police constable, STO, Police Force 1).

This guy didn't have any previous, likely to come smartly dressed, with supportive parents, this girl: Terrible. I can see how it could play out (Male officer 13, inspector, Police Force 2).

Similarly, seven participants also asserted the suspect in vignette three could come across as honest and reliable in court, unless any bad character evidence was unearthed in the investigation:

If the suspect comes across credible and reasonable then, er, you would struggle, I mean you've got to prove it beyond reasonable doubt and all you need is one or two jurors to think he could have thought that and it's perfectly reasonable. Do they believe that she was asleep? It's so difficult (Female officer 2, sergeant, STO, Police Force 1).

There was no concern from participants that the suspect in vignette one would be able to portray himself very favourably in court:

I would like hope it would succeed, erm, but the problem with getting to court is that, well, there's the bad character, I think the jury would go for it (bring a guilty verdict). I was thinking about those instances where someone goes to court and presents themselves as being Mr Legal Honest Decent and Truthful, but he can't do that as he has a previous, I think the jury would go for it (Male officer 14, sergeant, Police Force 2).

Assumptions around how a suspect would be perceived by a jury are an extra-legal factor that affects how my participants decided to proceed with a case. In the same way that the victim's credibility could be damaged, the same can be said for the suspect. In vignette one, the suspect has a previous criminal conviction for a sexual assault. This can be used to strengthen the case for the prosecution. The CPS at trial can use this information to paint a picture to the jury that the suspect has a proclivity for committing sexual offences.

#### **5.4.2 Assessing the Reasonable Belief of the Suspect**

An extra-legal factor considered to assess the reasonable belief of the suspect that the victim consented to penetration is the use of a condom. The scenario within vignette two depicts the suspect wearing a condom while having intercourse with the victim. This element of the case would be collected as evidence that could potentially be utilised by the defence at trial. It could be used to prove that penetration took place, however, as the suspect did not deny that sex happened it would not further the case. As the following quotes explain:

I think potentially they would struggle to charge purely because of the issue surrounding the suspect having to reasonably believe she was consenting. He was given time to put a condom on, he instigated sexual contact, although she didn't give anything back. But also no withdrawal either, how would he know she didn't want anything to take

place? He's tried his luck and he's not seen anything that says she didn't want sex to take place (Male officer 18, detective inspector, Police Force 1).

He's not disputing sex but the condom is interesting. That's crucial, he might be able to do it quickly, but it does slow things down. The jury will look and think 'that's your time to get out'. She felt scared, but, well, she froze, which does happen, but again I think a jury would expect more than that (Male officer 26, detective constable, Police Force 3, SOIT).

Fifteen of my participants asserted that the defence could portray the situation as consensual as the suspect had time to stop and wear a condom, leaving the victim the opportunity to stop intercourse going ahead. Furthermore, the use of a condom gives the impression that the situation is (closely aligned to) consensual sex and that the suspect is considerate and responsible. This element affects the police officers' personal views of the case, and also pre-empt those of the CPS and juries.

To further examine the police officers' perceptions of how they understood the mindset of the suspect in the scenarios, I asked my participants how culpable they felt the suspect was for rape for each of the vignettes. The suspect in the first vignette was seen by all participants as completely culpable without any doubt in the participants' minds. The suspect in the second vignette was perceived to be significantly less culpable than the suspect in vignette one, with twelve participants asserting they thought the suspect was not at all culpable or just culpable to a small extent:

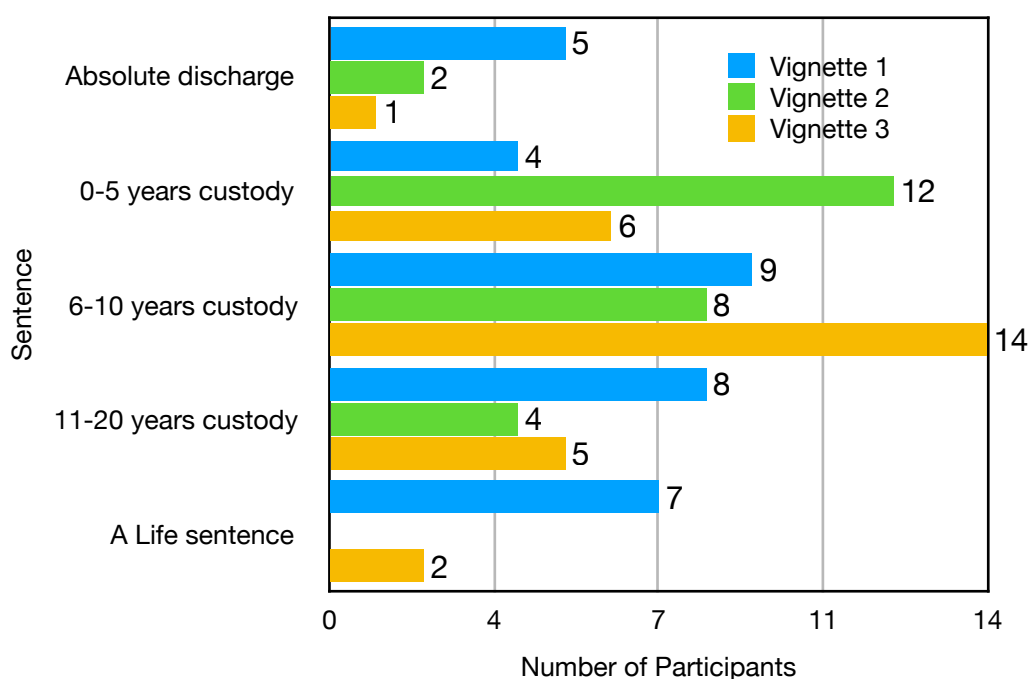
I don't think he intended to harm her, I think from what he says he read the signals that she was quite happy for it in his eyes, he didn't intend to harm her (Female officer 9, detective superintendent, STO, Police Force 1).

I don't think he was culpable because he didn't know she wasn't consenting, he seemed to think she was really into him and why that was I don't know. As far as she was concerned, he was someone on her course and they go out as a group ... to me that was a set of circumstances that led to something ridiculous (Male officer 14, sergeant, SOIT, Police Force 2).

For the third vignette, all my participants were confident that the suspect was culpable for rape.

For each vignette I asked the participants, ‘If there was a guilty verdict, what do you think a fitting sentence would be for the suspect you would want to see passed, regardless of any legal frameworks?’ I summarised the answers they gave into categories. For vignette one, the vast majority of participants saw custody as an appropriate sentence, longer than five years in custody. A total of 14% of participants saw the most appropriate sentence for vignette two as an absolute discharge with 41% advocating a zero to five year custody sentence. Although seven percent of participants wanted an absolute discharge for vignette three, overall the sentencing was harsher than vignette two, but not as harsh as vignette one with 48% of participants advocating for six to ten years in custody. Over all, vignette two garnered the most lenient sentencing option with vignette one the most. This reflects the pattern of perceptions on how likely each vignette was seen to result in a conviction. The more likely the case to be convicted, the harsher the sentence was hoped for. The graph below summarises the responses given:

**Figure 5.2: A graph to summarise the participants responses to the question of how what they feel a fitting sentence would be for each vignette.**



Male officer 6 explains a broadly typical view in relation to vignette two:

It would be harsh to say that a man should be convicted of rape and taken away from society, I think at worst there's a misunderstanding here and he didn't intend to do harm and I don't think he's a danger (Detective inspector, Police Force 2).

Male officer 27 sums up a typical viewpoint around a custodial sentence preference in relation to vignette one:

Ten years plus for a stranger rape offence, just on the impact it's likely to have on the victim. Someone she's never met before, rape is rape, but there is a different classification between rape via a partner or an ex-partner and a stranger rape in the street (Male officer 27, detective sergeant, SOIT, Police Force 3).

The participants' views on a fitting sentence for each vignette also reflect how seriously they saw each offence and the culpability of the suspect. Each different rape scenario and perpetrator was not viewed as equal, with some deserving punishment more than others. As summed up by Male officer 21:

The sentencing has to reflect the different scales of offending (Detective inspector, SOIT, Police Force 2).

Fifteen participants demonstrated punitive attitudes to punishing offenders, with a strong preference for long prison sentences for convicted criminals in a general sense, not just for rape offences:

I'm not a believer in one goes free, I'd put 'em all away (Male officer 22, detective inspector, Police Force 2).

I would want the maximum a lengthy custodial sentence, I don't believe in this rubbish about light sentences (Female officer 5, STO, detective sergeant, Police Force 1).

I'm old fashioned and I don't think anything but prison is a sufficient deterrent. I know we talk about society or the judiciary or those in power seem to be convinced you can educate people and stop them offending, but the offenders I've come across won't stop offending. It's a way of life, the only way you can secure society is by taking them out of society for a reasonable amount of time (Male officer 6, detective inspector, Police Force 2).

Such punitive attitudes contradict the tendency to advocate for more lenient sentences for the suspect in vignette two. All the participants who stated they would prefer a more lenient sentence given in vignette two also displayed punitive attitudes in general. It appears beliefs over the culpability of some potential rapists predominate over values around the way punishment is delivered from the criminal justice system. This could also be down to the commonly held belief that vignette two could be down to a miscommunication or that the allegation could be false (see section 4.2.1). The suspect's class and age may be factors that act to mitigate the potential harm caused to a victim. An element of police culture is reflected in a preference for harsh sentencing, police culture literature states that police often hold punitive views around law and order (see section 2.9).

### **5.4.3 Typologies of Perpetrators**

When discussing what characteristics they perceive the perpetrators of rape to possess, it became apparent that my participants felt there were various different types of perpetrators. How these typologies help them understand the offence, and who they are bringing a charge against, links into how serious they see the offence and how they will proceed with it.

I found a continuum of perpetrators with varying levels of malice and dangerousness to society perceived by my participants. At the lower end of a continuum is the young male student in vignette two who did not use violence to commit the offence and claimed he did not know he had raped the victim:

It appears like a miscommunication, I think some of the sentences for this are probably one of the lower category rapes. I suspect four or five years, maybe it's not of the same predatory nature as the first case, it looks like a miscommunication to me (Male officer 15, detective sergeant, SOIT, Police Force 2).

The suspect in vignette three is seen as more dangerous and culpable than the young student:

Six years again on the scheme of rape offences it's not the worst (vignette three), it's clearly worse than the last one (vignette two) with



the circumstances drop it down slightly, I don't think it would get prison (Male officer 3, police constable, STO, Police Force 1).

The suspect who committed a stranger rape was viewed at the other end of the spectrum as being the most deplorable of the three. The suspect here was viewed as a sexual predator, this label was used by my participants to describe the worst type of rapist:

The first one is nothing more than sexual predation taking advantage of a situation, pure animal (Male officer 15, detective sergeant, Police Force 2).

Fourteen participants believed a sexual predator was aligned with a stranger rapist, someone who knowingly raped women without any care for their wellbeing; someone who, despite what you tell them, would not be able to stop offending. This is the image police officers have of the stranger rapist. The term 'opportunist' was also associated with the suspect in vignette one by twelve participants:

Well, it could be considered an opportunist offence really, or predatory, he might go about at night, who knows what hasn't been reported (Male officer 13, inspector, Police Force 2).

When perpetrators are viewed as opportunists, the focus is shifted onto opportunities they are presented with, namely the victim, her behaviour, and the position she is in, rather than viewing the fault as lying with the perpetrator. Additionally, power and control are seen as primary motivating factors for the perpetrators by ten participants in vignette three and one:

It's a really difficult one, I don't think there is an archetype rapist, I think it can happen to anybody if they don't have a full grasp of what rape is and the full ins and outs of consent. So it could be your typical stranger rapist that grabs somebody off the street, wants to hurt them, wants that power and control (Female officer 17, detective constable, SOIT, Police Force 2).

Fifteen of my participants expressed a deep suspicion towards the suspect in vignette three. They felt he could have committed sexual offences before and

not been caught, or that he had intentions to harm women and masquerade as a decent person:

A lot would depend on the enquiries about him disclosed because he on the face of it is Mr Reasonable, but if we found as a result of looking at his dating stuff that he is Mr Predator who was out looking for likely women, that would change the whole thing. In fact, there would be nothing to stop you talking to previous dates to see what his modus operandi is. He might be one of those people who is a rapist but just never gets reported. I would be wanting to really find out about him because he's divorced, they both are, I would want to know how his divorce came about. I would be looking at previous dates on his site, I would be going through his little black book with a fine tooth comb. I think you could show his attitude and how he operates. At the moment he's Mr Nice Guy, I don't think he is... If you go into his history and find that occurs a lot a pattern building up I would do that (Male officer 14, sergeant, SOIT, Police Force 2).

The first one we looked at was the chancer, the second one was the I'll take my chance both had a drink and he thought she was consenting, this one he has deliberately set that up (Female officer 5, STO, detective sergeant, Police Force 1).

However, eight participants were not as suspicious of the suspect here:

It's not so predatory to me as he hasn't gone onto the dating website to meet women to exploit them. He refers to children, things in common, loads of women have contacted him but he's not taken them up on the offer. He likes her, it's not predatory, it's just someone wanting a relationship, erm, he's just seriously misread signs thinking it was a bit of coyness and play when actually she was saying no (Male officer 18, detective inspector, Police Force 1).

The only suspect who garnered some level of sympathy was the one in vignette two. Nine participants expressed concern that if he was found guilty of rape and received a sentence his life would be ruined. The youth of the suspect again mitigated from his blameworthiness:

If you look at it from a completely objective perspective, if you look at his life, that is now going to be blown away by this allegation of rape (Female officer 2, sergeant, STO, Police Force 1).

It's very difficult as you are ruining a young man's career, ruining his life for a silly mistake. I'm not saying it didn't happen, I'm not saying it's not traumatic for the girl et cetera, it's a different scenario altogether, you're

ruining one man's career for what he thought was just a one night stand basically (Female officer 5, STO, detective sergeant, Police Force 1).

These decisions are very important, they will affect that person for the rest of his life. This person might be a law student, you know, who wants a career at the bar as a barrister, that's going to ruin his life (Male officer 8, detective inspector, Police Force 1).

Class is also a consideration in relation to the youth of the suspect in vignette two. The perceptions my participants have over the perpetrators of rape shape how serious they assess the offence committed. Furthermore, such beliefs inform how they view how reasonable it is for the suspect to interpret the victim's behaviour as consent, essentially the perpetrator's guilt. Ten of my participants asserted that they do not subscribe to a stereotypical view of what a rapist is. Despite that, they describe and portray various typologies of people who fit the profile of a rapist in varying situations. They were able to make assumptions around the suspects in the vignettes based on limited information.

## 5.5 It All Comes Down to Performances at Court

A key consideration of my participants when evaluating the credibility of the victim and suspect was not only how credible their accounts may be, but also how credibly and persuasively those accounts can be packaged and delivered in a trial, including under cross examination, in sum, pre-empting how they would perform at court, with more than half my participants exclaiming that cases often ultimately come down to performances at court. This is a key element to the legal logic applied by police officers. The perceptions of the victims and suspects outlined above underpin judgments on how they will perform in a rape trial. Even if a case has a strong evidential base, if the victim is deemed to perform poorly in a trial, or a suspect is deemed to perform well at trial, the case can be perceived as weak by police officers:

Well there's a lot of considerations like how the victim performs, realistically unless there is any corroborating evidence like CCTV it will go on the victim's statement and how she reacts to cross examination and if there's anything further. A lot of cases can seem strong as you go down the process, the defence will give up, for instance, you know if

they could demean her character they will do. The jury have got to be satisfied beyond all reasonable doubt that the offence has been committed (Male officer 8, detective inspector, Police Force 1).

You make an assessment on how good they are going to be in court, it's sad, perhaps, that the court is like a theatre and the barristers are theatrical about things. I don't believe in the jury system personally because these are people with no legal training who are plucked off the street, I think that's way out of date... I think a lot of it will be how both of them perform in court and if it's a performance it does come down to with our current legal system, that's the way it is, you're trying to convince everyday people who watch Jeremy Kyle and stuff like that you're not trying to convince professional people (Male officer 6, detective inspector, Police Force 2).

There's only two people in that room and it's who you believe completely. I say that to my victims, I have to be brutally honest with them and say it's who the jury believe on the day and who is more believable. It sounds awful, but it's like a personality contest, it's who they like and who's most believable: it's sad but true (Female officer 23, detective sergeant, SOIT, Police Force 1).

Such considerations lead to unfairness as a victim's ability to perform well in a trial should not have a bearing on whether they have a chance at gaining justice. It may not always be possible for police officers to accurately foresee how well a victim would perform at court, or how a jury would react to a victim's testimony. This is a further example of a legal consideration (likelihood of success at trial and strength of evidence) being underpinned by extra-legal factors. What influences considerations of how well an individual would perform in a trial is underpinned by judgements based on class, education, appearance, and occupation. This element of decision making further contributes to the covert systemic prejudice operating against victims. This finding is similar to the concept of officers 'second guessing' the outcomes of cases to decide on whether to discontinue them or not stated in earlier studies such as, Harris and Grace (1999) and Kelly et al. (2005).

## 5.6 Conclusion

This chapter began with an outline of the likely pieces of evidence the participants envisaged they would collect through the course of an investigation for each vignette. Police officers apply a legally rational logic to

underpin the actions and decisions they would take when deliberating over rape cases. The stronger the evidence is deemed to be, the more likely the case is to progress through the criminal justice system. Officers weigh up the evidence and predict how likely the case would be to garner a successful conviction, essentially the 'convictability' of a case. Police officers rely on a plethora of extra-legal factors when making such legally rational decisions. It is therefore artificial to separate legal considerations and extra-legal ones, as deciding on the strength of the evidence inevitably draws on extra-legal factors, this is mostly down to the final element of the law. A multitude of extra-legal factors are relied upon to inform decisions on how strong a case is deemed to be and what actions the police will take over a case. The perceived credibility of the victim is a central consideration to the police, because of the fact that at trial the victim's testimony is a central piece of evidence the case rests on. If a jury will not believe the victim, in the absence of other pieces of compelling evidence, the case is likely to fail. A number of extra-legal factors impact on the assessment of the victim's credibility. If the victim delays in reporting or is intoxicated her case is weakened. However, if the victim is incredibly intoxicated to the point of being barely conscious or coherent her case is strengthened. A young victim is deemed as less credible than an older one. If there are multiple victims or a victim is injured her credibility and strength of case is improved. The police as an organisation are complicit in upholding covert systemic prejudice against victims. This also happens when the victim's behaviour around the time of the offence is assessed to draw assumptions to ascertain whether she was consenting or not. Policy states that the victim's behaviour should not be the focus of investigations, it should instead be the perpetrator (CPS, 2009). However, my findings are suggestive of an 'implementation gap'. I found that if a victim froze during the rape, the case was viewed as weaker. Conversely, if the victim vocalised that she did not consent, her case was viewed as stronger.

The law on rape dictates that subjective judgments are made over whether the suspect reasonably believed the victim was consenting (S.1(1)(c) Sexual Offences Act 2003). This enables extra-legal factors to be relied upon to decide whether this element of the law is satisfied. Extra-legal factors are also taken into account to make an assessment of the suspect's credibility and how it

would be perceived at trial and measured against how credible the victim is perceived to be. The suspect in vignette one is deemed to not have a lot of credibility, whereas the suspects in vignette two and three were viewed to possess more credible images. Age is also a salient factor here. When it came to victims, the younger victims were perceived as less credible than older ones. The opposite is true of suspects. Older men (vignettes one and three) are viewed as less credible than a younger man. This is because of the concept that older men should know better and are held to a higher standard than a younger man who may be more liable to misunderstandings and mistakes. Conversely, younger women are held to a higher standard than older women. When participants were assessing how reasonable the suspect's belief of consent was, they felt the use of a condom could signal that it was reasonable to assume consent and the case would be weakened. The suspect in vignettes one and three were viewed as culpable for the offence of rape. Conversely, the suspect in vignette two was not seen to be completely culpable. This is mirrored in the desired sentences that participants would wish to see passed for each case. Vignette two garnered wishes for a more lenient sentence than the other two cases. This is regardless of the participants expressing views advocating for harsh sentencing for criminal offences in general, signifying strong views held around such a case that was professed to be incredibly common.

I identified a continuum of typologies of perpetrators my participants describe. At the worst end of the scale is a perpetrator such as the suspect in vignette one, who has been described as a predator. At the other end of the scale is the perpetrator in vignette two, a young man who is viewed to be less culpable. The way officers understand the viewpoint of a perpetrator is key to their assessment of how reasonable it is for them to understand a victim's consent. Judgments over the characteristics and credibility of victims and suspects are important to critique, as they are an influence on decision making by the police when ascertaining how well they will perform at court and, ultimately, whether they will be able to persuade a jury of their point of view. In sum, the influences on decision making are dominated by a legal logic. Nonetheless, I still found examples of personal prejudicial views. Furthermore, the underpinnings of decisions made by the police in rape cases contribute to a covert systemic

prejudice. This is not down to the individual fault of officers, more that they are part of a system that is complicit and maintains bias and unfairness in shaping which cases suffer from attrition.





# 6. Influences on Police Officers in Rape Cases: Myth, Prejudice, and Cultural Values

---

In the previous chapter, legal and extra-legal factors relating to details in the vignettes were documented to explain how they impact police officers' assessment of the strength of the evidence in each vignette. A framework of legal rationality was introduced as a lens to view such considerations through. The stronger the evidence was deemed to be, the more likely the case was to be prosecuted. This chapter presents further evidence of legal and extra-legal factors that influence police decision making in rape cases. Firstly, the influence of rape myths is explored. Rape myths were found to influence decision making in a legally rational context as participants anticipate potential jurors holding such beliefs. I witnessed a frustration about the influence of rape myths in the progression rape cases take. Furthermore, a minority of participants displayed rape myths and victim blaming attitudes themselves. In addition to rape myths, a minority of participants expressed prejudiced views towards a group in society, such as racist or classist views. Such extra-legal factors can become problematic when they are relied upon when officers are deliberating over a case. The presence of the gut feelings officers expressed is

explored in relation to the progression of cases. The following section focuses on police officers' perceptions of sex worker cases, a topic which all participants introduced during the interviews. Sex worker cases raise issues around victim credibility discussed in the previous chapter and point towards further evidence that the police reluctantly operate under a covert systemic prejudice towards victims. I found that police officers perceive a hierarchy of rape offences, ranging in seriousness and harm caused to the victim, with the stranger rape scenario as the most serious and an acquaintance rape as the least serious. Furthermore, a source of extra-legal factors that influences decision making comes from participants' own life experiences and experience of similar cases they have worked on. They use their own life experiences to gain an idea about what legitimate sexual relations look like. Similar previous cases are relied upon for a prediction on whether a present case is likely to be prosecuted by the CPS. I also explore gender differences within these perceptions. I found a significant flaw in the legally rational logic police officers employ when deliberating over a case. My participants informed me that they found predicting jury decision making to be very difficult, and they often pre-empted outcomes incorrectly. Yet I was frequently told that second guessing the jury influenced whether a case was continued or not. The chapter concludes with a discussion of the evidential difficulties raised by participants in finding independent corroboration to prove a rape occurred. Furthermore, how far the police rely on this premise to mask their own active role in shaping the progression of cases is considered.

## 6.1 Rape Myths

The literature exploring the concept of rape myths was reviewed in Chapter Two. Twenty-one out of twenty-nine of my participants asserted that individuals subjected to the police investigation process, either as witnesses, victims, or suspects are not prejudged on any personal characteristics they possess, such as, age, gender, or race. All individuals, it was claimed, are treated fairly and without discrimination. These comments represent commonly stated claims:

She's thirty-eight years old, she's mature in age (reference to vignette three), these days you have set rules because in the past officers have made decisions on that person. If they're a prostitute or whatever, a

slag, somebody who's from an ethnic minority. If you follow those it doesn't matter what that person is or whatever age they are, all the evidence and then a decision (Female officer 10, police constable, STO, Police Force 1).

I honestly don't think it would affect the way it was investigated or any judgments we make strangers, acquaintances, or best friends the facts are there that she didn't consent. I'm not sure it would make a difference at all (in relation to the youth of the suspect and victim in vignette two) (Male officer 16, detective inspector, SOIT, Police Force 1).

Despite reassurances given by my participants that stereotyping and various prejudices are not employed in their day to day police work, I found evidence of rape myths and other prejudicial attitudes displayed when deliberating over the vignettes. Rape myths are present in participants' personal views and influence legally rational considerations, in the sense that they anticipate the presence of rape myths in jurors' deliberations and also the consideration the CPS has over this. The 'real rape' myth, that only 'abnormal' men rape, victim-blaming sentiments, the myth that rape is a miscommunication, and rape is easy to allege and hard to disprove, are the myths present in my findings. They will each be explored in turn.

The real rape myth continues to impact perceptions and outcomes for rape cases. The stranger rape vignette (vignette one) is aligned to the image of a real rape scenario. Vignette one depicts the perpetrator as unknown to the victim, who targets and victimises an unsuspecting woman, in a public place, and with the possibility the victim could have sustained injuries. In previous chapters, it has been demonstrated how vignette one is the most likely case to end in a conviction in my participants' minds. Furthermore, in the previous chapter it was demonstrated how injuries to the victim greatly strengthened a case. Although the participants know that stranger rapes are rare, if one is reported more resources are put forward to investigate it (see section 4.4). Additionally, rapes that mirror a real rape are viewed as more serious and more damaging to the victim. My findings support previous research claiming acquaintance rape victims are blamed more and acquaintance rape perpetrators are blamed less than those involved in stranger rape (Sleath and Bull, 2012). Another element of the real rape myth is that the victim reports the

rape straight away and has a clear recollection of the assault. As explained in the previous chapter's findings, when the victim does not delay in reporting the case, it is viewed as stronger. This view is motivated by the assumption that her recollection will be more reliable and she is therefore more credible. A case is more likely to suffer from attrition when it does not possess such elements, a finding also mirrored in previous research (Lonsway and Fitzgerald, 1994; Lees, 2002; Taylor, 2004, Gerger et al., 2007).

Evidence suggests reality differs to the image this myth dictates. Rape victims in fact often delay reporting for a variety of reasons (Adler, 1987; Frazier and Borgida, 1992; Ellison, 2005). Further, traumatic events, such as rape, impair rather than enhance memory performance (Tromp et al., 1995). My participants were more confident in their belief that vignette one is an offence of rape and did not feel the situation was ambiguous (see section 4.1). Munro and Kelly (2009) raise concern over how this leads to a vicious self-perpetuating cycle, whereby rapes that conform to the real rape scenario are the cases that proceed to trial and garner convictions. Members of the public thus have the belief reinforced that it is such cases that characterise what a rape looks like, in turn leading to police and prosecutors taking real rape cases forward as they know they are more likely to succeed before juries.

The myth that men who rape are not 'normal' men but somehow mentally disturbed which leads them to victimise women was prevalent in seven of my participants' perceptions. This perception was especially salient in relation to the perpetrator in vignette one:

If I had to build a profile I would say this guy is not in a relationship, he's a little bit of a sad individual, a lone individual, who in everyday life wouldn't be aggressive, he would be a bit of a loner and susceptible to bullying and those sorts of things (Male officer 8, detective inspector, Police Force 1).

On the other hand, the perpetrator in vignette two was seen as an average university student without any obvious abnormalities. In stranger rape cases, where the suspect must be located by the police, perceptions they have of who the suspect could be may influence the process of locating the suspect.

This perception is closely related to myths around the male sex drive, the concept that men's sexual desires are incredibly strong and in certain circumstances they cannot be expected to manage them fully. Five of my participants (two women and three men) made comments to that effect:

Someone who has issues and problems with sexuality and for whatever reason just gets so aroused and feel they have to take advantage of someone in this situation (vignette one) (Male officer 26, detective constable, SOIT, Police Force 3).

If rape is inevitable in some cases, the only action left to take is to encourage potential victims to alter their behaviour to minimise the chances of them being victimised. This was commonly voiced as:

Generally rape is a solo offence, not like terrorism, where there would be a group of people discussing and planning. There's no way of targeting them in the planning stages like there is with other offences. That's why I don't think we can fully prevent rape. There will be perpetrators that respond to education; that's great. But, there will be those predators that will not and it won't matter how many times you say that it's wrong, they will still go out and do it. So then you have to look at the people who would be vulnerable to that and say 'I'm sorry but there are people like that out there, we're not always there to look after you so you have to shoulder a little bit of the responsibility yourself otherwise bad things can happen'. But we're not allowed to say that (Female officer 17, detective constable, SOIT, Police Force 2).

This quote indicated that my participants were aware that it was not viewed as acceptable practice to advise victims to change their behaviour to mitigate the risks of sexual assault, even though some officers held those views. This demonstrates an example of police officers adjusting their behaviour to what is mandated by the policy of the organisation, even when it goes against their instinct and what action they would preferably take. The accounts given to me suggest police officers' behaviours can apply police policy without their personal opinions aligning to the same view.

Not only do some police officers tend to privately blame the victim, they may also exonerate the perpetrator from blame. Such attitudes were prevalent in relation to the suspect in vignettes two and three. Conversely, no one downplayed the perpetrator's blame for the suspect in vignette one. Eight

participants excused the behaviour of the suspect in vignette two, with one participant drawing parallels to a high profile rape case, Ched Evans:

Like the football case, this girl went with two Premiership footballers to a hotel to have sex and then apparently there was a technicality, she fell asleep while the second guy had sex with her. If we look at it from a common sense point of view: naked in bed with two premiership footballers and because the act of sex didn't go to plan, is that guy really guilty of rape? He's been convicted of rape. You've got to accept it, but you know girls will often go with guys and say 'yeah I'll come to your house I'll sleep with you naked' and then say 'I don't want sex' (Male officer 8, detective inspector, Police Force 1).

In the above quote, the act of the victim returning to a hotel with a high profile footballer has been conflated with affirming or inviting sex. The use of the term 'technicality' insinuates the situation is only codified as a rape because of a small detail that should not be relevant, when in reality if an individual is asleep they cannot give consent; this is not a technicality. The suspect in vignette two was not seen as a man who lost control of his sexual urges in this opportunity. Rather, the responsibility of the perpetrator is glossed over. This idea is closely linked to the rape myth that sex is down to a miscommunication between the victim and suspect, or sex has just gone wrong. Vignette two was especially interpreted as fitting with this stereotype, as eighteen participants out of twenty-nine asserted opinions of that nature. For example, a woman is pressured and eventually gives in, but on reflection feels she has been abused:

We have a lot of cases where people go on a night out and have a lot to drink, not so much that they're comatose and unconscious and they engage in sexual activity with somebody. The following morning we will get a phone call because they're concerned about being pregnant or having contracted something or they have a partner or someone has found out and it turns into a rape investigation. I'd say it happens more than I would care to put a number on personally. We have an issue with people who acquiesce, where the male pesters and pesters and the other party says 'go on then'. Someone who is misinformed tells them that is rape, they come to us, we then have to explain what rape really is. That will be what a judge once referred to as reluctant consent, that doesn't make it a rape (Male officer 18, detective inspector, SOIT, Police Force 1).

