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**COMPLAINTS OF RAPE AND THE CRIMINAL JUSTICE SYSTEM:
FRESH EVIDENCE ON THE ATTRITION PROBLEM IN ENGLAND AND WALES**

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Abstract

The UK has one of the lowest conviction rates for rape in Europe. This article presents unique evidence on the factors that influence the attrition of rape allegations in the English criminal justice system. The study is based on a large, representative sample of rape allegations reported to the London Metropolitan Police, the UK's biggest police force. The dataset contains unprecedented detail on the incident, victim, suspect and police investigation. The results lend support to the influence of some rape myths and stereotypes on attrition. These findings suggest that further central factors include the ethnicity of the suspect as well as what police officers and prosecutors perceive as evidence against the truthfulness of the allegation: the police record noting a previous false allegation by the victim, inconsistencies in the victim's account of the alleged rape, and evidence or police opinion casting doubt on the allegation.

Key words: rape; attrition; policing; criminal justice

¹ The views expressed in this article are those of the authors and do not necessarily represent the views of, and should not be attributed to, the Mayor's Office for Policing and Crime.

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Introduction

Most rapes are never reported to the police, and of those reported only a minority result in a conviction. This persistent finding of empirical studies of criminal justice responses to rape complaints has been termed the ‘attrition problem’ or ‘justice gap’ (Brown, 2011). Rape is an iconic offense in the measure of women’s equality in society. How complaints of rape are treated within the criminal justice system is thus important not only for the victims who seek justice, but sends a powerful signal to society at large. With a conviction rate as low as 7% (Home Office and Ministry of Justice data, 2013) - one of the lowest in Europe (Lovett and Kelly 2009) - one might argue that in England and Wales rape is effectively “decriminalized” (Gregory and Lees, 1999: 91). Research has sought to establish not only the extent of the attrition, but also the factors that explain it (Grace et al., 1992; Harris and Grace, 1999; Gregory and Lees, 1999; HMCPSI and HMIC, 2002; Kelly, 2002; Lea et al., 2003; Jordan, 2004; Kelly et al., 2005; Brown et al., 2007; HMCPSI and HMIC, 2007; Lovett et al., 2007; Daly and Bouhours, 2010; Stern, 2010; Hester, 2013).

What distinguishes complaints that go to court from those that don’t? What makes a rape complaint credible in the eyes of criminal justice agents, and what discredits a complainant? Whilst the body of literature on the impact of particular aspects of the rape complaint on attrition is growing steadily and remains a topic for global dialogue about women’s gendered justice, the number of large-scale empirical attrition studies for England and Wales is more limited. Key publications here date back to the 1990s (Grace et al., 1992; Harris and Grace, 1999) and were followed by a number of government-body commissioned reports in the early 2000s (HMCPSI and HMIC, 2002; Kelly, 2002; Kelly et al., 2005; HMCPSI and HMIC, 2007). The most recent and frequently cited Stern Report, a government-commissioned report to stipulate new avenues for practice published in 2010, is a review and does not contain fresh empirical evidence. The police oversight body’s – Her Majesty’s Inspectorate for the Constabulary (HMIC) - Rape Monitoring Group has so far published only basic police recording statistics, but no in-depth analyses of patterns in attrition (HMIC, 2014).

This article provides unique empirical evidence from a large, representative sample of rape complaints made to the UK’s largest police force, the Metropolitan Police London (MPS). The dataset contains unprecedented detail on the incident, victim, suspect and police investigation, allowing us to provide an up-to-date picture of the factors that influence attrition. To anticipate the main findings, our results lend partial support to the influence of classic rape myths and stereotypes on attrition. We find that a further central factor in attrition is what police and prosecutors perceive as evidence against the victim’s allegation: the police record noting a previous false allegation by the victim, inconsistencies in the victim’s recollection of the rape, and evidence or police opinion casting doubt on the allegation. In the

sample none of the allegations with any of these features were prosecuted. Furthermore, we found that a white suspect with no prior police record is likely to avoid a full police investigation, whilst the police and Crown Prosecution Service (CPS) appear more inclined to believe and pursue an allegation that involves a non-white suspect or a suspect with a prior police record.

The existence and importance of male rape notwithstanding, this article focuses on complaints of rape involving female victims only because there are too few male rape complaints in the sample to draw robust conclusions about male victims. The remainder of the article has three parts. We first explain the attrition problem in England and Wales and review the key findings of previous studies, before describing the empirical study and results. We conclude with a discussion of the findings and their implications.

The attrition problem

Major attrition studies in England and Wales suggest that only a minority of rapes are reported to the police, and of those that are reported the majority do not result in a sanction detection², prosecution or conviction. Attrition is highest at the early stages of the police investigation, with victim withdrawal accounting for a large proportion of the attrition (Grace et al., 1992; Harris and Grace, 1999; HMCPSI and HMIC, 2002; Lea et al., 2003; Kelly, 2002; Kelly et al., 2005; HMCPSI and HMIC, 2007; Stanko and Williams, 2009; Stern, 2010; Hester, 2013). Comparable studies outside England and Wales point to similar patterns (Jordan, 2004; Hanly et al., 2009; Lovett and Kelly, 2009). The past ten years have seen a considerable number of government-body commissioned reviews, inspection reports and statistical bulletins to address the attrition problem (Myhill and Allen, 2002; HMIC and HMCPSI, 2002; 2007; 2012; Walby and Allen, 2004; Kelly et al., 2005; Kelly et al., 2006; Feist et al., 2007; CPS, 2008; 2009; 2010; 2011; 2012; Stern, 2010; Cabinet Office, 2011; Ministry of Justice, 2013; IPCC, 2013). The Metropolitan Police London and the Director of Public Prosecutions have recently announced another review (MPS, 2014) and published a Rape Action Plan (CPS, 2014).

