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**Listening to ‘Leading Voices’: Using Expert Insight to Identify Challenges to, and Suggestions for the Improvement of, Rape Investigation and Prosecution in England and Wales**

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## Introduction

Despite a plethora of reviews and reforms aimed at improving the conviction rate in cases of rape across the criminal justice system, the long-standing problem of attrition remains significant in England and Wales<sup>1,2,3,4,5</sup>. National figures place the conviction rate at only 1.5%<sup>6</sup>, with just 14% of all cases in London submitted to the Crown Prosecution Service (CPS) for a charging decision, and 3% convicted<sup>7</sup>. This persistent pattern of attrition occurs in cases which often involve some of the most complex and vulnerable victims that the police and wider criminal justice system have contact with<sup>7,8</sup>, and is further problematised by the increasing number of rape allegations made to the police at a time when austerity measures have impacted on the capacity to deal with these cases effectively<sup>9,10</sup>.

Due to the scale of the issue, attrition in rape cases has been subject to academic scrutiny for several decades, beginning in the 1970s when feminist scholars began challenging the response to rape by the criminal justice agencies<sup>11,12</sup>. As such, issues such as the impact of rape myths<sup>2,3,13,14,15</sup>, the “real rape” stereotype<sup>16</sup>, police sub-culture<sup>17</sup>, attitudinal

<sup>1</sup> Elish Angiolini, 'Report of the independent review into the investigation and prosecution of rape in London' [2015]

<sup>2</sup> Katrin Hohl & Elizabeth Stanko, 'Complaints of rape and the criminal justice system: Fresh evidence on the attrition problem in England and Wales' [2015] *European Journal of Criminology* 324

<sup>3</sup> Anthony Murphy and others, 'Lessons from London: a contemporary examination of the factors affecting attrition among rape complaints.' *Psychology, Crime and Law*. <https://www.tandfonline.com/doi/abs/10.1080/1068316X.2021.1880584> accessed 19<sup>th</sup> July 2021

<sup>4</sup> Valerie Stern, 'The Stern review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales' [2010]

<sup>5</sup> Emma Williams, 'Police decision making in rape investigations: Exploring the barriers to reform' [2019]

<sup>6</sup> Home Office, 'Crime outcomes in England and Wales, year to December 2018: data tables' [2019] <https://www.gov.uk/government/statistics/crime-outcomes-in-england-and-wales-year-to-december-2018-data-tables> accessed 19<sup>th</sup> July 2021

<sup>7</sup> Mayor's Office for Policing and Crime, 'The London Rape Review: A review of cases from 2016' [2019] [https://www.london.gov.uk/sites/default/files/london\\_rape\\_review\\_final\\_report\\_31.7.19.pdf](https://www.london.gov.uk/sites/default/files/london_rape_review_final_report_31.7.19.pdf) accessed 19<sup>th</sup> July 2021

<sup>8</sup> Emma Williams and others, 'Violence against women: Public health or law enforcement problem or both?' [2018] *International Journal of Police Science & Management* 196

<sup>9</sup> Natalie Mann and others, 'Policing in a time of austerity: Understanding the public protection paradox through qualitative interviews with police monitoring officers' [2021] *Policing: A Journal of Policy and Practice*, 630

<sup>10</sup> Andrew Millie, 'What are the police for? Re-thinking policing post-austerity' in Jennifer Brown (ed), *The Future of Policing* (Routledge, 2014)

<sup>11</sup> Susan Brownmiller, *Against our will: Men, women and rape* (Simon & Schuster, 1975)

<sup>12</sup> Liz Kelly, *Surviving Sexual Violence* (University of Minnesota Press, 1988)

<sup>13</sup> Benjamin Hine and Anthony Murphy, 'The impact of victim-perpetrator relationship, reputation and initial point of resistance on officers' responsibility and authenticity ratings towards hypothetical rape cases' [2017] *Journal of Criminal Justice*, 1

<sup>14</sup> Benjamin Hine and Anthony Murphy, 'The influence of 'High' vs. 'Low' rape myth acceptance on police officers' judgements of victim and perpetrator responsibility, and rape authenticity' [2019] *Journal of Criminal Justice*, 60

<sup>15</sup> Benjamin Hine and others, 'Mapping the landscape of male-on-male rape in London: an analysis of cases involving male victims reported between 2005 and 2012' [2021] *Police Practice and Research*, 109

<sup>16</sup> Susan Estrich, *Real Rape* (Harvard University Press, 1988)

<sup>17</sup> Aliraza Javid, 'Police responses to, and attitudes towards, male rape: Issues and concerns' [2015] *Police Science & Management* 81

factors<sup>18</sup>, the presence of drugs and alcohol in rape allegations<sup>19</sup>, plus a lack of physical evidence<sup>20</sup>, have all been examined. However, despite some improvement resultant of recommendations aimed at addressing these factors, fair access to justice remains rare for many victims of rape<sup>21,22</sup>.

The drive to more formally embed such academic evidence within policing<sup>23,24</sup> as part of the current professionalisation agenda<sup>25</sup> has also had limited success in influencing police practice in rape investigation, despite rape being one of the most widely researched areas across disciplines. For example, in a recent study, Williams<sup>26</sup> identified that officers' understanding and knowledge of the academic work available in this field was limited and rarely featured in training narratives for officers involved in the investigation of rape. Instead, officers frequently drew on their own experiential knowledge when making decisions about cases for which they had responsibility, a finding supported by a wealth of previous research<sup>27</sup>. Decisions were also influenced by performance requirements representative of a policing environment which predominantly focuses on the achievement of judicial disposals, whilst ignoring other markers of success (e.g., victim satisfaction).

There exists, therefore, an apparent disconnect between academic theory, and professional practice in relation to rape investigation and prosecution. This is perhaps the result of two principal issues: a lack of practitioner voices within research about rape case

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<sup>18</sup> Anthony Murphy and Benjamin Hine, 'Investigating the demographic and attitudinal predictors of rape myth acceptance in U.K. Police officers: developing an evidence-base for training and professional development' [2019] *Psychology, Crime and Law*, 69

<sup>19</sup> Calvin Sims and others, 'Rape blame as a function of alcohol presence and resistance type' [*Addictive Behaviors*], 32

<sup>20</sup> MOPAC (n 7)

<sup>21</sup> Miranda Horvath and others, 'Critical issues in rape investigation: An overview of reform in England and Wales' [2011] *The Journal of Criminal Justice Research*, 1

<sup>22</sup> Emma Williams and others, 'Policing and mental health: Do we really get it?' in John McDaniel, Kate Moss and Ken Pease (eds), *Policing and Mental Health: theory, Policy and Practice* (CRC Press, 2020)

<sup>23</sup> Cynthia Lum and Christopher Koper, 'Evidence-Based Policing' In Roger Dunham and Geoffrey Alpert (eds), *Critical issues in Policing* (Waveland Press, 2013)

<sup>24</sup> Cynthia Lum and Christopher Koper, 'Evidence-based Policing: Translating research into practice' (Oxford University Press, 2017)

<sup>25</sup> Simon Holdaway, 'The re-professionalization of the police in England and Wales' [2017] *Criminology & Criminal Justice*, 17

<sup>26</sup> Emma Williams (n 5)

<sup>27</sup> Benjamin Hine and Anthony Murphy (n 13)

attrition, and the absence of effective knowledge transfer *between* academic and professional bodies. This manuscript seeks to provide an example of how to begin to address both.

