



HM Government

# **Review into the Criminal Justice System response to adult rape and serious sexual offences across England and Wales**

Appendices A–C

# Contents

<b>Appendix A: Additional quantitative analysis</b>	<b>3</b>
<b>Appendix B: Supplementary Survey and Qualitative Data</b>	<b>7</b>
Additional detail on Early Investigative Advice (Chapter 5)	7
Additional detail on special measures (Chapter 7)	8
Additional detail in support of Victim Engagement and Withdrawal (Chapter 8)	11
Additional detail in support of Partnership Working (Chapter 10)	13
<b>Appendix C: Rape myths and stereotypes</b>	<b>15</b>
Prevalence and uses of rape myths	15
Training and education on rape myths	17

**2** Review into the Criminal Justice System response to adult rape and serious sexual offences across England and Wales  
Appendices A–C

# Appendix A: Additional quantitative analysis

As part of the quantitative analysis undertaken on available data from the HO, MOJ and CPS, further analysis was conducted and has been included here to provide additional contextual information on rape cases in the criminal justice system.

## Demographics of rape victims

CSEW data provides demographic data on victims of rape which can be used to assess prevalence rates for different groups of individuals. Table A1 shows the prevalence of rape in the last year by personal characteristics and sex.

**Table A1 Percentage of adults aged 16 to 74 who were victims of rape in the last year, by personal characteristics and sex, year ending March 2018 to year ending March 2020**

	Men	Women
All adults	0.1	0.8
<b>Age group</b>		
16–19	0.3	2.7
20–24	0.2	2.4
25–34	0.1	0.9
35–44	0.1	0.6
45–54	0.1	0.5
55–59	0.0	0.5
60–74	0.0	0.2
<b>Ethnic group</b>		
White	0.1	0.8
Mixed	0.0	0.7
Asian or Asian British	0.1	0.6
Black or Black British	0.3	0.7
Other ethnic group	0.2	0.5

Source: ONS, Sexual offences victim characteristics, England and Wales: year ending March 2020, 2021c

Police recorded crime data suggests that the age of rape victims has remained relatively consistent over time. Most victims are aged under 35 with those aged 16–24 consistently being the largest group. Figure A1 depicts the age of victims of police recorded rape offences between 2015–16 and 2018–19. The proportion of older victims has increased, with rape victims aged 55–64 rising from 2 per cent in 2015–16 to 4 per cent in 2018–19 (Home Office, unpublished).