There have been many efforts to lower attrition including law reform to address deficiencies uncovered in the earlier reviews. The 2003 Sexual Offences Act (SOA) introduced a new definition of rape and clarified the definition of ‘consent to sex’. Better victim care was another step to improve the way victims were treated. Practical measures included the creation of Sexual Assault Referral Centres (SARCs, also called ‘Havens’ in London) where medical and psychological care for victims of rape and sexual assault is the primary focus, the introduction of Specially Trained Officers (STOs, also called SOITs - Sexual Offences Investigative Trained officers) to attend to rape and sexual assault cases, the availability of female police officers to take the statement, the installation of ‘rape suites’ in police stations to give rape

² A sanction detection is a recorded, solved crime.

victims more privacy when making the report, Early Evidence Kits (EEKs) to collect valuable forensic evidence, video-recording of victim statements to spare vulnerable victims giving live evidence in court, and new police guidelines on how to handle rape cases (ACPO, 2010). In sum, there clearly have been changes that have sought to improve the conviction of rapists that come to the attention of criminal law.

Whilst these practical improvements, legal changes, regular inspections, inquiries and research reports are generally welcomed, commentators express doubt as to their effectiveness in reducing attrition (Brown, 2011; Jordan, 2011; Cook, 2011; Kelly et al., 2006). Official data published jointly in 2013 by the Ministry of Justice, Home Office and National Office for Statistics shows that the attrition problem remains. The proportion of complaints that result in any legal validation - in the form of sanction detections, prosecutions and conviction - has declined noticeably. Whilst 24% of complaints resulted in a conviction in 1985, only 12% did so in 1995, and conviction rates have remained at around a low 7% since 2000 (Home Office and Ministry of Justice data, 2013). Based on official statistics it appears that the series of legal changes, HMIC inspections, guideline revisions and government-commissioned reviews have not been accompanied by a reduction of the attrition problem. Attrition is still high, and getting worse, at every stage of the criminal justice process.

Pathways to attrition

A rape complaint must successfully pass several hurdles to avoid attrition and secure justice in law. The police are the critical gatekeepers of the criminal justice system and the first point of contact with the criminal justice process for women who have been raped and seek formal justice. A dual role thus falls to the police: to investigate the complaint, and since in rape the victim is usually the key witness, to keep the victim engaged in the criminal justice process. It is estimated that only around 6-18% of rapes in England and Wales are reported to the police (Brown et al., 2007; Myhill and Allen, 2002; Stern, 2010). Many allegations are withdrawn soon after they have been made (Gregory and Lees, 1996; Harris and Grace, 1999; Kelly, 2002; Kelly et al., 2005; Jordan, 2004; Hester, 2013), despite false allegations being extremely rare (CPS, 2013; see also Kelly, 2010 and Saunders, 2012 for a discussion). The barriers to reporting a rape and reasons to withdraw are numerous. One frequently cited reason is a lack of trust in the police and criminal justice system, a fear of not being believed and taken seriously, and feeling 'raped all over again' by the way the police question both the victim and their account. The tentative trust required to report the rape is quickly lost when police officers communicate disbelief and disrespect or when the victim loses faith in the police to effectively investigate the case, leading victims to withdraw from the process or retract the allegation altogether (Stanko, 1985; Estrich, 1987; Temkin, 1997; 1999; Kelly, 2002; Jordan, 2001; 2004; Taylor et al., 2012).

Victim withdrawal is only one pathway to attrition. A second is the police or prosecution's decision to drop the case. The police need to treat what is reported to them as a possible criminal incident and investigate it as such. Police might still decide to 'no crime' the complaint after initial investigations if these uncover verifiable information that in fact no crime took place (Home Office, 2014). In 2012/13 the average no-criming rate for rape complaints is 12%, six times higher than for other victim-based crimes in England and Wales (HMIC, 2014). Evidence suggests that some police forces may 'no crime' complaints if they suspect the complaint is a false allegation or difficult to prosecute, without having obtained the required verifiable information to this effect (HMIC and HMCPSI, 2007). The next hurdle is a successful police investigation. The police must successfully identify the offender and secure sufficient evidence to refer the case to the CPS for charge, otherwise police close the case with 'no further action'. A complaint referred to the CPS for charge only results in a prosecution if it passes two tests: an evidential sufficiency test and a public interest test. If the prosecution concludes that there is no realistic prospect of conviction due to insufficient evidence or that a prosecution is, on balance, not in the public interest, the case is again closed with 'no further action'. The final hurdle, if the case reaches court, is the jury. In order to secure a conviction the prosecution must convince the jury beyond reasonable doubt that sexual intercourse took place in absence of consent or a reasonable belief thereof. We now turn to the question of why police officers and prosecutors decide to take 'no further action' and juries acquit defendants so frequently.

Factors influencing attrition

Temkin and Krahé (2008) argue that the answer to high attrition lies in attitudes and stereotypes of the legal agents. The legal process, they evidence carefully, is not a normative, data-driven fact-finding exercise. In practice, police officers, prosecutors, judges and jurors rely on 'schematic processing', cognitive heuristics that allow wider attitudes, stereotypes and beliefs to enter judgments and decisions. The greater the extent to which a complaint of rape conforms to ideas of 'real rape', they show, the higher the chances that the case successfully navigates the challenges of the criminal justice system. The less the case - and the complainant herself - conforms to an ideal of femininity and its sexual violation, the lower the chances that she is believed and the case considered a 'real rape'. Munro and Kelly (2009) argue that this problem is compounded by a vicious cycle of attrition. Performance targets and resource constraints limit police officers and prosecutors to advancing only those cases they believe have a realistic chance of securing a conviction. To do so, police officers and prosecutors anticipate jury decision-making in court and the rape myths and 'real rape' stereotypes that might influence it. Guided by this anticipation, police officers are then more likely to advance cases that conform to the 'real rape' stereotype. A self-perpetuating cycle is set in motion that sustains the influence of rape myths and gender stereotypes.

A 'real rape', as Estrich (1987) proposed nearly three decades ago, is a rape perpetrated by a stranger in an outdoors setting, involving the use of force, which is met with resistance by the victim and evidenced in visible injuries. This image of 'real rape' many scholars suggest disables the legal fact-finding in most rape allegations that come to police attention. And because offenders in stranger rapes often remain unidentified these cases have, contrary to the real rape prediction, a lower overall conviction rate than cases involving a known suspect (Munro and Kelly, 2009; Lovett et al., 2007). The empirical evidence further shows that 'real rapes' are in fact not typical at all: the majority of perpetrators are known to their victims: current or previous intimate partners, followed by acquaintances, friends, co-workers and family members (Kelly, 2002; Kelly et al., 2005; Feist et al., 2007, Stanko and Williams, 2009).

