

Rape and the Criminal Justice System: Looking Forward

London's Victims' Commissioner

1. Introduction

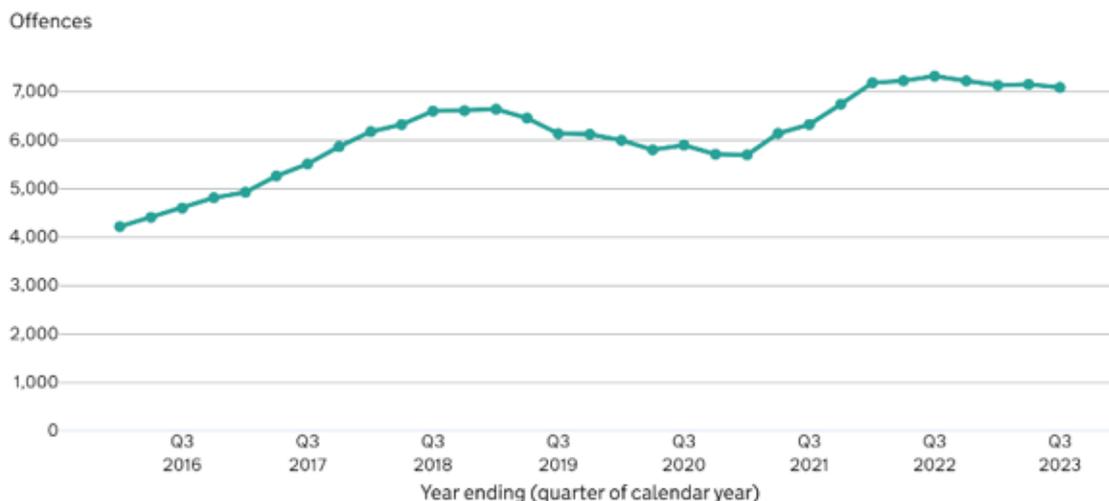
Rape has been one of the most underreported and poorly understood crimes in our criminal justice system. Whilst strides have been made to better understand and address the failures facing rape survivors, they still routinely experience unfair and inequitable treatment in our criminal justice system. This paper summarises the London Victims' Commissioner's (LVC) work to reform the criminal justice response to rape, the progress made so far, and the progress still needed to ensure access to justice and recovery for survivors of this life-altering crime.

Criminal Justice System Outcomes

Rape is underreported. The Office for National Statistics estimates that in the year ending 2020, fewer than one in six females (16%) and one in five (18%) male victims aged 16 to 59 of sexual assault by rape or penetration reported it to the police¹.

Police-recorded offences

Data view: Adult rape; London; Rolling annual



Source: <https://criminal-justice-delivery-data-dashboards.justice.gov.uk/quality-justice/police>

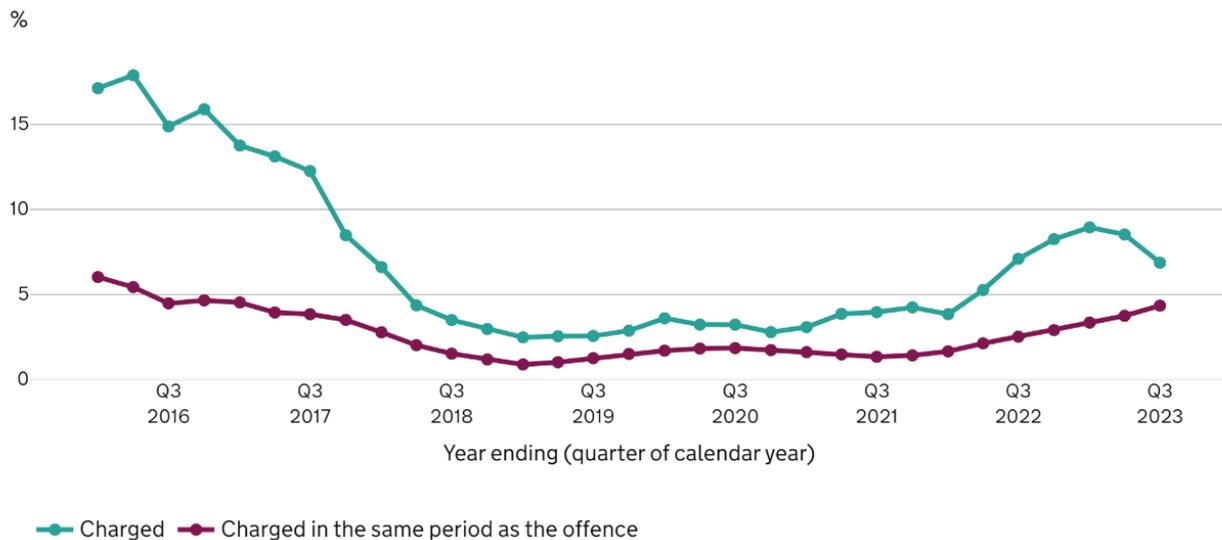
Figure 1. Police recorded adult rape in London.

¹ ONS (2021) 'Sexual offences in England and Wales overview: year ending March 2020'
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/sexualoffencesinenglandandwalesoverview/march2020>

The number of adult rapes reported to the police in London has increased by 370% since 2009². This increase was the same across England and Wales and has been the result of improved recording practices and the increased willingness of victims and survivors to report the offence, especially following revelations of high-profile offenders beginning in 2012 after the death of Jimmy Saville.

