·   As a consequence of our findings from the PJO report and also my research work in terms of problems with police responding to certain types of offences where the offender is known in the community with high status etc (eg.clergy or other public figures) I believe we need to consider a protocol that ensures that anyone reporting an offence where the alleged offender is a public figure – the report must be forwarded on outside of that immediate police unit to avoid real or perceived conflict of interest. This is especially so for police in rural domains where social standing of alleged offenders could either influence police response through a conflict of interest or police feeling intimidated or overwhelmed by the allegations and even, in some cases, police feeling concerned at backlash towards them or their family due to the identity of the offender. These concerns have been raised with me by both victims, police and other professionals working with survivors. I feel this is a necessary protocol to ensure we address what are real concerns and real instances of police being consciously or unconsciously influenced in their professional response and follow up as a result of the standing/status/identity of an alleged offender. Concomitantly is the issue that the perceived status of the victim may also be an issue. I have come across this where a victim is either known to police through the victim's previous contact with police or through community networks the officer/s are involved in and that may colour or influence their response to the victim in smaller communities. I have come across examples of this in my research work.

·   Public education for clergy and religious and lay community and general community. I covered this.

·   The appointment of a Commissioner for Victims of Crime as they have in South Australia. The creation of this role has been seen as very important for procuring greater trust amongst victims of crime, especially those such as child abuse and rape and domestic violence etc.

·   The establishment of a review committee for undertake reviews of unauthorised briefs by police where reports of sexual offences do not proceed to charge. I outlined reasons for this in my submission and it is also raised in the PJO report as a recommendation. This review committee

should comprise members of the OPP and also an expert who is not a lawyer or police member but with expertise to contribute to the review for all the reasons outlined.

· Review of police training. Major problems with most critical being that fact that police do not have any recruitment/selection process for officers working in the field of sexual violence. Hence police are drawn from the same pool of police that have been part of the problem. Urgent need to recruit and select for both attitude and aptitude to work in this field. This is a central element of successful policing models in international jurisdictions. If you look at our PJO report you will see examples and the major case study contained in the report involves police who are currently SOCIT officers and I am very aware of continued and ongoing problems with the response of police from that unit. Also the training course offered is a good start but has no accreditation; has never been externally evaluated for its impact; no post training monitoring or evaluation of the police who undertook the training etc.

· Development of an exit interview or exit survey of victims. In the PJO report you will see the online survey we developed which was a first for Australia and indeed internationally. We have received a lot of interest around the world about this tool. I advised Vicpol that it could be tweaked to make it a survey they have online and invite victims who have contact with police, to complete. This gives police real time and instant feedback about their performance and response and what they are doing well and what is not being done well and identify problems immediately and inhouse and be able to respond to them. The new regime I have had to work with strongly rejected this advice and offer to assist – as they rebuffed the advice of the review panel (which was trialled with success in a UK jurisdiction I visited). I don't believe police understand the benefits they will accrue from such a process and the strengthening of their policing.

· The urgent need for police and office of public prosecution lawyers to develop much closer working relationship for the sake of improving police briefs and police investigation and management of victim process to court. Again this is raised as a key recommendation in the PJO report that you can refer to.

· A need for greater accountability of police in management and performance and transparency. Better leadership needed in terms of creating a score card for performance in the area of policing sexual violence with bench mark competencies among police and those who supervise them with accountability for all areas of performance, especially in initial response and investigation process to counteract our findings about problems of police discretion in terms of the arguments they put forward in their briefs of evidence. See our report for recommendations and discussion on this.

· Establishment of an ISVA type role (independent sexual violence advocate) as those in the UK. They have them for DV also. A recent report by Baroness Stern (Stern Review 2011) found that the creation of the ISVA role was the single greatest change with greatest impact and improvement in the area of improved policing, greater victim confidence in reporting; reducing attrition rates in sexual offences (which is a real problem around the globe) and improved legal outcomes and victim well-being outcomes. I visited various UK sites over 3 years looking at this role. Again my attempts to raise this with the particular senior officers at vicpol were rebuffed (at times very rudely and inappropriately).

· Regarding religious organisations: much greater emphasis on training in the seminary and ways to monitor and have robust mechanisms for accountability and transparency for the reporting and responding to any allegations at the earliest stage.

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With Every Good Wish

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Policing Just Outcomes in Sexual Assault Final Report in PDF Version.pdf

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POLICING JUST OUTCOMES:
IMPROVING THE POLICE RESPONSE TO ADULTS REPORTING SEXUAL ASSAULT

AN AUSTRALIAN RESEARCH COUNCIL LARGE LINKAGE PROJECT (LP 0668126)

FINAL PROJECT REPORT, OCTOBER 2012

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Executive summary

The prevalence of sexual assault and its consequent harm to both individual victims and society as a whole has now been widely researched, documented and recognised in Western jurisdictions for generations. In particular, policing of this gendered[5] crime has been the subject of many research endeavours and police organisations have increasingly opened their doors to academics and other researchers in pursuit of evidence-based knowledge that will assist them to enhance their training, investigations and Brief preparations in this respect. Victoria Police has been among the foresighted police organisations in this regard over the past several years.

This report is the result of one major research endeavour concerning reports of sexual assault made by adults and the related police response, investigation and management involving Edith Cowan University in partnership with Victoria Police. This study was designed in terms of three strands, each of which incorporated a number of interrelated research programs. Strand one focused on victims/survivors and it proceeded through the use of an online survey and interviews of adult victims/survivors as well as focus groups and interviews of police officers in the State of Victoria and rape crisis counsellors from Centres Against Sexual Assault located across Victoria. Strand two focused on police decision-making processes and police networking in relation to complaints of sexual assault by adults. It proceeded through close reading of Victoria Police operational case files, individual interviews and focus groups involving police, and a focus group of Office of Public Prosecutions personnel. Strand three focused on the management of the police response and the recruitment, training and development of police for the specialist role of sexual assault policing. It proceeded through the use of strand two methods, as well as observation of Victoria Police training courses, police trainee feedback sheets and online survey, and interview of trainers in relation to the specialist sexual assault policing role.

The results of this research are many and varied, and the full body of the text is necessary reading for adequate comprehension, however the key general findings are summarised as follows.

Reporting and non-reporting by victims/survivors

Chapter Three reports the research evidence and findings gleaned from victim/survivors' survey responses and focus group/individual interviews.

Barriers remain a significant issue. The current research data and findings indicate that barriers to reporting remain a significant issue for victims with many unable to over-come multiple barriers that prevent reporting.

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[5] Sex offenders are overwhelmingly male and victims are overwhelmingly female. We recognise that males are also victims of sexual violence with the offenders being predominantly male. As such the crime is appropriately considered a gendered crime.

System barriers. System-oriented barriers included a lack of confidence in police and the legal with social barriers being linked largely to family, friends and the community.

Family barriers. Family plays a significant role in victim decision-making with regard to disclosure and reporting. Family members may not necessarily block the report as many victims were so fearful of their family response they never tested the potential response. Sadly, many victims who did disclose to family members and expressed a desire to report the abuse often reported a lack of support to outright threats and punitive responses for making a report to police.

Motivators of victim reporting. A significant finding of the research was identifying factors that motivated victim reporting. The reasons motivating a report were a desire to protect others known or unknown to the victim; a sense of civic duty to wider society; to make the justice system more accountable in terms of accurate recording of the prevalence of sexual offences in the community. In essence, the majority of respondents were motivated to report as a selfless act for the purpose of protecting others potential or future victims or to safeguard other persons or things that were meaningful to them.

Barriers are significant but not the sole determinants of reporting. Barriers therefore must not necessarily be understood as the sole preventers as victims in the PJO study reported barriers and some could not overcome them while others either overcame them or ignored them to report. So barriers are not the sole factors victims use to determine reporting but they are a large part and must be addressed.

Victim experiences of reporting. Where victims received a positive response from police it correlated strongly with their willingness to continue with the report and to feel confident with police handling their case. Some victims were surprised by the positive response of police due to their fear and uncertainty about making a report. It cannot be overemphasised that the response from police plays a critical role for the victim in terms not only of their willingness to continue with a report and stay the distance, but in assisting their recovery. By contrast, those who reported a negative experience with police also expressed the varying degrees of distress and damage this caused to them in terms of the recovery and capacity to trust police in the future. In recent years police have improved in specific areas such as providing victims with referral advice and other material relating to other services they can assess for support and advice. Police have improved slightly in maintaining regular contact with victims post reporting with statistical results showing that regularity of helpful contact promoted victim confidence to continue with a report. Notwithstanding this there was strong consensus from victims and counsellors that police need to improve the regularity of contact.

Police perceptions of victim reporting and non-reporting

Chapter Four reports the research data and findings in regard to police perceptions of victim reporting and non-reporting.

Police genuine concern for victims. Police generally were genuine in their concern for the welfare and justice that ought to be delivered to victims of sexual crime. Police believed that the legal system in particular let victims down and linked this to a lack of victim confidence in reporting.

Police perceptions of barriers to victim reporting. Police demonstrated insight into a number of barriers that may prevent victims from reporting or make the process fearful for them. However, they did not perceive that victim/survivors often saw negative police responses as a barrier to reporting. That is, police generally appeared to consider that victims had no difficulty with police responses, yet victims themselves often reported otherwise.

Police perceptions of motivators of victim reporting. Police demonstrated limited knowledge or understanding of what might motivate victims to report a sexual offence. They considered motivators related to victims' mental state, intra-familial sexual abuse or a need to finally report historical abuse. Research programs to date have also tended to neglect these considerations.

Rural locale factors. Police officers from rural locales were cognizant of the additional barriers that victims often encounter such as lack on anonymity; conservative attitudes and fear of retribution in smaller communities.

Police beliefs about false reporting. There was a somewhat surprising degree to which police members believed that false reporting was a major issue still to be appropriately addressed. This was despite police being generally able to anchor the beliefs against current rates of false reporting.

Police responses to victims. Differences in responses were detected when dealing with certain types of offences. Police officers raised the issue of resourcing constraints or a belief that certain types of cases were less likely to succeed at trial, or victim credibility issues and in these instances some police used the 'options talk' to dissuade victims from continuing with a report. Police viewed historical offences as particularly problematic and often targeted these cases for non-recording by dissuading victims from reporting in the first instance. In essence, police attitudes at various times drove their decision making.

Resourcing issues. Police reported various pressures in their work due to poor resourcing. This included physical resources such as staff levels, equipment such as cars, computer access and audio-visual recording equipment. Police in rural areas suggested they lacked these resources more than their metropolitan colleagues. Many believed that this resourcing was having, and would continue to have an impact on police as what they have identified as a now hybridised SOCIT model was rolled out across the state.

Options talk. A number of police invoked resourcing issues as a reason for not recording certain offences or using the options talk to dissuade certain victims from reporting, on the basis that they did not have the resources to follow through on certain types of cases they regarded as ranking lesser priority than other cases. In essence, resourcing issues were used to drive decision-making on non-recording of cases through dissuading victims from reporting.

Understanding and support for SOCIT police. A number of officers expressed a view that Command, management and other police members generally did not fully appreciate, value, or support their work. Together with the identified resourcing issues, this view has resulted in morale issues among many specialist sexual assault police.

CASA counsellors' perceptions of victim reporting and police responses

Chapter Five reports the views of CASA counsellors concerning victim reporting and police responses to victim complaints.

CASA/police relations. CASA counsellors generally enjoyed good working relationships with police officers from sexual offences units though this relationship was often built on an individual to individual level as opposed to a whole unit. There were inconsistencies also according to which particular police unit and manager was involved with a CASA agency.

Barriers to and motivators of victim reporting. Counsellors were insightful about the barriers to reporting and also the reasons that motivate reporting. Counsellors in rural locales were also cognizant of the additional barriers that may be present in smaller communities.

Training of police. Counsellors considered that police would benefit from more training that focussed on addressing values and attitudes around sexual violence as some police were still prone to hold stereotype beliefs about certain types of offence or victims.

Police decision-making

Chapter Six reports the research evidence and findings in relation to police decision-making processes.

Uncertainty avoidance: Police decision-making commonly reflected a 'hard evidence', uncertainty avoidance approach and it was substantially more considered and concerned with formal justification in non-authorisation than in authorisation processes.

Opaque decision-making: Nonetheless, police decision-making in relation to both authorisation and non-authorisation was found to be significantly opaque in the continuing use of vague 'reasons' such as 'sufficient/insufficient evidence' and 'success unlikely'. Moreover, written reports detailing argument were lacking in a large proportion of non-authorisation cases; and non-authorisation most often involved supervising and authorising officers agreeing with investigators in a perfunctory 'tick-the-box' fashion on the Brief-head.

Stages of decision-making: Two stages of decision-making were evident in both authorisation and non-authorisation. In the former, stage one was during investigation and Brief preparation, and stage two saw additional decision-making in interaction with prosecution officers. In non-authorisation, stage one involved victims' formal withdrawal of complaints after police 'options talk', and stage two saw formal police decision-making not to proceed regardless of victims' wishes.

Key decision drivers: Authorisation was driven predominantly by witnesses with offender admissions also frequent, whilst in non-authorisation victim-related factors were dominant with accused denial/credibility also frequent.

Two sets of decision criteria: Aside from witnesses and offender admissions, authorisation was associated with medical evidence, visible victim harm, multiple victims, surveillance footage and other 'objective' items rather than the victim's word only; whereas non-authorisation was associated with factors such as victim's word only evidence, victims as poor witnesses (e.g., emotional or memory issues), victim blameworthiness (e.g., alcohol use, sexual conduct), uncooperative victims, accused denial/credibility, and unclear issue of consent.

Little change in non-authorisation reasons: The case file evidence revealed little change in the reasons for non-authorisation over the past two decades – given earlier research - although it showed more detail in police reasoning.

Typifications: Current research is consistent with evidence in the literature that police decision-making entails the use of typifications which take account of whether the victim and offender are strangers, acquaintances or intimates, as well as victims' alcohol/drug use, psychiatric illness, cognitive impairment, perceived immorality, risk-taking behaviour, and absence of physical injuries, among other indicators of whether the victim is credible, reliable and genuine, and did not consent to the alleged sexual conduct. Typifications are employed as mental short-cuts that serve to collate complex real-life pieces of evidence together with other data that are not always germane to the decision-making process. Thus, the concept of ideal versus non-ideal victims that has been reported in much of the literature was evident in police decision-making about whether or not a sexual assault complaint should be processed to the point of Brief authorisation.

Non-supportive victim narrative: A non-supportive victim narrative in non-authorisation decision-making was found in analysis of the case file data. This narrative reflected the message evidenced in the literature that victims are often not given a sympathetic hearing when they report to police. It reinforced that message to those victims who had reported to Victoria Police in the study period (and anyone with whom they shared their reporting experience).

Operational police are not always aware of relevant legislation and policy: For instance, police continued to take account of consent unclear and delayed reporting in non-authorisation. This lack of knowledge was also evidenced in police focus groups and interviews.

General observation: Victoria Police has made identifiable efforts to address recommendations made by the VLRC (2004) and Victoria Ombudsman (2006)

concerning research into the reasons behind police authorisation and non-authorisation of sexual assault complaints. Still, the evidence on police decision-making found in analysis of case file, interview and focus group data showed that challenges remain in meeting calls for improvement.

Caveat: The foregoing main findings do not deny examples where many dedicated individual police officers worked with the victim's best interests in mind as they proceeded through a complex sexual assault decision-making process.

Networked policing

Chapter Seven reports the research evidence and findings on SOCIT police model operations within a networking framework.

Lack of best practice: The evidence from the case files, police interviews and focus groups, and the OPP focus group indicated that some important elements of networked policing were not happening at a level consistent with best practice.

Best practice networked policing: To achieve a best practice framework would require a much tighter co-operative partnership than currently exists between police and other significant parties without resulting in either inappropriate state control extensions into the community or the erosion of the state's legitimate authority in public policing. Whereas the current Victorian SOCIT/MDC model is a step in the right direction, there remains much to be done both in structural and normative process terms to achieve the democratic, best practice model envisaged and promoted in the literature.

Police/OPP interaction and collaboration: There was strong evidence of a serious communication gap between police and the OPP, despite a shared normative basis for decision-making. SOCIT police and OPP do not enjoy a tightly knit, collaborative relationship that enhances prosecution outcomes for sexual assault victims/survivors. More formal arrangements and more frequent contact, including a schedule of training/liaison meetings, would prove worthwhile.

Limitations on CASA/community agencies' capacities: Other network players are significantly restrained in their capacities to influence the police decision-making process and to help SOCITs to improve responses to sexual assault victims and their complaints.

Mixed evidence on CASA and other agency referrals: The case file evidence indicated poor implementation of the Code guidelines whereas police interview and focus group data suggested a strong commitment and practice in accord with policy directions.

OPP focus group view on police Briefs and issues in their interactions with police: The OPP focus group commentary was similarly mixed in its evaluation of police Briefs. However, OPP lawyers cited inconsistent quality of Briefs against review deadlines and consequent adjournments; poor particularization and summary of

charges; short statements; inappropriate disclosure to defence lawyers and adverse impacts on victim credibility due to subsequent defence tactics; and differential commitment and unwillingness to learn of some investigators.

OPP critical 'succession issue': A particular OPP officer has worked with police as a legal prosecution specialist for many years, acknowledged by police interviewees and focus groups as well as OPP focus group lawyers as invaluable in provision of advice to police, and will be very badly missed once he leaves.

Constraints on prosecution efforts: Police interviews and focus groups indicated constraints in terms of victims' incapacitation, their need to be informed as to the court process and their withdrawal of complaints, as well as by resource deficiencies.

Limitations on police decision-making: There are also significant limits to police decision capacities in terms of OPP prosecution guidelines and the broader legal framework of the courts, juries and existing legislation, as well as legislative requirements of the 'beyond reasonable doubt' standard of proof. Although these are obviously legitimate within existing law, their extent and nature in impeding SOCITs' effective response to sexual assault require serious re-examination.

Attitudinal blocks: ROs and AOs said some SOCIT members had less than ideal attitudes and were judgemental towards sexual assault victims and their complaints.

Inexperienced investigators: Investigators and their superiors alike also acknowledged sexual assault investigation experience was lacking.

Complexity of sexual assault cases: There was a very strong consensus across the various groups of the complexity of sexual assault work. This was seen as another constraint on doing best practice work, especially in view of deficits in recruitment, training and development.

SOCIT model questioned: Questions were raised about the effectiveness and viability of the SOCIT model design by operational police.

Managing the police response

Chapter Eight reports the research evidence and findings in regard to managing the police response to sexual assault complaints and ensuing Brief preparations.

Formal written argument: Both authorisation and non-authorisation processes would benefit from greater attention to formal written argument, regardless of whether the trigger is arrest and charge or intent to summons. None of the examined files in authorisation cases carried formally signed off reports. Cases need to be treated on a level footing to avoid an unwarranted presumption that investigators, recommending and authorising officers will be in agreement.

Support documents: Both would also benefit from a greater focus on support documents, with more than half of non-authorisation and slightly less than a quarter of authorisation case files showing an absence of these.

Accused interview records: Inclusion of written accused interview records, especially in non-authorisation cases, would enhance comprehension in those regards.

Quality completion: Case management could also be expected to improve with greater attention to quality *completion* of documents, and more so in authorisation cases because of the higher frequency of poor completion and greater frequency of a high number of potential improvement areas in those cases. In particular, this means ensuring all evidentiary details and relevant materials are included in reports and legal documents where appropriate, and kept consistent and non-contradictory; avoiding extraneous inclusions; and not referring to non-existent inconsistencies in victims' and witnesses' statements.

Management quality control of the Brief authorisation process: Additional to formal written arguments, inclusion of all relevant documents and quality completion, analysis of data from case files, interviews and focus groups showed greater attention can be profitably paid to ensuring all three police officers relevant to a case contribute appropriately to the written decision record; and to rationally organising evidence items within case files, with investigators being primarily responsible for this quality control, and with recommending and authorizing officers ensuring this is done if necessary.

Authenticating and positively valuing victim's stories: Benefits in terms of just outcomes for victims would be enhanced further through more considered attention to victims' stories, which were often questioned inappropriately or cast as untrue due to one or more of the above noted quality issues. Legitimate testing of victim credibility needs to be carefully weighed against doing the job of defence lawyers and second-guessing Courts.

Uni-focal argument: An overarching consideration was a tendency for one or more of the investigating, recommending and authorising officers to put a one-sided view that presumed the outcome and - where put by investigators - that dis-enfranchised senior police officers charged with quality review. This is particularly problematic in respect to non-authorisation argument, since the result is a tendency to ignore reasons for prosecution.

'Unsolved' and 'no offence disclosed' cases: Documentation practice is also open to improvement in these cases, especially regarding inclusion of formal argumentation and statements by victims and witnesses, as well as the need to include many documents observed as missing in the latter type of case. Such improvements could be expected to either lead to more authorisations, or more robustly justify not proceeding in instances where that is the decision.

Focus on improvement potential: Attention is drawn to elements of police Briefs that can be improved primarily because the general level of argument and documentation was evidenced at low levels of quality across the case files and this was confirmed as current practice through triangulation of interviews and focus groups (including the

OPP focus group). Consistent with a continuous improvement philosophy of a Learning Organisation, it is culturally desirable to embrace opportunities to enhance documentation and argumentation skills, as this would lead to more authorisations, efficiencies in interactions with prosecutors, greater Court success and victim satisfaction, and an enhanced public image for VicPol as a modern police organisation. This would further result in increasing investigators' confidence and pride in Brief preparation, and instil a positive sense of professionalism in sexual assault policing and Court presentations by informants and prosecutors. It is likely that VicPol is already aware of at least some of these areas and taking steps to improve sexual assault policing as a result. Current findings provide additional support for those efforts.

Best practice leadership: The police response to adult sexual assault is first and foremost a question of best practice leadership as detailed in the literature and discussed in the body of this research report. The need for leadership improvements was demonstrated by the tri-angulated data and analyses both at the front-line of daily SOCIT operations and at higher echelon supports. From the literature, police strategies for 'managing' victims were also identified that undermine best practice leadership and these need to be understood by senior officers and countered where found in Brief preparation.
(Note that such strategies are not necessarily or even likely to be consciously employed by investigators, but rather routinely used as everyday assumptions, so they too need to learn to be self-critical to avoid these cognitive traps).

Resources and SOCIT morale: The interview and focus group data strongly indicated considerable resourcing difficulties that hamstring SOCIT operations, which also reflect leadership judgements in terms of budget allocations, those being the responsibility of executive level police leaders. These budget factors reinforce a morale problem within SOCITs which is intertwined with cultural, leadership and quality control system issues at the operational level.

Caveat: Documentation and argumentation difficulties although pervasive were not universal among the case files and OPP focus group commentary. While there are challenges to be met there is also an existing knowledgebase and skills already available in VicPol SOCITs to help address those challenges.

Recruiting, training and developing police officers

Chapter Nine reports the research evidence and findings on the Victoria Police training program for equipping police officers to respond to sexual assault complaints.

Contemporary sexual assault policing and Brief preparation knowledge and skills training: In a world of rapid and expansive ongoing change police officers require a broad, self-critical higher education frame of mind that arms them for their complex and challenging daily duties and especially so in sexual assault cases.

ROs meeting the challenge: The interview evidence from ROs was persuasive that they support sexual assault victims, ensure appropriate implementation of the Code of

Practice and, most recently, have taken up the challenge of recommending authorisation in cases that would not have been authorised only a short time ago. Their viewpoint was not shared by the OPP focus group, however, whose commentary queried the level of quality monitoring of Brief preparations.

Investigators are still learning and being persuaded to abandon unhelpful beliefs: The evidence from ROs, AOs, OPP lawyers and SOCIT/VARE sexual assault specialist training graduates suggests many SOCIT investigators are yet to shed poor attitudes and beliefs to achieve a broader and deeper understanding of the plight of sexual assault victims.

SOCIT and higher echelon managers: The need for attitudinal change was also found to apply to some SOCIT and higher echelon managers.

VLRC (2004) and Victoria Ombudsman (2006) recommendations: SOCIT/VARE specialist training thus does not adequately equip SOCIT officers to heed calls from the VLRC (2004) and Victoria Ombudsman (2006) to improve policing responses to the claims of sexual assault victims.

Structural and name changes: Structural and name changes in transitioning from SOCAU to SOCIT need to be supported by training and development inputs that address cultural, attitudinal and behavioural restraints on achieving real and lasting reductions in sexual assault attrition rates.

Course re-structuring: The current course does not meet best practice standards in being a one-off, no return model. It has not made the quantum of cultural and attitudinal shifts needed for ensuring positive change in sexual assault policing. The literature, both specialist and broad, supports returning newly trained investigators to a training facility after an initial period in the field to counter contra-learning from local unit (SOCIT) cultures.

Ongoing professional development and refresher training: The SOCIT/VARE training regime does not provide adequately for necessary ongoing training needs expressed by ROs and AOs, and reflected in OPP focus group comments. Regular refresher and professional development does not need to be overly resource intensive and can take advantage of a range of ICCT technologies and other training and development tools and innovations.

Training team and current course soundly based: In general, the trainers, external presenters and the course were extremely well received by trainees themselves and the course structure and content generally reflects well in terms of the small body of literature devoted to specialist training of police in sexual assault matters. However, the broader training and development literature and training experts have a lot to offer the SOCIT/VARE trainers and the course. Training and development experts could assist the SOCIT/VARE trainers to lift their already formidable skills to new levels and provide for additional innovations.

Training Needs Assessment based program and evaluation system: More broadly, the literature supports a TNA-based program and evaluation structure that would build upon the current SOCIT/VARE design to bring it to best practice standards.

Recruitment procedure: The current recruitment procedure is fatally flawed and requires urgent re-consideration and re-structuring to include a set of robust recruitment criteria that reflect the essentials of knowledge, skills and aptitudes for sexual assault policing and for Brief preparation, supervision and quality monitoring. Without this policy and procedure change excellence in training and development will be to little avail as it will continue to be 'white-anted' at the operational level.

Recommendations

1. RECOMMENDATION: Victoria Police might wish to consider actively supporting research into linkages between offending duration, the victim/offender constellation, MISA versus SISA and affective responses of victim/survivors of sexual assault. (s. 3.2.5)

2. RECOMMENDATION: Victoria Police should undertake a publicity campaign to create awareness through the news-media, as well as CASA and similar agencies with information pamphlets, that sexual assault is a crime regardless of who is the alleged offender, that there is no time limit for reporting, that victim/survivors are never to blame for an offender's behaviour, and that strangers being the only rapists and physical injury being necessary to establish the crime are popular myths. (s. 3.3.1)

3. RECOMMENDATION: All sworn police officers in the State of Victoria should be required to read and discuss at unit/team level the foregoing materials on why victim/survivors of sexual assault *do not report* the crime to police and their lived experience of not doing so. These materials should also be made available and utilized in the SOCIT/VARE specialized sexual assault training course. It is further recommended that these materials be available against the background of the research literature cited and discussed briefly in the Introduction and detailed further in later chapters of this report. (s. 3.3.5)

4. RECOMMENDATION: All sworn police officers in the State of Victoria should be required to read and discuss at unit/team level the foregoing materials on why victim/survivors of sexual assault *do report* the crime to police and their lived experience of doing so. These materials should also be made available and utilized in SOCIT/VARE specialized sexual assault training, and there should be an emphasis on the vital role of police in validation of victim/survivors in their positive responses to complaints of sexual assault. It is further recommended that these materials be available against the background of the research literature cited and discussed briefly in the Introduction and detailed further in later chapters of this report. (S. 3.4.5)

5. RECOMMENDATION: The Victoria Police specialist sexual assault training course should highlight the value of SOCIT police maintaining regular, helpful contact and its efficacious impact on the confidence and willingness of victim/survivors to continue with a reported matter. (s. 3.4.5)

6. RECOMMENDATION: Victoria Police should examine the ISVA model and seek discussions with other interested parties in the area of sexual assault support services in Victoria with a view to supporting the development of an Independent Sexual Assault Victim/Survivors Advocate. (s. 3.5)

7. RECOMMENDATION: Victoria Police should require all first responders to routinely provide victim/survivors with a Plain English, easy-to-read standard brochure of comprehensive information that includes an undertaking of follow-up by specialist sexual assault police of all initial reports of sexual assault regardless of alleged date of offence. (s. 3.5)

8. RECOMMENDATION: Victoria Police training programs should refer to and emphasise the PJO findings where victim/survivors have indicated their concerns about rape myths and stereotypes such as victims being at fault for being in situations involving alcohol/drugs, date rapes, rape-in-marriage, the need for physical evidence/resistance by victims, and the unimportance of historical rape. (s. 3.5)

9. RECOMMENDATION: Victoria Police should undertake an advertising campaign designed to raise awareness in the broader community about the nature of sexual assault and to dispel myths and stereotypes surrounding this crime. This campaign should include posters and other information developed and located prominently in public facilities with a clear message that *all* sexual offences can be reported at any time, that there is no statute of limitations to protect perpetrators, and that *any* sexual assault is a crime, regardless of who is the perpetrator. (s. 3.5)

10. RECOMMENDATION: Victoria Police should consider the establishment of a specialist historical sexual offences investigation unit to ensure the selection of police suitably qualified and trained to respond appropriately to reports of historical offences. Particular attention should be paid to recruitment criteria focused on attitudinal and aptitude qualities of applicants, with the use of validated psychological tests and interviewing panel techniques in the selection process. (s. 4.2)

11. RECOMMENDATION: Aside from understanding the reasons victim/survivors report to police within the motivational framework of 'symbolic protest', police members within both specialist and generalist units should also be made aware of the criminal intelligence benefits that arise potentially from victim/survivors' reporting of sexual assault even if the report is not processed to a successful Court conclusion. If there is no successful prosecution, reports still can be recorded and placed either in the serious crime cabinet or a similar repository to aid policing efforts in relation to future sexual assault reports. (s. 4.3)

12. RECOMMENDATION: It would greatly assist victim/survivors and police if a consistent presentation of options was presented and supported with uniformly worded and clear written material in a standardised format making very clear that victim/survivors may take their time to consider reporting options and that may include them getting further advice or information from others. (s. 4.5.1)

13. RECOMMENDATION: Moreover, police should encourage victims to make a report and highlight that the victim has the power/choice to have that report actioned as an investigation or leave it on the police record both in electronic form for Victoria wide police access and in local crime cabinets without any action at that time. (s. 4.5.1)

14. RECOMMENDATION: Subsequent to an initial report police should be required to actively follow-up victim/survivors who do not return to pursue a formal complaint within a policy regulated timeframe. The result of follow-ups should also be duly recorded in electronic and local systems. (s. 4.5.1)

15. RECOMMENDATION: Victoria Police should emphasise the value of taking and recording all complaints of sexual abuse, including especially those pertaining to the possibility of ongoing abuse and/or child sexual exploitations, for the purposes of

building a criminal intelligence base for future reference at both local and state wide levels. (s. 5.6)

16. RECOMMENDATION: Victoria Police should develop an online feedback survey for victims to complete after contact with police. This exit survey poll would enable police to identify both good areas of practice as well as problem areas of practice as well as being able to respond appropriately and expediently to any issues arising from victim/survivor contact with police. Police to give all victims a card with the link to the survey or they can be given a hard copy asking them to comment on the service and experience. (s. 5.7)

17. RECOMMENDATION: Authorisation decision-making should be based on explicit reasons stated in a formal report for that purpose. (s. 6.2.1)

18. RECOMMENDATION: Police should avoid using highly generalised reasoning to justify authorisation and instead cite the exact reasons in terms of evidentiary materials. (s. 6.2.1)

19. RECOMMENDATION: Attention should be paid to ensuring that all case files include reports of formal reasoning for the non-authorisation decision. (s. 6.2.2)

20. RECOMMENDATION: Police should avoid using generalised reasoning to justify non-authorisation and instead cite the precise reasons in terms of evidentiary materials lacking in the cases concerned. (s. 6.2.2)

21. RECOMMENDATION: Notwithstanding the real challenges involved, Victoria Police policy should emphasise the need to seek, create and use every available option to encourage and support victims in their complaints, rather than allow them to remain 'uncooperative' or 'poor' witnesses. In making non-authorisation decisions police should take active and concerted steps to avoid victim related reasons for doing so and to particularly eschew finding reasons to blame victims. A robust quality monitoring program should be established specifically to reinforce this policy. (s. 6.2.2)

22. RECOMMENDATION: Steps should be taken to ensure all operational police are fully aware of the legalities concerning issues of consent, corroborative evidence, delays in reporting etc and their role in police decision-making. (s. 6.2.2)

23. RECOMMENDATION: Victoria Police should develop and implement a clearly articulated classification system of mutually exclusive and comprehensive outcomes based on defined criteria and guided by extensive practice examples. This classification system should avoid the problem of one outcome being a reason for another outcome – e.g., 'complaint withdrawn by the victim' should not be a 'reason' for 'summons not authorised'. A comprehensive set of concrete and precise reasons for decision-making needs to be developed to underpin this classification system. (s. 6.2.2.2)

24. RECOMMENDATION: Victoria Police case files should provide a written record of the essentials of all interactions with the OPP to allow for accountability and provide sound data for training and management purposes. (s. 7.1.1)

25. RECOMMENDATION: Victoria Police should make representations to the OPP to have Specialist Sex Offences Unit lawyers more involved with country circuit sex offence cases. (s. 7.1.1)

26. RECOMMENDATION: Serious consideration should be given to formalizing an arrangement of regular OPP visits to SOCITs, establishing clear contact guidelines and expectations, sharing regular newsletters of mutual interest matters, consulting with the OPP with an aim of reconciling currently divergent views, with open and ongoing communication on issues as they arise - including in respect to reliance on a single OPP legal prosecution specialist and other personnel instability/turnover issues. (s.7.1.2)

27. RECOMMENDATION: Victoria Police should undertake a research program to examine the overseas experience of unified police/prosecution models for improving the CJS response to complaints of sexual assault with a view to adopting a best practice model. (s. 7.1.3)

28. RECOMMENDATION: Attention should be paid to ensuring there is a written record in case files of compliance with Code requirements concerning CASA referrals and problems in effecting compliance. These records should be collected together in regular memoranda reports and forwarded for advice to management and a state monitoring body (see further recommendation in s. 7.4). (s. 7.2)

29. RECOMMENDATION: Attention should be paid to ensuring there is a written record in case files of all agency contacts and their purposes. These records should be collected together in regular memoranda reports and forwarded for advice to management and a state monitoring body (see recommendation in s. 7.4). (s. 7.3)

30. RECOMMENDATION: The current SOCIT model should be modified from the current variable, hybrid application that has developed across different locations, and expanded in concept and built upon in field design to develop fully functioning MDCs and unleash the partnership synergies of a 'best practice' networked policing framework. (s. 7.4)

31. RECOMMENDATION: An umbrella monitoring body should be established at the State level whose members are drawn from representatives of the SOCITs, MDCs, CASAs and other relevant bodies. Individual members should have non-renewable three year tenures to ensure freshness of commitment. This body should have co-ordinating, advisory and victims' advocacy responsibilities. (s. 7.4)

32. RECOMMENDATION: Victoria Police should undertake efforts to alter the OPP guidelines to more victim-friendly criteria in regard to sexual assault matters. These efforts should involve consulting with the OPP to make appropriate joint representations to the Minister and Parliament on behalf of sexual assault victims supported by the abundance of research literature evidence on the special problems of non-reporting, late reporting and attrition of sexual assault crimes from the criminal justice system. In undertaking these efforts Victoria Police should also consult and work together with other significant players in the policing network. (s. 7.5)

33. RECOMMENDATION: Attention should be paid to reinforcing the importance of ensuring there is accurate and comprehensive documentation on case files irrespective of whether authorisation or non-authorisation is being sought and before forwarding to senior police officers and prosecutors. This mission should be a priority of leadership at operational and executive levels of VicPol, as well as calling for a review of quality control mechanisms. (s. 8.1.2)

34. RECOMMENDATION: Consideration should be given to developing a set of quality assurance criteria to be administered by ROs and AOs in reviewing Briefs. These criteria can be informed by although not limited to the foregoing elements of argumentation. (s. 8.2.6)

35. RECOMMENDATION: Serious and urgent consideration should be given to enhancing the resource allocations for SOCITs. (s. 8.3)

36. RECOMMENDATION: Vicpol should review its quality control systems and related policies in relation to sexual assault Briefs and authority delegations with a view to removing inept SOCIT members (including ROs/AOs where identified) and establishing and maintaining best practice standards of transparent and accountable written authorisation and non-authorisation argument. (s. 8.4)

37. RECOMMENDATION: More substantial provision should be made by VicPol for providing sexual assault education to generalist police officers. (s. 9.1.1)

38. RECOMMENDATION: The Victoria Police sexual assault training course should be re-designed and upgraded to enable challenging of SOCIT unit placement antithetical re-learning and poor practices; to consolidate initial learning through trainee reports of positive practice effects; and to facilitate construction and implementation of an even more robust system for evaluating the course and trainees' learning accomplishments with reference to the Victoria Police (2010) *Crime Investigative Guidelines – Sexual Crimes v 1.1* and the *Sexual Assault Code of Practice* (Victoria Police 2005). Re-design should take advantage of the benefits of a module-based framework in course delivery and evaluation. (See later recommendations in this chapter) (s. 9.1.2.1)

39. RECOMMENDATION: Trainers should be provided with advice from experts in the field of training and development in how to alter VicPol's current training framework to optimize refresher training. (s. 9.1.3)

40. RECOMMENDATION: A Training Audit and Training Needs Analysis (TNA) - complete with learning objectives and evaluation criteria - should be undertaken to identify the refresher and additional sexual assault learning requirements of existing SOCIT police at all levels. As part of a TNA, the 'well' of existing practice wisdom of experienced officers should be tapped and taken into the design of future training courses. (s. 9.1.3)

41. RECOMMENDATION: An upgraded specialist SOCIT training course should take greater explicit account of the distinctive nature of sexual assault policing viz-a-viz other forms of criminal investigation. (s. 9.1.3)

42. RECOMMENDATION: Accreditation of the SOCIT course should be conducted bi-annually by a panel constituted of a representative of the SOCIT training team and members drawn from a state-wide network monitoring body (see s. 7.4). (s. 9.1.3)

43. RECOMMENDATION: The SOCIT recruitment process should be overhauled and brought up to best practice standards, including defined and robust selection criteria that ensure only aptly motivated police officers are taken into SOCIT teams. (s. 9.2.1)

44. RECOMMENDATION: SOCIT graduates should receive an annually renewable appraisal-linked certificate of SOCIT detective practice status along with a premium remuneration package attached to that annual status. (s. 9.2.1)

45. RECOMMENDATION: VicPol should develop and implement a 360° performance appraisal system for SOCIT police that includes feedback from sexual assault complainants as well as from peers and immediate superiors. This system should produce annual appraisals that contribute to whether or not individual officers remain SOCIT members. Consistently under-performing officers should be transferred out of SOCIT and lose their premium remuneration benefits in the train of departure. (s. 9.2.1)

46. RECOMMENDATION: Appropriately de-identified appraisals and related statistics should be made available to a state-wide network monitoring body for review and advice (see ss. 7.4 & 9.1.2). (s. 9.2.1)

47. RECOMMENDATION: In accord with the earlier TNA recommendation, a robust regime of refresher and additional training should be implemented to meet ongoing KSA needs of sexual assault police at all levels. (s. 9.2.2)

Terminology and abbreviations

- AASW – Australian Association of Social Workers
- AO - Authorising officer – usually a Senior Sergeant Police Officer
- CASA(s) – Centre(s) Against Sexual Assault
- CFGIT(s) – CASA Focus Group Interview Transcript(s), 2010
- CIU – Crime Investigation Unit
- Code of Practice - Victoria Police *Code of Practice for the Investigation of Sexual Assault*
- DTS – Detective Training School – now known as the Advanced Diploma of Public Safety (Police Investigations)
- FGIT - Focus Group Interview Transcript (victims/survivors), 2010
- Formal reasons/statements: reasons/statements that were stated in a case file formal report/memorandum in relation to why a case was authorised or not authorised for prosecution, 2011
- GLLO – Gay and Lesbian Liaison Officer
- HCCU – Hospital Crisis Care Unit
- HMCPSI & HMIC - Her Majesty's Crown Prosecution Services Inspectorate & Her Majesty's Inspectorate of Constabulary
- IIT – Individual Interview Transcript (victims/survivors), 2010
- Interpose - Victoria Police database program
- IO – Investigating officer – usually a Senior Police Officer; also often Sergeants
- ISP – Internet Service Provider
- KSA – knowledge, skills and aptitudes
- LEAP – Law Enforcement and Assistance Program – Victoria Police database program
- Non-formal reasons/statements: reasons/statements that were not formally stated in a case file document in relation to why a case was authorised or not authorised for prosecution, 2011
- OPP - Office of Public Prosecutions Victoria
- PFGT – Police Focus Group Transcript, 2010
- PIIT – Police Individual Interview Transcript, 2010
- Victoria Ombudsman - Office of the Victoria Ombudsman
- Rationale factors: these are generalised factors that were either abstracted from specific reasons stated in file documents, or taken directly as they were found in the file documents, 2011
- RFG – Rural Focus Group, police, 2010
- RO – Recommending officer – usually a Sergeant Police Officer; also sometimes a Senior Sergeant
- SACL - Sexual Assault Crisis Line
- SARS - Sexual Assault Reform Strategy
- SSAE -
- SSOU - Specialist Sexual Offences Unit (OPP)
- SOCAU(s) – Sexual Offences and Child Abuse Unit(s)
- SOCIT(s) - Sexual Offences and Child Abuse Investigation Team(s)

- SOCIT/VARE specialist training course: the specialist sexual assault training course provided to police by the SOCIT Specialist Development Unit, usually delivered at the Victoria Police Academy
- Specific reasons: these are particular, highly varied and numerous reasons stated in file documents, 2011
- SR – (Online) Survey Respondent, 2010
- VicPol – Victoria Police
- VCCAV – Victorian Community Council Against Violence
- VARE - Video Audio Recorded Evidence
- VLRC – Victorian Law Reform Commission

1.0 Introduction

> Statistics on the prevalence of sexual assault and the criminal justice response to victims of this crime are dispiriting. Police are central to the detection and successful prosecution of sexual assault crimes. Culturally, symbolically, and professionally, police represent the public face of the criminal justice system and are the primary, and crucial, entry point into the criminal justice system. So it is imperative that the police response is effective (Taylor & Gassner, 2010, p. 240).

Sexual assault is a vexing problem that continues to present major challenges at both the societal level and criminal justice jurisdictions around the world. One in three women in Australia in 2002–03 reported experiencing sexual violence over their lifetime and 29% experienced physical and/or sexual violence before the age of 16 years. It is also estimated that one in six men have a history of sexual violence, predominantly as childhood sexual abuse or sexual violence in early adolescence (Taylor, Pugh, Goodwach, & Coles, 2012, p. 539). Sexual violence is a heinous crime and is recognised as a human rights issue. It has a devastating impact on the every aspect of personal and bodily integrity and inflicts a serious health burden on victims across their lifespan. As a crime sexual violence is marked by serious under-reporting, high rates of attrition post reporting and low criminal convictions. Despite decades of law reform, social awareness and concerted efforts by police jurisdictions around the globe sexual violence continues to be underpinned by, and besieged by inefficient responses. This problem within contemporary Western civilisation's criminal justice system is illustrated by the following observation:

> if any area of law illustrates the limitations of a law reform process it has to be sexual assault: the most consultative, best researched, most gendered law reform process will always be, at most, a very small contribution to ending sexual violence against women (Graycar & Morgan, 2005, p. 21).

Furthermore:

> The only way to determine whether reforms and innovations constitute legitimating devices or material changes is to find out how they are working on the ground: not to take legal promises and assertions at face value but to subject them to scrutiny (Hunter, 2002, p. 10).

This report conveys research findings in relation to one Western jurisdiction's policing sub-system, that of Victoria, within the context of the wider evidence-based research literature, which is described as follows.

1.1 Recognising the problem of sexual assault

Rape law reform was initially undertaken in the United States between 1960 and 1975, with an upsurge in the late 1970s and early 1980s (Bachman, 1993; LeDoux & Hazelwood, 1985). Reforms were introduced in England and Wales, particularly

regarding police, following a television documentary in 1982 (Lea, Lanvers, & Shaw, 2003). Legal reforms in the 1980s and 1990s in relation to rape were also introduced across Europe (Regan & Kelly, 2003). One study suggests that global rape law reform began incipiently post WWII and slowly increased between 1965 and 1980, then substantially picked-up pace from the 1980s (Frank, Hardinge, & Wossick-Correa, 2009). In Australia, a range of reforms in relation to sexual assault have been undertaken in recent years (e.g., Queensland Crime and Misconduct Commission [CMC] 2003, 2008; Community Development and Justice Standing Committee, Western Australia [CDJSC, WA] (2008); Attorney General's Department [AGD] of NSW 2005; Office of the Director of Public Prosecutions [DPP] Australian Capital Territory [ACT], and the Australian Federal Police [AFP] 2005). Reforms have also occurred in Victoria, as outlined below (s. 1.4).

1.2 Determining the dimensions of the problem

The size and nature of the problem of sexual assault has been the subject of much research literature in the United Kingdom, United States, Canada, New Zealand and Australia among other criminal justice jurisdictions in the Western world. There are several important dimensions of the problem: the sheer number of (recorded) sexual assaults, non-reporting and late reporting, attrition rates, antithetical attitudes and rape myths, personal and societal effects, and a generally poor criminal justice system response.

In regard to the size of the problem, a violent sex offence occurs once in every 600 households annually in the United States (Stevens, 2006). According to the U.S. Department of Justice, between 1992 and 2000 persons aged 12 or older experienced an average annual 140,990 completed rapes, 109,230 attempted rapes, and 152,680 completed and attempted sexual assaults; yet only 36% of rapes, 24% of attempted rapes, and 26% of sexual assaults were reported to the police (Rennison, 2002). Basile and Smith (2011) cite the US National Violence Against Women Survey (1995 and 1996) findings that one in six women and one in 33 men have been victims of rape or attempted rape in their lifetime (cf, Tjaden & Thoennes, 1998). In Britain, the total recorded sexual offences has shown an irregular pattern over the past decade, rising from 58,890 in 2002/03 to 62,862 in 2004/05, then falling to 51,427 in 2008/09, only to rise again to 54,509 in 2009/10 (British Recorded Crime Statistics, 2002-2010). In Australia, recorded sexual assaults rose steadily from 14,542 in 1996 to 19,781 in 2007, an increase of 5,239 assaults (36%) over that period (Australian Institute of Criminology (AIC), http://www.aic.gov.au/statistics, accessed 6th April, 2012).

Notwithstanding problems of statistical measures - especially comparing figures over time and jurisdictions (e.g., Hofer, 2006), including various definitions of sexual assault (Australian Bureau of Statistics [ABS] 2004) - there is a strong research consensus that the 'dark figure' of sexual assault is significantly higher than shown in the official records. The 1996 Women's Safety Survey (WSS) data showed that 16% of Australian women had been sexually assaulted since age 16 (ABS 2004). In an Australia wide study it was found that "4.8% of men and 21.1% of women had experienced sexual coercion, i.e. being forced or frightened into unwanted sexual activity, and 2.8% of men and 10.3% of women had been coerced when aged 16 or

younger" (de Visser, Smith, Rissel, Richters, & Grulich, 2003, p. 198). Fitzgerald's (2007) analysis indicated that although 18,000 sexual assault incidents were reported to Australian police in 2006, the true figure was 60,000.

Non-reporting and late reporting have been shown to be very serious issues (ABS, 2004; Kelly, 2001; Legislative Review Committee, South Australia [LRC, SA] 2004; Lievore, 2003; Victorian Law Reform Commission [VLRC], 2003, 2004). A study utilizing National Crime Victimisation Survey data concluded that "less than one quarter of the rape victimizations from this sample were ever reported to police, regardless of the victim offender relationship" (Bachman, 1998, p. 25). The 2001 British Crime Survey (Interpersonal Violence Module (IPV)) showed that 40 per cent of sampled rape survivors had not informed anyone (Office for Criminal Justice Reform, 2006). Victims of sexual assault have also been shown to be less likely to report to police than victims of other forms of physical assault, with the former being half as likely to report (Chen & Ullman, 2010). Monroe, Kinney, Dantzler, Weist, Reynolds and Spriggs (2005) undertook a state-wide survey of 125 adult victims at 19 sexual assault centres in the State of Maryland. They found that 69.4% respondents did not intend reporting to police. Heath (2007) argued that in South Australia, approximately 5,240 rapes were committed in 2003, but only 786 (15%) were reported to the police. In Australia, according to Fitzgerald (2007) a conservative estimate of about 42,000 sexual assaults (70%) during 2006 were not reported to police.

A particularly cogent account of the problematic aspect of attrition is found in the Home Office study by Kelly, Lovett and Regan (2005).

> Research to date in adversarial legal systems has identified four key points at which attrition occurs. The first point is the decision to report itself; estimates of the reporting rate range from 5 to 25 per cent. Even using the highest reporting rate estimate, three-quarters of cases never reach the first hurdle within the CJS. The second involves the police investigation stage – the initial response, forensic examination, statement taking, evidence gathering and arrest and/or interviewing of suspects – between half and three-quarters of reported cases are lost here. The third point relates to the minority of cases that are referred through to prosecutors, where a proportion are discontinued. The final point is the even smaller number of cases that reach court, where between one-third and over one-half of those involving adults result in acquittals. At each of the points the possibility of withdrawal by the victim exists, although the largest number of these occurs during the reporting and investigative stages (Kelly et al., 2005, pp. 30-31).

A later Home Offices study of attrition in reported offences of rape of a female in England and Wales in 2003/04 found that 70% of cases "were lost from the system between an offence being crimed and charges being brought" (Feist, Ashe, Lawrence, McPhee, &Wilson, 2007, p. iii).

The 1996 WSS in Australia found that 20% of women disclosed their sexual assault to no one and took no action; and sexual assault defendants were three times more likely to be acquitted compared to all other defendants (ABS, 2004). Fitzgerald's (2007) analysis indicated that only 3,600 of the estimated true figure of 60,000 sexual

assaults in Australia during 2006 were subject to criminal proceedings by police and only 1,800 resulted in a guilty verdict at court. That is, a paltry 3% of sexual assaults found a just outcome for victims (cf, Fitzgerald, 2006). In a study of reported rapes in Victoria during the period 2003-2006, Heenan and Murray (2006) found that police did not proceed with 61.5% of the investigations concerned, with 15.1% of the complaints being withdrawn by victims and in 46.4% police decided to take no further action. Offenders were charged in only 15% of the examined cases. Although attrition occurs across all crime types, it has been found to be particularly problematic (i.e., higher rate) in sexual assault cases (e.g., Roberts, 1996).

Antithetical attitudes and rape myths have been shown to be widespread throughout society and persistent over time, including the legislature, adversely influencing criminal justice responses at all levels, from police investigations, prosecutorial decision-making through to judicial and jury deliberations (Campbell, 1995; Feild, 1978; Feldman-Summers & Palmer, 1980); and account in some measure for non-reporting, late reporting and attrition within the criminal justice process (CDJSC, 2008; Feldman-Summers & Palmer, 1980; Lievore, 2003, 2005a; Taylor & Norma, 2011). Even after rape law reform was initiated in the United States and other jurisdictions research work found personal attitudes such as belief in stereotypes, victim blaming and rape myths influenced an individual's effectiveness in investigating sexual assaults (e.g., Bachman, 1993; Feild 1978; Feldman-Summers & Palmer, 1980; Jamel, Bull & Sheridan 2008; LeDoux & Hazelwood, 1985). For example, Feild (1978) noted the then relatively sizeable research literature suggested prejudicial attitudes to rape were widespread in the general population and influenced the views and decisions of the judiciary, jury, legislators and police. In this last regard, it has been noted that "various researchers have proposed that these attitudinal sets have been influential in … the processing and investigation of rape complaints by police" (Feild, 1978, p. 156). Feild (1978) found that police were closely aligned with offenders in their attitudes towards rape victims, and very differently so from crisis counsellors, and held a basic mistrust of rape victims. That police are not alone in being influenced by attitudes in their duties was supported by the work of Feldman-Summers and Palmer (1980) who similarly found differences between the beliefs of members of the criminal justice system on the one hand and those of social service personnel on the other hand.

> (T)he social service personnel tend to see the causes of rape as being inherent in the socialization process of men (e.g., men have been taught to believe that when a woman says "no" she really means "yes"; and men who commit rape have not been taught that rape is wrong). The CJS participants, however, tended to see the causes of rape as lying within the make-up of some men (e.g., sexually frustrated men or men who are mentally ill) and being the result of women's behavior (e.g., women using poor judgements about going out alone) (Feldman-Summers & Palmer, 1980, p. 34)

Furthermore there is solid research evidence that some victims/survivors take on rape myth thinking themselves, either internalizing prejudicial beliefs and hence not reporting sexual assaults; or being deterred from reporting in the knowledge that the general public, police, judiciary and juries will not believe their story and that they would only be giving themselves a millstone of social stigma and disbelief if they were to report (e.g., Bachman, 1993, 1998; Daly & Bouhours, 2010; Jones,

Alexander, Wynn, Rossman, & Dunnuck, 2009). Moreover, victims continue to base their reporting decisions on stereotypical conceptions of rape (Chen & Ullman, 2010).

Even when victims do report, their experience with the criminal justice system has been shown to be often unsympathetic, thus reinforcing a popular view that reporting is both futile and likely to result in systemic re-victimisation. Monroe et al. (2005) found that of those victims who did report, 46.2% were dissatisfied with the police interview. Maier (2008) describes how victims upon reporting are re-victimised by both police and health service personnel due to insensitive, judgemental or disbelieving questioning. At court victims/survivors must 'run the gauntlet' of often vicious questioning by defence lawyers under the benign eyes of judges (e.g., Burman, 2009; Gregory & Lees, 1996).

Personal and societal effects are intertwined in terms of immediate and long-term trauma, medical and hospitalization interventions, spoilt self-esteem and mental health problems, familial disruptions, unemployability, drains on the public purse, and deleterious impacts on the economy, among other hazards. Sophisticated meta-analysis research of longitudinal studies covering the period of 1980 to 2008 has linked sexual attacks with life-time psychiatric disorders (Chen, Murad, Paras, Colbenson, Sattler, Goranson, Elamin, Seime, Shinozaki, Prokop, & Zirakzadeh, 2010). Aside from immediate medical help following a sexual assault, health impacts include sexually transmitted disease, bowel and other health problems, pregnancies, and associated monetary and socio-emotional costs (Basile & Smith, 2011; Dumont & Myhr, 2000;Taylor, Pugh, Goodwach, & Coles 2012). Australian government reports have identified health and financial burdens of physical and sexual violence (Access Economics, 2004; VicHealth, 2004). Strains on relationships with intimate partners, family and friends have been widely reported in the literature (e.g., Coker, Davis, Arias, Desai, Sanderson, Brandt, & Smith, 2002; Lievore, 2005a). In the 12 months following a sexual assault victims often take time off work and the 1996 WSS indicated that some 40% altered their daily routines such as shopping, child care, voluntary and community work as well as social activities, with 17% living in fear for their personal safety (ABS, 2004, p. 69). One study found that productivity at work suffered for up to eight months after rape (Basile & Smith, 2011). Miller, Cohen and Wiersema (1994) estimated rape costs an average of $5,100 in direct expenses and $87,000 when a monetary value is placed on emotional distress and lost quality of life. Post, Mezey, Maxwell and Wibert (2002) estimated that sexual violence cost more than $6.5 billion per year in Michigan alone.

1.3 Addressing the problem?

Efforts to resolve the problem within a criminal justice framework have been made across Western jurisdictions since its recognition as a serious policy issue gathered pace from the 1960s onwards. In the United Kingdom, for example, the Home Office issued circulars in 1983 and 1986 with the first designed to ensure women would be treated with tact and sympathy when reporting rape and the second that advised rape complaints could be 'no-crimed' only when the complaint was withdrawn or found to be a false report, but no longer due to insufficient evidence (Gregory & Lees, 1996; Lea et al., 2003). In Canada, the legislation on rape was overhauled in 1983, removing

past inequities, for example no longer requiring corroboration, repealing the rule of 'recent complaint' and making inadmissible the use of sexual reputation to discredit a complainant's credibility (Dumont & Myhr, 2000). Since the early 1970s many jurisdictions – including Australia, Canada, England and Wales, New Zealand, USA and Scotland) – have enacted 'rape shield' laws designed to protect complainants against unnecessary impugning of their character and credibility through questioning of their sexual history, life style or dress etc by defence lawyers (Burman, 2009).

There is evidence of some success as a result of such measures to increase reporting rates and to reduce attrition rates and incidence of sexual assault. Bachman (1998, p. 25) tentatively suggested that there was "an increasing propensity for women raped by men they know to bring their victimizations to the attention of authorities". Lea et al. (2003) reported mixed findings in their study, however they concluded there were grounds for optimism because reforms appeared to be having salutary effects on police commitment. In a Canadian context, Dumont, Miller and Myhr (2003) similarly reported tentative findings that women were possibly shedding elements of the 'real rape' myth to report their victimization to police whereas they might not have done so in earlier pre-reform times. One study found that the Sexual Assault Nurse Examiner (SANE) program in the US improved sexual assault case investigation and prosecution due to the collection of high quality medical forensic evidence (Campbell, Patterson, Bybee, & Dworkin, 2009). Baumer and Lauritsen (2010, pp. 158-9) undertook a sophisticated, multi-variable statistical analysis taking account of social and legal changes to conclude that from 1973 to 2005 there was a 39% increase in sexual offence reports to police in the United States. According to Catalano, Smith, Snyder and Rand (2009) the US rates of sexual assault against females and males declined between 1993 and 2008 by 70% and 36%, respectively.

Yet progress has been slow and spotty, if not superficial. For instance, Gregory and Lees (1996) found an alarming no-criming rate of 43% despite the 1986 Home Office circular, as well as downgrading offences. Harris and Grace (1999) also found attrition remained a problem, with reductions in no-criming being offset by increases in no further action by police. Gregory and Lees (1996) refer to 'judicial sabotage' of British legislation designed to protect victims from defence lawyers questioning of victims' past sexual history ('rape shield' laws). Further, "despite radical reform within the administration of the criminal justice system in respect of rape and sexual assault cases, attrition remains a serious problem" (Lea et al., 2003, p. 583) and "not enough is being done within the criminal justice system for victims of rape" (Lea et al., 2003, p. 598). This latter view particularly concerned inadequacies in collaboration by the Crown Prosecution Service with police and in understanding of rape victims by judges and barristers; however there were still a significant minority of police who held stereotyped attitudes towards women and rape (Lea et al., 2003). Burman (2009) argued that, despite many recent reforms including 'rape shield' laws, complainants continued to be traumatized in Scottish courts, where their sexual history was increasingly introduced under the negative influence of outmoded rape myths. In Canada, judicial thwarting of legislative intent was seen in the Supreme Court striking down the rape shield statute in 1991, with redrafted legislation surviving yet another challenge in 2000 (Graycar & Morgan, 2005). Analysis of data from 1990 to 2005 by Daly and Bouhours (2010) showed that across the United States, Australia, Canada, England and Wales, and Scotland an average of only about 30% of cases reported to police proceeded to prosecution.

A similar 'progressive/regressive' circumstance applied across Europe where, for instance, the definition of rape was widened, including recognition of rape in marriage and rape of males, along with training in some countries for police, prosecutors and judges (Regan & Kelly, 2003). Also, "less common changes include: restrictions on sexual history evidence; reviews of sentencing; introducing degrees of sexual assault; allowing NGOs to be party to the case; lowering the age at which perpetrators can be charged; and stopping perpetrators being able to cross-examine the victim/witness in the court case" (Regan & Kelly, 2003, p. 15). Procedural reforms included court-room protections of victims (e.g., screens, video evidence) and anonymity of victims and witnesses. Yet, despite difficulties and patchiness in data-collection, these authors found that "England & Wales, Finland, Ireland, Scotland and Sweden share a pattern of increasing attrition, with increased reporting and declining conviction rates over decades"; and "the conviction rate has fallen for most of Europe since the 1970s, and no country had an increase in convictions that exceeded an increase in reporting" (Regan & Kelly, 2003, pp. 12-13).

Despite what have now been decades of reform the prevalence of sexual assault remains widely acknowledged as dismayingly high across Western criminal justice jurisdictions (e.g., ABS, 2004; Basile & Smith, 2011; Daly, 2011; de Visser et al., 2003; Koss, 2006; Lovett & Kelly, 2009; Neame &Heenan, 2003; Petrak, Doyle, Williams, Buchan, & Forster 1997; Taylor, 2004a; Taylor & Gassner, 2010;Taylor & Norma, 2011). Attrition rates also remain disturbingly high (e.g., Burman, 2009; Burman, Lovett, & Kelly 2009; de Visser et al., 2003; Heath, 2007; Her Majesty's Crown Prosecution Services Inspectorate & Her Majesty's Inspectorate of Constabulary (HCPSI & HMIC), 2007; Page, 2008;Taylor & Gassner, 2010). A range of studies have found that legal and procedural reforms have failed in various ways to significantly and consistently deliver on their promise to improve the criminal justice response to sexual assault (e.g., Clay-Warner & Burt, 2005; Jordan, 2001, 2002; Lievore, 2005b; Page, 2008; Temkin, 1999; Walklate, 2008). For example:

> In virtually all countries where major studies have been published, the number of reported rape offences has grown over the last two decades, yet the number of prosecutions has failed to increase proportionately, resulting in a falling conviction rate. (Lovett & Kelly, 2009, p. 5).

In this regard, Lovett and Kelly (2009) distinguish between four types of attrition: classic, expected, reverse and anomalous. A classic attrition trend is where there is "increased reporting over a sustained period accompanied by a falling conviction rate" (Lovett & Kelly, 2009, p. 22), and this was found to characterize 17 of the 25 European countries in their in-depth, multi-method comparative study. The expected pattern of parallel rising report and conviction rates were found in only three countries; a reverse pattern both reporting and conviction rates falling in four countries; and in one country an anomalous pattern of more prosecutions than reports.

Australia has seen a similar pattern of reforms belied by subsequent realities of continuing non-reporting and high attrition rates. For example, the Queensland Crime and Misconduct Commission made 23 recommendations concerning the handling of sexual assault reports by police and prosecutorial services, which were subsequently judged to have been largely implemented successfully (Queensland CMC, 2003,

2008). In New South Wales, a task force supported designated police liaison officers and a one-stop shop with a specialist police detective on call if a victim wanted to make a report (AGD of NSW, 2005). In the ACT, a 2005 report by the Office of the DPP and the AFP made a number of recommendations for improvements in the way the ACT police handled allegations of sexual assault. These included a recommendation to adopt the London Metropolitan Police model of Sexual Offences Investigative Techniques (SOIT) officers who were not responsible for investigations but who were trained as 24 hour specialist first responders, as well as training of all police staff likely to have contact with sexual assault victims. There was another recommendation for a one-stop shop approach with a forensic and medical sexual assault centre where police would meet informally with victims to explain the investigative process and arrange a formal investigation if desired by the victim. According to the CDJSC (2008) in Western Australia an increased rate of reporting of domestic violence followed the enactment of legislation in 2004. Sexual offence cases rose to approximately 20% of the Office of the Public Prosecutor's (ODPP) workload.

Australian reforms generally recognised a need for a specialised and co-ordinated response to managing cases involving sexual assault. However, in New South Wales there is no specialised unit in place to deal specifically with reports of sexual assault (AGD of NSW, 2005). In South Australia, "although the conviction rate from 1981-1991 was low and falling, from 1993-2003 the proportion of reports to police resulting in a finding of guilty as charged for rape or attempted rape fell still further. In 2003 only 1.5% of reports resulted in a finding of guilty as charged" (Heath, 2007, p. 175). In Western Australia, despite the 2004 legislative reform less than 15% of cases reported to the police were forwarded for prosecution, and less than 9% of reported cases secured a conviction (CDJSC, 2008). Further, among the Committee's 40 findings were a low rate of reporting (10%) of sexual offences; only 1% of all alleged sexual assaults (both reported and unreported) resulted in conviction; and operations of the recently formed Sexual Assault Squad (SAS) were restricted to cases where the perpetrator is a stranger or highly complicated inquiries.

As will be seen in the literatures reviewed in the chapters of this report, the gist of all of the above findings has remained consistently evidenced in various related bodies of research over the years.

1.4 Situating Victoria

In 1992, Victoria Police established a Code of Practice setting down guidelines, procedures and protocols for investigating sexual offence allegations; and this has been revised and updated subsequently (Victoria Police, 2005). Several key reports in relation to sexual assault were undertaken in the 1990's, including the Victorian Parliamentary Drugs and Crime Prevention Committee's reports on Combating Child Sexual Assault (1995) and Combating Sexual Assault Against Adult Men and Women (1996); the Rape Law Reform Evaluation Project's 1996 report into the Crimes (Rape) Act 1991 (Heenan & McKelvie, 1996); and the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General 1999 report on Sexual Offences Against the Person (MCCOC). In 2002, Victoria Police and the Office of

Women's Policy (Department for Victorian Communities) established the State-wide Steering Committee to Reduce Sexual Assault.

Subsequently, the VLRC (2004) and Victoria Ombudsman (2006) conducted reviews in relation to sexual assault and made numerous recommendations including in regard to police practices and management of cases, decision-making, training programs, cooperation with community agencies, and evidence-based research activities. For example the VLRC recommended police assign detectives to specialised units to work exclusively on sexual assault cases. The Ombudsman's report highlighted complainants' difficulties contacting police assigned to their case and recommended access to details of the case by the investigator's supervisor to facilitate complainant enquiries. Both the VLRC and Ombudsman concluded change was needed in legislation as well as organisational and administrative processing of sexual assault cases. The VLRC and Victoria Ombudsman reports and recommendations are discussed in further detail at appropriate points in the text of this report. At this point it is noted that those reports jointly cast considerable doubt on the effectiveness of police responses to sexual assault at the time, again reflecting the pattern of 'progressive/regressive' movement evidenced in the literature in other Australian and overseas jurisdictions.

Following the VLRC (2004) report, the Victorian State Government funded the Sexual Assault Reform Strategy (SARS) which incorporated a range of initiatives aimed at improving the criminal justice system's response to sexual assault and enhancing support for victims/survivors as well as providing for prevention and early intervention. The consultant research firm 'Success Works' (2011) recently reported on SARS, noting that all the reform recommendations were implemented bar one that was found to be unviable. It concluded that reforms had initiated a cost effective and real difference for many victims/survivors, with significant cultural change exemplified in police being more likely to believe complainants. Based on data from a range of methods, it cited as evidence such development as new legislation, the Victims Charter, the SOCITs, MDCs (and co-location of services), the Code of Practice, and the amount of internal training. It also pointed to improved access and support for victims/survivors, as well as improved quality of prosecution Briefs due to structural changes in the criminal justice network.

However, it also sounded a note of caution, observing that "(t)his is a journey begun, not a journey ended and now is not the time to 'take the foot off the accelerator'" (Success Works, 2011,p. i). It noted that the number of reported sexual offences increased steadily (12.9%) between 03/04 and 05/06, declined slightly (5.5%) into 06/07 and 07/08, but then declined dramatically (19.1%) in 08/09; and "police data indicates that the rate of attrition (complaints withdrawn) increased between 2005/06 and 2008/09 and then decreased substantially in 2009/10, while the court data indicates an increase during 2009/10 in cases where the prosecution was withdrawn" (Success Works, 2011, p. iv). Between 2004/2005 and 2008/9 about 50% of County Court sex offence cases resulted in a conviction, however by 2009/2010 the County Court conviction rate declined to 38% (Neave, 2011). As Neave noted, these figures might not indicate a long-term trend, but they are not a promising omen, and they too suggest the 'progressive/regressive' pattern evidenced in the research literature to date. Thus, the statistical data on reporting and attrition rates cited in the Success Works report do not show a clear positive trend to support optimism based on the

various views cited in the report. Rather, that data is mottled at best and contradictive at worst regarding cultural change for the better. It remains to be seen whether current CJS changes have a real and lasting impact upon the key problems of non-reporting, late reporting and high attrition rates.

Under the weight of the research evidence canvassed above, it is vital that further work is undertaken in an Australian context and specifically in Victoria to further examine the progress and outcomes of reform efforts.

The Policing Just Outcomes (PJO) project was initiated in Victoria - with the Success Works (2011) research being largely concurrent - against this background of circumstances and travails of sexual assault criminal justice reforms. The current report is concerned with the results of PJO project collaboration between Edith Cowan University and Victoria Police. It is emphasised that the PJO project concerned sexual assault complaints by adults, including adults reporting childhood sexual abuse, but not complaints concerning child victims contemporaneously.

1.5 Research aims

The Policing Just Outcomes project is a multiple methods research inquiry into reporting and non-reporting of sexual assault and associated policing responses in Victoria. Key aims were to:

1. identify and understand the factors and dilemmas that influence the decisions made by adult victims of sexual assault on whether or not to report the offence/s to police;

2. provide a 'thick description' (Geertz, 1973) and understanding of police responses to adult sexual assault in Victoria and the outcomes generated by these responses, using a 'networked policing' conceptual framework;

3. develop an understanding of police training and practice concerning adult sexual assault; and

4. make recommendations for potential improvements in police practice responses and training in relation to sexual assault in Victoria that will address non-reporting, delayed reporting and attrition of sexual assault complaints which have been identified as serious concerns and priority issues for police and the wider criminal justice system.

2.0 Methodological considerations

Given the size, duration and complexity of the PJO project the following provides an overview of methodological considerations. The first section is an account of methods, with more comprehensive descriptions and data collection tools located in Appendices one to 11 inclusive. The second section deals with ethical considerations, followed by comment on industry partner assistance, with a concluding section on study limitations.

2.1 General framework

The PJO project was comprised of three strands of research, each of which incorporated a number of studies. The general framework comprised a range of specific, qualitative and quantitative, data-collection and data-analysis methods that provided for triangulation at the levels of researchers, methods, data sources and over time. The three strands shared a theoretical orientation of Action Research and key methodological underpinnings, but also varied in specific methods and applications. In particular, researchers across all three strands employed qualitative methodologies of in-depth interviews and focus groups as well as the complementary procedures of the Grounded Theory Method (Glaser & Strauss, 1967; Strauss & Corbin, 1990), Meaning Generation Tactics (Miles & Huberman, 1994) and Grid Analysis Method (Hurworth, 2000). At the risk of oversimplifying these complex methodologies, it is worth briefly explaining them as employed here since they are not always well understood even by otherwise experienced researchers, and especially researchers who are accustomed to quantitative/statistical methods.

Grounded Theory Method (GTM) procedures use open coding, axial coding and selective coding to generate or understand the meaning of raw data through inductive reasoning. Open coding refers to reducing a data mass to sensible and manageable categories by noting commonalities and assigning labels to various data bits. Axial coding refers to examining the open coded categories for connections and disparities among the data, which also helps identify new codes and ideas (usually said to 'emerge' from the data). With selective coding researchers concentrate on larger themes or concepts developed from earlier inductive analyses. Notably, shifting from open to axial to selective coding is a process of moving up the conceptual abstraction ladder. In undertaking these coding activities, GTM researchers employ a Constant Comparative Method, which refers to cycles of iteration back and forth to data from within and among cases – or other units of analysis such as subjects' responses - to check for supportive and contrary evidence in relation to emerging ideas and insights. This method is reminiscent of John Stuart Mill's famous, time-tested methods of agreement and difference (Neuman & Wiegand, 2000). Whilst the method of agreement looks at what is common within and across cases, that of difference searches for what is distinctive. Combined, these procedures allow identification of consistencies and inconsistencies within a given case, plus dissimilar cases and similar ones, as well as sub-types within a category of cases. GTM relies fundamentally on replication logic, where if evidence in one case is repeated in another then it is potentially generalisable to other similar cases. In short, GTM is an

approach that induces from collected data one or more concepts or hypotheses that can be employed to construct new theory. This approach is in direct contrast to a deductive reasoning approach that seeks to test hypotheses drawn from an existing theory or conceptualisations.

In regard to the Meaning Generation Tactics (MGT) employed, counting refers to noting the frequency of data/items at any level of abstraction. Comparison and contrast seeks to discover what data are common and what are different, for instance among the narratives or more broadly across the cases. Clustering refers to "the process of inductively forming categories, and the iterative sorting of things … into those categories" (Miles & Huberman, 1994, p. 248). As Miles and Huberman point out, clustering can be applied to many kinds and levels of qualitative data, including events (eg sexual offending), individual actors/groups (police officers, SOCAUs, SOCITs), processes (investigations/Brief authorisation decision making), and cases (such as those contained in the VicPol case files). The tactic of 'subsuming particulars into the general' refers to collecting together data into more general ideas, usually on a comparative basis. This essentially refers to a higher conceptual level of abstraction than that involved in the former tactics. Factoring provides a definable construct (or part of one) that has potential explanatory power. This involves searching for conceptual patterns of meaning in the data by constantly asking what similar and dissimilar data items might indicate not only at an abstract level, but also "in terms of a smaller number of unobserved, usually hypothetical variables" (Miles & Huberman, 1994, p. 256). Each of these tactics is a specific means of inducing meaningfulness from otherwise raw data that is readily used in concert with GTM coding. Altogether these tactics allow identification of patterns of data and associated meanings, and thus comprise the particulars in current research use of the pattern-matching technique (Eisenhardt, 1989; Hurworth, 2000; Miles & Huberman, 1994; Trochim, 1989; Yin, 1994).

The Grid Analysis Method (GAM) employed here was developed by Hurworth (2000) following the work of Miles and Huberman (1994), and it has been subsequently utilised and developed in application by other researchers (e.g., Bell, Shrimpton, Hurworth, & St Leger, 2004). A grid is essentially composed of a column by row arrangement of cells, representing a sophisticated cross-tabulation, similar to a computer software spreadsheet format however it can be constructed also either manually on PC generated tables, or in hand fashion on "butcher's paper" or any sheet of paper (or other amenable surfaces). This method generally involves listing the cases – or respondents etc - down the left column with data types, concepts, themes or any other analysis item across the top row. It is an ingenious, simple, efficient and highly rigorous and effective means of reducing 'loads and lumps' of qualitative data to manageable and revealing 'chunks' of information (Bell et al., 2004, p. 10). Scrutiny of the de-constructed data in the cells allows a summary view of each case's characteristics, as well as relatively easy comparison and contrast between the cases. As data are entered into the cells there is a visual demand to review each case against all others in respect to the analysis item at hand. The data can be re-constructed to reveal patterns across the cases. A great advantage of a grid is that it disciplines the mind against favouring preconceptions and ignoring contrary evidence, which is a threat if analysis is carried out only on a case-by-case basis with case findings being reviewed and 'added together' in a linear, sequential fashion. GAM is an inductive

method of working with qualitative materials that complements GTM and MGT procedures.

Together with other methods used in the three strands of PJO research, this general framework provided what Geertz (1973, pp. 6-28), borrowing from Gilbert Ryle (*Collected Papers*), called a 'thick description', essentially an in-depth understanding of social discourse, a microscopic laying bare of cultural meanings with "densely textured facts" and "complex specifics" (28), instead of or additional to a 'thin description' of statistics, observations and the like. With its application in the PJO research project, the policing of sexual assault in Victoria is described and interpreted in detail to enhance our understanding of what to do to further improve police responses in accord with VLRC (2004) and Ombudsman Victoria (2006) recommendations. The research framework also provided important quantitative indicators concerning the recent policing of sexual assault in Victoria and VicPol's efforts to respond to attrition rate, non-reporting and late reporting issues identified in the research literature, and often mentioned in the mass news-media.