Another feature of the 'real rape' myth is that victims will report the rape to police immediately and, because of the seriousness of the assault, have a clear and detailed memory of the incident. As a result, delayed complaints and complaints with gaps, incoherence and inconsistencies in the victim's recollection of rape are seen as less credible and are more likely to suffer from attrition (Burt, 1980; Stanko, 1985; Lonsway and Fitzgerald, 1994; Lees, 2002; Gerger et al., 2007; Taylor, 2004). Contrary to this rape myth, the evidence suggests that rape victims will often delay reporting for a variety of reasons (Adler, 1987; Frazier and Borgida, 1992; Ellison, 2005), and that traumatic events such as rape impair rather than enhance memory performance (Tromp et al., 1999). Finally, the credibility of the complainant appears damaged and the risk of attrition higher as a result if the victim suffers from a mental health condition, (Ellison et al., 2014) or if the complainant voluntarily consumed alcohol prior to the rape (Finch and Munro, 2005; 2007; Lovett and Horvath, 2009).

In summary, a range of factors have been found to be associated with attrition: the victim-perpetrator relationship, a lack of victim resistance and visible injuries, delayed reporting, gaps and inconsistencies in the victim's account of the rape, victim mental health problems and voluntary alcohol consumption prior to the attack. These factors are all bound up in 'real rape' and 'respectable woman' stereotypes and their influences on attrition are mediated through a vicious cycle of self-perpetuating effects of these stereotypes on police, prosecution and jury decision-making.

Data and methods of analysis

This study aims to provide an updated picture of factors associated with attrition of rape complaints in England and Wales. At its heart is a police case file review of all rape allegations reported to the MPS during April and May 2012 (n=679). Because all complaints within these two months are included the only factor introducing potential sampling bias and thus potentially damaging the representativeness of this sample is the selection of the months April and May. This selection of months could introduce sampling bias if the pattern of complaints made within these two months differed systematically from those reported during the rest of the year. The evidence suggests some seasonality in the volume of recorded rapes with peaks in summer and troughs in winter; however, April and May are ‘average’ months (Hird and Ruparel, 2007). The risk of sampling bias thus appears small, rendering the sample representative of all rape complaints reported to this police force within that year. A comparison with other police forces in England and Wales further suggests that the MPS has average levels of no-criming and sanction detections in sexual offences (HMIC, 2014) indicating that our data provide a good representation of the nationwide picture.

A quantitative dataset was generated through in-depth reading and coding of the police case files of each rape complaint in the sample and then analysed using the statistical software package Stata. A total of 42 allegations involving a male victim and 50 cases in which the sex of the victim was not recorded were excluded, leaving 587 cases for analyses.

The analysis distinguishes between the two attrition pathways outlined above. The first is a victim decision to withdraw; and in cases not terminated by victim withdrawal a police or CPS decision to discontinue the case. With regard to the latter pathway we consider the three attrition points described above: a) police decision to ‘no crime’ the case instead of further investigating it as a crime, b) a police decision to close the case with ‘no further action’ instead of referring the case to the CPS for charge, and c) a CPS decision to take no further action instead of prosecuting in court. The dependent variables in the analyses are a series of dummy variables measuring the case outcomes at these attrition points. Attrition through the first pathway is measured by the variable ‘victim withdrawal’, coded 1=‘victim withdrew’ and 0=‘victim did not withdraw’; and in cases not withdrawn by the victim (second attrition pathway) the first attrition point variable is a police decision to ‘no crime’, coded 1=‘case no crimed’ and 0=‘case remains recorded/investigated as crime’; the second attrition point variable is ‘police no further action’ coded 1=‘no further action’ and 0=‘referral to CPS for charge’; and the final attrition point ‘CPS decision’ is coded 1=‘no further action’ and 0=‘CPS charge/prosecution’.

All explanatory variables used in the analyses are binary and were coded as 1 if the particular characteristic was present and coded as 0 if it was absent. Table 1 shows all explanatory variables with basic descriptive statistics.

Table 1. Key characteristics of the cases in the sample.

	<i>Percentage</i>		<i>Percentage</i>
Incident characteristics		Victim characteristics	
Assault happened outdoors/public place	24	Aged under 13 at time of incident	8
Victim believes they have been drugged	5	Aged under 16 at time of incident	25
Victim had voluntarily consumed alcohol	29	Ethnicity non-white	46
Victim physically resisted assault	35	Mental health problems	23
Victim sustained visible injuries	25	Learning difficulties	4
Perpetrator had a weapon	5	Alcohol abuse problems	6
Evidence		Drug abuse problems	5
Inconsistent victim account	11	Prior police record	22
Corroborating evidence	22	Previous rape report by victim	16
Evidence casts doubt	5	Previous false allegation (sexual assault or rape)	4
Early Evidence Kit used to collect forensic evidence	33	Victim-suspect relationship	
Reporting		Complete stranger	8
Delayed report (> 24 hours)	69	Known for less than 24 hours	21
Report outside forensic window (>7 days)	44	Colleague, friend or acquaintance	35
Historical report (> 1 year)	30	Family member	8
Victim appeared drunk/drugged when reporting	12	Previous or current intimate partner	29
Victim appeared unclear about meaning of 'consent'	9	History of consensual sex with suspect	27
Police investigation		Suspect characteristics	
Investigated by Child Protection Unit (CPU)	9	Ethnicity non-white	70
Victim attended a Haven	28	Prior police record	41
Capacity/staffing issues noted	15	Known for sexual offending	16
Video recorded victim witness statement	32	Investigation milestones	
Cooperation/communication problems with victim	40	Suspect identified	70
Police note doubt about credibility in case file	21	Suspect arrested	47

Sample size n=587

We use a series of simple logistic regression models, i.e. one (binary) dependent and one explanatory variable at the time, to identify factors with a statistically significant effect on the odds of attrition at each of these attrition points. The results are displayed in Figure 1 with the respective explanatory variable displayed in the rows (e.g. 'victim resisted the assault') and the exponentiated regression coefficient (i.e. odds ratio) of its effect on each dependent variable indicated by the placement of the respective dependant variable symbol on that row. For ease of presentation, non-significant variables are omitted from the graph, but discussed in text. To give an example of the interpretation of Figure 1 that follows, if the victim had voluntarily consumed alcohol at the time of the incident (yes=1) the odds of a police 'no further action' decision (rather than a police 'charge' decision) are doubled ($\exp(b)=2.1$) as compared to a case in which the victim had not voluntarily consumed alcohol (no=0). The variable had no statistically significant effect on victim withdrawal or police no-criming decisions.

