

Reported Rapes in Victoria: Police Responses to Victims with a Psychiatric Disability or Mental Health Issue

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Abstract

There have been significant changes in Victoria over the past two decades to the procedures and practices guiding the police response to sexual assault. However, adequate responses to rape are still hindered by the gate-keeping role played by police, particularly in adopting attitudes and responses to victims that discourage many from proceeding. This article draws on the findings of a study of 850 police records of rape investigations over the period 2000 to 2003, which found that only 15% of the rape reports examined resulted in offenders being charged. Cases involving victims with a psychiatric disability or mental health issue were those least likely to result in charges being laid against the offender and twice as likely to be determined as false. While acknowledging that some first steps are underway in relation to improving responses to this group, there remains considerable further work to be done.

Introduction

Over the last 20 years there have been a number of important initiatives that have attempted to improve the responsiveness of the Victorian criminal justice system to victims of sexual assault. Some of these initiatives have focused on reforming the laws and procedures that have unfairly compounded the difficulties victims face when giving evidence in court, while others have focused on improving the responsiveness of police and aimed to build greater confidence among victims to come forward (Brereton 1994; Heenan and McKelvie 1997; Heenan and Ross 1995; Law Reform Commission of Victoria 1987, 1988, 1991a, 1991b; Victorian Law Reform Commission (VLRC) 2001). However, despite these initiatives, there are still low levels of reporting and high levels of attrition (Australian Bureau of Statistics (ABS) 2004; Cook, David and Grant 2001; Lievore 2003; Neame and Heenan 2003).

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Clearly, police have a critical role in responding to the needs of those who have experienced sexual assaults and in ensuring that victims feel able to continue with the legal process. While the decision not to proceed further with an investigation can rest with either the police or the victim, victims' decisions are often affected by the nature of police involvement, suggesting that the way police respond to sexual assault is likely to be highly determinant of case outcomes (Lievore 2003; VLRC 2003).

In Victoria, the introduction in 1992 of the Police *Code of Practice for Sexual Assault Cases* (Victoria Police 1991; hereafter 'the Code') was critical to changing the culture of policing insofar as sexual offences were concerned. Of particular significance was the emphasis given in the Code to police being part of a coordinated response to victims of sexual assault, which included working alongside the Victorian Centres Against Sexual Assault and forensic medical officers. The importance of victims receiving a dedicated response to their medical and support needs was, therefore, legitimised, alongside the needs of police investigations. An evaluation report in 1995 concluded that, overall, 'the Code is an important mechanism for the effective management of sexual assault cases' and recommended that it be 'retained and strengthened' (Heenan and Ross 1995:91).

More recently, the VLRC's three-year reference into sexual offence laws and procedures investigated whether legislative, administrative or procedural changes were necessary to ensure that the criminal justice system takes sufficient account of the needs of complainants in sexual assault cases (VLRC 2001, 2003, 2004). The VLRC (2003) analysed trends in reporting for both rape and non-rape offences over the period 1994 to 2002, including characteristics of victims who reported rape, based on data obtained from Victoria Police. The VLRC also ran focus groups with police members from Sexual Offences and Child Abuse Units (SOCAU) and Criminal Investigation Units (CIU) to examine their perceptions and experiences of responding to reports of sexual assault, their beliefs about levels of false reporting, and their views about why some victims later withdraw from the process.

This last issue was given particular attention after the VLRC's own review of reported rapes revealed increased numbers of sexual assault cases being withdrawn by victims after making a police report. The percentage of reported rapes that resulted in a complaint being withdrawn rose significantly between 1994–95 and 2001–02: from 14% of reported cases to 24.8% (VLRC 2003). They continued to rise in 2002–03, with 31.5% of rape offences cleared as 'complaint withdrawn' (Victoria Police 2003). These findings gave rise to the VLRC recommendation in their *Final Report* that research be undertaken to identify why complaints are increasingly being withdrawn and the factors that might be influencing police decisions to take no further action following the initial report (VLRC 2004:113). It was this finding that provided the impetus for the study from which this article is drawn (Heenan and Murray 2006a; Heenan and Murray 2006b).¹

During the period of the VLRC's reference, Victoria Police (2002) released the report: *A Way Forward: Violence Against Women Strategy: A Summary of the Review into all Matters Related to Violence Against Women*. It symbolised a renewed energy and vigour that would be brought to the issues by Victoria Police, led by the then recently appointed Chief Commissioner, Christine Nixon, who publicly confirmed that violence against women was to be one of her priorities. A third edition of the Code was launched by Victoria Police

¹ The study was undertaken by the authors for the Office of Women's Policy in the Victorian Government. The views expressed in this article are those of the authors and not those of the Victorian Government.

