

Research Article

Examining Failings in Criminal Justice Responses to Sexual Offenses: Focus on Male Victims and Impact of Operation Bluestone

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Abstract

This article highlights the failings of the criminal justice system in offering support to the victims of sexual violence, and keeping the focus particularly on male victims of sexual abuse. The article also investigates the overall experiences of all victims and the current procedures and policies in place. Men are treated as non-deserving victims, because the definition of rape under the Sexual Offences Act 2003 defines rape as “penetration with penis” and does not take male victims into account. Male victims are also not treated the same way as female victims, however both experience rape myths such as males not being ‘man enough’ and females with vulnerabilities, such as alcohol consumption, not being believed. Furthermore, it is increasingly difficult to bring forward rape charges by the crown prosecution service and the victims withdrawal rate in 2019-20 remains at 57%, indicating failings within CJS. Moreover, the negative attitudes of officers dealing with rape cases, and officers abusing their powers to sexually assault victims, raised serious questions around the systematic failure within the CJS. There is a lack of support for rape victims, and the impact of Operation Bluestone, which was created to improve rape case procedures, shows that the number of cases making it to court has increased with the project, but conviction rates remain very low. This was impacted by rape myth culture, which was a consistent theme throughout the research.

Keywords

Sexual Abuse, Rape Victims, Male Victims, Legislative Shortfall

1. Introduction

The inquiry into the Rochdale grooming case 2012 found that the Police treated young underaged girls as sex workers who had made a personal choice to get involved with an organized grooming gang, with social services being confrontational towards the victims as well [17]. Approximately, 47 girls were victims of the grooming ring, but only 5 girls had evidence that led to prosecutions [17]. Changes for case handling of victims were promised, but other literature has shown

continuous failings within the criminal justice system. This article aims to identify failings within the criminal justice system, any changes that have been made and if these changes are working. The article aims to answer the question: how has the criminal justice system failed victims and are they making changes to improve this?

There is a lack of research on experiences of male victims of sexual assault, seemingly less deserving victims. The first

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question addressed in this research focuses on; whether males who are manipulated and forced to penetrate females are considered to be victims of rape? This question focuses on any issues that masculinity may pose on victims, and if there is any legislative guidance to support male victims, like there is for female victims. The article will also highlight the issues regarding the way victims are treated overall, issues surrounding victim support and satisfaction of police handling rape cases. This question identified rape myths as being a consistent problem with policing. Furthermore, the blue code of silence was found to impact rape cases if officers were offenders in the cases. Finally, the progress of Operation Bluestone will be assessed to measure if there have been any improvements. Operation Soteria Bluestone was launched as a response to the government End-to-End Rape Review, and the Home Office pledge to increase the number of rape cases making it to court. An American study was also mentioned to see if it could help reduce rape myths in England and Wales.

2. Literature Review

Most research within this area is focused on the experiences of female victims and there is a big gap in knowledge when it comes to addressing the experiences of male victims of sexual abuse. The first key piece of literature is a journal article from the Journal of Criminal Justice Research. The article focuses on issues when investigating rape in England and Wales. It mentions the creation of the Sexual Offences Act 2003 and how it further defines consent [22]. Furthermore, it shows issues with officers themselves and how they interact with victims of sexual violence [22]. A 2012 report from the Independent Office for police conduct, formerly known as the IPCC, looked at instances of police officers abusing their authority to conduct acts of sexual violence. It provided definitions of key terms, case studies and recommendations for future improvements. Recommendations made in this article could be compared to policing of current case studies being linked to common themes [10].

The third source is about police training for responding to sexual violence against women. The document discusses a justice gap and how most rape allegations are never heard in court [18]. According to the statistics in the article, the police taking no further action weakens 67% of the allegations [18]. Another statistical interpretation supports rape myths and how officers do not believe victims [18].

