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## Chapter 9

### Male victims of sexual violence and their welfare in the Criminal Justice System.

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#### Abstract

Male victims of sexual violence currently receive little attention in the UK, despite evidence indicating a growing number of men reporting sexual offences to the police and seeking psychological support for sexual trauma. Such issues are situated against a backdrop of substantial, gender-specific barriers for men around recognising, disclosing, and seeking support for their victimisation. Additionally, concerns have been raised around the efficacy of police officers in providing support throughout reporting and the investigation process, with findings indicating that male rape victims are often met with disbelief and scepticism and find the Criminal Justice process retraumatising. As such, increasing understanding around men's experiences within the Criminal Justice System (CJS) is critical in aiding the production of gender-inclusive, trauma-informed strategies that recognise victims' gender/sexuality-specific needs. This chapter therefore aims to provide evidence-based, victim-centric guidance on effectively supporting male victims of sexual violence, across the multiple institutions of the UK CJS in order to ensure gender-specific and inclusive care for victim-survivors. It does so by overviewing current issues in the policing and service provision of male rape allegations and by examining men's welfare in the context of multiple UK CJS institutions. It will then review research conducted in the UK on the welfare of male survivors across key investigative moments, from reporting, involvement of third-sector victim-support services, officer responses and investigative practices, to referral to the Crown Prosecution Service, before concluding with recommendations for policy and practice.

## **Introduction**

Previous reviews on the attrition problem<sup>1</sup> of sexual offences in the UK have highlighted how some of the challenges that exist for female complainants could be amplified for men (Angiolini, 2015), as they encounter a series of additional barriers which delay their entry to, and jeopardise their engagement with, the Criminal Justice System (CJS). Researchers have also argued that issues surrounding investigative practices and officers' responses result in a "downstream orientation" of sexual offences, with officers seemingly 'reluctant to progress 'weak' cases to prosecutors, based on their own judgements of the likelihood of conviction' (Hine et al., 2021, p. 120). However, whilst the consequences of hostile investigative practices and unsuccessful investigative outcomes are recognised for female complainants (Ministry of Justice, 2021), male survivors' experiences with the CJS are critically under-researched. Therefore, the present chapter explores the phenomenon of male sexual victimisation and the welfare of male survivors within the UK CJS, specifically in relation to their wellbeing and engagement with the therapeutic support provided by third sector services<sup>2</sup>. By examining issues surrounding legal definitions, prevalence rates, barriers to report, and experiences with the CJS, this chapter draws from recent research in the UK to make policy recommendations to support the welfare of male survivors.

### ***Legal definitions of rape and prevalence rates in England and Wales***

Historically, male sexual victimisation has been dismissed and overlooked in British society (McLean, 2013), partly due to its legislative history. Before the introduction of the Criminal Justice and Public Order Act 1994, only women were considered rape victims, with male sexual victimisation legislated as "buggery", a term used up until 1956 to describe anal sex "committed with mankind or beast" (in Lowe, 2018). Until the introduction of "non-consensual buggery" in 1967 (subsequently removed in 1994), buggery defined any sexual relations between men, thus blurring the boundaries between consensual and non-consensual acts. Essentially, this meant that male victims of sexually violent acts in England and Wales had no legal standing in the CJS, with their experiences shamed and treated as unnatural, which was (and still is) indicative of the socio-cultural stigma surrounding sex amongst men (McLean, 2013). The Criminal Justice and Public Order Act (1994) saw the inclusion of men in rape legislations for the first time, laying the foundations for the subsequent Sexual Offences Act 2003, which is currently in force in England and Wales. The Sexual Offences Act 2003 is an important step towards the recognition of male sexual violence<sup>3</sup> in the UK. For example, since 2003 men have been included in official statistics, such as police records and the Crime Survey for England and Wales (CSEW). These two sources are now examined by the Office for National Statistics (ONS), providing reliable estimates of prevalence rates of male sexual victimisation in the UK. The most recent report from the ONS (2021) reveals that almost 5% of all men experienced some form of sexual violence from the age of 16. An estimated 0.7% of men

experienced sexual violence between March 2019 and March 2020, equating to almost 155,000 men in a 12-month period. Prevalence rates increase dramatically amongst men who report having sex with other men, with findings from the support organisation Survivors UK (2021) indicating that 45% of gay and bisexual men have been sexually assaulted in their lifetime.