The participant went on to explain what educating an individual about the reality of rape entailed:

You have to be compassionate and empathetic to what they're going through. You have to deal with it in such a way, quite black and white, and go through the definition of rape with them, explain the points we need to prove. Make sure she understands what has taken place, we don't want to create victims.

Further scenarios were alluded to in this comment:

I dealt with loads of these, they get home, speak to their friends, speak to their boyfriends, often where they have something to protect if they're in a relationship. He knows they have been out all night, he knows something has happened, she breaks down and says 'he raped me'. It's the easiest thing to allege there's no doubt about it, people will take girls back to their rooms and there will be a bit of fondling and a bit of petting. Sometimes it goes beyond consent, some girls actually like to play hard to get and make a guy work for it. When you talk about people and relationships, where does it transfer from being a bit over the top to a criminal offence that you can go to prison for rape? You know, where is the line? It can be very, very blurred (Male officer 8, detective inspector, Police Force 1).

We do get quite a few like this and sometimes we are able to show that it is more of a regretful sexual incident than a rape (Female officer 17, detective constable, SOIT, Police Force 2).

If an offence of rape is viewed as a misunderstanding or regret, it is likely it could be perceived not to meet the final element of the law on rape (Section 1(1)(c) Sexual Offences Act 2003). This would occur as it could be perceived that the suspect reasonably believed the victim consented to the penetration, making the case less likely to be passed to the CPS. Complaints perceived as a mistake are also liable to be classified as occupying a grey area or a blurred line of consent, such as the reference to 'reluctant consent'. It can be difficult to ascertain whether consent was freely given, or whether someone was coerced. Cases that leave open the possibility of reluctant consent were deemed by the officers as likely to suffer from attrition.

The classic myth that rape is easy to allege and hard to disprove maintains its influence. In scenarios such as vignette two, where the evidence is limited to

the conflicting accounts of victim and suspect, the possibility is left open for the concern that a victim could make rape allegations without consideration for the consequences. Conversely, the stranger rape vignette did not give rise to the same presumption. Eight participants subscribed to this myth, for example one Male officer explained:

Rape is too easy to allege and can be used by a lot people who have relationships that don't go well and the women is hurt so it's easy for her to allege rape on a man who she feels hasn't treated her right or two-timed her. Difficult to prove and even more difficult to disprove (Female officer 19, detective constable, Police Force 1).

This comment reflects the concern that men are 'victims' of regret or vindictiveness leading to false allegations of rape documented in the previous chapter. Numerous studies have shown, however, that levels of reporting of rape to the police have remained consistently low. It is estimated in previous studies that between six to eighteen percent of rapes in England and Wales are reported to the police (Allen, 2002; Brown et al., 2007; Myhill and Stern, 2010). Further, many allegations are withdrawn soon after they have been made (Gregory and Lees, 1996; Jordan, 2004; Kelly et al., 2005; Hester, 2013). Commonly cited reasons for lack of reporting and subsequent withdrawal from the process are a lack of trust in the police, fears of not being believed, and having to relive the traumatic experience during questioning. Trust in the police can be quickly diminished if police officers display disbelief or suspicion of motives to the victim (Stanko, 1985; Kelly, 2002; Jordan, 2004). Evidence suggests rape is, in fact, not an easy allegation to make, yet a sexist ideology surrounds the assumption that when a woman is wronged they seek revenge at any cost, leading them to lie about rape (see section 4.2).

As well as concerns about false allegations, there was evidence of victim blaming in officers' comments. Nine of my participants displayed victim blaming attitudes. I found evidence of opinions that victims put themselves at risk and that rape could be avoided easily. A lot of my participants were also aware of how it has become less socially acceptable to assert victim blaming sentiments and that police can be criticised for such opinions. Nonetheless,



my participants were still open to speaking to me about the opinions they have, such as:

A good start is for people not to put themselves in that position, of course people will say 'oooh, you can't say that, it's the man that does it', well, it is, but, if you don't give him the opportunity he can't do it (Male officer 8, detective inspector, Police Force 1).

This is another day at the office, this is horrible, and an enormous number are like this where he misread it and she hasn't communicated properly (in relation to vignette two) (Male officer 14, sergeant, SOIT, Police Force 2).

We get quite a lot around Tinder. It's awful, we get so many people that go on really bad Tinder dates and it's not unusual at all. But most people, I'm not sure people always help themselves, some of the dating you get so into conversations beforehand that it does make it difficult to see how somebody would know they weren't consenting (Male officer 15, detective sergeant, SOIT, Police Force 2)

We would like to be able to educate people and students in how to better look after themselves and how to better establish consent and give consent. But it's not a popular opinion to be saying to young people maybe don't have that eighth Jägerbomb, maybe don't drink as much and have your wits about you a bit more. Then if you do end up in that situation with someone you are in a much better place to be able to get out of it ... you won't have your brain clouded with however many drinks. But that's an unpopular opinion, you can't really voice because it's anti-feminist and anti, you know, all of that sort of thing. We would like to be able to go out and say to blokes 'don't rape, it's bad' but you can never stop that, but by turning it round and saying 'look after yourself, have your wits about you', you're not really allowed to say that (Female officer 17, detective constable, SOIT, Police Force 2).

'Anti-feminist' in the quote above refers to opinions that are in opposition to feminist thinking in the social and political movement, an opinion that is not viewed as 'politically correct'. When rape is seen as inevitable, the only logical way to approach the situation from a police perspective is to police the behaviour of women and attempt to reduce the likelihood that they will get raped in the future. It is generally understood by the participants that victim blaming sentiments are not politically correct or socially acceptable. Nonetheless, some of my participants still hold such views; they have in fact just learnt not to voice them. This theme is perpetuated with the law on rape stipulating a subjective element to the perpetrator's mindset. If a perpetrator

reasonably believes the victim consented the act is not rape (Section 1(1)(c) Sexual Offences Act 2003), this leaves the onus on victims who come forward to prove they demonstrated clearly they were not consenting, rather than the suspect having to verify the victim did consent. This is especially salient when a complaint is perceived as a possible miscommunication and the expectation falls on the victim to have made it clear to the suspect they were not consenting. The complaint could be seen as not meeting the legal definition of rape if a man could 'reasonably' believe her behaviour was consenting.

Although a number of participants subscribed to rape myths, there were twenty-seven instances where participants critiqued other's reliance on rape myths, whether those within the police, CPS, or members of the public. There is a contradiction with participants criticising the presence of rape myths, yet at the same time displaying such views themselves, as in:

There's lots of issues around how men would translate the appearance of how a woman dresses to go to a club as somehow making this offence more acceptable. This is why it's key that we deal with these offences, we get into the mind of the offender ... until we understand and grasp this, we can't deal with it (Male officer 11, inspector, Police Force 6).

The jury are told they have to be sure. I think that depends on the make-up of the jury as daft as it sounds, some will think you've gone out dressed in a short dress and heels, you've got so pissed you don't know what you're doing. That's a myth and stereotype, there might be a few blokes thinking 'I've sailed a bit close to this somehow'. I think if they find them guilty they send them to prison for a number of years, unless it's so crystal clear I think it's easy for them to not be sure (Male officer 26, detective constable, SOIT, Police Force 3).

There is a frustration present within police officers' perceptions that rape myths and victim blaming attitudes can shape the progression of a rape case and preventing this influence is beyond their control. This is because of jury decision making and the actions of defence lawyers which are beyond the control of the police. They feel the only option they have is to anticipate what such attitudes may be and progress cases to minimise the impact of myths and stereotypes. There is evidence to suggest that such legally rational considerations are largely accurate and officers' frustrations are legitimate. The CPS introduced specialist prosecutors for rape in 2007, along with

commitments to robustly challenge any assertions made at trial by defence barristers utilising rape myths or statements around the victim that are not relevant (CPS, 2012). Nonetheless, issues around an implementation gap continue to be raised. Temkin et al. (2018) observed eight rape trials in the south of England. They found defence barristers still rely on rape myths as a key tool to discredit victims and specific details in their testimony. Furthermore, prosecutors largely did not sufficiently challenge the use of rape myths. Judges were found to mostly attempt to challenge rape myths, but overall efforts were found to be lacking. Similarly, Smith and Skinner (2017) observed eighteen rape trials and an additional ten as pilot observations in one court in England. They concluded that rape myths were routinely relied upon by the defence counsel, especially in relation to the behaviour of the victim. They witnessed some attempts by the prosecution to challenge the relevance of rape myths. Additionally, any judicial directions to counteract the use of rape myths were easily undermined by the defence. Smith and Skinner (2017) further conclude that many judges and barristers displayed a nuanced understanding of sexual violence contexts, however others continued to demonstrate ignorance. Furthermore, even barristers who resisted stereotypes while prosecuting would go on to heavily rely on them when in a defence role. This has been attributed to the adversarial focus on winning at any cost, showing that barristers will manipulate evidence and invoke rape myths if it will increase the persuasiveness of their argument. The fact that the police reluctantly have to consider and act according to rape myths leads further support to allegations of covert organisational prejudice directed at victims (see Chapter Five).

In sum, a sizeable minority of my participants displayed evidence espousing rape myths and victim-blaming sentiments. This is in line with previous research (see section 2.6). Moreover, in a legally rational context rape myths continue to play a role because police anticipate such views within potential jurors, even though many are exasperated with this fact as in my sample. Over the past three decades, there has been limited research into police officers' rape myth acceptance (Parratt and Pina, 2017) and even less that attempts to illuminate how decision making in rape cases is shaped by such beliefs. Most research into police officers' subscription to rape myths relies on quantitative self-report questionnaires. Moreover, most samples used are based in the US

and are made up of mostly men (Parratt and Pina, 2017). My interviews go further than asking opinions on rape myths in the abstract. Rather, I evoke how police officers apply such beliefs to common rape scenarios, and what impact that can have on their actions and decisions.

## 6.2 Group Biases and Stereotypes

I recognised in seven interviews a prejudicial view of a group or a stereotype based on identity. I found evidence of assumptions being made based on someone's ethnicity or cultural background, such as:

When I was very young in service there was a woman who was being raped on the ... ring road literally it was a dual carriageway road there's a footbridge that goes over it. We could see her being raped, she was a foreign national, he was from Somalia and in full view of everyone she was being pinned down screaming for her life, full view of the road. We had three or four calls when the first cops got there we had to pull him off her... we did see a lot of Somali population perpetrating that sort of crime... If I'm honest, I think Somalia itself is a completely fucked up country where the normal rules of normal society don't apply (Male officer 12, inspector, STO, Police Force 2).

The above quote could imply that there is an assumption that Black men are more likely to perpetrate rape and perhaps more likely to evade being prosecuted for it. I witnessed a different type of prejudice also:

We very rarely get a report of rape from an Asian female, it's a matter of honour. If she alleges to have been raped, then she's been dishonest. If the family have enough money she will be shipped back home, if they have plenty of money she will be killed, if not thrown into a brothel, you won't find that in the papers. Similarly, for children, if it's the wrong sex of baby they will ship them home or if the baby is retarded they will kill them. If your husband died his brothers would look after you and you would have to have sex with them, that's rape by another name, that never gets reported (Male officer 20, detective sergeant, SOIT, Police Force 1).

Both participants here were White British and made prejudiced comments about individuals and cultures that differ from their own heritage. Additionally, I found evidence of class based prejudice as follows:

The more working class you get, the more people you are likely to get that would have an affinity towards the guy in this type of case where it's a consensual thing when two people are drunk and went back together (vignette two) ... we think of normal people, most of your complaints come from the vulnerable side of society, you know the lower end of society, the sex workers, the people who are educationally subnormal, it makes it even harder (Male officer 8, detective inspector, Police Force 1).

Male officer eight then went on to assert:

Girls in council estates regularly get raped and have sex without consent, but they accept it, they would never dream of leaving their husband and kids. We look at it from a higher moral level.

The above statement implies that middle class individuals operate according to a different value system than those from lower socio-economic backgrounds. It could be the case that women from working class backgrounds accept that they will not be believed by the police or taken seriously if they report the rape.

I believe I was perceived to be middle class and well educated by my participants, and my ethnicity is White British. This could be why some participants felt able to make such statements to me. The views expressed above are not considered socially acceptable or politically correct. It could be that other participants had similar views, but did not want to appear to have undesirable opinions. On the other hand, this could be evidence that during the interviews my participants did feel able to disclose their honest opinions. Prejudicial views appeared to be a minority of opinions (seven participants).

A crucial way that opinions expressed above can contribute to shaping police decision making is because of the fact that some police officers are guided by a 'gut feeling' to assist when deliberating over a case. Five participants expressed they felt gut feelings that enlightened them as to forming opinions. Such gut feelings leave open the possibility of personal views and prejudices guiding thoughts without the police officer fully acknowledging where such thoughts may be rooted or whether they comply with policy and the law. This further sports the concept of a covert systemic prejudice. This feeling can lead

to value judgments on how truthful someone is, and their moral value and their motives. For example:

I would want to see the victim and suspect and talk to them and make an assessment, often it's just a gut feeling. You spend your whole life being lied to by different people, you can get a sense of when people are telling lies and when they are telling the truth (Male officer 6, detective inspector, Police Force 2).

There are times where we have a gut feeling most people they do on a case and might not feel right about something or someone (Female officer 17, Detective Constable, Police Force 2).

The gut feeling or instinct stems from the belief that because of the experiences of working in the police, officers develop knowledge and insight into the criminal behaviour of others. Throughout my interviews, participants portrayed their role in rape investigations as objective observers of the evidence in front of them. However, the fact that some participants admit to being led by instincts based on their opinion suggests they do draw from their own subjective viewpoints. The gut feeling could be particularly significant in cases that lack independent evidence to evaluate, as police officers may resort to their instincts to determine the truth of the case. Police officers attesting to experiencing gut feelings or instincts are well documented throughout the literature on policing cultures (Van Maanen, 2005). Such instincts have been linked to officers' ability to 'know' if someone is telling the truth or not (Crank, 1998). Furthermore, the detective culture most associated with relying on gut feelings is that classified as an art or craft (see section 2.9 on Police Cultures). This is relevant to rape investigations where judgments over the victim's account are made. For example, the following comment is Male officer 6 explaining how he can tell when someone is making a false allegation of rape:

A lot of it is gut reaction and gut feeling. It depends on the woman, if you're dealing with a more mature women that looks like she has been round the block a few times, all of those influences play on you, don't they? Has she made any previous allegations? You often found they have. It's a question of assessing the victim and a lot of it can be gut feeling (Detective inspector, Police Force 2).

A reliance on stereotypes and over generalisations is justified and legitimised by the label of gut feelings, this gives the impression that assumptions not

based on fact are legitimate to believe as police officers are privy to instincts that members of the public cannot understand.

## 6.3 Sex Workers

During the course of my interviews, I did not instigate any discussion over sex workers. However, ten participants introduced the topic themselves. When sex workers were mentioned, it was often in the context that they are particularly at risk of being victimised while soliciting for business. Furthermore, concern was raised over how a victim's credibility can be damaged by the fact they are a sex worker. The topic of sex workers as rape victims illuminates the covert and overt systemic prejudice centred on the credibility of victims in the most striking way (see section 5.3.1 on victim credibility and systemic prejudice), as the following quotes demonstrate:

I've never known a case where the offender's place in society makes any difference, except where the female is a prostitute and is raped. Through one set of eyes, it's a rape, through another it's a failure to pay. Which is not fair as no one should be judged on what they do, but they are. I can hear the defence barrister saying my client is a respectable figure in the community (Male officer 13, inspector, Police Force 2).

We had a rape of a prostitute in (Police Force 1). We recover the condom, I lied to our forensic people because if we admitted she was a prostitute we had nothing to go on. We portrayed it as a stranger rape, we missed the prostitute bit out because (Police Force 1) it costs them a lot for a 24 hour turn around on DNA, they wouldn't authorise it for a prostitute. So we omitted it, I don't care if she's a prostitute, she's been raped. I got a call at 3am saying we have a hit. We went and arrested him, he didn't want a solicitor, we interview, hadn't disclosed his DNA had come back on the condom. We built a profile on him, where he had been, we discovered his vehicle that she described. He said he hates prostitutes and thinks people who sleep with them are disgusting. Then we say how come your DNA is on the inside of this condom. He then gets a solicitor and then no comments, we rang CPS, they said bail him, so went to his solicitor and said we will bail him, the solicitor says 'What?' This man has just raped a woman at knife point, he thought the CPS were mad. We bail him and put the file to CPS, they wouldn't run it (NFA). Yes, she was a heroin addict with a previous for shoplifting which was dishonesty (Male officer 20, detective sergeant, SOIT, Police Force 1).

There was evident exasperation from my participants who felt they could not progress sex worker cases any further although they were confident in the guilt

of the perpetrator. There is a level of frustration present at the barrier to progressing sex worker cases because of the perceived lack of credibility their account holds. It appears that sex worker cases starts at the assumption that they would not appear credible to a jury. The participant in the quote above was led to not being completely transparent in conducting the investigation. This was driven by a desire to try to secure justice for a sex worker and avoid attrition of the case. A unique issue relating to sex workers who are victimised occurs when sex happens on the basis a payment will be made to the sex worker; when payment is withheld, some sex workers will make a complaint of rape, as this participant recalled:

In (larger city where the participant use to work before transferring to Police Force 2) where I worked for 6 years, we policed a red light area, where we had prostitutes standing on street corners. We used to get an awful lot of rape allegations made where clients didn't pay. So we were used to dealing with that stranger rape mentality. Whereas, here (Police Force 2) it's very, very rare, it would cause a significant policing response (a major crime team to investigate with large amounts of resources available). The prostitute ones rarely ended in a prosecution, despite there always being supporting evidence as the place was riddled with CCTV. We knew who these individuals were (Male officer 12, Inspector, STO, Police Force 2).

Rape for non-payment was seen by officers as wrong, as this was more of a civil debt for an unpaid service. Rape against sex workers was portrayed as the most difficult case to achieve a prosecution and conviction for because of social stigma against sex workers and the assumptions made on the low credibility of sex workers. It was as though achieving a prosecution when a victim was a sex worker was something police officers felt was a rare achievement, such as:

We have successfully prosecuted cases where prostitutes have been raped by punters. They purposefully go out and have sex for money, but sometimes the punters have raped them and there have been successful prosecutions (Male officer 4, detective chief inspector, Police Force 1).

Although my participants did not display in the interview negative or prejudicial views on sex workers, the assumptions around and importance of the victim's credibility pose a difficult challenge to gaining a conviction for such cases. The



police and CPS make legally rational decisions over a victim's credibility and sex workers are not well rated in these criteria. This could be a very damaging assumption to make, as it leaves sex workers disproportionately at risk of case attrition and rape with serious implications for justice and the rapist re-offending. Here, police officers are reluctantly complicit in systemic prejudice centred on the victim's credibility. They are not satisfied with judgments and actions they take, and the CPS go on to take, in regards to sex worker cases, but because of the adversarial nature of the criminal justice system there is little they can do. Research conducted in the south of England reviewed police rape case files over a twenty-one year period where sex workers and non-sex workers were the complainants (Lea et al., 2016). They describe the outcomes for cases involving a sex worker: A quarter was recorded as no further action by the police and a further quarter by the CPS. Interestingly, the cases that got to trial were largely successful. Therefore, juries will deliver guilty verdicts more times than not when a sex worker is a victim. This throws doubt on the working assumption and prejudice against sex workers the criminal justice system operates to. When the same study compared a sample of sex worker cases with similar case circumstances with non-sex workers, it was found that attrition was high for both, with the highest level of attrition at the police stage. Strikingly, it was found that the cases with a sex worker were more likely to end in a conviction (Lea et al., 2016). This is directly at odds with the assumption that the status of the victim will prevent the likelihood of a conviction. The decisions made by the police and CPS may, therefore, not be based on an accurate reading of juries' deliberations. This means that perceived credibility of the victim is not always the most prominent factor to consider.

Numerous reasons were posited by Lea et al. (2016) to explain the fact that sex workers were more likely to secure justice. The sex worker cases were more likely to resemble a real rape scenario which is largely accepted to increase the chances of a conviction (a stranger rape, in a public place, with the use or threat of violence). The majority of sex workers had consumed drugs or alcohol prior to the offence compared to a minority of non-sex workers. This also seems at odds with previous research that documents how intoxication greatly reduces the victim's credibility (see section 5.3.1). It would appear that rape myths prevail when influencing case outcomes above the credibility of the

victim. Alternatively, juries may not judge women in the way they are presumed to do, or maybe defendants are perceived as guilty on some occasions. Further research is needed into understanding the patterns identified here. Nonetheless, there are still low levels of reporting of rape by sex workers, so it could be that offences that mirror a real rape scenario are the ones sex workers feel more able to report. Lea et al. (2016) conclude that police officers should have further training to change their attitude to sex worker cases and implement measures to assist sex workers in making complaints. This study only reviewed cases from one police force area, therefore the findings are not generalisable to England and Wales as a whole.

## 6.4 A Hierarchy of Rapes

A concept that underpins many of the viewpoints participants demonstrated suggests they have a hierarchy of types of rape offence, ranging in seriousness and lasting harm inflicted on the victim. The lower end of the scale is more akin to a scenario such as vignette two and the other end of the scale a scenario such as vignette one. As articulated:

There's always a sliding scale with these things (Male officer 12, inspector, SOIT, Police Force 2).

Logically you can't get away ... in terms of if you're looking from a stranger rape to other rapes, there is a logical difference and what the effect on the victim long-term is should be taken into account (Male officer 22, detective inspector, Police Force 2).

I remember one where there was a man in ... he murdered someone, this was quite literally a woman walking home on her own and he jumped out from a hedge bottom with a balaclava and a knife and raped her. Another one I remember, we didn't take it any further, there was a woman at ... who had gone back with a man quite happily to his caravan. She quite happily engaged in oral sex on this man but then complained she didn't want intercourse and he raped her. In those days we said 'come on darling, you can't be serious?' in this day and age, somebody could say 'well, you can engage in sexual activity and not want full activity'. I know in theory that's right, but could you actually convict that man of rape? I very much doubt it, you know that's the aspect of it when women put themselves at risk. I'm not saying if she's got a short skirt on she's game for anything, but there are different degrees aren't there? (Male officer 6, detective inspector, Police Force 2).

In the above quote, the participant claimed that a woman's outfit did not imply she consented to sex, however he essentially suggested that the behaviour and dress of a woman does suggest they are interested in intercourse. A stranger rape scenario is firmly viewed as the most serious and damaging configuration a rape offence could take. When a case is closely aligned to common courtship behaviours that lead to sexual intercourse with consent, such as displayed in vignettes two and three, the harm and seriousness of the offence is reduced. In turn, when a case is not perceived to be very serious or harmful it is more justifiable that the case is discontinued. This is especially problematic as the majority of rape offences do mimic legitimate sexual relations, so giving the impression the case is not serious. For example, most rape offences do not result in violence and injuries to the victim, and most perpetrators are a partner or ex-partner to the victim (Home Office and Ministry of Justice, 2013).

## 6.5 The Influence of Participants' Life Experiences

In many instances (12) the participants drew upon previous examples of rape cases they had worked on to shape their understanding and their view of the vignette they were deliberating on. A quote from Male officer 12 demonstrates an example of this process, in relation to vignette two:

That has actually happened, believe it or not, in the police halls of residence which was attached to a police station where there was a big night out. I was on night shift and one of the bobbies had been arrested for rape because he had slept with another bobby. There was a huge amount of work went on taking witness statements off everybody at the party. He said 'she was flirting with me all night, she couldn't keep her hands off me, what was I to reasonably assume when she said she wanted to sleep in my room?' Lo and behold the statements showed that she led him away from the party and back to her room. He was exonerated (Inspector, SOIT, Police Force 2).

This could lead to assumptions that the suspect in a case is not guilty just because a similar case did not result in a conviction. It could cloud and unduly influence judgments made on a present case. On top of previous case experience, participants' own personal life experience in nine cases provided them with a reference point on which to draw when evaluating the

circumstances of a rape case. Participants would compare the scenarios in the vignette to circumstances they had personally experienced. Furthermore, they would imagine they were personally in a situation such as the vignettes to decide what they would have done if it was them. This allowed them to assess how reasonable they felt the behaviour of the victim and the suspect to be. Their own life experiences and how they would react in different circumstances were used as a yard stick to measure other people's reactions, with the aim of discerning whether consent was given and if the suspect could be expected to know if consent was not given, as in the following:

People will get into relationships, I've done it myself sometimes when I've slept on someone's sofa when I couldn't get home. There was one time when I met a bobby and we liked each other and we both went out for a drink, he couldn't get home so stayed on my sofa. He slept on the sofa, I went to bed and was thinking 'oooh, I wonder'. It makes you wonder what if he would have come through, there are scenarios like that all the time. The alleged offender needs to know the boundaries (Female officer 1, detective constable, SOIT, Police Force 4).

If you met somebody off online dating and you had a good time, you ended up having sex and everything was fine, why would you come to the police? What would be your reasoning behind that? I can't see any good reason for that. Why would you put yourself through it? (Male officer 15, detective sergeant, SOIT, Police Force 2).

The above comment was made in relation to the victim in vignette three. The participant used their own standards to try to understand the viewpoint of the victim and then make presumptions from it. The participant above found it unlikely that anyone would go to the trouble of contacting the police with a complaint unless something had happened to them. They situate themselves in the shoes of the victim to help empathise (or not) and understand their mindset.

### **6.5.1 Gender Differences**

I found gender differences in the way my participants applied and drew from their own personal experiences and standpoints when deliberating over a case. Notably, two female participants who were mothers to young men were influenced by this relationship in their role when forming opinions on the

vignettes. Female officer 19 (Detective constable, SOIT, Police Force 1) stated in relation to vignette two:

I've got a son, for him to be convicted of a rape he didn't do or be arrested or accused is my worst fear... I think her mates made a big deal of it, she's realised she's been silly. I mean, haven't we all? Doesn't mean you've been raped. If that were my son I would be fuming with her, I would want to castrate her. It's not just about the women.

Taking such a standpoint may lead the police officers to empathising with the suspect and the position they were in. Further, seven women police officers placed themselves hypothetically in the victim's position in the vignettes to shed light on if the victim was consenting and how apparent that should have been to the suspect. One queried the fact that victims 'freeze' and cannot refuse or struggle:

A lot of people say they freeze, people normally don't. I don't think people do freeze. I've been terrified when a gunman was coming down the alley towards us but I didn't freeze, I started shaking. Another one where a man came at me with a knife, my colleague shoved me and dived on him, maybe I did freeze for a split second but having sex, it's not realistic (Female officer 19, detective constable, SOIT, Police Force 1).

Essentially, can a victim be expected to react to danger in the same way a trained police officer might? This is incredibly unreasonable, as police officers are prepared for dangerous situations. Every victim may react in different ways during and after the rape, it is impossible for a police officer to accurately empathise with being in that situation if they have never experienced it themselves or even if they have. Evidence suggests that victims do freeze when faced with the eventuality of being raped (Möller et al., 2017). When a victim's reactions are judged to be questionable, it can add doubt to the veracity of their claim, as a participant explained:

You look to yourself and think how could that have been avoided? If it were me I wouldn't have taken my clothes off for a start but I'm not saying she shouldn't have done I'm just saying I would have been fully clothed. She didn't say anything, why didn't she say no? Why didn't she tell him to stop and get out of bed? Like I say, I feel a bit uncomfortable saying what she should have done, but those are things she could have done to make it obvious to him she didn't want to have

sex. I'm not being funny, if you haven't got enough money for a taxi so you take your clothes off and lay naked in someone's bed, yeah, if I'm going to be really critical, I'm going to say I'm not sure that I would necessarily believe her account (Female officer 2, sergeant, STO, Police Force 1).

If a victim's behaviour differs from what a police officer believes they would do if they were in their position, it can fuel concerns over false allegations, leading to perceptions that the victim's account is not plausible. Male participants also put themselves in the position of the victim to examine her account:

The problem is that we look at this you know (photos of halls, vignette two) I see a sofa she could have slept on, some big comfy chairs. The question is why has she gone to his room? Why has she gone to his bed? Why has he not slept on the sofa? Why has she taken her clothes off (Male officer 12, inspector, SOIT, Police Force 2).

Male participants imagined themselves in the position of the suspect in order to understand his subjective viewpoint and whether they believed the victim was consenting, as the quote demonstrates:

At the end of the day she's making an allegation of rape, I can say as a fella we get rebuffed but we don't carry on and rape someone, it just doesn't happen (Male officer 20, detective sergeant, SOIT, Police Force 1).

When a scenario reminds a police officer of consensual sexual interactions they have had in their personal lives, it can serve to downplay the seriousness of the offence at hand, as this example shows,

I had one girlfriend where she wanted me to come round with all my riot equipment on and run in (laughs). I had to do that on my day off, I went up her street, running in and chasing her around her house. A bit of fun, you know, these things happen (Male officer 8, detective inspector, Police Force 1).

If a police officer has experienced similar circumstances before having sex with consent, they may think such a set of circumstances is reasonable for the suspect to believe the victim was consenting. Such assumptions can cast doubt on the account of the victim. The stranger rape vignette (one) was

unambiguously viewed as unreasonable for a suspect to believe the victim was consenting:

For a start she's not necessarily aware of what's happening, it would be exceptionally odd to consent to a sexual act in a public place with a stranger from my point of view, that in itself would say to me she isn't consenting (Male officer 11, inspector, Police Force 6).

This scenario does not include social cues or signals a woman might display in the time leading to consensual sex, whereas the victims in vignette two and three were perceived to do so.

Previous literature examining the effect that police gender can have on perceptions around rape shows mixed findings. Sleath and Bull (2012) found evidence that male officers blame the perpetrator at a higher level than female officers. Rich and Seffrin (2014) concluded female officers are more enthusiastic than men when working on a rape case, in the sense of the effort and vigour they bring to working on a case. Brown and King (1998) found women officers are more liberal and progressive with their views on gender and rape offences, essentially they are less judging of a victim's behaviour and do not subscribe to advocating traditional gender roles. Similarly, studies have shown women officers to be more supportive of the victim than men (Sculler and Stewart, 2000; Page, 2007). However, there is evidence to suggest the opposite of such findings. Chesler (2001) asserts that because of the increase in female police officers there is an increase in competition among women leading to indirect aggression. This leads to women scrutinising other women and their conduct, including rape victims. Developing this theory, Batchelder et al. (2004) conducted mock rape jury trials with retired or serving police officers in the Midwest US. They found women were more likely to be in favour of a not guilty verdict. They assert that female jurors are inclined to distance themselves from the incident as a self-protective measure. The more psychological distance they could place between themselves and the rape incident, the less likely the female jurors believed that they too would become victims of sexual assault. This was accomplished by placing blame on the victim rather than sympathising with her. They named this phenomenon the Intra-Female Gender Hostility Thesis. Essentially, women are more hostile

towards other women who have been victimised. Wentz and Archbold (2012) found further support for this theory, they conducted surveys with police officers in the Midwest US. Their findings suggest women have higher levels of rape myth acceptance and victim blaming attitudes.

