

# The unintended consequences of improving police recording of rape in England and Wales

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## ABSTRACT

A strong focus in recent policy and media coverage has been the increase in reporting of rape coupled with an associated fall in the charge rate, often attributed to victim withdrawal. Drawing on an analysis of 741 police case files as part of Operation Soteria we question each of these positions. We argue that changes to the Home Office Counting Rules since 2014 have resulted in a significant proportion of cases which are not reports from victim-survivors and which they did not consent to. Closing such cases at outcomes which make victim-survivors responsible is both inaccurate and leads to misperceptions of where the problems lie in rape investigations.

## INTRODUCTION

Police-recorded rapes in England and Wales increased more than fourfold over the past decade from 16,374 in 2012/2013 to 68,949 in 2022/2023, while in 2018/2019, the charge rate for recorded rapes in England and Wales fell to an all-time low of 1.5% (Home Office, 2019), resulting in extensive public and political discussion of the ways in which the police handle rape investigations. Both trends formed the backdrop to Operation Soteria<sup>1</sup>, data from which this paper draws on. Explanations of the changes have tended to attribute the increase to a combination of greater public confidence to report such crimes and improved crime recording (ONS, 2023), while public discourse has focussed on the plummeting charge rate (Bowcott and Barr, 2019) and the increasing proportion of victim withdrawals (Hymas, 2022).

A group of women's organisations reacted to this data suggesting that rape had been effectively 'decriminalised' (CWJ *et al.*, 2020). The government responded with an internal review (HM Government, 2021) and accompanying research report (George and Ferguson, 2021) into the Criminal Justice System (CJS) response to adult rape and serious sexual offences (RASSO<sup>2</sup>) in England and Wales. One of the review's most significant findings was that 'victim withdrawal' had increased: between 2015–2016 and 2019–2020, the proportion of recorded adult rape offences assigned a crime outcome

of 'evidential difficulties: victim does not support' grew from 42% to 57% (George and Ferguson, 2021). This category refers to two Home Office-defined crime outcome codes: outcome 14 (OC14) for use when a suspect has not been identified and outcome 16 (OC16) where there is a named suspect (Table 1).

On the face of it, crimes closed at OC14 and OC16 are indicators of victim attrition—they represent cases that begin with a report to the police from a victim who later withdraws their support from the process. This is how the data on OC14 and OC16 were interpreted in the 2021 Rape Review, and this was repeated in subsequent publications and media reporting, leading to a policy focus on 'victim engagement'.

An in-depth case file review of OC14 and OC16 cases across four police forces in England and Wales conducted by Pillar Five of Operation Soteria (from here on Soteria) has revealed that the data on OC14 and OC16 cannot be interpreted simply as indicative of victims withdrawing from a previously supported case. Instead, we argue, the high usage of these outcome codes in recent years is an unintended consequence of changes introduced from 2014 to how rape crimes are recorded.

In this paper, we map how changes to recording practices have resulted in an inflation of the overall volume of rape crimes recorded, many of which are closed at OC14 and OC16. We then show that most crimes closed under these outcomes are not reports that victims have made and subsequently withdrawn their support from. We conclude by exploring the unintended consequences of these changes for victim-survivors, data integrity, police workload, and wider policing culture, and outlining what needs urgently to be addressed. We begin with a brief

<sup>1</sup>Operation Soteria (previously Operation Soteria Bluestone) is a Home Office-funded programme for the improvement of the investigation of rape and serious sexual offences (RASSO) in England and Wales. For more information see Stanko, 2022.

<sup>2</sup>There is no current standard or consistent definition of exactly what offence types RASSO consists of, but the approach taken in this paper is that it broadly encompasses rape and other penetrative and contact sexual offences.

**Table 1:** Home office crime outcome codes 14 and 16

Outcome code	Definition
14	Evidential difficulties victim-based—named suspect not identified but the victim declines or is unable to support further police action to identify the offender.
16	Evidential difficulties victim-based—named suspect identified—the victim does not support (or withdraws support from) police action.

outline of the methodology and the dataset on which this paper is based.

