

Written evidence submitted by the College of Policing (INV0008)

Submission for the Home Affairs Committee on the Investigation and Prosecution of Rape and serious sexual assault

College of Policing response May 2021

1. The College of Policing is committed to supporting forces to deliver a professional response to the victims of rape and sexual offences. We regard these abhorrent crimes, where some of the most vulnerable in society are often targeted, as priority and major crimes for forces to tackle. We have developed a suite of knowledge and learning products for forces, which build on core learning for investigation (including the impact of the digital environment), responding to victims and witnesses, criminal justice process, etc. These knowledge and learning products provide officers with an understanding of how and why such offending happens, the impact this offending has on victims, how best to engage and support them, how to effectively investigate and how to manage the risk posed, by perpetrators who are found to have committed these crimes.

2. Our curriculum and practice approach in this area is to provide the *appropriate* knowledge and skills at the *appropriate* level of response from first contact through to leadership, as follows;

- Vulnerability and Risk training and guidelines: learning for all frontline officers addressing the range of vulnerabilities and abuses
- Easy access aide memoires for the Code of Practice for Victims of Crime (VCOP)
- Rape and sexual offences elearning and ebriefing: initial response learning on myths and stereotypes and effective response (including specific products for 'revenge porn', 'upskirting', tackling online grooming, youths sharing nudes /semi-nudes, child sexual exploitation)

- Sexual Offences Liaison Officer (SOLO) course: for officers trained at PIP (professionalising investigation programme) level 1 who provide initial response and support victims through the investigation of sexual offences
- Specialist Sexual Assault Investigation Development Programme (SSAIDP): a programme for officers trained at PIP level 2 who wish to specialise in this area
- Management of Sexual and Violent Offenders: a course for sex and violent offender managers
- Principles for the identification, assessment and management of serial or potentially dangerous perpetrators of domestic abuse or stalking
- Public Protection and Safeguarding Leaders Programme: for force strategic leaders in this area.

3. In addition to our learning products, we also develop operational advice and guidance. Operational advice builds on the expertise of practitioners and is intended to be delivered in a way that gives succinct and simple support to enable practitioners respond to the crimes. Guidance, in the form of Authorised Professional Practice, gives more formal support to forces, enabling them to develop consistent policy approaches and ensure that all those involved in investigations of these offences are aware of their role.

4. Our evidence based guidelines are developed with policing subject matter experts and utilise the best available evidence. They set out recommended standards for forces and practitioners to enable them to address policing issues using approaches that have been demonstrated to be effective.

Introduction

5. Police are recording more crimes of rape and sexual assault than ever before (ONS, 2020), however we know, that many victims still do not report rape or sexual assault to the police (CSEW, 2020). Research regarding victims' reluctance to report these offences to police, as figures of authority, and other barriers to reporting are well documented and include but are not limited to; shame, guilt, fear of the process, fear of not being believed, shock, cultural context, embarrassment, language barriers and fear of reprisal from the community (Kelly et al., 2005; Brown et al., 2010).

6. The College is represented at the NPCC National Rape Working Group (NRWG) that has been in place for many years. The College also liaises closely with the NPCC Victim Care and Criminal Justice leads. The 'victim's voice' is represented at NPCC level by the attendance at various groups by the Victim Commissioner, DA Commissioner and specialist support services including Rape Crisis, Survivors Trust, etc. The College has been working with the NRWG to ensure that we can support forces to break down the barriers to reporting and provide an effective response, through improving knowledge, skills and practice. We use the multiagency groups to consult on all our developing APP, knowledge and learning material.

