

# **The London Rape Review**

## **Reflections and Recommendations**

**Claire Waxman, Independent Victims' Commissioner for London**

**About Claire Waxman**

In June 2017 Claire Waxman was appointed by Mayor of London, Sadiq Khan, to be London's first independent Victims' Commissioner. Claire brings a wealth of personal insight and expertise to the role having been the victim of a sustained stalking campaign, during which time she founded a campaign group which successfully fought for improved legislation and support for victims and survivors.

In her role as Independent Victims' Commissioner for London, Claire aims to transform the Criminal Justice Service (CJS) to enable victims and survivors access to a timely, effective, transparent and inclusive justice journey. From whether they choose to report the offence all the way through to post sentence. Claire's mantra is that all victims and survivors of crime, no matter their status or experience, should be able to engage with a service designed to help them cope and recover.

Claire works alongside victims and survivors, amplifying their voices and promoting their interests with criminal justice partners, to ensure that they are heard and that lessons are learnt to inform and shape practices, policies and service provision.

# 1. Introduction

Rape is a devastating and life-changing crime. It is still too often misrepresented or misunderstood in the public consciousness. Myths abound - about rape being something that happens at night, in secluded parks and dark alleyways; about rape being a crime that is committed by predatory strangers. That sex without consent is not rape if there is no violence.

*“It’s the questioning as well. Some of the questions I was asked, I just couldn’t see how they could be used either way. It’s the age old ‘what were you wearing?’ thing over and over again and a lot of ‘are you sure you did or didn’t do this?’” – Kate\*, victim/survivor*

The reality is different. A brief look at the small sample of cases used in this Review reveals the complexity and challenges involved in bringing these cases to justice.

Most victims/survivors of rape know the perpetrator. In only 7% of the cases considered in this Review was the rape committed by a stranger. Nearly three-fifths of the offences occurred not on the street, but in a domestic or other private setting.

There is also a misplaced belief in some quarters that false allegations of rape are commonplace and that if a case does not progress to a charging decision or to court, then the allegation was therefore false. From the sample used for this research, in 14 of the 501 cases did the complainant subsequently state that they had made up the allegation. This small number echoes findings in a review published by the CPS in 2013 into charging perverting the course of justice and wasting police time in cases involving allegedly false accusations of rape and domestic abuse<sup>1</sup>.

Most victims/survivors in the cases used in this Review were women of white ethnic background, but it is important to note that black victims/survivors are over-represented in this sample and that the number of Asian victims/survivors reporting has increased. There has also been an increase in male victims/survivors reporting, and the research finds that men are three times less likely to withdraw from the justice process than women. There has also been an increase in the reporting of non-recent offences.

As you read about these findings and statistics, try to empathise with the people they represent. Reporting a deeply personal, invasive crime like rape is difficult for the victim/survivor in any circumstance. When the perpetrator is a friend, colleague or even

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<sup>1</sup> [https://www.cps.gov.uk/sites/default/files/documents/legal\\_guidance/perverting-course-of-justice-march-2013.pdf](https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/perverting-course-of-justice-march-2013.pdf)

\*aliases used to protect identity

family member, and reporting them may have potentially far-reaching consequences to the victim/survivor themselves, that decision becomes even more difficult.

It is understandable that many victims/survivors choose either not to report at all or to report long after the offence occurred, often in the face of a dreadful choice between remaining silent and trying to maintain normality in their home, social or working life; or pursuing justice, with all the impacts to the family, community and livelihood that may come with it.

For those who do report, relationships with the perpetrator remain a key consideration throughout their case. Not only is the victim/survivor faced with the upheaval to their life that follows a decision to report a rape, but their relationships with the accused will be scrutinised during the investigation and pored over by prosecution and defence in court. This may include accessing personal text messages sent to friends, family, the accused, as well as private photos, emails and content on social networks.

*“It’s likely they have my whole digital life, which will of course show that I am, like everyone else, a human with flaws, but not saintly and squeaky clean.” - Bonny Turner, victim of rape*

Keep these things in mind as you read this Review. Every statistic represents a person amid some of the most traumatic circumstances imaginable. For victims/survivors every step of a rape case, from the offence itself to making the decision to report the crime, through the investigation and into the courts, is a difficult one. I’m deeply grateful to the victims/survivors of rape who have shared testimony about their cases – featured throughout this document - to help illustrate the profound human impact of these crimes and the subsequent justice process.

### **Services under pressure**

Clearly then, the public services with a role to play in securing justice and supporting victims/survivors of rape must understand and be equipped to respond to traumatised victims, often with complex needs, as soon as a report is made and at every subsequent stage of the case. We would expect that the practitioners in the police service, victim support services, Crown Prosecution Service and the Courts - who work daily with victims/survivors of rape - have the training, the time and the resources required to do their jobs to the very best of their ability.