In respect to the general Action Research approach adopted here, Eade (1997), for example, argues that effective reform requires the reformers to understand the capacity building possibilities that can enable the participants, themselves, to assert meaningful change. For this to occur in the investigation of sexual assault, the reformers must respect the knowledge and perceptions of the people who experience sexual assault and those who investigate it. The important theoretical point here is that, as Eade (1997, p. 11) puts it, "awareness, learning, self-esteem and the capacity for [social] action are mutually reinforcing". Implicit in this perspective is a realisation that people who suffer forms of disadvantage have the right and the capacity to challenge expert or imposed 'solutions' to their problems and are capable of asserting better alternatives. This approach will enable the development of an understanding of the nature of the experience of sexual assault from the perspective of victims, police investigators and Office of Public Prosecutions (OPP) officers who possess the capacity to be effective drivers of wider system change.

All interview and focus group verbal response data were audio recorded for later transcription with the consent of participants and with any identifying information anonymised during transcription. Hand-written notes were also made as appropriate. Final analysis, integration of materials across the three strands and report write-up was undertaken over the period February-July 2012. During the PJO project the research team produced four confidential, detailed Briefing Papers for Victoria Police for the purpose of sharing and advising of emerging patterns and work in progress findings and discussions. The large size, extensive duration and complexity of the project are indicated in the following exposition of methodology.

2.1.1 Strand one

Strand one involved three main researchers, using a mixed methods approach to collect and analyse qualitative and quantitative data from victim/survivors, police members and sexual assault counsellors. This approach entailed three perspectives on

the victim/survivor experience, thus providing a rich source of findings and recommendations.

A victims/survivors survey was undertaken on-line from December 2009 to May 2010, resulting in 336 respondents. Of these, 130 reported to police and the remaining 206 respondents did not. Seventy-seven respondents self-selected to accept an invitation for in-depth interview. There were 201 female respondents and 33 male respondents with two missing gender sets. The majority of respondents who reported their violation to police did so in the previous four years (2006 to 2010), giving currency to the meaning drawn from the analysis.

The online survey is the first of its kind anywhere (see Appendix one). It was designed to be an innovative and unique data collection tool. Designed by the lead researcher in conjunction with her staff and a survey consultant, the survey was trialled with survivors in 2008 in a private workshop and again trialled online in the latter part of 2009. The survey was not badged with the Victoria Police insignia as it was felt it might hinder respondents whose trust we were seeking and to their credit, members of Victoria Police we were communicating with at the time understood this and supported the decision.

Researchers conducted a total of 64 in-depth interviews with victims/survivors comprising 47 individual interviews and five focus group interviews. Of this sample 36 had contact with police for the purpose of reporting while the remainder (28) did not report the sexual offence to police. Three focus groups were all female and one focus group of males. Interviews were loosely structured in order to be responsive to the interviewee's needs. Questions focused on the subject of reporting/non-reporting rather than on the sexual assault per se and thus reduced the participant's stress and risk of re-traumatisation. Topics included: the decision making process as to whether or not to report; barriers, dilemmas and facilitators to reporting and survivors' perceptions and experiences of reporting.

It is of research interest to note the difficulties involved with two individual interviews that were originally organised but had to be abandoned. While 64 survivors in total were interviewed, some 77 had originally agreed to attend for interview. However one interviewee cancelled a scheduled interview time due to feelings of anxiety about the interview and wanted to reschedule. Researchers rescheduled a time at her request but at the last minute she contacted to advise she simply felt unable to attend due to personal feelings of anxiety. She was provided with appropriate contact details of suitable counselling services and it was determined not to reschedule an interview. The other interviewee attended the scheduled interview which was held at a CASA counselling service (where researchers conducted a number of interviews). The interviewee became verbally and physically aggressive towards researchers early in the interview and the interview was stopped and assistance sought for the interviewee. Interview material pertaining to this interviewee was not transcribed and was destroyed. The remaining 11 individuals either did not respond to contact made by researchers in order to schedule an interview or conversely, elected to attend a focus group interview but did not turn up. As a courtesy, researchers made follow up contact but did not pursue the individuals any further.

In addition to interviews with victim/survivors Strand One researchers conducted a total of seven focus groups from 2009 to 2010 across the state involving more than 60 specialist sexual assault police members. As Victoria Police were in the process of trialling and then rolling out Sexual Offence Child Investigation Teams (SOCIT's) during the period of this project our interviews included police from both the then Sexual Offences Child Abuse Units (SOCAU's) as well as SOCITs. These interviews provided detailed insights into police perspectives about the reporting behaviours and decision of victims and their experiences with victims who have contacted police either to report a sexual offence or obtain information and advice. Site visits were made to the two trialling SOCIT's located in Mildura and Frankston that were in their infancy in terms of the trial, prior to revisiting them in 2010 for the purpose of conducting our focus group interviews.

Interviews were semi-structured lasting approximately 90 minutes with the occasional focus group interview extending over a period of 2 hours. In some rural/regional areas police from these units travelled to one agreed location in consideration of police workload priorities. As with all interviews conducted by PJO researchers these were digitally recorded, with the informed consent of participants. A moderator took notes that included coding to enable correctly identifying various speakers within the groups. Interviews were transcribed verbatim and checked against the moderator notes for accuracy in terms of speakers. Moderator notes were then destroyed and the participants in the transcripts anonymised in accordance with ethics protocols.

Additionally, six focus groups were conducted with Centre Against Sexual Assault (CASA) workers in various locales around the State and a focus group with Sexual Assault Crisis Line (SACL) workers. These interviews provided another perspective from professionals who work directly with survivors and provide advice and support about their reporting options which at times bring them into direct contact with police through the reporting process.

Data analysis methods involved statistical analysis of survey responses, using the SPSS software package. In conjunction with GTM, MGT and Grid Analysis, qualitative procedures involved intensive coding and deep-level interpretive reading of transcription materials from focus groups and individual interviews. This qualitative analysis procedure relied upon specific methods of close, line-by-line reading (Charmaz, 2006a, 2006b) and researcher triangulation (Miles & Huberman, 1994; Minichiello, Aroni, Timewell, & Alexander, 1990; Minichiello, Sullivan, Greenwood, & Axford, 2004; Moran-Ellis, Alexander, Cronin, Dickinson, Fielding, Sleney, & Thomas, 2006; Patton, 1990; Perlesz & Lindsay, 2003; Richardson, 2000). Appendices one to five inclusive contain further details of strand one data collection methods. The entirety of strand one research was undertaken over the period 2009 to the beginning of 2011. This data analysis stream focused on victims/survivors' reporting and non-reporting from the viewpoint of victims/survivors, CASA and SACL views on reporting barriers, as well as police perceptions on barriers. Strand one analyses and findings are reported in Chapters Three to Five inclusive.

Strand one qualitative analysis was undertaken by the whole team of researchers in five two-day team workshops with additional support from a short term Research Assistant employed for this aspect of the project. This team approach involved three primary techniques used concurrently in grounded theory – coding, memoing and

diagramming (Strauss & Corbin, 1990) which is underpinned by multiple layers of reading by researchers within a GTM framework, with stringent adherence to in-depth coding methods to ensure the highest levels of quality and triangulation. In respect to the coding activities, where researchers identified material in transcripts that was interesting but not linked to any theme, it was bolded so that other team members were alerted to it. Similarly, for any insight considered unique to that particular interviewee but was of interest, it was underscored in the text. This enabled the team to consider any similar phenomena if found in other transcripts. Thus, items of interest were bolded and highlighted initially that were not at that stage considered a theme but might become a theme or phenomenon of interest. Memo writing aids the exploration of commonalities and differences in the data and provides hypotheses or questions and reflections (Strauss and Corbin, 1990, 1998). Diagramming results in visual representations of the relationships between codes and categories generated from the entire data pool and assists in the identification of relationships between concepts and categories (Strauss & Corbin, 1990, 1998). This process was of particular relevance when comparing interview and survey data from victim/survivors and interview data from police members and counsellors. The methods employed facilitate and optimise rigour, credibility, dependability and transferability of findings (Strauss & Corbin, 1990, 1998). The approach and method of analysis and coding included the follow considerations and applications.

Team members initially undertook verbatim transcription of all interview/focus group materials conducted with victim/survivors, police and CASA counsellors with some out-sourcing of interview transcription. While labour and resource intensive this enabled deep engagement with the material and the value in terms of research outcomes was significant in terms of contributing to the quality of analyses. First level coding of themes was started individually on the transcripts. With completed transcriptions we came together as a team in the first workshop to complete first level of coding of interview data. Team members then met for two days of intensive team work on the second deeper layer of analysis where themes from the victim/survivor interviews were written up for the team to discuss, with a drawing out of the themes for further discussion and analysis with new themes also identified, discussed and recorded. The research team developed major codes and drew sub-codes and sub-themes from the major codes. This was ongoing for the next intensive team workshops.

The next two team workshops brought together the transcripts of interviews with police and CASA/SACL focus groups which had already been coded and analysed by two researchers in 2009. This data were examined for common themes and then juxtaposed to related codes from the data themes taken from the victim/survivor interviews and some survey data. This saw the start of triangulation of codes and development of new codes.

Amid the team workshops preparation was undertaken of several significant Briefing papers for Victoria Police based on the first two layers of analysis. Preparation of the Briefing papers assisted in further development of themes because it enabled the team to draw together identified and emerging themes and link them to literature.

Another two days of intense team work involved sharing transcripts among team members to double check coding and enhance understanding of context. This was a

further phase of team member checking to ensure context and correct theme identification and where themes had multiple themes within particular issues (thematic complexity). This also involved team member checking of the police and CASA files.

Between team workshop meetings tasks were delegated for drawing together thematic matrixes and sharing them among the team. Deadlines were set to prepare Excel and word documents of the themes and analysis to share among the team prior to each next team workshop. Excel spreadsheets were prepared in the form of data analysis grids (Hurworth, 2000). Respondents were listed down the first column and remaining columns served to identify themes and issues. Quotations and paraphrased excerpts from interviews were entered into each cell as appropriate to each respondent. This allowed eye examination across all respondents to extract patterns for each theme/issue. In this fashion pattern-matching was facilitated across the respondents and across the data sources, thus providing for a highly robust and rigorous analysis, triangulated by method, data and researcher.

A final intensive two day workshop was devoted to a close line-by-line reading which has been described by Charmaz (2006a, 2006b) as a valuable heuristic device to assist with deep analysis. It was particularly labour intensive and required completion outside of the workshop. Charmaz (2006a, 2006b) has talked about the value of line-by-line analysis in order to be really alert to how the data speaks and access all possibilities and this enables a more critical reading as opposed to just reading 'chunks' to look for an obvious theme or concept. This final reading revealed another theme and identified further examples for other themes. It could not be completed over two days and continued among team members for a full three weeks before a final meeting. This meeting saw the development of a more comprehensive and detailed tool consisting of word documents listing themes and quotations that could then be matched against similar themes and quotations in companion documents for police and CASA.

It should be noted that the intensive two day team workshops involved approximately 12 hour days of reading and working on a whiteboard and butcher's paper. The Project Manager looked after the research team to ensure tea and coffee etc were in the room, which was a key aid to keeping team members fresh and focussed on their work. The lead Chief Investigator built in a few short, time-out sessions as part of ongoing self-care for team members. Some of these sessions were creative and involved activities such as going to a quiet nook alone with a pot of tea or cool drink; viewing of visual and inspirational photos and validations to support team members and take the mind off the data; and going for a short walk etc. The main daily breaks were for lunch and an evening meal. On occasions the team met after dinner to do further work on the transcripts. Additional self-care sessions were in-built to each workshop and involved a trip to a health-therapeutic massage/relaxation service where each team member received individual relaxation therapies. In addition, access to confidential debriefing was made available for students and staff throughout the life of the project. These activities served well to facilitate the self-preservation and emotional stability of the researchers on such a sensitive topic.

The above approach is highly valued in research. It is highly regarded for its research validity, rigor and reflexivity and it is a highly developed form of triangulation. Team

member checks of transcripts and coding via the swapping of transcripts, line-by-line reading and whole-team analysis are solid devices to reduce researcher bias and enhance coding validity, accuracy and rigor. It is a form of researcher triangulation, and this methodology is noted in the work of Patton (1990), Minichiello et al. (1990), Minichiello et al. (2004), and Perlesz and Lindsay (2003). Triangulation is considered a key strategy in qualitative research to increase rigor and trustworthiness of the data and it is employed and recommended by major social theorists such as Miles and Huberman (1994), Richardson (2000), and Moran-Ellis, Alexander, Cronin, Dickinson and Thomas (2006).

2.1.2 Strand two

The strand two framework blended the complementary methodologies of Action Research and Critical Discourse Analysis (Dijk, 1998; Kindelove, 2005) within a Case Study approach (Campbell, 1975; Eisenhardt, 1989; Sturman, 1997; Yin, 1994). This framework also utilised a battery of data collection and analysis techniques (see Appendices six through to 14 inclusive). Specific data collection methods included in-depth interviews of police; focus groups of police and Office of Public Prosecutions (OPP) personnel; discussions with key informants (police); and close reading of Victoria Police LEAP case files (hereinafter called 'case files') as well as of Victoria Police policy and procedure documents. Data were collected by three researchers from 90 LEAP case files, 28 AO interviewees, seven RO interviewees, two IO focus groups, three key informants, and one OPP focus group. Key analysis techniques included GTM, MGT and GAM as described above; Critical Discourse Analysis (Dijk, 1998); and case vignettes, frequency data analysis, and document and content analysis (Hagan, 2003; Neuman, 1997; Neuman & Wiegand, 2000). The period of strand two data collection and analysis was from December 2010 to December 2011. (The period of data *coverage* began earlier – see Appendix six). This data analysis stream focused on police decision-making within a networked policing model (Bayley & Shearing, 1996; Shearing & Wood, 2000). Strand two analyses and findings are reported in chapters seven and eight.

In regard to the case file study, a total of 1000 files were selected from a population of approximately 3000 files covering the period 2004-2008. Selection was based on five criteria: organisational region and unit, both authorised and non-authorised Briefs; cases proceeded and not proceeded with by the OPP; and those that resulted in both successful and unsuccessful prosecution. Following requests to the police officers who held these 1000 files, copies of 481 files were made available to researchers. Of these 481 files, 90 files were selected to ensure coverage of the main decisions involved in police authorisation and Brief preparation processes and these 90 files were scrutinised and analysed in considerable detail (see Chapter six). Police interviewees and focus group members were selected with the advice and assistance of VicPol research and police personnel. The OPP focus group members were determined in negotiation with the PJO Project Head. Police key informants were found via researchers becoming familiar with various police during the research.

The Case Study approach is used in several branches of social science, including Anthropology, Sociology, Social Work, Education and Business Management, and it

has been extensively developed and utilised in educational research, especially in relation to schools. There are a number of conceptualisations of types of cases and their uses and a sound treatment of these can be found in Cohen, Manion and Morrison (2007, chapter 11). In respect to the case files, present research adopted an approach drawing upon several elements of this methodology. The case files were examined for narrative accounts (Yin's 1984 descriptive case study) that are ethnographic in nature (Merriam, 2002), with an action research intent (Sturman, 1997), and where a large number of cases are analysed individually and as a collective (Stake, 1998). Although 90 cases is not a sizeable number in quantitative research, it is a very large number indeed for undertaking in-depth qualitative case study research. Due to this and other exceptional features of the PJO case study research component – including the quantity, variety and complexity of data sources and items within the files – an extended explanation of the case file research procedures is provided in Appendix six.

Critical Discourse Analysis is a complex form of research which is generally agreed to involve the cultural aspects of language and human communication, and not simply accepting at face value nominal or obvious meanings (Dijk, 1998). It involves a form of content analysis that requires examination of the contextual aspects of a message, not just the message itself. In the present research effort, critical discourse analysis involved a process of 'de-layering' or 'digging beneath the surface' of the text of narratives in the case files to understand the construction of messages and their purposes and to discover underlying rationales and meanings. For example, in the case files this meant examining not only the formal written reasons for the decision to prosecute or not to prosecute, but also other reasons that could be inferred from the details of the case at hand. That is, as well as clearly stated reasons, readings sought to discover reasons not formally stated for (non-)authorisation. De-layering essentially involved searching for reasons that underpinned formal rationale statements wherever those reasons might be deposited in the case file documents. It also involved discovery of non-verbal, contextual aspects of documentation and argumentation in the files that structured the messages of authorisation and non-authorisation. This enabled a deeper appreciation of the nature of case file discourses, their latent meanings, and their consequences for victim in terms of the continuation or discontinuation of sexual assault complaints.

In this endeavour researchers conducted a close reading of the case files. This involved an intensive, line-by-line scrutiny of case file documents, with the making of detailed observations and notes. This allowed issues, themes and patterns to be extracted out of the myriad of data contained in the various sources through the above described GTM, MGT and GAM applications. (The use of GAM in this respect varied in its particulars as described in Appendix six). In turn, this provided a basis for intra-case and cross-case analyses and hence a deep understanding of the police investigation and Brief authorisation process.

As familiarity with the nature and contents of the files increased, what GTM methodologists call 'theoretical saturation' was achieved In terms of what the files could offer, what aspects were of greatest significance, how to extract the greatest value from the file readings and what were emerging as potential issues, themes and patterns not only at the individual case level but also across all 90 case files. Thus, the adoption of a GTM approach meant that the research could take advantage of the

saturation effect. The saturation effect occurred when, as additional case materials were examined, the sorts of data and insights became repetitive and new sorts of data and insights reduced to a minimum and eventually ceased. As a result there was a declining need to examine new cases, since they yielded little if any extra sorts of significant data and insights. With a GTM approach, therefore, there comes a time when further data collection and analysis is of no additional value. The saturation effect did eventuate and the case file research benefited in terms of enhanced internal validity. Appendices six through to 14 inclusive contain further details of strand two data collection and analysis methods.

Authenticity, validity, and reliability of strand two case file research claims were addressed through the construction of a chain-of-evidence, researcher triangulation, and reliance on key informants (police). Additional validation was provided through methods triangulation, where strand two findings were consistent and corroborated across the case files, individual interviews, and focus groups, as well as over time. These measures are detailed further in Appendix six. Given these combined procedures, a high degree of confidence can be placed in the findings not only being accurate and reliable, but also being more widely applicable than to the examined cases. That is, it is reasonable to make the claim that external validity is also strong, and this claim is argued further in the text with reference to the more recent interview and focus group findings that supported case file results.

2.1.3 Strand three

The third research strand drew data and analyses from the strand two LEAP case files, AO/RO interviews, IO focus groups, one key informant, and the OPP focus group, as well as from a separate set of studies. The additional studies examined the SOCIT/VARE training course (Appendix 16 provides an outline of the course). This examination proceeded via an in-depth interview of two trainers; non-participant observation of 20 trainees within the course context; 60 trainee feedback sheets from three separate courses; and 44 on-line survey returns from trainees. The SOCIT/VARE data-collection was undertaken mainly by one researcher, together with a second researcher in the interview of trainers and a third researcher in the analysis. Further details on the SOCIT/VARE data collection methods are contained in Appendix 15. Analysis methods were the same as for strands one and two, with appropriate adaptations to the data source (e.g., observation data were hand-written in the first instance). The period of strand three data collection and analysis was from July 2010 to December 2011. This data analysis stream focused on the management of the police response to sexual assault complaints and its recruitment, training and development underpinnings. Strand three analyses and findings are reported in chapters nine and ten.

The course was provided principally for police who were or would become investigators of sexual assault. However other police also attended as required, including supervisors of sexual assault investigators where those supervisors had not completed sexual assault training. The PJO program included examination of the SOCIT/VARE course that was run twice yearly in 2009 and 2010 and four times in 2011.

A total of 44 SOCIT trainees accepted an invitation to complete an online semi-structured questionnaire about their experience of the course. The invitation was sent from one of the SOCIT trainers on behalf of the student researcher and project team and included a link to the survey. A follow up reminder email was sent to SOCIT Students on October 25, 2011. The survey tool was online from 29 September 2011 and closed for submission on 4 November 2011. The sample contained trainees from each year of the course, 25% in 2009, 39% in 2010 and 36% in 2011.

During each session and at the end of each SOCIT Course, SOCIT trainees anonymously completed and returned feedback sheets to SOCIT trainers for ongoing formative course evaluation purposes. Daily feedback sheets asked for a rating from 1- 5 (with 1 being poor, and 5 being outstanding for content and delivery of every session. The feedback sheet questions are shown in Appendix 15. Feedback sheets provided a large space for comments relating to both content and delivery. An overall feedback sheet was provided to SOCIT trainees on the final day of the course, and asked for a number of ratings on aspects of the course content and instruction. Due to time and resource constraints, feedback sheets were collected in relation to only one of the two courses held in each year. This resulted in a variable number up to a total of 60 voluntary returns of feedback sheets per question for research analysis. Feedback sheet data were transcribed from every individual form provided to the SOCIT trainers to an Excel spread sheet, with a separate worksheet for every session delivered and a sheet for each question. A similar procedure was adopted for the observation, survey and interview data, all of which were entered into Excel spreadsheet formats dedicated to each source, with a subsequent collective analysis procedure as described below.

A PJO researcher attended as a non-participant observer of the SOCIT course held from 16th July until 13th August 2010. The researcher was introduced as a PJO Project member who would be observing the course, and writing a report about it at a later stage. There were 20 trainees and they were asked to discuss topics openly. No data were collected on trainees' age, personal identifiers, nationality, general and sexual assault policing experience. The focus was on trainees' comments, questions, answers, discussion and general observations, which were recorded in hand-written notes by the researcher unobtrusively sitting at the back of the room. Casual interaction occurred between trainees and the researcher during 'breaks' including light discussion about the sessions.

Two members of the four member SOCIT training team were interviewed in depth over two hours in October 2011. They reported extensive experience in the field of sexual violence, one from an operational policing perspective, the other trainer had a background in child protection and a degree in psychology. Both had been involved in the original design and further development of all education and training regarding sexual offences delivered to Victoria Police from 2009 until 2011. The PJO researcher was accompanied by Professor David Bradley during the two hour interview, which was audio-recorded and later transcribed. Responses and comments were transferred to a data analysis template and compared with other views and opinions data.

As with strands one and two, the strand three qualitative analysis procedure involved GTM, MGT and GAM, although data were collected according to pre-identified themes. The collected data from the survey and feedback sheet sources were entered into an Excel spreadsheet format dedicated to each source. Each spreadsheet listed respondents by ID number down the first column. Other columns were labelled for each analysis item, such as content, delivery, or relevance of a session, or course improvement comments. Data were entered into the cells of each respondent's row. Cells included qualitative data such as quotations from a respondent concerning the content and delivery of a training session, as well as quantitative data such as ratings for content and delivery of a training session. Eye examination of cell quotations and ratings across respondents permitted analysis and understanding of commonality and variability of views, issues and themes. Each spreadsheet thus served the purpose of Grid Analysis (Bell et al., 2004; Hurworth, 2010). Data were also grouped into themes in Excel spreadsheets for analysis and triangulation with other data sources using GTM and MGT procedures.

Similarly, from the non-participant observation of training sessions, the researcher's hand-written notes of observations and comments of both SOCIT trainees and trainers were examined for differences and similarities of views, issues and themes. The transcribed responses of SOCIT trainers from the in-depth interview were inspected for their views as well. Data and findings from these sources were then compared and contrasted with those from the on-line questionnaire and feedback sheets. From this comparison/contrast across the four data sources a larger picture emerged of the SOCIT/VARE training course and its value to equipping trainees with the necessary skills, aptitudes and knowledge for investigating sexual assault complaints and preparing Briefs of evidence. This larger picture was achieved through the above noted MGT and pattern-matching procedures across the data sources. These procedures allowed the research to benefit from triangulation, thus adding to the authenticity, validity and reliability of data and producing robust findings.

Quantitative analysis was limited to descriptive statistics in the form of count data and percentages. Inferential statistical testing was precluded by the small number of survey respondents and the lack of reliable information that could have warranted representativeness of responses.

2.2 Ethics and Ethical Considerations

Safeguards were appropriately undertaken in terms of consent, confidentiality, anonymity and other ethical issues. Researchers fully explained consent issues, verbally and in writing - Plain Language Statements - prior to subjects being engaged in research, along with signed consent forms. Anonymity was guaranteed and secured for all subjects of the PJO project. This was achieved for all subjects who took part in strand three research activities, including victim/survivors who completed the on-line survey and those who participated in the focus group and individual interviews, as well as CASA, SACL and police personnel. It was also achieved for police involved in forwarding LEAP case files; those who took part in the 2010 SOCAU/SOCIT focus groups, and the 2011 RO/AO interviews and the IO focus groups; those who were trainees in the These figures speak for themselves, with victims being concerned with

what would happen not only to themselves in relation to other family members but also for the sake of other family members as distinct from their own welfare and acceptance within the family milieu. SOCIT/VARE course and its designers/trainers; as well as key informants. Similarly, anonymity was secured for the OPP lawyers who participated in the OPP focus group. Prior to any data-collection approval was sought and gained for each PJO study from both the Edith Cowan University Human Research Ethics Committee and the Victoria Police Human Research Ethics Committee. Appendix 17 carries a typical plain language explanation and written consent form in these regards.

Relevant details of ethics approval for Edith Cowan University researchers are as follows:

Project 3115
'Adult Sexual Assault: An Evidence-based Policy, Practice and Advocacy Model for Victoria Police'. Approval was granted from Edith Cowan University's Human Research Ethics Committee, 9 October 2008 to 30 June 2012.

Application 51/08
'Adult Sexual Assault: An Evidence-based Policy, Practice and Advocacy Model for Victoria Police'. Approval of two separate applications was granted from Victoria Police Human Research Ethics Committee, 8 August 2008 and 3 December 2008 to 30th December 2011.

2.3 Industry partner assistance and ground-breaking nature of the research

Victoria Police as industry partner in the PJO Project supported the research by facilitating access to Victoria Police personnel as participants in the study. VicPol members assisted with police focus groups and individual interviews by preparing letters and emails to police, and arranging for room facilities. VicPol members prepared and forwarded letters/emails to police requesting copies of LEAP case file materials to be forwarded for researchers to examine under supervision at Police Headquarters. The then Deputy Commissioner sent letters to individual police members seeking their cooperation and a Sergeant followed up with reminder letters to maximise file materials returns.

A major first for Victoria Police and for police research generally in Australia was the agreement to allow researchers to access non de-identified copies of police case files. Accessing copies of case files without this restriction allowed researchers to gain greater insights into case reports and police responses from the moment of report to case conclusion in terms of authorisation or non-authorisation. This decision was historical and monumental for both police and the research team and we are very grateful to the then Police Commissioner Christine Nixon and Principal Research Fellow David Bradley whose insight and support forged the way for this to occur. This process was not without difficulty. It required support from the then incumbent state government in terms of accessing material of this nature and the preparation of a specific and unique document signed by PJO researchers. It was this level of support

and belief in the value of this research held at the time by Commissioner Christine Nixon and then by Commissioner Simon Overland, that enabled this historic access to material to be realised. For that the project team is sincerely grateful.

2.4 Comment on study limitations

The PJO project was subject to a number of limitations, although some of these are arguably redressed by the many robust methodological features of the research. Moreover, the large-scale and unique scope of the project could have been expected to generate even more restrictions than eventually transpired. David Bradley, Principal Research Fellow with Victoria Police was the co-originator of this project with the Lead CI Professor S. Caroline Taylor AM. Together they worked to design this 5 year project with its 3 unique research strands that would bring a degree of research depth and innovation of a scope, duration and scale never before undertaken. David was the Partner Investigator on the project from its inception. In March 2010 David Bradley retired and returned to live in Scotland and while he has maintained strong links with the project and undertook a return visit to the project in 2011, his retirement left a significant gap in terms of having no partner investigator on the project. Complex and at times public, controversial organisational change occurred for Victoria Police over the life of the project which meant a project of this sensitive nature operating within several regime changes in a short space of time. The loss of a central partner investigator was felt by every team member. Personnel changes in a large and complex organisation like Victoria Police are to be expected and the project experienced significant personnel changes and short term personnel involvement in the project which on occasion influenced and impacted the project. Over the life of the project at least 20 different police officers and non-sworn police personnel had involvement in the project with three Commissioners of Police also across this time period. Notwithstanding this, we are grateful for the assistance we did receive and remain very grateful for the 'virtual' ongoing support and input we received from David Bradley from his new home in Scotland.

VicPol LEAP case files were not randomly sampled and there was a low response rate of 48% of the 1000 files selected from the parent population of files, as explained above (see s. 2.1.2). There was a further reduction in the number of files to allow the intensive, line-by-line examination necessary to the deeply nuanced analysis involved in this part of strand two research (see s. 2.1.2 and Chapter Six). The examined 90 files were also often missing important documents, a number of which were listed as destroyed, and sometimes files contained minimal documentation. In addition, only copies of the original case file materials were actually supplied to PJO researchers, which meant another source of potential error in the copying of documents from the files. There is therefore no measure of the extent to which findings can be extrapolated to the larger population of files for the study period (i.e., external validity is problematic).

Against these riders, a number of features of the research ensured sound and widely applicable results. Several relevant selection criteria warranted the examined files were representative of the 'best presented' files in the parent population. Also, the large number of examined case files and GTM/MGT/GAM procedures enhanced

authenticity, validity and reliability especially in view of the 'saturation' effect. As discussed earlier, there was also exceptionally strong triangulation at the levels of data, methods and researchers. The analysis was painstaking, robust and rigorously pursued within its parameters. Finally, the research eventuated in very substantial data collection and analysis, as demonstrated in the text. These aspects serve to strengthen the findings in regard to the case file analysis and other aspects of the strand two methodology. As Lord and Rassel (2000) suggested, statistical analysis is not an imperative to establishing worthy policy results.

Researchers were also not allowed access to interview police officers who had already undertaken 'Whole Story' training. This meant that relatively few of the 300 odd SOCIT members were made available for interview in the 2011 strand two research. This limitation was also positively counter-balanced, however, by other triangulation methods in the form of the OPP focus group and interviews with ROs/AOs in 2011, key informants (police), as well as SOCIT/VARE training research sources. A number of police officers contacted PJO researchers expressing unsolicited concern that they were unable to participate as a result when they had been eager to do so.

To this end however the PJO researchers were often buoyed and grateful for the unsolicited feedback received during the project from police via emails, phone calls and face to face comments, to either comment on the project and their perspective of its value; or to share follow up insights and comments they felt were relevant to the research being undertaken.

In respect to strand one research, coordinated and consistency of support from police proved difficult at times due largely to constant changing of police personnel and non-sworn staff. This impacted awareness of the online survey media campaign and lessened dissemination of the survey to victims by police. Still, as evident in the above account of strand one methodology and the relevant following text chapters, the response of victims/survivors was very pleasing and the survey results were accordingly very well grounded in a unique data source.

Despite the challenges of this long and complex project, there were eventually a rich and rewarding composite of studies, an immense amount of data garnered with several rigorously employed methodologies, along with robust findings as a result. The following chapters present the substantive analyses, findings and recommendations and, as will be seen, the project has produced work that provides a substantial and strong evidence base for policy and procedural changes to aid VicPol's ongoing commitment to improve its response to adult sexual assault complaints and victim/survivors' needs.

3.0 Reporting and non-reporting by victim/survivors

3.1 Introduction

There is a need to understand that persistent problems of non disclosure, delayed disclosure and under reporting are the greatest impediments to policing and the criminal justice system's response to sexual violence. Research on complainants who delay reporting the offence is understudied, as is research on victim experiences of making a report to police (Connolly & Read, 2007; McLachlan, 2007; Taylor & Gassner, 2010).

However, the available body of research evidence demonstrates clearly that the underreporting of sexual assault has a negative impact on both victims and society as a whole, and that there are numerous reasons why this happens, not the least being that the continued underreporting of sexual assault and social reproduction of rape myths undermines public confidence in the criminal justice system. The short and longer term health and psychological impacts for victims caused by sexual violence are well documented and make explicit the potential lifelong burden of ill health and negative social adjustment endured by victim/survivors (Ahrens, 2006; Taylor & Pugh, 2010; Taylor, Pugh, Goodwach, & Coles, 2012). Research has also found impaired recovery risks for victims who did not report and concomitantly, such victims are more at risk of future sexual victimisation (Ahrens, 2006; Mackey, Sereika, Weissfeld, Hacker, Zender, & Heard, 1992; Miller, Canales, Amacker, Backstrom, & Gidycz, 2011). These studies lend support to claims that victim reporting may assist in victim restoration whilst playing a preventive role in future sexual victimisation (see Mason, Ullman, Long, & Starzynski, 2009)

Under-reporting of sexual offences is considered a problem driven by personal and/or systemic inhibitors. Personal inhibitors that prevent or delay reporting include victim fears of being disbelieved; of offender retribution, feelings of embarrassment or shame; rejection by, or loss of support from family and friends (Lievore, 2003, 2005a; Taylor, 2004b; Taylor & Gassner, 2010; Taylor & Norma, 2011). Systemic inhibitors or barriers are a lack of confidence in police or the criminal justice system more widely (Lievore, 2003; Taylor 2004a, 2004b; Taylor & Gassner, 2010; Taylor & Norma, 2012) especially the legal process. Within this context we should note the role of wider society in terms of the maintenance of social attitudes and myths that negate the prevalence of sexual crimes and the credibility of victims who disclose. In essence, victims have internalized social attitudes that continue to question the veracity and credibility of rape disclosures and rape complainants leading to a fear of disclosure and non-reporting of the crime (Heenan & Murray, 2006; Neame & Heenan, 2003; Taylor, 2004a).

This study builds on this knowledge in order to develop a new epistemological framework around what factors motivate and facilitate victim contact with police for the purpose of reporting a sexual offence and what factors, circumstances or considerations militate against

reporting. This framework takes account of the findings evidenced in the literature and in this study that some victims do not overcome barriers such as those just outlined while other victims either overcome or ignore them to report. Thus, barriers need to be understood as not the sole factors involved in reporting or non-reporting, yet they are clearly significant and need to be addressed along with other considerations to fully appreciate how and why victims come to report or not to report.

This chapter focuses on the complex area of victim reporting to police and leads to Chapter Four which focuses on police views of, and responses to victim reporting. Non-reporting and delayed reporting prevents early detection of the crime and inhibits identification of victims and apprehension and prosecution of offenders. Consequently, statistics on sexual offences cannot reveal the full picture and scale of sexual offending and victimization. Given the recognition that so few victims report the offence to police, we should consider an ice-berg analogy when thinking about sexual offences, where at least two thirds of the size of the problem are submerged and obscured from view. Legal consequences aside, delayed and non-disclosure exacerbate victim trauma and compromise recovery and well being across the lifespan.

As detailed in the methodology, qualitative and quantitative data were collected from victim/survivors who had reported their victimization to police and victim/survivors who had not reported their victimization to police in order to draw out a deeply nuanced understanding of decision-making around reporting and the process of reporting where applicable, from the perspective of victim/survivors. Topics included: the decision making process as to whether or not to report; barriers, dilemmas and facilitators to reporting and survivors' perceptions and experiences of reporting.

First there is a brief comment on the online survey from which the in-depth interviews with 64 victim/survivors were drawn. The survey is attached as Appendix one. This is followed by a section that overviews the online survey results. The next section discusses in detail the reasons given by victim/survivors for not reporting sexual assault to police. The fourth section provides a detailed discussion of the reasons given for reporting. A fifth section is devoted to a number of findings and recommendations arising generally from the victim/survivor data sources. There is a brief concluding section that includes a summary of recommendations.

3.2 Overview of the online survey results

> Thank YOU Caroline Taylor, Thank you! I took part in the Policing Just Outcomes survey today and at 41, finally, my experiences are of a positive value. Thank you, thank you, thank you! (email communication received by Project Manager June 4, 2010).

> I am thrilled to find out this survey existed. Finally! What can I do to help! (SR 234)

> I think this survey is a fantastic idea. (SR 326)

> I think this survey is a great idea. (SR327)
> I was thrilled to find out this survey existed! (SR 234)

> Thank you for the opportunity to provide this feedback. (SR 233)

The above written comments from respondents taking part in the survey are very pleasing as they indicate the unique opportunity offered through the survey. They are also a telling reminder of the importance of having authentic research methods to 'hear' what is said by victim/survivors and the quote below conveys a powerful message for the importance of survivors being able to access police and to receive respect and the utmost dedication to the delivery of justice:

> I wish I had the strength to follow through with reporting to police. I still hate myself for what happened and I'm scared. I'm confused and I don't know how to get on with my life. (SR 154)

The survey provided a rich source of data that can be overviewed in terms of the demographics of the respondents, duration and dimensions of sexual abuse, the main reporting trends, fears held by victim/survivors about reporting, and multiple versus single incidents and the nexus of affective responses.

3.2.1 Demographic description of the survey respondents

A total of 336 respondents completed the survey. Statistical analysis revealed that just under 60% of respondents recorded a metropolitan postcode with the remainder coming from regional/rural locales. Of the total sample:

- 301 female respondents (88%)
- 33 male respondents (12%)
- 2 missing data sets for gender
- 14% of respondents were from a non-English speaking background
- 2.4% of respondents identified as being Aboriginal or Torres Strait Islander
- 60.1% of respondents did not report the sexual offence to police with just under 40% having contact with police with regard to reporting a sexual offence.
- Age range for entire sample of 336 respondents is as follows:

> At the time of completing the survey 50 years of age (18-68) with a Mean age 38.6 (SD = 11.98)
> The age range for a first offence was 0-52 with a Mean of 13.5 years of age

The age range for those reporting a last offence was 5-57 with a Mean 19.78 years of age
- Respondents identified offenders were overwhelmingly male (91%), with very few female offenders (2.1%) and a small number of both male and female offenders (6.9%).
- 72% of respondents reported multiple incidents of sexual violence as opposed to 28% who reported a single incident of sexual violence

3.2.2 Duration and dimensions of sexual abuse

PJO Researchers were interested in the duration of sexual violence as a plethora of studies highlight the capacity for sexual assault occurring in childhood to consist of multiple incidents and to occur over longer periods of time where the abuse is intra-familial (Taylor, 2001; Taylor, 2004a). Questions were also asked about multiple offenders as this is also a terrible reality in the lives of many abuse victims (especially when the abuse occurs within the family unit, is repetitive and occurs across a continuum of time); the duration of time over which multiple incidents of sexual abuse occurred; and the number offenders and their relationship/connection to the victim. In the PJO online survey a total of 242 respondents (72%) reported multiple incidents of sexual violence. Questions 8 and 9 in the survey asked respondents for the year, or approximate, when the offences began and the year of the last incident.

In the following analysis the concept of victim/offender constellation refers to the interaction of three dimensions: the degree of familiarity of the victim/offender relationship (e.g., family member, acquaintance, stranger); multiple incidents of sexual abuse over time; and whether there is a single offender or multiple offenders involved, either in the same offending episode, or over time with or without other offenders at any single incident of offending.

A time variance analysis was undertaken with cross-tabulation of the following four variables: duration of abuse reported; reports of multiple incidents of abuse; victim/offender relationship; and reports of multiple offenders. Respondents where the offender was *not related* to the victim reported a mean length of abuse of 6.2 years. Respondents where the offender *was related* to the victim - fathers predominated as the reported offender - reported a mean length of abuse of 9.4 years. Respondents who reported multiple offenders who were *related as a family member* and *not related* as a family member but known to the victim, and were subjected to abuse by various offenders over time, reported a mean length of abuse of 18.5 years. Applying Anova generated a statistically significant finding for duration of abuse and victim/offender constellation: *F(2,201) = 24.10, p < .05.* Moreover, for respondents who suffered multiple incidents of sexual abuse it was more likely for at least one of the offenders to be related as a family member to them (35%) whereas of those who reported a single incident of sexual abuse the offender was related in only 3% of those cases.

Keeping in mind the Grounded Theory approach of this research and the critical difference between statistical significance and meaningful significance, the following are inferences that

can be drawn from the above findings with a view to generating theoretical propositions for future research. These findings are interpreted to suggest that duration of sexual abuse is associated with the degree of familiarity of victim and offender, and with the likelihood of multiple offenders. The closer the victim/offender relationship the more likely the offending behaviour will persist over time and the more likely that this will not only result in multiple offending incidents but also involvement of multiple offenders. On this interpretation within a Grounded Theory framework, there is a suggestion of a widening of the offender circle over time as a result of the closeness of the victim/offender relationship. These results can be further interpreted to suggest that fathers in particular may introduce their victims to others for sexual abuse the longer the offending behaviour goes undetected and unreported.

Theoretical and practical significance of offending duration and the concept of victim/offender constellation. From these inferences there is an important theoretical proposition to be drawn from the duration of sexual abuse and the victim/offender constellation: The closer the victim/offender relationship and the longer the sexual abuse the more likely that the victim will be subjected to both multiple offending and multiple offenders. This proposition has not previously been put in the research literature and it is clearly of great potential significance to police practice and intelligence gathering. It is therefore urgent that further research be conducted to examine the validity of this proposition and the extent of its import to policing of sexual assault. This finding has particular potential significance for police practice in terms of first responders and specialist police dealing with sexual assault complaints at the initial report by victim/offenders, which is discussed further below in terms of non-recording of sexual assault complaints (s. 4.5).

Within this sample 43% of victims reported experiencing sexual abuse that began in childhood and lasted for more than six years. Overall 72% of this particular cohort of 242 respondents experienced childhood sexual abuse for more than 2 years. Of 205 respondents who provided a year of first and last instance of sexual abuse, 43.% (N=88) reported experiencing abuse for more than 6 years and overall 72% of this particular cohort experience abuse for 2 years or more. These figures support the shocking reality that children sexually abused in childhood are vulnerable to not just ongoing abuse but also abuse by multiple offenders across their lifespan. Again, this finding strengthens the potential significance of the above proposition to police practice and demands urgent research attention to establish its validity and coverage.

3.2.3 Main reporting trends

The main reporting trends found in analysis of the survey data encompassed issues of reporting versus non-reporting, regret about the (non-)reporting decision, and recent versus historical reporting.

- Reporting v. non-reporting

- o 35% (130) of the sample respondents reported the sexual offence to police, with just over half reporting to police within the previous four years.
- o 65% (206) did not report the sexual offence to police.
- Regret
  - o Approximately 30% of those who *did* report the offence to police 'regretted' their decision to report.
  - o Of the 206 that did *not* report to police, just on 60% 'regretted' not reporting to police.
- Recent v. historical reporting
  - o 27.3% of those who reported to police did not report within 72 hours of the sexual offence occurring. The overwhelming majority within this reporting category were reporting an offender either unknown to them or an acquaintance.
  - o Only 0.8% reported within 4 to 7 days.
  - o Only 4.1% reported within a month.
  - o Only 5% reported with 2-3 months.
  - o 10.7% reported 4 months to 1 year
  - o 8.3% reported 2-5years later
  - o 9.1% reported 6-10 years later
  - o 34.4% reported the crime to police more than 10 years later.

The above figures show that the majority of victim/survivors reported historical offences to police. This trend is in line with research generally that identifies the delay in disclosure and/or reporting of sexual offences. Also consistent with the research corpus to date, just over two-thirds of respondents chose not to report to police. That is, the survey results in this study support the significant 'dark figure' of sexual assault as a criminological maxim. Another significant finding is that twice as many victims regretted not reporting than those who did report their sexual assault to police. As will be demonstrated in later sections of this chapter, victim/survivors endure a range of social and health deficits as a consequence of non-reporting and delayed reporting that compound and exacerbate the trauma caused by the sexual victimization. Given the increasing focus on mental health and well-being this study brings into sharp focus the relationship between non-reporting and delayed reporting of sexual offences and its long term deleterious impacts for victim/survivors.

3.2.4 Fears about reporting

The severe residue of regret over non-reporting and delayed reporting is explained at least partly in terms of fears about reporting held by victims, these fears also being substantially documented in the research literature and again validated from the PJO victim survey results as follows.

- Family related fears

       o When the offender was reported as being related to the victim, 88.2% reported a 'fear of family' with regard to reporting/disclosing.

       o When the offender was reported as non-related to the victim 59.2% reported a 'fear of family' with regard to reporting/disclosing.

       o 42.9% reported a 'fear of losing family support' if they reported.

       o 35.4% reported a 'fear of family breakdown' if they reported.

- 53.4% reported 'intimidation' by the offender as a reason they feared reporting the offence.
- 66.0% reported a 'fear of not being believed' with the result substantially higher for females (69%) than males (39%).
- 66.1% reported 'concerns for their safety if they disclosed.
- 33.1 reported 'concern' for the safety of others if they disclosed.
- 43.3% reported 'experiencing fear' of others finding out they had been sexually victimised.
- 37.9% reported a 'fear' of losing friends if they found out.

These figures speak for themselves, with victims being concerned with what would happen not only to themselves in relation to other family members but also for the sake of other family members as distinct from their own welfare and acceptance within the family milieu. This family fear consideration was significant even when the offender was not a family member. Other fears and feelings of intimidation were also clearly important to the (non-) reporting decision. The reporting decision and affective response are elaborated as follows in terms of a statistical analysis of the breakdown between multiple and single incidents of sexual assault.

3.2.5 Multiple versus single incidents of sexual assault and the nexus of affective responses

The majority of survey respondents reported multiple incidents of sexual assault (72%) compared to 28% reporting a single incident. In this respect, there was a question of whether there were any differences in terms of fears or concerns for respondents who experienced multiple incidents of sexual assault (MISA) as opposed to those who experienced a single incident of sexual assault (SISA). To answer this question a Chi Square Goodness of Fit test of statistical significance was conducted for each of the variables shown in Table 3.1.

Table 3.1: MISA versus SISA and affective responses reported by survey respondents

Reported affective response	Multiple Incidents of sexual abuse	Single Incident of sexual abuse	Chi Square	N	Statistical significance
Feelings guilt	76.5%	23.5%	66.71	238	.0005
Feelings of	74.2%	25.8%	60.06	257	.0005

shame					
Feelings of stigma	73.5%	26.5%	39.92	182	.0005
Fear of not being believed	76.5%	23.5%	61.94	114	.0005
Fear of causing family breakdown	84.9%	15.1%	57.89	119	.0005
Fear of losing family support	80.4%	19.4%	52.93	85	.0005
Fear of family members	84.8%	15.2%	54.34	112	.0005
Fear of losing job	65.7%	34.3%	3.46	35	.063 not sig
Fear of bringing shame to family	78.4%	21.6%	35.76	112	.0005
Fear of others finding out	71.7%	28.3%	27.37	146	.0005
Experienced lack of family Support	81.6%	18.4%	13.76	188	.0005

Table 3.1 shows the statistical test results for MISA versus SISA and affective responses reported by the survey respondents. Since statistically significant differences were found for all the variables (except the fear of losing a job) between those who experienced multiple and single incidents of sexual assault, it is inferred that affective responses such as fear, shame and guilt strongly influence victims' likelihood of reporting or not reporting in accord with the MISA/SISA distinction. In turn, this implies that police charged with responding to sexual assault complaints need to be especially careful not to exacerbate or elicit latent victim feelings of these kinds, especially since the majority of sexual assault victims are likely to have experienced multiple victimisations. More importantly, it implies that there is a strong policy need to address these feelings via proactive outreach programs designed to encourage and support victim/survivors to report in the first instance.

Affective responses such as fear have been reported widely in the literature as significant to the reasons why victim/survivors do not report sexual assault. There is also a potential linkage here between MISA, injurious affective responses and the above conceptual finding

of victim/offender constellation and offending duration (s. 3.2.2), and that could serve as a further extension of future research to benefit police practice. Current findings in relation to reasons for not reporting are now explored in greater detail in the following section.

> **RECOMMENDATION:** Victoria Police might wish to consider actively supporting research into linkages between offending duration, the victim/offender constellation, MISA versus SISA, and affective responses of victim/survivors of sexual assault.
>
> Implementing this recommendation has the potential to be highly beneficial to first responder police practice and criminal intelligence gathering in relation to sexual assault.

3.3 Understanding non-reporting by victim/survivors

Utilising data from both the survey and in-depth interviews with victims, analysis and discussion now turns to the various inhibitors to reporting as well as victim considerations and dilemmas taken into account at the time and which influenced their non-reporting behaviours. Victim lack of trust or confidence in police and the courts is cited in scholarly literature as a major inhibitor to reporting sexual offences. Present findings lend some support to this argument however we found that this was one element of an overall bigger picture of barriers, dilemmas and concerns juggled and weighed up by victim/survivors.

Fear and/or lack of confidence in the criminal justice system*. Prior* to any police contact current survey results show that respondents generally had a neutral or positive perception of police. Only 17.5% reported a fear of police as a reason that *influenced* their non-reporting decision, however a solid number of respondents reported a lack of confidence in police (39.9%) and the legal system (52.8%) as reasons *against* reporting.

Some examples of the reasons given by survey respondents for fearing police or having little confidence in police or the legal system to respond appropriately are:

> Being bullied by defence barrister in cross examination. Fear of them getting away with it (SR 40).

> I didn't want to break up the family and I was told no body, including police would believe me, and [the offender] threatened to kill me (SR 66).

> Was worried police will not believe me (SR 138).

> I was afraid of the process I would have to go through and being re-victimised through the system and that the effect of the assault left me very anxious and depressed and not able to contemplate this process (SR 162).

Because drugs and alcohol were involved, and I went willingly to the offender's house, I didn't report because I believed there would be no conviction for a very harrowing process (SR 165).

[I was] concerned they would lay (sic!) blame it on me (SR 218).

I had concerns about how the legal system treats victims of abuse (SR 241).

I believe the police would have taken the stance that I placed myself in the situation so "what did I expect" (SR 265).

My friend reported to the police once and they were so unhelpful and the man who assaulted her got off free (SR 276).

The judgement of being a sex worker. I was abused in childhood by an uncle but being a sex worker would only mean negative judgement by police and others (SR 295).

Recent rapes were by clients and a stranger. I'm a sex worker and police have never cared about me. Only in Australia does pizza come to your house faster than the police do (SR 334).

I knew that reporting the incident would result in no action being taken (sex worker) so why would you bother (SR 336).

In the individual interviews a number of participants expressed views in which they either had a perception police would judge them on their character or occupation or context in which the sexual offence occurred. Two participants reported they were raised in families where a fear or hatred of police was instilled as children, and this had a strong influence on their decision not to report (Transcripts 12 and 50). Mistrust of police was especially so for sex workers, women who knew the offender, where alcohol was involved, or no obvious signs of injury or other hard evidence was present. In these instances many women and some men determined that police would not respond appropriately to their report and so decided against reporting. It was also found for example that sex workers were highly unlikely to report sexual victimisation to police and this was due largely to both their suspicion of police and internalisation of self worth with regard to how they are viewed by police and the community as less deserving of protection and belief. This trend is in line with other research (Halter, 2010; Matthews, 2005; Williamson, Baker, Jenkins, & Cluse-Tolar, 2007). These fears and concerns are supported by further discussion in relation to the literature presented in chapter seven, which reports findings from data analysis undertaken in 2011 from Victoria Police files, police interviews, and police and Office of Public Prosecutions (OPP) focus groups. Appropriate recommendations are offered in chapter seven as well.

3.3.1 Ignorance, minimisation and blame

Key inhibitors to victim/survivors reporting sexual assault involved ignorance of the law, minimisation of offending, and victims erroneously blaming themselves for what happened or fearing others would blame them.

Ignorance. It was of concern to the research team to learn how many victim/survivors were not sure if what had occurred to them was a crime or would be regarded as a crime by police. This belief was almost exclusively held by women in the study and led to non-reporting and minimisation of the offences. Some 28.4% of survey respondents were not sure if what was done to them was a crime and thus they did not report. The qualitative responses provide further insights into the reasons they were unsure or believed it was not a crime.

> I didn't realise at the time it were (sic) criminal acts (SR 8).

> I wasn't aware that it was sexual assault (oral). I blamed myself; he was my boyfriend (SR 169).

> I was unaware at the time that it was rape because he wasn't violent in the ordinary sense of the word and I was naive and uninformed (SR 180).

> I was not sure until I read a report this year that what happened to me is sexual assault. I was so afraid of this man that I just wanted to get away. I am dealing with the issues I have tried to ignore for 4 years. I hope you can help others who are in the same position as me (SR 187).

> I was unable to process what had occurred to me and thought it was my fault. I did not know that what happened was a crime (SR 225).

> Didn't feel like it was serious enough, didn't think it was 'assault' at the time (SR 268).

> At the time, I wasn't aware that what was happening was sexual assault until years later (SR 280).

Similar uncertainty was expressed by interviewees, for example:

> To me it would be like, if it was a stranger I could go to the police and report a crime, but being a family member I haven't got a crime to report, it's easy to call it a crime if it's not a family member, if it's like a stranger walking down the street or whatever… yeah that's a crime and it's not even going to be questioned by most people perhaps it's not going to be questioned looking at the circumstances that it's a crime (IIT 20).

In addition, some victim/survivors were of the understanding that sexual offences are governed by a statute of limitations with regards to the time lapse between offence and reporting.

> Not sure whether sexual assault can be followed up after such a long time (SR 23).

During interviews with some women and men this question came up and researchers advised participants that there was no time limit for reporting a sexual offence.

Minimisation, lack of injury and self-blame. Aside from ignorance of whether sexual assault was indeed a crime under various circumstances such as those described, many women and men in the PJO study minimised the assault, blamed themselves, or formed the view that a lack of physical injuries incurred somehow meant the assault would not be viewed as a crime against them. This form of self-censure was a strong thread raised in various ways, particularly through a dialogue of minimisation as a form of protection against the reality and trauma of what was done to them. These beliefs are influenced and mediated by societal attitudes and stereotypes about rape and sexual assault leading victims to second guess what they feel others might think or say and leading them to remain both silent and often times to minimise the harm and impact on themselves. The theme of physical injuries and 'real rape' is reported abundantly in the literature and this is discussed further in Chapter Six in relation to the 2011 strand two data analysis.

> What happened to me could have been worse, I did not think the case bad enough to report (SR 207).

> I was worried that somehow I was to blame for it (SR 275).

> [I felt] self loathing and self blame (SR 295).

> I think women always minimise what happened no matter how they put it, you still minimise it [even] as an adult. I generally take the rule that whatever women say it's about double [worse]… [it] takes a lot of time for someone to work through [feelings of self blame] so they're not sitting in the position of blaming themselves… I did this somehow, you know, I said to myself, "I'm to blame or I'm somehow responsible (IIT 7).

> [I didn't report] because it was a very subtle kind of abuse in that it wasn't violent sexual assault, so therefore it didn't hurt me as such you know it's wrong and its very uncomfortable but it's not like its violent and caused injuries you can see (FGIT 2, participant 1).

> There were four separate incidents. One was when I was 15 and I was taken away to the bushes and raped and always felt it was my fault so I never called that a rape for many years (FGIT 2, participant 2).

I often think back, well you know he didn't kill me, it can't have been that bad but at the end of the day… it destroys or affects how you feel about yourself, how you interact with people… it just destroyed my intimate relationships. It just has this insidious kind of [impact] (FGIT 2, participant 3).

I just froze, I don't know that I would be alive [if I didn't]…. I just froze at the time and even though I hope that I am never in that situation again, I practice in my mind ways of fighting harder, of getting over that freeze, and ways of making sure that I am not in that situation again [because] I wasn't bruised I wasn't harmed so it didn't really happen. To the rest of the world no harm was done to me, so if god forbid I am ever in that situation I will fight my hardest, I will do everything in my power to make sure that I can be something other than frozen so I think that I would be fairly desperate. People said, but you didn't scream, you are not hurt, you can walk so people don't believe you because you are not [injured]…. (FGIT 3, Participant 2).

But you minimise it like "I wasn't injured. I'm ok. I'm alive" you try to dampen down the real pain (FGIT 3, participant 5).

Because you do tend to block out events. But straight afterwards… you can minimise ... [saying] hey I'm alive. But that's, well that, that's actually the, the… you know the, the best case [scenario], the, the worst case scenario while its happening is you're thinking you're going to be killed or die or damaged or be completely so powerless that you, that you split, you know. And so that traumatises you further "cos you have to reintegrate after you do the splitting and all of that stuff. So you know…. is this a bad thing? The only relation (sic) [it being] worse is being dead. So there's, there's the template, that's the gauge you know, so that's the gauge you're using then, anything… to go, oh yeah I'm alive and I've got all my limbs, no real injuries and I'm still breathing so therefore... you're all right (IIT 7).

Fear of blame by others. A significant number of respondents and interviewees feared being blamed for the rape or assault and this prevented not just disclosure and reporting to police but for some it prevented any help-seeking in terms of counseling or medical aid for fear of being blamed for the attack. Comments such as those below were replete in the survey and expressed a theme by many in interviews. Interestingly the fear of being blamed or feeling blameworthy was more specific to females than males.

My biggest concern was one going through the court case etc and getting no result so it would be a waste of my time and humiliate me. But the second concern that I would be judged is the worst and the strongest, I didn't want them picking apart my life and laying some blame or responsibility on me I mean I already felt stupid for letting him in my house anyway (SR 218).

I believe the police would have taken the stance that I placed myself in the situation so "what did I expect" (SR 265).

I think it's because I felt guilty. I felt it was my fault for getting myself into a situation where I was vulnerable and [raped] … and because I felt so strongly that I would be blamed I couldn't tell anybody else or [report], I couldn't bear the thought that somebody else, like a policeman would put that on me, blame me, [because] then I would never be able to live with that feeling if someone else said it was my fault (IIT18).

Life-long impacts. Feelings of self-blame and responsibility for being abused can have lasting, lifelong impacts as indicated by these interviewees:

For such a long time I tried to figure out what it was I did that was so bad that would mean dad would hurt me so much. I finally stopped trying to figure it out. I thought it was a folk story that children internalize blame, but it isn't. I was "bad" to dad, I wasn't the daughter my mum wanted and now I am not the wife [husband] wants. I sometimes wonder why I was born (IIT 31).

I just think…. you feel… in yourself you feel you're a bad person. You're a bad person for [allowing yourself to be raped], you're dirty… you're to blame and looking at it now… I have no courage… (IIT 32).

Feelings of self-blame and minimisation not only prevented victim/survivors from disclosing and reporting but was injurious to their ongoing wellbeing. It highlights the extent to which victims internalize dominant social attitudes that hold victims accountable for abuse whilst also making clear the critical importance of delivering a community message that victims of sexual violence are never to blame, no matter what the situation, no matter what the context.

Role of the media and popular conceptions. On a number of occasions victim/survivors referred to the role of the media in perpetuating negative stereotypes about rape through sensationalist reporting of stranger rapes or rapes involving sporting identities. They felt that this coverage militated against both community understanding that the vast majority of women are sexually victimised by men known to them and the reality that rape seldom leaves women with signs of physical injuries. This observation about the role of stranger rapes in popular thinking reflects the literature finding that stranger rape is far more likely to receive positive criminal justice response than rape involving acquaintance and family member offenders (e.g., Heenan & Murray, 2006; Lievore, 2005b; Spohn & Holleran, 2001) and it is reflected further in CASA interviewee findings (s. 5.1) and 2010 strand two research (s. 6.4).

RECOMMENDATION: Victoria Police should undertake a publicity campaign to create awareness through the news-media, as well as CASA and similar agencies with information pamphlets, that sexual assault is a crime regardless of who is the alleged offender, that there is no time limit for reporting, that victim/survivors are never to blame for an offender's behaviour, and that strangers being the only rapists and physical injury being necessary to establish the crime are popular myths.

Aside from the direct benefits to increased reporting of sexual assault crimes, implementation of this recommendation would bolster Victoria Police' current commitment to the Sexual Assault Reform Strategy (SARS) and immeasurably help promote a positive image of VicPol in the community.

3.3.2 Nexus of affective fears such as stigma, shame and guilt

Analysis of the survey and in-depth interview data revealed the large scale impact of negative emotions such as feelings of shame, stigma, stigma threat, and guilt experienced by victim/survivors, which impeded their capacity to both report sexual victimisation to police and to disclose to others. Feelings of shame and fear of being stigmatised resulted in significant isolation in terms of fear-induced silence and non-reporting (see also Weiss 2010, who identified similar findings).

Stigma threat. A recent study (Miller et al., 2011) on stigma threat provides a useful heuristic framework to explore this phenomenon and its relation to sexual violence. As a construct, *stigma threat* relates to individual and collective social awareness of the harm of being stigmatised as a consequence of certain information or characteristics that 'spoil' the personal or group identity of people. Thus people avoid stigma and stigmatic labels by actively withholding or hiding certain information about themselves so as not to attract social stigma. It is a sad reality that rape and sexual assault continue to foster varying degrees of stigma upon victims and in some cases, their family members.

Survey results showed 72.5% of respondents reported feelings of 'stigma' and 76.6% of respondents reported 'feelings of shame' as a result of sexual victimisation. Female respondents reported a higher proportion of feelings of shame than males. Some researchers believe feelings of 'shame' are more likely to be felt by women because 'shame' and its corresponding beliefs that cause rape victims to self-blame and fear the reactions of others are socially mediated through a gendered conduit (Weiss, 2010). Respondents were asked about seeking support from others in order to help them access police with a view to reporting sexual assault (question 21 of the survey). A *t*-test of independence was used to determine if there was a difference in the number of persons supporting them between those who reported experiencing stigma and those who did not. A statistically significant difference was revealed in the number of supporting persons between those who did not report feeling stigma (m = 6.06) and those who reported feeling stigma (m = 5.19), t(324) = 5.73, *p* <.0005.

This indicates that those who received more support were more likely to feel less stigma, at a very high level of statistical significance.

In addition, respondents were asked their experience subsequent to reporting about lack of support from family, friends, professionals, community, work colleagues, employer and police (question 47g). Analysis of the survey data using Spearman's Rho revealed a statistically significant correlation between reported feelings of stigma and perceived level of support or lack thereof in terms of the number of these seven groupings cited as not providing support (ρ = -0.31, p <.0005). As the level of felt support increased victims' level of felt stigma decreased. In this respect, a non-parametric test was used because the 'total support' variable was skewed and could not be brought into normality with a transformation. For the same reason a Mann-Whitney U test was used to investigate whether those who said they felt stigma would report having less support than those who did not report feeling stigma. Results indicated a highly significant statistical difference with those who said they felt stigma responding more often that they had less support (Z = -5.39, p < 0.0005). Statistical analysis of the survey data also found a correlation between feelings of 'fear' and 'shame' connected to reports of being 'less likely to seek support' and less likely to report to police without external support.

Importance of positive support from others. In essence, the research indicates a statistically very strong relationship between positive support from others in helping to reduce feelings of shame/stigma and thus to facilitate greater capacity to report the crime. Those who had stronger levels of support, especially from more than one source, reported less feelings of stigma. Those who reported little or no support reported greater levels of feelings of stigma and shame. Again bearing in mind the GTM inductive reasoning adopted here, as well as the need to examine these findings with more stringent and comprehensive causal models in a future research design, this complex potential relationship needs more research to validate this important emerging trend. Additional research is especially warranted in light of recent research that makes explicit the deleterious impact of shame as an emotional element that not only inhibits sexual assault victims from being able to report but has a debilitating effect on their health and emotional wellbeing (Weiss, 2010).

Feelings of stigma/shame, levels of support and reporting behaviour. PJO research findings lend very high levels of statistically significant support to the role of shame/stigma and its deleterious impacts on victims in terms of their ability to report the offence to police or elsewhere disclose to others as reported by survivors themselves in the qualitative data. As reported below in terms of the qualitative evidence (ss. 3.3.3 and 3.3.5) victims' health and well-being were also part of the complex relationship between shame/stigma and their ability to report.

Furthermore, fear of stigma and feelings of shame by respondents as a result of sexual violence were woven through self reports of affective impacts such as self-blame, low self-worth, low self-esteem, self-loathing, depression, self harm, suicidal thoughts and suicide attempts and other deep social and psychological wounding. These self-reports sat alongside

accounts of the impact of loss of support and connection to family, friends and community and the havoc it wreaked across their lives as highlighted in the following examples.

[I felt] too ashamed to talk about it to anyone… Things may be getting different now but the shame of incest has been too much for me to bear. It has destroyed much of my life. I don't believe I have been the best wife or mother I could have been. I cannot talk about it to anyone because of the shame I feel (SR 21).

I did not want my feelings of shame and humiliation to be reinforced or repeated in my dealings with the police (SR 233).

Not for myself but perhaps other sex workers who have been raped by these same perpetrators as a result of my silence. There are many considerations in relation to reporting sexual assaults including history, culture, context, stigma etc. It's a complex issue. Any adult that knew me as a child should have known I was suffering from sex abuse due to my behaviour but no action was taken. There were many paedophiles operating in the area and I managed to find 3 of them so it was happening at home and in the community. How could the child I was trust any adult let alone make a police complaint and now as a sex worker how on earth can I tell police I am also being sexually assaulted by men when we are also paid for sex? (SR 295).

[I feel] shame, because I feel I am a broken person and I feel I should cope better. I don't apply this standard to others, just myself. I felt so much horror that I needed time to process the rapes as a kid and a teenager… because few people in my family treated [offenders] like criminals. I was ostracized from family gathering and [offenders] were not… it takes a long time to get the true non-mythical story from the self-serving delusions from your family and your community (SR 302).

Yeah I am a pretty open, liberal about stuff, but there's a huge embarrassment thing so shame really, I think shame is a public thing. Guilt's private, but shame's public (IIT 8).

Interviewer: You haven't reported to police. Have you ever considered reporting to police?
Participant: Yes.
Interviewer: What stopped you doing that?
Participant: I guess a bit of shame (crying) (IIT 10).

So I didn't report due to shame… scared [of] my life being a free for all for so many people that I knew and worked with… (IIT 15).

If you don't tell your friends, how are you going to tell the police? You know because there's the shame of silence, you hide it inside to protect yourself (IIT 25).

> I had to get over the feelings of shame first, before I could tell anyone I had to deal with that and then think about how stigmatized I would be once I decided, you know, to speak out… the shame really stops you speaking out and you worry about how others are gonna, you know, treat you once they know (IIT 31).

> I didn't want to cause my family to feel shame like I did because I knew it would just destroy them… it's bad enough that I feel stigmatized without sharing the burden on them…. (IIT39).

> And 'cos of that I didn't want to (report) 'cos it would bring shame on our name (FGIT 42, Participant 1).

These self-reports and their implications could serve as the basis for more research focussed on the impact of stigma and shame to identify its duration and intensity and the journey and strategies used by individuals to restore and reform identity[6]. Fear of stigma and actual experienced stigma was a theme that emerged from the PJO project in interviews with victim/survivors. A pragmatic avoidance of social stigma is offered as one reason why women do not report sexual assault to police. Yet research might also explore the ways that the reproduction of a passive community acceptance of the social stigma (and social death) imposed on victims of sexual assault who report to police acts as a barrier to an effective social justice system[7].

Notwithstanding this, many survivors reported the additional burden of stigma being a consequence for parents and family members – especially mothers - leading many survivors to the selfless decision to not report for fear of exposing the family to both public knowledge and legal process that they believed would both stigmatise and traumatise family members. As such this form of stigma threat became a militating element against disclosure and reporting.

That girls and women internalise a sense of responsibility for sexual crimes against them is well documented in the research on sexual violence against women with examples highlighted in this study. Shame, guilt, and fear of social stigma act as powerful barriers to reporting to police. In Miller et al.'s (2011) work on *stigma threat* the researchers report that the fear of stigma is pervasive and the resulting barrier to reporting may also result in victims being re-victimized sexually. Their results "provide strong evidence that the threat of social stigma among female sexual assault survivors — not necessarily experienced stigma — is related to increased risk of future sexual assault" (Miller et al., 2011, p. 126).

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[6] Research on identity loss and restoration has already been undertaken by Taylor and is currently in press at the time of this report.
[7] Note that Caroline Taylor is currently completing a manuscript developing a theoretical paradigm around *social death* post disclosure of sexual violence based on a large Australian study she undertook 2006-2010

In a related vein this was often internalised by victims through what PJO researchers came to identify as *self-censure* - noted in the preceding section -where victims, in particular female victims, considered how others might view the crime committed upon them including concepts such as blame attribution, disbelief (especially in the absence of physical injury or forensic evidence) and awareness that their report may cause difficulties for others (such as family, work colleagues, friends) and thus censured themselves against disclosure and/or reporting. Self-censure also entailed a sense of self-blame, but for many this self-blame was driven also by a fear of stigma in how family and community would react to the victim's disclosure of sexual victimisation (see next section).

Several participants reported feelings of shame and guilt triggered by responses they received from police when they sought to report the offence or from friends and family when they disclosed. In either case, the inappropriate response shut down any intention the victim had of reporting to police.

> Yeah absolutely I felt very disappointed [with police response] but more than disappointed it made me feel guilt and shame and all of those things all over again because I felt like "What are you complaining about"? This was your husband this wasn't real rape so all of those feelings that had made me so sick in the first place had come back (IIT 17).

Nearly 80% of survey respondents reported feelings of 'guilt' as a factor that impacted their reporting decisions and while some who experienced feelings of guilt and shame did report, as the above example demonstrates, a poor or insensitive response by police sharply exacerbated and/or triggered feelings of shame and guilt for victim/survivors. Feelings of guilt were complex though, as indicated by the varying examples below. While many respondents and interviewees struggled with feelings of self-blame, shame, embarrassment and stigma, feelings of guilt were sometime tied to a sense of misguided responsibility that disclosing would cause others, especially mothers, to experience 'guilt' about the sexual assault of their children. Many also expressed feelings of 'guilt' as a consequence of non-reporting, fearing their non-disclosure and non-report may well have allowed offenders to repeat their offending against others.

> I am ashamed of what happened and I feel, I felt guilty because I let it happen (FGIT 20, Participant 5).

> While I still have family members alive, I didn't want them to feel that they should have known and feel guilty for not knowing (SR 30).

> Unfortunately it happens a lot to young women that I [cannot] fully integrate the bad experience into my life without guilt and shame (SR 226).

> I didn't want to tell my mum, she would feel incredible guilt (SR 145).

> I sometimes wish that I had, for justice - so that he didn't get away with it so easily. But overall, I still probably wouldn't have simply to protect my family from small town gossip and to save my mother from experiencing the probable pain and guilt that a parent would feel (SR 180).

There is the recurrent theme of victim's blaming themselves for their enforced silence and taking responsibility for the protection of others. In a related vein, it was this feeling of responsibility to protect other known or unknown victims from a perpetrator that led many survivors, particularly females, to forego their own feelings of fear and their own feelings of safety or retribution, and report to police. They did so because they felt a social and ethical responsibility to protect others. The research team identified this concept as a form of 'symbolic protest' and it is discussed further below (s. 3.4.1).

3.3.3 The ties that bind: Family as a barrier

As noted earlier (s. 3.2.4) an overwhelming majority of survey respondents reported being fearful of family member reactions to disclosure and/or reporting. Family members were identified as a major barrier to reporting to police and this barrier was not isolated to families from culturally and linguistically diverse backgrounds but rather a general trend not confined to any specific socio-cultural or socio-economic group. In line with the statistical reality that the majority of offenders are related to or known to the victim, the men and women in this study often encountered aggressive opposition to their disclosures of sexual violence by persons related to them. Notwithstanding this, many victim/survivors also encountered dismissive responses or responses minimizing the incident where the offender had no specific link or friendship to the family.

Family responses. Families obstruct survivors through a range of responses. The most common responses being to disbelieve their disclosure; convey prejudiced views about sexual assault through minimising or trivialising disclosures; attempt to discredit survivor disclosures to other family members, health professionals or police; and threaten them with physical harm, expulsion from the family, or withdrawal of emotional support.

Offender threats. Quite a number of female victim/survivors of intra-familial abuse spoke of the offender either threatening to sexually abuse their younger sisters if they did not succumb to repeated abuse, and/or the personal fear of victim/survivors that if they tried to prevent abuse of themselves, the offender would turn to their younger siblings. Taylor (2001, 2004a) has elsewhere noted this common theme in intra-familial abuse, especially where the offender is the father of the victim, as was the case for many in this study.

Fear of the offender was a reason for both non-disclosure and non-reporting and not surprisingly this was heightened where the offender was a family member or well known to the family. In the survey 72.5% of respondents reported feeling intimidated by the offender. One respondent was fearful of reporting because they were aware the offender had a gun

license (SR 215). Others were fearful of the offender using violence against them, or they had experienced threats against them and/or had threats to harm their family, their pets or threats of them being killed (SR 15; 17; 31; 33; 91; 190; 196; 209; 210; 215; 228; 248; 264; 269; 274; 277; 291; 292; 303; 313; 317; 324).

> He threatened to kill me if I told anyone (SR 33).

> I didn't want to break up the family and I was told nobody, including police would believe me, and [offender] threatened to kill me (SR 66).

> I'd been told by my father that he'd kill my mother and that he'd kill me if I told anyone and he was very physically abusive so I had this fear in the back of my mind that I couldn't [report] (FGIT 35, Participant 1).

> Firstly he told me he would kill me but first he would kill my mother in front of me (IIT 44).

Explicit threats of death to victims or their mother or other family member were terrifying barriers that inhibited reporting and disclosure either completely or for many years. As Taylor's (2004a) work has revealed, these threats are sadly not uncommon but are often a standard tactic deployed by offenders, especially within the family unit. Police working in this field are generally cognisant of this fear and generally understand that these threats are not only terrifying for victims, but that offenders are capable of causing injury and carrying out certain threats made to victims (Taylor, 2004a, 2004b).

Protecting family members, especially mothers. Sadly, but not surprisingly, it was not uncommon for victim/survivors to take on board a sense of responsibility for family unit and welfare, leading them to non-disclosure and non-reporting on the basis it would either distress, disrupt or destroy the family unit. In particular many victim/survivors sought to protect their mother. It was almost as though there was an implicit consensus amongst survivors that women bear the emotional burdens within the family unit and thus many survivors, especially females, sought to protect the feelings of their mother, especially if the abuse was intra-familial. This trend has been noted elsewhere by Taylor (2004a). The following are instructive examples of taking account of the welfare of the mother by non-disclosure.

> My mum still doesn't know and I won't tell her because it will destroy her, it really will. And she's… she's in remission from cancer and her cancer's brought on by stress (FGIT 35, Participant 1).

> My mum is great at being practical and pragmatic but doesn't do well with emotional stuff and I was very protective of her so I didn't tell her anything about anything that went on [because] it was too hard for me. I was looking after myself and my mum [and] my younger brother at the time… so it would have been just too much [to report]. I was struggling as it was (IIT 6).

> I don't want to traumatize them [parents]… I haven't told my own children cos I don't want to traumatize them and I don't want them to have to carry some of the trauma I've been through because what that does is that it means the perpetrator has damaged another person. If I tell [them], [they] go away with some information and knowledge that may damage [parents] emotionally… (IIT 7).

> It I sit down and talk about it with mum there is nothing she can do about it as such. I just think "Oh God, it would kill her to hear about it", cos then there is the other thing where she would be like "Oh I failed as a mother and I should have been there" and I don't want her to think about that. I would rather say that I was a bad, bad teenager [to explain behavior in adolescence] so she doesn't have to feel bad (IIT 10).

> My mother is still alive and I have always said that while my mum is alive I will never come out and openly admit it. And I made my sister promise me that she would never, never, ever. I said what's the point in making mum feel bad? (IIT 19).

> From a young age I remember protecting mum. I was, I know protecting my mum. She always had migraines and was often in bed with bad headaches, probably from the stress of living with dad (IIT 32).

Fear of ruining family dynamics or feeling responsible for the potential reactions of family members loomed large in the decision making for many with regard to both disclosure and reporting the offence to police.

> I had concerns about destroying my family (SR 10).

> Maybe had I reported the situation, I would not have had the weight that I have borne all these years. It would have fractured the family at the time. But I was so young and confused; I tried to deal with it myself but actually did nothing except kept quiet. In hindsight, I should have reported it regardless of the outcome. It left me with no confidence or trust, questioning everything and everyone. Deep, dark secrets just make you bitter and twisted! I can't believe how I've tolerated family social events subsequent to that period. Fortunately, now, I have little to no contact... but I'm still hurt and confused by what happened. I've managed to bury the experience but as more and more is reported in the media in recent decades, I've had to confront issues all over again. So the experience is never really buried. It has certainly made me admire anyone who can verbalize their assault experience (SR 25).

