

Police Responses to Rape and Serious Sexual Offences in England and Wales: A Contemporary Critical Appraisal

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Abstract

It has been widely attested that police responses to rape and serious sexual offences (RASSO) are not only inadequate, but additionally psychologically harmful to victim-survivors. This paper examines this in detail by critically assessing the key failures of police responses to RASSO, their impact on victim-survivors, and how such inadequacies can be addressed to improve criminal justice experiences and outcomes. In turn, it is theorised that alleviating these key failures yields great potential to reduce the attrition rate of sexual offences and contribute to reducing sexual violence due to the symbolic power the police hold in society.

Key terms: *police, rape, RASSO, operation soteria bluestone, attrition*

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Introduction

Although indubitably legislative changes in the past century have increasingly recognised rape and sexual violence as an issue, thus rectifying some of the most discriminatory laws (Mcglynn and Munro, 2010), it remains a prominent problem with 1 in 4 women and 1 in 18 men experiencing rape or sexual assault (ONS, 2023). Of this, the vast majority go unreported to the police (Boduszek et al., 2017; Wolitzky-Taylor et al., 2010; Daly and Bouhours, 2010), resulting in a “dark figure” (Biderman and Reiss, 1967: 1) of sexual offences. Of the minority that are reported, rape has a very poor conviction rate (George and Ferguson, 2021; Willmott, 2018) with only 1 in 100 of the rapes recorded by police in 2021 resulting in a charge that same year, let alone a conviction (Home Office, 2022). Additionally, the rate of attrition is extremely high, with 97% of cases being dropped by the police (George and Ferguson, 2021) and a high rate of victim-survivor withdrawal from the criminal justice process (Burman and Brooks-Hay, 2020; Willmott et al., 2021), most often at the policing stage (Brown et al., 2007; Sinclair, 2022). This means the vast majority of rape cases never make it to court. This paper concludes that this is the result of a culmination of a misogynistic and unempathetic police force prejudiced by rape myths and the subsequent anticipation of negative experiences for those who do report their rape to the police (Rich, 2018). Such experiences of victim-survivors have been termed a form of ‘secondary victimisation’ (Campbell and Raja, 1999; Patterson, 2010, Brooks-Hay, 2019), due to many recounting the process as equally as, if not more traumatic than the rape itself (Sowersby et al., 2022; Stanko, 2022) regardless of the criminal justice outcome (Sanders and Jones, 2007) due to the invasive nature of the process (Edwards, 2022).

Although improving the experiences of victim-survivors will not miraculously alleviate rape as a social problem, it may prevent victim-survivors from experiencing unnecessary additional psychological harm from the criminal justice process (Hohl and Stanko, 2022; Willmott et al., 2018), increasing the likelihood of their engagement (Hohl et al., 2022). Furthermore, as the police hold representative symbolic power, their actions convey a message of what is acceptable in society

(Stanko, 2022; Hohl and Stanko, 2022; Rich, 2018). Consequently, improving police responses to rape yields the potential to change attitudes to sexual violence (Lilley et al, 2023) more widely thus contributing to its end. Academics have disagreed over the use of the term ‘victim’, with some criticising it as alluding to a lack of agency (Konradi, 1996; Boyle and Rogers, 2020), and damaging to mental health (Mueller-Hirth, 2016). Therefore ‘victim-survivor’ will be used throughout to discuss those impacted by rape.

Re-defining Justice

In the 2021 End-to-End Rape Review Report on Findings and Actions (‘End-to-end Rape Review’ hereafter) the government appeared to concede that they are failing victim-survivors of rape (HM Government, 2021) given the lack of ‘successful justice outcomes’ in these cases. Subsequently, they pledged to improve the Criminal Justice System (CJS) processes that surround sexual offences and improve victim-survivor engagement, in an effort to improve convictions where they are warranted. This however is problematic, as although justice for victim-survivors of rape has often been perceived as synonymous with punitive criminal justice outcomes (McGlynn, 2011), this theoretical framework does not reflect what research has indicated victim-survivors’ perceptions of justice are (Debowska et al., 2019). Often victim-survivors define justice in relation to facets such as trust, dignity, recognition, and voice (Hohl et al., 2022; McGlynn and Westmarland, 2018, Goodman-Delahunty, 2010), being understood not as an outcome of the criminal justice process but through an individualistic lived experience approach termed “kaleidoscopic justice” (McGlynn and Westmarland, 2018: 180). This is not necessarily achieved by simply convicting more guilty rapists. Conversely this can be achieved by improving the lived experiences of those who are brave enough to engage with the CJS as a victim-survivor of rape (Lilley et al., 2023).