Initial response to rape and sexual offending

7. We want officers to be professionally curious when responding to people who contact the service for help. Our Vulnerability and Risk learning programme, embedded in the new policing degree and available to forces as a course to upskill existing staff, provides the training required to 'look beyond the obvious', to search for clues and indicators of sexual and other abuses. It gives an understanding of personal and situational barriers that create risk and inhibit disclosure. It offers an understanding of how to communicate effectively with all individuals, providing learning on the impact of trauma and responses, encouraging officers to be non-judgemental in their approach and to create a sense of trust and confidence for the victim. It also provides advice for officers on effective support for victims to help them engage with the criminal justice process and tactics to manage the risk posed by suspects. The training is delivered in the classroom using real life case studies, several of which involve rape and sexual offending, with continuous professional development (CPD) delivered through a range of online scenario based vulnerability case studies. The training is supported by our forthcoming Vulnerability and Risk evidence based guidelines,

8. The Victims' Code Of Practice (VCOP) has been refreshed and College products and services pertaining to victim and witness care have been updated. This includes our guidance, curriculum content and national refresher training on the Rights in the VCOP, for officers and staff. This work also included a communications campaign and the creation of web pages to enable officers and staff to access detailed guidance on victims' rights faster via mobile devices. Officers and staff are able to support victims and witnesses into, through and after justice procedures.

9. Our APP website provides guidance for victim care and the initial response to rape and sexual offences. The College national curriculum for policing includes learning outcomes for initial response to victims, safeguarding and understanding the specific barriers for victims of sexual abuse, dispelling rape myths and how to respond in a way that builds trust and confidence. The College e-learning product on Rape – ‘Myths and Stereotypes and Initial Response’ - underpins these learning outcomes embedded in the policing degree and is offered as a resource for local delivery.

10. Victims are more likely to remain engaged with sexual offence investigations and prosecutions where they feel supported. Being able to disclose comfortably, keeping them updated on the progress of their case, providing help to access specialist advice/support, supporting them to give their evidence in court, are widely recognised as being what victims want from policing (Chambers and Millar, 1983; Lees and Gregory, 1993; Temkin, 1997; Jordan, 2001; McMillan and Thomas, 2009). National policing practice has introduced the role of a liaison officer, to be the link between the investigating officer and the victim to address these needs (some forces use local ISVAs to perform this role). The College has developed and published the national role profile for Sexual Offences Liaison Officers (SOLOs). Training for this role, developed by City of London University, in consultation with Sussex, Metropolitan Police and the College is available on the College Managed Learning Environment for forces to deliver locally.

Investigation of rape and sexual offences

11. The investigation of reports of rape is often difficult. Rapes are often committed behind closed doors, out of the sight and hearing of potential witnesses, with victims and perpetrators often known to each other through some form of relationship (e.g. familial, partners/ex partners, acquaintances, carer/patient) that brings them together. As a result, the opportunities for seeking evidence to support the complaint to ensure a thorough and fair investigation that points towards or away from the suspect, normally achieved through witnesses, CCTV, etc. are often absent. The ‘points to prove’ including that the victim did not consent, and that the suspect did not reasonably believe that the victim consented, often rests on the evidence from the victim statement and the suspect interview. These may agree on many aspects of a case, such as the circumstances leading up to an incident, with the issue of ‘consent’ being contested and there being no other supporting evidence.

12. These investigations require skilled, knowledgeable and experienced investigating officers. They must conduct serious and complex interviews, to identify and progress possible lines of enquiry. Their expertise and experience will be crucial to evidence gathering and case building.

13. Investigators should have the correct core investigative skills, knowledge and experience to conduct such investigations through completion of the relevant level of the Professionalising Investigation Programme (PIP) and supporting specialist learning, including Serious Sexual Assault Investigation Development programme (SSAIDP). PIP was updated in 2018 to refocus the programme on core investigative skills, empowering investigators to undertake effective investigations within their remit. This includes core interview skills using relevant interview supporters to achieve best evidence. Interviewers undertaking rape investigations should also have additional specialist interview skills for interviewing vulnerable adults, which support complex evidence gathering, development of possible lines of enquiry and case building. Investigators should also have a comprehensive understanding of the special measures available to victims and witnesses as defined by Section 16 and 17 of the Youth Justice and Criminal Evidence Act 1999.

14. The Ministry of Justice (2011) Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures was updated in 2016, but is yet to be published. It is currently, due to the delays, being further updated. A publication date has not been released.

