Understanding Attrition in Rape Cases – Key Findings for Police/CPS

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Introduction & Background

• Conviction rate at all-time low of under 6% in England & Wales (Home Office, 2007), Sussex 3.2% (2006)

• Most attrition happens at the earliest stages of the justice process i.e. policing (Harris & Grace, 1999; Lea et al, 2003) - victim withdrawal & decision by police that case is false or problematic

• Research Questions:
  - What factors influence attrition at various stages of the criminal justice process?
  - Why, despite interventions and improvements in practice, is the attrition rate rising?
  - How do those involved experience the process?
Design

• Case Study Design
  • Sussex - no SARC
  • one of the lower conviction rates – 3.2% (2006)
  • c.500 reported rapes per annum
  • Interaction Between Institutions (Jupp, 1985)

• Timeliness
  • Sexual Offences Act (2003)
  • Statutory Charging (April 2006)

• Women & Men
Methods

• Review of Past Cases (n=408) – bivariate, multivariate, valid percentages
• Case Tracking & Court Observations (7)
• Interviews
  – Police Officers: SOLOs & CID (40)
  – Forensic Medical Examiners & Nurse Practitioners (11)
  – Crown Prosecution Service (CPS) (5)
  – Barristers (defence & prosecution) (7)
  – Trial Judges (7)
  – Victims of Rape: Reporters (5)
  – Victims of Rape: Non-reporters (10)
Attrition Points

<table>
<thead>
<tr>
<th>Reports</th>
<th>408</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advice Sought from CPS</td>
<td>143</td>
<td>35%</td>
</tr>
<tr>
<td>Referred to CPS</td>
<td>116</td>
<td>28%</td>
</tr>
<tr>
<td>Charged</td>
<td>64</td>
<td>16%</td>
</tr>
<tr>
<td>Convicted</td>
<td>26</td>
<td>6%</td>
</tr>
</tbody>
</table>

- Majority of cases (65%) lost at policing stage
- Majority coded as ‘NFA’ (no further action)
- Victim withdrawal a significant problem (34%, n=140)
- Majority withdraw at policing stage (88%, n=123)
- ‘No-criming’ rate 8.8% (n=36)
Referral to CPS

- A number of variables show a statistically significant relationship to cases being referred to the CPS
  - Collection of other medical evidence about complainant increases chance – potentially a proxy measure
  - Victim resistance – cases where complainants resist physically (wriggling or pushing, fighting/kicking or punching, attempted to escape) more likely to be referred to CPS – interviews suggest attitudinal & second-guessing jury
  - Medical examination conducted increases chance - potentially a proxy measure for compliance
  - Evidence from forensic medical exam increases chance– even if not incriminating
– Suspect consuming alcohol reduces chance of referral
– Complainant consuming alcohol reduces chance of referral
– Oral sex performed on complainant increases chance of referral - proxy for multiple violations?
– Cases involving relatives most likely to be referred, cases involving strangers least likely to be referred (identification)
– Reporting within 24 hours increases chance or referral to the CPS as does reporting after 1 year
– Delayed reporting of between 1 week and up to 1 year decreases the chance of referral
Charging Cases

• A number of variables show a statistically significant relationship to cases being charged
  – Suspect having previous convictions for sexual crime increases the chance of a charge
  – Collection of other medical evidence about complainant increases chance – potentially a proxy measure
  – Victim resistance – cases where complainants resist by fighting/kicking or punching and by attempting to escape more likely to be charged – also incapacitation/inability to resist (suggests to some extent the resistance ‘tariff’ increases with the CJ process)
– Evidence from forensic medical exam increases chance of charge – even if not incriminating
– Cases where the complainant only verbally resists are less likely to be charged
– Oral sex performed on complainant increases the chance of charge - proxy for multiple violations?
– Cases involving relatives are most likely to be charged
– Cases involving intimates are least likely to be charged
Complainant Withdrawal

- A number of variables show a statistically significant relationship to complainants withdrawing:
  - Ongoing domestic abuse increases the likelihood of complainant withdrawal
  - Suspect having previous convictions for sexual crime decreases the chance of complainant withdrawal
  - Previous allegations by the complainant reduced the likelihood of them withdrawing
  - Collection of other medical evidence about complainant decreases chance – potentially a proxy measure
– Suspect not denying intercourse took place increases the likelihood of complainant withdrawal
– Similarly, suspect claiming consent increases chance of complainant withdrawal (suggests complainant’s make a judgement on the likely success of their cases)
– Evidence from forensic medical exam decreases chance of complainant withdrawal – even if not incriminating
– Being assaulted by a intimate increases the chance of complainant withdrawal – those assaulted by relatives were least likely to withdraw
Prediction of case being charged