The current piece brings together a range of experts or ‘Leading Voices’ to provide their unique perspectives on the current landscape of rape investigation in England and Wales, with specific reference to what they believe the principal challenges to effective support and prosecution in rape cases to be. Crucially, contributors have also provided their assessment of the actions that need to be taken to resolve these challenges, and thus improve the experiences and justice outcomes for rape victims. It is hoped that this paper thus provides a direct transfer of practitioner knowledge into the hands of interested academics, for use in producing effective, impactful research to begin to bridge the gap between evidence-based practice and practice-based evidence.

### **Method**

The recruitment of participants for this piece was achieved through two avenues. We either contacted individuals with whom we had pre-existing relationships, or organisations were contacted requesting the participation of an individual deemed appropriate. Prospective organisations and individuals were approached based on their membership to one of four core areas: third sector organisations (i.e., charities providing support to rape victims), police forces, prosecutorial services, and government and/or oversight bodies. The only criterion for contribution was that the individual in question had a significant leadership role within their organisation, contributing to the national discourse on rape.

Preliminary inquiries were accompanied by a brief overview, describing the nature of the project, the type and length of submission required, routes to dissemination, and approximate timeline. Once individuals had expressed an initial interest, a more detailed information sheet was sent, and, if willing, participants signed and returned a consent form. Importantly, this outlined that participants waived the right to anonymity, and would have

their name published alongside their submission. It also outlined that participants had the right to withdraw their participation at any point up until the point of submission of a completed manuscript. The information sheet also outlined rights concerning draft review and editing processes ahead of final submission (i.e., participants would have multiple chances to review submissions, would have ten working days to submit changes at each review point, and would provide formal authorisation on a final draft before submission). Upon final submission, contributors were provided with a debrief sheet, outlining the importance of the project and anticipated timelines for dissemination.

Contributors were asked to provide a written piece between 500 and 1,000 words in length, which answered three questions. First, their assessment of the current landscape of rape investigation on a national scale. Second, what they viewed the principal challenges to effective rape investigation and prosecution to be. Third, what they viewed as the priority areas/actions that should be investigated/taken to resolve the challenges they identify. Contributors were principally focused on pre-COVID-19 related challenges but were free to address these where appropriate.

### **Submissions**

#### **Service Providers**

##### ***Amelia Handy – Policy Officer – Rape Crisis***

The criminal justice system has failed to meet the increased demand in victims of rape and sexual abuse attempting to access it. This is due to multiple interconnected factors; all major issues with rape investigations are related to other problems within the criminal justice system. Aside from resourcing specialist Rape Crisis Services, the police, and CPS adequately, the underlying cause of most of these issues eventually relates to sexist myths and stereotypes, and preconceptions around who can be deemed a credible witness. Frontline Rape Crisis workers testify to the attitudinal issues of individuals within certain forces or certain

prosecutors; the national picture clearly shows that these issues are a by-product of systemic problems in the criminal justice system, from the very start of a police investigation, to CPS case building, and Courts.

Disclosure of data, mainly in terms of mobile phone extraction, has caused investigations to be protracted, resulting in a significant backlog of cases in the system, which is now being scrutinised following the Information Commissioner's Office (ICO) report on Disclosure. Frontline Rape Crisis workers saw these invasive disclosure practices increase significantly following the collapse of a number of cases before trial that pointed away from the defendant. This reactionary policy change post-Liam Allen has disproportionately affected rape and sexual abuse victims, as for no other crime is so much information required to be disclosed before a decision to prosecute a case is made.

Longer investigations risk further worsening attrition rates, as timeframes leave victims without closure for an extended period. In some police force areas, it is typical for investigations to last over two years. Despite the invasion of privacy due to the disclosure process, victims consistently give up their personal data in order to pursue justice. However, in too many of these cases, peripheral and irrelevant information that could, in some or *any* way discredit the witness, is used as an excuse to close the case. Conversely, there are also issues with No Further Action (NFA) decisions being taken very quickly by police, with little or virtually no investigation.

Yet police disclosure practices are symptomatic of a larger problem, related to demands from the CPS. Rape Crisis Independent Sexual Violence Advisors (ISVAs) have shared that when challenged on the need to disclose large quantities of data, police cite the CPS' high investigative threshold. CPS letters outlining why they are dropping cases frequently indicate that they are pre-empting jury decisions. Rather than pre-empt jury decisions and biases, we maintain that prosecutors are responsible for robust case-building.

The above clearly demonstrates a negative and systemic feedback loop where the CPS are pre-empting a (biased) jury, and the police are pre-empting CPS requirements for vast amounts of additional material. Presumption of jury disbelief by RASSO prosecutors and the removal of a merits-based approach has resulted in the large slump in cases being prosecuted.

An honest and transparent reckoning is paramount to establishing what happened to CPS charging decisions in the last few years. Evidence collected for a legal case against the CPS contains the most compelling of evidence; most damning of all is the dossier of rape cases that were dropped by the CPS. The rationale for dropping these cases was consistently based on myths and stereotypes, as evidenced in the No Further Action letters received by victims. Whether it can be proven to be an official change of approach or not, the outcome of CPS practice has been disastrous for rape victims, denying them even the slightest semblance of justice.

The joint HMCPSI-HMICFRS inspection may go some way to explaining the fault-lines between the police and CPS practice, where both agencies apportion responsibility for errors onto the other. However, new mechanisms for scrutinising the nature of liaison between police and CPS are required, as it is entirely opaque and untraceable to anyone outside of the two agencies. All Early Investigative Advice (EIA) interactions need to be recorded with clear outcomes, and this should help to enable understanding of how, when and why a case is dropped.

This scrutiny needs to be supported by a clear equalities analysis, looking into dropped cases by sex, gender, race and age. Police and CPS should be required to undergo advanced trauma-informed training and guidance for rape investigation and case building. Both agencies also need to undergo thorough training in order to confidently challenge rape myths and stereotypes. There is also a need for transparency and fairness around victim appeals processes;



there are currently no obtainable data around the proportion of Victim's Right to Review (VRR) decisions that are overturned by the CPS.