> [I was] worried it would affect my family and would cause family breakdown (SR 94).

In the first case, I didn't want to upset my sister whose friend was the offender. The second offence was a different person, years later. I didn't want to stigmatise myself in my group of friends by reporting the incident (SR 118).

[I feared reporting because it would be] breaking my parents' hearts (SR 147).

Also the guy that abused me had a lot of heart conditions as well… and I'm thinking if my dad punches him it could potentially kill him, you know, and I'm thinking and then my dad's gonna end up in gaol and it's all gonna be my fault. And you know, you go through that whole scenario over and over… (IIT 5).

I didn't want to be responsible for taking away somebody else's dad. I didn't want to be responsible for ruining the relationship between me and my mum (IIT 21)

I was really scared that if I reported it would ruin [my] dad's business because we're in a small community and everyone knows him…. (IIT 22).

I was worried about… I know I should report but it feels like, I would have just sent my dad to gaol and I broke up my family again and my dad's earning the money for my mum and sister, and now they've got no money but if he doesn't go to gaol… (IIT 24).

My grandfather is one of the offenders and all my family love him so I'm scared that if I tell [family] it will destroy everyone's relationship with him… and I'll be the one blamed for that… (FGIT 23, Participant 3).

Fear of negative family response. As the selection of responses below highlight, for many the fear was more nefarious in that they feared the response of their family and potential negative ramifications for themselves and other family members or had received a negative response and thus feared any further disclosure or reporting of the crime.

I felt like it was partly my own fault. My father ridiculed me when I told him and I felt no one else would believe me either (SR 103).

[I was] too scared of how [my] family would react (SR 157).

[I] told mum 3 years after the fact and she said it was all over with now (SR 215).

[I feared] getting into trouble from my father (SR 250).

[My] parents were not supportive – [they said] "I must have brought it on myself" (SR 300).

Fear of the reaction of family members where the offender was within the family unit was significant. In the PJO online survey 89.8% of those sexually victimized by a family member reported they experienced family related fear about reporting, compared to 10.2% whose offender was external to the family. That is, those sexually abused by a family member reported far higher rates of family related fear with regards to reporting the assault to police. Receiving support from family is clearly important and family responses influenced the willingness or ability of so many survivors to feel able to report the matter further.

'Get over it!'. The tendency for families to believe that victims should 'get over' sexual assault was heightened in the case of survivors disclosing to family members after a delayed time period. Accounts were given of victim/survivors disclosing to parents and other family members only to be met with dismissive rebuttals. One young woman was told by her father to 'get over it' when she disclosed she had been raped three years previously (FGIT 24, participant 4). Another victim/survivor, seeking support and advice from her mother when she disclosed sexual assaults by a family member in her childhood received the response that as the abuse occurred years ago 'it was all over with now' and that the daughter should simply move on (SR 215). One interviewee received a particularly violent verbal response from her family at a time that she was near breaking point and felt a strong need finally to report the matter to police.

> I put myself out there to my mum and my brother and sister. I said, look I don't know what to do anymore. I can't live like this anymore, I need to [report] and my mother said to me, she said, "you're just pathetic, you're fuckin' so pathetic. Get over it you idiot (FGIT 35, Participant 6).

These dismissive responses impeded not just recovery but, for many, the confidence and capacity to report the offence to police. As one respondent stated 'people telling you to just get over it never helps… ' (SR 51). A poignant example is the woman with a history of sexual assault by several family members and friends of the family when the woman was a child and adolescent. One family member was convicted many years previously. At interview the woman discussed the personal pain and distress she endured because she was unable to talk to either family members or professional counsellors about having sustained childhood sexual abuse because her husband and adult children believed she should have 'gotten over it' now she was aged in her fifties. This was in spite of the fact that she suffered ongoing psychiatric illnesses and health problems as a result of the sustained childhood abuse. Her 28-year-old son blamed her for 'dragging down' the family finances because she was psychologically unable to manage paid work and required ongoing therapy and on occasion, hospital respite. When her newest grandchild was born her son advised her that he did not want her to have contact with the new born child on the basis she was a 'depressed grandmother' and thus unfit to have contact with him and his newborn. When she was later hospitalised for medical treatment linked to her ongoing depression both her husband and eldest son refused to visit her on the basis her medical issues were impacting negatively on the family. The woman in this case believed herself to be a 'burden' to her family and a 'poor role model' of a wife and mother as a consequence of not being able to recover from a

childhood and adolescence of prolong sexual abuse by multiple sex offenders from within her family unit (FGIT, Participant 3).

Delayed disclosure and 'recovery'. Families can misunderstand delayed disclosure as somehow indicating successful 'recovery' and a cultivated ability to cope with the crime sufficiently enough to open up about it. Families may not understand that a victim's 'recovery' may be wholly unrelated to their motivation for disclosing sexual assault. On the contrary, survivors may disclose to family members precisely at a time when they find themselves no longer able to cope with the memory and feelings of victimization and thus, as Taylor has elsewhere noted, disclosure may be crisis driven and therefore the initial response and actions are critical to the survivor's well-being (Taylor, 2004a, 2004b).

One interviewee expressed the view that disclosing was something she did because 'she could no longer face living anyway' (FGIT 35, participant 2). Another woman spoke of having approached police in a disassembled psychological state after reaching the point where she felt no longer able to deal with life and felt unable to rely on her family for appropriate support and care (FGIT 23, participant 6). In the case of these two women, reporting was driven by personal crisis, and was embarked upon as a last-ditch attempt to get relief from the emotional and mental pain of living with the consequences of the crime. The comment by a survey respondent reflects something of the tenor of feelings endured by victim/survivors who encounter apathy and blame when they seek to disclose and to report a sexual offence.

> Actually I feel more anger than fear in relation to my parents not wanting to know about what happened to me and anger at those who blame the victims/ survivors (SR 255).

Disbelief. While family members may adopt a disbelieving stance in terms of being unable or unwilling to understand the effects of sexual assault as being serious and far-reaching, survivors also spoke to researchers about family members expressing disbelief on the grounds that they were unable to see how they could have been unaware of abuse occurring within their own household. One woman recalled of her and her sisters' disclosure of intra-familial sexual assault to their parents that, 'unfortunately… there was a lot of disbelief from our parents'. She speculated this disbelief arose from the fact her parents:

> were probably shocked and really unable to deal with the enormity of what was being told to them, and really hard to comprehend that this had been going on for a number of years in their home and they either didn't see it or weren't able to recognise the signs (IIT 2).

Alternative resolutions. Even when family members *do* believe their relatives have been sexually assaulted, this belief does not necessarily prompt them to appropriately support victims in approaching police or seeking the help of social services. One interviewee noted that '[m]y mum thought what he [the perpetrator] did was a mistake and not like he had

murdered anyone, [and mother] was in the process of moving back in with him, and I suspect will support him at the court case' (IIT 20). One respondent noted that her abuse occurred in childhood and her disclosure to her mother resulted in the mother seeking to deal with it personally rather than involve police which led to longer term feelings of distress for the victim/survivor (SR 51).

Family members blaming the victim/survivor and/or siding with perpetrators. Family members may alternatively attribute the crime to the victims themselves. A survey respondent wrote that her family thought "I must have brought it on myself" (SR 300); and a survivor of extra-familial sexual assault noted that "[m]y father ridiculed me when I told him and I felt no one else would believe me either" (SR 103). In the aforementioned woman's case, her grandmother told her she was the 'evil' one in the situation where her grandfather was abusing her as a child (IIT 2).

The possibility that victims might report to police declines even further when family members 'disbelieve' their disclosures to the point where they openly side with perpetrators. In the case of sexual assault perpetrated by extended family members, there was evidence from interviewees that family members disbelieved survivors according to which side of the family (maternal or paternal) the perpetrator came from. In the words of one survivor:

> [M]y father absolutely did not believe that his own father, my grandfather, could have sexually abused three girls, his own three granddaughters. It caused such devastation really for dad he was absolutely horrified and I never actually spoke with dad directly, mum said to me that dad had said his father would never have done that, it's just not true, and he actually said that us three girls were lying, we must be lying because his dad would not do that (IIT 2).

Another survivor interviewed by researchers was conversely disbelieved by her mother who was the perpetrator's sister, in spite of the fact that her father believed her. Her mother took active steps to protect the uncle after disclosure, despite the fact that he had prior convictions for sexual offences (IIT33).

Even in cases where women have obviously nothing to gain and everything to lose from disclosing sexual assault (which was the case for many of our interviewees), family members may still remain skeptical. Published research by Taylor (2004a) is replete with detailed analysis of the familial fallout associated with disclosure and not only its impact on victim/survivors but its direct consequences and influences within the criminal justice process. PJO researchers heard many accounts of women and men disclosing to their family and facing a virtual interrogation by multiple family members who felt it was their right to denounce the allegations and conduct a kind of kangaroo court leading not just to further distress for the victim/survivor, but strengthening the battle lines that are so often taken among family members and friends. Should police become involved, they are often unwittingly caught up in complex and often hostile family dynamics that have a catastrophic

impact on the victim/survivor and others and very often impede and harden the task for police. This aspect will be discussed from the perspective of police in Chapter Four.

One respondent feared not only the violent reaction of family members but a greater fear that reporting would not result in belief or protection, thereby making her situation as a child even worse.

> One of the reasons I didn't say anything to anyone was that I was scared what would happen if nothing was done and [I] still had to live under the same roof [as offender]. [Offender] drum it in you that you won't be believed and threaten more harm and there isn't enough information or evidence to know that the legal system will back you up (SR 66).

This victim/survivor had a realistic appreciation of the possible consequences of speaking up, as shown in the following commentary and other examples from the strand one research.

'Social death'. In an all too common scenario made explicit by Taylor (2004a, 2004b) a number of victim/survivors were rejected wholly by their family post disclosure with what Taylor has described as a sense of 'social death' occurring in the lives of many as a consequence of broken and shattered family links. For some the varying degrees of exculpation from the family unit impacted on their help-seeking behaviours, including their capacity to report. The family rejection led to an extreme sense of isolation and fear as well as a belief that the loss of family support may well be interpreted by others as a lack of credibility about their abuse. The following examples are illustrative of this distressing reality in the lives of many survivors, especially those who experienced abuse within the family unit.

> My whole family rejected me. And so did every living relative, all my friends and family. None of them would have a bar of me from the moment [of disclosure]. It's like I'd done this thing, and no, we're not going to have this, you can't break that secrecy… when [I disclosed] my parents got really vicious and assaulted me violently. So I ended up leaving home with a broken hand and broken arm… going to the police wouldn't be an option for me now (IIT 5).

> I didn't tell in order to protect my four younger siblings [from possible abuse by the perpetrator] but when I did eventually tell, I wasn't believed… I made second, third and fourth disclosures but my family didn't believe me and in the end I was fearful of what would happen… I don't have that much support now (FGIT 23, participant 1).

One of our young interviewees shunned by her parents and other family member upon disclosure and reporting to police found herself mired in family court and civil matters in order to obtain access to visit her younger siblings. More distressing was the fact that one of her younger siblings was suffering a terminal illness and was not expected to live long. This young woman reported the abuse for fear that the offender, her biological father, was likely abusing or would abuse her younger siblings. Refused any contact with her younger siblings

the victim/survivor was forced to go to court to obtain permission to contact her siblings and to see her dying sibling. Communication was restricted to phone calls and letters that were 'vetted' by the victim's mother prior to the siblings receiving them. While the victim/survivor in this case was able to visit her younger sibling before she died, she endured the harrowing experience of obtaining a court order to allow her to attend her sibling's funeral, where she was the target of hostile reactions and isolation.

Of particular distress to this young woman was the outright rejection by her mother and her isolation from her siblings and other relatives. On two occasions she initiated contact with her grandparents and while they spoke to her in a civil manner they were distant and cool and made it clear that they disapproved of her reporting her own father to police. Suffice to say that the victim/survivor feels unable to maintain any contact with them. The case is due to proceed to court and this young woman is very aware that she will face the ordeal without the support of any family and while she has resigned herself to this fact, it was evident that this complete loss of family connection, especially contact with her siblings has had a significant effect on her sense of identity and her capacity to trust others and form new friendships (IIT 24).

Police and court exposure of the family. Examples were given of family members being reluctant or fearful of police involvement and the potential legal processes that might follow. Some family members expressed concern for the wellbeing of the victim as a means of expressing reservations about reporting whilst others were concerned for themselves and the family having to be drawn into police contact or legal process and foisted these concerns onto the victim in an effort to persuade them against reporting. In a related vein to the earlier discussed notion of victim/survivors experiencing feelings of shame and the fear of stigma threat (s. 3.3.2), on occasion these elements influenced family members with regard to their willingness to support a victim to report the offence to police. One respondent spoke of her family's 'complete meltdown' when she told them she was going to report the sexual abuse she experienced in childhood to the police.

> (T)hey didn't want to know about it, they didn't want me to do it, to go through with it, my dad said, we can't handle it, we don't want to go through it and I said to them "I can't handle it. Sorry, it's happening with or without you… I'm go to report it" (IIT 15).

For another interviewee, her parent's concern that she *not* report the matter to police stemmed from her father's insistence that she had somehow brought the rape on herself by 'dressing' in the manner that she did and attending a specific night club on her own (IIT 14). In this case, victim blame initiated by the attitude of the father led to family members being reluctant to support the victim's desire to report the crime to police. Another interviewee had a very similar experience from her father upon disclosing date rape and advising her parent that she wanted to report the matter to police. Her father argued that she was at 'fault' for going out with a man she barely knew and to a place she was not familiar with, and that in his view police would hold a similar view of her report. As such she decided against reporting. In

another example, it was the interviewee's sister who at first supported the victim/survivor to report the matter to police, however once the sister realized the extent of police involvement the sister not only withdrew support but verbally abused and threatened the victim/survivor against taking the matter further saying she would not be party to putting the offender in gaol. Feeling confused, distressed, frightened and isolated from support the victim/survivor in this case withdrew her complaint (FGIT 35, participant 1).

Positive family reactions – the exception proving the rule? Not all family reactions were negative. However positive support from family members in this study was often the exception rather than the rule and it was more likely to occur in cases where the offender was external to the family unit. At times the positive support still involved a degree of caution as it did in every case, including negative family reactions, where the involvement of police and the potential legal component and public knowledge of the crime was met with trepidation and sometimes fear and even anger. This aside, a small number of interviewees reported parents being very supportive of the disclosure and follow up reporting, despite the 'overwhelming' legal processes that may follow.

> I would not have contacted police if it were not for the support of my family. I had in-fact hidden it from everyone except for one cousin and she therefore told my mother and then that is when we started to report it (SR 174).

> I am not saying it's been easy but yes, I think my mum and dad have been really supportive. Obviously from a personal point of view there is going to be a part of them that is shattered because there is a primal thing about looking after your children (IIT 8).

> My parents have been great and really supportive, but they are just as in the dark as I am with [the legal process] and just as overwhelmed as I am a lot of the time at what we have to deal with and the fact they have to come along and sit through [legal meetings and processes] which are all pretty awful (IIT 18).

For one participant, the support of her parents was most welcome, given that she had received negative responses from her friends and work colleagues; however she struggled with her mother wanting to tell others about the crime because of the associated media coverage of the rape at that time. While the interviewee knew her mother believed and supported her, she found herself at loggerheads with her mother's desire to tell others that the case in question involved her daughter. The interviewee felt it was perhaps her mother's way of dealing with the issue, however it meant that the privacy of the interviewee was lost and at times this caused her to feel anxious and depressed as she felt she had 'lost control' of who knew about the rape (FGIT 23, participant 2).

CALD versus non-CALD family fears. Notably, there was a propensity across the PJO strand one study for counsellors (and police) to express a view that reluctance to report due to a fear of family member reaction was isolated to victims from CALD backgrounds. A belief that

family members may retaliate against a victim for reporting, or will not support them to report, or that a victim brings 'shame' to the family by disclosing sexual violence was most often connected to CALD families by counsellors and police. From the preceding research evidence, this is not borne out in interviews with victim/survivors themselves, many of whom reported family as a significant barrier and most of whom came from non-CALD backgrounds.

Summing-up. For some, family dynamics and environment were contributing factors that militated against disclosure. For some, transient family matters created a sense of poor timing in terms of disclosing to family and pursuing a police report, while for others family problems such as the ill health or disability of a parent or sibling, led victim/survivors to renounce a desire to disclose or report the matter to police (examples include Transcripts 1, 2, 9, 11, 12, 16, 23, 36, 39, 42, 44). Some spoke of not wanting to be a 'burden' to their family and in particular of not wanting to distress, upset, burden or cause feelings of guilt for parents, especially mothers. For others, factors such as parental unemployment or financial hardship were considered not conducive to disclosing and seeking to report the crime to police. In some cases, chronic family dysfunction was intuitively regarded as a reason not to add to poor family functioning. For many others, negative family reactions were not enough to stifle them from making the courageous decision to report, however PJO researchers also found examples where the report could not be sustained as a consequence of family members intensifying the pressure, threats or retaliation leading victim/survivors to withdraw allegations. Sadly, these various negating considerations also meant that help-seeking from professionals was also voided, leaving victim/survivors very much alone and dealing in fraught isolation with the trauma inflicted by sexual violence.

These factors aside, as the interviews and survey revealed, the decision against reporting and disclosure to family was not taken lightly and the associated findings are almost unanimous in terms of the deleterious immediate and enduring impacts experienced by victims. It is a salutary observation that so many victim/survivors take on board consideration for the well-being of parents and family at the expense of their own needs and well-being that lead to months, years and even decades of regret and various psychological and health sequelae.

3.3.4 Fear of rejection by peers/friends and the influence of rural locale

Family barriers aside, fearing the loss of friendship or social standing among peers and the community were very real for some victim/survivors and has been identified in other studies (e.g.,Vopni, 2006). More than a third of respondents in the PJO survey (37.9%) feared losing the support of friends if they reported the offence while 43.4% reported 'experiencing fear' of others finding out about their sexual victimisation. Further, comments were heard first hand from interviewees about their fears that reporting would expose them to a public knowledge both through gossip/discussion and media exposure that may well result in rejection, social isolation or judgement from their peers or others in the community that would affect them. Some respondents spoke of their fear of social isolation should they report (SR 49, 74). Some

expressed concern of being ridiculed, disbelieved or that their 'reputation' and social standing or that of their family may well be lost as a result of reporting.

> [I feared losing] my integrity and standing among friends and the community (SR 88).

> I was embarrassed about my peers not believing me about the sexual assault incident and I was blamed by this friendship group for disrupting the friendship dynamics of this teenage social group… (SR 226).

Some victim/survivors from rural locales spoke of their fears of disclosing and reporting within a small community. Many elucidated that non-offending parents and other family members also feared the involvement of police and the legal process in a community where anonymity would be impossible and they would have to deal with a very real issue of community judgement and gossip. The difficulty of disclosing and reporting sexual offences in rural communities has elsewhere been discussed at length (Taylor, 2003-2004).

> [I did not report because I was] not wanting my family to be subjected to small town gossip (SR 180).

One interviewee commented that in rural areas the community:

> 'can be so naïve, they just think "nobody I know, it hasn't happened to anybody I know" [and] for all [they] know it could have happened to someone they know [but] maybe they didn't say anything… there is such a stigma attached to [sexual assault]…' (IIT 21).

Other interviewees expressed concern about the capacity to report in a rural locale saying:

> (The) country people's mentality is still that, rape is where an intruder has broken in through your bedroom window and violated you and leave via the bedroom window again' (FGIT 22, Participant 4).

> You just face the fact that you might not win at court. You are going to look like an idiot, especially coming from a small town like [names town]. Because you go to court and people know you there' (IIT 39).

3.3.5 Feelings of regret and guilt for non-reporting

The majority of women in the PJO study had not reported the crime to police at the time of consultation. For most women, it was years if not decades since they had sustained the last assault. Survivors expressed a range of emotions, ranging from intense sadness, regret, anger, grief, confusion, and most of all a sense of a life diminished by the inability to report the crime to police. Some had disclosed to family, friends, and professionals, and some had their

disclosure rejected or minimised, with many experiencing levels of family rejection and other repercussions. In a related vein, PJO researchers were touched by the sad and often poignant self-blame and self-recriminations expressed by very many victim/survivors for their inability to report the crime to police.

The nature of victim/survivors' guilt. Many respondents spoke of their regret at not being able to report and linked this regret to feelings of 'guilt' whereby they felt their inability to report may have led to more children or women being raped and sexually abused and/or general feelings that the perpetrator was never made accountable. This misguided sense of blame and responsibility haunted many and was clearly something with which they continued to struggle.

> My guilt was about other girls who were abused because I hadn't spoken to someone. I told people 15-20 years after it happened and found it had happened by the same offender to my sister and her friend (SR 11).

> I feel regret for not reporting it as I now know he didn't stop at me and I thought I was the first in his line up (SR 24).

> I sometimes wish that I had, for justice - so that he didn't get away with it so easily. But overall, I still probably wouldn't have simply to protect my family from small town gossip and to save my mother from experiencing the probable pain and guilt that a parent would feel (SR 140).

> [I am] worried it may have happened to others and maybe I could have stopped it happening to others (SR 157).

> I was 8 years old, I didn't know what to do, and for many years I tried to pretend it never happened. It was a shameful secret I kept for 35 years. In many ways I would like to report it to police now but my self esteem and confidence is destroyed, and I am afraid it would destroy too many families. (SR 197).

> I should have reported it to the police because I am sure he has attempted or has assaulted again because I have read about it in the news. He actually got away with it again and I should have reported it in order to have stopped him, he hurt other people and it's my fault (SR 200).

> This happened a long time ago. I would not want everyone I know to find out what happened. I feel very guilty that this person may have done this to others because I was not brave enough to report. I fear not being believed now as there is no proof (SR 206).

At the moment I'm trying to find the courage to report what happened to me to the Police. I really don't think I'm the only one this happened to at the hands of this man... (SR 212).

Maybe if I [had] reported it would prevent it happening to others but no one gives a damn about prostitutes getting assaulted (SR 294).

[I regret not reporting]. . . other sex workers who have been raped by these same perpetrators as a result of my silence (SR 295).

I guess it still resonates with me a bit because I still have done nothing really about it . . . I am angry these guys have got away with it. I was a young kid and they had control and power which I couldn't do anything about, so for all I know they could have done it again and [yet] they could have been caught and they could have been in gaol... (IIT 16).

I regret the fact that my fears about how my family would react prevented me from reporting and seeking some kind of justice… but my mother's wellbeing had to come first… I don't believe she would have coped with the knowledge or the legal process but I get angry, I don't think the perpetrator should get away with it that easily… (IIT 39).

Denial also featured where women respondents in particular reported that they worked hard to block it out, like respondent 206: "I wanted to pretend it had never happened", only to comment later in the survey about experiencing significant feelings of ongoing distress linked to the abuse and feelings of 'guilt' and regret of not being able to report (see s. 3.2.3). These conflicting emotions around non-reporting and feelings of regret and guilt form a significant theme throughout the findings.

These expressions of regret were difficult to read and listen to also because they showed the great value that survivors attached to the act of reporting. In this light, the many barriers that currently stand in the way of women reporting to police are particularly lamentable for the compounding hardship they place on survivors of sexual assault.

A consequential issue that resonated in interviews and online survey responses relates to the mental health and well-being of survivors who are unable to report their victimization. The burden that women bear across their lifetimes as a result of being unable to report sexual assault crime was illustrated in the comments of a number of survivors.

I wish I had the strength to follow through with reporting to police. I still hate myself for what happened and I'm scared. I'm confused and I don't know how to get on with my life (SR 73).

Maybe had I reported the situation, I would not have had the weight that I have borne all these years. It would have fractured the family at the time. But I was so young and confused; I tried to deal with it myself but actually did nothing except kept quiet. In hindsight, I should have reported it regardless of the outcome. It left me with no confidence or trust, questioning everything and everyone. Deep, dark secrets just make you bitter and twisted (SR 82).

I wish I reported it when it first happened. Now I feel that if I had I could have done better in school and had a happier life (SR 124).

I felt very guilty for a long, long time thinking about how I allowed him to ruin the lives of other young girls because [I didn't report] and there was nothing that I could do. I tried to tell my parents but it didn't work and so I did nothing... I should have reported it... (IIT 33).

As the foregoing data and discussion in this section highlight, police must never under-estimate how the capacity of their responses when skillfully and sensitively applied can enhance and restore aspects of well-being. Conversely, poor, insensitive and inappropriate responses can lead to secondary victimization of victims/survivors and perpetuate victim lack of confidence in the criminal justice system.

RECOMMENDATION: All sworn police officers in the State of Victoria should be required to read and discuss at unit/team level the foregoing materials on why victim/survivors of sexual assault do not report the crime to police and their lived experience of not doing so. These materials should also be made available and utilized in the SOCIT/VARE specialized sexual assault training course. It is further recommended that these materials be available against the background of the research literature cited and discussed briefly in the Introduction and detailed further in later chapters of this report.

Implementing this recommendation will serve to facilitate a widespread appreciation among police officers of the problems and dilemmas faced by sexual assault victims. It will thus deepen understanding of the courage and need for active police support of victim/survivors who do report. Implementation of this recommendation will aid enhancement of a learning culture across Victoria Police in relation to improving the criminal justice system's response to sexual assault complaints in accord with the recommendations of the VLRC (2004) and Victoria Ombudsman (2006). It will help support specialist police in SOCIT teams in their complex and difficult tasks of investigation and Brief preparation (see s. 8.3 especially). This recommendation should be considered conjointly with those made in later chapters of this report especially pertaining to the role of first responders, police sexual assault complaint decision-making processes, and the recruitment, training and development of specialist SOCIT police (see Chapters Six, Eight and Nine especially). This recommendation is further underpinned by the PJO research evidence on why victim/survivors report to police and their experience in doing so including both positive and negative police reactions.

3.4 Understanding the reporting experience

A feature and strength of the PJO study was the focus on asking victim/survivors what facilitated and supported their decision and/or capacity to report sexual offences to police. Many studies have examined *why* victims do not report but few studies have examined appositionally victim behaviour that motivates or facilitates reporting (Taylor & Norma, 2011; Vopni, 2006). Kelly, Lovett and Regan (2005) have noted the importance of a more nuanced understanding of what motivates victims to report will benefit police training and praxis, as well as policy makers to not only understand what motivates and facilitates reporting but also how to build on such knowledge in order to improve reporting rates. Kelly et al. (2005) observed that rape survivors may decide to report when they have a particular interest in pursuing justice for themselves or protection of others, though there remains a paucity of research and a lack of in-depth research around the reasons that motivate or facilitate reporting.

It is notable that the findings of the PJO study reflect particularly the motivations of childhood survivors of intra-familial sexual assault in reporting to police, given that this

population of women are even less likely than other survivors to report the crime and also less likely to participate in formal research (Taylor & Norma, 2011). The data as a whole generated by the PJO Project constructs a comprehensive and detailed picture of the reasons why this vulnerable group of women decide—perhaps counter-intuitively—to approach police.

Findings from the in-depth interviews with victim/survivors and online survey have enabled PJO researchers to develop and build a theoretical framework that supports factors that motivated and supported the decision to report a sexual offence to police. Consequently, two important concepts were identified with which to discuss and analyse victim reporting behaviours. They are 'symbolic protest' and 'responsibility, sacrifice, report'.

Approximately one third of survey respondents made contact with police with a view to reporting the offence committed against them. As noted earlier (s. 3.2.3), nearly 30% of those who reported to police regretted the decision. Of the women in the current study who had contact with police, a significant minority described experiencing varying degrees of loss and grief as a consequence of reporting to police. As further detailed in the preceding section, many told of harrowing experiences as a result of family rejection, retribution by offenders and disbelief from observers. Many underwent court processes with few describing positive outcomes from such a process. Some were currently involved in investigations and court processes at the time of the interviews.

In the PJO study victim/survivors made decisions to approach police even when they anticipated severe personal costs (e.g., loss of any contact with family members, fear for their own safety and well-being, being publicly identified and stigmatised), when they did not have family or community support, and in situations where they did not expect police or the courts to respond appropriately to their report, or see justice served.

In interviews and focus groups, PJO researchers discussed with survivors the outcome of making reports and associated benefits and costs they bore as a result. Nonetheless, and perhaps counter-intuitively, many survivors concurrently expressed the belief that they had done the right thing in reporting to police and recommended other victims do the same. Of those survivors who reported an unhelpful or negative police response, many retained a strong belief that their decision to report had been the right one.

3.4.1 Symbolic Protest

To understand this apparently paradoxical position occupied by survivors, the present analysis draws on philosopher Hill's (1979) notion of "symbolic protest" to describe a situation in which someone decides to take action against injustice heedless of the fact that the "perpetrators of injustice will not be moved, protest may be inconvenient or risky to oneself, and its long-range effects on others may be minimal or may include as much harm as help" (p. 83).

Hill identifies four defining conditions of "symbolic justice", but of particular interest here is his second condition, in which people protest injustice in spite of the fact that the "protest cannot reasonably be expected to end the injustice, to prevent its recurrence, or to rectify it in any way" (p. 84). Hill believes there is rational cause for people to protest injustice even when there is no reason to think the protest will change an unjust situation. Hill formulated his understanding of "symbolic protest" solely to describe the actions of people who protest injustice done to others, but it is contended here that his concept is useful also for understanding women's apparent self-sacrificing decisions to report their own sexual victimization. Sexual assault survivors report the crime to police even while recognizing they are likely to be harmed by this decision through family rejection or public alienation, and even while recognizing that the perpetrator is unlikely to be brought to justice.

The term *symbolic protest* is introduced to identify and analyse a key motivator for the reporting decisions of victims of sexual violence in our study. It is contended that reporting sexual assault crime to police is an important expression of "symbolic protest" at a criminal justice system that does not generally serve women's interests. Women show great courage and self-sacrifice in reporting sexual assault crime, and three major factors are identified that motivate them to do so, namely: (a) the need to have sexual assault recognized as a crime and consequently have it reflected more accurately in crime 'statistics', and thus a sense of reporting as a civic duty; (b) a desire to raise community awareness of sexual assault; and (c) a desire to protect other women and girls, and thus motivated by a sense of selflessness and common good. The symbolic nature of women's reporting of sexual assault is not generally recognised in the literature so the findings from this study have generated considerable interest internationally[8].

Reasons given for reporting:

- The vast majority of survivors said they did not view reporting as something that would personally benefit them but would benefit others – known or unknown to them - and benefit the 'criminal justice system' ('altruism').
- Need to make the criminal justice system more accountable and contribute to more 'accurate statistics' (sense of 'civic duty').
- To put it on record in case other victims now or in future come forward - to help police identify and arrest the offender/s and help past/future victims who may report.
- Need to prevent further rapes being perpetrated upon others or fear of others being similarly victimised, whether perpetrator known or unknown ('sense of responsibility', 'civic duty' and 'altruism').
- Knowledge of other victims (especially within family unit).

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[8] Taylor and Norma have published these findings in an international journal and presented them at several international conferences and to international police organisations. They have generated considerable interest among academics, police and policy makers.

Barriers, dilemmas and fears associated with sexual assault and its impact on the ability to report and/or disclose did not markedly differentiate reporters from non-reporters. In other words, those who reported the crime to police were not individuals who had less concerns, fears or barriers than their non-reporting counterparts. Present findings make clear the *tipping point* for reporting was linked to the above mentioned factors and more specifically, knowledge of other victims, either first-hand knowledge or learned knowledge gained from mediums such as the media, family or community/social networks. This was especially so for victim/survivors when the offender/s was a family a member or well known to the family. The second major tipping point was a 'sense of responsibility' or 'civic duty' to prevent further crime, read as further victimization of other women and children.

For some the report was historical, months, years or decades later but linked to the above. This knowledge/belief led survivors to set aside fears for their own safety and wellbeing. That is they did not overcome the barriers in terms of negating them; they reported in spite of them and many incurred layers of loss, blame, retribution and stigma. The driving factors outweighed personal costs. Where survivors sought family support to help them report, many experienced hostile or unhelpful responses, especially in intra-familial cases. In a high number of cases victim/survivors bore significant personal costs and this was sometimes exacerbated by a poor police response.

Reporting as a form of altruism where the decision to report was motivated by a sense of responsibility or duty to protect or benefit others was a strong theme in the PJO study. Many felt anxious or fearful about reporting but did so in order to protect the interests largely of other known or unknown victims both in the present and the future. This sense of a greater good outside of their own feelings for privacy or safety or their fears was admirable.

> I am glad I reported to the police so that it is on record in case of future victims. However, in hindsight I would reconsider whether it's worth proceeding further as I have totally lost faith in the legal system (SR 40).

> I don't regret reporting even though it was a horrible experience but I do regret that he just got away with it leaving the community at risk (SR 231).

> For me personally… reporting is pointless [but] it bothers me that he may be doing this to other people for sure and that would be the main thing that would drive me [to report] (IIT 6).

> Firstly no paedophile fucks just one kid. There is [sic] always others and as I got older I realized there obviously would be more, I could not be the only one… it was wonderful to have this release valve [by reporting]… I've played my part in the process, to have a taste of justice… to [report] it gets others talking about it and [perhaps] telling others and perhaps telling someone at some stage, because if you don't you die a horrible slow death internally… so I thought well you know, [I have]

to use this opportunity… and its going to lead you to some not necessarily nice areas [but] life is different now [since reporting] and that is a good thing (IIT 8).

I was sexually abused from about 8 through to 17 and I didn't report until my thirties. No one knew till I reported it… it was just prior to me reporting it… I found out [offender] had been looking after my nieces so I guess that played on me a little bit and I thought, well if I could stop it from happening to someone else I should do that because I know how it felt to me. So, yeah, I was at home one day and was on my own and was thinking about it and I thought, I'm just gonna do it. I didn't tell anyone. I just rang the police station and made an appointment and went in and made a statement (IIT 11).

I felt a duty to put it, to put the experience where it belonged... with police so they can take action and get this guy and make sure he gets no other victims … (IIT Transcript 29).

I decided to report my experiences… I do not believe [case] could be readily verified as it was too long ago but I need to take a stand. I do not expect my [family members] to believe me but I need to do what I can to protect my niece. I am afraid of what this might cost me, but I am prepared to pay the price (IIT 31).

I found out (family member had been sexually assaulted by the same offender)... and I thought, that's it I don't want to be a statistic. I'm gonna try everything I can in my power to do something about it... I knew it would be a harrowing experience [to report]... [but] whether it goes to court or whether it doesn't I've done everything in my power, you know, to prevent [further rapes], to do the right thing by reporting (FGIT 42, Participant 2).

This motivation to report out of a sense of responsibility to other women and girls is not uncommon. Jordan (2001) noted that one third of her interview respondents reported sexual assault crime to police out of a desire to "protect others" (p. 686). In the current research, this factor was voiced repeatedly and was often cited by survivors as the sole factor that had driven them to report. In other words, women expressed the view that they would not have reported their assailant to police if they had not become privy to information that he was targeting, or was likely to target, other women and girls. Many women cited the prospect of offenders being "locked up and off the streets and unable to harm anybody else for 5-10 years" as their only motivation in reporting the crime, even when they expected the reporting and court process would be personally detrimental (IIT 6).

For others a sense of civic duty or responsibility to report was based on the view that the criminal justice system must be made more accountable, and society too, when it comes to the crime of sexual violence, with a number of survivors making comments that reflected a view that sexual assault crime must be officially recognized and recorded. Some had discussed their victimization with family, friends, counsellors, but, for them, this private or

domestic action was not sufficient in terms of where the story and reality of their experience should reside.

> I am glad I reported to the police so that it is on record in case of future victims. However, in hindsight I would reconsider whether it's worth proceeding further as I have totally lost faith in the legal system (SR 40).

> I do not regret my decision to report the incident to the Police because at least I am trying to seek justice and influence and have an input into the Justice system to try and improve outcomes for future victims of sexual assault and bring the offender to the attention of the Police in hopes that he will not reoffend (SR 74).

> It's almost like I need to do it because no-one around me is going to do it, and in the end I'm going to have to do it, and also because I understand about how much more it's important that we get the statistics right. If nothing else, I want it recorded for that reason, so the reality [of sexual violence] is being reflected somewhere (SR 79).

> Although I had a bad experience during my reporting to police I would always report an incident. It is important for communities and crime statistics that community safety is correctly reflected (SR 173).

> [E]ven if it took the rest of my life to go to court it doesn't matter—it's not the point. The point is reporting, the point is to let people know that this is what's happening . . . they have the right to know (IIT 4).

> I feel it's like a duty I have to do... its [sic] been years of course but I feel the need to put this event where it belongs... with police and hope that one day if... there are other victims and I am sure there are, then my experiences are there and they might help others (IIT 29).

> (W)hilst I still wrestle with [reporting experience] I know that I have at least done what I could and I believe I have safeguarded my nieces from his sexual predation (IIT 31).

> I'm happy I reported because it puts [the offence] in a folder with police, so… you're not only contributing to the statistics but it's like I've placed it in a forum where it actually belongs because it was a crime. So even if it doesn't go any further and it doesn't get to court, in this forum [police] I've been able to put it down, as opposed to writing it down in a journal that's home under the bed (FGIT 23, Participant 5).

For many the act of reporting to police was understood as a social contribution of extreme symbolic worth, regardless of the outcome of their report or the personal costs they bore.

3.4.2 Reflections on and experiences of reporting

Researchers found that "personal empowerment" needs such as the need for "closure" was articulated by women as reasons why they had reported to police. Overall, however, respondents cited this kind of "empowerment" need as driving their decisions to report much less than they cited considerations that reflected other concerns, such as a desire to protect others or a desire to inform the community about the prevalence of men's sex offending.

Making the crime real. For some reporting also enabled a sense of the crime to be understood in a more tangible manner – as a 'criminal act' and not simply a shocking, albeit secret incident that lives only in the heart and trauma filled memories of the victim. As one interviewee commented about her experience of finally making a formal police report, years after the offence:

> Suddenly, reporting made it real... putting it down in black and white actually means it's... real... it's tactile... it is evidence. This is what happened, actually happened to me... it's a relief and validates me and what occurred... (FGIT 42, participant 3).

Another woman reiterated this sentiment when she told researchers that her decision to report constituted "verification that you're not mad. It's verification that . . . this actually happened, it's not in your head" (FGIT 35, participant 5).

Protecting others. Even when women cited personal benefits as behind their decision to report, these benefits were often bound up with a desire to protect others.

> While I still feel that there is not much chance that my attacker will be arrested, charged and brought to court, let alone sentenced, I am certain that reporting to the police was a very worthwhile action. The response of police restored some of the faith in my community, and even generally in humanity, that was lost after the assault. The feelings of helplessness and futility were lessened and some power and agency were returned to me through my participation in the investigation and the police process. Most importantly, the act of reporting and the seriousness with which the police responded to my report ensured that responsibility for my assault was attributed to my attacker. They assured me, and their actions confirmed this, that I was not to blame. The power of these positive responses to heal some of the trauma cannot be underestimated. Thank you for the opportunity to provide this feedback (SR 233).

> I will go to the police and I will tell them I am doing this out of concern for my cousin… I will stick up for her, I will look after her… coming in here today [to the interview] has made me realize too that it is not just about protecting me it's about protecting other people from him. Someone has to do it. I really don't think I would feel good if I didn't do anything about it knowing that he has got a young child in that house (IIT 33).

> I feel a lot lighter than I used to. I feel like some of the weight's been lifted but I know I have to finish what I'm doing before I can let go of this completely. I do, for whatever reason, I believe in the belief. I believe in justice, I believe that people deserve justice and I fight very, very hard for people that are suffering. And I thought one day, why not fight for yourself! I'll continue on this journey until it is completed (FGIT 35, Participant 6).

There were a significant number of interviewees who expressed the view that they did not regret reporting because it had allowed them to fulfill their sense of responsibility to other children and adults. One woman who had experienced child sexual abuse at the hands of a family member regretted that she had never reported it but said she felt powerless to address the abuse until the day she was contacted by another family member who advised her that one of her children had disclosed sexual abuse by the same family member who had abused her in childhood.

> that was it... the minute my niece called me and told me, it was the very next morning that I went to [police station] because I think the reality of the situation hit me: if I don't do this and help [child victim] there is going to be other [victims] and she is child (IIT 4).

Up until the time this woman found out about her own niece, she had been unable to overcome the obstacles that stood in her way of disclosing or reporting. However, her desire to protect her niece overrode the hardship she perceived she would face as a result of reporting not just her niece's abuse but her own also. Her self-sacrificing decision in this case was clearly made on the basis of a deeply held belief that authorities should intervene to protect a child she became aware of as being sexually victimised. These data show that the decision to report can be dependent on circumstances that might change. In other words, at some stage in their lifetimes, any survivor may reach a point where they are strongly motivated to approach police, irrespective of the barriers that might have originally prevented them coming forward for week, months, years or decades. For authorities like police, this fact should be taken into account in devising strategies that aim to increase reporting rates for sexual assault.

This study demonstrates that victim/survivors often seek to protect others through reporting to police, and that those they seek to protect do not necessarily have to be known to them. Even the expectation that the offender will target other children or women at random is enough to cause survivors to make a 'split decision' to subordinate their personal interests and needs and approach police, even after years of having kept their victimization secret. One woman in interview said she had not wanted to approach police because of the personal hardship she knew it would bring her. But she coached herself into a state of mind that enabled her to view reporting as something she was doing for 'other people' who she knew would have been victimised by him.

> I just sort of made that split decision that yes I am going to follow this because I know other girls were involved so I just sort of kept that in my head that I am doing this for the other people that I know would have been affected by him (IIT 49).

From their own experiences of victimization, survivors understand that girls in particular do not possess the ability to withstand the manipulation and deception that sex offenders exercise to commit their crimes (e.g., Armstrong, 1983;Taylor, 2004a). They therefore see their decision to report as undermining the power that offenders have in this regard and as a means of preventing the emergence of other victims. One woman discussed the fact that she knew that his [the perpetrator's] good friend had just had a child.

> And I know how manipulative and smart he is and how easy it would be for him to do that to that child and I couldn't have that on my conscience. So, that was another reason why I sought to report it (FGIT participant 4).

Making others aware of the personal impacts of sexual assault. One survey respondent was clear in linking the personal effects of sexual violence on victims to her own decision to report the crime to police. Once again, the survivor in this case is cognizant that the act of reporting is not just about making the criminal justice system more accountable but to highlight to the community at large the impact upon the quality of life for victims.

> ... the way in which it curtails the ability of women to live successfully in a society where they have been dealt a "life sentence" through sexual assault: Making the initial report provided my impetus to pursue justice not just for myself (my case) but equally for all those who have been affected by their own personal experiences of sexual abuse . . . [people need to understand the] magnitude of emotional impact these types of crimes have on victims, ie. : their entire lives are affected, their ability to cope with not only the normal, everyday experiences but also any additional burden placing weight on their capacity to show resilience, fortitude, continuity, even rationalism. It is a life sentence (SR 85).

Making offenders accountable. Women were realistic about the fact that sex offenders were unlikely to discontinue their behavior unless the police or courts intervened. In the words of one woman: "to me it's like the dog that bites. They do it once, they'll do it again. [They] do it and get away with it, they're gonna keep on doing it" (IIT 36). Another wrote that "[i]t keeps the perp[etrator] going by not reporting" (SR 4).

Seeking to hold offenders accountable for their criminal actions did not, however appear to be based on an urge toward punishment or retribution. Rather, they were motivated by a desire to protect others or, as many commented, to finally free themselves of the terrible burden of secrecy that had infiltrated and affected so many areas of their lives.

3.4.3 Police responses that validated the decision to report to police

A number of interviewees expressed the opinion that they were personally validated through approaching police and that police had assisted them to come to terms with crimes that had been perpetrated against them. This was obviously a stronger theme among survivors whose experiences with police had been positive.

Validation, personal empowerment and healing. One interviewee expressed this opinion vividly when she commented that:

> (I)n that first hour [of dealing with police] I reckon she [the police officer] got rid of 80 per cent of my guilt and my grief [about the crime] … I felt that for the first time in my life, coming out of that police station, I noticed how I walked tall. I had always walked around with my shoulders stooped and my eyes lowered, but after reporting and having the police understand... to walk out of that building with that burden lifted off you is amazing and the other 20 per cent takes a while... to have someone believe you and be on your side and actually doing something for you. Even if it doesn't go to court, just reporting it I think is a really empowering thing to do. It's a very hard thing to do but just to hear someone say this is illegal and this is wrong, just to hear that, for that alone it was worthwhile (IIT 12).

Another interviewee commented similarly:

> The first time I ever heard that officer say to me that it would go to the county court was the first day I actually realised the significance of what he had done to me, on a bigger picture, the significance of his actions and the significance of the person that he actually is, and that was huge to realise that, huge to realise that the county court would hear my case potentially. So I think until, ... if more women believed that their abuse was real and important enough... it's healing, it's empowering, it's the right thing to do. It certainly gives back the shit that was given to you, back to the perpetrator essentially (IIT 4).

Once again, the sense of personal empowerment and sense of some healing was expressed by a survey respondent who believed:

> (T)he act of reporting and the seriousness with which the police responded to my report ensured that responsibility for my assault was attributed to my attacker. They assured me, and their actions confirmed this, that I was not to blame. The power of these positive responses to heal some of the trauma cannot be underestimated (SR 233).

Another respondent sexually assaulted by a taxi driver contacted police only because of the positive support she received from her family, especially her father, and found the experience uplifting in terms of voiding her fears and concerns.

> My experience with the police since reporting the assault has been very positive. Prior to the assault I had not really had any contact with police. At first, I did not want to report to police because I expected that it would be a negative experience. I was aware of horror stories surrounding the response to rape victims and felt that if the police treated me poorly, dismissed me or did not believe me that I would not be able to cope with that on top of the trauma I was already experiencing. I did not want my feelings of shame and humiliation to be reinforced or repeated in my dealings with the police. My family however strongly encouraged me to report it, especially my dad who said things had changed greatly in police culture. Since reporting, I can say my initial expectations have been completely debunked. Throughout the process, although it has been very difficult to the extent of repeatedly re-traumatising me, the police have treated me with courtesy, respect and dignity. They believed my story and repeatedly assured me that this was a serious crime and would be taken seriously. Everything they have done since has confirmed this statement… I felt confident about the police process and this confidence was completely unexpected. I am now very glad that I chose to report to police and would now strongly encourage other victims to do so, also (SR 233).

Echoing similar sentiments about the unexpected positive response from police were these two survey responses:

> I had never imagined how empathetic and supportive the police could be, nor how informed, nor how empowered they could make me feel. I have had a lot of councilling [sic] over the years (casa etc) but found that initial contact with the female police officer who specialised in this area was the most helpful and healing for me (SR 220).

> I didn't report the incidents immediately as I thought the police may not believe me or may blame me for what happened. When I finally reported it, the opposite was true - all the police I spoke to seemed to believe me straight away, they were very supportive and considerate of me and my emotions. Making a statement was easier than I thought - I had to come back several times but it was fine, I just talked through what happened, occasionally the police officer asked questions and everything flowed smoothly. Since making this statement I have a high opinion of police officers and I know I can count on them if anything happens in the future and they will believe me, help me and support me. I feel like they are on my side (SR 238).

Survey data showed though that those who reported more positive experiences with police were often those reporting an offence by a stranger or person not related to or intimately known to them (see also ss. 3.3.1, 3.3.2, 5.1 and 6.4). Notwithstanding this point, these examples of positive responses from police had a powerful impact on multiple levels for those reporting. For some it enabled them, perhaps for the first time, to have someone sanction the criminality of the conduct, thereby reinforcing the victim/survivor's

blamelessness; reducing levels of shame and embarrassment and giving back a profound sense of self-worth and dignity that had often been stripped away over the years.

Police countering family negation. To their credit, some police, upon realising the fear some victim/survivors had with regard to advising their families of the report, took the initiative to go and speak to the family members in question. In a couple of cases this occurred in rural locales and was due largely because of the smaller size of the community which can be both a plus and a negative in terms of community knowledge and friendships. In one particular case, upon learning of the victim/survivors fears that her father may react badly to the news of both the sexual assault by a member of the community and that the daughter had reported the offender, the police officer attended the family home and requested a 'quiet word' separately with the father. The interviewee in this case found this of enormous benefit not just to her but her family generally as she found that her father handled the news much better and realised the importance of supporting both the daughter and the police in their investigation and not doing anything that might hamper police efforts (IIT 11).

In a similar scenario a victim/survivor feared telling her parents that she had reported the sexual offence to police because of their opposition to her reporting the offence. Upon advising her parents that she had been in touch with police her parents became "angry" and reinforced very strongly their view that the matter should not be reported, but dealt with privately within the family. However, upon learning of this dilemma the survivor reports that the police officer involved in the case met with and "encouraged" the survivor's mother to be "supportive" of the daughter and her decision to come forward and make a report to police (SR 177). This action secured much needed family support for the victim which was of paramount importance to her – as it is for all victim/survivors but sadly often lacking.

Of interest also were comments from participants who were *surprised* and *relieved* to receive a positive response to police based on their preconceived knowledge and fear that police may not believe them or may be dismissive of them when they sought to report. Alternatively, there were many who experienced a negative response when they sought police contact and as such it highlights the importance of the first response victim/survivors receive from police as it can either make or break the courageous decision made to contact police.

3.4.4 Negative police responses

Many felt glad they had reported to police, even in cases where their experiences of approaching police had been a negative one (SRs 143, 165, 201, 231, 235, 247; IITs 23, 29, 33, 36, 37, 39, 40; FGIT 51 participants 2 and 5). That said, many of these individuals were sad, angry and even distressed by the poor response they received from police at the time, but still believed that their actions in seeking to report was the right thing to do despite the negative response. Many believe they had succeeded in at least ensuring that something was noted with police and that other 'good' police would somehow utilise this information should the situation arise.

Betrayal of trust and non-reporting. But for just as many, this was not the case at all. A negative response from police at the time of making a report resulted in many failing to go through with the act of reporting and others feeling a deep sense of betrayal of trust by police resulting in feelings that they would never again trust police or seek their assistance in future.

> I only regret [reporting] because I never thought I would feel like the one on trial or that the detective handling the case would be so incompetent and try to make light of it telling me I was young and can make a new start as though I could forget it overnight… The detective handling my case treated my mother and I like shit. He didn't care, didn't keep in contact. We had to keep chasing him up and he thought we were a nuisance. I was suicidal and he made comments to my mother basically saying I was mad and wouldn't have credibility in front of a jury. My father is a wealthy professional and the police seemed to believe him over me and my mother… (SR 18).

> I regret ever having made a police report because it has made me feel more angry and powerless to get justice. Because my case is historical (age 3 onwards) the police will not prosecute the offender due to lack of evidence. I have just become another statistic with my life in ruins and that monster gets away with it. I have a life sentence! (SR 36).

> Police just didn't care - they were ignorant of my situation/feelings/rights. They did nothing due to sexism and because it was my husband they made it clear I had wasted their time! I now view police very negatively and do not trust them or believe they respect women or rape in marriage. And when others found out about what happened to me they judged me like it was my fault. I trusted police to go to them and they betrayed that trust and the respect I had for them (SR 88).

> The initial contact with police was traumatic due to their blasé attitude... I loathed the initial two policemen but have great respect for the officer who investigated the incidents. It is a pity that I was only treated well by ensuing officers. I felt like retracting my report when faced with the original two officers who seemed to me to be fatigued and not in the least bit interested in the events. Ironically, the first two officers were meant to be 'specialists' in the field of sexual assault… I would not recommend to anyone to report it. The humiliation, trauma and pain of the assault was exacerbated by my dealings with the initial police. A good deal of my counselling has been taken up by my coming to terms with my dealings with the initial police officers (SR 98).

> [Police] have not been in contact with me since I went in and told them. I now believe it was a waste of time going in there and telling them! (SR 120).

> I have a mental impairment and were [sic] worried about going to police at first but my friend said I should. I told police I have a psychiatric illness and take medication

and they treated me as though everything I said was suss [sic] or that I gave consent or something. I could tell they did not believe me but I went ahead and nothing happened. They didn't charge him and I think the offender just told them I am mad because I am on medication. Police should show more respect (SR 144).

[I] just consider that the whole experience with the police was pointless & exhausting… my mother took me to the police station, I spoke with a "female" police officer who was not very sympathetic, had EXTREMELY poor interpersonal skills... she seemed to both my mother (who accompanied me) and myself to be blaming ME for getting drink-spiked, abducted and raped BECAUSE I WAS DRINKING ALCOHOL AND HAD BEEN TO A FEW DIFFERENT BARS/CLUBS that night...!! [original emphasis] (SR 147).

I was treated by Police as though I was a hassle - as though they had better things to do than listen to me. They told me they would contact me but never did (SR 156).

As with many situations in our communities, experiencing something first hand is often very different from perusing policy documents at election time! I had always believed it was an urban myth that police were [sic] uphold a judgemental attitude about sexual assault. The[then] Police Commissioner would have us believe that the force is progressive and fair and uncorrupted by personal beliefs, but unfortunately that is not the case… The sexual assault was demoralising and upsetting. The behaviour of the police was just disappointing (SR 173).

I feel bad that other people might be hurt because I can't go back and report. I don't trust them. I'm angry that the chance I had to report to police was so upsetting I will never even think of reporting again (SR 310).

My initial report to a [police officer] was entirely unsatisfactory. Although head of [a particular] SOCA Unit, [police officer] was cold, disrespectful and discouraging of my making a report. I was extremely distressed by the experience (SR 312).

The testimony of the following survivor reflects her sense of 'betrayal' by police for a range of reasons to do with their handling of her police report, which was motivated by her concern for her young nieces. But she remains firm in her conviction that reporting the offence was the correct step in ensuring that at the very least there was awareness amongst some of her family about the potential conduct of the offender.

Though I feel betrayed by the eventual way the police officer dealt with my statement and my case... I would still have taken the steps that I did because although I have now lost any place in my extended family, my integrity would not allow me to sell out the innocence and safety of my nieces in order to enjoy a position in a family... at the very least I have done something worthwhile for the future welfare of [nieces] and any future children [and] I cannot put a price on that (IIT 31).

It is important for police, the criminal justice system and the community as a whole to both appreciate the significant barriers and fears that women ignored in order to report, the personal costs many bore as a result and the potential sense of empowerment it gave victim/survivors, not to mention the potential intelligence gathering opportunity for police.

'Responsibility, sacrifice, report'. In essence, survivors in our study underwent a process of what Taylor[9] has termed 'responsibility, sacrifice, report' where victim/survivors adopt a sense of responsibility, most often for the welfare and protection of other known or unknown victims or potential future victims; and determine that regardless of their own fears or concerns, that they have a duty to sacrifice their own concerns for the greater good of others, thus leading to them making a report to police. The courage of women and men to report, despite it not serving their interests, their well-being and in some cases their own sense of safety, marks the pivotal importance placed on the responsibility many felt to report for the sake of other victims, known or unknown, current or in the future. Police need to be aware of the enormous sense of personal sacrifice and courage entailed in this type of reporting and the fact that for many the decision to report is fuelled almost exclusively by altruism and as such victim/survivors in this category may be very fragile and in need of additional care and sensitivity to their well-being.

CASA discouragement. It is also of interest that several victim/survivors reported that CASA counsellors had advised them against reporting from CASA counsellors on the basis that police were unlikely to either believe them or pursue the matter appropriately. In these instances it was as though counsellors were second guessing and anticipating the kind of negative police reactions they themselves are aware of as being levelled against victims by police. A number of police interviewed in strand one also commented that they were aware of CASA counsellors 'talking' victims out of reporting and believed it was based on counsellors having a negative and/or misinformed view of police. As commented on by Taylor and Gassner (2010) there is an inherent and real danger in applying 'downstream' reasoning in these respects.

3.4.5 Changes in perception of police pre- and post-contact with police

It was decided to analyse the survey data on respondents' views about their interaction with police for the years 2005-2010 inclusive and Pre 2005. This decision was based on several key factors that would provide a useful gauge for Victoria Police in respect to the Final Report (2004) of the Victorian Law Reform Commission's Inquiry into Sexual Offences. This Inquiry produced a discussion paper, preliminary report (2003) and Final Report (2004). The Lead Chief Investigator of this current study was a member of the Advisory Board for

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[9] Lead CI of the project Professor S. Caroline Taylor coined this term in 2010 based on the analysis of the given reasons, factors and dilemmas that motivated survivors to report a sexual offence against a background of seemingly in surmountable barriers and dilemmas and even where their personal safety and well-being may be jeopardised.

the duration of this inquiry, attending round table discussions hosted by the VLRC, contributing to the recommendations and dissemination of the report. The research team and Partner Investigator from Victoria Police agreed it was appropriate to consider this distinct timeframe as useful to Victoria Police policy and procedure development.

The online survey asked respondents who had contact with police a range of questions about their perception of the responses they received from police. Questions were linked to the *Police Code of Practice for Investigating Sexual Offences* such as police providing service information to victims and treating them with respect (questions 25-36). Respondents were also asked about police maintaining regular contact with victims post a report, which is a requirement in the Code (questions 40-42).

Respondents were asked about their attitude towards police *before deciding whether to report* (question 11) and *after contact* for those who did have contact with police (question 45). If their attitude did change respondents were further asked to comment on reasons for the change (question 46). With regard to changes in attitude to police pre- and post-contact the majority of survey respondents provided answers in the neutral to positive range in terms of their attitudes to police and this remained consistent for those who had contact with police.

Questions 25 through to 33 were based on a Likert-type Scale and focused on perceptions of victim/survivors of the initial response they received from police. Analysis sought to determine if there were any significant changes in attitudes of police responses pre-2005 and post-2005. For this purpose *t*-tests were employed with pre- and post-2005 data. Statistically significant differences were found pre- and post-2005 in two types of police response: "police showed concern about my safety" (pre-2005 M=2.92, post-2005 M=3.42), t (127) = 2.11, p<.05; and "police explained to me my choices about going further with my report" (pre-2005 M=3.05, post-2005 M=3.61), t (127) = 2.29, p<.05. From the surveyed victims' perceptions these findings suggest police improved with regard to asking about victim safety and providing information on reporting options. Similarly, a very highly statistically significant improvement was also found for question 36 which asked respondents "did police give you information about other support services you could contact?" (pre-2005 M=1.71, post-2005 M=2.35), t (127) = 4.1, p<.0005. This finding suggests that police improved very significantly on providing information to victims with regards to accessing other services.

In regard to changes in police attitude, data responses to questions 11 and 45 were linked to responses to questions 25 through to 36; and the latter were tested for inter-item internal consistency reliability using Cronbach's alpha. A high level of inter-item reliability was evidenced with an alpha of .90. Alpha ratings of .70 are generally considered to be reliable. The high reliability rating indicates that participants' responses were accurately measured and that participants took the survey seriously and did not answer in a random fashion. Internal consistency reliability tests are appropriate for attitudinal surveys, as they are able to establish at one testing if respondents are reading, understanding, and answering the questions in a consistent fashion. Test-retest reliability measures are not appropriate for measuring the reliability of constructs that may change over time, as it is impossible to

determine if variations in response are due to a non-reliable instrument, or due to a change in attitudes.

Among the most important findings were those relating to police practice in terms of frequency of police contact with victim/survivors post-report (question 40); the value of this communication as 'helpful' to victim/survivors (question 41); and 'confidence' to continue with reporting (question 42). In relation to regularity of police contact (question 40) the data shows a change in the regularity of police contact with victim/survivors post-reporting to police from 2005 onwards. In respect to these three questions, question 40 was written in a way that lower numbers meant more contact with police; whereas questions 41 and 42 were written so that higher numbers indicated police were more helpful and made victims feel more confident, respectively. Spearman's Rho was applied to the data set of these three questions. A statistically significant relationship was found between how often police contacted victim/survivors following the report and the victim/survivor's feelings that police contact was helpful and, more specifically, helped them feel confident to continue reporting. In terms of the questions put, the more frequent the police contact with victim/survivors, the more strongly they agreed that contact was helpful ($\rho = -.498$, $p <.0005$); and the more strongly they agreed that police contact helped them feel confident to continue with their report ($\rho = -.426$, $p <.0005$).

Value of regular, helpful police contact with victim/survivors. The importance of these findings are that they provide evidence-based support for the value of maintaining regular, helpful contact and highlights its efficacious impact on the confidence and willingness of victim/survivors to continue with a reported matter; to essentially stay the distance in what is most often a drawn out and extremely difficult emotional process. This has strong relevance in addressing issues of attrition and victim's withdrawing their reports post making a statement to police. This is also significant for police training as police have acknowledged that maintaining regular and helpful contact is an area in need of improvement. More importantly both victim/survivors and police in this study discussed the difficulties and problems of regular contact and its impact.

It is easy to see from the above correlational evidence that police contact is related to victim confidence. While the 'frequency' was largely confined to monthly or 3 monthly contact and while victims highlighted the importance of contact, many still commented in the survey and in interviews that they would like the contact to be more regular. Moreover, a number of victim/survivors expressed their annoyance, disappointment and even distress at the poor level of police contact post-report with many commenting that they were often the ones chasing police up with phone calls and leaving messages and waiting weeks or even months before police got back to them. As a consequence, some discontinued with their report on the basis that communication was either so poor, unhelpful, or both, they simply gave up. For some, the fractured, poor and unhelpful contact led them to feel anxious, or express annoyance or a reluctance to engage with the police officer in question, which sometimes led police to accuse victims of being uncooperative or disinterested, or worse, to accuse them of lying or making a false report based on their apparent disinterest in police eventually

returning their calls or initiating contact months down the track (examples can be found in IITs 23, 24, 29). Many linked poor communication with unprofessionalism and rudeness of police as indicating that they simply did not care about a victim's welfare or the case in question (examples include SRs 248 and 259 and IITs 23, 29)

Many of the above examples from victim/survivors related to recent reports to police in both SOCA and SOCIT units. A specific case example of the dynamics of poor communication and its deleterious effects on reporting confidence is instructive in this respect.

CASE STUDY ONE: The impact of irregular, unhelpful police contact

One interviewee, a young woman aged only 19 with no family support reported the sexual offence to a SOCIT detective and since that time has found the process exhausting and difficult due largely to the poor communication and perceived lack of understanding of the officer involved. The victim/survivor has a restraining order against the offender who was her father. Her family lived very near the police station where the SOCIT office was located and since reporting the victim had moved quite a distance away. The detective insisted the young woman in this case travel to the SOCIT office for meetings, despite the fact she had no vehicle and transport was difficult to arrange. She was also very fearful of traveling to the area given the fact her parents lived only a couple of streets away, but the detective was adamant that his work load did not enable him to travel the distance to meet with her. Mustering all her emotional energy the young woman travelled to the SOCIT office for the meeting only to be advised the detective had been called out and would not be available for the rest of the day. This caused the young woman enormous distress and she found police unable to understand the extent to which this had upset her.

This young woman advised that she had to initiate much of the ongoing contact and was often left waiting months for a return phone call:

> I rang him in January and it's what? now June and I'm still waiting for him to ring me back… it's so annoying… and then when he does ring… I'd say well this has happened and this has happened, and he'd say, well why haven't you told me? [and I'd say] because you haven't returned my phone calls (IIT 24).

This lack of contact and thus lack of confidence the survivor has in the officer and the process has been detrimental to the building of trust and understanding. The young woman in this case found herself accused of 'lying' to the detective when he rang her and requested detailed information over the phone relating to one of the areas in her statement. The young woman had a lot going on in her life at that time and became confused with what she was being asked and struggled to recall some of the details given they occurred nearly 8 years before, prompting the detective to accuse her of being difficult.

> We had this conversation over the phone one day where he wanted me to give him details about something to do with what happened at primary school and I just couldn't remember. It's not that I didn't want to give it to him, and he just got very annoyed with me and started saying that if I can't answer my questions and you're withholding information then obviously you don't want this to go forward and why are you lying about all of these things and did you make it all up? Just tell me now it will be easier for you further down the track. I said, look, I have been going through this for 2 years with you and at first you believe me, now you are telling me that that I have made it all up… anyway I'm just not very happy with him (IIT 24).

Perhaps the most distressing break-down in communication for this young woman occurred when the case was listed for trial. Advised of the trial date in a letter the survivor spoke to the detective the week before about the trial. With no family support and few friends she was extremely apprehensive about attending court, knowing that she would likely come into visual contact at least with family members. On the day of the trial she arrived at court and waited for several hours alone and very afraid. Fearful of why she could not see or contact the detective she became extremely distressed and was assisted by court staff who then advised her that the case had been adjourned for 9 months. This young woman had steeled herself for the commencement of the trial and had not been advised by police that the matter had been adjourned off. Phone calls to the detective went unanswered for more than a week and the net effect caused the survivor to suffer a mental breakdown, requiring her to be hospitalized and put under psychiatric care for 6 weeks. Her fear now is that the defence barrister will find out about her breakdown and use this against her in court in an attempt to discredit her character. At the time of the interview this young woman explained that while she was determined to pursue justice for herself, she felt extremely let down by the police.

> **RECOMMENDATION:** The Victoria Police specialist sexual assault training course should highlight the value of maintaining regular, helpful contact and its efficacious impact on the confidence and willingness of victim/survivors to continue with a reported matter.
>
> Implementation of this recommendation goes to addressing issues of attrition and victim's withdrawing their reports post making a statement to police. Accordingly its implementation would positively impact the central issues raised by the VLRC (2004) and Ombudsman (2006).

RECOMMENDATION: All sworn police officers in the State of Victoria should be required to read and discuss at unit/team level the foregoing materials on why victim/survivors of sexual assault *do report* the crime to police and their lived experience of doing so. These materials should also be made available and utilized in the SOCIT/VARE specialized sexual assault training course, and there should be an emphasis on the vital role of police in validation of victim/survivors in their positive responses to complaints of sexual assault. It is further recommended that these materials be available against the background of the research literature cited and discussed briefly in the Introduction and detailed further in later chapters of this report.

Implementing this recommendation will serve to further facilitate a widespread appreciation among police officers of the problems and dilemmas faced by sexual assault victims and, importantly, the factors that motivate and facilitate reporting and police responses as detailed in sections 3.4.1 to 3.4.4 inclusive, as well as the additional benefits cited in relation to non-reporting above (s. 3.3.5).

3.5 Other victim/survivor commentaries and recommendations

In addition to the foregoing, there were a number of specific observations and recommendations made by victim/survivors in interviews and the on-line survey that are worth noting.

It is of particular interest that victim/survivors in this research themselves generally proffered four recommendations to address sexual assault reporting and to enhance the likelihood of victim/survivors continuing on after initially making a report to police.

At the end of interviews, victim/survivors were asked for recommendations they thought would improve the police response to sexual violence. PJO researchers considered this an important area of investigation because those who are most affected by both the crime and the array of criminal justice responses they encounter, ought rightly to have their views taken into consideration when seeking ways to both reform and improve the processes they must endure. Interviewees gave thoughtful and insightful consideration to this question with many expressing gratitude that their opinions and views were sought. Four themes dominated the views on recommendations from across the 64 interviewee sample. They are as follows.

The need for an independent advocate. Interviewees spoke of the need to have a person who was not a police officer and not a CASA counsellor, who could advocate for their needs and help them to access the varied services and supports they needed; a person who could liaise on their behalf with police and, where necessary, prosecutors, to ensure their rights and welfare were supported from the moment of the assault through to the final outcome. Even victim/survivors who had been through SOCIT where they had one officer as contact point

for the whole case thought a dedicated, independent advocacy person would be worthwhile. They saw this as especially needed as detectives were often busy in investigation and with other cases making contact more difficult. Many victims were aware of an officer's work load and did not want to worry the officer as a result, an attitude reminiscent of their self-sacrificing approach in reporting even when it seemed futile in terms of an eventual criminal conviction.

In many ways what they wanted already exists in the UK – that of the Independent Sexual Violence Advocate/Advisor (ISVA). The PJO Project Leader has undertaken site visits across the UK to examine this role more closely and whilst a visiting scholar at King's College, London in 2011 undertook site visits to various police, prosecution and sexual assault services and met with senior police, prosecutors, sexual assault services. These visits included the much lauded St Mary's in Liverpool/Manchester, as well as ISVAs and ISVA educators/trainers. A recent review of the police and criminal justice response to sexual violence in the UK, conducted by Baroness Stern, concluded amongst other findings, that the ISVA role was the most successful and important reform to date in terms of improving both victim confidence in the criminal justice system, and the police response to victims (Stern, 2010).

Many interviewees were exhausted by the process of seeking resources and assistance to help them recover from the abuse. This included persons who, as a result of the crime and/or disclosing it to family members, found themselves homeless or having to leave their community or job or being harassed or financially disadvantaged and had little recourse and access to services; were unaware of their rights and too distressed or lacking in confidence to be able to advocate for themselves and negotiate government services. This often exacerbated the trauma and little wonder many victims are unable to sustain or withstand the legal process as this was another area of burden and trauma to deal with. Advocates in the UK were in a position to assess the immediate and longer term needs of victim/survivors and develop and action the services and supports needed and this has been shown to be of greater assistance both to recovery and for victim/survivors to stay the distance with the police process that is occurring concurrently. This also supports police because the victim is being supported in ways that strengthen them as the key witness for any future proceedings. This has been a finding from the UK ISVA model (Stern Review of Rape Reporting, 2010).

Interviewees who made formal reports to police and experienced the police process spoke of their awareness that police were busy professionals and they appreciated that police were not always available. They were also adamant that they were not comfortable to speak to police about some of the specific fears or needs they had and would like to have someone outside of police they could liaise with, but who could be a conduit to communicating with police where appropriate. Many believed that an independent advocate would mean the victim could communicate with one person and have that person advocate on their behalf and also ensure two way communications with police and prosecutors that did not require the victim to be the one initiating contact or chasing up police for updates or prosecutors for that matter. In addition, given the problem of police not maintaining the regular contact victims would like,

an advocate is in a better position to undertake this role in a professional capacity and it has benefits to police also in terms of allowing them to focus on the investigation knowing the welfare needs of the victim are being taken care of and that they have a liaison person to assist them with their communication to the victim.

While Victoria has CASA services this is not the same as an independent advocate. Counsellors have a specific role that ought not to be blurred by taking on the role of advocating for a victim which requires advice and decisions that are outside the boundaries of counselling and may indeed have a conflict of interest with a counselling role. That many interviewees were aware of this point lends itself to the desire to have an independent advocate who is not a police officer and not a counsellor.

RECOMMENDATION: Victoria Police should examine the ISVA model and seek discussions with other interested parties in the area of sexual assault support services in Victoria with a view to supporting the development of an Independent Sexual Assault Victim/Survivors Advocate.

Implementing this recommendation will strengthen victim/survivors' capacities to report sexual assault crime by enhancing their confidence thereby helping to address attrition rates of this crime.

Historical reports, standard brochures and active follow-up. Many interviewees discussed how they felt pressured to make a decision at the time of speaking to police as to whether or not they would report with many being aware they were actively being talked out of reporting, and felt they needed to be quite determined to make a report against what they felt was a lack of support or empathy from police regarding the significance of the factors that led them to police in the first instance. This area of recommendation has two elements as the first relates to historical offences and the second to offences generally.

Historical reports. Interviewees felt that police needed to better understand the trauma and emotional state of victims, even those where the offence is historical, at the time of reporting. This is an area the Project Leader has addressed in SOCIT/VARE lectures at the Victoria Police Academy but it is clear there needs to be a specific and sustained focus on this given the dominance of this thread amongst PJO interviewees. Many believed that police viewed a report of historical offence as a type of 'johny-come-lately' decision, that is, a decision made to report a 'dated' incident with no real emotional urgency or fears held by the victim as there may be for recent reports. This issue was identified by interviewees in terms of police on occasions dissuading victim/survivors against reporting historical offences and victim/survivors both experiencing this response from police and being cognisant that police were actively dissuading them from reporting and/or showing no real interest in the historical offence. It was clear from interviewees' comments that this had a detrimental impact for them and their recovery but also for justice as police were voiding any opportunity to gather

intelligence on sexual crimes that could very well involve multiple victims. Victim reports of historical offences have led to police uncovering multiple victims of serious and sustained sexual abuse, as demonstrated in Case Study Two reported below (s. 4.5.2). Further, the courts can and do convict offenders of historical sexual offences.

Standard written handout of information for victims and active follow-up. Interviewees also considered that police needed a better understanding that the presence of trauma and fear, coupled with the novel experience of speaking to police about the sexual crime, meant that many victims could not always comprehend what was being said to them in the first instance. They consequently thought there was a need for more information in places easier to find for victims to seek advice about reporting before and after reporting. Further, many interviewees who did not report after initial contact with police believed their actions were influenced by what they perceived as a lack of police interest at the time and would have liked someone to follow up with them so that they could revisit their decision a few days later. In sum, many interviewees said they would like police to provide clearer information that was not weighted with their own personal views; and for police to ensure follow up contact with victims after the initial meeting to find out the wishes of the victim with regards to reporting.

Strand one research showed that some police were cognisant of these aspects of victim reporting/non-reporting and made sterling efforts to ensure victims could go away with clear and concise information with the opportunity to follow up afterwards, thereby ensuring they left their meeting with police knowing the door to reporting remained open, so to speak. In this regard, one police unit had developed their own written brochure they gave to victims because of their understanding that many were not able to process and make informed decisions at the first meeting when they were hearing a lot of information that might not always be digested at the first meeting (see s. 4.5.1).

> **RECOMMENDATION:** Victoria Police should require all first responders to routinely provide victim/survivors with a Plain English, easy-to-read standard brochure of comprehensive information that includes an undertaking of follow-up by specialist sexual assault police of all initial reports of sexual assault regardless of alleged date of offence.

Training. Interviewees said police need specific training to remove stereotypes around certain types of sexual offences and the context in which they occurred. Many felt that police still judged victims and blamed them for certain types of offences occurring – such as those where alcohol or drugs were present or where they knew the offender. Others felt that police also disbelieved certain victims such as those reporting boyfriends, partners or other offenders known to them. Many victims of historical offences believed that police viewed them as a 'second-class' victim – as a victim who waited a long time to come forward and so they had probably moved on from the abuse when in fact they remained haunted by and deeply impacted by the crimes. They were also either concerned or indeed sure the offender

had offended against others either in their family group or community. Many interviewees believed that police continued to view sexual offences as crimes perpetrated using violence or physical force and that the victim had little or no prior contact with the offender and that if this was the police view, then it would be impossible to have the community change their attitudes.

RECOMMENDATION: Victoria Police training programs should refer to and emphasise the PJO findings where victim/survivors have indicated their concerns about rape myths and stereotypes such as victims being at fault for being in situations involving alcohol/drugs, date rapes, rape-in-marriage, the need for physical evidence/resistance by victims, and the unimportance of historical rape.

Implementing this recommendation with specific reference to the recent PJO research evidence will strengthen the existing coverage of the SOCIT/VARE training course in these regards.

Community and victim awareness of what constitutes sexual assault. Many interviewees were concerned at the lack of community awareness around sexual violence as a crime with an emphasis on addressing stereotypes around sexual violence. Linked to this was a general lack of information about where to get help and knowledge that any sexual offence could be reported at any time and there was no statute of limitations for reporting a sexual offence. There were a plethora of examples in the PJO online survey and in interviews of victim/survivors being unaware that certain offences, and offences committed by certain persons were a crime and would be taken seriously by police as a crime.

RECOMMENDATION: Victoria Police should undertake an advertising campaign designed to raise awareness in the broader community about the nature of sexual assault and to dispel myths and stereotypes surrounding this crime. This campaign should include posters and other information developed and located prominently in public facilities with a clear message that *all* sexual offences can be reported at any time, that there is no statute of limitations to protect perpetrators, and that *any* sexual assault is a crime, regardless of who is the perpetrator.

Implementing this recommendation will serve to help address the problem of the dark figure of sexual assault, increase reporting and reduce attrition from the criminal justice system.

