



## **Beyond belief?**

### *Police, rape and women's credibility*

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#### **Abstract**

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This article reviews issues concerning perceptions of women's credibility in the context of police responses to sexual assault complainants. It is based on both quantitative and qualitative data drawn from detailed analysis of police rape and sexual assault files. Particular attention is paid to identification of the principal factors affecting police perceptions of rape complainants, addressing such issues as demeanour, intoxication and concealment. Problems arising from the misinterpretation of significant 'cues' are identified, and consideration given to possible ways in which miscommunication between rape complainants and police officers occurs. The article argues that many rape complainants must still battle to gain credibility in the eyes of some police investigative officers, and that stereotypically based judgements continue to impact negatively on police perceptions and decision making. The overall aim of the article is to prompt critical, constructive evaluation of police culture and practice in order to enhance the quality of police responses to victims of sexual violence and abuse.

#### **Key Words**

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credibility • police investigations • rape • sexual assault

#### **Introduction<sup>1</sup>**

The offences of rape and sexual assault have notoriously low reporting rates (Kilpatrick et al., 1987; Koss et al., 1987; Gilmore and Pittman, 1993; Epstein and Langenbahn, 1994; Mack, 1998; Gregory and Lees, 1999;

Kelly, 2002). Few victims approach the police, and even fewer cases proceed to the point of prosecution (Holmstrom and Burgess, 1991; Gregory and Lees, 1999; Harris and Grace, 1999). Many studies have been conducted of rape cases which resulted in prosecution, examining in particular the progress of such cases through the court system, and the ways in which victims of rape experience trial procedures (for example, Adler, 1987; Lees, 1997; van de Zandt, 1998). The criticisms levelled at the court system have been marked and, in some jurisdictions, have prompted the adoption of legal reform initiatives (Australia: see Department for Women, 1996; Easta, 1998; United Kingdom: see Lees, 1996, 1997; Harris and Grace, 1999; and United States: see Spohn and Horney, 1992; Bohmer, 1998). In New Zealand, such reforms include the abolition of the corroboration warning previously given by judges to juries in rape cases; the dropping of a requirement for victims to present oral evidence at pre-trial, or depositions, hearings; and the closing of courts to the public while victims of rape give evidence (Thomas, 1994; McDonald, 1997). The focus on court and trial procedures, however, has meant that many factors involved in the prosecution of rape cases have been neglected. In particular, the crucial role played by the police as 'gatekeepers' to the criminal justice system can be minimized by such an approach (Gilmore and Pittman, 1993; Frazier and Haney, 1996).

This article presents the results of a study primarily focused on rape and sexual assault cases that not only did not proceed to trial, but did not proceed far in the police investigation process. As such, it provides the opportunity for an enhanced understanding of the high attrition rate in rape cases by focusing on the decision-making processes used to determine why the majority of sexual violence offences reported never proceed far in the criminal justice system.

Specifically, the article focuses on police officers' perceptions of the credibility of women rape complainants,<sup>2</sup> using police officers' files and case reports as primary data sources. The principal aim is to identify the key factors that affect police perceptions of women rape complainants' credibility, using this analysis as a means of understanding the reasons for strong police beliefs regarding the supposedly high prevalence of false rape complaints. In clarifying and exposing the beliefs informing investigative decision making, it is hoped that these will be subject to increased critical examination in future in order that the quality of police responses to victims of sexual violence might be enhanced.

## Background

A profound scepticism towards women rape complainants has historically been evident in criminal justice systems internationally. In 1951, in a book entitled *Sex and the Law*, an American judge asserted:

There are few crimes in which false charges are more easily or confidently

made than in rape. Experience has shown that unfounded charges of rape are brought for a variety of motives. The adage, 'Hell hath no fury like a woman scorned', is frequently encountered in rape prosecutions.

(Ploscowe, 1951: 187)

Elsewhere, judges have made pronouncements such as: 'It is well known that women in particular, and small boys, are liable to be untruthful and invent stories' (Judge Sutcliffe, 1976, quoted in Chambers and Millar, 1983: 83).

The views of such men are by no means idiosyncratic; rather, they reflect widely held beliefs founded in centuries of barely disguised misogynist thought towards women who accuse men of rape (Highwater, 1990; Mills, 1991; Cossins, 1998; Eastal, 1998; Mack, 1998; Gregory and Lees, 1999). According to this perspective, women's word on such matters lacked credibility because women's very being oozed deceit. In 1484, for example, the German monks, Kramer and Sprenger, graphically described in their witch-hunters' guidebook how women were defective from the start, formed as they were from a bent rib. Not only were women imperfect, they were also inherently deceptive. Thus the *Malleus Maleficarum* said of a woman's voice: 'For as she is a liar by nature, so in her speech she stings while she delights us. Wherefore her voice is like the song of the Sirens, who with their sweet melody entice the passers-by and kill them' (Kramer and Sprenger, 1486, translated by Summers, 1971: 46).

Much of this ecclesiastical work may be dismissed as fantastical superstition; nevertheless, many of the ideas underlying its edicts continued to filter through society, evident in legal, medical and criminological thought for at least the next 500 years (Mapes, 1906; Ploscowe, 1951; Edwards, 1981). Thus it should be scarcely surprising to find such sentiments have been pervasive in police thought and practice also.

In 1975, in an article on rape investigations, a police detective wrote: 'Women and children complainants in sexual matters are notorious for embroidery or complete fabrication of complaints' (Firth, 1975: 1507). Firth went on to comment:

It should be borne in mind that except in the case of a very young child, the offence of rape is extremely unlikely to have been committed against a woman who does not immediately show signs of extreme violence.

If a woman walks into a police station and complains of rape with no such signs of violence, she must be closely interrogated. Allow her to make her statement to a Policewoman and then drive a horse and cart through it. It is always advisable if there is any doubt of the truthfulness of her allegations to call her an outright liar.

(1975: 1507)

His statement summarizes the prevailing attitude towards rape complainants at the time. This prompted one commentator to make the following observation:

If a woman alleges assault other than rape, she is generally believed, examined medically and treated if necessary. Police and court response is direct and usually according to law. However, if the assault is sexual, that is, if she is alleging rape, the response may be quite different. No one wants to believe her.

(Peters, 1975: 34)

One dominant and destructive characteristic underpinning police participation in rape investigations arises from exaggerated beliefs in the prevalence of false rape allegations. Concern has been expressed internationally regarding the high proportions of sexual assault complaints that are believed to be false (Mintz, 1973; Feldman-Summers and Palmer, 1980; Chambers and Millar, 1983; London Rape Crisis Centre, 1984; Blair, 1985; Kanin, 1994; Gregory and Lees, 1999; Kelly, 2002). An early study conducted in the United States of America, for instance, revealed that the police officers who participated in the research believed approximately three out of every five rape complaints to be either false or mistaken (Feldman-Summers and Palmer, 1980). Likewise, in Chambers and Millar's (1983) Scottish study, many detectives estimated false complaints to be very common, with one saying he believed only 1:20 were 'real rapes' (Chambers and Millar, 1983: 85 footnote). Junior detectives would typically say that, although they had dealt with few false ones themselves, nevertheless they 'knew' false rape complaints were common (Chambers and Millar, 1983: 85 footnote).

