



ATTRITION OF RAPE MATTERS AT THE POLICE INVESTIGATION STAGE OF THE SOUTH AFRICAN CRIMINAL JUSTICE SYSTEM

EVIDENCE AND RECOMMENDATIONS FROM A NATIONAL RETROSPECTIVE STUDY OF REPORTED RAPE CASES

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INTRODUCTION

The South African Police Service (SAPS) National Instruction 3/2008: Sexual Offences contains guidelines for police to provide victim-friendly services to victims of sexual offences. Investigating Officers (IOs) in the Family Violence, Child Protection and Sexual Offences Unit (FCS) have the responsibility for investigating cases and preparing the evidence for a trial. Key investigative tasks include taking statements from victims and witnesses, identifying and arresting suspects and preparing for them to be charged, ensuring that a medico-legal examination is conducted; visiting the crime scene, organizing forensic specimen collection and ensuring the Sexual Assault Evidence Collection Kit (SAECK) is completed and dispatched to the Forensic Science Laboratory. It is also the responsibility of IOs to ensure the victim's safety, appropriate referrals and regular communication with the victim on the progress of the case to ensure their cooperation when required at all stages. The attitude and dedication of police members as well as the quality and rigor of investigations critically influences the progression of reported cases within the criminal justice system

Trained research assistants visited docket stores in the relevant police stations, reviewed the selected docket files and abstracted data through a structured data abstraction tool. IOs servicing the stations included in the study were asked to complete a structured questionnaire that measured sociodemographic characteristics, training experience, availability of resources for IO work, and the prevailing gender attitudes and rape myths among members. This research brief outline evidence of policing and outcomes from a retrospective study of 3952 case dockets of rape incidents reported at 170 police stations in South Africa in 2012 and interviews with investigating officers from the FCS Unit.

KEY FINDINGS

ABOUT ONE IN THREE REPORTED CASES DO NOT GO BEYOND THE POLICE INVESTIGATION STAGE

Thirty-five percent of cases were closed by the police before referral to a prosecutor. Twenty percent of cases were closed by police due to undetected suspects and in 13% of cases police recorded victim reasons. There was also evidence of IOs inappropriately referring cases for prosecution when a suspect had not been detected.

ONE IN EIGHT VICTIMS WITHDRAW CASES AT THE POLICE INVESTIGATION STAGE

Victim withdrawals were highest among the adult victims although these were also recorded for child victims. A higher proportion of victims withdrawing cases before the arrest were those who had an intimate partner as a perpetrator (59.4%) followed by those whose perpetrator was a relative (35.0%). Victim withdrawal is associated with pressures brought to bear on victims to drop charges by their family in cases where the perpetrator is a relative, by his family where he is a neighbour and by the perpetrator directly when he is an intimate partner. There is little evidence of attempts to understand why victims would withdraw cases and to discourage this.

VICTIMS OFTEN DO NOT HAVE CONTACT DETAILS OF IOS.

At the onset of the investigations, IOs should provide all victims with their written contact details and invite them to make contact whenever necessary either to provide additional evidence or to check the progress on the case (1). However, this is not always done or is done without writing it down in the docket, when it should have been recorded.



UNTRACEABLE VICTIMS ARE ASSOCIATED WITH INITIAL PREAMBLE STATEMENTS BEING FREQUENTLY INCOMPLETE

Victim contact details and details of another person are crucial for the IO so that he or she can contact the victim when investigating the case. Many dockets lacked very basic information on the victims or other contacts which would be essential for follow up of the cases. Details of another contact person besides the victim (or guardian) opening the case were recorded in only 36.8% of cases, less often for adult victims compared to the other age groups. Without contact details, it is difficult for the IO to follow up with the victim and all cases without traceable victims are prematurely closed.

CIRCUMSTANCES OF RAPE INFLUENCE POLICE RESPONSE, INVESTIGATION AND PROGRESSION OF CASES

Police members were also more likely to visit crime scenes where the victim reported the use of force by the perpetrator, display of weapons and where the victim had been abducted. IOs or LCRC members visited crime scenes more often in the more violent cases: these included cases where perpetrators used physical violence (57.9%), abductions (58.4%), had weapons (64.1%) and displayed firearms. The police also visited scenes more often where there were other witnesses present (58.2%) or colluders in the rape (60.2%) or multiple perpetrators were involved (54.3%).

SOME KNOWN PERPETRATORS ARE NOT ARRESTED

Strangers were least likely to be arrested (27.3%) and almost similar proportions of relative (76.4%), intimate partner (73.6%) and acquaintance (73.6%) perpetrators were arrested. Rapes involving relative perpetrators had the largest proportions of other unspecified reasons for non-arrests (50.9%). The non-arrests for undetected perpetrators were highest among stranger rapes (81.4%).

COLLECTION OF EVIDENCE IS OFTEN INADEQUATE

IOs very often did not visit crime scenes, did not take witness statements timeously and didn't appropriately organize for SAECK completion and dispatch to the FSL. DNA are especially important in cases where perpetrators are strangers, but in 13% of cases SAECKs are not completed and in 21% of cases where they have been completed they are not sent for analysis. Thus, important opportunities to find DNA are missed. Cell phones were often stolen but it was very infrequent that the record of location and calls was subpoenaed. A higher proportion of cases were closed by the police where the crime scene was not visited, where there was no written victim statement, where the first report statement was not collected and where the crime scene DNA (36%) and fingerprint evidence was not collected (36%).