Subsequently, there has recently been increased emphasis on procedural justice (see Smith et al., 2022; Stanko, 2022; Hohl et al., 2022; Hohl and Stanko, 2022). Procedural justice theory is a key theoretical framework for improving confidence in police and engagement of victim-survivors

(Stanek et al., 2022). The concept maintains that “by recognising the symbolic power of how they treat people, police can offer a sense of justice beyond substantive outcomes” (Hohl et al., 2022: 123). While protecting and supporting victim-survivors through the process can be invaluable, Rumney and McPhee (2023) argue this form of police work goes unrecognised in favour of traditional measures of police performance such as conviction rates. This was noted over a decade ago in the Stern Review, which claimed “the conviction rate has taken over” (Home Office, 2010a: 9) and called for the prioritisation of victim-survivor care and support. However, more recently the findings of Project Soteria Bluestone found that police work remained “massively statistic driven” (Smith et al., 2022: 125), meaning police procedures are prioritised over empathetic engagement with victim-survivors (Smith et al., 2022). Therefore, to prioritise engaging victim-survivors and achieve procedural justice, there must be considerable change in how police performance is measured which praises officers for good procedural practice.

Inadequacy of Current Responses

Although there have been some promising attempts to improve criminal justice experiences for victim-survivors, such as the use of Independent Sexual Violence Advisors (ISVAs) (Hester, 2015) and expanding the use of special measures to intimidated witnesses and victim-survivors (Smith, 2017; HM Government, 2021), these can differ between forces (Smith et al., 2022). Moreover, the 2020 Victim’s Commissioner Report suggested that while special measures were widely being used, a choice of which special measures victim-survivors want to utilise was not consistently offered (Molina and Poppleton, 2020). Although it is promising that there have been attempts to make the court process less daunting since fear of court is a contributing factor in victim-survivor withdrawal (Molina and Poppleton, 2020), with so few rape cases making it to court attention must also be given to improving experiences in the earlier stages with the police where dropout rates are highest (Brown et al., 2007; Sinclair, 2022).

The causes of negative experiences of rape victim-survivors who engage with the Criminal Justice System are well documented (Richardson et al., 2023; Williams et al., 2023; Willmott et al., 2017), with government reviews such as the Stern Review (Home Office, 2010a) and numerous other reports (see Molina and Poppleton, 2020; Smith et al., 2022).

Such negative experiences often derive from a lack of communication and understanding between victim-survivors and criminal justice agents (Booth et al., 2016; 2017; Hohl et al., 2022). For example, although the Code of Practice for Victims of Crime in England and Wales ('Victim's Code' hereafter) (Ministry of Justice, 2021) dictates that victim-survivors have the right to information regarding criminal justice procedures and their case, research suggests these rights are not consistently being delivered (Payne, 2009; Smith et al., 2022). This has been highlighted by research with police forces which has suggested although victim-survivors are entitled to be informed of the status of their case every 28 days, in many instances this is not being met (Smith et al., 2022). When updates were provided, in some instances they were given by inappropriate means that did not consider the impact on the victim-survivor; for example, informing them their case had been dropped via text message (Hohl et al., 2022).

