



CREaTE

Canterbury Research and Theses Environment

Canterbury Christ Church University's repository of research outputs

<http://create.canterbury.ac.uk>

Please cite this publication as follows:

Tong, S., Horvath, M. and Williams, E. (2011) Critical issues in rape investigation: a UK perspective. *The Journal of Criminal Justice Research*, 1 (2). pp. 1-18. ISSN 2160-2816.

Link to official URL (if available):

This version is made available in accordance with publishers' policies. All material made available by CReaTE is protected by intellectual property law, including copyright law. Any use made of the contents should comply with the relevant law.

Contact: create.library@canterbury.ac.uk





The Journal of Criminal Justice Research

RESEARCH ARTICLE

CRITICAL ISSUES IN RAPE INVESTIGATION: AN OVERVIEW OF REFORM IN ENGLAND AND WALES

Miranda A.H. Horvath
University of Surrey

Stephen Tong¹
Canterbury Christ Church University

Emma Williams
Metropolitan Police Service

ABSTRACT

This article examines a recent history of criminal justice reform to responses to the investigation of rape offences. Beginning with a selective overview of the professional development of detectives and criticisms relating to investigation of 'low status' crimes this article points to the challenges in the professionalization of detectives in the context of investigative responses to marginalised victims. The paper goes on to outline police responses and evaluations of initiatives aimed at improving effectiveness before summarising the complexities and vulnerabilities faced by victims and how these experiences impact upon the likelihood of successful prosecution. Finally the paper summaries the main analysis and identifies the key challenges to the criminal justice sector in improving responses to rape victims.

Keywords: Rape; Investigation; England and Wales; Criminal Justice Reform

AUTHOR BIOGRAPHY

Miranda Horvath is a Lecturer in Forensic Psychology at the University of Surrey, UK. Her research focuses on sexual violence from an applied social psychological perspective. She has published her work in national and international journals. In 2009,

¹ Correspondence should be sent to Dr. Stephen Tong at steve.tong@canterbury.ac.uk

Willan published her co-edited (with Jennifer Brown) collection *Rape: Challenging Contemporary Thinking* and Wiley-Blackwell her co-authored (with Stephen Tong and Robin Bryant) book *Understanding Criminal Investigation*.

Stephen Tong is a Principal Lecturer in Policing at Canterbury Christ Church University, UK. He completed his PhD at the University of Cambridge, Institute of Criminology. During his doctoral studies (funded by the National Crime Faculty and the Economic and Social Research Council) entitled 'Training the effective detective' he examined detective training and its impact on practice. His research interests and publications include approaches to criminal investigation, police training and professionalization. In 2009, he co-authored (with Miranda Horvath and Robin Bryant) the book 'Understanding Criminal Investigation' published by Wiley-Blackwell.

Emma Williams is a lead researcher at the Metropolitan Police Service. Prior to this she was a part time visiting lecturer at Brunel University and North London University. She has completed various internal qualitative research projects within the MPS including work on rape victim withdrawals. Her research interests are victims of crime, sexual violence, Policing and Community Engagement.

INTRODUCTION

Recently published figures from the British Crime Survey and police-recorded figures show an overall 7% fall in crimes in England and Wales in 2009 compared with 2008. Specifically they show that in 2009 police recorded significantly reduced numbers of violent attacks, robbery, burglary and fraud, but sexual offences rose by 2% with an additional 1,135 crimes bringing the total to 53, 239. This was the only major category to see an increase. The challenges to the criminal justice system in responding to sexual offences are not only aimed at preventing the occurrence of sex offences but also ensuring that victims come forward and effective investigation results in the conviction of offenders.

The investigation of rape by the police service in England and Wales has been subject to regular criticism (see for example: Home Office Circular 69/86 HMCPSI/HMIC, 2007; Stern Review 2010). From interviews involving aggressive interrogation techniques through to officials expressing doubts over a victim's reliability criminal justice responses have added to the trauma suffered by victims and resulted in many cases not making it to court. This article provides an overview of responses to rape offences in England and Wales through the development of detective work, changes in legislation, criminal justice reforms, police led initiatives and the changing context of the rape offences.

HISTORICAL CONTEXT

The creation of the first public service detectives was a gradual and drawn out development in England and Wales. Peel's 'new' (uniformed) police were established in London in 1829. Based upon a preventative and visible service Peel intended to reduce

public suspicion and political concerns regarding the criticisms attracted by the French gendarmerie (Reiner, 2000). As a consequence and an attempt to gain sufficient support for the introduction of a public police service there was an emphasis on prevention rather than detection, visibility through standard uniforms rather than plain clothes officers, and the building of public trust rather than an adversarial relationship. From this perspective it was important for Peel to ensure that fears of an over-bearing state police were addressed. To this end, the visible and preventative emphasis was a key factor in persuading Parliament to finally accept the Police Bill (Rawlings, 2002).

It should be understood at the outset that the principal object to be attained is the prevention of crime. To this great end every effort of the police is to be directed. The security of person and property, the preservation of the public tranquility and all other objects of a police establishment will thus be better affected than by detection and punishment of an offender after he has succeeded in committing the crime. (Commissioner Mayne in Edwards, 1999: 27).

Police work became the subject of research studies after the Second World War providing the basis of a more informed understanding of police practice. Like Peel's initial emphasis on the prevention of crime it was the role of the uniformed constable that attracted a larger proportion of this early research interest than the plain clothes detective. The history of detective work has therefore received less attention and as a result there are periods where credible sources of research do not exist, research focused on the history of police responses to rape investigation are even more scarce. This is the case particularly from the 1880s through to the middle of the twentieth century (Wright, 2002). However, the development of detective work can provide an insight into the gradual changes in criminal investigation and perhaps provide an insight to how current detective practices in relation to rape have evolved.