Sadly, that is not the case.

Having had to make £850m of savings since 2010 due to Government cuts to police funding, at the end of 2017/2018 the Metropolitan Police Service (MPS) officer numbers fell below

30,000 for the first time since 2003. While 15% of all recorded sexual offences take place in the capital, only 6% of government funding comes to London, leaving services at crisis point.

To illustrate, between October 2018 to June 2019, the London Survivors Gateway had received 1,137 online referrals for victims/survivors of sexual violence. Out of those, over 400 victims/survivors were not able to be linked with the support they required due to lack of available specialist provision. For those victims/survivors who were linked with specialist services, there was an average waiting time of four to six months for counselling support and two to three months for advocacy support from an Independent Sexual Violence Advocate (ISVA).

*“The main challenge we have is financial. There is a chronic lack of funding for the demand. I appreciate there are many other good causes out there but the trauma suffered by survivors of sexual abuse is big and it does ruin their lives. It can impact on their ability to work, to have a normal and healthy relationship within a family environment, can increase their dependence on substances. By not having the counselling available, all of this is a cost to the public purse. As an organisation we do work with people to try to get them to the point where they can hold down a job and have healthy relationships.” - VCS organisation*

In 2019 I published the findings from my Review of Compliance with the Victims’ Code of Practice. As part of the consultation for that Review I heard from practitioners from across the justice service about the impact this resource pressure had on them, professionally and personally. Good people who want to give the best possible service to vulnerable victims/survivors are frustrated time and time again by the limitations in training, personnel, time and money that currently prevail.

I am pleased that Sadiq Khan, the Mayor of London, has acted to help close the gap by making an unprecedented £234m investment into the Metropolitan Police Service, enabling the recruitment of more officers and investment in the tools and resources which support them in their work. In addition, earlier this year the Mayor announced he is providing an additional £15m investment into vital services for women and girls who have experienced sexual violence and domestic abuse. As a result, an additional 235 women will be able to access ISVA support, bespoke support for young women who are victims/ survivors of sexual violence will increase by 62%, and 100 more women will be able to receive therapy sessions. However, this is still a drop in the ocean and City Hall alone cannot make up for the money lost due to Government cuts.

More recently, these concerns have been echoed by Cressida Dick, the Metropolitan Police Commissioner, and other senior figures in the justice service, as they come to grips with an

increasingly complex investigative process with significantly less resource than they have had in years past.

The resource pressure on the police, criminal justice agencies and the voluntary and community sector is well known and acutely felt by those working in these services. It is important to view the findings of this Review within that context.

### **Justice denied**

*“Rape has effectively been decriminalised, and men who rape are knowingly doing so with impunity.” - Bonny Turner, victim of rape*

Most victims/survivors of rape will never get justice. Most suspects will go free.

Of the 501 reports used in the research for this Review, only 3% resulted in a conviction. Nationally, we know that the conviction rate over the same period (April 2016) was even lower, at 1.7%. This research shows that it took on average more than 18 months from the date of reporting the rape to the trial outcome.

This data is startling. By anyone’s estimation this is a justice crisis. We can, and we must, do better.

That is why this research, conducted by leading experts from the Mayor’s Office for Policing and Crime (MOPAC) and the University of West London, is so important. Through their hard work we now have the clearest picture to date of reported rape in London, and the reasons why so few cases result in conviction.

While I continue to believe that a significant increase in Government funding for our justice service is urgently overdue, the findings in this research identify key areas of challenge and opportunity which, if properly addressed, could result in fewer victims/ survivors leaving the justice process, fewer cases resulting in no further action, and more perpetrators brought to justice – ultimately making our communities safer.

My reflections and recommendations focus particularly on these key areas and opportunities highlighted by the research, and the issues that play a substantial role in this current crisis.

## 2. Factors influencing the attrition of rape cases

Victim/survivor attrition is the most significant barrier to achieving justice that this research highlights. The research found there was a notable number of victims/survivors withdrawing their allegation, 58% in total. This is an important finding that must be considered in the context of what we know about the essential role that support and advocacy play in keeping victims/survivors engaged in the criminal justice process.

Findings show that reasons for withdrawal are often complex and inter-related. They are not as simple as victims not co-operating or supporting the investigation or prosecution. It is clear from my engagement with victims/survivors, and my Review into Compliance with the Victims' Code, that: a lack of confidence in the criminal justice service; a lack of accessible high quality, timely information and specialist support; being scrutinised and not being treated with dignity and respect; all contribute to a high attrition rate. These underlying systemic issues must be urgently addressed if we want victims /survivors to feel able and supported to continue in the justice process.