<table>
<thead>
<tr>
<th>Category</th>
<th>Odds ratio (95% CI)</th>
<th>Logrank variance</th>
<th>Odds ratio Yes : No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>350 Model 1a (n = 304), high Wald</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Domestic violence</td>
<td>9:60 (0:74 – 130:09)</td>
<td>0:6</td>
<td></td>
</tr>
<tr>
<td>East Sussex</td>
<td>0:41 (0:11 – 1:47)</td>
<td>2:3</td>
<td></td>
</tr>
<tr>
<td>Gatwick</td>
<td>2:40 (0:60 – 9:57)</td>
<td>2:0</td>
<td></td>
</tr>
<tr>
<td>Complainant female</td>
<td>0:08 (0:02 – 0:35)</td>
<td>1:6</td>
<td></td>
</tr>
<tr>
<td>Stranger</td>
<td>10:39 (0:25 – 428:59)</td>
<td>0:3</td>
<td></td>
</tr>
<tr>
<td>Acquainted &lt; 24h</td>
<td>12:63 (0:31 – 513:19)</td>
<td>0:3</td>
<td></td>
</tr>
<tr>
<td>Acquainted 24h+</td>
<td>70:31 (0:50 – 9861:88)</td>
<td>0:2</td>
<td></td>
</tr>
<tr>
<td>Friend</td>
<td>25:44 (0:51 – 1059:80)</td>
<td>0:3</td>
<td></td>
</tr>
<tr>
<td>Relative</td>
<td>48:33 (1:26 – 1934:52)</td>
<td>0:3</td>
<td></td>
</tr>
<tr>
<td>Parental figure</td>
<td>14:46 (0:28 – 757:53)</td>
<td>0:2</td>
<td></td>
</tr>
<tr>
<td>Ex–cohabitee</td>
<td>37:76 (0:37 – 3859:45)</td>
<td>0:2</td>
<td></td>
</tr>
<tr>
<td>Internet meeting</td>
<td>21:66 (0:33 – 1410:46)</td>
<td>0:2</td>
<td></td>
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<tr>
<td>Colleague</td>
<td>20:42 (0:53 – 794:21)</td>
<td>0:3</td>
<td></td>
</tr>
<tr>
<td>Medical by police</td>
<td>9:27 (2:66 – 36:05)</td>
<td>2:8</td>
<td></td>
</tr>
<tr>
<td>Fighting resistance</td>
<td>9:65 (1:04 – 56:78)</td>
<td>1:2</td>
<td></td>
</tr>
<tr>
<td>Impaired resistance</td>
<td>0:35 (0:08 – 2:03)</td>
<td>1:3</td>
<td></td>
</tr>
<tr>
<td>Medical examination</td>
<td>3:14 (1:05 – 9:44)</td>
<td>3:2</td>
<td></td>
</tr>
<tr>
<td>Assault witness</td>
<td>11:50 (1:55 – 85:04)</td>
<td>1:0</td>
<td></td>
</tr>
<tr>
<td>Circumstance witness</td>
<td>3:25 (0:99 – 11:91)</td>
<td>2:3</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>20:4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- 95% confidence intervals