Investigations which result in a charge (%)

Data view: Adult rape; London; Rolling annual



Source: <https://criminal-justice-delivery-data-dashboards.justice.gov.uk/quality-justice/police>

Although victim-survivors began formally reporting in increasing numbers, the criminal justice response did not keep pace and after 2016 the charge rate began to fall disastrously. In line with the national trend, at the beginning of 2016 the London rolling annual charge rate was 17% for adult rape. By the beginning of 2019, it had fallen to just 2%.

2. Victim Attrition

Victims are the most important people in our criminal justice system. Without victims we cannot bring offenders to justice and keep the public safe. Yet when it comes to rape cases, most victim-survivors withdraw.

In 2019, Claire Waxman, London’s Victims’ Commissioner (LVC) called for the London Rape Review, to provide further insight into the declining charge rate. In this review of

² In 2009 there were 1506 adult rapes recorded by the Metropolitan Police. In the 12 months prior to the end of Q3 2023, there were 7805 adult rapes recorded by the Metropolitan Police. Sources: HMIC (2013) *Rape Monitoring Group: Adult and child rape data for 2012/13 Metropolitan Police* <https://assets-hmicfrs.justiceinspectorates.gov.uk/uploads/2014/01/metropolitan-rmg-adult-and-child-rape-data-2012-13.pdf> [Accessed 11th March 2023] MoJ *Criminal justice system delivery data dashboard, ‘Crime recorded to police decision’* <https://criminal-justice-delivery-data-dashboards.justice.gov.uk/quality-justice/police> [Accessed 11th March 2023]

500 London rape cases from 2016, victim attrition was the outcome in 58% of cases and the most likely reason for a case to be closed³. This was further confirmed by the Government's own end-to-end rape review, which found 57% of rape victim-survivors who reported to the police in England and Wales were withdrawing⁴. In the second London Rape Review in 2021, 65% of cases ended because a victim-survivor did not support further action⁵.

The London Rape Reviews also highlighted that most victim-survivors were withdrawing their support for a case quickly after they'd reported, with over a third (58%) doing so within seven days of reporting in the 2019 sample and over two-thirds (64%) within 30 days in the 2021 sample.

After the publication of the 2021 London Rape Review, in her "Reflections and Recommendations", the LVC identified that London has waiting lists for Independent Sexual Violence Advisor (ISVA) support, meaning few victim-survivors would obtain ISVA support within the first 30 days. She recommended that ISVA services in London be fully resourced to ensure that survivors can access immediate support to prevent withdrawal. The impact of this advocacy support has subsequently been evidenced through research which shows rape complainants are 49% less likely to withdraw with specialist sexual violence support from Rape Crisis or an ISVA⁶.

Following the London Rape Reviews, the Mayor's Office for Policing and Crime (MOPAC) began a comprehensive review of the sexual violence services in London to create a new, user-centred operating model that will better meet the needs of victims and survivors in the capital, including providing swifter support for those reporting to the police.

This review of support available has found that ISVA services can currently only support around 75% of victims referred to their services. However, nearly four times as many survivors are reporting rape and serious sexual offences to the Metropolitan Police each year, and there is even more unmet demand when you consider the volumes of victims who do not report. With current reforms underway, it is anticipated that referrals into services for ISVA support from the police will rise, further increasing the pressure on services and the numbers of victims unable to access support due to the lack of service capacity.

The latest research from the National Victims Commissioner highlights the critical role advocates, and especially those who support victims of domestic and sexual violence, play; and recommends long-term, sustainable funding for such services. It also recommends that the Government announces its intention for the Rape Support Fund,

³ Mayor's Office for Policing and Crime (2019) [The London Rape Review: a review of cases from 2016](#)

⁴ HM Government (2021) [The end-to-end rape review report on findings and actions](#) p,5

⁵ Mayor's Office for Policing and Crime (2021) [The London Rape Review 2021: An examination of cases from 2017 to 2019 with a focus on victim technology](#)

⁶ Walker, S.-J. L., Hester, M., McPhee, D., Patsios, D., Williams, A., Bates, L., & Rumney, P. (2021). [Rape, inequality and the criminal justice response in England: The importance of age and gender. Criminology & Criminal Justice, 21\(3\), 297-315.](#)

which comes to an end in March 2025, as quickly as possible⁷. The LVC supports these calls, but the demand modelling in London demonstrates that there must be increased investment to meet demand.

The Government have said that “ISVAs play a crucial role in supporting victims of domestic and sexual abuse to navigate support services and the criminal justice system⁸. Yet without a long-term sustainable and increased funding commitment, these providers will be unable to recruit and retain experienced staff to deliver this specialist work.

This is also why the LVC continues to campaign for a dedicated Independent Victim Care Hub for all victims of crime. Individual agencies such as police, CPS and the Witness Care Units all seek to provide a form of victim support. However, this is experienced by survivors as fragmented, insufficient and confusing. A victim care hub would deliver the following for victims in London:

- a single point of contact,
- key updates on case progression,
- information and advice,
- answers to questions,
- referrals on to specialist support,
- ensuring entitlements under the Victims’ Code are being delivered,
- and monitoring this to drive better performance.