More recently, Jennifer Temkin (1997) found when interviewing police in Sussex that half of the officers considered a quarter of all rapes reported to be false. She provided the following extreme example:

One CID officer, DC X, considered that there were 'few cases of genuine, very genuine rape'. Genuine rapes he described as 'off the street, didn't know the victim at all' rapes which he contrasted with 'we went out for the evening sort of rapes'.

(Temkin, 1997: 516)

Detectives in other United Kingdom research, however, believe the proportion of false complaints to be closer to one-half (e.g. Lees, 1997: 184), with Ian Blair noting: 'there is considerable evidence that investigators . . . seem prepared to give serious consideration to the proposition that between 50 per cent and 70 per cent of all allegations of rape are false' (Blair, 1985: 53-4). One cynical detective even maintained: 'After six years on the force, I don't believe any of them' (quoted in Burgess, 1999: 9).

Of relevance also are the findings from a small qualitative study I conducted with New Zealand detectives experienced in sexual assault investigations (Jordan, 2001). While these interviews are not the focus of this article, of significance here are the estimates detectives made regarding false rape complaints. These ranged between one detective who said 10 per cent and another who estimated that 80 per cent of all rapes reported were false 'in one way or another'. Furthermore, a recent comment made by a

detective at a training course that 80 per cent of rapes reported were false was not disputed by others present, with some nodding their assent to this figure (personal communication, 2003).

Such a prevalent police attitude of disbelief towards women alleging rape made it difficult for victims even to contemplate approaching the police, let alone place their trust in them (Chambers and Millar, 1983; Young, 1983; Blair, 1985). Women's claims of rape were, in fact, often viewed as 'beyond belief'.

## Research context

Internationally, there has been comparatively little research conducted on complainants' experiences of reporting rape to the police following the significant reforms to law and procedures that took place in many jurisdictions from the mid-1980s onwards. New Zealand was one of the first countries to attempt major reforms of its rape laws and, among other developments, introduced an expanded, gender-neutral definition of 'rape' in 1986, as well as abolishing married men's 'right' to spousal immunity from prosecution for rape (Sullivan, 1986). However, while some important, recent studies have been undertaken in England (Temkin, 1997, 1999; Gregory and Lees, 1999; Kelly, 2002), the United States (Taslitz, 1999) and Australia (Easteal, 1998), developments in New Zealand had remained virtually uncharted since a major study pre-dating these reforms (Young, 1983).

This prompted a research project in the mid-1990s aimed at determining the extent to which women's experiences of reporting rape to the police had improved since the reforms (Jordan, 1998, 2001). For this study, 48 women were interviewed, with extensive information obtained regarding reporting and statement taking, the medical examination and support agency contacts.

The issue of whether or not a woman reporting a rape would be believed by the police, and how their disbelief affected her, recurred throughout the study. At least 18 women (one-third of the total sample) felt they encountered an attitude of disbelief in the police at some stage during the reporting process. They felt the police viewed them suspiciously and spoke of feeling as if it was up to them to persuade the police of the genuineness of their allegation before an investigation would proceed.

Some women said they felt disbelieved by the police right from the start, and commented that they felt the police kept trying to catch them out, to see if they were lying. Several felt doubted when their immediate responses to the rape failed to conform to police expectations of how tearful and hysterical a woman who had just been raped *should* appear. Other women suggested that the reasons underlying the police's disbelief were related to moral judgements made about their behaviour, such as their levels of intoxication or previous sexual encounters.

For the sample overall, the factors associated with whether or not the women were likely to be believed were not always clear-cut. Thus in some cases, the women felt that the officers' responses were influenced by rape myths regarding good and bad victims (LaFree, 1981; Shapcott, 1988; Kerstetter, 1990; Kelly, 2002). Other women, however, expressed surprise when their fears that the police would judge them according to such moral beliefs proved to be unfounded.

The significance of belief and credibility issues for the victims informed the decision to embark on subsequent research aimed at determining the factors affecting police investigative decision making. Interviews with police officers were conducted to supplement an analysis of police rape files. The remainder of this article summarizes the results of the file analysis, drawing on relevant case studies and examples, in order to identify the factors interpreted by the police as indicators of a rape complainant's credibility.

### **Police file analysis**

Negotiating access to police files proved to be a protracted and difficult undertaking. Limited precedent existed for permitting non-police personnel access to such files, and the significant confidentiality issues involved necessitated extensive consideration of access, storage and publication protocols. It took eight months for a contract to eventually be signed, with some of this delay due to this particular study being used to establish more generalized research agreements between the New Zealand Police and Victoria University of Wellington. Permission was obtained from the New Zealand Police to obtain and review police rape and sexual assault files for the year 1997 from three major cities—Auckland, Wellington and Christchurch.<sup>3</sup> The files requested were those where the complaint was cleared as no offence disclosed, known elsewhere as unfounded complaints, and those which the police classified as a reported offence but ceased investigating, either because there was insufficient evidence or because the complainant withdrew the allegation.

Of the 164 files examined, three-quarters involved rape allegations and the remainder involved other sexual violation offences.<sup>4</sup> Eleven cases involved multiple offenders and/or victims, resulting in a total sample size of 181 offenders and 166 victims. The majority of the complainants were young, with 60 per cent aged 25 and under; in terms of ethnicity, nearly 40 per cent were described as Caucasian; and in 84 per cent of cases, the victim and the alleged perpetrator were previously acquainted in some way.

The files were divided into four main categories, determined largely by police perceptions of the legitimacy of the complaint:

1 Genuine cases:  $N = 34$  (21%)

Cases categorized as genuine represent those about which the police gave

clear indications on the file concerning their legitimacy. For example, prosecution action may have been commenced against the alleged offender, a warning may have been issued or comments may have been made which indicated the complainant's account was believed by police.

Within this category, four small but distinct subgroups emerged:

- i cases clearly perceived as genuine, for which an offender was detected, and prosecution action was commenced ( $N = 13$ ; 38 per cent of genuine cases overall);
  - ii cases clearly perceived as genuine, for which no offender was detected ( $N = 5$ ; 15 per cent of genuine cases overall);
  - iii cases clearly perceived as genuine and for which an offender was detected, but where the police made the decision not to prosecute ( $N = 3$ ; 9 per cent of genuine cases overall); and
  - iv cases where the police clearly believed the complaint was genuine but the complainant insisted on withdrawing the complaint ( $N = 13$ ; 38 per cent of genuine cases overall). All but one of these cases was cleared by the police as no offence disclosed, despite evidence of victimization being obvious. In five cases, it appears that the victim and perpetrator were either partners or ex-partners, and the complainant wanted them warned but not charged.
- 2 Possibly true/possibly false cases:  $N = 62$  (38%)  
 The second category comprised cases that the police seemed unsure, from their file comments, whether or not to treat as genuine complaints. Remarks were often made suggesting that, from the evidence available, it was impossible to determine if the complainant was telling the truth, or whether the incident reported constituted a criminal offence. Frequently the phrase 'insufficient evidence' was used in relation to these cases. Cases were also included in this category where the police noted some irregularities or discrepancies in the complainant's testimony but refrained from declaring the complaint false. Those cases which the complainant withdrew in circumstances where the police also expressed some misgivings about the complainant's veracity were included as part of this grouping. In at least half of these latter cases ( $N = 14$ ), it was clear from the files that the complainant had not wanted the police involved but someone else had reported the incident on the complainant's behalf, often against her wishes.
- 3 Cases which the police said were false:  $N = 55$  (33%)  
 Cases were included in this third category when comments on the file clearly stated that the police considered the complaint to be false. These included cases which the police decided to halt investigating ( $N = 29$ ), as well as those suspected of being false for which the complainant withdrew the charge ( $N = 26$ ).
- 4 Cases which the complainant said were false:  $N = 13$  (8%)