## METHOD AND DATA

Soteria was designed to improve the investigation and prosecution of rape and serious sexual offences (RASSO), one aspect of which involved confronting the issue of victim withdrawal. The project was initially divided into five (subsequently six) thematic areas, each led by a different academic team working in collaboration with police and other stakeholders (Hohl and Stanko, 2022). A ‘deep dive’<sup>3</sup> was conducted in five police forces to inform the development of practical tools and guidance. These were brought together in the summer of 2023 in a new National Operating Model now being rolled out to all police forces in England and Wales<sup>4</sup>.

The thematic area our research team in Soteria was responsible for was data, including conducting analysis of large national data sets and more detailed data from the five ‘pathfinder’ police force areas (those where the Soteria work was initially located), which provided new evidence on recorded RASSO and the patterns associated with case progression and outcomes<sup>5</sup>. Part of our work involved analysing police case file data to explore what lay beneath the outcome trends reported in the rape review, particularly in relation to OC14 and OC16, the most common codes where there is a decision of no further action (NFA). This is part of a larger dataset we collated on a range of case outcomes. We draw here on data from four<sup>6</sup> of the five pathfinder areas, comprising 499 cases closed at OC14 ( $n = 248$ ) and OC16 ( $n = 251$ ).

The case files were electronic records of individual rape cases held on the force crime management databases. They contained a combination of structured data about the case—the victim, suspect and other parties involved—and a narrative log documenting the investigation, with entries from investigating officers, supervisors and other police staff. In two forces, the case files were extracted, anonymised and shared with the researchers as PDFs and in the other forces accessed securely via live police systems. From the records, we coded quantitative data on

the victim, suspect and other offence characteristics, to enable descriptive analysis.

Qualitative data in the case files on evidential issues and rationales for case closure were subjected to thematic content analysis to generate analytic codes capturing why cases finalised as OC14 and 16 were discontinued. The analysis highlighted key issues that we translated into codes connected to evidence, the investigation, the wider criminal justice process and victim withdrawal (Fig. 1). The code ‘no clear evidence of offence’ refers to events that could not have happened (e.g. being raped by a ‘supercomputer’) or where it was unclear to the victim-survivor what had happened. The code ‘CJS process loses victim’ covered cases where the police lost contact with the victim-survivor or where they stopped responding to messages. Of particular relevance to this paper is the proportion of cases that were never supported by victims, namely the two largest categories of ‘telling not reporting’ and ‘third party not supported by victim at outset’. It is beyond our scope here to discuss the other categories, but below we present the overall distribution across the analytic codes to locate these two categories within the context of the broader findings.

Additional qualitative data were captured including detailed, long-form summaries of each case and in-depth interviews with a sample of police officers and staff in a combination of senior, operational and analytical roles from the pathfinder forces.

## COUNTING RULES AND RECORDING GUIDANCE: A BACKGROUND TO THE CHANGES

In England and Wales, the Home Office Counting Rules (HOCR) provide the framework for interpreting, classifying and counting crime. All notifiable offences recorded by the police must comply with the HOCR prior to submission to the Home Office under section 44 of the Police Act 1996. In 2000, a Home Office study (Home Office, 2000) and a review of police crime recordings by Her Majesty’s Inspectorate of Constabulary (HMIC, 2000) revealed inappropriate and inconsistent recording practices. Following these, in 2002, the Association of Chief Police Officers, with the Home Office, developed the National Crime Recording Standard (NCRS). The HOCR and NCRS are aligned to ensure greater validity, reliability and transparency of police-recorded crime data with ‘the twin aims of ensuring proper focus on the victims of crime and consistency in crime recording in all 43 police forces’ (HMIC, 2014: 120).

The HOCR currently state that an incident must be recorded as a crime if, on the balance of probability, the circumstances amount to a crime defined by law and there is no credible evidence to the contrary (Home Office, 2023). If these conditions are fulfilled, police are required to record a crime even when the victim declines to provide personal details or does not want to take the matter further. The HOCR also describe when a crime need not be recorded. Some incidents are reported to the police that would ordinarily amount to a notifiable crime but are not confirmed by the victim. For example, if the incident is reported by a third party not listed in the NCRS as someone able to report on behalf of the victim, and the victim declines to confirm

<sup>3</sup>This involved interviews, observations, surveys of staff, analysis of police data and case files, and a series of online seminars through a national learning network to share findings.

