

Barriers to improving rape investigations

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Written by Dr Carolyn Lovell, Forensic Capability Network (FCN), National Police Chiefs' Council (NPCC)

Long read: Barriers to implementing the 2015 Joint Crown Prosecution Service (CPS) and Police Rape Action Plan

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Introduction

I have worked in Forensic Investigation for over 27 years. During that time, I have supported victims through forensic medical examinations, deployed to scenes of serious sexual offences, held responsibility for the forensic service we deliver to victims of sexual offences, and ensured that forensic standards are followed. I have observed – and been part of – significant change programmes, and I have witnessed many governmental reforms and policies associated with improving our services to victims of rape and serious sexual offences. Yet the effort taken in trying to solve these crimes is not borne out in the conviction rate. Although the police and wider criminal justice system (CJS) maintain a critical focus on rape and serious sexual offences, it has long been considered one of the most under-reported and challenging problems facing the CJS (Taylor and Gassner, 2010).

This led me to question just how effectively reforms are implemented to ensure that new practices are truly embedded. At the time of commencing my professional doctorate, the 2015 Joint CPS and Police Rape Action Plan had been published. This provided guidance and toolkits to support investigators from the crime scene through to court. I wanted to understand how well this action plan had been implemented and why the investigation of rape remains an issue.

There has been extensive and valuable research centring on the complainant's experiences, but fewer studies have focused on the police response and fewer still on the relationship between the two. As an 'insider', this presented a real opportunity for me to understand, and shine a light on, the policing perspective on rape investigation.

Literature review

The evolution of policy and practice in relation to rape has spanned over 40 years. In 1982, a controversial BBC documentary, 'A complaint of rape', unveiled officers' responses to rape as unsympathetic and insensitive. Since then, a plethora of legal, policy and practice reforms have followed, which have led to the full recognition of violence against women in law and policy. However, problems with victim satisfaction, high attrition rates and low conviction rates still remain.

A study undertaken in New Zealand, which examined 35 years of reform, recognised the good intentions of reform but argued that alone they are not the answer and may be 'merely tinkering' (McDonald, 2012). While reviews and reforms have presented opportunities to deliver change and improvements, few offer any real insight as to how these changes will be implemented and subsequently monitored. There remains a lack of evaluative research about the policing effort and, as such, it is difficult to determine whether the policies are incorrect or if failures result from implementation or a resistance to change (Brown, 2011).

The notion that problems could be linked to failure of implementation resonates with this research study, rather than issues with the policies. Changes in policy and practice are delivered in a variety of ways, such as via ad hoc training events, focused training on key roles and perhaps an over-reliance on email. It is questionable whether information reaches the right personnel. Such approaches often rely on individuals to read and understand, then change their individual practice.

Against the backdrop of austerity measures, policing has also been subject to considerable organisational changes, and any reform or policy related to rape investigation is one of many. If we are to understand the issues, we need to identify whether the police actions have been operationalised effectively.

The study

This exploratory study aimed to explore and understand the impact and implementation of the 2015 action plan from a policing perspective, including its failure to deliver many of the intended improvements. Secondly, it aimed to gain an understanding of officers' knowledge, experience and implementation of the plan. The objectives for this research study were:

- What are the current challenges experienced when investigating these offences, and how do these policy initiatives translate from senior roles into practice?

- Where in the organisation had these initiatives actually been implemented?
- What external factors are influencing the desired change from happening?

Methodology

To develop an understanding of the reality of the barriers to improving rape investigation outcomes, the study adopted a predominantly qualitative approach, using semi-structured interviews and a survey.

The study comprised two phases. The first phase involved a small selective sample of senior police officers (N=8) within one average-sized police force, completing an exploratory review to understand and explain the reality of how business is done through their operational lens. These were officers of chief inspector rank, from both uniform and investigations roles. Concentrating on a small sample size in phase one supported the aim to glean information about the 2015 action plan. These officers were chosen as they are the leaders responsible for implementing organisational change in policy and practice, and should have operational and strategic experience relevant to the investigation of rape.

Semi-structured interviews were determined as the most relevant research instrument, supporting the delivery of deeper insights and first-hand experiences. The 2015 action plan was used as a cue for the interview template because it presented a 'crime scene to court' approach and delivered a structured format for the questions. Ten individuals responded to the initial request for interviewees and eight progressed through to interview. These were completed between 2016 and early 2017.

The second phase, which was completed between 12 and 18 months later than phase one, examined the broader policing response to rape. This included a further four interviews with the CPS, a sexual offence examiner, a forensic submissions manager and a senior police investigator from the Specialist Rape Investigation Team. A web-based online survey was also circulated across all police ranks and staff in both specialist and investigation teams, CPS and the Sexual Referral Centre (SARC). The action plan was used as a framework for the survey, with questions formulated from the guidance.

Results

Phase one – senior officers

The senior officers interviewed in phase one had all worked for the police force for over 10 years, with roles across response and investigation. In general, participants felt that significant improvements had been made within the police force regarding victim care. However, barriers to delivering a better service for victims were raised, including:

- officer knowledge of the 2015 action plan (and the tools available to improve investigations)
- increasing pressures associated with officer capacity and demand linked to austerity measures
- organisational culture
- lack of quality standards within investigations
- opposing practices between the CPS, police and judiciary
- lack of training, which placed challenges on the implementation of new processes and structures

Half of the participants from phase one were not aware of the 2015 action plan, stating that 'it wasn't publicised enough' and that plans had to be about 'what do I need to know in my role and deliver'. Officers not working directly in investigations dismissed the need to read it. The role of the specialist trained officer was praised. However, challenges included personal capacity to deliver and review cases, as well as a feeling of becoming desensitised to the crimes. Interviewees also identified that their caseloads were high and that officers were supporting victims across many aspects of their life and were 'getting too involved', a point that McMillian (2015) has previously highlighted. Other issues acknowledged included the weight of third-party material and lack of capacity to complete reviews, with reliance on CPS to bounce a case back when issues were identified.