15. Resourcing challenges for forces, increased reporting of complex vulnerability related crimes (e.g. domestic abuse, CSE, modern slavery) and falling numbers of detectives, as reported by Her Majesty's Inspectorate, have required forces to pool their investigative resources within larger teams. The significant difficulty of balancing resources against demand sometimes means less experienced officers are allocated more challenging investigations. Crime allocation in forces must strike a very difficult balance, between assigning the most skilled and specialised officers to those cases that require those skills, whilst identifying the less complex investigations that can be undertaken by omni-competent investigators. Detectives tend to have more practical experience (and extensive guidance and training as a matter of course) in investigation, victim management and the management of rape incidents and cases. Early findings from the MOJ end-to-end review of rape reporting show that investigating officers are not always receiving appropriate

training within their force, to support them in the role of rape investigation, despite the availability of relevant training.

16. The lack of detective or other investigative resources, has also meant that, in some cases, first responders, who are generally trained to investigate less complex crime are sometimes required to investigate more complex and challenging cases, and on occasion, even rape (HMICFRS GMP report, 2020). The role of a first responder is complicated, responding to demand led incidents, call outs and crises in the public domain primarily, which sets their priorities. Charman (2017) found that as a consequence, frontline response do not generally consider themselves as investigators and often have little ring-fenced time to carry out enquiries in office hours, due to the shifts they work and the priority given to responding (McClean and Potten, 2020). All Forces will want to ensure officers (be they new entrants, or existing staff) are trained using relevant learning standards in the support of victims, and in the basis of good investigative practices.

17. There are significant concerns that attrition rates for RASSO investigations are high, the referral rates of cases to CPS are falling, and the number of investigations that are ended without prosecution is rising. This is likely to be a consequence of a number of factors, including the length of the process, concern about invasion of privacy and lack of communication (Smith, O. and Daley, E., 2020). Thames Valley Police are currently undertaking an initiative, whereby victims of rape are given information that shows the expected length of each step of the investigation and what is involved, to help manage expectations.

18. Core skills and knowledge of investigation requirements and implications of the CPIA, 1996 are delivered through PIP and embedded in the national policing curriculum. The College is currently developing evidence-based guidelines to support and improve frontline investigation skills including supervision of these investigators. These will complement the existing evidence-based initial account guidelines.

19. We are also updating and re-focusing the APP on investigation to ensure that it is clear what investigators are expected to do when conducting an investigation and where they may find further information. We are also developing guidelines to improve supervision, which will help forces to ensure investigations have better oversight.

20. However, recognising that rape and sexual offences are a high risk, high harm area of policing, the College supplements this core learning through a specialist programme for

investigators (SSAIDP). Completing the programme provides accreditation and entry onto a national register held by the College, with annual requirements on CPD in the field to remain registered.

21. The course promotes early consultation with the CPS to ensure effective case building (this links to the advice in the national police/CPS joint protocol for investigating and prosecuting rape). Effectiveness and efficiency of investigations are important to keep victims engaged and to prevent attrition.

Digital and Disclosure

22. The advent of digital devices has presented lines of enquiry and evidential opportunities for investigation that require exploration where there has been previous contact between suspects and victims. Forensic examination of devices and local forensic resource provision by forensic support providers can mean delays in investigation. This is compounded by investigators, and others in the CJS making demands for digital evidence that go beyond what is 'relevant and proportionate' examination. Case management processes need attention to ensure they are working well.

23. Concerns have been raised by interest groups and privacy campaigners, that the extraction of material from personal digital devices is excessive. Victims of rape and sexual violence are disproportionately affected by the intrusion. For example, it has become almost routine for victims of rape to be asked to hand over digital devices and for most or all of the material to be examined. The feelings of excessive intrusion has been found to impact on victims' well-being, confidence in the police and CJS and on the tendency to withdraw their complaint (Smith,O. and Daly,E. 2020). Victims understandably want to know the purpose for the examination of their devices and what will happen with any material downloaded and included as part of the case file.

24. **Privacy groups** and others representing victims of sexual violence have called for an urgent review of police use of mobile phone data. In August 2018, the Information Commissioner's Office (ICO) launched an investigation into the use of material extracted from mobile phones of victims, witnesses and suspects by law enforcement agencies during the course of a criminal investigation. The ICO **concluded** that the police have not been abiding by the obligations of the DPA 2018 in their extraction of material from these devices as part of investigations.