*"I knew the statistics and how unlikely it is that anything would be done. Only 13% go to court and only 50% go through...and people are often pressured to drop out if they go through the process." Alison\*, victim/survivor*

### Timeliness

*"Each time there is a postponement, we're forced into silence, our personal life and lifestyle questioned, we are re-traumatised. Yet, there is little or no help to support us through the process. We are isolated, causing anxiety, depression and even suicide. The system has to be the solution and not the cause of more trauma." - J.K Frederick, victim/survivor*

The most common reasons given for withdrawal were stress and trauma due to lack of police contact, lack of information or updates, or the sheer length of time it takes for investigations to progress.

In the sample used in this research:

- The average length of time between a rape being reported and the police making the decision to take no further action was 213 days;
- The average time from reporting to the Crown Prosecution Service (CPS) submission was 345 days;
- The average length of time between the CPS submission and decision to charge was 138 days;
- There was an average of 133 days between the CPS decision to charge and trial;

- Trials lasted, on average, for 11 days.

The research highlights that withdrawal tends to happen early in the process. Of those who withdrew, 18% did so within 30 days of reporting, 48% within 90 days, and 77% within 180 days. This shows how important it is for support to be offered as early as possible into the journey. But hearing from both the police and the other organisations providing the support, the demand far outweighs the resources to provide it. If we want to see attrition rates decrease, funding for these services is critical.

*“The length of time it took to take the case to trial, coupled with the change of court date, resulted in me questioning if I wanted to go forward with the trial. Between the date of when the first court date was set and when the second court date was set, I was barely contacted and received no support. This left me feeling very alone and constantly worried about the court case as there was no one to talk to. It felt like I was no longer of use to the police, and that they only contacted me when something was needed with no thought to how I was dealing with the situation.” – Sophie, victim/survivor*

Concerningly, delays in reaching charging decisions have continued to increase with cases going back and forth between the CPS and police, leaving victims in the middle with no information, no closure and often no support. Although the CPS reviews cases within 21 days, the cases are sent back to police with an action plan for further information. It is not clear why cases are taking so long to progress at this point and more work must be undertaken to establish the causes of these delays.

The number of charging decisions has continued to decline – statistics from the CPS and Ministry of Justice revealed by the End Violence Against Women (EVAW) Coalition show that nationally, while rapes reported to the police have increased by 173% between 2014 and 2018, the number of cases charged and sent to court has reduced by 44%.<sup>2</sup>

*“The acute and chronic stress and anxiety caused by the delays in the process over the last three years and currently has had a massive negative impact on my family's mental and physical health and wellbeing. Trying to recover from childhood trauma, live a normal life, work, study, build better relationships is nigh on impossible. It's no wonder that there are high attrition rates in victims and survivors not pursuing justice.” – Chris Tuck, victim/survivor*

In the sample used for this Review, police referred only 14% cases to the CPS for a charging decision. Only 64% of those referred cases were charged. It is imperative that we work to

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<sup>2</sup> <https://www.endviolenceagainstwomen.org.uk/evaw-launches-legal-action-against-cps-for-failure-to-prosecute-rape/>

understand the reasons behind this and why victims/survivors are withdrawing post-charge and prior to court

### Safety

We can see from the research that personal safety is a key concern for many victims/survivors and contributes to victim withdrawal. Victims/survivors withdraw from the process because they are concerned for their own safety, particularly in cases with a domestic abuse overlap.

Bail is an important police tool for managing the risk of potentially dangerous individuals and for protecting vulnerable victims/ survivors during the investigation of a crime. Changes made by the Government to significantly reduce the amount of time the police can keep someone on bail were roundly criticised by police, partner agencies and victims' groups for good reason as bail conditions are vital tool in safeguarding and supporting victims/survivors. Further use of this tool will help to address concerns over personal safety, which we know drives withdrawal, and also ensure that practitioners work in a timely manner, so cases stay on track.

There is a significant overlap between domestic abuse and rape. In some cases, a rape is reported as a result of a victim/survivor making a report of another offence. This research shows that 17% of all rapes were reported in response to the DASH (Domestic Abuse, Stalking and Honour Based Violence) risk assessment questions asked by police when attending a domestic abuse call. It also shows that this form of reporting was related to a higher victim withdrawal rate. Victims/survivors I have spoken to confirm this finding and have said that behind it is a need for the domestic abuse to be prioritised and support to be given to safely exit the abusive relationship – often they viewed the rape investigation as a potential threat to their safety.