The extra-legal factors that have been explored throughout this chapter and the previous chapter shape how my participants judged the strength of the vignettes. This forms the basis of deciding which cases are discontinued and which are not. A large proportion of the decision making witnessed focused on a prediction of a potential jury's decision making at trial.

## 6.6 Predicting Jury Decision Making

A crucial rationale and justification provided by my participants was to explain why the decision to take no further action or channel fewer resources into investigating a case is based on the predicted decision a jury would make, in conjunction with a prediction of the jury's decision that the CPS would then in turn also comprehend. I encountered a flaw and inconsistency in this legally rational logic. Notably, twenty of my participants made assertions that jury decisions of a guilty or not guilty verdict are incredibly difficult to predict. Therefore, the basis of police officers' decisions in a rape case are their assumptions that they have no confidence in being accurate. This is a glaring inconsistency in the process by which decisions are made. There is a general theme that the stranger rape vignette would end in a conviction, whereas the other two vignettes are met with widespread uncertainty as to whether they would progress to a trial. The uncertainty was evident in many comments:

I've had cases before that I think are cast iron and I've seen men walk out of court. I've seen the opposite once with the abduction, imprisonment, and rape, the main protagonists were convicted. The rapist got acquitted, I couldn't believe it, even on retrial (Male officer 21, detective inspector, SOIT, Police Force 2).

Juries are fickle people; they are very difficult to predict (Male officer 22, detective inspector, Police Force 2).

I've gone to a court where I've had forensic evidence linking the suspect to the victim, the suspect changed his story three times. The



jury still found him not guilty even though the victim had been consistent throughout. The suspect couldn't present any reasonable explanation how his semen was on her, other than to say his sister must have planted it ... you can never say (Male officer 25, detective constable, SOIT, Police Force 2).

You go to court with cases that are quite suspect and they can come back unanimous guilty verdicts. I've gone with dead fast certs and the jury won't convict... they just defy logic (Male officer 25, detective constable, SOIT, Police Force 2).

It appears my participants' reasoning is, in fact, based on a stereotype of what they perceive juries' decision making to be, rather than confidently knowing how cases will conclude at trial. This raises the question that cases which are deemed to be weak by the police should be taken to the CPS and on to trial as it largely unknown if a jury would be likely to convict. If this were to happen, it could be the case that juries are willing to convict cases that are often deemed weak by the police, resulting in more convictions. The reasoning of a case not having a good chance of success at trial could be a convenient excuse to justify why cases are discontinued. Nonetheless, research often suggests the police predictions of jury deliberations are in fact accurate as stranger rapes are more likely to succeed (Munro and Kelly, 2009). Furthermore, rape myths continue to shape jury decision making (Dinos et al., 2015). Both of these are factors that my participants based their decision making on. However, no study has yet explored directly whether police officers can accurately predict the outcome of trials. Further research is needed to explore this gap in the literature. However, my findings suggest that police officers cannot correctly predict jury decisions by their own admissions. I would therefore challenge the assumption in previous literature that suggests the legally rational considerations the police and CPS employ are based on a sound and accurate reading of the public's opinion (Munro and Kelly, 2009) (see section 2.7.1).

## 6.7 It All Comes Down To Proving Consent

There are inherent evidential difficulties present in many rape cases, alongside the police officer's considerations of how likely a case is to garner a conviction and why. I asked my participants what they felt were the main challenges they encountered when investigating rape cases. The central issue all participants

highlighted was that the police must build a case that proves the victim did not consent and the suspect reasonably believed the victim was not consenting. Rape offences pose a unique challenge for the police in collecting independent corroboration to be suggestive of the victim's lack of consent. Most rape offences take place in private spaces so the scope for any witnesses is limited. There is often a lack of any physical evidence, such as injuries to the victim. Essentially, the only evidence the police can collect and make a case around is the victim's and suspect's testimony, with the victim claiming they did not consent and the suspect claiming they understood the victim was consenting (Lea et al., 2003). Even when forensic evidence is present, it only proves intercourse took place and does not show whether consent was given or not. Such circumstances are beyond the control of the police. They can only respond to the cases reported to them. My participants described this situation as a lack of independent evidence (21 participants), word on word (23 participants), the case is hard to prove (11 participants), or it all comes down to proving consent (21 participants). My participants posited to me that the majority of cases that were reported to police could be characterised as lacking independent evidence. As a result of the adversarial nature of the criminal justice system in England and Wales, the police have to build a case that must have evidence to suggest to the CPS there will be a reasonable prospect of conviction. Furthermore, the evidence must form the basis of a prosecution case at trial to persuade the jury beyond all reasonable doubt the offence occurred. Rape offences are not well suited to meeting these criteria. A stranger rape case is more likely to have independent evidence, such as witnesses or injuries.

In relation to vignette two, the evidential difficulties were described in the following quotes:

You've got the issue of a group of friends, some are going to be her friends, some are going to be his friends. His are going to say she was doing all the chasing, hers are going to say it was him. Therein lies the difficulty, finding independent evidence (Male officer 12, inspector, SOIT, Police Force 2).

Well, quite simply you can have like her word against his word and if there's no supporting evidence either way it's in the hands of the jury.

You can see the beyond reasonable doubt aspect is probably what repeals a lot of convictions, as people think he probably did it, but when they get in that jury room I suspect they will be thinking is it beyond reasonable doubt, that is the difficulty with it (Male officer 16, detective inspector, SOIT, Police Force 1).

I think it would go to detective inspector and they would go this isn't going anywhere (Male officer 14, sergeant, SOIT, Police Force 2).

Comments to a similar effect were made in relation to vignette three:

With rape it does come down to consent; that is where the battle ground is (Male officer 11, inspector, Police Force 6).

They would look for more than one word against another, it depends how you can build it up to balance it one way rather than the other. If it's 50-50 they won't take it, you would need to push it up to 60%. I think there's enough there for it to be on the edge, you would have to give it your best shot (Male officer 22, detective inspector, SOIT, Police Force 2).

The difficulty with any of these is the moment this happened there is only two of them there and only two people who know what's happened. Is the evidence strong beyond 50%? I don't know, he's not denying what she said he did, therein lies the problem, who are we going to believe? (Male officer 12, inspector, SOIT, Police Force 2).

My participants also made comments to the same effect when reflecting on the investigatory process as a whole:

Generally we investigate and get the package complete, and then at dedicated decision making level, detective inspector, that's where most cases won't meet the threshold test for CPS. That's generally where they stop (Female officer 17, detective constable, SOIT, Police Force 2)

When you talk about rape, it's usually two people, no witnesses, it is down to his word against hers; that's not enough (Female officer 1, police constable, STO, Police Force 5).

The police investigation process can be viewed as a balancing act, with each new piece of evidence that is gathered tipping the balance towards either supporting the testimony of the victim or the suspect:

It's difficult to prove which account is the truth. It's a fine balance \*hand scales motion\* and you just have to tip it towards the victim, for example, if you have evidence like bruising to show that an offence has

taken place. If you tip it the other way you're more towards an offence hasn't taken place (Female officer 17, detective constable, SOIT, Police Force 2).

In order for the police to have confidence that the CPS will perceive a reasonable prospect of conviction in the case, it must be deemed to have more than a 50% chance of conviction at trial. This balancing act was portrayed as being stacked against all victims from the beginning and throughout the criminal justice system process, mostly because of the evidential difficulties mentioned above. When the evidence in a case is characterised as essentially one word against another, there is no means by which the police can ascertain with evidence whether the victim was consenting or not. This leads the police to collecting evidence to outline the surrounding events preceding and following the offence. Such evidence focuses on the behaviour of the victim and suspect in the run up to the event, any previous relations they may have had, or whether they were intoxicated. These pieces of evidence are then used to indicate whether the victim was consenting or not; they are the only source of information available to draw any conclusions from. This is one key element to explain how extra-legal factors outlined in this chapter and the previous one are relied upon. When a case is lacking independent evidence and the circumstances of the case possess any of the extra-legal factors outlined that are deemed to weaken the case the risk of attrition is greatly increased. If a case lacks independent evidence, but perhaps resembles a real rape, and the victim is deemed credible, for example, it does not possess as many weak extra-legal factors, then the risk is reduced. Conversely, if a case has independent evidence the risk of attrition is greatly reduced.

Saunders (2018) critiques what the phrase 'one person's word against another's' actually refers to, and what falls within its scope that is so often expressed to explain the attrition problem. Saunders conducted qualitative interviews and a case file review from one police force in the UK. Saunders found police and prosecutors often use the dictum in a literal way to signify a lack of independent evidence. This was found to be problematic in that sometimes a lack of evidence can help to ascertain the veracity of the complainant's account, for example if the victim says she was violently attacked yet there is no evidence of injuries. She also found it is used to

describe cases where there is other evidence, yet still described as word on word. It does not accurately describe the evidence that is available. She rarely found cases that were literally word on word. Saunders (2018) found an issue based understanding of word on word, when officers refer to the difficulty in finding independent evidence to mostly prove an absence of consent. It is vague and does not actually help uncover any useful information of the nature of rape offences. It is also wrong to claim that one person's word is not enough for a criminal trial as it is. Some sample cases that are word on word in the issue-based sense did get convicted. Saunders concluded that to understand attrition in rape cases, we need to understand why the 'word' of a single witness constituted sufficient proof in one rape case, but not in another. Essentially, the credibility of a witness, often the complainant not just in terms of the absence of independent evidence that supports or corroborates a witness's account, but also the presence of independent evidence that undermines it. She believes that evidence based doubts rather than myth based doubts about credibility may make an alleged offence difficult to prove. Essentially, this argument states there is often good reason why a case is deemed weaker and this is not a product of a culture of scepticism and rape myths, rather this is what the evidence suggests. The argument claiming that scepticism and rape myths are not, in fact, included in the reasoning behind why cases are deemed to be weak does not consider the presence of legally rational decision making. That is when police officers consider rape myths and other prejudicial viewpoints influencing the way the CPS choose which cases to prosecute and the way jurors make decisions.

Within my interview data, my participants used the phrase 'word on word' to infer that it is hard to acquire evidence to prove that consent was not given in a case. This dictum was commonly expressed to explain the lack of progression of rape cases through the criminal justice system; this vague explanation does require more investigation to uncover exactly what is signified and what cases that are considered to be word on word actually look like. The evidence that is available in rape cases consequently does require more understanding, however this should not be in the pursuit of downplaying the presence of sexist attitudes and rape myths that Saunders (2018) seeks to achieve. The rhetoric that rape cases inherently lack independent evidence to suggest consent was

absent, and thus cannot be prosecuted, the police spouse, acts as something of a convenient mask to gloss over and absolve responsibility from the police in the active role they take. Especially as they rely on extra-legal factors and shape which cases are more likely to be investigated more fully and passed to the CPS, this issue will be explored further in the next chapter.

## 6.8 Conclusion

This chapter has outlined a series of extra-legal influences that are present when police officers deliberated over the vignettes. The topic of rape myths' influence with the criminal justice system has been the subject of much academic attention (Page, 2010). My findings support the concept that rape myths continue to impact on the progression of rape cases. My participants' views were that victims who made a complaint were not judged on their behaviour or characteristics. Nonetheless, I found multiple examples of officers espousing views in line with rape myths, mostly in a legally rational context, pre-empting if a jury would hold such views. However, a number of participants also displayed such prejudicial attitudes themselves. The real rape myth, that only abnormal men rape, rape is a miscommunication, rape is easy to allege and hard to disprove, and victim blaming attitudes were prevalent in my interview data. Participants also critiqued the fact that juries rely on rape myths and this is out of their control. This demonstrated the police may not always be comfortable with the systemic prejudice that operates against victims, but their actions are still to make decisions based on rape myths, thus they are still somewhat reluctantly complicit in upholding the bias. I found a minority of participants display prejudiced views over a group in society, such as BAME individuals or those from a lower socio-economic background. This signals that participants felt able to share their honest views, even when they were not considered socially acceptable. I found that participants relied on gut feelings or instincts to formulate views on a case. This could lead to extra-legal views influencing an officer's mindset.

The discussion of sex worker cases raises further support to the idea that police officers do not like to discriminate against victims based on their background, but feel as though they have no choice because of the demands

of the system. Research into sex worker cases suggests that the predictions made about the credibility of victims may not be as accurate as suggested. Jurors may not make assumptions based on judgments of a victim's background in the same way it is often assumed that they do by agents of the criminal justice system. I found that rape offences were not all seen to be as serious as each other. A stranger rape offence was seen as the most serious type of rape. The least serious was an acquaintance rape, such as the scenario in vignette two. This was also reflected in participants' views on sentencing preferences for the vignettes. Participants drew from previous cases they had worked on to make assumptions about how a present similar case would be successful or not. This experience builds up over time; each case is not looked at without past cases influencing how it is viewed. Furthermore, participants drew from their own personal experiences to judge the reactions and behaviour of victims and suspects to ascertain what is reasonable or 'normal'. A police officer's gender also mitigates such judgments.

A large underpinning of the legally rational mode of decision making is to predict what a jury would decide over a case. A pertinent issue I found with this logic was that my participants asserted that they found it impossible to predict or understand jury decisions. Therefore, a lot of their decisions were based on ideas they had no confidence in being correct and experience showed them their predictions were often incorrect. The extra-legal influences and prejudice operating against victims that were justified by the adversarial demands of the criminal justice system may not be defensible as a key part of that logic is based on sound reasoning. The main difficulty that officers encountered when building a rape case was a lack of independent evidence. However, this sentiment was also used in a reductionist sense to describe the progression of cases as being solely controlled by whether a case is word on word or not. This ignores the influence of extra-legal factors, such as the victim's credibility and the active role officers take as the gatekeepers to justice.





# 7. A Police Insider View on Structural and Institutional Influences on Police Decision Making

---

The previous two chapters explored a series of legal and extra-legal influences which shape the decisions police officers make when deliberating over rape cases. The framework of legal rationality was applied to explain how police officers assess the strength of cases which accounts for some of the rationale behind why they would handle a case the way they choose to. The evidential difficulties inherent in rape cases were highlighted as a systemic issue rape investigations contend with.

This chapter focuses on wider systemic and institutional factors that provide the contextual backdrop to decisions by police officers working on rape cases, essentially how the individual level decision making outlined in the previous three chapters is situated and influenced by wider structural and organisational level factors. Pressures on the police service stemming from an increase in the reporting of rape coupled with austerity measures within the criminal justice

system are discussed to highlight how officers' workloads are high. This leads to officers prioritising cases perceived to be stronger over weaker cases and channeling more investigatory effort into them. The implications of a variable service offered to victims are discussed and police officers' views of the attrition problem are explored. I found officers were aware that there were high levels of case discontinuances, yet officers did not necessarily see this as a problem that needed to be addressed. The fact that my participants acknowledge there was poor practice within the police in the past, and how they now see the situation to be as good as can be achieved as a response to rape, is explained. I witnessed the negative effect high levels of case attrition can have on officers' morale and approach to their role; this occurs when officers rarely work on a case that results in a conviction, and the implications this can have are explored. This chapter concludes with a summary of what my participants' ideas are for any improvements that could be made to the policing of rape.

## 7.1 Pressures on the Police: High Demand and Scarce Resources

In addition to the discussion surrounding the vignettes outlined in the previous three chapters, I also instigated a more general discussion around my participants' perceptions of their experience of working on rape cases. I presented the police officers' view of the challenges they face when working on rape cases, and how they understand the causes of high levels of rape case discontinuance. They reported a number of challenges they face in their role, including, victim withdrawal, false allegations and a lack of evidence. The focus here explores concerns over cuts to police budgets and resultant pressures within the police. Minimal previous research examines a police perspective of their role. One study conducted by Lea et al. (2003) collected qualitative comments alongside a quantitative survey, utilising a sample of police officers (for full discussion of study see section 6.3). The authors witnessed officers voicing their frustration that rape cases they worked on did not garner higher rates of convictions. The authors attributed this to poor working relationships with the CPS and poor performances at court by prosecutors. As I conducted

qualitative interviews, I had the opportunity to explore the police perspective in more detail.

My participants informed me of significant pressures within the police service that intersect with the decisions and actions they take when working on rape cases. According to the latest official police statistics, for the year ending March 2018 the police recorded 54,045 crimes of rape in England and Wales, this increased by nine percent for the year ending March 2019 which saw 58,657 police recorded rape crimes (ONS, 2019). The number of reported rapes has been increasing since the enactment of the Sexual Offences Act 2003. The total number of reports of rape in 2004 was 13,272 (ONS, 2018a). Crown Prosecution Service statistics provide an insight into the progression of cases once they have been charged. For the year ending March 2018, 2,635 rape cases ended in a conviction, equating to 58% of rape prosecutions ending in a conviction, a decrease by four percentage points from the previous year (ONS, 2018c). Numerous positive changes have been made within the police service to improve the experience rape victims have when reporting. This could explain why there has been an increase in levels of reporting, but this is not conclusively known (Brown, 2011) (see section 2.2.1 for the changes made to victim experience). The following quotes summarise this phenomenon:

I couldn't even put a number on it, hundreds and hundreds and hundreds of complaints. We have an office of 15 covering the entire county, it's a massive amount, I think, from a police point of view the general consensus is that there is a lack of staff to keep up with the demand to the level they require. We regularly work vastly extended hours on jobs to get things done, that's not sustainable (Male officer 18, detective inspector, SOIT, Police Force 1).

From our point of view when we set up (rape unit) we had 260 reports the first year. Now we get 250 times more reports than that. We (detectives) probably have 70 rape cases each a year, I have about 11 at the moment (Male officer 15, detective sergeant, SOIT, Police Force 2).

Before it was like, crikey, there's a rape, whereas, now it's more, there's a rape we need someone to attend and there's no one available, it's more common (Female officer 24, police constable, SOIT, Police Force 3).

Higher levels of rape reporting have occurred concurrently with austerity measures and budget cuts for the whole of the criminal justice system in recent years. Police forces have faced cut backs resulting in fewer sworn officers (Brogden, 2013). The increase in reports of rape – coupled with depleted police resources – has resulted in high workloads for officers based in rape units. The following quotes describe how officers manage these demands on a day to day basis:

We have five or six detectives on each rape team for Police Force 3, we should have 12 detectives, we now have nine on each team and a few civilian investigators. There's half a million people in Police Force 3 and then the students (two large universities). Most of my team deal with 20-30 rapes. It has been so under resourced it got fed back to our assistant chief that it was like burglary, you would come in the morning and there's another two there to investigate; can't do it. Could be because reporting has got better over the last few years and we weren't ready for it, it is changing but there isn't enough staff. It gets to the stage where you think that one will go to the bottom of the pile as it's not going anywhere, but you've still got the victim. We always try and investigate things but it can be an issue at court when you go to court 12-18 months down the line and judges want to know why (Male officer 27, detective sergeant, SOIT, Police Force 3).

It's gone too far the other way, it's a question of resources. I say to my detectives, if you know it won't go anywhere let's look at, well, we could take whatever actions here to get evidence but even with all that it won't go anywhere. We make a decision to get a statement, do the minimum, put a rationale on that crime to file it. Rape is a serious offence and deserves a proper looking at. It's about getting the balance right, saying, it's not going anywhere, managing victims' expectations post them to the right people and file it and say it's not going anywhere. Often victims just want to be treated with respect and someone to listen (Male officer 15, detective sergeant, SOIT, Police Force 2).

The effect of rape units being under staffed and under resourced leads to officers having a large number of investigations open at any given time. The result of high case loads and limited resources means police officers have to be selective as to which cases they will channel limited resources and time into. Judgments as to how strong a case is are employed to decide which cases will receive more investigatory attention. To make such judgments, the legal and extra-legal factors outlined in Chapters Five and Six are relied upon. The stronger the case is deemed to be by the police, the more likely it will be investigated fully. The outcome is that not all complainants are given the same

treatment and opportunity for justice. Cases deemed weaker are discontinued at an earlier point and not prioritised with investigative efforts. For example, vignette two was widely viewed as eligible to be discontinued, at an early stage.

Attrition at an earlier point can happen when the police ask the CPS for early advice over the telephone and explain the case is weak, in which case the advice given could be to discontinue the case. Alternatively, the detectives working on the case will approach the senior officer in charge of the investigation and they could then bring about a recording of NFA, resulting in attrition occurring in a more informal way, since when some cases are not pursued as fully their chances of being prosecuted will be diminished. When this occurs, the police still maintain the appearance that they are investigating every complaint equally, in an objective detached manner. However, in reality the police do make value judgments around the strength of cases to help decide how to handle them in order to maximise the frequency of successful outcomes at the CPS stage and beyond. This contradicts my participants presenting their approach to their work as that of an objective observer. The claim is they merely follow a standardised procedure with the outcomes of cases beyond their influence, as they only do what they can with evidence they collect. The premise is that most rape cases are down to the victim's word against the suspect's and the police can only work with the evidence they collect (see section 6.7). This assertion serves to mask the active and influential role police officers can play in shaping the progression in rape cases and contributing to the covert systemic prejudice present in the criminal justice system by prioritising cases that are assumed more likely to be prosecuted than others based on extra-legal factors. The course of an investigation for each vignette described in Chapter Four lays out the formal way that each vignette should be investigated. However, in reality not every case is treated as uniformly and formulaically as suggested. What was described is the way that each complaint *should* be investigated. However, in the context of scarce resources not every case receives the best standard of response. The service that the police provide when working on rape cases is therefore subject to variability:

We have the same procedure protocol but the service will be different depending on who's on and resources, so it's variable (Female officer 24, STO, police constable, Police Force 3).

Justice is not delivered fairly as some victims receive more investigatory attention leading to a higher likelihood of justice than others, based on judgments and circumstances beyond their control. As well as the prioritisation of certain cases, eleven participants raised concerns over investigations conducted in a variable manner based on a number of other factors. The following quotes highlight the importance of the actions immediately after a complaint is made, what is referred to as the 'golden hour':

All these things that I've been discussing (discussion of how to investigate a case) with you they are the gold standard, in reality we miss things. If we try and do everything to this golden hour rule and there's nothing there, fine. But, if you don't in court you will have a defence barrister asking, why not? (Female officer 10, police constable, STO, Police Force 1).

One of the biggest problems that I had, certainly when I reached a higher rank with rape investigation was the importance of the initial interview, the quality of the initial attendance. They talk about the golden hour, you know between the commission of the offence for an hour, it's important to protect the evidence on the victim. You look after them and the scene and get things in motion. The biggest difficulty in this case (vignette one) that I would say is that two officers turn up that have lots to do and there's a screen in the control room full of messages and they actually duck the issue and say 'listen, you're drunk, he might have thought he had consent, why don't we put this down to experience we will drive you home sober up and if you want to continue it in the morning come back and see us'. By then the scene is gone, the witness is gone, she's gone with the evidence and then she's left with the feeling they don't believe me (Male officer 4, detective chief inspector, Police Force 1).

Unless the correct procedures are followed to ensure the capture of any available evidence, and the confidence of the victim is gained at the beginning of an investigation, a case can be disadvantaged later on in the process. This could be because of less evidence being collected or giving an opportunity to the defence lawyer to discredit the investigation at trial. Furthermore, four participants commented on the quality of supervision by senior officers of an investigation:

From a supervisory point of view you want to be sure that your officers who are doing the initial investigation are taking it seriously and thoroughly enough... we can't allow ourselves to say, well, the evidence available is so little it didn't happen. We have to accept here's the evidence and the jury can work out the truth (Male officer 11, inspector, Police Force 6).

Getting the initial evidence can end up with anyone on it if there isn't a trained officer around. I had a student officer had to do it the other day, I had no officers as we were busy so I went with her and did it with her. Not all supervisors would do that. The officers do their best but they're not always trained. The investigation is good and the CPS too but the front end initial stuff and training is lacking at the moment (Female officer 23, detective sergeant, SOIT, Police Force 1).

Detectives working on a case possess a degree of discretion as to how they conduct investigations. Detective work is individualistic and supervision has been described as needing the element of trust to underpin the role (Maguire and Norris, 1992). The concerns over supervision of investigations raised in the quote above could be explained with reference to research that suggests supervisors do not thoroughly oversee and critique detectives work, rather they just want the 'paper reality' of police work to meet legal and bureaucratic requirements necessary. Utilising paperwork to present an acceptable version of the reality is viewed as a desired skill in police work (McConville et al. 1991). This is a reason as to why relying on case files may not present the most accurate picture of police investigation.

When the senior officers supervising an investigation ensure each case is investigated to the fullest, and all procedures are followed correctly, the case is likely to have the best chance of being prosecuted. When this is not the case, and there is an implementation gap, a case can suffer later on in the process (see section 2.8). However, even if supervision is conducted to the highest quality, if the appropriately trained officers are not available when needed to work on a rape case, evidence capture can also suffer, depleting the chances of a prosecution, as the following quotes encapsulate:

Evidence management, we lose a lot on technicalities especially around stuff like early evidence kits which not everybody is trained in how to use which they should be it's the SOIT people that are. If you are trained but not doing it regularly you can mess up samples not store them right there's all sorts of little things that can be picked up and the

defence can say, look, it's not viable. If you mess up any DNA (forensic) samples you're fucked, a lot of the time the issues around the case are not dissimilar to other cases, but where it differs is because it's such a serious offence and it can impact on people's lives (Male officer 12, inspector, STO, Police Force 2).

Making sure the police are doing their jobs, some of the forces are very poor. We are lucky to have a dedicated team, we've got nine detectives and six victim officers that know their job inside out. They know what's going to court and they know how to support victims. There's other forces with five times as many rapes on the books and in some cases they're not far off shop thefts they're so frequent that they're hard to keep management of. I think we have to make sure we do everything we can (Male officer 15, detective sergeant, SOIT, Police Force 2).

It is evident that a number of elements such as availability of specially trained officers, quality supervision, and available resources must be in place to give a case the best chance of being investigated fully. A trained officer may not be available if they are currently not on a shift or they are occupied with other cases, and officers without special training may have to step in. If an element of the police process suffers, it can easily diminish the effectiveness of the investigation. A further effect of the above pressures on the policing of rape is a personal cost to officers who do such emotionally challenging work:

It's time consuming, there's a lot of them, I know it sounds bad but when you're on a 10 hour shift in uniform and answerable to a radio, it's busy. After a nine hour shift and a rape comes in and they're the only sexually trained officer and they did one the previous day, they know they will be there for more hours and to talk to them fresh, it's stressful. I knew of once a man had one every single day for six days, it never mattered that he was a man, it took him most of the shift every day. It must be draining, officers don't want to do that so it's the same people day in day out (Female officer 23, detective sergeant, SOIT, Police Force 1).

Officers can suffer emotionally and psychologically because of the distressing nature of rape cases coupled with an intense workload. The demand on police officers is likely to impact on how they perform their job. A recent study has highlighted concerns over extreme working patterns carried out by police officers in general, not just within rape investigations (Turnbull and Wass, 2015). Austerity and ever expanding workloads were found to be the cause of excessive working hours. Turnbull and Wass (2015) conducted a self-



completion survey with police inspectors in the whole of England and Wales, garnering a 52% completion rate. Furthermore, they conducted a series of qualitative interviews and focus groups with police officers. They concluded that overworking is normalised and facilitated by internal structures and norms within the police. A sense of mission, a need for officers to be ever available, and to appear as though they can cope with anything, contribute to officers working significantly more hours than they are contracted to, without extra pay. Long hours have become part of senior officers' personal commitment and professional pride, they in turn expect the same working patterns of less senior officers. Turnbull and Wass (2015) conclude that the impact of such working norms is that officers rarely have time to do justice to their role, they just do what they need to get by. Similarly, Brown (2007) described senior police officers as displaying a smart macho identity, a version of masculinity that still survives within the police (see section 2.9 on police cultures). This identity is driven by competitiveness and a dismissal of other officers who do not wish to mimic their excessive hours and cannot deliver to their tight deadlines. The stressful effect of such working patterns could be heightened for officers who solely work on rape cases because of the distressing nature of such offences with implications for rigour and just outcomes.

The scarcity of resources and high levels of reporting were also viewed by my participants to influence how the CPS operates. Rape trials are very expensive and the CPS was viewed to only progress cases that are very likely to succeed. As Male officer 20 explains:

CPS have never overturned my decision not to prosecute but have the other way around (Detective sergeant, SOIT, Police Force 1).

A direct challenge to the decision made by the CPS appears to be rare; only one participant spoke of such an experience. When decisions are made by higher ranking officers or the CPS they are the final outcome:

I've challenged three cases, where when I pushed it to CPS. We have a dedicated decision maker that will decide if a case is put to CPS. They made three decisions I disagreed with. I challenged it, it's quite a big thing to do it's gone on to CPS they then charged, one ended in a conviction, one the suspect died and the third had Alzheimer's so

couldn't proceed, but they all got to court (Male officer 25, detective constable, SOIT, Police Force 2).

If they feel they want to challenge cases, it could mean that they do not anticipate the decisions of the CPS as accurately as they believe they do. Following on from this, under resourcing of the criminal courts was also raised as a concern, especially in relation to long delays from the point that the CPS have prepared their case and are ready to go to trial and the date of the eventual trial (Brogden, 2013):

The time it takes from the moment a rape happens to getting it to court can be years. That's not often our fault, we're pretty good at gathering the evidence. Just because the courts are so overcrowded you can imagine the guys that have the cases they're supporting the victim and eventually they're going to say, it's been a year, I've got my life back, I'm going to have to go through hell with a defence barrister who will bring it all back and call me a slut. Why would I want to do that? So sometimes the victims are difficult because they're scared and traumatised, sometimes they're lying, often the real ones you just want into the courts as quickly as possible; you can't do it (Male officer 12, inspector, STO, Police Force 2).

Delays in a case getting to trial was viewed by my participants as likely to contribute to increased levels of victim withdrawal. On average in 2011 a rape case in which the defendant pleads guilty at the crown court takes 596 days to complete, which is more than 100 days less than if the defendant pleads not guilty (702 days) (Home Office, 2013).