<sup>4</sup>See: <https://www.college.police.uk/national-operating-model-rasso>.

<sup>5</sup>For a fuller account of our methodology see Stanko, 2022.

<sup>6</sup>Analysis of data from the fifth force is still ongoing, so it has not been included.

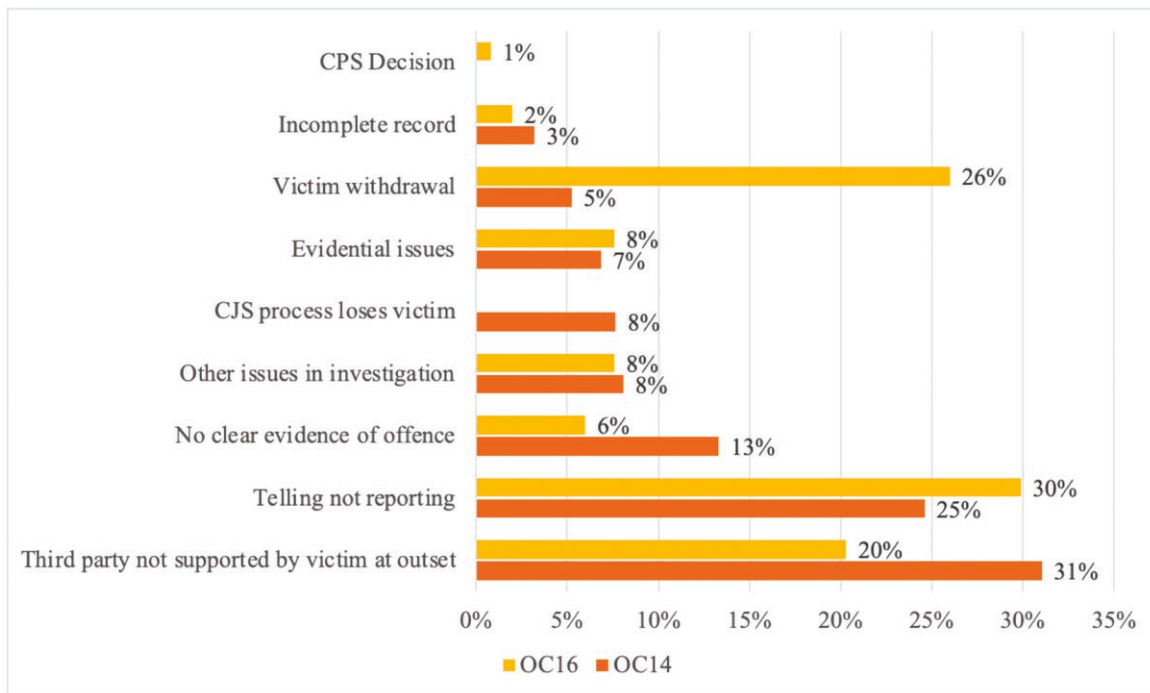


Figure 1: Reasons why OC14 and OC16 cases are closed.

a crime occurred or cannot be traced, it should be recorded as a 'crime-related incident' (using the code N100). This is an important point which we will return to in our discussion of third-party reports.

Three more recent updates to the HOCR and NCRS are also pertinent here. These are: changes to the guidance on the timeliness of crime recording; clarifications about third-party reporting; and the threshold needed to cancel crimes (no-criming). However, there are tensions between the guidance on timeliness and the rules around no-criming, and third-party reports that are meant to be in victims' best interests taking priority over victims' own wishes. Below we explain these updates and then give examples from the case file review to show the impact of these conflicts in the case files we analysed.