The Victim's Code also entitles victim-survivors to support and understanding of the process yet there is often confusion around certain elements, such as evidence gathering. For example, Operation Soteria Bluestone identified that police were routinely making copies of victim-survivor's phones during the initial interview stage (Smith et al., 2022). While this prevents the disruption of leaving victim-survivors without a phone, routinely doing this before uncovering whether the phone contents would fit the 2020 and 2022 Information Commissioners Report criteria of being both relevant and necessary (Denham, 2020; Edwards, 2022), can be invasive (Smith et al., 2022) and leave the victim-survivor feeling they are the one under investigation (Edwards, 2022; Smith et al., 2022). This has led such forms of evidence gathering to be termed a "digital strip search" (Big Brother Watch, 2019: 1). Subsequently, this practice can be confusing to victim-

survivors and can cause large delays in the case (Smith et al., 2022), further discouraging engagement with the CJS (Rumney and Mcphee, 2020).

Rape Myths

A lack of understanding amongst police forces is also underpinned by a prevalence of rape myths. Although academic research has widely recognised rape myths and the negative impact that they have on criminal justice outcomes and experiences (Dinos et al., 2015; Parratt and Pina, 2017; Shaw et al., 2017; Venema, 2018; Willmott, 2016; Willmott & Boduszek, 2016), they continue to influence police attitudes (Smith et al., 2022; Gekoski et al., 2023). The incorrect notion that false accusations of rape are widespread is a prevalent and persistent rape myth (McGee et al., 2011; Shaw et al., 2017; Home Office, 2010) and has resulted in police forces overestimating the prevalence of false reports of rape (McMillan, 2018; Venema, 2018; Hohl and Stanko, 2022). Research with police officers has further evidenced this, finding a culture of disbelieving victims (Smith et al., 2022; Gekoski et al., 2023) which means disproportionate effort is being placed on testing victim-survivor's credibility (Hudspith et al., 2023; Smith et al., 2022). Not only is this likely to result in ineffective police investigations but also it is extremely harmful to victim-survivors given that fear of not being believed is one of the principle causes of the mass underreporting of rape (Zahid and Rauf, 2021; George and Ferguson, 2021; Thornton et al., 2023).

That said, it is important to recognise that although not all victim-survivors of sexual and physical violence are female (see Conroy et al., 2023; Sowersby et al., 2022), the fact that most sexual offences and rapes are gendered, where the perpetrators are typically male and victim-survivors typically female, can in part contribute to explaining why rape myths persist. The myth of high rates of false allegations coexists with a historical notion that women are untrustworthy and lie to be vengeful (Kelly, 2010). The impact of such harmful stereotypes is further exacerbated for certain groups due to intersecting identities such as class, race, and disability (Kelly et al., 2005; Smith, 2021). The prevalence of such myths can be somewhat explained by the recent Casey

Review (Casey, 2023) which found widespread racism, misogyny, and homophobia in the Metropolitan Police Force in Britain. Although shocking, these findings are not novel, with previous reports such as Operation Hotton (IOPC, 2022) and the HMICFRS (His Majesty's Inspectorate of Constabulary and Fire and Rescue Services) Inspection (HMICFRS, 2022) making similar observations. However, as we come to the end of the two-year period following the End-to-end Rape Review (HM Government, 2021) this clearly evidences that attempts to address rape myths and improve public confidence in the police through increased training appear to have severe limitations. Simply training officers about rape myths is no longer adequate, and more radical action appears necessary. Officers that exhibit misogynistic attitudes must be reprimanded and if not rectified then removed from the force, or at a very minimum disallowed from dealing with rape cases where such attitudes can result in re-traumatisation of victim-survivors (Smith et al., 2022).

Trauma-Informed Policing

An additional barrier to procedural justice is a lack of understanding and recognition in the police service surrounding the consequences of trauma on rape victim-survivors. Post-Traumatic Stress Disorder (PTSD) (see Woodfield et al., 2023) is common following rape (Rich, 2018) and can have profound effects on victim-survivors such as involuntary intrusive memories in the form of flashbacks and nightmares, hyperarousal, and avoidance (van der Kolk et al., 2007). Another common symptom of PTSD is fragmented and disorganized trauma memories (FDTM) (Gray and Lombardo, 2001), which cause events to be difficult to recall until memories become more comprehensible over time. Although the correlation between experiencing trauma and memory impairment is well documented (see Nixon et al., 2004; Jenkins et al., 1998; Woodfield et al., 2022), this is rarely considered in initial responses to a report of rape where victim-survivors are expected to sequentially recount events in detail (Tidmarsh, 2012). As a result, victim-survivors may have difficulty doing so, which may be interpreted by the police as an indication of fabrication (Longsway et al., 2012). This is augmented by the previously mentioned prevalence of the myth of