(2005), with updates noting an expectation for police to demonstrate greater competency levels in responding appropriately to: victims from Indigenous communities and non-English speaking backgrounds; victims with a cognitive impairment or mental health issue; and child victims. Throughout, the themes of the Code are to place the care of the victim as the first priority, to allow the victim as much control over the process as possible, and to be mindful of harmful stereotypes that could be interpreted as signs of police disbelief. Significantly, the Code warns investigators never to presume an allegation of rape is false. There are also step-by-step instructions guiding police through the procedures they must follow should the victim prefer there to be no further police action, or wish to withdraw the complaint (Victoria Police 2005). The emphasis is on establishing practices that allow for greater police accountability and transparency around cases that do not proceed, and to reduce the scope through which 'victim's wishes' may in fact reflect police members' views of the veracity of complaints.

As noted, the present authors undertook research to identify why complaints were increasingly being withdrawn and the kinds of factors that might be influencing police decisions to take no further action following the initial report. The study reported here examined 850 cases of police investigations of rape offences during 2000 to 2003 in Victoria. This article discusses police responses to victims with a psychiatric disability or mental health issue and considers some of the policy and practice implications. First, it reviews the relevant literature and discusses the research methodology, including some limitations of the study. After briefly providing an overview of the characteristics of the sample of cases and their outcomes, the article then turns to an examination of the 130 cases where the victims were identified with a psychiatric disability or mental health issue. The analysis highlights concerns about the impact of police disbelief on the progress of rape investigations for this group of victims.

Before proceeding further, a note on terminology is warranted. First, in Victoria, rape is defined legally as intentional sexual penetration of another person without their consent (*Crimes Act* 1958 (Vic) ss 37B, 38(2)). The focus of this study was exclusively on rape offences, including reports of attempted rape and assault with intent to rape. As a result there was an emphasis on adult victims. While reports of penetrative sexual offences against children might include rape offences, the law allows for a broader range of offence categories to be applied when the victim is under 16 years of age or where the offender is alleged to be a parent or an immediate family member, and these categories tend to be used, rather than rape offences (VLRC 2003).

Second, use of the terms 'psychiatric disability' and 'mental health issue' to describe characteristics of a sample of rape victims is determined by the Victoria Police data drawn on by this research. However, there are significant data quality issues, as this article will discuss further shortly.

Literature review

Internationally, our knowledge about the real extent to which women, children, and men are subjected to rape and sexual assault remains tempered. We do know, however, that sexual assaults that are reported to police represent only a fraction of those that occur. In Australia, crime victimisation and other surveys have helped to build a more realistic picture of the incidence and prevalence of sexual violence (ABS 1996, 2006; Mouzos and Makkai 2004).

Victims unanimously describe the disincentives to reporting as primarily fear-based: they fear being disbelieved or blamed; they fear the impact on their families and communities; they fear possible retribution by the offender; and they fear getting lost in a process that will only hinder their emotional recovery. While many of these barriers are likely to work in combination to prevent victims coming forward, fears surrounding the nature of the police response, and a lack of faith in what participating in the criminal justice system will achieve, remain staple themes (Kelly 2001; Jordan 2001, 2004; Temkin 1997, 1999; Lievore 2003, 2005).

Little research has been undertaken into the particular circumstances of victims from diverse groups — including people from Indigenous and culturally diverse communities, people with disabilities and people from rural and regional areas — and the issues they face in terms of reporting sexual assault to police. With as little as one third of sexual assaults being reported in the general population, it is broadly accepted that reporting rates among these groups are likely to be considerably lower (Lievore 2003; Neame and Heenan 2003). The reluctance to report for fear of inappropriate responses from police, often described by victims as a reason for not reporting rape, is more profoundly felt by women from diverse groups (Department for Women (NSW) 1996; Thorpe, Solomon and Dimopoulos 2004; VLRC 2003).