Myths and stereotypes, as addressed by the guidance in the action plan, were highlighted by police officers as a real issue within the court room. Police concerns included a perception that the jury were unlikely to understand the complexity of some of the issues presented in the court room, resulting in real injustices for the victim. The participants felt that the courts require an expert to discuss consent. While it could be argued that this should be the judge, participants felt the court process required a different approach. An example provided by a participant stated:

I sat in court and even I was confused, which was worrying, [I thought that] the 12 jury members would not get this, I am sure they would all be thinking the victim would not be that drunk.

Officers placed a strong priority on vulnerability. Their responses overwhelmingly supported the belief that the police force had changed, with an emphasis focused on the victim and their needs being paramount.

However, a 'corporate culture' was also referred to, with a suggestion that stereotypes still existed and that although the police force had an outwardly professional culture, officers' perceptions had not changed entirely. One participant stated:

It is not in our heads, stereotyping still exists, you get the chat in the office later, but it is not like it used to be decades ago.

Another participant felt:

It was really difficult to eradicate, sterilise the view, things happen. That is not police culture – it is there in the community and society. We all ask, "Why did that person put themselves in that position?" If you think that as a police officer, you know the jury will.

Over half of officers had no specific training in rape investigation. Although guidance existed, they didn't have time to access this due to workload.

Phase two – specialist rape and investigation teams

Phase two was completed between 12 and 18 months later, with the majority of the respondents (N=60) of the survey from the specialist rape and investigation teams (78%). The other respondents were from CPS, forensic services or sexual assault referral centres. While 61% of the phase two participants stated that they were aware of the 2015 action plan (which could be due to the majority of respondents coming from specialist investigations), only 35% felt it had been implemented well.

There were clear differences from the interviews in phase one, with the responses from both the interviews and survey placing emphasis on the quality of investigations and organisational culture,

as opposed to organisational change. However, operational demand, officer capacity and training were all themes that continued to resonate with participants, who noted increasing challenges, including a total review of all cases following the 2017 R v Allan case. As pointed out by a participant:

[This review] has affected the police force's performance as all cases were held back to support CPS in order to get back on top of work. This has continued to increase the length of investigations and ultimately had a real knock-on effect to the victim's journey.

Conclusions

The 2015 action plan is comparable with its 2002 predecessor, with a continued focus on delivering investigative guidance for police investigators and prosecutors, assuring quality and investigative review, and emphasising the treatment of victims. The findings from this research found that gaps remained with the implementation and delivery of the 2015 action plan within the study police force.

Participants noted that the strength of the communication of messages from the action plan had been mixed. Comments focused on an over-reliance on emails as a method of circulating information. Specific investigative-focused audiences had been targeted via training events, but it was noted that there was often a focus on depending on key individuals to drive changes. This approach led to pockets of improvements in specific areas, rather than overall change. In general, officers may not consider key victim engagement points as per the action plan and toolkit.

If training is focused on key specialist roles, some individuals within policing may go undeveloped for years with unchanged views, depending on their career paths. Frontline response managers were quick to dismiss the relevance of the action plan, even though they may be required to preserve and obtain early forensic evidence, and to regularly engage with vulnerable individuals.

There was no formal audit of the implementation to assess the touch points of the action plan, or the police officer and staff roles that this could have an impact on. As such, not all areas of training were reviewed, updated and monitored, leading to pockets of improvements rather than a whole-system change.

There still remains an over-reliance on 'years in post' as a gauge of knowledge and expertise, rather than objective evidence of competency. Many officers had not received the training required to perform their role or reflect the changes borne out of the reforms. Research has identified that rape and serious sexual assault require specialist units with officers with specific skills, knowledge and experience, who are more likely to achieve the best outcomes for the victims (McDonald, 2012; Rumney, 2001; McMillan, 2015; Stern and others, 2010).

The research identified a willingness and drive for continued improvement. However, in reality, the impact of austerity and an increase in reporting have hindered efforts to deliver a consistent approach. In essence, the 2015 action plan repeats much of its predecessors, with great intentions not borne out in practice on the ground. A further Joint CPS and Police Rape Action Plan was initiated in 2020 and the murder of Sarah Everard in March 2021 has placed a new focus on violence against women and girls (VAWG), with a continued commitment for change.

The interplay of public concern, political attention and media coverage in driving these issues is complex, and it is likely that these will shape people's views of the levels of quality service they receive from the police (Higgins, 2020). Police organisations tend to build on reforms and policies over time, against a backdrop of a generational evolution of culture. The history of the reforms should inform the future, but these issues still reside for victims of this crime.

The research undertaken here was a snapshot in time in one police force. These issues are unlikely to be unique but further research is required to generalise the findings to police practice across the UK. It is also worth noting that this is a focused insight into the research completed for this study, with broader aspects discussed within the thesis itself.

Recommendations

- Review the relationship and cultural differences between the police and the CPS, and develop a common goal for service delivery.
- Use case reviews, feedback loops and hot debriefs to support wider learning and development across the CJS, as per the recommendation of the 2015 action plan.
- Address the organisational culture in policing to fully embed changes required, taking into account different policing roles and their contact points with the victim, with the development of a central managed coordinated approach.

- Training delivery needs to reflect individual roles being undertaken, with specific regular programmes of activity associated with the complexities that surround these investigations.

There are a number of areas requiring further research relating to rape myths, training, leadership and organisational change, and to explore whether officers hold biases towards certain types of investigation, such as acquaintance rape.

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- This article was peer reviewed by DC Claire Phillips, Surrey Police.

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