According to research based in the USA, there are numerous negative effects (both physical and psychological) and consequences suffered by the rape victims who have been silenced by the criminal justice system. According to the article, two-thirds of female rape survivors talk about their assault [1]. However, the reactions to their honesty can be negative, leading them to avoid discussing the assault further [1]. This article emphasises the importance of supporting sexual violence victims, as well as improving how the police deal with sexual violence. However, this research focused on

American procedures of dealing with rape victims, which means it will be difficult to incorporate into British law [1]. On the other hand, it can provide unique insight into the legal framework of a different jurisdiction and best practices.

A 2021 Home Office review, into the Criminal Justice System, which responds to adult rape and sexual offences in England and Wales, discovered that cases not only take longer to reach court, but they also face 'adjournments' [8]. Furthermore, the witness rooms are often neglected and unsafe due to a lack of resources [8]. This exemplifies why victims remain silent. The review goes over the definitions of rape under the 2003 Sexual Offences Act, which refers to rape as "penetration with penis" [8]. This explains why male victims are rarely mentioned in most sources if the offender is female. Furthermore, Hopkins employment tribunal in 2019 highlighted her research, which found that the sexual offenders programme caused offenders to reoffend [9]. This evidence will be important to show failings in the prison system that coincide with the overall CJS. An employment tribunal is created by the HM courts and Tribunals service, making it credible information [9]. The employment tribunal focuses on unfair dismissal, rather than sexual violence, meaning there is less data to collect from the source [9].

To understand if there was a difference in male and female victims, the groundbreaking research conducted by Rumney has been reviewed and analysed to gain a clear idea about the level of victimization, and other issues associated with male rape [16]. Men are frequently accused of lying about their assaults or of being gay, referring to their sexual activity [16]. Men are also perceived as not being 'man enough' to prevent the assault [16]. The findings support theories that male victims are not easily believed and that there are flaws in the investigation of sexual assault [16]. Rumney has successfully put forward his observation as an expert from a male point of view, which is rare.

Weare has also investigated male victims of sexual violence. However, she focuses on males who are forced to have sex with females. According to her research, females who rape males by forcing them to penetrate are not charged with rape in England and Wales [20]. This is because the definition in law focuses on the forced penetration of the victim, rather than the victim being forced to penetrate someone else [20]. It is critical to focus on male victims and the lack of provision in current laws to support them.

Operation Bluestone is a five-step approach to investigating rape that was designed by the Home Office, and supported by a number of police forces to improve how the police investigate rape cases [2]. This research gives a broad overview of the different opinions of operation Bluestone. The research was published in 2022. Fenton et al. analysed operation Bluestone to see if the impacts are working [7]. The conducted analysis used rape case logs from the constabularies that were taking part in operation Bluestone [7]. They also used cases that were conducted using regular policing and CJS processes [7]. Comparisons of these cases allowed for a

clear indication of whether operation Bluestone is working better than the current processes in place. Approximately, 332 Bluestone cases were compared to 119 cases using the regular processes [7]. If more cases using regular processes were compared, this could change the overall data in the literature.

In a research study, conducted within the US criminal justice system, three psychologists created a questionnaire to educate jurors on rape myths [12]. The psychologists wanted to see if educating the jurors would change any decisions they made during trials [12]. Although the study is interesting for understanding the perceptions of rape myths, the participants in the study were female [12]. To better understand if education on rape myths works, the study could be conducted with a mixture of male and female participants. This would grant further insight on if education is the best way forward for the criminal justice system.

In addition to critical review of literature, in-depth statistical analysis, into the published figures by the Office for National Statistics, has also been carried out. The statistics focus on victims of sexual violence between the ages of 16 and 74. According to statistics, 49% of victims were repeat victims [14]. 38% of victims who did not report their crimes did not believe the police could assist them [14]. These statistics provide valuable insight into victims' perceptions of police procedures because the Office for National Statistics is also a government department. This means that their statistics are credible [14]. Although the statistics cover a wide age range, they would provide more insight if they focused on people under the age of 16.