The role of a Hub is not to replace existing specialist support services but to provide a navigator-type role, building a team of people around a victim to ensure they are well-supported and prepared for the justice process.

The hub would not duplicate or replace the functions of advocates like ISVAs or IDVAs who provide holistic specialist support but would instead collaborate with them to ensure the victim’s rights and entitlements are met, and advocates are provided with swift access to information throughout the justice process.

Why victim-survivors withdraw

The most prominent reasons for victim attrition according to the police coded data from the London Rape Reviews were:

- the reasons for withdrawal could not be established,
- they did not intend to report rape,
- they wanted to forget the event and move on,
- external stress factors.

⁷ Welland, S., Murray, S., Storry, M & Poppleton, M. (2024) [Going above and beyond: Mapping the provision and impact of Victim Advocacy in the Criminal Justice System.](#)

⁸ Ministry of Justice, (2024) [Policy Paper: Clause 15; Guidance about independent advisors \(ISVAs and IDVAs\)](#)

Subsequent academic research has confirmed that a significant number of cases which end with withdrawal were either reported by a third-party or were not initially intended to be reported, e.g. they were disclosed in the process of reporting another crime or as part of safeguarding processes such as a risk assessment for domestic abuse⁹.

However, the findings of this research rely on the data from police systems and are not taken directly from victim-survivors. Throughout the work of the London Rape Reviews, the LVC spoke with survivors and ISVAs who support them and identified there was a gap in the evidence base as to the reasons why victim-survivors, who pro-actively choose to report, may then withdraw and how this can be prevented. As a result, she called for research to be undertaken in London to look more closely at the drivers of victim withdrawal, across all crime types.

This research into victim withdrawal is currently being undertaken by the Evidence and Insight Team at the Mayor's Office for Policing and Crime (MOPAC), and will be published later this year. Interim findings show that victims of rape are between 2.2 and 3.1 times more likely to withdraw their support than victims of other offences¹⁰. Domestic abuse related rape has the highest likelihood of withdrawal across all forms of Violence Against Women and Girls. Interim findings also indicate that when factors which make a victim more likely to withdraw (such as being young, disabled, or experiencing repeat victimisation) are catered for, withdrawal becomes less likely.

This work has also found that reassurance, communication, and managing risk and safeguarding is key to satisfaction. In crimes such as rape where withdrawal rates are high, and especially when the suspect is known to the victim-survivor, additional emphasis needs to be placed by police on the interventions that make withdrawal less likely. This includes providing a Victim Informational Leaflet, which was initially worked upon by the LVC.

Views of victim-survivors on victim withdrawal are currently being obtained via the national survey of rape and sexual offence survivors in England and Wales being undertaken by City University. In the interim findings from this survey, the most likely reasons for victim-survivors of sexual offences deciding not to continue with the criminal justice process were:

- The negative impact on mental health,
- Didn't feel supported enough,
- Fear of the perpetrator,

⁹ Lovett, J., et al (2023) *Operation Soteria Bluestone, Briefing 3, Pillar 5: Reasons rape investigations are closed by police* <https://cwasu.org/wp-content/uploads/2023/07/cwasu-briefing-03-100723-1.pdf>

¹⁰ McNeil, A, Gurney-Read., R., & Hobson, Z (2024 upcoming) *Victim Withdrawal from the Mayor's Office for Police and Crime (MOPAC) Evidence and Insight.*

- The way officers treated me was not ok¹¹.

These findings suggest that the support provided, and the treatment from police when victim-survivors do wish to engage with the process, is critical to victim-attrition.

Safety and use of bail

The 2019 London Rape Review found that ‘No Further Action’ (an NFA) from the police was fifteen times less likely if the suspect was arrested. It also found that a common withdrawal reason was concern for safety, particularly in domestic abuse related rape.

In her response to the 2019 London Rape Review, the LVC recommended that the Government amend the Policing and Crime Act 2017 to create a presumption that all suspects under investigation for domestic abuse and sexual assault should only be released on bail. She also recommended the length of time suspects can be released on pre-charge bail be extended. This was subsequently implemented via the Police, Crime, Sentencing and Court Act 2022, providing greater reassurances to victims that suspects would be released with bail conditions.

Operation Soteria

Following the work of the LRRs, the LVC and officials within the Mayor’s Office for Policing and Crime (MOPAC) discussed proposals for a pilot to change the way police investigate rape. This developed into Operation Bluestone originally piloted in Avon and Somerset. The LVC and others then called for Government to include this project as part of their 2021 National End-to-End Rape Review, which they did, transforming it into Operation Soteria to encompass the police and the Crown Prosecution Service. In their findings and actions report, they announced pilots across a further four pathfinder forces with the intention of a national rollout¹².

Operation Soteria has now been rolled out across all 43 police forces, providing a new operating model for the investigation and prosecution of rape. It includes new training packages for officers and police products intended to improve victim-survivor communication and engagement and a ‘suspect-focused’ approach to improve charge rates¹³. Crucially, it provides a framework through which successful transformation can be assessed.