### Digital evidence and third-party material

*"They then requested an entire download of my mobile phone. I could not cooperate on this point. A mobile phone is just too personal and there is just way too much information on it which is irrelevant to the crime committed but will nonetheless be used to humiliate and discredit me. It happens all the time but even if it didn't in my case I would still living in a constant state of anxiety ruminating over the ways in which I could be re-humiliated with this data. My mental health would seriously suffer for the time it would take for the trial to happen (which could be years) and I would be at risk for self-harm. Justice therefore is not worth it." – Courtney\*, victim/survivor*

Digital evidence, often in vast quantities, is playing an increasingly important role in the justice process. Since the high-profile collapse of a number of rape trials in late 2017, I have heard from the police and prosecutors about the challenges that are arising from the sheer volume

of data involved in investigations and the impact that this intrusive data gathering process is having on victims'/survivors' ability to access justice.

Added to this challenge is the long-standing issue of police requesting third-party material such as medical records, counselling records, social services or educational records or material relating to family court proceedings. A third party has no obligation to share this material and can ignore such requests, which causes delays in the process.

*“The Police had to wait at least 6 months to get access to some of our medical records and social care records. Many are still missing however two and a half years into our case some medical records 'appeared' dated 1988. These were crucial to our case and our own personal healing as a family.” – Chris Tuck, victim/survivor*

Before my appointment as London's first Victims' Commissioner, I worked with victims and survivors of rape and sexual offences to tackle some of the most embedded barriers to justice that victims and survivors face. This included cases of victims' and survivors' sexual history and past behaviour – often gleaned from third-party material - being used in court to attack their credibility and undermine their case. At this time the Community Interest Company (CIC) I founded, Voice4Victims, provided evidence and case studies supporting the call for the drafting of a rape 'shield law' to prevent this intrusive and damaging questioning in court. I hoped that the Government would strongly consider and expand upon this law to ensure there are legal mechanisms in place to allow victims/survivors representation when asked to share material that could breach their Article 8 rights on protecting their privacy and family life.

*During the trial, messages and pictures from my phone were discussed and shown to the jury by the defence. I wasn't aware that either of these things would be used in the court case, and some of them had little relevance to the crime. The TV screens in the court room were not turned on, so quotes were read out in quick succession by the defence without the jury seeing any of the messages that came before or after. I was never given any time to explain the context. I felt like this was very unfair and upset me to the point where I was crying as it felt that the messages and pictures were being used to discredit me as a victim. No one said anything against it or tried to stop it which made me feel very alone and like I had to prove myself. - Sophie, victim/survivor*

However, since my appointment as London's Victims' Commissioner in 2017 I have heard from many victims/survivors about the pressure they felt from police to 'consent' to allowing them, the CPS and potentially defence solicitors access to highly sensitive and personal material from their phones, social media accounts, medical records, school records and social services records. Much of this is often felt to be unreasonable and disproportionate, with many victims/survivors stating they were unclear what data had been requested and why.

The new General Data Protection Regulation is clear - consent must be both informed and unambiguous.

*"[Almost two years after reporting]...the police were asked to check all of our digital media. We do not understand why digital media for non-recent abuse is an issue? The abuse of us happened over 30 years ago when social media didn't exist." – Chris Tuck, victim/survivor*

In my view, it is unacceptable therefore that victims of one of the most traumatic and invasive crimes are being told they must sign consent forms that remove their right to privacy and allow huge volumes of their private personal data to be scrutinised in order to access justice. If victims/survivors resist, then they can feel immense pressure that the case may collapse as a result. If they comply, many feel as though the personal material is then used to undermine their credibility in charging decisions and in court, ultimately preventing justice. Police and prosecutors must follow reasonable and proportionate lines of enquiry in rape cases, being clear throughout with the victim as to the rationale for seeking access to their data.

*"Despite the fact I was raped by a stranger who was identified many years later by DNA evidence, I was then told that in order to charge him the police would need to go through my school and university records, medical records and around six years' of therapy notes. This felt so invasive and disturbing, as if rather than assessing the evidence gathered at time of the rape they were evaluating my character over my lifetime. I felt I had very little power to object to this as they warned me missing information could jeopardise the case. The extent to which I was expected to give my life over for inspection and judgement eventually led me to decide that were the case to go to trial I would withdraw from the process as I was terrified of being subjected to further scrutiny and my life experiences and private therapy notes being used to discredit me." – Danielle\*, victim/survivor*

I recognise entirely how complex and sensitive these issues are, and the huge pressures facing police and prosecutors. We must urgently work towards an agreed position on the appropriate and reasonable use of victims' data in rape cases. It is a critical issue which is greatly impacting confidence in the justice system, victims' experience and their ability to recover, on the timeliness of cases and on the likelihood of securing a justice outcome.