The Desborough Committee (1919) reviewed the needs of detectives and concluded that training was not required as any learning needs would be met by "experience and practical work" (Tong, Bryant & Horvath, 2009). Although the committee's findings are dated, the perspective that detective learning should be conducted predominantly in the work place has remained dominant. As detective training evolved it became apparent that detectives like their uniformed counterparts were trained in points of law as opposed to investigative skills or broader social studies aimed at providing practitioners with a deeper understanding of their roles (Foster, 1999; Morgan, 1990). Recently detective training has been redesigned through the introduction of the Professionalising Investigation Programme (PIP). This programme is aimed at providing a framework to produce more effective investigators (National Policing Improvement Agency [NPIA], 2010). However, the programme is yet to be independently evaluated in terms of the aims 'to lead to increased professionalism of investigators, and establish a structured, professional approach to investigation' (NPIA, 2010) In England and Wales changes in legislation have been one source of justification to review detective training. Key legislation has served to determine police powers, the role of the Crown Prosecution Service (CPS) define the criminal investigation process and the role of investigators

(Stelfox, 2009). As Stelfox (2009:33) has argued not only has the 'legal framework' delivered changes to the role of investigators but changes in technology, procedures and growing 'concerns' around the effectiveness of police investigations has encouraged closer scrutiny of detective work (Tong, 2009). Concerns directed at investigative responses to particular groups including women (sexual offences), ethnic minorities (stop/search and hate crime) and people with disabilities (access to policing services/hate crime) collectively question the attitude and approach of police officers to particular victims and offenders in the investigation of crime (Bowling, 1998; Stern, 2010; BBC, 2009). Examples of miscarriages of justice², reports by inspection teams,³ and public enquiries⁴ have criticised detective practice and raised concerns about how police investigations are conducted (Bowling & Tong, 2006; Stelfox, 2009; Tong, 2009; Wood & Tong, 2009). Recent empirical research sponsored by the Police Federation claims that PIP will have some substantial challenges with low morale among detectives, problems with recruiting appropriate candidates for detective work, trainees given full caseloads without appropriate mentoring and management concerned 'with achieving organisational outcomes at the expense of promoting professional practice' (Chatterton, 2008:xii). It would appear from this evidence that there are serious challenges to the education and development of detectives to address the criticisms of the past and this will inevitably be linked to the quality of performance in investigation in the future.

Although the use of police discretion is commonly associated with stop and search practice, discretion in policing is practiced throughout the organization. Criminal investigation is also based on discretionary decisions made by detectives. Reiner (2000: 93-94) points to 'police property' as a category of crime left to the police to deal with by the 'dominant powers of society'. Within this category are a group identified as 'rubbish', reflecting 'messy', 'unworthy' offences that maybe be perceived as the 'complainants fault'. Crimes that can fall within this category include rape, domestic violence or hate crime characterising 'messy' investigations (long protracted cases where the officer may have some doubts regarding the integrity of the complaint), or unworthy of attention (the officer believes the event is not an offence but a private matter, or a trivial event) or finally the complainants fault (the officer believes the complainant contributed to their own victimisation). Bowling (1998:246) draws on the work of Manning (1988) and Grimshaw and Jefferson (1987) to describe the 'hierarchy of police relevance'. This process describes the categorization of crime through 'natural agendas', 'interpretation of the law', and 'common-sense values of the relief'⁵ resulting in the classification of offences ranging from 'good crime' (perceived as high status, innocent victims) through to 'rubbish' (perceived as low status, powerless), inevitably the former has a greater chance of arrest than the latter (Bowling, 1998:246-247; Reiner, 2000; Waddington, 1999). Similarly the investigation of rape offences and domestic violence has traditionally featured in the 'rubbish' category of offences attracting criticism directed at

² Birmingham Six, Guildford Four.

³ Training Matters (HMIC, 2001) Without Consent (2007).

⁴ Byford, Scarman, Lawrence and Climbe Enquiries.

⁵ 'Relief' refers to the police team working on the same team and on the same shift.

the police (Gregory & Lees, 1999; HMCPSP/HMIC, 2007; Hoyle, 2000; Reiner, 2000). However, despite greater awareness and improvement, the police response to these crimes still receives criticism (Newburn & Reiner, 2007).

Investigating rape is particularly challenging (Horvath & Brown, 2009; Stelfox, 2009). Nowhere has criticism been more consistent over the years than the police ability to investigate rape offences. It is this context where concerns around police investigation are particularly prominent. Illustrations of negative police perceptions towards victims can be seen in particular cases⁶ where police officers are seen as unsympathetic to victims to the detriment of the investigation or victims reporting high levels of dissatisfaction with police⁷ responses. In the context of rape investigation these issues are particularly relevant. The concerns raised around cases of negative police attitudes towards victims and rape investigations are magnified when attrition rates are considered alongside the huge variety⁸ of these figures across different police services in the UK.

The professional development of detectives has followed the 'craft model' of learning until relatively recently with low levels of supervision and high levels of discretion (Hobbs, 1988; Stelfox, 2008). The belief that investigative work simply required 'common sense' with low levels of education, the lack of research aimed at improving investigative practice, the slow pace of change to past and current criticisms and evidence of a continued presence of negative attitudes towards marginalised groups remain barriers to improving investigative standards in England and Wales. Responses to these concerns have come in the form of empirical research, policy initiatives and legislative changes. The following section discusses the criminal justice reforms aimed at improving responses to rape offences.

CRIMINAL JUSTICE REFORM

The criminal justice system has seen numerous reforms in relation to rape in the last thirty years. These have been monitored and evaluated by researchers, statutory agencies and the criminal justice practitioners themselves. Although some progress has been made especially in the care of victims and some re-shaping of the law to reflect modern notions of sexual autonomy many of the reforms have failed to be effective or have not been fully implemented. In this section the key criminal justice reforms of the last thirty years in England and Wales⁹ will be outlined and some commentary provided about their consequences (for a more detailed account see Brown, Horvath, Kelly & Westmarland, 2010).

⁶ See for example the two recent Metropolitan Police rape cases involving John Worboys and Kirk Reid.

⁷ Myhill and Allen (2002) report 38% of victims of rape are dissatisfied with the police response,

⁸ Provide statistic illustrating variety of detections/convictions.

⁹ Although this article broadly gives a UK perspective the focus is on England and Wales as Scotland has a different legal system.

