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## ATTRITION IN RAPE CASES

### *Developing a Profile and Identifying Relevant Factors*

SUSAN J. LEA, URSULA LANVERS and STEVE SHAW\*

*This study sought to develop a profile of rape cases within a Constabulary in the South West of England, and identity factors associated with attrition. All cases of rape or attempted rape of a female or male over the age of 16 from 1996 to 2000 were identified. Quantitative and qualitative data on 379 cases was collected using the CIS and questionnaires sent to the relevant Chief Investigating Officer. The profile of attrition differed in several respects from previous research. Analysis of the extensive written comments provided by the officers afforded insight into the police perspective on rape. The findings are discussed with reference to future research and practice.*

The attrition of rape cases within the criminal justice system has been of concern to academics and practitioners across a range of disciplines for at least the last 20 years. Crime statistics reveal an increase in the number of reported rapes (Adler 1991), yet Home Office research has shown that the number of convictions secured in rape cases has fallen from 24 per cent in 1985 in England and Wales to just under 9 per cent in 1997 (Home Office Research Study 196). Thus, despite radical reform within the administration of the Criminal Justice System (CJS) in respect of rape and sexual assault cases, attrition remains a serious problem (Gregory and Lees 1996; Temkin 1997).

Attrition refers to the process whereby cases drop out of the criminal justice system at one of a number of potential points of exit from that system. Such points of exit could be located within the police service, Crown Prosecution Service or in court. Although all crimes have some attrition due to a number of factors (such as the victim not wishing to press charges or insufficient evidence), the rate of attrition for cases of rape is above that of other crimes. In a study conducted by Roberts (1996) the attrition rate for sexual assault offences was compared with those of 15 other offences and found to be the highest. Indeed, Phillips and Brown (1998) report that this offence has the lowest conviction rate of all serious crime. In practice, therefore, 'the average citizen may suppose that when a serious crime occurs the victim reports it to the police, who verify the report, try to identify and arrest the perpetrator and turn the case over to a prosecutor . . . In practice, the system does not work that way. The justice system has been likened to a giant sieve, filtering out cases at every stage of the process' (Bryden and Lengnick 1997: 1208).

Four major points of attrition in dealing with rape cases have been identified (Lees and Gregory 1996). First, the police must decide whether to record the case as an offence

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or to 'no-crime' it. Second, the police must decide whether to refer the case to the Crown Prosecution Service or to take no further action (NFA, police). Third, the Crown Prosecution Service must decide whether to prosecute the defendant or to take no further action (NFA, CPS). Fourth, the jury must decide whether to convict the defendant or not. Three issues arise in relation to this process. First, how many cases exit the system at each potential point of attrition? Second, what factors are associated with those cases? And third, what impact have changes to policy and practice within the criminal justice system had upon the process of attrition?

One of the earliest studies into attrition examined incidents recorded as rape or attempted rape<sup>1</sup> between 1972 and 1976 in six English counties involving solitary offenders (Wright 1984). Wright's findings revealed a pattern of attrition that has subsequently been found in a number of other studies (e.g. Chambers and Miller 1986; Grace et al. 1992; Harris and Grace 1999). This pattern involved a high percentage of cases being no-crimed (25 per cent) and a very small percentage of cases returning a verdict of guilty of rape (11 per cent) or guilty of attempted rape (6 per cent). The majority of the remaining cases dropped out of the criminal justice system along the way, while in a minority the defendant was found guilty of a lesser offence. The research led Wright to conclude, 'given the attrition of rape cases at every stage from the attack onwards, the rapist who receives a stiff fine must consider himself extremely unlucky. And the rapist who goes to gaol must believe that he was doubly unfortunate-the odds weigh heavily against that happening' (1984: 400).

Reforms introduced in the 1980s, particularly in respect of the police service, were anticipated to have an impact on the attrition of rape cases. The catalyst for these reforms was a television documentary aired in 1982 (Temkin 1987), which led to a public outcry regarding the treatment of rape victims. Consequently, the Sexual Offences Steering Committee was established in 1983. The recommendations of this committee and those of the Women's National Commission (1985) led to the introduction of changes of style and procedure in handling rape cases by the Metropolitan Police Service and other forces in England and Wales (i.e. Circular 25/1983, 69/1986; Smith 1989; Temkin 1999). However, relatively little research has systematically evaluated the effectiveness of these changes with regard to the attrition of rape cases (Temkin 1997) and the few studies that have been conducted do not indicate consistently positive results.

Grace et al. (1992) conducted research into the process of attrition during the second half of 1985, which aimed to provide a benchmark against which to assess changes post 1985. The sample was comprised of just over 300 rapes recorded by the police in all police forces in England and Wales, with the exception of the Metropolitan Police District, and included in the monthly returns to the Home Office. Grace et al., like Wright (1984), found a no-criming rate of 24 per cent, although cases no-crimed within a month were excluded from the study and therefore the true figure would be expected to be higher. Twelve per cent of cases were no-crimed on the basis of insufficient evidence. Grace et al. reported a conviction rate for rape or attempted rape of 25 per cent, somewhat higher than Wright's and possibly due to some of the changes to policy and practice. However, cases in which a conviction was secured were more likely to involve young single women attacked by a stranger and physically injured during the attack.

<sup>1</sup> In England and Wales rape was not actually defined by statute until 1976 in the Sexual Offences (Amendment) Act (Smith and Hogan 1996, in Tang 1998).