Simple logistic regression was chosen over more complex multivariate options due to the relatively small sub-sample sizes and the distributional attributes of many variables in the dataset. We have however tested all regression models with control variables and interaction effects. In the small number of instances where controlling for a second variable or including an interaction effect did have a statistically significant effect and where, upon carefully inspecting standard errors, estimates and sub-sample sizes a conclusion was reached that this result is reliable we do report this in the text.

Finally, at the time of data collection the CPS had decided upon 70 cases only. Instead of regression we thus use a simple comparison of the percentage of cases that resulted in a CPS ‘charge’ with the percentage of cases that resulted in a CPS ‘no further action’ decision conditional on the respective ‘explanatory’ variable. Z-tests are used to assess the statistical significance of any observed differences; for ease of presentation only statistically significant results ($p < 0.05$) are displayed in Table 3.

Results

Table 2 provides basic descriptive statistics of the complaint outcomes. Victim withdrawal accounts for 48% of attrition in the sample. Victim withdrawal is highest during the police investigation stage and becomes less likely the further the case progresses: during the police investigation stage 67% of allegations were withdrawn by the victim, compared to only 12% of those allegations awaiting trial. Of the cases not terminated by victim withdrawal, a police decision to no-crime accounts for 11% of case outcomes and 19% of attrition, a police decision to take no further action for 39% of case outcomes and 67% of attrition and a CPS decision to take no further action for 8% of case outcomes and 14% of attrition. At the time of data collection (approximately six months after the recording of the allegation) only 9% of cases hadn’t suffered attrition and were awaiting trial, the police investigation was still on-going in 22% of non-withdrawn cases and a CPS decision outstanding in 6% of non-withdrawn cases.

Table 2. Case outcomes in the 2012 MPS sample.

<i>Percentages</i>	Outcome all complaints	Outcome non- withdrawn complaints	Attrition non- withdrawn complaints	Victim withdrawal*
Police 'no crime'	7	11	19	13
Police investigation ongoing	35	22	-	67
Police 'no further action'	40	39	67	49
CPS referral total	19	29	-	19
- Awaiting CPS decision	4	6	-	15
- CPS 'no further action'	6	8	14	32
- CPS charged	9	15	-	12
Total	100	100	100	48
N**	583	272	272	311

* Row percentages

** Outcome information missing in 4 out of 587 cases

Turning to the factors that help explain attrition, Figure 1 shows the variables with statistically significant effects on the odds of victim withdrawal, as well as on police no-criming and police ‘no further action’ decisions in cases that haven’t been dropped due to victim withdrawal.

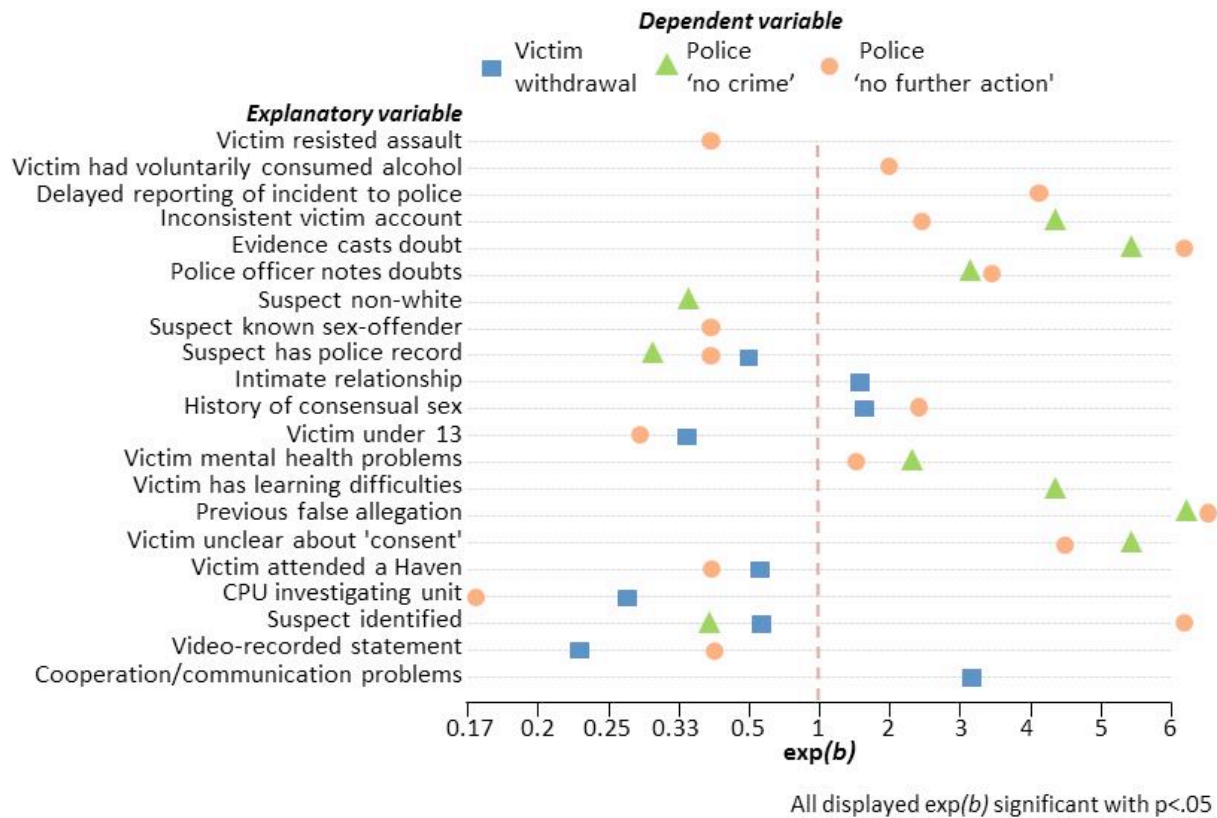


Figure 1. Simple logistic regression analyses predicting attrition points.