25. To assist, the College is developing APP for The Extraction of Material from Digital Devices that strikes a balance between the needs of a prosecution and the rights of the victim not to have intrusion into their private life, to improve compliance and consistency in approach across forces. It also seeks to establish a simple model to assist understanding of the process by both investigators and victims/witnesses.

26. The College has worked closely with the NPCC and CPS to improve disclosure practice through the National Disclosure Improvement Plan. We created learning standards and training for disclosure, and defined the role of the 'Disclosure champion' (which all Forces have instigated to support dissemination of knowledge and skills). The core College training covers investigation, disclosure, and the new rules initiated by the Attorney General (supported by Director's guidance from the Director of Public Prosecutions) which provide new opportunities for those charged with offences and their representatives to engage early through 'Pre-charge engagement'. It is vital that, in our efforts to support victims to come forward and seek justice, we recognise the role of the entire CJS system in achieving fair and balanced outcomes.

Managing Offenders

27. Preventing further victimisation and managing the risk posed by perpetrators is essential to change behaviour and attempt to eradicate sexual abuse. The police alone cannot do this and other services, particularly education and health services, have a responsibility to educate and challenge those who might have a propensity to offend against women and girls, there is promising evidence that education can have a positive role in educating and developing all young people, not just those with a propensity to offend, for example by promoting social norms that protect against violence, developing Bystander programmes or teaching skills to prevent sexual violence e.g. Social and emotional learning

28. In order to prevent re-offending, under the auspices of MAPPA, the police and partners manage perpetrators according to the risk posed. The College provides training for sex offender managers through our Management for Sexual and Violent Offenders (MOSOVO) course which is underpinned through MOSOVO APP.

29. As part of the debate relating to the Domestic Abuse Bill (now Act), concerns were raised about serial and series perpetrators of domestic abuse and stalking. These offences

are often closely linked to rape and other sexual offending. There were calls for the creation of a separate register for these serial/series offenders. The College has created a document setting out the principles to support forces to manage these high-risk suspects. The computer system that supports MAPPA also has the capacity to record management of 'potentially dangerous people' (PDPs), those who might not otherwise be captured through MAPPA criteria. Many forces are now using assessment based on 'recency, frequency, gravity, victim vulnerability' criteria. These go beyond simply identifying people suspected of committing a number of domestic abuse or stalking incidents. Forces are seeking to identify those who pose the highest risk of harm and direct resources to them. Evaluations are taking place, but early indications from some of the first adopter forces are positive.

Leadership

30. Finally, leadership in this area is vital to support the frontline to be effective in their response and to raise combatting of sexual offending as a force priority for resourcing. Through two surveys held among members of the Superintendents' Association of England and Wales, we became aware that over 80% of senior officers taking on the role of safeguarding and public protection strategic leads had not been trained for the role. Around half had no experience of this type of work. Working with practitioners, we subsequently developed a programme to enable those new to the role or existing staff to receive learning and ongoing CPD (through Knowledge Hub and other communications) with a focus on partnership working, data analytics, managing risk and victim support. We have been delivering the Public Protection and Safeguarding Leaders Programme through part of 2020 (with some delays due to COVID restrictions) and will continue from June this year.

31. The College is also developing a Leadership centre;

- To set clear national standards for police leadership at all levels, that will function as the national benchmark for leadership performance in policing
- To provide leadership development opportunities for all in policing, enabling police officers and staff to achieve their full professional potential

Conclusion

32. The College has been closely involved with practitioners, senior leadership and statutory and non-statutory partners to create a suite of products to support policing to

respond to the needs of women and girls in the criminal justice system. There is significant strain on the whole criminal justice system and this has particular impact on those cases that affect women and girls most, with referral rates falling and attrition rates increasing. Against those worrying statistics, we are encouraged that more victims of these types of crime are coming forward and that the commitment to improvement within policing is great. We will continue to support the service in the best way we can.

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