The final category is the smallest. It comprises those reports of sexual assault which the complainant decided to withdraw after having stated that the allegations were false, in that sex had been consensual, or that there had been no sex and the report of a sexual attack had been fabricated for personal reasons.

Key factors were identified that police officers noted on the files and used in their assessments of a complainant's credibility. These factors are listed in Table 1, which shows the proportion of cases affected by each factor, and

**Table 1.** Victim attributions (N = 166)

<i>Factors identified in file analysis</i>	<i>Genuine</i> N = 34	<i>Possibly true/ possibly false</i> N = 62	<i>Police said false</i> N = 55	<i>Complainant said false</i> N = 13
Drunk/stoned N = 85 49%	17 20%	33 39%	28 33%	7 8%
Delayed reporting N = 37 22%	5 14%	19 51%	13 35%	0
Previous consensual sex with accused N = 36 22%	6 17%	17 47%	13 36%	0
Previous rape or abuse N = 31 19%	4 13%	13 42%	13 42%	1 3%
Psychiatric disturbance N = 30 18%	3 10%	8 27%	18 60%	1 3%
Perceived immorality N = 25 15%	3 12%	13 52%	8 32%	1 4%
Intellectually impaired N = 16 10%	3 19%	5 31%	7 44%	1 6%
Previous false rape complaint N = 11 7%	0	4 36%	7 64%	0
Concealment N = 10 6%	0	4 40%	6 60%	0

NB Multiple responses possible.



the extent to which its presence could be correlated with determinations of case credibility.

This table provides an initial window into characteristics of the complainants which appeared to influence police perceptions and responses. In relation to alcohol and drug use, for instance, it is clear that approximately half of all the files analysed involved complainants whom the police described as drunk, intoxicated or high/stoned. While one-fifth of cases involving drunk complainants were perceived as genuine complaints, nearly three-quarters (72%) were regarded by the police as false or possibly true/false. This suggests that drunkenness is correlated with doubts about complainants' credibility.

While drunkenness was the most commonly recorded factor, other victim attributions were also noted by police. Delayed reporting was a feature of 22 per cent of the files studied, with similar numbers of cases involving complainants who had previously engaged in consensual sex with the accused. Both these factors appeared to be linked to credibility concerns, with 86 per cent of complainants who had delayed reporting being viewed suspiciously, along with 83 per cent of those who had a prior sexual relationship with the accused.

Over one-quarter of the files studied involved complainants who were described as either intellectually impaired<sup>5</sup> or psychiatrically disturbed<sup>6</sup> in some way. As Table 1 shows, the largest proportions of cases involving either intellectual impairment or psychiatric disturbance were regarded by the police as false complaints. Of cases involving complainants with some degree of psychiatric disturbance or disorder, 87 per cent were viewed by the police as false or possibly true/false. Similarly, three-quarters of the cases involving victims with intellectual disability were viewed as suspicious. Of all complaints made by intellectually impaired or psychiatrically disturbed persons, only 13 per cent were regarded as genuine by the police.

In 31 of the files studied (19%), reference was made to the complainant having been the victim of prior sexual victimization, either as a child or adult. This means that nearly one in every five sexual assault complainants had experienced some form of sexual victimization prior to the latest incident reported. However, notations on the file suggesting prior sexual assault also appear to be strongly linked to police doubts about the veracity of the current incident. As Table 1 shows, in 84 per cent of cases involving complainants with previous known rape or abuse victimization, the police perceived their current complaint with scepticism. Half of these complainants ( $N = 15$ ) withdrew their most recent complaint, thereby deciding to end police involvement and investigation of their case. Some provided reasons for this decision, such as wanting to put the incident behind them or not wanting to go to court, but from the files alone, it is difficult to assess the impact on complainants of feeling that the police viewed them disbelievingly.

Subjective assessments of complainant's morality also appeared significant, with 15 per cent of cases being characterized by file comments indicating the police perceived her as 'sluttish' or promiscuous. Also worth noting are two factors which, when they were evident, were always associated with police doubts and the decision to discontinue an investigation. The first of these involved situations where the current complainant had previously made a complaint of rape that was perceived as false (7 per cent of cases,  $N = 11$ ). The perception that the previous complaint was false was often based simply on the fact that the charge was not proven, and the investigation ceased, but this fact clearly triggered strongly suspicious cues if a subsequent rape was reported by the same complainant. Similar reactions were evident if it became apparent in the course of an investigation that the complainant had deliberately concealed aspects of her behaviour that may be viewed as incriminating, such as excessive drinking. In all cases where this was commented upon (6 per cent of the total,  $N = 10$ ), the police discontinued the investigation because they considered the current complaint false or likely to be false.

Each of the factors identified in this study is briefly outlined below in the context of international research into police rape investigations.

### *Drunk/drugged*

If a woman presents as having been drunk or drugged at the time of the alleged rape, police may see that as contributing to her sexual violation, rather than condemning the way in which the perpetrator exploited her vulnerability and diminished competency. Numerous research studies have demonstrated an association between rape and alcohol consumption (Amir, 1971; Russell, 1984; Warshaw, 1988; Harrington and Leitenberg, 1994; Crowell and Burgess, 1996). In one of the most extensive studies conducted on date and acquaintance rape, 75 per cent of the men who had committed sexual assault had consumed alcohol or drugs prior to the assault (Warshaw, 1988). Within the criminal justice system, as in society at large, alcohol consumption by the victim has long been regarded as a discrediting factor—but only for the victim (Schuller and Stewart, 2000). Alcohol has been blamed for loosening her inhibitions, and the fact of her intoxication interpreted as evidence of overall moral turpitude (Ettorre, 1992; Lees, 1997). By comparison, drunkenness in the offender appears to have received little condemnation. This may be related to the double standard that considers a drunken woman more reprehensible than a drunken man (Otto, 1981; Ettorre, 1992). Against this backdrop, a woman who is drunk is more likely to be seen as 'asking for it' than he is for 'taking it' (Shapcott, 1988; Wiehe and Richards, 1995; van de Zandt, 1998; Baker, 1999). A drunk woman tends to be viewed as responsible for what happens to her, while a drunk man may be absolved of responsibility for what he does while 'under the influence'.