People with disabilities are at a far greater risk of all forms of violence than the general population, due to, for example, their increased vulnerability in institutional settings and the subsequent risk of abuse from caregivers (Chenoweth 1997; Goodfellow and Camilleri 2003; Healey 2008). People who have a cognitive impairment are particularly vulnerable to sexual assault while, at the same time, being overrepresented in terms of cases that are filtered out (Lea, Lanvers and Shaw 2003; Jordan 2004; VLRC 2004). For people with disabilities, the ill-informed but common view that they are inherently unreliable or incapable of being able to recount the details of the assault in a manner that will support a successful prosecution, is also likely to influence the outcome of police investigations (Phillips 1996; VLRC 2004).

As noted, the Code, introduced in 1992 by Victoria Police, attempted to address procedural and practice issues identified by the then Law Reform Commission of Victoria (1991a). Procedural reform has also been undertaken in other Australian states with greater emphasis on interagency coordination and police attention to the emotional needs of victims (Sloan 1998; Stewart 1999a, 1999b). However, the investigation of sexual offences is located within the wider system of criminal justice, while also being informed by the dominant social values of the day (Kaspiew 1995). These wider circumstances have implications for the way that police conceptualise sexual assault, their views on the credibility of victims and their understandings of what constitutes rape versus consensual sex (Department for Women (NSW) 1996).

Attitudes informed by traditional or preconceived assumptions about the typical rape victim have been found to impact on the investigation of sexual offences. As noted by Gilmore and Pittman (1993:11), 'while further traumatising victims, these stereotypical notions may also lead police to screen out, prematurely and inappropriately, numerous cases, especially those in which consent is a major issue'. It is these kinds of belief systems that have kept rape myths — such as 'women ask to be raped' by the way they dress or behave, or that women say 'no' when they really mean 'yes' — very much alive (Jordan 2004; Kelly, Lovett and Regan 2005).

The extent to which police express belief or disbelief towards victims of sexual assault is a key issue and one that has significant implications for the withdrawal of complaints and decisions to take no further action (Jordan 2001, 2004; Temkin 1999, 2002). Whereas some believe that withdrawn complaints are likely to be false reports, others argue that it is this environment of disbelief that encourages women to withdraw complaints. The issue of complainant withdrawal is particularly vexing, as it is sometimes assumed that women who withdraw sexual assault charges are malicious, lying or wasting police time and resources. While some complainants withdraw charges as a result of intimidation by, reconciliation with, or dependency on, the offender; others do so after police tacitly or overtly prompt the victim to withdraw the complaint. Victims see no point in pursuing the matter following intimations by police that the allegations are false or that the victims were somehow responsible for the assaults. This may be the case particularly when there is a prior relationship between the assailant and the victim, as many women may question their role in the attack (Lievore 2003).

Heenan and Ross (1995), in reviewing the Code, surveyed 246 Victoria Police members by questionnaire and found that over a fifth (21%) of uniformed members, a third (33%) of CPS members and nearly a half (44%) of Criminal Investigation Branch (CIB) members disbelieved victims. Inconsistencies in victims' accounts and lack of corroborating evidence were cited as the most common reasons underpinning police disbelief. The credibility of victims was also diminished if there was a history of mental health or psychiatric issues or they were 'known' to the police (that is, they had prior records, outstanding warrants etc). In more recent Victorian research based on focus group discussions with 63 Victoria Police officers and undertaken by the VLRC (2004), CIU and SOCAU members suggested that victims withdrew complaints because of: fear; lack of confidence in the criminal justice system; feelings of guilt and responsibility; lack of intention of taking the case further; and pressure from the family members (if the abuse was intra-familial). However, some CIU officers were confident that some withdrawn complaints were likely to be false reports, a view shared by fewer SOCAU members. Among the CIU members it was thought that about half of all withdrawn complaints were false reports. Indeed, there was a view that it was possible to 'just tell' when a report is false (VLRC 2004:111).

Disbelief in women's experiences of sexual violence is, however, not unique to Victoria. In a United States survey, Dellinger Page (2008:55) found that, while the occurrence of false reports is similar to that of any other crime, police officers in the study believed that 'at a minimum, more than three times the percentage of reports [of sexual assault] are false'. In New Zealand, Jordan (2004:135) has also found that among some police there was 'a dominant mindset of suspicion underlying police responses to reports of sexual assault'. A wide range of factors influenced police perceptions of credibility, including: drunkenness; previous consensual sex with the offender; intellectual impairment; having a history of psychiatric disturbance or being a sex worker; and delays in reporting.