Thematic Analysis

Throughout the literature review, rape myths were a consistent theme. Stanko and Hohl found that they influence the way cases are handled and other researchers show they are still an issue [18, 8, 22]. Evidence from another jurisdiction shows that rape myths are present in other countries. Ahrens found that rape victims are often blamed, and a study was conducted to try and reduce rape myths in trials [1, 12]. Rape myths may be having an impact on policing overall, so it is important to recognize it as a consistent theme throughout the research.

Current and existing research predominantly focuses on female victims, with one piece of literature focusing solely on female victims [18]. The IOPC cases mainly focus on female victims, which isn't surprising when research shows that male victims are often excluded from sexual violence studies [10, 16]. Male victims often have 'fewer resources' and are stigmatised [3]. The focus on female victims could be because of this stigmatisation and lack of resources. Searching for research on male victims was challenging and authors such as Rumney appeared on most pieces of literature. However, Rumney has worked on several pieces of literature, so his work is viewed as credible [15].

It is also interesting to point out that the existing research not only focused on female victims, but the researchers and authors in this particular area are also predominantly female.

This leaves a huge gap in the knowledge as there is a lack of research on male victims of rape. Ahrens, Brown, and George and Ferguson are female, with their research focusing on female victims [1, 2, 8]. There could be unconscious biases from the authors because their sex is the same as the victims they are researching. However, it could prove beneficial as their morals may be the reason for researching female victims of rape.

Getting rape cases to trial has proven difficult too. Researchers have shown that most cases do not make it to trial, and the ones that do go to trial, take a long time to get there [22, 18, 7, 8]. This theme could explain why so many victims chose not to come forward about the attack [14].

The sexual violence literature reviewed has shown many failings in the CJS. Literature has identified that there are differences between the treatment of male and female victims, but there is similarity in that their statements are not believed by officers [1, 16]. It has also identified several themes such as rape myths and female victims. The literature review can be used to select an appropriate method for writing the findings, such as triangulation.

3. Methodology

In this article, methodological triangulation has been achieved firstly, by analysing several pieces of literature based on both academic and professional research that already exists in the public domain. The literature has been selected carefully by using a parts of the PRISMA model to ensure the relevance and importance of the subject matter. Rumney and Weare, who have both investigated male victims of sexual violence, are relevant to the research as they highlight failings for male victims [16, 20]. Analysis of the literature is done carefully to avoid and minimise any biases the authors may have. For example, Walker had focused on the response to victims of rape [19]. Further analysis shows that most of her complainants were white women, along with the authors [19]. This could make the research biased and reduce its credibility. However, analysis of Weare's literature shows credibility as her work has been used to educate UK police forces [20].

Secondly, comparative case analysis has been carried out amongst several relevant case studies to identify certain connections and common themes. This is because case studies help to gain detailed knowledge of the interested topic in its natural environment [6]. Using case studies in Policing will help to understand victims' emotions and the errors made in Policing. Case studies from the IOPC, which explore the abuse of Police powers, are important to gain detailed knowledge on this topic. The cases helped to explore the crimes that had occurred, sufferings of the victims and the disciplinary measures taken against the officers [10].

Thirdly, the information from literature review and case analysis has been paired with statistical analysis into most recently published data within this area. For example, statistics from the Office for National Statistics show that 38% of

sexual violence victims do not report the crimes because they do not believe the police can help them [14]. This statistic, along with case studies, can highlight the issues in policing sexual violence. Overall, a mixed method approach has been used to strengthen the findings of this research based on a critical review of literature, case studies, and supporting statistics to gain a deeper insight into the problem area based predominantly on secondary sources of data and information.

4. Finding

Sexual violence cases are complex and have serious impacts on victims. With victim satisfaction being low, it is important to try and understand why this is the case. This paper aims to look at any issues with prosecuting cases, experiences of victims in general. It will specifically focus on the experiences of male victims, particularly in terms of the failures of the criminal justice system to protect and support vulnerable victims. The research also aims to provide valuable recommendations for positive changes with regards to rape and sexual case investigations conducted by the police.