### *Delayed reporting*

The police often view a delay in reporting sexual assault offences as abnormal and as a factor that reduces the victim's credibility (Brownmiller, 1975; Torrey, 1991; Thomas, 1994; Bronitt, 1998; Freckelton, 1998). It is likely that less physical and forensic evidence is available, and it is believed that victims will have more time to construct a fabricated account of events. Conversely, a rape victim will typically tend to hesitate before involving the police, and may feel scared, shamed and self-blaming in the aftermath of rape (Department for Women, 1996). Often the victim has to reach a stage where she feels as if she has the right to report the offender, and feels relatively safe and secure in doing so, before she can approach the police. Besides, the majority of reports that are reported promptly result from a third party contacting the police, not the victim herself (Jordan, 1998; Burgess and Hazelwood, 1999).

### *Previous consensual sex with the alleged offender*

This factor dates from the days when men claimed virtual ownership of women through sexual conquest (Brownmiller, 1975; Gordon and Riger, 1991). From a police perspective, the fact of a previous sexual relationship can raise suspicions that the complainant is acting out of scorn or revenge. For the victim, however, the person whom she may be most at risk of being sexually assaulted by could be her partner or ex-partner, or someone whom she had sex with once who considers that consent one day means 'yes' for all-time. The fact that wife rape was not recognized as a crime until very recently suggests that remnants are likely to still be evident of attitudes endorsing men's sense of entitlement to unlimited access to a woman's sexuality (Brownmiller, 1975). Given many men's expectations that a woman who has had sex with them once will have sex with them repeatedly (Johnson, 1997), it seems highly likely that women face considerable risks of being forced to have sex if, on subsequent occasions, they either appear less willing, or their consent is deemed irrelevant.

### *Previous complaint of rape*

A complainant whom police discovered, or believed, had made a previous complaint of rape which had not been proven seemed likely to be perceived as highly dubious. The inference was that a woman is unlikely to be raped more than once, and that a woman who has already had a rape complaint not proven is particularly suspicious if she subsequently alleges having experienced another incident of sexual violation. Such deductions fly in the face of an accumulating body of research evidence that documents high incidences of repeat rape victimization (Doerner and Lab, 1995; Morris, 1997). For many women, an earlier sexual assault is followed by multiple

episodes of sexual victimization, either from the same or different perpetrators.

### *Psychiatric disturbance and intellectual impairment*

It has been well documented that persons perceived as having diminished competency are likely to have enhanced vulnerability to sexual victimization, arising from a combination of factors including impaired judgement, difficulties in communication, lack of knowledge regarding sexual matters, ignorance of their rights within the law and the likelihood of their living and working in high-risk environments within easy access of both opportunists and sexual predators (Luckasson, 1992; Hayes, 1993). A recent Canadian study estimated that 83 percent of women with disabilities will be sexually assaulted during their lifetime (Roehar Institute, 1995, cited in Brook, 1997: 16). Research conducted in Australia by the National Police Research Unit and Flinders University also found that persons with intellectual disability were 10 times more likely to be sexually assaulted than non-disabled people (Brook, 1997: 16–17). These findings have serious and far-reaching implications for organizations such as the police, and highlight the need for greater understanding of the power, control and dependency dimensions associated with disability. A tendency in the police to view intellectual or psychiatric impairment as factors that reduce the ‘truth’-value of the complainant’s testimony can unwittingly benefit sexual predators. Indeed, statements from convicted rapists have revealed some perpetrators to be adept at selecting victims whom they know will be perceived as less believable, and who are viewed as ‘easy pickings’ (Luckasson, 1992; McCarthy, 1996).

### *Perceived immorality of the complainant*

Perceptions of dubious morality can diminish a victim’s credibility in the eyes of the police and affect their assessments of the likely responsiveness of a jury to her complaint (Shapcott, 1988; Department for Women, 1996; Lees, 1997; Scutt, 1997). What is generally not questioned are the ways in which the same cues the police see as indicating the complainant is a ‘slut’ may be the very factors that make her vulnerable to rape. For example, the fact that a young woman had consensual sex with a man she met at a party may mean that his mate assumes she will also ‘come across’ for him. It is even possible that, rather than lose face, the first man may have said he and she had sex when they did not. Either way, the expectation is created that she is ‘easy’ and may contribute to a social context in which any protestation from her will be ignored and negated, first by the offender and second by the police.

### *Previous false complaint*

Once a woman has a record of making an allegation that was not substantiated, she runs the risk of having any subsequent allegations

dismissed prematurely. She is perceived as likely to be a person who makes false complaints, rather than the possibility being countenanced that she is a person who is vulnerable and prone to repeat victimization.

If a complainant withdraws or retracts a rape allegation, the police tend to interpret this as evidence that the allegation was fabricated (Aiken et al., 1999). The possibility must also be acknowledged, however, that the victim was too afraid to proceed, or decided that the likely costs of pursuing the complaint might outweigh the advantages. The latter conclusion could be reached as a result of encountering hostile reactions from the perpetrator, negative responses from family or friends, disbelieving or judgemental police perceptions or from her own fears, doubts and self-blaming processes. Case retractions or withdrawals can therefore signify many different things, but a woman who retracts once may find it difficult to have any subsequent rape allegation seen as credible.

### *Concealment*

When a complainant attempts to conceal factors, such as the extent of her drinking on the night in question, most police will see a liar (Chambers and Millar, 1983). Similarly, if she denies having danced with the suspect, or shared a joint with him, the police are likely to conclude that she is not trustworthy and dismiss her allegation. The woman who is doing the concealing, however, knows that her behaviour may be viewed as having compromised her credibility and is trying to find ways of bolstering it. Paradoxically, her efforts to do so may diminish her credibility more than if she had told the police the truth, no matter how possibly damning, from the outset.

Two additional factors need to be mentioned because they have been identified elsewhere as linked to perceptions of a rape victim's credibility, even though they emerged as less significant in this particular study. First, serious, physical, visible injuries are often taken by the police as proof that a rape occurred and are viewed as a necessary corroborative factor (Kennedy, 1992; Edwards and Heenan, 1994; Harris and Grace, 1999). In fact, many rape victims do not feel able physically to resist an attacker, and may go into a state of immobility (Smart, 1976; Galliano et al., 1993; Burgess and Hazelwood, 1999). Active, physical resistance may be even more difficult for women who know the person attacking them, because they fear hurting this person or find it difficult to accept that this man, whom they thought loved them, is intent on violating them and will not stop (Wiehe and Richards, 1995). For most victims, the most serious injuries they sustain are the invisible ones, imperceptible to police scrutiny. In this study, the police files noted visible injuries in only nine of the cases recorded, with most being bruises or scratches.

The second factor involves assessments made on the basis of a complainant's demeanour. In seven cases, remarks made by police officers indicated that they had clear views as to how a victim of rape would look and act.

Such beliefs, if fixed, have the potential to impact seriously on police judgements of complainants (Freckelton, 1998; Aiken et al., 1999). Victims' reactions may not always seem consistent with how others expect they should be; some women try to deal with rape by being angry, others may withdraw and close down, some will cry and look vulnerable, others may laugh and try to shrug it off. Thus, demeanour alone can be a highly misleading factor in determining a complainant's credibility, and tells us more about the preconceptions of the officers concerned than it does about the complainant's veracity. Given its significance in other research, it is likely that this factor may have been more influential than in the few files that made explicit mention of aspects of demeanour.