In the United Kingdom, researchers found that an inverse relationship exists between the degree of familiarity between the suspect and the complainant, and the likelihood of police-initiated, as opposed to complainant-initiated, withdrawal (Lees and Gregory 1993:12). Hence, 'criminalisation is most likely to occur in cases of stranger rape' (Gregory and Lees 1999:102). In another study, all rapes and attempted rapes investigated by a constabulary in England's south-west were examined over a five-year period (1996–2000), comprising 471 cases. At least 33% were 'no further actioned' (NFA), and 11% were 'no-crimes' (equivalent to 'no offence detected' in the Victorian context). A change in the

pattern of attrition also emerged: a decrease in no-criming was offset by an increase in NFA (due to lack of evidence), especially when the victim and the perpetrator were known to each other. Where no-criming occurred, allegations of false reports were apparent and the authors concluded that stereotypes continued to dominate police attitudes (Lea, Lanvers and Shaw 2003:379, 595).

The research that informs this article is an examination of police files in relation to reported rapes, and is, therefore, data that is derived solely from police perspectives. However, a range of previous research has considered victims' perceptions of the police response, or compared analyses of victim's experiences with those of police and other service providers (eg, Gilmore and Pittman 1993; Gregory and Lees 1999; Jordan 2001, 2004; Kelly, Lovett and Regan 2005; Lievore 2005; Temkin 1997, 1999).

Methodology

The random sample of 850 records was selected from the Victoria Police Law Enforcement Assistance Program (LEAP) database. This sample of records was drawn from a total of 2902 rape offences reported between 1 July 2000 and 30 June 2003, representing approximately 30% of the total number of reported rapes that were brought to the attention of police during that period. The sample was then weighted to ensure that each of Victoria's 23 police divisions, and the case outcomes of reported rapes, was adequately represented across metropolitan and regional Victoria.

The time period of the records that were analysed (2000–03) was selected as it was recent at the time that the study commenced in 2005 and was also likely to include finalised cases. Some time has elapsed since the completion of the study in 2006, largely due to the time taken to receive approval to publish the findings. Despite this delay, the findings are still highly relevant and important. In the forthcoming discussion of the findings, it is acknowledged that some further work has been undertaken by Victoria Police in this area since the study was conducted. However, this research is a reminder that much more could be done.

In the context of rape offences, at the time this study was undertaken, LEAP provided the capacity for police members to record information about the victim, the alleged offender and the nature of the offence. LEAP is the general case management and crime recording system that allows police to record and manage the investigation of all crimes including rapes and is accessible to all members. There is also provision for police members to write a commentary, in the section known as 'case narrative', on what action is taken after a report is made, and the nature, scope and outcome of any subsequent investigation. These narratives may be compiled by members of general duties divisions, members of SOCAUs, and members of CIUs, or all three in relation to a single case. Soon after coding commenced, however, it became clear that members' approaches to using LEAP as a means of record-keeping were not consistent. In addition, SOCAU members had access to another component of the LEAP database known as SOCAU casebooks. This is a case management system that is used exclusively by SOCAU members to ensure confidentiality and privacy for victims of highly sensitive crimes, especially those involving children. A sample of casebooks was tested to see whether this would generate further research data. However, any additional information provided through the casebooks was in fact minimal and a

decision was made not to continue with this method of supplementing the information contained within LEAP.

Moreover, some members were less inclined to use the general LEAP case management system as a method for systematically recording what took place in response to a report, or as a means of documenting the manner in which any subsequent investigation may have proceeded. This applied particularly to members of CIUs, where it was common for their LEAP files to contain minimal case notes beyond completing the requisite standard demographic information. As a consequence, the research is limited by the extent to which the information contained in the database can provide a reliable and comprehensive overview of police responses to reported rapes.