high rates of false allegations (McGee et al., 2011; Shaw et al., 2017; Home Office, 2010). FDTM can also explain why there is often a delay between the rape and reporting, as memories can take time to process before they are fully comprehended. However, this also remains unrecognised with victim-survivors often facing questioning from police and society more generally for not reporting sooner (Stewart, 2019). These instances are often the result of gendered expectations that interact with rape myths regarding victim-survivor credibility and dictate how victim-survivors are expected to act following a rape. Wolbert-Burgess et al. (1995) discuss how such expectations are able to create an impossible conundrum for victim-survivors given the expectation that they should be too upset and ashamed to report immediately following the rape, while there simultaneously exists an expectation that they should be so upset by it that they report immediately.

Findings from Pillar One of Operation Soteria Bluestone (see Horvath and Davies, 2022) suggest that the lack of a trauma-informed approach is indicative of lacking specialist knowledge among police service personnel that frequently leaves officers unprepared and ill-equipped to deal with rape investigations (Horvath and Davies, 2022; Stanko, 2022). Recent research in Scotland has suggested that trauma-awareness training can improve trauma-informed attitudes to victim-survivors (Brodie et al., 2022). An increased effort should therefore be placed on training officers to be comfortable, empathetic, and competent based on specialist training when dealing with rape cases in a way that considers how trauma may impact victim-survivors (Hester, 2015). This includes encouraging procedural practice that considers the impact of FDTM, such as framing questions around contradictions in narrative statements as seeking clarification rather than suspicion (Rich, 2018). Although the End-to-end Rape Review (2021) set out to do this, claiming that in the 6-12 months following the review action was going to “develop a wider cross-system understanding of the effect of trauma on victims” (HM Government, 2021: 15), there is limited evidence to suggest that any significant improvements have been made.

Intersectionality

Experiences of victim-survivors are also heavily shaped by their social and cultural background (Leung and Williams, 2019), requiring an intersectional lens when assessing how best to achieve procedural justice on an individual level. Therefore, the Operation Soteria Bluestone Year 1 Report emphasised the importance of neutrality in policing (Stanko, 2022) in order to achieve comprehensive justice. Furthermore, while due to its gendered nature it is vital to consider the influence of historical social hierarchies and patriarchal stereotypes and discourses that perpetuate a culture of not believing women (Kelly, 2010; Jordan, 2004), it is equally important to recognise that it is possible for other gender identities to experience rape and if they choose to report to the police they may be presented with unique barriers (Javaid, 2016) due to not conforming to the ‘ideal victim’ archetype. As non-female victim-survivors have been largely neglected in previous literature, research, and government reports (such as the Interim Government Response to the Stern Review; Home Office, 2010b), scholars now call for improved training and support for male rape victim-survivors (Javaid, 2016) that is clearly warranted.

Conclusion

While the limitations of police responses to rape in England and Wales are well documented, recent research such as the work of Operation Soteria Bluestone (Stanko, 2022) has demonstrated that government attempts to improve experiences of victim-survivors who report to the police have been minimally impactful. Consequently, although this paper supports government analyses such as the Stern Review (Home Office, 2010a) and the End-to-end Rape Review (HM Government, 2021) which concluded increased training to prepare police officers to better handle rape cases is necessary, there needs to be a better recognition of the underlying causes and a sophisticated multi-pronged response is warranted. The impact of harmful rape myths and gender stereotypes among police personnel ought to therefore be a key priority. While on face value training officers about