The definition of rape and assault by penetration is defined under the Sexual Offences Act 2003. To avoid rewording the definitions to remove their meanings, please see appendix A and B for the definitions lifted from the government website.

Throughout the definitions, rape is defined as “penetration with penis” (Sexual Offences Act 2003). This implies that a sexual offender can only be male as there is no mention of female genitalia throughout the definitions. This raises the question: Can a woman who has vaginal sex with a man without his consent be considered a rapist? To answer this question, it is important to look at the history of male sexual abuse victims.

Statistics from the NHS in 2022 state that 1 in 7 men are pushed into having sex with further statistics showing that 1 in 10 men are raped [13]. Male victims are reluctant to come forward about their experience of sexual victimisation [13]. One of the reasons for this is that male victims are often assumed to be gay or not ‘man enough’ to fight against their attacker [16]. Male victims are often afraid nobody will believe them, which is similar to female victims who are often not believed or who are blamed after the attack [16, 1]. Furthermore, males are often seen as sexual beings, which could reduce the belief in male victims [20]. Despite this, male victim reporting has increased overall, but the charges against their offenders are often reduced [16].

We are found, using the Sexual Offences Act 2003, that men who are forced into penetrating someone are not seen as rape victims [20]. This is because the definition only defines victims as being penetrated by the offender, not penetrating the offender. Offenders who force males to penetrate them are charged with sexual assault which is an either way offence, meaning it could go to magistrates or crown court [20]. Cases that go to magistrate's court could reduce the punishment the offender receives.

It is worth noting that there is less research on male victims of rape than female victims. Rumney found that some studies around rape victims exclude male victims [16]. Furthermore, there is no evidence in England and Wales that supports cases of male victims being forced to penetrate female offenders. However, evidence from another jurisdiction (America) has shown that males being forced to penetrate females is a problem. 4.8% of males in a survey of 16,507 adults stated they had been forced to penetrate someone; 79.2% of the victims reported the offender as female [20]. To further support male victims, evidence could be collected in England and Wales on cases where males are forced to penetrate females. This could aid in understanding how big the problem is in England and Wales and make recommendations for the future of policing rape.

1.6 million adults, 16 to 74 years old, in England and Wales have been sexually assaulted or raped between 2017 and 2020 [14]. Only 16% of these adults reported the crime to the police as others did not believe the Police could help or felt ‘humiliated’ [14]. With these statistics, it is important to focus on protecting victims and getting justice for them. However, the number of rape cases that were charged by the Crown Prosecution Service has reduced from 57% to 45% in 2019-20 [8]. Furthermore, 57% of victims withdrew from cases in 2019-20, which gives reason to believe there are failings within the CJS system [8].

Historically, a number of changes have been put in place, in terms of legislation surrounding rape cases. The Sexual Offences Act 2003 was created to improve legislation around sexual violence; it included laws that said children under 13 could not consent to sex [21]. However, it did not define consent extensively, such as when alcohol is involved in sexual activity [21]. To try and improve rape case procedures, Project Sapphire was launched. Project Sapphire was made up of police and non-police who focused on rape cases [11]. Some involved in the project said that it was good progression, whilst others said that it should be expected for victims [11]. Although the project was a positive step, victims continued to withdraw their statements; further evidence showed that officers encouraged them to withdraw because of the rape process [21]. Some cases do not make it to court through the process, whilst others take longer and often face ‘adjournments’ [18, 8]. However, evidence has shown that people in legal positions often give negative reactions, such as blaming and doubting rape victims [1]. This can cause additional trauma when victims encounter this behaviour [1].

Research has shown that rape myths still present themselves in rape cases and in some cases, influence how the police manage them [8, 21, 18]. These myths can also present themselves when victims show one of four vulnerabilities: Mental health issues, alcohol consumption, victims under the age of eighteen, and the involvement of domestic violence [18]. If the victim had presented with more than one of these vulnerabilities, their case was more likely to disappear from the system [21]. The statistics between 2017 and 2020 have

shown that 39% of victims had consumed alcohol before the incident [14]. Statistics also show that 49% of victims are repeat victims [14]. Victims of rape can develop mental health issues such as PTSD and anxiety [5]. With this information, it is likely that officers had encountered repeat victims. Not only had these victims faced at least two sexually violent attacks, but they had been failed by the service that is supposed to be there to help them.