A second limitation on gathering the data was the result of conditions being placed on the degree of access the researchers were given to the LEAP records. Privacy concerns, that were later resolved, meant that access was given to the printed versions of the case records only and identifying information relating to victims, offenders, witnesses, police members, and doctors was required to be excised for approximately 60% of cases. Once privacy concerns were resolved, access to the identifying information for the remainder of the cases was possible. Regardless of whether identifying information was excised or not, in 60% of cases a reasonable level of information sought for the project was able to be collected. However, this research was, nonetheless, burdened with having an incomplete data set for approximately 341 cases examined for the sample.

Overview of cases and case outcomes

Of the total sample of 850 cases, victims were overwhelmingly female (92.5%). Nearly half of the victims were aged between 15 and 24 years at the time of the offence, with 13.3% of the total sample aged under 15 years at the time of the offence. The median age for both male and female victims was 21 years. To the extent that this data was available, the study revealed that 16 victims (1.9% of total sample) were Aboriginal or Torres Strait Islander and 52 (6.1%) were not born in Australia. Over a quarter of victims (221) were identified as having a disability and, of this group, 130 (15.6%) had a psychiatric disability or mental health issue and 49 (5.9%) were identified as having an intellectual disability. Offenders were overwhelmingly male (99.4%) and their median age was 33 years. Over a third of offenders were 'known' to police for prior allegations of sex offences made against them.

Of the 812 reports where the case outcome could be established, police laid charges in only 15% of cases, suggesting that less than one in six victims were involved in cases that were likely to have proceeded to a prosecution stage. The 38 'missing cases' almost all represent instances where there was no clear indication about what had happened following the initial report. There was also one case where the offender had committed suicide. These have been excluded from the analysis on case outcome.

Most of the cases resulted in 'no further police action' ('NFPA') (46.4%). Indeed, if this figure is combined with the numbers of complaints being withdrawn, a total of 61.5% of cases did not proceed past the report or investigation stage. It is suggested that this figure is, in fact, likely to be as many as 80.8% if it includes 'cases that are still ongoing', given no charges had been laid between the report stage and the commencement of this study —

a figure similar to the percentage of cases (79.6%) found by Kelly and her colleagues (2005:40) to have not proceeded.

In 17 (2.1%) of cases, the case outcome was clearly categorised as a false report, and the alleged victim had either been charged or had been told that she (there were no male victims among these 17 cases) would be charged unless they desisted with the complaint. There was a much larger proportion of cases where police were confident or reasonably confident that the allegations were false, but there was no attempt to institute charges against the alleged victim.

Police responses to victims with a psychiatric disability or mental health issue

Before proceeding to discuss cases involving victims who were identified as having a psychiatric disability or mental health issue in more detail, concerns about data quality should be noted. Some caution must be exercised in interpreting this data given that LEAP only provides discretionary fields for members to record any 'impairment' that is evident for the victim, and typically this field was not recorded. Indeed, the identification of a victim as having a psychiatric disability or mental health issue was largely based on the details recorded in the case narrative, for example, references to victims having a specific mental illness such as 'bipolar' or 'a personality disorder' or using more general references to victims being 'clinically depressed' or suffering from depression or anxiety. Some police may have based their assessments on reliable grounds, such as through direct discussions with victims, or through liaising with relevant caseworkers. In the absence of standard procedures that require police to ask direct questions of victims in relation to the presence of, and/or nature of, any disabilities, it is likely that some police based their assessments solely on their own impressions of having contact with the parties involved. Hence, it is important to note that the terms 'psychiatric disability' and 'mental health issue' are used in the data (and, hence, by us) with some imprecision.

A further caveat is that police are part of a much wider service system that struggles to assist people with mental health issues. For example, access to mental health care is 'uneven' and the system 'over-burdened', resulting in some receiving less than adequate support (Department of Human Services (DHS) (Vic) 2008:18, 21). Hence, it is not suggested that only police need to change their responses to people with psychiatric disabilities and mental health issues, but rather that improvements are needed across many areas.

As noted, there were 130 victims (15.6%) who were identified as having a psychiatric disability or mental health issue. There were no significant differences in the age or gender of these victims compared with the overall sample. Nor did they differ in terms of when the reports were made to police, with just under half of the cases being reported within 24 hours following the assault, and a further quarter of the cases being reported within the week. However, victims with a psychiatric disability or mental health issue were recorded as having been under the influence of alcohol and/or illicit drugs at the time of the assault more frequently than other victims. There were also more cases involving two or more offenders and strangers.