As a result of the work of Operation Soteria, we are beginning to see positive change in London, with the charge rate for police recorded rape offences in the 12 months to December 2023 now at 9%. This is an increase of 3 percentage points on the previous 12 months to December 2022¹⁴. Nevertheless, there is still a long way to go before the

¹¹

<https://openaccess.city.ac.uk/id/eprint/31310/9/Survey%20Report%201%2021%20September%202023%20UPDATE%2020%20September.pdf>

¹² HM Government (2021) *The end-to-end rape review report on findings and actions*

¹³ <https://www.college.police.uk/national-operating-model-rasso>

¹⁴ MOPAC Evidence & Insight (2024) *London Policing Board Performance Update Quarter 3 2023-24*. p35

issues impacting on victim attrition, identified in the London Rape Reviews, have been sufficiently addressed.

LVC Calls:

- Ensure ISVA support is available at the earliest opportunity to prevent withdrawal.
- Sustainable funding for ISVA services.
- Further research to understand victim/survivor withdrawal.
- Reverse the presumption against pre-charge bail and extend the length of time suspects can be released on pre-charge bail.

Progress:

- Roll out of Operation Soteria.
- MOPAC Sexual Violence Services Redesign underway.
- Victim Withdrawal research from Evidence and Insight expected in summer 2024.
- Improved adult rape charge rate.
- The Police, Crime, Sentencing and Court Act 2022 brought back a presumption of pre-charge conditional bail, extensions to time-limit.

Next steps:

- Roll out of a new operating model for sexual violence services in London in 2025.
- Government commitment to increased and sustainable funding for sexual violence support services after 2025.

3. Victim credibility and trauma

By 2019 only 2% of adult rape cases in London were resulting in charge. Whilst victim withdrawal is the main reason for attrition in rape cases, very few cases are referred to the Crown Prosecution Service (CPS) for a charging decision. After 2016 the percentage of cases referred dropped to an all-time low. The main reasons for police no further action (NFA) decisions after victim withdrawal is 'evidential difficulties. Concerns have been raised by survivors and those supporting them that what police identify as 'evidential difficulties' are too frequently based on the perceived credibility of the victim-survivor and the assumed misconceptions about rape that are likely to be held by a jury.

The 2019 London Rape Review found a correlation between mental health needs, inconsistent testimony, and a decision for Police to take no further action (NFA). In the 2021 London Rape Review, an inconsistency in victim/survivor accounts made it twelve times more likely that the police will close a case with an NFA. This indicated that the perception of victim/survivor credibility was linked to testimonial inconsistencies and yet this is a fundamental feature of how traumatised victims relay their experiences.

In the recommendations and reflections made by the London Victims Commissioner (LVC) on this issue, she identified that this correlation between inconsistencies and

higher rates of NFA was likely due to a lack of understanding regarding the impact trauma has on the brain and memory recall. She recommended that justice agencies, and particularly police and CPS, must provide training to improve awareness of the impact of trauma on memory.

New police training now incorporates learning on trauma and memory via the RASSO Investigation Skills Development Programme (RISDP) delivered via Operation Soteria. The CPS have published new guidance which incorporates information on the impact of trauma on the brain and inconsistencies. London prosecutors also undergo a half-day training on this topic. However, the recently published report from the University of Warwick “Operation Soteria: Improving CPS Responses to Rape Complaints and Complainants” identified that application of this learning remains inconsistent. It found examples of prosecutor discussions with police where the mental health of complainants was said to negatively impact on victim-survivor credibility¹⁵. This has led to the LVC calling for an evaluation and update of the current CPS training on trauma.

The LVC also recommended in response to the 2019 review that the standard directions the judiciary gives jurors not only covers rape myths and misconceptions, but also the neurobiological impact of trauma on memory. This was delivered via the 2020 update to the Crown Court Compendium.

Calls:

- Training on impact of trauma on memory for criminal justice partners.

Progress:

- Introduction of guidance and training for prosecutors on the impact of trauma.
- All police forces now delivering the Rape and Serious Sexual Offence Investigation Skills Development Programme (RISDP) developed jointly by Soteria and the College of Policing.
- Judicial directions on inconsistencies and trauma added to the into the 2020 Crown Court Compendium.

Next steps:

- Evaluation and update of CPS training to address concerns raised in recent report on CPS responses to rape complainants.
- Further training of the Judiciary, to ensure justice agencies’ improved understanding of the impact of trauma is supported in the courtroom and translates into improved court experience for victims.

4. Privacy

¹⁵ King, A., Munro, E., & Young Andrade., L. (2024) *Improving CPS Responses to Rape Complaints and Complainants: Final Findings and Independent Academic Research*. p,52. Available from: https://wrap.warwick.ac.uk/183258/7/Operataion%20Soteria_Full%20Report%202024.pdf

An issue that has been of considerable concern to rape victim-survivors is the intrusion into their privacy that may result from a rape investigation. These intrusions follow the emphasis placed in the criminal justice system on the credibility of rape complainants.

In 2018, London's Victims' Commissioner (LVC) led the call for an investigation by the Information Commissioner's Office into the blanket requests made by police and CPS for victim's mobile phone data and third-party material such as education and medical notes. Rape victim-survivors were being asked to consent to these records being obtained or otherwise faced being told that they risked their case being no further actioned (NFA'd) by police or CPS. The ICO inquiry called for the immediate end to the excessive collection of rape and sexual offence victims' personal data and made a series of recommendations as to how to better uphold their privacy rights and protections.