**Figure A1. Victim age for police recorded rape offences, 2015–16 to 2018–19**

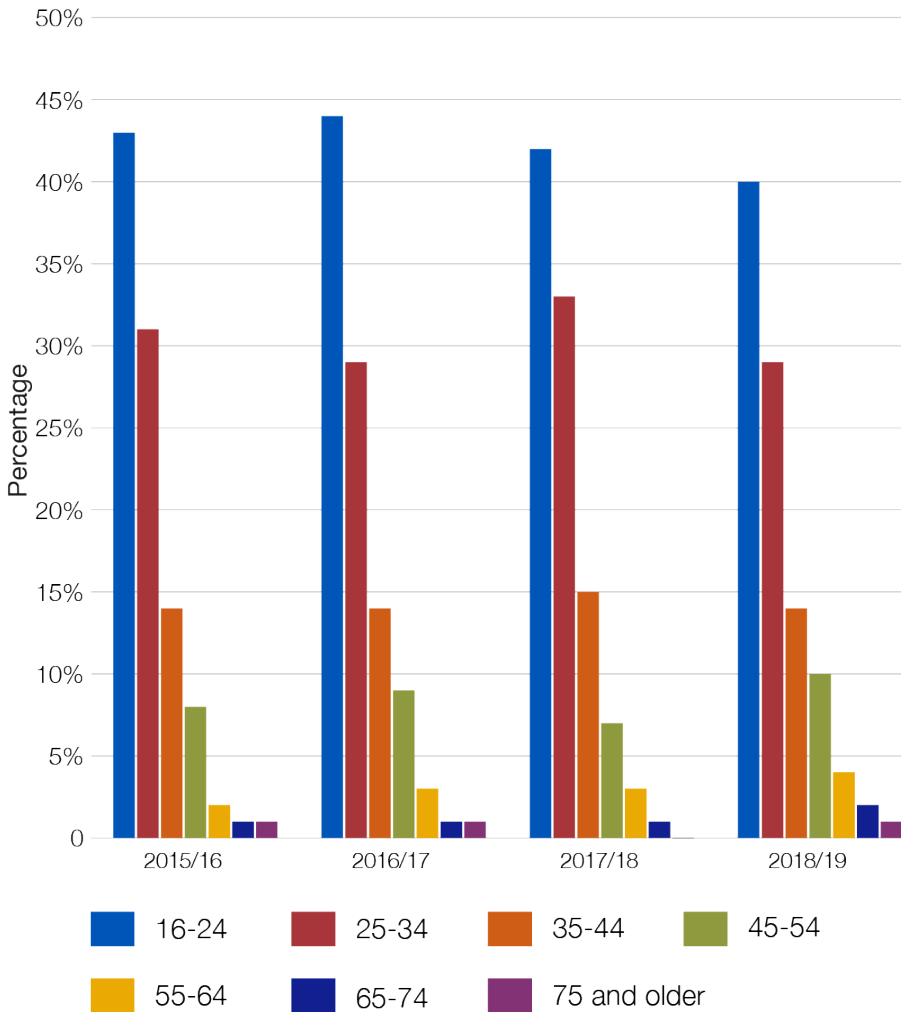


Figure A1.  
 Victim age for police recorded rape offences, 2015-16 to 2018-19.

Source: Home Office, Home Office Data Hub, unpublished

**Victim-offender relationship**

The CSEW provides insight into the relationship between victims of rape or assault by penetration (including attempts) and perpetrators. Combined data from the latest self-completion modules<sup>1</sup> shows that most rape victims knew the offender (85 per cent). Of

<sup>1</sup> These data are based on combined data from the year ending March 2014 and the year ending March 2017 to create a larger sample size.

those female victims who had experienced rape or assault by penetration since age 16, 45 per cent of perpetrators were current or ex-partners, followed by other known individuals<sup>2</sup> (37 per cent), strangers (15 per cent) and family members (4 per cent). In comparison, for male victims 25 per cent were current or ex-partners, followed by other known individuals (32 per cent), strangers (43 per cent) and family members (3 per cent) (ONS, 2021b).

### Disclosure of rape and sexual offences

There is a large discrepancy between the volume of rape cases estimated to have occurred by the CSEW and those recorded by the police. This is due to many victims of rape and sexual assault not wishing to disclose what they experienced to others. Many victims may be disclosing their experience for the first time when completing the CSEW.

The CSEW indicates that of those victims who had experienced rape or assault by penetration (including attempts) since the age of 16, 31 per cent had not told anyone about their experience (ONS, 2021b). Table A2 outlines the reasons selected for not telling anyone, with nearly half citing ‘embarrassment’ as a reason.<sup>3</sup>

**Table A2. Reasons why rape or assault by penetration (including attempts) victims did not tell anyone, year ending March 2017 and March 2020**

Reasons for not telling anyone	Percentage*
Embarrassment	46
It was a private matter	27
Didn't think anyone would believe me	24
Didn't think anyone would do anything about it	24
Didn't think anyone could help	21
Didn't want the police to become involved	19
Too trivial	14
Feared more violence as a result of telling someone	13
Didn't think anyone would be sympathetic	13
Didn't have anyone to tell	8
Some other reason	16

\* Participants could select more than one response and therefore percentages will not equal 100.