The most significant difference in cases involving victims with a psychiatric disability or mental health issue compared to the overall sample appears to be found among police members' views of the allegations. CIU members expressed some degree of disbelief in over 40% of cases and were confident that the allegations were false in 15.4% of cases. This is in contrast to the levels of disbelief expressed by CIU members in relation to the wider

sample, where there were doubts expressed in 20.6% of cases, with members being confident that the allegations were false in only 9% of cases. There were fewer who expressed belief in the truth of the allegations (20.8%, compared to 36.4% for the overall sample), including 8.3% (23.5% overall) who were sure the victim had been raped.

Although not as marked as CIU members, SOCAU members also indicated more negative views about the veracity of reports of rape by victims with a psychiatric disability or mental health issue when compared to the views they expressed about the overall sample. In 30.6% of cases, SOCAU members held suspicions about the allegations, as compared with only 9.9% of cases overall. Members were also more inclined to state confidently that the allegations were false (9.7% of cases compared to 3.7% for the overall sample) and, conversely, more reluctant to express unreserved belief in allegations made by victims with a psychiatric disability or mental health issue (8% compared to 17.8% of cases overall).

As a result, cases involving victims with a psychiatric disability or mental health issue were the least likely to result in charges being laid against the offender, with just 4% charged compared to 15% of cases overall. Cases were also twice as likely to be determined as false (2.1% versus 4.8% of cases). Cases resulting in NFPA were more common among victims who had a psychiatric disability or mental health issue (56% compared to 46.4% overall), and the numbers of cases resulting in complaints withdrawn (18.5%) or that were classified as still 'ongoing' (18.5%) were both comparable to outcomes for cases overall.

The results show that the demographics of the victims and offenders do not differ much from the overall sample, nor does the nature of the offence, time of reporting and so on. In fact, many of the factors that are generally associated with increasing the likelihood of the case proceeding — including offenders who were strangers and multiple offenders — are more likely to occur in this group of victims. Other factors relating to reduced ability to consent, including that the victim was drug or alcohol affected at the time of the assault(s), are also themes among these cases.

Despite these factors, this group were least likely to be involved in cases that proceeded and had the highest level of negative outcomes. While victims rarely withdrew their complaints on their own account, their allegations were more likely to end in NFPA or to be determined as false. However, in presenting this analysis, judgements are not being made about whether charges should have been laid in any particular case, but comment is being made on the pattern of outcomes, a finding that is perhaps more evident through the closer examination of the case narratives. Here, the reporting process and the ways in which certain case characteristics appear to impact on the case not progressing are revealed. This analysis suggests that police attitudes play a role in determining case outcome.

In the following example, disbelief in the rape allegations is evident in the comments of both CIU and SOCAU members. The complaint was withdrawn and no further police action was taken. A teenage female victim who had been diagnosed with a personality disorder was frequently in and out of psychiatric hospitals. She was known to the police due to previous suicide attempts and for making 'false' rape allegations in the past. In this instance, police apprehended the victim during a suicide attempt. She disclosed to the police that she has been raped by her uncle, but did not provide any further details to the police and they took her to a psychiatric hospital. There is no SOCAU involvement in this particular case; rather the case was exclusively handled by CIU. No statement was taken; no formal complaint was made. The case record contained the following text:

suicide/self injury, vexatious litigant, medical condition, custody risk ... she is suffering from a personality disorder and may attempt to make allegations of sexual assault by family members. None of the allegations appear to have any substantiation. She ... is said to have a good family ... will continue to make allegations to police in the future in an attempt to seek attention.

The victim had had previous involvement with SOCAU members who had recorded:

... expressed to [her] the importance of telling the truth in a situation like this. Spoke with her about her prior reports to police ... when spoken to on a previous occasion by CIU she stated that she had made up the allegations. Spoke to subject re previous history, subject started to cry. Also spoke to subject about previous psych history involvement and if she needed to speak to someone from psych services. Subject requested to leave.