3.6 Summary and recommendations

The symbolic nature of women's reporting of sexual assault has not been explicitly identified in previous research (Taylor & Norma, 2011). As a concept it allows us to understand something of the resilience and capacities demonstrated by victim/survivors to defy seemingly insurmountable barriers and dilemmas to report; as well as the courage to undertake this course of action with the prior knowledge that they may bear significant social loss/impact. A strong sense of 'civic duty'; 'responsibility' and desire to 'protect' others and community was a powerful thematic finding in the PJO study. Given the explicit fears, dilemmas, emotional suffering and lack of appropriate support it appears that reporting is counterintuitive; however survivors had a rational basis for seeking to report that was driven largely by altruism. These findings highlight not only a new theoretical framework for understanding factors that motivated and facilitated reporting for some victim/survivors, but they remind us further of the critical importance of an appropriate first response by police, given the enormity of the personal sacrifice and accompanying fears these survivors were cognizant of at the time of seeking contact with police with a view to making a report.

It was not surprising, therefore, that although personal "empowerment," validation, and "closure" are factors that certainly motivate some women to approach police, researchers did not find these as predominating factors. Even if these motivations are strong in women's decisions to report they are significantly qualified by the heavy personal cost that survivors bear in going ahead with reporting in terms of emotional, financial and relational hardship. For most survivors, these costs outweigh any potential personally "empowering" benefits they might derive from approaching police. Rather, for women who come forward, considerations relating to other people—and not themselves—often drive them to disregard personal consequences and act in a self-sacrificing way. The extent of hardship observed to be borne by victim/survivors as a result of their decision to report sexual assault to police illustrates the depth of the 'symbolic protest' of sexual assault crime survivors wage on a personal and individual basis.

As the data and findings in this chapter reveal, victim/survivors in this study who reported to police did not necessarily find a way to avoid the disbelief, ostracism and reprisals that survivors generally sustain when they disclose, seek to report or do report sexual assault to police. Many reported to police often in the absence of family support and also in the face of community hostility and rejection. Many police are cognizant of the extraordinary difficulty faced by victims with regard to reporting, though this recognition was not necessarily conveyed in terms of appropriate responses, as detailed by many of those who took part in this research. The next chapter which focuses on data gathered from police, also highlights that police can be found wanting in certain areas and at certain times, thus lending support to the experiences articulated by our interviewees and respondents.

A striking feature in current research findings is the impact of non-reporting on the life-long emotional wellbeing of victim/survivors. More than 60% of respondents in this study 'regretted' not reporting to police. The vast majority identified poor social adjustment and

ongoing health issues as factors they attributed from their inability to report. More poignantly were the reasons for non-reporting with barriers such as family pressure; feelings of shame; fear of, or lack of confidence in police and the criminal justice process; and fear of being disbelieved predominating.

Highlighting the excruciatingly difficult decision to report to police, just over 30% of respondents in the present study who *reported* the sexual offence to police regretted their decision to report. When asked why they regretted the decision to report the offence to police respondents fell into two categories: those who experienced negative responses from police; and those who were then subjected to negative reactions and consequences from family, friends and community post reporting. A closer analysis of the negative responses from police and others will be discussed further in Chapter Four.

Notably, victim/survivors themselves proffered recommendations to enhance sexual assault reporting both initially and subsequent to first contact with police. These recommendations were in terms of an independent advocate to work with victims; more information in places easier to find for victims who needed advice; and dispelling rape myths by utilizing PJO research materials and findings in Victoria Police training course and through community education programs. With these victim/survivor thoughts as to what is needed, the following are the key recommendations arising from the data and analysis presented in this chapter.

> **RECOMMENDATION:** Victoria Police might wish to consider actively supporting research into linkages between offending duration, the victim/offender constellation, MISA versus SISA and affective responses of victim/survivors of sexual assault. (s. 3.2.5)

> **RECOMMENDATION:** Victoria Police should undertake a publicity campaign to create awareness through the news-media, as well as CASA and similar agencies with information pamphlets, that sexual assault is a crime regardless of who is the alleged offender, that there is no time limit for reporting, that victim/survivors are never to blame for an offender's behaviour, and that strangers being the only rapists and physical injury being necessary to establish the crime are popular myths. (s. 3.3.1)

RECOMMENDATION: All sworn police officers in the State of Victoria should be required to read and discuss at unit/team level the foregoing materials on why victim/survivors of sexual assault *do not report* the crime to police and their lived experience of not doing so. These materials should also be made available and utilized in the SOCIT/VARE specialized sexual assault training course. It is further recommended that these materials be available against the background of the research literature cited and discussed briefly in the Introduction and detailed further in later chapters of this report. (s. 3.3.5)

RECOMMENDATION: All sworn police officers in the State of Victoria should be required to read and discuss at unit/team level the foregoing materials on why victim/survivors of sexual assault *do report* the crime to police and their lived experience of doing so. These materials should also be made available and utilized in the SOCIT/VARE specialized sexual assault training course. It is further recommended that these materials be available against the background of the research literature cited and discussed briefly in the Introduction and detailed further in later chapters of this report. (S. 3.4.5)

RECOMMENDATION: The Victoria Police specialist sexual assault training course should highlight the value of SOCIT police maintaining regular, helpful contact and its efficacious impact on the confidence and willingness of victim/survivors to continue with a reported matter. (s. 3.4.5)

RECOMMENDATION: Victoria Police should require all first responders to routinely provide victim/survivors with a Plain English, easy-to-read standard brochure of comprehensive information that includes an undertaking of follow-up by specialist sexual assault police of all initial reports of sexual assault regardless of alleged date of offence. (s. 3.5)

RECOMMENDATION: Victoria Police should examine the ISVA model and seek discussions with other interested parties in the area of sexual assault support services in Victoria with a view to supporting the development of an Independent Sexual Assault Victim/Survivors Advocate. (s. 3.5)

RECOMMENDATION: Victoria Police training programs should refer to and emphasise the PJO findings where victim/survivors have indicated their concerns about rape myths and stereotypes such as victims being at fault for being in situations involving alcohol/drugs, date rapes, rape-in-marriage, the need for physical evidence/resistance by victims, and the unimportance of historical rape. (s. 3.5)

RECOMMENDATION: Victoria Police should undertake an advertising campaign designed to raise awareness in the broader community about the nature of sexual assault and to dispel myths and stereotypes surrounding this crime. This campaign should include posters and other information developed and located prominently in public facilities with a clear message that *all* sexual offences can be reported at any time, that there is no statute of limitations to protect perpetrators, and that *any* sexual assault is a crime, regardless of who is the perpetrator. (s. 3.5)

4.0 Police perceptions of victim reporting and non-reporting

4.1 Introduction and overview of sample

As detailed in the methodology chapter the research team interviewed more than 60 police members from specialist sexual offence units located across Victoria, including both SOCAUs and SOCITs during the transition period to the new SOCIT arrangements. While police in the SOCA unit were first responders and took victim statements but did not undertake the criminal investigation and laying of charges, they, like the current SOCIT police, were and remain gatekeepers to victim access of the criminal justice system. Both SOCAU and SOCIT police, with a number of police from the latter group being former SOCAU police and now SOCIT detectives, are the specialist police who respond to victims seeking information or to make a formal report. As such they have the power to determine whether a case is recorded in the first instance and in providing advice to the victim/survivor about their case.

PJO researchers were impressed overall with the willingness of police to speak openly and frankly with their experiences and opinions. During some interviews police disagreed among themselves about various opinions expressed and enabled PJO researchers to gather important insights about institutional tensions and attitudes that police hold and grapple with. In addition, police generally expressed compassion and concern for the victims of sexual violence they encounter in their daily work and it is acknowledged that they deal with difficult and often complex cases. Notwithstanding this, the interviews revealed that the majority of police perceived and categorised victims in ways that influenced the police response and often the outcome of both the initial contact/report and investigation. These factors involved what has been identified in the literature as a tendency for police to place victims into categories of 'ideal' and 'non-ideal' (e.g., Jordan, 2008; Reiner, 2010; Segrave & Wilson, 2011; Spears & Spohn, 1996) following the conceptualisation first framed and utilised by Nils Christie (1986). These factors are discussed both in this chapter and in the chapter on police decision-making.

The next section of this chapter reports police beliefs about barriers preventing victim/survivors reporting sexual assault to police. The third section is a discussion of findings on police beliefs about aspects of sexual offences that influence police decision-making. A fourth section presents findings on the non-recording of sexual offence crimes. This is followed by police perspectives on the recent Victoria Police initiatives to improve the police response to sexual assault complaints. A final section provides a brief concluding comment with recommendations.

4.2 Police beliefs about barriers that prevent reporting

With regard to barriers that may prevent or make reporting difficult police members recognised institutional, social and cultural barriers that contribute to a fear of reporting. Institutional barriers noted by police focussed on victims' lack of confidence in the legal system. While some cultural groups have a heightened fear of police as authority figures (Bartels, 2011), police interviewees reported that a lack of confidence in police as an organisation is not isolated to specific cultural groups. Some police also considered conservative cultures would impact negatively on the capacity for women to report rape because of the strict codes pertaining to women's sexual chastity and social behaviour. Social barriers were consistently identified as those relating to an emotional nexus derived either from the victim themselves (e.g., feelings of embarrassment, stigma or shame, not wanting others to find out, being affected by alcohol or drugs at the time) or external social barriers such as pressure from family, friends or perpetrator against reporting or fear of family reactions and lack of family support to make a report.

Importance of family factors. Police were generally aware that family can play a significant role in either supporting or inhibiting the willingness and capacity of a victim to report a sexual offence. This included an awareness of victims feeling responsible for protecting either the reputation of the family, keeping the family unit intact or protecting certain members of the family.

> How they are going to be perceived by the family. Keeping the family name or my family can't let this out because [it's] unfair to them. There is that issue. Then the other issues kick in once they speak to us and they know the process it's like oh god I don't want to go through that (PFGT 6, officer 2).

> Family perceptions. [Victims telling us] I have waited this long to [report] because I wanted mum to die [first] because I didn't want her to be upset by finding out this had happened, or I want to report this but I want to wait for grandma and grandpa to die… so many times it's actually the people sitting there agonizing about [it]… they don't want to make it official because [they] are really worried about, say if it's a particular family member and it's the offender and they are worried about how mum will cope (RFG 2, officer 2).

These comments are clearly reminiscent of the victim narratives reported earlier (ss. 3.2.4 and 3.3.2-3.3.4 inclusive).

Some police felt this was more an issue for victims either from culturally diverse backgrounds or rural locales. Police in one of our focus groups (PFGT 5) discussed a case that they, as an office, had been trying to manage in terms of supporting and assisting both the victim and her mother.

> Officer 1: I still have one victim that's trying to keep the facts from her father because he is Turkish, she is [a teenager]… and the offender [is] 28 and the father, her father still doesn't know the exact extent of the sexual activity because the mother and girl are too scared to tell [him]… he was fairly wild when he first came in [to police unit] not knowing the extent of it. So we are still trying to work around [him] trying not to tell him. [victim and mother] are scared to death.

> Officer 2: [you should] send him away for a weekend [when the case is on] so he is not around.

> Officer 3: [No,] sedate him. That's the best idea… (laughter from the other officers).

Despite the humor, these officers were sincere and serious in their efforts to ensure this particular case was managed successfully to court and to try and protect the fears of the victim and her mother and to not lose the case due to their valid fears.

Two other officers discussed the family related fears of victims they often encountered in their work with victims and how they often encouraged the victim to discuss their fears with them. One officer said this meant she could work through scenarios and give advice about how they might broach or frame the discussion and had previously offered to speak to family members, with the permission of the victim, to help secure better family support or discuss the concerns or fears held by family members. These officers believed this was often a crucial issue for police working in rural areas because barriers and fears were often heightened in smaller communities (RFG 2, officer 1). These examples highlight police officers being very proactive in their engagement with victims and seeking to build trust and maintain the victim's connection to, and commitment to reporting. It is also demonstrable of police with a great deal of empathy, passion and commitment in their work.

Unhelpful police views. Police generally, especially those in metropolitan locales, did not seem to appreciate the extent or gravity of some barriers with many believing that ultimately a victim retained the prerogative power to report. The following is a telling example.

> I think a lot of the girls watch too much TV and won't report because they don't want that much involvement in their lives and they would rather suffer the trauma than have the cops know (RFGT 2).

Several other police also blamed TV shows but with the view that it meant victims either had an unrealistic expectation of how quickly police could get results and progress the matter to court. Officers felt this television stylised version of crime created difficulties for victims and for police because there was a clash between perception and reality in terms of the process and time duration involved in the criminal justice process (RFG 1 and PFGTs 5, 6 & 7).

PJO researchers were pleased that police consistently identified a range of factors that may well impede or prevent reporting. However mixed with this awareness were police who held a less than charitable view of victims who grappled with family pressures and/or reporting abuse that occurred within a family setting or by someone intimately known to them. Some examples are given below in relation to 'options talk' (s. 4.5). For instance, some police considered victims reporting historical offences involving family members to be 'time wasters' and the reports as 'wasting' police and court resources. These views were based largely on beliefs that such cases were historical and thus less urgent or important; that the cases were complex and time consuming to investigate with a higher likelihood of victims withdrawing complaints, or refusing to formalise them for investigation; and of those that do proceed to court, police consider a conviction unlikely. Some police were aware of the family 'fallout' instigated post a police report which in their view made these types of cases extremely difficult for the victim and for the investigating police.

> (T)here is something about these cases that they are not going through with it… we have so many reports coming in… [but they] don't want to go through the legal system… the majority of those would be the offenders are known to them so you have a high degree of already personal involvement between your victim and your suspect… it is a component of knowing the suspect and what it then, how their life is then going to proceed post the report. So that is a definite aspect [of complaints withdrawn] (RFG 2, officer 1).

Some police officers were sympathetic to this conundrum faced by so many victims, however there were other officers who viewed reports of historical offences, especially those involving offences that occurred within a family setting as *wasting* of police resources and of matters mired in family politics that made them somewhat unpalatable cases to get involved with, hence the practice of some police talking victims out of making a formal report (see 'options talk' in s. 4.5).

Alternative police strategies concerning historical reports. Other police jurisdictions such as Queensland Police have recognized the need for police specialization to undertake victim statements and investigations into historical offences. Queensland Police have a specialized unit within the sexual offences unit that focus solely on historical offences. Officers working in this unit are carefully selected for their personal and professional characteristics and skills required to undertake police work of this nature. Police in this unit possess the sensitivity required by police and the specific skills and patience to undertake the often painstaking process of assembling a case involving the complex investigation and gathering of evidence that may be years and even decades old. The Lead Investigator of the PJO project has visited this unit twice and has been impressed with the level of commitment and motivation of staff but also their profound understanding of, and patience with, the factors that inhibit victim disclosure for years and often decades and their capacity to conduct sound investigations and process them successfully through the courts.

> **RECOMMENDATION:** Victoria Police should consider the establishment of a specialist historical sexual offences investigation unit to ensure the selection of police suitably qualified and trained to respond appropriately to reports of historical offences. Particular attention should be paid to recruitment criteria focused on attitudinal and aptitude qualities of applicants, with the use of validated psychological tests and interviewing panel techniques in the selection process.
>
> Implementation of this recommendation is strongly indicated from PJO data and findings given the extent to which sexual offence reports are historical in nature and involve a perpetrator known or related to the victim. This would be a positive response and would allow Victoria Police to identify and select police who possess an aptitude for this complex and difficult area of police investigation and Brief preparation.

Rigors of the legal process. A number of police expressed a view that victims did not understand the rigors of legal process and were put off reporting when they realised the extent of the information and the process entailed in making a report.

> A lot of people don't want to go to court; a lot don't want to be out in public, they don't want to sit through 4-5 hours of taking statement and have to give it all in gruesome detail. I think a lot of people look at TV and on TV they say I was raped for 5 years and it was really bad and there are tears and that's the end of the show. Whereas we want them to tell every single time in explicit detail it's not particularized it's no use to us and all that sort of thing so I think that there is no concept oh gee we are really going to have to get into nitty gritty details of I put my hand here he did this I did this he did that and so on. I don't think there is an understanding that that's the amount of detail we need. So I think that's a barrier (PFGT 6, officer 1).

Rural locales emphasis. Police in rural locales were more apt to highlight social barriers to reporting. This is not surprising given the extent to which social factors often mediate reporting decisions in smaller communities where issues of confidentiality, anonymity and family, offender or community reprisal may be heightened and more damaging to the private and public lives of victims and those who support them (Taylor, 2003-2004). In smaller communities victims could also encounter a 'community backlash' or offender retaliation in far more nefarious ways as a consequence of their higher visibility, potential geographical isolation and conservative community attitudes. Some police recognised that victims could also fear losing their jobs, social standing in the community and thus have their sense of identity significantly harmed because of locale factors. In addition, the social standing of the offender can also be a barrier not just for victims and reporting but the potential disbelief and backlash that might follow. Several police gave examples such as allegations of rape against a popular and well known football player or business leader or offender from a family with strong community status or ties as barriers not just for victims to report, but for delivering justice within these small communities. These views echo similar scenarios and examples

provided to researchers by victims and CASA counsellors across the state (ss. 3.3.4, 3.4.3 and 5.4). They were not confined only to rural locales however locality certainly amplified the barriers, the fears and the range of repercussions experienced by victims, which included challenges for communities dealing with such cases at the criminal court level.

Police in rural locales realised that smaller communities were often a barrier within and of themselves and some police were frustrated that these barriers negated and hampered victim reporting.

> I am really keen for this research to come through because it frustrates me having been… sort of lifers in this area of work that, why people don't report more?… if they could only see that we are normal everyday people who get our groceries at Coles clean our teeth and all that type of thing; that you can assist them so much if they haven't said anything and they don't have to go through a legal system but that [reporting] might get them to CASA or counseling or [just telling them] you're not the only ones and sometimes that's all they need to be told. Just how much of an improvement on their lives would it be? This is my job, and this is what I can offer them but I am not even getting to them they are not even coming to me. That frustrates me… and I still hear people saying they are too frightened to go to the police. Well why are you, why are you frightened to go?... get [research results] out there (RFG 2, officer 2).

> One of the big questions is "I want to report but I don't want my name in the paper" and so you have to explain that it is illegal for the name to go in the paper unless they give written consent… but then they might say in a small community that would have to be [victim] wouldn't it and [victim] can lie their head off and say "no not me"… and most people will just go "oh shit and back off…"(RFG 2, officer 1).

> (T)he other aspect that is well documented as far as people reading [newspapers] as to how many offenders get off [and] the case is really well documented too (RFG 2, officer 2).

One officer believed that rural locality was sometimes used by police to dissuade victims from reporting or proceeding and suggested they were aware of police member they would 'avoid giving the case to because the first thing they are going to do is say to the victim "you're a nice lady, you don't want to have to be dragged through this, it's a small town of people" (RFG 2, officer 3). For these reasons they believed that sensitivity and understanding of the pressure and politics of smaller communities and the additional burdens for police who live in those communities was an important factor needed by police to successfully work in this area.

Rural police social role strains. One officer recounted an awkward scenario when several years ago a member of his family became friendly with a person who had reported to police

that she had been raped by a family member. One evening the victim attended the police officer's home as she had been invited by one of his family members to attend a social function at his home and:

> I am thinking "oh shit I know her father [offender]" but I couldn't tell anyone from my family obviously. So that was interesting (RFG 3, officer 4).

PJO researchers heard similar examples from a number of police working in rural locales and also acknowledging that the 'wearing of different hats' within a rural community made them more visible and could lead to situations where they were in social contact with a victim or an offender on occasions that were awkward and at times needed them to avoid the situation. Researchers heard also from officers in rural communities who were unable to, or felt unable to patronise certain businesses or activities as a consequence of their work bringing them into contact with an offender or those supporting an offender who had targeted police as a response to the report they investigated. Police working in rural locales were thus exposed to varying ramifications in their professional and personal lives as a consequence of their work and for these reasons many were quite sensitive to the fact that locality impacted on victim capacity to report. As one officer said, working in rural locales meant working within your own community cohort and subsequently knowing and interacting with the 'darker side' of their local community (RFG 3, officer 6).

Police critique of other criminal justice actors. Police generally were highly critical of the judiciary, defence barristers and the court process as a whole, believing this was a major factor that prevented victims from reporting. Many linked sexual offences allegedly occurring in social settings where alcohol and/or drugs are used or are present as a prime area of under-reporting on the basis of how this would be viewed in court. Contrary to the above reported views of victim/survivors (s. 3.3), and their awareness of some lack of confidence in the police as authority figures at an organizational level, police in PJO interviews did not regard victims as ever having this same negative perception of police as individuals in terms of their fear of reporting.

4.2.1 Withdrawing complaints

PJO researchers collected many examples of victims withdrawing a report as a consequence of external pressure and/or negative reactions from family, friends or the community. While some police officers in interviews were aware this happened there were other officers who believed that withdrawal of a report or a decision to make a 'no further police action' report were an indicator of a false report, rather than perhaps a victim feeling pressured to withdraw. Police from rural locales were more often attuned to the reasons why a victim would refuse to formalise a report or withdraw a report because of family or community based fears than their urban counterparts. Some police were quite resistant to researcher suggestions that withdrawal of a report could also be linked to other factors other than a false report (RFGs 2 and 3; and PFGT 5).

4.3 What might influence or facilitate reporting

Police generally in this study were far less unsure about what would motivate or facilitate reporting. Those who had a view generally believed reporting was either driven by a victim's mental state leading to a report out of a sense of desperation; or to report because another person was also being abused, which was linked almost exclusively to abuse within a familial setting; or a need to get it off their chest, which was linked exclusively to historical reports of sexual abuse.

Given the lack of focus in published research to date on the factors that motivate or facilitate reporting, PJO researchers are not surprised that police also had not really considered this question. However it was pleasing that some police did consider that victims' concern that others may be victimized was a factor for reporting, even if it was isolated to familial settings.

Several police recognized that for some, reporting may not lead to a court process or conviction but was a way of 'lifting that responsibility and lifting that weight from their shoulders and passing it onto the police and saying [to us] "now it's your baby to deal with, I have got rid of it" (RFG 2, officer 1). This echoed sentiments from victim/survivors in our study who felt a need to report the matter to police as a sense of personal responsibility and putting the incident where it belonged, with police (see s. 3.4.1).

> Because they just want it acknowledged I think firstly that it has happened; that they are the victim survivor of this; and [that] we believe them. I also think the fact that there is a black mark against [the offender's] name. They just want someone to know that this is what he has done (PFGT 5, officer 2).

> They justify it by… they do… they say "oh I just want this [on file] if he does it to anyone else I just want you to know (RFG 3, officer 2).

As recommended above (s. 3.4.5), the findings from this study with regard to factors that motivated and facilitated victim reporting should be widely available to police as part of their ongoing training to both help them understand what factors can influence or motivate reporting and reinforce the recognition some police have that victim/survivors may wish to report as a means of unburdening themselves, and how this contributes to their healing and to police intelligence gathering.

> **RECOMMENDATION:** Aside from understanding the reasons victim/survivors report to police within the motivational framework of 'symbolic protest', police members within both specialist and generalist units should also be made aware of the criminal intelligence benefits that arise potentially from victim/survivors' reporting of sexual assault even if the report is not processed to a successful Court conclusion. If there is no successful prosecution, reports still can be recorded and placed either in the serious crime cabinet or a similar repository to aid policing efforts in relation to future sexual assault reports.
>
> Implementing this recommendation with a view to criminal intelligence gathering can be expected to alert both specialist and generalist police to potential sexual assault recidivists if future victim/survivors report a similar modus operandi and/or the same offender(s) cited in earlier reports.

4.4 police beliefs about what aspects of a sexual offence matter influence police decision making

Police were asked to consider what types of sexual offence matters they believed were likely to be easier to investigate and to succeed at court and what types of matters they believed were more difficult to investigate and successfully prosecute. PJO researchers are grateful for the honesty demonstrated by police in responding to these questions and their willingness to discuss scenarios and issues they took into account when dealing with victims and responding to reports. The following discussion is notably consistent with the weight of existing research literature which is discussed at length in Chapter Six; with the data and findings reported in that chapter relating to the 2011 case file, investigator focus groups and RO/AO interviews analysis; and with the CASA viewpoint presented in the next chapter.

The 'classic rape'. Not surprisingly the majority of police highlighted what one called a 'straightforward' rape where there was 'obvious' evidence such as victim injuries, forensic DNA left by the perpetrator, offender admission or other corroborating witnesses. Clearly the scenario they are subscribing to in this instance is the 'classic rape' where the victim has sustained injuries, has DNA evidence on her body and/or her clothes, has made a prompt report with the potential for witness corroboration and preferably an assailant who is unknown or a mere acquaintance of the victim (Anderson, 2007; Dumont, Miller, & Myhr, 2003; Jordan, 2001; McGregor, Wiebe, Marion, & Livingstone, 2000; Vopni, 2006; Williams, 1984).

The following comments by officers highlight this perceived conundrum.

> Yeah [if] its black and white, the issue is black and white we'll run with it [but] if the issue is a little bit grey we'll tend to not yeah… (PFGT 5, participant 6).

In [locale]… I looked at the case, the victim was known to the offender and although not even directly known, a couple of the older police of course said 'oh do you really think that it happened, I mean she knows him' (RFG 3, Participant 2).

Competing priorities, physical evidence and limited resources. A more senior officer discussed the problem of competing 'priorities' for police due to resourcing difficulties saying:

> [You've] got to prioritise and it gets to a stage sometimes that certain matters that may have or should be investigated a bit further and you just can't do it because you can't do them all. You have to cut the line off somewhere... we can't physically do them... you can only do x (sic) amount of work... and... unfortunately some of the, I suppose more minor instances get screened out. Just get's cut off [we] say [to ourselves] is this or isn't this happening and there are no injuries or something similar to that, then it's usually, oh well... (PFGT 1, officer 3).

In the above example resourcing issues are claimed as a problem driving some police decision making and in this case, the lack of physical evidence may well determine police willingness to take the report and support the victim. As discussed in some detail in Chapter Six, a study by Heenan and Murray (2006) on sexual offences reported to Victoria Police in the time period 2000-2003 identified the presence or lack of physical evidence as a factor in police decision making with regard to the progress of cases.

Resourcing was an issue raised by many police in interviews with some linking a lack of proper resourcing by way of staffing levels, facilities and resources as impediments to police being able to do their job properly. Police in other focus groups linked lack of resources to police screening out cases, with police in rural domains suggesting this was a significant issue that Victoria Police were aware of but struggled to address (RFGs 1 and 2, PFGT 4).

Known offenders, alcohol and victim credibility. Closely aligned to the stereotypical rape was the belief that an offender previously known to the victim or with whom the victim had an intimate relationship, became an issue of victim credibility that led to these types of cases being regarded as difficult cases to prosecute. One officer in our interview sample recounted an example of this police resistance they have encountered with colleagues:

> ... and he said, oh you know, a woman that has either been at a nightclub and she is having drinks with a bloke that she knows or has been in a relationship with and she knows him well and all of a sudden she has got back with him and thought she shouldn't have had sex with him so she is going to do whatever, or she has had loose sex and decided that [she regrets it, and makes a false report] (PFGT 5, officer 4).

> In respect of false reports, I hate to say [but] often the number of suspect reports goes up incrementally with the amount of alcohol consumed... and then you have the ones,

> yes I had an argument with my boyfriend and then I get raped because [tried to leave].
> As I said, you have your suspicions (RFG1, officer 4).

The comment about the presence of alcohol in sexual offences was an issue of distress and contention for many in this study with a number of victim/survivors either self-censuring, blaming themselves or fearing they would not be believed by police and others because of the presence of alcohol at the time of the offence (see ss. 3.3, 3.4.4 and 3.5) and some police commenting that alcohol was a factor that created suspicion or at least muddied the water in terms of how victim credibility and recall may be viewed (see also s. 4.2).

However a victim/survivor from our interviews praised police for helping her to both appreciate what was done to her was a crime, and encouraging her to continue with her report:

> I even did ask the detective a couple of times and I was really upset at the start when he was calling me with things, I said "I am worried because I was drunk and I am not a reliable witness. I am worried about how people will see that or what I remember or what I don't remember." He said that is just not relevant. It is a crime whether you were drunk or not, and in fact being drunk that actually makes it more of a crime because you can't give consent when you are drunk. So having that confirmation from police in a sense, they saw it as a crime before I did. It took me a while to really let go of my own feelings of guilt and to kind of go yeah it was that, he was the criminal who did something criminal and I am the victim of that (PIIT 18).

'False reports'. On the issue though of false reports, another officer believed false reports were a major issue that Victoria Police were reluctant to address adding that they believed false reports were predominantly made by women against boyfriends, ex-boyfriends and husbands or when caught out in extra-marital affairs. This position was supported by several other police in the focus group though no one was able to put a figure on the rate of false reports other than to say it was high and was 'constantly in the back of [their] minds' when dealing with reports of this nature (PFGT, officers 3 and 7). This attitude is very worrying given that some of these views were articulated by SOCIT members. Another strand of current research also showed that a number of police who had undergone the specialist sexual offences training course for SOCIT police maintained these views post the training which in part addressed the issue of false reporting and stereotypical attitudes about sexual violence (see s. 9.1.2).

'Regrettable sex' reports. To this end PJO researchers heard from a number of officers about police who held a view of what they termed 'regrettable sex' reports. The term was given to reports by women, especially young women, who they believed had either engaged in casual sex with an acquaintance or had re-acquainted with a previous boyfriend or partner resulting in sexual contact and 'regretted' their sexual activities the next day usually because they feared their current partner or boyfriend discovering this liaison. To cover themselves, their reputation and their current relationship they made a report of rape to police. Essentially,

where cases were word against word and it was established that the victim had a prior intimate relationship with the alleged offender, perceptions about victim credibility and context played a significant role (see also s. 6.2).

Victim credibility has been highlighted consistently across scholarly literature globally as a factor influencing police and prosecutor decision making (Beichner & Spohn, 2005, 2012; Taylor, 2004; Taylor & Gassner, 2010). Whether taking a report or investigating a matter to determine whether or not charges can be laid, police make assessments about the credibility of all social actors involved in a case but none so carefully as the victim. Police interviewed from the SOCA/SOCIT units discussed the importance of victim credibility both real and perceived. Police discussed how they felt they needed to take account of victim credibility for the purpose of projecting it forwards to weigh up how other decision makers such as authorising officers, prosecutors, defence lawyers, and even jurors may view the credibility of the victim. This reflects the argument by Taylor and Gassner (2010) that there is a problem of circularity in police projecting credibility to how it will be interpreted by others and thus to be safe there is an appeal to juror and community and legal stereotypes and avoid cases where victim credibility may be an issue. Similar issues are canvassed elsewhere in the literature in terms of 'uncertainty avoidance' (see Chapter Six) and "'downstream' concern with convictability" (Frohmann, 1991, 1997, as discussed in Chapter Six).

Assessing victim credibility was not just around *believability* but also police assessment of victim blameworthiness or a victim's willingness or ability to withstand the rigors of a legal process and so basically whether or not they had the staying power to see the report through (see also s. 6.2.2). This latter point was particularly linked to victims making a report of an historical offence and/or offence involving allegations against family members. As canvassed above (s. 4.2), some police in interviews expressed genuine concern that the protracted and damaging nature of the legal process would do more harm to victims than good, especially in cases involving historical matters or those that involved family members or partners or boyfriends as offenders where disbelief of the allegations is considered a more likely attitude of jurors.

4.5 Non-recording of sexual offence crimes

As gatekeepers to the Criminal Justice System police exercise considerable power in terms of deciding whether or not to record a report (e.g., LaFree, 1979, 1981; Lea, Lanvers, & Shaw, 2003; Soulliere 2005) and 'no criming' of sex offences has been an issue of some concern to police both nationally and internationally (Kerstetter, 1990; Lea et al., 2003; Taylor & Gassner, 2010; Schuller & Stewart, 2000; Soulliere, 2005). In the current study, as indicated in the foregoing section, some police expressed a reluctance to record certain reports made by victims on the basis they perceived problems either with the case itself or with the victim, which in some instances was about the credibility of the victim or police judgements about their 'blameworthiness'. Some police believed this action preserved victim dignity and ensured police resources were not 'wasted' on cases they believed had no hope of

progressing beyond an initial report – and as such no report was recorded. However, the previously reported finding on the victim/offender constellation and offending duration (s. 3.2.2) gives pause as to the real significance of police determinations of victims' initial presenting behaviour and subsequent practices of non-recording.

4.5.1 Non-recording and the role of the 'Options Talk'

Police are required, as part of their victim protocol, to provide to victims a range of options open to them when they first seek contact with police. Known as an '*options talk*', it is formally detailed in the Victoria Police *Crime Investigative Guidelines version 1.1 – Sexual Crimes* (2010, pp. 78-80*), which* set out clear and detailed expectations to avoid misuse of this tool. However, as will be seen in the following report of PJO research findings, police in practice very often do not meet such clear expectations. Options talk entails a discussion where the police officer explains the reporting options for the victim/survivor that include making a formal report for further action and what that process may entail; making a report but requesting no further police action at this stage and what that process may entail; or having an informal discussion with police and receiving advice and information which the victim/survivor may consider and use to determine whether or not they wish to proceed with a report. That is how it works in theory.

In interviews police talked at length about the *options talk* as they considered it a most useful tool and strategy in their communication with victims. What was clear was that for nearly all police interviewed the *options talk* or *the talk,* was viewed uncritically as a neutral process – as an act of imparting neutral and impartial information which the victim can digest and make decisions about reporting. They believed the *options talk* allows victims to be in full 'control' of the reporting process.

Managing victims'complaints. Yet from the interviews it became clear that many police utilise the options talk in a way that led victims into a decision *cul-de-sac,* meaning the options talk was often framed or weighted by police to secure a particular outcome. Police themselves acknowledged this, but did so largely on the basis it was for the victim's own good.

Some police interviewees often weighted the *options talk* in various ways to heighten certain aspects or scenarios whilst down-playing others in order to garner a particular response or decision by the victim. Some police were of the view that weighting the *options talk* in way that led to a particular reporting outcome was done out of a sense of obligation and concern for the 'welfare' of victims and the Code of Practice protocol that victims remain in 'control' of the process. Others felt that weighting the options talk against making a formal report was beneficial for victims whom they believed would not be able to withstand the rigors of the legal process or where they believed the emotional fallout from family and friends would not benefit the well-being of the victim.

However for other police, the options talk provided a clear strategy to gate-keeping access to the criminal justice process on the basis of judgements about the victim or the context of the case. Some officers believed the *options talk* proved a useful tool in helping ensure the 'genuineness' of victims suggesting that police received 'a lot of false reports' – so many in fact that they 'got excited' when they received a 'genuine case'. In their view, telling victims not just about the reporting options but focussing on the detail police would need was enough to ensure that only genuine victims proceeded with a report (PFGT 4, officer 6; examples also in RFGs 1 and 3).

Historical and familial cases. It was found that historical offences and/or those involving family members as offenders were cases police considered ripe for the options talk process on the basis that these types of cases often 'wasted' both police and court resources because either the victim's often withdrew these reports (attrition) or they were unlikely to lead to a conviction. One officer said that 'historical and familial cases' tended to be 'blah blah blah cases' that generally went nowhere and that when reported 'upset other family members and the victim' and were 'complex' to investigate. Therefore this officer was likely to 'caution' victims about whether they really wanted to report historical familial abuse and urged them to 'go away and think about' whether they wished to proceed with a report. This officer's view was based on the idea that such cases were complex and thus time consuming for very little success in terms of conviction, while another officer from the same focus group expressed a similar experience:

> You don't want that information because it creates extra work for us and we don't have the resources to do that, [and] it's not only going to upset them and their family but is wasting court time etc. if we follow through on some report that was never supposed to go there in the first place (RFG 2, officer 1).

Other officers supported this view on the basis the options talk was a necessary and useful component of police management, especially when resourcing was an issue. In these respects, there was a tone from many police that allegations involving family members were too difficult to deal with and they tended to be ones they discouraged. Yet the vast majority of abuse occurs in family settings and reports are historical so in essence they are rejecting and discouraging reports from where most abuse occurs.

'Resource-limit' gate-keeping. Lack of resources was mentioned earlier in this report as a factor that influenced the decision making of some police with regard to whether or not to take a report further (ss. 4.2 and 4.4). One officer discussed this as a form of necessary 'screening' (s. 4.4). This officer elaborated on this further with regard to using the *options talk* as a means of further limiting and screening cases they would accept.

> Once you get to a certain amount [of cases]... this is virtually unmanageable from the Senior Sergeant down to everyone [else]... you get to the point where you have to get rid of some of them... I know of [other police locales with] very similar circumstances... [it's] something that we have been doing for a long time... the gate-

keeping... [if understaffed] we will probably take advantage of [non-recording] because they are vulnerable and because they are vulnerable [victims] they are less likely to arch up like someone who has been belted in the street, they are more likely to say I want something done about this by banging on the counter whereas the victim of sexual assault is less likely to be emotionally strong enough to jump around and maybe that's giving us [police] a false sense of satisfaction (RFG 1, officer 3).

In this example the officer with nodding support from other SOCIT officers is acknowledging the unpalatable option of gate-keeping to block formal reports from some victims based on their work load and resourcing issues. This officer also mentioned that they felt a duty of care to the welfare of their staff in terms of just how much they could take on.

The 'thumbnail sketch'. An officer from another unit said they were generally able to 'detect' which victims would benefit from the options talk that would lead to them leaving the unit without making a report and without them 'having to turn on the computer' (to record the crime) (RFG 2, officer 5). Other police said if they sensed 'apprehension', 'nervousness', 'ambivalence' or 'fear' when speaking to victims they used the options talk to dissuade the victim from going any further with their 'story' and dissuaded them from reporting. Officer number five explained that in their office they had a pre-orchestrated options talk they gave to victims that appeared 'hesitant' or 'worried' about making a report.

We have actually discussed [this] with our staff and said, and myself I have done this, well with a particular person who is very cautious, we say "don't tell us what's happened at the moment, what we will do is… [get a] basic, basic hypothetical, not hypothetical, we get a thumbnail sketch of what has happened without telling [police officer] enough detail to fill out a LEAP report and [police officer] will tell you (victim) what happens if the investigation is commenced and all those sort of things. So we actually find ourselves at the moment working around policy (RFG 2, officer 5).

In a contradictory vein, this officer raised concerns about claims by the VLRC (2004) and Victoria Police about the underreporting of sexual offences. This officer was sceptical of the claims, suggesting that low reporting may well indicate that sexual offences do not occur as regularly as stated and moreover that a 'sexual offence industry' might be touting such claims to improve business. Further, this officer expressed a concern that the 'sexual assault industry' had provoked changes to police practice that proved a burden on police work. That said, the same officer then suggested that if sexual assaults really are underreported then police should be in there 'jackboots and all' to get victims reporting so they can prosecute offenders (RFG 2, officer 5).

Other officers in this focus group interview agreed, expressing strong criticism of the VLRC (2004) inquiry into sexual offences on the basis that it criticised police non-recording of crimes and these police believed that the push for all offences to be recorded added another layer of procedural work that was both time wasting and potentially meant that crimes that

would normally never have made it through the reporting process must now be recorded and counted. For these reasons they opposed the notion that every victim seeking to make a report should have the matter recorded and investigated.

Priority of police assessments over policy. Some police officers believed their considerations based on their assessment of the victim and of the case as well as issues of resourcing should take precedence over the Victoria Police-wide directive that police record and investigate all sexual assault complaints in order to reduce rape attrition rates at the reporting stage. This view was expressed by an officer who thought it was:

> fair enough that officers follow the Code of Practice with regard to ensuring victim 'control' over the reporting process, but it was less fair that police be under an obligation to record and investigate all complaints (RFG 2, officer 1).

This same officer suggested that prior to the Victoria Police edict that they must record and investigate all report their preferred method of practice had been to:

> sit down with the [victim] and they would tell us all… they have made an appointment and come in and they are ready to tell someone… now we are finding ourselves saying [to victims] don't quite tell us because we might have to do some reports then you might lose some control (RFG 2, officer 1).

The interpretation amongst some police officers that the VLRC report (2004) that criticised police not recording all offences as taking away 'choice' from victim appears to have led a number of police to make personal and subjective spot assessments about the merit of a case or the victim based on cursory information and probable stereotypes about the victim and the type of case they are seeking to report. Moreover it appears to have led some police to use the *options talk* to deliberately orchestrate a particular outcome.

Several police officers interviewed, including SOCIT trained officers, were open in discussing advice they gave victims seeking to report intra-familial and historical cases of abuse of how difficult it would be not just to get these matters to court in the first instance but also the length of time this process can take and the likelihood of no conviction. Some asked victims to consider the impact or fallout the report may cause within their family and whether they could deal with or withstand those personal costs. Some believed that framing potential outcomes which invariably led to victims not formally reporting was a real option for victims they determined were either too fearful or vulnerable to follow a case all the way through; the case was complex or unlikely to be successfully prosecuted or where police resourcing was an issue.

These comments raise a number of concerns, not the least that police are determining cases based on limited information and 'thumbnail' sketches of the sexual victimisation of a person but moreover that they are able to use the *options talk* to determine a particular outcome based on pre-determined judgements. Many held the view that victims who decided against

reporting once they had undergone the options talk was an unavoidable outcome because the process of making victims aware also led to victim attrition even before reporting had occurred. Providing victims with information about reporting options is a necessary task and formal element of police work, however the imparting of this information should be a neutral exercise, whereas from the PJO study it was clear that police used the 'talk' or 'options talk' as a viable strategy for 'screening'.

The above findings of non-recording and options talk related also to matters mentioned by some officers interviewed who believed that police who were 'lazy' or 'not competent' talked victims out of reporting to avoid having to do an investigation or lack of police resources (examples in RFG 1 and PFGTs 4, 5, 6 & 7). The following examples highlight attitude and lack of resources.

> Officer 2: I think it's in the past [but] it was one of the things, a lot of the time it would be too hard to go through the court system and I think the police did actually pass that onto the victim [and prevent reporting]…
> Officer 1: (I)n managing LEAP as a supervisor you see tones and trends with particular members and their NFPA's you can [tell], yeah…
> Researcher: When you say tones and trends you mean you see characteristics of the case…
> Officer 1: Yes, that it [was] going to be an NFPA by the way they have written it up, because they are avoiding [having] to do the work.
> Officer 3: I think it's still around, it's just the luck of the draw with that person that [whoever they] go to report to… (PFGT 4).

Notably, regardless of individual police officer's motivations, the findings on how the 'options talk' is employed as described above is consistent with research literature on the strategies law enforcement officers employ to persuade victim/survivors to agree with them (e.g., Frohmann, 1998; Lievore, 2005; McLachlan, 2007; see Chapters Six and Eight for comprehensive accounts of this body of literature).

Notwithstanding the foregoing commentary, there were also a number of police interviewees who expressed other views and, indeed, showed understanding and compassion in regard to victims' reporting and how to optimise their reports.

Dissenting police opinions on the use of the 'options talk'. Within focus groups there was dissent on issues and with regard to the options talk some police held different opinions. Some officers acknowledged there are police who use *option talks* to circumvent the reporting process but were firm in their view that the *options talk* should be a neutral process and that the job of police was to enact a clear process of investigation and not make individual judgements about the individual or their case.

> If I can explain from my point of view our job is simply to elicit admissible relevant evidence to prosecute, bearing in mind that you look after the victim. So when you look at that it doesn't matter what your opinion is you may have an opinion but it has

nothing to do with the investigation that you are doing, now I will leave that open for other people, but that's the way that I look at it. My opinion doesn't matter I have to do my job follow the process and investigate it to its absolute maximum and get a conviction because that's what they are here for from a police point of view (PFGT 5, officer 4).

[Personally] I would never ever tell a victim not to report or not to continue. It would be so wrong. If someone has the courage to come and report it there would be no way on this earth that I would tell them never to report (RFG 1, officer 2).

Some of them have absolutely no idea and [giving reporting options] is important because it's no good if it's all pie I the sky, it's like it's on the TV or something and everything is going to be finished within a couple of weeks… you have got to tell them the pros and the cons of making a report… people, to my mind if they are informed about a process they feel they have more control over it, they are more relaxed about it, they feel they are more able to cope with things that may come up… I will say to them go through all the [information], give them some brochures [and] I will say I have given you a lot of information, perhaps it is too much have somebody come in [with you] and we can go through it all again… if people are informed, educated [about reporting options] they are better at coping and making good decisions (PFGT 7, officer 2).

Managing victim information over-load. Other officers were aware that providing all the options may result in both information over-load for a victim who is already traumatised and partaking in a process that is both foreign and frightening to them, they were very careful in how they framed the options talk. One officer felt that the *options talk* tended to make victims "get ahead of themselves because they want to know "'what's the process from here and how long do you think that will take and what are they likely to ask me and will I have to face them in court'". From this officer's point of view, however, "you can see the [victim's] brain ticking over, so I respond, 'let's just take one step at a time and let's not get ahead of ourselves'" (PFGT 4, officer 2). As such, the officer worked with victim/survivors to break the process down into chunks to enable them to have time to digest information and take the reporting process as a series of steps in a longer process which they believed was much more helpful for the victim.

Written information. Likewise, officers from another unit also expressed some caution in delivery of the options talk on the basis that providing such information at a first meeting was not beneficial because victims cannot mentally process the advice when they first approach police.

I have this options talk, but you will actually find that [it is] slightly different [to others]. We have a [special] handout that we give people so we have become [known that that particular booklet is from our unit]. We actually [opted] out of the options

> [talk] because we know that when they come in and talk to us they are not listening, so they can take away [the booklet] and have a read of it (PFGT 6, officer 1).

In a very positive light these officers took pride in the fact that they developed written material to assist victims based on their knowledge that victims at a first meeting were in no state usually to determine a course of action from the information provided and further they recognized that there was a lot of 'inconsistent practice' in the delivery of the *options talk* and they wanted to ensure that victims were empowered and armed with information they could digest in their own time to make informed decisions over the course of time.

The issue of victims not necessarily being in a state of mind at the time of reporting to absorb information in a way that allows them to make an informed choice is important. A number of victim/survivor participants in the PJO study commented on the struggle they had to make sense of information and reporting options being presented to them by police. The following comment reflects the tone of concern in this respect.

> I mean [police] have given me information but I often feel like they give you too much information at one time so you just don't take it all in, and it's so new like I have not had any experience in this and so it takes a long time to get your head around it I think which is a problem. [Police] tell you things and you think you kind of understand but you don't and you don't know that until it's too late, which I think is not really productive, I think there could be, I think there must be better ways of giving that information to people. (IIT 18).

Regardless of the good intentions of police to impart information and choices to victims at the time of reporting, it is likely they are unable to absorb the information in ways that enable them to process that information and make choices. It was clear that police would also invite victims to consider the information offered in order to help them digest it before making a decision. However it was also clear that some victims found the process too fraught with difficulty and at times made decisions they would later regret, or conversely, felt overwhelmed or intimidated by the information or felt they were being pushed into a particular direction to make a specific choice presented by police.

RECOMMENDATION: It would greatly assist victim/survivors and police if a consistent presentation of options was presented and supported with uniformly worded and clear written material in a standardised format making very clear that victim/survivors may take their time to consider reporting options and that may include them getting further advice or information from others.

> **RECOMMENDATION:** Moreover, police should encourage victims to make a report and highlight that the victim has the power/choice to have that report actioned as an investigation or leave it on the police record both in electronic form for Victoria wide police access and in local crime cabinets without any action at that time.

> **RECOMMENDATION:** Subsequent to an initial report police should be required to actively follow-up victim/survivors who do not return to pursue a formal complaint within a policy regulated timeframe. The result of follow-ups should also be duly recorded in electronic and local systems.
>
> Implementing these recommendations will help ensure that police record all complaints made to them by victim/survivors and avoid police presenting options that lead to victims leaving without making any kind of report and without police noting the victim's visit. The third recommendation if implemented can be expected to result in a more accurate record of sexual assault complaints and in prosecutions and successful Court outcomes, thus reducing the dark figure of sexual assault and the currently very poor attrition rate. As will be seen from discussion in the next section, there will also be a reduction in the number of NFPA statements by victim/survivors.

The just mentioned recommendations are further strengthened from a consideration of the role of NFPA statements in relation to 'options talk'.

4.5.2 No Further Police Action statements (NFPA's)

In conjunction with the 'options talk', the provision for victim/survivors to make a NFPA statement presents a robust means for police to exercise discretionary power in relation to whether or not a victim complaint of sexual assault receives an appropriate response at the gate-keeping point of the criminal justice system.

Therapeutic NFPAs. Police generally believed that the ability of a victim to make a no further police action statement provided avenues for victims to discuss a matter or make a NFPA statement in scenarios where the victim needed some kind of 'release'. Some considered the process of making an NFPA was 'therapeutic' for victims and those who were driven by a need to have the matter recorded without the burden of taking the matter further at that time or ever. As such many police believed it was a positive reporting option open to victims.

'Resource-limit' NFPAs. Interestingly several police who discussed actively using the options talk as a means of screening and vetting reports that victims wished to have investigated, regarded victims wishing to make a NFPA report as a matter that police should

give time to largely on the basis the report at that time did not require any further investigation and was less demanding of time and resources.

> (W)e don't say "I don't want to hear anything see you later", and I would be very unhappy if that was to happen. I expect my people to be using their powers of [taking an NFPA] for good... and at least having a meaningful chat and at the very least [have the victim] walking out with a very solid referral [to other services] and making sure they are physically ok... we leave the gate open [in these cases] it is not closed, it's open [for] as long as you want to come back to us. That's always a given. I don't think any [victim] goes away without realizing that (RFG 1, officer 4).

Another officer took a very different view believing that victims should not be allowed to make a NFPA report on the basis that a crime is a crime and is either reported or not reported. They felt the option of making an NFPA report was both a 'bum covering exercise' for police and one that reinforced the problem of under-reporting and low convictions and advised that they were very reluctant to allow victims to make a NFPA adding they knew such a view was not popular or in keeping with policy but they were very keen for victims to formalise a report so that it could be investigated. This police officer was aware of the barriers and dilemmas victims faced and was very sympathetic to the problems encountered by victims but felt strongly that NFPA's made addressing sexual crimes harder and not easier (PFGT 7, officer 3).

Helping victims? One officer was very clear in advising how victims were helped who they thought were worried, unsure or fearful of reporting by asking them about what their fears were so that they did not feel that their fears and ambivalence to reporting should prevent them from making a report. This officer believed police had a duty to help victims overcome their fears.

> I say to [victims] by making that report a formal report (whether NFPA or formal investigation) is the most powerful thing they can do legally. I say legally with a funny look and that always gets a bit of a laugh... if they don't get the chance to make a report they are always going to be under the thumb, the power of the offending person... (PFGT 7, officer 1).

This same officer linked an inability to report sexual violence with a form of 'grief' and believed that the ability for people to access police and put on record what was done to them was an important service and potentially a way of helping with the healing and recovery of victims.

Yet, while it is true that victim/survivors need information about the process in terms of reporting and their options what PJO researchers found was missing generally was a view from police that they can be of assistance to victims who have fears about reporting. This could take the form of police finding out exactly what are victims' fears as exemplified by the just mentioned officer, and determining which ones if any can be alleviated or addressed

by police (e.g., by obtaining an intervention order; or enacting a peace order to enable a victim to go to their place of residence and remove their belongings if they need to move out of that particular dwelling; or speaking to others in order to ensure better support or safety for victims); and other areas that might be addressed by other services such as counselling or emergency housing and the like.

'Options talk' as a discouraging device. Victim/survivors in this study were generally not naive about the rigorous and arduous journey involved in pursuing a criminal justice process. While they wanted and appreciated an honest assessment of their case and the processes that would follow a report, many did not appreciate the *options talk* they were subjected to by police as they regarded themselves as being discouraged from reporting.

> Police were okay. They listened to me and seemed respectful which is good. But I got a sense they thought that I should just get over it. They said it was such a long time ago and there was not much chance the case would be approved to go to court and asked if I saw a counsellor (sic). It made me feel a bit fobbed off. I know it may be hard to press charges but you shouldn't make someone feel after all these years they should just move on and forget about it. I haven't forgotten it for over 40 years (SR 7).

> During my interview with a police officer… I experienced significant distress at recalling the abuse. She asked a few questions, but advised me that as the abuse had occurred in the past, and that no physical evidence was available, and that the offender was my husband at the time, it was pointless making a statement or trying to pursue the matter further. I think police need to have a lot more empathy about sexual abuse and be systematic [in their] advice… on legal options, and not tell victims that you are putting yourself through a lot of angst for nothing, you would get nowhere with this case (IIT 17).

> (W)hile police were respectful and told me about CASA and other services I felt they weren't that interested to [investigate] after all these years because they said it would be my word against his and how tough the court process is and I might not get a good outcome. I knew that when I went to them so I expected them to act on what I said rather than talk to me in a way that basically dissuaded me from going any further. That is why I ended up not making a statement, because they made me feel it was a waste of my time and theirs (SR 115).

> I try to tell myself at least I tried to report. Police indicated the case would be too hard to prosecute and more or less told me it would not be worth the distress and effort on me to make a statement! Afterwards the perpetrator abused me in the street and I had property stolen and I felt stalked by the [offender]… (SR 291).

> My initial report to [police] officer was entirely unsatisfactory. [Officer] was cold, disrespectful and discouraging of my making a report. I was extremely distressed by the experience. Later when my solicitor attended with me as support [officer's]

> attitude changed. The [second] officer who later took my report was friendly, respectful and helpful (SR 312).

> I could not believe that I was basically being told not to report my [sexual assault] simply because this supposed specialist sexual offence officer did not believe it would go anywhere! How would they know this when they didn't even allow me to make a statement let alone investigate it! Never again. I don't trust them and lost every ounce of faith in them and pity any other poor girl who gets raped or assaulted only to be told by the police themselves that it's not worth reporting it! (email communication from one of the victim's relating to IIT52).

Police need to find ways to support the genuine fears or nervousness of people who were victims of all forms of rapes and abuse and were seeking help as opposed to weighting an option talk in ways that lead victims away from reporting. This latter skewed understanding only makes it worse for victims when police communicate actively the negatives of making a report rather than finding ways to enhance the experience and assist survivors grabbling with fears about family reactions and possible family retaliation.

Victim vulnerability and the weighted 'options talk'. What came through on many occasions was that police holding unhelpful views and acting on them were driven by stereotypes and the qualifier of a lack of resources used as a backdrop for determining a subjective selection process both in types of cases and also victims. In this regard, it appeared that the more vulnerable victims who had complex histories and/or complex cases were more likely to be given the weighted 'options' talk. For example, police in Focus Group five commented on the options talk they often give victims with a cognitive impairment based on the belief that such victims lack an awareness of understanding of 'consequence' in making a report, with police believing victims often just wanted to tell police but not have anything done about it. Another police officer believed victims with a cognitive impairment, including psychiatric illnesses were regarded as 'nuffys' within the community and areas of the criminal justice system and as such their credibility as a witness was so low that police felt they were protecting them from a humiliating legal process by *not* formally recording their complaints (RFG 5). Police did not suggest this was necessarily correct or fair, but they did acknowledge that some police still held this view. While the problems of progressing cases against vulnerable victims are acknowledged, examples like this highlight that some police continue to sideline cases involving vulnerable victims without realising perhaps the reinforcement of their vulnerability to sexual victimisation and vulnerability to have a legal system work against their interests.

Overall many police appeared to lack both knowledge and sound judgement of seeking ways to engage victim/survivors who were obviously seeking to either report or get advice and were dissuaded from going any further. Some police almost appeared to see their role as that of advice giver and as police are recognised as gatekeepers to the criminal justice system it was as though some police were operating as 'bouncers' rather than facilitators of quality

control. The following case study taken from PJO interviews is exemplary for highlighting attitudinal errors driving the *options talk* and it impact on a case.

CASE STUDY TWO: The value to criminal intelligence of recording and responding to all sexual assault complaints.

Three victims unknown to each other at the time attended at separate times the same specialist sex offence office to report a sexual offence by the same offender. Each woman was strongly discouraged from reporting after police in that unit advised them, separately, that the assault was unlikely to lead to a conviction and that the women were basically wasting their time to make a report that would not go anywhere. One woman told us she was more insistent and to her distress, was further told that the allegation she was making was 'probably' not even a sexual assault given the context in which it happened. 'Shell-shocked' the women left without any report being lodged. One woman was so incensed she contacted the owner of the business where the sexual assault took place to inform her of the allegation that one of the employees of the business owner had sexually assaulted her. The owner of the business was horrified and immediately advised the woman to contact police. Upon learning the woman had contacted police and police had discouraged her from reporting, the business owner offered to attend the police with the woman to ensure a report was made. Both attended the police station and to the horror of the business owner, the police once again discouraged the victim from reporting on the basis the allegation was 'weak' and the case would not go anywhere.

The business owner went immediately and sought legal advice for herself in terms of dealing with the allegation and the employee. In the coming days another client (victim four) of the business owner made contact to advise that she had been sexually assaulted by the same employee. The business owner urged the victim to report the matter to the nearest specialist police sexual assault unit, which was the same place the other three victims had attended. The fourth victim was also discouraged from reporting and received the same advice that the allegation was weak, unlikely to lead to any charges; that the victim had 'willingly' gone for a massage and therefore the allegation was in a very 'grey area' because issues like 'consent' would go against the victim. The victim had been receiving therapeutic massages in relation to a medical injury and alleged the sexual assaults occurred during these massages – as did the other three victims. Distressingly, two of the victims advised the business owner that their sole reason for seeking to report was their concern and their fear that there may be other victims and thus they wanted to let police know about the offender in case other women ever came forward. They were not to know that indeed four women in total had come forward and on four occasions police from the same unit discouraged their reporting. The business owner recounted the mounting distress experienced by victims that she advised to go to police and report:

> By this stage there were other girls that I had spoken to and said would you please go
> down and tell the police what has happened and they would come back as well as

[first victim]. They would come back into my [business] crying saying that they just wouldn't take a statement… some of the women were already blaming themselves and to have police blaming them and refusing to let them make a report and [they were] feeling so distressed, and because by the time a person is prepared to walk into a police station and make a charge they're pretty traumatised… it just made it worse for them all… they were all coming back to me and I just couldn't believe it and neither could they… these women went in already with a sense of shame and self blame like so many victims do and then [police officers] well they blamed them again really and put it all on them by not letting them report… (Transcript 52)

Moreover, as one of the women later recounted, it took enormous courage for her to 'walk through the doors' to speak to police. She felt a sense of terror because of feelings of shame and fear of others finding out and a fear that her anonymity would be lost within the community and that she would have to tell her family what had happened. She set these fears aside on the basis that 'other women needed to be protected' from the offender – as such the response from police was as 'insulting and offensive' to her personhood as the offender.

With police discouraging victims at the outset from making a report, these four victims, unknown to each other at the time, yet allegedly sexually assaulted by the same person, had no record anywhere linking them as alleged victims of a serial offender. When the business owner became aware that this next victim had also been turned away without being able to make a report she herself rang police to make sense of why they were refusing to accept these reports. As a professional, ethical and compassionate woman she was at a loss to understand what was going on. Police refused to discuss the matter with her.

Still seeking further legal advice the business owner took affirmative action on two critical fronts. First she began to go through her extensive client list of women and contacted women on the pretext of asking if they were happy with the therapeutic massages they had been receiving from this employee. Given the business owner had been away for a couple of months, the contact was couched as a courtesy call. The business owner also contacted a friend who was a retired police officer who lived elsewhere in Victoria and advised him of the experience two of her clients had with police. She was not aware at this time that in fact four of her clients had been actively discouraged by police against making a complaint of sexual assault. She also advised that now further women were disclosing and she was simply too afraid to advise any further women to contact police.

The business owner herself was in a state of shock, disbelief and distress at both the treatment of the women by police, and learning of the sexual assaults and seeking legal redress in how to deal with the employee. The retired police officer offered to contact a detective working at the same police station but not in the specific unit, to ask if they could provide any assistance. This proved a critical turning point in the events. The detective in question found that police had not recorded any details at all of the four victims who attended their office to report the sexual assaults. Relying solely on the information provided by the business owner the detective made contact separately with the woman and with the four victims who had been

turned discouraged from reporting. Three of the victims provided the detective with statements. The fourth victim was so distressed by the police response she refused to have any further contact with police, despite the good efforts of the detective. For this victim, the sense of 'minimisation', 'betrayal' and police rejection of her desire to report the crime were so great that she determined to never discuss the matter again, causing further detrimental outcomes to this victim's health and well-being.

Eventually the SOCIT officers who originally discouraged and rejected the four women who sought to report the sexual assault had to become involved in the case given the nature and extent of the offences. As the detective continued his investigation he could identify more than 20 victims of the one offender. As the case grew some of the victims became aware that other women who were clients of that business were victims also. Some of them shared their distressing stories about their encounters with police and, understandably, some victims felt fearful and apprehensive of making a statement to police for fear that the assaults would not be taken seriously, would be insensitively handed, or indeed not handled or investigated properly.

The offender was charged with a considerable number of charges including rape and other sexual assault charges and the matter went to court in two separate trials to hear the rape allegations in one case and the sexual assaults in another trial. He was convicted by a jury in both cases and sentenced to a ten year prison term. Through this process the business owner supported the women with the same level of professional ethics and personal compassion as she had shown from the beginning, despite the hardship the offender's conduct caused her business.

At sentencing the judge publicly acknowledged the efforts of the business owner in not only believing these women but in making sure every effort went into their care and protection, at the expense of her own professional interests. The judge also became aware and acknowledged the efforts of the business owner to help the first victims to disclose to access police, despite the poor response by police, making clear that it was the efforts of the business owner and victims that forced police to investigate the offender. One of the women believed the case developed in the way it did at the beginning because of the type of decision driven errors made by police:

> Well, I know that the police today in all sorts of matters would like to sort things out and not take statements. All this paperwork that they are weighted down with, you know if they can settle something and become judge and jury of an issue then they don't have this paperwork. And I understand that they could go through cost and time and then because of the legal system and the way it's structured if they haven't got the proof to nail someone even if they are at fault, and they know the person's at fault but they can't prove it at court it's such a waste of time, money and human resource. So that's on the down side for them. So they try and settle something before it starts... But, if you do that, fish are getting outside the net. They need to take the statements fully, hear everything. I know its paperwork but that's what it's about, that's what we do. It's like a chef saying well I don't want to cook. You can't have the police saying

> I don't want this paperwork burden. They've got to take all that information down… so they can take up [offender's] name and then make [the link] and say look, this has happened before [to another victim].

The business owner believed the police were largely driven by stereotypes about the victims and the case.

> Preconceptions misconceptions things like… you don't even know what things some people are thinking. I heard some amazing comments come out that just disgusted me and revolting conclusions made by [other] people without the information or the insight as to what really went down. But if you're going to get that kind of attitude and it filters through society, as I said the first point is with the police they've got to say "No this isn't appropriate, let's look into this, let's listen, let's take it." I don't know the answers as to why the [police discouraged reporting], and I do know that I spoke to [senior officer at the specialist unit] and I remember [officer] being very sharp and inappropriate and I spoke to [officer] and I said, "look I know you have a stressful job, and I'm not the victim, but to be speaking like this is not helpful"… this kind of work has takes a toll on people who are doing it day after day after day after day and so their approach is so coloured by this that they're judging it, they're pre-empting it. They're not beginning something because they think at the end it might not work… but you can't be a chef and not cook and you can't be a police officer and not listen to people and listen to all of what they are wanting to say and allowing them to put it in a statement… that is what police are supposed to but [in this case] they didn't not just do it once or twice but again and again and again and again… they formed a view but it was dangerous because it didn't let them join the dots that would show a serial offender…

The business owner and many of the first victims to disclose talked of their high respect for the detective who initiated the investigation. They have remained deeply perplexed and hurt by the police response: you shouldn't do this work if you have attitudes that are harmful to women who are raped and you shouldn't do this work if you don't actually want to take the time to actually set aside your judgements or worry about the paperwork that's going to be done if victims want to report… you have to listen and respect and record… that is why [victims] came in the door on those occasions… it was to make a report and to be respected… the judging is going to be done by a jury and yeah, that's another tough area where rape victims get a hard time… but we don't need police doing from the outset to us when we go to them to make a report…

This case study is a disturbing and sobering reminder of the capacity for attitudinal factors to drive police decision making in ways that can be catastrophic for victims. The extraordinary courage of a woman business owner who supported the courage, dignity and determination of her female clients to alert police to what became a serial sex offender proved the cornerstone of this case. In interviews with CASA counsellors from the same police region as this unit, researchers were given examples of clients who had sought to report a sexual offence with many reporting they were actively discouraged from making a report or questioned in a way

that made them uncomfortable to proceed with a report (CFGT2). Counsellors expressed that this was a real concern.

Helping victims. That said, a shining example among police interviewed were two officers who told of the various ways they sought to support people from the outset who they felt were fearful or anxious about reporting. They talked of the importance of building rapport with them and not simply giving them the options, knowing that with their feelings of fear and anxiety they would likely not report. These officers spoke of giving victims information about how police and indeed other services might assist them should they experience difficulties as a consequence of reporting.

> I say particularly if it's a family member and it's the offender and they are worried about how mum will cope, I can say to them you will probably find when mum spoken to she has had an inkling for years she has been worried not knowing what to do and she will be so relieved or grandma and grandpa will be so relieved to know… If they have no idea[s] [police] find with the right support and help… [victim] will cope they might be sad or whatever but they will cope (RFG?, officer 1).

Several victim/survivors, as noted earlier in this report (s. 3.4.3), reported positive experiences where police took the step to speak to family members to ensure appropriate support and understanding for the victim. While these victims made a formal report that was being investigated at the time, their experiences show that some police understand that support structures in place for victims and a reduction of their fears greatly enhances their personal well-being and capacity to continue with a report.

Discouraging victim complaints. Yet other police felt driven to discourage victims from reporting on the basis that they were protecting victims from a harsh process or believed they were saving victims from family disintegration; or due to personal attitudes of disbelief or wishing to avoid a lot of effort and paperwork. These views are not only misguided or otherwise unacceptable but discourage victims who show enormous courage to take the first step in speaking to police. Overall, the data suggest police decision-making can be adversely influenced or driven by two separate but interrelated factors: institutional pressures in the form of resourcing issues, and attitudinal factors whereby judgements are made about certain types of sexual assault or certain types of victims. In a number of instance a confluence of both is involved whereby the process of non-reporting and talking victims out of making a report in the first place or from formalising a report is driven by beliefs that the victim and/or the type of case are not worthy of police time and resources, and even court resources.

In sum, there is an apparent ambivalence in police interacting with victims and responding to their complaints. In this respect, NFPAs in conjunction with 'options talk' provide a convenient device for police so disposed to avoid a positive, helpful interaction that results in optimising outcomes for victims. Notably, the three recommendations listed at the end of the preceding section also arise consequent to the foregoing data and findings in relation to NFPA decision-making.

4.6 Police perspectives on Victoria Police initiatives

A number of police from both the SOCA Units and detectives who had moved to the SOCIT model expressed strong reservations about the latter model.

Role tension and conflict. Two detectives from a recently transitioned SOCIT believed the amalgamation of one officer to take full responsibility for all aspects of victim care and victim report whilst undertaking all aspects of the criminal investigation misunderstood and undermined the two roles of investigation and victim care. They believed the separation of police who focused on victim care and obtaining high quality victim statements and police whose strength was offender investigation was creating an already perceptible 'gap' in the service given to victims as SOCIT detectives were already feeling the strain of having to take care of victim welfare whilst focusing on an offender investigation.

> (Officer 1) [SOCIT] is gonna be just another squad and victims will just be a sideline of the investigation then.
> (Officer 2) yeah, the investigation will take precedence and it always does, because the offender becomes the focus of the enquiry… I reckon there's gonna be a massive gap in that service and it's not going to be anyone's fault… well at our level it's not going to be anyone's fault…
> (Officer 1) Yeah.
> (Officer 2) It's just gonna be unfortunately a side effect of what the department are trying to do… I don't think the service is appropriate as we've got it, but I don't think SOCIT's the way to go either (RFG).

Another group of police from both SOCIT and SOCA units had similar offerings. A female officer suggested that there were colleagues in her office who "don't like interviewing victims… it's not [colleagues'] strength to interview victims" (PFGT 4). The other officers in the interview agreed with this observation with some saying they preferred to interview suspects because that required a different set of forensic techniques that they felt were their particular strengths. This female officer went on to state:

> My and [police colleague] strengths is to deal with victims and get right in there and help them and so it complements [other colleagues]. I hate interviewing offenders… and that's what the police department's not taking into consideration is that [officers] like me have stayed in this role for 22-23 years and… love doing my job and following the role right the way through and being able to differentiate between being a support person for the victim rather than being the investigator… and while[Victoria Police] are saying you'd have a far better Brief if you were to do everything, no they wouldn't because I would have a nervous breakdown after 3 or 4 [cases] and you'll have a shit Brief and they're not taking that into consideration… when you're sitting with a victim who's just been so traumatized and… you're looking after their interests and getting one thing done at a time and if [you] have to do this and go and do this

and that… you can't take that part of your brain out and put it away to [do the investigation].

These sentiments were echoed by a number of police interviewed, including officers working still in SOCA Units. Many were unhappy that they were being forced to either undertake the training to become a 'detective' in order to work in SOCIT and undertake full detective duties or be removed altogether from working in the area of sexual violence and child abuse. One SOCAU officer spoke of a 'heated' meeting with senior police personnel to discuss their concerns and had been told that if they did not agree to undertake detective training they would find themselves "working on the divvy van as of next Monday'… so all my passion and work over the years means nothing unless I agree to become a detective."[10]

Loss of victim focus. Another officer was concerned that the necessary imperatives of getting an investigation underway and especially in terms of identifying and seeking the whereabouts of a suspect is very likely to clash with the immediate and longer term needs of the victim, leading to victim claims of not being treated fairly because the detective is required to put significant efforts into locating the suspect and gathering evidence (PFGT 4, officer 6).

In this same focus group another officer believed the SOCIT model had not been well thought out as an alternative.

> It just seems to me the SOCIT project… it seems to me that you know, whether there's been a lot of research or not, there's obviously been one or two or three models that they've said, "these are the current models we're gonna consider and they've either picked (a) the cheapest (other officers give a loud 'sigh'), which is not unlikely, or they've picked the easiest and you know there definitely appears to be an agenda where… those higher up the chain have seen the SOCAU as a bit of a hideaway… that's a lot of garbage… the victims are in your face everyday… (PFGT 4, officer 3).

This officer went on to express views that the focus on victims will be lost and that specialization of those who deal very effectively with victims and their needs and those who can undertake quality investigations will be weakened if not entirely lost, adding that "SOCIT will fail, I'm convinced it will fail" (PFGT 4, officer 3).

Insufficient resources and trialing of SOCIT. The maintenance of staff and resources was a concern expressed even by those working in current SOCIT units.

> [The Commissioner] is giving us lip service [re SOCIT]… we might be stealing staff from other [areas] to [staff SOCITS]… you will end up sucking staff out of [other areas] and [staff] will still do the best they can for victims, but eventually, it's not the

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[10] Correspondence received by email to the PJO research team 20/8/2010

victims' fault it's the staff, [they] will end up toppling over if they don't resource it properly (RFG 1, officer 3).

A number of police were concerned that the SOCIT model trialed well because it was done under pristine conditions with 'buckets of funding thrown at it and purpose built facilities with strong support' and a 'very manageable workload. One group of officers from an established SOCIT shared concerns about the future of their SOCIT now that alternative aspects of funding were being wound back and the reality of management within a more uniformed budget was to occur. They indicated they were already seeing changes that were impacting on their work and some resources being slowly lost or taken back and they were very aware of the debates and concerns that had been raised by fellow officers at other SOCIT transitioning locales and were concerned that the model required significant funding and significant support for officers to be sustainable (PFGT 5, officers 1 and 3).

Multiple victim caseloads and 'normalisation'. Some police commented on cases that involve more than one victim and the potential overload both in terms of work and emotional impact for police dealing with a single case that may have multiple victims, requiring significant management of many victims, each with their own needs and problems. Thus, many police felt very concerned that once a 'normal' and/or 'fuller' workload occurred SOCIT detectives would have:

> Ten or more cases on their hands and/or cases involving multiple victims in each case, police would potentially be investigating ten or more rape cases and managing the statements and after care and well-being of perhaps 20 or more victims at once… some of whom have complex and chaotic lives and are highly vulnerable… I know because I have been in this field for more than 20 years and I know how exhausting it is and if [detectives] are to handle all this on our own there is no way this can be sustained over time… in order to handle the workload the victim will be the first casualty because police will be driven to focus on the investigation and [detectives] will suffer badly if they are also having to manage the care of upteen victims… they will start to leave the job and then you have lost really good detectives who are good at this work and who are often really good with victims… but you will drive them out with the current model… it just can't be sustained… (RFG 2, officer 1).

The rural view. Rural officers expressed similar views with added issues:

> I think that inherent issue of being in the country is what I want to talk about. Victims in the country [suffer], its not through choice. The code of practice [for sexual offences] is set up for Melbourne I have no doubt, so is SOCIT, it was written in Melbourne, it is designed for Melbourne because there are SOCA, SOCITS or whatever we are going to call them at the moment, all over Melbourne, so there is always a chance of a cop out there… [and] there is always a night shift and night shift on call so it's all dealt with there and then. We do on call we have an on call member [but] it's a massive area we cover the division so we have got [indicates large areas of

> Victoria they cover] as well as [having] to travel, sometimes a seven hour return drive, so it's a huge situation where you cannot possibly give the [victim] service that they are going to get in Melbourne in the country without losing one aspect or another (RFG 2, officer 4).

> … and what about rural areas who are scratching for police and resources… how do they go with victim care and tracking down the offender when they might have to drive the victim for four hours for after care whilst managing the crime scene and chasing the bloke... how will this model work in rural locales with just one or two SOCIT's to cover a vast area? (RFG 2, officer 1).

The officers and colleagues making the above comments discussed the 'tyranny of distance' and how it has always impacted on their work as a SOCA Unit and how they feel this will be exacerbated with the new SOCIT model which will mean the detective must attend to the victim and the offender and the crime investigation. They provided examples of where in the past SOCAU officers have had to ask a victim of a sex crime to drive themselves to a particular medical or counseling locale to meet them, or have someone else drive them, because of the distance between where they live and the police locale and police workloads.

Other police in rural locales provided similar scenarios expressing concern for the role of a SOCIT officer having to care for the victim's needs which may entail long distance driving, waiting for many hours with victims while other services are completed and also secure the crime scene/forensics and attend to the alleged offender and the investigation in a geographical locale that is challenging as well as the challenge of resourcing in smaller rural locales (RFG 3). These concerns also included the potential overload both in terms of work and emotional impact for police dealing with a single case that may have multiple victims, requiring significant management of many victims, each with their own needs and problems.

Not surprisingly this was a considerable concern for police in rural locales, especially those covering larger districts because they said rural locales had always experienced problems in terms of resources such as staffing levels, equipment and access to facilities and training. Overwhelmingly, police from rural locales were concerned the SOCIT model would exacerbate these ongoing issues rather than alleviate them.

'Burn-out'. One officer crystallised a fear that in the longer term the new model would possibly 'burn-out' good police.

> I think [there's] lot of the uncertainty that's coming from the transitions in a lot of units is that nobody knows exactly how it is going to work nobody tells us anything. There is uncertainty as to what our roles are going to be and how much is going to be expected of us and a lot of it is about… a lot of the people that have come into [these] units… have wanted a completely different sort of lifestyle. Now we are being pushed back into a lifestyle that a lot of people didn't want. So although there are benefits in having the victim and following the whole investigation through and keeping contact

with that victim the whole way through and seeing a result go through to court possibly, which is a good thing, if they don't give us the resources to manage that, that is going to be extra stress, we are going to be following the whole thing through doing warrants and stuff like that… we stay back and we do warrants and follow the whole thing through and then interview the offender when we are dead tired but people who have come to these units because they have families and want to go home on time are not going to be able to do that anymore (RFG 2, officer 2).