The victim decision to withdraw

Victim withdrawal accounts for almost half of the attrition in the sample. The central factor in victim withdrawal is the police-victim relationship. The odds of victim withdrawal increase by 308% if the victim ceases cooperation with police and becomes difficult to contact. Withdrawing cooperation is thus an early warning sign and precursor to withdrawing the allegation altogether. Haven – specialist referral centres for victims of rape and sexual assault - attendance halves the odds of withdrawal: victims who attended a Haven have 44% lower odds of withdrawal than victims who didn’t attend a Haven. Multivariate logistic regression analyses (not displayed in Figure 1) shows that Haven attendance also has an indirect positive effect: victims who attended Havens have 4.5 times higher odds of having their statement video-recorded, which in turn significantly reduces the odds of withdrawal, even after

controlling for Haven attendance. However, Haven attendance does not significantly reduce the odds of attrition for victims with mental health problems.

Furthermore, a police success in identifying the suspect reduced the odds of withdrawal by 42% and cases investigated by the Child Protection Unit (CPU) have nearly 72% lower odds of suffering attrition through victim withdrawal than cases investigated by Sapphire teams (sexual assault investigation units) or standard local police. Part of this effect is mediated through the victim-CPU relationship: the odds of problems of cooperation and communication are reduced by 64% if the CPU investigates. Multivariate regression analysis (results not displayed in Figure 1) shows that the lower attrition rate in cases investigated by the CPU is not explained by differences in the profile of cases allocated to CPU or by the fact that virtually all of their cases involve victims under the age of 13. The effect of victim age ceases to be significant once we control for the investigating unit.

Withdrawal is also less likely when the suspect is a ‘credible criminal/unrespectable man’: having a prior police record halves the odds of withdrawal. Whether a suspect is a known sex offender has no statistically significant effect on withdrawal. This finding indicates that the status of ‘criminal’ acquired through a prior police record is the deciding factor, not the prior record of sexual violence. Interestingly, the availability of supporting evidence or of evidence that casts doubt on the victim’s account and police officers noting doubts in the case file do not appear to have a statistically significant effect on victim’s decision to withdraw (however the latter is highly predictive of police-driven attrition, discussed later in this section).

Turning to the role of victim and incident characteristics in explaining withdrawal, the key factor is the victim’s relationship to the suspect. A current or previous intimate partnership with the suspect or previous consensual sex with the suspect (outside a relationship) nearly doubles the odds of withdrawal. Victims with other vulnerabilities, such as having a mental health problem or learning difficulty, being young but not underage or having an alcohol or drug addiction, are no more or less likely to withdraw their allegations than women without any of these vulnerabilities. Higher odds of attrition for women with vulnerabilities are explained by police and court decisions, not by victim withdrawal.

The police decision to “no crime”

No-criming accounts for 11% of all case outcomes and 19% of the attrition in non-withdrawn cases. Two factors are highly likely to lead to no-criming: the police record noting a previous false allegation by the victim increases the odds of no-criming by 786%, and evidence casting doubt on the current allegation increases the odds of no-criming by 585%. Controlling for the effect of evidence casting doubt, a police

officer noting doubt over the truthfulness of the allegation further increases the odds of no-criming by 240%. Providing an inconsistent account of the incident is associated with a 443% increase in the odds of no-criming. If the victim is deemed to show ‘a lack of understanding of consent’ the odds of no-criming increase by 540%. Victim mental health issues are associated with 2.3 times higher odds of attrition, and victims with learning difficulties are 4.4 times more likely to have their case no-crime.

Police appear more hesitant in no-criming an allegation against a suspect with a prior police record (70% reduction in the odds of no-criming). The ethnicity of the suspect matters, too. Non-white suspects have 70% lower odds of no-criming, regardless the ethnicity of the victim. Including an interaction effect between suspect and victim ethnicity in the analysis shows that compared to a non-white suspect, a white suspect has twice the odds of no-criming if his victim is white and 11 times higher odds if the victim is non-white (results not displayed). This finding suggest that white suspects are significantly and substantially more likely to avoid further investigation than non-white suspects, in particular if their victim is non-white.

The police decision to take “no further action”

A police decision to take no further action rather than to refer the case to the CPS for prosecution accounts for 67% of attrition in non-withdrawn cases and is thus the biggest attrition point on the criminal justice agent decision pathway to attrition. The availability of evidence and incident characteristics that lend the allegation credibility, alongside a suspect who is a ‘credible criminal’ and a complainant who is a ‘credible victim’, are key here. Independent evidence is the most important factor: availability of evidence casting doubt on the victim’s account multiplies the odds of a ‘no further action’ decision by 10. Conversely, evidence supporting the victim’s account reduces the odds of attrition at this stage by 72% (however not statistically significant). Inconsistencies in the victim’s account increase the odds of a police ‘no further action’ decision by 295%. The odds of attrition at this stage are halved if the victim physically resisted the assault, but increase by 470% if the victim delayed reporting of the rape. A suspect who is a credible criminal further helps the case: a prior police record reduces the odds of attrition by 70%, regardless the type of the offence. Who the victim is matters, too. All complaints by a victim with a previous false allegation that haven’t been no-crime resulted in police ‘no further actions’ in the sample, history of consensual sex (2.2), victim mental health problems (1.5) and voluntary alcohol consumption prior to the assault (2.1) all significantly increase the odds of attrition through a ‘no further action’ decision. Victim support in the form of Haven attendance and a video-recorded statement each decreases the odd by nearly 60%. Child sex abuse cases – victims under 13 – are nearly 4 times less likely to suffer attrition at this stage.

The CPS decision to not prosecute

Table 3. Statistically significant factors in CPS decision making.

<i>Percentages</i>	Total sample	CPS decision		
		Charge	'No further action' (NFA)	Difference (Charge-NFA)
Inconsistent victim account	11	0	12	12
Victim mental health problems	23	9	32	23
Victim non-white	46	56	40	-16
Suspect non-white	70	80	61	-19
Suspect known sex or domestic violence offender	16	36	16	-20
Police officer notes doubt	21	7	32	25
N	587	45	25	70

Only statistically significant results ($p < 0.05$) are displayed. Victim withdrawal cases are excluded.