In both the police and CPS, there needs to be a more rewarding career route in rape specialism in order to attract those with commitment, and both agencies need to be resourced appropriately to meet the increased volumes of cases in recent years.

Finally, specialist Rape Crisis Centres need sustainable resourcing also. There is some research that evidences that Rape Crisis ISVAs significantly improve a victim's experience of the criminal justice system. The benefit of the Rape Crisis ISVA is that they work closely with other specialist sexual violence and abuse workers in their staff teams. Pre-trial therapy needs to be available to victims, and police forces need to make victims aware of their right to access counselling and therapy from specialist sexual violence and abuse services such as Rape Crisis services, regardless of whether there is an open police case.

Rape Crisis counsellors offer confidential, free, wraparound services for victims. For victims of rape and sexual abuse, recovery is not a linear process, and the need for therapy far extends the length and duration of the criminal justice system. It is key that with such a punishing criminal justice system, that these specialist services are resourced in order to support the victim in efforts to cope and recover. It is also key to resource Rape Crisis Centres as they will support the many more victims who will never access the criminal justice system.

*Alex Feis-Bryce – CEO – Survivors UK*

### **Current Landscape and Challenges.**

Only a very small proportion of incidents are reported to the police and, of those that are, the majority do not result in a guilty verdict. With a process that is invasive, retraumatising and unlikely to achieve a satisfactory outcome, it is no wonder that so few survivors report to the police.

There are a whole range of barriers to reporting, which are widely acknowledged by experts and practitioners alike. There are also additional barriers to reporting for people from structurally oppressed communities including people of colour, migrants, LGBTQ+ people and sex workers. Underpinning these is the knowledge that engaging with the process is ultimately unlikely to result in a positive outcome.

Another factor, which discourages male victims in particular, is the notion that sexual violence is something only perpetrated *by men, against women*. This gendered view of sexual violence serves to silence male victims and can exacerbate the feeling experienced by many of our clients at SurvivorsUK that what happened to them brings into question or undermines their masculinity. For example, the fact that policy frameworks for sexual violence are titled as ‘Violence Against Women and Girls (VAWG)’ strategies, and the term “sexual violence” is often interchangeable with “violence against women and girls” can perpetuate the silencing of male and non-binary survivors. Indeed, whilst the #MeToo movement has increased public awareness about sexual violence, and empowered many people to come forward, it hasn’t significantly magnified the voices of male, trans and non-binary survivors.

The criminal justice system is also chronically and terminally underfunded, and the lack of resources at the disposal of the police and the CPS has in part contributed to a growing conservatism in prosecuting decisions and the notion that someone needs to be perceived as a “good witness” for their case to get to court.

For the tiny proportion of SurvivorsUK clients whose cases get to trial, the experience is often traumatising or retraumatising. The time cases take from report to court, linked to the scarcity of resources, also means that many survivors are living with often-unmanageable levels of uncertainty and stress for a sustained period of time.

The court process itself is at the heart of the issue. Our adversarial system, which pits prosecution against defence in a tactical joust, usually creates an environment that is

particularly distressing for survivors. For example, prosecutors typically employ tactics which second-guess jurors' emotional responses rather than focusing on the evidence. In turn, defence tactics typically focus on fostering doubt amongst the jury, which is often achieved by presenting survivors and witnesses as unreliable or of 'questionable character'.

Survivors also frequently have their phones and other devices taken away from them, with all correspondence submitted as evidence; an intrusive process which can exacerbate anxieties when giving evidence in court. I have heard frequently that the knowledge that the contents of their phone had been viewed filled survivors with a very real fear that irrelevant information would be 'used against them'.

This process creates an environment where rape myths then prevail. For male survivors, this means facing inferences by the defence that, due to them being male, there is an expectation that they should have physically fought off their perpetrator(s). Moreover, survivors identifying as gay or bisexual face the homophobic stereotype that queer men are inherently promiscuous, and that consent is thus assumed.

Another significant aspect in some sexual violence trials, particularly ones where a defendant is someone of perceived higher social status than victim, is to focus on "character". It is not uncommon for alleged perpetrators, particularly those in positions of power, to line-up a number of well-respected people to give character references prior to the verdict. In contrast, this is not allowed for victims or witnesses even if bringing their character into question is the foundation of the defence. The "Seeing is Believing" Report commissioned by Dame Vera Baird QC, found that previous sexual history was used in 11 of the 30 cases observed and in 7 of those 11 cases the proper procedure – to apply for the judge's consent well ahead of trial notifying the prosecution – was simply ignored which is another illustration of the prevalence of tactics to undermine survivors irrespective of the impact.

### **What can be done?**

Whilst the fundamental issues are increasingly acknowledged, the scale of the reforms which are routinely proposed and/or enacted rarely come close to matching the scale of the problem.

In terms of reducing attrition rates, the greater the specialist knowledge and training of police officers, and the earlier specialist officers are involved in the process, the better. In London, the use of Sexual Offences Investigation Trained (SOIT) officers and specialist units working closely with partners like SurvivorsUK makes a significant difference, and diminishing resources for this work is a cause for genuine concern. Independent Sexual Violence Advisor (ISVA) services are also crucial and must be protected on a long-term basis. Significant and sustained funding for such services is desperately needed UK-wide.

More broadly, we must adopt a national narrative which acknowledges that sexual violence is underpinned by power dynamics and privilege, including misogyny, and that is more open and inclusive. We must also fundamentally challenge the myths and/or gender stereotypes which come into play at every stage of the process. The language utilised in both policy and general discourse also needs careful consideration, as at present some survivors (e.g., men) feel silenced.

Finally, the knock-on effect of courtroom processes for the whole system is clear. The CPS base their prosecution decisions on whether there is a reasonable hope of conviction; the police, in turn, base their charging decisions on whether there is a reasonable hope that they will be prosecuted. Reforms must take steps to address this kind of forward-planning, perhaps by improving communications between the different elements of the system. In the absence of reform which reflects the scale of the problem, the criminal justice system is likely to continue failing a significant proportion of survivors of sexual violence and the wider public.

### **Police Forces**

*Detective Chief Superintendent Helen Lyons – Senior Responsible Officer for Rape –  
Metropolitan Police Service*

Locally and nationally, rape prosecutions and convictions have more than halved in the last three years and yet allegations have risen. What does this mean? That we have raised awareness within society, that such violence is not acceptable, is illegal, but that we struggle to build an effective case file to a national standard wherever we are in the UK?

I welcome the increased and continuing sense of concern and scrutiny, and I firmly believe that we need to fully identify the underlying reasons why we are failing to get more cases to charge and trial. If we don't identify and recognise the detailed reasons why a victim does not feel able to continue to support a prosecution or why a rape investigation has taken so long to investigate, then we will continue to fail victims. We know that we need to change how we investigate rape because we know that recommendations, action plans and existing policy, are not driving an increase in victim reassurance nor numbers of successful prosecutions.