Women still represent the majority of victims of sexual violence in the UK (80% of all victims: ONS, 2021), and it is therefore not surprising that policy and interventions have been tailored to support female survivors and tackle the widespread violence experienced by women (and girls). However, whilst the focus on female sexual violence is deserved and desperately needed, it is important to recognise that a substantial number of men are also affected by this serious and damaging form of violence. The need to consider how men's welfare is supported following sexual victimisation is best understood by recognising the debilitating psychological consequences that are often reported by male survivors.

### ***Psychological Consequences for Male Survivors of Sexual Violence***

Sexual violence has profound short-term and long-term consequences for survivors' psychological wellbeing. Earlier research suggested that men and women experienced similar psychological issues (e.g., Heidt et al., 2005; Walker et al., 2005), whilst others have argued that men are more likely to report acute psychiatric symptoms, leading to hospitalisations in some cases (Kimerling et al., 2002). These mixed findings highlight the challenges of comparing male and female survivors' experiences of psychological distress following the abuse. It is more beneficial to acknowledge how each group will share similar experiences and barriers, whilst examining within-group differences to truly understand survivors' victimisation, as not all men (nor women) are alike and not all differences are uniform and exclusive to one group. Indeed, understanding how men make sense of a form of violence stereotypically associated with being a woman (Fisher & Pina, 2013) is crucial to understand how men access support (and report to the police) when dealing with a complex range of psychological issues. Evidence suggest that male survivors often report depressive and suicidal thoughts, increased and persistent anger, negative self-evaluative emotions (self-blame, guilt, shame, low self-esteem), problems with sexual functioning and gender identity, and post-traumatic stress disorder (Mgolozeli & Duma, 2020; Peterson et al., 2011; Voller et al., 2015; Walker et al., 2005; Widanaralalage, 2022). Whilst these psychological issues are also reported by female survivors (Campbell et al., 2004), highlighting the devastating impact of sexual violence for both men and women, scholars have often emphasised the need to recognise how men are expected to adhere to a series of norms and standards related to masculinity (Levant & Richmond, 2008). For example, men are expected to be stoic, resilient, invulnerable, and independent (Berke et al., 2018; Kong, 2019; Mahalik et al., 2003). As such, experiences of negative self-evaluative emotions seem to be influenced by men's perceived failure to "act tough" during the abuse (Widanaralalage, 2022). These

perspectives on male sexual victimisation emphasise the existence of gender-specific barriers for men to recognising, disclosing, and accessing support after the victimisation. It is therefore unsurprising that only a minority of men ever involves the police and that experiences of reporting are often retraumatising (Jamel et al., 2008; Rumney, 2008).

## **Male survivors and the Criminal Justice System**

### ***Choosing to report***

Key legislative changes led to substantial increases in the number of recorded sexual offences against men, which saw police records on sexual offences against men going from 1,135 (Nicholas et al., 2005) to 16,127 (ONS, 2021). However, recorded offences are still a fraction of all male victims, with almost 90% of men not reporting to the police (ONS, 2021). Under-reporting is a well-known issue in the UK (Hohl & Stanko, 2015), which is indicative of victims' low confidence in the CJS as they fear repercussions and unsuccessful investigations. As men and women seemingly encounter similar barriers and challenges, it is evident that there is a sector-wide problem around how victims receive support in the UK CJS. Similarly to female survivors, men are affected by feelings of responsibility, shame, embarrassment, and a desire to "move on" and "forget about it" (Lowe & Rogers, 2017). Indeed, involving the police is challenging for all survivors, who have to negotiate between complex and often conflicting feelings in order to disclose their victimisation not only to officials, but also family, friends, and partners (Widanaralalage, 2022).