Source: ONS, Nature of sexual assault by rape or penetration, 2021b

<sup>2</sup> Other known individuals include date, friend, neighbour, acquaintance (outside of work/school/college/university), person in a position of trust or authority (not at work/school/university), colleague/peer (from work/school/college/university).

<sup>3</sup> These data are based on combined data from the year ending March 2014 and the year ending March 2017 to create a larger sample size. These questions are asked every three years in the 'Nature of sexual assault' module. The latest years which include these data are year ending March 2014 and year ending March 2017.

Less than a fifth (16 per cent) of all victims told the police, however a slightly larger proportion of male victims reported telling the police (19 per cent compared to 16 per cent of female victims) (ONS, 2018). Reasons why victims chose to report to the police are outlined in Table A3.

**Table A3. Reasons why rape or assault by penetration (including attempts) victims reported the offence to the police, year ending March 2017 and March 2020**

<b>Reasons why victims reported the offence to the police</b>	<b>Percentage*</b>
To prevent it happening to others	47
It was the right thing to do	44
Wanted the person / people who did it to be punished	43
To prevent it happening again	40
Wanted protection	31
Was told to by someone else	13
Was referred to the police by a support service	7
Some other reason	9

\* Participants could select more than one response and therefore percentages will not equal 100.

Source: ONS, Nature of sexual assault by rape or penetration, 2021b

## Appendix B: Supplementary Survey and Qualitative Data

### Additional detail on Early Investigative Advice (Chapter 5)

While there is no administrative data available on the use or impact of EIA, it can form a key part of the investigation for those rape cases the police find more challenging to investigate and to improve the quality of case files sent to the CPS. Table B1 outlines how often different participant groups believed EIA was used in rape cases.

**Table B1. Regularity of use of EIA by participant group**

	Investigators (N=131)	RASSO Gatekeepers (N=13)	Police RASSO Leads (N=36)	CPS (N=111)
Every case	3%	0%	3%	2%
Most cases	13%	8%	6%	18%
Some cases	26%	46%	37%	34%
Few cases	40%	39%	54%	41%
Never	18%	8%	3%	5%

Police participants raised an issue that EIA does not yet appear to be consistently and regularly used by the police. Some RASSO gatekeepers and CPS participants reported in some areas the process has become more established through joint working between RASSO gatekeepers, police and local CPS area whilst in other areas RASSO gatekeepers reported championing the use of EIA, trying to increase its usage.

When asked how effectively EIA was used, only 18 per cent of investigators (N=348), 14 per cent of police RASSO leads (N=36) and 31 per cent of RASSO gatekeepers (N=13) said EIA was used well or very well.<sup>4</sup> Those who felt that EIA was effective saw it as being a necessary and important part of the investigation, which can help steer the direction of the investigation and determine whether the case has a reasonable chance of prosecution. EIA can also open channels of communication between police and the CPS much earlier in the investigation process.

On the other side, those who were less positive about the use of EIA saw it as another time-consuming administrative burden unless used in a particularly complex case. Police survey and focus group participants indicated that the work required for EIA is excessive with almost as much work said to be required for EIA as when submitting a case for a charging decision. Some police officers also mentioned EIA is difficult to get from the CPS

<sup>4</sup> This question was not asked to CPS participants and therefore it is not possible to determine their view.



and takes so long that by the time it is received, it is no longer helpful or relevant as the police have progressed with their investigation. Timescales were also an issue for CPS participants. They raised that the timescales attached to EIA were unrealistic and were seemingly dictated by their case management system. This made it difficult for CPS to meet the required EIA timescales.

Many police participants raised that the actions received from CPS as part of the EIA process do not provide a steer on the strength of the investigation, with advice seen as unhelpful, generic and leading to an unmanageable amount of work. CPS survey participants felt this was because the police were failing to undertake EIA properly. It was noted that it was common to receive EIA requests without the required supporting evidence, without specific questions or areas of concern for the CPS to address and sometimes submitted too late in the investigation.