In the Metropolitan Police we are currently developing a new public protection plan, which includes significant focus in areas of concern. For example, we struggle to recruit and retain officers and detectives in public protection. We are striving to make it an aspirational role and that means pushing for sufficient officers (capacity) to be both trained in specialist investigation and prosecution of RASSO (capability) and also be supported from a health and wellbeing point of view. The volume of cases individual officers are expected to investigate far exceeds their ability to deliver a consistently excellent service. The pressure on officers, dealing with secondary trauma on a daily basis will have an impact upon their psychological wellbeing and if they struggle, so too will the relationship between the officer and the victim; the two go hand in hand.

In London, we have been working really hard with both the CPS and victim support networks to increase communications. This may sound at odds with the fast pace of social media but actually this is about talking to each other at the very earliest opportunity.

Evidence led policing in London, shows us that the use of early investigative advice (EIA) has hugely impacted upon the quality and timeliness of cases and the greater understanding between officer and prosecutor. For example, I believe that there is a more suitable way of working with ISVAs, I think they should be included more in the investigations, because if they are suitably informed, and have the right information, they can bring their expertise to the case more effectively and the quality of victim engagement will improve.

It must be recognised that the challenges to effective rape investigation go far beyond statutory relationships. For example, surveys have shown that many people and therefore potential jurors are unclear about what the term rape means. I therefore think that more work is required to raise awareness in society as to the legal meaning of consent, what it means, and how campaigners could work closer with both statutory and third sectors. More work is also required to encourage LGBT+ reporting. Statistically, more females report rape allegations than men, but we know that there is much under reporting for the latter group of victims. There also needs to be a greater focus required on suspect behaviour.

Technological downloads take too long, and lab submissions are currently held for a minimum of four months. More trained officers are required, and a timelier response is required from lab submissions. Moreover, third party disclosure takes far too long and is inconsistent across agencies.

To improve the above, several important steps must be taken. First, to have suitable experienced resources in rape investigation departments and ensure volume of cases is matched to capacity and capability. Second, to encourage early communication with both prosecution and defence to consider reasonable lines of enquiry. Third, to implement improved training for officers and prosecutors and society as to what sexual trauma actually means and the sensitive response and understanding it requires.

*Detective Chief Inspector Judith Holmes – Head of Rape and Serious Sexual Offences*

*Strategy – Greater Manchester Police*

Greater Manchester has a population of around 2.9 million people and a diverse range of communities that reside within it, including the largest student population in Europe. GMP recorded 3674 rapes in the fiscal year 2018-19 which is an increase of 392% from 2011-12, when there were 771 rape crimes recorded. The number of rape cases which are charged annually has remained static, although the percentage has decreased significantly, perhaps partly due to the increase in number of reports.

There is an improved societal understanding of child sexual abuse and exploitation, with the national media attention on those who commit such crimes being reported in the media. This, coupled with Operation Yewtree and Operation Hydrant<sup>28</sup>, has had an impact on victims' confidence to report non-recent events. The police have also worked hard to establish better recording when victims report rape and sexual assault, but as Home Office Counting Rules change annually, comparing annual demand data is difficult. The increase in reporting coincided with a decrease in police officer numbers of 2000 and the austerity measures we are all familiar with. This has brought significant challenges for us in Greater Manchester but also on a national scale, with training often being reduced as part of cost savings. The current criminal justice system is not always victim-focused, and victims are often further traumatised by the process.

In my experience, not all victims of sexual violence contact the police wanting a criminal justice outcome, however there are no alternatives available within the confines of the current system. Domestic Abuse, Stalking and Harassment and Honour-based violence risk identification, assessment and management model (DASH) can lead a victim to disclose

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<sup>28</sup> Operation Yewtree and Operation Hydrant are both police investigations into historic sexual abuse allegations, predominantly the abuse of children, by various individuals of public prominence.

that they have been raped or sexually assaulted, but the victim may not wish this to be brought up in a prosecution. This can be challenging and complex for a police investigator and indeed the CPS. For some victims, being able to tell someone in authority about what happened to them can be enough for them to find relief and they can move on. Other victims come to the police wanting a prosecution and to have the offender placed on trial.

Rape is one of the only crime types where it comes down to one person's word against another and the understanding of consent. Although there may be forensic evidence, CCTV or other supporting evidence, the statement of the victim and their testimony at trial is crucial in securing a conviction. There needs to be enhanced training to ensure that the police have a trauma-informed approach to victims of sexual violence, but whilst under financial constraints this has been challenging to deliver.

The majority of people live their lives online and digital evidence has been under the microscope recently in both the media and in the legal system. This is one of our greatest challenges, to balance the needs of the victim and their right to privacy, with the requirement to investigate. The role of the police is to gather the evidence and lay it before the CPS who ultimately make the decision on charge. A recent Court of Appeal judgement (Bater-James and Mohammed [2020] EWCA Crim 790)<sup>29</sup> has provided much needed clarity around this and I anticipate that this will greatly improve the police response.

Another key challenge for policing is developing a whole system approach with partners to prevention communications campaigns, which have historically been perceived as victim blaming instead of focusing on consent and the offender. There is still an element of personal safety messaging which needs to be incorporated, with the numbers of accidental deaths and injury due to alcohol related incidents in our cities and towns. Greater Manchester

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<sup>29</sup> For commentary, see <https://www.parksquarebarristers.co.uk/news/obligations-relation-electronic-records-devices-fresh-guidance-court-appeal-criminal-division/>



is developing a sexual violence harm reduction strategy which will incorporate the offender centric approach and focus on this during the communication campaign. Last year my colleague DCI Paddy Goodrich worked with the University of Manchester to commission a theatre company who delivered interactive workshops to students to gain a better understanding of consent.

Greater Manchester are fortunate to have St Mary's Sexual Assault Referral Centre which was the first of its kind in the country and I work closely with the team, as well as our other partner agencies such as Survivors Manchester and GM Rape Crisis. I am always open to challenge from our partners as they represent the voice of the victim and any learning or improvements that can be made from this. We are beginning to have a better understanding of trauma and how victims may or may not present during their interactions with the criminal justice system. A recent study showed that nearly 41% of victims of rape had mental health needs and previously this may have been a barrier to prosecution<sup>30</sup>.

One area where we are improving is our capacity and quality of the staff that are trained to conduct video interviews by ensuring they have regular continuing professional development (CPD) and monitoring of their work. All our student officers are going to be trained to deal with sexual violence during their two-year probationary period, rather than having specially trained officers which is the current model. Although the Specially Trained Officer (STO) model does have some benefits, with the increase in reporting of sexual violence, all officers should be able to deal with a victim and understand PTSD and trauma. I am working closely with our partners to trial the use of crisis workers attending with police investigators to visit victims, so that their emotional needs are being met by trained professionals at the earliest opportunity. Greater Manchester has a joint rape action plan with CPS, GMCA and GMP which focuses on being trial ready. In simple terms we are focusing

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<sup>30</sup> MOPAC (n 7)

on improving timeliness and file quality, as the longer a victim has to wait for an outcome, the more likely they are to withdraw from supporting a prosecution.