A CPS decision not to prosecute accounts for 14% of the attrition of non-withdrawn cases. In the sample, none of the cases with an inconsistent victim account of the rape resulted in a charge. A charge was also substantially less likely if the victim had a mental health problem or if police officers noted doubts in the case file. Whether or not the suspect is a 'credible criminal' appears to be decisive: a CPS charge is significantly more likely if the victim and suspect are non-white (most offences are intra-racial, accounting for the higher percentage of non-white victims), and if the suspect was a known sex offender.

Discussion and Conclusions

The aim of the article is to provide an up-to-date picture of the factors that influence the attrition of rape allegations today, using a representative sample of rape complaints made to the UK's largest police force. There are few research opportunities to unfettered access to police case files and the findings presented here are a window to knowledge about police processing of sexual violence.

The extent of attrition in our sample mirrors official statistics (Home Office and Ministry of Justice, 2013): 7% of allegations were police no-crimes, 40% ended with a police decision to take 'no further action', of the remaining allegations 30% dropped out through a CPS decision to take no further action rather than prosecute in court. At the time of data collection 15% of non-withdrawn cases were awaiting trial. Similar to previous studies (Kelly et al., 2005; Lea et al., 2003; Harris and Grace, 1999), we found that victim withdrawal accounts for almost half of the attrition, with most victims withdrawing early in the process, and withdrawal becoming less likely once the case was referred to the CPS for charge. The analyses presented here identified some correlates of victim withdrawal, chiefly the relationship between the victim and the police officers on the case.

Case file reviews such the study presented here however can only tell the story as portrayed by police officers in the police case file. Interviews with victims themselves are required to understand their experience of the police process and their reasons for withdrawing from the process or retracting a truthful allegation altogether, such as pressure or threats from the perpetrator, family or some other party (see, for example, Temkin, 1997; Jordan, 2001; Taylor et al., 2012). In particular if the victim felt pressured by police to withdraw or even threatened to be charged with making a false allegation (see Jordan, 2001) this is unlikely to feature in the police record. Furthermore, whilst a case file review enables the study of associations between the police file noting a previous false allegation and the outcome of the present allegation, it does not allow conclusions as to whether an allegation was indeed false. In our sample, in 22 out of 587 cases police noted a previous false allegations by the victim, a considerably higher proportion than the 35 out of 16,041 reported allegations in which a complainant was prosecuted for making a false allegation of rape in 2011/12 (CPS, 2013; Home Office and Ministry of Justice, 2013).

The results of the present study lend support to some, but not all, classical ‘real rape’ myths. Whether or not the assault happened outdoors had no significant effect on the outcome of the case. And although victims were less likely to withdraw and more likely to secure a CPS referral if the suspect was a complete stranger rather than an intimate partner, this is explained by the latter being a disadvantage rather than the former being of particular advantage. Stranger rape cases were in fact more likely to suffer from attrition than most cases (except intimate partner cases), simply because the offender could often not be identified. Visible victim injuries did not feature as statistically significant factor in attrition, however, whether or not the victim physically resisted the attack or delayed reporting of the rape to police did. It is critical to note that vulnerable victims are no more likely to withdraw their allegations, with the exception of vulnerability stemming from an intimate relationship with the perpetrator. Victim vulnerabilities such as mental health problems and learning difficulties suffer higher attrition through police and CPS decisions to no-crime or take no further action.

Other rape myths and gender expectations played a role, too. As far as police decisions (but not the victim decision to withdraw) are concerned, the intractable ‘respectable woman’ image is significant: voluntary alcohol consumption prior to the rape, a history of consensual sex with the perpetrator, mental health problems and learning difficulties, and a woman’s ‘misunderstanding’ of the meaning of consent explain police decisions to discontinue a case. Whether the suspect is a credible criminal with a prior police record rather than a law-abiding ‘respectable’ white man mattered at all stages as white suspects were significantly more likely to escape further investigation, and police appeared more hesitant to dismiss a

case if the suspect had a prior police record. Whether this observed disproportionality in outcomes for non-white suspects is indicative of racial discrimination cannot be determined based on the present data (see Reiner, 2010; Waddington et al. 2004). Whilst to our knowledge there exists no dedicated research on the subject of racial discrimination of rape suspects, the wider literature has consistently evidenced racial discrimination of non-white, in particular Black, suspects in stop-and-search situations (Bowling and Phillips, 2007; Delsol and Shiner, 2006), poorer treatment of non-white citizens during police encounters (Skogan, 2005), as well as disproportionately higher arrest-, charge- and incarceration rates for non-white offenders (Ministry of Justice, 2013). Further research is urgently needed to establish whether the disproportionality found in this study is the result of racial discrimination of non-white rape suspects by police (see hooks, 1981 and LaFree, 1980 on racial discrimination of rape victims), and to confront the issue within policy and practice.

We further found evidence that some of the measures introduced to support victims reduced attrition: victims who attended a Haven for support and who had their witness statement video-recorded to spare them giving live evidence-in-chief were significantly less likely to withdraw and more likely to see their case referred to the CPS for charge. However, Haven attendance did not significantly reduce attrition through withdrawal for victims with mental health issues, suggesting that victims with mental health issues pose a special challenge to the criminal justice system (see Ellison et al., 2014 for a fuller discussion).

Our findings suggest that one of the most influential factors however is the perceived credibility of the allegation in light of the evidence as seen through the eyes of the investigating police officer and prosecutor. Only 2% of complaints in which police officers noted doubt about the allegation resulted in a CPS charge. None of cases in which there was independent evidence casting doubt on the allegation, the police record noted a prior false rape allegation by the victim, or inconsistencies in the victim's account of the rape resulted in a CPS charge. In contrast, independent evidence supporting the allegation did not guard the allegation against attrition to a statistically significant extent, revealing a stark asymmetry between the non-significant impact of supporting evidence and the large, statistically significant effect of evidence that casts doubt on the allegation. In rape complaints the victim's account of the rape is often the only and almost always the key evidence. It is thus unsurprising that inconsistencies within it weigh so heavily, albeit psychological research on memory suggests that inconsistencies are a normal feature of human memory and a poor measure of the truthfulness of an allegation (see Hohl and Conway, *under review*, for a fuller discussion). Further research is required on the use of victim memory as evidence in

particular, and more generally on how police officers construct and evaluate in-situ evidence in rape complaints and its impact on attrition.