Around the same time, a further study was conducted by Smith (1989) that allowed greater consideration of the impact of changes to policy and procedure upon practice. The research examined attrition between reporting and recording during the three-year period of 1984–86 within two London Boroughs. About this time the Home Office had issued two important circulars to all Chief Officers of Police in England and Wales. Circular 25/1983 concerned the treatment of rape victims while circular 69/1986 informed police practice in respect of criming. The latter advised that rape cases could only be no-crimed where the complaint was retracted or the complainant admitted making a false allegation. Cases could not be no-crimed on the basis of insufficient evidence. During the period of Smith's study (1989) the number of rapes reported to the police decreased, while the number of cases crimed between 1984 and 1986 increased by 50 per cent. Despite this increase, which would be anticipated in line with circular 69/1986, Smith found that in 1986 'insufficient evidence was the major reason for no-criming' (p. 25). Hence, some police officers were not complying with the advice on no-criming and Smith concluded that no-criming practices in operation needed to be the subject of further research. Finally, and supporting Grace et al. (1992), Smith also found that different types of rape case were differentially subjected to the process of attrition. While the majority of rapes in Smith's sample were committed by men known to the victim, indoors and often in the victim's home, it was the classic stereotypical rape (violent rape by a stranger) that was more likely to be officially recorded as a crime.

The slight improvements in terms of no-criming suggested by Smith's (1989) research are unfortunately not borne out in subsequent studies. Lees and Gregory (1993) examined the crime report forms of cases of rape, attempted rape, indecent assault and attempted indecent assault over a two-year period (1988–90) at three London police stations. For cases of rape and attempted rape, the authors report an alarming no-criming rate of 43 per cent, one that is substantially higher than the rates reported by Grace et al. (1992) and Smith (1989). Unlike the latter Home Office studies, Lees and Gregory's (1993) figure includes cases no-crimed in the first month and therefore offers a more realistic assessment of this point of attrition. However, in common with the Home Office studies, Lees and Gregory found that contrary to the directives of the Home Office circular (69/1986), many cases were no-crimed for reasons other than the retraction of the complaint by the victim or an admission of false allegation. Interviews with a number of police officers led the authors to suggest that 'old attitudes die hard' (e.g. scepticism about why women report rape) and that this 'helps to explain why the service has been so slow to respond to the new policy guidelines on "no-criming"' (p. 6).

Apart from the problems with no-criming, Lees and Gregory (1993) report a conviction rate for cases of rape and attempted rape of approximately only 10 per cent. Between not recording the offence as a crime and conviction, a number of other significant points of attrition were identified. The reclassification of offences accounted for just under 10 per cent of cases recorded as crimes. In the majority of cases reclassification resulted in the original offence being downgraded and in some instances the sexual classification being entirely removed. Just over 20 per cent of cases were subject to a decision to take no further action by the Crown Prosecution Service. Although Lees and Gregory report that just over half of the cases with which the CPS did proceed resulted in a conviction, they suggest that this figure is misleading in terms of the number of offenders actually convicted. This is because in some cases suspects were sentenced for a number of offences simultaneously. Moreover, convictions were often for a lesser charge.

Concerns about rape (Smith 1989) and subsequent reforms, therefore, appear not to have had the anticipated impact. Indeed, a recent Home Office study (Harris and Grace 1999) suggests that the passage of time has done little to improve attrition rates. The research investigated nearly 500 cases of reported rape in 1996 and followed their progress through the criminal justice system. With respect to attrition, the significant points of drop out were no-criming (25 per cent of cases) and the police taking no further action (31 per cent of cases). Harris and Grace note (1999) that any reduction in no-criming has been offset by an increase in NFA-ing. Of those cases that were crimed only 9 per cent led to a conviction, a much lower rate than was found in the previous Home Office report but in line with the figure recorded in the national statistics. Despite an increase in the reporting of acquaintance and intimate rapes, cases involving acquaintances were most likely to be no-crimed by the police while those involving intimates were most likely to be NFA-ed or discontinued by the CPS. In line with previous research, in three-quarters of cases reaching court, the defendant pleaded guilty to lesser charges and was convicted of those charges only. Factors that were pertinent to the process of attrition were the age of the victim, the relationship between the complainant and the suspect and the degree of violence used.

Despite the consistently depressing statistics with respect to rape cases and the criminal justice system, some improvements in women's experiences of reporting rape have been documented. Hence the greater numbers of women reporting rape have indicated increased satisfaction with the service they have received, in particular from the police. For example, Adler (1991) assessed how women who had reported rape or a serious sexual offence to the Metropolitan Police felt about the treatment they had received. The majority of women spoke favourably of their experience and many found the police to be caring and sympathetic. The main criticism the women had was to do with lack of information. Respondents felt that they were not kept adequately informed of the progress of their case or of the rationale behind the way things were done, were not given up to date information and were not informed of support organizations. Despite these criticisms, which of course warrant attention, Adler's (1991) research indicates that some things have improved for women who report rape cases. Unfortunately improvements remain somewhat confined to the realms of '*police* policy and procedure, rather than permeating through to the courts and members of the judiciary who sometimes appear to be operating from a position of considerable ignorance and social isolation' (Mezey 1997: 241, author's emphasis). Indeed, research involving the observation of rape trials at the Old Bailey has led to stern criticism of the current adversarial system of justice (Lees 1993).

To date then, a handful of studies have established a sustained and high rate of attrition for rape cases and have found some evidence for a number of factors being associated with that attrition. Recently, a change in the pattern of attrition has been observed in response to reforms within the criminal justice system; that is, a decrease in no-criming as a consequence of key Home Office Circulars in the 1980s. However, Harris and Grace's (1999) study suggests that any gains made in respect of no-criming appear to have been lost later in the process in terms of NFA-ing. Moreover, while improvements may be witnessed within the police service, similar reforms have not occurred within other key areas of the criminal justice system.