#### Change in spirit of crime recording and timeliness

The first change that appears to be having a significant impact is the one most intended to end poor policing practices regarding no-criming. HMIC (2014) found no-criming rates for rape to be exceptionally high—more than double that for other crimes (7.3% compared to 3.1% of all recorded crime). In some forces, HMIC deemed more than 40% of rape no-crime decisions to be wrong despite being endorsed by Force Crime Registrars. To address this, in addition to promoting accurate and consistent crime recording, in 2015 the HOCR was amended to require police to record a crime at the earliest opportunity—within 24 hours of the initial report rather than the previous latitude of 72 hours. This institutionalised a 'victim-focussed' approach and a presumption that for crime recording purposes a victim should be believed, precluding the practice in some forces of investigating first and recording later. However, it assumes that it will be the victim making the report, which as we will see is not necessarily the case.

#### Third-party reporting

In 2015, the Home Office updated the HOCR and NCRS in relation to third-party reporting of sexual offences in line with a previous recommendation by HMIC (2014). The new NCRS guidance delineated specific third parties who must always be assumed to be reporting on the victim's behalf (thus resulting in the need for a crime to be recorded irrespective of victim confirmation). These are:

Persons acting in a professional capacity e.g. doctors, nurses, social workers and teachers reporting crimes, (often of a safeguarding nature), on behalf of victims of any age; or Parents or Carers acting as a guardian or responsible adult, reporting crime in the best interests of and/or to ensure that a child, young person or adult at risk has appropriate access to police services (NCRS, 3.6, ii).

When such parties report crimes, recording must occur regardless of whether the victim is aware or has given permission for them to speak to the police, or whether they subsequently confirm that a crime has been committed. This raises questions about whether these reports can really be said to be on the victim's behalf, as well as important issues about victim agency and privacy, all of which came to the surface in our examination of police files.

#### Additional verifiable information and crime cancellation

Once a report has been classified as a crime, if additional verifiable information (AVI) that a crime did not happen becomes available, the guidance states this should be recorded against the crime report as a 'no crime'. No crimes effectively cancel the record of a crime and are not counted in police-recorded crime statistics. However, to guard against unethical practices, there



is a high threshold within forces for no-criming a rape, and the HO CR state that for rape and homicide this must be endorsed by a College of Policing-accredited FCR.

Although AVI has always been part of the HO CR, defining it has been a gradual process achieved through a series of clarifications between police forces and the National Crime Registrar. Communication about this in 2014/2015 stated that ‘the AVI must fully negate every possible account, and every possible alternative explanation for that account, that a victim may bring forward’. Later guidance stated that the threshold for no-criming was ‘of necessity, very high and should be taken to mean beyond any doubt’ and the AVI to support it ‘must therefore be compelling and must be carefully recorded’ (NCRS, 2019). Following concern that the threshold for AVI had become too high, in the most recent guidance (Home Office, 2023) the phrase ‘beyond any doubt’ has been removed. However, the cases in our sample pre-date this clarification.

## IMPACTS OF THESE CHANGES ON RECORDED RAPE CASES

In the following sections, we show how these aspects of the guidance are in tension, with unintended consequences for victims—those whom the revised standards were intended to protect and benefit. The focus on accuracy and timeliness of crime recording, and additional third parties that can report on a victim’s behalf, means that more offences are being recorded quickly before it has been possible to establish a clear picture of the circumstances. Sometimes these reports are not confirmed or wanted by victims. Where a no-crime may be warranted, albeit in a small minority of cases, the AVI requirements are frequently impossible to fulfil. There is often a lack of independent evidence to prove rape took place, so expecting there to be evidence to the contrary is unrealistic.

The examples below illustrate various ways in which rape offences that would not previously have been recorded by police, *are* now being recorded through a stricter adherence to the HO CR. These recorded offences are then closed under OC14 or OC16 even though the investigation never had the support of a victim-survivor. In this way, they are contributing significantly to both the police and the wider public’s sense of the level of victim withdrawal.

### ‘Telling not reporting’: a pendulum swing

The spirit of recording accurately is being translated in practice as needing to record any mention of the word rape to the police as a crime. We coded cases as ‘telling not reporting’ (Lovett *et al.*, 2023) when a victim-survivor told the police about having experienced a rape but with no intention, or sometimes even the knowledge, of this being formally recorded and investigated. Far from being rare examples, this accounted for a quarter of all OC14 cases (25%), and just under a third (31%) of all OC16 cases (Fig. 1).