*"When I reported the crime, I was asked to hand over my phone to the police. It was explained to me that this was because in a few recent rape cases evidence was found that the victim had been lying, and that this looked badly on the police, therefore they were asking everyone in rape cases for access to their phones. This comment made me feel uncomfortable as I worried that the police thought I was lying. I was asked to sign a form giving consent for the police to access my messages, photos and call history. It was suggested by the detective that I allowed access to these areas, and as a result I did. I don't think I got a choice in this decision as I didn't want it to seem like I was lying so allowed access to everything the detective said was needed." – Sophie, victim/survivor*

This is why in October 2018 I called for the Information Commissioner's Office (ICO) to take an independent look into the lawfulness of consent and this policy and to offer clear guidance to justice agencies on the appropriate and legal use of data in rape cases. I have been working closely with the ICO, ensuring victims cases are key to this investigation, and look forward to the publication of that review later this year.

I also welcome a new pilot underway in Northumbria, introducing Sexual Violence Complainant Advocates (SVCAs). This is a new role being brought in to provide independent legal representation to victims/survivors, ensuring they are properly advised and protected against inappropriate intrusion into their private lives. This could have real potential to improve the victim experience during the justice process, reduce withdrawal and achieve better justice outcomes. I will continue to follow the progress of this pilot with interest.

### Trauma

*"The issues I had with my experience after my sexual assault had a large impact on my recovery, accumulating in me having to seek my own private counselling and needing additional time off work, an outcome not desirable to anyone. As a victim it is hard to understand and navigate the long-term impacts of an attack and unfortunately if the support is not there in the beginning, the long term fall out of this is much larger than what might have been needed originally." – Rachel\*, victim/survivor*

Without the right specialist support and information, trauma can play a significant role in the victim's/survivor's decision to withdraw their allegation. Feeling disempowered and disconnected are normal trauma responses which continue to be misunderstood by justice agencies and can compound a lack of confidence in the criminal justice service. Trauma is easily exacerbated when victims/survivors are made to repeatedly talk in detail about the incident, especially so soon after the assault and without the necessary specialist support on hand. It can also be exacerbated if they receive inadequate treatment from police, for

example lack of information; lack of timely updates; or being made to feel they are not believed or are a 'nuisance'.

*"During the process I struggled to get any counselling or support. I contacted victims support however was told that counselling was not a service they provided. The only option I was left with was getting help privately as the waiting list on the NHS meant I wouldn't get any help in the near future. Post-trial, I was never contacted again and the news of the outcome was delivered insensitively by the prosecutor rather than anyone from the police who I had been dealing with over the year. I felt like I was no longer of use to the police and therefore forgotten about, with no thought to how the outcome of the trial would affect me. As a result, due to my experience, I would be very reluctant to ever report a crime or go to court again." – Sophie, victim/survivor*

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As my Review into Compliance with the Victims' Code of Practice found, we know many are struggling to access therapeutic services in a timely way. When they do, many are advised that accessing support for their mental and emotional health may undermine their case in court and that they run the risk of having to disclose their counselling records, in line with the CPS' existing pre-trial guidance if there is material that undermines prosecution or assists defence. The prospect of sharing such personal material can discourage them from accessing vital support and places them in a difficult position of having to choose between getting help for their well-being and emotional needs or continuing without support until the trial has ended. It is therefore no surprise that many feel unable to continue and subsequently withdraw from the justice process.

*"At the beginning of the counselling session which the police set up for me, the therapist told me the service offered was totally confidential but at the end of the session she put some documents in front of me to sign. They were things like consent forms for treatment, but somewhere buried in the pile was a form that said 'I agreed to allow the police to access my counselling notes'. The thought of it filled me with anxiety because I don't think my private thoughts and feeling should be read by the police or especially my attacker as part of disclosure. She told me they would just request this information anyway or not pursue my case anymore. To maintain privacy, I therefore decided to forgo counselling despite desperately needing it." – Courtney\*, victim/survivor*

The CPS are currently revising pre-trial therapy guidance and I will be reviewing this guidance to ensure that it no longer prevents victims/survivors from accessing therapy during the justice process.

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<sup>3</sup> Counselling is offered by Victim Support, however it was not in this case.

