

Reasons rape investigations are closed by police

Briefing 3

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Operation
Soteria
Bluestone

CHILD & WOMAN
ABUSE STUDIES UNIT

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This briefing shares the results of research investigating why police in England and Wales close rape cases.

It is part of the large-scale, UK Government funded *Operation Soteria Bluestone* which aims to improve police investigations of rape and other sexual offences.

Research over the past four decades has shown that the vast majority of rape cases recorded by police do not progress beyond the police investigation². Whilst the numbers of recorded rapes have followed a relatively constant upward trajectory for many years, the increases have intensified in the past decade. At the same time, charges and prosecutions have ‘plummeted’³, leading to searching questions about why rape investigations are failing, with some asking whether rape has been effectively ‘decriminalised’⁴.

This is the context for *Operation Soteria Bluestone*, launched by the Home Office in June 2021 with the aim of ‘transforming’ rape investigations.

A key aspect of the project was to understand why so many cases reported to the police are closed and the extent to which this is due to victim-survivors withdrawing support from the investigation.

This briefing focuses on what we learnt in the course of conducting a deep dive into around 750 rape cases across four police forces, closed by police using the Home Office crime outcome codes of 14, 15, and 16.

These codes are used for cases that are closed without further action because of evidential difficulties—Outcome 14 (no named suspect) and Outcome 16 (named suspect)—and where these difficulties include the victim-survivor not supporting an investigation.

Outcome 15 is where the victim-survivor supports action and wants the suspect charged, but police determine that evidential difficulties prevent them from taking further action. For full details of the project and its findings, please see the Year One report available online⁵.

Key Findings



1

Significant numbers of cases closed at Outcome 14 and Outcome 16 are the result of victim-survivors telling the police about a rape but not supporting an investigation. We describe these cases as ‘telling not reporting’.

These cases accounted for over a quarter of all Outcome 14 cases and just under one third of all Outcome 16 cases (see *Figure 1, page 9*). Formal recording of these meant that some level of investigation ensued, which victims did not welcome and were often distressed by, and this often had an impact on their trust and confidence in the police.

Included here are police recording rape offences disclosed to them during a domestic abuse risk assessment process where victims are answering a question on sexual violence, not actively ‘reporting’ it⁶. Other instances include where a crime victim is offering an explanation (such as the reason why they feel suicidal) or where they make disclosures during a different, separate investigation (such as saying they feel uncomfortable with male officers when reporting a burglary, due to a prior experience of rape).

2 — Significant numbers of cases closed at Outcome 14 and Outcome 16 are the result of reports made to the police *about* the victim but not *by* the victim.

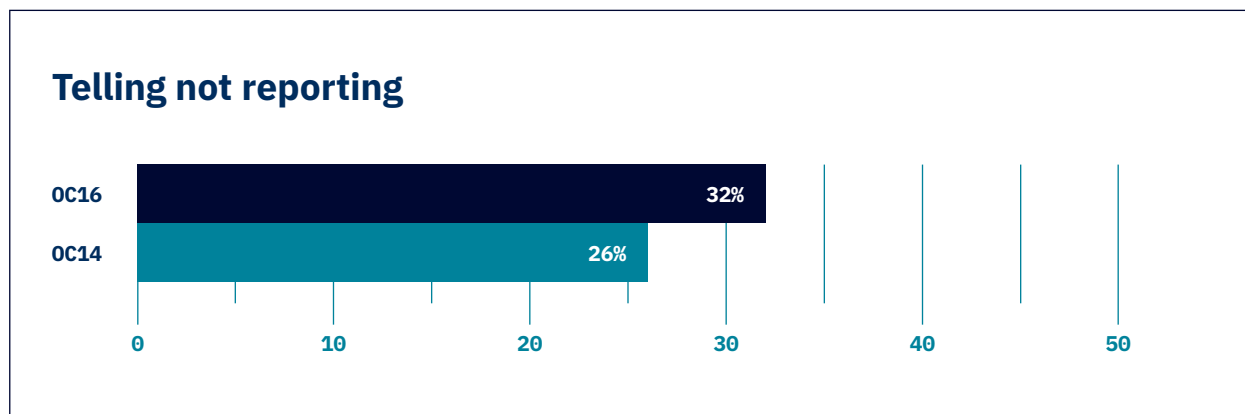
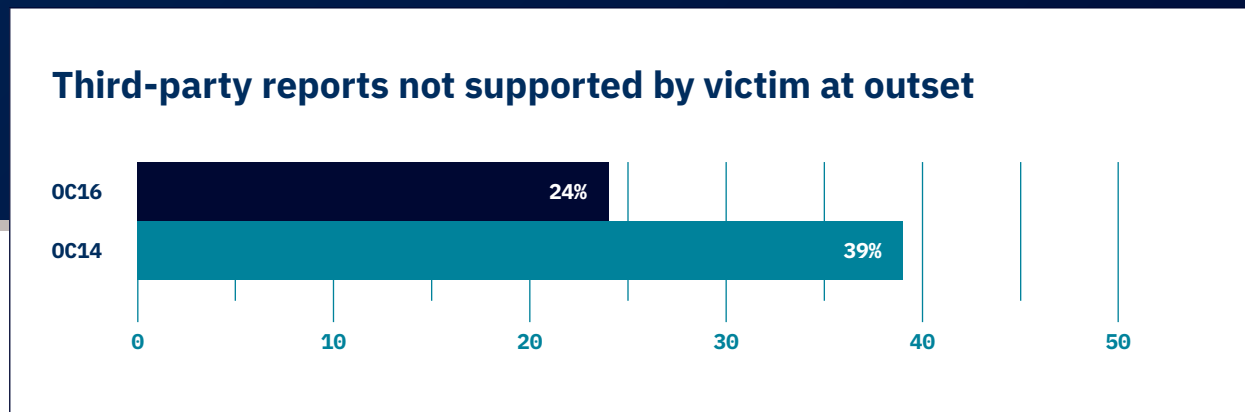
Third-party reports that were never supported by the victim-survivor accounted for close to 40% of all Outcome 14 cases and almost a quarter of all Outcome 16 cases (*see Figure 1, page 9*).