Overall, the file analysis is useful in clearly identifying the cues and triggers that appear to influence police officers in their assessments of rape complainants' credibility. The ways in which these factors assume significance become even more apparent when considered in the context of specific cases, examples of which are presented next.

### **Qualitative case analysis**

The aim of the qualitative case analysis was to determine what police 'see' and to understand what informs *their* interpretation of its significance. In reality, of course, this classification relied on my interpretation of police comments recorded on file. Thus the subjectivities of both the police and myself inevitably underlie these categories. Given that one might expect police files to reflect only what officers feel is acceptable to commit themselves to in writing, however, biases in interpretation are more likely to show the police in a positive than a negative light. In other words, comments actually recorded on files may have been 'censored' and reveal simply the tip of an iceberg of police attitudes and judgements.

Examples for each of the major categories identified are presented to illustrate the ways in which factors perceived as denoting credibility affect and influence police decision-making processes.

#### *Genuine cases*

While this sample included few cases assessed by the police as genuine rape complaints, several cases are summarized briefly here as examples of this category.

Case 119 involved a young Caucasian woman who met a good friend of her boyfriend's while she was in a bar. He told her she was welcome to 'crash' the night at his parents' inner city apartment. She said she woke to find him raping her. He denied the offence. The police made it clear that they believed her complaint to be genuine but decided not to charge him. Instead, the detective noted that the offender was:

brought in with his lawyer, and warned of the consequences of any similar

behaviour in the future. He was told that I believed [complainant], however would not arrest him in this instance because of the effect that a jury trial would have on the complainant in these circumstances.

The police said they explained to the complainant and her mother how the situation would look if the case went to court and they were happy to accept the offender being let off with a warning. It is hard to determine what influenced the police to believe the complainant in this particular case, given its similarity to cases other officers dismissed as false, but the fact that the interviewing detective had worked for many years in specialist child sexual abuse teams may have increased his awareness of the complex realities of sexual assault.

In other cases, the level of physical injury sustained appeared to be a factor in convincing the police that the complaint of sexual violation was genuine. Case 26, for example, involved a young prostitute who, while drunk, was raped by a client. The victim showed clearly visible signs of physical attack, and was found curled up and hysterical, in the street, by a passing taxi driver and his passenger. The victim had not wanted the police called and was insistent that 'she just wanted to forget the whole incident and go to bed'. Concern was expressed by the sexual assault counsellor who was called that the complainant had injuries to her wrists from a recent suicide attempt and the 'Psych' team<sup>7</sup> was notified.

The above case involved a victim who was drunk, a prostitute and perceived as mentally unstable. The report of her rape was accepted as valid by the police, however, partly because the obvious physical injuries provided corroborative evidence. The fact that the complainant had not called the police herself may also have bolstered her claim—she was not alleging rape but had, in effect, two recent complaint witnesses (the taxi driver and his passenger) whose testimony supported her account of her attack.

There are insufficient cases in this category from which to draw definite conclusions. Overall, the analysis suggested that cases were often treated by the police as genuine because there was clear evidence of physical injury and/or of previous violence by the alleged offender. These factors, however, should not be interpreted as sufficient and consistent indicators—analysis of incidents deemed by police to be false complaints showed these factors to be present in some of these cases also. Police assessment of a complaint is also affected by who reports it and when, and by the perceived credibility of the complainant compared with the alleged assailant.

### *Possibly true/possibly false cases*

The criteria evident in many of the apparently 'grey' and dubious cases in this category echo the findings of international research identifying factors that diminish the credibility of rape complainants (Adler, 1987; Estrich, 1987; Lees, 1997; Scutt, 1997; Burgess, 1999; Gregory and Lees, 1999; Harris and Grace, 1999; Taslitz, 1999; Kelly, 2002). For example, a delay

in reporting a rape by the victim is often interpreted as questionable; the assumption is that the first thing any genuine victim would do is to contact the police (Torrey, 1991; Bronitt, 1998; Kelly, 2002). While evidentially there may be advantages in early reporting, the belief that this factor indicates genuineness may be misplaced, with many victims taking significantly longer periods of time in making the difficult decision to approach the police.

Case 23, for example, was labelled as an 'historic rape' although the time lapse between the incident's occurrence and its reporting was less than three weeks. A woman student, who had recently broken up with her boyfriend, reported drinking and smoking cannabis with another male friend. She alleged that she became very intoxicated and, while lapsing in and out of consciousness, was raped by this man. Police clearly viewed with some suspicion the fact that she then left the house, told no-one else about the incident for several days and did not inform the police for more than a fortnight. The complainant claims that, when she came to and found him on top of her, she insisted he stop and tried to fight him off. He told a male friend, however, that it was she who had *jumped on him* and had sex with him. When spoken to again by a detective, the file noted that she admitted she had only made the complaint at the insistence of her ex-boyfriend, with whom she wished to be reconciled. The detective also noted: 'She told me she did not believe she had been raped. She was just annoyed that [alleged offender] had not stopped having sex with her when she said no.' Conversely, prompt reporting by a complainant may be interpreted positively by police. In Case 140, for example, while weighing up the credibility of a case, the detective specified that one of the factors in support of her allegation was that the complainant reported within 24 hours of the alleged rape.

Another way in which credibility became problematic arose in situations where the complainant had initially concealed factors associated with the incident, or subsequently changed her/his 'story'. In Case 11, for example, a young woman initially alleged abduction and rape from a suburban party. When challenged concerning aspects of this incident, she admitted the incident had occurred in the context of a prostitute-client relationship. She maintained she had been abducted and raped, but in a different context to that initially alleged. The original story had been quickly concocted to conceal her identity as a sex worker and to protect her manager—understandable concerns on her part—but the fact of concealment damaged her reputation in the eyes of the police more, it seems, than the fact that she worked in the sex industry.

Thus some of the cases in this category became suspicious to the police once it emerged that the complainant had attempted to conceal parts of the story or lie about certain aspects associated with it. In some cases, such concealment arose from efforts by the complainant to minimize the amount she had been drinking or to obscure the fact that she had taken drugs.

The drunkenness of the complainant was noted as a factor in nearly half



of the cases in this category (46%) and has been identified previously as contributing towards police scepticism (Torrey, 1991; Wiehe and Richards, 1995; Kelly, 2002). Drunkenness per se did not appear to be a highly significant determinant of police suspicion, however, and this is evidenced in part by its occurrence in all categories of this file analysis (see Table 1).

One additional factor that appears to be correlated with police closure of an investigation is that of diminished competency in the victim. This may be seen as resulting from intellectual disability or psychiatric illness. Complainants in such cases undoubtedly pose difficulties for the police, ranging from possibly poor or confused recall through to concerns about their competency in the witness box. Of particular concern to police will be apprehension over the vulnerability of such victims to defence lawyers' tactics and intimidation. While not disputing the legitimacy of police concerns, the result may unwittingly be that victims with intellectual or psychiatric disabilities have diminished access to justice.