There are several ways telling not reporting played out in our sample. Firstly, this can happen when victims are speaking with police about another investigation, or when seeking to explain their situation, as the case examples below highlight.

A woman was in a police car after reporting a separate non-RASSO offence. While in the car she said that she was nervous of men and wanted to talk to the female police officer because she had previously been raped and had reported this to the police. The force could not find the prior report and so this comment was recorded as a report of rape. It was not investigated, as the woman gave no other details, and so it was finalised as OC14, even though the officer, in requesting finalisation, stated that “this offence was mentioned in passing”.

A woman reported a rape by a man she had met recently on Tinder. When providing an initial account, she disclosed that she had been raped by another school pupil when she was 16. She said she had not reported the incident at the time, did not want to report it now, and would not say anything else about it. This incident was initially recorded as N100 (reportable incident) but was then confirmed as a crime and finalised as OC14, with the lack of proceedings attributed to the victim’s ‘unwillingness’.

As seen in the second example, victim-survivors themselves are deemed responsible for the cases being closed, even though these were investigations they never wanted to be opened in the first place.

We also saw ‘telling not reporting’ cases play out in connection to domestic abuse risk assessment processes, most commonly the Domestic Abuse, Stalking, Harassment and Honour-Based Violence Assessment (DASH). The DASH contains a question asking whether the suspect does ‘things of a sexual nature that make them feel bad’. This question invites disclosures of previous sexual violence<sup>7</sup>, which are frequently crimed, even where the victim says they are not reporting this as a crime. In some of the domestic abuse cases in our sample, the rape investigation then took priority over the investigation that was supported by the victim, as rape was seen as the more serious crime, illustrated by this example.

A woman whose current partner was a police officer reported his domestic violence while he was out of the country. She revealed rape during the DASH but was clear that her concern was about his controlling behaviour. A rape investigation was opened, taking precedence as the principal crime, and he was later arrested and interviewed. He denied the rape and she decided not to give a statement, saying that she had never wanted this in the first place. The case was closed at OC14 even though the suspect had been arrested and interviewed.

As a final comment here, a different issue with a similar outcome to the ‘telling not reporting’ cases, is that of high-frequency reports being made by people who are living with significant, often psychotic and/or delusional, mental health problems. In several forces, the case file analysis revealed a small number of individuals who made recurrent reports of rape linked to their mental health involving forms of sexual violence that could not have happened, for example being

<sup>7</sup>Some forces have now adopted a modified tool called the Domestic Abuse Risk Assessment (DARA), which does not include this question.

raped by electricity or by people who are dead. These are included within our category of ‘no clear evidence of offence’ (Fig. 1). Our data cannot provide an estimate of how common this is within crime recording nationally: but it does show that some of the Soteria pathfinder forces have been criming each of these individual reports to comply with the HOOCR. Since discussing this finding more widely, we have found that several forces are working carefully to develop policies for approval by the national crime registrar where, in some cases, after clear consideration, such allegations can be recorded as N100/2—crime-related incidents where credible evidence to the contrary exists. Particular care needs to be taken to limit unintended consequences of recording these cases as crimes, but to also ensure that people with severe mental health conditions, including those involving delusions, are not excluded from being able to report RASSO.

For many of the cases we class as ‘telling not reporting’ and the frequent reports from people with significant mental health problems, we doubt crime records would have been created prior to 2014. Yet, given their volume in this sample, we believe they are a part of the picture of increasing recorded rapes over the last decade: they inflate the number of cases recorded and affect charge rate calculations, whilst making it harder to see what is happening for victims who intentionally report and subsequently withdraw support for a prosecution. There were also indications across the Soteria work streams that this may be feeding a generalised culture of cynicism among officers about rape victims, something further exacerbated by high levels of third-party reporting.