One of the problems in interpreting existing research is that it is limited and that the few studies that have been conducted are characterized by a number of biases. First, the

research is dominated by London samples. Even where data have been gathered on other areas in the UK using Home Office information, interviews with victims and professionals have been confined to this particular region. It is, therefore, important to redress this imbalance and to establish whether similar patterns of attrition are evident in other areas of the United Kingdom. Second, the plight of male rape victims has been almost totally ignored (Rumney 2001). Moreover, the taboos and stigma surrounding male rape are enormous (Kramer 1998) suggesting that male rape victims will have no better time of it within the criminal justice system than female victims. Again, this is an imbalance that needs to be redressed. Third, while a number of studies were conducted during the 1980s, very little has been done in the 1990s. More research is needed to establish the current situation especially in the light of important changes within the realms of sexual offending (e.g. legislation pertaining to sex offenders) and the decrease in conviction rates. The way rape cases move through both the police and the legal system continues to be a matter of grave concern (Phillips et al. 1998) and further research is needed to both elucidate the process of attrition (Temkin 1997) and to point the way to improving practice.

The aim of this research was to examine the attrition of cases of rape or attempted rape as they progress through the criminal justice system outside of the London area and over a full five-year period. The study aimed specifically to: develop a profile of attrition which could be compared to the profiles found in previous research, and to explore further the factors associated with the attrition of cases at each point of exit within the criminal justice system.

### *Method*

#### *Case identification*

All cases of rape or attempted rape upon a person of either gender reported to a Constabulary in the South West of England within the five-year period from 1 January 1996 to 31 December 2000 formed the data for this investigation. This period was selected as it was hoped to generate a large corpus of recent cases. Cases were identified using the Forces' Central Intelligence System (CIS) upon which both the first and second researchers were trained. In terms of this data system, all cases within the following categories were selected: female rape, female attempted rape, male rape, and male attempted rape. Cases within the categories rape of female under 16 years of age, attempted rape of female under 16 years of age, rape of male under 16 years of age and attempted rape of male under 16 years of age were excluded from this study for the following reasons. First, this study was concerned with adult rape, and second the procedures for dealing with cases where the victim is below 16 years of age differ markedly from those used in cases where the victim is 16 or older.

A total of 471 cases were identified through the CIS database as occurring within the 5-year period specified. These comprised 410 female rape cases, 19 male rape cases, 40 attempted female rape cases and two attempted male rape cases.

#### *Data collection*

It was originally hoped that once cases had been identified using the CIS database, the information that was required for this study could also be acquired from the database itself. However, this proved not to be the case. Consequently, senior officers in the



Constabulary recommended that the data be collected via a questionnaire, which was sent to the senior investigating officer who had dealt with each identified case. It was felt that this method would provide the most accurate data, as cases of rape and attempted rape are very serious crimes and most officers would be able to recall and readily look up the information required. In addition, officers were able to provide a more comprehensive picture of each case than would have been achieved through accessing the database, which provides minimal information that has not always been updated.

Details associated with each identified case were transcribed off the CIS computer screen using a pro-forma. Such details included the crime reference number and the name and number of the reporting and investigating officers. This information was passed to an Inspector within the Constabulary who checked the current whereabouts of each investigating officer in order to forward the questionnaire.

The questionnaire was drawn up in consultation with members of the Constabulary and was informed by and extended questionnaires used in previous studies of a similar nature (e.g. Grace et al. 1992; Harris and Grace 1999). Headed 'Data Collection Template', the questionnaire asked for the provision of information about the alleged crime, the victim, and the alleged offender using closed ended questions. Each questionnaire was clearly marked with the name and number of the reporting officer, the investigating officer and the crime number of the case to which the questionnaire was referring. A large space for additional comments or information about the case was provided at the end of the questionnaire. A formal letter written on Constabulary letterhead by the head of a specialist unit requested that the recipient complete and return the questionnaire within two weeks. After four weeks, a further letter was sent out reminding officers who had failed to return the questionnaire that they should do as a matter of urgency.

Three hundred and seventy-nine questionnaires were finally returned, a response rate of 80 per cent. The majority of questionnaires were extremely comprehensively filled in with many officers (80 per cent of returns) taking the opportunity to write comments and provide further information. The quantitative data from the questionnaires was put into a spreadsheet for analysis. Univariate statistical analyses included chi-squared ( $X^2$ ) tests and Spearman's correlation coefficients to assess associations for nominal and ordinal data, respectively. Logistic regression was used to investigate the relationship between a range of variables, relating to the victim and the case, on the current status of the case and the reasons for the current status. The qualitative data (the police officers' comments) was transcribed and analysed using thematic content analysis in order to elucidate and enrich the quantitative data.

### *Findings*

Three hundred and seventy-nine cases of rape and attempted rape reported within the Constabulary, during the five-year period from 1 January 1996 to 31 December 2000 form the basis of the findings. A profile of the cases is provided and, where applicable, statistical analyses have been performed. The analysis thereby aims to establish a recent and comprehensive picture of cases of rape and attempted rape in the South West of England and to assess the influence of various factors upon the attrition of rape cases as they progress through the criminal justice system.

*A five-year profile of rape in the South West of England*

Of the 379 cases, the overwhelming majority (84.7 per cent) constituted a reported rape of a female over the age of 16 years. Attempted rape of a female over the age of 16 accounted for 10 per cent of the cases, rape of a male over the age of 16 comprised just under 5 per cent and attempted rape of a male over the age of 16 comprised a mere 0.5 per cent (only two cases in the five-year period). In 14 per cent of cases, additional charges were involved although the main offence in each case remained rape or attempted rape. In two cases the charge was buggery and in 11 cases the charge was buggery and rape. A third of cases were linked to other crimes (e.g. GBH, threats of violence, threat to kill).