***Detective Inspector Richard Palmer – Rape Investigation Team Manager – Kent Police***

My assessment of the current landscape is as follows: National – There is no doubt that Rape investigation nationally is a source of media and related public interest. The media headlines would suggest increased crime reporting, with falling convictions and collapsed high profile trials. Technology, disclosure and general investigative standards have all recently come to the fore and as such the police and CPS have received criticism in this area.

Regional – Commenting on my own region (East Kent) Rape investigation is very much a subject of significant improvement. This area has received recent investment culminating in the setup of ‘Sexual Offences Liaison officers’ (SOLOS) and a dedicated specialist rape team (Phoenix Team). This investment and improved focus have brought with it tangible improvement. The SOLOS now provide a single point of contact and support for all rape victims, they remain focussed on their victim from the time the crime is reported until any resulting court case. They are also committed to agreed contact levels whilst ensuring the victim is referred to all suitable support services. Of course, not all rape reports end with a court case but regardless of this every rape victim is offered the services of a SOLO. The dedicated investigation team has added focus and specialism to this crime type which has resulted in more rape charges when considered against a comparable time span prior to the team’s creation.

What is also vital to success in this area is the improved relationship between investigators and prosecutors. There is now far more contact and dialogue between key stakeholders in the investigation process and regular contact occurs through the management and supervisory ranks. Regionally there now appears to be a real willingness for all stakeholders to examine what they do and how they do it and seek improvement.

In terms of current challenges, the following are most pertinent: Technology – which has brought with it many investigative opportunities but with these come the ability to greatly & unintentionally undermine investigations. As a society we are more dependent than ever on our personal technology therefore investigators have come to expect full access to any victim's technology within a rape investigation and should the victim not wish to expose themselves to this level of scrutiny there is a good chance this will hinder the investigation possibly to a point the investigation will be concluded with no further action.

Social media & related internet activity – People's lives and relationships can often be documented within their social media records and what may appear harmless posts, searches or contacts may have a significant impact on rape investigations. For example, within a domestic abuse relationship apparently happy/loving contacts between victim and suspect after the alleged offence may well be seized upon as undermining material despite the multitude of reasons these posts may exist.

Victim scrutiny – The level of scrutiny a victim goes through to be deemed credible is significant. It is routine to examine records relating to the victim held by partner agencies (known as third party material) and as previously mentioned there is an expectation personal devices such as phones / tablets will be scrutinised. Currently, the victim's honesty & good character must be proved involving intrusive checks.

Staffing experience – After a period of austerity policy and related public sector funding cuts police numbers dropped and therefore experienced rape investigators were not replaced when they left policing. Now recruitment has restarted it will take a number of years to replace the lost experience.

In response to these challenges we need to reconsider at what point it might be appropriate to charge an offender – A rape investigation, in the vast majority of cases, will need to fully investigate prior to a charging authority being sought. This is not the case in

other crime types therefore I ask is there an argument that a charging authority could be sought sooner leaving some background works for completion post charge and expediting justice for the victim.

Reinvigorate a ‘prosecution team approach’ – I am of the belief that the RASSO/CPS should not essentially be ‘marking the homework’ of the investigators once an investigation is complete. I believe that lawyers should be active participants in the investigations from an early stage and assisting in the supervision of quality investigations.

My force is trialling mandatory RASSO/CPS early advice whereby a prosecutor will review and assist in directing all relevant rape investigations within the first 6 weeks of the crime being reported, this has been welcomed by investigators and in my opinion can only lead to higher quality investigations.

### **Prosecutorial Services**

*Ruth Bowskill and Lynette Woodrow – Deputy Chief Crown Prosecutors at CPS London North and South*

A key challenge facing current rape investigations is a lack of understanding across Criminal Justice as to why so few RASSO cases reported translate into convicted criminals and the points at which attrition occurs. This is a major concern for both CPS London North and South. In addition, there is an increasing volume of digital data and sophistication in evidence gathering techniques which may contribute to delay and lead to a right concern about personal privacy.

From the London Rape Review, the vast majority of attrition appears to be before referral to CPS for a charging decision, for a multiplicity of reasons. This needs closer enquiry to ascertain how victims may be supported to remain engaged throughout the criminal justice process. The cross-Government Review may assist with the reasons for this,

and to provide better support for victims of this devastating crime and bring more offenders to Justice.

The CPS currently engages with a variety of stakeholders across the criminal justice system including ISVAs and other professionals involved in the support of complainants. There is a scrutiny panel where real cases are reviewed, by a variety of support agencies, to identify lessons to learn. Collaboration with all stakeholders is crucial to improving confidence in the investigation and prosecution of rape offences.

One of the challenges that Prosecutors face is a lack of understanding by the public and several other professionals of the role of the CPS and the application of the Code for Crown Prosecutors. In particular, that we do not act on behalf of the complainant and it is not part of our role to decide whether a suspect/defendant is guilty of an offence or not, that is the role of the Court. This can be a difficult concept to understand, particularly where a complainant has given their account, and they are being asked to provide additional personal or sensitive information such as third party or digital material (phone), which they may not feel has a bearing on the case.

The police investigate crime. The CPS considers evidence presented by the police to take a decision whether to proceed or not to charge taking account of the Code. As part of that review, the CPS can advise the police on further reasonable lines of enquiry they should consider.

Investigations can take a long time to complete. There are a variety of factors that may increase delay such as digital devices or forensic testing, family court proceedings, enquiries to be made of overseas jurisdictions or third parties or the volume and complexity of reasonable lines of enquiry that need to be carried out. In London this is a challenge due to the sheer number of local authorities and transient nature of the population which may add to

the complexity of an already difficult scenario. Prosecutors can and do assist with this to ensure that lines of enquiry are proportionate and reasonable.

It is important that complainants are provided with adequate information to understand why a request has been made, and the circumstances in which any information may be used in evidence, or otherwise disclosed to the defence. It may not however always be possible to disclose to the complainant the full details of why a request is being made, as it may reveal information that could jeopardise a future trial and prevent the prosecutor from being able to prosecute the case.

The priority areas that should be focused upon are ensuring that the overall time for criminal justice proceedings is reduced, from first complaint, to prosecution decision and then to trial. This would require early engagement with a prosecutor to clearly focus any reasonable lines of enquiry, a reduction in time of investigation, including forensic, digital and obtaining third-party material and ability to list trials at an earlier stage.