## Additional detail on special measures (Chapter 7)

Special measures are designed to make the court process less traumatic for victims and vulnerable witnesses. Applications can be made to the court, outlining the preferred special measures for the victim or witness prior to trial.

### Communicating special measures

Participants from all groups deemed communicating with victims about special measures to predominately be a police or support service role; 54 per cent of CPS participants (N=111) reported never or rarely discussing special measures with victims given decisions are usually made at the pre-charge stage. Some CPS survey participants however did indicate that if the conversations were post charge then the CPS would more likely be involved in discussing special measures during pre-trial witness meetings or court visits. The investigator survey sought detail on how the police communicate with victims about special measures and it is clear from the responses that there is no set approach for having these discussions. It is not possible therefore to determine how information is shared with victims, consistency across police forces and effectiveness of the communication.

The CPS, ISVA and barrister participants indicated there were improvements needed in police communication about special measures with victims. Generally, ISVA and CPS participants felt that victims were aware of the range of special measures but that the information provided by the police, in some cases, could be limited to specific special measures, such as the use of live link, which the police have a better understanding of. ISVA and CPS participants also suggested that the police were not informing victims of the suitability of particular special measures until much later in the process or were relying on HMCTS Witness Champions, ISVAs and other court staff to explain the limitations and consequences of special measures before victims went to court. For example, victims were not always told that when giving evidence via a live link they would be visible to the suspect and members of the public.

### Use of special measures

CPS (2020b) guidance states “Being eligible for special measures does not mean that the court will automatically grant them”, however interviews with barristers suggested some level of misunderstanding around entitlement with one barrister commenting that victims

thought they were automatically entitled to have the special measures they had requested. Special measures are subject to the discretion of the court, but the CPS participants were concerned this was not always communicated to victims by the police.

Over half of police investigators and support service staff (54 per cent (N=348) and 57 per cent (N=131) respectively) surveyed stated that, when applied for, special measures were always granted indicating that it is common for judges to accept applications, a view also echoed by CPS participants. ISVA and barrister participants raised that the use of special measures appears to vary across regions with some reporting that special measures were not often used in their area.

Currently there are limited data on the use of special measures in court and therefore it is not possible to explore how often applications are approved, frequency of use of different measures, or regional differences. Table B2 outlines the views from some surveys on the most commonly used special measures.

**Table B2. Proportion of participants deeming individual special measures to be most and least frequently used, by participant group**

	Most frequently used			Least frequently used		
	Investigators (N=348)	CPS (N=111)	Support Services (N=131)	Investigators (N=348)	CPS (N=111)	Support Services (N=131)
Video-recorded interview as evidence	59%	77%	42%	1%	1%	2%
Screening witness from the defendant	28%	11%	44%	1%	0%	1%
Evidence by live link	10%	10%	10%	0%	0%	1%
Evidence given in private	1%	0%	0%	14%	46%	31%
Examination of the witness through an intermediary	1%	1%	0%	24%	3%	5%
Removal of wigs and gowns by judges and barristers	0%	0%	1%	20%	16%	18%
Pre-trial video-recorded cross-examination or re-examination (Section 28)	0%	0%	1%	34%	27%	32%
Aids to communication (e.g. interpreter)	0%	1%	2%	6%	8%	11%

## **Benefits and effectiveness of special measures**

It was apparent from the responses that the impact of special measures to help victims could not be under-estimated. When asked to provide details as to why special measures made victims carry on, ISVA, barrister, judicial, defence solicitor-advocates and HMCTS Witness Champion participants unanimously agreed that special measures allowed a less stressful environment. Special measures ease victim anxiety in the build-up to their trial, empower victims and assist the quality of evidence provided. Police survey participants felt that special measures are essential for allowing victims to give evidence, believing that very few victims would be able to progress without them being in place. Some police participants suggested that for some victims simply being granted the special measures gave them the confidence to attend court and then subsequently they did not need to use them.