This report helped to fundamentally change the way in which policing collected mobile phone data from victims. This included introducing a new Digital Processing Notice developed in consultation with victims' groups and commissioners¹⁶. Furthermore, in London the Metropolitan Police invested 11 million pounds into digital forensic improvements and trained over 400 Rape and Serious Sexual Offence officers and staff on proportionate and reasonable downloads.

The theme of excessive mobile phone requests, which she had heard from ISVAs and victim-survivors whilst undertaking the first London Rape Review, was also the reason the LVC requested the second London Rape Review.

The 2021 London Rape Review found that the police were requesting victim-survivors' mobile phones in 23% of cases, challenging the notion that they were making 'blanket' requests. However, during consultation for the 2021 London Rape Review, the LVC heard of unreasonable requests for mobile phone data, for example from child sexual abuse victim-survivors reporting decades later. This was supported by the 2019 HMCPSI investigation which found that 4 in 10 requests for victims'/survivors' personal data 'were disproportionate'¹⁷ and the 2021 London Rape Review which found that in the case file sample looked at of mobile phone requests, only 11 out of 25 requests resulted in any relevant material.

As a result, The LVC campaigned for amendments to the Police, Sentencing and Courts Act 2022 to address excessive downloads of victim-survivor mobile phone data. This included an extraction code which limits the information police can extract from a victims' mobile phone and the time with which they can hold a device. At the same time the Government committed to ensuring victims were not left without a phone for more than 24 hours. Early indications from the Metropolitan Police are that this is having a positive impact and reducing excessive mobile phone downloads.

¹⁶ See <https://news.npcc.police.uk/releases/police-update-notice-for-permission-to-search-for-relevant-information-on-digital-devices>

¹⁷ HMCPSI (2019) *2019 rape inspection: A thematic review of rape cases by HM Crown Prosecution Service Inspectorate*. Available from: <https://www.justiceinspectors.gov.uk/hmcpsi/wp-content/uploads/sites/3/2019/12/Rape-inspection-2019-1.pdf>

Following the 2021 London Rape Review, the LVC called on the Government to build on the progress made on mobile phone requests and apply the same principles to requests for third-party material such as medical records, social care or education records and therapy notes. In both London Rape Reviews, she called for the introduction of independent legal advice to ensure accurate advice on matters of privacy and consent for rape victims with mobile phone and third-party material requests.

The Government have now brought in a new clause to the Victims and Prisoners Bill to emphasise that third party material requests must be necessary and proportionate, and which will be accompanied by a 'Code of Practice' for the police in requests for victim information. The LVC however has called on the Government to go further, especially with regards to counselling and therapy notes and introduce a specific regime that will ensure any requests for therapy records are reviewed by a judge, to ensure that they are necessary and proportionate, as per the 'Keeping Counselling Confidential' campaign run by the Rape Crisis, the Centre for Women's Justice and the End Violence Against Women coalition¹⁸. After the 2019 London Rape Review the LVC also called for updated CPS Pre-Trial Therapy guidelines to ensure victim-survivors were not dissuaded from counselling; these guidelines were updated in 2022 to reflect the learning from the London Rape Review.

Whilst legislative protections are important, further support is required to ensure that these protections are being upheld in individual rape cases. Given the complexity and ubiquity of these issues, the LVC used both London Rape Reviews to recommend free independent legal advice for survivors when they report rape. This advice would help to safeguard survivor's Article 8 Right to Privacy, would ensure that requests for personal information are proportionate and reasonable, and that survivors do not feel pressured into handing over information they are not legally obligated to. Overall, such advice could help towards rebalancing the culture that currently over-scrutinises victims rather than suspects and tackle victim withdrawal.

The recommendation for independent legal advice is also a preliminary proposal from the Law Commission and their consultation on Evidence in Sexual Offences Cases¹⁹. The LVC continues to call on Government to introduce this nationally via the Victims and Prisoners Bill.

Calls:

¹⁸ Rape Crisis, Centre for Women's Justice and End Violence Against Women Coalition (2023) *Keep Counselling Confidential: The Problems and Solutions with the Disclosure of Counselling Notes* https://rcew.fra1.cdn.digitaloceanspaces.com/media/documents/Keep_Counselling_Confidential_briefing_Rape_Crisis_England_Wales_May_2023.pdf

¹⁹ Law Commissioner (2023) *Evidence in Sexual Offences Prosecutions: a consultation paper* <https://s3-eu-west-2.amazonaws.com/cloud-platform-e218f50a4812967ba1215eaecede923f/uploads/sites/30/2023/05/ESOS-CP-latest-version-1-1.pdf>

- End the excessive intrusion into personal data through the criminal justice system in rape cases.
- Amend CPS pre-trial therapy guidance to ensure victim-survivors are not discouraged from therapy and requests for therapy notes are only used to show the impact of the crime.
- Introduce independent legal advice to safeguard privacy rights.

Progress:

- Information Commissioner’s Office Inquiry into the excessive collection of information from victims of rape and serious sexual assault.
- Introduction of police Digital Processing Notice.
- Introduction of the extraction of information from electronic devices code of practice via the Police, Sentencing and Courts Act 2022.
- New CPS pre-trial therapy guidance which is clear victim-survivors can access therapy.
- Clause 22 of the Victims and Prisoners Bill and the draft Code of Practice for Requests for Victim Information.