The other challenge is ensuring that complainants are supported throughout the CJ process, from complaint through to conclusion of the case, and afterwards if necessary. There is no one agency in London that is responsible for the support of victims of sexual offences, and there are varying degrees of support dependent upon the nature of the offence and location. Support is variable and access to services very much dependent upon location.

Critical to the engagement of complainants is their understanding, and those supporting them, of the role of the prosecutor and how decisions are made. In particular, complainants should be equipped with the knowledge of what to expect about the level of contact likely to occur between a prosecutor and complainant throughout the case and why.

Long term planning is necessary to address the issues faced within the investigation of these serious offences, and long concerted effort is required, as there are no quick fixes. We need to understand what we do well and reflect on what we can do better.

The Government's ongoing cross-sector, end-to-end review into how rape and serious sexual offences cases (RASSO) are handled across the criminal justice system is considering why the number of rape and sexual offences prosecutions going to court has fallen at a time when allegations have increased significantly. The review will make recommendations for actions that can be taken to support victims and bring more offenders to justice. While the CPS will not pre-empt the findings of this review, the CPS has commenced work with the police at a national level on the development of a Joint Action Plan on RASSO. A commitment has been made to a wide-ranging, joint programme of work to develop new ways of working and pilot innovative practices to improve performance on RASSO cases, including case progression, digital capability and disclosure, specialist expertise, supporting victims, and stakeholder engagement.

The CPS will soon publish RASSO 2025 a five-year strategy on Rape and Serious Sexual Offences (RASSO) on 30 July. The overarching aim of RASSO 2025 reflects our commitment to do what we can to narrow the disparity between RASSO reports and criminal justice outcomes, as well as restoring public confidence within the CJS. We will do this by delivering a significant programme of work to take forward the following strategic themes:

- **Our People:** Support for the success and well-being of our people enables everyone at the CPS to thrive.
- **Digital Capability:** Our investment in digital capability helps us adapt to the rapidly changing nature of crime and improve the way justice is done.
- **Strategic Partnerships:** The CPS is a leading voice in cross-government strategies and international cooperation to transform the criminal justice system.
- **Casework Quality:** CPS legal expertise, casework quality and collaboration across the criminal justice system keep the public safer.

- **Public Confidence:** We work with partners to serve victims and witnesses and uphold the rights of defendants in a way that is fair and understood by all communities.

In developing these plans, the CPS is consulting extensively with stakeholders and, as part of that consultation, the DPP has personally met with service providers from across the UK, including in London.

### **Governmental and Oversight Bodies**

*Julia Mulligan – North Yorkshire Police, Fire & Crime Commissioner and the Association for Police, Fire and Crime Commissioners Joint Portfolio Lead for Victims*

Despite a huge amount of work and a genuine desire to improve, the criminal justice statistics on rape are not getting much better. As a victim myself, this is very important to me. I understand some of the complexities that victims face, including the agony, self-blame and confusion that often characterise the aftermath of a serious sexual assault.

You only have to consider the debacle over Digital Processing Notices to see that the “system” is not naturally structured around the needs of victims, as the impact of the forms on victims was clearly not understood nor appreciated. This a problem for the justice “system”, because without a start-to-finish victim-centric approach, the chances of a successful prosecution are slim.

Whilst some people take crumbs of comfort from initial reports of rape increasing, I question whether this is real, or whether it is down to other factors, such as the focus on improving crime recording. In our area, one of the best in the country for charging and prosecuting rape, the number of victims coming forward has remained flat. When only 1.4% of police-recorded rape offences nationally result in a charge or summons, only a very, very tiny proportion of victims are getting any sort of criminal justice result. Moreover, with 41% of victims not supporting prosecutions when they do go ahead, one has to ask, what is the



best outcome for the victim? Which leaves us with the very uncomfortable conclusion that failures in the system to support victims mean most rapists are getting away with their crimes.

In North Yorkshire, we have worked hard to support victims and improve rape investigations, yet still only 3.4% of cases result in a charge, demonstrating the distance left to travel. All officers are trained as First Responders to maximise evidence recovery at the earliest stage to improve credibility, and expert RASSO “gatekeeper” detectives review the quality of case files before we submit them to the CPS. Early advice from the CPS helps develop the evidence, and where there is insufficient evidence the team try to conclude the case quickly to help bring closure, ensuring the victim still receives appropriate support. The gatekeepers also urgently review every case not taken forward by the CPS to ensure appeals are processed promptly for victims where appropriate. A close relationship with CPS lawyers to understand why cases fail to reach the evidential threshold means learning can be applied to future investigations.

This is all good work, upon which we can build, and there is much more being considered by the National Rape Working Group and the sub-group reporting to the National Criminal Justice Board, of which I am part. However, one big issue for victims, upon which no progress has been made, is the time taken for cases to actually get to court. Unfortunately, as we stare the consequences of COVID in the face, this has become even more challenging.

During the pandemic, as chair of our Local Criminal Justice Partnership, I developed a local risk register and impact assessment, in which the implications of delays to justice are writ large. The stress of waiting for a charging decision, and then to give evidence, only for the case to be delayed sometimes repeatedly, is soul-destroying. This very often prevents victims from coping and recovering from their ordeal, to the point where they say enough is enough and withdraw.

The solution is a timely criminal justice process that puts the needs of victims at its heart. In the absence of that, right now a more co-ordinated approach is needed between national and local structures. This approach must put the support in place that victims need to get them through the certain delays and keep them invested and give clear expectations and timelines to make sure the light at the end of the tunnel keeps shining.

In addition to national services, Police and Crime Commissioners are responsible for providing local support to victims and victims, funded predominantly by the Ministry of Justice. However, at a national level, we do not have an accurate picture of the strains on the support system for RASSO victims, in particular on Independent Sexual Violence Advisors (ISVAs). So, whilst additional funding for ISVAs is welcome, we cannot assess the efficiency and effectiveness of that funding. We have evidence that caseloads vary significantly from place to place, and more funding is needed, but we do not have reliable data to tell us what is needed where or what the quality of that care is like. I am concerned that there is an underlying message in the data to suggest something of a postcode lottery as to the quantity and quality of the care which is offered. The charitable sector has an important role to play, alongside PCCs and the Victims' Commissioner, in pooling data to get a clear and accurate evidence base, especially as we approach the Comprehensive Spending Review. This work is not as coordinated as it could be across government, nor between the sector and commissioners, and it is urgently needed.

Finally, in the context of the COVID court backlog, it is welcome that RASSO cases with vulnerable victims and witnesses are being prioritised, although one wonders what victim of rape would not be vulnerable. However, the potential effectiveness of the courts' recovery plan is hard to pin down. I understand that COVID is entirely unprecedented and many people are working enormously hard to mitigate its impact, but we have a duty to victims to provide them with the best possible information about their cases, and at present,

that is nigh on impossible to do. Clear data and timescales at a very local level are urgently required so we can provide reassurance and appropriate support. In the meantime, we press on providing support as best we can, with increasingly stretched and complex services. It is little wonder the statistics on rape remain stubbornly poor.