Prediction 'No' Prediction 'Yes'
## Prediction of victim withdrawal

<table>
<thead>
<tr>
<th>Category</th>
<th>Logrank variance</th>
<th>Odds ratio (95% CI)</th>
<th>Odds ratio Yes : No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Model 350 (n = 263), Q52recodecat</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East Sussex</td>
<td>2.6</td>
<td>5.62 (1.65 – 19.10)</td>
<td></td>
</tr>
<tr>
<td>Workplace</td>
<td>0.7</td>
<td>0.06 (0.01 – 0.69)</td>
<td></td>
</tr>
<tr>
<td>Complainant home</td>
<td>0.7</td>
<td>0.05 (0.00 – 0.51)</td>
<td></td>
</tr>
<tr>
<td>Compl/sus home</td>
<td>0.6</td>
<td>0.07 (0.00 – 0.90)</td>
<td></td>
</tr>
<tr>
<td>Indoor private</td>
<td>0.5</td>
<td>0.04 (0.00 – 0.68)</td>
<td></td>
</tr>
<tr>
<td>Time</td>
<td>21.0</td>
<td>0.63 (0.41 – 0.96)</td>
<td></td>
</tr>
<tr>
<td>Medical by police</td>
<td>2.3</td>
<td>0.24 (0.06 – 0.88)</td>
<td></td>
</tr>
<tr>
<td>Complainant alcohol</td>
<td>3.0</td>
<td>3.72 (1.19 – 11.64)</td>
<td></td>
</tr>
<tr>
<td>Medical examination</td>
<td>2.6</td>
<td>0.11 (0.03 – 0.36)</td>
<td></td>
</tr>
<tr>
<td>Circumstance witness</td>
<td>3.8</td>
<td>0.27 (0.10 – 0.75)</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>37.5</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- 95% confidence intervals

13:40:45  10 November 2010
Not for publication or citation
Forensic Medical Evidence

- 45.6% (n=172) medical examination conducted
- Evidence arose in 25.7% (n=54) of cases
- Incriminating in 10% (n=21)
- CJS personnel post-policing place high, but often misplaced, value on medico-legal evidence despite rarely incriminating or conclusive
- Ambiguities about the medico-legal relationship: FMEs and FNPs experience contradictions in their role between investigation and care
- Police and prosecutors do not feel the forensic medical service currently adequately meets need (contractual issues in part)
Investigative & Prosecutorial Issues

- Witnesses to circumstances before/afterwards interviewed in 62.1% (n=246) of cases
  - When done, cases are more likely to be referred to the CPS (43%, n=105) than not (23.5%, n=35), more likely to be charged (19.2%, n=47) than not (10%, n=15) and complainants are less likely to withdraw ($X^2=7.843$, d.f. = 1, $p=.000$; $X^2=15.249$, d.f. = 3, $p=.002$) ($X^2=37.602$, d.f. = 1, $p=.000$ respectively)

- Evidence that interviews not always conducted

- Quality of complainant interviews - special measures reducing quality of evidence
• CPS-Police interaction – CPS want more, earlier, and better consultation

• Stage advice sought:
  – None 64.5% (n=260)
  – Investigation 6.7% (n=27)
  – Decision to Charge 28.8% (n=116)

• Cases from North Downs (49.5%, n= 50) and West Downs (38.1%, n=37) more likely to be referred to CPS than East Sussex (28.6%, n=40) or Brighton and Hove (24.6%, n=16) ($X^2=15.249$, d.f. = 3, $p=.002$)
SOLO Officers

• SOLOs deployed in 81% (n=264) of cases

• SOLOs report:
  – Role requires suspension of normal investigative mindset
  – Tension between investigative and care aspects
  – Supervisory lines not always clear to officers
  – Some officers unclear about the scope of the role - variation
  – Time and role conflicts (impact on normal duties, detrimental to individuals in performance target culture, not rewarded financially, low status and ‘ribbing’ by other uniform officers)
  – Many feel undervalued and over stretched
  – Some officers going above and beyond – careful officer selection/monitoring required

• Important aspect of procedural justice
Attitudinal Issues

• Real rapes or good cases?
  – Police officers think in terms of ‘good cases’ (outcome focussed) rather than stereotypical ‘real rapes’ - ‘good cases’ are a more complex concept

‘Good’ Victim

‘Good’ Incident

‘Bad’ Inciden

‘Bad’ victim
• Evidence of stereotype and myth – implicit rather than explicit

• False allegations
  – Significant numbers of officers believe false allegations are high (mean = 53%, range 5-90%)
  – Quantitative data from case review shows 3.9% (n=16)

• CJS personnel’s estimations of the proportion of false allegations reduces as you move through the justice process
Conclusion

• Rape case attrition still a significant problem
  – very low conviction rates
• Victim withdrawal still a significant problem
  – Ensure provision of good, well-supported, SOLOs
  – Role for victim advocacy/support, especially for early reporters
• Stereotypical beliefs about victim resistance, alcohol still salient
• Some variables potentially proxy measures e.g. for thorough investigation; compliant complainants etc.
• Room for improvement in police-CPS interaction
• SOLOs need to be adequately deployed and managed for officer welfare and key element of procedural justice