The police may not have a choice but to prioritise some cases over others if they are not provided with the resources to dedicate equal amounts of time to every complaint. Police officers make decisions about how to conduct investigations based on their assessment of the strength of a case: The stronger the case appears, the more effort will be applied to it. Such informal processes are not transparent and each officer could prioritise cases in a variable manner to others. Furthermore, the available resources and staff dictate how cases can be dealt with.

## 7.2 A Working Culture of Attrition

In addition to an insight into police officers' perceptions of the issues they face when investigating rape cases, I explored the police perspective of the attrition problem. All my participants made comments to signify that high levels of rape case attrition are normal and commonplace. There is a distinct starting point because of their own past experiences of working on rape cases that, with any complaint, there will be a high likelihood of the case being discontinued. I witnessed nonchalance around this fact, as demonstrated in the following comments:

The cases we put to trial they are the clear cases that we feel have got a proper chance of not doing the victim any more harm and getting them the right justice... but unprosecutable is probably about 85% of cases (Male officer 15, detective sergeant, SOIT, Police Force 2).

Over two years I've investigated maybe 100-150 jobs, out of those I had three at court for conviction that got a guilty verdict. One for 26 years, one for 14 and one for seven, so the sentencing is fairly good. But getting them to CPS and saying yes to a charge is difficult because the things we find in investigations like dishonesty of the victim, it hinders us (Male officer 18, detective inspector, Police Force 1).

I've got lucky at the moment as I'm working on cases where: Four are going to CPS, one of which is almost identical to case two (vignette two), that one is based on a suspect being cocky and arrogant and clearly has something to hide. I'm hoping to get four charges out of those 11; which is a lot higher than we would usually go with (Male officer 15, detective sergeant, Police Force 2).

The following quote begins to explain how different police force areas can have variable rates of charges for rape:

The vast majority of cases don't get a conviction. I would say if you had on average 100 cases over a year that maybe fifteen would go to CPS for a charging decision, of those maybe twelve would be charged to court, of those twelve at court maybe four to five convictions and seven to ten not guilty verdicts, so probably about four to five percent. Police Force 2 have a good rate of court to convictions, but I think that's because we're very particular about what we send to court in the first place. We are of the opinion that it's unfair to send something to court if we're 90% sure there won't be a conviction at the end of it. The chances are they will have to go through what they have to and then

not get the result they want, so court to conviction are quite high (Female officer 17, detective constable, SOIT, Police Force 2).

Police Force 2 has high attrition rates at the police and CPS stages, but higher success rates at trial. Different forces may proceed with more cases to trial, therefore increasing the chance they will get a not guilty verdict, they may be willing to prosecute cases that are less likely to end in a conviction. A research project documented the variable charging rates of the police forces in England and Wales for rape cases. They found detection rates ranged from around 20-40%. This signifies that each police force takes a different approach to the volume of cases they take to the CPS (Bryant and Loader, 2008). Overall, my participants are aware that the vast majority of rape cases will not achieve a conviction. The central aim of a rape investigation appears to be to successfully investigate a case and ensure the victim is cared for, rather than gaining a prosecution, as the following quotes allude to:

I've investigated hundreds and prosecuted. Others you have victims who won't assist you... It's what the victim wants is what they should get and it's what you strive to give them; if you don't you've not done your job (Male officer 20, detective sergeant, SOIT, Police Force 1).

There is going to be a difficulty in every single investigation but the police have a duty to try... Just because it's difficult doesn't mean we pack up and stop. We go as far as we can. We might not get it to court or past CPS but in that last instance that guy should see the inside of a cell... The victim will at least think, well at least they tried (Male officer 4, detective chief inspector, Police Force 1).

This could be interpreted in a positive light as it is also important that police officers are mindful of how the experience the victim has can be harmful too. Despite all my participants stating case attrition to be a common event, they did not display opinions highlighting how they saw this is a problem that could be addressed. Essentially, they were aware of attrition, but not an attrition *problem*. I witnessed sixteen participants displaying comments around the fact the levels of attrition are not a problem and instead the conviction rates were just viewed as a fact, as demonstrated with the following quotes:

I don't think we have a brilliant success rate with rape. There's only the one I know that has resulted in a conviction (Male officer 25, detective constable, SOIT, Police Force 2).

You would have a good year if 30% of reports ended in conviction. Some would be no crimes some would make me think: Bloody hell this hasn't happened but we aren't going to pursue we will leave it on the books. Some no evidence. Not many stranger rapes on the books as they are dealt with successfully (Male officer 22, detective inspector, Police Force 2).

None of my participants knew exactly what the conviction rates were for rape in their force or nationally. However, when they attempted to estimate what the levels of discontinuance were, they were largely correct. The quotes below show participants' knowledge of the levels of case attrition:

The big cut off is me as a detective inspector making a decision. If it doesn't go to CPS I would take NFA in about 60-70% of cases. The rest might go to CPS then that's where they cut it down to the sort of 10-15%, then less than 10% get a conviction, that's a real estimate (Female officer 29, detective inspector, SOIT, Police Force 4).

It seems to be within the rape investigation team here even if we identify the suspect police were discontinuing 35% of cases, that's within a particular team. Out of 329 open crimes 21% were discontinued where the victim doesn't support, only 14% amounted to a charge it was a bit more difficult to compare to what CPS have that result in a conviction. 12% close investigations where they don't identify a suspect but by far the most are where we do know who the suspect is but there's insufficient evidence. That might be a failure to secure any CCTV or forensics and a decision is made not to continue (Male officer 28, detective sergeant, SOIT, Police Force 4).

The above participant had data from his force's rape unit to hand that he relied on. This is unusual and why his explanation is so exact. Nine participants were more explicit in their view that the attrition rate is not something they see as a problem:

As a cop this is me being honest now, does it sit pretty with me as a detective inspector having a number of undetected rapes on my books? No it doesn't. Would I have to live with it? Yes I would. Would the Daily Mail like it? This is a big problem if they turn round and say, well at Police Force 2 they have a detection rate of rapes of 10%. I know that actually isn't the truth it's better than that, but 5, 10, 15% of those are better to leave as undetected on the records as they could be a genuine offence or not. That's where the difficulty can come and pressure can come as well. How do you get that in front of a TV camera? The downside is that you will get a lot of rapes recorded where you can't do anything positive, for instance if the female says 'I

don't want to do anything', you still have an undetected rape on the books (Male officer 22, detective inspector, Police Force 2).

Two participants raised concerns over innocent men being sentenced to a crime they did not commit:

I think I'd prefer to know that somebody was guilty if they were going to be convicted than a 50:50 scenario. When you have a wing and a prayer and they are going to get 10 years in prison I would want to know whether it was something I saw in them, I would want to be sure. I do think it needs to be strict and be a sure thing certainly far more than 50:50 (Male officer 15, detective sergeant, Police Force 2).

The above quote is an example of a gut feeling being demonstrated to determine the guilt of someone to underpin a decision made by them,

Well we talked about the spurious allegations, they're a weight to it, it's something that is one of those issues people don't like to raise as you get shot down as being old fashioned... Then you've got the genuine cases where it's just too much for them, it's impossible to get away from that as you've got to delve into it. You have to make sure you don't convict people who haven't done anything wrong, that's where the difficulty lies in the final thing, that's a massive thing to weigh on anybody's mind (Male officer 16, detective inspector, SOIT, Police Force 1).

I found a sense that the situation with investigating, prosecuting, and convicting rape is as good as could be from the perspective of the police. Any policy or procedure to increase the levels of justice has already been implemented in the view of the police. They feel nothing more can be done as inherently most rape cases simply lack evidence (see section 6.7), as the following comments explain:

I think people are often horrified at the percentage that are not taken to court, but it doesn't surprise me and I don't know if there's a lot people can do about it. Nothing I'm aware of will make it any better unless you start haphazardly taking everyone to court, of course the CPS won't let that happen as they're under pressure to filter out poor cases. If it's a poor case it's sad if someone has been raped, but it's still an evidentially weak case (Male officer 6, detective inspector, Police Force 2).

I don't think there is a black and white answer short of taking more to trial. CPS won't fund that, there's nothing we can put in place straight away. Prevention is the bigger thing for us working with universities and with support services with alcohol services to try and stop the offences happening in the first place, but once it's been committed there's no great answer to get them to court (Male officer 27, detective sergeant, SOIT, Police Force 3).

The reasoning here could be somewhat illogical, as the officers claim that the police response to rape has improved because of policy improvements, yet any further changes would not result in any more positive changes to the experience and outcome for victims.

My participants did not speak of any pressure to increase convictions for rape from management level initiatives. In recent years, police forces have been governed and held to account with the aid of performance indicators and targets for their performance, also referred to as target culture. There are a number of ways that police services can be held to account over their performance, one measure is the outcomes of recorded crimes. In the context of rape cases that could be the levels of charges or NFA. The way performance indicators are implemented by central government is guided by the political agenda of the day (Collier, 2006). The main criticism is that it leads to a narrow focus on statistics and measurable targets, rather than how satisfied the public are (Myhill et al., 2011). If there is little pressure to achieve more prosecutions, and the attrition problem is not being brought to the police officer's attention, this could explain why they do not see it as an issue. I found seven participants display negative attitudes to target culture and they were against the idea of increasing the level of convictions. As a number of participants asserted:

I'm very uncomfortable with the idea we have to get more convictions, in the sense of how are we going to skew this so we can convict more just to get the numbers up (Male officer 14, sergeant, SOIT, Police Force 2).

Two participants informed me that rape convictions were once on the agenda, but they have not felt any pressure in this area for a while:

When I was the detective inspector in the rape team years ago that unit was set up as the force was under pressure for detections. It was about

how many you can get and how many are the police and CPS NFAing. We were from week to week under pressure for detections. You look back and think that was so wrong, it skews your whole view of what your objective is, we're supposed to be impartial and look at the evidence and send it to the CPS. That was all about getting it charged, well what's the point if it will fall apart in a month? The poor victim thinks I wish I didn't go through with it (Female officer 29, detective inspector, SOIT, Police Force 4).

They (senior management of the police) would love it to be higher. There was pressure on detecting them, but not the fact the books had so many on. Like the target culture has gone and no criming was the same we were so stringent about our no criming for rapes, it was bloody well unbelievable. I was the only one who could no crime a rape I then would have my work checked by the deputy chief constable. I'm not going to fuckin' mess it up am I, so the endorsement on it when I authorised a no crime was massive. It would be an A4 essay about the whys and that, then someone in the Home Office check it too, not that we're frightened of the checkers (Male officer 22, detective inspector and retired crime registrar, Police Force 2).

There has been a drive nationally to reduce reliance on performance driven targets to assess the effectiveness of policing (Westmarland et al., 2012). This could also explain why my participants have not felt as much pressure over their statistics on case outcomes.

### 7.3 Poor Police Practice in the Past

A total of twelve participants informed me that the way rape investigations were conducted in previous years before policy changes were enacted was incredibly poor, especially in relation to the way the victim was treated by the police (see section 2.2.1). The treatment of rape victims when making a complaint has been the focus of much academic and policy attention over the years. Many studies have documented the hardships victims faced in the past (Gregory and Lees, 1999) (see Chapter Two). My participants reflected on the abysmal treatment that victims had to endure when making a complaint:

People don't know how much the police have changed; when I started, victims were called whores or bikes. Victims coming forward were laid into. If they were strong enough to stand it, the police would take it on but that's not going to encourage anyone, the vast majority won't take it any further (Male officer 25, detective constable, SOIT, Police Force 2).



It's difficult especially by the male officers. I've seen it change throughout my service, I've fought with officers because they just want you to get rid of a job or it's a load of rubbish and get her to say you know it didn't happen, which was sad. And I had some bad arguments even with bosses on it because that's how they looked at it, if they weren't battered and bruised and your clothes torn you haven't been raped, it's a load of nonsense. Gradually I saw that improving and victims have been taken a lot more seriously (Female officer 5, STO, detective sergeant, Police Force 1).

I do think in years gone by she would have been spoken to not by police women by detectives and basically bullied out of making any complaint, 'you were up for it, you were asking for it', I've no doubt about that, but things have moved on (Female officer 7, RVLO, sergeant, Police Force 1).

Three participants also reflected on times in the police when there were less stringent rules and procedures:

Logic says you would always want conviction rates to be better, nationally in the press some forces went too far and fabricated or manipulated the figures to make themselves look better than what they were that's the danger. Did it happen? Yeah, in Police Force 2, not much, but I would say that wouldn't I? If the female came in on a Friday or a Saturday night drunk, saying she was raped and you didn't know where or when or by whom, which happens every weekend. You were sure it didn't happen, in the 70s you wouldn't record it is the truth. Now it would be, it is a good thing as what gets recorded gets dealt with (Male officer 22, detective inspector, Police Force 2).

I dealt with a girl who was raped by an ex, a nasty rape, when we were immensely busy, I spoke to her on my own, I've got to say did I believe her? I was 50:50, less than that. I took her out on my own in the car, which is against what you should do. Then you could do what you wanted, now you wouldn't dare do it. She took me to a place where he picked her up, wined her and dined her. She said he handcuffed her then gave her flowers, then she was sick, then he raped her and took her away and let her go. He got seven to eight years in prison, there are some good things that happened (Male officer 22, detective inspector, Police Force 2).

If there's too much paperwork and the system makes the job too hard, the Male officer won't do it, they find ways round it (Male officer 3, police constable, STO, Police Force 1).

Upon reflecting on poor practice in the past, there was a general consensus among twenty-two of my participants that the way the police respond to rape offences has greatly improved in recent years. There is now confidence in the

fact that victims will be treated with respect and compassion, a finding mirrored in recent research (Barrett and Hamilton-Giachritsis, 2013). The creation of Sexual Assault Referral Centres (SARCs) is widely accepted as the best way victims can make their complaint, give evidence, and submit to forensic examinations. The SARC has specially trained staff dedicated only to them in an environment away from a police station. Furthermore, all complaints of rape will be recorded and dealt with in a standardised way, regardless of the opinion of any officer working on a case. This stance is summarised in the following comments:

I've only been in the police 14 years, in the last seven I've seen a whole sea change in the attitude to rape. The only time the CPS might be reluctant to run this case (vignette two) is like when it's similar to police officers who are in trouble, often if there's a case with a police officer doing something wrong they won't run it unless they can be so sure they will get a conviction. Because it doesn't look good, does it, dragging police officers through the mud? Sometimes they really want to hedge their bets and get an absolutely cast iron guarantee they will get a conviction or they might think, do you know what, this ordeal the cost and mud raking isn't worth it (Male officer 13, inspector, Police Force 2).

In the past 10 years maybe I've seen a massive difference in police attitudes towards sexual offences and people know they can come to us and we will do the best for them if we have a full offence (Male officer 18, detective inspector, Police Force 1).

It is no doubt easy for officers to see how procedures and practices have improved in relation to rape victims when the existing situation was so dire. Research acknowledges that improvements have been made in the area, but have not translated into an increase in convictions (Brown, 2011). The positive changes to help support victims have not helped secure justice for them. This could be down to the inherent difficulties with proving a lack of consent that all of my participants highlighted as the main difficulty they face (see section 6.7).

## 7.4 The Negative Effect of Attrition on Police Officers

A policy change introduced in 2002 within the police to help tackle the difficulties associated with dealing with rape cases is the creation of specially

trained officers. These work alongside rape victim liaison officers who are tasked with ensuring the victim is cared for. Officers who are trained in rape investigation are often situated within rape units in each force area, such units solely work on rape cases. All of my participants worked in police areas with a specialist unit, however not all areas have the same level of specialism (see section 4.2 for full discussion of the configuration of rape units). In conjunction with the pressures mentioned above, officers in rape units rarely work on a case that ends in a successful conviction. I found a negative outcome stemming from the fact that officers who investigate rape largely only work on rape cases each day throughout their role. As discussed in the findings of Chapter One, each rape complaint made must be recorded and investigated. Officers can often ascertain very early on when they get a case through what chance of success it will have, as explained by Male officer 28:

Sometimes you can tell right from the start that a job is not going to go anywhere, not because you disbelieve them, but because the circumstances are so that you know they are not going to get a prosecution. It doesn't mean you then stop the case, when we first started it would do. Now with the changes each job has to be looked into a bit more. Sometimes now with a lot of digging something comes up to assist, not often you still look at each on its own merits and give it some effort. To do it can be disheartening when your say 33rd job all similar and you think this will go nowhere, you still have to have the dedication to do something with that job no matter how demoralising it is. People forget that if you keep having negatives time in time out, over and over, it becomes a drudge (Detective sergeant, SOIT, Police Force 4).

Specialist officers are mandated to investigate a case even when they are quite sure their efforts will not gain justice for the victim. The rationale behind every rape complaint being recorded as a rape and being investigated is to combat poor practice previously where victims would be sent away and disbelieved. I do not in any way advocate a move to this working culture, where victims were not taken seriously and their accounts disregarded and cancelled (formerly no crimed). Rather, my intent is to critique and highlight unintended consequences of reforms made in the area of policing rape. As the vast bulk of the investigatory work officers undertake does not bring them a successful outcome, they rarely receive a sense of reward for their efforts. Such working

practices have a negative impact on officers' enthusiasm, morale, confidence and attitude to their work. As demonstrated in the further quotes:

Attitude, you can hear officers saying 'oh, another one, another few students, the last one didn't get anywhere'. We treat each on its own merits, there's almost a pigeon holing of the types of offences or victim, that's sad, it goes on. If you only deal with this in a rape unit you get ground down over a period of time. Domestic rapes commonly fail, the next one if you've dealt with 20 in the past 6 months that never got to CPS, what's your outlook going to be in the next case? Is there a need for specialist teams as opposed to specialist rape investigators as some national reviews say? You become over familiar with it. You're not as caring and enthusiastic. If you're dealing with armed robberies and the defendant gets 15 years and then you have a rape you will think I know I can put a case together for crown court. I'll approach this rape in the same manner as I know I can achieve it. If I'm dealing with cases all the time that are failing, my outlook might be slightly different. It's a really challenging area of investigation (Male officer 28, detective sergeant, SOIT, Police Force 4).

I do think that sometimes we get a little bit frustrated because every year in September (Fresher's Week) we get an influx of cases like this where young people away from home for the first time not having anyone monitoring what they're drinking and doing some of them tend to go a bit wild. It happens and afterwards a drunk night when they end up sleeping with someone they didn't intend to I'm sure there is a level of regret, particularly as there is a lot of the time students are living communally in large groups. There's the stigma of for girls 'oh my God, am I a slut, he's not my boyfriend' or whatever. We've just had this night together it is difficult and I was a student once, not all cops were, a lot didn't go to uni. I remember what it was like and it's difficult, they struggle to adjust sometimes and I'm sure for every case like this where it's a bit borderline there are also cases where there is a predatory student going around targeting other drunk students. So it's difficult, we try not to let it affect our judgment, but it is frustrating the kind of attitude with jobs like this is: Oh not again, not more students (in relation to vignette two) (Female officer 17, detective constable, SOIT, Police Force 2).

There is the issue that some people repeatedly make rape allegations which have to be crimed and investigated. It makes it annoying as you have to spend the time and effort to investigate it, but it's the fact that it's probably not going to go anywhere... you've got to bother and do everything, it's just irritating it wastes so much time (Male officer 14, sergeant, Police Force 2).

Before the level of specialism now present in the police, detectives would have had a variety of different crimes making up their case load at any one time,

resulting in officers gaining successful outcomes with some of their cases garnering convictions, keeping their morale and enthusiasm lifted that they could apply to any case they work on. Officers in rape units severely miss out on the occupational rewards and feeling that they are making a difference in their role and serving a purpose. There is a looming sense of anticipated failure and lack of purpose to the majority of the investigatory actions they undertake:

It's good to have a rounded case load, it keeps you fresher, after a few years in a rape team they can find it draining. It's emotionally draining and you don't get that many really good results you want (Male officer 15, detective sergeant, SOIT, Police Force 2).

This is exacerbated by police officers' belief that a large proportion of the allegations they investigate are false allegations. If they believe an allegation to be false this could affect the way the case is prioritised, they could not channel limited resources into such cases (see section 4.2.1).

This current situation raises questions over whether it is the best use of police time and resources to mandate officers to investigate and build cases that have no chance of meeting the evidential tests necessary for the CPS to take the case to trial. Officers are required to go through the motions when they are aware their efforts are wasted. Although they can filter some cases out earlier than others, they still must investigate all complaints to an extent:

We shouldn't be investigating cases that will not go anywhere, it's flogging a dead horse. It's really serious, but it's right for the victim so they aren't forced to stay in the system for no reason and the officers and to free-up resources to deal with the other stuff thoroughly, we do have too much really (Female officer 29, detective inspector, Police Force 4).

The depletion to morale and enthusiasm officers feel could affect the way they carry out their work. They may not be as thorough or motivated on cases they feel are weaker. Even with cases they feel are stronger the lack of enthusiasm can be transferred to the approach they take to their role as a whole. I demonstrated in the previous chapter that police officers use the outcomes of previous similar cases they have worked on to guide what procedure to take. When most cases they see do not gain a conviction, this is likely to shape their

mindset in a present case. I found twenty-three instances where my participants made comments indicating their mindset and attitude was negatively impacted by high levels of case discontinuances or they were frustrated and angry about the current situation. Eight participants stated how they would be pleased if more convictions were garnered for rape. Female officer 24 summed up this position:

Cynicism sets in with officers earlier and earlier. We do go through some crap. We get a lot of jobs we shouldn't be attending as you're cynical about some jobs you become that way about all... I'm not saying they won't do everything as they have to they will be in front of professional standards should they not tick every box and do every protocol. It's just the attitude and it will put people off if they don't feel believed (SOIT, police constable, Police Force 3).

The fact that officers are unhappy with the current levels of rape cases which are discontinued, and would like to be able to bring about higher levels of justice for victims but feel as though there is nothing more they can do from their position to garner more convictions, points to the fact that individual cynicism from officers is no longer a main driver of case attrition. As a result of the adversarial nature of the criminal justice system in England and Wales, police officers themselves cannot control the decisions of the CPS, how a trial functions, the burden of proof required, the presumption of innocence towards the defendant, the actions of defence lawyers when cross examining victims, and the attitudes of jurors.

An optimistic reading of the police role in shaping rape case attrition dictates that they have little choice but to make judgments over the credibility of the victim and suspect, predict how they will perform at court, and assess the strength of evidence by relying on extra-legal factors that potential jurors would also take into account. Essentially, their job is to pre-empt the views of juries and the CPS over the convictability of cases, make decisions accordingly and any outcomes are out of their control and influence. Effectively, they are shifting any responsibility to the system as a whole. In other words, they have no choice but to be complicit with systemic covert prejudice. They may even feel as though they just objectively react to the evidence they collect without

being fully aware they are influenced by a plethora of extra-legal factors. Furthermore, the police carry out policies as they are intended to be.

Conversely, the role of the police can be viewed as officers actively drawing from extra-legal factors when taking actions on a rape case. Furthermore, allowing personal opinions and prejudices to shape and dictate which cases have more effort put into investigating them and being passed onto the CPS, rather than being discontinued. Officers actively and knowingly contribute to a systemic bias, including by not carrying out policies that are meant to guide their work as intended.

My findings indicate that the reality is in-between the above two extremes. Police are part of an adversarial system and cannot help the issues that stem from this, for the progression of rape cases. However, the belief that the attrition rate is purely down to a lack of evidence and that this is beyond the influence of the police is used to mask the influence that the police do have in shaping the progression of rape cases as section 7.1 'Pressures on the Police' above explains, how officers informally prioritise certain cases over others for example.

## 7.5 Police Officers' Ideas for Improvements

I explored my participants' ideas around what they think would be sensible and productive solutions to improve the policing of rape and to gain more convictions. Minimal previous research seeks to ascertain this perspective from police themselves. Although it was generally accepted that the current situation is as good as it could be in responding to rape, eighteen of my participants had some ideas to improve the criminal justice system response to rape cases. The fact the participants made suggestions seems to contradict with the idea that no further improvements can be made.

I witnessed calls for greater education for the general public around consent with the aim of preventing sexual offences in the future:

Education for men is the key (Male officer 16, detective inspector, SOIT, Police Force 1).

Educating people at a young age at school on what's right and wrong and take it through to uni. We as an organisation could do more in house to better train initial contact officers for the complainants (Male officer 18, Detective Inspector, SOIT, Police Force 1).

Four participants went on to praise the 'tea campaign' as a successful and appropriate way to start to educate the public about consent. The tea campaign is a short video designed by Thames Valley Police to clearly explain how consent works and to highlight that there is no grey area of consent (Dearden, 2015). The video was shared widely on social media and related platforms. In addition to education programmes around consent, the need to educate potential jurors about rape supportive attitudes was brought to my attention. If the general public were more aware of the realities of rape, they may be more willing to convict at trial (see section 6.6). One participant even advocated for the removal of the jury in rape trials:

We should use the French system and remove the jury. I don't think we can leave it to the general public; your attitudes are based on your life (Male officer 25, detective constable, SOIT, Police Force 2).

Furthermore, reducing the delays in a case getting to trial to help counteract victim withdrawal was perceived to be an issue that could be resolved. The treatment victims receive from the defence barristers at trial was highlighted as being a cause for concern:

An increase in cases getting to court, that's a start. The more you put in front of a court the more attitudes will change. You've also got to change judges' opinions and barristers', one judge will allow a victim's promiscuity to be admissible, another won't so there's no consistency there either (Male officer 25, detective constable, SOIT, Police Force 2).

A wealth of feminist scholarship has criticised the harmful experience victims have when participating in a rape trial (Lees, 2002; Wykes and Welsh, 2009). One participant believes a focus on preventing future offending by managing the risk of rapists who have served a sentence and are now back in the community is a productive way forward:



I'm quite left wing for a police officer, I chair the MAPPA (Multi-Agency Public Protection Arrangements) some of the cases are sexual offences it's about managing them outside of prison, sending them to prison might make us feel warm inside, but unless we do terminate the lives of people who have offended, sooner or later they are going to be released into the community. It's about managing that risk when they're released into the community as much as giving ourselves a warm feeling inside of banging 'em up (Male officer 13, inspector, Police Force 2).

Suggestions were made that improvements in supervision of investigations and training of police officers could be enacted to ensure a quality investigation and that each case has the best chance of success:

There seems to be a mismatch with the interface between police and CPS because we, on the whole, are largely unqualified public servants, there isn't a qualification to make you a police officer. When you join, you work the way you want to, go from constable when you arrest someone and get evidence you go up against a qualified legal professional who will pick holes in your case. You go away unqualified to gather that evidence which can be complex and challenging and you go back to see if it's good enough. A qualified lawyer will pick holes until it is good enough. It's a big responsibility of some police. I've read it in crime reports and entries on memos to CPS. I hear people say 'CPS want this, it's ridiculous' but they know what it takes to get a case through crown court as they can't charge unless there's chance of a conviction. CPS offer these early intervention clinics, the take up rate for rape is really low. Scenario 2 and 3 I would be going to one of them as soon as I spoke to the victim. Experience allows you to know what CPS will want, but the evidence there's a rape and serious sexual offences checklist, I've never seen anyone use (Male officer 28, detective sergeant, SOIT, Police Force 4).

As police, not enough emphasis is placed on continuous training (Male officer 21, Detective Inspector, SOIT, Police Force 2).

This morning I was looking at the training that is offered to officers here. It's the embedding of that training and maintaining of operational competencies in the workplace which I think is a challenge for us. Victim focus is a bit of a cliché (Male officer 28, detective sergeant, SOIT, Police Force 4).

Although some of my participants had ideas about how to improve the response to rape, any suggestions are still within the context that all participants felt any changes may only make a nominal difference as most cases come down to a difficulty with proving a lack of consent.

## 7.6 Conclusion

This chapter began with an exploration of various pressures on the policing of rape, largely driven by cuts to police budgets in recent years. My participants informed me that the volume of rape complaints has been rising, resulting in a huge demand on their services (ONS, 2019). Officers, especially those based in rape units, typically have high caseloads to work on. As the officers do not have the time and resources to dedicate equal amounts of effort to each case, they selectively prioritise those cases that they feel will have the best chance of being prosecuted by the CPS. Such assessments are based on a plethora of extra-legal factors as outlined in the previous two chapters. This indicates that the police are active in shaping which cases have a higher chance of progressing through the system in an informal non-transparent way. This prioritisation of cases, while maintaining the image that each case is investigated and treated the same, contributes to a covert systemic prejudice the police uphold. The justification for cases being discontinued, introduced in previous chapters that rape cases lack evidence, is a convenient excuse to mask and simplify the role police play here. The fact that the service the police provide is variable is based on other factors also, namely, the supervision of cases and the availability of relevant officers to respond at any given time. This issue raises concerns of an implementation gap with policies and practice. The high workloads and distressing nature of rape cases can result in a negative psychological impact on officers, which in turn can affect the way they can carry out their work.

I have highlighted how high levels of case discontinuances are commonplace and normalised within my participants' perceptions. They do not recognise that there is an attrition problem as such. I witnessed low levels of awareness of the conviction rates for rape, however when a participant offered an estimation they were largely accurate to the recorded levels. There is little pressure internally on the police to improve the levels of case discontinuance. My participants perceived that any change in policy or procedure would not help in improving the attrition rate, they felt everything that could be done, had been done. The remaining difficulties are attributed to the inherent evidential issues laid out in the previous chapter. My participants reflected on how rape victims

in the past were treated abysmally by the police. As a result in changes in policy and practice, this is no longer the case in their view. However, an improvement in the experience victims are subjected to has not resulted in an increase in convictions.

There are increased levels of specialism within the police. Many officers who work on rape cases are based in rape units and solely investigate rape cases. This leads to many officers rarely working on a case which results in a conviction. Thus, they are deprived of any occupational reward or positive outcome they set out to achieve. Furthermore, officers are mandated to go through the motions and investigate all reports of rape, even when they know there is no chance they will be prosecuted by the police. This raises the question of whether it is a good use of police time and resources to spend time on a case that will not result in a conviction. I found a deleterious effect on officers' mindset and attitude caused by the vast bulk of their work not leading to a successful outcome. Their morale and enthusiasm is diminished, this can then impact on their mindset to the way they carry out their work. It cannot be positive if officers working on rape cases feel disheartened and unmotivated. Furthermore, I found that my participants are not happy about the fact that low levels of justice are achieved for rape victims.

The following chapter concludes this thesis by summarising the key findings presented in this thesis and presents policy and practice suggestions stemming from such findings before making suggestions for future research.