In the 1980's criminal justice reform was spurred on initially by Roger Graef's documentary 'A complaint of rape', which showed oppressive interviewing of a rape victim by Thames Valley police officers and subsequently by a joint publication from the Women's Aid Federation and Women Against Rape that suggested detailed requirements in police procedures in the investigation of rape. This resulted in the Home Office issuing a number of circulars (25/83 and 69/86) requiring police to revise their procedures. Circular 69/86 advised that "the initial reception of a rape victim must be handled with sensitivity by a police officer with a knowledge of the likely ways in which victims may react [they] should be aware of rape trauma syndrome and [the victim] is put into contact with support organisations." Furthermore "unsubstantiated complaints should not be recorded as any crime. The only complaints which should be so classified are those in which the complaint retracts completely and admits fabrication." There was to be a clear distinction between unsubstantiated and false complaints. The former should remain recorded as a crime. Towards the end of the eighties new training courses for police to investigate rape and support for victims were initiated, specially designed rape suites away from police stations were established and an increased number of female police surgeons were encouraged to undertake forensic examinations (Temkin, 1998). Furthermore the first Sexual Assault Referral Centre¹⁰ (SARC) was established at St Mary's Manchester in 1987.

The nineties began with significant changes in the law. In 1991 marital rape became a criminal offence and in 1994 male rape was recognised in law. By the mid to late nineties a number of evaluations of these changes began to emerge (e.g. Grace, Lloyd & Smith, 1992; Gregory & Lees, 1996; Harris & Grace, 1999; Jones, Newborn & Smith, 1994; Lea, Lanvers & Shaw, 2003; Lees & Gregory, 1993; Smith, 1989; Temkin, 1997). There were some grounds for optimism that the changes were having a positive impact insofar as some women were reporting greater satisfaction in the manner with which they were being treated by the police (Temkin, 1999) although it was still the case that women presenting with a stranger rape seemed to be treated more sympathetically than those who knew their attacker.

The nineties ended with a Sex Offences Review, which began in 1999. The review aimed to achieve 'protection, fairness and justice' within the Home Office's overall aim of creating a 'safe, just and tolerant society' (Home Office, 2000b). It sought to review sex offences in England and Wales and make recommendations to provide much more coherent and clear sex offences, ensure perpetrators are punished appropriately and abide by the ECHR and Human Rights Act so as not to be discriminatory. Two lengthy documents were then produced, consisting of literature reviews, reports from consultation seminars and recommendations (Home Office 2000a, 2000b) and from this review, the white paper 'Protecting the Public' was published (Home Office, 2002) setting out the Government's proposals. The Sexual Offences Bill was introduced in January 2003, was given Royal Assent on the 20th November 2003 and became the

¹⁰ SARCs focus on services victims need after an assault including forensic and medical examinations, one-to-one counseling, pregnancy testing, 24-hour telephone information and support (Kelly, Lovett & Regan, 2005).

Sexual Offences Act (SOA) 2003 which came into effect from May 2004. Amongst the many changes the 2003 Act introduced of most relevance here include: the expansion of the meaning of rape to include oral penetration as well as vaginal and anal with the penis; a legal definition of consent; children under thirteen years old can never now legally consent to sexual activity. The majority of the commentary on the SOA has been published in legal journals (Bohlander, 2005; Elvin, 2008; Finch & Munro, 2004; Spencer, 2004; Temkin & Ashworth, 2004), with most welcoming its parameters. Debate has centred on drunken consent and the provisions relating to consent (e.g. Elvin, 2008) with the suggestion that the SOA needs to be amended to include more specificity about which circumstances vitiate consent. Despite significant rulings in leading cases (such as R v. Dougal, 2005; R v. Bree, 2007; R v. H, 2007) confusion remains both amongst the general public and the courts about capacity to consent when alcohol has been consumed by a victim (Wallerstein, 2009). In 2006 the Home Office published the only evaluation, termed a 'stock take' into the effectiveness of the SOA concluding there was little evidence to show that it had helped to secure a greater number of convictions against sex offenders, particularly rapists, and that awareness about the Act and its provisions remains patchy.

Two thematic inspections were conducted in 2002 and 2007 by Her Majesty's Inspectorate of Constabularies (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPsi) to analyse and assess the quality of investigations, decision making and prosecution of rape cases by police and crown prosecutors. The 18 recommendations made by the 2002 inspection were responded to by the Government in the publication of a 'Rape Action Plan' which accepted almost all of the recommendations. One consequence of this was the production in 2005 by the Association of Chief Police Officers (ACPO) of a manual 'Guidance on Investigating Serious Sexual Offences'. Another significant change in terms of investigating rape was the completion of the roll out of statutory charging in England and Wales which meant that Crown Prosecutors took over deciding if the defendant should be charged in serious cases including rape. This is just one of many moves in England and Wales which seem to be developing best practice towards a more American style approach to dealing with rape where investigators and prosecutors work closely on cases, continually consulting and advising one another.

The 2007 HMCPsi report assessed the progress against the recommendations in the 2002 inspections, in doing so they acknowledge a number of significant developments that should have improved the investigation and prosecution of rape including: the development by ACPO of a project to provide consultancy and support to individual forces to assist them in identifying and addressing gaps in performance; an increase in the number of SARCs; Police and Crime Standards Directorate (PCSD) assistance to forces to exploit developments in forensic science to revisit 'cold' cases and the publication of a Good Practice Guide (2005). The 2005 guide was replaced in 2009 with a joint ACPO and CPS best practice in investigating and prosecuting rape protocol produced by the National Policing Improvement Agency (NPIA).

Assessments of different aspects of these changes have been undertaken and include Fawcett Society Commission on Women and the Criminal Justice System “Engendering Justice: From Policy to Practice” (2009); the report on the views of rape victims led by Victims Champion Sara Payne (Payne, 2009); the review into the sexualisation of young people led by Dr Linda Papadopoulos (Papadopoulos, 2010); the Stern Review (2010) and the assessment of evidence, knowledge and practice in responses to rape which was commissioned as part of the Stern Review (Brown et al, 2010). Whilst all report pockets of better practice they also note continuing variation by location and considerable continued causes for concern because despite the many efforts directed at improving and making more consistent responses to victims the picture does not appear to have changed substantially over the last decade. Many of the recommendations made in research and by previous enquiries and audits have not been consistently implemented (Brown et al, 2010).