There is a growing body of research on the neurobiological effects of sexual assault on victims, and how it impacts their engagement with the justice process. Leading Canadian academic Dr Lori Haskell has highlighted that missing information, inconsistencies or gaps in statement or self-contradictions are fundamental aspects of human memory, particularly in the traumatised mind. Dr Haskell trains criminal justice agencies in Canada on how to employ trauma informed practices.<sup>4</sup>

*"I have been diagnosed with PTSD not only from the assault, but a therapist doing an assessment says this mostly stems from my experience in dealing with the police...People with PTSD like myself have a hyperactive amygdala where we process fearful and emotional states differently. The requests for this personal information therefore hit me particularly hard." – Courtney\*, victim/survivor*

Research states that victims/survivors remain in a state of trauma for at least two days after an assault and therefore questioning them during this time, or sharing important information with them, can be detrimental to the victim's/survivor's emotional state, and also to the investigation.

If we want to see more rape cases progress through the criminal justice service and ensure victim/survivors are not being retraumatised by it, then this body of evidence must be reflected in every police practice for interviewing and engaging with victims of rape and sexual assault.

*"The following days are a blur to me, but I know I continued to feel conflicted, and behaved in contradictory ways. I swung between denial, and wanting to scream for help and support. Within 10 days of the rape, I had told half a dozen friends, and my GP, but I also joined Tinder in a vain attempt to move forward" - Bonny Turner, victim of rape*

Having multiple officers in charge (OIC) of the case predicted that victim withdrawal was eight times more likely. Although this suggests that having one OIC in charge of a case may reduce victim withdrawal, victims/survivors in this sample typically liaised with the Sexual Offences Investigative Trained (SOIT) officer rather than the OIC throughout the investigation.

I am pleased therefore that in all cases of rape, a SOIT officer, who is trained in PTSD, trauma and memory, leads the interview with the victim/survivor. It is essential that this continues, that wherever possible victims can have continuity with their SOIT, and that in every case an officer who is trained in the impact of trauma is used. However, the police need to go further

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<sup>4</sup> 2019 Report Submitted to Research and Statistics Division, Justice Canada. By Dr. Lori Haskell, C. Psych., Dr. Melanie Randall

and employ a trauma-informed strategy to help facilitate gathering evidence to build a case that supports the victim/survivor and doesn't re-traumatise.

Taking into consideration the effects trauma can have on a victim/survivor, it is imperative that police unconscious bias or personal judgements of the validity of the case or testimony do not interfere with the evidence gathering process, nor be relayed to the victim/survivor. From my ongoing engagement with victims/survivors, we know that feelings of not being believed or lacking confidence in the justice process are key underlying factors for withdrawal.

This underlines the findings from my Review into Compliance with the Victims' Code of Practice in London, which stressed the critical importance of providing a transparent and trauma-informed service to victims/ survivors.

I am keen to promote this ground-breaking work within the justice agencies and help them to build a greater understanding of the traumatised mind, with a view to improving practice, justice outcomes and victims'/survivors' recovery, and avoiding re-traumatisation. I make several recommendations to push this work forward and will continue to engage with all partners to discuss how we can ensure that a trauma-informed approach is embedded at every stage of the justice process.

#### Predictors of victim withdrawal

The research provides an analysis of the key predictors of victim/survivor withdrawal from the justice process, from which we can identify and prioritise remedial measures to help more victims/survivors stay engaged.

These findings reveal a number of opportunities for procedural improvements. Procedure is in the gift of the police and prosecutors to change and improve, and there are real opportunities to act on this research and address some of the key predictors for victim/survivor withdrawal.

For example, it is clear from the research that procedural characteristics, such as the administration of an Early Evidence Kit (EEK), which enables the officers to preserve forensic evidence from the victim, has an effect on victim/survivor withdrawal. We know that victims/survivors who were administered an EEK had significantly lower rates of withdrawal.

It is important to consider this finding in context and to note that these proportions do not necessarily reflect a lack of police effort. We must consider how we can further encourage use of EEKs but acknowledge that there will always be cases where an EEK is not possible or appropriate, for example, when the rape is reported outside of the forensic window. We know from the research that there were no forensic opportunities in 61% of cases.

*“Had I known all the information (the possibility to collect biological samples, to get tested for STD, the possibility to report anonymously, the right to demand CCTV footage etc.) I would have definitely acted differently. This still haunts me and it will hurt probably indefinitely.” – Jane\*, victim/survivor of rape*

It is also notable that if the victim participated in a Video Recorded Interview (VRI), withdrawal was six times less likely. Whilst I understand officers from the cases in the research sample actively encouraged victims/ survivors to opt for a Video Recorded Interview, it is clear that there is real value in reviewing whether this is being done routinely and whether victims are getting all the support they need to encourage them to participate in a VRI when appropriate. I suggest that this finding, and the question around how officers can further support victims to opt for a VRI is considered by police as part of the ‘next steps’ resulting from this Review.