# 8. The Role of Police Officers' Decision Making in Shaping the Attrition Problem in Rape Cases

---

This project makes original contributions to knowledge in a number of ways. Firstly, most previous literature in the area utilises a quantitative methodology, either to review police case files or measure rape myth acceptance in members of the public or agents of the criminal justice system (Sleath and Bull, 2017), whereas this study uniquely takes a qualitative approach to elicit police officers' perceptions and decision making to try to explain the conviction rate statistics and trends in surveys. Often, the difficulty of gaining access to police to interview is stated as being a barrier to conducting qualitative work with police (Reiner and Newburn, 2008). As I achieved this successfully, this study provided a rare opportunity to delve into the occupational world of policing, leading to novel and interesting findings. Additionally, most previous research with police samples originates from the US and has a bias in sampling towards men (see Chapter Two). Research in a UK context with police is largely based in London and the Home Counties (see Chapter Two). Conversely, my sample

of participants includes a more equal split of men and women and draws participants from police forces in the north of England.

Existing literature often analyses police officers' opinions in an abstract fashion, for example, surveying their rape myth acceptance (Page, 2008). However, how far such opinions impact on police practice and case outcomes is crucially not determined. In other words, very little is known about how police officers make decisions in rape cases and how that shapes and influences case attrition. By employing fictional rape vignettes, I was able to situate police officers' perceptions within scenarios that resemble actual rape cases to explore how their opinions are likely to impact their decision making and practice. Additionally, the use of vignettes enabled me to explore police attitudes to the victim and the perpetrator of rape. Most research focuses on the characteristics of the victim and how these can impact case progression, the influence and role of the perpetrator is left out of consideration and my work addresses that. Understanding police attitudes towards men accused of rape is clearly relevant to explaining attrition and yet is barely addressed in previous research.

There is very little evidence that explores the officers' views of the attrition problem. By asking open ended questions within qualitative interviews I explored police officers' understandings of the difficulties in gaining a prosecution and their understanding of the attrition problem. Further, I was able to explore other factors that influence how decisions are made, such as available resources. My findings present a more holistic picture of the factors that shape police decision making as I captured individual, structural, cultural, and institutional influences on the way officers handle a case and why. My findings display multiple layers of complex influences on the processing of rape cases.

Studying sexual violence against women and the response to it is more salient than ever. The Crime Survey for England and Wales estimates that from April 2015 to March 2016 there were 645,000 victims of sexual assault. This rose slightly to 646,000 estimated victims from April 2016 to March 2017 (ONS, 2018b). Sexual violence against women is a continuing issue in society, and

the topic of much debate within public discourse in the news media in recent years. Recently reported was the high profile and contemporary case of John Worboys, the black cab driver, who is thought to have drugged and raped more than 100 women and was set to be released from prison according to a decision by the Parole Board. This fact was then widely reported, leading to a public outcry against Worboys' release. The decision was later overturned and at the time of writing he remains in prison (Hinsliff, 2018). Furthermore, numerous news reports have highlighted the falling prosecution and conviction rates for rape, despite the rise in levels of police recorded rapes (Schraer, 2019). A further news story recently highlighted concerns over jury decision making in rape cases and a reluctance of jurors to convict young men (Topping and Barr, 2018). The concept that young men are less culpable for rape than older men was mirrored in my findings (see section 5.4.3). There is now, more than ever, a public desire and interest to radically overhaul and improve the treatment rape victims receive from the criminal justice system and seek ways to bring perpetrators to justice.

The following sections re-visit the key findings presented in Chapters Four to Seven to demonstrate the original contribution they make. Succinct answers to the research questions of this project are documented and policy and practice recommendations for policing, stemming from the findings of this project, are outlined. Additionally limitations of this study are discussed, followed by suggestions for future research.

## 8.1 Summary of Key Findings

### **8.1.1 The Guidance of Procedure, Policy, and Law in Police Decision Making in Rape Cases**

To ascertain how my participants made decisions on rape cases I asked them to talk through how they would go about handling three different hypothetical rape vignettes and the journey they anticipated each vignette would take. From the initial responses to the vignettes, it was apparent that my participants did not view differing complaints of rape from a neutral starting point. For example, the stranger rape scenario was viewed as a rape offence, with more certainty

than either of the other vignettes. The participants immediately formed initial opinions from the victims' and suspects' statements about whether an offence of rape had been committed. They also speedily decided whether a suspect was guilty. However, despite the police officers' initial perspective on a complaint, they explained that they took a standardised set of steps when responding to a rape complaint, regardless of their initial 'feelings'. The implication to take from this is that the policies and procedures guiding the initial investigatory response are carried out in the intended uniform way, suggesting there is no implementation gap in the police processing of rape that might lead to attrition (Brown et al., 2010). In other words, officers claimed that they applied due process uniformly despite initial opinions.

My findings show that an ingrained culture of scepticism – a longstanding concern raised in the feminist literature (Kelly, 2005) – has maintained its influence on police officers' perceptions of the veracity of a victim's claims. The estimations given in previous literature are still that many rape allegations are believed by investigating officers to be false (Brown et al., 2007). Nevertheless, the explanations offered by my participants as to why false allegations are made are more nuanced than previous literature suggests (Gregory and Lees, 1999). Malicious reasons were cited as to why women might bring a false claim, but also reasons where a victim is not acting out of malice. These might be because of poor mental health or a genuine misunderstanding, as reflected in recent research (McMillan, 2016; Saunders, 2012). My findings provide original insight into how suspected false allegations are dealt with in practice. Superficially they are dealt with in the same way as an allegation perceived as genuine and essentially the same standardised approach laid out in Chapter Four is followed. However, this process is taken in the context of particular organisational and structural influences which impact on the actions taken, as summarised below. Allegations that are not seen as genuine rape can be dealt with by the police by 'educating' the victim so they understand that what happened to them was not rape. This can be problematic as officers may not have the relevant expertise to 'educate' victims and discuss what they have gone through in the most appropriate manner, this has the potential to further traumatise vulnerable victims. I found that cases perceived as more likely to be false were discontinued by the police earlier in the process, including in



situations when the alleged victim was clearly unable to understand what constitutes rape.

My findings provide a contemporary picture of how rape crimes are recorded and cancelled. Cancelling crimes (formerly termed 'no criming') is now carried out in line with the policy guidance that stipulates an offence can only be cancelled when additional verifiable information demonstrates the offence did not occur; this is contrary to earlier studies showing the recording of a 'no crime' was misused to discontinue cases (Gregory and Lees, 1999; Kelly, 2005). However, my conclusion is drawn from police officers' own detailed accounts of practice, not actual crime recordings. Nonetheless, a benefit of interviewing police officers is to access and explore what drove them to record a crime in the way they chose to. Looking at trends in crime recording patterns and reviewing case files alone does not show the extent to which decisions are guided by relevant policy. This work is conscious of the results recorded in case files, but delves into the methodology and process behind those results to examine how they are achieved.

Very little research examines how officers account for and describe their day to day actions to assess how they make decisions, making my findings novel. The participants presented to me a standardised, almost formulaic method of investigating. There were high levels of agreement between the participants as to how they approach rape cases and what pieces of evidence they would collect for each vignette. Overall, the stranger rape vignette was viewed as the most likely to end in a conviction and the acquaintance rape as the least likely. The participants claimed that they take a supportive and caring approach towards the victim. This, in practice, meant treating the victim with empathy and respect. All reported overt adherence to policy and procedures, but my research examined how and why that 'correctness' results in so few cases being prosecuted, and why even fewer result in convictions.

## **8.1.2 The Factors Influencing Police Officers' Decision Making in Rape Cases**

This project explored what influences guided police officers' decision making in the processing of rape cases. My findings indicate that a mix of officers' personal perceptions, organisational level factors, cultural influences, systemic factors, and legal frameworks all play a part in guiding and underpinning the basis of decisions and actions taken in rape cases. Most previous research takes one linear influencing factor, such as victim intoxication, and assesses how it impacts case outcomes (Stewart, 2000). By contrast, I examined how multiple influences in combination impacted decision making.

Chapter Five charted how the concept of legal rationality, together with officers' individual opinions, combine to shape the decisions made in rape cases, a finding that is shared in previous research (Brown et al., 2007; Munro and Kelly, 2009). As part of this legal rationality, I witnessed a downstream orientation resulting in a higher standard of certainty than beyond reasonable doubt being applied to cases (Emerson and Paley, 1992). Kelly et al. (2005) describes this process as rape cases essentially needing more evidence than other crimes. Further, when police officers apply a legal logic, they are weighing up how strong the evidence in a case is to see how 'convictable' the case essentially is. A similar process as described by Kelly et al. (2005) with the finding that officers 'second guess' the outcome of cases and make decisions accordingly. This project highlights an original point that this process is still occurring fifteen years later, despite a raft of reforms in the area over the years (see section 2.2.2). Cases deemed to be evidentially stronger and more likely to be taken to trial by the CPS are more likely to be investigated more thoroughly and not discontinued. However, a range of extra-legal factors also influence and guide how a case is assessed, so a decision based on legal frameworks is also subject to extra-legal thinking. Legal and extra-legal factors cannot be separated when analysing decision making, mostly because of the element of the law on rape that includes a subjective test: if the suspect is deemed to have reasonably believed the victim consented then the offence is not 'rape' and the fact it is hard to assess the strength of evidence without taking that

into account. Extra-legal factors are shaped by socio-cultural, institutional, individual perceptions, and legal considerations. They are factors that are not legally relevant to an offence, as sanctioned by the relevant legislation, rather they are influences that should not come into play in an investigation. On top of a legal logic, and pre-empting views of a jury, I found through my interview data the police officers themselves were holding prejudicial views, which concurrently shaped their responses to rape.

A key extra-legal factor was the influence of the victim's credibility on responses from the officers. It has been claimed many times in the academic literature that victims' perceived credibility is crucial in determining the outcome of rape cases (Jordan, 2004b; Lievore, 2004; Campbell et al., 2015; Morabito, 2016; Venema, 2016). However, few studies have investigated the factors that influence police officers' perceptions of victim credibility (Alderden and Ullman, 2012a). My findings demonstrate that when there is more than one victim, and a victim's account remains consistent when they tell it on different occasions, their credibility is strengthened. If a victim has made an allegation before, or there is a time lapse between the offence and reporting it, their credibility is greatly damaged. Alcohol can impact on a victim's credibility as their recollection can be seen as compromised or the situation is seen more as a misunderstanding. However, if the victim was highly intoxicated then it can be argued they were too intoxicated to consent. Various studies highlight the negative effect intoxication can have on case attrition (Frazier and Haney, 1996; Spohn and Holleran, 2001). If a victim has sustained injuries, and they correspond with details given in her statement, this enhances her credibility, an element that is also mirrored in previous literature (Kennedy, 2012; Venema, 2016). Judgments over a victim's character are also employed (Page, 2010). Especially salient were judgments over the age of a victim, with older women viewed as more credible than younger ones, as Female officer 19 (Detective constable, SOIT, Police Force 1) iterated in relation to the date rape vignette:

I think the victim being middle aged would be a positive thing in that they should be more believable at that age. The woman is less likely to want to put herself through this or be led on by friends like young girls who get pregnant and the mum says she's been raped. I use to say on iffy cases should we start and see where we go.

This could be interpreted as older women no longer being seen as sexual beings, or viewed as desirable, any more so would not have been inviting sexual relations with anyone. Judgments over how people might perform or be perceived at court are key extra-legal factors related to credibility judgments. Officers frequently anticipate how persuasive a victim and suspect might be when partaking in a trial. Factors that influence how persuasive an individual will come across in a trial are appearance, personality and identity. For example, a young male who is well educated and can present himself in a favourable light to a jury would be deemed as someone who would be persuasive in a trial. This finding is also in line with the concept of police officers 'second guessing' the progression of cases, a process that is still happening fifteen years after research began to report on this (Kelly et al., 2005).

On top of credibility judgments, my research demonstrates the behaviour of the victim around the time of the commission of the offence is scrutinised to judge the strength of the case; this is evidence of an implementation gap as it should primarily be the suspect that is the focus of an investigation. The victim's behaviour around the commission of the offence is not legally relevant (CPS, 2009). A victim's behaviour can be interpreted to infer a sexual interest or to be suggestive of consent to intercourse. For example my findings outlined that if the victim and suspect had been socialising together prior to the offence, this was taken by the officers as the victim having a sexual interest in the suspect and making a rape less plausible. The earlier study conducted by Harris and Grace (1999) states that the victim's demeanour around the time of the offence was an important consideration for police officers and predictor of attrition, it is apparent that such considerations are still prevalent today more than twenty years later.

Much previous research focuses on police officers' opinions of victims (see section 2.2). This project includes a focus on how characteristics of, and factors relating to, the perpetrator impact on decisions and case outcomes. As the law on rape includes a suspect's reasonable belief in consent, perceptions of perpetrators are important. Judgments regarding the suspect's credibility are

made in the same way as they are for victims, through reliance on extra-legal factors to ascertain how credible an individual is. The suspects in the vignettes were seen to have varying degrees of culpability. Vignette two was viewed as the weakest case with the stranger rapist the most culpable. These patterns are also witnessed in the sentences preferred for each rape vignette: The stranger rape case attracted a desired lengthy sentence and the acquaintance rape case the most lenient. The participants advocated for short sentences in some cases, despite the fact they held punitive views around sentencing for all crimes in general. My participants' general views on criminal sentencing was a strong preference for very punitive sentences for offender, although this contrasted to the preferred outcomes for vignette two where there was a particular sympathy for the young male student suspect. This is demonstrated in the response from Female officer 24 (STO, police constable, Police Force 3) when discussing what sentence she felt the suspect in vignette two should receive:

Less than the previous, although I don't know why, due to his age he's not got previous convictions, he may have thought everything was OK, he may have thought that's what she does, she just lays there. There is doubt, I would suggest custody not as long as the first, with some rehab and support for him and his family.

A novel finding of this research was the classification of different typologies of perpetrators by police officers and how that influenced their perception of cases. Despite the participants asserting that they do not stereotype, they were still able to describe characteristics of different hypothetical perpetrators. At the lower end of the scale is a young man, who could have been intoxicated at the time of the offence, could have misunderstood the situation, may know the victim and has not been involved with the criminal justice system before. This perpetrator is seen as less culpable by officers. At the other end of the spectrum is a completely culpable rapist who was an opportunist, more likely to be a stranger rapist and knew what they were doing was wrong. The suspect in vignette two is on the lower end of the spectrum while the suspects in vignette one and three are at the higher end. This suggests the police apply a double standard on rape with one 'type' viewed as a 'mistake' or 'misjudgment' rather than a crime, further driving a wedge through their assumed objectivity in handling the case.

A plethora of research highlights how views incorporating rape myths and victim blaming attitudes impact on rape case progression. This may be officers subscribing to such views personally or anticipating members of the public hold such views (Sleath and Bull, 2012). Although my participants claimed that victims and suspects were never subject to discriminatory attitudes by the police, many went on to express prejudiced views. Victim blaming attitudes among my sample were particularly prevalent and rape myth acceptance was clear in a significant minority of participants, in line with previous studies (Sleath and Bull, 2012). An example of blaming of the victim in vignette two is evident in the following quote, despite the participant stating prejudice should be absent from the process:

The facts are all that matters, there should be no prejudices. He even put a condom on, it's not like he gets his dick in her and it's 'wham, bam, thank you mam', it's more prolonged. It's not like she froze that whole time. I don't know why afterwards when did she leave she walked home, implies she either didn't want it or regretted it... It's not OK to keep sleeping with a man friend, he's either your boyfriend or not, I think she should have taken the floor in this situation (Female officer 19, detective constable, SOIT, Police Force 1).

This participant takes into account the use of a condom, the victim freezing because of fear, and the fact the victim stayed with the perpetrator afterwards; such factors should not influence how a case is viewed and place the onus on the victim to alter her behaviour rather than the perpetrator. This project makes an original point by ascertaining the way such views may impact on case processing and decisions. Rape myths still strongly underpin legally rational considerations and decisions as police officers assume potential jurors will subscribe to such views. A significant insight gained from asking police officers qualitative questions showed how the participants believed that the public subscribe to rape myths forcing them to make decisions about progressing cases on the groundwork of victim blaming as the public constitute jury membership.

A further extra-legal influence on decision making is evident when police officers situate themselves in the position of the victim or the suspect to

imagine what behaviour they themselves would exhibit. They do this to ascertain what they feel is reasonable or expected behaviour in that situation. Then, if the behaviour of the victim or suspect differs from what the officer envisages they would do in that situation it can throw doubt on their account or make the suspect seem innocent or guilty. Officers admitted to this kind of subjective identification process informing their assumptions of guilt or innocence.

The 'second guessing' and legally rational model of decision making (Kelly et al., 2005) was shown in my research to be flawed. Many previous studies attest to the fact that police officers can offer an accurate prediction of jurors' decision making in trials, which they use to help decide which cases the CPS will want to take to trial. Essentially, it is assumed the legally rational mode of decision making is based on legitimate and accurate considerations of jury deliberations (Ellison and Munro, 2010a; Ellison and Munro, 2010b). An original finding of this project highlights that the participants by their own admission find it impossible to predict jury decisions, yet still base their decision making on their own predictions to choose which cases to discontinue and which to channel more effort into. However, the predictions of a jury's decision are just a best guess, as evidenced in the comment:

It's real tough, the bit that gets me is the lottery with the jury but how do you get rid of that? You always have your own opinions, I know I stereotype people when I meet them. When I'm looking at cold hard evidence I'm not judging that person, but juries do, so we look at it in evidential terms, maybe we shouldn't when a jury doesn't? We set a bar so high to get to court, victims are judged and CPS will look at a video interview of a victim and think how will she look in court because they have to. I find it wrong I'd get sacked for that but it's accepted when you get to a trial as people will be judged on how they look and come across, but that's the system (Female officer 29, detective inspector, Police Force 4).

Research into sex worker cases also questions whether the assumptions made by agents of the criminal justice system around the perceptions of members of the public about victims are actually a true reflection of the public's views (Lea et al., 2003). My participants asserted that (because of their presumed judgments jurors will have about victims' credibility), if a victim is a sex worker

they have very little credibility and therefore a reduced chance of their case going to trial. However, research has shown that the public support the conviction of those who rape sex workers (Lea. et al., 2003). This research finding further supports the idea presented in this thesis that police may not have an accurate reading of the lay public's (potential jurors') viewpoints in a way they assume they have. In other words the 'second guessing' that is still occurring since earlier research raised this critique (Kelly et al., 2005) is in fact based on inaccurate 'guessing' making it even more problematic.

The influence of extra-legal factors documented in Chapters Five and Six that judge victims on arbitrary characteristics (for example, age, gender or class) and privilege some victims over others, is part of a covert systemic prejudice against victims, it influences whether a case is proceeded and is a concerning and salient flaw in police decision making. The police as an institution are complicit in upholding this prejudice, whether they are happy with the decisions made or not. My participants did not like to disadvantage sex worker cases by making judgments over the victim's credibility and discontinuing cases accordingly. They felt as though they did not have a choice but to be complicit in the system because of the demands of an adversarial justice system. Even if there were two cases that were evidentially the same or deemed to be as strong as each other, if one victim was deemed to be credible or would come across well at court or was an older woman, for example, that case would have more chance of gaining justice.

On an organisational level, elements of the police culture literature are reflected in some of my findings. When officers rely on a gut feeling to guide their actions and opinions they subconsciously can allow some of their personal prejudices to become guiding principles. This is a phenomena well documented (Van Maanen, 2005). In section 2.9 the approach to criminal investigations within the police culture literature was summarised as either that of an art, craft, or science. Each of these descriptions was clear in my findings with a dominant evidence-based scientific approach. However, rape offences are unique in that they often lack independent evidence. It could be that because of this officer's resort to an approach more in line with that of an art or



craft, which entails relying more on intuitions, second guessing public views and subjective experience than scientific rigour.

### **8.1.3 Police Officers' Insider Views on Institutional and Structural Influences on Rape Case Attrition**

Very little previous research explores police officers' views of why so few rape cases end in a conviction and why so many cases suffer attrition at the policing stage of the process. My findings document police officers' understanding of the attrition problem and what they consider to be the main factors that drive the high levels of discontinuances and if they believe any improvements can be made. By talking to officers who have an 'insider' perspective on the policing of rape, I was able to explore the systemic and institutional level factors that provide the context and situation in which decisions in rape cases are made. An analysis of police officers' perspectives on the attrition problem and rape cases is an original contribution to knowledge. Situating police officers views within the institutional and social contexts in which they operate helps complete the picture of decision making, which depends on overtly legal reasons culturally subjective interpretation and lastly contextual and structural constraints.

The most prominent barriers to progressing cases that my participants highlighted were evidential difficulties present in many rape cases, an issue that has been well documented (see section 6.7). All of my participants asserted that the main difficulty in achieving a conviction was that rape cases lack independent evidence to prove consent was not given. Chapter Four showcases the way the police officers present their role when investigating rape cases as detached objective observers who can only react to the evidence available. They claim to follow a standardised procedure and outcomes are thus beyond their influence. I argue the refrain that rape cases are merely 'word on word' or lacking in evidence is a convenient mask to disguise the active gate keeping role police officers employ when investigating rape cases. My findings demonstrate that police officers do rely on extra-legal factors when making decisions and deciding where to channel investigatory

efforts. It is evident in my work that it is reductionist and simplified to depict the attrition of cases as mostly because of a lack of evidence. Saunders (2018) asserts that rape cases are, in fact, rarely only down to the statements of the victim and suspect and even so word on word is enough for a trial and it can be enough to get a conviction. Yet, my research suggests officers very often proceed on the basis of whose word will be believed.

A further main problem the participants faced was that a high level of victim withdrawal from the process occurs despite many measures implemented to try to counter this (see section 4.8). Officers can empathise with victims and appreciate how hard the process can be for them. Furthermore, ideas the participants presented to address this included ensuring the supervision of investigations is appropriate, the correct procedures are followed, and the public are educated to counter the presence of rape supportive attitudes. Yet victims withdraw regularly partly because police infer the likelihood of acquittal, but also because of highly publicised cases of acquittal such as Ched Evans.

My findings provide an original and up to date picture of the recent challenges framing the investigation of rape cases. Levels of reporting have increased alongside austerity measures throughout police services and an increase in officers based in specialist rape units (Brogden, 2013; ONS, 2019). This has resulted in officers who primarily work on rape cases dealing with very high caseloads at one time. When officers are making decisions on how to proceed with rape cases, they do not have the resources to give equal attention to all complaints. Instead, they employ an informal prioritisation of cases they deem to be stronger (to channel limited resources into); this selection is often based on the extra-legal factors I have documented. When this occurs, the police still maintain the appearance that they are investigating every complaint equally, in an objective, detached manner. However, in reality the police do make value judgments around the strength of cases to help decide how to handle them in order to maximise the frequency of successful outcomes at the CPS stage and beyond. This contradicts my participants presenting their approach to their work as that of objective observers. I argue the service which victims receive could be variable, based on the accounts of my participants, depending on circumstances and characteristics of their complaint which is another element

where systemic prejudice operates. Female officer 24 (STO, police constable, Police Force 3) highlighted how different officers will work differently on rape cases depending on their own experiences:

I know with my personal experience clouds my judgment. I will be there to support victims above and beyond what another officer would be, however I know the system is stacked against rape victims. I've recently gone above and beyond and supported a victim through court for rape charges, I don't think had I not understood what was happening and the way she was feeling she would have carried on, I think that is sadly lacking with a lot of officers. I don't know because over the years I haven't got cynical, I still love the job but I try and do my best by every victim I've got. I was raped, I understand that the system isn't fair, that's why on my days off I went to court with her, I cancelled leave too so she wasn't on her own. That's missing, rape isn't a normal crime, it affects you on so many levels. I would understand if the victim withdraws as I decided not to take my case to court, my case only went through the police.

As a result of Female officer 24 having been a victim of rape herself, she could highlight the importance of victims having robust and adequate support from the criminal justice system.

My findings explore what a police officer's understanding of the attrition problem is; the belief that very few cases will reach prosecution and conviction is normalised and commonplace among police officers. This creates a culture of attrition. My participants did not view attrition as a problem, rather they were aware of the levels of justice achieved but saw it as just the way things were. There was a general belief that the current response to rape was as good as it could be because of the evidential difficulties in rape cases and the fact there have been positive changes made to help victims. This is, however, at odds with the police officers' view that a number of suggested changes for improvements have been made as listed above (see section 7.5). The participants also acknowledge how the policing of rape has greatly improved from times when victims were treated appallingly. My participants did offer possible further changes while broadly accepting the status quo. Yet, this status quo means that most cases officers work on, especially those based in rape units, will fail to reach a prosecution. This lack of occupational reward and positive outcome creates a detrimental effect on the morale, enthusiasm, and

attitude of the officers who investigate rape cases. This, coupled with the task of working on emotionally challenging cases and high workloads, can deplete officers' approach to working through a combination of burnout, fatigue, and the lack of progress in rape cases. Many participants asserted that they would like to secure more prosecutions and convictions, indicating a discontent rather than acceptance of the attrition issue. The impact on officer morale is summarised by Female officer 29 (Detective inspector, SOIT, Police Force 4):

Some officers are really good at working on rape cases, some would rather be doing something else. There are detectives who deal with a variety of crimes, that's good so they have a rounded case load; it keeps you fresher. After a few years in a rape team they can find it draining, it's emotionally draining and you don't get that many really good results you want.

#### **8.1.4 How Decision Making by Police Officers Shapes the High Levels of Case Discontinuances**

To answer the final research question, the main themes throughout the project are summarised to explain how police officers' decision making impacts on attrition.

My findings suggest there is an implementation gap in some areas of policy and not in others. With regards to crime recording, rape offences appear to be crimed and only cancelled in line with the policy stipulations (see section 4.3). This element of the decision making process does not, therefore, contribute to the attrition of cases. Furthermore, there is a standardised and formulaic way that investigations are conducted in line with procedures guiding criminal investigations. However, the account of how an investigation is conducted presented by the participants is essentially an ideal type and, in reality, it is not always possible to carry out every investigatory effort necessary. The view of how investigations are carried out espoused by the participants is evidenced in the variable service victims receive and the informal prioritisation that occurs (see section 7.1). Case attrition is dictated by how much effort and prioritisation each case is given, guided by the available resources and how strong a case is perceived to be by the officers working on it. The presence of

a culture of scepticism within the police also impacts on attrition as cases that are viewed as a possible false allegation are seen as weaker cases and are likely to be discontinued, a further example of the 'second guessing' that officers are still undertaking (Kelly et al., 2005).

I argue that there is a systemic bias that operates against victims when decisions are made based on a range of extra-legal factors underpinning legally rational considerations. These inform the level of investigatory evidence put into a case, thus whether the case will suffer attrition. The extra-legal factors laid out in Chapters Five and Six, including rape myths, dictate whether a case is seen as 'convictable' or not. Extra-legal thinking and officers' personal prejudices also influence case attrition, for example, when officers rely on their gut feelings and instincts to guide their views on a case. Additionally, the basis that legally rational decisions are built upon is premised on inaccurate information, in the sense that officers find it hard to predict a jury's decision making and they may not have an accurate view of what lay people's opinions are. This results in case attrition underpinned by a lack of sound reasoning and judgment, a novel finding this research presents.

A further issue raised in Chapter Seven is the negative impact high levels of attrition have on officers' morale, enthusiasm, and outlook on rape cases they are tasked with investigating. Rape cases are a challenge to investigate so it is alarming and deeply concerning that those tasked with responding to such a serious and emotionally charged offence have a somewhat depleted and negative mindset. Officers who frequently work on rape cases may develop a defeatist mindset from the start of an investigation if rape cases they work on routinely fail to end in prosecutions and convictions. This factor could impact on the progression of cases negatively in more covert ways that are not easily quantified. For example, if an officer is not enthusiastic and optimistic, this may negatively impact on their performance at work and the decisions they take. Similarly, officers describe rape cases as inherently difficult as locating independent evidence to prove consent is usually very challenging. In other words, this negativity impacts on case attrition as this widespread belief can lead to a self-fulfilling prophecy where cases are assumed to be near

impossible from the beginning. This can contribute to the sense of cyclical anticipated failure present with rape cases.

The increase in reports of rape to the police and austerity measures in recent years also impact on attrition as rape units are subject to high workloads, meaning they cannot treat each case with the same rigour. This results in unfairness as some victims have more of a chance of receiving justice over others for the same offence. So a case perceived (rightly or wrongly) as unlikely to proceed may be under-investigated. This links to a recommendation that Harris and Grace (1999) iterated more than twenty years ago, that police officers should not employ such judgments to decide which cases to focus efforts on and instead should treat cases equally as they do not actually know which cases may get convicted, and there are examples of weaker cases gaining convictions. However, this approach would result in a much higher number of cases being passed to the CPS meaning both agencies would require a lot more resources to process and build more cases. This in turn would also require more court time to accommodate a higher number of criminal trials and would have further resourcing and cost implications.

## 8.2 Methodological Reflections

This study has some limitations which are now considered. Firstly, the sample size is relatively small, twenty-nine retired or serving police officers. Furthermore, data collected from this sample is not generalisable to a wider population, as the sample is not representative of the wider population of police officers in England and Wales because it is not composed of the same demographics and identity make up of officers in police services in England and Wales. However, using a qualitative approach I was able to gain a disclosed, rich and deep insight into the way police officers conduct rape investigations and the problems they encounter when attempting to gain a prosecution. The sample contains participants who are, or were, based in various police service areas and some are based in rape units and some are not. This is a strength as not all police service areas have a rape unit and I was able to gain a sense of whether different responses were given depending on which service a participant was from. I did not witness any differences

depending on where a participant was based. The sample did not exclusively contain detective rank officers to reflect the reality that it is not exclusively detectives who contribute to investigatory work, lower ranking officers also partake in building cases.

To explore how police officers make decisions in rape cases, vignettes were designed to situate officers' opinions and accounts of practice within life-like scenarios to ground discussions in realistic circumstances. Discussions were not based on real reports of rape and how they were handled. This poses the risk that the accounts of practice and perceptions officers relayed to me may not be truthful, accurate, or present a socially desirable image of policing. However, the decision making process – and why certain actions are taken in rape cases – is not a phenomenon that is easily observed. Observing actual rape investigations happening in real time would cause numerous ethical issues such as ascertaining consent of the individuals who would be observed and collecting and disseminating information on live police cases would not be permitted for legal reasons. Qualitatively assessing how police officers make decisions and what they view as barriers to convictions is a useful insight to complement the largely quantitative literature base into the sources of attrition. Gaining officers' accounts of how they would handle rape cases using vignettes provides a reflection of the role officers play in shaping rape case outcomes; actual case outcomes have not been observed and it is a hypothetical reflection. Furthermore, my thesis presents numerous examples of comments participants made that are not considered socially desirable, such as victim blaming sentiments. It may be that the fictional nature of the vignettes supported such views in ways that observing real case investigations might not. However, covertly observing the questioning of real rape victims and or perpetrators in real time in a research context is unlikely to ever happen because of ethical and practical concerns.