### Third-party reporting: between timeliness and no criming

In our sample, of the 499<sup>8</sup> OC14 and OC16 files examined combined, 40% ( $n = 198$ ) were third-party reports, with almost two-thirds of these (63%,  $n = 124$ ) not supported by the victim-survivor from the outset. Indeed, unsupported third-party reports account for around one-third (31%) of all OC14s and one-fifth (19%) of OC16s (Fig. 1). Contrary to the specific third-party rules in the updated HOOCR guidance, it seemed that any third-party report was taken as more credible than the wishes or consent of the victim. In other words, the presumption that any third party is acting in the best interests of the victim-survivor appears to guide police recording practices. That the victim-survivor is unaware of these actions, and may not support them, was acknowledged in some case files. This shows how safeguarding, when applied to adults, can override consent and self-determination, both of which are key elements in sexually violent crime. Another issue with the NCRS here is that OC14 and OC16 attribute the closure precisely to a victim’s *decision* not to support (or inability to do so). For third-party reports that were never supported by the victim-survivor, this makes the victim-survivor responsible for an NFA outcome when they did not make such a decision; rather, they did not seek any action in the first place.

The deep dive found many powerful examples of where third-party reports are recorded even against the victim’s expressed

wishes, including originating from a breach of client-patient confidentiality or where the third party deemed as acting in their best interests was a perpetrator of the domestic abuse that police were initially responding to. In one example:

A therapist called the police for advice, before reporting that a client had said in a session that she had been raped at a party recently. The police called a local SARC, who agreed to contact her despite noting this had come about through a breach in client-patient confidentiality. When the woman was contacted by the SARC doctor, the case file described how she was ‘surprised and angered that there had been police contact as she did not wish to report the incident or have any investigation conducted’. She also raised concerns about her therapist contacting the police. This was closed at OC14.

This report came to police attention against the wishes of the victim and in violation of client confidentiality. From our analysis, such cases are not forms of victim attrition despite appearing to be so in official statistics. The real problem comes in the collision of the guidance on third-party reports, the timeliness guidance, and the ‘beyond reasonable doubt’ AVI requirements to be able to ‘no crime’. Officers from the pathfinder areas told us that it is now almost impossible to get a rape ‘no crimed’ even where someone says it has not happened, meaning that in practice third-party reports are being taken as more credible than the words of a victim-survivor, as seen in the example below.

A woman was in a taxi after a work party and had an argument with the driver. He pulled her out of the car and grazed her leg, and possibly broke her finger. She then went to a garage and was sitting on the steps crying. The garage worker called the police and the ambulance service and explained there was a woman crying and drunk outside, who may have been sexually assaulted. This was crimed as rape prior to the police talking to her. When they did speak to her, she explained she hadn’t been raped and wanted to make a report about the taxi driver. She said she had no idea where the rape report had come from. The crime was closed at OC14.

These examples show how uncertainty about what may have happened can intersect with existing recording practice to mean that some police records of rape that even the victim-survivor has said did not happen to end up being crimed. While there may be valid arguments for recording third-party reports, our sense from the data is that *who* can report on a victim’s behalf is being over-interpreted to mean anyone, no matter how little they know about what has or has not happened. Once recorded, these cases are too difficult to get ‘no crimed’ and so they are being finalised at outcomes which attribute the failure to charge to victim attrition, something we believe has a range of negative impacts for victims and for policing in general.

### Unintended consequences

Our data show that current recording practices are having significant unintended consequences, which are playing out across four overlapping dimensions: victim-survivors; data integrity; police workloads and resourcing; and broader policing culture

<sup>8</sup>Data collation is ongoing, meaning that this is a slightly higher figure than previous publication in an open access briefing document (Lovett *et al.*, 2022).

and public confidence in the CJS. While current recording practices are not enabling us to see what is in police data, they may also be having a detrimental impact on all victim-survivors who want to engage with the CJS.

### Consequences for victim-survivors

Contrary to the NCRS intention to ‘take a victim-oriented approach to crime recording’ outcomes are being attributed to victim-survivors for reports they never made. These findings are supported by the 2021 London Rape Review, which found that the joint most common reason for ‘victim withdrawal’ was that they did not intend to report a rape in the first place (Wunsch *et al.*, 2021). There are broader implications here for victim-survivor agencies and the right to decide whether to pursue a criminal justice route. There is also the harm this is doing to individual victim-survivors. The quote below is taken from a withdrawal statement given by a woman who had to withdraw her complaint despite never actually having reported it.