## **Limitations and consequences of using of special measures**

Despite a large proportion of police and CAWS survey participants believing that special measures can reduce victim attrition, some other participants raised that they may only be partially effective. Investigators and HMCTS witness champions highlighted that in some cases they don't provide the victim with the required security and if not applied correctly can have a negative impact on victims. For example, live link video evidence appears to not be popular with victims because the video link still allows victims to be seen by the defendant and members of the public. Some HMCTS Witness Champion participants reported that in their experience despite the victims requesting a video live link, they would often change to screening upon realising that the suspect would see the live link. However, screens can come with their own problems if not set up correctly and allowing for the victim to be seen.

HMCTS Witness Champions highlighted that video evidence, both Section 28 of the YJCEA 1999 video recorded interviews and video live links, worked well as it meant that victims did not have to be present in court for the trial and resulted in a much calmer atmosphere for victims. Judicial participants who had direct experience of Section 28 cases felt it had been effective, as giving evidence sooner allowed victims to move on and access counselling. Whilst some judicial participants had initial concerns about the potential impact of Section 28 on outcomes, they did not perceive a decrease in conviction rates as a result.

Police participants raised other limitations of special measures. Some police survey participants raised that whilst special measures help with the court process, they don't change the investigation process which is when victims are more likely to withdraw. Other police survey participants felt that special measures are not effective in changing the mind of victims who have already decided they do not wish to proceed. There was also the view amongst some investigator survey participants that special measures could be counterproductive if the process of applying for special measures is too stressful or if the victim wishes to attend court without measures in place but feels as though special measures are forced upon them. Investigator survey participants suggested that these could all contribute to the victim making the decision to withdraw.

A qualitative study including in the literature review highlighted concerns that measures designed to support victims may set unrealistic expectations which result in victims being unprepared for the realities of the courtroom, which may increase revictimization (Carline and Gunby, 2017).

## Additional detail in support of Victim Engagement and Withdrawal (Chapter 8)

Table B3 outlines the stages participant groups perceived victims to most likely withdraw.

**Table B3. Most commonly perceived stage of victim withdrawal by participant group**

	Investigators (N=348)	Police RASSO Leads (N=36)	Support Services (N=131)	CPS (N=111)
Investigative stage	67%	92%	77%	N/A <sup>5</sup>
Awaiting charging decision	30%	8%	20%	37%
Post-charge	3%	0%	3%	29%
Don't know	0%	0%	0%	34%

These figures echo findings from the literature review which found most victim withdrawals occur at an early stage suggesting that the early investigation is a crucial phase (see Lovett and Kelly, 2009 and MOPAC, 2019).

The exact reason for victim withdrawals is unknown however survey participants were asked what they thought the most common reasons for victims not supporting prosecutions were. Table B4 shows the different proportions of each participant group citing different factors as leading to victim withdrawal. A study conducted by MOPAC (2019) identified there were typically a multitude of reasons for withdrawal, the most common being: stress and trauma caused or exacerbated by the investigation, and a desire to move on from what had happened.

**Table B4. Perceived reasons for victim withdrawal by survey participant group**

Response	Investigators (N=348)	Police RASSO Leads (N=36)	Support Services (N=131)	CPS (N=111)
Need to move on	53%	44%	32%	77%
Feeling disbelieved/ judged	53%	39%	63%	46%
Delays in police processing	47%	53%	47%	58%

<sup>5</sup> This was not provided as an option for CPS participants given they are not involved in cases at this stage of the process and would have limited awareness of victims who withdraw during the investigation stage.