## 8.3 Policy and Practice Recommendations

Through its original nature, this project identified key ways in which police officers' decision making contributed to and shapes the attrition problem. By furthering knowledge about the sources of case attrition, I am able to formulate ways in which the problem might be addressed through policy and practice changes.

I identified that there are still ongoing problems with patchy implementation of policies in some areas. Evaluation should be conducted to assess the extent to which policies are carried out as intended (in practice). There has been success in the process of cancelling (formerly no criming) offences with the policy being carried out as intended. This success should aim to be replicated in areas where there may be more of an implementation gap.

The culture of suspicion around rape offences has maintained its influence, and training should be provided to those who investigate rape offences to inform them of the lack of evidence available to suggest large numbers of rape offences are false and that, in fact, numerous studies demonstrate that false allegations are no more common for rape than other offences (see section 2.3.1). If this perception was not as prevalent among officers, they may not so readily deem a case to be a weak one when they suspect it may be a false claim.

As a range of extra-legal factors influence decision making and contribute to systemic bias against victims, there should be training and resources available to counteract this. Clarity and guidance in the form of written guides could be provided for officers investigating rape cases on the factors that are legitimate to influence their assessments of the strength of evidence in cases and factors that they should not take into account. Training alongside this on how to focus less on the victim's credibility and how such considerations may not be important to a jury's deliberations as officers assumed could be put in place. Essentially, more guidance is needed for the interpretation of the 'reasonable belief' of the defendant element of the law on rape which opens the door for many extra-legal influences. Similarly, as I argue that legal and extra-legal



factors in this context cannot be viewed separately and the distinction is blurred, clearer boundaries must be set about what factors can influence assessments of how strong evidence in any case is. For example, if a victim has made a previous complaint, this should not be taken into account as it is irrelevant. The use of vignettes, similar to those I used in my fieldwork, could be utilised as a training tool to aid in the training and development of officers. The use of hypothetical scenarios that cover issues around rape myths and gendered value judgments could assist in educating officers to be wary of applying such judgments in their work. Training should also make it clear to officers that the testimony of victims is a piece of evidence and therefore rape cases are not void of evidence.

A further suggestion to advance an evidence-based approach to rape cases is to provide training to officers in rape units about the attrition problem and the academic evidence explaining this. It was clear my participants were not aware of an attrition problem, they simply thought high levels of use discontinuances are a normal outcome. This may be aided by an acknowledgment that officers do, in fact, take an active role in shaping the progression of cases, rather than taking a role of an objective actor.

Adequate resources must be provided to correspond with the increase in reports of sexual offences witnessed in recent years. If more resources and officers were available to investigate and work on rape cases, then the informal prioritisation of cases that occurs would not be as much of a problem, and cases that initially are deemed weaker and not addressed with the same urgency would still be able to be given the same consideration and attention as a case deemed to be stronger. This would ensure cases are treated more fairly and help to counter elements of the systemic bias. Adequate resources must also be made available to ensure there are always specially trained officers on hand.

The detrimental effects the attrition problem has on officer's mindset and enthusiasm is a pressing concern that should be addressed. One solution to this could be to have specially trained officers who are qualified to investigate rape cases, but have a more varied caseload so they do not come to the same

outcome with the vast majority of cases they work on. This may result in them having the occupational, behavioural, and psychological reward of successes on some cases they investigate so they do not feel consistently disheartened. Alternatively, officers based in rape units could circulate between task-forces that focus on different offences for periods of time and then work in a rape unit for a fixed period. This could ensure that officers who approach a rape case are not depleted and start from a negative point of view. This issue raises further questions as to whether it is the best use of police time and resources to mandate officers to investigate cases that are certain not to progress past the police or CPS stage. However, the alternative would be turn away victims and not attempt to make any progress on their case and this would be a move backwards. The focus of this project is on police, however the police operate within a wider criminal justice system and are not the only body that shape rape case attrition; the issue of attrition has lead others to question the suitability as a whole of the criminal justice system in responding to rape offences.

## 8.4 Questioning the Suitability of an Adversarial Justice System

My findings outline a number of criticisms of police officers' decision making and the impact it can have for case outcomes. However, some of the decision making police officers make in rape cases can be because of the demands of an adversarial justice system. For example, when they take rape myths into account, this is mostly because of them anticipating that this is what a jury will take into consideration and make decisions accordingly. It could be a challenge for officers to apply a new model of decision making with different parameters when ultimately the case must be taken to a criminal trial. Brown (2011: 271) poses the question:

Is it reasonable to continue trying to alter or tighten procedures or changing the law to achieve higher reporting and conviction rates? There is an argument that an adversarial system with its presumption of innocence and beyond reasonable doubt test of evidence is too high a bar and too blunt an instrument to deal with the complexities of the range and circumstances in which sexual violence occurs and between whom in order to assign guilt in a court of law with its attendant checks and balances.

With regards to my own proposed policy changes, it is hard to suggest whether they would have a significant impact on decreasing the attrition problem if the current criminal justice system is an ineffective tool to begin with to deliver justice for victims. It is hard to see how the victim's credibility cannot be a central consideration when they have to give their testimony in a criminal trial.

McGlynn and Westmarland (2018) carried out the first piece of research in the UK to investigate what conceptions and definitions of justice victim/survivors of sexual violence hold. The study utilised workshops and individual qualitative interviews with twenty survivors. This study described justice for survivors to be of a kaleidoscopic nature in that justice is continuously shifting and constantly refracted through new circumstances and understandings and is part of a process rather than a linear journey. Kaleidoscopic justice includes consequences for offenders that go beyond a prison sentence. A sense of recognition for survivors' experiences was a theme with a sense of justice that goes further than being believed, but also acknowledging the harm caused. Voice and dignity were further key elements to what constitutes justice; survivors should be treated with dignity by the criminal justice system and beyond. A focus on prevention was also salient to prevent further victimisation. Connectedness is another key element; this is about rebuilding a victim's shattered sense of belonging to society, making sure support is provided, and society supporting survivors so they can feel part of society again. Lastly, aims of social justice were present so all women can feel safe and work towards a world free from sexual violence against women. This research suggests that justice for victims is best served when it is not confined to the process of the criminal justice system to achieve a sentence at trial. A radically different approach to dealing with rape offences might best serve victims, however it is highly unlikely that rape will be taken out of the conventional criminal justice system as there will not be the political will (Brown, 2011). I argue that improvements to the conventional response that should be achieved as a radical alternative to an adversarial style of justice may not be realised for many years.

## 8.5 Suggestions for Future Research

Further themes and issues that have come to fruition throughout this project warrant investigation. My findings highlight the issue that the rationale and basis of legally rational considerations police officers employ are based on a flawed logic and reasoning. Cases that time and resources are channelled into over others because they are perceived to be more convictable, may not actually be more likely to end in conviction. This leads to limited resources not being maximised and some victims missing out on justice. This issue should be investigated further to ascertain how accurately police can predict the outcomes of cases and whether there is a different way the convictability of cases can be measured.

The widespread belief that rape cases lack evidence, and thus are unlikely to garner a conviction, is based on perceived truth, however recent research has questioned how true this is and whether that necessarily precludes rape cases getting to trial (Saunders, 2018). I raise concerns that the dictum that cases are word on word can lead to a self-fulfilling prophecy and an assumption that cases are weak from the beginning foster a negative mindset in officers. Research is needed to interrogate this concept further to find out the true nature of the evidence in rape cases and how far this dictum is founded in reality and whether word on word actually does lead to fewer convictions.

As recent research has outlined, the justice that victims want is not confined to what can be delivered by the criminal justice system alone (McGlynn and Westmarland, 2018). Furthermore, as numerous reforms have been made in recent years and conviction rates have not improved, perhaps the current criminal justice system is not best placed to deliver justice (to victims). Further research should be directed at other modalities through which justice can be delivered for victims. Some radically different approaches have been advocated. Restorative justice is a hotly contested option with some arguing for its benefits for victims (Daly and Stubbs, 2006) and others arguing it is a soft option that decriminalises rape (Brown, 2011). Further, is the idea that victims be paid compensation by the criminal justice system for the harm they have suffered. Alternatively, bringing in jury-less trials, or victims having their

own representation in a trial, have been posited (Raitt, 2013). What is clear is that victims are not receiving justice in the current format with which we respond to rape in England and Wales. A radically different approach, or taking rape out of the criminal justice system completely in order to configure a completely new response, should be explored further to formulate new ways to deliver justice, prevent further victimisation, punish perpetrators, and promote more equitable gender relations and respect for sexual autonomy, choice, and empowerment for all.



# References

---

Ackerley, B., and True, J. (2010) *'Doing Feminist Research in Political and Social Science'* Palgrave MacMillan: Hampshire.

Adler, Z. (1987) *Rape on Trial*. London: Routledge & Kegan Paul.

Alderden, M. A., and Ullman, S. E. (2012a) 'Gender difference or indifference? Detective decision making in sexual assault cases', *Journal of Interpersonal Violence*, 27, pp. 3-22.

Alderden, M. A., and Ullman, S. E. (2012b) 'Creating a More Complete and Current Picture: Examining Police and Prosecutor Decision-Making When Processing Sexual Assault Cases', *Violence Against Women*, 18(5), pp.525-551.

Alexander, S. C., and Becker, H. J. (1978) 'The Use of Vignettes in Survey Research', *The Public Opinion Quarterly*, 42(1), pp. 93-104.

Alicke, M., and Yurak, T. (2004) 'Perpetrator Personality and Judgments of Acquaintance Rape', *Journal of Applied Social Psychology*, 34(10), pp. 2149-2165.

Alys, L., Massey, K., and Tong, S. (2013) 'Investigative decision making: Missing people and sexual offences, crossroads to an uncertain future', *Journal of Investigative Psychology and Offender Profiling*, 10, pp.140-154.

Anderson, I., Beattie, G., and Spencer, C. (2001) 'Can Blaming Victims of Rape be Logical? Attribution Theory and Discourse Analytic Perspectives', *Human Relations*, 54(4), pp. 445-467.

Angiolini, D. E. (2015) '*Report of the independent review into the investigation and prosecution of rape in London*'. Available at: [https://www.cps.gov.uk/Publications/equality/vaw/dame\\_elish\\_angiolini\\_rape\\_review\\_2015.pdf](https://www.cps.gov.uk/Publications/equality/vaw/dame_elish_angiolini_rape_review_2015.pdf) (Accessed: 13.4.18).

Areh, I., Mesko, G., and Umek, P. (2009) 'Attributions of personal characteristics to victims of rape – Police officers' perspectives', *Studia Psychologica*, 51, pp. 85-100.

Ask, K., and Landstrom, S. (2010) 'Why emotions matter: Expectancy violation and affective response mediate the emotional victim effect', *Law and Human Behaviour*, 34, pp. 392-401.

Bacon, M. (2014) 'Police culture and the new policing context', in Brown, J. (ed.) *The Future of Policing*, London: Routledge. pp. 103-119.

Bacon, M. (2016) *Taking Care of Business: Police Detectives, Drug Law Enforcement and Proactive Investigation*. Oxford: Oxford University Press.

Baker, M. (1985) *Cops: Their Lives in Their Own Words*. New York: Fawcett.

Barrett, E., and Hamilton-Giachritsis, C. (2013) 'The Victim as a Means to an End: Detective Decision Making in a Simulated Investigation of Attempted Rape', *Journal of Investigative Psychology and Offender Profiling*, 10(2), pp.200-218.

Banton, M. (1964) *The Policeman in the Community*. London: Tavistock Publications.



Batchelder, J. S., Koski, D. D., and Byxbe, F. R. (2004) 'Women's hostility toward women in rape trials: Testing the intra-female gender hostility thesis', *American Journal of Criminal Justice*, 28(2), pp.181-200.

BBC News (2019) 'Anger at rape victims being asked to hand phones to police', Available from: <https://www.bbc.co.uk/news/uk-48096239> (Accessed: 8.7.19).

Blumer, H. (1969) *Symbolic Interactionism: Perspective and Method*. Englewood Cliffs, NJ: Prentice Hall.

Bohner, G., Eyssel, F., Pina, A., Siebler, F., and Tendayi Viki, G. (2009) 'Rape myth acceptance: cognitive, affective and behavioural effects of beliefs that blame the victim and exonerate the perpetrator', In Horvath, M., and Brown, J. (2009) *Rape: Challenging Contemporary Thinking*. Willan: Collumpton. pp.17-45.

Bollingmo, G. C., Wessel, E. O., Eilertsen, D. E., and Magnussen, S. (2008) 'Credibility of the emotional witness: A study of ratings by police investigators', *Psychology, Crime and Law*, 14, pp.29-40.

Bouffard, L., and Bouffard, J. (2011) 'Understanding Men's Perceptions of Risks and Rewards in a Date Rape Scenario', *International Journal of Offender Therapy and Comparative Criminology*, 55(4), pp.626-645.

Bows, H. and Westmarland, N. (2017) 'Rape of Older People in the United Kingdom: Challenging the 'Real-Rape' Stereotype', *British Journal of Criminology*, 57, pp. 1-17.

Braun, V., and Clarke, V. (2006) 'Using Thematic Analysis in Psychology', *Qualitative Research in Psychology*, 3(2): pp. 77-101.

Broderick, J. (1973) *Policing in a Time of Change*, Morristown, NJ: General Learning.

Brogden, M. (2013) *Policing in an age of austerity: a postcolonial perspective*. London: Routledge.

Brown, J. (1996) 'Police Research: Some Critical Issues'. In Leishman, F., Loveday, B., and Savage, S. (eds). *Core Issues in Policing*. Harlow: Longman, pp.177-190.

Brown, J., and King, J. (1998) 'Gender differences in police officers attitudes towards rape; Results of an exploratory study', *Psychology, Crime & Law*, 4(4), pp.265-279.

Brown, J., Hamilton, C., and O'Neill, D. (2007) 'Characteristics associated with rape attrition and the role played by scepticism or legal rationality by investigators and prosecutors', *Psychology, Crime and Law*, 13(4), pp.355-370.

Brown, J. (2007) 'From Cult of Masculinity to Smart Macho: Gender Perspectives on Police Occupational Culture', In O'Neill, M., Marks, M. and A.M. Singh, A.M. (eds) *Police Occupational Culture: New Debates and Directions*. Sociology of Crime, Law and Deviance, vol. 8, Oxford: Elsevier. pp. 205-26.

Brown, J., Horvath, M. A. H., Kelly, L., and Westmarland, N. (2010) '*Connections and disconnections: Assessing evidence, knowledge and practice in responses to rape. London: Government Equalities*'. Available from: <http://library.college.police.uk/docs/equalities/connections-and-disconnections.pdf>. (Accessed: 3.10.18).

Brown, J. (2011) 'We mind and we care but have things changed? Assessment of progress in the reporting, investigating and prosecution of allegations of rape', *Journal of Sexual Aggression*, 17(3), pp.263-272.

Brownmiller, S. (1975) *Against Our will*. London: Penguin.

Burt, M. R. (1980) 'Cultural Myths and Supports for Rape', *Journal of Personality and Social Psychology*, 38, pp.217-230.

Bryant, M., and Loader, P. (2008) *ACPO rape support programme: An assessment of the viability of the dedicated team approach to rape investigation*. Bromsgrove, Worcestershire: Process Evolution.

Bryman, A. (2016) '*Social Research Methods*' (5th eds.), Oxford University Press: Oxford.

Cain, M. (1973) *Society and the Policeman's Role*. London: Routledge.

Cain, M. (1990) 'Realist Philosophy and Standpoint Epistemologies or Feminist Criminology as a Successor Science,' In Gelsthorpe, L. and Morris, A. (eds) *Feminist Perspectives in Criminology*, Milton Keynes: Open University Press. pp. 124-140.

Campbell, R. (1995) 'The role of work experience and individual beliefs in police officers' perceptions of date rape: An integration of quantitative and qualitative methods', *American Journal of Community Psychology*, 23(2), pp.249-277.

Campbell, E. (2003) 'Interviewing men in uniform: a feminist approach?' *International Journal of Social Research Methodology*, 6(4), pp. 285-304.

Campbell, B. A., Menaker, T. A., and King, W. R. (2015) 'The determination of victim credibility by adult and juvenile sexual assault investigators', *Journal of Criminal Justice*, 43, pp. 29-39.

Chan, J. (1996) 'Changing Police Culture', *British Journal of Criminology*, 36(1), pp.109-34.

Chesler, P. (2001) *Women's inhumanity to woman*. New York, NY: Thunder's Mouth Press.

Collier, P. M. (2006) 'In Search of Purpose and Priorities: Police Performance Indicators in England and Wales', *Public Money and Management*, 26(3), Pp. 165-172.

Conaghan, J., and Russell, Y. (2014) 'Rape Myths, Law, and Feminist Research: 'Myths About Myths?', *Feminist Legal Studies*, 22(1), pp.25-48.

Connell, R. W. (1995) *Masculinities*. Cambridge: Polity Press.

Contempt of Court Act 1981

Cook, K. (2011) 'Rape investigation and prosecution: Stuck in the mud?' *Journal of Sexual Aggression*, 17(3), pp. 250-262.

Crank, J. P. (1998) *Understanding Police Culture*. Cincinnati, OH: Anderson.

Crown Prosecution Service (CPS) (2004) *The code for crown prosecutors*. London: CPS

Crown Prosecution Service (2009) '*CPS Policy for Prosecuting Cases of Rape*'. Available from: <https://www.cps.gov.uk/publication/cps-policy-prosecuting-cases-rape> (Accessed: 3.10.18).

Daly, K., and Stubbs, J. (2006) Feminist engagement with restorative justice, *Theoretical Criminology*, 10, pp.9-28.

Daly, K., and Bouhours, B. (2010) 'Rape and Attrition in the Legal Process: A Comparative Analysis of Five Countries', *Crime And Justice: A Review Of Research*, 39, pp.565-650.

Davies, M., Smith, R., and Rogers, P. (2009) 'Police perceptions of rape as a function of victim gender and sexuality' *Police Journal*, 82, pp. 4-12.

Dearden, L. (2015) 'Police launch sexual consent campaign comparing rape to forcing people to drink cups of tea', *The Independent*, Available from: <https://www.independent.co.uk/news/uk/crime/police-launch-sexual-consent-campaign-comparing-rape-to-forcing-people-to-drink-cups-of-tea-a6711711.html> (Accessed: 13.4.18).

Dellinger Page, A. (2010) 'True Colors: Police Officers and Rape Myth Acceptance', *Feminist Criminology*, 5(4), pp.315-334.

Dellinger Page, A. (2008) 'Judging Women and Defining Crime: Police Officer's Attitudes Toward Women and Rape', *Sociological Spectrum*, 28(4), pp.389-411.

Dinos, S., Burrowes, N., Hamond, K., and Cunliffe, C. (2015) 'A systematic review of juries' assessment of rape victims: Do rape myths impact on juror decision-making?' *International Journal of Law, Crime and Justice*, 43(1), pp. 36-49.

Doody, O., and Noonan, M. (2013) 'Preparing and conducting interviews to collect data', *Nurse Researcher*, 20(5), pp.28-32.

Egan, R., and Wilson, J. C. (2012). 'Rape Victims' Attitudes to Rape Myth Acceptance', *Psychiatry, Psychology and Law*, 19(3), pp.345-357.

Ellison, L. (2005) 'Closing the credibility gap: The prosecutorial use of expert witness testimony in sexual assault cases', *International Journal of Evidence and Proof*, 9, pp.239-268.

Ellison, L., and Munro, V. E. (2010a) 'Getting to (not) guilty: Examining jurors' deliberative processes in, and beyond, the context of a mock rape trial', *Legal Studies*, 30(1), pp. 74-97.

Ellison, L., and Munro, V. E. (2010b) 'A Stranger in the Bushes, or an Elephant in the Room? Critical Reflections upon Received Rape Myth Wisdom in the

Context of a Mock Jury Study', *New Criminal Law Review: An International and Interdisciplinary Journal*, 13 (4), pp. 781-801.

Emerson, R., and Paley, B. (1992) 'Organisational Horizons in Complaint-Filing' In Hawkins, K. (ed.) *The Uses of Discretion*. Oxford University Press. Pp. 231-47.

Eterno, J. A. (2003) *Policing within the law: A case study of the New York police*. Westport CA Praeger.

Farrell, A. L., Monk-Turner, E., Danner, M., and Scallon, C. (2017) 'There's No Crying in Police Work': Exploring Police Shootings with Feminist Methods', *Gender Issues*, pp. 1-16.

Feist, A., Ashe, J., Lawrence, J., McPhee, D. and Wilson, R. (2007) '*Investigating and detecting recorded offences of rape*', Home Office Online Report 18/07. London: Home Office.

Fielding, N. (1994) 'Cop canteen culture', in T. Newburn and E. Stanko (eds), *Just Boys Doing Business: Men, Masculinities and Crime*, London: Routledge. pp. 46-62.

Finch, J. (1987) 'The Vignette Technique in Survey Research', *Sociology*, 21, pp.105-114.

Flood, M. (2008) 'Men, sex, and homosociality – How bonds between men shape their sexual relations with women', *Men and Masculinities*, 10(3), pp.339-359.

Frazier, P. A., and Haney, B. (1996) 'Sexual assault cases in the legal system: Police, prosecutor, and victim perspectives', *Law and Human Behaviour*, 20, pp. 607-628.

Frazier, P., and Borgida, E. (1992) 'Rape trauma syndrome: A review of case law and psychological research', *Law and Human Behaviour*, 16(3), pp.293-311.

Gadd, D. (2004) 'Making sense of interviewee–interviewer dynamics in narratives about violence in intimate relationships', *International Journal of Social Research Methodology*, 7(5), p.383-401.

Gelsthorpe, L. (1992) 'Response to Martyn Hammersley's Paper 'on Feminist Methodology'', *Sociology*, 26(2), pp. 213-218.

Gelsthorpe, L. (2004) 'Back to basics in crime control: weaving in women', *Critical Review of International Social and Political Philosophy*, 7(2), pp.76-103.

Gerber, G., Cronin, J., and Steigman, H. J. (2004) 'Attributions of Blame in Sexual Assault to Perpetrators and Victims of Both Genders', *Journal of Applied Social Psychology*, 34(10), pp.2149-2165.

Gerger, H., Kley, H., Bohner, G., and Siebler, F. (2007) 'The Acceptance of Modern Myths About Sexual Aggression Scale: Development and Validation in German and English', *Psychology of Women Quarterly*, 36(3), pp.365-376.

Glaser, B., and Strauss, A. (1999) *Discovery of Grounded Theory: Strategies for Qualitative Research*. Routledge: New York.

Goodman-Delahunty, J., and Graham, K. (2011) 'The influence of victim intoxication and victim attire on police response to sexual assault', *Journal of Investigative Psychology and Offender Profiling*, 8, pp. 22-40.

Grace, S., Lloyd, C., and Smith, L. (1992) *Rape: From Recording to Conviction*, Research and Planning Unit. Paper 71. London: Home Office.

Gregory, J., and Lees, S. (1996) 'Attrition in Rape and Sexual Assault cases', *British Journal of Criminology*, 36(1), pp. 1-17.

Gubrium, J., and Holstein, J. (2008) (eds.) *Handbook of Constructionist Research*, New York: The Guilford Press.

Gurnham, A. (2016) 'Debating Rape: To Whom does the Uncanny 'Myth' Metaphor Belong?' *Journal of Law and Society*, 42(1), pp.123-43.

Hallenberg, K., O'Neill, M., and Tong, S. (2016) 'Watching the detectives: researching investigative practice', In Brunger, M., Tong, S. and Martin, D. (eds) *Introduction to Policing Research: Taking Lessons from Practice*, Oxon: Routledge. pp. 101-118.

Hammersley, M. (1990) *Reading Ethnographic Research: A Critical Guide*. London: Longman.

Harding, S., and Norberg, K. (2005) 'New feminist approaches to social science methodologies: An introduction', *Signs*, 30(4), pp.2009-2015.

Harris and Grace (1999) 'A Question of Evidence? Investigating and Prosecuting Rape in the 1990s', Home Office Research Study 196, London: Home Office.

Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (2017) '*Crime-recording process*', Available from: <https://www.justiceinspectorates.gov.uk/hmicfrs/our-work/article/crime-data-integrity/crime-recording-process/> (Accessed: 17.10.18).

Her Majesty's Inspectorate of Constabulary/Her Majesty's Crown Prosecution Service Inspectorate (2012) *Forging the links: Rape investigation and prosecution. A joint review by HMIC and HMCPSI*. London: HMIC & HMCPSI.

Her Majesty's Inspectorate of Constabulary/Her Majesty's Crown Prosecution Service Inspectorate (2007) *Without Consent*. London: HMIC & HMCPSI.

Her Majesty's Inspectorate of Constabulary/Her Majesty's Crown Prosecution Service Inspectorate (2002) *A Report on the Joint Inspection into the Investigation and Prosecution of Cases involving Allegations of Rape*. London: HMIC & HMCPSI.



Hester, M. (2013) 'Who does what to whom? Gender and domestic violence perpetrators in English police records', *European Journal of Criminology*, 10(5), pp. 623-637.

Hester, M., and Lilley, J. (2017) 'Rape investigation and attrition in acquaintance, domestic violence and historical rape cases', *Journal of Investigative Psychology and Offender Profiling*, 14(2), pp.175-188.

Hine, B., and Murphy, A. (2017) 'The impact of victim-perpetrator relationship, reputation and initial point of resistance on officers' responsibility and authenticity ratings towards hypothetical rape cases', *Journal of Criminal Justice*, 49, pp.1-13.

Hinsliff, G. (2018) John Worboys is to stay in prison. But why was release ever recommended? *The Guardian*. Available from: <https://www.theguardian.com/commentisfree/2018/nov/20/john-worboys-prison-release-outcry-high-court-rapist> (Accessed: 8.7.19).

Hockett, J. M., Saucier, D. A., Hoffman, B. H. Smith, S. J., and Craig, A. W. (2009) 'Oppression Through Acceptance? Predicting Rape Myth Acceptance and Attitudes Toward Rape Victims', *Violence Against Women*, 15(8), pp.877-897.

Hohl, K., and Stanko, B. (2015) 'Complaints of Rape and the Criminal Justice System', *European Journal of Criminology*, 12(3), pp.324-341.

Holstein, J., and Gubrium, J. (1997) *The New Language of Qualitative Method*. New York: Oxford University Press.

Home Office (2019) Home Office Counting Rules For Recorded Crime With effect from April 2019: Crime Recording General Rules. Available from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/822471/count-general-jul-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822471/count-general-jul-2019.pdf) (Accessed: 28.8.19).

Home Office and Ministry of Justice (2013) '*An Overview of Sexual Offending in England and Wales. Sexual offending overview tables*'. Available from: <https://www.gov.uk/government/publications/an-overview-of-sexual-offending-in-england-and-wales>. (Accessed: 26/9/16).

Home Office (2018) Crime outcomes in England and Wales: year ending March 2018, Statistical Bulletin HOSB 10/18, Available from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/729127/crime-outcomes-hosb1018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729127/crime-outcomes-hosb1018.pdf) (Accessed: 26.5.19).

Horn, R. (1997) 'Not 'one of the boys': Women researching the police', *Journal of Gender Studies*, 6 (3), pp.297-308.

Horvath, M., Tong, S., and Williams, E. (2011) 'Critical issues in rape investigation: An overview of reform in England and Wales', *The Journal of Criminal Justice Research*, 1, pp. 1-18.

Horvath, M., and Yexley, M. (2012) 'Developments in investigative approaches to rape: the investigative heritage'. In Brown, J. and Walklate, S. *Handbook on Sexual Violence* (eds.) Routledge: Oxon, pp. 114-136.

Jordan, J. (2001) 'Worlds apart? Women, rape, and the police reporting process', *British journal of criminology*, 41(4), Pp. 679–706.

Jordan, J. (2004a) 'Beyond belief? Police, rape and women's credibility', *Criminal Justice*, 4, pp.29-59.

Jordan, J. (2004b) *The word of a woman? Police, rape and belief*, London: Palgrave.

Jordan, J. (2011) 'Here we go round the review-go-round: Rape investigation and prosecution—are things getting worse not better?' *Journal of Sexual Aggression*, 17(3), pp.234-249.

Kelley, K. D., and Campbell, R. (2013) 'Moving On or Dropping Out: Police Processing of Adult Sexual Assault Cases', *Women & Criminal Justice*, 23(1), pp.1-18.

Kelly, L. (1988) *Surviving Sexual Violence*, Cambridge: Polity Press.

Kelly, L. (2002) 'Routes to (In)justice: A Research Review on the Reporting, Investigation and Prosecution of Rape Cases', London: Her Majesty's Crown Prosecution Service Inspectorate.

Kelly, L., Lovett, J., and Regan, L. (2005). A gap or chasm? Attrition in reported rape cases (Home Office Research Study 293). London: Home Office Research, Development and Statistics Directorate.

Kelly, L. (2010) 'The (In)credible Words of Women: False Allegations in European Rape Research', *Violence Against Women*, 16(12), pp.1345–1355.

Keogh, A. (2007) 'Rape trauma syndrome – Time to open the floodgates?' *Journal of Forensic and Legal Medicine*, 14(4), pp. 221-224.

Kennedy, K. (2012) 'The relationship of victim injury to the progression of sexual crimes through the criminal justice system', *Journal of Forensic and Legal Medicine*, 19(6), pp. 309-311.

Kimmel, M. S. (1994) 'Masculinity as Homophobia: Fear, Shame, and Silence in the Construction of Gender Identity' in Brod, H. And Kaufman, M. (Eds.), *Theorizing Masculinities*, Thousand Oaks and London: Sage, pp.119-141.

King, L. L., and Roberts, J. J. (2011) 'Traditional Gender Role and Rape Myth Acceptance: From the Countryside to the Big City', *Women and Criminal Justice*, 21(1), pp.1-20.

Krahe, B. (1991) 'Police Officers Definitions of Rape: A Prototype Study', *Journal of Community and Applied Social Psychology*, 1, pp.22-244.

LaFree, G. (1981) 'Official reactions to social problems: Police decisions in sexual assault cases', *Social Problems*, 28, pp.582-594.

Lavoie, F. M., and Hardy, J. (1989) 'Police attitudes in assigning responsibility for wife abuse', *Journal of Family Violence*, 4(4), pp.369-388.

Layder, D. (1998) '*Sociological Practice: linking theory and social research*', London: SAGE.

Lea, S. J., Lanvers, U., and Shaw, S. (2003) 'Attrition in Rape Cases. Developing a Profile and Identifying Relevant Factors', *The British Journal of Criminology*, 43(3), pp.583-599.