There were also several case examples of police actively discouraging victims from proceeding. For example, another woman alleged that she had been 'gang raped' the previous night by males with whom she resided. From the point of initial contact, members described her as 'hysterical', 'irrational' and 'delusional'. After confining her to the police van for some time to 'calm her', the police escorted her to a psychiatric hospital. She was assessed as fit to consent to a forensic examination. The police officer reported that 'subject was aggressive and violent, she claimed police were laughing at her and didn't believe her because of the way she look[ed]'. The victim recontacted the police and requested the results of her forensic medical examination, but the police officer refused because she had not made a statement. The victim indicated that she no longer wanted police involvement. The police officer completed the record by stating: 'unable to be established whether or not a crime has actually been committed ... due to there being nothing to investigate ... NOD/NFPA'.

In three cases, the victim's psychiatric disability featured significantly among the reasons why the case was classified as a false complaint. In two of the three cases, the police went on to charge the women with making false reports. In one case, the CIU member noted the victim's 'history of making false reports, bomb hoaxes and the like', and included their ultimate assessment of her as a 'compulsive liar'. On this occasion, the woman reported that she had been held hostage and raped and assaulted by a male friend. She sustained significant injuries and self-presented to a doctor soon after the alleged offender allowed her to leave. The CIU member's case record noted that the victim had significant psychiatric issues, but was viewed as 'creating psychiatric illness to avoid penalties for her offences'.

In some cases, the victim's inability to recall what had occurred impeded the police investigation. Despite a supportive response by SOCAU, in the case outlined below, a formal statement was not taken and the matter was recorded as requiring NFPA. The victim was described as having chronic paranoid schizophrenia and had not been taking her medication. While asleep on her couch at home, she had felt an irregular feeling of pressure on her vagina. She thought that the feeling may have been caused from a rape, but was unsure because her psychosis distorted her thinking and memory. The victim explained this to SOCAU who were supportive and arranged for a forensic medical officer to examine her. The doctor determined that there was no evidence of sexual penetration, but that the pressure could possibly be explained by the onset of her menstruation. SOCAU assisted the victim with arranging to see her regular doctor. No statement was taken; there was no formal complaint.

In other cases, there was a high degree of police sensitivity to the complexities surrounding the reporting of sexual assault by persons with psychiatric disabilities and mental health issues, as is illustrated in the next example. Moreover, the circumstances of this case reveal the increased vulnerability of victims with a mental illness and the inadequacies of the systems, both legal and social, to intervene in ways that protect and ensure future safety. A teenage victim was noted as suffering from depression and post-traumatic stress disorder, had engaged in self-harming behaviour and had suicidal tendencies. She was involuntarily institutionalised due to psychiatric illness and was 'known' to police due to prior allegations of sexual assault; the offenders in these previous cases were prosecuted. After absconding from the psychiatric hospital, she met up with some of her friends in town and they became acquainted with some other teenagers. The victim and her friends separated at some stage, the victim remaining in the company of at least three of the young males she had met earlier in the day. Whilst alone with them, the victim was held down and digitally raped by these males. Due to her psychiatric illness, the victim's memory of the rapes was sketchy.

Approximately two weeks later and whilst back in the care of the hospital, the victim disclosed the rapes to her worker who informed her mother who then contacted the police. SOCAU were very supportive of the victim and liaised with her family, DHS, support workers and her psychiatrist. The police officer arranged a crisis care response and ensured that the paediatrician involved was female: the police records indicate that the victim's best interests were prioritised and she was empowered throughout the process. SOCAU reported that:

[it] appears that subject is terrified of doing VATE [Video Audio Taped Evidence (interview)] and of subsequent court appearance ... advised [worker] that police will contact [psychiatrist] to seek advice... spoke to subject ... subject stated that she can't decide what to do about report until she speaks to mum. Impressed upon her that it is her decision to make report.

The victim had been through the legal process previously regarding other sexual assaults and did not want to go through it again. Her psychiatrist reported that she was not fit for a VATE and she eventually signed a statement withdrawing her complaint in the presence of her support worker.

These examples highlight both the individual and sometimes situational factors that impact on police investigations and the outcomes of rape complaints. While acknowledging the difficulties in working with such complex cases, these findings can be contrasted with the process and outcomes of the group of victims with an intellectual disability. While similar problems arise regarding data quality as previously described in relation to psychiatric disability and mental health issues, among the sample of 850, there were 49 victims (6% of the total) who police identified as having an intellectual disability. There were eight male victims with intellectual disabilities (16.3% males compared to 7.5% of all victims), but no other significant differences in the age of victims, or other case characteristics when compared to the broader sample. SOCAU members were proportionately more likely to express belief in cases involving victims with an intellectual disability, although levels of belief expressed by CIU members were similar to the overall sample.