The majority of victims were female (95 per cent). Only 5 per cent of cases involved a male victim. Most victims were younger, with 78 per cent being less than 35 years of age. However 16 per cent of rapes or attempted rapes were perpetrated against a person of 35–50 years of age and 6 per cent were perpetrated against a person over 50. Almost all of the victims were 'white', quite possibly because the population of the South West of England is predominantly 'white'. Two-thirds (66 per cent) of the victims were single at the time of the rape or attempted rape, 23 per cent were married or cohabiting, and 11 per cent were divorced or separated. One victim was a widow. Victims represented a range of occupations. Approximately 18 per cent were professionals or skilled workers, 11 per cent were semi-skilled and 4 per cent were unskilled. Fourteen per cent were housewives and/or mothers and 19 per cent were students or still at school. Thirty-three per cent had no current occupation and were unemployed, dependent or claiming some form of benefit/allowance.

Offenders ranged in age from under 20 (9 per cent) to over 50 (8 per cent). The majority of offenders were aged between 26 and 35 (33 per cent), with 22 per cent being between 20 and 25 years of age and 29 per cent being between 36 and 50 years of age. Somewhat unexpectedly, a significant positive correlation was found between the age of the victim and the age of the offender (Spearman's  $\rho = .364$ ,  $p < .01$ ,  $n = 320$ ). Thus, as the age of the victim increased, so too did the age of the offender. The vast majority of offenders were white, again mirroring the population distribution in the South West of England. In terms of marital status, 58 per cent of offenders were single, 31 per cent were married or cohabiting, and 11 per cent were divorced or separated. One offender was a widower. As with the victims, offenders represented a range of occupations. Just over a quarter were professionals or skilled workers (26 per cent), 20 per cent were semi-skilled and 4 per cent were unskilled. Four per cent of offenders were students while 41 per cent had no current occupation and were unemployed, dependent or claiming some form of benefit/allowance.

Fifty per cent of all cases were reported equally to police stations in urban and rural areas. Urban areas were loosely defined as cities and large towns while rural areas were defined as small towns and villages.<sup>2</sup> Most rapes or attempted rapes (whether intimate, acquaintance or stranger rapes) were committed at the weekend, with Saturday being the most frequently reported day. An interesting profile emerged (see Figure 1) revealing a stepped progression whereby the frequency of rape is lowest on Mondays, increasing each day through to being highest on Saturday. Sunday was the second most

<sup>2</sup> Defining urban and rural populations is problematic and, therefore, this figure should be interpreted with caution.



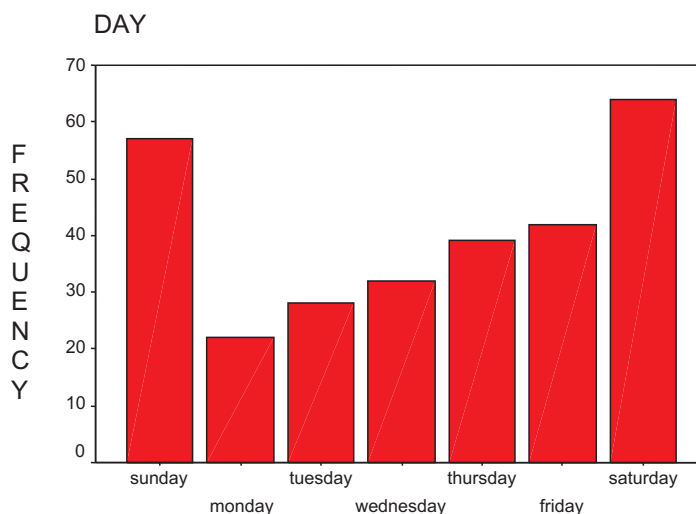


FIG. 1 Frequency of reported rapes perpetrated by day of the week on which committed

frequently reported day for the alleged crime to have been committed. The time of day at which such crimes were committed was most frequently between midnight and 6 am but also commonly between 6 pm and midnight. These two time periods accounted for 76 per cent of cases. Hence, almost a quarter of cases of rape and attempted rape took place during the day. In terms of the length of time over which the crime was reported to have taken place, 90 per cent of cases lasted up to one day, with roughly a quarter of cases each lasting less than 30 minutes, up to two hours, between two and 12 hours and between 12 and 24 hours. The remaining 10 per cent of cases involved lengthy periods of abuse, 3 per cent of which stretched over many years.

Sixty-six per cent of cases were reported within a day of the alleged crime being perpetrated. Thirteen per cent were reported within two weeks, with the remaining 21 per cent being reported some time after the crime. In 6 per cent of cases, the crime was reported more than six months after the crime, sometimes many years later. A significant, though small correlation was found between the relationship between victim and perpetrator and time elapsed between the offence and its reporting (Spearman's  $\rho = -.237$ ,  $p < .01$ ,  $n = 365$ ): the closer the relationship between the victim and the perpetrator, the longer the time taken to report the crime. Victims of stranger and acquaintance rapes, therefore, were more likely to report the crime within one to two days of its occurrence, while victims of rape by a male relative or partner sometimes did not report the case for years.

A quarter of cases in this sample involved intimate rapes, nearly one half could be described as acquaintance rapes and a further quarter involved stranger rapes. Hence 24 per cent of cases involved allegations against a current husband, partner or boyfriend (14 per cent) or an estranged husband, partner or boyfriend (10 per cent). A further 6 per cent of cases involved an accused who was a male relative, such as an uncle. Forty-four per cent of cases revealed that the perpetrator was an acquaintance or friend (30 per cent and 14 per cent respectively), while 26 per cent of cases involved a stranger.