CONTEMPORARY CHALLENGES IN RAPE INVESTIGATION AND POLICE RESPONSES

Concurrent with the continuing negative revelations about the way in which the police investigate rape and support victims of sexual crimes was the change in focus within the criminal justice system more broadly from the crime and the criminal to the victim and the impact of victimization. Following the Home Office ‘Speaking up for Justice’ paper (1998), there have been a range of legislative and policy changes aimed at both addressing service provision to victims of crime and placing the victim at the centre of the criminal justice process.

A specific programme from the Metropolitan Police Service (MPS), Project Sapphire, which was launched in 2001, will be used as an example of good practice in this section. The programme aimed to increase conviction rates and improve the level of care provided to victims of rape in London. The project coordinated the role of the specialist sexual offences trained officers (SOITs), promised a response to victims from a SOIT within an hour of reporting, requested regular reviews of rape cases by a local senior investigating officer and the establishment of dedicated Sapphire teams on each borough in London staffed by dedicated detectives and SOITs ring fenced to deal with sexual crimes.

However research continued to identify an ongoing decline in conviction rates (Kelly et al, 2005; Fiest et al, 2007) and issues with victims withdrawing allegations from the police. In 2004 Project Sapphire requested a piece of research aimed at understanding the reasons why victims withdrew from the criminal justice process (Williams, 2004). This research identified a plethora of reasons for victim withdrawal including, victims’ concerns about the court process, fear of reprisal from the perpetrator juxtaposed with the time that the case may take to reach court and the level of support offered by the police. However more critically some of the participants involved in the research felt they were actively encouraged by police officers involved in their case to withdraw from the process via subtle advice that, paradoxically, confirmed the fears outlined above. This small piece of research was based on a limited number of victims and did not

provide information about what type of issues were involved in the case that may have further impacted on victims' decisions to withdraw.

Therefore as a result of the continuing decline in conviction rates the MPS commissioned the Strategy Research and Analysis Unit¹¹ to undertake an internal rape review in 2005. The review aimed to increase understanding about rapes reported in London and the individual situations facing victims of these crimes. The Rape Review (2005, 2007: Stanko, 2007) tracked all rape allegations made to the MPS during April and May 2005 (n=677)¹² through to outcome and explored case characteristics that impacted on outcome. Ultimately, in operational terms, the research intended to provide the required knowledge for officers to better investigate rape and sexual violence and improve the service they deliver to victims.

There are many complexities of victim / perpetrator relationships involved in rape and other external factors such as alcohol and drugs that are challenging for investigations. Whilst the range of factors that present challenges to the investigation of rape has probably not increased in recent years understanding of the extent and complexity of these issues has developed rapidly. There has been a steadily increasing body of evidence covering issues such as: victim vulnerabilities including mental health and young age (under 18) (e.g. Stanko, Norman & Wunsch, 2007); alcohol and drugs (e.g. Lovett & Horvath, 2009); rape myths (e.g. Bohner, Eyssel, Pina, Siebler & Viki, 2009); prostitution (e.g. Coy, 2009); multiple perpetrators (e.g. Horvath & Kelly, 2009) and the internet (e.g. Wall, 2010). All of these issues affect the social believability (Stanko, 1982) of a rape victim and exposure to a range of different issues within an individual's lifestyle impacts therefore on any encounter they have with the police. The Rape Review sought to examine these complexities in relation to the case outcome and understand the relationship between these issues and attrition. The Rape Review (2005, 2007) identified four key points of attrition, identified as: allegation to crime; crime to arrest; arrest to charge; charge to conviction. Furthermore of the 677 rape allegations reviewed in the research, the conviction outcome was as follows:

- Of all rape allegations: 5.3% resulted in a conviction;
- Of all crime allegations: 7.9% resulted in a conviction;
- Of all arrested suspects: 13.7% were convicted.
- Of all charged suspects: 31.3% were convicted.

Victim Vulnerabilities

Within these key points the Rape Review identified four categories of 'victim vulnerability' which made cases susceptible to attrition and impacted on it at different stages. A victim's perceived vulnerability can operate, in the context of an investigation, both in support of and against her. Stanko and Williams (2009: 214) define vulnerability

¹¹ The Strategy Research and Analysis Unit (SRAU) is the MPS internal research unit within the MPS

¹² The number was originally 697 but 20 were eliminated from the analysis as they were identified as duplicate cases.

as “a form of exposure to rape”. The four categories were identified as: victims aged under 18; victims noted to have a mental health issue; those who had been involved in a relationship with the perpetrator; and victims who had consumed alcohol prior to the offence occurring. In 87% of the cases analysed victims displayed more than one of these vulnerabilities, this was confirmed in a subsequent study using data from the same force but from a different time period (Horvath & Kelly, 2009), and patterns of attrition differed depending on the type of vulnerability involved.

The rape review found that victims under 18 and those who were or had been involved in an intimate relationship with the perpetrator are more likely to have their allegations classified as a crime of rape by police. Victims, who have consumed alcohol, were less likely to have an allegation recorded as a crime but are more likely to see the case culminate in a successful conviction once it reaches the prosecution stage. Victims with mental health issues are the most disadvantaged: they are three times less likely to have their allegation classified as a crime of rape, and have reduced chances of their cases resulting in a conviction at the subsequent two stages of the criminal justice decision making process. Furthermore the Rape Review identified an accumulative effect of the vulnerabilities. The more of these four issues a victim presented to the police the more likely the case was to drop out of the system.

The extent to which the police are gatekeepers to the criminal justice system has been widely debated (Jordan, 2004) and therefore they play the main role in deciding whether a particular sexual behaviour is illegal. Indeed while the police are involved in the process of assessing the credibility of a case the vulnerability involved becomes a key form of evidence (Williams et al, 2009). How the police manage this process is vital to the continuing engagement with the victim as the vulnerability involved does not simply impact on the cases chance of progressing but also on how the victim interprets the event itself and their own belief in the chances of the case being taken seriously. The vulnerability has therefore raised the victims’ exposure to the likelihood of being assaulted in the first instance and consequently it impacts on the chances of the receipt of justice. As Stanko and Williams (2009) argue victims’ identity becomes the baseline for the assessment of truth.