These third-party reports were often made without the knowledge of the victim-survivor, which at times led to distress and a sense of betrayal of trust.

Some were made by parties who are not listed in national crime recording guidance as being able to report on the victim's behalf—such as the friends or parents of adult victims or even in some cases domestic violence offenders.

Figure 1

Percentages of cases closed under Outcomes 14 and 16 across four pathfinder forces that never had the support of the victim-survivor



Note: Outcome 14 – Evidential difficulties: suspect not identified; victim does not support further action, n=243
Outcome 16 – Evidential difficulties: suspect identified; victim does not support further action, n=251

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The language of ‘victim engagement’ places responsibility on victims for whether cases proceed.

Where victims are not supportive of police action, either at the beginning of or at some other point in the investigation, there is evidence they are seen as obstructing police investigations.

The language used by officers in files frequently positioned victims negatively, using terms like ‘obstructive’, ‘challenging’, ‘refusing’, ‘unwilling’ and ‘uncooperative’. This was true even where offences had been recorded without the knowledge or support of a victim-survivor, or where victim-survivors stated no offence had occurred.

Such language is reiterated by officers throughout the decision-making process and contributes to the perception in policing that rape victims are the reason why most cases fail.

4

Where there is a named suspect and the victim-survivor supports police action, the reasons given for case closure point to a ‘culture of corroboration’.

For cases closed under Outcome 15 (where the case is closed despite the fact there is a named suspect and the victim-survivor does support police action) our analysis finds a ‘culture of corroboration’ in applications of the evidential test.

Assessments of the evidence are routinely unfairly weighted from the outset, with a reliable account from a victim-survivor rarely acknowledged as strengthening a case while a suspect’s denial often counted as a weakness. In applying the evidential test, the credibility of the *victim-survivor* is regularly assessed rather than, as required, the reliability and credibility of their *account*, and analysis found officers stating that cases do not pass the test as they come down to ‘one word against another’, a misunderstanding that the law requires ‘corroboration’⁷.

5 Investigative strategies and the application of the evidential test demonstrate an over-reliance on a 'real rape' template.

Outcome 15 cases also revealed the dominance of cases being measured against what has been called a 'real rape' template based on a perpetrator unknown to the victim-survivor where consent is not at issue. This template underpinned police models for evidence gathering, assessments of the evidence and case-building.

Seeking evidence such as forensics and CCTV were often the first steps in an investigative strategy. Their absence was listed as a weakness in assessing whether a case passed the evidential test, even where they would have had little evidential value, such as in assaults committed in a private residence by an intimate partner. This suggests deficits in investigative models for the majority of rapes, which are committed by known suspects.

6

The law on consent is poorly understood by officers and incorrectly applied.

We found evidence in the case files that consent is not well understood by some officers, particularly in relation to whether submission constitutes consent and in cases of exploitation. This means the evidential value of victim-survivor statements documenting wider patterns of suspect behaviour limiting the freedom of victim-survivors to say yes or no, such as evidence of coercive control or economic abuse in intimate partner relationships, is not being recognised.

For all cases where consent is an issue, the onus is being put on victim-survivors to give an account of how they communicated non-consent, with suspects not being asked often enough to give an account of exactly how they ensured they had ascertained consent. It is clear police need to expand their investigative strategies to collect evidence which could be used by the prosecution to prove that the suspect's belief was not reasonable.

Implications



1 — The public story on victim withdrawal as the major reason rape cases aren't progressing to charge is based on a misunderstanding.

Closing cases under Outcomes 14 and 16 does not necessarily equate to victims withdrawing support from a previously supported case. Significant numbers of rapes recorded by the police are not the result of a victim-survivor making a formal report that they have been raped and/or seeking a police investigation at all.

2 — Current recording practices are masking other problems in the criminal justice process and making it harder for us to understand the real levels of, and reasons for, attrition.