These many concerns were echoed in the later police interviews and focus groups conducted in 2011 (see s. 8.3).

4.6.1 Police views on training and resourcing

As just described, police generally regarded sexual offence units to be seriously under-resourced and under-valued by fellow colleagues and police Command. Police officers in rural locales were especially vocal about specific areas of resourcing such as facilities that were superseded by technology; in poor working order or not working at all; access to vehicles; funding of necessary overtime; access to refresher training and other training opportunities due to distance and staffing levels. Some police also considered support was variable across different units and varied in level and type of support apart from the rural/city difference. This appeared to be linked to both different management styles and resources made available: that is, how hard their manager fought basically to secure funding (RFG). These observations are consistent with 2010 strand two findings reported in Chapter Eight, showing that the rural perception of under-resourcing and lack of appreciation by Command and city colleagues, as well as the observed general variability in management style, were still challenges to be met by Victoria Police to ensure that policy is faithfully translated into sound practice at the local level of SOCITs (see s. 8.4 particularly).

The risk of insular learning and practice. A number of police cited a need to have an avenue to confirm or disconfirm current practice, otherwise they become insular to themselves. One officer provided a particularly insightful commentary on the dangers of peer support and becoming insulated into a local view or local culture within the unit. This officer reflected that there was a real need for refresher training away from the local SOCIT unit or at least with external input to help SOCIT members avoid reinforcing what could be unwittingly developed practices that were not 'best practice'. This could result from peer support as they often found themselves referring to each other for advice on cases etc within their peer group to validate or get advice and this could be unhelpful (or worse) and it would be better to have a chance to refer to an outside source (PFGT). In the words of this officer:

I think it goes beyond that and I think it goes to the point where we will probably need to start looking at management at a higher level and having best practices issues. Like there are things that I have seen since I have come into my office that I just look at and just think this is fraught with danger, just practices that have come into play

because you don't have feedback [and refresher training] because you think that you are doing the right thing, practices that have come into play that could be of great detriment later on down the track but it's not seen at this stage and that is the result of not having the feedback [or refresher training] which could be 2 ½ years down the track by the time we come through the member may not be there but then it comes down to management where you've got the managers need to say right best practices and have it consistent across the board… It's inconsistent and practices like that; you know some practices are fraught with danger... (PFGT, participant 2)

Training needs. There was a strong consensus among all police that training needed to be ongoing, conducted as a regular in-service component of their work, and with an emphasis on refresher training around skill-based techniques such as interviewing and developments in research within the Criminological sub-discipline of Victimology (as distinct from the SOCIT/VARE training component that is also called Victimology). The emergence of technology assisted crimes such as 'sexting' and IT assisted sexual offences or other trends in sexual crimes such as different types of drug spiking etc were areas they believed should be provided regularly through in-service training with trainers able to travel to their unit to save on time, travels costs and staffing issues, especially in rural areas.

Chapter Nine provides a detailed discussion of PJO research conducted on the specialist sexual assault course as well as 2011 police interview and focus group data on recruitment, training and development that is consistent with findings from the 2010 strand one police interviews and focus groups. This triangulated data over time and different methods and data sources provides very strong findings on specialist sexual assault police perceptions of their training needs and gaps, and these perceptions are shown to be consistent with other data perspectives as well (see s. 9.1.3).

4.7 Summary and recommendations

Police interviewees provided many insightful and honest comments on victim reporting and non-reporting issues. Their perceptions of the barriers to reporting were largely consistent with those presented by victims themselves. Police were particularly cognisant of the importance of family factors as barriers or facilitators in regard to victims reporting. A significant difference was the general lack of awareness by police that victims considered police themselves to be part of what police identified as a problem with the broader criminal justice system. That is, police were often unaware that they too presented obstacles to victims reporting due, for example, to stereotyped beliefs and myths about what constitutes 'real rape', including the commonly perceived necessity of physical evidence and the role of 'false reports' and 'regrettable sex' reports in their thinking. Unhelpful police beliefs included some regarding historical offences as not worth expending valuable police resources, a view that is questioned by the Queensland strategy of a specialist historical sex offence unit. The PJO research evidence also illustrated how the 'options talk' in conjunction with NFPAs provide a ready means for police who are so disposed not to respond appropriately to victim/survivors'

complaints of sexual assault. In these respects, it was notable that some police use 'thumbnail sketches' and prioritise police assessments over policy requirements.

Despite these findings, it was also evident that many police interviewees were not only committed to their task but also innovative in its positive pursuit. Thus, some police spoke of the need for and ways in which they managed victim information over-load, for example by providing standardised written information and allowing victims sufficient time to grapple with emotional and other problems. Some also noted the risk of becoming parochial in their policing approach and wanted to address this to ensure they were able to adopt 'best practice' activities.

In relation to recent Victoria Police initiatives, police interviewees generally expressed skepticism as to the long-term success of SOCIT arrangements and they cited inadequate resourcing and training as hamstringing the likelihood of success in that respect. They also cited role tension and conflict with a loss of victim focus as inherent in the new model, which they saw as already being hybridised and unviable. Police in rural locations were of the view that problems were especially dire in their areas due to distance, technology and other factors. Some police also recognised the crucial importance of proper recruitment procedures to the success of any initiative to improve police responses to sexual assault complaints. In that respect, although the SOCIT/VARE specialist sexual assault training course provides a sound basis for further development, any training input is of no consequence if the trainees are poorly selected in the first place – this vital component of the police response is further examined against the PJO research evidence in Chapter Nine.

The recommendations arising from considerations in this chapter are as follows.

RECOMMENDATION: Victoria Police should consider the establishment of a specialist historical sexual offences investigation unit to ensure the selection of police suitably qualified and trained to respond appropriately to reports of historical offences. Particular attention should be paid to recruitment criteria focused on attitudinal and aptitude qualities of applicants, with the use of validated psychological tests and interviewing panel techniques in the selection process. (s. 4.2)

RECOMMENDATION: Aside from understanding the reasons victim/survivors report to police within the motivational framework of 'symbolic protest', police members within both specialist and generalist units should also be made aware of the criminal intelligence benefits that arise potentially from victim/survivors' reporting of sexual assault even if the report is not processed to a successful Court conclusion. If there is no successful prosecution, reports still can be recorded and placed either in the serious crime cabinet or a similar repository to aid policing efforts in relation to future sexual assault reports. (s. 4.3)

RECOMMENDATION: It would greatly assist victim/survivors and police if a consistent presentation of options was presented and supported with uniformly worded and clear written material in a standardised format making very clear that victim/survivors may take their time to consider reporting options and that may include them getting further advice or information from others. (s. 4.5.1)

RECOMMENDATION: Moreover, police should encourage victims to make a report and highlight that the victim has the power/choice to have that report actioned as an investigation or leave it on the police record both in electronic form for Victoria wide police access and in local crime cabinets without any action at that time. (s. 4.5.1)

RECOMMENDATION: Subsequent to an initial report police should be required to actively follow-up victim/survivors who do not return to pursue a formal complaint within a policy regulated timeframe. The result of follow-ups should also be duly recorded in electronic and local systems. (s. 4.5.1)

5. The CASA view

This chapter reports the views of counsellors from the Centres Against Sexual Assault (CASA) with regard to their professional dealings with both victim/survivors and SOCAU and SOCIT police. Interview data from CASA counsellors (here in referred to as 'counsellors') lend strong support to many of the findings in this report.

5.1 Barriers and dilemmas

Counsellors were very aware of the barriers and dilemmas that impact on a victim/survivor's well-being and decision-making with regard to whether or not to report to police.

> From my experience fear is I think the biggest factor for most of my clients in terms of reporting. Fear of perpetrator, fear of family, or fear, kind of based on their own kind of anxiety and the fear of the court process [such as] how they are going to cope with it if they have struggled with anxiety and depression and the fear of being re-traumatised by the process. Fear of not being believed, shame, embarrassment, fear of not getting a conviction; sort of going through a long drawn out process and not getting a conviction. And fear because of the horror stories about the court process, being grilled and their personal integrity being questioned and all that kind of thing. In terms of fear of the perpetrator or family members I have had a client who did actually report [to police] and was physically attacked and seriously assaulted by a family member and the perpetrator as well so [fear] is often warranted (CFGIT2, participant 3).

> I [had experiences] of cases where it has been to keep the family together, [victim] has realised the impact that it can have on the family and it will be kind of harsh and that is a big influencing factor on withdrawing [complaints] (CFGIT3, participant 1).

> There are families who support [reporting] and the other, the other side of that is the ones where the family are pushing not to report. They don't want it [reported]...and other's do want [it reported] and it's all this pressure on [the victim]... and the victim [might] not want to, or might want [to report] and the victim doesn't even want some [family] members to know...and some members will believe [victim] and other members won't believe, so…the dynamics change (CFGIT 4, participant 3).

> I worked with a, I worked with a family and [the victim reported] and it totally split the family, absolutely split the family apart. You have siblings and

[family members] affected and then they split up and you have some of the family members will side with the perpetrator and some will side with the victims and victims parents and so it really can dissect the family (CFGIT 4, participant 4).

Family. The role of family as a major barrier to police reporting was discussed across the focus groups with counsellors reflecting on numerous examples of victim experiences along a continuum from fear of family reaction; threats from family members against reporting to expulsion from the family unit and active repercussions involving physical violence. This concurs with the experiences recounted by many victims in the strand one study as well as recognition by police that family can be a significant place barrier to reporting. This is not to discount the positive support received from family members however, sadly examples of this were few by comparison to families reacting in ways detrimental to the needs, rights and wishes of victim/survivors.

Stranger rape. Several counsellors believed there remained a tendency for police to react very differently to cases involving a stranger as offender as opposed to those cases where the victim is known to the victim and the abuse is ongoing, a point that has been commonly reflected in the research literature (e.g., Lievore, 2005b), as well as 2010 strand two findings (s. 6.4) and findings reported above (ss. 3.3 and 3.4.3).

If you have an unknown assailant [victim] gets a lot of pressure to report because they are representing that community... police [feel] they are doing real police work in these cases... cordoning off areas and [media] coverage and jumping on things and [the case] moves very fast and there is a very big difference in the responses between an unknown offender and known offender... [so] when it a rapist [victim] hasn't seen before [police] are quite good. If [offender] is known [to victim] it's not necessarily [a good response] (CFGIT 6).

Negative police response and repeat victimisation. Many counsellors were cognizant of the reality of repeat victimisation for victim/survivors and highlighted that if they experience a negative response from police at the time of reporting a first offence, or a negative court process, the experience inhibits future reporting. This has dire consequences for victims as findings from the PJO online survey supported other literature in the field regarding the level of multiple offences for many victims across various time spans (see s. 3.2.5). As such a negative experience with the criminal justice system leaves vulnerable victims unable to seek protection from police via reporting.

Impact of disbelief on victims. Building further on this theme counsellors also discussed the potential impact for a victim who made the decision to report, only to have the report lead to no further action or no charges after an investigation:

> For [some] there [are] social implications that can have further implications for the person because they are like, well the police haven't believed me so does that mean my social network are now going to [not believe me or reject me] and [counsellor] have found friends and family might have been called in for questioning so it's actually had quite a huge impact for [victim] where [there is] no further action... (CFGIT 2, participant 3).

> And it's a big problem... if it was a family member [as offender] and the rest of the family are not particularly believing and now the police aren't believing you either. Mind you it is just really great when it works the other way. Really marvellous then (CFGIT 2, participant 5).

In the above two comments the feeling from victims is that they are not believed, whereas it is very possible that police simply do not have enough evidence to lay charges. However the perception of being disbelieved is huge for the victim and those in their social network and family setting.

Self-blame, alcohol/drugs and police. Like many of our victim/survivor respondents, counsellors were too often aware of cases in which victim's self-blame and self-censure, fearing others would blame them, and resulting in a lack of confidence to make a report to police. This finding is in line with reports from victims themselves who believed that they were to blame or pre-empted blame from others, including police, and as such did not report (see s. 3.3.1). Counsellors also reported that clients experienced a form of 'judgement' by police about the veracity of their report or a sense of blame for the context in which the assault occurred such as the presence of alcohol or drugs, being known to the offender, or being in a social setting such as a party or nightclub. Some counsellors said that victims had their memory affected by alcohol and drugs and while this caused distress in terms of blurring or blocking recall of the events, it also led them away from reporting. Counsellors told researchers that the presence of alcohol was a major barrier to victims both blaming themselves and so not reporting. The complex interplay and influence of alcohol and drug use in sexual abuse is detailed further in the discussion of literature in Chapter Six and findings from analysis of data from police case files reported there (see ss. 6.2.2 and 6.3 especially).

Physical evidence. Counsellors also suggested that some police continue to rely on the presence of physical factors to determine their response, or experiencing a negative reaction by police on the basis the victim did not have overt injuries or other forensic evidence.

To sum it up it is [police tell them] that there was no physical evidence. It's like you have to prove it all the time (CFGIT 3, participant 1).

Withdrawing of complaints. Many CASA counsellors (for example CFGIT 6), as well as many police, spoke of the lengthy and exhaustive process for victims to get a matter to court. A number of counsellors and police believed this led victims to withdraw from a case. This was due to the length of time, losing support over the long time delay from reporting to court, the associated 'emotional exhaustion', and wanting to get on with their lives.

5.2 Experiences of their client base reporting to police

Variability of police responses and the SOCIT 'model'. Across the research interviews counsellors both lauded and lamented police responses noting some victims received excellent and wonderful responses whilst others received poor responses which had a deleterious impact on victims. Counsellors often expressed frustration at the inconsistency in police responses which they saw as a mainstay of policing, regardless of recent developments such as the SOCIT model. They acknowledged the clear improvements police have made and recognised that many excellent and dedicated police worked in the field of sexual offences however they were at the coalface of dealing with the many victims who continued to encounter negative or poor police responses. One counsellor in a senior management role had undertaken site visits to SOCIT units and was somewhat dismayed that the units were 'already hybrid, and that's really interesting because the one in [names locale] and the others in [names locales] are quite different...has different philosophies [and] different cultures and the personalities and the police officers attitudes [at different locales]', noting further the relationship between CASA and police in one unit remained 'very separate' and not as 'user friendly' for victims as envisaged (CFGIT 3, participant 4). As discussed previously, this view of variability in police responses and hybridisation of the SOCIT model was shared by a number of police interviewees (s. 4.6).

Training of police. Another counsellor in the same focus group commented on what they believed to be gaps that remain in the training of SOCIT police, particularly with regard to attitudes towards sexual offences generally and their communication with victims which they had raised with the Sergeant from the SOCIT Unit in question. It was positive that the Sergeant in this case took seriously the feedback from the counsellor and addressed the issue with the police officer (CFGIT3, participant3).

Counsellors who had strong links with SOCIT police had many positive experiences with police from the unit and reported that they often deliberately sought them out when referring a victim on who wished to have contact with police, because they were

confident that that particular officer would provide an excellent response. In such cases counsellors felt confident to refer victims on for reporting and to encourage the process. The concern was with some officers whom they believed held certain 'attitudes' towards certain scenarios of sexual violence. In other words, some police maintained certain stereotypes about sexual offences that counsellors found led to victims having poor experiences. In this vein counsellors in this group were of the view that police would benefit from specific training around stereotypes and to have police reflect on their attitudes to certain types of sexual offences that led them to either judge the victim or the context of the crime in ways that negated the credibility of the victim (CFGIT 4).

Police validation. Counsellors identified that a positive police response was linked to greater feelings of well-being for victims in terms of their willingness and confidence to continue further with their report and subsequent process through the criminal justice system. Feeling 'validated' by police was expressed as an important element by victim/survivors (ss. 3.4.2 and 3.4.3), and counsellors also recognised the importance of this, even suggesting it held more sway than validation from counsellors or friends.

> It's one thing for a counsellor or friend to say that it's terrible and not your fault but when the police say that, it means so much more (CFGIT 7, participant 2).

> 'if they have a positive experience they want to continue on with [because] they felt supported, acknowledged, validated and they definitely want to continue with [process](CFGIT 3, participant 2).

> The sensitivity and the understanding [from police experienced by some] clients... has been brilliant and they have felt great after the experience even when it hasn't necessarily been one that they would have hoped for... but the way that [police] have responded to them is fantastic. And I have had others where they have come back feeling like... what they have said hasn't been acknowledged... [instead it has been] that the situation [of the assault wasn't good enough or wasn't awful enough to worry about, but it was awful to them so that's the difficult concept for them to grasp. [To police] it just doesn't count (CFGIT 3, participant 5).

Conversely, a negative response can be devastating for victims and affect their opinion of police into the future.

> In a [case that involved use of alcohol] that was thrown out by police...so [victim] said "this is it, I will never report again. I don't care what happens if I ever get assaulted again I will never contact the police and that's a familiar

theme [for victims], if they have reported [and have a negative experience] it is highly unlikely that if anything happens in the future that they'd report again (CFGIT 3, participant 2).

Another counsellor highlighted good police practice and how beneficial it is for victims, relaying a case where a police officer needed to advise the victim that the case would not be proceeding after an investigation. Having regard both for the fact the news was not positive, and that the victim in the case had been struggling emotionally, the police officer contacted the counsellor to seek advice and support to meet personally with the victim in order to deliver the news and to ensure that the victim had the counsellor present to ensure emotional support for the victim upon hearing the news (CFGIT3, participant 3).

5.3 The Options talk

Gate-keeping, screening and quality assurance. Counsellors across the state gave examples of police using the *options talk* in ways that often actively discouraged victims from reporting – even if this was not the original intention by police at the time. Many believed that police discouraged reporting of cases they believed would either be too difficult to prosecute at court, thus their motive was a form of benevolence, or cases where they had made judgments' of the victim and/or the circumstances of the assault and dissuaded them from reporting. These examples suggest a form of gate-keeping and a form of quality assurance and screening out of cases that individual police have developed a particular view about. Counsellors expressed disappointment that this happened, noting that it had a detrimental emotional impact on victims as well as continually promoting a view that the legal system was all but impervious to a small and narrow type of sexual offence case.

> I had a woman on the phone the other night who had just reported a historical sexual assault form her childhood... she felt when she [talked to police]that it had just been brushed aside and she was livid, she finally got the courage to do it, she had the right to do it... (CFGIT 1).

> I find that the police just dealt with the bare facts right so you have that extreme... those extreme sexual assault cases then they are more likely to follow through than most of the ones that I have dealt with... The police decide whether somebody is going to be a good witness or not (CFGIT 5).

> Again, one of those barriers is that when you get there that you are more likely than not to be met with the response that explains how very hard this is going to be before you even start. It's almost like they say "yeah well we will take it but it aint going to go very far, you realise that don't you? Rather than

emphasize [to victims] how supportive the process is, can be, its 'what a problem [the process is]' (CFGIT 2).

Another counsellor in the same focus group, but from a difference service, agreed, adding:

> There are often judgements made around [reporting offences by family or intimate partners] "well how's that going to stand up in court", so the person, if they do go through with [making] the statement it's not going to be easy or they decide not to because they get the message that the system is not actually going to believe them (CFGIT 2).

'Listening', non-verbal cues and victim discouragement. Another counsellor reported that victims often felt that police were judging their story from the start, rather than listening to the whole story, and consequently victims took from this that police were either disbelieving or discouraging the victim from making a formal report,

> Sometimes the crisis for our clients can be one where when they are going to tell their story [to police] instead of just listening at the beginning and taking down the information they can sometimes feel that they are being judged from the minute they have walked in as to whether their story is credible enough... or has enough evidence... I think the client's first impression [of police] is sometimes they feel like they are being judged rather than heard [and] can make the difference between whether they feel comfortable... they are already feeling embarrassed [and thinking] maybe I should have done [to prevent assault] differently or maybe what they've done [is viewed negatively] so when they're confronted with [are you] a credible witness... (CRFGIT 3, participant 2).

The notion of listening, asking appropriate questions to get the whole story and avoiding anything that might be interpreted as showing judgement was important for victims. Victims are often tuned in to non-verbal cues and it is important that the initial police response builds confidence for victim/survivors to share their experience(s). Several counsellors discussed a belief from their experience and that of clients that some police sit in judgement of victims.

> To me it would depend on the police officers, there are some really, really good police officers and there some members that tend to sit on that judgemental side... it depends on their attitude and personality (CFGIT 5, participant 2).

The victim's whole story. As noted earlier in chapters three and four, some victim/survivors were aware they were being discouraged by police from reporting as a consequence of explicit or implied responses and police officers told researchers of instances where they actively discouraged victim reporting or asked victims for cursory details only ('thumb nail sketch') upon which they would determine the likely success of the victim continuing with a report. As victims in this study made clear, and this is reinforced by counsellors, for many victims when they have made the decision to approach police, they do so with great courage and clearly expect police to listen to their whole story before determining the value of the victim proceeding further (ss. 3.2.4 and 3.4).

5.4 Urban versus rural locales and difficulties

Not surprisingly, counsellors from rural locales were particularly aware and sensitive to the additional layers that impact on victim disclosure and reporting as well as issues affecting police in rural locales such as resourcing and attitudinal issues that may be more heightened in a rural community, of which police are a part.

'Reputation' and family name. The notion of 'reputation' and 'protecting the family name' in smaller communities was considered a major barrier for victims to report and the likelihood that police within a rural community may know the victim or the offender were also barriers for reporting (CFGITs 2 and 3). One counsellor recounted the problem of an alleged offender in a small rural community targeting family members of the victim using tactics of intimidation and fear, leading the family to pressure the victim into withdrawing her complaint (CFGIT 2, participant 2).

Another counsellor told researchers of victims who, fearful of being identified in rural communities, travelled distances to a CASA service or police station in another community, on the basis they could enter the premises in anonymity.

> reasons might be... "I don't want anyone to see me going in there", and, you know, "I have a friend that attends that [service] "people will see me coming into the centre [so] people will know [I am a victim of sexual assault]... so it comes down to that rural thing, that everybody knows everybody... [many] clients travel huge distances to get to [service] or location that they think they'll be safe to go into (CFGIT3, participant 2).

Sadly this practice of travelling huge distances to access services on the basis of protected identity and anonymity is not unusual in rural communities (Taylor, 2003-2004) and the maintenance of it reminds us of the potential barriers for accessing police and other services encountered by rural victims.

The impact for victims in rural locales has been discussed elsewhere (Mason et al., 2009; Taylor, 2003-2004) and sometimes seeking to travel to another location does not solve the problem, as a telling example by a counsellor highlights. Upon becoming aware the some victim/survivors were finding it difficult to travel to other services due to remoteness, her service travelled to the locale to provide a half day service in that community to save women having to travel long distances. They located the service at a hospital, believing this may make it less obvious that victims are attending a sexual assault service. However, they 'withdrew' the service after only a few months "because [word spread] and everybody can involve deliberate actions to intimidate victims from accessing services".

Interestingly counsellors from metropolitan areas told researchers that it was not uncommon for victims from CALD backgrounds to seek support from a service outside of their suburb area on the grounds they were fearful of anyone finding out they were a victim of a sexual offence (CFGIT 6).

Victim anonymity and police reputation. The lack of anonymity for victims was also considered an issue with regard to police. Several counsellors who had worked previously in rural locales believed that the reputation of police can be a barrier for victim reporting'

> The police do have certain reputations and those reputations follow them in country towns. If [police officer] has not treated [victim] very [well], it gets around... (CFGIT1, participant 1).

> There is a fear this will get around, like if someone has an uncle or brother or father that's a police officer... or they know someone [who has] been out with a [police officer] it is about it getting around... there is a [certain] attitude in rural communities... and what police represent is the community... it gets around (CFGIT1, participant 2).

Offender's social status. The social standing of the alleged offender was also a factor mentioned by many counsellors from rural locales as victims feared either repercussions from an offender well known in the community and/or the potential not to be believed because of the status of the offender in their community or simply their status via their particular occupation. Counsellors from metropolitan areas touched on this also suggesting that an alleged offender with a strong public profile or significant status through their occupation can be a way of attracting credibility to the detriment of the victim's allegations.

5.5 Relationship between CASA and police

The general CASA/police working relationship. Some counsellors enjoyed very positive relationships with police from specialist sex offence units and not surprisingly felt that this enabled a greater sharing of information, enhanced victim reporting, and addressed quickly and proactively issues or misunderstandings.

Inconsistency in the relationship. However a number of counsellors spoke of the inconsistency in terms of their working relationship with police and this was true even of some counsellors from SOCIT Units. Some counsellors said they enjoyed reasonably regular scheduled meetings and open communication with police, while others lamented that despite their best efforts police seemed to control the level of contact and information sharing. Quite a few counsellors noted that personal relationship building with police was paramount to creating an environment that fostered sharing of information and regular contact. This could be problematic on two fronts. If police members moved on, it required this process to start over again, or if there were problems in the building of the relationship, then the professional relationship could be jeopardised.

A shared protocol? Thus PJO researchers heard of some services having excellent relationships with police from sexual offence units and others along a spectrum of good or reasonable relationships to those counsellors considered difficult at best. This suggests that a shared protocol around CASA and police interaction around sexual offence cases was the exception rather than the rule. Many counsellors said they would like contact to be more consistent and regular, rather than the often ad hoc formula instituted by incumbent police in charge of the specific unit. Further, they wanted police to be able to 'hear' feedback and critique as a tool that helped both organisations to assist victims, as opposed to a process of blaming and uninformed criticism.

Leadership/management style. A senior counsellor/manager believed that individual personalities and styles of management most often drove the relationships their services had with police so that protocols about working relationship and what must be adhered to by both parties could fall by the wayside if the leadership and management style of police did not reflect the philosophy of the police Code of Practice. The pivotal importance of police leadership is examined further in Chapter Eight.

> If the [police] team leader is really open and very empathetic to sexual assault you find that you work better with them. However if you get a team leader who is there because they want a promotion or [it's] a stepping-stone to

> getting [somewhere] they bring their baggage with them and their stereotypical beliefs with them (CFGIT3, participant 4).

The manager of this particular CASA explained that they had a very positive working relationship with the former Sergeant from the sexual offences unit but that officer left, and the new replacement did not seem as keen to develop a close working relationship.

> [It's] one of those key roles [and] they could not see the need to keep [regular scheduled] meetings going and just said "we will talk to you when we have got something to [share] (CFGIT3, participant 4).

The manager noted that soon the other two sexual offence units in the region 'followed suit' so that regular scheduled meetings were not sustained and this she felt impacted on their professional confidence with police and with victims they sought to assist in the reporting process because 'the relationship we knew' had changed making both counsellors and their clients feel 'less comfortable' and less 'confident' with a police service with which they do not have a strong, positive working relationship.

'Police shopping'. Counsellors in another service noted that different 'personalities' and 'attitudes' among police led to them seeking out contact with police with whom they had developed good working relationships. They noted that some police were very open to feedback from counsellors, especially with regard to victim experiences and believed this was invaluable in terms of helping police to understand issues of victim sensitivity or why a particular victim may have behaved as they did or sought to withdraw a case, thereby allowing police to be better engaged with victims. However, this communication and feedback was something they had to manage and negotiate with specific police, taking us back to the point that if those police moved on from the unit, the professional relationship suffered a setback (CFGIT 2). This point was also noted by other counsellors who told researchers that a positive working relationship with police allowed them to feel confident to approach them. If they received feedback from a victim who had a negative experience with police or was fearful of contacting police, the counsellor could act as a conduit. However police with attitudinal short-comings circumvented communication strategies (CFGITs 2, 4 and 5).

'Regular contact?' With regard to regularity of police contact with victims, some counsellors believed clarity was needed around this expectation because of the inconsistency in contact by police: 'I don't know what the police's idea of 'regular feedback' is because it's definitely not what I think or the client thinks'(CFGIT 3, participant 2). This same counsellor noted some positive examples where police kept regular contact with the victim, showed concern for their welfare or any fears about

the criminal justice process and kept the victim informed of the process of their case. Poor communication and long hiatus in contact was not only upsetting for victims, but in some cases victims found out information about their case from other sources, thereby losing confidence in the police process. Some counsellors acknowledged that police are busy professionals however maintaining regular, appropriate contact with victims was not only part of their job but was considered vital for victims in what is a complex and often frightening process.

> It is something that's such a small change that police could make [to improve regularity of contact]... that has an emotional impact [on victims] just in general (CFGIT 7, participant 5).

Comments were made by various counsellors about victims losing confidence with their report, beginning to doubt themselves and believing that police doubted them, and considering withdrawing their statement or withdrawing from the process as a consequence of irregular and/or unhelpful feedback (CFGITs 2, 3, 5 and 7). These considerations are reminiscent of views expressed by victim/survivors themselves as reported earlier (s. 3.4.4).

One counsellor felt the Police Code of Practice booklet was itself inconsistent with a copy they had noting police should keep 'regular' contact with police noting that it gave no idea of what police meant by 'regular' but that a version of the code of practice available on the police website at the time noted police should contact the victim every fortnight at least. This counsellor believed police were 'under-resourced' and often 'time poor' which meant that contact was often sporadic or only occurred when police felt they had a specific piece of news to impart to the victim. But like other counsellors and victims interviewed, this counsellor highlighted that irregularity of contact often had a negative impact on victims in terms of their recovery and level of confidence in how police were handling their matter (CFGIT 6).

Police Code of Practice availability. Building on this lack of communication a CASA manager recounted a recent example where she attended a meeting with senior police management to discuss some specific problems they had with police responses to a few cases. The manager took along the Police Code of Practice so she could cite their own protocols only to find them unaware of the protocols in question, prompting the manager to provide them with her copies and advising them 'that's your homework' and requested they study the Code of Practice to ensure the problems were addressed(CFGIT 3, participant 4). Other counsellors referred to the Code of Practice believing that the theory is not always lived out in 'process and procedure' (CFGIT 2).

Potential areas of improvement. When asked about areas of improvement police could make many counsellors believed that resourcing of police was an issue and believed this often added strain to their work. A number of counsellors discussed

better training for police that focussed largely on attitudinal factors that they felt continued to hamper some police and maintained a culture of certain beliefs and stereotypes about sexual offences (CFGIT 2, 3 and 6). In a more explicit vein counsellors from two different CASA services amplified the relationship of attitudinal values and procedures that were discussed in the group as an area of police improvement needed.

> One of my points is the police put a lot of effort into trying to come up with procedures that will make it work *better* and it's about *process* and half of what we have been talking about here today is about *value base*, not *process*. If you get the *value base* better you will get the *processes* that you want (CFGIT 2, participant 6, emphasis added).

> I think one of the things for me to come back to is, to, and I have heard a bit recently about the new risk assessment processes and all of those shared things, but again it is about process and procedure that the training is done in. Let's do some training in changing about *value* based stuff and I suppose my experience about training over the years as a trainer in this field as well, is if I could train or change and challenge peoples' values about [sexual assault you] would get a better [outcome] from [police] (CFGIT 2, participant 4, emphasis added).

Several counsellors believed the 'screening' of police to work in the area of sexual assault was necessary 'to get the right people in the job... because that seems to be the key, to get the right personality' (CFGIT3, participant 3). These observations resonate strongly with several findings from strands two and three research discussed in the later chapters of this report.

5.6 Comments in support of reporting to protect others

The PJO study found a significant theme among victim/survivors being motivated to report for selfless reasons or sense of civic duty for the purpose of seeking to protect other potential victims known or unknown to them. Significant examples of this were garnered from victims themselves and developed the conceptual frameworks of symbolic protest and recognition, sacrifice and report to identify the various reasons that motivated a victim report against a background of barriers and dilemmas that remained very real for the victim at the time of reporting (see s. 3.4.1). Few police interviewed were cognisant of this significant factor that led many victims to report.

Building police intelligence. However a number of counsellors were very aware of this fact, not surprising given many victims shared this reasoning with them. This desire to report, even if victims themselves do not wish the matter to go further for

themselves, offers a rich vein of police intelligence for police and it is regretful that many victims told us of being talked out of reporting or having police view their desire to report an historical or dated offence.

The following examples from counsellors support the testimonies heard from victims about motivations to report in order to protect others or ensure that police were aware of the extent of sexual offences within the community.

> One of the main motivators I've found is that women are wanting to report because they're actually scared [for] other children who come into the family and they have this enormous fear because they know the perpetrator [and what they did] when they were little and there are [other children] in that family and they somehow feel responsible should [the offending] continue (CFGIT 6, participant 1).

> Or they've got information, or something's happened and that can lead to determination that [it has to] be reported (CFGIT 6, Participant 3)
> ... so then the victim/survivor quite often says I would like to make a report so that it's there on file so that it's there, so that if he does it to anyone else (CFGIT 7, participant 1).

> [victim] made a report and didn't want it to go any further, but wanted it on record so if this person ever did anything again it [is on record] (CFGIT 2).

One counsellor spoke of the 'guilt' and fear some victim/survivors feel if they have determined to make a report and the report does not lead to police action against the alleged offender.

> (T)hat often weighs heavily on the victim/survivor if there has been no further action [by police] and this person has access to other children or adolescents or fearing that they might offend again against someone else (CFGIT 2, participant 4).

Another counsellor recounted the example of a victim who 'forced' herself to report to police in order to protect a younger sibling from the offender. In this case the girl was from a socially disadvantaged background and was fearful of reporting because she herself did not want to go to court for fear of the offender and the court process, however wanted her younger sibling protected. The counsellor reported that police seemed mystified by the girl's actions in terms of seeking to make a report yet being both frightened and firm in her insistence that she did not want her own report to go any further. Police were reluctant to take her report given she did not wish for it to go any further and that her demeanour was that of a difficult witness. In reality, as the counsellor recounted, what drove the report was intense fear that her younger sibling

would also become a victim of the alleged offender, leading her to an emotional crisis that led her to basically force herself to contact police. While it may be difficult for police in this situation as they grapple with information from a victim who does not wish to take the matter any further, it is clear that victims in these circumstances need specific supports to assist them and for police to realise the importance of still taking the report as an exercise in intelligence gathering (CFGIT 2, participant 3).

> **RECOMMENDATION:** Victoria Police should emphasise the value of taking and recording all complaints of sexual abuse, including especially those pertaining to the possibility of ongoing abuse and/or child sexual exploitations, for the purposes of building a criminal intelligence base for future reference at both local and state wide levels.

5.7 False Reporting

A solid number of interviewed counsellors expressed concern about the number of clients who have felt intimidated or unable to proceed further with a report after police have emphasised either the consequences of making a false report or challenged victims that their report is false. Researchers were told of victims who, through feelings of shame or fearing negative judgement by police, withheld certain information at the time of reporting the crime, only to be advised later when the information was revealed that police believed they were lying and thus open to a charge of false report. One case involved a sex worker who did not want police to know she was soliciting at the time of the alleged physical assault and rape. Another victim/survivor withheld some information about the context of the crime for fear of arousing anger from her family because of the circumstances in which the assault occurred. Counsellors believed that some police need to be more sensitive to the embarrassment and fear of judgement that may cause victims to withhold certain information rather than adopt the view that gaps in a story were evidence of falsity. This illuminates more broadly the difficulty experienced by victim/survivors who fear a negative judgement or feel embarrassed or shamed not just about the crime but also the context in which it has occurred, leading to self-recrimination and a general fear or disclosing and reporting to anyone, not just police.

> **RECOMMENDATION**: Victoria Police should develop an online feedback survey for victims to complete after contact with police. This exit survey poll would enable police to identify both good areas of practice as well as problem areas of practice as well as being able to respond appropriately and expediently to any issues arising from victim/survivor contact with police. Police to give all victims a card with the link to the survey or they can be given a hard copy asking them to comment on the service and experience.
>
> Implementing this recommendation is necessary in order to help police improve their response to sexual assault complaints. In particular it would provide real time feedback anonymously that will give a continuous feedback loop and address issues and problems as they arise. It will also improve victim confidence in the reporting process.

5.8 Summary and recommendations

While many CASA counsellors were hopeful that the new SOCIT model would deliver a more coordinated and coherent police response from the moment a victim accesses to police through to the outcome of the report, some CASA counsellors who had experienced with the SOCIT model felt that greater work relationships were still to be built across the board with all police and that included trust in terms of greater sharing of information. As mentioned, it was already recognised that the SOCIT model was hybridized before its complete roll out across the state and this was of concern to some counsellors on the basis that its differing structures and procedure already weakened the model thereby reducing its intended efficacy.

Counsellors recognised the difficulty of working in the area of sexual violence and many accounts were heard of the excellent work undertaken by many police and the strong work relationships counsellors often had with various police members and sometimes a whole unit. However this did not prevent recognition that there remained police working in this field who were not suited to the area of work, regardless of the training the police had or their years of experience.

The issue of attitude towards sexual violence per se was a feature of discussion and the maintenance of stereotypes which led some police to continue to judge victim worth or the credibility of a case based on the context in which it occurred or the credibility of the victim.

RECOMMENDATION: Victoria Police should emphasise the value of taking and recording all complaints of sexual abuse, including especially those pertaining to the possibility of ongoing abuse and/or child sexual exploitations, for the purposes of building a criminal intelligence base for future reference at both local and state wide levels. (s. 5.6)

RECOMMENDATION: Victoria Police should develop an online feedback survey for victims to complete after contact with police. Police to give all victims a card with the link to the survey or they can be given a hard copy asking them to comment on the service and experience. (s. 5.7)

6.0 Police decision-making

Research has shown that, as the gate-keepers to the criminal justice system, police significantly impact whether or not sexual assault complaints reach the Courts for adjudication (e.g., Heenan & Murray, 2006). The importance of this gate-keeping role has been emphasised by both the VLRC (2004) and the Victoria Ombudsman (2006). Also, since victims develop perceptions around police responses, police decision-making processes are important to whether or not victims report in the first instance or continue with their complaints (see ss. 3.3 and 3.4). An understanding of police decision-making is therefore crucial to any effort to address the generally acknowledged serious problems of non-reporting, delayed reporting and attrition in sexual assault.

Accordingly, there has been an increasing call to better understand Victoria Police decision-making in this area of crime in particular. In August 2004, the VLRC provided its final report relating to the responsiveness of the criminal justice system to the needs of complainants in sexual offence cases. The VLRC made major recommendations to Victoria Police that covered:

- undertaking research to gain a better understanding of the reasons why there has been an apparent increase in the numbers of people who make complaints and then withdraw them;
- giving written reasons to complainants when a decision is made not to continue with an investigation or not to lay charges;
- reviewing the process of authorising cases for prosecution to ensure decisions are consistent and transparent;
- regularly evaluating decision–making about prosecutions (VLRC 2004: xxiii).

The Office of the Victoria Ombudsman in its report entitled *Improving responses to allegations of sexual assault* (2006, pp. 36-39) made a number of observations in relation to police decision-making, withdrawn complaints and non-authorisation, and elaborated in its recommendation 29 for Victoria Police to 'introduce mechanisms to systematically analyse all sexual assault Briefs to identify patterns and characteristics of Briefs that are authorised for prosecution and Briefs that are not'.

Fitzgerald's research (2006, p. 11) concerned the attrition of sexual assault offences within the New South Wales criminal justice system and similarly raised the question: "What are the precise reasons why police and prosecutors do not commence criminal proceedings?" (cf., Heenan & Murray, 2006). Taylor and Gassner (2010) stressed the importance of failing to answer this question in terms of a two-fold effect:

It inhibits understanding and identification of the decision-making process brought to bear on cases, making external assessment and evaluation of the phenomenon very difficult, if not impossible. It further creates difficulties for victim/survivors where reports exit the criminal justice system without clear reasons or for reasons that suggest arbitrary decision-making by individual officers (Taylor & Gassner, 2010, p. 245).

The most directly relevant study of reasons for decisions by police in Victoria relating to sexual assault was the 1991 Victorian Community Council Against Violence (VCCAV) study of reported rapes over the period of 1987 to 1990, which included an examination of reasons police proffered for terminating investigations. That report noted a limitation of analysis of the reasons for cessation of rape investigations was that it was based solely on information provided by the police. The reasons were categorized (along with the number and percentage of cases from a total of 121 cases) in terms of:

- false report not charged (44 cases, 36.4%)
- false report charged (27 cases, 22.3%)
- no offence detected (20 cases, 16.5%)
- complaint withdrawn (11 cases, 9.1%) and
- insufficient evidence to proceed (19 cases, 15.7%).

In relation to the first category, the false report was seen as either unintentional where someone else had reported the matter without full knowledge of the situation; or the alleged victim was not held fully responsible due to an emotional problem, attention-seeking, or immaturely avoiding trouble with parents. It included also some cases where police perceived the victim was 'getting even' with a boyfriend or partner. Interestingly, the false reports that resulted in charges against the alleged victim did not, the study found, appear to differ systematically from those where no such charges were forthcoming, except that these latter false reports involved no third party reports and less evidence of psychological problems.

Regarding complaints withdrawn it was noted that these were documented by police from their perspective and that it would be "extremely illuminating to have access to the victim's explanations and opinions" (VCCAV, 1991, p. 70). It was also noted that victims were commonly unable to recollect events clearly and they were influenced by alternative explanations from others (e.g., police, family, friends) to be less confident or desirous of pursuing the matter. Lievore (2005a) argued that this category of reason concealed a "Hobson's choice" because victims were "forced to make what is apparently free choice when in reality they perceive that there is no choice at all" (Lievore, 2005a, p. 49). McLachlan (2007) similarly discussed how South Australia police subtly and sometimes not so subtly pressured women to withdraw complaints by referring to the unlikelihood of success and waste of

resources; with performance measures for police dependent on cases 'cleared' which included a large proportion via withdrawal (cf. Frohmann, 1997, p. 535). "It benefits investigators' clearance rates to encourage victims/survivors to request no further police action and clear a case rather than file it" (McLachlan, 2007, p. 163), a point made elsewhere in the literature (e.g., Gregory & Lees, 1996, p. 5). The Home Office study by Kelly et al. (2005) reported that victims' withdrawal of complaints represented between half and three-quarters of cases lost due to attrition in the criminal justice system.

In the VCCAV (1991) study the insufficient evidence category was further explained as meaning one or more of the following: there was no medical evidence of sexual intercourse; delayed reporting resulted in victims having showered and washed clothes; the absence of physical injuries to substantiate the victim's claim; the presence of drug problems, intellectual disability and mental or psychological problems that seemed to suggest police questioned victim reliability; and lack of victim cooperation that suggested some police viewed this as indicative of the sexual assault claim not being genuine.

No offence disclosed cases involved situations where the victim was ignorant of the law pertaining to what constituted rape, someone else mistakenly reported a rape, or police surgeon forensic examination failed to establish an offence.

Heenan and Murray (2006) undertook a similarly germane study of police decision-making in Victoria relating to reported rapes over the period of 2000-2003. Like the authors of the VCCAV (1991) work they also cited restraints on data-collection, which reduced the quality of data and reliability of overview of police responses. They found that rape victims who were most likely to see charges laid were male; physically injured; medically examined; not influenced by alcohol or drugs at the time of the offence; subject to other offences alongside the rape; and, raped by offenders well known to police for previous sexual offending. The strongest influences were evidence-based (63 per cent) or offender-based (33.7 per cent). Cases that resulted in no further police action were typically more likely to involve younger victims; victims who were acquainted or who had a cursory relationship with the offender; and, victims who had consumed alcohol or other drugs around the time of the offence. In almost 40 per cent of these cases the police decision seemed predominantly based on victim-related reasons. Heenan and Murray (2006, p. 45) emphasised the difficulties and less responsive approach police adopted in relation to rape cases involving the mentally ill/psychiatrically disturbed and/or those in residential institutions. These were factors that reduced the likelihood of positive police decision-making to take the cases forward. Lievore (2004) studied prosecutorial (not police) decision-making in sexual assault based on 141 case files across five Australian jurisdictions to find underlying factors of: physical or verbal non-consent by victims; victim injury; evidence linking the defendant to the assault; use of force; severity of

the assault; defendant was a stranger; and the defendant was a non-caucasian (considered to be related to the over-representation of indigenous offenders in the sample).

Although there is limited research that directly examines the reasons for police decision-making in sexual assault cases (Fitzgerald, 2006; Taylor & Gassner, 2010), there are studies that shed light on police decision-making in a number of ways. A key factor influencing the likelihood of prosecution in sexual offence cases has been found to be the victim/offender relationship (Brown, Hamilton & O'Neill, 2007; Kennedy, Easteal, & Taylor, 2009; Krahe, Temkin, & Bieneck, 2009; Lea et al., 2003). Lievore's work (2005b) found 'stranger rapes' were significantly more likely to proceed than 'acquaintance rapes', whereas partners and former partners were more likely to have their cases withdrawn. By contrast, research also indicates that cases involving known suspects can be significantly more likely to result in arrest, with the explanation being offered that this might occur due to the greater ease of locating the perpetrator (e.g., Alderden & Ullman, 2012).

The likelihood of a case being progressed to court has been found generally to be associated with 'hard evidence' factors (see below, s. 6.1). For example, a Home Office study found that significant predictors of the decision to prosecute were: "that the assault was linked to sexual offence against a separate victim; the victim's medical history was obtained; the offender threatened the victim; forensic evidence was recovered; and, where witnesses were present" (Feist et al., 2007, p. iv). Analysis of data from 1990-2005 across the United States, Australia, Canada, England and Wales, and Scotland revealed cases involving evidence in terms of physical resistance, a witness, or use of force and/or a weapon were more likely to proceed to prosecutions (Alderden & Ullman, 2012; Daly & Bouhours, 2010). Heenan and Murray (2006, p. 27) similarly noted that "police confidence to charge appeared to increase proportionate to other evidence being available to support the allegations, such as witnesses, physical injuries or other physical evidence".

Research also shows that police are likely to decide not to progress a sexual assault complaint if the victim suffers from a psychiatric condition, intellectual impairment of some kind, alcohol/drug incapacitation, perceived immorality and/or working in the sex industry, or not exercising prudent judgement to avoid or withdraw from 'risky' situations (e.g., Bryden & Lengnick, 1997; Campbell et al., 2009; Heenan & Ross, 1995; LaFree, 1981; Lea et al., 2003; Lievore, 2004, 2005b; Neame & Heenan, 2003; Page, 2008; Schuller & Stewart, 2000; Spohn, Beichner, & Davis-Frenzel, 2002; Spohn & Holleran, 2001).

These kinds of factors have been linked to how police appear to routinely think about victims and consequently make decisions about sexual assault claims (e.g., Bryden & Lengnick, 1997; Dumont & Myhr, 2000; Frohmann, 1991, 1998; Lea, Lanvers &

Shaw, 2003; Spears & Spohn, 1996). Following Christie's (1986) thesis of police perceptions of 'ideal' and 'non-ideal' victims, a number of research pieces have garnered evidence that police think categorically about sexual assault victims and this has consequences for their decisions (e.g., Jordan, 2008; Reiner, 2010; Spears & Spohn, 1996). Segrave and Wilson (2011) found that general duties police in Victoria distinguished between 'ideal' and 'non-ideal' victims, with the 'ideal' victim being a 'respectable', law-abiding citizen engaging in legitimate business activities at the time of the offence. Police investigators were more likely to respond positively to an 'ideal' victim in terms of a 'bedside manner' approach to the victim's complaint and additional attention compared to the 'non-ideal' victim. In the words of Spears & Spohn (1996, p. 201) a victim was 'genuine' "if her background and behavior at the time of the incident correspond(ed) to traditional gender-role expectations and if she made a prompt report to police". A key element of the 'real rape' and 'real victim' myth has been shown to be the presence of physical signs of resistance by victims and/or perpetrators' use of force, evidenced visible bodily harms, and this element has been evidenced in the research literature as a determinant of women's likelihood of reporting to police (Dumont et al., 2003) and it is evidenced further by victims in this study (see s. 3.3.1). McLachlan (2007, pp. 149-152) similarly drew an emblematic link between 'real' rape myths and a culture of disbelief by police in relation to victims who do not fit the stereotype.

In these respects, issues of victim credibility and consent are at the heart of most sexual assault claims. This is due to the preponderance of sexual violence occurring within known if not intimate relationships, without witnesses and behind 'closed doors' (cf, Burman, 2009).

> The ultimate battle in acquaintance rape trials, where consent will almost always be the determinative issue, is whether the victim or the offender is telling the truth. Yet it is only the victim whose veracity is questioned because most offenders will safely stand mute, insulated by the constitutional protections of the presumption of innocence and the privilege against self incrimination (Hopkins & Koss, 2005, p. 695)

Perceived victim credibility has been one of the most frequently found factors to influence the police decision to charge a perpetrator of sexual assault (e.g., Schuller & Stewart, 2000). Heenan and Ross (1995) found that police in Victoria often disbelieved victims due to perceived inconsistencies in their accounts, lack of corroborating evidence, mental health or psychiatric issues, or if they were 'known' to the police.

Frohmann (1991) found that victim credibility was questioned through two mechanisms: inconsistencies between the investigator's report of the victim's claim and the victim's account to the prosecutor, with the assumption being that the

investigator's report would be correct; and inconsistencies between the victim's complaint and the typical story of particular kinds of rape with which police have become familiar from past investigations and subsequent expected normal behaviours (typifications), with the assumption being that the typification should be re-produced in its key elements in any real rape of its kind. She found that, using these essentially decision-making mechanisms, prosecutors' assumptions resulted in discrediting victim allegations and hence in case rejections. The literature supports this finding in various terms, such as victims' perceived immorality and poor character, exemplified in promiscuity and prostitution (e.g., Bryden & Lengnick, 1997; Kerstetter, 1990; La Free, 1979; Lievore, 2004, 2005b; Neame & Heenan, 2003; Page, 2008; Spears & Spohn, 1996; Spohn & Holleran, 2001).

Similarly, there is research evidence that 'risk-taking' victims receive less positive police attention. For instance, Lea et al. (2003) found an association between no further action by police and the victim willingly being in the home of the perpetrator; and Spohn et al. (2002) found that prosecutors were more likely to pursue a complaint if the assault did not occur in the victim's or offender's residence. Frohmann (1998) provided compelling examples of how drug/alcohol influenced victims were discredited and their sexual assault complaints consequently failed at the prosecutorial point. Similar findings about alcohol and drug affected victims have been reported by other researchers (e.g., Bryden & Lengnick, 1997; Campbell et al., 2009: Segrave & Wilson, 2011). Heenan and Murray (2006) identified how a victim being under the influence of alcohol/drugs reduced the likelihood of charges being laid, whereas sobriety raised the likelihood of charges. They also found that victims with a psychiatric disability or mental health issue were among those least likely to see charges laid. As reported earlier, this 'risk-taking' factor was supported by data from victims in strand one and some victims got negative responses from family and others about the locale of the rape and the use of alcohol or date rape etc (see s. 3.3).

Researchers have also observed that what has come to be called 'uncertainty avoidance' or a 'concern with convictability' characterises police and prosecutorial decision-making in relation to sexual assault complaints (e.g., Albonetti, 1987; Frohmann, 1991, 1997; Lievore 2005b; Schuller & Stewart 2000; Spears & Spohmann 1996). Frohmann (1991, p. 214) noted that prosecutors' behaviours were organised "more to avoiding the error of filing cases that are not likely to result in conviction than to avoiding the error of rejecting cases that will probably end in conviction". Uncertainty avoidance is related to what has been found in the research literature to be the importance of corroborative evidence to complaint continuation (e.g., Bryden & Lengnick, 1997; Gregory & Lees, 1996; Kerstetter, 1990; Lievore, 2004, 2005b; Spohn & Holleran, 2001; Spohn et al., 2002; Taylor & Gassner, 2010). This finding reflects a strong tendency for police to seek corroboration of the victim's claim of sexual assault independent of the victim's word versus that of the alleged

offender. Fitzgerald (2006) reached a similar conclusion in her New South Wales study of the attrition of sexual assault cases from the criminal justice system.

In short, the literature suggests that police construct images of victims and make assumptions about them in terms of broadly defined factors and use these as a simplifying tool to make sense of often highly fluid and complex situations in their decision-making. The police narrative thus serves as the vehicle for communicating and pursuing certainty and avoiding uncertainty in authorisation and non-authorisation decisions. Simplification for purposes of uncertainty avoidance mixes together both legal and non-legal considerations, including cultural stereotypes of 'real' sexual assaults and 'genuine' victims in relation to 'questionable' situations of sexual assault involving victims' memory, credibility, consent, character and moral issues.

Against the background of research to date, this chapter reports the PJO study findings on how and why operational police in Victoria make their decisions concerning sexual assault complaints (see also s. 4.4 in relation to the literature just discussed). Data were drawn mainly from the 90 case files examined in detail, with triangulation to the police interviews and focus groups conducted in 2011, as well as the OPP focus group also conducted in 2011. There is also triangulation of the research evidence garnered across the strands. Findings are first presented on police evidence gathering techniques and practices. There follows a discussion of specific reasons and broad influencing factors apparent in police decision-making in authorising and not authorising criminal proceedings. There is an account of other considerations, including a description of unusual arguments found in a small number of cases. Analytical comparison is then made of authorisation and non-authorisation decision-making. The main findings and recommendations are presented in the conclusion.

6.1 Evidence gathering techniques and practices

Common police practices. A number of common practices emerged during analysis of the case files. These included the following:

- CASA and hospital/medical examinations were involved in sexual assault cases as per the Code of Practice
- Medical and DNA evidence was obtained as soon as possible after the alleged offence was reported.
- Seizure of materials relevant to alleged offence was undertaken as soon as possible – eg bedding, clothing, condoms
- Statements were taken from the victim as soon as possible after CASA and hospital referrals.

- VATE interviews were conducted for underage and mentally impaired victims
- The practice of ensuring the phrase "I did not consent to (the accused) doing what s/he did" appeared at the end of the victim's statement. No victim statement excluded this phrase.
- Pretext telephone calls
- Police line-up parades
- Interviews with the accused were audio taped and these commonly included the following:
  - Informed accused of rights
  - Checked for Aboriginality/Torres Strait Islander
  - In presence of accused unsealed 3 audio cassette tapes and inserted in recording unit
  - Corroborator present at accused's interview
  - Checked master tape for voices
  - Gave accused a copy of the typed interview
- Checks were made for any drug/alcohol background of both victim and accused
- Witness statements were routinely taken where appropriate.
- Identification of photo statements and production of photo-boards
- Taxi Directorate was included in matters relating to taxi drivers – e.g., cases 11, 41, 89
- VicRoads was included in matters where a vehicle was significant - e.g., case 17
- FACE images of accused
- CCTV footage
- Specialist police units were utilised where appropriate, for instance
  - Computer forensics – e.g., case 33
  - Dog squad in cases where the crime scene was part of a larger search area – e.g., case 27
- Crime scene area and or location plans

Unless authorisation appeared very likely or subject to an arrest having been made already, it was also common for the authorising officer to first listen to the audio-tape of an accused interview before making a decision, rather than bearing the cost of a transcript. A transcript then would be sought only if the decision became likely to be authorisation.

Tiers of evidence. Tiers of evidence can be presented in a general rank order of importance from the police viewpoint of likelihood of obtaining a conviction. This ranking is not mutually exclusive and sometimes a lower ranked evidentiary item can be of greater import than one that is generally ranked higher. These categories are also not considered definitive and exhaustive, and in less common instances a case is referenced.

- Police witnessing the actual sexual assault – transit police case
- Accused confession in record of interview
- Police presence at crime scene whilst accused still there – e.g., cases nine, 50
- Police arrival at crime scene shortly after the alleged offence – e.g., case nine
- Physical harm evidence - obvious physical injury suffered by victim
- Medical evidence – e.g., victim shows physical signs of sexual assault such as vaginal or anal tears, splitting of the skin etc
- DNA evidence of sexual penetration – traces of semen and other bodily fluids mixtures of victim and accused
- Photographs - bodily injuries of victim
- CCTV footage of offender at scene or in area
- Victim statement(s) that are forthcoming, consistent, coherent and credible
- Accused record of interview showing inconsistencies or partial admissions – eg case 50 for latter
- Pretext telephone calls – e.g., case 12
- Telephone records - printout of mobile simcard records – e.g., case 17
- Computer forensic evidence of text messages – e.g., case 33
- VicRoads Registration Extracts – e.g., case 17
- Audio/text evidence of first complaint or disclosure
- Witness statements
  - Witnesses to actual assault
  - Witnesses to immediate aftermath of assault
  - Witnesses to events related to the alleged sexual assault
  - Credible witnesses in relation to the victim's account
  - Consistent account of victimization across multiple victims
  - Consistent account between witness of first complaint and victim
- FACE images of accused
- Photographs – victim, crime scene
- Crime scene area plans
- Non-forthcoming accused record of interview

In cases involving taxi drivers police also tendered evidence from the Victoria Taxi and Tow Truck Directorate (VTTTD), such as the CD-R disc "evidence of defendant turning off taxi surveillance just prior to exposing the victim's nipple and breast" in case 11. In that case, police also produced in evidence expert testimony from the Directorate Officer who had knowledge of the taxi camera system. These pieces of evidence were in addition to CCTV footage within the vehicle showing the victim and her fellow passengers.

Importance of the particular circumstances. In addition to the above common types of evidence, individual cases saw police gathering evidentiary items peculiar to the circumstances of the alleged offending. For example, in case 15, aside from I4 photographs of a video camera and PC tower, the computer and video camera were also seized as evidence. In case 26, a copy of the motel account record was placed in evidence. In case 59, police sought a copy of a film screening timetable, a copy of a singles newspaper advertisement, and a letter from New Zealand police confirming that the victim was not wanted for making false reports. Hence, it is important to qualify the notion of common types of evidence as being a general rule not a prescription.

'Hard evidence'. Evidence gathering techniques and practices reflected a tendency for police to rely upon 'hard evidence' consistent with the uncertainty avoidance principle reported in the research literature. 'Hard evidence' included a variety of tangible items as just indicated, including medical/DNA materials, physical crime scene items (e.g., bedding), witnesses, photographs, CCTV footage, telephone/text message records and offender admissions. 'Hard evidence' was also emphasised in the investigator focus groups and RO/AO interviews conducted in 2011, although those data sources made it clear also that Briefs have been prepared based only on the victim's word. In this regard, it was earlier exemplified how the 2010 strand one research flagged similar findings on the use of 'hard evidence' in police thinking as to whether or not a matter was likely to be easier to investigate and/or succeed at Court (s. 4.4). Investigators cited corroborative evidence to include statements of first complaint, birth certificates to prove the victim's age in historical cases, various records (e.g., medical, phone, banking), DNA, CCTV footage, fingerprints, footprints, photographs and witnesses. ROs/AOs considered corroborating evidence highly preferable and pointed out police know that if there is no corroboration a jury will not convict. OPP focus group commentary also pointed to the importance of corroborative evidence to a jury, including visible signs of injury or DNA or medical evidence, as distinct from unseen psychological trauma. This 'hard evidence' policing approach is anchored in the legislative context of criminal proceedings and reflected in OPP prosecutorial guidelines (see below s. 7.5 on limitations to police decision-making); and it was apparent in the reasoning found to explain the 'why' of police decision-making, as shown in the following findings.

Caveat on the 'hard evidence' tendency. Again, as with the commonality of sorts of evidence, the tendency for police to rely on 'hard evidence' is not to be taken as a universal rule, applied regardless of the particulars of a sexual assault allegation. That said, however, the research data collected and analysed from the case files and across the strands go to demonstrating that this is indeed a strong tendency, the rule rather than the exception.

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6.2 Authorising and non-authorising of criminal proceedings

Analysis of police decision-making in terms of the reasoning applied to sexual assault cases utilised GTM procedures (Glaser & Strauss, 1967; Strauss & Corbin, 1990) and Meaning Generation Tactics (Miles & Huberman, 1994) within a Critical Discourse and Action Research theoretical framework (Dijk, 1998) – see Appendix six. Within this framework, analysis was inductively driven by the data not by hypotheses and theories, nor therefore by the existing literature. First, file documents were scrutinized and reasons were extracted from the collected data. Reasons ranged from the highly specific – e.g., victim provided 6 pages of notes by rough date, place and account of what had happened and how - to the very general – e.g., insufficient evidence. Reasons were categorized into a set of rationale factors that were manageable in number for purposes of analysis of police authorisation and non-authorisation decision-making.

Before proceeding, seven clarifying comments are pertinent in relation to the following analysis and discussion. First, wherever there is a bracketed number it refers to a particular case, not the number of cases. This number is merely a nominal coding identifier to distinguish cases in data-collection and analysis. Secondly, and more importantly, a particular factor in any case could be indicated by more than one specific reason, and those reasons were often highly nuanced. This was especially true in non-authorisation reasoning where, for example, in case 13 'victim's word only' evidence was indicated in terms of police formally citing three reasons as no witnesses, no corroboration, and no corroborating medical evidence; and in case 75 in terms of no visible injury, assault not witnessed, and absence of security footage. Thirdly, wherever this occurs the factor is counted once only in analysis for each of the concerned cases. This means the factor count is less than that of specific reasons, which reflects the more abstract nature of factors for analytical purposes. Fourthly, specific reasons are not duplicated across the factors since once a reason was counted as indicating a factor it was not also used as an indicator of another factor. Fifthly, in all of the authorised cases and many of the non-authorised cases, it was pragmatically necessary to rely entirely on inferring reasons from various file documents in the absence of a formal report, as well as fitting within the theoretical framework of critical discourse analysis which does not take for granted the reasoning offered in formal narratives. These are labelled non-formal reasons in the text for convenience of phrasing. Sixthly, with a handful of exceptions (cited below), only reasons for the eventual decision outcome were typically evident in the case files. Hence, the following analysis does not ignore reasons contra-indicating the decision outcome - which might appear to be the situation - but rather reflects the mono-directional nature of the police decision-making process discovered in this research. This mono-directional character of police argument is taken up in Chapter Eight. Finally, it is noted that the reasons found for non-authorisation did not include some of those coded in the LEAP system such as underage, deceased etc (see Appendix 12) nor that

of the 'public interest' among others cited in the OPP guidelines (see s. 7.5 for a discussion of these guidelines).

6.2.1 Authorisation reasoning

In respect to the 36 examined cases that were prosecuted or clearly intended for prosecution – see Appendix 13, Grid 1 - none were authorised formally with given reasons and signed off by an authorising officer in a report for those purposes. Reasons were either not stated at all in a formal report, or not declared as reasons even if noted in a document other than a formal report, or declared in generalised fashion on the Brief-head.

> **RECOMMENDATION:** Authorisation decision-making should be based on explicit reasons stated in a formal report for that purpose.

Taken-for-granted decision-making. Authorisation cases were therefore 'taken-for-granted' in terms of prima facie evidence and/or authorised by virtue of an officer having arrested an accused at the crime scene or otherwise early in the investigation. In the absence of formally cited rationales, authorisation reasons were inferred from reading various documents on the file (see Appendix six for a detailed explanation of the reading procedure). This involved de-layering the various narratives of police, victims, accused and witnesses within a critical discourse theoretical framework. De-layering resulted in identification of twelve factors in police authorisation decision-making.

Table 6.1 shows frequency data in relation to identified authorisation factors by case by outcome. For the sake of completion, it also includes three cases where no reason was found. Two outcomes are distinguished according to whether the accused had been taken to Court ('prosecution outcome') or yet to reach there ('offender processed' via charge or intent to summons).

Table 6.1. Authorisation factors identified in various documents by case by outcome

Case number	Credible victim	Multiple victims	Vulnerable victim	Offender admissions	Culpability indicators	Medical evidence	Other 'hard' evidence	Police at crime scene	Witness(es)	Public, open space	Sufficient evidence	Other reasons	No reason found
Offender processed													
3		x						x	x	x	x		
4									x				
15				x					x				
16				x					x				
17									x				
18		x							x				
26[1]	x						x		x		x	x	
27	x		x			x	x		x				
34			x		x				x		x		
45[3]											x		
46													x
47													x
48													x
Prosecution outcome													
5				x			x		x	x	x		
6	x	x							x		x		
7				x							x		
8	x		x									x	
9			x			x	x	x	x				
10				x					x				
11							x		x		x		
28			x			x			x				
29			x		x				x				
30								x	x	x			
31						x			x				
32				x		x			x				
35				x			x		x				
37		x		x						x			
38				x					x				
39	x		x	x	x								
40		x		x	x				x				
41	x								x				
42	x			x					x				
44			x			x	x		x				
49			x			x		x					
50			x	x		x	x	x	x				
55	x		x										

90	x		x	x										

NOTE: n = 37. 1. Case 26 is included here although it was not formally authorised (see 'unusual argument cases'). It was the only case classified as 'charge withdrawn by prosecution' and that was despite already also being 'complaint withdrawn by the complainant'.

Three of the factors shown in Table 6.1 require no detailed explanation: multiple victims were found in five cases (14%), offender admissions in 14 cases (38%), and medical evidence in eight cases (22%). The strong influence of these factors is consistent with findings of the 2006 Heenan and Murray study and they serve to emphasise the importance of 'hard evidence' in authorisation decision-making. While each of these factors is clearly significant by itself, further analysis below shows they are even more important when conjoined with other reasons in a case.

In eight files (22%), police wrote that there was sufficient evidence or that the matter was self-explanatory or a prima facie case (3, 5, 6, 7, 11, 26, 34, 45). By itself this factor clearly does not explain precisely why police decided to progress the case to court. Use of such generalised wording promotes vague Brief preparation that can be carried through to prosecution, increasing the likelihood of no conviction at court. From a discourse analysis viewpoint, this form of obscure reasoning serves the function of appearing to explain whilst not in fact doing so. The OPP focus group also commented on this as making their job harder in terms of not being immediately aware of the rationale for charging and strengths of a case. So they often had to try to determine what elements the police relied upon or else contact the officer to discover precisely what was being relied on to support the charges (see s. 7.1.2).

RECOMMENDATION: Police should avoid using highly generalised reasoning to justify authorisation and instead cite the exact reasons in terms of evidentiary materials.

Implementing this recommendation will not only facilitate court success in and by itself, but also will help with future opportunities for improvement of police practice and training if included in case training materials.

Two reasons were not readily placed into a broader category and these were categorised as 'other reasons'. One of these reasons was the apparent influence of a professional body investigating and deregistering the accused for breach of professional ethics (8). In this case police executed a warrant to search and seize the professional body's records for use as an exhibit in prosecution. Case 26 was prosecuted to apply pressure to the accused not to seek financial claim against VicPol, where the victim had already withdrawn her complaint. In this case a CIU letterhead memorandum noted: "matter to proceed unless defendant provides a written undertaking re financial claim if charge withdrawn". While the materials in case 8

might have some evidentiary value at court, in case 26 the prosecution intent was clearly unrelated to the crime at hand.

A range of specific reasons with nuanced meanings found in the case files are employed to illustrate the remaining identified rationale factors. Each of these factors is thus defined descriptively in the text of the following analysis.

The significance of witnesses to authorisation. From Table 6.1, the frequency of witnesses as an evidentiary class is a significant finding. Witnesses included 'eye' witnesses to the actual offence or part thereof (3, 10, 16, 29, 30, 31, 34, 35); or a range of other witnesses involved shortly before or after the offence, or providing character testimonial, or evidence of 'first complaint' or about events and places of some import to the offence (3, 4, 5, 9, 11, 15, 17, 18, 26, 27, 28, 29, 31, 32, 35, 38, 40, 41, 42, 44, 50). Witnesses thus featured in 25 of the 37 cases (68%), with 'eye' witnesses in eight cases (22%); and other witnesses in 18 cases without any 'eye' witness (49%). In cases four and 17 witnesses were the only apparent reason for authorisation and in case 41 witness evidence was supplemented only by a credible victim. These findings suggest witnesses were important to the likelihood of a case being taken forward, and the single most frequent reason, although not necessary for authorisation to occur.

'Hard evidence' policing. Table 6.1 data also demonstrate the importance of 'hard' evidence to the authorisation decision. Medical and/or other 'hard' evidence was found in 12 (32%) of the 37 cases. Other 'hard' evidence included: surveillance footage that showed the victim stepping back from accused (5) or the victim and friends in a taxi (11); a bite mark on the victim (9, 44); victim attacked with a dumbbell (50); motel records (26); and items of victim's (27) or offender's (35) clothing that were retrieved at or near the crime scene. However, 'hard' evidence arguably includes not only these factors, but also multiple victims, offender admissions, 'eye' witnesses and police at the crime scene directly observing the offending conduct. On that basis, 'hard evidence' reasons were apparent in 27 (73%) of the cases. From this analysis, it is concluded that police authorisation decision-making relied heavily on one or another form of 'hard evidence', further demonstrating the 'hard evidence' policing approach described earlier (s. 6.1), which was also reflected in 2010 findings (s. 4.4).

These findings on the importance of witnesses and 'hard evidence' more generally were further evidenced in RO/AO interviews and the focus groups with investigators as indicated earlier (s. 6.1). For example, in response to what kinds of evidence are essential to include in a Brief: "Look, they're probably the two most critical: the physical evidence and I believe the witness" (RO).

The role of victim factors. Reasons associated with victims were reinforced by other reasons as a rule, rather than being sole or even main drivers of prosecution intent. Apart from multiple victims, Table 6.1 shows data on two other categories of victim reasons found to play a role in police decision-making: the credible victim and the vulnerable victim.

A credible victim was someone who fitted one of the following descriptions. The victim provided 6 pages of notes by rough date, place and account of a lengthy period of intra-familial abuse of her as a child (55). The case file reflected a poignant, convincing statement of victim's ordeal (39, 55, 90). The victim was a fruit seller who had no ulterior motive to accuse his elderly customer (5). The victims were council cleaners and a passer-by (6). The victim was a mature female manager who took immediate action to report to both a taxi company and the police (41). The investigator believed the victim (8, 26, 42, 54, 60). Altogether there were nine cases (24%) where the victim was seen as credible, although none of these went to court solely for that reason.

A number of victims were vulnerable in some way that appeared to influence police reasoning: medicated hospital patient (8); elderly Alzheimer's patient (29); elderly and found wandering semi-naked (27); elderly, severely harmed and seen immediately after rape by police (28); held at knife-point, escaping semi-naked to a neighbouring house (9); unable to defend herself and subjected to realistic death threats (44); intra-familial sexual assault victims (39, 46, 55, 90); and victim tied up by the offender (49, 50). Vulnerability of the victim was apparent in 12 cases (32%) yet (as with the credible victim) all of those cases also reflected other reasons for prosecution.

In case 55 the only reasons apparent for authorisation were that the victim was both credible and vulnerable. This was a case where the victim as a mature young woman reported her father's sexual abuse of her as a teenager over many years. It was marked by an especially compelling and detailed account by the victim of her ordeal. This case appears as the exception to the rule that victim related factors other than multiple victims were not alone significant to police authorisation.

Many of these reasons are reminiscent of the 'ideal' rather than 'non-ideal' victim found in the literature to be related to the prospect of police taking a matter forward (e.g., Jordan, 2008; Segrave & Wilson, 2011; Spears & Spohn, 1996). Interestingly, victim credibility and vulnerability (in senses described here) did not appear in the police interview and focus group data as significant to authorisation decision-making.

Nor were any of the remaining three factors dominant in authorisation, all being supplemented by other factors in police reasoning. Indicators of culpability involved cases where the accused was already known to police, either having been investigated

previously for a similar incident (7, 34); having a prior record of an indecent assault of a 16 year old (39); or having charges already authorised of a very similar nature in relation to other victims (40). Four of the cases reflected this factor. Police at the crime scene included police who observed actual offending in a surveillance operation (30); where the offender attacked police with a knife at the scene (50); and where the offender was arrested at the scene (3, 9, 49, 50). Five cases reflected this factor. Public open space sexual assault refers to cases where the offending was highly visible, for example in a hotel, store, street, public park or tram (3, 6, 30, 37). In these four cases it was inferred that the public nature of the offending was part of police reasoning.

Average number of factors per case. Table 6.1 shows that the above 12 factors were spread unevenly across the 37 cases, with a total of 108 factors found across all cases. The number of rationale factors for authorisation ranged from one to six, with six evident in only one case, five in five cases, four in six cases, three in eleven cases, two in ten cases, and only one in four cases. From this data authorisation most often occurred on the basis of relatively few rationale factors, with 2.9 factors considered on average.

Absence of decision rationale. In three of the 37 examined cases that were taken forward no reason could be discovered from scrutiny of key file documents, which represents an 8.0% absence of rationale for prosecution over the total of examined cases. That is, in each of these cases key documentation did not clearly demonstrate the case against the accused. This finding is further explored in Chapter Eight.

Two stage decision-making in authorisation cases. Another interesting feature of this analysis is the general gap in frequency of rationale factors between cases where the accused had been taken to Court and those where the alleged offender was yet to reach there. This is a puzzling result since investigation and Brief preparation are supposed to be completed by the 'offender processed' phase. One interpretation of this result is that there remains an important potential before an alleged offender arrives at Court for additional evidence and/or evidentiary reasoning to come to light. Or there might be a process of further decision-making nearer to the reality of a Court appearance that sharpens the mind of the police involved, possibly related to the interaction between the prosecutor and the informant and the more pressing need to inform the prosecutor as to evidentiary details of the case. Another possibility is that 'paperwork' receives greater attention nearer to the Court date than earlier in the process of investigation and Brief preparation. This finding is consistent with an OPP focus group observation to the effect that police Briefs are often returned for further work before an OPP prosecutor could proceed with the case. It is also consistent with the observation by interviewed Sergeants that it is not unusual for a Brief to be forwarded to the OPP before completion due to running short of time. In any event there is evidence of two decision stages of taking the matter to Court and not just two

outcome categories. These two stages are tentatively identified as: Brief preparation without a systematic, structured argument; followed by interaction with prosecutors at the pre-court level.

6.2.2 Non-authorisation reasoning formally stated

Regarding cases that were not authorised, reasons were extracted first from formal statements in a report and/or Brief-head. Where these reasons are reported below in specific terms the wording is taken verbatim or as close to verbatim as possible from the case file as cited by police. That is, more elaborate or detailed explanation could not be discovered from file materials made available to PJO researchers. Formally stated reasons were sourced predominantly to the investigator; and recommending and authorizing officers normally indicated no reasons or simply agreed with those cited by the investigator, most often ticking-the-box on the Brief-head.

Formal non-authorisation argument. In contrast to authorisation cases, the decision to not authorise was framed within formal argument giving reasons in 38 (81%) of the total of 47 examined cases that were not taken to Court (see Appendix 13, Grid 1). Nine cases involved no formal reasoning evident on file (see s. 6.2.2.1). There were seven other cases with a 'no offence disclosed' or 'unsolved' status (see s. 6.2.2.2).

> **RECOMMENDATION:** Attention should be paid to ensuring that all case files include reports of formal reasoning for the non-authorisation decision.

Table 6.2 presents data on formally stated non-authorisation rationale factors in 13 categories. Two outcomes are distinguished according to whether the victim withdrew a complaint - thus relieving police of the formal decision - or whether the summons was not authorised even if the victim wished to pursue the matter. Notably these two outcomes are not conceptually exclusive since a summons might not be authorised because the victim withdraws a complaint (Appendix 12). Moreover, although police distinguish between 'complaint withdrawn by the victim' and 'no further police action', this is a conceptually 'muddy' distinction that is not utilized in the following analysis. Nor were there any cases found with a 'charge withdrawn by prosecution' status except case 26 (see Table 6.1 footnote and s. 6.2.2.3 for this unusual case).

Table 6.2. Non-authorisation factors identified in formal reports by case by outcome

Case number	Insufficient evidence	Success unlikely	Victim's word only	Victim a poor witness	Victim uncooperative	victim blameworthy	Other victim reasons	Accused denial	Accused credible	Issue of consent unclear	Witness contradictive	Historical sexual assault	Other reasons
Complaint withdrawn by victim													
54			x		x			x					
77		x	x					x	x		x		
78					x								
79	x				x								
81			x										
82			x		x		x						x
87			x		x		x						x
88					x								x
Summons not authorised													
1						x				x			
2		x	x	x		x		x	x		x		x
12	x		x	x		x		x	x	x	x		
13		x	x	x		x	x	x	x		x	x	x
14			x	x		x		x			x		
33				x				x			x		x
36	x				x								
43[1]			x	x		x				x			x
56	x		x	x	x	x		x	x				
57	x	x	x	x		x		x		x	x		x
58	x				x								
59	x			x	x			x					
60								x					
61		x	x					x					x
62	x	x	x			x			x		x		
63	x				x		x						
64			x			x		x		x	x		
65	x	x		x	x	x				x	x	x	x
66	x			x		x			x				
67	x			x			x						x
68	x		x	x		x	x	x					
69		x	x		x		x	x					
70			x			x		x		x	x		
71			x				x	x					x
72	x		x					x					
73	x		x				x					x	
74		x	x					x	x			x	
75			x										x

| 76 | x | x | x | | | | | x | | | x | | |
| 89 | | | | | | x | | | | | | | |

NOTES: n = 38; 1. Case 43 is listed here under SNA although it was in fact prosecuted at least to a committal hearing, having been formally not authorised beforehand, without clarification on file.