The majority of rapes or attempted rapes (62 per cent) took place within the home of either the complainant (30 per cent) or the accused (17 per cent) or the home in which they lived together (15 per cent). Approximately 4 per cent of cases took place in either the complainant or the accused's car (most frequently that of the accused). Six per cent of rapes or attempted rapes took place in an indoor private place such as a friend's house while 28 per cent occurred in a public place (indoors such as nightclub: 7 per cent; outdoors such as in an alleyway: 20 per cent). In nine cases a second or further rapes took place in other locations. A significant association ( $X^2 = 175.9$ ,  $DF = 24$ ,  $p < 0.01$ ) was found between location of rape and the relationship between the victim and the perpetrator. Not surprisingly, more intimate and male relation rapes took place in the home of the victim, the suspect or the home they both occupied (90 per cent and 83 per cent respectively) than was the case with either acquaintance or stranger rapes (65 per cent and 26 per cent respectively). A further significant relationship ( $X^2 = 54.33$ ,  $DF = 16$ ,  $p < 0.01$ ) was found between the age of the victim and the initial place of contact. Younger victims tended to have encountered the perpetrator for the first time in a public place (such as a club, disco or hotel) than older victims who were more likely to encounter the perpetrator in a private place (their own home or someone else's).

In 37 per cent of cases, the victim reported having no prior contact with the accused. Nineteen per cent reported having full sexual intercourse with the accused prior to the alleged rape or attempted rape. Twenty-four per cent of victims had some physical contact with the accused, in most cases kissing the accused or allowing an arm to be put around him or her. In 10 per cent of cases the victim accepted a lift home from the accused (3 per cent) or accepted an invitation to his house (7 per cent). The victim went for a walk with the accused in 8 per cent of cases and in a further 2 per cent they danced with the accused or allowed him to buy him/her a drink. Not surprisingly, a significant association was found between the relationship between the victim and the perpetrator and degree of contact between them ( $X^2 = 127.4$ ,  $DF = 24$ ,  $p < 0.01$ ). Thus, the closer the relationship between the victim and perpetrator, the closer the degree of contact prior to the rape.

Most cases (98 per cent) of rape or attempted rape involved a single victim and a single offender (95 per cent). Usually, a single act of sexual violence was perpetrated or attempted. In the majority of cases this act comprised vaginal intercourse. Anal intercourse was involved in 5 per cent of cases, while oral intercourse on or by the offender was involved in 1 per cent of cases. In a minority of cases (4 per cent) other acts of sexual violence such as digital penetration or penetration of the victim with an object were committed, sometimes in conjunction with the rape or attempted rape of the victim.

In the majority of cases (71 per cent) the victim reported no threats of additional violence (that is, beyond the obviously violent act of rape or attempted rape). In 13 per cent of cases, vague threats were made. In the remaining 16 per cent of cases, the perpetrator verbally threatened to kill the victim, threatened manual violence, threatened to use a weapon or used some combination of these threats. With respect to the actual use of violence in these cases, 46 per cent were characterized by no violence being exerted. However, in 38 per cent of cases the victim was treated roughly. Mirroring the findings in respect of threats of violence, in the remaining 16 per cent of cases a range of violent measures were used. These involved beating, punching and kicking the victim, using a weapon, using an object to penetrate the victim or some combination of these

violent acts. A significant positive correlation was found between threat of violence and actual use of violence (Spearman's  $\rho = .266$ ,  $p < 0.01$ ,  $n = 316$ ). Thus, in cases where violence was threatened, it was more likely to be used. Since the use of further violence was relatively low, in the majority of cases (64 per cent) the victim did not sustain additional injuries (beyond those sustained through the rape or attempted rape). In the remaining 36 per cent of cases, slight injuries were sustained in 33 per cent, moderate injuries were sustained in 1 per cent, and severe injuries in 2 per cent. Not surprisingly, there was a significant positive correlation between the amount of violence used and the victim's sustaining additional injuries (Spearman's  $\rho = .454$ ,  $p < 0.01$ ,  $n = 317$ ).

The current status of the 379 crimes of rape or attempted rape is illustrated in Figure 2 below. As can be seen, the largest category of cases was comprised of those that were NFA-ed. Taken together, 61 per cent of cases were NFA-ed by the police (detected NFA: 26 per cent; undetected NFA: 7 per cent) or the CPS (14 per cent). In 14 per cent of cases it was unclear whether the police or the CPS had NFA-ed the case, and whether it was detected or not, despite further work by police personnel. Of the remaining 39 per cent of cases 10 per cent were pending 11 per cent were no-crimes, in 7 per cent the victim refused to assist with the inquiry or retracted the allegation, and 11 per cent resulted in a conviction of some kind.

With respect to conviction, however, only 5 per cent (19 cases) of the 379 cases resulted in a conviction of rape, none of which involved the rape of a male. In 1 per cent of cases the accused was cautioned while in a further 5 per cent of cases (including two cases where the victim was male), the accused was convicted of a lesser crime. These crimes incorporated a sexual component in 2.9 per cent of cases, were non-sexual in nature in 1.6 per cent of cases and were for attempted rape in 0.5 per cent of cases. The rationale behind this plea-bargaining, according to police officers, was that in some cases the defendant was willing to plead guilty to a lesser offence. In the remaining cases, it was