Even though there are a high number of 'telling not reporting' and unsupported third-party reports, there are still many cases ending when victims withdraw due to investigative failings. We need a way of recording 'telling not reporting' and unsupported third-party reports so we can better understand attrition as well as seeking more information about why some victims decide to withdraw from the investigation process (see *Briefing 2: Recording, reporting, and charge rates*).

3 — The Home Office Counting Rules are contributing to an investigators' culture of fatalism in rape cases.

Formally recording ('criming') cases that victims do not want reported and then attributing the closure of these cases to a 'victim-based' outcome, perpetuates a policing culture that sees rape victims as difficult and unreliable. It also diverts attention from the problems in investigative strategies and assessments, and misapplications of the law. This has a significant impact on learning and development, as well as the well-being of officers.

4 — Stereotypes of 'real rape', 'real victims' and 'real perpetrators' still inform police decision-making which limits their ability to build cases that can be referred for charge.

Investigative models and the framework for the evidential test are not based on the context within which most rapes take place, i.e., between people who are known to one another where consent is at issue, not whether the act itself took place. This means there is currently a deficit in the ability of the police to build cases that can be referred to the Crown Prosecution Service for charge.

5 — Police understandings and applications of relevant law and reasonable lines of enquiry are flawed.

Investigative strategies need to be context-led, for example, third-party material requests need to be relevant and proportionate, not just automatically sought, and the law on evidence, particularly assumptions that corroboration is required, and consent is poorly understood and applied in practice.

Recommendations



- 1 For accuracy, the words *‘rape recorded by the police’* rather than *‘rape reported to the police’* should be used by politicians, policymakers, journalists, and others when referring to national and local crime statistics.
- 2 Police forces, inspectorates, and researchers need to be clear that rape cases closed under outcomes 14 and 16 do not simply equate to victim withdrawal and may be more representative of recording practices in any given force area.
- 3 The Home Office counting rules (HOCR) need to be reviewed, taking account of the findings from Operation Soteria Bluestone about the unintended consequences of current recording practices (*for more, see Briefing 2*).
- 4 Case notes and summaries need to be regularly monitored to ensure accurate, non-judgemental language is being used to describe victims who do not want to be part of an investigation.

- 5 — Learning and development needs to equip police officers with a more detailed understanding of the law on corroboration and on consent. This should focus specifically on the freedom element of the statutory definition of consent and its implications for submission and exploitation, the requirements for people to take reasonable steps to ensure they have consent, as well as how police should understand and apply the evidential test for the CPS based on a range of different contexts for rape.
- 6 — A context-led approach needs to be embedded across the police response to rape in order to build stronger cases evidentially, particularly for cases where consent is at issue. Investigative strategies should differ, for example, depending on the type of relationship between victim-survivor and suspect/s, as well as where and when the offence took place.

Endnotes

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- 1 Pillar 5 team led by Jo Lovett (London Metropolitan University), j.lovett@londonmet.ac.uk
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- 2 Harris, J. and Grace, S. (1999). *A Question of Evidence? Investigating and Prosecuting Rape in the 1990s*. Home Office Research Study 196. London: Home Office; Kelly, L., Lovett, J. and Regan, L. (2005). *A Gap or a Chasm? Attrition in Reported Rape Cases*. Home Office Research Study 276. London: Home Office; Feist, A., Ashe, J., Lawrence, J., McPhee, D. and Wilson, R. (2007). *Investigating and Detecting Offences of Rape*. Project Report. Home Office: London; Hohl, K. and Stanko, B. (2015). Complaints of Rape and the Criminal Justice System: Fresh Evidence on the Attrition Problem in England and Wales. *European Journal of Criminology*, 12(3): 324–341; Murphy, A., Hine, B., Yesberg, J., Wunsch, D. and Charleton, B. (2021). Lessons from London: a contemporary examination of the factors affecting attrition among rape complaints. *Psychology, Crime & Law*, 28(1): 82-114.
- 3 HM Government. (2021). *The end-to-end rape review report on findings and actions*. Available online at: <https://www.gov.uk/government/publications/end-to-end-rape-review-report-on-findings-and-actions>.
- 4 Centre for Women’s Justice, End Violence Against Women coalition, Imkaan, and Rape Crisis England & Wales. (2020). *The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change*, <https://www.centreforwomensjustice.org.uk/s/Decriminalisation-of-Rape-Report-CWJ-EVAW-IMKAAN-RCEW-NOV-2020.pdf>.
- 5 Operation Soteria Bluestone Year One Report https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1128688/E02836356_Operation_Soteria_Y1_report_Accessible.pdf
- 6 This was also the case for 17% of recorded rapes examined in the 2019 London Rape Review. MOPAC (2019) The London Rape Review A review of cases from 2016. London: MOPAC.
- 7 Parliament abolished the need for additional corroboration in sexual offences cases almost 30 years ago in s.32 Criminal Justice and Public Order Act 1994.



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