*“The police officer advised me against doing a video interview, and instead misled me into giving a written statement by saying that I could check and amend it before it was submitted. She took five hours to type my statement, which turned out to be filled with factual errors, but then she refused to let me amend it as previously promised.”– Bonny Turner, victim of rape*

The only victim/survivor characteristic that predicted victim withdrawal was gender: male victims/survivors were three times less likely to withdraw compared to female victims/survivors. We can also see that after mental health, the second victim/survivor characteristic that predicted police No Further Action (NFA) was age was age. Victims/survivors who were aged under 18 years at the time of the offence were three times less likely to have their case end in police NFA. This may indicate a deeper prejudice built into our justice process - where women are more likely to be assumed to be lying unless proven otherwise, and that they are being discriminated out of justice in the search for a ‘perfect victim’.

The next steps I propose reflect the importance of looking at how the police already are, and could further, seize these procedural opportunities which could reduce attrition and provide better support for victims and evidence for the case.

### **3. Key predictors of police ‘No Further Action (NFA)’ of rape cases**

The research found that 29% of cases ended with a police decision that No Further Action (NFA) was required.

Again, the research looked at predictors of these decisions. It found that if the suspect was arrested, the case was fifteen times less likely to be marked as NFA. Given the research also shows that in only 36% of cases the suspect was arrested (and in 25% although not formally arrested are interviewed under caution) I suggest as a next step the further consideration and discussion with the police about how these decisions are made.

The research also found that if other evidence cast doubt on the case, NFA was seven times more likely and if the victim gave an inconsistent account NFA was six times more likely, a point which links closely to the discussion earlier in this report around the impact of trauma. If there were no forensic opportunities or if the police perceived chance of conviction to be low, NFA was five times more likely.

It also found that victims/survivors who were aged under 18 years at the time of the offence were three times less likely to have their case end in police NFA.

Interestingly, the research identified a potentially important relationship between mental health needs, inconsistent testimony and the decision to take no further action, with 95% of victims/survivors presenting with at least one need (e.g. mental health, learning difficulties).

The most prevalent of these was mental health need, with many relating to prior experiences of victimisation. 41% of victims/survivors presented with a mental health issue; a significant increase from previous Rape Reviews. Cumulative needs were common, with just over one third of victims/survivors having two needs present, and one in five having three or more needs.

Again, these findings echo earlier conclusions around the important role police play as the first entry point into justice and support and why they must adopt trauma-informed practices for questioning and gathering evidence from victims/survivors, as well as referring as quickly as possible to advocacy and specialist support. Without these improvements, many victims/survivors with support needs will continue to struggle to remain in the justice process and may be at further risk of victimisation.

## 4. Next steps

The research report makes many further important findings, and I encourage everyone involved in the justice service to take the time to read and consider them. Yes, many of the findings are stark and at times shocking but within this wealth of evidence are opportunities for real improvement.

Criminal justice partners will need to work together to overcome some of these significant challenges if we are to bring an end to this justice crisis. There is hard work ahead to change practices and policies that leads to victims being failed. Just as significant, there is much more to be done to dispel underlying myths and stereotypes that create further barriers to support and justice.

I am pleased therefore that the Deputy Mayor for Policing and Crime has agreed to host a session of MOPAC's regular public scrutiny meeting, Justice Matters, later this year to further explore the findings of this Review. At the meeting we will bring justice partners together to discuss the recommendations and seek to develop an action plan on how to address systemic issues identified in this report, including delays and timeliness in rape cases; disclosure and the intrusive access to victim personal data; barriers to accessing information; and support for victims.

I will also explore the possibility of calling for a joint HMIP and HMICFRS investigation into the delays in rape cases, as well as consider the possibility of running a dip-sampling test by an independent reviewer to identify where the delays lie.

Furthermore, I am pleased that MOPAC is to continue its leading work in this space, sharing the data and framework methodology with the Government to support their end-to-end review into rape cases, and commissioning a bespoke piece of research into the use of disclosure and technology evidence in cases of rape in London. The aim of the research will be to improve current understanding of how requests for disclosure and technology evidence are used in rape cases, and the impact recent policy changes in this area are having on victims, on police investigations and on case outcomes.