Table 6.2 data show that police referred to 'insufficient evidence' in 16 cases (42%) and/or 'success unlikely' in ten cases (26%) in their decision-making. Although these two factors appear similar they are separated out in analysis because police cited them separately in formal reports in four cases, indicating different goals of police decision-making, the former being a matter of simply lacking evidence and the latter suggesting a need to 'win' at court. The former was phrased in various terms of insufficient evidence; no sufficient admissible, substantial and/or reliable evidence; and/or with reference to prosecutorial guidelines (12, 36, 56, 57, 58, 59, 62, 63, 65, 66, 67, 68, 72, 73, 76, 79). The latter was phrased in either terms of no reasonable prospect of conviction (2, 13, 57, 77) or successful prosecution unlikely (61, 62, 65, 69, 74, 76). Police referred to one or both of these two factors in 22 cases (58%). The VCCAV (1991) study found on the basis of police advice that 'insufficient evidence' referred to the lack medical evidence, absence of physical injuries to the victim, uncooperative victims and so on as noted earlier.

An AO interviewee explained that generalised wordings such as 'insufficient evidence' and 'complaint withdrawn' are all that is required for the LEAP database system and the entire investigation folder complete with any evidentiary items is filed in the serious crime management file for future reference. However, where utilized in formal reports that are supposed to provide clear explanations, these generalised terms do not explain the reasoning behind non-authorisation, which has been observed as problematic in the literature (e.g., Fitzgerald, 2006; Gregory & Lees, 1996; Taylor & Gassner, 2010) and the redress of which has been called for by the VLRC (2004) and Victoria Ombudsman (2006). Frohmann (1997) has argued that such 'explanations' conceal unofficial justifications for not going forward with complaints. Clearly documented reasons are needed to ensure police non-authorisation decision-making is transparent and accountable. From a discourse analysis viewpoint, this is another form of obscure reasoning that has only the symbolic appearance of explaining.

> **RECOMMENDATION:** Police should avoid using generalised reasoning to justify non-authorisation and instead cite the precise reasons in terms of evidentiary materials lacking in the cases concerned.
>
> Implementing this recommendation is necessary to fulfill the requirements of the relevant recommendations of the VLRC (2004) and Victoria Ombudsman (2006): ie., to enable decision-making that is consistent and transparent, provide for adequate written explanations to complainants, introduce mechanisms to systematically analyse all sexual assault Briefs, and allow for regular evaluation of prosecution decision-making.

The significance of victim related factors. Five distinct victim related factors were induced from reading the case file formal reports justifying non-authorisation: victim's word only evidence; victim a poor witness; victim uncooperative; victim blameworthy; and other victim related reasons. Only case 60 did not reflect a victim related factor in authorisation. Each of these factors was reflected in terms of a variety of formally stated specific reasons.

Victim's word only evidence was indicated as a reason in the following terms: no victim evidence (64, 87), no corroboration (12, 13, 43, 57, 68, 70, 71, 73, 76), no physical evidence (12, 14, 77, 81, 82), no DNA evidence (62, 65, 72), no corroborating medical evidence (2, 12, 13, 56, 76), no forensic evidence (14, 61, 68, 69, 77, 81, 87), no useful forensic evidence since accused admitted and claimed consent (64), no visible injury (57, 75), victim not injured (69, 77), assault not witnessed (70, 71, 75), CCTV footage erased (65), no (independent) witnesses (2, 13, 14, 54, 61, 69, 74, 81, 87), and absence of security footage (75). As shown in Table 7.2, the victim's word only was a decision-making factor in 24 of the 38 examined cases (63%). It was also reflected in a total of 50 specific reasons across those 24 cases, showing this as an especially frequent line of reasoning. One notable aspect of these reasons is the appearance of the 'physical harm rule'', which can be inferred in many and clearly indicated in the 'no visible injury/victim not injured' reasons.

The victim was cited as a poor witness in non-authorisation reasoning in several ways, including: the victim had emotional problems/difficulty in coping with Court pressures (2, 63, 68), victim's memory appeared scattered (14), victim was unable to recall some events (56), victim's "clarity and reliability of events is questionable" (57), victim had no recollection (65), victim was vague (67), victim was inconsistent (56, 66), victim credibility would have been 'sorely tested'/an issue in Court (12, 13, 57, 59, 67), and VATE statement did not clearly disclose a criminal act (33, 43).The victim as a poor witness was a factor in 13 cases (34%) and cited 17 times in terms of specific reasons.

Police formally referred to the victim being uncooperative also in several ways: the victim withdrew the complaint (36, 54, 60, 63, 71, 78), reluctance of the victim (36, 68, 82, 87), lack of available evidence without victim's assistance (57, 79, 82), the victim failed to keep a number of appointments (78), victim was hostile to police at scene and not prepared to provide further assistance (79), the victim refused to complete a statement or to make a statement of no complaint (58), and the victim did not identify crime scene (81). Uncooperative victims were thus also evident in police reasoning in 13 cases (34%), again with some 17 specific citations.

As noted at the front of this section, these and other specific reasons reflect police records as closely as possible to the verbatim written statements by police. Further elaboration is either not possible or adds no substantive detail of explanation. Thus, in respect to the 'lack of victim assistance' for example, in case 57 the RO wrote that the victim "refused to participate in medical exam, and therefore no forensic evidence and no witnesses". In case 79, the RO simply stated "victim not prepared to provide further assistance to police". In case 82, the RO wrote "lack of available evidence without victim's assistance".

Police wrote of the victim as blameworthy in many terms as well, including: the victim reported an earlier indecent assault on herself which she later withdrew (13), the victim was not heard to yell and denied to witnesses that anything took place (14), the victim did not complain to friends at the earliest opportunity (65), the victim's behaviour was questionable or belied the allegation (12, 31, 64, 66, 70), the victim was intoxicated by alcohol (56, 57, 65, 68), the victim instigated meeting with the accused (1), the victim had ulterior motives for reporting (2), the victim did not see a doctor (12, 62), the victim had sex with another male (2, 43), the victim "did not object to what he was doing and pretended that she was enjoying it" (56)' and the victim did not physically demonstrate sex was non-consensual (64). Victim blaming was part of the police rationale against authorisation in 14 cases (37%), being mentioned 20 times across those cases.

There was a range of other victim reasons that were not readily categorized as a distinct factor, including: no obvious motive for a false report (13), the victim liked the accused (57), victim did not wish to proceed (63), victim's complaint was due to pressure from family members (67), the victim was doing year 12 and needed no extra pressure (71), the victim was healing and not expecting to go to court (73), the victim's wishes outweigh public interest factors (82), family concerned for victim (who had been admitted to a psychiatric hospital subsequent to the rape) (89), police similarly concerned for the victim's well-being (89), and victim had a better understanding of the process and believed investigation would be futile (87). Additionally, other victim reasons were mentioned in formal non-authorisation decision-making in 10 cases (26%), with a total of 11 reasons.

Table 6.2 data demonstrate that one or more of the victim related factors were cited in formal non-authorisation argument in all but one of the 38 cases (97%). Non-authorisation decisions predominantly involved reference to the victim's word only (63%) and/or one or more negative assessments of the victim, especially in terms of victims being poor witnesses (34%), uncooperative (34%) or blameworthy in some sense (37%). A negative assessment of the victim was evident in the specific reasons cited in 26 cases (68%). The above detailed itemization of police reasoning against authorisation shows partial exceptions to this line of typical reasoning in the 'other victim factors' reason set, albeit those also included negative or ambiguous reasoning about victims. In short, the victim was a key focus of non-authorisation decision-making and that focus was heavily oriented to finding fault with the victim rather than looking for ways to support the victim in making and sustaining a complaint. Chapter Eight provides further data and analysis on the management aspects of preparing Briefs as distinct from the reasons which are the focus at this point.

Current findings from the operational police case files are consistent with the commonly reported findings in the literature that victim's word only evidence is not a significant driver of police response to sexual assault (e.g., Heenan & Murray, 2006) related as it is to issues of victim credibility and consent (Hopkins & Koss, 2005). Interview and focus group data collected in 2011 also supported these findings, as did the views of victim/survivors, police and CASA counsellors drawn from the 2010 interviews (ss. 3.3, 4.4 and 5.1 respectively). Investigators cited the easiest Briefs to write are recent with corroborative evidence: "the easiest ones to write, which are the most difficult for the victim, are recent rapes. You know, where you've got forensic, medical" (Investigator). AOs/ROs similarly said the easy ones were where there are good, reliable, competent victims (clear memory, articulate, consistent story). As one RO put it: Easy ones are where there is "a clear recollection, it's truthful, it's honest, it's open … nothing in their history that makes you doubt … (and) corroborative evidence and when offender confesses." Another RO indicated: "There's evidence of sex. There's evidence of rough sex. There's evidence of, you know, scratches and where you've got forensic evidence. They're the easiest ones."

By contrast, among the most difficult Briefs to write and supervise were those where victims were alcohol/drug affected, intellectually or hearing impaired, suffering mental health problems, and historical cases, since these typically were those where "the defence will pick holes in that particular person's credibility" (RO). Policing of sexual assault cases generally is very demanding and complex and is replete with vexed issues such as the need to obtain particularisation of the offence despite the difficulties the victims have with memory and recall due to the trauma itself as well as those cases complicated by the use of alcohol and/or drugs, including spike-drinked events. This difficulty was appropriately highlighted by an officer: "Memory issues (are) very difficult, because you've got to think they get to court and they're in the witness box" (RO). Again, AOs also mentioned these for the same reason. Sometimes

also "historic because incest and … they're drawn out or it's been buried by the family, been dusted off, put over in a little box in the corner and no one talked about it." (Investigator). "Sex workers can be problematic but that's only because of pre-conceived ideas that others have of them." (RO).

The gist of these narratives is illustrated further by these quotations:

> Some are fantastic and will just come in and tell you stuff, and others it's like drawing teeth – pulling teeth. And just keeping appointments. You ring them to ask them a question and you've got to chase them four times and others will be fantastic (IO).

> slipped into a girl's drink at a nightclub or whatnot … snapshots. It's like the shutter of a camera opening and closing … very difficult to – because one, you don't know whether she's telling the truth or not because she's leaving out all this stuff (RO).

> And it's difficult because they can be difficult to deal with. They'll start making a statement and then decide they don't want to do the statement anymore and then they'll come back a week later and say, "No, I want to do it again now," and then they'll go away and then they'll come back again. It can be very difficult. It's not sitting down normally just trying to get your investigation done. The person's yes, no, yes, no. "Today I'm too sick. Tomorrow I can be good." So they're the sort that can be difficult and we get quite a number of those (RO).

> I know what will happen to them in the witness box in relation to (drug/alcohol use) (AO).

> If you say to somebody, "I want you go to court and stand in the witness box and give evidence on your own that's not going to be backed up with anything," that's a big ask of someone who has been through what they've been through (AO).

> Well, if a victim doesn't want to give evidence it's going to be a bit hard to proceed then. And, and there are a lot of reasons why complaints are withdrawn. We, we do get quite a bit of it (AO).

But both investigators and ROs were reluctant to link the ease or difficulty of writing to whether or not these were also types of Brief that generally could or could not be recommended for authorisation. It is notable also that investigators and AOs/ROs generally emphasised that these were issues not of their making but of judges, juries, defence lawyers, the general public, and victims themselves. That is, although police

were cognizant of these as decision-making factors they saw them in relation to the perceived likelihood of a prosecution being successful at Court and, indeed, with a view to the impact of Court processes and unsuccessful prosecution upon victims. "It's a bit sad for all those people who are so frightened that, you know, you may not have that punch or the rough sex… really sad, because that's the way the courts look at it." (RO). "The last thing you want is one on one. Because then, why does the jury believe the victim any more than the offender?" (RO). "Sometimes I agonise over them. Because you think, now do I prosecute them, I've seen the results of failed prosecutions and you think, oh, why did I put that person through that?" (AO). Research evidence from strand one also supported this line of decision thinking by police (see s. 4.4).

However, as one AO pointed out, the majority of sexual offence cases involved 'word against word or oath against oath' given the reality of delayed reporting and the general absence of physical evidence. For this officer it was frustrating to deal with an attitude among some police of avoiding recommendations to proceed where there was only the victim's word against that of the alleged offender:

> Oath on oath is common in sex offences and oath against oath evidence is accepted in law so it shouldn't be a barrier to prosecution or a consideration in police decision making... our job is not to assess what the prosecutor or jury will think or determine. Our job is to investigate a case and weigh up the facts and if it comes down to oath against oath then let the OPP decide... whether [oath against oath] is accepted will be determined by a jury and ought not to be in the remit of police... I see a lot of police who see it [word against word] as a fatal weakness in a case and therefore a basis for discontinuation of the investigation or not laying charges... but I've been doing these cases a long time and I've seen many oath against oath lead to convictions and I often have to drive this point home to the [detectives] I'm supervising or whose briefs they want non-authorised... (AO).

Nonetheless, the over-riding theme in relation to Brief preparation was whether or not there was corroboration of the victim's word, especially where there were perceived victim-related problems of particularization, consent, character, reliability of memory, and credibility and competency 'in the box'. The outcome of this decision-making approach by police - where corroborative evidence is sought and victim's word only evidence is avoided as the basis for prosecution - is to not challenge the courts and public to change because police tend to charge and prosecute mainly in stereotypical cases with ideal victims and so embed the problem further (Taylor & Gassner 2010). It is apparent that Victoria Police efforts consequent to the VLRC (2004) and Ombudsman (2006) recommendations still require robust and transparent change outcomes in respect to victim complaints that stand significantly on the victim's word. It is also apparent that there is a genuine challenge in a number of these cases in these

terms – the question is whether Victoria Police as an organisation is rising to and meeting that challenge.

> **RECOMMENDATION:** Notwithstanding the real challenges involved, Victoria Police policy should emphasise the need to seek, create and use every available option to encourage and support victims in their complaints, rather than allow them to remain 'uncooperative' or 'poor' witnesses, or to avoid 'victim word' only prosecutions. In making non-authorisation decisions police should take active and concerted steps to avoid victim related reasons for doing so and to particularly eschew finding reasons to blame victims. A robust quality monitoring program should be established specifically to reinforce this policy.

Accused related factors. Reading of the case files showed accused related factors were also weighed in police non-authorisation decision-making. Three factors were induced in this regard: accused denial, accused credible and issue of consent unclear. The issue of unclear consent is construed as favourable to the accused since the judgement must be for either one or the other and it is clearly not favourable to the victim.

Accused denial was cited by police in the following terms: no admissions (76), accused denied (13, 14, 33, 54, 61, 68, 69, 70, 71, 72, 74, 77), accused made no admission (76), accused said victim consented (2, 57), accused gave contrary evidence (12), accused said victim initiated sexual act (56, 59, 64), accused said victim and he had a sexual relationship for several months (77), and accused said fellatio was normal in their sexual relationship (77). From Table 6.2, accused denial reasons were evidenced in 20 cases (53%). The accused credible factor was evident in a lesser number of ways: the accused had no similar prior convictions of a sexual nature (2), the accused appeared genuine (13, 56, 62, 66), the defendant gave a very consistent and convincing account (56), he was married and in same job for 35 years (74), and he stopped when the victim threatened to scream (77). The issue of consent unclear was noted in even less various terms: the accused could not reasonably know lack of consent (64), no indication of no consent (43, 66, 70), and the issue of consent was unclear (1, 12, 57, 65). Citation of reasons for the accused being credible was apparent in eight cases (21%) and unclear consent in seven cases (18%). One or more of the accused related reasons were evident in 25 (66%) of the examined cases of formal non-authorisation, and accused denial alone was the second most frequently relied upon rationale for non-authorisation (after the victim's word only factor). Mention of accused-related factors was also made in the interviews and focus groups. One RO said that sometimes investigators believe the offender who is a fine, upstanding citizen in the community, wearing a business suit. An observation was made by investigators and ROs generally that juries - especially in rural areas - tended

to believe alleged offenders who present as 'normal' people not drug addicts (IO focus groups and RO interviews 2011).

Although some of these specific reasons appear very alike, there are highly nuanced meanings involved and, as reported earlier, often the same case saw police writing similar reasons as separate grounds in the non-authorisation argument. For instance, in case 77 the investigator cited one reason as the accused said fellatio was normal in their sexual relationship, while the recommending officer wrote that the accused denied <u>and</u> said that they had a sexual relationship for several months. That is, three reasons of similar but subtly different meanings were compiled in that case. This construction of argument is important as the decision-making appears more considered and facilitates more interpretations favourable to the accused (and unfavourable to the victim). More is said about this aspect of police decision-making in chapter nine.

Consent and variability of police knowledge. In respect to the issue of consent, the 1991 Crimes Act 1958 was amended to introduce a statutory definition of consent (s.36(a)) that emphasizes 'free agreement'. Section 37(1)b also required a judge to direct the jury that a person is not to be regarded as having freely agreed to a sexual act just because she did not protest or physically resist or sustain physical injury, or that she agreed on previous occasions to a sexual act with the accused or another person. That is, inactivity or silence indicates lack of consent not the opposite. Yet the case file evidence showed a continuing reliance on this as a part of police reasoning against authorisation. In this respect, interviews and focus groups showed knowledge of legislation, policies and procedural rules was variable, ranging from one RO's admission of not paying much attention to these through to a sound understanding and application. This finding resonates with earlier reported police views (s. 4.6.1) and supports the training needs identified in Chapter Nine.

Other decision factors. Contradictive witness evidence was formally cited in terms of five specific reasons: no witness said any act occurred without the victim's permission (65), inconsistent or conflicting witness statements (2, 12, 14, 57, 76, 77), witness statements contained allegations of an offence that the victim did not disclose (33), witnesses had doubts about the victim's allegation (62, 64, 70), and a witness said the victim had similarly tried to initiate sex with him (64). In 11 of the cases (29%) contradictive witnesses were cited as a reason not to authorise a summons.

A range of other reasons were also cited in favour of non-authorisation, including: the long-term relationship between victim and accused (1), sexual penetration was accidental (2), a judge would warn the jury of dangers of conviction (13), "consideration (of) Longman's warning which relates to a jury being loathed to convict on the uncorroborated evidence of a victim" (57), accused was not rebuked by the mother for kissing his daughter (in a context of intra-familial sexual assault

allegations) (33), accused admitted tutoring victim (61), subsequent investigation and nature of allegation (63), ensuing court case would be extremely costly (65), most witnesses had returned overseas (65), force instructions relating to minor assaults (75), defendant suitable for diversion under S128A(1) of Magistrates Court Act (71), accused was not fully aware of his rights due to not being afforded an interpreter (67), both parties were known to each other and there was no breach of the peace (75), may fit criteria for civil action (75), victim aware can report in future (82), offender not identified (87), and victim's daughter held power of attorney and withdrew complaint (88).

Some of these specific reasons are quite vague, partly due to their short-hand or point-form citation in a formal memorandum. Some could have been construed to fit the descriptive meaning of one or other of the above factors, however they were sufficiently cryptic within the context of the case to resist confident categorization. Some also suggest other factors at work exercising the minds of police decision-makers. In particular there are suggestions of considerations of law – or possibly the 'success unlikely' factor – and cost-savings. The presence of these other reasons in 13 cases (34%) also reflects a considerable ideographic element in police non-authorisation decisions.

Historical reports. Although no longer a matter that is to be considered in Courts of law in Victoria - Crime (Sexual Offences) (Further Amendment) Act 2006 - historical sexual assault was cited either directly in those terms (87), or in terms of time delay (13, 65, 73, 74), or delay precluded test for drugs in a case alleging spiked drink rape (65). The fact that the sexual assault was reported after 72 hours - the defining criterion of 'historical' in Victoria - was cited as a reason for non-authorisation in four cases (11%). It was not always clear in their reasoning whether police were actually referring to the loss of medical/DNA evidence (e.g., due to washing clothes, bed sheets) rather than a 'stale offence' consideration (see also s. 7.5). Historical reports were seen as particularly problematic and challenging by police and OPP focus groups as well as RO/AO interviewees, because of a general lack of corroboration, victim memory/particularization problems, and differing points of proof/charges in relation to legislative changes over time. Similarly, strand one provided examples of how police often considered historical reports as a waste of police time and resources (s. 4.2) and beset by problems of victim capabilities to cope with the rigors of the criminal justice process (s. 4.4) and hence warranted the use of the 'options talk' to persuade victims against continuing with complaints (s. 4.5.1).

> **RECOMMENDATION:** Steps should be taken to ensure all operational police are fully aware of the legalities concerning issues of consent, corroborative evidence, delays in reporting and other relevant legislation and their role in police decision-making.
>
> This recommendation is made in the light of the need - notwithstanding the sound knowledge of some police - to reinforce the legislative, policy and procedural knowledgebase of investigators and their supervisors and to monitor application of key requirements.

Average number of factors per case. Table 6.2 shows that the above 13 factors were spread unevenly across the 38 cases, with a total of 163 factors found across all cases. The number of formal rationale factors for non-authorisation ranged from one to ten, with ten evident in one case, nine in three cases, eight in two cases, seven in one case, six in two cases, five in seven cases, four in ten cases, three in three cases, two in six cases, and only one in four cases. From this data non-authorisation most often occurred on the basis of several rationale factors, with 4.3 factors considered on average.

'Hard evidence' policing. Altogether, the data shown in Table 6.2 provide further research evidence that police adopt a 'hard evidence' decision-making approach to sexual assault cases, albeit conversely. With the exception of contradictive witnesses, none of the factors/reasons induced from police formal non-authorisation reports were of a 'hard evidence' nature. Put another way, without 'hard evidence' non-authorisation was by far the most frequent result of the police decision-making process. That process relied upon finding reasons that negated prosecution and those reasons predominantly concerned either disavowing the victim's story or embracing that of the accused. As exemplified in the preceding discussion, it is apparent that the interview and focus group data support 'hard evidence' as the mainstay policing approach – also supported by the 2010 findings (s. 4.4) - albeit there was also commentary suggesting a trend towards greater risk-taking in the decision to proceed (see below s. 6.3).

Two sets of decision-making. There is also a noticeably wide gap between the frequencies associated with victims' complaint withdrawals and summonses not authorised by police. This gap is understandable in terms of the lesser need for victims to justify their decision not to pursue allegations. It suggests there are two sets of decision-making in non-authorisation: one is associated with victims and their interaction with police, and the other is in formal police decision-making.

'Options talk.' Since 'options talk' by police can be an active ingredient in a victim's withdrawal decision, the precise locus of decision-making – whether it is genuinely

the victim's decision or a police decision – is uncertain in situations where that is the outcome. The research literature supports victim withdrawal as a decidedly grey area of decision-making (Kelly et al., 2005; Lievore, 2005a; McLachlan, 2007; VCCAV 2001). As one AO acknowledged in relation to whether investigators deliberately talk victims out of proceeding: "You can only go I think on what is before you and … you don't know the process that took place beforehand. (But) sometimes they have. Other times it's the relationship might have been, might have been restored". As indicated by this AO, some of the complex motivation for victims withdrawing complaints of their own accord has been evidenced in the literature as due to influences arising from their relationship with the offender: e.g., fearing the offender who is an intimate partner, avoiding wider family disruptions, and needing to retain employment with the offender, among other motivators (cf, Heenan & Murray, 2006; Lievore, 2003). Again, these considerations pointing to the importance of options talk and its capacity for managing victims away from proceeding with complaints was amply demonstrated in strand one findings (s. 4.5).

6.2.2.1 Non-formal non-authorisation decision-making

Apart from the formal statements of why matters were not taken forward, documents were examined for reasons that were not formally stated in nine cases (19, 20, 25, 26, 52, 80, 83, 84 and 85) in which there were no reports with formal reasons against authorisation, and all of which resulted in the victim withdrawing the complaint. That is, none involved an active formal decision by police. However, since police are able to prosecute matters despite a victim's withdrawal of the complaint, there remains the question of why authorisation was not forthcoming. In lieu of formal statements and consistent with critical discourse theory, reasons were induced from other file materials through the de-layering procedure. This task of analysis was especially difficult in these cases due to documentation gaps additional to lack of a formal non-authorisation report.

Findings were consistent with those of formal non-authorisation decision-making, albeit only six factors and 20 reasons were inferred from the available file materials. In three cases (19, 25, 52) the role of the victim's word only factor was apparent. For example, in case 19 police noted there was no surveillance footage showing that the victim had not consented to unprotected sexual intercourse. A lack of victim cooperation was also observed in one form of words or another by police in seven cases (19, 26, 52, 80, 83, 84, 85). For example, in case 83 the victim was said to be "extremely hostile to police" and refused to make a statement. Similarly, the victim was said to have refused court involvement in case 84. In case 52, it was observed that the victim was "unsure whether to go ahead" and later withdrew her complaint. In this case there was also an implication of the victim being blameworthy in a record of her saying that she was "too drunk to refuse (the alleged offender's) advances". Two

cases reflected a new factor of victim incapacitation, with 'emotional strain' mentioned in one file (20), and in another "she was stressed about it and just wanted to forget and put it behind her" (85). Historical sexual assault also appeared as a reason in terms of 'staleness' of offence (82).

Other reasons included: victim going overseas to live (25), victim an overseas backpacker who returned home (case 84), accused an overseas backpacker who returned home (84), police withdrew the charge once the accused signed an agreement not to pursue financial compensation (26), and the victim's family was against Court proceedings (80). In a case of rape (85) the accused was a stranger yet, after advising the victim to 'think about it', police allowed her to withdraw the complaint and took no further action. The reasoning behind this decision was especially opaque given that it appeared police did in fact believe her. Police checked video surveillance footage but did not note whether it could be used to identify him.

Separate to these nine cases, the case files with formal non-authorisation reports were also examined for non-formally stated reasons in accord with the critical discourse approach. This examination added only 22 reasons and revealed no different reasons from those already found in the nine cases. The most significant result in this respect was finding the 'victim incapacitation' factor reflected in reasoning of four of the cases with formal non-authorisation reports.

6.2.2.2 Non-authorisation reasoning not formally stated in other cases.

In addition to the above, cases were not proceeded with beyond an initial complaint or investigation because they were categorized as 'no offence disclosed' or 'unsolved'. None of these cases included a formal report by police citing the reasons for their non-authorisation, nor for their more precise outcome classification. (There were no cases found where police decided an outcome of a 'false complaint/report').

Generally, these cases also suffered from the absence of key documentation on file and they reflected the factors found in other non-authorisation outcome classifications, albeit a lesser set, viz: victim's word only (22, 23, 51, 86), victim a poor witness (23, 51, 86), uncooperative victim (22, 53), blameworthy victim (23, 86), incapacitated victim (53), accused denial (51), contradictive witnesses (22, 23), and other, difficult to classify reasons (21, 24, 86).

One finding highlighted in these cases was that outcomes classification were often moot if not inaccurate - as, indeed, it was for other classifications. The 'no offence disclosed' cases were arguably described more accurately as a complaint withdrawn by the victim. For example, in case 22, the summary report indicated that the victim refused a medical examination and wanted no further action. Although they were not

'eye' witnesses and possibly self-interested, nursing staff gave contradictive accounts, which appeared to be the basis for the 'no offence disclosed' outcome. The victim in case 51 was described as naive and she withdrew her complaint, with no witnesses and the accused claiming consent. In case 86, the victim was noted to be 'quite intoxicated', extremely vague about details and recollections, and she did not complain of injuries. She also withdrew her complaint. In Case 23 the summary report noted that police doubted there was any offence. Police clearly considered the victim blameworthy and a poor witness, having been alcohol and cannabis affected, giving an offence date that was shown to be incorrect, not being able to identify the boarding-house room where the offence allegedly occurred, and saying every male spoken to looked like the offender. A resident described the victim as a 'drunk' who was always around the premises. From this mix of possible reasons, police decided it was an unsolved case, yet it would arguably have been better determined as 'no offence disclosed'.

From the committed police efforts in cases 21 and 24, it is reasonable to infer that the only explanation for not pursuing those matters was the failure to locate the accused. The intellectually disabled victim in case 53 was not confident of identifying the accused and she was concerned about attending Court. Given police followed up the victim several times without success, its 'unsolved' status appeared to rest on the fact that she declined to make a formal statement. The 'unsolved' status of these cases was an apt outcome.

> **RECOMMENDATION:** Victoria Police should develop and implement a clearly articulated classification system of mutually exclusive and comprehensive outcomes based on defined criteria and guided by extensive practice examples. This classification system should avoid the problem of one outcome being a reason for another outcome – e.g., 'complaint withdrawn by the victim' should not be a 'reason' for 'summons not authorised'. A comprehensive set of concrete and precise reasons for decision-making needs to be developed to underpin this classification system.

6.2.2.3 Unusual argument cases

Cases 13, 26, 54, 60, and 89 were especially unusual in argument, with none seeking or endorsing authorisation. It is worth discussing these cases in more detail to further illustrate non-authorisation police decision-making.

In case 13, the investigator presented a balanced if ambivalent view, noting uncertainty as to who was telling the truth. By contrast, the recommending officer

presented three points for and six against prosecution. The authorizing officer provided seven points against and only one for authorisation. Their arguments can be amalgamated as follows. Reasons for authorisation included: the victim complained at the earliest opportunity; a witness confirmed she was distressed at the time; and there was no obvious motive for a false report. Contraindications included: the victim reported an earlier indecent assault on herself which she later withdrew; the accused denied allegations and "appeared to be of good character"; no inappropriate behaviour by the accused was known to other welfare agency staff; there was no independent witness to the alleged assault; the "credibility of the complainant would be an issue" at court; it would be extremely difficult to obtain a conviction; there was no direct evidence; no medical evidence; no evidence of similar acts; and "the period of time reporting this matter effects the prosecution's chances of success". The case was not taken to Court.

Although requesting non-authorisation, the investigator in case 54 formally cited reasons for and against authorisation, having found the victim credible and believed rape had occurred. Also, the accused had been investigated previously for a similar modus operandi allegation. Against these factors, there were the "strong denials by accused', a lack of independent witnesses and the victim's withdrawal of the complaint. The recommending and authorizing officers only ticked the Brief-head boxes in the actual decision not to proceed.

Similarly, case 60 was unusual in that it contained a formal memorandum of argument from the investigator that canvassed reasons for both authorisation and non-authorisation. The reasons for authorisation were that the accused was unconvincing in interview; he admitted to forcing his finger into the victim's vagina; the victim was found to be credible and competent; and a witness was willing to give evidence of physical injury to the victim. At one point the authorizing officer requested the investigator to re-interview the victim as to her drug history. Contra-indications to authorisation were cited as being that the victim had a drug history that needed "to be taken into account when assessing the credibility of the victim" and the accused admitted sexual intercourse but claimed it to be consensual. The victim subsequently 'disappeared' and was not re-located for almost two years during which she had established a family. She then no longer wished to pursue the matter and a request for non-authorisation of the summons was the result.

Case 89 also formally stated reasons for authorisation – although the result was non-authorisation. The reasons included: VATE evidence of the victim and her daughter, evidence of first complaint, some physical corroborative evidence, and the refusal of the accused to give any reply to the allegations. Yet these reasons were countermanded by the victim's mother's fear of another suicide attempt by the victim, with the recommending officer concluding that the victim's wellbeing took

precedence. There was no file evidence of the victim being consulted before the non-authorisation decision was taken.

Case 26 presented a peculiar situation regarding authorisation decision-making. There was a memorandum stating the victim had supplied sufficient information to establish a crime, and another stating the matter was to proceed unless the defendant provided a written undertaking not to seek a financial claim against Victoria Police if the charge was withdrawn. Neither memorandum was in the form of a formal authorisation argument. The victim withdrew her complaint once the accused had received a summons. However, police pursued the matter and the charge was withdrawn by the prosecution only after the defendant agreed in writing not to seek a financial claim against VicPol. Thus, his agreement not to do so became the reason for discontinuing with the case. This was the only examined case that was pursued against the wishes of the complainant.

6.3 Coming to a decision

Comparing authorisation and non-authorisation rationales revealed that the former were taken-for-granted and the latter framed usually within formal argument. Further, from the available file data, authorisation was based on an average of 2.9 factors comparative to 4.3 factors for formal non-authorisation. That is, non-authorisation was not only far more often formally argued but also with greater substantiation. The fashioning of formal argument and the greater rationale basis suggest that police were concerned to ensure non-authorisation argument was unimpeachable and more so compared to justifications for prosecution at Court.

Notably, different factors were generally decisive in authorisation versus non-authorisation. Witnesses were predominant in driving prosecution, with offender admissions being the second most frequent driver. While not the sole driver in any of the examined cases, victim credibility or victim vulnerability were also frequently apparent in authorisation, with one case reflecting both as the only reasons. That case was exceptional in terms of the victim's compelling and detailed account of the crime. In this regard, of some note were the OPP focus group responses to the question: How important is victim credibility to a prosecution? "Really important." "Essential." "Without it, it's fatal." OPP lawyers said this is because most of the charges are 'word on word'. Victim credibility was found also in the 2010 strand one data to be important to police decision making (s. 4.4).

It is also notable that the least frequent rationale factors – accused culpability, police at crime scene, and public, open space offending - remain potentially pivotal to the decision to prosecute in individual cases. Additionally, at some juncture, all of the authorised cases – including 'sufficient evidence' and lack of rationale cases in

particular - would have to receive attention to translate into cases displaying more detailed evidentiary arguments.

By contrast, victim related drivers – especially negative ones - predominated in non-authorisation followed by accused related rationales. Victim-blaming reasons were both directly cited and less directly stated in terms of poor witnesses and uncooperativeness, with non-authorisation relying at least partly on one of these factors in 27 of the examined cases (71%). The 'victim's word only' factor was particularly frequent as it was evident in 50 specific reasons cited formally in 63% of cases. So, whether victims were blamed or not police decisions against authorisation saw them as a vital impediment. This non-supportive victim orientation in police non-authorisation was further highlighted by the inverse tendency to accept accused denials, their assessed credibility and unclear consent as reasons for non-authorisation as well. With at least one accused related reason being evident in 25 cases (66%) and accused denial alone cited in 53% of cases, there is also the appearance of a pro-accused orientation in non-authorisation decision-making.

Notably, many of the various specific reasons that comprised victim-related factors reflected thematic decision-making issues reported in the literature, viz: the role of the victim/offender relationship, alcohol, drugs, mental health, cognitive impairment, moral judgements, risk-taking conduct, and the 'physical harm rule' in helping to decide whether or not the victim is a credible and reliable witness. It is also notable that the OPP focus group acknowledged alcohol/drug use and mental health as targeted by defence lawyers to question victims' credibility or reliability of evidence; as well as acknowledging the importance of physical or DNA evidence to persuading a jury as to the truth of the victim's complaint, with judges referring to these aspects despite no longer being able to give a Longman warning.

Still, the remaining factors and reasons were clearly of some import to formal police decision-making against authorisation. Thus, contradictive witnesses were cited in 11 cases (29%), historical sexual assault in four (11%) and a range of other not easily categorised reasons in 13 (34%). The listing of 16 specific reasons in this last respect shows they were diverse (cf. Heenan & Murray, 2006).

Coming to a decision not to authorise prosecution also arose in 16 cases that lacked formal written argument, seven of which were classified 'no offence disclosed' or 'unsolved'. In these cases the same factors and reasons were apparent as in formally argued cases, though fewer in number, presumably due to the fewer examined cases. Some of these cases reflected an additional factor of 'victim incapacitation', which was also evident in the non-formal reasoning of cases with formal non-authorisation reports.

There were five case files reflecting atypical argument in police decision-making. Four of these involved arguments formally citing reasons for and against prosecution in memoranda requesting non-authorisation. The fifth carried no substantive formal argument, the victim withdrew her complaint, and police ceased prosecution only after the defendant agreed in writing not to pursue a financial claim against VicPol. Altogether these cases illustrate three points concerning how and why police made decisions. First, non-authorisation decision-making did not always proceed in an unbalanced, mono-argument fashion according to identifiable factors for one or the other decision outcome. There were cases in which formal argument was balanced rather than skewed in reasoning to support only a decision against proceeding. Secondly, while investigating, recommending and authorizing officers typically agreed, that was not always true. In that respect, disagreement could be among any one of the three police officers involved, and any one of them could support or resist non-authorisation. Thirdly, sometimes the decision against authorising or continuing a prosecution was determined by factors external to the evidence pertaining to the crime such as family members' views and police budgetary concerns.

Both authorisation and non-authorisation decision-making were prone to highly generalised reasoning that simply cited 'sufficient' or 'insufficient' evidence for authorisation or non-authorisation respectively. Both also reflected the earlier described 'hard evidence' approach suggestive of the uncertainty avoidance principle reported in the literature (s. 6.1; see also s. 4.4). By taking a more risk-taking approach, police could arguably achieve more in their efforts to produce results for sexual assault victims.

There was mixed if not ambivalent support for the case file results from RO/AO interview and IO focus group findings in 2011. As noted earlier (s. 6.1), 'hard evidence' was emphasised in investigator focus groups and RO interviews in the terms illustrated in the case files. The 2010 data also supported this approach to decision making based on 'hard evidence' (s. 4.4). There was also mention of the desirability of competent, credible witnesses and victims, and no reason to doubt the veracity of the victim's story. Other considerations were false accusations, credibility of the offender and the issue of consent. Still, AO/RO interviewees said they were aware that many police felt that cases with hard evidence - either forensic or physical or other witnesses - were the strong ones, while those with victim word only or a victim with issues such as mental illness and cognitive impairment were very vulnerable to not proceeding because the victim was unable to particularise offences in the way the courts needed, involving issues of credibility and consent. ROs also stated that cases where it was victim's word only were difficult but not impossible and there is now an emphasis on authorisation which sees increasingly 'risky' cases going forward.

In lieu of 'hard evidence', particularisation was emphasised as important by both investigators and ROs, especially for historical and word only complaints. In historical cases investigators and ROs said there is an effort to establish timeframes by reference to significant events such as social occasions. Thus, investigators emphasised trying to find anything that might corroborate the victim's story, even if only indirectly supportive by establishing an agreement by the offender on certain facts such as the place, other people around at the time, events such as camping, items of clothing the offender was wearing etc. Similarly, if a recent case is based on the victim's word only, then police seek anything that might shore up the victim's credibility – e.g., she provides details around the offence such as hearing a train go by at 4am, which they can verify. "Now it's not corroboration but if you can prove all those other events and so you're able to say, well, she's told you the truth about this, this, this and this, why would she lie about that?"

Investigators said they use verified and accurate details in interviewing the accused, seeking to elicit a mistake or simple agreement on some points of evidence that are not necessarily pivotal, or unwitting verification within the context of the victim's story, or even an admission from him. The more they can get the offender to support points of the victim's story the better. If particularised, matters can be put to the offender and "it can add weight to what they're saying historically if you get some sort of admission from the person you're interviewing that items in the statement are true". This is a strategy of building up a weight of evidence for the victim's story even if it isn't actually proof beyond reasonable doubt of the offence. The idea is to corroborate the surrounds or circumstances of the story if not the actual offence.

Still, as noted earlier (ss. 6.1 and 6.2), ROs considered corroborating evidence highly preferable and pointed out police know that if there is no corroboration a jury will not convict. They also had misgivings about the commitment of some investigators, as further discussed below (s. 7.4).

Coming to a decision for authorisation or non-authorisation thus seems bedevilled by pressures to go forward with 'risky' cases, now relying more on 'particularisation', yet still seeking 'hard evidence' or a pseudo-form of 'near-hard evidence' wherever possible and in whatever form it can be found. In short, police, especially ROs, are becoming it seems more inventive risk-takers but are ambivalent and uncertain in their new, still developing skills and, if ROs are correct in their assessment, at times investigators are not fully committed to the endeavours of their role.

Finally, from a critical discourse viewpoint, it is apparent that the dominant police decision-making narrative has an inverted quality in relation to the victim and the victim's word. The logic of authorisation reasoning is to find and display in the prosecution narrative references to corroborative evidence to support the victim's word and thus to avoid uncertainty in the public forum of courts where the image and

reputation of police as criminal investigators and collectors of evidence might be challenged or impugned. The non-authorisation narrative also emphasizes avoiding uncertainty but by finding and displaying reasons why the victim cannot be believed or relied upon, hence justifying the decision outcome for purposes of internal formal accountability to superiors. Thus, the police narrative empowers and dis-empowers victims in the first and second instances, respectively. However, the position power of police is maintained in both instances, with the victim ultimately being powerless alone and needing the police as allies in their quest for justice (cf. Frohmann, 1991, 1997, 1998).

Notably, the police narrative is supported by that of the OPP - in terms of both the OPP lawyers' focus group commentary on quality Briefs of evidence and the written OPP prosecutorial guidelines (ss. 7.1.2 and 7.5 provide the research evidence and detailed discussion in these regards). The significance of this support lies in the fact that although victims have a right of review from the OPP if they are unhappy with the police decision, it is possible that they will not find any solace in exercising their right due to the OPP guidelines serving as a shared normative base for decision-making by police and OPP personnel. Thus the criminal justice system provides an appearance but not the reality of victim empowerment in the review process. Nonetheless, the police narrative is coming under the strain of increased risk-taking to satisfy new policy discourses such as evident in the VLRC (2004) AND Victoria Ombudsman (2006) reports arising from and informed by wider community expectations. Operational police are consequently experiencing dissonance between their traditional and developing ways of understanding and defining what they are doing and why they are doing it in relation to sexual assault Brief preparation. To that extent the criminal justice equation is changing in favour of empowering victims.

6.4 Summary and recommendations

Case file evidence showed that police decision-making was substantially more considered and concerned with formal justification in non-authorisation than in authorisation processes. Thus, authorisation involved fewer factors on average compared to non-authorisation. Further, none of the examined cases that were prosecuted or clearly intended for prosecution was formally authorised in a written report giving reasons, whereas non-authorisation decision-making was usually reduced to writing in a formal report that cited reasons. However, formal argument was lacking in a significant proportion of non-authorisation cases, including the examined 'no offence disclosed' and 'unsolved' cases. The merits of improving argumentation in Brief preparation are discussed at length in Chapter Eight.

Non-authorisation most often involved the investigator identifying and citing reasons and supervising and authorising officers agreeing in a perfunctory 'tick-the-box'

fashion on the Brief-head. Authorisation was driven predominantly by witnesses with offender admissions also frequent, whilst in non-authorisation victim-related factors were dominant with accused denial/credibility also frequent. Victim credibility was the core prosecutorial criterion as affirmed also by OPP focus group lawyers because most cases are word on word. In deciding whether or not to prosecute a complaint, police commonly adopted a 'hard evidence', uncertainty avoidance approach. Both the 'hard evidence' approach and victim credibility in particular were also found in strand one research to be important to police decision making (s. 4.4).

Two stages of decision-making were evident in authorisation: investigation and Brief preparation, followed by additional decision-making in interaction with prosecution officers. This was consistent with the OPP focus group finding that it was often necessary to return Briefs for police to undertake further work and with that of interviewed Sergeants that on occasion incomplete Briefs had to be forwarded to meet legal deadlines. In non-authorisation there appeared to be two sets of decision-making: victims taking the formal decision to withdraw complaints after interaction with police involving 'options talk', and formal police decision-making not to proceed regardless of victims' wishes. Arguably, these two sets are still two phases of the police decision-making process since police retain the right to prosecute matters despite a victim's withdrawal, as often noted in the literature (e.g., Bryden & Lengnick, 1997; Frohmann, 1998; Lievore, 2004). The police role in decision-making is masked by the victim's withdrawal decision, often only made subsequent to 'options talk' anyway.

Reflecting on issues canvassed in the literature and on legislative changes to address those provides a deeper understanding of the meaning and impact of police decision-making rationales. Present findings reveal little change in the reasons for non-authorisation in sexual assault policing over the past two decades pursuant to the VCCAV study (1991). Further, present research provides a window on victims' explanations and opinions in relation to complaints withdrawn. This aspect was identified by the VCCAV study as potentially "extremely illuminating" (VCCAV, p. 70). Present research also provides more detailed reasoning for non-authorisation, as well as broader rationale factors, and in relation to both 'complaint withdrawn' cases and 'summons not authorised' cases. The difficulty in the distinction between these two outcomes, however, is that it is generated from an unclear definition (see Appendix 12).

Additionally, present evidence shows that police decision-making remains in significant measure opaque in the continuing use of vague 'reasons' such as 'sufficient/insufficient evidence' and 'success unlikely', notwithstanding our understanding of what these might mean subsequent to research to date (e.g., VCCAV, 2006). To this extent, police decision-making is unaccountable to any

external or even internal management control system designed to ensure that it is responsive to victim allegations.

Current research is also consistent with the evidence in the literature that police decision-making entails the use of typifications such as ideal versus non-ideal victims and routinised, taken-for-granted thinking short-cuts (e.g., Frohmann 1991, 1998; Lea et al., 2003; Segrave & Wilson, 2011; Spears & Spohn, 1996). These thought tools are constructed out of case specifics in relation to any available 'hard evidence', and they take account of whether the victim and offender are strangers, acquaintances or intimates, as well as victims' alcohol/drug use, psychiatric illness, cognitive impairment, perceived immorality, risk-taking behaviour, and absence of physical injuries, among other indicators of whether the victim is credible, reliable and genuine, and did not consent to the alleged sexual conduct. Present research found 'hard evidence' – such as witnesses, medical evidence, visible victim harm, multiple victims, offender admissions, surveillance footage and other 'objective' items apart from the victim's word only - was associated with authorisation. By contrast, factors such as victim's word only evidence, victims as poor witnesses (e.g., emotional or memory issues), victim blameworthiness (e.g., alcohol use, sexual conduct), uncooperative victims, accused denial/credibility, and unclear issue of consent were associated with non-authorisation. These two sets of decision criteria constituted the means by which case specifics were organised into typifications leading to decision outcomes. They reflect key findings in the literature, especially in relation to non-authorisation. Interestingly, present research evidence shows that factors and typifications associated with authorisation are not simple opposites of non-authorisation decision-making. Instead, discourse analysis shows that the authorisation and non-authorisation narratives are inverted symbolically, the one emphasising corroboration of the victim's word and the other emphasising why it cannot be believed, the one supportive of the victim's complaint narrative and the other non-supportive.

Further, the literature evidences that victims are reluctant to report in the first place often due to perceptions that sexual assault complaints to police will not receive a sympathetic hearing (Lievore, 2003; Taylor & Norma, 2011). The non-supportive victim narrative in non-authorisation decision-making found in analysis of the case file data serves to reinforce that message to those victims who had reported to Victoria Police in the study period (and anyone with whom they shared their reporting experience). There are clearly situations in which victims initiate and drive the non-authorisation decision. However, even so, police retain the authority to proceed. Moreover, victim-driven decision-making is obfuscated by the role of police 'options talk' - itself a complex mixture of the need for victims to be made aware of the nature of the criminal justice process and the insertion of police attitudes that are unhelpful, if not contrary to effectively responding to sexual assault claims.

There are indications also that operational police are not always aware of the legislative and policy context of their decision-making. For instance, the continuing role of consent unclear and delayed reporting in non-authorisation suggest that these are inadequately understood as irrelevant factors (accepting the difficulty in interpreting the latter in some of the case files). This lack of knowledge was also evident in the police focus groups and interviews.

Before concluding, a caveat is in order. The foregoing should not be taken to deny that many police do indeed work diligently and have the victim's best interests in mind as they proceed through a complex decision-making process in respect to sexual assault complaints. As one example of this diligence and commitment to the victim one AO recounted how women who make a statement then don't want to go to court, and make a NFPA statement instead, still allow police a 'bank' of crime intelligence that can later be used either to identify a modus operandi of a repeat rapist and/or to return to earlier victims to try and persuade them to later go to court as the rapes continue on and/or a later victim wants to pursue her matter. Thus he said:

> And it might be you go back to these women and say, "Look, I know you've done a no further police action statement, but it's building up to a whole picture. We want to put it all together. This person is doing it to other people."

This same AO also recounted how his unit had unwittingly undertaken a VARE with a victim who had cerebral palsy and who therefore did not meet the VARE eligibility criteria. He was asked to withdraw the charge, refused to do so and a more senior officer subsequently did so. The AO put the view that it should have gone forward as a test case because VARE should be for best evidence and least trauma to the victim.

Victoria Police as an organisation has made identifiable and commendable efforts to address recommendations made by the VLRC (2004) and Victoria Ombudsman (2006) concerning research into the reasons behind police authorisation and non-authorisation of sexual assault complaints. The PJO research project is itself proof of this as far as its researchers were allowed access to the field. Still, those recommendations were intended to effect real and substantial change in policing responses to allegations of sexual assault. The evidence on police decision-making found in analysis of case file, interview and focus group data show that - despite the good efforts of many dedicated individual police officers - there is still have some way to go to satisfactorily meet these calls for improvement. Notably, a similar conclusion was reached by Heenan and Murray (2006). Although there are some beginning signs of victims becoming more empowered in the State of Victoria, they remain substantially dependent on police as the gatekeepers to the criminal justice system.

Following are the recommendations arising from data analysis and evidence presented in this chapter.

> **RECOMMENDATION:** Police should avoid using highly generalised reasoning to justify authorisation and instead cite the exact reasons in terms of evidentiary materials. (s. 6.2.1)

> **RECOMMENDATION:** Authorisation decision-making should be based on explicit reasons stated in a formal report for that purpose. (s. 6.2.1)

> **RECOMMENDATION:** Attention should be paid to ensuring that all case files include reports of formal reasoning for the non-authorisation decision. (s. 6.2.2)

> **RECOMMENDATION:** Police should avoid using generalised reasoning to justify non-authorisation and instead cite the precise reasons in terms of evidentiary materials lacking in the cases concerned. (s. 6.2.2)

> **RECOMMENDATION:** Notwithstanding the real challenges involved, Victoria Police policy should emphasise the need to seek, create and use every available option to encourage and support victims in their complaints, rather than allow them to remain 'uncooperative' or 'poor' witnesses, or to avoid 'victim word' only prosecutions. In making non-authorisation decisions police should take active and concerted steps to avoid victim related reasons for doing so and to particularly eschew finding reasons to blame victims. A robust quality monitoring program should be established specifically to reinforce this policy. (s. 6.2.2)

RECOMMENDATION: Steps should be taken to ensure all operational police are fully aware of the legalities concerning issues of consent, corroborative evidence, delays in reporting etc and their role in police decision-making. (s. 6.2.2)

RECOMMENDATION: Victoria Police should develop and implement a clearly articulated classification system of mutually exclusive and comprehensive outcomes based on defined criteria and guided by extensive practice examples. This classification system should avoid the problem of one outcome being a reason for another outcome – e.g., 'complaint withdrawn by the victim' should not be a 'reason' for 'summons not authorised'. A comprehensive set of concrete and precise reasons for decision-making needs to be developed to underpin this classification system. (s. 6.2.2.2)

7.0 Networked policing

Police decision-making does not occur entirely in a vacuum, although that might sometimes seem so to some police as well as members of the broader community and victims/survivors. Within a 'networked policing' conceptual framework (Bayley & Shearing, 1996; Crawford, 2006; Loader, 2000; Loader &Walker, 2001;Shearing &Wood, 2000; Schedler, 2006;Wood & Bradley, 2009) public police are located as a central set of actors in a bounded system of relationships, and their effectiveness as decision-makers depends on understanding and working within that framework. "Public police services around the world have decided that in order to be effective, they must cater their services to local conditions and engage in active partnerships with community members" (Shearing & Wood, 2000, p. 460). Whilst retaining ultimate responsibility to ensure ethical and political accountability, with public police remaining in overall control (Schedler, 2006), public police services have sought to network community resources and knowledge in ways that shift attention from the past to the future (Shearing & Wood, 2000, p. 461), albeit not without challenges and constraints (e.g., Loader, 2000; Schedler, 2006; Wood & Bradley, 2009). Recognition of this aspect was apparent in the VLRC recommendations, for example for police to:

> work collaboratively with CASAs to develop training packages that ensure police members understand the role of CASAs and can benefit from their experience of working directly with complainants (VLRC, 2004, p. xlvii)

The VLRC (2004) report also recommended the OPP develop a training program to address the needs of sexual assault complainants and build linkages with CASA and other relevant organisations, with a clear intent to enhance the viability and functioning of the network incorporating police (VLRC, 2004, p. l-liii). Similarly, the Ombudsmen Victoria expressed the view that there would be benefits in establishing a formal, ongoing structural arrangement among relevant agencies and departments concerned with sexual assault to develop and share advice and expertise.

> Any standing inter-agency body that is established should also develop formalized communication structures with regional liaison groups to ensure that local issues which arise and which have wider implications are addressed centrally (Ombudsman Victoria, 2006, p. 24).

Her Majesty's Crown Prosecution Services Inspectorate & Her Majesty's Inspectorate of Constabulary (HMCPSI & HMIC) report (2007) has also recognized and recommended the value of a concerted networking framework and gone further to declare:

> Partnership working within the context of rape and sexual violence now needs to be taken forward on a more formalised and structured footing at a strategic level across police forces, CPS Areas and local authorities to ensure that services are co-ordinated and developed effectively. (HMCPSI & HMIC, 2007, pp. 20-21).

In Victoria, major actors within a 'networked public policing' framework focused on adult sexual assault complaints include not only victims of sexual assault and police, but also the Office of Public Prosecutions and Centres Against Sexual Assault most particularly, along with the Victorian Institute of Forensic Medicine (VIFM), government departments, hospitals (HCCUs), and a potentially wide range of welfare/support organisations including the Victim Support Agency, the Victorian Court Information and Welfare Network, and the Victims of Crime Assistance Tribunal (cf, Victoria Police, 2010).

The Success Works (2011) report provided an overall positive view of recent developments in Victoria in terms of the arrangements of networked public policing. It noted that stakeholders suggested that CJS practitioners no longer lack a belief in what happened in sexual assault cases. A CASA worker was reported as referring to a police victim/survivor focus and regular consultation with police in a co-location environment (Success Works, 2011, p. 178). The majority of victims/survivors were reported to have "felt that the initial response (usually from a SOCAU member) was extremely caring, supportive and compassionate - and generally much better than expected" (Success Works, 2011, p. 30).

In this chapter the focus is on the ways and extent to which police interacted in a timely fashion with other agencies in investigating sexual assault and ensuring appropriate support was provided to victims. First, there is an account of findings in relation to the role of the Victoria Office of Public Prosecutions. This is followed by findings on the police interface with Centres Against Sexual Assault and briefly in respect to other sexual assault victims' support services. Then there is discussion of the organisational structure of sexual assault policing and limitations on the police authorisation decision in Victoria. A summary of the main findings and recommendations concludes the chapter. The results reported here are from analysis of data drawn from the research conducted in 2011 using the LEAP case files, the police interviews and focus groups, and the 0PP focus group. As well, there is triangulation of the research evidence garnered across the strands wherever appropriate.

7.1 Interacting with the Office of Public Prosecutions

In this section, attention is paid first to the police view of the OPP interface and then to the OPP lawyers' view, with some interesting results.

7.1.1 The police viewpoint

The case files reflected Office of Public Prosecutions (OPP) involvement in 10 of the 90 examined cases, including one not taken to Court (case 70) and nine that proceeded (cases four, seven, eight, 17, 38, 44, 49, 50 and 90) – see Appendix 13, Grid 1. In terms of original allegations and eventual charges, OPP involvement would have been expected in a total of 58 and 20 of the cases, respectively – see Appendix 14, Grid 2. The reduction from 58 to 20 is accounted for by non-authorisation in 36 cases and downgrading the original allegation to a lesser charge in two cases. Hence, 64% of the adult sexual assault allegations were initially Superior Court matters, 66% of these were not prosecuted and OPP involvement was found in only half of those taken forward.

In respect to Magistrates Court matters, there were initially allegations in 32 cases which were reduced by 17 non-authorisations, resulting in 17 cases taken forward with the addition of the two cases involving downgraded charges. That is, there was a 50% reduction in the total eventual Magistrate Court allegations.

Further, the OPP involvement indicated in the ten cases was not described in the files in any depth that allowed a confident understanding of the typical communications or issues raised between police and OPP lawyers. The one case with some detail could not be relied upon as representative, nor could addition of details from the other cases be expected to form a reliable view of OPP/police transactions. The following summarises the case file evidence in respect to the police/OPP interface.

The most extensive interface found between the police and OPP lawyers was in case 44. This involved a an ex-husband charged with three counts of rape, intentionally causing serious injury, conduct endangering life and false imprisonment relating to his former wife in an episode that ensued from his attempts to stop her from continuing with an Intervention Order. In this case, there was an exchange of emails between the informant and the OPP. The informant inquired about excusing police witnesses, advice of when the file would be allocated for committal as the informant was due to take leave, issues with respect to witnesses and forensic matters, and whether he should subpoena a witness who was refusing to give a statement. An OPP response indicated that they had no instructions as to 'further committal mention' because the informant didn't show up and the OPP liaison officer for the case was on leave. The OPP also advised that the defence were waiting for vaginal swabs to be

tested, and there was no committal date because the barrister didn't have advice about availability of witnesses.

In case four, the investigator provided a highly negative character report on the accused to the OPP, but there was no other indication of involvement between the police and the OPP. In this case, the Sergeant was the investigator and self-authorised the charges.

In case seven, an OPP letter to the investigator advised him that a Nolle Prosequi was entered with the agreement of the OPP Director subsequent to the victim's withdrawal of complaint on grounds that her psychological welfare would suffer. Professor X and Dr Y gave evidence during pre-trial argument that cross-examining her regarding confidential material could be 'extremely damaging'. The letter concluded with: "Many thanks for your assistance and hard work during the course of this matter".

In case 17, file indication of OPP involvement was limited to notification of the accused failing to appear at Court and the subsequent issue of an arrest warrant, as well as a later adjournment of the matter Sine Die. Cases 38 and 90 reflected a similarly limited indication of involvement. The files on cases eight, 49 and 50 also indicated OPP involvement but with no details at all.

A significant point concerning OPP involvement is that, as gate-keepers, the police are positioned to determine whether or not an allegation progresses to become a charge and, initially at least, what type of charge eventuates. Brief preparation and authorisation cannot be understood in isolation from the first crucial step of investigation. In case one, for instance, the fact that there was no further processing of the matter after the investigation and decision by police not to authorise prosecution acted to siphon off the alleged rape from the criminal justice process. The OPP was not involved because there was no authorisation of the original allegation of rape. If it had been authorised the OPP would then have become relevant. This crucial point is illustrated by a total of 32 cases – one, two, 12, 14, 19, 20, 33, 36, 43, 52, 54, 56, 57, 58, 59, 60, 62, 64, 65, 68, 72, 73, 74, 76, 77, 79, 81, 82, 83, 85, 87 and 89. These cases exclude those designated 'unsolved' and 'no offence disclosed' which otherwise might have resulted in OPP involvement (cases 22, 23 and 86). This data set was adduced from Grids 1 and 2 contained in Appendices 13 and 14.

Evidently, examination of the case files was not especially revealing about the interactions between the police and the OPP. This was possibly due to those interactions being conducted as verbal or email transactions with little if any 'paper trail'. Alternatively, the database was deficient for this purpose owing to non-returns and sampling factors. In Magistrates Court matters, there were even fewer cases of detailed description of the interaction between informants and prosecutors. Thus, in

both higher and lower jurisdictions the case files did not provide adequate data to obtain a robust view of the interface between informants and prosecutors.

> **RECOMMENDATION:** Victoria Police case files should provide a written record of the essentials of all interactions with the OPP to allow for accountability and provide sound data for training and management purposes.

Turning now to the interview and focus group evidence a different and more complex story was told of the interactions between police and OPP personnel. Investigators and their supervisors both spoke of routinely interacting with OPP personnel and with one OPP officer in particular.

The importance of one OPP lawyer. From the investigators' viewpoint, contact with the OPP was said to be very helpful as a rule, usually with one or two people there, mainly by email and telephone, both informally at early stages and more formally when the Brief goes to the OPP. OPP advice was generally rated excellent when given. One OPP person who has been with the OPP for a very long time was seen as especially helpful and there was a general reliance on this one individual. This raises the question of what happens when that person leaves. It also raises the question of whether a more formal arrangement of a protocol and regularly scheduled visits by OPP personnel to SOCIT teams (newly established ones especially) might be worthwhile in accelerating the contact network and knowledgebase of presently inexperienced investigators. One focus group said there was a need for an in-house prosecutor to advise them on Briefs and they would welcome a closer relationship with OPP lawyers.

Variability in police perceptions of OPP utility. There was, however, variability in how the OPP expertise is utilised and how useful investigators consider the OPP, whose lawyers were recognized as also being very busy. One officer indicated that on recent advice from someone, he sent a statement to the OPP and received back the charges for each paragraph, which he found very helpful and saved a lot of time. Most indicated they frame the charges within a Brief then send it on, often with changes then being made by the OPP, which they found irksome. There appeared to be a consensus that leaving OPP contact late runs the risk of additional statements being requested close to Court times, whereas early contact can result in practical advice and 'nipping in the bud' problems, saving a lot of time and effort. One investigator said the relationship was 'quite workable' however the OPP was not contacted much due to the SOCIT unit being very busy with coverage of a large area.

In short, investigators indicated generally good contact with the OPP, however with some variability in opinion on OPP usefulness, they are still becoming aware of who, how and when to contact someone there, contact is not always timely, and there is an

over-reliance on a particular OPP officer whose departure unless addressed would create a serious 'succession' problem.

A similar view of OPP contact was provided initially in interviews by ROs. At first, they advised that there is usually a very good working relationship and communication with OPP Specialist Sexual Offences Unit (SSOU) lawyers and solicitors, often with the same particular person, telephone and email mainly, also at Court, on circuit and with OPP lawyers invited to update them on new legislation at various venues. They often ring the OPP to check whether to authorise or not (i.e., likely success at Court) and usually get good, accurate advice. But the relationship is not always optimal, for instance with problems of changing OPP personnel. An example was given by a Sergeant from a rural locale of a lawyer arriving on circuit who was not familiar with a case, asking why charges were changed and blaming police, when this was done on the advice of an earlier OPP lawyer.

In response to later interview questions on this aspect, contrary to the answer given earlier in the interviews, there was a much more mixed view of the OPP relationship, seen as being in need of repair by most ROs and found to be good by a couple. A common complaint was that the OPP change charges without consultation. One RO said the particularisation charts which used to be the OPP's job **"**can add massive amounts of hours" to police workloads. Another commented that OPP prosecutors do not "fight hard enough" sometimes where a victim cannot recall exact dates of offending. Another RO mentioned high OPP prosecutor turnover, OPP case conferences could be more frequent and their prosecutors could be more personable with victims. A closer working relationship with OPP in Brief compilation was mentioned as desirable by one RO. One RO said that interaction with the OPP is becoming much more formalized, and "nobody wants to talk to you in case you quote them". A rural locale RO said the OPP barristers on circuit are often not from the SSOU, they have unrealistic expectations of victims to whom they cause great stress, and there can be three or four solicitors involved in a case and they disagree at times. The OPP focus group confirmed the absence of SSOU lawyers on circuit and that these circuit lawyers in rural locales deal with a mix of cases and do not have specialist expertise. Notably, the Success Works (2011) report commented on this inadequacy and its recommendation nine stated: "That the Specialist Sexual Offences Unit at the OPP be extended to include full or part-time specialist prosecutors for the country courts" (Success Works, 2012, p. 220).

> **RECOMMENDATION:** Victoria Police should make representations to the OPP to have Specialist Sex Offences Unit lawyers more involved with country circuit sex offence cases.

AOs also reflected difficulties in the police/OPP interface. For example, one AO commented:

> The problem with the OPP is, they picked a Brief up probably two days before the court or the committal, and then they want the investigator to run around for – like a mad cow for two days. You know, they will look at it and go, "Well, by Thursday we need this done, we need this done, we need this done." You know? And it's frustrating for the member.

This AO does not seek advice from the OPP because they say it is the AO's decision anyway. Another AO commented that the OPP talks to the informant not the AO who authorised the Brief and an informant might not tell anyone else in the SOCIT unit, including the AO, about specific OPP requests that reflect some case law requirement that is unknown to the AO or the unit. That is, this AO said there is no systematic sharing of new knowledge and this also applies across SOCIT units, although a newsletter is being established that might help redress this deficit. The import of these AO comments is followed up in the next section.

7.1.2 The OPP viewpoint

For its part the OPP focus group raised a number of points they would like to see addressed in relation to their interactions with police. It is "very rare that you will get a police officer contacting you prior to you contacting them once we receive a file". In a contradictory vein, however, OPP interviewees also said that many police do contact the OPP legal prosecution specialist prior to forwarding a file. "And even if they did ring us up at that stage, we would probably still refer them to (this specialist) anyway".

Inconsistent quality of Briefs and repercussions. OPP lawyers spoke of the inconsistent quality of Briefs which needed to be returned to police for further work against the clock of Court deadlines. They said that at times it meant they were doing the police investigation for them in terms of finding the work still required in a case and directing or advising police about it and waiting for return of the revised Brief. Thus,

> by the time it comes to us – you know, usually issues are flagged the moment we start reading say just the charge itself. You know, it might be a date that's

not reflective on the statement. Whereas if they had sought that advice from the outset, we would be able to rectify everything, just the simple things like the dates and times and places, etcetera.

As a result there are 'knock-on' effects leading to other difficulties. These include adjournments that indicate problems with cases to defence lawyers as well as mounting costs against tight budgets. "Whereas if you get a compelling Brief to start with, there can be more pressure on accused people to have a serious look at potentially resolving a matter". If an informant is advised of the need to complete tasks, this is not always received well.

> And it can be quite – they can be quite hostile, and particularly when you say, "Well, all these things are missing now. We've got a court day in a week's time. This all really needs to be done as a matter of urgency." And then they become even more hostile, because not only are you asking them to do eight different things, but you're saying, "Can you do these eight different things before Wednesday?"

What makes a good Brief. The OPP lawyers nominated a good Brief as including a 'particularisation of charges' and 'summary'. The particularization chart/evidence table should provide a clear account of the charges against the evidence by showing each charge in relation to the evidence supporting it, where it is contained in the statement, the exhibit numbers and charge numbers, and where that evidence is located in the Brief. This is especially important in complex cases involving multiple offences over time or multiple victims and offenders and different charges such as sex offence charges and other charges such as violence, theft, weapons etc. Further, "as you're compiling the evidence, and as you're gathering it, it's a lot easier … Once an informant gets a statement … they can add it to that chart and they can maintain it very easily. Whereas having to go through it from the start … is just a huge burden".

Problems of particularisation and completion of summary of charges. But the OPP view is that police too often do not provide good particularization charts. In this respect, it was mentioned above (s. 7.1.1) that police saw the task of particularization charts as an onerous and time-consuming one that used to belong to the OPP. OPP lawyers saw police completion of the summary of charges as similarly problematic, with a need for police to clearly link each paragraph detailing events and acts to its relevant charge(s). A good summary was said to be comprehensive, with a short introduction, details of the accused, citation of the charges, what alleged offending supports the charges, and mention of the arresting interview. "So we need to know exactly what's being covered or what they perceive is being covered by the charge".

In short, a good Brief is highly organized, succinct and shows efficiently where to locate evidence for each charge in complex matters that sometimes involve a number

of complainants, multiple charges arising from a single event, and several events. If the Brief is not well organized with a particularization chart and summary it can lead to an OPP lawyer doing hours of work only to discover that the charges cannot be sustained by the evidence collected and having then to withdraw all the charges at or before committal proceedings.

It is apparent that the problem is one of lack of uniformity of Brief preparation quality, not that all Briefs are poorly compiled from an OPP viewpoint.

> Some detectives are really, really good with the way they compile their Briefs and how they're able to support all the charges. Others you just – you look at it and think, "How the hell did this get authorised?"

Inappropriate disclosure by police. OPP lawyers also cited a problem of inappropriate disclosure by police. This occurs on occasions when police obtain a victim's permission to disclose matters to defence lawyers which can then be used to question the victim's credibility. For instance, "a little red light should come up when they see sort of psychologists' reports, psychiatrists' reports, anything medical … any confidential information". Defence can obtain that information under section 32C subpoena applications, "but they've got to go through a judge or a magistrate that actually assesses what can go in, what's able to be viewed and what's not. It's not even for us to say that. It's a court order". The OPP viewpoint was that police should hand over nothing to defence lawyers and simply advise them to contact the OPP.

Supervision of police. Other specific concerns were voiced by the OPP focus group. Statements by victims and witnesses can sometimes be very short and need further work, which allows defence lawyers an opening to question the reliability of the evidence. Over-charging ('hamburger with the lot') by the police leads to problems of having to explain why charges are dropped, both to defence lawyers and to victims. OPP lawyers also thought that "some of the junior informants I've worked with, they don't seem to have much supervision" and, referring to police quality monitoring of Briefs and related checklists, "sometimes I'm not sure if they actually check it". These comments presage discussion of the need for excellence of police leadership in Chapter Eight (see ss. 8.1.2 and 8.2 especially).

Small details and police unavailability. Again, there are often problems with seemingly small details, for example: "one of the main things missing too, particularly from a summary in an historical matter, is dates of birth and ages at the time the offences occurred". Further, "one of the common frustrations we face" is exemplified in a case where the informant went on leave without telling the OPP lawyer and without telling his Sergeant that a trial was due in two weeks with several outstanding tasks requiring completion. There are informants who the OPP "query whether they understand the gravity of the situation", once a matter goes to trial they

seem to see the matter as being solely the OPP's responsibility, explaining they cannot attend Court because they are on a training course, on a pistol course, or "'I'm on a night shift. Sorry, I can't make it.'" Others attend daily, are much more committed and know the whole case. Less experienced police informants tend to take as personal criticism an OPP decision not to proceed due to an assessed lack of evidence. Still,

> If there's a fatal flaw, though, and it's as a result of something the police did or did not do at a crucial time, most of the police that I've dealt with have said, "Look, I really treat this as a learning experience and I will not do the same thing in the future."

Generally, police are cooperative, "especially if you articulate why you want a particular thing and you explain how it's going to assist the case".

OPP resources and timing problems. Again, part of the challenge for the police/OPP interface is a mutual lack of resources comparative to the demands of each of their jobs, as this quotation makes clear in being so reminiscent of descriptions from the police interviews and focus groups (see s. 8.3):

> And some of the things sound a bit nit-picky, but when you're a solicitor and you're in sex offences with these time constraints, and you're analysing 40 Briefs and you're working on these sorts of matters and you're in and out of court, it's the little things that make such a big difference.

This quotation is clarified in its import by the following remark:

> Just in terms of resourcing … the Melbourne County Court is the main trial court in Victoria. In any given week they probably run between 50 or 60 per cent of their entire list is sex offence trials. So that's 50 to 60 per cent every single week … whereas our unit here is probably 15 per cent at the OPP, in terms of the size in proportion to the rest.

Interestingly, reminiscent of aspects of the police viewpoint, OPP focus group lawyers acknowledged routine clashes of court cases, where:

> many solicitors here have two or three matters running at any given time, and so the case that they have prepped and they have met the complainants for are not the ones that they're sitting in court for. That is one of the tragedies, I think, where we hold ourselves out as a specialist unit, and one of the aims of specialisation was to have continuity of personnel … (so there can be) three different solicitors from our office. I think it must be confusing and overwhelming to have that many people involved.

Ironically, the OPP lawyer making this statement was speaking of victims being 'confused and overwhelmed' but did not mention any similar impact on police.

Communication difficulties. It is clear that both police and OPP lawyers rely very heavily on the one OPP legal prosecution specialist at the early stage of police seeking advice before sending a Brief to the OPP. It is also apparent that there are subsequent communication problems and need for police to do more work and for OPP lawyers to also work against the clock once the Brief is then returned to them. But it is unclear exactly what is happening in the process of communication between police and OPP lawyers and at what stage of their contact or upon what elements of advice there is a breakdown in communication. Yet the communication chain is evidently not working at an optimal level given the conflicting views that arose from the police focus groups and interviews on the one hand, and the OPP focus group on the other.

This communication gap has resulted in lack of understanding and appreciation by each of the other's work demands. There was an unhappy irony in that police and OPP lawyers spoke of the same constraints and pressures in their jobs in accounting for problematics: time constraints, limited resources, complex cases and the need to attend to higher priority tasks often without completing the one at hand – with police putting the lower priority task off until another day or passing an incomplete Brief on to the OPP, while an OPP lawyer passes a time-clash case to another lawyer. The police viewpoint in this regard is detailed below (s. 8.3).

In their analysis of police and prosecutorial decision making in sexual offences Taylor and Gassner have made explicit:

> it is imperative that police and prosecutors from the Office of Public Prosecutions develop a shared understanding of the norms, rules and policies that direct and govern their decisions, whilst developing a collaborative partnership that enhances prosecution outcomes for complainants in sexual offence cases. Such an exploration would allow understanding of the socio-legal construction of sexual violence in the context of police investigations and prosecutorial decision-making (2010, p. 247)

> **RECOMMENDATION:** Serious consideration should be given to formalizing an arrangement of regular OPP visits to SOCITs, establishing clear contact guidelines and expectations, sharing regular newsletters of mutual interest matters, consulting with the OPP with an aim of reconciling currently divergent views, with open and ongoing communication on issues as they arise - including in respect to reliance on a single OPP legal prosecution specialist and other personnel instability/turnover issues.
>
> Implementing this recommendation would substantially bridge the existing communication gap between police and OPP personnel, provide a much needed mutual appreciation of both their workloads, and promote a much tighter if not seamless efficiency and effectiveness between these vital links in the CJS chain of improving responses to sexual assault complaints.

7.1.3 Re-visioning the police/OPP interface

Given the above research evidence, at this point it is worth considering a new way of approaching the Victoria Police and OPP relationship with a view to enhancing their combined response to sexual assault complaints. In this regard, there is strong evidence from overseas that there are more viable and effective models for achieving a much better CJS performance.

Examples include the Thu Thuzela Care Model (TTC) in South Africa and the Merseyside Unity Model in the UK. Whilst there are differences in the compositions of the models in South Africa and UK, with the TTC model being more extensive and integrated, both involve police and prosecutors working collaboratively case by case. The Lead CI of the PJO project undertook research and site visits to both locales to examine the models and their workings in situ. Both parties are involved in the case development and case building, and evaluation of both models make explicit improved outcomes for victim welfare, stronger Brief preparation and greater success at the court level. That UK police and Crown Prosecutors have been able to develop and trial such a model with great success, with other UK police jurisdictions looking to replicate the model, augurs well for its replication in similar jurisdictions such as Australia. Both the TTC and Unity Model utilise screening and selection of police and prosecutors. This is more formalised in the TTC Model. However the Unity Model is very aware that selection of police to work in the Unity Team is paramount to its success.

RECOMMENDATION: Victoria Police should examine the overseas practice and experience of unified police/prosecution models for improving the CJS response to complaints of sexual assault with a view to adopting a best practice model.

Implementation of this recommendation will be consistent with adopting a best practice approach to sexual assault CJS responses which emphasise the innovation and continuous learning characteristic of Learning Organisations. More importantly, it will predictably result in the adoption of a best practice model for responding to sexual assault complaints and tangibly contribute to lower attrition rates.

7.2 Supporting victims: Centres Against Sexual Assault

The following observations from the case files are generally consistent with the earlier reported views from CASA counsellors obtained from strand one research (see Chapter five).