CASES OF 0-11YEAR OLDS POSE CHALLENGES FOR INVESTIGATORS

It was clear that cases of under 12 years old victims were more likely to be reported later compared to older victims and less details of the rape incident were available from the victim statements. Fewer case dockets of child victims had an address available than those of adults. The highest proportion of missing handwritten statements was among the cases under 12 years old victims. IOs or LCRC members visited the crime scene in 53.5% of

the cases and the proportion was higher for adult victims (61.9%) than the under 12 years (38.0%) and the 12-17 years (48.3%) age groups. SAECKs were appropriately collected in 76.7% of adult cases, 57.1% of cases with a 12-17-year-old victim and 33.8% of cases with a victim under 12 years. Over a fifth (21.6%) of SAECKs completed within 96 hours of the incident were not sent to FSL. This was more common for the SAECKs of under 12 years old victims (30.3%) followed by the 12-17 year-old victims (23.9%) and was least common for adult victims (19.2%). These SAECKs were not analysed and so did not contribute evidence to the cases.

THE USE OF DNA EVIDENCE IN CASES IS LIMITED

Although DNA evidence is essential for matching perpetrators to other possible crimes, and it was evident that police officers did not always visit crime scenes and take all opportunities to get samples from offenders to contribute details to this. Some of the cases from 2012 were still open even in 2014, due to reasons including awaiting DNA results and the suspect being still at large. Overall these findings show the need to improve evidence collection by IOs and the speedy processing of DNA by the FSL to ensure justice for victims.

PROGRESSION OF CASES IS ASSOCIATED WITH RIGOR OF INVESTIGATION

Arrests were influenced by the energy that the police put into cases including having visited the crime scene, which in turn were influenced by assessments made by the police about the 'severity' of the rape. Where investigating officers were more dedicated and energetic, arrests more often are made and these cases were also less likely to be closed by prosecutors. Perpetrators were four times more likely to be arrested when police took a handwritten victim statement, twice as likely if police visited the crime scene, and twice as likely if perpetrators had used physical force. Time taken to report was marginally associated with arrests of known perpetrators and as time taken to report increased there was small reduction in chances of arrest.

MOST CASES ARE ASSIGNED TO MEMBERS AT RANK OF CONSTABLE WHO REQUIRE SUPERVISION

The investigating officer in 50% of incidents were Constables, lowest rank in the SAPS, who have least training and access to resources.



ONE IN FIVE INVESTIGATORS LACKED SPECIALISED FCS TRAINING

In a subset of investigating officers, 20% reported not having gone on an FCS specialist training. Training on the FCS course did not



impact gender attitudes and rape myths and found that although case investigation was very variable, 80% of IOs were trained. Therefore, the curriculum and pedagogical methods of the FCS course may need to be reviewed.

NEGATIVE GENDER ATTITUDES AND RAPE MYTHS EXISTS AMONG INVESTIGATING OFFICERS

Negative gender attitudes were prevailing among IOs and these were more common among male than female members. A higher proportion of the lower ranked IOs also expressed negative gender attitudes that showed endorsement of rape myths and victim blaming. Negative gender attitudes expressed by investigating officers were also related to higher work stress among the IOs. IO's perception of more serious or "real" rape involving only physical violence and tactics also influenced their handling of cases. When victims are not treated as important partners in rape case investigation and feel that the response from the IO is not always empathetic they are much more likely to withdraw cases.

POOR SUPERVISION OF IOS NEGATIVELY IMPACTS ON CASE PROGRESSION

In some cases where IOs failed to undertake key investigative tasks, there was no evidence that instructions had been given by the responsible supervisor. Investigating officers inappropriately referred cases for a prosecutor's decision when a perpetrator had not been arrested or charged. Strict supervision could have averted police work which was inadequate or inappropriate. Changes in working arrangements and supervision to improve police investigation are necessary to improve police performance

and ensure timeous completion of gathering evidence in cases. Staffing arrangements related to case investigation may need to be changed to enable this, including moving away from one IO handling each case. Research can be useful in studying how police can be most effectively deployed.

INVESTIGATORS EXPERIENCE WORK STRESS ASSOCIATED WITH POOR RESOURCING

IOs who reported higher work stress also reported challenges related to accessing vehicles to enable them to undertake investigative tasks. IOs who were unable to get a vehicle to use in undertaking investigative duties in the month before the study had significantly higher work stress scores. Stressed IOs were more likely to hold less sympathetic gender attitudes and these impact on empathy and communication with victims. Research from other settings has shown that victims are much more likely to lose interest in cases if they do not feel they have an empathetic reception from the police(2).

POOR RECORD KEEPING WITHIN SAPS

Some of the selected dockets could not be found as the docket stores filing was not in order, and some parts of dockets were missing. This was especially true for completed J88 forms. Some of the docket stores have experienced problems with records having been damaged, for example if there were water or sewage leaks. Linking dockets, J88s and court records was not as easy as it should have been, due to incorrect CAS numbers and missing information in some cases.

WHAT CAN BE DONE

- IOs should be appropriately resourced to investigate cases. SAPS management need to ensure more vehicles are readily available and that management interventions are in place to enhance staff morale.
- Effective supervision of IOs should be enforced to ensure the thoroughness and timeousness of investigations as well as victim contact that minimises withdrawals or victims becoming untraceable.
- Police performance targets should include the completeness of rape investigations and within a stipulated time after the case is reported
- All IOs working on rape cases must attend the FCS investigators training course prior to taking on cases.
- Investments need to be made to ensure funding for the training. Refresher courses for previously trained IOs or other interventions to ensure the adherence to guidelines is necessary.
- The FCS investigator's course content should be reviewed to ensure that there is sufficient emphasis on understanding and changing the gender attitudes and rape myths held by FCS investigators and building awareness on how these may impact negatively on their work.
- Efforts should be made to reduce attrition of cases due to victim withdrawal. Research is necessary to understand the impact of different working relationships with victims. Different models of case management need to be evaluated to find the most effective in retaining victims in the criminal justice system.



REFERENCES

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