## 5. Recommendations

1. I strongly urge partners to engage with my Review into the Victims' Code of Practice and to act on my recommendations as a matter of urgency. I am certain that the implementation of my recommendations from this Review would make significant steps to improving the service to victims of this crime type and others.
2. Police should undergo trauma informed training, in line with the ground-breaking work of Dr Lori Haskell in Canada to recognise and understand the neurobiological impact of trauma on memory, reactions and behaviour. This training should then inform refreshed guidance on how to conduct victim interviews to ensure best evidence is gathered and that the impact on the victim remains at a minimum.
3. The learning and principles of the training in recommendation 2 should be shared across criminal justice partners, including with the Judiciary, the Bar Council and the Law Society.
4. The CPS should include in the current Rape and Serious Sexual Offences (RASSO) training a specific section which covers the neurological impact of trauma on memory so that it is understood in the charging decision process and represented by prosecution in court proceedings.
5. The Government's response to the research of Professor Cheryl Thomas into the impact of rape myths and stereotypes on jurors should ensure that the standard directions the judiciary gives jurors not only covers rape myths and misconceptions, but also the neurobiological impact of trauma on memory.
6. More must be done to end the excessive intrusion into personal data through the criminal justice service in rape cases. I recommend partners work with the ICO when their recommendations are published.
7. The revised pre-trial therapy guidance soon to be published by the CPS must ensure that partners are not discouraging victims/survivors from long term therapeutic services such as counselling and peer support and that victim/survivors have confidence that their records are safeguarded and not being used to cast doubt on their credibility. I recommend that the CPS should only be requesting therapy notes to show the impact of the crime on the victim and not for any other purpose.
8. We have seen the effect of delays in rape cases and I call on the Government to consider as part of their review - which I hope will be addressing these delays - a

mandatory time limit for the provision of third-party material that victims have fully agreed and consented to sharing in cases of rape and serious sexual offences (RASSO). I would suggest a maximum time to respond being set at three months.

9. The Government should amend the Policing and Crime Act 2017 as matter of urgency to create a presumption that all suspects under investigation for domestic abuse, sexual assault or other crimes where there are significant safeguarding issues only be released from police custody on bail. The Government should also amend the length of time suspects can be released on pre-charge bail due to better reflect the length of time these cases take to proceed.
10. It is clear that victims/survivors must have access to necessary support to keep them engaged in the justice process, improve criminal justice outcomes and recovery rates. I call on the Government to reverse the huge cuts the sector is struggling with to ensure there is adequate funding for Rape Crisis services and ISVAs to meet demand and protect a significant proportion which should be ring-fenced for specialist Black and Minority Ethnic (BAME) services.
11. As part of advocacy support offered to victims, I call on the Government to ensure that victims/survivors of sexual violence can access fully funded legal support to provide independent advice and legal representation from time of reporting through to post trial. This is especially required for the use of their personal information and data in legal proceedings and should include legal representation during cross-examination if questions on past sexual history or personal material that undermines credibility has not been restricted.
12. The Government should ensure as part of its end-to-end review a commitment from PCCs to commission research similar to the framework used in this London Review, and I am pleased MOPAC are willing to share the methodology. More broadly, the Government should consider how best to collect data from the CPS, Courts and victim support services to ensure there is robust data collection that will provide us with clearer understanding of what is causing these critical issues.

## 6. Conclusion

I hope this Review goes some way towards remedying any outstanding misrepresentations or misunderstandings of rape in the public consciousness.

Achieving justice for rape is complicated and complex, and a difficult journey to take. It is essential partners come together to deliver a better service for each and every victim, and to improve the appalling justice outcomes we are seeing. We have seen how public services with a role to play in securing justice and supporting victims/survivors require the capacity and the capability to deliver justice.

The next steps and recommendations put forward in this Review work towards improving the situation for victims/survivors. If actioned, I am confident we will see positive results in rape convictions.

In closing, I want to thank the research teams from the Mayor's Office for Policing and Crime (MOPAC) and the University of West London for their dedication, expertise and insight in developing this hugely complex and far-reaching Review. Through their hard work we now have the clearest picture to date of reported rape in London.

Equally, I am grateful for the openness and engagement of the Metropolitan Police Service, the Crown Prosecution Service (CPS), Her Majesty's Courts and Tribunals Services (HMCTS), National Health Service (NHS) England, The Havens, (London's three sexual assault referral centres), Women and Girls Network, Solace Women's Aid, Rape and Sexual Abuse Support Centre (RASASC), nia, Galop, The Survivors Trust, and End Violence Against Women (EVAW). I am very heartened by the shared determination of all involved to make things better for victims of these horrific crimes. I would also like to thank Dr Lori Haskell and Joan Smith, Chair of the London VAWG Board, for their input and advice throughout this Review.

The Review has posed a number of questions that will need our consideration as a partnership. I set these out and welcome views. Equally, we will need to work together to deliver the recommendations if we want to make a real and lasting difference for victims/survivors of rape in the capital. I look forward to continuing to engage with all partners to take this critical work forward.

**Claire Waxman, Independent Victims' Commissioner for London**