Inadequate Code compliance. Grid 2 (Appendix 14) shows that alleged victims were recorded in the VicPol case files as being in contact with a Centre Against Sexual Assault (CASA) in 26 (28.9%) of the 90 examined cases. This figure rose to 38.2% of the recent cases, given that police are only required to make CASA referrals in cases reported within 72 hours. In terms of cases authorised for prosecution CASA contact was recorded as occurring in eight (22.2%) of the 36 relevant cases. CASA contact was recorded in 18 (33.3%) of the remaining 54 cases. In cases of rape, attempted rape and incest allegations 21 (36.8%) of the 57 relevant cases saw a CASA referral, which suggests that the more serious the alleged sexual assault the slightly more likely that a CASA referral would occur. Even with the possibility that victims were not agreeable to a CASA referral in all instances, these data strongly indicate that police were not sufficiently compliant with the Victoria Police *Code of Practice for the Investigation of Sexual Assault (*paragraphs 6-10*).*

Further, there were other signs of inadequate compliance with the Code. For instance, even where a CASA referral had occurred, it was sometimes unclear whether police recommended CASA to victims or third parties had done so, and on occasion it was clearly a third party. Again, when CASA referrals occurred these were not always timely. For example, in case nine, it took 5 ½ hours before the victim was accompanied by a CASA worker to hospital, despite police involvement within an hour of the commission of very serious offences of rape, assault with a weapon, threats to kill and false imprisonment. There was no obvious reason recorded on file to explain this delay.

Compliance with the Code? Yet, in contrast to the case file evidence, the police interview and focus group data indicated that police routinely make CASA referrals in compliance with the Code and formal agreements with CASA. CASA is a priority if the assault is recent "because they still would have forensic evidence on them and their wellbeing, basically, still is number one" (investigator). However, one RO pointed out that in regional areas it is not possible to always comply with the two hour rule for getting victims to CASA due to long distances.

RECOMMENDATION: Attention should be paid to ensuring there is a written record in case files of compliance with Code requirements concerning CASA referrals and problems in effecting compliance. These records should be collected together in regular memoranda reports and forwarded for advice to management and a state monitoring body (see further recommendation in s. 7.4).

Implementing this recommendation will assist with quality monitoring of Briefs as well as identify problem areas for improvement efforts.

7.3 Supporting victims: interacting with other agencies

There is also mixed evidence on police interaction with agencies other than CASA. Aside from the involvement of SOCAU officers, the case files reflected a strong reliance on only CASA and hospitals as support services for victims in the hours and days after reporting.

A wide range of agency contacts and referrals? However, according to police Sergeants in interview, apart from the OPP and CASA, investigators are asked to contact a wide range of agencies in preparing sexual assault Briefs, including various counselling services, CityLink, VicRoads, local health centres among others. Victim support was emphasised as part of the police job and seen as important in its own right. The investigator focus groups confirmed this view. Their responses were in terms of both victim welfare/support and evidence gathering to establish corroboration of the victim's story. Agencies were seen as being contacted where relevant to particulars of the case – e.g., a GP who might have seen the victim – and with CASA referrals for counselling and support. Again, a wide range of agencies were nominated, including the OPP, DHS, Centrelink, Department of Immigration, Eastlink, Victims of Crime, refuges, housing, mental health and Court assistance volunteers.

Compliance with the Code? Furthermore, police interviews and focus groups indicated a generally strong awareness of and commitment to victim welfare in accord with the Code. This was especially pronounced in the RO interviews, with a greater tendency for investigators to link victim welfare to evidentiary concerns rather than for the victim's sake per se. For instance, among the most time-consuming aspects in investigations and preparation of Briefs, ROs and investigators mentioned relationship building with victims. For example, "to ensure that they're in the best possible condition that they can be in when they're giving evidence, because that's so often a credibility issue" (investigator); and "if you can prevent your witnesses or victims being attacked again in the witness box, that's a good thing. So yeah, you take your time. You go through – a lot of time, our sexual assault victims are emotionally traumatised so it takes days" (RO).

Explaining the mixed research evidence. One explanation for the mixed evidence is that provided by Segrave and Wilson (2011) who reported on police engagement with support agencies in relation to victims of crime generally. They found that "awareness of and relationships with support services for victims of crime vary across the state" (Segrave &Wilson, 2011, p. 71). This explanation is consistent with the CASA viewpoint reported in strand one findings (s. 5.5). Another explanation is that police do not record their agency contacts and purposes in the case files, due at least partly to the sorts of constraints that are canvassed below (s. 8.3).

> **RECOMMENDATION:** Attention should be paid to ensuring there is a written record in case files of all agency contacts and their purposes. These records should be collected together in regular memoranda reports and forwarded for advice to management and a state monitoring body (see recommendation in s. 8.4).
>
> Implementing this recommendation will assist with quality monitoring of Briefs, allow timely and ongoing circulation of relevant agencies for information of all SOCIT members, identify areas for improvement efforts, and help to manage efficient and effective resource allocations.

7.4 Organising the police response

The organisational structure of police responses in Victoria is now examined in relation to the effectiveness of networked policing of sexual assault. Notably, the findings reported in this section are highly reminiscent of many drawn from the strand one research.

Transitioning from SOCAU to SOCIT. During the period of the PJO research, the organisational model of police operations was transitioning from Sexual Offence and Child Abuse Units (SOCAUs) working together with Criminal Investigations Units (CIUs) to a new policing framework of Sexual Assault and Child Investigation Teams (SOCITs). SOCITs were often though not always co-located with other services in facilities which Victoria Police termed Multi-Disciplinary Centres (MDCs). SOCAUs had been charged mainly with taking statements from victims and ensuring they were appropriately referred to hospital and support services as a priority, whereas the Crime Investigation Units took responsibility for investigating complaints, making decisions on authorisation and processing prosecution Briefs. The structural transition saw SOCITs combining these police operational functions of investigation and victim support, as well as being co-located with other agencies such as the Centres Against Sexual Assault (CASAs), Department of Human Services (DHS) and the Victorian Institute of Forensic Medicine (VIFM).

The new model was intended to streamline the functioning of networked policing, to increase referrals and enhance decision-making, to increase specialization of police and raise the quality of Briefs, and thus improve the police response to sexual assault and better meet victim/survivors' needs. In theory, the SOCIT model and co-location of police with other professionals could be expected to enhance networked policing and hence the police response to sexual assault allegations, if for no other reason because of the much closer arrangement of police along with other interested

agencies. The synergies to be gained from co-location in terms of communication and mutual understanding would appear obvious.

Hybrid structural arrangements. Yet, as just noted, not all SOCITs are co-located with other relevant agencies, and co-location by itself is not the same as multi-disciplinary settings and does not unleash the synergies that derive from the shared vision and shared principles and values that are a feature of the genuine team-work environment of multi-disciplinary models. Notwithstanding this critical feature, Success Works (2011) suggested that the SOCIT 'multi-disciplinary centres' were operating in a team fashion on some levels. In this respect, however, a telling comment about the SOCIT relationship with CASA was that it is "an arrangement and not a partnership and we need a partnership" (IO focus group run by PJO researchers in 2011). This comment shows that some police clearly see gaps in Victoria's networked policing framework and reflect on them, which was also clearly evidenced in strand one research results (s. 4.6). Additionally, in interviews rural RO's were adamant that the SOCIT model was developed with a metropolitan focus and it was virtually impossible to replicate in rural areas because of differences in population, resourcing and geography. Notably, key elements of successful change in police organisations have been identified in the literature as taking account of the unique features of local settings along with effective consultation and partnering with local stakeholders (Bayley, 2005; Edwards,1999). One AO said the SOCIT model was trialled with very substantial resource inputs in areas where it would succeed with good reviews, then rolled out elsewhere with fewer resources, resulting in failure. He said "it's already a hybrid that cannot be replicated across the state".

Even so, according to Segrave and Wilson (2011), although general duties police continue to see their role in relation to victims generally as mainly one of fighting crime not dealing with and supporting victims, specialist police units such as SOCIT are different. They contend that this is because specialist units are charged with specific Code responsibilities. Accordingly, these authors believe knowledge of and referral to sexual assault victim support services are quite satisfactory (Segrave & Wilson, 2011, pp. 64-72). Yet these authors also point out that "it is meaningless to talk in terms of one homogenous (sic!) view" and "the level of contact individual victims seek, the time and resources available, and the disposition of … individual officers" among other factors, all operate to determine the approach adopted by individual officers (Segrave & Wilson, 2011, p. 18).

Evidence from the police interviews and focus groups promotes a somewhat more circumspect view of just how much police feel able and are willing to adopt a victim supportive stance to sexual assault victims as distinct from their obligations to fight crime and bring sex offenders to account. This is not to deny the above mentioned use of a wide variety of victim support agencies by investigators under the supervision of ROs, nor the commitment and compassion demonstrated by some ROs in particular. It

is rather to query whether utilization and referrals are optimal. That is, despite the interview and focus group evidence of appropriate agency contacts, there was also evidence of under-utilisation.

Role conflict and tension. Moreover, where it occurred, less than optimal victim-support also appeared to be confounded with the evidence-gathering role of investigators, such that neither role expectation was fulfilled adequately, each interweaving with and restraining the other (cf. s. 4.6). This was especially indicated in the RO interviews where a common complaint was that ROs regularly return Briefs for more work by the investigator before sending them on to the AO. Most often this was said to be due to investigators' inexperience and sometimes to the complexity of sexual assault cases. This was seen as exacerbated by recruitment, training and development inadequacies (see Chapter Nine). But it was also said that on occasion it is because of lack of diligence, unprofessional attitudes, laziness, and not 'working the evidence'. (Issues of recruitment in these and following regards are raised in s. 9.2). This can be a matter of the investigator recommending against authorisation due to only the victim's word evidence, with the view being that it will not succeed at Court. ROs said that investigators can miss obtaining relevant witness statements, including first complaint evidence, and they sometimes rely on admissions without thinking that these can be rescinded as 'under duress' once there is a defence lawyer on the scene. (This last observation suggests that IOs do not always employ best practice principles for interviewing suspects [Read, Martine, Powell, Kebbell, & Milne, 2009; Walsh & Bull, 2011] as taught in Victoria Police training courses). These observations were echoed by some AOs who directly supervised investigators and/or conducted investigations themselves.

Judgemental attitudes, and lack of work ethic and professionalism of some police. ROs acknowledged a problem of some police being judgemental in their case summaries and how this affected their view of the case. Some were very personalized: examples included describing victims as 'nuffys' (where there is a cognitive impairment or mental illness); describing a victim as 'vindictive'; and suggesting the accused was more credible or truthful because he told police he was innocent. Interviewees were also critical of police writing comments about the case generally suggesting the case was 'weak' or 'not likely to succeed' because this was their judgement and it may not be correct, especially as it is to be reviewed by a more senior officer but putting this on a case file means it is very likely to be read by a defence lawyer and thus becomes another problem in the case to be overcome. They also felt these comments suggested investigators might not rigorously investigate the sexual assault allegation.

Typical comments in these respects included: "I sometimes question the work ethic of the new policemen … There's no pride". "(Investigators) are a bit lazy". "I think it's too easy to become a policeman. You don't wear it as a badge of honour any more".

Similarly, "with the sex Briefs sometimes they just don't want to do the leg work. Because they are difficult. You sometimes have to approach… you know, relatives or people that don't want to know about it, don't want to cooperate…". "Because… because every bit of correspondence is attached to a Brief [and it] is subpoenable [and] I hate it when an informant puts comments like that at the front of a Brief … Word against word, no corroboration… unlikely to result in a successful prosecution". "Sometimes investigators make comments that reflect a personal view on the victim or evidence – e.g., victim has been drinking, works in the sex industry". Again, "one would assume and hope that everyone in that area is so committed in the interests of the victims. If they're not they shouldn't be there."

One RO would not authorise a Brief where it involved victim's word only, an offender without priors, and a minor offence such as "pinching a girl's bum."

> Because I've got to take into consideration: is it worth tying up the court time for a matter of such a trivial nature? Now, I know that some people would argue that it's not trivial because she's come and reported to the police and she's obviously been offended and whatnot. But it's still – he's not going to – sorry. He's not going to receive any penalty in court, in reality.

However, the same RO would prosecute a rape even if it was only the victim's word and regardless of whether the offender had priors.

Variability among supervisors. A significant finding is highlighted here in terms of variability among supervisors and AOs in their decision-making. One AO pointed up this aspect in comments on changing a decision by another relieving Senior Sergeant or by ROs who were not normally under his line accountability due to leave arrangements. Both investigator focus groups mentioned the particular preference or style of the Sergeant and/or Senior Sergeant could impact return of Briefs for further work, which also indicates variability in supervision and standards in quality review. Variability among supervisors and specialist units was reported by police and CASA in strand one research as well (ss. 4.6.1 and 5.2).

So the RO and AO interview evidence in particular indicated that investigators were mostly still learning, while some were unsuited to the job, and especially because it involved both victim-supportive and crime-fighting demands. ROs and AOs similarly at times reflected 'human factor' variability, a point that is taken up and discussed further in the next chapter (see s. 8.4). The import of these considerations is that the SOCIT model and co-location responses to address sexual assault allegations cannot be the sole answer to enhance reporting and eventually conviction rates. It is more essential that SOCITs are resourced adequately and most particularly with aptly suited individual police officers at all levels of responsibility. What Segrave and Wilson (2011) characterized as the "disposition of … individual police officers" is the critical

ingredient - not the nominal and structural changes - to meeting the dual role expectations of sexual assault policing in Victoria, particularly within a networked policing environment.

From this data and the earlier cited lack of evidence on file of CASA/other agency contact it was apparent that – despite some contrary interview/focus group opinions (see ss. 7.2 and 7.3) - the existing arrangement of Victoria Police/CASA Liaison Committees (Victoria Police 2005) was not adequately performing the stated functions of identifying and resolving problems locally and monitoring and reporting on Code of Practice compliance. This finding was supported by research evidence from the CASA interviews conducted by PJO researchers in 2010 (see s. 5.5).

RECOMMENDATION: The current SOCIT model should be modified from the current variable, hybrid application that has developed across different locations, and expanded in concept and built upon in field design to develop fully functioning MDCs and unleash the partnership synergies of a 'best practice' networked policing framework.

RECOMMENDATION: An umbrella monitoring body should be established at the State level whose members are drawn from representatives of the SOCITs, MDCs, CASAs and other relevant bodies. Individual members should have non-renewable three year tenures to ensure freshness of commitment. This body should have co-ordinating, advisory and victims' advocacy responsibilities.

7.5 Limiting the police authorisation decision

There are obviously limits to police decision-making, including the factor of 'victim incapacitation' found in the case file analysis, which notably was found only in the 'complaint withdrawn by victim' cases (see s. 6.2.2.1). For example, the death of her stepfather in case 78 could readily be inferred to have resulted in emotional turmoil that interfered with the victim's capacity to pursue a complaint. Again, the expressed yearning by the victim in case 85 to 'just go home' could be interpreted to flag her basic need to rest from the night's social activities as well as her ordeal which brought her to the police in the early morning hours, and/or it could be understood to reflect her particular way of addressing a deeper need to begin recovering from the rape. In such instances, police decision-making was limited by the external factor of victims who were unable to pursue their complaint due to the effects of the sexual assault and its circumstances.

Complaints withdrawn. In this respect an analysis was conducted of complaints withdrawn by victims, using data obtained from the total 481 case files made available to researchers. Some kind of impairment was identified in 27% of these cases especially psychological/psychiatric impairment, and drug/alcohol affected victims were also prominent (57%). These findings are consistent with the literature which shows that victims whose recollections of the assault are vague or imperfect for these among other reasons are more likely to have their claims questioned by police on grounds of credibility (e.g., Bryden & Lengnick, 1997; Clay-Warner & Burt, 2005; Frohmann, 1998; Heenan & Murray, 2006; HMCPSI & HMIC, 2007; Krahe et al., 2009; Lea et al., 2003;Segrave & Wilson, 2011; Spears & Spohn, 1996; Stewart, 1998;VCCAV, 1991). Police often feel constrained to do this in anticipation of the defence strategy to discredit the victim's story. Thus, among the most important considerations in preparing sexual assault Briefs investigators recounted in focus groups was the need to be honest with victims about it not necessarily being the outcome they want once they attend court. Similarly, ROs cited the importance of not making promises to victims that they could not keep. The earlier quoted words of an AO bear repeating here as well (s. 6.2.2): "Sometimes I agonise over them. Because you think, now do I prosecute them, I've seen the results of failed prosecutions and you think, oh, why did I put that person through that?" As a result victims confronted by these issues and how they would be handled by the defence often withdraw their complaint rather than proceed, thus constraining the police decision-making process. However, as noted earlier (Chapter Six), in such cases police are still deciding not to pursue the matter against the 'victim's wishes'.

OPP prosecutorial guidelines. Additionally, police decision-making is bounded by legislative and other criminal justice factors, including the impact of OPP interactions. For instance, a frequent comment in interviews and focus groups was how OPP personnel were determinant in whether or not a matter was progressed at court. This was despite the formal separation of the police decision to authorise or not from the advisory role of the OPP. In this respect, the OPP prosecutorial guidelines (Office of Public Prosecutions Victoria) are relied upon by both OPP personnel and the police, thus impacting the criminal justice decision-making process at two distinct points – if the police do not heed them then the OPP still has the opportunity to do so. The significance of these guidelines is that they act as a severe brake upon police authorisation decision-making in a number of respects (see also ss 6.1, 6.2 and 6.3).

A brief examination of these guidelines is instructive in this regard. Notably these policy guidelines were issued on 14 February 2008, sometime after the VLRC (2004) and Ombudsman Victoria (2006) reports, and subsequent to the bulk of the case file data-collection period for the present research. Thus, they continue to impact sexual assault decision-making. These require prosecutors not to institute or continue a prosecution unless there is admissible, substantial and reliable evidence that a

criminal offence known to the law has been committed by the alleged offender, or if there is no reasonable prospect of a conviction; and to take into account:

- the availability, competence and credibility of witnesses and their likely impression on the arbiter of fact
- any physical or mental disability or ability to communicate that is likely to affect a witness' credibility
- the public interest as determined by, inter alia, the youth, age, intelligence, physical health or special infirmity of the alleged offender; the staleness of the alleged offence; availability and efficacy of any alternatives to prosecution; the victim's attitude to the prosecution; and the likely length and expense of a trial
- close scrutiny of DNA evidence to ensure it is clearly reliable and highly probative

A total of 21 items are listed for determining the public interest, most of which are amenable to negating a prosecution as much as or more than encouraging it. In a separate clause apart from that pertaining to trial length and expenses, the prosecutor is charged to consider the finite availability of resources. Also separately listed are requirements concerning prosecution of cognitively impaired persons and involuntary psychiatric inpatients. Special considerations apply to prosecution of cognitively impaired persons, which are stated to include persons with intellectual disabilities, personality disorders, acquired brain injury, neurological disorders, or forms of mental illness, and "whether a prosecution would be likely to be harmful to the offender or be inappropriate". Regarding involuntary psychiatric inpatients, issues raised against prosecution include incapacity to form intent, a gesture of protest against confinement, and the potential consequent making of orders that result only in retaining the person in psychiatric detention (i.e., implied redundancy of effort and costs).

In short the guidelines are a diverse collection of rationales that can be employed by police in the first instance and prosecutors in the second to thwart pursuit of a victim's claim of sexual assault and, hence, to justify not responding to such claims. More than that, the guidelines require this diverse collection of rationales to be heeded – they are a real and substantial deterrent to police decision-making that might favour appropriate responses and they serve to cement any individual attitudes of police that are unreceptive of victims' claims. Furthermore, as a reflection of government policy, the OPP guidelines serve as notice that the State "encourages a cultural context which both encourages and reinforces the public construction of … violence" against certain groups in society who are thus "'deserving' victims of violence" (Richardson & May, 1999, p. 327).

In terms of police non-authorisation decision-making discussed earlier from inspection of the case files (S. 6.2.2) these guidelines clearly serve to underpin the bulk of rationales, viz. those associated with: insufficient evidence and success unlikely; the five victim related factors including victim credibility; historical reporting; and withdrawal of complaints by victims. Moreover, a number of specific and other reasons raised formally against authorisation can be traced in their roots to the OPP guidelines: e.g., the offender was a psychiatric inpatient whose treating psychiatrist counselled against prosecution as that would damage the offender's therapeutic recovery (14); anticipated court costs (65); and force instructions relating to minor assaults (75). The guidelines are a concrete manifestation of existing norms, rules and policies shared by police and OPP prosecutors that direct and govern their decision-making.

Against these prescriptions the prosecutor must also consider the prevalence of the offence, whether it is of considerable public concern, and the need to maintain public confidence in institutions such as the Parliament and the courts, all of which criteria would seem to urge a robust commitment to pursuing sexual assault claims.

'Hard evidence'. Yet a considered view of the guidelines is that they are weighed against positive police and prosecutorial responses to allegations of sexual assault. The overall effect of these guidelines is to reinforce and culturally embed the 'hard evidence', uncertainty avoidance policing approach exemplified from the research data and discussed earlier (Chapter Six and s. 3.3), and thus to work against implementation of the VLRC (2004) and Victoria Ombudsman (2006) recommendations designed to improve the response of the criminal justice system to sexual assault.

Shifting the attrition point. Furthermore, from the Success Works (2011) report, the police data indicated the rate of attrition – measured by complaints withdrawn by victims - increased between 2005/06 and 2008/09 and then decreased substantially in 2009/10, while the court data indicated an increase during 2009/10 in cases where the prosecution was withdrawn. This suggests there could be a shift of the attrition event from the policing to the prosecutorial decision point.

Achieving VicPol's commitment to building victims' capacities. Hence, to achieve VicPol's commitment to building victims' capacities to report - thus implementing the recommendations of the VLRC (2004) and Ombudsman Victoria (2006) - requires more than changes in VicPol organisational structure and attitudes of some individual police officers. There is also a need to engage the OPP and courts (including the Magistrates Court) in social action change as well to assist VicPol's commitment to increasing the reporting and conviction rates in relation to sexual assault (cf Frohmann, 1998). For that matter, the OPP and the courts are likewise constrained by legislation and the 'beyond reasonable doubt' standard of proof. In this respect, some

of the difficulties imposed on achieving just outcomes for victims of sexual assault can be removed only through legislative change, as detailed elsewhere by Taylor (2004) and Taylor and Gassner (2010).

RECOMMENDATION: Victoria Police should undertake efforts to alter the OPP guidelines to more victim-friendly criteria in regard to sexual assault matters. These efforts should involve consulting with the OPP to make appropriate joint representations to the Minister and Parliament on behalf of sexual assault victims supported by the abundance of research literature evidence on the special problems of non-reporting, late reporting and attrition of sexual assault crimes from the criminal justice system. In undertaking these efforts Victoria Police should also consult and work together with other significant players in the policing network.

Implementing this recommendation will tangibly demonstrate and reinforce the strength of VicPol's SARS and SOCIT commitments.

7.6 Summary and recommendations

The evidence from the case files, police interviews and focus groups, and the OPP focus group indicates that some important elements of networked policing were not happening at a level consistent with best practice.

Interaction with the OPP was reported by RO interviewees particularly in mixed terms, indicating that more formal arrangements and more frequent contact, including a schedule of training/liaison meetings, would prove worthwhile. The OPP focus group commentary was similarly mixed in its evaluation of police Briefs. There was strong evidence of a clear communication gap between police and the OPP, highlighted by a striking similarity of their views as to the constraints, complexity and pressures of their respective workloads, without an equal awareness of such by either party.

The case file evidence indicated poor implementation of the Code guidelines on CASA referrals whereas police interview and focus group data suggested a strong commitment and practice in accord with policy directions. There is also conflicting data on interactions with agencies other than CASA and hospitals, with largely neglect of a broader range of victim supports shown in the case files despite police in interviews and focus groups citing appropriate use of various agencies to develop evidence as well as to support victims. Questions were raised by operational police about the effectiveness and viability of the SOCIT model.

Police interviews and focus groups indicated that prosecution efforts are constrained by victims' incapacitation, their need to be informed as to the court process and their withdrawal of complaints, as well as by resource deficiencies. ROs and AOs in interviews also acknowledged that constraints took the form of attitudinal blocks on the part of some SOCIT members. Investigators were also acknowledged as inexperienced both by themselves and by their superiors, especially given the complexity of sexual assault cases, regarding which there was a very strong consensus across the various groups. OPP prosecutorial guidelines and legislative requirements of the 'beyond reasonable doubt' standard of proof also served to constrain prosecution and police decision-making.

The OPP focus group cited a number of issues they would like to see addressed in terms of their interactions with police: inconsistent quality of Briefs against deadlines for review, consequent adjournments, poor particularization and summary of charges, short statements, inappropriate disclosure, and adverse impacts on victim credibility due to subsequent defence tactics. OPP lawyers also considered that police approach their commitments differently, some seriously committed and willing to learn, whereas others seem uninterested, unwilling to learn and/or appear personally offended if told there are flaws in the Brief or that charges must be withdrawn.

The OPP legal prosecution specialist was acknowledged by police interviewees and focus groups as well as OPP focus group lawyers as invaluable in provision of advice to police. This person has been working with police in this capacity for many years. He no doubt will be very badly missed once he retires or otherwise leaves, which therefore raises a potentially critical 'succession issue'.

A best practice networked policing framework would involve a much tighter co-operative partnership between police and other significant parties (Schedler, 2006) than that shown in the PJO research evidence, but without resulting in either "newer and more capacious modes of control" by the state (Crawford, 2006, p. 471) or the erosion of the state's legitimate authority in public policing (Loader & Walker, 2001). Despite their shared normative basis for decision-making, the police and OPP are significantly at odds in their communications and they do not enjoy a tightly knit collaborative relationship that enhances prosecution outcomes for sexual assault victims/survivors. In this respect, the Unity Model in Manchester/Liverpool provides an alternative where police and prosecutors work together from the outset of a case in sex offence matters. To date, reviews of this model and its results are very encouraging and it is being examined by other police jurisdictions.

Police decision-making remains limited by not only the OPP guidelines but also the broader legal framework of the courts, juries and existing legislation. CASA and other community players remain limited in their capacities to influence the police decision-making process and to help SOCITs to improve responses to sexual assault victims.

Networked public policing has a considerable challenge in these respects as well as others described in the previous and next chapters.

The research evidence showed that the networked public policing arrangement in Victoria does not reflect the democratic, best practice model envisaged and promoted in the literature. Shearing and Wood (2000) described their arrangements in South Africa and Argentina in terms of a community forum of all the partners together establishing goals, strategies and implementation arrangements. This model does not currently exist in Victoria, where the SOCIT apparatus is basically one of co-location of police with other services for victims. It is not a fully functioning community partnership (Crawford, 2006). The current SOCIT/MDC model in Victoria is a step in the right direction, but there remains some way to go both in structural and normative process terms. Further developing this model to align more with best practice will result in more tangible improvements in the police response to sexual assault victims.

The following recommendations are pursuant to the data analysis and evidence presented in this chapter.

RECOMMENDATION: Victoria Police case files should provide a written record of the essentials of all interactions with the OPP to allow for accountability and provide sound data for training and management purposes. (s. 7.1.1)

RECOMMENDATION: Victoria Police should make representations to the OPP to have Specialist Sex Offences Unit lawyers more involved with country circuit sex offence cases. (s. 7.1.1)

RECOMMENDATION: Serious consideration should be given to formalizing an arrangement of regular OPP visits to SOCITs, establishing clear contact guidelines and expectations, sharing regular newsletters of mutual interest matters, consulting with the OPP with an aim of reconciling currently divergent views, with open and ongoing communication on issues as they arise - including in respect to reliance on a single OPP legal prosecution specialist and other personnel instability/turnover issues. (s.7.1.2)

RECOMMENDATION: Victoria Police should examine the overseas practice and experience of unified police/prosecution models for improving the CJS response to complaints of sexual assault with a view to adopting a best practice model. (s. 7.1.3)

RECOMMENDATION: Attention should be paid to ensuring there is a written record in case files of compliance with Code requirements concerning CASA referrals and problems in effecting compliance. These records should be collected together in regular memoranda reports and forwarded for advice to management and a state monitoring body (see further recommendation in s. 8.4). (s. 7.2)

RECOMMENDATION: Attention should be paid to ensuring there is a written record in case files of all agency contacts and their purposes. These records should be collected together in regular memoranda reports and forwarded for advice to management and a state monitoring body (see recommendation in s. 8.4). (s. 7.3)

RECOMMENDATION: The current SOCIT model should be modified from the current variable, hybrid application that has developed across different locations, and expanded in concept and built upon in field design to develop fully functioning MDCs and unleash the partnership synergies of a 'best practice' networked policing framework. (s. 7.4)

RECOMMENDATION: An umbrella monitoring body should be established at the State level whose members are drawn from representatives of the SOCITs, MDCs, CASAs and other relevant bodies. Individual members should have non-renewable three year tenures to ensure freshness of commitment. This body should have co-ordinating, advisory and victims' advocacy responsibilities. (s. 7.4)

RECOMMENDATION: Victoria Police should undertake efforts to alter the OPP guidelines to more victim-friendly criteria in regard to sexual assault matters. These efforts should involve consulting with the OPP to make appropriate joint representations to the Minister and Parliament on behalf of sexual assault victims supported by the abundance of research literature evidence on the special problems of non-reporting, late reporting and attrition of sexual assault crimes from the criminal justice system. In undertaking these efforts Victoria Police should also consult and work together with other significant players in the policing network. (s. 7.5)

8.0 Managing the police response - improving the preparation of Briefs

An understanding of the reasons why complaints are authorised or not authorised and taking steps to enhance police decision-making in those regards is necessary but it is not sufficient to ensure police respond appropriately to sexual assault claims and the needs of victim/survivors. Best practice networked policing is also necessary but not sufficient for that purpose. It is also necessary to understand the management of Brief preparation and take any steps indicated to improve management systems and processes.

In these respects, the *VLRC Final Report* (2004, p. 129) recommendation 19 states that Victoria Police "should review their Brief authorisation process with the aim of developing a model that is consistent, transparent and accountable". Recommendation 21 states that "a monitoring process should be established to allow evaluation of the authorisation process on a regular basis, so that necessary amendments can be made". The Office of the Victoria Ombudsman (2006) has made similar recommendations. Its recommendation 22 states in part that "the conduct of investigators should be regularly monitored for compliance with the code. Persistent breaches should be subject to sanctions". Recommendation 27 states in part that Victoria Police should "develop a range of measures to reduce the number of complaints withdrawn including automatically reviewing cases where a complainant withdraws a report of sexual assault". Recommendation 28 states that Victoria Police should "consider whether, in some circumstances, a more independent review of a decision not to authorise a Brief for prosecution should apply in sexual assault cases. The use of panels, either independent or internal to Victoria Police, could be considered for such review".

Further, recent overseas experience suggests a similar improvement approach to the policing and prosecution of sexual assault complaints by adults. For example, in relation to policing and prosecution of rape cases, the HMCPSI & HMIC (2007) report observed:

> There were cases identified, however, where lines of enquiry had not been fully explored and where further enquiries might have resulted in sufficient evidence to prosecute. In addition, file quality was found to be variable, with some, for example, missing essential statements and other documentation (p. 160).

As a result, there was a:

> need to ensure that debriefs, involving the police and prosecutors, of both successful and unsuccessful cases take place in order to learn from experience, build up expertise and develop high-quality case decision making and handling (HMCPSI & HMIC, p. 160).

A PJO project literature review (Spiranovic, 2011) was conducted covering change management efforts by police organisations in Australia (e.g., AGD [NSW], 2005; DPP [ACT] and the AFP 2005; Heath 2007; Queensland CMC, 2003, 2008; Success Works, 2011) within the context of the literature on organisational change and culture (e.g., Chan 1996, 1999; Dunford, 1992; Narayanan 2005; Paoline, 2003; Prenzler, 1997; Robbins & Barnwell, 2002). It was concluded that current Australian initiatives in police reform concerning sexual assault have neglected the complexities of organisational change management and these reforms risk being fixed at the policy and rhetoric stage of implementation instead of becoming institutionalized in changed practices at the level of individual police officers. As Woodhouse (2006) argues, to effect change management in any large and complex organisation (such as Victoria Police) requires first and foremost best practice leadership; and best practice leadership does not impose new visions (Wood & Bradley, 2009) but rather exemplifies desired change and inspires others to follow.

However, best practice leadership is neither easy nor necessarily well received in police organisations. Densten (1999) conducted a survey of 480 senior police officers in a large Australian police force. Respondents reported that their superiors managed by exception, that is by attending to problems as they arose and otherwise allowing their subordinates free rein to do their jobs. That is, their superiors did not provide leadership that inspired them to work beyond expectations and did not provide exemplary behaviours to follow. Densten also found that the surveyed police officers were happy with this style. In the leadership literature this form of leadership is widely acknowledged to be the least effective style (e.g., Bass, 1985; Bass & Avolio, 1993; Bennis, 1997; Calás & Smircich, 1997; Fagiano, 1997; Fleming, 2001; Hunt, 1999; Mumford, Zaccaro, Connelly, & Marks 2000).

Other research work provides a more complete picture of police leadership. Dobby, Anscombe and Tuffin (2004) conducted a postal survey of over 2000 police officers, and interviewed 150 police officers across all ranks in England and Wales. Most officers wanted leaders who 'walked the talk', made them feel proud of their work, personally demonstrated high professional standards and who possessed high levels of professional technical skills. These are among the hallmarks of the most effective forms of leadership (e.g., Bass & Avolio, 1993; Mumford et al., 2000). Dobby et al. (2004) also found that all respondents had experienced negative leaders who were

lazy, moody and unethical and who significantly impacted the quality of police services as a result.

Her Majesty's Inspectorate of Constabulary (HMIC) (2008) utilized a web-based questionnaire, field work and focus group in its thematic inspection of police supervision across a representative group of basic command units (local police service area delivery units) in England and Wales. This study found an extensive deficiency in capability and confidence among sergeants to do their job, widespread basic skills gap and variations in the quality of supervision by them, and inadequate training provisions (HMIC, 2008). It confirmed that "leadership qualities and technical skills" were most important to sergeants performing their supervisory and managerial roles (HMIC, 2008, p. 5).

The available literature on police leadership stresses the critical role of leadership of police supervisors and managers in determining the quality of police services. In particular, police have been enjoined to embrace positive symbolic leadership (Punch, 1994) and conspicuously ethical leadership (Goldsmith, 2001) as the primary means of managing professional and effective policing activities. Punch (1994) emphasised a need for positive role modelling by superiors, with personal integrity and moral leadership demonstrated from the top as well as cooperation with external agencies in ensuring police accountability. Goldsmith (2001) similarly stressed that senior police must lead by example, with public display & courage, sending a consistent message of expectations. He further argued that along with and integral to conspicuous leadership, police must build trust with the wider community and senior police must accept "responsibility for poor performance, taking firm action against police personnel who have performed poorly … encouraging and supporting … whistleblowers" Goldsmith (2005, p. 459). Murray (2002) argued that police leadership was now necessarily more about a democratic rather than militaristic style, moving from a purely rules-driven to a values-driven stance, relying on persuading and inspiring, consistently displaying integrity and honesty. The essentials of such leadership thought promoted by these authors are reminiscent of the most widely acclaimed leadership behaviours and skills in the literature, with an emphasis on providing transformational leadership, inspiration, a defined and achievable vision, desirable role modelling, and energizing followers to pursue policy dictated organisational goals (e.g., Bass & Avolio, 1993; Mumford et al., 2000). Such leadership is consistent with the notion of an enabling bureaucracy as distinct from a coercive one (Adler & Borys, 1996).

Where such leadership is not displayed the conditions are established for poor police service if not corruption in one form or another (Newburn, 1999), along with associated cultural supports that are difficult though not impossible to change (Chan, 1996, 1999). Thus, as Woodhouse (2006) points out, it is futile to rely solely on written policies, codes and inspections to ensure compliance with police

organisational standards and requirements. Although like most of the police leadership literature his commentary is in the context of controlling police corruption, it is equally applicable to managing the police response to sexual assault allegations. He too points to conspicuously ethical leadership as the critical ingredient, along with a range of monitoring and control devices. Whilst managing the police response to sexual assault allegations and the needs of victims/survivors also depends on robust monitoring and control systems, it is appropriate leadership that most matters, and that leadership is not of the 'fix the broken wheel' kind but rather of the 'lead from the front' kind.

Managing the police response to sexual assault allegations is inextricably linked to the decision-making process discussed in chapter seven where those decisions are fundamentally decisions of leadership not just management. In this regard, the work of Frohmann (1998) is instructive about the ways that prosecutors utilize the knowledge and resources of their asymmetrical power relationship with sexual assault complainants to persuade or pressure them to withdraw complaints – cf, Lievore's (2005a) observation of the asymmetrical power relationship between victims/survivors and criminal justice agents. In her study Frohmann identified three strategies prosecutors use to manage victims' complaints: displays of concern, specifying downstream possibilities, and paradigm shifting. She argued that prosecutors display or withhold concern for victims' physical safety and psychological health thereby encouraging their cooperation in whatever decision the prosecutors had in mind. Prosecutors also use their insider knowledge of the legal system and past cases to show that they can assess and predict the likelihood of court-room success as well as the consequences for victims of pursuing complaints. In this respect, they have a "'downstream' concern with convictability" and are "constantly 'in dialogue with' anticipated defense arguments and anticipated judge and juror responses to case testimony" which produce premature closure of the victim's claim of sexual assault (Frohmann, 1991, p. 224). If favourably disposed, prosecutors typically try to dispel victims' fears and if not they highlight difficulties and humiliating aspects of continuing on. Thirdly, they translate the victim's lived personal experience of sexual assault into the language and definitions of the legal system, deciding whether or not a 'crime' was committed and if so what kind, as well as the 'facts' and 'evidence' that can be adduced in law. The complainant is put accordingly into the position of re-conceptualising the lived experience of sexual assault. In implementing these strategies, the prosecutor has control in the relationship to determine and define the victim's situation whereas the victim is very largely powerless. Frohmann's (1991, 1998) analysis applies equally to the encounter between victims and police investigators. Thus, in the context of Victoria, the processes of interviewing victims with the intent of obtaining particularization and utilizing resultant evidentiary materials or lack thereof in Brief preparation documents are paramount to IOs' abilities to define and control the victim's experience in the written decision-making record.

This chapter itemizes and discusses areas of potential improvement of police decision-making in relation to sexual assault allegations by adults, where those improvements can be effected through best practice leadership that pays attention to how SOCIT police can re-orient their relationship with sexual assault victims to effectively empower them. This is achieved in regard to first documentation practices, then secondly argumentation. A subsequent section deals with improving field conditions for police in pursuing their duties. Before concluding, attention is paid to potential for improving quality control systems. Data are drawn for analysis from the research conducted in 2011 in relation to the LEAP case files, police interviews and focus groups, as well as the OPP focus group. Where applicable there is also reference to triangulation of the research data and findings across the strands.

8.1 Improving documentation

In this section there is comment first on the methodologically conservative approach taken concerning case file documents, followed by substantive findings.

8.1.1 Methodological conservatism

The case files were characterised by a general absence of documentation, partly due to documents having been destroyed for various reasons. Wherever this limitation was recorded on file it was not counted in the analysis of documentation practice. Instances of documents being destroyed, however, do raise a question of why this occurs and consequent impact upon accountability capacity, whether internal to VicPol or an external body. Notably, it was not always obvious from reading a case file whether documentation was missing as what is required in cases varies greatly according to the circumstances of the offences, and those are not always clearly indicative of what is necessary as evidence – for instance the need for medical or forensic reports can be moot.

Where it was uncertain whether a document was actually missing it was not counted in the analysis. Also, where there was a file indication of police having no control over some aspect of documentation, analysis did not count the missing documents concerned. For example, in case 58, where the victim reportedly ran off refusing both completion of a statement and a statement of no complaint, these were not counted in the analysis. Similarly, there is no count of the missing victim statement in case 83 where the victim was 'extremely hostile' and refused to commit her verbal complaint to writing and made no withdrawal statement. However, in case 57 the missing record of interview was explained by the fact that the "accused statement can't be transcribed because his speech is too unclear—he is a 'mutterer'". This was judged as not being

valid since it amounts to ignoring an effectively 'no comment interview', which was routinely documented by police. It could be expected that police would persist despite the difficulty, and many other interviews were documented despite their individual challenges. That is, the analysis was concerned only with police documentation practice that indicated needs for ongoing targeted quality monitoring and/or training improvements.

Lack of documentation might also be explained partly by a reluctance of members to be involved in the research project for a variety of reasons, promoting a relaxed approach to returning copies of file materials in their possession. It is also partly explained by the practice of authorising officers first listening to audio-tapes of an accused interview before taking a decision where the investigator's recommendation is against prosecution. If the decision is non-authorisation in such instances, the practice has been then not to obtain a typed hard copy of the interview.

In the following analysis, 'no formal (non)-authorisation details' means there was no formal report detailing the (non-)authorisation rationale signed off by either an authorizing officer or a recommending officer. 'Missing signatures and/or dates' refer to documents other than a formal authorisation report, such as victim, witness and informant statements, and accused record of interview. 'Poorly completed documents' refers to aspects other than missing signatures and/or dates which are counted separately.

Poorly completed documents entailed a variety of aspects which bear further explanation with a few examples. In case 13, for example, the record of interview comprised 3 ½ pages of handwritten notes that were a difficult to follow, staccato account. As well, the recommending officer gave one date for the alleged offence, but the Brief-Head stated a date nine months earlier. The case 17 file was especially poorly organized, with many file management issues and incomplete information including the mixing together of the two victims' case details and the missing accused interview. Such aspects might well have rendered prosecution hazardous unless the explanation was that the research project did not receive all of the actual file contents and in an orderly fashion that those might have been presented in the original file, given that copies only were made available for research purposes. Again, for example, the file in case 18 not only held no suspect interview but also gave no record of the plea.

8.1.2 Documenting authorisation and non-authorisation decisions

The following deals first with documentation improvement potentials in authorisation and then in non-authorisation cases. Documentation improvement potentials in other cases are discussed subsequently. There is then comment on triangulation evidence.

Absence of formal authorisation reports. The most significant finding in authorisation cases was the absence of a formal report detailing the authorisation rationale and signed off by an authorizing or recommending officer, as discussed earlier (Chapter Six).

Missing supportive documents. In 16 cases (44.4%) there were one or more missing supportive documents, with no written record of accused interview in ten cases (27.8%); no informant's statement in four (11.1%); missing witness statement in three (8.3%); no victim statement in two (5.6%); a missing medical report in one; and other missing documents in eight (22.2%).

Other important elements of improvement potential. The files reflected missing signatures and/or dates in ten (27.8%); poorly completed documents in nine (25%); and inexplicable delays in obtaining a witness statement in six (16.7%). More generally, there were four or more areas of potential improvement in 10 cases (27.8%), and at least three areas in 15 (41.7%). There were a total of 89 potential documentation quality aspects of improvement discovered across all the files, or an average of 2.5 per file. Putting aside the lack of an authorisation report with formal sign off, there was still a total of 53 other potential improvement aspects or 1.5 per file.

Non-authorisation cases. In respect to non-authorisation, there were nine cases (19.2%) where there was no formal report. Some 36 (76.6%) of the cases were missing at least one important supportive document, including missing interview records in 26 (55.3%) of the 47 cases. Additionally, across the files there were a total of 22 other missing documents. Further, seven (14.9%) of the case files held poorly completed documents and four of those - 8.5% of the 47 cases - had missing signatures and/or dates. More broadly, there were four or more areas of potential improvement in two (4.3%) of the cases, and at least three areas in 10 (21.3%). There was a total of 69 potential documentation quality improvement aspects found across all the files, or an average of 1.5 per file. Aside from the lack of a formal non-authorisation report, there were a total of 60 other potential improvement aspects or 1.3 per file.

Other cases. In cases classified as 'no offence disclosed' and 'unsolved' there was a lack of a formal non-authorisation report with details in all cases, absence of a victim statement in six of the seven cases, a missing witness statement in three, and several missing documents in two of the three 'no offence disclosed' cases. Cases that were classified 'unsolved' or 'no offence disclosed' therefore also displayed documentation improvement potential.

Triangulated research evidence. RO interviewees mentioned documentation difficulties in terms of missing witness statements, incomplete victim statements and other "holes in investigations, lines of inquiry that haven't been done, forms that haven't been put on". They explained these problems in terms of the complexity of sexual assault investigations and the inexperience of many investigators. So, "as investigators have become more experienced the quality of Briefs has improved measurably". Investigators in the focus groups agreed with these observations saying that it was not uncommon to have to correct errors or follow-up further statements or expand existing ones, obtain medical records, provide additional or replacement charges, or attend to exhibits or other matters. This was seen as due to the Brief being a big document that meant investigators can miss something. They also agreed that extra work lessened with experience. As noted previously (s. 7.1.2) the OPP focus group also cited problems of missing documents in Briefs forwarded for prosecution to the SSOU. These included missing "photographs; record of interview that's been transcribed; charges; statements; (and) a correct summary".

Analysis of the tri-angulated data indicated that the case file findings on documentation improvement potential were reflected in the interview and focus group results, including the external evaluative comments from OPP lawyers. This suggests that there remains room for improvement, a finding that should not be surprising given that major changes typically take time to 'bed down' in complex organisational environments. Nonetheless, considerable room for improvement is apparent and acknowledged by police interviewees and focus groups. Whilst quality control and monitoring systems require review, this area represents a challenge for the leadership of ROs and AOs in particular – see s. 7.1.2 in this respect – but also for more senior police, all of whom need to actively strive to adopt the transformational styles of positive symbolism and conspicuous ethics that has been recognized and promoted as best practice in modern policing services (Goldsmith, 2001, 2005; Murray, 2002; Punch, 1994).

> **RECOMMENDATION:** Attention should be paid to reinforcing the importance of ensuring there is accurate and comprehensive documentation on case files irrespective of whether authorisation or non-authorisation is being sought and before forwarding to senior police officers and prosecutors. This mission should be a priority of leadership at operational and executive levels of VicPol, as well as calling for a review of quality control mechanisms.

8.2 Improving argumentation

In the following analysis case file examples are given of argumentation elements that could be addressed to improve decision-making and Brief preparation. These are not

exhaustive of file materials and they are also tri-angulated to interview and focus group data. The potential for improvement is examined in terms of clarity of argument, cohesive Brief preparation, attention to details, relevance of materials, providing a true and accurate account of victim and witness statements, and according value to the victim's story.

These are crucial elements of the police narrative that help define and determine in the written record available to defence lawyers how and why police have arrived at their decision to go forward. As or more significantly, these are crucial elements of rationales for not going forward that reside in the police account that does not receive public exposure. In both instances, but particularly the latter, these elements underpin and reveal in the written police narrative implicit strategies of managing displays of concern, specifying downstream possibilities of convictability and shifting paradigms (Frohmann, 1991, 1998). They also suggest needs for improved quality control systems, and for best practice front-line leadership styles rather than management-by-exception (as described above). (In respect to front-line leadership, however, see section 8.3 for other possible explanatory factors of improvement potential needs).

8.2.1 Developing and writing clear authorisation argument

A significant area of potential improvement is in the provision of clearly enunciated, formally written authorisation argument. As noted in the preceding section and in Chapter Six on authorisation reasoning, there was a lack of any written discussion at all, leaving out of the record any clear decision-making process that could provide a window on just how and why it was decided to prosecute a case. For example in case 32, the file indication for authorisation was limited to two brief notes: "Brief for checking (date) 2003" and "authorised (one month later) 2003." In case 45, although the IO and RO penned formal memoranda those were brief and gave no substantive reasons, indicating only that the offences were self-explanatory. The AO only ticked the box on the Brief-head in agreement. The only written record of decision-making in case 35 was the informant's hand-writing in the summary sheet: "authorise please, Detective Senior Sergeant issue process ASAP". In case 55, although a five year record of intra-familial sexual abuse by a father with his daughter from age 13 to 18 years, and showing a County Court conviction, reading of the three inch thick file revealed no indication of the authorisation decision-making process.

Axiomatic progress of authorisation cases. Such instances reflect an assumption that the reasons the case is progressing are axiomatic within the file and thus highlight a casual or informal style of case record keeping (cf Frohmann, 1998); as well as a management-by-exception style of leadership on the part of frontline SOCIT ROs and AOs (cf Densten, 1999). As reported earlier (s. 7.1.2), both record keeping in relation to Briefs and supervision of Brief preparation were aspects raised by the OPP focus

group as well. (In relation to management-by-exception frontline leadership, see section 8.3 for other possible explanatory factors for this and other aspects of potential improvement mentioned in the following discussions).

Audit trail benefits. A key objective of quality control measures should be to achieve formal written argument in all sexual assault cases, including those that are authorised and regardless of whether authorisation is ipso facto the result of arrest and charge, or intent to summons. Proactive leadership by ROs and AOs would greatly facilitate this objective. Taking this approach would help to provide an empirical audit trail of police decision-making for future scrutiny, allowing for greater insights for police themselves about police practice, and allowing police to address or rebut criticisms of how they arrive at decisions both for and against prosecution. It could be expected to produce better scrutiny of authorisation cases, earlier preparation, higher quality Briefs sent to the OPP, and strengthened prosecution at Court.

Absence of quality monitoring. As discussed further below (ss. 8.3 and 8.4), the absence of quality monitoring was noted by RO interviewees as something that can happen because Briefs are expedited to the OPP due to heavy workloads and tight timelines. The OPP focus group clearly regarded this as a significant problem (s. 7.1.2). The following discussion further supports an overall observation of needing to address leadership capabilities and quality monitoring/review procedures in relation to preparation of sexual assault Briefs with a view to ensuring that IOs do not fall into the strategy traps identified by Frohmann (1991, 1998) as discussed above.

8.2.2 Achieving cohesion and unity in the police Brief: redressing fragmentation

The case files thus also often reflected two kinds of fragmentation: where not all of the relevant police contributed to what written record there was of the decision reasoning; and where details relating to an offence were spread across several documents or in a general disorder of file documents. Fragmentation of this latter kind was additional to the aspect of missing or poorly completed documents discussed above (s. 8.1.2).

Loss of quality review. In cases where not all of the relevant police provided a written input to the argument, there was the risk of inadequate quality review. For example, in case 12 the RO provided only a Brief-head support for non-authorisation without any stated reasons. Neither the RO nor AO presented reasons for non-authorisation in cases 36 and 54, again making only Brief-head tick-the-boxes. The RO in case 74 and the AO in cases 43, 71, 77, respectively ticked the box only. In case 63, the investigator's reasons had to be inferred from hand-written notes, whilst the RO's and AO's support for non-authorisation were vague generalisations. These features of the

police written narrative illustrate a management-by-exception style rather than best practice transformational leadership behaviours canvassed in the literature (e.g., Bass, 1985; Bass & Avolio, 1993; Fleming, 2001; Hunt, 1999; Mumford et al., 2000).

Loss of information for quality review. Aside from the loss of relevant supervisory monitoring of case files, the quality of Brief preparation and decision-making can be impacted by important details being scattered across different file documents, thus resulting in information not being clearly and readily available for consideration by supervisors and managers. Fragmentation of details across different documents in the case file can be illustrated with reference to several cases. For example, in case three, there was a significant piece of information in the third victim's statement that was not included in the police summary, viz: at one point she had gotten back into the driver's seat and the accused had tried to push his way into the driver's seat and her into the passenger's seat. This information is compelling in terms of suggesting that the accused was seeking to force entry into the victim's vehicle potentially signalling abduction, yet it was omitted from the Brief due to being part of a general fragmentation of items of information across several data sources in the case file. Thus the written record showed the whole of story evidence of the alleged offence was not written into the account that would be prominently seen by the IO's supervisors, and the IO thus exercised power - consciously or through error - in the police decision-making process whilst not appearing to do so (Lukes, 2005). It is also reminiscent of what has been described in the literature as a strategy of withholding concern for the victim to achieve a desired decision (Frohmann, 1998), again whether or not that was intentional.

Case 13 showed separate details of the alleged offence spread across the summary report, the Brief of evidence and the summary of charges, as well as the victim statement. The point here is that some of these details were located in some of these documents but not in others. Among other examples, the formal report did not contain reference to the victim's claim that the alleged offender had placed his hand on her left thigh above the knee, although that item was mentioned in the summary of charges. So the RO and AO were not presented with a file that could be examined easily for the argument in support of non-authorisation. In case 15, despite a lengthy summary of offences and an obvious investigative commitment to prosecution, the Brief suffered a number of defects. Different details of the alleged offence were spread across the summary report, the charge and summons, and rough handwritten notes, as well as the victim's statement. Untidiness of this sort promotes missing the best presentation of a victim's complaint and again shows lack of concern (consciously or unconsciously) and lack of appropriate oversight reflective of management-by-exception leadership.

Fragmentation was arguably a strong reason for the dismissal of charges in case 11, which involved an alleged sexual assault by a taxi driver on a passenger inside the

taxi. In this case there was a police prosecutor narrative in the form of a great deal of handwritten notes on statements regarding details to be probed (presumably at the Magistrates Court hearing). This scribbling was not clearly connected to other elements of the Brief, and it suggested poor preparation that could not auger well for a disciplined and focused case for the sexual assault victim. In this case, given the matter was presented for prosecution, it is quite possible that the poor preparation was due to work overload factors which are discussed below (s. 8.3). However, the police narrative subsequently justified the dismissal in terms of poor witnesses, problems with photographs inside the taxi and defence counsel confusion tactics. Yet the justification failed to adequately explain these difficulties, especially since evidence had been gathered showing the taxi driver turning off the surveillance camera moments before the alleged sexual assault. Best practice leadership would have conceded rather than concealed the problems in this case with a view to demonstrating a strong ethical commitment to learn from past errors to avoid future repetitions.

Case 26 was presented in an especially confused file of many documents in no particular order and for two distinct purposes: first to cover the possibility of having to present a case to the Court, but second to cover the administrative requirements of not proceeding with a case. This case was notable for its lack of a clear investigator's commentary. Notably also, this was the only case of the total 90 available for research where the police pursued prosecution against the victim's wishes (see s. 6.2.2.3). The file included a memorandum that there was sufficient information to establish a crime, and another stating that the matter was to proceed *unless the defendant provided a written undertaking not to seek a financial claim against Victoria Police if the charge was withdrawn*. There was nothing on the file that indicated the intention of the defendant if the matter were to proceed. A reasonable interpretation is that this Brief was focused more on ensuring the accused did not seek financial recompense from the police than on encouraging the victim to pursue the matter. Leadership in this instance clearly did not reflect positive symbolism (Punch, 1994) or conspicuous ethics (Goldsmith, 2001, 2005), but rather emphasised needs of expediency for budget purposes.

The foregoing illustrate two forms of fragmentation, first, how one or two of the investigating, recommending or authorising officers - especially one of the latter two – often did not contribute formally to the written decision-making record even where that was on file to some extent. Secondly, leaving offence details spread across documents in the case files - in both authorised and non-authorised prosecutions – promoted loss of data to argumentation. In this second regard, the disarray in files was not simply a matter of photocopying materials and hurriedly putting those together for the researchers. That is, the fragmentation referred to here was not just a matter of poor order of documents, although that was also very often problematic, and possibly due at least in part to the research request activity being an additional task for busy

police officers (see s. 8.1.1). Rather, as indicated in the above examples, the fragmentation identified here refers mainly to important items of information (e.g., pieces of evidence, elements of a crime) being dispersed across important documents in the file (the documents themselves being in disarray also, or not in disarray, depending on the file). For instance, an item might be mentioned in the Brief report but not in the summons, or in the charge but not in the summary; and one or more items might be missed from one or more relevant documents.

Triangulated research evidence of fragmentation and its implications. Furthermore, this finding on fragmentation was supported by the OPP focus group whose members also remarked on both of these aspects (see s. 7.1.2): wondering whether sometimes senior police actually supervised Brief preparation – a leadership question - and referring to the need to clearly track evidence in what are often complex Brief documents. For example, as one OPP lawyer put it: "(police) need to set everything out from the outset as opposed to us getting the Brief and actually trying to locate things ourselves". The IO focus groups also raised questions about variable supervision and quality review, noting that the particular preference or style of the Sergeant and/or Senior Sergeant impacted return of Briefs for further work. Such questions again suggest improvement potential in SOCIT front-line leadership. By giving examples of these sorts of fragmentation, a defined and comprehensive quality assurance system – reinforced through proactive, positive leadership rather than management-by-exception - can be expected to enhance the Brief authorisation process and achieve both additional authorisations and greater success at Court.

Nature, mechanisms and decision-making impacts of fragmentation. The nature, mechanisms and decision-making impacts of fragmentation are exemplified and discussed more comprehensively in the following sub-sections. Taken altogether, these devices result in a tendency towards mono-directional argument and decisions that do not fully take account of the elements of a sexual assault allegation. Regarding authorisation decision-making the result can be unnecessary problems at court; whilst in respect to non-authorisation decision-making there is a risk of victim/survivors and complaints of sexual assault not receiving the consideration they deserve.

8.2.3 Ensuring inclusion, consistency and agreement of details

Essential elements in a comprehensive, robust argument are the inclusion of all details in a rigorously reviewed fashion, keeping these consistent and avoiding contradictions. The following examples demonstrate this did not always occur.

Omission of important details. In case one, the interview transcript showed the accused wondered whether he was indeed a rapist, yet that important point was not mentioned in the formal non-authorisation argument and its inclusion could have been

expected to result in authorisation. Similarly, the investigator in case 43 failed to formally take account of the accused admitting: "I cannot justify or give a reason for it". Again, in case 59, the accused denied that the victim had ever visited his house, and police found evidence that this was a lie. Yet, this information (which suggests credibility issues for the accused) was not raised in the formal police commentary. In case 72 the investigator failed to mention in the police rationale medical evidence of the victim having leg bruising and shoulder soreness.

"Lack of corroborating evidence" was cited as one reason for not authorizing a prosecution in case 68, despite the victim's neighbour finding her distressed outside her house and partly unclothed after the alleged assault, and had seen the taxi parked at her house. The neighbour's evidence was omitted from the formal reasoning - although there was an oblique reference to 'circumstantial evidence' favouring the victim's complaint. It was also noted that there was "bruising on the victim's left upper arm and hip". Yet police also made vain efforts to follow-up the victim's initial unsigned, hand-written complaint, among other signs of police concern that there was indeed something amiss in relation to the accused taxi driver. In case 34, supportive statements by three witnesses were ignored in the decision not to proceed.

Whilst prior convictions cannot be entered into Court deliberations of guilt, being restricted to sentence hearings, these are of some import to police decision-making as to whether a prosecution is worthwhile in the first instance. In case 57, the non-authorisation argument took no account of the fact that the accused had seven pages of prior convictions, including "aggravated assault of a female' and failed to acknowledge that it was only the offender's claim that there had been prior sexual activity. Case 64 also saw a failure to make explicit in the rationale against authorisation the accused's history of violent crimes that may well have served as a brake upon the victim's active resistance to her victimization. The investigator also omitted from the formal request for non-authorisation the victim's stated resistance to the accused's attempts to put his penis into her mouth.

Inconsistencies. Aside from omissions, case file documents contained inconsistencies such as in case one, where the accused was noted in Brief-head tick-the-boxes to be of good demeanour and cooperative, yet he was abusive and insulting. Case nine reflected no visible victim injuries in an incident report the day after the alleged offences, yet other documentation and the summary of evidence indicated a bite on the left side of her neck. In case 14 the AO noted one reason for not going to Court was the alleged victim's failure to disclose "any sexual matters until a number of years later", yet the report to police was made five days after the alleged offence. Case 49 was listed as historical with a report date two weeks after the event, yet police arrested the accused at the scene on the day of the alleged rape and the victim's statement was initially taken the following day. One summary report in case 25 indicated a somewhat bland incident where the victim was seated in a vehicle with a

male known to her when he forcefully tried to kiss her. Another case record summary report gave greater details suggesting a more aggressive attack upon the victim by the accused noting that he locked the car doors, she cried, he grabbed hold of her shirt and released the car seat lever making the seat fall backwards. In this second report the actual accused behaviour and indication of intent are somewhat more serious than suggested in the summary report.

Contradictions. Clear contradictions in the police argument also appeared on occasion. In case 43, the investigator did "not believe that the victim is sufficiently disabled for her not to understand the nature of the acts performed", yet also considered she would be a poor witness unable to "articulate what offences if any have been committed against her by the defendant if she was to give testimonial evidence before a court" on the basis of her level of cognitive impairment. Contradiction in case 60 took this form in the IO's commentary:

> Prior to vaginal penile sex (the accused) has admitted that he forced his finger into the victim's vagina while she was holding her legs closed. This in itself supports and corroborates the allegation of rape.

However,

> (The accused) admitted during the taped interview that he had been involved in intercourse with (the victim) but that it was consensual. It is therefore a matter of consent.

Clearly in the first quotation there is an admission of digital-vaginal rape, which is followed by an acceptance of the accused's claim of consensual intercourse. Although it might have been consensual vaginal intercourse subsequently – a moot matter under the circumstances - that would not have exonerated the accused on the count of digital rape.

In case 22, the investigator indicated in the summary report that the victim was unable to consent because of her state of mind. Yet the SOCAU reporting member told the victim's boyfriend who argued the case should go ahead that only she could make a decision to do so and to consent to medical examination.

Another contradiction in police argument was apparent in comparing and contrasting the materials of cases 14 and 16. In case 14 police elected not to interview the accused on the grounds of her psychiatric condition supported by her treating psychiatrist's opinion, yet the alleged victim was also a psychiatric patient in the same facility. By contrast, police in case 16 elected not to take the victim's statement due to his intellectual impairment, yet the accused was also an intellectually impaired person in the same Art class. These cases raise a policy question of consistent standards

applicable in such instances of both accused and victims suffering like disabilities, or more generally how to approach situations involving complex issues of 'mens rea' or 'actus rea'.

OPP focus group observations. The OPP focus group also mentioned some of these sorts of details difficulties, referring to 'loopholes' and 'bits and pieces missing' that defence lawyers can raise: for example, "it might be a date that's not reflective on the statement … just the simple things like the dates and times and places, etcetera." Further, by the time the Brief reaches the OPP, "if there are huge discrepancies or things that need to be changed or followed up on, we really don't have the time to do that properly."

Such instances of omission, inconsistency and contradiction in the detail of the written record again very likely impact on the success of cases and/or charges laid and will likely be identified by the OPP or seized upon by defence lawyers to the detriment of victims as well as reflecting poorly on police practice and investigation. Moreover, these instances served to define the sexual assault complaint as not involving the necessary legal elements of a crime, thus not translating the complainant's lived experience to one that would further trigger the criminal justice process. The complainant's sexual assault experience was 'lost' in the paradigm shift of the victim's narrative into the legal forms required for courts (Frohmann, 1998).

Omissions, inconsistencies and contradictions are integral to the fragmentation of details and elements of an allegation of sexual assault and these contributed significantly to the general mono-directional nature of argumentation and decision-making that characterised the case file documents relating to Brief preparation.

8.2.4 Ensuring relevance of argumentation materials

Extraneous inclusions also crept into police argument in the case files, similarly obfuscating the paradigm shift of legal re-interpretation. For instance, in case 57, it was an irrelevant fact that the "victim has never made any secret of the fact … that she likes (the accused)", an observation by the investigator as part of the reasoning against authorisation. In case one, there was mention in non-authorisation discussion of the complainant having instigated the meeting with the accused and her long-term relationship with him. There was no evidence in case two of the victim's prior anal sex in the case file, which was cited as a non-authorisation reason and which was irrelevant to whether she had been anally raped as alleged anyway. The IO and RO in case 43 listed as a reason against authorisation that the victim had sex with another male (not at the same time as the accused). Among the reasons the IO gave for requesting non-authorisation in case 75 was that the victim and accused knew each other and "no breach of the peace" occurred. In case 33, the RO observed: "in fact the

kissing has been occurring in front of the child's mother without the defendant even being rebuked". This comment was made in the context of a series of allegations of intra-familial sexual abuse of the daughter as part of the decision-making that saw the case not taken to Court.

Again, one OPP lawyer remarked:

> (Y)ou can really examine the Brief the first time you get it if everything is in order and everything is – all the relevant information is there. Whereas sort of you go through a Brief and you think, "Well, that's missing and that's not right, and I have to chase that up."

Instances of irrelevancies and everything not 'being in order or right' muddy the translation of the victim's complaint into legalese. Best practice frontline leadership oversight - given appropriate resourcing and support from higher echelon leadership - would minimise or eliminate such strategy errors.

8.2.5 Authenticating the victim's story: the problem of re-framing

In the examined VicPol case files formal accounts also included re-framing victim and witness statements to reflect a typically uni-focal argument for non-authorisation, which often involved omissions or inconsistencies. The result was to question aspects of the victim's story given in her/his statement, thereby casting doubt on either the victim's credibility or the strength of the case to proceed further. These inconsistencies created a shift in the victim's storying of their victimisation and were oversighted by more senior officers, vested with the authority and leadership to ensure sound, quality Briefs.

For example, in case two the investigator's account represented the mother as contradicting her daughter (the victim), yet no such contradiction was evident in the mother's statement. The mother clearly admitted that she was angry because the accused was married and she never gave her daughter a chance to say anything when her daughter telephoned her in the evening to talk about the alleged offence during the day. Further, reported inconsistencies in the victim's statement were not found there, yet those inconsistencies were said to "make prosecution extremely difficult", reflecting Frohmann's (1991, 1998) strategy focus on 'specifying downstream possibilities' of convictability to the detriment of the victim's story. A similar example was found in case 59, where the investigator observed that other witnesses gave versions inconsistent with the victim regarding alleged injuries, concluding that the victim would not present as a credible witness. Yet this refers to the victim's teenage son saying her neck injuries were love bites, whereas a friend of the victim confirmed to police that they were more than that (i.e., proper bites). Again in case

77, the victim said she told her 13 year old son that the accused had tried to force her to have sex. The investigator reported the victim's son as simply saying that his mother had said the accused had grabbed her, whereas the son's statement clearly indicated 'adult stuff'. The son's statement was re-interpreted by the investigator to suggest generalised 'grabbing' rather than an actual sexual assault. In case 56, one reason for not prosecuting the matter was that the victim "wilfully engaged in sexual activity". Yet this reason ignored the victim's expressed fear of the accused as the cause of her cooperation, thus reframing her view and participation, and helping to define the events as not constituting an offence. The term 'wilfully' suggests a judgement of blame on the victim's part.

Similarly, in case 35 the investigator's account made a subtle yet significant alteration compared to the victim's statement, stating:

> the defendant has walked at a fast pace past the victim indecently assaulting her by placing his hand on her right breast and left buttock squeezing it.

This description of the assault did not reflect the victim's testimony that the suspect not only grabbed her in this way (with both hands, not one hand), but thereby attempted to physically pull her backwards toward the ground (potentially on her back). The victim's statement did not indicate the offence took place so fleetingly and it suggested a more serious intent than indicated by the investigator.

Re-framing was exemplified also in case 31, where the IO referred to inconsistencies but failed to clearly delineate them, and they were not apparent in the file. The IO also failed to mention that aside from some witnesses not clearly supporting the victim's story, other witness testimonies were indeed supportive. Further, the IO's memorandum report noted that the victim did not try to escape, yet the victim's statement clearly included a claim that she tried initially to escape but was subdued by her attacker. In case 38, the mother's account was re-framed as one of ignoring her daughter's disclosure, when she actually took a number of steps against the accused, including threatening to "put a knife through his guts if he did it (masturbation) again in front of my daughter". This sort of corroborative evidence - if not re-framed - would have been crucial to the development of a pattern of sexual misconduct that included in this case alleged indecent assault of a then 16 year old girl.

In the foregoing instances, the legal paradigm shift was biased against taking the matter forward. As a result the complainant's story was not authenticated in terms of the lived experience of sexual assault nor in terms of a faithful translation of its 'truth claim' into the legal language acceptable by courts. Re-framing subverted both the victims' narratives and the rules that apply to criminal justice narration, including the policy and procedural criteria of VicPol's Codes.

The IO's ability to set the agenda. The problem of re-framing was also acknowledged in interviews. As one AO put it: "Well in a sense you have a look, you can only go on what's on the Brief of evidence". That is, ROs and AOs depend on IOs providing full and accurate details – there are limits to their capacity to manage Brief preparation because IOs can omit or re-frame evidence. It is the IO who goes into the field, collects evidence and writes the Brief. The Brief is the equivalent of an agenda for decision-making and it is a primary vehicle used by ROs and AOs to recommend and decide for or against authorisation. Again, the words of the AO are enlightening in speaking about a first complaint: "Sometimes it gets missed yeah … Or, or gets misdiagnosed perhaps". If the IO 'misdiagnoses' or omits a piece of evidence, then it is not fully and accurately interpreted in its true evidentiary value. In this respect, the IO plays a powerful role in setting the initial agenda for decision-making and thus controlling what is seen by the RO/AO (Lukes, 2005). The IO is the prime gate-keeper who gives initial effect to the paradigm shift from the complainant's lived experience to a legal story of 'facts' and 'evidence'. Re-framing in these ways also operates as a fragmentation device that contributes to mono-directional argument and decision-making. This circumstance reflects a capability gap that is not addressed due at least partly to a management-by-exception style rather than best practice leadership on the part of some ROs and AOs in quality review. However, the IO was not the only gate-keeper whose input in non-authorisation was decisive in this biased, uni-focal fashion, as illustrated in the following section.

8.2.6 Valuing the victim's story

Closely related to ensuring the victim's authentic story is understood and told in police Briefs there is a need to appreciate that story from the victim's viewpoint, and to find and state all the reasons for taking forward a case. However, as already evidenced in many of the foregoing examples, there were instances of imbalance in argument, with reasons for prosecution ignored or de-emphasised in favour of reasons against prosecution, resulting in tendencies to devalue the victim's viewpoint. In the following discussion largely additional examples from the case files are used to highlight a tendency to uni-focal, non-authorisation argument that devalued the victim's story. Many of these examples also reflect a variety of often small ways in which fragmentation contributes to skewing the decision-making process towards non-authorisation. Once again, these examples collectively suggest the employment of what Frohmann (1991, 1998) calls strategies of 'manipulating displays of concern', 'paradigm shifting' and 'specifying downstream possibilities of convictability', as well as of the leadership literature defines as management-by-exception rather than best practice front-line leadership styles (see the literature reviewed at the start of this chapter).

In case 54, for example, the IO noted three reasons against proceeding as strong denials by the accused, lack of independent witnesses, and the victim's withdrawal of her complaint. (Note that there was no reason stated on file for her decision to withdraw her complaint). Yet there were two cogent reasons also stated for why the prosecution should proceed. The IO found the victim to be credible and believed the rape had occurred. Furthermore, the accused had a past allegation of a similar nature and modus operandi. The latter, although mentioned by the IO, received no accounting by either the RO or AO in the decision not to proceed, which was made in Brief-head tick-the-boxes without stated reasons. Notably, the IO requested that the case be filed in the serious crime cabinet, reinforcing a view that a crime was committed by the alleged offender. In Frohmann's (1991, 1998) terms, this case suggests the RO and AO withheld a display of concern for the victim due to considering the downstream possibility of conviction being low. This 'withholding of concern' does not mean that police in this case (or others cited here) were deliberately unconcerned with a victim's story, but rather that from a victim's viewpoint concern was not actively or adequately displayed to a point that valued the victim's story.

In case 13, the AO's written record ignored several points for and noted seven against authorisation, despite a balance of argument from the IO and RO. Again, in case 88, the non-authorisation decision was despite an eye-witness to the alleged indecent assault of the victim who was an elderly resident of a nursing home. This decision was apparently taken in the light of the victim's daughter (as the holder of her mother's power of attorney) withdrawing the complaint. The decision not to proceed was also against the obvious wish of the IO in this case and no explanation was recorded by the RO or AO.

In case 33, there were four witnesses available for the prosecution argument as well as computer forensic evidence of telephone records of disclosure by the victim to a friend about her grand-father's incestuous conduct. Yet this case was not prosecuted because, the file record indicated, the victim's VATE statement did not clearly disclose a crime, witness statements alleged offences not disclosed in the VATE statement, the accused made no admissions, and the mother failed to rebuke the accused for kissing the grand-daughter. Aside from not valuing the reasons for prosecution, these negating reasons strongly suggest a lack of concern for the victim's disadvantage on both counts of the grand-father being a patriarchal authority figure as well as her own impairment which essentially made her a vulnerable victim and witness.

The IO in case 59 observed that the victim remained in the situation, even dressing and going to work the following morning. These observations devalued her clearly stated fear of the alleged offender, who had reportedly stalked, brutalized and raped her over a period of months. There was also no allowance for other possible motivations in remaining in the situation, such as not having a compassionate

employer and needing every day's pay, among many other reasons why she might do so. Again, in this case the IO's written record demonstrates a lack of understanding regarding the post sexual assault behaviour of victims or indeed seeking to understand from the victim's perspective, why she behaved as she did in this situation. Again, in Frohmann's (1991, 1998) terms, this translates to withholding of a display of concern for the victim in contrast to actively seeking to understand and support her story.

Devaluation of the victim's story also emerged in case 67, where the RO commented:

> The victim didn't report the matter but it was reported by her daughter which, although the victim was cooperative, it may be she just didn't like what the accused had done.

Although it is slightly vague as to which woman "didn't like" the alleged offending behaviour, the point here is that the RO devalued the victim's situation by not giving due consideration to her vulnerability as a 57 year old resident of the same supported living community as the accused who, on the face of the complaint, had forced his way into her home attempting to kiss her and grope her breast. The victim stated to police that, as a result, she no longer felt able to go outside her house and had taken to always shutting the curtains. Further, the wording "it may be she just didn't like what the accused had done" is a surprising comment here given that the alleged behaviour if proven constitutes an assault in current Victorian law. That wording alone suggests a 'withholding of concern' in this case. Notably, moreover, there was a RO file observation: "In future if there presents any doubt as to the need of an interpreter please obtain services of same." The IO also wrote that "her vagueness about certain aspects of what happened may harm her credibility in a court proceeding", which suggests taking account of 'downstream possibility of conviction' being low. Non-authorisation was nevertheless the decision, again reflecting a lack of understanding about the psychological impact of sexual assault and victim behaviour post assault, involving a victim with a significant degree of vulnerability.

Balanced argument was found to be present only in the non-authorisation requests of cases 13, 54, 60 and 89, and even then not from all police parties, as detailed in previous discussion (s. 6.2.2.3). The just cited case examples do not exhaust case file data found in relation to de-valuing the victim's story in seeking or deciding non-authorisation. Like the instances cited of re-framing, this data also reflected a paradigm shifting inclination to uni-focal non-authorisation argument that was often evident in IOs' formal reports and at times in the formal contributions by ROs and AOs.

As with authentication, valuing the victim's story requires proactive leadership from ROs and AOs, with daily demonstration of the ethics that are so strongly embedded in VicPol's Codes, so that investigators - as well as some ROs and AOs – become

routinely attuned to first and foremost looking for all of the reasons for progressing sexual assault complaints, rather than engaging in their de-valuation and/or finding reasons that are believed to make progression difficult. Only then will it be possible to rectify mono-directional, non-authorisation argument.

> **RECOMMENDATION:** Consideration should be given to developing a set of quality assurance criteria to be administered by ROs and AOs in reviewing Briefs. These criteria can be informed by although not limited to the foregoing elements of argumentation.

Aside from the foregoing analysis and discussion, however, part of the explanation for the strong trend to mono-directional argument against authorisation can be ascribed to the field conditions of investigating and preparing Briefs on sexual assault complaints to which discussion now turns.

8.3 Improving field conditions

Investigators in the focus groups cited a range of difficulties in the field that often constrained preparation of high quality Briefs for adult sexual assault allegations in particular (see also s. 4.6 that reflects a continuing view in these respects).