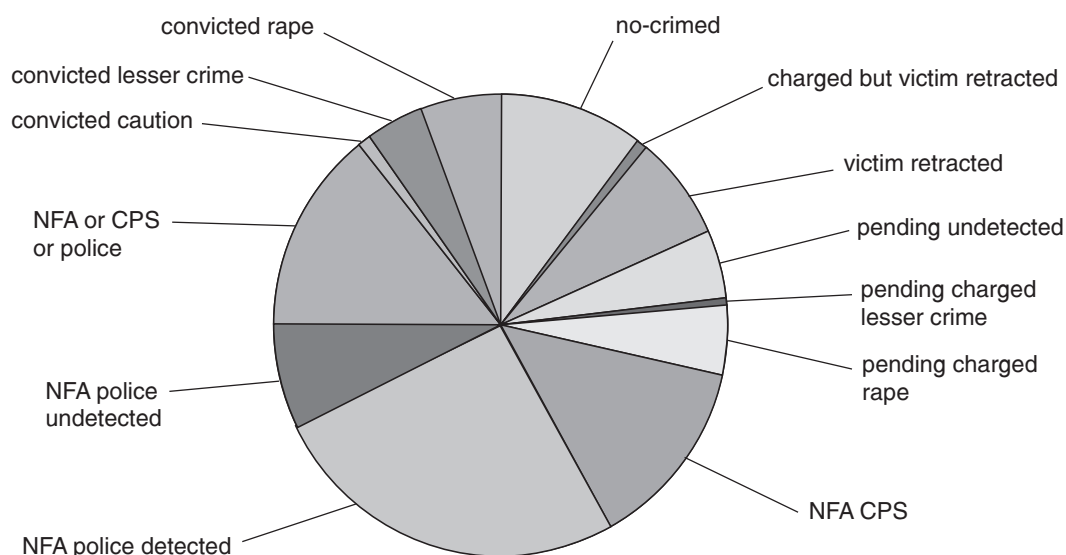


FIG. 2 Current status of cases of rape and attempted rape

claimed that the CPS charged the defendant with a lesser crime in order to spare the victim the ordeal of court.

Reasons for the current status of the crime (i.e. that it was no-crimed, NFA-ed etc.) were provided for 191 cases. The main reason for crimes not progressing through the criminal justice system was lack of evidence, this reason constituting 39 per cent of cases where reasons were proffered. In most cases this led to the decision to NFA the case; however, some cases were no-crimed on the basis of insufficient evidence, in contravention of the recommendations of Circular 69/1986. For example, one officer wrote 'there was no evidence, therefore the case was no-crimed'. In many cases where insufficient evidence led to the attrition of the case, the police felt that a rape had been committed. The following statement made by another officer is exemplary: 'although the crime was NFA-ed, I have strong suspicions that this was rape by a family friend.'

A significant proportion of the 191 cases (38 per cent) dropped out of the criminal justice system as a consequence of the victim retracting her allegation or refusing to assist with the case. Alarming in 50 per cent of these cases police officers suspected that the victim had been intimidated and that her action was a consequence of this intimidation. These cases invariably involved intimate rapes. In many cases police officers stated that the reason for the retraction or refusal to assist was that the victim was too afraid to continue due to fear of further violence. This was often the case in situations where the police were aware of or suspected a history of abuse. In other cases the victim was said to have retracted or refused to cooperate because she had been reunited with the accused or because she wanted to 'spare him the ordeal of court'. Pressure from the victim's family not to proceed with the case also accounted for a proportion of retractions or refusals to assist. With respect to these cases, many police officers wrote poignant comments on the questionnaires which demonstrated a great deal of understanding of the pressures victims of intimate rapes endure, and expressed their frustration at not being able to do more in such cases.

Police officers quite often claimed that a false allegation of rape had been made. Indeed, this constituted the main reason for cases being no-crimed (although, as noted, there was evidence that some cases were no-crimed on the basis of insufficient evidence). In just under 10 per cent of cases the police claimed that a false allegation had been made and in a further 10 per cent of cases the police claimed that the victim had admitted to making a false allegation or to the 'rape' being consensual. Despite this, the victim was charged with wasting police time in very few cases. Thus, in 20 per cent of cases where a reason was offered for the current status of the crime, that reason was that the allegation was false. Police officers claimed that such allegations were made either when the complainant was an 'an unstable female' or when the complaint was 'malicious'. The grounds for deeming a complainant as 'unstable' seemed entirely dependent upon the investigating officer's personal judgment. Malicious complaints were suspected on a number of grounds. These included that the complainant's partner had called off their engagement, that the complainant 'wanted to force her lover to marry her', or that the complainant suspected her partner of having sex with someone else or that she herself had had sex with someone else. While many officers did seem to be able to empathize with rape victims, there was also evidence of officers who still held traditional views about rape and rape victims. These officers appeared to be less sympathetic to rape victims and more likely to doubt their reporting of rape. Indeed, they still seemed to believe that many women cry rape in order to seek attention.

In 3 per cent of cases the case did not progress on the grounds that the victim was deemed inconsistent. It appeared that this judgment was more likely to be made in cases where the victim was 'vulnerable'. Thus, in cases where the alleged rape or attempted rape involved a victim with learning disabilities, psychiatric problems or physical disabilities, the attrition rate appeared very high. A number of these cases were no-crimes as police felt that the allegation was false or that consensual sex had probably taken place. Problems in communicating with the victim and the possibility that the victim would not be a credible witness led to the remainder being NFA-ed.

Inconsistency on the part of the victim was also an issue where alcohol and/or drugs were involved, particularly in respect of the victim. If the victim could not be clear about what happened due to substance effects, the chances of the case getting to court, as rape, were very small. In a couple of cases of 'date' rape police officers suspected that the drug Rohypnol had been used and were convinced that the incident had taken place. However, due to lack of evidence these cases were NFA-ed.

Apart from illuminating some of the patterns found in the data, in particular in respect of the reasons for the attrition of rape cases, the comments offered by police officers on the questionnaires raised a number of other issues with respect to the processing of rape cases. First, many officers took the opportunity to express their own frustration and disillusionment with the system. This revolved around the relationship between the CPS and the police being unsatisfactory, in terms of information and communication, and the attitudes and perceptions of barristers and judges in terms of rape victims specifically and the crime of rape generally. Thus officers complained that they were uncertain as to what the CPS needed in order to proceed with a rape case. Consequently, some officers felt very aggrieved at having worked long hours on cases in which they were convinced that the accused was guilty, only to have the case NFA-ed by the CPS. With respect to the conduct of legal professionals, officers felt that the views held by some professionals had influenced the outcome of cases. For example, in one case, the officer felt that the barrister did not use the victim's injuries sufficiently to incriminate the offender. As a consequence the court returned a non-guilty verdict. The police officer involved was convinced that the defendant was guilty and felt very upset that he had walked free. In another case, an angry police officer felt that the prosecution barrister handled the case very badly, as he was unable to relate to the victim who was shy, frightened, poorly educated and sexually naive. Again, the defendant was found not guilty.