rape myths appears to attempt to combat this, the exposure of a continued culture of misogyny in the Metropolitan Police Force in the 2023 Casey Review fortifies that this is not sufficient and suggests widespread prejudices remain a key barrier to achieving procedural justice for victim-survivors. Possible recommendations for police reforms are therefore as follows; firstly, there must be a zero-tolerance policy on misogynistic, homophobic, and racist attitudes that facilitates a culture change in the British Police Service. This is vital because these attitudes serve to uphold the myths and stereotypes that are a key barrier to achieving procedural justice (Hohl et al., 2022). Secondly, there must be an increased effort to adopt a trauma-informed approach to policing through prescribing officers increased specialist training to aid understanding of the ways in which the criminal justice process could award victim-survivors increased safety and control and subsequently minimise secondary trauma (Rich, 2018). This must be monitored to ensure it is being upheld and is having meaningful impact on the expectations being placed on victim-survivors. Thirdly, upholding the Victim's Code and Information Commissioner guidance on evidence gathering must be prioritised to ensure better communication and understanding between victim-survivors and criminal justice agents. This may help prevent victim-survivors from feeling lost, confused, and under suspicion by providing them with a voice and increased control over the process (Clark, 2010). Finally, to achieve any of the above recommendations, there must be an increased recognition of good, empathetic procedural practice with victim-survivors that enables a shift in emphasis from simply increasing convictions to rewarding officers for having meaningful and positive engagement with victim-survivors.

These recommendations collectively may serve to improve the experiences of victim-survivors that report to the police by giving them a sense of procedural justice regardless of the criminal justice outcome of their case. This has the potential to reduce the attrition rate and encourage more victim-survivors to report their experiences (Holh et al., 2022). In turn, this may help achieve the overarching goal of the End-to-end Rape Review (HM Government, 2021) of increasing conviction rates for guilty rapists while simultaneously improving trust between victim-

survivors and the police. Improving attitudes amongst police to rape victim-survivors also sends a message more widely to society that they are taking rape seriously and sexual violence is not acceptable (Stanko, 2022; Hohl and Stanko, 2022; Rich, 2018).

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Reviewer 1 – Accept pending minor revisions

Professor Danielle McDermott

Professor of Custodial Practice, Leeds Trinity University

This paper provides a comprehensive overview of the problems which surround policing of sexual violence in England and Wales, whilst offering some historical context as well as practical recommendations for reform among UK police personnel. The authors recognise key problems and advance a strong case for the reforms set out that will be of interest and benefit to law enforcement personnel internationally alongside academic researchers in the sexual violence arena. I am confident that this article covers the key literature in the field, is up to date and offers the reader a clear and concise account of key debate, theory and research related to policing sexual violence. The piece is well suited to an online journal such as IJC in my view, and I therefore support publication of the manuscript subject to minor amendments outlined below.

Recommendation - the paper requires a thorough proofread to eliminate any spelling/grammar mistakes and some updated references from the broader rape myth and sexual violence literature should be included. Once addressed, this paper is supported for publication within the *Internet Journal of Criminology*.

Reviewer 2 – Accept after minor revisions

Eleanor Li

Doctoral Researcher, Loughborough University

Overall, this is a comprehensive paper with a clear and logical structure. It is well summarised the key findings of significant issues within police responses towards sexual offences in England and Wales. It also concluded possible solutions/preventions which could greatly reduce secondary injuries of victim-survivors from the professionals during the investigation procedure of a sexual offence. The arguments/issues mentioned in this paper are sharp and compelling with majority of up-to-date references. Each section is well-named and followed by distinctive findings, which provides the reader a clear outline. In my opinion, the contents of this paper are helpful for researchers in related fields to quickly develop a comprehensive understanding of issues that polices in England and Wales may have when dealing with sexual offences, as well as for non-professional readers to understand the importance of the issues discussed. Therefore, I believe it is a well-written paper that has the potential to be published online.

Recommendation - To better improve the paper, I have the following suggestions: 1) the author needs to check and resolve grammatical and typo-errors throughout to improve the overall quality; 2) the last paragraph is relatively long and could be better to divide it into two separate points by conclusions and preventions; 3) it would be better to use specific examples when introducing possible preventions. For example, the second suggestion “...there must be an increased effort to adopt a trauma-informed approach to policing through improved specialist training”, are there any existing trainings that we could refer to? If so, it will be a good illustration and make the suggestion more practical.

Author response

Thank you to both reviewers for your review of this manuscript. All revisions recommended have now been implemented before publication was sought at the *Internet Journal of Criminology*.