Rape Myths

Although rape myths are not a new challenge in rape investigations they are enduring. Rape myths are defined by Bohner (1998:14) as “descriptive or prescriptive beliefs about rape (i.e. about its causes, context, consequences, perpetrators, victims and their interaction) that serve to deny, downplay or justify sexual violence that men commit against women”. Four main types of rape myths exist those that: imply only certain types of women get raped; blame the victim for their rape; exonerate perpetrators and express disbelief in claims of rape (Bohner et al, 2009). Brown and Horvath (2009:322) summarised the impact of rape myths on the criminal justice process and on victims as “Rape myths become part of a self-supporting system whereby the absence of convictions supports the belief that women falsify claims or men’s behaviour does not justify the charge. The dear then by women that they will not be believed is confirmed, thus is likely to contribute to their reluctance to report.”

Ultimately there needs to be a societal change in beliefs about rape in order to encourage more victims to come forward and to reduce the number of cases that are lost that are reported due to prejudicial attitudes held by criminal justice professionals. However increasing awareness about the widespread acceptance of rape myths and their impact is a strong starting point.

Alcohol and Drugs

As the rape review highlighted victims who have consumed alcohol are less likely to have their case recorded as a crime and although the relationship between alcohol, drugs and rape is highly complex, the links are well documented in England and Wales and international research (Abbey et al, 2001; Horvath & Brown, 2007; Lovett & Horvath, 2009; Walby & Allen, 2004). Alcohol has consistently been found to be the most commonly consumed substance by victims and perpetrators in rape cases, with very low levels of 'spiking' found, contrary to media representations (Hindmarch & Brinkmann, 1999; Lovett & Horvath, 2009; Scott-Ham & Burton, 2005).

The effects of alcohol and drug consumption mean that during the assault victims may not be completely aware of what is happening which subsequently means that they might delay reporting because they are unsure whether or not they have been raped. Powerful and pervasive rape myths, discussed in the previous section, exist in relation to victim alcohol or drug consumption. A recent survey of over a thousand people in London found that 64% thought that a person should accept responsibility for being raped if they have been drinking to excess or blackout and 13% thought they should accept responsibility if they accepted a drink and engaged in conversation at a bar (The Havens, 2010). These findings are consistent with previous survey's in England and Wales (Amnesty International, 2005; Home Office, 2009) and strongly suggest that attitudes surround alcohol and rape are still firmly victim blaming and denying of perpetrator's culpability.

Much of the research to date has focused on victim consumption of alcohol and/or drugs (see for example: Horvath & Brown, 2006; Kelly, Lovett & Regan, 2005) although some work is emerging which explores both victim and perpetrator consumption (e.g. Lovett & Horvath, 2009). This research suggests is a need to reframe approaches to researching and understanding rapes that involve alcohol or drugs because the prevalence of consumption among victims and perpetrator and correlations with certain assault contexts shifts depending on whose perspective is taken. Further there is not necessarily a match between contexts involving victim and perpetrator consumption (Lovett & Horvath, 2009). The proposed reframing should apply to both research and investigations. Within an investigation attention is traditionally paid to the victim's behaviour, especially her drinking which means that the drinking and targeting behaviours of the perpetrators are overlooked. To improve investigations and hopefully in turn achieve more convictions a more holistic approach is needed.

Multiple Perpetrators

Research on Multiple Perpetrator Rape (MPR) is in its infancy and the existing literature provides a somewhat confusing and at times contradictory picture. Some of the

variation in the findings may be explained by the country or jurisdiction in which the research was conducted (Harkins & Dixon, 2009) or by the sample and methodology used. MPR was defined by Horvath and Kelly (2009) as “any sexual assault which involves two or more perpetrators” (p.94). In a recent review article seeking to describe the contexts in which MPR occurs Harkins and Dixon (2009) identify two main themes, ‘rapes of peers/adults’ and ‘multiple perpetrator offences against children’. The first theme contains three subcategories of offence (rape in street gangs; fraternity rape; rape in war) the second contains four subcategories (paedophile organisations; child sex rings; day care centres; residential care) (Harkins & Dixon, 2009). Space does not permit discussion of these different categories and they do not represent an exhaustive list, for example other authors have considered the category of ‘juvenile group sex offenders’ (e.g. Bijleveld et al, 2007; Hart-Kerkhoffs et al, 2010). It is clear however that rape involving multiple perpetrators occurs in a variety of contexts and with a range of combinations of perpetrators and victims.

MPR presents unique challenges to investigators simply because, by definition, more than one perpetrator is involved. Further, some research suggests that in MPR there is an increased likelihood, compared to single perpetrator rape, that some or all of the perpetrators will be unknown to the victim (Horvath & Kelly, 2009; Porter & Alison, 2006). Low reporting and conviction rates along with the group dynamics make the identification of MPR perpetrators difficult for the investigators. Research is emerging which should begin to aid investigators such as Chambers, Horvath and Kelly’s (in press) typology of MPR, developed using cases reported to a large English police force. The typology highlights perpetrators capitalising on victim’s vulnerabilities, young victims being highly likely to be repeatedly victimised and additional evidence of a theoretical classification of MPR to aid association of perpetrator characteristics to crime scene behaviors for suspect prioritization and linking offences. A clutch of Dutch studies focusing on juvenile MPR indicate to varying degrees different roles (such as leader/follower) being enacted by different group members and these offenders being a group with specific mental health needs (e.g. Bijleveld et al, 2007; Hart-Kerkhoffs, 2010; Looije et al, 2004).

The sustained media attention given to high profile cases of MPR (see for e.g. Martin, Drake & Greenhill, 2009; Samura, 2009; Sullivan, 2008) suggests that improving investigations of such allegations must be a high priority for the police concurrent to and complimenting this more research is needed to elucidate and explain the challenges.