The police have not just failed victims by believing rape myths, but from a number of recent and historic case evidences, it is clearly evident that police officers have also been accused and found guilty of sexual assault and rape offences. The IOPC reviewed six case studies where officers had abused their powers to commit sexually violent acts. In four of the cases, the officers had contacted victims they had previously been in contact with to try and begin a sexual relationship [10]. In one of these cases, the officer was charged with making indecent images of children, meaning the victim was underage and vulnerable [10]. An officer in a different case was accused of raping someone who was intoxicated and had mental health issues; he had met Mrs. Z when she contacted the police to state she felt suicidal [10]. The officer stated during an interview that the sex was consensual and later told other officers that he had sexual intercourse with the victim, none of the officers reported this [10]. This links to the blue code of silence, where officers will stay silent to protect their officers [21]. Officers in a study around the blue code of silence said they would rather not lose an officer over a 'mistake' [21]. The officers in Mrs. Z's case may have chosen to stay silent because they believe the officer made a mistake. If several officers feel this way about sexual relations with victims, this could impact the number of cases that make it to court. This is because officers will not want to break the blue code of silence.

Can specialised training for officers help prevent these issues? Training officers is usually done by previous police officers as they will have the knowledge required to train them [18]. However, these techniques are not tested, and specialist officers' information only comes from policing sources, with some officers being expected to teach themselves [18]. Furthermore, nobody outside the police analyses if the training for sexual assault liaison officers works [18]. With nobody analysing the training, there is nobody to tell the police if their training is not working. The justice system has previously been scrutinised for covering up failings in a prison sexual offenders programme. Kathryn Hopkins, a previous researcher for the Ministry of Justice, found evidence that the programme caused rapists to reoffend [9]. Her research was then not published for five years, 2012 to 2017, as other researchers tried to get a different result that could help keep the programme running [9]. Not releasing this evidence put the public at risk, as the programme had been in use since 1991. This means thousands of offenders will have gone through it [9]. This research has shown that the CJS has not just failed victims of sexual violence, but offenders who are trying to be

rehabilitated.

Project Bluestone was created to try and deal with consistent police failings in sexual offence cases. The project consists of five university teams and Avon and Somerset constabulary who created academic papers to highlight the issues and create future plans for policing rape [2]. The future plans made were improving engagement with victims, putting importance on suspect investigation and further importance on repeat offenders [2]. Bluestone has been viewed as a positive step for victims as it works to gather police data, improve the way police record evidence, and focus on victims' statements [2]. A study conducted showed that Bluestone cases had a higher chance of making it to court than the standard method, but had a lower conviction rate [7]. This could be because the victims in Bluestone cases were more likely to have several vulnerabilities [7]. Previous evidence has shown that the more vulnerabilities a victim has, the less likely their case will stay in the system [21]. This could still impact Bluestone cases because of rape myth culture between officers. To improve cases under Operation Bluestone, more needs to be done to reduce rape myths. An American study found that when jurors were educated about rape myths, they were more likely to ignore the myths and believe the victim [22]. Using this study in England and Wales across the CJS could help to reduce rape myths and improve conviction rates. However, it may not improve cases that involve police officers. This is because officers, under the blue code of silence, may not report any information they have [21]. For the study to be beneficial, further studies could be conducted on the blue code of silence to try and understand and reduce it happening.

5. Conclusion

The research has revealed that males who are forced into having sex with women are not seen as rape victims. It has also highlighted a lack of evidence on the topic, something which could be researched further to gain a better understanding. When it comes to victims overall, several failings such as rape myths have been highlighted as an issue in the CJS. Different methods have been employed to try and improve this, but they have not done enough for victims. Project Bluestone is the first to show a more positive approach to policing rape. It would be interesting to review this in a few years to see if Project Bluestone has had the desired effect for policing rape in England and Wales.