*Claire Waxman – London Victim’s Commissioner*

There is simply no two ways about it: as a country we are failing rape victims. The statistics tell an unacceptable story of justice being denied to the overwhelming majority, with national conviction rates currently standing at 1.4%. Charging decisions by the CPS have fallen from 17.2% of cases in 2015/16, to 4.6% in 2018/19. It is not hyperbole to state, as campaigners do, that rape has been ‘effectively decriminalised’ in this country.

In such a context, those of us working with rape victims are presented with a genuine dilemma as to what responsible advice looks like. Can we, in good faith, recommend that victims should report to the police and try to pursue justice in a system that hardly ever delivers it?

In my role as London Victims’ Commissioner, I am tasked with identifying systemic issues and campaigning for improvements to the justice system and the support available to victims. Rape convictions remain a key priority for me because victims of this devastating crime remain one of the most failed cohorts.

My contribution to our understanding of this justice crisis was the London Rape Review, published in 2019. Based on evidence from the Mayor’s Office for Policing and Crime (MOPAC) and the University of West London, the review looked at 501 allegations of rape made across London in April 2016, providing the clearest picture to date of reported rape in the capital and the reasons why so few cases result in conviction.

The review found that only six per cent of allegations reached trial, with three per cent resulting in a conviction. Almost a third of cases ended in “No Further Action” by police. The

average length of time from the date of reporting to the trial outcome was 18 months. Which perhaps has a direct impact on the largest finding of the review: that 58% of cases ended in victims withdrawing from the process. More than anything, the evidence from the Rape Review reinforced the fact that so much more needs to be done to support victims when they report and to keep them engaged in the justice process.

The length of time cases take is particularly relevant as access to counselling is restricted for victims during an investigation and ahead of trial. Therapist notes may be disclosed to the police, therapy may be paused if new details of the crime come to light and victims are barred from discussing the actual rape itself with a therapist, for fear of “coaching”. As such, many victims forgo therapy altogether choosing to prioritise their privacy over their well-being and recovery.

In an ideal world, victims would be able to access psychological support free from any restriction and I have sympathy with campaigners who want to change the law to keep therapy notes private. But this would require significant changes to the legislation that governs police investigations and is a longer-term goal. In the meantime, I would like to see government fund many more Independent Sexual Violence Advocate roles and provide resources for them to be trained in and provide a level of therapeutic support. Emotional resilience is absolutely crucial for victims to remain engaged in the arduous and retraumatising justice process and therapy has a vital role to play.

Another key issue relating to victim withdrawal identified by the London Rape Review was the disclosure of personal data, particularly from digital devices. Those and I working with rape victims have heard that police requests for mobile phones have become routine, regardless of the facts of the individual case. More worryingly, the requests are often disproportionate, meaning police are unnecessarily requesting and downloading highly sensitive personal data without sufficient safety parameters. This was affirmed by a recent investigation of rape cases

by the Inspectorate for the Crown Prosecution Service found that requests for personal data were disproportionate in 40% of cases.

The prospect of having their entire private life downloaded to be combed through by complete strangers can have a huge impact on an already traumatised victim. As a victim explained “*[The police] then requested an entire download of my mobile phone. I could not cooperate on this point. A mobile phone is just too personal and there is just way too much information on it which is irrelevant to the crime committed but will nonetheless be used to humiliate and discredit me.*”

I will be conducting further research on the impact of police seizures of victims’ mobile phones. The hope is that the lessons from this research could ultimately help to tackle high rates of victim withdrawal and delays in case progression caused by digital disclosure requests and therefore improve justice outcomes.

The issues I’ve outlined in this essay would be a step in the right direction but are only the start of the changes necessary to bring around a significant shift in rape investigations and prosecutions. As Victims’ Commissioner for London, my priority will always be the wellbeing of the victim and I will focus on changes that will help to make the process more trauma informed, supportive and empowering.

### **Discussion**

The current piece brought together a variety of ‘Leading Voices’ from several areas relating to the support of rape victims and the investigation and prosecution of rape cases within the criminal justice system. This is the first time that such a diverse range of opinions has been collated in the same place, and for academic dissemination. The unedited, written expertise above provides a wealth of information relating to two principal areas: the current landscape of rape investigation and its associated challenges, and suggested improvements.

### **Challenges**

In relation to the national landscape and current challenges, several core themes were evident. The increasing role of technology in rape cases was highlighted from two angles; the impact of technology requests on victims, and the impact this has on the investigation itself. Service providers were quick to highlight that victims were reluctant to provide their devices for a variety of reasons, including concerns about privacy, data protection, and the impact this has on their day-to-day functioning. They also highlighted how many victims, despite their reservations, still yielded their devices, only to be met with suspicion and indifference. They, alongside officers and prosecutors, also drew attention to the way that technology and personal information was used, and the concerns that victims had about it being used ‘in the wrong way’ or ‘against them’ (i.e., to undermine their credibility). Those in the justice system spoke of the difficulties this produced, as they sought to balance the need for this information, and the level of intrusion in victims’ personal lives. Such observations support preliminary studies demonstrating the increasing use of technology in cases, and the impact of digital data on the ability to progress through the system<sup>31</sup>.

Negative attitudes and beliefs about rape and those involved, identified as ‘rape myths’ by some contributors, were also frequently mentioned. Both support services and oversight bodies spoke of the pervasiveness of such myths across all stages of the justice process and commented on the detrimental impact of these attitudes on both the mental health of victims, their faith in the system, and the attainment of a positive outcome. These attitudes were also mentioned by police forces, as they acknowledged how the processes utilised to establish victim credibility often led to victim’s feeling heavily scrutinised and judged. Again, this supports a wealth of research on the impact of myths on the investigative and prosecutorial process<sup>32,33</sup>.

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<sup>31</sup> Phil Rumney and Duncan McPhee, ‘The evidential value of electronic communications data in rape and sexual offence cases’ [2020] *The Criminal Law Review*

<sup>32</sup> Katrin Hohl and Elizabeth Stanko (n 2)

<sup>33</sup> Anthony Murphy and others (n 3)

The employment of myths was also identified by service providers and oversight bodies as representative of over-reach by police officers and going ‘beyond their investigative duties’. Specifically, several contributors highlighted that officers were too fixated on what they believed the CPS would be willing to take forward to prosecution and were thus making decisions on which cases to pursue based on the likelihood of case progression, rather than an objective evaluation of the information. Prosecutorial services were also accused of anticipatory decision making, as they ‘second-guessed’ the behaviour of those in court and the jury. Academic support for this co-called downstream orientation<sup>34</sup> is pervasive<sup>35,36,37</sup>. These challenges may represent the ‘lack of understanding’ outlined in the CPS submission as to the role of prosecutors and their decision-making processes, and the necessary steps the CPS must take in evaluating cases. On the other hand, both police and prosecutorial forces may in fact be taking a ‘book-makers’ approach to cases, attempting to identify the ‘odds’ of a particular case proceeding, based, at least partially, on erroneous or irrelevant information. Either way, it could be argued that greater transparency, as suggested strongly in the submission from Rape Crisis, would help in aiding understanding and improvements.