Next steps:

- Judicial oversight of counselling record requests in rape cases via the Victims and Prisoners Bill.
- National pilot of independent legal advice for rape victims.

5. Timeliness

Lengthy rape cases increase victim withdrawal, prevent survivor recovery and decrease the quality of evidence survivors can give at court. The 2019 London Rape Review found that it took on average 18 months from the date of reporting to the trial outcome.

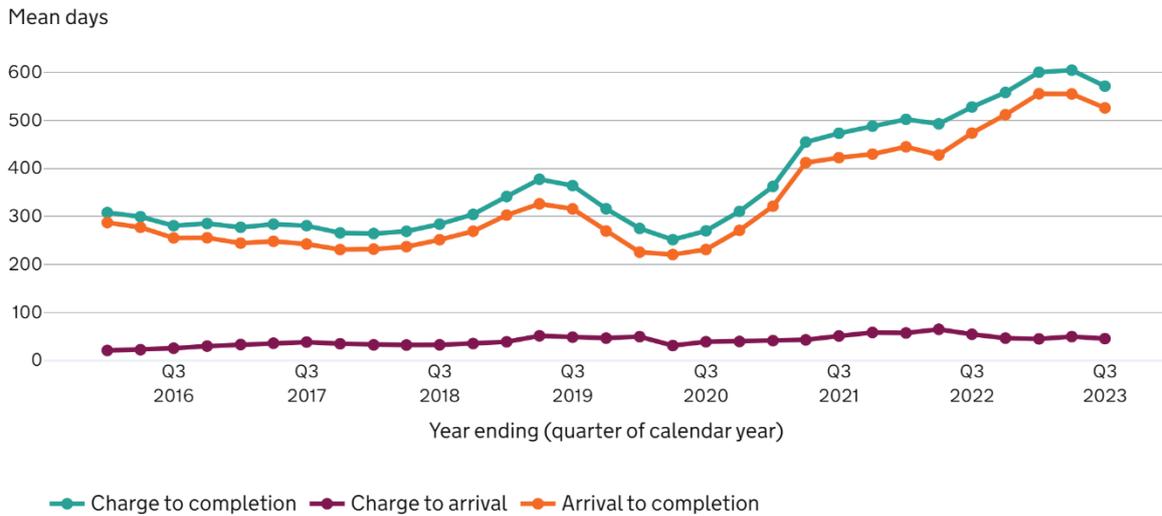
The London Rape Review 2019 found that if police sought early advice from the CPS the case was ten times less likely to result in an NFA. London’s Victims’ Commissioner (LVC) has continued to call for the routine use of early advice, which has now been instituted in London with the number of adult rape cases sent for early advice in Q3 of 2023 more than double the number sent in the same quarter in 2019²⁰.

Unfortunately, the Crown Court backlogs, which are the largest in London, have exacerbated waiting times for rape victim-survivors. Since the end of 2019, the average number of days that a victim-survivor is waiting in London from charge to trial completion in cases where the perpetrator is not on remand, has increased by 80% and now stands at 571 days (see graph below). The important strides made on average timeliness at police and CPS stage in London, are being undermined by this increasing wait to give evidence in court.

²⁰ 96 cases sent for early advice in the Metropolitan Police in Q3 2019 vs 231 sent for early advice in Q3 2023. Taken from <https://criminal-justice-delivery-data-dashboards.justice.gov.uk/chart-builder>

Average days from charge to completion at Crown Court

Data view: Adult rape; Not remanded in custody; London; Rolling annual



Source: <https://criminal-justice-delivery-data-dashboards.justice.gov.uk/improving-timeliness/courts>

To help mitigate the agonising wait rape victims currently endure in giving evidence, the LVC supported the roll out of pre-recorded cross examination, referred to as section 28. However, the roll out has encountered challenges, as it requires additional court resource, and the impact of pre-recorded cross examination on conviction rates remains in contention²¹. The LVC has also repeatedly called for the Government to introduce specialist rape courts, as this would allow rape cases to be prioritised and victim-survivors to benefit from bespoke facilities and trained professionals. In response to calls for specialist rape courts, the Government commenced specialist sexual violence projects in three courts, including in Snaresbrook London. The LVC is closely following the London SSV project at Snaresbrook and strongly advocates for a roll out of these reforms across all courts. This is particularly urgent if evidence points to a negative impact of pre-recorded cross examination on conviction rates.

The LVC has undertaken a large programme of work regarding court delays. She called for the introduction and continued funding of Nightingale courts, prioritising London because of the disproportionate impact of the backlogs. She also called on judiciary to introduce a prioritisation protocol for rape cases and met with resident judges in London to discuss this. On the 6th March 2024, the Senior Presiding Judge, Lord Justice Edis, announced that 181 rape cases which have been waiting more than two years will now be prioritised and heard before the end of July 2024.