Men's reluctance stems from an awareness that their victimisation does not comply to what would be described as "typical" or "authentic" sexual offences, where men are usually the offenders and not the victims (Cohen, 2014; Fisher & Pina, 2013). Whilst fears of not being believed are common also with female survivors (up to 25%: ONS, 2021), authors have argued that the perception of the police as a subculture that favours and encourages hypermasculine traits (toughness, aggressiveness, competitiveness, heterosexuality: Fielding, 1994), may in part explain male survivors' fear of having their stories questioned and even ridiculed by officers (Abdullah-Khan, 2008; Javaid, 2015). Indeed, earlier studies show that male survivors seem to be aware of these biases against same-sex relationships (Mezey & King, 1989), therefore it is unsurprising that survivors may decide to delay or forgo altogether reporting to avoid further psychological repercussions. Men's fear of having their sexuality questioned by officers seems to be unique for male allegations. In her influential book *Male Rape: The Emergence of a Social and Legal Issue* (2008), Abdullah-Khan suggested that gay survivors fear that police officers, upon learning about their sexuality, would view their complaints as false and that they would be subjected to homophobic reactions. Conversely, straight men fear being labelled as "hidden homosexual" who were making false allegations to conceal regretted sexual relations. Men's concerns around having their sexuality questioned highlight survivors' awareness of the existence of male rape myths on victims' sexuality and masculinity (Hine et al., 2021;

Widanaralalage, 2022), as they anticipate officers' using these narratives to question their victimisation.

### ***Experiences of Reporting to Police***

From the limited evidence around men's experiences with reporting in the UK, male survivors' fears seem to be largely confirmed. Recently, Widanaralalage (2022) qualitatively examined issues surrounding male survivors' welfare upon entering the CJS from the perspectives of male-on-male survivors of rape and sexual abuse. Initially survivors were motivated to report their victimisation for a sense of moral responsibility and a desire to recognise and acknowledge their experiences through official channels. Indeed, findings by Jamel et al. (2008) highlight how men decide to report not only to validate their experiences and access other mental health services, but also as a way to commence their recovery journeys. However, the responses reported in this study were overwhelmingly negative, with issues around scepticism and hostility emerging as prominent and recurrent. In particular, survivors reported officers questioning their sexuality and behaviours during the assaults. Besides highlighting officers' biases towards same-sex relationships (Abdullah-Khan, 2008; Rumney, 2008), Widanaralalage (2022) emphasised the role of rape myths in police handling of male allegations, an issue that appears to be recurrent across the criminal justice sector (Angiolini, 2015; Hohl & Stanko, 2015). Crucially, upon encountering these responses, survivors often regretted reporting to the police. The emotional repercussions reported by men highlight how involving the police often results in survivors experiencing something akin to "secondary victimisation" (Campbell & Raja, 1999): an issue reported also for female cases consisting of 'victim-blaming attitudes, behaviours, and practices engaged in by service providers, which further the rape event, resulting in additional trauma' (Campbell et al., 2001, p. 1240). As a result of officers' negative responses, almost all participants in Widanaralalage's (2022) study withdrew their case, indicating that they could not cope with the "burden" of an investigative process that seemed to be designed to question and minimise their experiences of victimisation. In light of the high number of withdrawals (55%) highlighted by MOPAC (2021), Widanaralalage argued that men's decision to retract their case was to safeguard themselves from further psychological damage caused by officers' antagonistic and stigmatising attitudes.

### ***Support from Third-Sector Organisations***

Third-sector organisations play a crucial role in supporting male survivors' welfare when accessing the CJS (Weare & Hulley, 2019). They provide therapeutic support throughout the processes of reporting, as well as helping them make sense of officers' behaviours and investigative decisions (Hine et al., 2022; Widanaralalage, 2022). Widanaralalage (2022) explored these issues directly with service providers working in specialist organisations in England. The study provided insight into the therapeutic challenges involved in providing effective and tailored support to male survivors. Overall,

service providers largely confirmed that survivors feel unsupported and stigmatised when reporting to the police. They highlighted that, from a therapeutic perspective, reporting to the police constituted a challenge for their clients' therapeutic recovery, as they reported the repercussions of procedural and emotional issues arising from officers' stigmatising attitudes and often unsuccessful investigative outcomes. With only 10% of all cases referred to prosecution (Murphy et al., 2021), it is unsurprising that men, after going through taxing and often unsuccessful investigations, are left devastated and retraumatised by criminal justice processes. Crucially, as investigative outcomes seem to be poorly explained to complainants (Ministry of Justice, 2021), services are left to "pick up the pieces" (Widanaralalage, 2022) and help their clients make sense of decisions which seem to deny their experience.