The Internet

To date research on the internet in relation to sexual offences has focused on the use of the internet to distribute child pornography and the ‘grooming’ of minors by predatory sex offenders (e.g. Beech, Elliott, Brigden & Findlater, 2008; O’Donnell & Milner, 2007; Steel, 2009). However recent coverage of some high profile cases suggests that the information contained on the internet, particularly on social networking sites (such as Facebook) is becoming a vital tool in the investigation and prosecution of rape. On the internet and in particular on social networking sites every time an electronic action or interaction takes place a data traffic trail is left which can aid the police in gathering

evidence about both victims and perpetrators (Wall, 2010). However it can also leave people open to exploitation by predators as has been evidence by a number of young girls in the last year in the UK who have met much older men on the internet and ended up being murdered by them (see for example the case of Ashleigh Hall who was murdered in October 2009 by Peter Chapman). Evidence from social networking sites has proved particularly damaging for a number of victims in rape cases who have found their credibility has been completely undermined as a result of the revelation of information from them, most recently this was seen in the case against a minor celebrity Jack Tweed who was accused of rape by a young woman he had met in a club. The jury was shown a series of photos of the victim from her Facebook pages and other online photo-sharing websites which showed her with friends at various bars and clubs in the six months after the rape undermining her claim to have been changed/distraught by the rape¹³ (The Telegraph, 2010). Research is needed urgently to assess the impact of this new media on the investigation of rape and to provide guidance to the police on its appropriate use.

Many scholars have written about the concept of real rape (Estrich, 1995; Horvath & Brown, 2009) and the requirement for criminal justice agents and indeed juries to evaluate what the victim did what she/he might have done, and how she/he might have consented rather than resisted the assailant's entitlement to sex. The Rape Review and much of the other material presented in this section argues that the power further rests in spotlighting how the victim may come across in a court of law giving evidence where the personal characteristics of that victim become the initial issue to consider when making this assessment.

To overcome these issues the police need to develop strategies to help victims travel through the process and effectively manage the consequences of the vulnerabilities which are presented in the majority of rape cases reported to the police in London. This research offers operational officers the knowledge to more thoroughly risk assess sexual offence cases and further, to develop more effective bespoke victim care packages in an attempt to keep victims engaged with the police.

CONCLUSIONS

The ongoing debates around responses to recommendations and reviews of rape investigation challenge traditional approaches to rape investigation. Police work has been hindered by performance regimes influenced by efficiency savings and private sector principles of measurement that do not necessarily recognise the complexities or duties of public sector practitioners particular in the context of the investigation of sexual offences. A greater emphasis on investigative processes centred around care of victims rather than an assessment of viable criminal justice outcomes appear to be a strategy that may attract more confidence from victims. Recognition that traditional criminal justice outcomes may not be appropriate for all victims, that healing, closure and confidence in key agency responses are equally worthy outcomes from a victim's

¹³ Jack Tweed was cleared of two counts of rape.

perspective are important considerations. Police officers will remain key gatekeepers to responses to rape victims and this requires a comprehensive knowledge of the complexities of rape and the impact of criminal justice agencies, legislation and offenders on the experience of victims. These complexities include the understanding and perceptions of consent by society and criminal justice agents, the changing context to the commission of these crimes through the night time economy, challenges faced with cross border sex crime, implications for the availability of drugs and technological issues relating to social networking and the multifaceted dimensions to victim vulnerability. The changing landscape of sex crime requires officers who have a comprehensive knowledge of the context of rape and the relevance of victim care with sensitive but effective investigation responses. Evaluation of the implementation of ACPO guidance and a commitment to consistently high quality care and investigation from the police and other agencies throughout England and Wales are fundamental in improving victim welfare and confidence while enhancing professional best practice among detectives.

REFERENCES

- Abbey, A., Zawacki, T., Buck, P.O., Clinton, A.M. & McAuslan, P. (2001). Alcohol and sexual assault, *Alcohol Research and Health*, 25(1), 43-51.
- Amnesty International (2005). Sexual assault research: Summary report. Prepared by ICM.
- Brown, J. & Horvath, M.A.H. (2009). Do you believe her and is it real rape? In M.A.H. Horvath and J. Brown (Eds). *Rape: Challenging contemporary thinking*. Collumpton: Willan.
- BBC News (2009, May 19). No excuses over family's death, 28th. Retrieved from: <http://news.bbc.co.uk/1/hi/england/leicestershire/8279877.stm>
- Beech, A.R., Elliott, I.A., Brigden, A. & Findlater, D. (2008). The internet and child sexual offending: A criminological review. *Aggression and Violent Behaviour*, 13(3), 216-228.
- Bijelveld, C. C. J. H., Weerman, F. M., Looije, D., & Hendriks, J. (2007). Group sex offending by juveniles: Coercive sex as group activity. *European Journal of Criminology*, 4, 5-31.
- Bohlander, M. (2005). The Sexual Offences Act 2003 and the Tyrrell principle – criminalising the victims? *Criminal Law Review*, 701–713.
- Bohner G. (1998). *Vergewaltigungsmymthen [Rape Myths]*. Landau, Germany: Verlag Empirische Pädagogik.
- Bohner, G., Eyssel, F., Pina, A., Siebler, F. & Viki, G.T. (2009). Rape myth acceptance: cognitive, affective and behavioural effects of beliefs that blame the victim and exonerate the perpetrator. In M.A.H. Horvath and J. Brown (Eds). *Rape: Challenging contemporary thinking*. Collumpton: Willan.
- Bowling, B. (1998). *Violent Racism: Victimization, Policing and Social Context*, Oxford: Oxford University Press.
- Brown, J., Horvath, M.A.H., Kelly, L. & Westmarland, N. (2010). *Connections and disconnections: Assessing evidence, knowledge and practice in responses to rape*. London: Government Equalities Office. Retrieved on 19th May 2010 from