Despite the negative connotation on criminal justice failures to protect the victims, not all officers are incompetent in dealing with rape cases. There are some good examples of resilience and compassion shown by officers as well. A government evaluation said that rape victims felt believed by officers because of their kindness and empathy shown for the victims through the investigations after the attack [4]. If all officers had the same attitude, it could improve victims coming forward about sexual violence. Although, it is worth

noting that the information comes from a government evaluation. Biases could be present in the evaluation and the information may not be fully factual.

A critical review into research and literature demonstrated that male victims of sexual violence often avoided reporting the crime due to masculinity stereotypes, such as not being 'man enough' to fight the attacker off [16]. In the event when men are forced by women to penetrate, men are not seen as rape victims [20]. This is because the definition of rape defines a rapist as 'he' and not 'she' [1]. There is currently a low amount of literature on males who are forced to penetrate females in England and Wales. However, evidence from another jurisdiction (USA) has identified that it is an ongoing problem [20]. Further evidence on forced penetration cases could be collected to make a suitable recommendation for these cases in England and Wales. It would also be worth creating new legislation for males who are forced to penetrate. Potentially, they could add this to the Sexual Offences Act 2003, as it is different from rape under the act but could be considered a different kind of rape due to the difference in penetration.

Research on overall victims has shown that there were 1.6 million adults, between 2017 and 2020, who were sexually assaulted [14]. However, the CPS has had a reduction in charges for rape cases between 2019-20 [8]. The CJS has tried to improve how sexual assault cases are dealt with; the Sexual Offences Act 2003 to define consent [11] and Project Sapphire to improve procedures [11]. However, the procedures still have huge room for improvements.

Rape myths have shown as present throughout cases, especially when one or more of the four vulnerabilities are present [18]. Statistics have shown that most victims have one or more of these vulnerabilities when reporting their case [18]. These cases were likely to not make it to trial, reducing statistics for prosecution [11]. Furthermore, IOPC case studies have shown that officers have sexually assaulted victims with vulnerabilities, as shown in Mrs. Z's case study [10]. Mrs. Z's case showed that officers associated with the offending officer did not report the officer having sexual intercourse with the victim, which links to the blue code of silence [10]. A study found officers would not report officer wrongdoings because they did not want the officer to lose their job over a 'mistake' [10]. Rape cases involving officers may not make it to court because of this blue code of silence. By training and educating officers about rape, the rate of officer reporting could be improved. However, officer training is done internally with no external verification or scrutinization [18]. A recommendation for this would be to hire independent external experts and academics to oversee and evaluate the effectiveness of the training and development processes, and conduct further research to identify if improvements can be made in the way police handle rape cases.

Finally, Project Bluestone was a project implemented by an academic team to try and improve rape case procedures [2]. Currently, there is only a small amount of information on

Project Bluestone available. It would be interesting to monitor and revisit Project Bluestone in a few years to see if there is more information on whether the new procedures work. The project has shown some improvements, such as cases with extremely vulnerable victims being more likely to make it to court [2]. However, the conviction rate for these cases is lower, which links back to rape myths [2]. Nevertheless, an American study showed that educating jurors about rape myths could improve their belief in the victim's statement [22]. This study could be used in England and Wales to see if it would improve rape case conviction rates.

Overall, the research has identified failings within all aspects of the Criminal Justice System. Although improvements have been made within the system to better the procedures, these improvements are not enough for victims. More work needs to be done in terms of developing new policies and procedures within this area of policing.

Abbreviations

| | |
|------|---------------------------------------|
| CJS | Criminal Justice System |
| CPS | Crown Prosecution Service |
| IOPC | Independent Office for Police Conduct |
| NHS | National Health Service |

Author Contributions

Caitlyn Dugdale: Investigation, Writing – original draft

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Conflicts of Interest

The authors declare no conflicts of interest.

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