The LVC remains very concerned about the court backlog and a looming crisis with the lack of availability of Rape and Serious Sexual Offence (RASSO) counsel, which is

²¹ See the London Victims Commissioners letter to Sir Robert Neill on the Justice Committee's inquiry into the use of pre-recorded cross-examination <https://committees.parliament.uk/writtenevidence/128107/pdf/#:~:text=Section%2028%20provides%20a%20almer,uncertainty%20regarding%20their%20court%20appearances.>

already impacting on delays for these cases. In a recent survey from the Criminal Bar Association, 64% of prosecutors and 66% of defence counsel saying they no longer wanted to conduct these cases²². Reasons were low remuneration, diary complications and well-being issues. The LVC has called on Government to address this with a long-term plan to improve the remuneration and status of RASSO counsel. In the short-term, she believes Government should enable more experienced counsel, i.e. those in silk, to prosecute and defend RASSO cases to address court backlogs.

Calls:

- Police to increase the use of early advice from CPS.
- Roll-out of pre-recorded cross examination.
- Establish and maintain Nightingale Courts in London.
- Judicial prioritisation of rape cases.
- Specialist rape courts.

Progress:

- Increased use of early advice by police and CPS.
- Roll out of Section 28 Pre-Recorded Evidence.
- Nightingale courts maintained in London post-pandemic.
- Specialist sexual violence project introduced at Snaresbrook Crown Court.
- Recent announcement of prioritisation of rape cases waiting two years or more.

Next steps:

- Government to support the use of those in silk to prosecute RASSO to address court backlogs.
- Long-term Government plan to address lack of RASSO counsel including through increasing remuneration and status of RASSO work.
- Introduction of specialist rape courts.

6. Court experience

The court experience for victim-survivors of rape remains challenging. Delays are the major complaint of victim-survivors but many report that they are also left poorly prepared and disempowered during the process. The resource and focus on rape justice reform which has been brought in via Operation Soteria at police and CPS stage, has not been applied to the court arena. Judges have yet to be formally notified of these improvements, leaving victim-survivors open to last minute requests during the trial for data from defence and a lack of join up on utilising the principles of Operation Soteria at court stage.

London's Victims' Commissioner (LVC) supports proposals made by the Law Commission in their recent consultation on Evidence in Sexual Offences Prosecutions. This includes reform to the use of sexual behaviour evidence regarding the victim and

²² The Criminal Bar Association *The CBA RASSO Survey Results – 12-04-24*
<https://www.criminalbar.com/resources/news/cba-rasso-survey-results-12-02-24/>

bad character evidence regarding the suspect, to ensure the jury have access to a balance of evidence relevant to the case²³. She also supports the mandatory use of ground rules hearings in sexual offences trials and an automatic entitlement to special measures. She has also called for the judicial college to extend the Serious Sexual Offences Seminar training for judges from 2 days to 3 days. This is required to incorporate the significant amount of reform that has taken place over the past few years, including via the ambitious national programme Operation Soteria.

The attitudes of jurors also remains of contention and the LVC would support a pilot of judge-only rape trials. This is because it may prevent the defence from using misconceptions regarding rape to undermine the jury's perception of a victim's credibility during cross-examination. The recent CPS and Equally Ours Research demonstrates that misconceptions regarding rape remain prevalent, especially in attitudes towards women and with more pronounced misconceptions in the attitudes of younger people²⁴. If judge-only pilots are not pursued in England and Wales, there must be efforts to address public and juror misconceptions regarding rape. The LVC has met with the Criminal Bar Association to offer her support in designing a refreshed training programme for defence barristers to improve the victim-survivor experience in giving evidence.

Calls:

- Judiciary and courts to be formally incorporated into the Operation Soteria programme.
- Mandatory use of ground rules hearings.
- Pilot of judge-only rape trials.

Progress:

- Met with the head of the Serious Sexual Offences Seminar and the judicial college to highlight rape transformation work in police and CPS.
- Written to judicial college to request an extension of existing judicial rape training to incorporate recent reforms.
- Introduced relevant judicial contacts to Operation Soteria academics.
- Met with Resident Judges in London to highlight recent reforms including new code of practice on the extraction of information from electronic devices.

Next steps:

- Work with Criminal Bar Association to assist in developing their redesigned training programme.
- Work with the Judiciary to ensure their training reflects the reforms seen elsewhere in the justice system.

²³ See the London Victims Commissioner's letter to the Evidence in Sexual Offences Team at the Law Commission in response to the consultation on Evidence in Sexual Offences Proceedings.

²⁴ Equally Ours (2024) *CPS and Equally Ours: Research into the public understanding of Rape and Serious Sexual Offences (RASSO) and consent*. Summary report

7. Inequalities

A key objective of Operation Soteria is to reduce disparities in charge volumes between victims of different protected characteristics²⁵. However, demographic information is often poorly recorded, particularly on police systems²⁶ and criminal justice data is recorded by incident, rather than any kind of unique identifier linked to the victim. This means there are major limitations on the data collectively held across the system about victims, their needs, vulnerabilities and the services they have access to. It also hinders our ability to better understand justice inequalities in the criminal justice system. To remedy this and improve the victim experience, London's Victims' Commissioner (LVC) alongside MOPAC, are calling for the introduction of a unique victim identifier number to be used across criminal justice systems.