Lea, S., Callaghan, L., Grafton, I., Falcone, A., and Shaw, S. (2016) 'Attrition and Rape Case Characteristics: A Profile and Comparison of Female Sex Workers and Non-Sex Workers', *Journal of Interpersonal Violence*, 31(12), pp. 2175-2195.

Lees, S., and Gregory, J. (1999) *Policing Sexual Assault*. London: Routledge.

Lees, S. (2002) *Carnal Knowledge. Rape on Trial*, (2nd edn.) London: Women's Press.

Lerner, M. J. (1980) *The Belief in a Just World: A Fundamental Delusion*. New York: Plenum.

Lievore, D. (2004) Victim credibility in adult sexual assault cases. In T. Makkai (Ed.), *Trends & issues in crime and criminal justice series*. Canberra: Australian Institute of Criminology. pp. 1-6.

Lievore, D. (2005) '*Prosecutorial decisions in adult sexual assault cases: An Australian study*', Trends and Issues in Crime and Criminal Justice No. 291, Australian Institute of Criminology. Canberra, Australia: Office of the Status of Women.

Lisak, D., Gardiner, L., Nicksa, S. C., and Cote, A. (2010) False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases, *Violence Against Women*, 16(12), Pp. 1318–1334.

Loftus, B. (2009) *Police Culture in a Changing World*. Oxford, Oxford University Press.

Lonsway, K. A., and Fitzgerald, L. F. (1994) 'Rape myths in review', *Psychology of Women Quarterly*, 18(2), pp. 133-164.

Lovett, J., and Kelly, L. (2009) '*Different Systems, Similar Outcomes? Tracking Attrition in Reported Rape Cases across Europe. Final Research Report*', London: Child and Women Abuse Studies Unit London Metropolitan University.

Loya, R. (2015) Rape as an Economic Crime, *Journal of Interpersonal Violence*, 30(16), pp.2793-2813.

MacPherson, W. (1999) '*The Stephen Lawrence Inquiry*', Stationery office. Available from:[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/277111/4262.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf). (Accessed: 15.10.18).

Maddox, L., Lee, D., and Barker, C. (2011) 'The Impact of Psychological Consequences of Rape on Rape Case Attrition: The Police Perspective', *Journal of Police and Criminal Psychology*, 27(1), pp.33-44.

Maguire, M., and Norris, C. (1992) '*The Conduct and Supervision of Criminal Investigations: The Royal Commission on Criminal Justice (Research Report No. 5)*', London: HMSO.

Manning, P. K. (1977) *Police Work: The Social Organisation of Policing*. Illinois: Waveland Press Inc.

Manning, P. K. (2015) 'A Dialectic of Organisation and Occupational Culture', In *Police Occupational Culture*, pp.47-83. Available form: [http://dx.doi.org/10.1016/S1521-6136\(07\)08002-5](http://dx.doi.org/10.1016/S1521-6136(07)08002-5) (accessed: 13/9/16).

Marisol, L., Enrique, G., and Fernando, G. (2013) 'Ambivalent sexism, empathy and law enforcement attitudes towards partner violence against women among male police officers', *Psychology, Crime and Law*, 19(10), pp.907-919.

Martin, P. Y. (2005) *Rape work: Victims, gender, and emotions in organisational and community context*. New York, NY: Routledge.

Mason, J. (2002) *Qualitative Researching* (2nd eds.) London: Sage.

Mawby, R., and Wright, A. (2008) 'The Police Organisation'. In T. Newburn. (eds). *The Handbook of Policing* (2nd ed). Cullompton: Willan Publishing, pp.224-252.

Maxfield, M., and Babbie, E. (2005) *Research methods for criminal justice and criminology*. Published Belmont, CA: Wadsworth Thomson Learning.

McConville, M., Sanders, A., and Leng, R. (1991) *The Case for the Prosecution: Police Suspects and the Construction of Criminality*. London: Routledge.

McMillan, L., and Thomas, M. (2009). Police interviews of rape victims: Tensions and contradictions. In M. Horvath & J. Brown (Eds.), *Rape: Challenging contemporary thinking*. Cullompton: Willan Publishing. pp. 255-280.

McMillan, L. (2015) 'The role of the specially trained officer in rape and sexual offence cases', *Policing and Society*, 25, pp.622-640.

McMillan, L. (2016) 'Police officers' perceptions of false allegations of rape', *Journal of Gender Studies*, Pp. 1-13.

McGlynn, C., and Westmarland, N. (2018) 'Kaleidoscopic Justice: Sexual Violence and Victim-Survivors' Perceptions of Justice', *Social and Legal Studies*.

McLean, R., and Goodman-Delahunty, J. (2008) 'The influence of relationship and physical evidence on police decision-making in sexual assault cases', *Australian Journal of Forensic Sciences*, 40(2), pp. 109-121.

Messerschmidt, J. (2004) *Flesh & blood: Adolescent gender diversity and violence*, Lanham, MD: Rowman & Littlefield.

Möller, A., Söndergaard, H. P., and Helström, L. (2017) 'Tonic immobility during sexual assault – a common reaction predicting post-traumatic stress disorder and severe depression', *Acta Obstet Gynecol Scand*, 96, pp.932–938.

Morabito, M. S., Pattavina, A., and Williams, L. M. (2016) 'It all just piles up: Challenges to victim credibility accumulate to influence sexual assault case processing', *Journal of Interpersonal Violence*, 14(1), pp.1-20.

Muir, K. W. (1977) *Police: Streetcorner politicians*. Chicago: IL Chicago University Press.

Munro, V., and Kelly, L. (2009) 'A vicious cycle? Attrition and conviction patterns in contemporary rape cases in England and Wales' In Horvath, M. and Brown, J. (eds) *Rape: Challenging Contemporary Thinking*. Cullompton: Willan Publishing, pp.99–123.

Murphy, S., Banyard, V., and Fennessey, E. (2013) 'Exploring Stakeholders' Perceptions of Adult Female Sexual Assault Case Attrition', *Psychology of Violence*, 3(2), pp.172-184.

Myhill, A., and Allen, J. (2002) '*Rape and sexual assault of women: findings from the British Crime Survey*', Home Office research findings 159, London: Home Office.

Myhill, A., Quinton, P., Bradford, B., Poole, A., and Sims, G. (2011) 'It Depends What You Mean by 'Confident': Operationalising Measures of Public Confidence and the Role of Performance Indicators', *Policing: A Journal of Policy and Practice*, 5(2), pp.114-124.

Office for National Statistics (2015) 'About the Crime Survey for England and Wales', Available from: <http://www.crimesurvey.co.uk/en/AboutTheSurvey.html> (Accessed: 18/02/19).

Office for National Statistics (2018a) 'Statistical bulletin: Crime in England and Wales: year ending September 2017', Available from: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingseptember2017> (Accessed: 27.2.18).

Office for National Statistics (2018b) 'Sexual offences in England and Wales: year ending March 2017', Available from: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017> (Accessed: 8.10.18).

Office for National Statistics (2018c) 'Sexual Offending: victimisation and the path through the criminal justice system', Available from: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffendingvictimisationandthepaththroughthecriminaljusticesystem/2018-12-13#convictions> (Accessed: 14.08.19).

Office for National Statistics (2019) 'Crime in England and Wales- Appendix Tables'. Available from: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesappendixtables> (Accessed: 18.7.19).

O'Neal, E. N. (2017) 'Victim is Not Credible: The Influence of Rape Culture on Police Perceptions of Sexual Assault Complainants', *Justice Quarterly*, pp. 1-34.



Page, A. D. (2007). Behind the blue line: Investigating police officers' attitudes toward rape, *Journal of Police and Criminal Psychology*, 22(1), pp.22-32.

Parratt, K., and Pina, A. (2017) 'From 'real rape' to real justice: A systematic review of police officers' rape myth beliefs', *Aggression and Violent Behavior*, 34, pp. 68-83.

Patton, M. Q. (1990) *Qualitative evaluation and research methods* (2nd ed.). Newbury Park, CA: Sage.

Patton, C. L., McNally, M., and Fremouw, J. (2015) 'Rape Trauma Syndrome (RTS)', *Wiley Encyclopaedia of Forensic Science*, pp.1-5.

Payne, D. L., Lonsway, K., and Fitzgerald, L. (1999) 'Rape myth acceptance: Exploration of Its Structure and Its Measurement Using the Illinois Rape Myth Acceptance Scale', *Journal of Research in Personality*, 33(1), pp. 27-68.

Phillips, S. W., and Varano, S. P. (2008) 'Police criminal charging decisions: An examination of post-arrest decision-making', *Journal of Criminal Justice*, 36(4), pp.307-315.

Phillips, S. W. (2009) 'Using a Vignette Research Design to Examine Traffic Stop Decision Making of Police Officers', *Criminal Justice Policy Review*, 20(4), pp. 495-506.

Phillips, S. W., and Sobol, J. J. (2010) 'Twenty Years of Mandatory Arrest Police Decision Making in the Face of Legal Requirements', *Criminal Justice Policy Review*, 21(1), pp.98-118.

Police and CPS (2015) '*Joint CPS and Police Action Plan on Rape*'. Available from: [https://www.cps.gov.uk/sites/default/files/documents/publications/rape\\_action\\_plan\\_april\\_2015.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/rape_action_plan_april_2015.pdf) (Accessed: 3.7.18).

Punch, M. (1983) 'Officers and Men: occupational cultures, interbank antagonism and the investigation of corruption', in Punch, M. (ed.) *Control in the Police Organisation*, Cambridge, MA: MIT Press.

Raitt, F. (2013) 'Independent Legal Representation in Rape Cases: Meeting the Justice Deficit in Adversarial Proceedings', *The Criminal Law Review*, 9, pp.729.

Rape Monitoring Group, Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (2019) Rape Monitoring Group Digest, Available from: <https://www.justiceinspectorates.gov.uk/hmicfrs/our-work/article/rape-monitoring-group-digests/#publications> (Accessed: 07/03/20).

Redden, M. (2017) 'Three women accuse Weinstein of rape as Paltrow and Jolie allege sexual harassment', *The Guardian*, Available from: <https://www.theguardian.com/film/2017/oct/10/harvey-weinstein-allegations-mount-as-three-women-accuse-him-of> (Accessed: 13.4.18).

Reece, H. (2013) 'Rape Myths: Is Elite Opinion Right and Popular Opinion Wrong?' *Oxford Journal of Legal Studies*, 33(3), pp. 445–473.

Reiner, R., and Newburn, T. (2008) 'Police Research' in King, R. D. and Wincup, E. *Doing Research on crime and justice* (2nd eds.) Oxford University Press: Oxford. pp.343-374.

Reiner, R. (2010) *The Politics of the Police*, Oxford: Oxford University Press.

Reuss-Ianni, R. (1983) *Street cops and management cops: The two cultures of policing*, New York: Transaction Publishers.

Rich, K., and Seffrin, P. (2014) 'Birds of a Feather or Fish Out of Water? Policewomen Taking Rape Reports', *Feminist Criminology*, 9(2), pp.137–159.

Robinson, A. L., Pinchevsky, G. M., and Guthrie, J. A. (2015) 'Under the radar: policing non-violent domestic abuse in the US and UK', *International Journal of Comparative and Applied Criminal Justice*, 21, pp.1-14.

Rubin, H., and Rubin, I. S. (2005) *Qualitative Interviewing: The Art of Hearing Data* (2nd edn.) California, Thousand Oaks: SAGE.

Rumney, P., and Taylor, M. (2002) 'The use of syndrome evidence in rape trials', *Criminal Law Forum*, 13(4), pp. 471-506.

Rumney, P., McPhee, D., Fenton, R., and Williams, A. (2019) 'A police specialist rape investigation unit: a comparative analysis of performance and victim care', *Policing and Society*, pp.1-21.

Saunders, C. L. (2012) 'The Truth, the Half-Truth, and Nothing Like the Truth: Reconceptualizing False Allegations of Rape', *The British Journal of Criminology*, 52(6), Pp. 1152–1171.

Saunders, C. (2018) 'Rape as 'one person's word against another's' Challenging the conventional wisdom', *The International Journal of Evidence & Proof*, 22(2), pp.161-181.

Schraer, R. (2019) 'Why are Rape Prosecutions Falling?' Available from: <https://www.bbc.co.uk/news/uk-48095118> (Accessed: 8.7.19).

Schuller, R. A., and Stewart, S. (2000) 'Police Responses to Sexual Assault Complaints: The Role of Perpetrator/Complainant Intoxication', *Law and Human Behaviour*, 24(5), pp. 535-551.

Schuller, R., and Wall, A. (2006) 'The Effects of defendant and Complainant Intoxication on Mock Jurors Judgments of Sexual Assault', *Psychology of Women Quarterly*, 22(4), pp.555-573.

Sexual Offences Act 2003

- Shearing, C. (1981) *Organisational Police Deviance*, Toronto: Butterworth.
- Silverman, D. (2013) *Doing Qualitative Research* (4th eds) Sage: Los Angeles.
- Silvestri, M., and Crowther-Dowey, C. (2016) *Gender and Crime: A human Rights Approach*, (2nd End.) London: Sage.
- Skeggs, B. (1994). Techniques for Telling the Reflexive Self, in May, T. (Ed.) *Qualitative Research in Action*. London. Sage. pp.349-375.
- Sklansky, D. (2007) 'Seeing blue: Police reform, occupational culture, and cognitive burn-in', In O'Neill, M. Marks, M., and Singh. A. (eds.) *Police Occupational Culture: New Debates and Directions*, Amsterdam, The Netherlands: Elsevier.
- Sleath, E., and Bull, R. (2012) 'Comparing rape victim and perpetrator blaming in a police officer sample', *Criminal Justice and Behaviour*, 39(5), pp. 646-665.
- Sleath, E., and Bull, R. (2015) 'A Brief Report on Rape Myth Acceptance: Differences Between Police Officers, Law Students, and Psychology Students in the United Kingdom', *Violence and Victims*, 30(1), pp.136-147.
- Sleath, E., and Bull, R. (2017) 'Police perceptions of rape victims and the impact on case decision making: A systematic review', *Aggression and Violent Behaviour*, 34, pp. 102-112.
- Smith, O., and Skinner, T. (2017) 'How rape myths are used and challenged in rape and sexual assault trials', *Social and Legal Studies*, 26(4), pp.441-466.
- Smith, M., Wilkes, N., and Bouffard, L. (2016) 'Rape Myth Adherence Among Campus Law Enforcement Officers', *Criminal Justice and Behaviour*, 43(4), pp.539-556.

Spohn, C., Beichner, D., and Davis-Frenzel, E. (2001) 'Prosecutorial justifications for sexual assault case rejection: Guarding the gateway to justice', *Social Problems*, 48, pp.206–235.

Spohn, C., and Holleran, D. (2001) 'Prosecuting sexual assault: a comparison of charging decisions in sexual assault cases involving strangers, acquaintances, and intimate partners', *Justice Quarterly*, 18 (3), pp. 651-688.

Spohn, C., and Tellis, K. (2012) '*Policing and Prosecuting Sexual Assault in Los Angeles City and County: A Collaborative Study in Partnership with the Los Angeles Police Department, the Los Angeles County Sheriff's Department, and the Los Angeles County District Attorney's Office*', Available from: <https://www.ncriminaljusticers.gov/pdffiles1/nij/grants/237582.pdf> (Accessed: 26/8/16).

Stanko, E. A. (1985) *Intimate Intrusions*. Unwin Hyman, London.

Stanko, E.A. (1990) *Everyday Violence*. London: Virago.

Stanley, L., and Wise S. (2002) (eds) '*Breaking out Again: Feminist Ontology and Epistemology*', Routledge: London and New York.

Steier F. (1991) Reflexivity and methodology: An ecological constructionism. In: Steier F. (ed.) *Research and Reflexivity*. Sage Publications: 163–185.

Stern, V. (2010) *Stern Review of Rape Reporting in England and Wales*. London: Home Office.

Stewart, M. W., Dobbin, S. A., and Gatowski, S. I. (1996) 'Real rapes and real victims: The shared reliance on common cultural definitions of rape', *Feminist Legal Studies*, 4, pp.159-177.

Stuart, S. M., McKimmie, B. M., and Masser, B. (2016) 'Rape Perpetrators on Trial: The Effect of Sexual Assault-Related Schemas on Attributions of Blame', *Journal of Interpersonal Violence*, pp.1-27.

Taylor, C. (2004) *Court Licensed Abuse*. New York: Peter Lang Publishing.

Temkin, J. (1999) 'Reporting rape in London: a qualitative study', *The Howard journal of criminal justice*, 38(1), Pp. 17-41.

Temkin, J., Gray, J. M., and Barrett, J. (2018) 'Different Functions of Rape Myth Use in Court: Findings from a Trial Observation Study', *Feminist Criminology*, 13(2), pp.205-226.

Thomas, K., Joshi, M., Wittenburg, E., and McCloskey, L. (2008) 'Intersections of Harm and Health: A Qualitative Study of Intimate Partner', *Violence Against Women*, 14(11), pp.1252-1273.

Tong, S., and Bowling, B. (2006) 'Art, Craft and Science of Detective Work', *The Police Journal*, 79(4), pp. 323-329.

Topping, A., and Barr, C. (2018) 'Revealed: less than a third of young men prosecuted for rape are convicted', *The Guardian*. Available from: <https://www.theguardian.com/society/2018/sep/23/revealed-less-than-a-third-of-young-men-prosecuted-for-are-convicted>. (Accessed: 9.10.18).

Tromp, S., Koss, M., Figueredo, A., and Tharan, M. (1995) 'Are rape memories different? A comparison of rape, other unpleasant and pleasant memories among employed women', *Journal of Traumatic Stress*, 8(4), pp. 607-627.

Turnbull, P. J., and Wass, V. (2015) 'Normalising extreme work in the Police Service? Austerity and the Inspecting ranks' *Organisation*, 22(4), Pp. 512-529.

Van Maanen, J. (2005) 'The asshole', in T. Newburn (ed.) *Policing: Key Readings*, Cullompton: Willan.

Venema, R. M. (2016) 'Police officer schema of sexual assault reports: Real rape, ambiguous cases, and false reports', *Journal of Interpersonal Violence*, 31(5), pp. 872-899.

Vonderhaar, R. L., and Carmody, C. D. (2014) 'There Are No 'Innocent Victims': The Influence of Just World Beliefs and Prior Victimization on Rape myth acceptance', *Journal of Interpersonal Violence*, 30(10), pp.1615–1632.

Vrij, A., and Firmin, H. R. (2001) 'Beautiful thus innocent' The impact of defendants and victims physical and attractiveness and participants rape beliefs on impression formation in alleged rape cases', *Review of Victimology*, 8, pp. 245-55.

Walsh, L. J. (1977) 'Career Styles and Police Behaviour', In D. H. Bayley (ed), *Police and Society*. Beverly Hills, CA: Sage.

Weiser, D. A. (2017) 'Confronting Myths about Sexual Assault: A Feminist Analysis of the False Report Literature', *Family Relations*, 66(1), pp. 46-60.

Wentz, E., and Archbold, C. A. (2012) 'Police perceptions of sexual assault victims: Exploring the intra-female gender hostility thesis', *Police Quarterly*, 15(1), pp. 25-44.

Westmarland, N., Aznarez, M., Brown, J. and Kirkham, L. (2012) '*The Benefits of Specialist Rape Teams: A report commissioned and funded by the Association of Chief Police officers (ACPO)*', Available from: <http://nicolewestmarland.pbworks.com/w/file/view/fetch63338851Westmarland%20et%20al%20specialist%20rape%20teams%20report%20for%20ACPO%20distribution.pdf> (Accessed: 4.6.18).

Wheatcroft, J. M., Wagstaff, G. F., and Moran, A. (2009) 'Revictimizing the Victim? How Rape Victims Experience the UK Legal System', *An International Journal of Evidence-based Research, Policy, and Practice*, 4(3), pp. 265-284.

Williams, E., and Stanko, B. (2016) 'Researching Sexual Violence' In Brunger, M., Tong, S., and Martin, D. (eds) *Introduction to policing research: Taking lessons from practice*, Routledge Oxon, pp. 121- 136.

Wilson, J. Q. (1968) *Varieties of Police Behaviour*. Oxford University Press: London.

Wykes, M., and Welsh, K. (2009) *Violence, Gender and Justice*. London: SAGE.

Yarmey, A. D. (1985) 'Older and Younger Adults' attributions of responsibility toward rape victims and rapists', *Canadian Journal of Behavioural Science*, 17, pp. 327-28.







# Appendices

---

## Appendix One: Poster Used to Recruit Participants



The University  
Of  
Sheffield.

# PARTICIPANTS NEEDED

My name is Olivia Sinclair and I am a Ph.D. student at the School of Law, University of Sheffield. I am looking for participants to take part in my research.

### Aims and Objectives of the Research

The problem my research focuses on is the low level of prosecutions achieved in rape cases. I seek to understand the way police officers make decisions when deliberating on a rape case. I hope to learn from the wealth of experience police officers or retired police officers have amassed throughout their career.

### Could you take part?

- Are you a retired or serving police officer?
- Do you have experience of working on rape cases?

If so, I would be interested in interviewing you about the way you would handle hypothetical rape cases. I would wish to speak to you for around an hour at a location most convenient for you. The research is confidential and anonymous. Please get in touch if you might be interested in taking part or have any questions and I will send you further information.

### Please get in touch

E-mail: [osinclair1@shef.ac.uk](mailto:osinclair1@shef.ac.uk) Tel: 07854239165

Thank you!

## Appendix Two: Participant Information Sheet



### **Participant Information Sheet**

#### The Attrition Problem: Exploring the Role of Police Officers' Decision Making in Rape Cases

You are being invited to take part in a research project. Before you decide it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it with others if you wish. Ask the researcher if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part. Thank you for reading this.

This research is being conducted for the purposes of the researcher gaining a PhD in Criminology at the University of Sheffield. The research seeks to explore contributing factors to the attrition problem in rape cases by understanding how police officers make decisions when investigating a rape case.

I have chosen retired or serving police officers to interview as they have unique insight and experience gained through their career.

It is up to you whether you want to take part. If you do decide to take part you will be given this information sheet to keep (and be asked to sign a consent form) and you can still withdraw at any time without it affecting any benefits that you are entitled to in any way. You do not have to give a reason.

The interview will consist of a face to face interview with the researcher for around one-two hours or as long as is convenient for you. If you incur any travel expenses they can be reimbursed. However, the researcher will travel to you if possible. The questions asked will enable you to give full and detailed answers in response. I expect a participant to be honest, open and happy to discuss the topic of the interview.

As the interview topic is about rape cases the interview may touch on sensitive or distressing topics. If the participant feels upset or uncomfortable at any point the interview can be terminated or move onto a new topic.

Whilst there are no immediate benefits to the participants for taking part I can share my findings and conclusions with the participants in a report format at a later stage if the participants would want that.

If at any point you have a complaint to make about the treatment you have received by the researcher you can raise those concerns with my supervisor who is overseeing the research project. Dr. Maggie Wykes. If you then feel your complaint has not been dealt with to your satisfaction you can complain to the head of the School of Law, University of Sheffield.

All of the information and interview data collected about you will be kept strictly confidential. You will not be identifiable in any reports or publications. With your permission the interview will be recorded with a Dictaphone. The interview data will be transcribed and analysed to form the results and conclusions of my project. Primarily, the results will inform my doctoral thesis and may be used for other academic publications. Participants will not be identifiable from any publications.

I am funding my own PhD research.

This project has been ethically approved via the School of Law, University of Sheffield ethics review committee. The University's Research Ethics Committee monitors the application and delivery of the University's Ethics Review Procedure across the University.

If you wish to contact myself or my supervisors for further information the details are below:

Olivia Sinclair

School of Law, University of Sheffield, Bartolomé House, Winter St, Sheffield S3 7ND  
PGR room Tel: 07854239165, osinclair1@shef.ac.uk

Dr. Maggie Wykes

School of Law, University of Sheffield, Bartolomé House, Winter St, Sheffield S3 7ND  
Rm EF01a Tel: 0114 2226823, m.wykes@shef.ac.uk

Dr. Gilly Sharpe

School of Law, Bartolomé House, Winter Street, Sheffield S3 7ND, Tel: +44 (0)114  
222 6079, g.h.sharpe@shef.ac.uk

Thank you very much for taking the time to participate in my research project, it is greatly appreciated.

## Appendix Three: Table Outlining Participant Details

<b>Participant</b>	<b>Police Rank</b>	<b>Retired or serving</b>	<b>Special training</b>	<b>Length of service</b>	<b>Police Force</b>
<b>Female officer one</b>	Detective constable	Retired 12 years ago	STO	15 years	5
<b>Female officer two</b>	Sergeant	Retired 2 years ago	STO	21 years	1
<b>Male officer three</b>	Police constable	Retired 4 years ago	RVLO	30 years	1
<b>Male officer four</b>	Detective superintendent	Retired 12 years ago	Head of child and public protection	30 years	1
<b>Female officer five</b>	Detective sergeant	Retired 12 years ago	SOIT	30 years	1
<b>Male officer six</b>	Detective inspector	Retired 11 years ago		30 years	2
<b>Female officer seven</b>	Sergeant	Retired 7 years ago	RVLO	30 years	1
<b>Male officer eight</b>	Detective inspector	Retired 7 years ago		30 years	1
<b>Female officer nine</b>	Detective superintendent	Retired 11 years ago		30 years	1
<b>Male officer ten</b>	Police constable	Retired 2 years ago	STO	30 years	1
<b>Male officer eleven</b>	Sergeant	Retired 3 years ago		30 years	2
<b>Male officer twelve</b>	Inspector	Serving	STO	13 years	2
<b>Male officer thirteen</b>	Inspector	Serving		14 years	2
<b>Male officer fourteen</b>	Sergeant	Retired 8 months ago	SOIT	30 years	2
<b>Male officer fifteen</b>	Detective sergeant	Serving	SOIT	14 years	2
<b>Male officer sixteen</b>	Detective inspector	Retired 7 years ago		30 years	1
<b>Female officer seventeen</b>	Detective constable	Serving	SOIT	7 years	2

<b>Participant</b>	<b>Police Rank</b>	<b>Retired or serving</b>	<b>Special training</b>	<b>Length of service</b>	<b>Police Force</b>
<b>Male officer eighteen</b>	Detective sergeant (Deputy senior investigating officer in charge of rape unit)	Serving	SOIT	15 years	2
<b>Female officer nineteen</b>	Detective constable	Retired 6 years ago	SOIT	30 years	1
<b>Male officer twenty</b>	Detective sergeant	Retired 10 years ago		24 years	1
<b>Male officer twenty-one</b>	Detective chief inspector (Senior Officer in Charge of rape unit).	Retired 5 years ago	SOIT	32 years	3
<b>Male officer twenty-two</b>	Detective inspector and crime registrar	Retired 2 years ago		32 years	2
<b>Female officer twenty-three</b>	Sergeant	Serving	SOIT	14 years	1
<b>Female officer twenty-four</b>	Police constable	Serving	SOIT	28 years	2
<b>Male officer twenty-five</b>	Detective constable	Retired 1 year ago	SOIT	14 years	2
<b>Male officer twenty-six</b>	Detective constable	Serving	SOIT	20 years	2
<b>Male officer twenty-seven</b>	Detective sergeant	Serving	SOIT	20 years	2
<b>Female officer twenty-eight</b>	Detective sergeant	Serving	SOIT	23 years	4
<b>Female officer twenty-nine</b>	Detective inspector	Serving	SOIT	20 years	4

## Appendix Four: Vignettes

Below are the hypothetical vignettes used in each interview. Each vignette was printed as an A5 size booklet with photographs on some pages. Below is a copy of the content of each booklet.

### Case One (front cover)

(Page one) The following statements refer to an incident that took place around 11:30pm on a Friday night involving a woman aged 21 and a man aged 45. Below are their accounts of what took place.

(Page two) Victim's account:

I had been on a night out clubbing in town with my friends and I was quite drunk. I ended up sitting down on the street on my way home as I was struggling to walk and felt ill.

I heard someone coming over to me and I tried to hold my hands up to them so they could help me up. I cannot remember clearly what happened then. When I woke up again a man was forcing his penis into my mouth. I was terrified and confused. I started to gag, the man pulled away from me and at that moment I was sick. The man then ran from where I was. I found my phone in my bag and rang 999 and told them I had been attacked. Shortly a police car arrived with two officers.

(Page three) *Photograph of a side street*

(Page four) Suspect's account:

I had gone out for a walk in my local area one evening and as I was passing a small side street I noticed a woman sat on the floor leant up against the wall. I went over to see if they were okay and needed any help. The woman lifted her arms and gestured towards me for help. I went over and crouched down in front of her, she appeared drunk. I then noticed she was wearing heels and a short dress, I assumed she must have been on a night out. I tried to talk to her and ask if she was okay. I realised how attractive she was and started to feel aroused. I kissed her and she did not say anything so I assumed she was okay with it...



(Page five) I felt turned on and initiated oral sex, she didn't say anything so I thought she wanted it. During the oral sex she started to gag at that point I stepped back. She was sick, I was no longer interested at that point. I also heard a group of people approaching where we were, I was concerned about how the situation might look so I swiftly left and went home.

*Photograph of city centre location*

(Page six) Throughout the course of the investigation forensic evidence was collected from the victim, a match was found on the system for the suspect who has a previous conviction for sexual assault. There is also a CCTV image of the suspect running down a main road that the side street comes off.

*End of booklet*

Case Two (Front cover)

(Page one) The following statements refer to an incident that occurred early Friday morning involving 2 first year university students. Below are their accounts of what took place.

(Page two) Victim's account:

In the words of the victim:

The night started with myself and a number of my friends and acquaintances I know from uni having a few drinks in someone's flat before a night out. I got talking to a friend I know from my course; I often see him on nights out as we mix in the same circles at uni, his name is John. At around 11pm we all got taxis to a local nightclub. We stayed there until it closed around 2pm. A group of us went back to Johns flat in halls to continue to party. After about an hour people started to go back to their own rooms or flat. I realised I did not have enough money for a taxi left and my flat was at least a twenty-minute walk away so I asked John if I could stay in his room. He said that was fine, I went down to his room and got into his bed. John comes in and gets undressed and

gets in bed next to me. I start falling asleep as I was so tired from drinking and clubbing. John starts kissing my neck, I shrug him off. He starts touching me all over so I moved his hands away, I started to get scared. John gets on top of me pulls off my underwear and starts to have sex with me. It was really painful; I was terrified I just froze. When he had finished he rolled over and fell asleep. When I knew he was asleep I got out of bed grabbed my clothes and bag and walked home. In the morning my flatmate came into see me, she could see I was upset. I told her what happened and she persuaded me to go to the police. She then rang them for me.