Police forces in the UK are receiving more complaints of rape than ever before. In the wake of the England's most jarring sexual predator Jimmy Savile and other high profile sexual abuse scandals victims who hitherto told no one now come forward and seek formal justice for historic and recent rapes. Our findings suggest that few of these victims are likely to see their perpetrator in court. The recently announced CPS 'Rape Action Plan' acknowledges the continued existence of the attrition problem and need for action, highlighting in particular the need to address the influence of rape myths (CPS, 2014). Our findings suggest that whilst some, but not all, classic rape myths can be linked to attrition, there are further factors to consider. First, case outcomes are disproportional in respect to the ethnicity of the suspect. Further research is required to establish what drives this disproportionality in the investigation and prosecution of rape complaints. Second, our results point to the pivotal role of police officers and prosecutors understanding of what constitutes evidence and the evaluation of such evidence in the context of decisions to drop a rape case before it reaches court. Whilst much more research is required, it is important to find ways of translating into practice what we already know about the fragility of rape allegations in the criminal justice process. These and other consistent empirical findings must be incorporated into policies aimed at bettering justice, especially for victims of rape.

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References

- ACPO - Association of Chief Police Officers, Crown Prosecution Service and NPIA (2010) *Guidance on investigating and prosecuting rape*. Available online http://www.acpo.police.uk/documents/crime/2011/20110303%20CBA.%20Guidance%20for%20Investigating%20and%20Prosecuting%20Rape_Public%20Facing_2010.pdf.
- Adler Z (1987) *Rape on Trial*. London: Routledge and Kegan Paul.
- Bowling B and Philips C (2007) Disproportionate and discriminatory: Reviewing the evidence on police stop and search. *The Modern Law Review*, 70(6): 936-961.
- Brown J (2011) We mind and we care but have things changed? Assessment of progress in reporting, investigating and prosecution of rape. *Journal of Sexual Aggression* 17(3): 263-272.
- Brown J, Hamilton C and O'Neill D (2007) Characteristics associated with rape attrition and the role played by scepticism or legal rationality by investigators and prosecutors. *Psychology, Law and Crime* 13(4): 355-370.
- Burt M (1980) Cultural myths and supports of rape. *Journal of Personality and Social Psychology* 38: 217-230.
- Cabinet Office (2011) *The government response to the Stern Review*. London: Cabinet Office.
- Cook K (2011) Rape investigation and prosecution: stuck in the mud? *Journal of Sexual Aggression* 17(3): 250-262.
- CPS (2008, 2009, 2010, 2011, 2012, 2013) *Violence Against Women And Girls Crime - Annual Reports*. London: CPS. Available online: <http://www.cps.gov.uk/publications/equality/vaw/>.
- CPS (2014) *Joint CPS and Police Action Plan on Rape*. London: CPS. Available online: http://www.cps.gov.uk/equality/vaw/rape_action_plan.pdf
- Daly K and Bouhours B (2010) Rape and attrition in the legal process: A comparative analysis of five countries. *Crime and Justice* 39: 565-650.
- Delsol R and Shiner M (2006) Regulating Stop and Search. *Critical Criminology*, 14: 241-263.
- Estrich S (1987) *Real rape: How the legal system victimizes women who say no*. Boston: Harvard University Press.
- Ellison L (2005) Closing the credibility gap: the prosecutorial use of expert witness testimony in sexual assault cases. *International Journal of Evidence and Proof* 9: 239-268.
- Ellison L, Munro V, Hohl K and Walleng P (2014) Challenging criminal justice? Psychosocial disability and rape victimization. *Criminology and Criminal Justice: Online First*.
- Feist A, Ashe J, Lawrence J, McPhee D and Wilson R (2007) *Investigating and detecting recorded offences of rape*. Home Office Online Report 18/07. London: Home Office.

- Finch E and Munro V (2005) Juror stereotypes and blame attrition in rape cases involving intoxicants. *British Journal of Criminology* 45(1): 25-38.
- Finch E and Munro V (2007) The Demon Drink and the Demonised Woman: Socio-Sexual Stereotypes and Responsibility Attribution in Rape Trials Involving Intoxicants. *Social and Legal Studies* 16(4): 591 – 614.
- Frazier P and Borgida E (1992) Rape Trauma Syndrome: A Review of Case Law and Psychological Research. *Law and Human Behavior* 16(3): 293-311.
- Gerger H, Kley H, Bohner G and Siebler F (2007) The acceptance of modern myths about sexual aggression (AMMSA) scale: development and validation in German and English. *Aggressive Behavior* 33: 422-440.
- Grace S, Lloyd C and Smith L (1992) *Rape: From Recording to Conviction*. London: Home Office Research Unit.
- Gregory J and Lees S (1996) Attrition in rape and sexual assault cases. *British Journal of Criminology* 36(1): 1-17.
- Gregory J and Lees S (1999) *Policing Sexual Assault*. London: Routledge.
- Hanly C, Healy D and Scriver S (2009) *Rape and Justice in Ireland: A national study of survivor, prosecutor and court responses to rape*. Dublin: Liffey Press.
- 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.
- Hird C and Ruparel C (2007) *Seasonality in recorded crime: preliminary findings*. Home Office Online Report 02/07. London: Home Office.
- Hester M (2013) *From Report to Court: Rape cases and the criminal justice system in the North East*. Bristol: University of Bristol in association with the Northern Rock Foundation.
- Hohl K and Conway M (under review) *Memory as evidence in rape complaints. How misconceptions of victim memory result in attrition*.
- hooks b (1981) *Ain't I a woman. Black women and feminism*. Boston, MA: South End Press.
- HMCPSP and HMIC(2002) *A report on the joint inspection into the investigation and prosecution of cases involving allegations of rape*. London: HMCPSP and HMIC.
- HMCPSP and HMIC (2007) *Without consent. A report on the joint review of the investigation and prosecution of rape offences*. London: HMCPSP and HMIC.
- HMCPSP and HMIC (2012) *Forging the links: Rape investigation and prosecution. A joint inspection by HMCPSP and HMIC*. London: HMCPSP and HMIC.
- HMIC (2014) *Rape Monitoring Group. Adult and child rape data 2012/13*. London: HMIC.