What is it, then, that makes cases grey as opposed to black and white? Since similar factors seem to underlie both the grey and the black/white categories, what tips the scales one way or the other? The scales of justice analogy may well be useful here, since in practice it does often seem to be a question of balance. Do the factors interpreted as adding plausibility to a complaint outweigh those seen as undermining it? Seldom does one individual factor seem to tip the balance; rather, clusters of variables emerge that, considered together, are interpreted as indicators of a complainant's credibility. Hence while factors such as drunkenness might not be sufficient individually to provoke suspicion, if the victim was drunk, had delayed reporting the incident and had also engaged in previous consensual sex with the accused, such a combination of factors would impact very negatively on police perceptions of her credibility.

Similar clustering of variables was evident in the next category also, which involves cases determined by the police to be not simply of dubious credibility but actually false.

### *Cases that the police said were false*

When assessing cases as false, officers sometimes tried to identify motives underlying the complaint—for example, 'cried rape to avoid a hiding', and 'a woman scorned'. In other cases, the police maintained it likely that sex had occurred but was consensual, and that for some reason the complainant wanted to conceal this fact. A suspicion of falsehood was not enough for a case to be placed in this category; if the police seemed at all equivocal, the case was categorized as possibly true/possibly false. Many of the same factors were evident as those in the previous category, such as delayed reporting, and contributed to police doubts in similar ways to those already identified. So what made the police so sure that the cases in this category were false?

Concealment of particular aspects associated with the incident often produced sceptical police reactions. Women under 20 sometimes lied about having been in a bar,<sup>8</sup> minimized the amount they had drunk or denied cannabis use. The women's motives for doing so are understandable, in that they feared they would be blamed for what happened to them or even prosecuted themselves for law violation. From a police perspective, however, the fact of their lying about what seemed to be a small detail opened a window of doubt over their whole testimony.

Case 151 illustrates this issue. A young woman made a delayed report of rape following a drinking session she and her friends had with a male neighbour in his 50s. While she was in the toilet, he allegedly made remarks considered 'unsavoury' by her friends and they left. She claims he detained and raped her; he alleges sex was consensual. The complainant lost credibility with police when she told her friend to say she had drunk only three beers instead of the large quantity of mixed drinks and spirits that had been consumed. In outlining in his report why the investigation was halted and the incident cleared as no offence disclosed, the detective said:

The offence was reported some two-and-a-half weeks after occurring, and subsequent investigations revealed inconsistencies in the complainant's version of events, and an apparent attempt on her behalf to influence the testimony of one of the witnesses.

There is no medical or forensic evidence, and while it is clear that sex took place, there is only the seemingly unreliable testimony of the complainant, coupled with an equally unreliable recent complaint witness, to support the allegations . . .

I therefore recommend that the complaint be taken no further, and that some action be taken against [complainant] and her flatmate in relation to wasting police time.

In this case, the police uncovered that the alleged offender had question marks over his credibility also, in that he had previous convictions for assault and possessing indecent documents for sale. The complainant's efforts to conceal how much she had drunk, however, caused greater concern. What influenced the police to regard Case 151 as a definite false complaint, rather than a possible false complaint, appeared to derive from the fact that they believed the complainant had deliberately lied to them. The fact of her lying, added to other doubt-generating factors, pushed this case into the realm of non-believability.

Over half of the cases in the 'Police believed complaint to be false' category involved persons perceived as intellectually disabled or psychiatrically disturbed (55%). For instance, Cases 4 and 179 involve two separate rape allegations made by the same woman against her de facto partner, with whom police said on the file she had been 'in a rocky relationship for two years.' During this time she is said to have made repeated complaints against her partner for assault and sexual violation. Police noted on her file:

This woman can only be described as a habitual complainant who suffers from delusions and paranoia . . . On every occasion she has complained about alleged offences committed mainly by her ex-partner . . . The offences have ranged from very minor to very serious. To my knowledge none of these has been proved. [Local police] do not give any credence to her complaints.

Her living conditions resemble that of a rubbish dump. By her own admission she has a psychiatric history.

In more than a third of the cases that the police said were false, officers tended to ascribe motives to women whom they suspected of having made a false complaint. It is virtually impossible to tell from the file evidence available whether or not such scepticism is well founded in reality or simply emanates from a police occupational trait of general suspiciousness (Reiner, 1994). What is significant, however, is the identification of suspicious cues by police. These are sometimes triggered in situations where it seems the complainant stands to gain personally from a rape allegation. In Case 64, for example, the complainant, a Pacific Island woman in her late 20s, reported a stranger rape 10 days after its alleged occurrence. The delay was noted, along with a description of her stating that she ‘suffers from some degree of mental impairment and her complaint of Rape is possibly a false one. . . . [She is] a IM<sup>9</sup> who appears to have made a complaint with the sole purpose of making a claim through ACC.’ Lump sum compensation for rape victims through the Accident Compensation Corporation (ACC) ended five years before this complaint was made, yet the suspicion that this was what motivated some women to allege rape remained.

Rape complainants also appeared to be regarded with considerable suspicion if they were on record for having made previous rape complaints that did not result in prosecution. This was the case in Case 27, involving an intellectually impaired Maori woman in her 20s who made a complaint against a man, also Maori, and in his 20s. She alleged that this male friend of hers had come to visit when her parents were out, kissed her and made her touch him sexually before inserting his hand into her vagina. When spoken to by police, the alleged offender said it was she who had approached him sexually, and he had inserted only one finger. A man working nearby told police he had seen this man visit before, and police noted that he

. . . states that from his observations that there appeared to be no animosity between the two, [she] even coming to the front door to wave [offender] good-bye when he left, hardly the actions of a woman who has just been violated.

An IHC<sup>10</sup> adviser commented that the complainant had a limited understanding about society’s ‘rules’ regarding the appropriateness of public and private behaviour, and she may find it hard to make good decisions concerning what is appropriate to do or to talk about. However, her disability may also make her more vulnerable to sexual assault. The adviser

recommended that this case be investigated in the same manner as all such investigations, although a skilled child interviewer may be useful with such a complainant. It appears from the police file that this advice was not followed.

Some cases perceived by the police as arising from false complaints did in fact appear very likely to be fabrications. What is also important to acknowledge, however, are the reasons and emotional states which can prompt such allegations. Case 112, for instance, illustrates well, and sadly, how previous abuse may sometimes underlie subsequent false allegations. The complainant, a woman in her late 40s, reported that her teenage son had raped her. She was highly intoxicated at the time, and in pain, and the boy had phoned for a doctor. The police were immediately sceptical, stating:

The police are not willing to accept that a seemingly well-adjusted 15-year-old son would rape his drunken mother immediately after having phoned for a doctor to attend his mother's plight of severe abdominal pain. Equally the police do not believe the mother who claims to have been in control of herself, would allow her son to undertake such a task with no resistance.

The file goes on to note that she was given a thorough interview by three detectives, 'the outcome of which has added weight to police assessment that the offence did not occur'.