(Page three) *Photograph of a university halls of residence shared living area*

(Page four) *Photograph of a university halls of residence bedroom*

(Page five) Suspect's account:

In the words of the suspect:

A group of my friends had gone round to another friends flat for a few drinks before we went into a night club in town, how most of our nights start out. I took some vodka and cokes with me to drink whilst I was there. I got talking to a girl I know from my course, Sally. I'm sure she was flirting with me I was happy to flirt back as she is a really attractive girl. Around 11pm we got taxis into town to a night club I often go to. Whilst we were at the club Sally was dancing with me and I could tell she was definitely into me. When the night club was closing we decided to have an after party at my flat, most people I was out with were up for it and came back with me. Myself, Sally and a group of our friends from uni put some music on and sat around having a drink. Everyone was having a laugh and after about an hour people started to go back to their own flat or their bedroom. Sally asked me if she could stay in my room as she didn't have enough money for a taxi, I said that was fine.

(Page six) I thought she was hinting she wanted to sleep with me, I know she has slept with a few other of my friends from my course so I know she is up for it. Sally went into my room, took her clothes off and got into my bed. I did the same, I started to kiss her and she didn't say anything so I assumed she was okay with it, I thought why else would she be in my bed? I initiated sex with her

by taking of her underwear and she went along with it, so I put on a condom and started to have sex with her. I could not see any sign that she wasn't enjoying it. Afterwards I fell asleep as it was late and when I woke up Sally had already left. I was so shocked when the police turned up, this whole thing is a big misunderstanding.

*End of booklet*

### Case Three (Front cover)

(Page one) The following statements refer to an incident that occurred Wednesday night at the suspect's house. Involving a 38 year old woman and a 43 year old man.

(Page two) Victim's account:

In the words of the victim:

I met Matt online and after a few weeks of messaging we arranged to go on a date. I was attracted to him, in his photos he looked like a good looking man. Also he has a child from a previous marriage the same as I do and we have similar hobbies like spending time with our families and walking in the countryside. The date went really well, we had a lot of things in common and he was easy to talk to. He offered to drive me home I accepted as I live around a 30-minute drive from the restaurant we had dinner at. When we pulled up at my house Matt asked if he could come in for a quick glass of water and to use the toilet before he sets off again. I agreed, we went into my house, my daughter was at her Fathers for the night so no one was in. I thought it would be polite to see if he wanted a coffee before he went as we had been drinking wine and he still had to drive home. He said a coffee would be great, I was making us drinks in my kitchen he came up behind me and started kissing my neck whilst wrapping his arms around my waist. It felt nice at the time, I picked up the drinks and we went and sat in my living room...

(Page three) We were sat next to each other on the sofa talking for a while. Then Matt started to pull down the straps of my dress. He started to kiss me again, he kept trying to undress me, I said to him I am not ready to sleep with him yet. He told me not to be silly and that he really liked me. He forced my dress off me, I started to feel scared and I just wanted him to leave. Before I knew what to do he had forced himself on top of me and started to have sex with me. When he had finished he got dressed and said he needed to get home as he had work in the morning.

A couple of days later I met up with a close friend. She was asking me about my date, I told her what had happened and she persuaded me to go to the police. I agreed if she would come with me for support, the next day we both came and reported what had happened.

(Page four) *photographs of a restaurant where the date happened and the victims living room*

(Page five) The suspect's account:

In the words of the suspect:

I met Rachel on an online dating site, I had been getting numerous messages from women asking to meet with me and complementing me on the way I look. I choose to get to know Rachel a bit more over messages as we seemed to have a lot in common, like we both have a daughter, we have been divorced and we have similar hobbies. After around two weeks of messaging I asked her if she wanted to go on a date. I was really pleased when she said yes. I booked an Italian restaurant in town for us for the following week. I met Rachel at the restaurant. The date went really well, we had a lot to talk about. We bonded over similar experiences, we spoke about our divorces and our stressful or jobs can be. I paid the bill and offered to drive her home. Rachel said that would be great. When we arrived at her house I asked if I could come in for some water and to use the toilet. She agreed and then actually offered me a coffee, I said yes...

(Page six) While she was in the kitchen we kissed and I could tell Rachel was comfortable with it. We drank our coffee in the living room and continued to talk for a while. We started to kiss again and I took off Rachel's dress, she was wearing new lacy underwear I recon she was planning for me to see them. Rachel acted coy but I knew that was only to protect her modesty. We had sex on the sofa where we were sat I may have been a bit rough with her but I know that is how women like it. I had to get home afterwards as I had work in the morning and did not have any stuff with me. I messaged her the next day to say what a nice time I had and if she would like to go on a second date. I was looking forward to seeing her again.

*End of booklet*

## Appendix Five: Interview Schedule

### Interviewer Schedule

Explain why the research is being done

Explain the process and ethical concerns

Sign consent form

### Biographical Information

Name:

Interview number:

Age:

Ethnicity:

Gender:

Length of time as an officer:

What rank/when retired:

How much experience of working on rape cases:

How long have you been retired:

Instructions on what to do with vignettes.

Questions: (repeat for each vignette)

- What crime if any, has been committed?

- 
- Do you believe the victim consented to what happened? Why?
  - Do you think the suspect reasonably believes that the victim consented to what happened? Why?
  - What would make you think differently?
- 
- How culpable do you feel the suspect is for his actions? Why?

Completely   Mostly   Somewhat   to a small extent   Not at all

- Did the suspect intend to cause harm in the way he did?
  
- After the victim has been interviewed and given a statement what would your next action be? Why?
- Follow the investigatory process through
- What would the main pieces of evidence be?
- How do you evaluate the strength of the evidence? What would alter your view?
- Would you choose to charge the suspect? With what? Lesser offence?
- Would you encourage the victim to continue with the case?
- Should this case be classified as a no crime?
- How likely would it be to end as a no crime?

extremely   very likely   not very likely   totally unlikely

- Do you think the CPS will decide to prosecute this case? Why?
- How likely is the case to get to trial?

extremely   very likely   not very likely   totally unlikely

- What problems could you foresee when investigating this case?
- Do you think this case would be likely to succeed at trial? why?

- What do you think a fitting sentence would be for the suspect?
- What would make you come to a different decision?
- Overall how likely would this case be to end in a conviction?

extremely   very likely   not very likely   totally unlikely

- Is this similar to any cases you worked on? Is it typical of cases?
- Anything you would like to add?

#### Police View

- What do you feel are the biggest barriers to gaining a conviction?
- On average what levels of cases do not end in a conviction?
- Do you see low levels of prosecutions and convictions as problematic?
- Do you have any idea of how the Criminal Justice response to rape could be improved?
- Is there anything you would like to add?

Thank them and see if they want to be sent a summary of results.

Debrief sheet

Ask if they know anyone else who may be eligible to take part.



## Appendix Six: Summary of Research Findings for Participants



### Summary of Research Findings

#### The Attrition Problem: Exploring the Role of Police Officers' Decision Making in Rape Cases

My research project seeks to understand why so few rape cases end in a conviction and to suggest ways this could be improved to deliver justice for victims. Throughout 2017 I conducted 29 interviews with retired or serving police officers, I analysed the interview data to generate my findings.

#### **Key Research Findings:**

- During our interview I presented you with three various rape scenarios and asked you how you would go about handling a stranger, date, or acquaintance rape. I found that there is a standardised approach taken to handling each rape complaint stemming from details given by the victim. Furthermore, the victim would be treated as though the account is true despite concerns that the levels of false allegations are rife. Overall, the stranger rape was viewed as by far the most likely case that would end in a conviction whilst the student/acquaintance rape as highly unlikely to reach a trial.
- When a rape is recorded as a 'no crime' this recording is used in line with the Home Office Counting rules which dictates when such a recording can be utilised, these findings do not support previous research claiming these recordings are misused to dispose of cases.
- I found that when deliberating over rape cases, participants would weigh up how strong or weak the evidence in a case is, working to predict how likely the case would be prosecuted by the CPS and what a potential jury would think to it. Many participants raised the point that many cases can come down to how well a victim or suspect can perform in court and how credible they can come across to a jury.
- As a result of cuts made to police budgets and a rise in reports of rape, officers tasked with investigating rape cases have very high workloads.

- High levels of rape case discontinuances are commonplace and viewed as somewhat inevitable due to the inherent lack of independent evidence in rape cases to prove a lack of consent.
- When officers frequently put a lot of investigatory effort into a case and continuously see cases not progress to trial and garner convictions, there is a danger this lack of an occupational reward could have an impact on the morale of officers.
- Participants expressed to me that false allegations of rape are a continuing issue.
- I found there is a sense that the response to rape has drastically improved from practice in the past.

### **Implications of the Findings:**

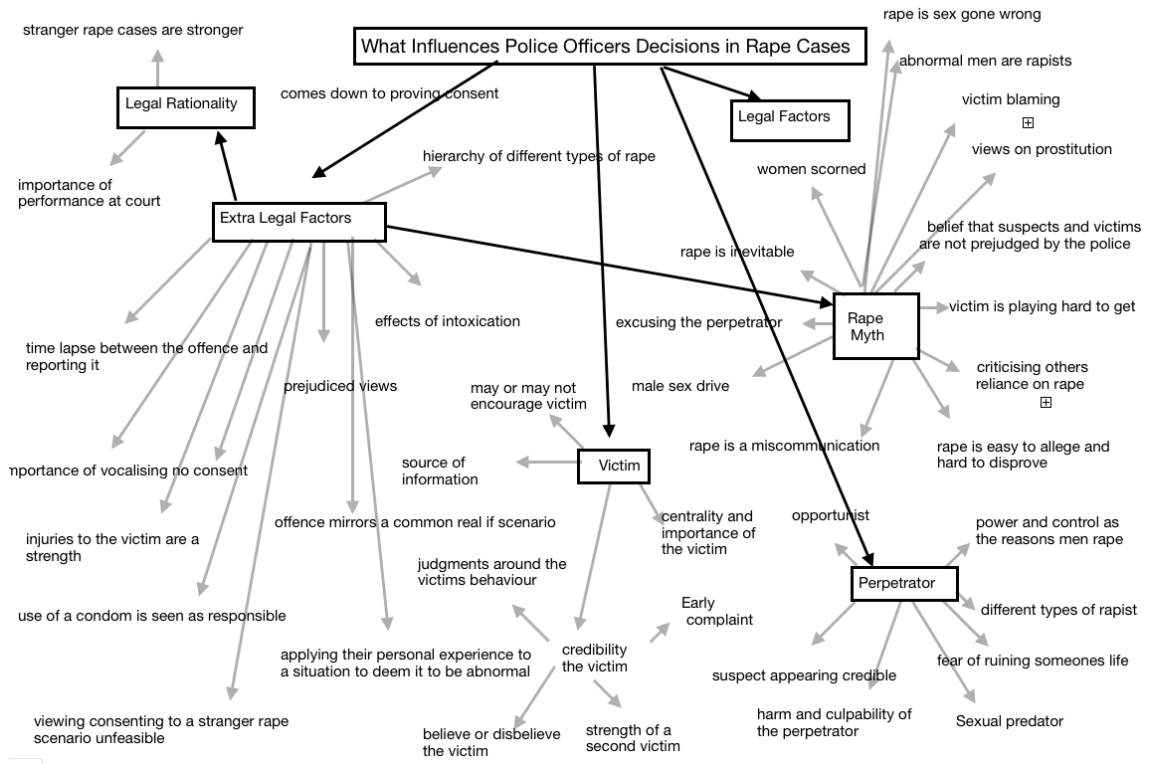
- I recommend that there should be more clarity and guidance as to what considerations and factors should be taken into account when deciding which cases should be taken forward to prosecute and which should have 'no further action' taken.
- More resources should be channelled into meeting the rise in reports of sexual violence, this would also bring down officer's workloads so they can dedicate more time and attention to live cases.
- It could be helpful if officers did not solely work on rape cases (such as in a rape unit) to counteract the impact on officer mindset that can occur from a lack of successful cases.
- A wider point I raise is to explore possibilities of responding to rape outside of the traditional criminal justice system. If rape cases inherently lack the evidence that is needed in an adversarial trial to prove guilt beyond reasonable doubt, then a whole new approach to securing justice for victims could better serve the needs of victims.

Thank you once again for participating in my research!

## Appendix Seven: Example of Coding

OS:	What do you feel are the main barriers to gaining convictions in rape cases?	
P:	<p>I think it's generally the vulnerabilities of the victims we deal with that maybe because they have mental health issues learning difficulties erm and a lot of the cases are DV related or like this where there's no forensics where they're in the room at that time.</p> <p>Then it's building a case to strength what's gone on in a room together. Inconsistencies between victims one case we had that went to trial recently between young people the defence did a lot of phone work the phone work suggested the victim had pretended to be her sister on her phone in about the February months before so it was proved she had lied and said I've got mental health issues and had attempts on her life nothing to do with the case really but as she was a liar, it was discontinued that's the fine line if there's anything that discredits the victim the case is over. That really annoys me we should be able to say people are not perfect that happens months ago it doesn't mean the rape didn't happen at that time in a way that the victim said. I also know the barristers and the CPS are looking at do you run a very expensive trial it's managing the victim and their family expectations as well when we know if you put any element of doubt in their mind of a jury you don't get a conviction. The bar is set so high.</p> <p>You have to look at that when you're sending cases to CPS you can't waste their time if you look at it and think that won't get to a trial, I have struggled with some when I thought it passes the threshold test but I know the CPS will NFA. Do you send it for the sake of it? You shouldn't really.</p>	<p>Victim as a source of information/ Centrality and importance of the victim.</p> <p>Legal rationality/ Lack of independent evidence.</p> <p>Victim credibility/ Experience of similar cases</p> <p>Angry and annoyed about the situation/ Believe the victim did not consent</p> <p>Legal rationality/ Lack of independent evidence</p> <p>The system is stacked against the victim</p> <p>Commonality of attrition</p> <p>Legal rationality</p>





## Appendix Nine: Ethics application



Downloaded: 25/05/2018  
Approved: 02/03/2016

Olivia Sindair  
Registration number: 150246026  
School of Law  
Programme: LAWR131

Dear Olivia

**PROJECT TITLE:** Why do men rape? Talking to Psychologists, Policing Personnel and Members of the Public  
**APPLICATION:** Reference Number 006634

On behalf of the University ethics reviewers who reviewed your project, I am pleased to inform you that on 02/03/2016 the above-named project was **approved** on ethics grounds, on the basis that you will adhere to the following documentation that you submitted for ethics review:

- University research ethics application form 006634 (dated 10/02/2016).
- Participant information sheet 1014846 version 1 (21/01/2016).
- Participant consent form 1014847 version 1 (21/01/2016).

The following optional amendments were suggested:

*Could you address the following amendments, please: 1. The professionals you will be interviewing might be affected by their work with sexual violence victims and offenders, in the literature referred to as 'vicarious trauma' or 'secondary traumatic stress'. I would not automatically assume that it is easy for them to talk about such a sensitive topic. It is possible that your participants could have been victimised themselves as well. 2. signpost to support services for all participants, not only the ones you perceive to be distressed. Distress is not always visible and participants may have been personally victimised. 3. Include the university crest on the information sheet and consent form as per the templates. 4. Correct typo and incomplete sentence in document 1014846. 5. In the information sheet and consent form, provide the contact information of your supervisor as well.*

If during the course of the project you need to [deviate significantly from the above-approved documentation](#) please inform me since written approval will be required.

Yours sincerely

Sarah Beedham  
Ethics Administrator  
Medical School

Application 006634

### Section A: Applicant details

Created:

Mon 26 October 2015 at 12:22

First name:

Olivia

Last name:

Sinclair

Email:

osinclair1@sheffield.ac.uk

Programme name:

LAWR131

Module name:

Research Project

Last updated:

02/03/2016

Department:

School of Law

Date application started:

Mon 26 October 2015 at 12:22

Applying as:

Postgraduate research

Research project title:

Why do men rape? Talking to Psychologists, Policing Personnel and Members of the Public

Similar applications:

- *not entered* -

Section B: Basic information

### 1. Supervisor

**Name**

**Email**

Maggie Wykes

m.wykes@sheffield.ac.uk

### 2: Proposed project duration

Proposed start date:

Sun 21 February 2016

Proposed end date:

Sat 21 September 2019

### 3: URMS number (where applicable)

URMS number

- *not entered* -

### 4: Suitability

Takes place outside UK?

No

Involves NHS?

No

Healthcare research?

No

ESRC funded?

No

Involves adults who lack the capacity to consent?

No

Led by another UK institution?

No

Involves human tissue?

No

Clinical trial?

No

Social care research?

No

## **5: Vulnerabilities**

Involves potentially vulnerable participants?

No

Involves potentially highly sensitive topics?

Yes

## **Section C: Summary of research**

### **1. Aims & Objectives**

In England and Wales, rape is a quintessential gendered crime as by law only men are capable of committing the offence. The Sexual Offences Act 2003, Section 1(1)(a) defines rape as, 'he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis'.

The official statistics outlining sexual offending in England and Wales are outlined in a report formed by the Ministry of Justice and Office for National Statistics, part of the UK government. The most up to date statistics produced were published in 2013 (MoJ, 2013). The official statistics show that females are significantly more likely to be a victim of a sexual offence than men, with men more than likely to be the perpetrator of a sexual offence (MOJ, 2013: 11). Younger women are most likely to be a victim of a sexual offence; those



between the ages of 16 to 19 years old are most at risk (MOJ, 2013: 14). Furthermore, females that are single or separated and those with a lower income show an increase in sexual victimisation (MOJ, 2013: 14). Those females living in urban areas were also more at risk (MOJ, 2013: 14). The statistics also show that female respondents who had been a victim of the most serious sexual offence reported that offenders were most likely to be young males, with 47% of offenders being males aged between 20 and 39 years old (MOJ, 2013:15). Likewise, the most commonly reported victim-offender relationship among victims of the most serious offence types was a partner (MOJ, 2013: 16). The focus will be on women as the vast majority of victims of rape are women. Very little is known about the perpetrators of rape and men's attitudes to sex, as traditionally research always focused on the victims of rape. This is not surprising given the feminist focus of much criminological work on rape but has done little to alleviate the problem whereby 'only 1,070 rapists are convicted every year despite up to 95,000 people – the vast majority of them women – suffering the trauma of rape' ( Morris. N The Independent 10/01/2013).

So why do men rape women is the key question. The Sexual Offences Act 2003 states that to prove rape, the prosecution must show beyond all reasonable doubt: that the accused (A) intentionally penetrated the vagina, anus or mouth of the complainant (B) with his penis; that B did not consent to the penetration; and that A did not reasonably believe that B consented.

So when a victim is raped for a not-guilty verdict the perpetrator must reasonably believe that the victim consented to the act. The fact that the reasonableness and understanding of the perpetrator is considered makes men's attitudes and perceptions around rape important, hence the focus of my research, which is to better understand what these are by interviewing professionals who encounter those charged with rape and male members of the public who share their gendered identity with rapists.

The second phase of the research will be covered in a further ethics application and will involve interviewing male members of the public to access their attitudes and perceptions. It will also be informed by the data found in the first phase.

Primarily, the question to be answered is: How we can better understand why some men rape women? In order to try to address that the following research questions will be explored:

Phase I.

What is the context and prevalence of sexual violence against women in England and Wales?

How do contemporary psychologists working with sex offenders understand the motivations for rape?

How do police personnel perceive and explain rapists?

Phase II

What do men themselves understand about rape?

Can comparing professional perspectives of those working with rapists and the views ordinary men hold about sexual violence help explain what it is about masculinity that leads to rape?

What cultural and social factors are implicated in rape?

Can a focus on masculinity inform ways to prevent men's sexual violence against women?

## **2. Methodology**

The methods undertaken in phase one of this research project will be qualitative interviews. This ethics approval application is just for my interviews with policing personnel and psychologists. I will do a second ethics application at a later point for my final sample group which will contain members of the public.

I plan to conduct individual semi structured interviews with policing personnel and psychologists, psychotherapists and psychiatrists who work and come into contact with male sex offenders in their occupation. I will be asking the professionals about their opinions on why they believe men rape women. Furthermore, I will be asking them how they think rape could be tackled and prevented. I will also investigate how the police deal with such offenders and what the difficulties are. With the psychologists sample I will ask what their working methods and practices are when treating male sex offenders.

Prior to the interviews I will research the job roles and practices of the participants that agree to take part. The interviews will be recorded on a

Dictaphone and transcribed by myself afterwards. The interviews will take place at a convenient location for the participants.

The interview transcripts will be analysed by identifying themes across the participants' responses.

### **3. Personal Safety**

Raises personal safety issues? Yes

The risk to my personal safety is very low. The interviews will probably take place in a police station or a psychologist's place of work if convenient for the participants. If not, then the interviews will likely take place on university premises. The interviews are with professionals who are used to talking about sensitive topics and articulating their opinions. The participants are not vulnerable people, however the professionals may be effected by their work referred to in the literature as vicarious trauma. It is also possible that the participants could have been victimised themselves. Regular contact will be made with my supervisor Dr. Maggie Wykes to ensure there are no problems.

## **Section D: About the participants**

### **1. Potential Participants**

Both sample groups (police and psychologists) will require up to 6 participants both male and female genders.

One sample group will be made up of policing personnel who have had experience dealing with male sex offenders in the course of their employment in the police force. I will identify potential participants by contacting local police forces and enquiring as to whether I could gain permission to interview members of the police and who the potential individuals could be.

A further sample will be made up of psychologists, psychotherapists or psychiatrists who work with male sex offenders. I have been given permission by the charity StopSO that provide therapy services to convicted sex offenders to access their psychologists to identify any potential participants to interview.

Both samples will use snowball sampling to identify further participants from the links I can make with initial participants.

### **2. Recruiting Potential Participants**

To recruit my sample of policing personnel I will approach the individual officers who have been identified. I will provide them with an information sheet containing information on what my research is about and what is required of them if they wished to take part. I will then ask them if they would want to take part in an interview and if so arrange a time for the interview that is convenient for them. I will also ask if they could recommend/ put me in touch with their colleagues who may also be appropriate to take part.

To recruit the psychologists sample I will advertise for participants in a google group containing the employees of the charity StopSO. The advert will contain information about the research and what it will entail to take part. To begin with the sample will be self-selecting, when I have interviewed the first participant I will ask if they can put me in touch with any other participants who may be relevant.

### **2.1. Advertising methods**

Will the study be advertised using the volunteer lists for staff or students maintained by CiCS? No

- *not entered* -

### **3. Consent**

Will informed consent be obtained from the participants? (i.e. the proposed process) Yes

I plan to gain informed consent by ensuring all of my participants understand and sign a consent form (attached in supporting documentation). Before the interview commences a paper copy of an information sheet (attached in supporting documentation) and the consent form will be given to the participant and they will have time to look over them and ask any questions. The participants will have sufficient knowledge and understanding to fully understand the process here as they are professional people who deal with such issues regularly. I will explain to the participants the purposes of the research, what participation will entail, how the data will be processed and stored and details of who to contact with any questions or complaints at any point. I will also explain to the participants that any information they provide will remain confidential, unless harm to another person is disclosed as likely to happen and the relevant action is not being taken to prevent this. This would

be much more likely with the police participants. For example, if the police officers disclose any malpractice or negligence in the course of their employment I may be obliged to report this to the relevant member of the police. Furthermore, it will also be made clear to this group that they do not have any duty to take part as part of their job and it will not affect anything to do with their employment if they choose to take part or not. The consent form will highlight that participation is voluntary and that participants are free to withdraw their consent at any stage during the research, although practical limits of withdrawing consent will also be explained, for example that it will not be possible to withdraw material once published. My contact details and that of my supervisor will be given to the participants so they can withdraw their participation after the interview has occurred.

#### **4. Payment**

Will financial/in kind payments be offered to participants? No

#### **5. Potential Harm to Participants**

What is the potential for physical and/or psychological harm/distress to the participants?

The potential for harm/ distress to the participants is very low. There is no risk of physical injury as myself and the participant will be sat down in a secure and safe place and talking for the duration of the interview.

With regards to psychological harm/ distress there is a possibility the participants could become distressed as the nature of the subjects that will be discussed can be of a distressing nature. Talking about sexual assault is a distressing topic in itself. Furthermore, experiences that the participants may have gone through in their employment may also be stressful to talk about.

How will this be managed to ensure appropriate protection and well-being of the participants?

The participants will be reminded that at any time they can withdraw from the research if they become distressed or upset. However, this is unlikely as participants are used to dealing with sex offenders and talking about sex offences on a daily basis so the interview will not touch on anything out of the

ordinary for them. Personal experiences of the participants will not be a topic that the interview will cover, unless the participant feels that it is useful too.

All data will be kept confidential and efforts will be made to ensure the participants knew the nature of the interview before they gave their consent.

I will be mindful to the participants' mood and feelings and will not pressure them to answer any questions they do not want to.

I will signpost to all participants any services or help that the participants can access should they wish to if they feel distressed after the interview.

## Section E: About the data

### **1. Data Confidentiality Measures**

The confidentiality of the participants will be maintained in so far as the interviews will be in a private room. If anyone enters the room the recording will be paused until the individual has vacated the room. The interview data will not be seen by anyone else other than myself and my supervisors. If the interview is recorded by a Dictaphone the recordings will be saved to a computer, they will be encrypted so they are only accessible through the use of a secure password. Furthermore, any notes made during the interview will be stored securely in a locked draw.

Once the interviews have occurred the data will be transcribed and anonymised. Pseudonyms will be assigned to each participant and the name of the police force that the police officers work in will not be stated. Recordings will not be permanently deleted following transcription, due to the potential need for access to the recordings in the process of writing up the thesis and/or publications. However, recordings will be stored under the given pseudonyms, and will continue to be stored in a password-protected computer folder. The pseudonyms and real names of participants will be stored separately from the transcripts, in another folder with a different password, so that any contact from a participant in relation to their contribution (for example, a request to withdraw their consent) can be dealt with. Long passwords will be developed in line with guidance on strong passwords, incorporating the use of upper and lower case letters, numbers and symbols.

More than one computer device may be used to access the data throughout the research. Security will be maintained on all devices by ensuring it is not

possible to access the data on any device without a password being needed. No device will be used that does not allow for encryption. Encryption software will be used in order to encrypt the relevant devices, the IT staff in the department will be consulted when deciding which software is most appropriate for security.

When it is time to delete the data clean up software will be used to ensure there is no trace of the data left. For example, the recycle bin still contains data that has been deleted. The IT staff will be approached again to ensure the best method is used here.

## **2. Data Storage**

As the PhD student undertaking this research I will be the custodian of the data. My supervisors, Dr. Maggie Wykes and Dr. Gilly Sharp may need to access the data also.

The analysis of the data will be carried out by myself in the PGR room in the Law school, University of Sheffield. The PGR room can only be accessed by staff and PGR students. Furthermore, there are facilities to lock away paper copies of data.

The way in which the data will be stored, used and destroyed will be outlined in the participant information sheet so there is clear agreement and consent. These plans will also be explained to the participants prior to the interview. All recorded data will be transferred to a computer folder that is password protected and only accessible by me. The recording will be saved under a pseudonym and the corresponding names will be saved in a different folder that is only accessible by myself.

The recordings will be transcribed, analysed and used to inform my thesis and other academic publications. The recorded data will be destroyed when it is no longer needed for the purposes of analysis or publication. The data will not be used for any other researchers or projects.

My research is not externally funded.

## **Section F: Supporting documentation**

### **Information & Consent**

Participant information sheets relevant to project?

Yes

Document 1014846 Add new version

[Version1 \(info\\_sheet\\_professionals.pdf\)](#)

Click to add a participant information sheet

Consent forms relevant to project?

Yes

Document 1014847 Add new version

[Version1 \(consent\\_form.pdf\)](#)

Click to add a consent form

Section G: Declaration

Signed by:

Olivia Sinclair

Date signed:

Wed 10 February 2016 at 17:24

Final Decision

**Approved with suggested amendments**

Amendment to Ethics Application Approval:

Ethics Application 006634 – Olivia Sinclair

Olivia received ethical approval a number of months ago but has made a few changes to the way she will be conducting her fieldwork. The changes are as follows:

I originally planned to interview three samples of participants, one group of members of the public, one with police officers and one with psychologists. I have now changed my plan to only interviewing retired police officers who I will snowball sample and interview in places such as a cafe or pub.

As Chair of the Ethics Committee Penny has approved Olivia's minor amendment to her research project ethical approval.



## Appendix Ten: Participant Consent Form



### Participant Consent Form

#### The Attrition Problem: Exploring the Role of Police Officers' Decision Making in Rape Cases

Participant ID number:

Please initial on the lines

1. I confirm that I have read and understand the information sheet dated explaining the above research project and I have had the opportunity to ask questions about the project.

---

2. I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason and without there being any negative consequences. In addition, should I not wish to answer any particular question or questions, I am free to decline. Contact number of researcher: 07854239165 E-mail: [osinclair1@shef.ac.uk](mailto:osinclair1@shef.ac.uk). Contact number of supervisor of research: 0114 2226823 E-mail: [m.wykes@sheffield.ac.uk](mailto:m.wykes@sheffield.ac.uk)

---

3. I understand that my responses will be kept strictly confidential. I give permission for members of the research team to have access to my anonymised responses. I

understand that my name will not be linked with the research materials, and I will not be identified or identifiable in the report or reports that result from the research.

---

4. I agree for the data collected from me to be used in future research

---

5. I agree to take part in the above research project.

Name of Participant

---

Date Signature

---

Name of researcher

---

Date Signature

---

## Appendix Eleven: Participant Debrief Sheet



### Participant Debrief Sheet

Firstly, thank you for taking the time to participate in my research. Your input has been greatly appreciated and is invaluable for the success of my project. As your direct contribution is now coming to an end, I would like to remind you that your anonymity and confidentiality will be maintained to the highest standards throughout the project.

If you have been effected emotionally or psychologically by any of the issues raised throughout the interview or wish to find out more information, here are a list of organisations you can search or contact:

<http://rapecrisis.org.uk> (for more infoRMAtion or help)

<http://www.sheffieldrapecrisis.org.uk> (they have a phone line to call)

<https://www.victimsupport.org.uk> (infoRMAtion on where to access help and support)

Here are the contact details of myself and my primary supervisor:

Olivia Sinclair

School of Law, University of Sheffield, Bartolomé House, Winter St,  
Sheffield S3 7ND PGR room 07854239165

osinclair1@shef.ac.uk

Dr Maggie Wykes

School of Law, University of Sheffield, Bartolomé House, Winter St,  
Sheffield S3 7ND Rm EF01a 0114 2226823

m.wykes@shef.ac.uk

You can contact myself or my supervisor if you have any further questions or wish to withdraw your participation. If this is the case your data would be withdrawn and destroyed without question. You can also contact me if you wish to request a copy of the final research report.

Thank you again for your participation.