- Home Office (2014) *Home Office Counting Rules For Recorded Crime – Sexual Offences*. London: Home Office, available online:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299319/count-sexual-april-2014.pdf
- Home Office and Ministry of Justice (2013) *An Overview of Sexual Offending in England and Wales, Sexual offending overview tables*. Available online: <https://www.gov.uk/government/publications/an-overview-of-sexual-offending-in-england-and-wales>
- IPCC (2013) *Southwark Sapphire Unit's local practices for the reporting and investigation of sexual offences, July 2008 – September 2009. Independent Investigation and Learning Report*. London: IPCC.
- Jordan J (2001) Worlds Apart? Women, Rape and the Police Reporting Process. *British Journal of Criminology* 41(4): 679–706.
- Jordan J (2004) *The word of a woman? Police, rape and belief*. Houndmills, Basingstoke: Palgrave Macmillan.
- Jordan J (2011) Here we go round the review-go-round: rape investigation and prosecution – are things getting worse not better? *Journal of Sexual Aggression* 17(3): 234-249.
- Kelly L (2002) *Routes to (in)justice: A research review on the reporting, investigation and prosecution of rape cases*. London: HMCPSI.
- Kelly L (2010) The (In)credible Words of Women: False Allegations in European Rape Research. *Violence against Women* 16(12): 1345–1355.
- Kelly L, Lovett J and Regan L (2005) *A gap or a chasm? Attrition in reported rape cases. Home Office Research Study No. 293*. London: HMSO.
- Kelly L, Temkin J and Griffiths S (2006) *Section 41: an evaluation of new legislation limiting sexual history in rape trials. Home Office online report 20/06*. London: Home Office.
- LaFree G (1980) *Rape and criminal justice: The social construction of sexual assault*. Belmont, CA: Wadsworth.
- Lea S, Lanvers, U and Shaw, S (2003) Attrition of rape cases: Developing a profile and identifying relevant factors. *British Journal of Criminology* 43(3): 583-599.
- Lees S (2002) *Carnal knowledge. Rape on trail*. 2nd edition. London: Women's Press.
- Lonsway K and Fitzgerald L (1994) Rape myth: in review. *Psychology of Women Quarterly* 18: 133-164.
- Lovett J and Horvath M (2009) Alcohol and drugs in rape and sexual assault. In Horvath M and Brown J (eds) *Rape: Challenging Contemporary Thinking*. Cullompton: Willan Publishing: 125-160.

- Lovett J and Kelly L (2009) *Different systems, similar outcomes? Tracking attrition in reported rape cases across Europe. Final Research Report*. London: Child and Women Abuse Studies Unit London Metropolitan University.
- Lovett J, Uzelac G, Horvath M and Kelly L (2007) *Rape in the 21st century: Old behaviours, new contexts and emerging patterns*. Final Report to the Economic and Social Research Council.
- Metropolitan Police Service London (2014) *Commission of an independent review into rape investigation*. Press release, available online <http://content.met.police.uk/News/Commission-of-an-independent-review-into-rape-investigation/1400024447530/1257246741786>.
- Ministry of Justice (2013) *Statistics on Race and the Criminal Justice System 2012*. Available online: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269399/Race-and-cjs-2012.pdf
- Ministry of Justice, Home Office and Office for National Statistics (2013) *An overview of sexual offending in England and Wales*. Statistical Bulletin. London.
- Munro V and Kelly L (2009) A vicious cycle? Attrition and conviction patterns in contemporary rape cases in England and Wales. In Horvath M and Brown J (eds) *Rape: Challenging Contemporary Thinking*, Cullompton: Willan Publishing: 99-123.
- Myhill A and Allen J (2002) *Rape and sexual assault of women: the nature and extent of the problem. Home Office Research Study 237*. London: Home Office.
- Reiner R (2010) *The Politics of the Police, 4th edition*. Oxford: Oxford University Press.
- Saunders, C (2012) The truth, the half-truth, and nothing like the truth. Reconceptualising false allegations of rape. *British Journal of Criminology* 52(6): 1152-1171
- Skogan W (2005) Citizen satisfaction with police encounters. *Police Quarterly*, 8(3): 298-321.
- Stanko E (1985) *Intimate intrusions: women's experience of male violence*. London: Routledge.
- Stanko B and Williams E (2009) Reviewing rape and rape allegations in London: what are the vulnerabilities of victims who report to the police? In Horvath, M. and Brown, J. (eds) *Rape: Challenging Contemporary Thinking*. Cullompton: Willan Publishing: 207-225.
- Stern Baroness V (2010) *Stern review of rape reporting in England and Wales*. London: Home Office.
- Taylor C (2004) *Court Licensed Abuse*. New York: Peter Lang Publishing.
- Taylor SC, Muldoon SD, Norma C and Bradley D (2012) *Policing Just outcomes: Improving the police response to adults reporting sexual assault*. Perth: Edith Cowan University.
- Temkin J (1997) Plus ça change: Reporting rape in the 1990s. *British Journal of Criminology* 37(4): 507-528.
- Temkin J (1995) Reporting rape in London: A qualitative study. *Howard Journal of Criminal Justice*, 38: 17-41.

Temkin J and Krahe B (2008) *Sexual assault and the justice gap: a question of attitude*. Portland: Hart Publishing.

Tromp S, Koss M, Figueredo A and Tharan M (1995) Are Rape Memories Different? A Comparison of Rape, Other Unpleasant and Pleasant Memories Among Employed Women. *Journal of Traumatic Stress* 8(4): 607-627.

Walby S and Allen J (2004) *Domestic violence, sexual assault and stalking: findings from the British Crime Survey*. Home Office Research Study No. 276. London: Home Office.

Waddington PAJ, Stenson K and Don D (2004) In Proportion: Race and Police Stop and Search. *British Journal of Criminology*, 44(6): 889-914.