Perhaps most pervasive were issues and concerns regarding resourcing, which exacerbated and underpinned most of the other challenges outlined. A chronic and severe lack of funding for most of the services represented by contributors was held as the principal reason for the substantial delay faced by rape cases, the current backlog of rape cases awaiting prosecution, and the decisions taken by police officers and prosecutors as to which cases to pursue. Moreover, the lack of resourcing for support services and roles, such as

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<sup>34</sup> Lisa Frohmann, ‘Convictability and discordant locales: Reproducing race, class, and gender ideologies in prosecutorial decision making’ [1997] *Law & Society Review*, 31

<sup>35</sup> Vanessa Munro and Liz Kelly, ‘A vicious cycle? Attrition and conviction patterns in contemporary rape cases in England and Wales’ in Miranda Horvath and Jennifer Brown (eds) *Rape: Challenging contemporary thinking* (Willan Publishing, 2009)

<sup>36</sup> Anthony Murphy and others (n 3)

<sup>37</sup> Cassia Spohn and others, ‘Unfounding sexual assault: Examining the decision to unfound and identifying false reports’ [2014] *Law & Society Review*, 48

ISVAs and specialist officers, was blamed for greatly exacerbating the trauma of rape reporting, and the lack of care victims experience within the system. This supports previous examinations which have highlighted the devastating impact of austerity measures, particularly on the policing of sexual crimes<sup>38</sup>.

### **Recommendations for Improvement**

Naturally, most contributors subsequently voiced that adequate resourcing of the criminal justice system and other support services was the most crucial improvement required. This is unsurprising, as over a decade of austerity measures within England and Wales have taken an inevitable toll on critical infrastructure<sup>39,40</sup>. As the underlying source of most issues, several of the other recommendations (i.e., the provision of more specialist support, the quicker processing of cases) were associated with increased fiscal provision. As such, there should be no doubt that increased, appropriate funding of the criminal justice system and associated support services is of paramount importance moving forward.

Several contributors representing criminal justice bodies actually detailed some of the changes and improvements they had already implemented or were formulating. These included an increase in specialist training, the creation of specialist units or officers to respond to rape cases, and the strategies to increase public confidence. Whilst a positive start, there is still good evidence available to suggest that training to address negative myths is still required within multiple levels of the justice system<sup>41,42,43,44,45,46,47</sup>, and the continuing professional development of those within the CJS is absolutely crucial (as highlighted by many contributors). Moreover, a suggestion for greater cohesiveness and communication

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<sup>38</sup> Natalie Mann (n 9)

<sup>39</sup> *ibid*

<sup>40</sup> Andrew Millie (n 10)

<sup>41</sup> Benjamin Hine and Anthony Murphy (n 13)

<sup>42</sup> Benjamin Hine and Anthony Murphy (n 14)

<sup>43</sup> Benjamin Hine and others (n 15)

<sup>44</sup> Katrin Hohl and Elizabeth Stanko (n 2)

<sup>45</sup> Anthony Murphy and Benjamin Hine (n 18)

<sup>46</sup> Anthony Murphy and others (n 3)

<sup>47</sup> Dominic Willmott and others, 'Introduction and validation of the Juror Decision Scale (JDS): An empirical investigation of the Story Model' [2018] *Journal of Criminal Justice*, 57



within the justice system, particularly between officers and prosecutors was also outlined, so that prosecutors weren't simply 'marking the homework' of officers. Other proposals came from specific projects or findings. For example, the London Rape Review<sup>48</sup> overseen by the victim's commissioner which led to specific practice recommendations concerning victim needs and vulnerabilities. Indeed, literature in support of a trauma-informed approach to rape investigation further supports such recommendations<sup>49,50</sup>.

However, many of the proposals outlined by justice contributors did not, at present, meet the expectations outlined by service providers of wholesale overhaul and reform of the justice system. This disconnect could perhaps be one of the reasons that victims and service providers are still deeply unsatisfied with how rape cases are handled. As such, whilst there is no doubt that the recommendations/improvements outlined by contributors are beneficial, and should be pursued, those supporting victims outside of the criminal justice system do not believe these to be sufficient on their own. This lack of scale is highlighted, for example, by the fact that the forces contributing to this piece have all outlined isolated approaches, which are not scaled to a national level. Rape case attrition is arguably a national (indeed international) problem, which requires a national (/international) solution.

Perhaps one of the most important considerations is the potential re-conceptualisation of 'success' within the criminal justice system. The contributor representing Greater Manchester Police outlined how many victims coming to the criminal justice system are not necessarily seeking a prosecutorial outcome, but that current measures of 'success' are conceptualised around just that. There is perhaps then a broader, philosophical conversation, which requires attention from academics and professionals alike, to increase understanding as to why individuals do and do not approach the justice system after incidences of rape, and

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<sup>48</sup> MOPAC (n 7)

<sup>49</sup> Emma Lathan and others, 'The promise initiative: Promoting a trauma-informed police response to sexual assault in a mid-size Southern community' [2019] *Journal of Community Psychology*, 47

<sup>50</sup> Karen Rich, 'Trauma-informed police responses to rape victims' [2019] *Journal of Aggression, Maltreatment & Trauma*, 28

what their differential needs may be. Indeed, perhaps mapping resourcing and service provision to the needs of victims (which may, for example, be more strongly centred around trauma-informed support, rather than investigation with a view to prosecution) may be beneficial, for both parties involved. This could provide a more nuanced approach to achieving best outcomes for victims and centring their wellbeing in justice processes.

### **Conclusion**

This article collated the experiences of key experts within the area of rape policing and prosecution within the UK; the aim of which was to act as a catalyst for the bridging of evidence-based practice with practice-based evidence. Of key interest to researchers and academics who read this chapter is the desire from these leading voices to improve services and victim experience; to develop understanding; and to enhance working practices. It is thus the duty of the academic sector to respond to these desires, and to utilise practitioner expertise in the creation and delivery of evidence to support and facilitate the scale of change clearly needed.

There appears to be a genuine desire for systemic and process-based improvement among many criminal justice parties. An objective understanding of the issues, coupled with an evidence-based approach to improvement and evaluation of the success and utility of any change, could help to bring much needed, highly impactful change for victims and those who support them.