An interview with her ex-husband revealed that in the past his wife had suffered bad dreams after drinking, during which she would call out, 'No, don't do that'. One detective was also able to establish that:

as a 16-year-old the complainant was allegedly raped at a beach in Christchurch. The police declined to investigate the matter and on being taken home she was subsequently placed in the bath by her father and scrubbed raw.

It has been suggested to [complainant] that she has been reliving this distress for some years and that her consumption of alcohol contributes to these memories coming to the fore. Her reply whilst pensive, was also in agreement. She accepts the police version of events but cannot bring herself to withdraw her complaint.

The police referred her for counselling and the case was resulted as 'no offence disclosed'. In this case, the police involved were open to considering the emotional factors underlying the woman's allegation and responded accordingly.

While false complaints do occur, approximately three-quarters of the incidents concluded by the police to be false appeared to have been judged to some extent at least on the basis of stereotypes regarding the complainant's behaviour, attitude, demeanour or possible motive. Suspicious file comments were made by detectives regarding a woman who laughed while being interviewed, others who were seen as 'attention seeking', and some who were said to be 'crying rape' for revenge or guilt motives. In one case,

for example, a medical examination confirmed extensive injuries consistent with the victim's account, and she appeared traumatized, yet the police felt her 'morality (or lack of it) would come under intense scrutiny should this matter ever come to a trial situation', and were relieved when the complainant decided not to proceed.

In cases such as this, where it was clear that the police were dubious and the complainant then withdrew the complaint, detectives often interpreted this as 'proof' that it was false. Complainant withdrawal, however, may signify many different things. It could signal a false complaint; equally, however, it could denote a withdrawal of the complainant's trust and confidence in the police. What can complicate this in many rape cases are the effects of sexual violation itself. The experience of being raped undermines a sense of self-trust and self-belief (Kelly, 1988). Women often describe themselves as 'feeling all over the place' as they struggle to understand and move on from the attack. The effects of rape are, in fact, likely to produce unconvincing complainants.

The final category involved cases that the complainant, rather than the police, claimed to be false.

### *Cases that the complainant said were false*

Of reports of rape that the complainant later retracted, it is significant that in over half of the cases ( $N = 8$ ; 62%), it was not the complainant's decision to contact the police. Someone else decided to call the police or, in two cases, pressured the complainant to do so.

When one young woman, for instance (Case 78), came home late from a date with 'hickies' (or 'love bites') on her neck, her mother asked her repeatedly if she had been raped. The daughter kept saying no, but her mother said she did not believe her. Finally, the daughter decided to go along with the rape allegation, since her mother seemed so convinced, and the police were called. After questioning, she later admitted that sex had been consensual. Background details recorded on the file note that this teenager's sister was, at 15, already a solo mother, and that there was a real fear of being physically beaten by her father—factors which could help to explain both the mother's insistence on the incident being rape and the daughter's decision to accept this explanation of events.

Some of the cases involved situations where the person reporting the incident presumed a rape to have happened when it had not. Case 65, for instance, was recorded on the police files as 'Two false complaints of rape by above subjects' and involved two Pacific Island teenage sisters who returned home late from a church dance. Their mother found out that they had spent time with two young men, and decided to take them to the doctor for the morning after pill. When the doctor discovered that the younger sister was a few days short of 16, he phoned the police. Never at any stage did either of the young women say that sex was anything other than consensual, and nor did their mother think this was the case—she was

focusing on damage control given the lack of contraceptives used at the time. However, the police records categorized this incident as a false report of rape, which was cleared as no offence disclosed.

Overall, analysis of this category indicates a complexity of reasons often underlying reports of rape which the complainant later states to be false. Over half of the cases studied here involved situations where the alleged victim had been pressured to tell the police about an incident, sometimes in circumstances where a third party presumed a sexual violation had occurred when in fact none had. Teenage girls, scared of the wrath and possible physical chastisement of their parents, may go along with such assumptions initially, only to find themselves trapped in a lie. Alternatively, the confusion and ambiguity surrounding sexual negotiation and forceful seduction may mean that, in some situations, the complainant feels as if she has been victimized and is genuinely unsure as to whether she was raped.

From the cases involved in this sample, there were no cases of malicious or vengeful accusation. A few tried to conceal their sexual conduct from others by making a rape allegation, or allowing one to be inferred, but the principal motive in these cases was clearly one of self-protection. There was also minor evidence suggesting that emotionally distressed or disturbed women may, at rare times, create a fictionalized account of rape to try and attract sympathy or assistance. Most of the cases studied here, however, turned out not to be completely fictitious acts but were more likely to arise from wrongful interpretations by third parties, which were mostly speedily resolved by police investigative efforts.

### *Summary of case analysis*

How an individual detective responds to a rape complainant, then, is complex. The variation between police officers is matched by the variation of complainants, their personal characteristics and the nature and context of what they are reporting. It is difficult in practice to assess each situation on its own merits, and the police rely heavily on stereotypes to assist in the general exercise of discretion (Reiner, 1994; White and Perrone, 1997). In relation to sexual assault offences, this is evident in appraisals of victims' characteristics and culpability, and in the assessments made by officers regarding complainants' credibility (Estrich, 1987; Allison and Wrightsman, 1993; Lees, 1997; Burgess, 1999; Gregory and Lees, 1999). As the police file analysis showed, this process itself involves subjective evaluations and interpretations, which may vary enormously depending on the particular officers involved and their relationship with a particular complainant.

The study of police files reported here shows a dominant mindset of suspicion underlying police responses to reports of sexual assault. This analysis revealed a wide range of factors that influence police perceptions of complainants' credibility, particularly when clusters of variables are apparent. Thus, whereas drunkenness on its own may not diminish victims'

credibility, drunkenness in connection with other factors, such as previous consensual sex with the offender or the concealment of cannabis smoking, may tip the scales of credibility. The scales of justice apparently sit waiting, into which are placed factors that will either enhance or diminish a victim's credibility. The factors are weighted differently, and while a factor counting against the complainant may tip the balance seriously one way, factors in her favour may correct the balance again. Thus the negative attributions associated with being a sex worker or an alcoholic may be compensated for by factors such as prompt reporting, co-operation with the police and visible signs of injury or resistance (LaFree, 1980; Gregory and Lees, 1999).

The police do, in fact, have to tread a fine line between the victim and the accused as they attempt to preserve the balance of justice and guard against the possibilities of wrongful conviction. However, an over-zealous commitment to the rights of the accused may unwittingly tip the balance the other way. The police may become in effect the adjudicators, applying their own judgements and interpretations to individual cases. Within this context, factors identified as determinants of complainants' credibility assume enhanced significance and can result in the premature closure of investigations. Whether or not an offence actually occurred is different from whether or not it *can be proven* to have occurred; for victims of rape, the first concern is understandably the more pressing, but because of their role in the prosecution process,<sup>11</sup> it is the latter which is of primary importance to the police.