### *Toward an Understanding of Attrition*

In an attempt to understand further the attrition of rape cases as they progress through the criminal justice system, factors that may affect the current status of cases of rape or attempted rape were examined, individually and together. Chi-squared tests of association were performed between the current status of the case and a range of variables relating to the victim, the perpetrator and to features of the case itself. Only two significant associations were found. If pending cases were excluded from the analysis, a significant association was found between current status and the degree of contact between the victim and the perpetrator ( $X^2 = 36.58$ ,  $DF = 24$ ,  $p < 0.05$ ). Although this association was difficult to unravel, the most interesting aspect was that if the victim and the perpetrator had engaged in sexual intercourse previously, retraction was more likely

than expected. Further, a significant association was found between current status and the relationship between the victim and the perpetrator, if the relationship was defined in bivariate terms; that is, as close or known as opposed to unknown. If the relationship between victim and perpetrator was close or they knew one another, the case was more likely than would be expected to be NFA-ed by the police, or to secure a conviction. Cases where the victim did not know the perpetrator were more likely than expected to fall into the category of cases where it could not be distinguished whether the police or CPS had NFA-ed the case.

Chi-squared tests of association were similarly performed between the variable 'reasons for current status of the case' and the range of variables relating to the victim, the perpetrator and to features of the case itself. Only one variable, the degree of initial contact between the victim and the perpetrator, was significantly associated ( $X^2 = 33.05$ ,  $DF = 16$ ,  $p < 0.01$ ) with reasons for current status. The reason 'lack of evidence' was more likely if initial contact between victim and perpetrator occurred within a private place and the reason 'false allegation' was more likely if the victim had been willingly within the home of the perpetrator.

The chi-squared tests look at each possible explanatory variable independently ignoring any associations between them. Hence logistic regression was used to investigate simultaneously the effect of the above range of variables on the current status of the case and the reasons for the current status. The relationship between the victim and the perpetrator was the only variable significantly associated with the current status of the case ( $p = 0.046$ ), although the way in which relationship was associated was not particularly clear. The significant predictors of the reasons for the current status are place of initial contact ( $p < 0.01$ ) and location of the offence ( $p = 0.01$ ) together with current status itself ( $p < 0.01$ ).

### *Discussion*

This research set out to examine the attrition of rape cases as they progress through the criminal justice system over a five-year period within a Constabulary in the South West of England. The aim of the research was to develop a profile of attrition and to identify factors that may be associated with this process. With respect to the profile, a number of trends or patterns could be identified in the data. However, as the vast majority of reported rapes or attempted rapes were perpetrated by men against women, the profile is unfortunately largely restricted to this type of rape.

The findings of this study suggest that the attrition of rape cases is still extremely high, with just under 10 per cent leading to some sort of conviction and only 5 per cent resulting in a conviction for rape. These figures support those of Lees and Gregory (1993) and Harris and Grace (1999) whose studies of attrition revealed conviction rates of 10 per cent and 9 per cent respectively. Similar to Harris and Grace's findings, this study also found that the pattern of attrition has changed from that found in previous research. A decrease in no-criming has been offset by an increase in NFA-ing. However, the rate of no-criming was considerably lower in this study (10 per cent) than that in Harris's which reported a rate of around 25 per cent, very similar to earlier studies (e.g. Grace et al. 1992). This suggests that in the Constabulary in which this research took place at least, the Home Office guidelines on no-criming may finally be having an impact.



A further difference between the findings of this study and those of previous research is the rate of NFA-ing cases. While Harris and Grace (1999) also report a decrease in no-criming and an increase in NFA-ing, the differences in rates in this study are considerably greater than those of Harris and Grace. Thus while Harris and Grace reports that a total of 39 per cent of cases were NFA-ed, 31 per cent by the police and 8 per cent by the CPS, this study found that 61 per cent of cases were NFA-ed, 33 per cent by the police 14 per cent by the police and 14 per cent by the CPS or police. It would seem that the trend picked up in Harris and Grace's study has, therefore, become more exaggerated in recent years.

The high rate of NFA-ing seems to be driven by a number of factors. In the first instance, many cases are NFA-ed due to lack of evidence. In cases of rape, attaining sufficient evidence is notoriously difficult due to the very nature of the crime. Indeed, the majority of rape cases NFA-ed by the police were detected. In many of these the chief investigating officer knew who had committed the crime but was unable to pursue the case against the perpetrator, often due to insufficient evidence-particularly in cases where the victim and perpetrator were known to one another. Despite these difficulties, many officers felt that there was room for improvement. One of the issues they raised in respect of evidence was what they perceived to be an inadequate relationship between the police force and the Crown Prosecution Service. Hence police officers felt that what the Crown Prosecution Service required in terms of evidence was not made explicit enough. On the whole, officers desired a closer working relationship with the CPS, with an increased flow of information and more open channels of communication.

A second factor that accounted for a considerable number of cases being NFA-ed involved intimidation of the victim, particularly where the victim and perpetrator were currently or had in the past been involved in an intimate relationship with one another. In many instances the police officers involved in these cases expressed frustration and sadness at not being able to do more for the victim. This facet of rape highlights the need to examine this crime within a theoretical framework that takes account of social, political and economic factors. Many of the victims in this study appeared to be trapped within an abusive relationship due to their economic dependence upon their partner, especially when children were involved. For these women, pursuing the conviction of their partner through the courts is perceived not to be an option. For this reason, rape needs to be understood as more than an act of violence perpetrated against an individual woman. Rather, it needs to be seen as part of a set of violences that maintain abused women within particular relations of power. As Tang (1998: 266) has noted the law tends to frame issues in terms of individual pathology and fails to attend to 'the institutions and practices that are at the root of women's subordination'.