<b>Response</b>	<b>Investigators (N=348)</b>	<b>Police RASSO Leads (N=36)</b>	<b>Support Services (N=131)</b>	<b>CPS (N=111)</b>
Belief that the process will be too distressing	46%	33%	50%	42%
Disclosure privacy concerns	41%	61%	12%	41%
Fear of giving evidence in court	41%	36%	35%	39%
Negative experience of the criminal justice system	40%	28%	40%	26%
Fear of impact on mental health	30%	31%	44%	59%
Relationship with subject	28%	44%	8%	37%
Reported by third party	25%	44%	9%	5%
Fear of impact on family	17%	14%	36%	20%
Shame or guilt	13%	19%	23%	5%
Intensive questioning in interview	10%	3%	14%	1%
Lack of specialist support	7%	3%	6%	10%
Pressure from perpetrator to withdraw statement	4%	14%	5%	17%
Fear of further violence	4%	3%	15%	3%
Fear of impact on education	1%	0%	5%	1%

\* Percentages will not equal 100 as participants were asked to select up to 5 answers

Police and support service participants also gave several other reasons why victims may choose to withdraw from the process. These included:

- a lack of engagement and communication with other criminal justice agencies;
- a misunderstanding of what the criminal justice process entails;
- mistrust of both the police and CPS;
- fear of repercussions from the perpetrator.

Surprisingly twelve participants from the investigator survey (N=348) mentioned that they believe victims only withdraw if they aren't genuine and therefore all genuine victims will continue regardless.

## Additional detail in support of Partnership Working (Chapter 10)

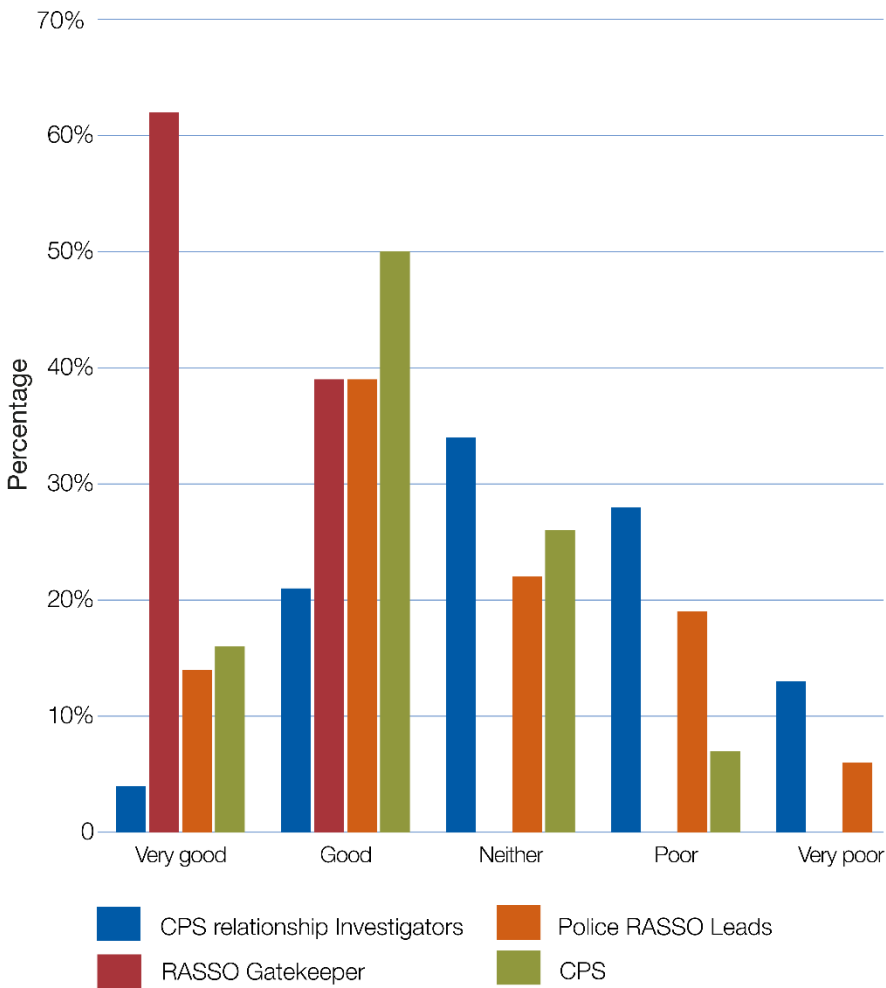
### Effectiveness of the police and CPS relationship