From the data that is available, we do know that certain demographics, for example Black women, are over-represented in reported sexual offences in London²⁷. This correlates with data from the Office of National Statistics which has found that adults of Black of Black British and Mixed ethnicity were more likely to experience sexual assault than those of other ethnicities²⁸. In 2021 the LVC held a roundtable event with agencies who support black victims of violence. This identified the need for culture-informed training as trauma is rarely understood from black victims' perspective and the intersectional experiences of Black victims to be explicitly considered in strategic plans. Jahnine Davis' research has also identified that Black girls' experiences of child sexual abuse can be overlooked by statutory services and these survivors receive a poorer quality of support²⁹. Far more research is required to understand the experience of Black rape survivors in our justice system in London and nationwide.

National data also indicates that disabled women are significantly more likely to experience sexual assault³⁰. The LVC is concerned about the lack of focus on the lower satisfaction rates of disabled victims and continues to raise this with the Metropolitan

²⁵ College of Policing (2023) 'Measuring success – key performance indicators for forces' . *National operating model for the investigation of rape and serious sexual offences* Available from:

<https://www.college.police.uk/national-operating-model-rasso/measuring-success-transparency-and-data>

²⁶ Stanko, B (2022) Operation Soteria Bluestone Y 1 Report 2021 -2022 Available from:

https://assets.publishing.service.gov.uk/media/63c02994d3bf7f6c287b9ff7/E02836356_Operation_Soteria_Y1_report_Accessible.pdf

²⁷ MOPAC Evidence & Insight (2019) *Violence Against Women and Girls (VAWG)*

https://www.london.gov.uk/sites/default/files/annex_1_-_evidence_pack.pdf

²⁸ Office of National Statistics (2021) *Sexual offences victim characteristics, England and Wales: year ending March 2020* Available from:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesvictimcharacteristicsenglandandwales/march2020#ethnicity>

²⁹ Davis, J., (2019) '[Where are the Black girls in our CSA services, studies and statistics?](#)'

³⁰ Office of National Statistics (2019) *Disability and crime, UK 2019*. Available from:

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandcrimeuk/2019#sexual-assault>

Police via the London Policing Board. Better data collection, more research, training and dedicated support is needed to address these inequalities in rape justice.

Finally, Operation Soteria has focused on adult rape which has had the worst criminal justice outcomes to date. However, this same academic analysis now needs to be applied to child rape to understand and improve the police and CPS response across all age groups. We know that support for child sexual abuse victims remains inconsistent across the country³¹ and that the Child House Model, which provides a dedicated multi-agency response and is highly valued by young people, is only available in three London boroughs³². As children and young people aged 10-19, particularly girls, are at the highest risk of sexual assault, dedicated strategic focus is urgently needed.

Calls:

- To introduce a unique identifying number for victims, to better track their progress through the justice system and allow a broader understanding of victims' needs and the disproportionality that exists in the justice system.
- The unique experiences and intersectional issues faced by Black victims must be explicitly considered in VAWG strategies.

Progress:

- MOPAC's 2022-25 VAWG strategy explicitly referenced the needs of Black victims, based off the engagement work conducted by the LVC.
- One of the recommendations, on culturally aware training, has progressed – with training on 'adultification' beginning in some areas of the MPS, with further work planned through the Child First Strategy.

Next steps:

- More research and strategic focus on the experience of disabled rape victims
- The Government to legislate to introduce a unique victim identifier via the Victims and Prisoners Bill

8. Recommendations

Although considerable progress has been made on reforming the criminal justice system response to rape since the LVC commenced her role in 2017, the charge rates and satisfaction rates amongst victim-survivors remain low. The LVC recommendations for continued reform are:

1. A multi-agency Victim Care Hub should be introduced to re-orientate the criminal justice system to centre victims. This would improve timeliness and outcomes for

³¹ NSPCC (2024) '77% of local authorities offer no specialist support for children who have experienced sexual abuse' <https://www.nspcc.org.uk/about-us/news-opinion/2023/77-of-local-authorities-offer-no-specialist-support-for-children-who-have-experienced-sexual-abuse/>

³² Parker, R., Read, T., Scragg, A., & Dawson, P. (2021) *The Lighthouse: Final evaluation report* Available from: https://www.london.gov.uk/sites/default/files/childhouse_june_2021_final_evaluation_report_for_publication.pdf

cases and improve the ease of access to information for Independent Sexual Violence Advisors.

2. The Government's 2021 National Rape Review set a target of returning rape charges and convictions to 2016 levels which it says has been met. The Government should set a new ambitious target to drive reform.
3. The Victims and Prisoners Bill should introduce reform for rape victims including:
 - a. Pre-charge judicial scrutiny of requests for victims' counselling records;
 - b. Independent legal advice for rape and serious sexual offence survivors;
4. A pilot of judge-only rape trials should be undertaken or greater efforts to address public and juror misconceptions regarding rape.
5. The Government should introduce specialist rape courts to mitigate excessive waiting times for trial and ensure the good practice of Operation Soteria is applied across the criminal justice system.
6. The Government must form a long-term plan to improve the remuneration and status of RASSO counsel. In the short-term, Government should enable more experienced counsel, i.e. those in silk, to prosecute and defend these cases to address backlogs.
7. Further research is required on the experience of specific groups of rape survivors, including Black women, who are over-represented in London rape statistics, and disabled victim-survivors where there is limited existing research.
8. The external expertise used in Operation Soteria to look at the response to adult rape, should now be applied to understand the rape justice barriers for children.