When police came to my house about my daughter, I ended up confiding in the officer that when I was a child I was sexually assaulted and that I have flashbacks. I also confided that my ex-partner had sex with me when I was asleep. At the time I had no idea that I was reporting crimes, I was just having a chat ... I wouldn't have mentioned it if I knew they would be recorded. I feel my mental health has suffered since then and I do not want police to interview my ex-partner. I realise I can change my mind and co-operate with the police at a later date if I wish, but at the moment I can't cope and wish I'd never mentioned it.

The impact these practices may have on trust and confidence is illustrated by this woman's reflection that she wishes she had not confided in the police at all. These dissatisfactions are revealed not just to support services but ripple out into wider social networks, affecting what has been termed ‘the social ecology of trust and legitimacy in the police’ (Jackson *et al.*, 2012). A further concern here is that such actions may contribute to a return to silence for victim-survivors, as previously explored by the feminist criminologist Jan Jordan (2011).

We are also worried about the negative impact on safeguarding with respect to domestic abuse in cases reported by victims seeking protective actions from the police. When rape is picked up by the DASH, it runs the risk of the original domestic abuse report being de-prioritised, which the case file data showed was not welcomed by victim-survivors. According to CPS data (ONS, 2023), a rape is even less likely than an alternative domestic abuse-related offence to result in a conviction and, moreover, if charged, is unlikely to be heard in court for close to three years (EVAW, 2021). If the victim-survivor withdraws completely, then the police also risk losing any safeguarding relationship. There then follows a misguided rape investigation not supported by a survivor of domestic abuse with the potential, when it is NFA'd, to give additional power to the suspect to control and punish the victim-survivor. This is neither a victim-centred nor a procedural justice approach.

Our final concern here is what it means to have these outcomes in police records. There is evidence in the files that, where victim-survivors have been asked to complete a withdrawal

statement for a crime record created through ‘telling not reporting’ or an unsupported third-party report, this can be viewed as a weakness in a charging decision for any future case. The following case example demonstrates this.

A woman injured herself trying to get into a car while drunk. The police were called; she was charged with being drunk and in charge of a vehicle and taken to hospital to get blood tests. While in hospital answering questions about why she had bruises on her body, she disclosed that she was “raped all the time” by her husband and was scared of him. When officers were taking her home, she said he had raped her three days ago, but she did not want them to do anything and declined to give an evidential account. The suspect was elderly and partially blind. A previous report of coercive control by him towards the same victim had been made by a third party, but it was not supported by the victim and was finalised at OC16. In the police summary of the decision not to charge, the previous allegation was mentioned as a factor undermining the victim's credibility.

It appears that, in some cases, current recording practices are setting victim-survivors up to have previous reports closed under ‘victim-based’ outcomes, which then reduces their credibility in any future reports, even if they did not report/support those closed cases to start with.

### Consequences for data integrity

Concerns about the integrity of police-recorded crime data are not new and the changes we have documented above were a well-intentioned attempt to improve this. However, current police-recorded crime data does not accurately reflect how many rapes are actively being reported by victim-survivors to the police, which is how they are widely understood and interpreted. The crime recording rules also make it impossible to calculate charging rates where a victim-survivor makes a report seeking an investigation. There are substantial implications here for evaluating police performance and identifying routes for improvement. The baselines in police forces are inflated by criming any mention of the word rape. The pull-through from DA risk assessment is also complicating any findings in relation to suspect-victim relationship and outcome. In these cases, typically, the victim has not initiated the report of a sexual offence, yet its inclusion means the levels of rape by partners that are recorded as crimes and then closed as victim withdrawals are inflated, when there was actually no report seeking investigation from the outset. The data for both suspect-victim relationships and case closure risk being misconstrued without this qualifying knowledge.