All three police surveys asked participants how effective the working relationship with their local CPS is. Of the 397 responses received across all three police surveys, only 30 per cent of participants felt that their relationship with the local CPS was good or very good. When looking at the responses by role, 100 per cent of RASSO gatekeepers (N=13) and around 50 per cent of police RASSO leads (N=36) stated their relationship was good or very good. By contrast, only 25 per cent of investigators (N=348) felt the same way about their relationship with the CPS with 40 per cent of this group citing the relationship to be poor or very poor. In contrast, CPS participants in general felt that their working relationships at a local level were positive, 66 per cent of survey participants (N=111) said the relationship was either good or very good with only 7 per cent saying it was poor. Figure B1 shows the responses given to this question across police and CPS participant groups.

Whilst it is not possible to definitively state why there are differences between the responses of the different police participant groups, it can be inferred that the nature of the RASSO gatekeeper role and the intended close working relationship with the local CPS could result in a more positive relationship. Likewise, the more distant relationship between most investigators and the CPS could be an explanation for why some investigators might feel less positive about their working relationship.

Both the CPS and the police credited a positive working relationship to a combined effort to develop strong relationships with staff working closely together and benefitting from regular meetings and contact. The RASSO gatekeeper role was cited by both police and CPS participants as helping relationships, especially when they are embedded within the CPS. The CPS participants were particularly positive about the impact gatekeepers can have on the effectiveness of relationships. Having a lead within the CPS who can champion the relationship combined with specialist, dedicated rape units and a positive attitude towards rape cases were seen as beneficial to ensuring an effective working relationship.

**Figure B1. Effectiveness of police and CPS working relationship by participant group**



**Figure B1.**  
Effectiveness of police and CPS working relationship by participant group.

# Appendix C: Rape myths and stereotypes

This appendix explores the presence of rape myths and stereotypes in the criminal justice system.

## Prevalence and uses of rape myths

Rape myths continue to affect all aspects of the criminal justice system from the investigation and charging stages through to trial.

### Investigation

There were mixed views from both within police survey participants and the support service participants as to how problematic rape myths were during investigation. Several police participants mentioned that they did not think rape myths were a problem for the police and that in general the police are better at assessing cases on their individual merit rather than allowing stereotypes and rape myths to influence investigations or lines of enquiry. A few of the ISVA participants agreed that police officers were investigating cases without applying rape myths and stereotypes but were concerned about the possible presence of rape myths during the police investigation particularly in no further action decisions.

Other police survey participants discussed that many police officers still believe rape myths, especially those who do not regularly work on rape cases, and this can potentially be affecting the way some officers conduct investigations or communicate with victims. ISVAs reported witnessing rape myths amongst police at the investigation stage with the perception that some police officers lacked sufficient understanding of how rape and sexual violence affected victims (for example, if a victim was angry, the police reaction was to be defensive which was counterproductive). One police participant raised the issue of compassion fatigue that can arise from working on rape cases for a lengthy period leading to rape myths becoming evident in officer comments and responses. Table C1 shows the frequency with which participants reported witnessing rape myths at the investigation stage.



**Table C1. Frequency of experiencing rape myths and stereotypes during the investigative process by participant group**

	<b>Investigators (N=348)</b>	<b>Police RASSO Lead (N=36)</b>	<b>Support Services (N=131)</b>
Very frequently	21%	3%	36%
Somewhat frequently	42%	39%	45%
Not very frequently	33%	56%	18%
Never	4%	3%	1%

\* Excludes missing responses

**Referral to CPS and charging**

Police survey and focus group participants discussed witnessing rape myths and stereotypes during referral to the CPS; 48 per cent of both investigators (N=348) and police RASSO leads (N=36) reported experiencing rape myths either very or somewhat frequently during referral to the CPS. Police participants commonly cited the CPS were relying on rape myths to inform charging decisions and requests for additional evidence, making derogatory comments about victims or having the belief that victims are lying. ISVA participants questioned the degree of training that the CPS state they have received on rape myths and their presence in the charging decision making process.