### ***Criminal Justice Outcomes***

In the last 12 years, Stern (2010) and Angiolini (2015) highlighted how the lack of resources devoted to the policing of sexual offences resulted in inconsistent responses in crucial investigative moments, directly affecting all survivors of sexual violence, including men. In particular, Angiolini highlights how the lack of experiences in some first responder makes them unequipped to effectively support survivors during reporting and the over-estimation of false allegations. Whilst Angiolini recognises that the barriers that exist around reporting for women are magnified when it comes to male complainants, currently male survivors of sexual violence have received little political attention. Indeed, even the End-to-end rape review (2021) commissioned by the Ministry of Justice to determine why victims withdraw, why referral rates vary from force to force, why prosecutions consistently collapse, and the impact of investigation and court proceeding on victims, has largely overlooked male survivors. This is despite evidence clearly highlighting that these issues are relevant and, in some cases, amplified for male survivors, who have been relegated to a footnote in what otherwise should be considered a comprehensive strategy to tackle the attrition of sexual offences in the UK CJS.

Evidence on the attrition of male rape cases can be found in Hine et al. (2021). The study examines 122 cases recorded by the London Metropolitan Police Service (MPS) between 2005 and 2012. Information related to survivors, suspects, offences, and procedural information were examined to produce a descriptive profile of male allegations brought forward to the MPS and determine what factors influenced attrition or advancement of cases. The findings revealed that in 52% of cases men knew the suspect and that in 88% of the cases the incident(s) occurred in a known location. Prior to the incident, men reported having voluntarily consumed alcohol (43%) and drugs (24%). An important proportion of participants reported having mental health issues (27%). In terms of investigative outcomes, 1 in 5 (22%) of cases were withdrawn, highlighting how the majority of men appeared interested in progressing their case, once overcoming the barriers and hesitations around

reporting discussed above. However, these findings have to be interpreted with caution as the timeframe of the study (2005-2012) comes before high-profile operations (e.g. Operation Yewtree) and commissioned governmental reviews on the policing of sexual offences (e.g. Angiolini, 2015). Indeed, recent reports on a smaller sample of cases (N=28) revealed that up to 55% of men withdraw their case after the initial report (MOPAC, 2021), a figure that is more in line with recorded female case (see Hohl & Stanko, 2015; Murphy et al., 2021). Nevertheless, Hine et al. confirm that only a small proportion of cases (1 in 5) are referred to the Crime Prosecution Service, with such decisions significantly affected by “extra-legal” factors. For example, victims’ mental health and substance use were significantly related to receiving a no crime outcome. Such findings highlight how factors related to male complaints’ credibility affect officers’ investigative decisions, which is consistent with results from Hohl and Stanko (2015) on female cases.

While embryonic in comparison to research focusing on female victims of rape, there is not only a clear need to examine the specific challenges of male victims, but in doing so genuine insights are helping to understand the impact on case trajectories, victim experiences, and trauma-informed practice. More work on policy, practice, and the ongoing research agenda is needed to further this important mission.

### **Recommendations for policy and Conclusions.**

The evidence presented in this chapter clearly indicates that, whilst some improvements have been made in the overall recognition of male sexual victimisation, changes to policy and renewed intervention are desperately needed to effectively support male survivors’ welfare, particularly in the context of the CJS. Despite recent recognition and funding pledges with a *Position Statement on Male Victims*<sup>4</sup> (2019) and a shift towards gender inclusive definitions of intimate violence (Baird, 2021; Home Office, 2019; Ministry of Justice, 2021), there are still key issues in how policy makers view and understand male sexual victimisation. For example, the Government pledged to ‘Utilise evidence from across government on male experiences of crimes captured in the *Ending VAWG* [Violence Against Women and Girls] Strategy to inform future policies and training’ (p. 8). ‘Capturing’ male sexual violence through a strategy that is specifically designed to identify issues relating to VAWG is clearly problematic. As outlined throughout this chapter, whilst men and women encounter similar challenges, there are key gender differences in how sexual violence is experienced in terms of emotional issues, barriers to help seeking, and involving and engaging with the CJS (Hine et al., 2021; Widanaralalage, 2022). In fact, recent reports by the Victims’ Commissioner (Baird, 2021) indicate that male-oriented services and service users were concerned and disappointed with surveys they received for VAWG consultations containing gendered language and terminology, which emphasised the problems of designing policy by arbitrarily including men in a strategy to tackle violence against women. As these issues have been publicly raised by services and commissioned reviews (Baird,



2021), the government promised to publish a new position statement for men and boys by the end of 2021. However, such a position is yet to be published, leaving the question of how (and if) the government intends to move forward in designing specific policy for men (and boys) largely unanswered.