- <http://www.equalities.gov.uk/pdf/Connections%20and%20Disconnections.pdf>
- Chambers, J., Horvath, M.A.H. & Kelly, L. (in press). A typology of multiple perpetrator rape. *Criminal Justice and Behavior*.
- Chatterton, M (2008) *Losing the Detectives: views from the front line*, Surbiton, Surrey: Police Federation of England & Wales. Retrieved from: <http://www.polfed.org/8BCD53420D4D47BCAA9CFC6B5639A984.asp>
- Commission on Women and the Criminal Justice System (2009). *Engendering justice: From policy to practice – Final report*. Fawcett Society.
- Coy, M. (2009). *Invaded spaces and feeling dirty: women's narratives of violation in prostitution and sexual violence*. In M.A.H. Horvath and J. Brown (Eds). *Rape: Challenging contemporary thinking*. Collumpton:Willan.
- Edwards, C. J. (1999). *Changing Policing Theories for 21st Century Societies*, Leichhardt, NSW: Federation Press.
- Elvin, J. (2008). Concept of consent under the Sexual Offences Act 2003, *Journal of Criminal Law*, 72, 519–536.
- Estrich, S. (1987). *Real Rape: How the Legal System Victimises Women who say No* Boston: Harvard University Press.
- Fido, M. & Skinner, K. (1999). *The Official Encyclopaedia of Scotland Yard: Behind the Scenes at Scotland Yard*, London: Virgin.
- Fiest, A., Ashe, J., Lawrence, J., McPhee, D. & Wilson, R. (2007). *Investigating and detecting recorded offences of rape*. London: Home Office 18/07.
- Finch, E. & Munro, V. E. (2004). *The Sexual Offences Act 2003: Intoxicated Consent and Drug Assisted Rape Revisited*. *Criminal Law Review*, 789-802.
- Foster, J. (1999). Appendix 22: Memorandum by Dr Janet Foster, Institute of Criminology, University of Cambridge. In Home Affairs Committee, *Police Training and Recruitment: Volume Two*, London: The Stationery Office, 382-391.
- Goddard, H. (1956). *The Memoirs of a Bow Street Runner*. London: Museum Press.
- Government Equalities Office & Home Office (2010) *The Stern Review*. Retrieved 19th May 2010 from http://www.equalities.gov.uk/PDF/Stern_Review_acc_FINAL.pdf
- Grace, S., Lloyd, C., & Smith, L. (1992). *Rape: from recording to conviction*. Research and Planning Unit paper 71. London: Home Office.
- Gregory, J. & Lees, S. (1996). Attrition of rape and sexual assault cases. *British Journal of Criminology*, 36,1-17.
- Gregory, J. & Lees, S. (1999). *Policing sexual assault*. London: Routledge.
- Grimshaw, R. & Jefferson, T. (1987). *Interpreting Police work: Policy and Practice in Forms of Beat Policing*. London: Allen & Unwin.
- Harkins, L. & Dixon, L. (2009). *Sexual offending in groups: An evaluation*. *Aggression and Violent Behaviour*, 15(2), 87-99.
- Harris, J. & Grace, S. (1999). *A question of evidence? Investigating and prosecuting rape in the 1990s*. London: Home Office.
- Hart-Kerkhoffs, L.A., Vermeiren, R.R.J.M., Jansen, L.M.C. & Doreleijers, T.A.H. (2010). *Juvenile group sex offenders: A comparison of group leaders and followers*. *Journal of Interpersonal Violence*, 1-18.
- Hindmarch, I. & Brinkmann, R. (1999). Trends in the use of alcohol and other drugs in cases of sexual assault, *Human Psychopharmacology: Clinical and Experimental*, 14, 225-231.

- Home Office (2009). Results from the Ipsos Mori poll of telephone interviews with people in England and Wales regarding their opinions on violence against women. London: Home Office.
- Home Office (2002). Protecting the Public. London: Home Office.
- Home Office Review of Sex Offences (2000a). Setting the Boundaries: Reforming the law on sex offences (Volume 1). London: Home Office.
- Home Office Review of Sex Offences (2000b). Setting the Boundaries: Reforming the law on sex offences (Volume 2). London: Home Office.
- Home Office (1983). Circular 25/1983; Investigation of offences of rape. London: Home Office
- Horvath, M.A.H. & Kelly, L. (2009). Multiple perpetrator rape; naming an offence and initial research findings, *Journal of Sexual Aggression*, 15(91), 83-96.
- Horvath, M.A.H. & Brown, J. (2007). Alcohol as drug of choice: Is drug-assisted rape a misnomer?, *Psychology, Crime and Law*, 13(5), 417-429.
- Hoyle, C. (2000). *Negotiating Domestic Violence: Police, Criminal Justice and Victims*. Oxford: Oxford University Press.
- Jones, T., Newburn, T. & Smith, P. (1994). *Democracy and policing*. London: Policy Studies Institute.
- Jordan, J. (2004). *The Word of a Woman? Police, Rape and Belief*. New Zealand: Palgrave Macmillan
- Kelly, L., Lovett, J. & Regan, L. (2005). A Gap or a Chasm: Attrition in reported rape cases. London: Home Office Research Study 293
- Lea, S.J., Lanvers, U. & Shaw, S. (2003). Attrition in rape cases; developing a profile and identifying relevant factors, *British Journal of Criminology*, 43, 583-599.
- Lees, S. & Gregory, J. (1993). *Rape and Sexual Assault: A Study of Attrition*, London: Islington Council.
- Lovett, J. & Horvath, M.A.H. (2009). Alcohol and drugs in rape and sexual assault. In M.A.H. Horvath & J. Brown (Eds). *Rape: Challenging contemporary thinking*. Collumpton: Willan.
- Manning, P. (1988). *Symbolic Communication: Signifying Calls and the Police Response*, Cambridge, MIT Press.
- Martin, A., Drake, M. & Greenhill, S. (2009, January 20). Victim of caustic soda gang rape says she 'cannot forgive' as attackers are jailed for 23 years. Retrieved from <http://www.dailymail.co.uk/news/article-1122802/Victim-caustic-soda-gang-rape-says-forgive-attackers-jailed-23-years.html>
- Morgan, J.B. (1990). *The Police Function and the Investigation of Crime*, Aldershot: Avebury.
- Myhill, A. & Allen, J. (2002). Rape and sexual assault of women: the extent and nature of the problem, Findings from the British Crime Survey. Home Office Research Study 237. London: Home Office.
- Newburn, T. & Reiner, R. (2007). Policing and the Police. In M. Maguire, R. Morgan & R. Reiner (eds) *The Oxford Handbook of Criminology*, 4th edition, Oxford: Oxford University Press, pp. 910-952.
- National Policing Improvement Agency (2010). PIP Implementation. Retrieved on 19th May 2010 from <http://www.npia.police.uk/en/10094.htm>
- O'Donnell, I. & Millner, C. (2007). *Child pornography crime, computers and society*.