The CPS however appear to feel rape myths are less prominent at these early stages of the process, with 62 per cent of participants saying they never or not very frequently witnessed rape myths during investigation and referral of cases to the CPS. CPS survey participants stressed they considered and made decisions that were solely evidence based.

**At court**

The use of rape myths was also witnessed in courts by different criminal justice agencies, see table C2. The main perceived “culprits” were defence barristers. Some participants across police, CPS and support service participants perceived defence counsel to use rape myths to support their case and to convince the jury that the victim is not credible. The defence were said to regularly offer up rape myths as evidence that the incident was either consensual or did not happen. During a RASSO lead focus group one participant recalled an example of defence counsel measuring the length of the victim’s skirt, suggesting that played a role in the incident. ISVAs felt that evidence from dating apps, such as Tinder, was used by the defence to imply consent and that the victim was ‘up for it’. Defence solicitor-advocate participants said that they do not commonly hear rape myths used in court.

**Table C2. Frequency of experiencing rape myths and stereotypes in court, by participant group**

	<b>Investigators (N=348)</b>	<b>Police RASSO Leads (N=36)</b>	<b>Support Services (N=131)</b>
Very frequently	23%	19%	49%
Somewhat frequently	34%	44%	34%

	<b>Investigators (N=348)</b>	<b>Police RASSO Leads (N=36)</b>	<b>Support Services (N=131)</b>
Not very frequently	36%	33%	17%
Never	7%	3%	0%

\* Excludes missing responses

Judges and prosecuting counsel were also reported to use rape myths, with barrister participants reporting this was particularly prevalent in cases of acquaintance rape and those involving alcohol. Rather than using their position to educate the jury and dispel rape myths, police participants felt judges too often were supporting the myths suggested during the court case. No judicial participants reported concerns with the judiciary voicing or supporting rape myths.

All participant groups deemed juries to be the group most strongly affected by rape myths, perhaps resulting from the presence of rape myths amongst the general public from which juries are drawn. Juries are felt to be particularly affected by the way the media can present rape cases and an overall lack of education on rape. This could lead to victim blaming and, what some participants felt were, misjudgements in relation to the guilt of the perpetrator influencing their decision making. Some police, CPS and judicial participants referred to several cases whereby there was strong evidence to suggest that the rape had occurred, but the jury found the suspect not guilty because of negative perceptions they held about the victim, such as the victim being a sex worker.

Despite many participants from all groups deeming myths and stereotypes to be a problem amongst the public and therefore juries, a few barristers and judges, felt that there had been some improvement and a change in public attitudes in the past three years. They reported a greater public understanding of rape and sexual offending. Some types of explicit rape myths and stereotypes (e.g. ‘she was dressed in a particular way’) were felt to be less prevalent amongst members of the public.

## Training and education on rape myths

The investigator survey asked whether participants have received training on rape myths and stereotypes, with just 57 per cent (N=348) stating that they had received training. Whilst information on the training was requested, it is not possible from the answers given to definitively state the exact training course that participants had attended, or the content taught. However, for some participants it was clear they felt there was a need for further training on this area.

ISVA and barrister participants highlighted that there was a need for more specialised training for defence and prosecuting barristers, and for judges to improve awareness of individual biases as well as around rape myths. There is also a need for training in relation to treatment of victims to avoid disrespectful language and assumptions. Some barristers and all defence participants commented on the benefits of specialised training such as the vulnerable witness training, which was deemed to be invaluable. All judicial participants said they attend mandatory courses on serious sex offences run by the Judicial College at least once every three years in order to preside over RASSO cases.



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