Even though police perceptions of victim competency levels and the associated difficulties of establishing what occurred were presented as major barriers faced by police during investigations, almost a fifth of cases (18.8%) resulted in charges being laid, which was marginally higher than the 15% for the full sample. They were also less likely to result

in NFPAs (31.3% compared to 46.4%), but slightly more likely to result in complaints being withdrawn (22.9% compared to 15.1%). The percentage of cases determined as false was the same as for the full sample (2.1%). In other words, compared to victims with a mental health issue or psychiatric disability, those with an intellectual disability were considerably more likely to find the offender charged and their allegations not found to be false. These more positive outcomes can be at least partly attributed to Victoria Police's recognition of the complexity of these cases and the attention that has been paid to them, including through specialist training to SOCAU members.

Since this study was conducted, some progress has been made in relation to improving police responses to people with a mental health issue or psychiatric disability. For example, the SOCA Coordination Office developed a comprehensive training program for all SOCAU members to improve their investigative and interviewing skills. Part of the training involved refreshing members' VATE interviewing techniques for children and the cognitively impaired. This training formed part of a significant change program that sought to transition SOCAUs to Sexual Offences and Child Abuse Investigation Teams (SOCITs). This transition process aimed to improve responses to and investigations of all sexual assault and child abuse matters, particularly with regard to victims with more complex issues. The changes were based on the successful evaluation outcomes for the SOCITs operated as part of a trial in two Victorian regional centres. The SOCA Coordination Office has also worked with an internal mental health Victoria Police project highlighting the need to be aware of the vulnerabilities of this group regarding sexual assault and family violence, and their implications for policing practice.

Conclusion

This article has highlighted the range of often complex circumstances surrounding the reported rapes of victims with a psychiatric disability or mental health issue, and the difficulty faced by police in trying to balance the investigative considerations with the need for victims to be appropriately supported and believed. The case examples cited suggest that police responses vary: in some examples, officers are able to provide highly supportive responses; other examples are more concerning, reflecting high levels of disbelief and, consequently, the provision of a poorer quality response. There are other cases again, no doubt, in which officers would like to do better, but do not have the skills or resources to do so.

Higher levels of police disbelief were most evident in cases that did not proceed beyond an initial investigation. In particular, those cases involving victims who had a psychiatric disability or mental health issue were among those most likely to generate police disbelief and not to proceed. They were also the cases of greatest concern in terms of attending to the health and welfare of victims. As research on law enforcement in this area continues to suggest, the outcome of any investigation is often considered secondary to the quality of the treatment victims receive and the degree of sensitivity and support that is demonstrated towards them (Lievore 2005).

Despite some initial steps, responding to people with a psychiatric disability or mental health issue largely remains a neglected area of Victorian police training. The importance of developing a contemporary response, across law enforcement, is critical, given: the evidence base that now exists in relation to the health effects of physical and sexual violence against women; the pre-eminence of mental health in this context; and studies that point to the high

vulnerability of victims with a psychiatric disability or mental health issues to (re)victimisation (Keel 2005; Victorian Health Promotion Foundation 2004). In the first instance, the curriculum for the training of SOCAU and CIU members should incorporate a comprehensive understanding of the intersection between mental health and sexual assault. Its development and delivery would benefit from the expertise of people with psychiatric disability or mental health issues, as well as professionals working in the mental health sector. This program would aim to produce improvements in police operations, as well as shifts in the underlying ideas and assumptions about people who experience mental ill-health. Consideration also ought to be given to establishing formal working relationships with mental health services, particularly those that might assist in the early stages of the reporting process.

There has been considerable work done in Victoria in relation to police investigations of sexual assault in the past two decades. Moreover, it is important to note that the third edition of the Code was launched since the time period of the police investigations examined in this research. However, while acknowledging that some first steps are underway in relation to improving responses to victims with a mental health issue or psychiatric disability, there remains considerable further work to be done. That this research found improved responses to victims with an intellectual disability suggests that additional work in assisting police to work with victims with a psychiatric disability will bring significant gains.

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