Overall, the analysis presented here demonstrates that the historically pervasive attitude of mistrust in women's testimony continues to be evident in police processing of rape complaints. This study provides clear examples of situations where the complainant obviously knew her word would be suspect, and was aware that there were aspects of her background or behaviour that would lessen her credibility in the eyes of the police. Should she attempt to conceal such aspects from police knowledge, however, and have her efforts detected, then ironically her very attempts to bolster her credibility will result in it being irrevocably reduced. In this respect, victims of rape are caught in a double-bind situation, whereby they know they will not be regarded as credible if they are perceived as 'immoral', yet will be viewed as even less credible if they are detected trying to conceal their 'immorality'.

From the police's perspective, their investigations of rape complaints occur in an organizational context characterized by excessive adherence to masculinist values, and shaped by historical and cultural beliefs regarding the crime of rape (Brownmiller, 1975; Jefferson, 1997; Lees, 1997). A tendency to view rape complainants through narrow and sometimes judgemental lenses may at times make officers blind to the range of possible interpretations of a rape complainant's behaviour, and result in distorted and even fallacious thinking. The possibility of such an outcome is described well in Goleman's passage outlining a particular psychological,

attentional type, termed 'The Detective' because of obvious similarities with a Sherlock Holmes-style approach (Goleman, 1985). Goleman warns of a

distinctive distortion in The Detective's perception. He looks so keenly that he does not quite see; he hears so astutely that he fails to listen . . . The Detective is apt to search so intently that he loses sight of the context that gives meaning to what he sees. That, of course, fits well with his basic stance toward it anyhow: its seeming context is the merely apparent, which is for him a false reality. He grasps at a small detail that fits his schema, while ignoring its actual context. The net effect is that he loses a sense of the fact's real significance, replacing it with a special interpretation.

While built upon factual details, such a subjective world can be totally askew in the meaning given those details.

(Goleman, 1985: 138)

Research on factors affecting police officers' perceptions exemplifies this well. Mulder and Winkel (1996) conducted studies in which the participants were shown reconstructions of an interview with a rape victim, with the sound removed. The results showed that the same scenario was interpreted completely differently based on the dominant perspective adopted by those viewing it. Those operating with a victim-focused approach tried to appreciate the effects of trauma on how the victim might appear, and interpreted, for example, the complainant's nervousness as indicative of trauma. Conversely, those who viewed the scenario from a 'police' or truth-focused perspective thought the victim appeared deceptive and concealing. The authors concluded that the study clearly revealed the need to train police officers more fully in interpreting non-verbal behaviour in victims of crime and in appreciating the destructive potential for police attitudes to cause secondary victimization in rape complainants (Mulder and Winkel, 1996: 318).

While grave concerns have been expressed internationally about police officers' responses to rape complainants (Allison and Wrightsman, 1993; Gilmore and Pittman, 1993; Gregory and Lees, 1999; Temkin, 1999; Kelly, 2002), these may in fact contribute to officers feeling trapped in a double-bind of their own. Trained to be wary and suspicious generally, and mistrusting of rape complainants specifically, many police officers now find their attitudes being challenged, both externally and internally. Within New Zealand, for example, senior police managers introduced a policy initially in 1998 aimed at achieving greater consistency in rape and sexual assault investigation processes. Many detectives expressed reservations regarding aspects of this policy, such that five years after its supposed introduction it has still not been formally signed off by the Commissioner of Police, and the likelihood of a rape victim receiving a sensitive and positive police response continues to be more akin to a lottery rather than a guaranteed outcome.



## Conclusion

The issue of belief is central to sexual assault investigations, given the typical absence of extensive corroborative evidence. Women victims ask for their accounts of rape to be believed, and police organizations ask communities to believe that their responses to rape complaints have improved. Both situations require investigative analysis before conclusions can be drawn. After conducting police file analysis, this article concludes that issues of belief and credibility will remain vexed and contentious so long as investigative officers approach rape complainants with a prevailing mindset of suspicion and disbelief.

Police suspiciousness regarding rape allegations originates within a social environment characterized by a history of distrust towards women, and is exacerbated within the masculine ethos of police organizations. In terms of Janet Chan's emphasis on the importance of the 'field' of policing (Chan, 1996), achieving significant reform in this area is unlikely while the broader social and political terrain affecting policing continues to be dominated by traditional thinking and sex-stereotypical assumptions. Moreover, the crime-fighting and offender-oriented focus of policing has not served victims of crime well, with officers typically displaying minimal or even flawed understanding of how and why rapes occur, or of the effects of rape on victims. If the police, for example, had a fuller and better-informed understanding of the trauma induced by rape, they would recognize that victims routinely engage in minimizing behaviour; and if the police knew the extent to which victims feared being blamed for what happened, they would not be surprised when complainants said or did things to try to bolster their credibility in the police's eyes.

Recognition of the factors affecting police perceptions of women's credibility, and their continuing, although possibly lessening, reliance on stereotypes of 'real rape', demands a reappraisal of law reform initiatives. The focus of these has been on changing attitudes and practices within the courtroom, sought in large part through reforms of the law of evidence. Hence many jurisdictions, including New Zealand, have, for example, placed limits on the ability of defence lawyers to present evidence of a rape victim's previous sexual history (Henning and Bronitt, 1998) and sought changes to the law of recent complaint (Thomas, 1994; Bronitt, 1998). What the research presented in this article reminds us, however, is that the greatest attrition in rape cases occurs before rape cases ever reach court. From this perspective, low prosecution rates become more salient than low conviction rates. Accordingly, law reformers and those seeking improvements to rape trial processes need to be cognizant of the limited potential such initiatives have to effect change given the critical role of the police as a filtering mechanism. Meanwhile, many women will refrain from reporting rape while some victims' experiences continue to be erroneously viewed and dismissed as 'beyond belief'.

## Notes

- 1 This article summarizes research conducted for my PhD, 'True "Lies" and False "Truths": Women, Rape and the Police', Victoria University of Wellington, 2001. I am grateful to the New Zealand Police for their cooperation in facilitating this research, and to constructive feedback provided by Victoria University colleagues, by two anonymous reviewers of this article and by co-editor David Dixon.
- 2 The existence and seriousness of both child rape and male rape are acknowledged; however, this research intentionally focused on adult women's experiences and sought to relate these to prevalent perceptions of women.
- 3 New Zealand has a national, centralized police agency, with headquarters based in Wellington.
- 4 Under New Zealand law, the term sexual violation covers the offence categories of both rape and unlawful sexual connection, with the latter category applied to incidents involving non-penile violation such as forced oral sex, rape with an object, etc.
- 5 Cases were filed as involving intellectual impairment when the police described the complainant as being intellectually handicapped, 'simple' or having a mental age well below their chronological years.
- 6 The category of psychiatric disturbance was applied to cases described as involving current or former mental or psychiatric patients, persons with personality disorders or those with histories of depression or self-mutilation (or anybody else categorized in police shorthand as a '1M').
- 7 Hospital-based psychiatric teams are notified of victims who may require mental health assessment and treatment.
- 8 In 1997 the minimum age for admission to licensed premises was 20 years of age—this was reduced to 18 in 1999.
- 9 Police code for a person with some form of psychiatric disturbance.
- 10 Intellectually Handicapped Children's Society.
- 11 New Zealand does not have a separate, independent prosecutions service.

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