Echoing previous research (e.g. Lees and Gregory 1993), concern for the victim and the consequences of proceeding with the case for her, given the low probability of achieving a conviction, constituted the third factor involved in cases being NFA-ed, or reduced to a lesser crime. Protecting the victim in this way is undoubtedly a humane response, given the circumstances. However, it does raise questions about the criminal justice system. Where it appears that a rape has been committed and there is a strong case to answer, it should not be necessary to protect the victim by NFA-ing the case or by plea-bargaining if all components of the criminal justice system are functioning optimally. However, while reforms in respect of dealing with rape cases have been introduced within the police force, similar levels of reform do not appear to have been

implemented within the CPS and the courts (cf. Lees 1993; Mezey 1997; Hinchcliffe 2000). Furthermore, while some studies have been conducted which focus on the treatment of rape cases within the police force, very few have examined this within the CPS and the courts and those that have, have not revealed overwhelmingly positive findings. In this study, a number of police officers were of the opinion that barristers and judges were informed by conservative and traditional attitudes toward rape victims that made them less than sympathetic to their cause. The perception that these attitudes exist and that they impact upon the victim partly accounts for the need to protect the victim. Further research is needed into this much-neglected area of rape.

Finally, despite the decrease in the rate of no-criming, there was still evidence that a significant minority of police officers were no-criming for reasons other than those recommended by Circular 69/1986. Furthermore, there were officers who deemed allegations of rape to be false on less than solid grounds, most frequently their personal judgment that the victim was 'unstable'. In the majority of these cases, no action was taken against the victim for wasting police time. Although there are undoubtedly cases where a false allegation might be made, there is no evidence to suggest that the crime of rape has a higher rate of false allegations than any other crime. This study, like others before it (e.g. Lees and Gregory 1993), therefore suggests that within the police force there are still officers, albeit now probably a minority, for whom stereotyped attitudes about women who report rape remain in tact and that further training in dealing with rape cases is indicated.

The findings of this study therefore mirror previous findings in revealing a high rate of attrition for rape, but suggest that the pattern of attrition has changed in recent years in line with reforms introduced, particularly within the police force. In terms of the factors associated with the attrition of cases, this research found that only the relationship between the victim and the perpetrator was related to attrition, as indicated by the current status of the case. However, this finding must be interpreted with caution as despite the relatively large sample size and the application of an appropriate statistical test, closer inspection of the results did not reveal a coherent pattern. Thus while previous research (e.g. Grace et al. 1992) has suggested that rapes of single young women by a stranger and involving physical injury were the most likely to secure a conviction, this pattern did not emerge clearly in this research. Indeed, a higher than expected rate of conviction was achieved for rapes involving a partner or male relative. Consequently, it would appear that while the relationship between the victim and the perpetrator is implicated in attrition, further research is needed in order to clarify precisely how it is so implicated.

While attempts to identify factors involved in attrition using advanced statistical techniques were not particularly successful, this study has still been able to identify trends in the data that illuminate the attrition process. Specifically, some groups remain under-represented in and possibly disadvantaged by current practice within the criminal justice system. The first of these is male rape victims. In this study so few rapes were reported by men that it was impossible to draw any conclusions about male rape, except to confirm that there is almost undoubtedly a serious under-reporting of this crime (cf. Rumney 2001) and to argue that the issue of male rape warrants attention. As Mezey (1997) has pointed out in a review of Lees' (1996) recent book, many researchers investigating rape, including Lees herself, have little to say on the subject of male rape. Research methods based on survey data, such as used in this study and others before it, are probably

inadequate for exploring the issue of male rape due to the very small sample sizes which reflect the differences in reporting behaviour for male and female victims (Pino and Meier 1999). Future research should probably adopt a qualitative approach or at least a combination of qualitative and quantitative approaches if much needed progress is to be made in this sphere.

The second group, which is particularly disadvantaged by the criminal justice system, is comprised of victims who are considered to be vulnerable in some way. Victims with learning disabilities or psychiatric problems continue to be over-represented in terms of cases that drop out of the system. While it undoubtedly difficult to deal with the complex issues that these cases throw up, it is apparent that greater expertise is required in the handling of these cases. In addition, more research is needed which focuses exclusively upon this group, which has been largely neglected by research into attrition. Furthermore, specialist training for those dealing with such cases may be appropriate.

While attrition remains high and some groups appear to be disadvantaged by the criminal justice system, this research did find a relatively high level of commitment and concern among the police officers that participated. In line with Adler's (1991) findings, it was obvious that many officers had gone out of their way to support victims of rape. Indeed, many of the police officers were themselves very concerned about the progress of rape cases. They too suggested that further improvements within their own organization should be coupled with reforms within the CPS and the courts. Closer collaboration with the CPS and a greater understanding of rape victims, particularly by barristers and judges, were the two main areas they highlighted for further reform. With respect to the latter, a substantial body of work has shown that observers attribute both characterological and behavioural blame to rape survivors and that some differences in blaming the victim were found between men and women observers (e.g. Anderson 1999). Such research could usefully inform future changes.

In conclusion, this research aimed to update research on the attrition of rape cases as they progress through the criminal justice system by examining a large sample of recent cases. Despite the gloomy finding that attrition remains high and the observation that identifying factors associated with attrition is difficult, there are grounds for some optimism. Reforms aimed at reducing no-criming seem, generally speaking, to have had the required effect and many police officers participating in this study were clearly committed to supporting rape victims. However, perhaps one of the clearest findings of this research is that not enough is being done within the criminal justice system for victims of rape. More research into various facets of attrition, highlighted by this study, is needed urgently. Such research should facilitate the planning and development of further reform, within the police, the CPS and the courts. Without strategic reform, we will continue to fail victims of rape and sustain a culture in which getting away with rape is a *sine qua non*.

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