- Collumpton: Willan.
- Papadopoulos, L. (2010). *Sexualisation of Young People Review*. London: Home Office.
- Payne, S. (2009). *Rape: The victim Experience Review*. London: Home Office.
- R v Bree (2007) EWCA Crim 804 [2007] 3 Cr App R 13
- R v Dougal, unreported, November 2005, Swansea Crown Court
- R v H (2007) EWCA Crim 2056
- Rawlings, P. (2002). *Policing: A Short History*. Cullompton: Willan.
- Reiner, R (2000). *Politics of the Police*, 3rd edition, Oxford: Oxford University Press.
- Roach, L. (2002a). *Detecting Crime Part I: Detection and the Police*, *Criminal Law Review*, May, 379-390.
- Roach, L. (2002b). *Detecting Crime Part II: The Case for a Public Prosecutor*. *Criminal Law Review*, July, 566-577.
- Samura, S. (2009, June 21). *Gang rape: Is it a rape issue?* *The Independent*. Retrieved from <http://www.independent.co.uk/news/uk/crime/gang-rape-is-it-a-race-issue-1711381.html>
- Scott-Hamm, M. & Burton, F.C. (2005). *Toxicological findings in cases of alleged drug-facilitated sexual assault in the United Kingdom over a 3-year period*, *Journal of Clinical Forensic Medicine*, 12, 175-186.
- Sexual Offences Act (2003)*. Retrieved on 19th May 2010 from http://www.legislation.hmso.gov.uk/acts/acts2003/30042_b.htm
- Smith, L. (1989). *Concerns about rape*. Home Office Research and Planning Unit Report 106. London: HMSO.
- Spencer, J.R. (2004). *The Sexual Offences Act 2003: (2) – Child and family offences*, *Criminal Law Review*, 347–360.
- Stanko, E. (2007). *The attrition of rape in London*. London: Strategic Research and Analysis Unit, Metropolitan Police.
- Stanko, E. (1982) 'Would you believe this woman?' in N. Rafter & E. Stanko (eds) *Judge, Lawyer, Victim, Thief: Women, Gender Roles and Criminal Justice*. Boston: Northeastern University Press.
- Stanko, E. & Williams, E. (2009). *Reviewing rape and rape allegations in London: what are the vulnerabilities of the victims who report to the police?* in M. Horvath & J. Brown (eds) *Rape: Challenging Contemporary Thinking*. Collumpton: Willan Publishing.
- Stanko, B., Norman, J. & Wunsch, D. (2007). *The Attrition of Rape Allegations in London: A Review*. London: Metropolitan Police Service.
- Steel, C.M.S. (2009). *Child pornography in peer-to-peer networks*. *Child Abuse & Neglect*, 33(8), 560-568.
- Stelfox, P (2009) *Criminal Investigation: An introduction to principles and practice*, Cullompton: Willan Publishing.
- Sullivan, M. (2008, February 22). *Teen gang rape on you tube*. *The Sun*. Retrieved from <http://www.thesun.co.uk/sol/homepage/news/831344/Rape-video-posted-on-YouTube-South-London-teenage-gang-raped-in-mother-in-front-of-her-child-then-put-video-on-the-Internet.html>
- Temkin, J. (1996). *Doctors, rape and criminal justice*. *The Howard Journal of Criminal Justice*, 35, 1-20.
- Temkin, J. (1997). *Plus ca change: reporting rape in the 1990s*. *British Journal of*

- Criminology, 7, 507-527.
- Temkin, J. (1999). Reporting rape in London: A qualitative study. *The Howard Journal of Criminal Justice*, 38, 17-41.
- Temkin, J. (2002). *Rape and the legal process*, 2nd edition. Oxford: Oxford University Press.
- Temkin, J. (2000). Prosecuting and defending rape: perspectives from the Bar, *Journal of Law and Society*, 27, 219–248.
- Temkin, J. & Ashworth, A. (2004). Rape, sexual assaults and the problems of consent, *Criminal Law Review*, 328–346.
- The Havens (2010). Wake up to rape research summary report. Prepared by Opinion Matters.
- The Telegraph (2010, April 14). Jack Tweed rape trial: ‘victim went on holiday after the attack’, court told. Retrieved from <http://www.telegraph.co.uk/news/newstopics/celebritynews/jadegoody/7587499/Jack-Tweed-rape-trial-victim-went-on-holiday-after-attack-court-told.html>
- Tong, S. (2009). Assessing Performance: Quantity or Quality. In S. Tong, R. Bryant & M.A.H Horvath (Eds) *Understanding Criminal Investigation*, Chichester: Wiley-Blackwell.
- Tong, S. & Bowling, B. (2006). Art, Craft and Science of Detective Work, *Police Journal*, 79, 323-329.
- Tong, S., Bryant, R. & Horvath, M.A.H. (2009). Conclusion: Future Challenges Criminal Investigation. In S. Tong, R. Bryant & M.A.H Horvath (Eds) *Understanding Criminal Investigation*, Chichester: Wiley-Blackwell.
- Waddington P.A.J. (1999). *Policing Citizens*. London: University College London.
- Walby, S. & Allen, J. (2004). Domestic violence, sexual assault and stalking: findings from the British Crime Survey. Home Office Research Study 276, London: Home Office.
- Wall, D.S. (2010). The internet as a conduit for criminal activity. In A. Pattavina (Ed). *Information Technology and the Criminal Justice System*. Thousand Oaks, CA: Sage. (Chapter revised March 2010).
- Wallerstein, S. (2009). ‘Drunken consent is still consent’ – or is it? A critical analysis of the law on drunken consent to sex following rape, *Journal of Criminal Law*, 73, 318–344.
- Williams, E. (2004). *Project Sapphire Report – Victim Withdrawal*. London: Metropolitan Police Strategic Research Unit.
- Wood, D. & Tong, S. (2009). The future of initial police training: a university perspective, *International Journal of Police Science and Management*, 11(3), 294-305.
- Wright, A. (2002). *Policing: An Introduction to Concepts and Practice*, Collumpton: Willan.