The solution brought forward by campaigners across the Domestic and Sexual Violence sector is to design a specific strategy to ending Violence Against Men and Boys (VAMB), that includes the variety of crimes affecting men, from male-on-male homicide, knife crime, domestic violence, and, crucially, sexual violence (Survivors UK, 2021). Such strategy is not intended to compete with, nor to be to the detriment of, *Ending VAWG*. Instead, a separate VAMB strategy recognises the unique and distinct needs of men and is needed to address survivors concerns around the bias and disbelief encountered within criminal justice settings (Weare & Hulley, 2019, p. 22). Therefore, we agree with the recommendations by the Victim's Commissioner (2021), in highlighting that future policy should focus on developing strategies that are specifically designed to capture men's experiences of sexual violence, by directly involving them to contribute to policy and interventions.

Given the role of services in men's therapeutic recovery and entry and retention in the CJS (Widanaralalage, 2022), there is a need to develop close links between the different stakeholder in the CJS and the third sector, to capture the challenges encountered by survivors in bringing forward their allegations. Commissioned reviews and empirical research consistently demonstrate that officers encounter serious challenges in investigating sexual offences against men, given how a substantial number of male cases are brought forward several years after the event (Walker et al., 2005), creating significant investigative hurdles for police officers and prosecutors. Crucially, such issues, whilst requiring officer to exercise a degree of discretion, can be addressed by recognising that men seek more than just a justice outcome, but look for validation and further support (Jamel et al., 2008; Widanaralalage, 2022). Officers can play a vital supportive role in recognising and acknowledging male survivors' post-victimisation needs. Clearly, as highlighted by Stern (2010), Angiolini (2015), and the End-to-end Rape Review (2021) targeted training for officers in developing trauma-informed approaches is currently desperately needed. In the context of male sexual violence and VAMB, training of the police should be designed around male rape myths, masculinity needs and norms, and how trauma is experienced by men.

In conclusion, any strategy to end VAMB must have at its core the recognition and identification of male survivors. To do so, it must prioritise improving the avenues for accessing appropriate support. Indeed, men attempt to access a variety of services before engaging with specialist organisation, as these services currently have limited resources, thus low visibility. For example, men attempt to access support through the National Health Services, General Practitioners, Mainstream Services (e.g., Victim Support), and Female Oriented Rape Crisis services (Weare &

Hulley, 2019; Widanaralalage, 2022). However, evidence indicates that men are often unsatisfied with these services, as the support provided lacks in specificity and is not tailored to their unique needs as men (Posodas, 2017). It is therefore essential to target these key entry points, by supporting the delivery of male-informed training across the third sector. Crucially, by improving how men access support, a VAMB strategy not only could facilitate referrals to specialised services but could also substantially reduce the delay between survivors' experiences of victimisation and reporting to the CJS.

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<sup>1</sup> The attrition problem, or ‘justice gap’ (Brown, 2011), describes a trend in criminal justice studies on sexual offences, whereby only a fraction of crimes is ever reported to the police, and of those which are reported, very few result in a conviction (Hohl & Stanko, 2015).

<sup>2</sup> ‘Third sector services’ is a term used to describe the range of organisations that are neither public sector nor private sector. It includes voluntary and community organisations (both registered charities and other organisations such as associations, self-help groups and community groups), social enterprises, mutuals and co-operatives.

<sup>3</sup> Under the Sexual Offences Act 2003, only men can be perpetrators of rape: ‘A person (A) commits an offence if—(a)he intentionally penetrates the vagina, anus, or mouth of another person (B) with his penis, (b)B does not consent to the penetration, and (c)A does not reasonably believe that B consents.’ Women are only prosecutable under rape legislation through the acts of aiding and abetting an act conducted by a man. Some authors have argued that such distinctions make rape a ‘gendered crime’ (Weare, 2018)

<sup>4</sup> Position statement on male victims of crimes considered in the cross-Government strategy on ending Violence Against Women and Girls (VAWG). Ministry of Justice (2021)