The cases we have outlined above are counted in performance monitoring, prosecution and conviction rates, and are used to calculate the levels of victim withdrawal. None of these uses seem appropriate or logical, since they disguise the fact that some crimes are being recorded against the explicit wishes of the victim and that it is the police who NFA, as there is no complaint/complainant to withdraw.

### Consequences for police workload/resource

Disclosures of rape that are recorded when the victim does not support an investigation from the outset contribute to overall



police workloads and limit the resources available for investigating other reports where the victim-survivor *is* seeking a criminal justice outcome. Issues surrounding workloads have come up across all the Soteria research streams (Stanko, 2022). Case files contain multiple examples of disclosures recorded as crimes even where the victim expressly does not support this and there are insufficient details to investigate including, for example, no suspect name, offence date or location. These are, therefore, records that are never going to result in anything other than NFA, but they involve a similar administrative workload as other cases in terms of, for example, supervision, review and finalisation, as an officer in one of the pathfinder forces describes.

There is a massive amount of reports that are made without any willingness to follow through. But we have to go through them. We have to put the work in (Interview with police officer).

We are not arguing that rapes coming to the attention of the police should not be recorded. We are, however, suggesting there needs to be a different route for recording cases where there is no complaint from a victim and no possibility of an investigation. Current practice is adding to already unsustainable workloads, as well as contributing to a policing culture (see next section) where reports of rape are experienced as time-wasting, and victim-survivors as obstructive (see also Jordan, 2022).

### Consequences for broader policing culture and confidence in the CJS

The practice of criming disclosures that are not complaints or reports, often without the support of the victim, and then making the victim responsible for the outcome of the case is having significant unintended consequences for policing culture in relation to perceptions of victim-survivors. This is evident in the language of the outcome codes themselves, with OC14 and OC16 being ‘victim-based’ outcomes without any recognition that a considerable proportion of these cases were never instigated or supported by the victim from the outset. What is happening here is the production and reproduction of a script within broader policing culture (and across the CJS as a whole) of victim-survivors of rape as the reason why cases fail. Our analysis of case files led us to conclude that the preoccupation within the CJS, and in wider understandings about what is happening in rape cases, about outcomes attributed to victim unwillingness is based, in part, on an artefact in the data.

We have seen the impact of this in the language used throughout the files. In cases finalised at OC14 and 16, victim-survivors are routinely described as ‘unwilling’, ‘uncooperative’, ‘reluctant’, ‘resisting’, ‘refusing’, and ‘disengaged’. This is a language that we have seen rarely, if ever, used in descriptions of the suspect, and we are unsure whether it is so regularly used about victims of other crime types. Responsibilising victim-survivors for the failure of a rape investigation—even when they never requested one—raises important questions about how ‘policing by consent’ is really understood in practice. Wider than policing, we also see these outcomes as contributing to a public narrative of the CJS failing victims who withdraw from cases where they did want action to be taken. While this is true in some cases and

we have evidence of this in the dataset, it is also true that many are not withdrawing their support, they never reported or supported the reporting of what happened to them to begin with. The public, policy, and policing focus on the problem of ‘victim engagement’, might be hiding other investigative issues that are the reason so many cases fail to proceed to charge.

## CONCLUSIONS

The NCRS is not the problem: it has the twin aims of being victim-focussed and maintaining consistency of recording across forces. We do not want our findings to undermine these intentions, nor for the police to return to a practice of ‘no-criming’ or under-recording reports of rape. However, we need to begin a conversation about how to apply the NCRS and the HOCR and what action, if any, should be taken after criming a report, in ways that avoid the multiple unintended consequences above, none of which are in the interests of victim-survivors and all of which have implications for policing.

We have presented these findings through the National Learning Network, which is how Soteria has engaged with police forces, and the national crime registrar and violence against women and girls (VAWG) sector. We also worked with a group of police officers and VAWG sector workers to explore what outcome codes could be developed to reflect what is happening more accurately, making it possible to both know which cases are supported initially by victim-survivors and not make them responsible for cases not proceeding when they never sought an investigation from the outset. In all these contexts, we have stressed that we seek to avoid new unintended consequences—whichever options for change are adopted they need to be carefully monitored to ensure this is not the case.

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