Insufficient time, resources and training. There is never enough time: this was seen as the main stressor. Insufficient vehicles and investigator numbers were mentioned as severe constraints, as well as being suddenly called for another 'decent job' to help the rostered crew (cf, HMIC report, 2008). Forensic, DNA procedures and courts are all backlogged and country investigators said they sometimes give up calling for Crime Scene Services. Even the administrative tasks are very time-consuming (eg photocopying, updating Interpose). Interpose was described as extremely time-consuming, with additional recent requirements around creating events for every different aspect of an investigation (each victim, witness, crime scene) and then tasks (things to do) for every event. There is a need to do an Interpose course but no time to do it anyway and many police interviewed across the project were frustrated by lack of training opportunities and the inadequacy of the training that was offered. Interpose is not updated regularly or completely, due to inadequate training and computer/progamme skills, as well as other job demands, adding another pressure on the investigators. Unmet training needs of specialist sexual assault police, including ROs and AOs as well as investigators, can be a significant underpinning of the above discussed areas of improvement potential in both documentation and argumentation. Notably, training needs of specialist police were also identified by victim/survivors, CASA counsellors and police interviewees in the strand one research (ss. 3.5; 5.2, 5.5 and 5.6; and 4.6.1 respectively).

Examples of Investigators' own words help understanding the challenges.

> I've got a case at the moment where I have CCTV footage from lots of different locations and so that's with our forensics department and they're putting that all together on one disc to make it easier to view it and in sequence, and it's been with them for two months, and I spoke to them yesterday and they haven't even touched the file yet, and I've got the OPP saying that it needs to be served within 28 days and I've now got two weeks, and they've just said that there's no way that they'll be able to get that done within those timeframes (Investigator).

> I just had a Brief that I served recently and it hadn't been complete at that point in time but it had to be served, and there were outstanding statements and reports. DNA reports needed to come back. And I didn't feel quite comfortable kind of serving that because I knew that it wasn't really as high quality as what it should have been, and I've had to keep going back and serving additional paperwork. You know, the page numbers are all out of whack now and it's just got really messy (Investigator).

> I know it's only minor, but even just the – what you have to do to put up a hand-up. I mean, you've got to have four copies and then go to a photocopier and copy them all these times, paginate it. Every time I do it I think there's got to be a better way than this. The amount of time – you almost have to set an afternoon shift aside to go into a room by yourself (Investigator).

> So that's very difficult for me – very large – getting my head around these Briefs: very thick, involved investigations. And it's very – and we're very short on the floor at the moment, very low on staff. So the workload is just … you're just snowed under (Investigator).

Facilities. Facilities were also mentioned as an obstacle to appropriate and effective policing of sexual assault complaints, especially in respect to the special needs that have to be addressed concerning statements from victims and witnesses. The following example was given about a SOCIT office that was supposedly designed to be victim focused and victim friendly:

> the interview room is next to the street so you can hear street noises when you're recording and when a victim comes in they have to walk past the interview room so there's not privacy for any victims. It's all open space so you're speaking to a victim with just a 3x3 board separating you and the next open desk area so everyone can hear and see the victim and...they're telling you things and you can see they are worried about talking to you or frightened or whatever or unsure and the whole bloody office can hear it and at the next desk they're taking phone calls and walking in and out and....I just don't think it creates the environment victims deserve and we deserve as police to work in (AO).

Overwhelming workloads, frustration, fatalism and morale. While recently transitioned, inexperienced investigators were said to be the most pressured, all the investigators agreed that sexual assault investigations and Brief preparations are extremely demanding and they constantly feel 'under the pump'. The problems of time and backlogs were indicated as widespread and endemic. Commentaries reflected a common feeling of being overwhelmed by the workload in terms of

quantity and complexity of the cases, learning how to do the Briefs and doing a quality job, along with administrative requirements (paperwork/Interpose/LEAP), while being inadequately trained, short-staffed and under-resourced, with Command not appreciating the difficulties and demands of sexual assault investigations and Brief preparations. There was a dominant expression of fatalism mixed with frustration, which does not augur well for morale. "More people is (sic!) the only solution. It's state wide. More people. It's flogging a dead horse, but that's the only way" (Investigator). Police from strand one interviews in 2010 also talked about the excessive work load and being overwhelmed and for some issues of workload and job pressures led to using the options talk to basically screen out cases police determined as weak (see s. 4.5).

A similar refrain of deep frustration and feeling unsupported by Command was expressed by ROs (and police from 2010 strand one interviews as reported in s. 4.6.1). They commonly cited the problem of resources and vehicles, including insufficient numbers of investigators. One recounted a time of being left alone on the roadside without a car with all the exhibits due to a higher priority call for a child assault. They also cited Court timeframes, forensics delays, working very long hours (sometimes more than 14 hours a day according to one RO), Interpose, and time-consuming statement taking. One RO said that sometimes heavy workloads and tight timelines result in a Brief going directly to the OPP without first being reviewed by senior police officers. ROs also expressed fears for even worse officer workloads now the SOCIT 'piloting' is over. On the question of costs as a constraint, there was divided opinion among ROs and AOs, some saying it is not a factor and others saying it is a clear determinant.

Priority of child assaults (non-sexual). Also of particular note was the point made by one RO concerning child assaults (not sexual) which take precedence over adult sexual assaults, and they "cover a huge area with probably thousands of schools".

Again, the viewpoint of ROs and AOs can be illustrated in their own words, closely matching that of investigators.

> You have always not enough members to do the job. That's a simple fact of life. You just can't allocate all the time you need properly to do the job. I mean we don't have - we've got two cars between 18 people (RO).

> No. No we're never properly resourced. That, that's the problem (AO).

> If you get that one child assault, that can be your day gone. The whole day for the two of you. And you're the only crew on, so if another (adult sexual) assault comes in, it sits until tomorrow (RO who is also constrained to undertake investigations).

I'd hate to see the pressure taken off us so much the justice slows right down … I do like to see these things brought before the court quickly (RO).

If we get a victim, we've got to normally take that victim to hospital for a forensic medical. Now, that - that is normally at least one member who's got to go with that person and normally there's one car. It's all very well to say, well, you drive them and leave them there and all that but the reality is, for you to do it properly, you take that person to hospital. You stay with that person which means you normally need a car. Well, that leaves you with one car for every other job and every other court case and every other inquiry a statement has got to be taken … for everything else and it can't work (RO).

Forensic evidence and our services are just taking far too long" (DNA, blood, sperms) (RO city).

Forensic exhibits examined in a timely manner that don't push out investigation lines which they always do (RO rural).

Even when, when Briefs are submitted you know, there are dates that you have to remember over the last fifty years (AO referring to the complexity of legislative changes).

These (victim) statements can go for five, six, seven pages which means it can be about three hours. Now, distance is a huge issue. Police stations are a huge issue because nothing electronically works outside big, big areas (RO in rural area).

Rural locales. This last quotation highlights a problem that is particularly severe in rural areas, where there are so many 'black spots', they have to take witnesses back to a police station hours away to access PCs, print off the statements and have them signed. Other difficulties for police in rural areas were canvassed earlier in this report (ss. 4.2 and 4.6), many of which are not readily susceptible to resolution aside from recognition and support from Command, including visits from senior officers expressly to state and show that support. Notably, although those rural difficulties apply for all serving officers they are accentuated in relation to SOCIT members due to the especial demands and complexities that generally characterise sexual assault as described in detail shortly.

The Ombudsman (2006, p. 34) noted difficulties in relation to rural areas of evidence gathering, availability of female medical officers, and victims undergoing a medical examination within 72 hours of the assault. Police interview and focus group data

clearly showed these to be continuing problems and in both rural and city areas, albeit more pronounced in regional areas.

Lack of resources/facilities and high workloads were commonly agreed by IOs, ROs and AOs - as well as strand one police interviewees (see ss. 4.5 and 4.6) - to impact negatively on the level of service provision, a refrain reminiscent of experience in other jurisdictions, for example the SOIT approach by London Metropolitan Police (Jamel et al., 2008) and in Western Australia (CDJSC, 2008).

Unique demands of sexual assault policing. Additionally, IOs, ROs and AOs all spoke of the unique demands of sexual assault policing comparative to most other crimes. There is a definitive emotional component in terms of the crime being especially intimate and personal to the victim, with a stigma that very often attaches or is seen to attach to both victim and offender. This stigmatization effect concerning both victims and offenders was noted by the VLRC (2004) as well. Again, strand one police interviews in 2010 similarly recognised stigma and shame for victims to be significant issues (see Chapter Four). Partly as a result of the intimacy of the crime and partly due to the need for particularisation, victim and witness statements can take many hours to complete and often require a victim to have a break, sometimes even of some days or weeks. They need time to feel emotionally stable enough, to gain confidence in being able to tell their story to a stranger and to collect their thoughts before returning to complete statements. Such statements can also particularly strain investigators in similar ways, including in being able to remain emotionally in tune with victims to facilitate their telling and yet sufficiently objective to ensure legal evidentiary requirements are met in statement taking. There is also a need on occasions to take second and third statements due for example to new evidence found at a crime scene. The need to often interview victims several times has been noted in the research literature (e.g., Epstein & Langenbahn, 1994; Lord & Rassel, 2000).

Here are more examples of officers' own words describing the uniqueness of this form of policing:

> A monetary value can be put on property crime, but not on the emotional trauma of a sexual assault victim (IO).

> It is much more personal. It is more difficult for the victim than having something stolen from them (IO).

> Sexual assault victims are vulnerable, often self-blaming. "why didn't I do xyz? Why didn't I stop this? I shouldn't have drank (sic) so much …" (RO).

It's more so with sexual offences because it can cover a long period of time. Like an armed robbery will be over within 10, 15 minutes. Because your victim's gone to the party at 6 o'clock at night sober as a judge and she's interacted with so many people, got a little bit pissed and got a bit more drunk and she catches the cab home to this guy's house and this guy's actually friends with so-and-so and then she wakes up in the morning, Joe Bloggs is beside her. He's got his pants off. My pants are off. So you're talking like a 12 hour period and you've got to cover all that (RO).

They mean a lot, I suppose, to the victim. And to the offender, who has obviously been accused. It's not – you know, without downgrading any crime, you know, house burglary – okay, it's important to the victim, but it's probably not, you know, as you know, sexual offences are quite a heinous crime. And I suppose, similar to a serious assault. And you go, probably, not much less than a murder. Again, without downgrading murder, you haven't got a – we haven't got a victim. You know. So you're not justifying everything to the victim. Whereas a sexual assault, you've really got to be careful about how you do it, and make sure that you've done it the right way. I find there's a lot of pressure in relation to authorisation and non-authorisation, basically for that reason. Because you've got a victim. And you do have to justify it to the victim. (AO, explaining a core difficulty in making non-authorisation decisions and his need to take time in doing so).

A habit we have in this office is, when you're taking a statement, bring it up with someone else to double check and to read, so that just gives you – because if you're in a room with someone for six hours where they're telling their whole life story you do become focused on that and that person and (you can) lose some objectivity. So, you have to come back to the objectivity outside and say, "Okay. What are the legal implications here?" or "What else do we need legally?" (AO).

Coping mechanisms. How do police cope under the pressures illustrated in these quotations? It was strongly agreed across interviewees and focus groups that support and guidance within SOCIT is very good, on a team basis, with investigators, ROs and AOs in each unit supporting each other, and usually with strong support and guidance from other unit ROs and AOs.

The role of Command. There was also a strong consensus that Command and other VicPol units neither understand SOCIT work nor provide genuine and adequate support to the SOCITs. In this regard, it is apparent from the strong thematic emphasis of the foregoing interview and focus group commentaries that VicPol's senior and executive groups also need to examine their leadership styles and credentials in relation to demonstrating robust, continuing and tangible resource

support for SOCITs in their work. This means positive symbolic and conspicuously ethical leadership (Goldsmith, 2001, 2005; Murray, 2002; Punch, 1994) needs not only to be the subject of rhetoric but also exemplified in real and concrete terms by upper echelon management as well as and as a foundation for that of front-line SOCIT supervisors and managers. As the HMIC report (2008) found, high quality front-line leadership and supervision requires:

> tangible presence of support mechanisms at the service delivery level. These support mechanisms range from the organisational and managerial to the moral and emotional. All of these mechanisms need to be underpinned by adequate infrastructure in terms of the provision of sufficient equipment and people to enable effective delivery (p. 8).

RECOMMENDATION: Serious and urgent consideration should be given to enhancing the resource allocations for SOCITs.

8.4 Improving quality control systems

From the foregoing it is also apparent that quality control of police decision-making is subject to areas of improvement, including the preparation of formal reports in relation to authorisation as well as non-authorisation. Further, the absence of tightly defined and implemented quality control in visible terms was often apparent even in the written record that was actually on case files. The RO/AO interviewees also testified that although quality control measures are already in place and functioning they do not always work as well should be hoped. The OPP focus group also exemplified quality control problems in Briefs reaching the SSOU. Some of the explanation for quality control dysfunctioning is clearly resource-related in relation to the demands of sexual assault policing and tight timelines, as well as transition teething of inexperienced police, especially investigators but also ROs/AOs.

Local cultures and leadership. However, that is not the whole explanation. ROs/AOs also indicated that there is a real reluctance to interfere with the decision-making of other ROs/AOs, for example when relieving an officer on sick or recreation leave, even when that was necessary to ensure a quality investigation and Brief preparation. ROs/AOs said there is a cultural expectation that each SOCIT OIC or RO is left to his/her own bailiwick so to speak. If a relieving RO/AO queries another's decision-making or directions to an investigator, it brings the response in one AO's words: "Well, he doesn't know what he's on about, so don't tell us how to suck eggs at our unit". This AO offered two suggestions for improving current quality monitoring arrangements. A review process could involve OPP feedback to the informant and the

AO, and/or non-authorised Briefs could be sent off for review to another region. Still, he paused: "I'm worried about how effective a review process on non-auths [authorisation] would really, really be". Case study two drawn from strand one research illustrates how such local cultures can result in unnecessary lack of crime intelligence, and subsequently untoward outcomes for victims, local SOCIT units and Victoria Police generally (s. 4.5.2).

The value of team leadership. This is a problem of team leadership being recognised as not only valid but necessary to the smooth functioning of a contemporary mega-organisation such as Victoria Police. Unless it is culturally accepted that any relieving RO/AO has the authority to require compliance, there will remain an unacceptable hiatus in the framework of SOCIT functioning and accountability. In consequence, it may well result in SOCITs that are adrift on their own sea of parochial decision-making in relation to adult sexual assault, a circumstance that will inevitably produce problems internally and in the legal domain. This is an issue that must be addressed by VicPol's corporate management in terms of the best practice leadership discussed earlier.

Another AO recounted a case where he became aware that a SOCIT had not appropriately investigated a sexual assault complaint and he took it upon himself to make further inquiries. After obtaining admissions from the accused he placed the matter before the responsible SOCIT AO who initially resisted follow-up but whose investigators then interviewed the young cognitively impaired victim concerned. However, they returned to say the victim would not cooperate, whereupon the initiating AO then saw the mother who told how her son was frightened that he was in trouble due to the aggressive questioning by the investigators and that is why he did not cooperate. The responsible AO nevertheless refused to follow-up further. This kind of instance reflects the earlier evidenced comments by ROs/AOs (s. 7.4) that some investigators and ROs – in this case apparently the responsible AO as well – do not have the aptitude and personal commitment required in sexual assault policing. This episode suggests a problem of leadership at some SOCITs where conspicuously ethical leadership is lacking.

Culture of under-reporting. Another AO spoke of a 'culture of under-reporting' and 'probably pissing jobs off at the front end' in one location with which he was familiar. This was said to be not so much a matter of discouraging complainants from reporting as not encouraging them, with a "level of indifference to their report", a subtle form of the strategy of displaying or not displaying concern (Frohmann, 1998). He linked this to a 'rationing' of time by police in view of heavy workloads – see also sections 4.5 and 8.3 - and attending to complaints that had the greatest perceived likelihood of 'positive outcomes', again reminiscent of Frohmann's (1991, 1998) strategic specifying downstream possibilities of convictability. This AO went on to point out that any review of decision-making "really should ensure that the case file is

reviewed, along with the Brief, because as I said, the Brief is a selective collection of the material from the case file". As discussed earlier, the IO is the primary gate-keeper who goes into the field and collects evidence, then translates the victim's story into legalese not always to the victim's benefit as argued by Frohmann (1991, 1998).

Geographic and policy factors. The following comment from an AO points to yet another difficulty in quality monitoring that is due not to personal indispositions, but to geographic and policy factors.

> The other thing is there are some areas where these units will, because of their isolation or whatever, will report to people who, by policy, can authorise these Briefs, but won't necessarily have the background or knowledge that some of the people that are putting the Briefs together will … there needs to be some real policy change, because the policy is determinative on rank and position, as opposed to being qualified at courses, or having the relative experience to do it.

Once again, aside from training implications, there is a challenge of best practice corporate leadership intimated in these words.

Variability among SOCITs. Such instances also point to variability among SOCITs in appropriately and effectively responding to sexual assault claims, a matter that was evidenced in strand one findings as noted previously (s. 4.6.1). On occasion this kind of variability has led to situations resulting in tensions and disagreements that highlight heterogeneity across SOCITs in terms of best practice principles and expert knowledge around sexual victimization and victim response.

Reflections in other jurisdictions. Nor are these occurrences peculiar to Victoria. Such variability has been found in other jurisdictions, for example: "Since police force area was found to be a significant predictor of victim withdrawal, the implication is that some forces are more successful than others at reducing the likelihood of a victim withdrawing, once controlling for other factors" (Feist et al., 2007, p. iv). As with other contemporary complex mega-organisations (e.g., Dunford, 1992; Robbins & Barnwell, 2002), police culture has been argued to be diverse rather than monolithic, such that units develop subcultures that do not necessarily support the core values and beliefs of the dominant culture and organisational vision (e.g., Chan, 1996, 1999; Narayanan, 2005; Paoline, 2003;Prenzler, 1997). In respect to Victoria Police, this illustrates a pressing need for corporate management to do more than rely on the rhetoric and structural reforms embodied in the SOCIT arrangements, and to show a willingness to lead by establishing a quality review and control process that addresses local SOCIT culture and the human side of the equation of adult sexual assault policing. Thus, Victoria Police has an opportunity to provide leadership in

these as well as other regards in the difficult and demanding area of responding to sexual assault complaints.

> **RECOMMENDATION:** Vicpol should review its quality control systems and related policies in relation to sexual assault Briefs and authority delegations with a view to removing inept SOCIT members (including ROs/AOs where identified) and establishing and maintaining best practice standards of transparent and accountable written authorisation and non-authorisation argument.

8.5 Summary and recommendations

Continuous improvement is widely recognized in contemporary management practice as essential to the success of modern complex organisations in meeting the needs and objectives of their key stakeholders. In the present context, VicPol's key stakeholders include victims of sexual assault, interest groups such as CASA, the OPP, the judiciary, the criminological research fraternity and the wider public. To meet the needs of its stakeholders, VicPol as a Learning Organisation must continue taking steps to make the sorts of improvement indicated from analysis of data from the case files, the interviews and focus groups presented in the foregoing discussion. By doing so, VicPol can show it is an enabling rather than a coercive organisation in relation to sexual assault victims and their complaints (Adler & Borys, 1996). The aim should be to prevent this sort of comment from arising: "Some of the Briefs we get are just unbelievable" (OPP focus group).

A close examination of the VicPol case files suggests a number of aspects of case management improvement in relation to documentation, argumentation and the field conditions of operational policing of sexual assault. These are summarized as follows.

A comparison and contrast of authorisation and non-authorisation document practices in the present case file research revealed a number of potential improvements. Whereas both would benefit from greater attention to formal written argument, that would be more beneficial in authorisation cases where none of the examined files carried formally signed off reports. Both would also benefit from a greater focus on support documents, with more than half of non-authorisation and slightly less than a quarter of authorisation case files showing an absence of these. Also, greater inclusion of written accused interview records, especially in non-authorisation cases, would enhance comprehension in those regards. Again, case management could be expected to improve with greater attention to quality completion of documents, and more so in authorisation cases because of the higher frequency of poor completion and greater frequency of a high number of potential improvement areas in those cases, and the fact that they are susceptible to the greater rigors of Court room scrutiny.

Furthermore, documentation practice in 'unsolved' and 'no offence disclosed' cases is open to improvement, especially regarding inclusion of formal argumentation and statements by victims and witnesses, as well as the need to include many documents observed as missing in the latter type of case. Such improvements could be expected to either lead to more authorisations or more robustly justify a decision not to proceed in the latter instance.

The research evidence also illustrated a number of features in the construction of Brief argument that call for attention in management quality control of the Brief authorisation process. Analysis of data from case files, interviews and focus groups showed greater attention can be profitably paid to developing clear, formal arguments in Brief preparation; to seeking cohesion and unity of effort by all police involved as well as in terms of how evidence items are located in the case file; and to ensuring all evidentiary details are included, kept consistent and non-contradictory. Further, extraneous inclusions are anathema to sound policing arguments, and those particularly can be picked out in quality monitoring if found there. The same holds for re-framing statements of victims and witnesses – for instance by referring to non-existent inconsistencies in those statements. That can result in unjust argument against authorisation and can lead to difficulties at Court if a case is taken forward. Benefits in terms of just outcomes for victims would also be enhanced through more considered attention to authenticating and positively valuing victim's stories. Legitimate testing of victim credibility needs to be carefully weighed against doing the job of defence lawyers and second-guessing Courts or juror decision making. Paying attention to these criteria would contribute much stronger, evidence-based decision-making.

An overarching consideration was a tendency to put a one-sided view by one or more of the investigating, recommending and authorising officers that presumed the outcome and - where put by investigators - that dis-enfranchised senior police officers charged with quality review. This is perhaps particularly problematic in respect to non-authorisation argument, since the result is a tendency to ignore reasons for prosecution, whereas in authorisation argument it could be expected that police seek to put the argument for prosecution and leave the contrary argument to defence lawyers – albeit necessary to anticipate and counter that contrary argument.

Nonetheless, it is argued here that cases need to be treated on a level footing regardless of whether contemplating authorisation or non-authorisation. There is otherwise an unwarranted presumption that investigators, recommending and authorising officers will be in agreement. This means that cogent, clear, written formal argument needs to occur in not only non-authorisation but also authorisation cases and regardless of whether the trigger is arrest and charge or intent to summons.

The point of drawing attention to elements of police Briefs that can be improved is to enhance documentation and argumentation skills, which would lead to more authorisations, efficiencies in interactions with prosecutors, greater Court success and victim satisfaction, and an enhanced public image for VicPol as a modern police organisation. In turn, these benefits would promote investigative confidence, pride in Brief preparation, and an accumulating sense of doing a good job in sexual assault policing and Court presentations by informants and prosecutors. As skill development increases, a self-reinforcing loop is established that leads to increasing skill development, a positive sense of professionalism, and promulgation of just outcomes for victims. Hence, the foregoing analysis and suggestions are of value to training of police in sexual assault policing, to current VicPol initiatives such as the SOCIT project, and to VicPol's ongoing commitment to enhancement of justice outcomes for sexual assault victims. It is likely that VicPol is already aware of at least some of these areas and taking steps to improve sexual assault policing as a result. Current findings provide additional support for those efforts.

Notably, these improvement suggestions are consistent with recent sexual assault law reform recommendations to Victoria Police made by the VLRC (2004) and the Victoria Ombudsman (2006) outlined above. They are also consistent with the HMCPSI & HMIC (2007) and Spiranovic (2011) analyses which alert us to the need for concrete changes in operational policing practice as well as organisational structure and management level changes that reflect new policy imperatives. Such practice change is only possible to the extent that police organisations are able to understand and implement the sorts of improvement potential that have been found in the present study. Ultimately, it is the 'nitty-gritty' of everyday operational policing and Brief authorisation processes that must be improved if real and lasting changes are to occur in the sexual assault area.

In addition, it has been argued above that managing the police response to adult sexual assault is first and foremost a question of best practice leadership, both at the front-line of daily SOCIT operations and at higher echelon supports. In this regard, it is apparent from the tri-angulated data and analyses that there is a need for tangibly showing positive symbolic and conspicuously ethical leadership as described in the literature on police leadership. It has also been argued that the strategies identified by Frohmann (1991, 1998) have relevance to the construction of Briefs and along with the case examples of criteria for improvement these would provide sound focal guides in demonstrating contemporary best practice leadership behaviours.

Of course, it could be questioned whether study results continue to apply to present policing of sexual assault in Victoria. Given that organisational reform on the ground always lags behind the implementation program, and given the pervasiveness of these findings across the examined case files plus the strong triangulated data support from very recent interviews and focus groups, these findings are clearly reflective of

current practice. Furthermore, given strand one work by PJO researchers in 2010, it is apparent that there is a persistence of some of the central findings here over time.

It is acknowledged that the interview and focus group data strongly indicate that there are considerable resourcing difficulties that hamstring SOCIT operations, which also reflect leadership judgements in terms of budget allocations, those being the responsibility of executive level police leaders. These budget factors reinforce a morale problem within SOCITs which is intertwined with cultural, leadership and quality control system issues at the operational level.

Notably, both this chapter and chapter one of this report highlight police views indicating that resourcing constraints and attitudinal factors can militate against the interests of victims as police begin to screen reports or discourage victim reporting based on their opinions about the likelihood of successful conviction or factors pertaining to the victim and context of the offence. This subjective evaluation of victims or projection of how the case might play out in a legal setting diminishes both the victim and the judicial process. As Taylor and Gassner (2010) made clear, this reasoning has the dual effect of not just impacting on victim confidence to report but means that the legal system and indeed the wider community, in the form of jurors, are not challenged to hear and determine cases that fall outside stereotypical cases of rape. In relation to these points they argue:

> In this way, intentionally or not, police and prosecutors are pre-empting potential juror attitudes. The appalling conviction rates for sexual offences both here and in international jurisdictions (Fitzgerald, 2006; Kelly & Lovett, 2009; OCJR, 2006; VLRC, 2003, 2004) make challenging these attitudes more difficult and yet more urgent. The awareness that negative public attitudes about sexual violence may affect successful prosecution compounds the problem of police and prosecutorial decision-making. The problem becomes circular as one domain of professional decision-making may be later influenced or reinforced by the public domain. Moreover, it means there is a very real danger that the 'types' of sex offence cases that proceed to court are those that most closely conform to dominant myths and stereotypes of 'real' victims and 'real' rape/sexual assault. Thus, intentionally or unintentionally, the criminal justice response reinforces and perpetuates myths and stereotypes, making cultural and legal reform more difficult and impermeable to challenge (Taylor, 2004a). (Taylor & Gassner, 2010, p. 248)

Finally, unless it is thought that documentation and argumentation difficulties were universal among the case files and OPP focus group commentary, there is this remark on particularization in a quality Brief from one OPP lawyer:

> Stemming from that, I guess the good detectives refer it to particular pages in the hand-up Brief. And so you will get, for example, an alleged act, and then it will refer to exhibit numbers or the page numbers of the Brief, and that is fantastic. Right from the outset you know where to go to refer to it, as opposed to, you know, starting from basically scratch.

Similarly, one RO said in relation to what makes a best practice Brief:

> Large number of written statements to support the charges. A summary of charges that document, that tells the story – that's detailed but not verbose, succinct, it's cross-referenced to the charges, it's footnoted to the exhibits and a witness list. It's very readable. It's user friendly for the OPP when they pick it up at a court, when they first get it and they go, yes, no worries …
> But it's easy to navigate your way around the Brief, it's easily read, it's well presented. All the statements are in uniform format, like all the witness paragraphs – all the paragraphs are numbered, the same font is used, just little things. Just so it just looks nice and … professional, and you might get some defence barrister that might go, 'Gee, it looks quite professional,' while I'm calling to get a plea [of guilty, from the defence] and it's not looking like a dog's breakfast. Yeah, nice and neat and solid.

While there are challenges to be met and skills to be learned there are also knowledge and skills already available in VicPol SOCITs to address many of them. In the following chapter the nature and extent of organisational learning is examined in relation to future recruiting, training and developing of police officers for the job of sexual assault investigation and Brief preparation in Victoria.

Recommendations issuing from this chapter's data analysis and findings are as follows.

RECOMMENDATION: Attention should be paid to reinforcing the importance of ensuring there is accurate and comprehensive documentation on case files irrespective of whether authorisation or non-authorisation is being sought and before forwarding to senior police officers and prosecutors. This mission should be a priority of leadership at operational and executive levels of VicPol, as well as calling for a review of quality control mechanisms. (s. 8.1.2)

RECOMMENDATION: Consideration should be given to developing a set of quality assurance criteria to be administered by ROs and AOs in reviewing Briefs. These criteria can be informed by although not limited to the foregoing elements of argumentation. (s. 8.2.6)

RECOMMENDATION: Serious and urgent consideration should be given to enhancing the resource allocations for SOCITs. (s. 8.3)

RECOMMENDATION: Vicpol should review its quality control systems and related policies in relation to sexual assault Briefs and authority delegations with a view to removing inept SOCIT members (including ROs/AOs where identified) and establishing and maintaining best practice standards of transparent and accountable written authorisation and non-authorisation argument. (s. 8.4)

9.0 Recruiting, training and developing police officers

VLRC (2004) findings and recommendations emphasised knowledge and skills acquisitions by generalist police, CIU members as well as SOCAU (now SOCIT) officers, in relation to a range of special needs victims, including the CALD, NESB, indigenous, mental illness, and cognitively impaired groups, as well as "issues surrounding drug or alcohol facilitated sexual assault" (108), "attitudes about the truth and falsity of complaints" (111), and "preconceptions about 'real' rape victims" (122). The VLRC (2004) report also included a number of recommendations that went to the complementary need for OPP and other prosecution lawyers, as well as members of the judiciary, to have specialist training and development in sexual assault, including, for example, in relation to cognitively impaired victims.

The VLRC (2004) identified police training and development needs to include response and communications skills (recommendation 11); reasons why victims discontinue complaints (recommendation 13); diversity of victim's needs and barriers to reporting (recommendation 14); police training collaboration with CASA, NESB and indigenous communities (recommendation 15); and identifying and communicating with cognitively impaired people (recommendations 151 and 153).

In particular, the VLRC recommendation 12 stated that sexual assault training for members of Sexual Offences and Child Abuse (SOCA) Units and Criminal Investigation Units (CIU) should address the social context of sexual offences, including the characteristics of most offences, offenders and victims; the short-term and long-term impact of sexual assault on victim/survivors; and the barriers that victims often face in reporting offences.

Notably, the VLRC findings and recommendations addressed key issues and findings in the literature on sexual assault already covered in previous chapters of this report. Two years later, the Ombudsman reported: "Victoria Police advised that it currently provides employees responsible for responding to or investigating reports of sexual assault with specialist training" (Office of Victoria Ombudsman, 2006, p. 30). Yet another five years on, Spiranovic (2011) concluded that while change management efforts by police organisations in New South Wales, Victoria and the Australian Capital Territory in relation to sexual assault have been progressive – recognising the need for training, specialised units and/or one-stop shops as well as victim liaison officers – those efforts have not addressed adequately the attrition issues characterising sexual assault complaints. For example, she argued that training content is still deficient - eg sensitivity training is lacking in regard to victims – and

> the recent initiatives in Australia have not paid a sufficient amount of attention to issues relating to procedures around reporting and interviewing nor has there been any discussion of the need to change recruitment procedures to recruit officers with the desired skill set (Spiranovic, 2011, p. 25).

In Western Australia similar training issues have been noted in relation to sexual assault policing, including in areas of enhanced training for general duties police officers and detectives, a need for specialized training regarding people with an

intellectual or decision-making impairment, and interviewing skills generally (Community Development and Justice Standing Committee, 2008).

Little is mentioned in the Success Works (2011) report on police training in relation to sexual assault. Aboriginal legal service advocates said that Victoria Police members in SOCAUs and SOCITs require additional cultural awareness training, and there is an oblique suggestion that this held true for CALD communities more generally (Success Work, 2011, p.188). Additionally, "there is a clear need for the police, prosecutors and others in the criminal justice system to receive training in relation to the differences between cognitive impairment and others forms of disability" (Success Works, 2011, p. 190).

Discussion now turns to reviewing the small body of research on police sexual assault response training programs and even fewer evaluations as distinct from descriptive studies of such programs (Kinney, Bruns, Bradley, Dantzler, & Weist, 2007; Lonsway, Welch & Fitzgerald, 2001). Kinney et al. (2007) found that literature on the prevalence and effectiveness of sexual assault training for law enforcement officers was scarce. Similarly, despite a wide search by PJO researchers for more recent relevant academic research, few studies have been found to address the topic in the last decade. The little available recent research examining police education and training in adult sexual assault has been conducted mostly in the United States, including North Carolina (Lord & Rassel, 2000), Illinois (Lonsway et at., 2001), Boston (Stevens, 2006) and Maryland (Kinney et al., 2007). Epstein and Langenbahn (1994) analysed four jurisdictions in the USA, Denver, Seattle, Philadelphia, and St Paul. Jamel et al. (2008) conducted an investigation of the specialist police service provided to male rape survivors and related training in the United Kingdom. The current PJO review found no research literature into the education and training of Australian police on adult sexual assault.

In an early study of sexual assault training McKinnon (1982) found training structures were inconsistent and inadequate in the 27 most populous United States cities. Campbell (1995) found that 41% of law enforcement officers in her study noted their opinions on date rape were positively impacted by departmental training; and officers who saw their training as helpful held more favourable attitudes toward women, which predicted less victim-blaming date rape perceptions.

In their ground-breaking study of what made for success in the investigation and prosecution of sexual assault, Epstein and Langenbahn (1994) interviewed not only sex crime investigators but also a number of key agents responding to sexual assault, including prosecutors, judges, physicians, social workers, program directors, legal advisors and advocates, and sexual and mental health professionals. These researchers documented a description of subjects to be taught to sexual assault investigators, including interviewing techniques for victims and suspects, collection of physical evidence unique to rape cases, and coordination with rape crisis centres, medical personnel, and prosecutors.

Epstein and Langenbahn (1994) found that collaboration in education and training in adult sexual assault between police and key agencies such as victim support services, hospitals and other criminal justice agencies like prosecutors, can improve services to victim/survivors of sexual violence and present opportunities for agencies to discover

common agendas. Presentations from key agencies were said to "supplement training in investigative skills, allow for investigators to learn firsthand the needs and contributions of each component of the criminal justice and victim assistance communities" (Epstein & Langenbahn, 1994, p. 54). They also found that the police departments in their study deemed most effective in responding to reports of adult sexual assault were ones in which new sexual offence investigators were assigned to work with an experienced sexual assault investigator. Further, they argued that training must be provided to police who first receive sexual assault complaints as well as investigators. Finally, Epstein and Langenbahn (1994) identified effective police practices as including a need to first employ specific criteria for selection of investigators of sexual assault complaints. Among these selection criteria were evidence of capabilities to be sensitive to victims and to understand the short-term and long-term impacts of sexual assault on them.

Lord and Rassel (2000) conducted site visits and follow-up telephone interviews with law enforcement investigators in 34 police departments across nine counties in North Carolina to ascertain the use of procedures based on Epstein and Langenbahn's (1994) work. They found that training of patrol officers – those likely to receive initial sexual assault complaints – was provided in only nine of the 34 departments. Most investigators wanted training that would help them glean information from sexual assault victims. Only two departments used criteria to assign sexual assault investigations, and none employed criteria specifically to select sexual assault investigators. They also found that a number of departments used team teaching which included rape crisis volunteers teaching about victim trauma and victim services.

Lonsway et al. (2001) reported that previous evaluations of police training programs in sexual assault primarily used subjective appraisals by instructors and self-reflection of participants to determine the impact of programs. They noted particularly that:

> Such programs often specifically address the individual's personal attitudinal orientation toward the topic of rape. *This focus on personal attitudes is emphasised because it is seen as representing the primary block to effective police response* (Lonsway et al., 2001, p. 697, italics added).

These authors found no previous research that used experimentation methods to assess the impact of different program elements on police training outcome measures. To address this gap, they designed two separate experiments. One study employed a control group of trainees undergoing a baseline "typical training protocol" and two other trainee groups attending an experimental program. They found that trainees in the experimental program were more likely than those in the baseline curriculum to allow the victim control over the interview; to address a range of victims' needs and concerns; to provide the victim with empathy and reassurance in a variety of ways; and to avoid asking about victim use of alcohol. They also found no change in any of the trainees' level of endorsement of cultural rape myths. They suggested that behavioural change might not require cognitive or attitudinal change or that behavioural change precedes if not determines attitudinal change, both of which are long-standing explanations in the literature (e.g., Festinger, 1957; Wicker, 1969). Alternatively, they suggested, the absence of change in rape myth acceptance might

have been due to social desirability effects producing low rape myth acceptance in the first instance.

In a subsequent study they made a number of design alterations to strengthen their research, including a blind procedure and a greatly expanded sample allowing more statistical power to detect group differences (Lonsway et al., 2001). Further, observations were recorded at varying stages and conditions of training, allowing measurement of the impact of individual program elements – e.g., number of simulated interviews - and of improvements in trainee performance throughout the training. Due to police training program changes there was no measure of attitudinal change. Like the first study, study two results supported the use of behavioural training and assessment techniques, with two simulated interviews producing superior performance over only one. However, factual knowledge scores were also found to deteriorate within weeks of class-room instruction.

Lonsway et al. (2001) concluded that police training in sexual assault investigation should include development of soft skills required for sexual assault interviews and that specialised training was effective in improving behavioural performance. They particularly encouraged use of behavioural simulations – i.e., application learning - to improve investigative interview skills. They also stressed program design should ensure that learning activities are realistic, relevant and "anchored to a particular task or problem"; that trainees have time and feedback for meaningful reflection; and that behavioural simulations occur at the end of training when trainees have integrated instructional materials.

The Lonsway et al. (2001) studies were the most sophisticated discovered in this literature review. They employed a range of well developed measures – including the 45-item Illinois Rape Myth Acceptance (IRMA) Scale – as well as audio-taped role-plays, thematic coding, pilot-testing of new scales and statistical inferential tests (e.g., Exploratory Factor Analysis). However, there was no follow-up of any continuing retention and utilization of behavioural or attitudinal outcomes after trainees had became investigators. That is, there were no medium or long-term post-training measures of these outcomes, for example by way of focus groups or individual interviews of police in the field.

Stevens (2006) surveyed 319 Boston police officers, then conducted individual interviews with eight officers who had completed Boston's five day Sexual Assault Investigators Certification Course. Topics included the three stages of victimisation experiences (immediate crisis, normalisation or outward adjustment, and healing); the victim recovery process; and discussion of cultural issues. The last included speakers from a panel of female sexual assault survivors from Latino, Vietnamese, African-American and Caucasian women who explain how cultural attitudes influence the reporting of sexual assault. A convicted sex offender instructed police students about lifestyles, attacks and issues of rehabilitation.

Stevens (2006) found that training and supervisory style influenced first-responders' investigation of sexual assault complaints. Importantly, he highlighted a difference between providing comprehensive formal training in sexual assault to police and the residual value of training in the work place, with respondents from his study reporting

that "once out of training, our training officers tell us to forget everything we've learned and listen up." (Stevens, 2006, p. 142).

However, there was no detailed description of the methodology employed by Stevens (2006). Particular, while he provided interview excerpts, he did not explain the method or cite the questions. Also, his data-collection and analysis were narrowly focused on trainee opinions. So, for instance, supervisors of trained staff were not involved as participants in follow-up of graduates' application of learning or other issues such as aptitude and suitability for sexual assault policing. This is an interesting omission in this study since it is apparent Stevens (2006) considered supervisors themselves were problematic in not providing support and encouragement of trainees once they graduated to the field of actual policing of sexual assault. Thus, he refers to "training can influence officer behaviour less frequently than expected if supervisors and command fail to have in place policies including an enforcement process that supports training topics" (Stevens, 2001, p. 127).

The HMCPSI & HMIC (2007) report that followed that of the HMCPSI & HMIC (2002) in the UK five years earlier summarized the situation concerning police specially trained in relation to sexual offences:

> While local training provision was generally described as very good, and in some cases excellent, standards were not always consistent. There were also gaps in the provision of refresher training, with two forces providing no input other than initial training, as well as an absence of training for supervisors. This reinforces the need for nationally accredited training (HMCPSI & HMIC, 2007, p. 56).

The HMCPSI & HMIC (2007) report also emphasised that sexual assault training was necessary but still lacking in respect to police who first respond to sexual assault complaints, a point noted in US jurisdictions by Epstein and Langenbahn (1994) more than a decade earlier. Further, first responders lacked expertise in sexual assault crime scene procedures and evidence-gathering/preservation. Notably, the report did not entail evaluation research into sexual assault training for Specially Trained Officers (STOs), whose role did not include investigation and preparation of Briefs. Even so, the report noted that STOs' interviewing skills appeared to be in need of attention, with STOs being reluctant to explore inconsistencies and ambiguities in victim statements for fear of discouraging victims. "This requires sensitivity, care and skill and re-emphasises the need for effective STO selection, training and performance monitoring" (HMCPSI & HMIC, 2007, p. 65).

Jamel et al. (2008) used a predominantly qualitative design in their evaluation of Sexual Offences Investigative Technique officers' (London Metropolitan Police) response to male survivors of rape. Semi-structured questionnaire responses of 19 SOIT investigators were compared with similar questionnaire responses by male (n=20) and female (n=56) victim/survivors of sexual violence, using content analysis of thematically coded responses following the open and axial coding procedures originally laid down by Glaser & Strauss (1967). They also undertook a limited quantitative analysis. Notably, they had a very poor questionnaire response rate from a total of 300 officers.

Training was identified as a theme in interviews with investigators of adult sexual assault. In particular, "training for SOIT and STO officers regarding male rape survivors needs to be more comprehensive" (Jamel et al., 2008, p. 501). They argued that that training needs to heighten officers' awareness of male victims' physiological and psychological impacts, gender identity and sexual orientation, and "inherent complexities associated with masculinity which underlie questions such as how could they 'let' that happen to them" (Jamel et al., 2008, p. 501). Significantly, they also found that despite training, STOs were still said by survivors to be "judgemental, confrontational and unprofessional when dealing with both male and female rape survivors" (Jamel et al., 2008, p. 502). They found that rape myths remained a pervasive problem and affected the likelihood of rape cases being taken seriously, findings consistent with those of Lonsway et al. (2001).

Jamel et al. (2008) agreed with Lonsway et al. (2001) that training did not change attitudes, arguing that - despite police in the UK completing specialist training in sexual assault investigation - underlying attitudes and values can remain unchanged and filter implicitly through non-verbal behaviour or more directly through verbal behaviour of police attending sexual assault victims. Underlying attitudes supportive of rape myths and stereotypes of sexual violence can impact adversely victim/survivor care as well as cooperation with police and quality of evidence. Jamel et al. (2008) proposed future research on sexual assault training should examine single loop learning where information is understood superficially compared to double loop learning where sexual assault investigative training aims to achieve understanding at a fundamental level and thus evoke changes in values and attitudes where necessary.

Kinney et al. (2007) undertook a study of the sexual assault response training required by the Maryland Police Training and Correctional Commission for all entrance-level police training programs run by 20 police academies across the State. The mandated basic training had seven objectives:

> (1) identify the basic psychological response of victims of sexual offenses; (2) identify techniques officers can use to defuse the crisis stress symptoms of victims of sexual offenses; (3) identify the duties of a police officer when intervening in an interpersonal conflict involving sexual offenses; (4) presented with a practical exercise, identify and satisfactorily handle those tasks delegated to a field officer responding to crimes; (5) describe the resources available to the officer and/or victim for the crime of rape and sexual offenses; (6) explain the role the polygraph may play in the investigation of sexual offenses; and (7) describe the resources available to the officer and/or victim for the crime of sexual abuse of children (Kinney et al., 2007, p. 84-85).

There was an additional three-yearly training requirement requiring officers to have a score of 70% or higher to pass. Albeit the seven objectives provide some assurance of a robust program across the 20 Academies, neither the basic or three-yearly training courses was described or evaluated in their article.

Kinney et al. (2007) reported results of a state-wide, cross-sectional survey of 301 Maryland law enforcement officers. They examined survey responses of officers who received additional training above a mandated minimum (46.6% of respondents) in

comparison with those who received no additional training. They found statistically significant differences favouring additional training in respect to being better prepared and feeling comfortable when presented with a sexual assault case; satisfactory interactions with the court system; greater victim cooperation in investigations; higher percentage of cases investigated; higher percentage of cases prosecuted; and needing further, high quality training. The vast majority of both groups wanted additional formal training, including refresher training.

These authors suggested further research is necessary to evaluate current and developing training in sexual assault for police, and to determine the ideal components, optimum conditions and intensity of such training (Kinney et al., 2007). They also suggested further research should be conducted in individual precincts, the equivalent in Victoria being the SOCIT units. They noted a current lack of longitudinal studies looking at course curricula, as well as a lack of experimental and control group comparative research. A basic limitation of their research was the reliance on self-reports from trainees alone.

Quantitative methods dominate research on police education and training in adult sexual assault. Quantitative methods used in previous research included questionnaire surveys of patrol officers and police recruits (Kinney et al., 2007; Lonsway et al., 2001; Stevens, 2006) and interviews with sexual assault investigators (Lord & Rassel 2000). In two mixed method research designs reported here, quantitative data were sourced through survey questionnaires, while the qualitative aspects of each study were distinctly different with one utilising role player observation (Lonsway et al., 2001) and the other in-depth interviews (Stevens, 2006).

Previous research analysing police education and training in adult sexual assault has utilised patrol officers (Stevens, 2006) and police recruit participants (Lonsway et al., 2001). Investigators of sexual assault have participated in some studies of this kind (Epstein & Langenbahn, 1994; Jamel et al., 2008; Lord & Rassel, 2000; Stevens, 2006). The PJO literature review discovered no studies that used supervisors of police trained to investigate adult sexual assault as research participants.

As noted in the introduction of this report, early research work found that personal attitudes such as belief in stereotypes, victim blaming and rape myths influenced an individual's effectiveness in investigating sexual assaults. Lonsway et al. (2001) and Jamel et al. (2008) have more recently made similar findings in their research work on police sexual assault training. Furthermore, this recent work shows that whilst training programs need to address attitudes, attitudinal change is either not achieved or attitudes regress due to the contrary influence of post-training placement in operational units. That is, training courses by themselves appear on the current research evidence to be ineffectual in the medium to long-term because newly operational police are rapidly assimilated into local police unit cultures, including those of specialist sexual assault units.

Although the participants, settings, and methods used in previous research differ, the most documented finding offered to date on police education and training in adult sexual assault is a description of what specialised sexual assault training does or should contain. The key syllabus topics identified by researchers include investigative interviewing with suspected sex offenders; interviewing vulnerable witnesses and

victim/survivors; collection of physical evidence; liaison with key agencies including medical, prosecution and victim support services; and components aimed at changing antithetical police beliefs, attitudes and behaviours in a 'double-loop', fundamental fashion if and when necessary, as well as recognizing and celebrating best police practice skills. In this last respect, however, judicious attention needs also to be given to robust recruitment and selection procedures to ensure only genuinely committed, compassionate and aptly motivated police are trainees in the first instance.

Depth of expertise and width of external input have been noted by researchers as a vital tool to be exercised in educating police in adult sexual assault investigation. For instance, Jamel et al. (2008, p. 491), referring to the HMCPSI & HMIC (2002) report, argued that predominant features of good practice in sexual assault investigative training included "an absence of superficiality, a depth of expertise and the width of external input throughout the syllabus". Kinney et al. (2007, p. 94) agreed, quoting one respondent's words: "'Training should be updated every year and taught by someone who has skills and knowledge in the field. Not by a tape or a lay person!'". Refresher training was emphasised as necessary to continuing professional development of police involved in sexual assault investigations. Similarly a number of police departments in North Carolina have developed a team teaching approach to sexual assault where rape crisis centres provide training to police on the trauma experienced by rape victims and services provided by rape crisis centres, while police teach rape crisis volunteers about the role of law enforcement (Lord & Rassel, 2000). Mentor training of new investigators in the field has been noted as worthwhile (Epstein & Langenbahn, 1994).

The main gaps and issues identified in the existing research on sexual assault training of police can be summarised as follows. Limited research has been conducted on training for specialist sexual assault investigators and what research has been undertaken has tended to be unsophisticated and too often simply descriptive. Research has been dominated by quantitative methods. There has been a strong tendency for studies to rely on a single perspective, usually that of general duties police, trainees and investigators. There are consequently particular needs for qualitative work and robust evaluative studies. In these regards, longitudinal, experimental and control group studies are necessary, along with involvement of supervisors and more senior police officers. The absence of Australian research is a special problem for Australia's sexual assault policing fraternity given that cultural and other differences even in like jurisdictions are significant enough to forbid strong, evidence-based conclusions for an Australian context.

Key training course issues that require further research efforts include police attitudes, values and stereotype beliefs that hinder sexual assault policing effectiveness and the loss of related educational input once police trainees graduate to operational duties. Course design should incorporate 'double loop' learning components for this purpose. This level of research effort would require post-training evaluation research access to operational units charged with sexual assault policing - such as the SOCITs in Victoria - to determine if, how and why vital training loss occurs and what can be done about it.

More generally, there is still a need for further evaluation studies of what constitutes the optimal or best standard components of training, what should be taught in the

curricula, how it should be taught, and how to best measure training outputs and outcomes. To date the dearth of studies do not provide sufficiently sound evidence-based knowledge in these basic respects. It is apparent, however, that best practice training program models are likely to incorporate a strong component of external interest group trainers within a team-based teaching and learning framework. It is also apparent that the 'soft' skills of communication, compassion and sensitivity to sexual assault victims' needs, awareness of rape myths and so on are vital to training and to long-term outcomes for effective sexual assault policing. Further, mentoring in the field, refresher training, and ongoing, regular professional development are all indicated from the available research to be necessary elements of a best practice regime. Finally, there remains the need to ensure robust criteria-based recruitment and selection procedures precede training provision to ensure that the scarce training dollar is used effectively and efficiently. This last point is a critical first ingredient for successful and effective policing of sexual violence, and its absence renders the other criteria largely futile given the evidence that changing basic attitudes through training programs is at best extremely difficult.

This chapter focuses on recruitment, training and development of police officers in Victoria for responding to, investigating and preparing Briefs on sexual assault, including supervision and management aspects.

9.1 Training police for SOCIT work in Victoria

Current research data and findings on training police for sexual assault work in Victoria is approached first by a brief discussion of sexual assault training available for probationary constables. This account is followed by examining the main Victoria Police SOCIT/VARE sexual assault training course from the viewpoints of trainees, training providers and non-participant researcher observations. Next, there is a report on what was found in the strand two case files, interviews and focus groups in relation to sexual assault police officers' training and their knowledge, skills and aptitudes (KSA), thus providing a robust triangulation of research findings. Additionally, findings from the 2010 focus groups conducted by strand one researchers provide some longitudinal depth in analysis.

9.1.1 Victoria Police sexual assault training for probationary constables

Victoria Police are to be commended for developing a specialised SOCIT/VARE course focused on sexual offences over a four week duration. This is clearly an excellent step in the right direction in terms of giving consideration to a syllabus that seeks to arm police with sound knowledge of sexual violence in order to build competency in police praxis at every level of their initial response and investigation of sexual offences. The following analysis and assessment of the training is undertaken with the hope of contributing to the continued evolution development.

Minimal probationary constable training on sexual assault topics. Apart from the SOCIT/VARE course, about six months after they leave the Academy probationary constables are provided with a week of Level 8 training, two hours of which focus on

adult sexual assault topics. This is the only training provision that addresses the best practice criterion in the literature for more widely ensuring police officers who interact with sexual assault victims are educated on the complex issues involved in this area of policing (e.g., Epstein & Langenbahn, 1994; HMCPSI & HMIC, 2007; Lord & Rassel, 2000). Observation of this course by a PJO researcher on one occasion showed that the trainer provided a succinct, well informed overview of key issues in sexual assault. However, the trainer for the adult sexual offence aspects of Level 8 training was not involved in the final assessment or examination of responses. Further, in response to the trainer's question about the percentage of false reports in sexual assault complaints, the probationary constables indicated a range from 35% to 92%. Three of the probationary constables also reported to the researcher having been the most senior member working on a divisional van, with much less experienced members, who had also not received any specialised sexual assault training.

This is clearly an insufficient training input given the complexity of sexual assault policing and given that general duties officers in Victoria are often the first police to whom sexual assault victims report or whom they meet initially at crime scenes. A 2010 PJO focus group also made this point of general duties officers often being the initial police contact with sexual assault victims. Although the problem of non-specialist police involvement with sexual assault victims will reduce with time as the SOCIT model becomes more publicly known, there will always be some non-SOCIT police involvement due to happenstance of victims arriving at the front desk of police stations or generalist police being first responders at sexual assault crime scenes.

> **RECOMMENDATION:** More substantial provision should be made by VicPol for providing sexual assault education to generalist police officers.

9.1.2 The Victoria Police SOCIT/VARE sexual assault training course

The following analysis draws from research undertaken on a four week block SOCIT training course provided to Specialist Sexual Assault Investigators in Victoria from August 2009 to November 2011. Over that period the course was provided six times and a total of 120 trainees who were predominantly SOCIT investigators completed the course. An outline of the training program is provided in Appendix 16. Course evaluation was undertaken using four data-collection methods: non-participant observation; an in-depth interview of course designers and trainers; an online questionnaire completed by SOCIT course trainees, comprised of investigators and more senior police officers; and review of trainees' feedback sheets provided during and after the course (see Appendix 15). Collected data were subjected to both quantitative and qualitative analyses. This methodological framework addressed deficits canvassed in the literature to date - as discussed above - by taking a multi-method, triangulated approach, with quantitative and qualitative components, and seeking views from not only trainees but also course providers.

Background demographic data on participants in the training course evaluation.
Background demographic data on participants in the four data sources are as follows.

In respect to the survey, 39 respondents (89%) worked in locations investigating sexual offences, such as a SOCIT, SOCAU or CIU, with only one respondent working at a uniform station, one from the Sexual Crimes Squad, and three from other departments. Twenty-eight respondents (64%) worked in the metropolitan area and 16 (36%) were located in regional Victoria. Thirty-four (77%) were Senior Constables or Detective Senior Constables, the main target group for the SOCIT course. Equally important were the 10 (23%) participants ranked Sergeant or above, who had the capacity to contribute to the study as both a student and supervisor, although no specific questions were asked relating to their opinions of the course from a supervisory perspective. The total policing experience respondents reported was considerable, with 21 (49%) reporting more than 20 years of service with Victoria Police, and a further 17 (40%) between 10 and 20 years police service. In terms of sexual assault investigation experience, eleven respondents (25%) provided no details 19 (58%) had less than 2 years work experience in the field, while six (18%) had more than 10 years. SOCIT trainees who stated less than two years experience in the investigation of sexual offences reported an average of 17 years overall policing experience. Hence, a lack of experience in dealing with sexual assault was not linked with a lack of policing experience.

Non-participant research observations. Non-participant observations were made on the SOCIT course provided from the 16th July until 13th August 2010. This course was attended by 20 Victoria Police members, 13 (65%) were male and seven (35%) female. Thirteen (65%) were from metropolitan locations, and seven (35%) worked in rural areas. Of the 20 trainees observed, all but two occupied positions within a SOCIT, SOCAU or CIU, with responsibility for sexual assault investigations.

9.1.2.1 Findings and evaluation on SOCIT/VARE training

SOCIT/VARE course trainees were asked for their opinions on course strengths as well as general comments.

Overwhelmingly positive SOCIT/VARE course trainee feedback. They were happy overall with the course design despite limited resources and despite their criticisms outlined shortly. Overwhelmingly positive trainee responses to the course were provided through both feedback forms and the online questionnaire. The questionnaire responses indicated that all the surveyed trainees agreed that a specialist sexual assault course was necessary and 37 (84%) said refresher training would be valuable. Some 32 respondents (73%) rated the SOCIT/VARE course as excellent in relevance to their work-role and another 11 (25%) rated it as good in this respect, with one rating it as neutral. A total of 16 survey respondents (36%) were satisfied and 27 (61%) were extremely satisfied with the course, (with one nil response). From course feedback sheets both course content and delivery were very well regarded by trainees, who were especially enthusiastic in their praise of the training team members as well as a few of the external presenters. The following quotations are typical of trainee opinions:

> I regard this course as the best course I have participated in 20 years. I value the techniques taught and (I am) genuinely excited about using same, I think I am better prepared to attend to victim needs and take a broader approach to offenders (feedback sheet comment).

> My interview skills have improved out of sight and I am more empathetic towards victims now, particularly ones who seem to keep placing themselves in compromising situations as I have a better understanding of why this happens. I also judge victims less on the way they react to situations (survey response).

> Ability to 'teach' in an adult environment was excellent. At no time did I feel undervalued, a failure, incompetent etc which has been the case in previous courses (feedback sheet comment).

> (I) have been able to better understand inconsistencies in victims' accounts and point out the effects of trauma on memory to colleagues and prosecutors (survey response).

Other feedback comments included: "(T)he course far exceeded my expectations"; "one of the best courses I have done"; "enjoyable, extremely worthwhile"; "best course that I have done for a long time"; "definitely worthwhile course"; "I've thoroughly enjoyed it"; "great course, well done"; "fantastic course"; "great course"; "fantastic, thoroughly enjoyed it"; and "well run, well prepared, positive learning environment", among other similar compliments. All of these comments came from different trainees, indicating the strong consensus of positive opinion from the trainee viewpoint. Notably, many of the trainees were especially impressed with the main trainer, although other training team members also received their share of accolades. It is also notable that trainees were especially impressed with the PJO project head who was one of the external speakers, providing typical comments such as "edge of seat", "pin drop stuff", "fantastic", "inspirational", "empowering" among many other similar reactions. Trainees said other presenters were generally professional, very knowledgeable and competent. Both VicPol trainers and external presenters were seen as passionate and committed to their teaching.

Trainee comments on weaknesses and potential improvements of the course.
Trainees were asked to provide feedback also on weaknesses and potential improvements. Instances of the main comments in these respects include the following. Some outside presenters were considered below par, did not recognise their audience was composed of detectives and thus failed to tailor their delivery appropriately. (In this respect, RO interviewees also expressed a similar view that VicPol used trainers who had much theoretical knowledge of their particular discipline but little understanding of how it actually applied to police work and

practice). Location and room layout were not considered optimal by many trainees, with more Academy based sessions and fewer external venues considered necessary. Some of the role-playing was "way too ridiculous for the target audience" and some of the content could have been better structured to the session time available. Also, some of the outside sessions were seen as irrelevant and a Gay and Lesbian Liaison Office speaker was mentioned as unnecessary in view of audience work experience. VARE training was most often mentioned by trainees as deficient in terms of practice and equipment. Lectures/theory were said to be better placed as morning sessions with practice sessions in the afternoon, and more practice sessions were seen as valuable.

Caveats to trainee feedback. Many of these and other perceived course weaknesses can be readily addressed by course staff. However, any changes to content and presenter specifics should bear in mind that trainees did not all agree on these specifics and trainees are not the 'font of all wisdom' as to what is indeed valuable – a point that is highlighted by their views on false reporting discussed shortly. Also, obviously, there can be real practical constraints that trainees are unaware of to making changes. For example, SOCIT Course trainers cannot usually specify who should represent an agency as an outside speaker or what they present, commenting that "we get outside presenters that we don't have a lot of control over their method or style of presentation" (in-depth interview, 2011).

Further, some trainee perceived course weaknesses require a commitment from VicPol in resourcing and policy direction. Primary among these was that the four weeks block was seen as too long and demanded too much of trainees to put into practice all in one grasp. There was mixed opinion among the survey respondents on this aspect, some saying the course should be reduced to three weeks, others wanting different content that would still justify the four week course, and most being happy with the current duration and content. Also trainees perceived venue, equipment and practice session improvements that would require policy and/or resource decisions. Since these aspects were quite varied in their specifics they are not detailed here, but left to the training team to follow-up.

Trainers' views. Trainers stated that they would prefer to deliver the course over a longer period and within a training/work experience model that allowed work place experiences to be brought back to the classroom in between sessions, rather than having a four week block. Some trainees agreed, for example: "(I) would have preferred it to be broken up into two week groups so you can return to your work group and practice it and then move on to the next phase" (survey respondent). Interestingly, four survey respondents considered the course could be shortened to three weeks by deleting irrelevant or already known materials.

Under-resourcing of the SOCIT course. The SOCIT course was under-resourced in terms of facilities, equipment and people. This was confirmed by trainers, trainees and observations by the researcher. "There are some practical issues … the academy is too full and I can't get rooms when I want them and our students can't live at the academy" (SOCIT trainer). The course also did not have a clear and coherent structure which was evidenced from the lack of a course outline and framework for assessment/qualification and the disjointed provision of course documents. One survey respondent, for example, referred to the course being "all over the shop". The SOCIT training team worked hard and 'made do' to deliver what they could within the resource constraints. Trainers advised at interview that trainees were now provided a hard copy folder containing a majority of course materials at the commencement of the course.

AQF problematics. Still, while VicPol is a Registered Training Provider (RTO) accredited under the Australian Quality Framework (AQF), trainers do not apply any AQF principles to this course. The course structure and how assessment/qualification was attained was sent in a few emails with some attachments. Notes were handed out randomly in class, or some before, all of which was muddled and hard to follow or collate by the PJO researcher.

CALD and Indigenous groups. In respect to course content (see Appendix 16), notwithstanding trainees' glowing opinions there was relatively little attention devoted to CALD and Indigenous groups despite the VLRC's (2004) recommendation. When asked about this, a trainer said "instead of giving them knowledge about CALD we're giving them skills about how to get that knowledge when they need it, because that's what we think will be more helpful." Regarding indigenous communities, trainers said there are "a unique set of circumstances" in each area of the State that requires "engaging in certain ways" with each group or community and that cannot be dealt with adequately within a generic four-week training course.

SOCIT training on best practice interviewing. SOCIT training did, however, address issues relating to best practice police response in terms of interviewing victims with a cognitive impairment. Trainees were coached and assessed with a battery of tools by external, qualified Speech Pathologists for competency in this regard. Assessors employed an assessment tool and assessed a trainee's achieved level of competency in relevant interpersonal and interviewing skills, and strategies for overcoming communication breakdowns. If the required competency level was not met a trainee would be provided with further learning opportunity.

SOCIT training on false reports. On the first day of each SOCIT training course, part of the introductory session (approximately 20 minutes) was dedicated to the topic of false reporting by complainants. During this session trainees were asked for

their beliefs as to the amount of false reports of sexual assault made to police. The researcher's observation of this session showed that at least one third of the trainees believed more than 20% of reports of sexual assault are false. Trainers discussed the topic and revealed that research has found that only 2–5 % of reports are false. Trainers explained during the in-depth interview that several core attitudes are worked on throughout the course focused on trainees coming to accept that sexual assault is a specialized field of policing; that it involves complex cases "with its own special challenges that are fairly unique"; that it requires them to understand "what is a good result and for whom"; and for them to identify with and "work actively to increase the status of these particular types of investigations".

Adverse trainee views on false reports subsequent to training inputs. Importantly, findings about police attitudes on false reporting were identified from the non-participant observation of training sessions and from the on-line questionnaire returns, the latter of which post-dated the six courses conducted within the research period, including the course observed by the researcher (see also s. 4.6). In this respect, the on-line questionnaire - administered after the course, on the return of SOCIT trainees to their work place - asked: "In your experience, and from what you have learned from colleagues, what percentage of reports of sexual assault made to police do you believe are false?" Some 30 (68%) SOCIT trainees answered the question with an actual figure. Twelve trainees responded that 5% or less of sexual assault complaints are false; nine said 10% of complaints were false; two said 20%; and seven 25% or more, with one of those respondents indicating that 80% of complaints were false and three of those saying 50% were false. Of the remaining 14 trainees, seven were non-committal; five said few, very few or very, very few; one said "too many"; and another a "high proportion". Several responded also with comments, variously referring to attention-seeking and cries for help; exaggerations rather than deliberate lies; mistaken beliefs; blatant lies; and hidden agendas and motivated by "financial gain, spite or revenge". For example:

> 80%. And I justify this as 80% of victims don't tell us all the facts. Some blatantly lie and others bend the truth.

> At my level as a senior investigator - more than half the reports/cases (my) crew investigates turn out to be false reports!

> This office has had 2 this year... that would equate to less than 1%. I think it is important to understand that sometimes people report what they believe may be a sexual assault which, after investigation, shows that no offence occurred. We do have quite a few of these... but it doesn't mean they are false reports! The only way to determine what has occurred is to properly investigate the event/incident reported to police.

While many were of this last view, the above figures clearly indicate that a significant percentage of trainees did not absorb or did not accept the research literature findings and continued to hold false and highly prejudicial beliefs that adversely impact *at the outset* their likely approach to sexual assault victims. This was despite the fact that the course was generally extremely well received by trainees and despite the eulogistic commentary on the content and delivery of the session by the PJO project head. This result strongly indicates that the SOCIT training course is ineffectual in one of its key learning and skill goals, if not the most critical of the goals to be expected from course outputs. Further, this is even before the extra regressive impact of 'on-the-job' counter-learning established in the research corpus as often following trainees' adaptation to the sexual assault policing workplace culture. This finding is consistent with the literature that training to date has had a negligible if any positive effect on attitudes (Lonsway et al., 2001; Stevens, 2006). It is also consistent with the strand one findings in relation to views expressed by victims (ss. 3.3, 3.4 and 3.5) and CASA counsellors (s. 5.2 and 5.5).

Need for a 'double loop learning' model of training. In this respect particularly therefore, while trainees saw the course as extremely valuable, it is apparent that there is a need to re-think the SOCIT/VARE course, and the VicPol trainers' thoughts on re-designing it to allow for a work experience return to the training environment is a sound alternative model. Such a model would incorporate double loop learning as suggested by Jamel et al. (2008) and it would provide for an opportunity to challenge anew on-the-job counter learning and to consolidate the evidence-based learning from the SOCIT/VARE training sessions. Part of that learning renewal and reinforcement of sound practice would come from fellow trainees who had absorbed and successfully put into practice initial training benefits. Peer learning of this sort is a well-known powerful tool in successful training programs and equally powerful as a tool for poor learning if allowed to exist in the workplace for any length of time (cf. Epstein & Langenbahn, 1994). That peer learning would be enhanced greatly if officers were screened initially to select only those with aptitude to work in this area and avoid those with poor baseline attitudes from the beginning.

Need for a comprehensive evaluation framework. Finally, it is apparent that the existing trainee feedback sheets are a valuable means of assessing course activities along with training team observations, however this is not undertaken within a systematic framework grounded in the training and development literature. A more comprehensive, best practice evaluation framework could be installed through judicious reading of the training and development literature.

Neglected value of the Crime Investigative Guidelines – Sexual Crimes. It is also notable that the Victoria Police (2010) *Crime Investigative Guidelines – Sexual Crimes v 1.1,* aside from being an informative and valuable document of much of best practice sexual assault policing, also provides part of a sound basis for assessing

SOCIT/VARE training effectiveness and trainee evaluation – e.g., with reference to principles underpinning investigations (Victoria Police, 2010, pp. 19-20); consideration and care of the victim (pp. 30-36); principles of sexual assault investigations (pp. 67-68); options talk that engages victims rather than having a detrimental impact on the investigation (pp. 78-80); interviewing of victims (pp. 87-88); and interviewing suspects (pp. 88-90). The guidelines were the subject of one 80 minute session in the SOCIT course, however trainees were not provided a copy of the document, and they were advised to access it from the VicPol Intranet. The guidelines were not examined in any detail, nor referenced and utilized systematically throughout the course.

Neglect of the 'options talk'. Options talk was also not a focused topic, but rather the subject of a few passing comments, thus leaving trainees to develop their individual understanding of its policy meaning and application. It is recalled that strand one findings included police utilising the options talk in ways that actively discouraged some victims to suit police in terms of maximising limited resources, or police using it in ways they thought benevolent to prevent reporting from victims they felt were either not up to the process or for whom the courts or jurors would not favour (s. 4.5). All of the other Guideline materials were incorporated into the syllabus, providing the basis for majority of the course, albeit not being clearly referenced as such. Thus it would be quite easy to explicitly acknowledge and utilize the Guidelines as a learning and assessment framework grounded within the Training and Development literature.

Utility of the Sexual Assault Code of Practice. As well, the relevant materials of the *Sexual Assault Code of Practice* (Victoria Police, 2005) can be fruitfully conjoined with the investigative guidelines to reinforce to trainees the intents of Victoria Police policy and need for compliance with the same in everyday sexual assault investigations. Yet the Code was also provided to trainees only as an attachment with one of the pre-course emails, and it was barely mentioned in the course, nor compared or discussed in conjunction with the guidelines. Minimal attention was given to these documents, thus diluting their otherwise considerable authority and significance. Several other documents were also provided to trainees, but not referred to during the course at all, including the Human Rights Charter Act 2006, Charter of Human Rights Booklet, Victims Charter Act 2006 and the Victims Charter Fact Sheet. These documents could be also be conjoined with the investigative guidelines to reinforce how investigators have an individual responsibility in relation to sexual offences.

RECOMMENDATION: The Victoria Police sexual assault training course should be re-designed and upgraded to enable challenging of SOCIT unit placement antithetical re-learning and poor practices; to consolidate initial learning through trainee reports of positive practice effects; and to facilitate construction and implementation of an even more robust system for evaluating the course and trainees' learning accomplishments with reference to the Victoria Police (2010) *Crime Investigative Guidelines – Sexual Crimes v 1.1* and the *Sexual Assault Code of Practice* (Victoria Police 2005). Re-design should take advantage of the benefits of a module-based framework in course delivery and evaluation.

Re-design of the SOCIT training program should build on current strengths and points of excellence. Notwithstanding this recommendation, it was apparent as indicated previously that the SOCIT course as it stands was extremely well received in terms of its instructors and existing content, and recognition of that fact should not be lost. The following quotation from one trainee feedback sheet sums up much of the trainee viewpoint:

> (T)he most rewarding course I've attended with VicPol (including DTS). Made me want to get a socit position asap and do the role and the position justice and pride. Made me want to challenge bad habits and bad attitudes, without feeling like ive[sic] been preached to. Has made me reflect on previous 'jobs' and wish I could start again. TB, MB and PT are an asset to VicPol and the course. ALWAYS approachable and willing to be challenged by naturally cynical police members. Very, very memorable and credible and knowlegable [sic] presenters. Overall, content was very relevant, informative and sometimes entertaining. The review at the end a great way to tie the course/critiques together.

Re-design should therefore build on the existing strengths of the course and not 'throw the baby out with the bathwater'. A key strength of the SOCIT course has been the involvement of external teachers and experts, a best practice element found and recommended in the literature (e.g., Epstein & Langenbahn, 1994; Jamel et al., 2008; HMCPSI & HMIC, 2002; Lord & Rassel, 2000; Stevens, 2006). The knowledge and expertise of up to 18 outside presenters were utilized on each course. These included presenters from cognitively impaired volunteers; CASA; victims/survivors; Speech Pathologists; VIFM; a Psychiatrist; M.I.N.D Guest Speaker (mental health); Specialist Sex Offences Unit (OPP); County Court; Witness Assistance Service and Policy & Special Hearings. Presenters were also drawn from within VicPol, including from a local police station; Cultural Diversity/MLO; Gay Lesbian Liaison Officer (GLLO); the Mental Health Strategy Unit; Sexual Crimes Squad; a legislation specialist; and the Police Psychology Unit. Clearly, this represents a sound range of external and internal presenters which is a strong feature of the course. In future course design, the

aim should be to seek the return of those not commented upon as 'poor' presenters and, if feasible, not invite back the others.

Additionally, as shown in the next section, mentor training of new investigators is common in the field, albeit not formally structured and over-sighted as part of an ongoing professional development program. This is another best practice element identified in the literature (e.g., Epstein & Langenbahn, 1994), although it can become a 'double-edged' sword of inculcating poor local cultural attitudes and practices if not subject to quality control monitoring from non-local SOCIT personnel (cf, HMCPSI & HMIC, 2002; Stevens, 2006).

9.1.3 Other perspectives on Victoria police sexual assault training and knowledge, skills and aptitudes

The 2011 LEAP case file research evidence revealed a potential for documentation and argumentation improvements in authorisation and non-authorisation decision-making. The SOCIT/VARE training course should include components accordingly, although those would need to be sensitively addressed so as not to provoke a 'don't teach us how to suck eggs' reaction from trainees, a response that was elicited from a number of trainees by a few presenters.

Uni-focal argument. The case file data showed that uni-focal argument in particular needs redress through examples in training to significantly strengthen Brief preparation, whether for or against prosecution. The criteria in these regards developed and discussed in Chapter Eight allow for the opportunity to learn from the past so as to continuously improve for the future. It is important to include in any Brief preparation 'best practice' model not only 'good' examples but also 'bad' examples, not only 'what to do' but also 'what *not* to do', and in relation to both authorisation and non-authorisation arguments. Positive case examples have dynamics and characteristics that do not necessarily coincide with those of poorly executed Brief preparations. It is also important to ensure that training covers a wide range of practical and up-to-date case illustrations. In this respect, an AO said that both successful and unsuccessful trial matters should be drawn to the attention of SOCITs to ensure understanding of Court outcomes as these change over time, and these could also be profitably fed into SOCIT/VARE training.

SOCIT trainers' views. Notably, at the in-depth interview, SOCIT trainers did not support refresher training, stating:

> We're developing a continual improvement strategy. We haven't got it signed off yet. Refresher training is not really the way to go, because it's – the attrition of the skill is too – you can't train that many people that often without forcing too much of a drain on both this office, but also on operational members. So we're looking at embedding it into a learning culture (SOCIT trainer 1).

> But it's in development. Certainly – we've talked about refresher training for a long time, and what we've talked about, I think, is – as (other trainer) said, "refresher training" is probably the wrong term. It's a way – it's a system of maintaining. It's a system of developing those people to do it in the workplace. It's hard enough to get people out for four weeks. Then to then say to them twice a year, for example, you have to come back for two or three days or – or for more refreshing training. (SOCIT trainer 2).

Similar to the strand one finding from police interviews in 2010 that police mentioned wanting in-service training as part of their ongoing training in this area (s. 4.6.1), SOCIT course trainers spoke about what they would like to see in an ideal world:

> We would go out and do interventions in their office. I don't know that it would be training, but it would be interventions in the office. And there would be – I mean, if it was an ideal world we would have a feedback assessment loop as well… but generally, in general terms, there's either a lack of time or a lack of expertise or a lack of knowledge to be able to do that within workplaces" (SOCIT trainer).

Organisational costs and alternative training models. Implicit in these comments is a question of organisational costs not only in direct budget terms but also in terms of organizing 'that many people' out of local SOCITs on a frequent basis. Yet the view seems to be uninformed as to how regular and in what ways refresher training could be provided, appearing, for example, to see this as a once or even twice yearly input of two or three days at a central venue. An alternative refresher training model might involve fewer yearly days 'out of the field', along with use of training videos, self-motivated learning, scenario and other trainee educational assignments, and internet and intranet facilities.

Culture and the Learning Organisation. The notion of 'embedding it in culture' does not sit well with the research evidence that culture itself, including at the local SOCIT unit level, remains a challenge of some proportions. Leaving the 'refresher' input as a cultural change effort could be doomed from the start. Again, the idea of 'embedding it in learning culture' misunderstands the concept of a Learning Organisation, which does not refer to technical training inputs but rather to a widely spread attitude of mind and organisational mechanisms for encouraging and ensuring organisational members are prepared and willing to learn new ways of doing jobs, thinking creatively and critically about their existing work routines and, indeed, actively seeking out new ways of learning.

Refresher training and excellence of the existing 'brand'. In the literature, refresher courses were identified as an essential element of sexual assault training for investigators (HMCPSI & HMIC, 2007; Kinney et al., 2007), and this should also be included as part of the SOCIT/VARE training framework, although not necessarily conducted at the Academy as suggested in the foregoing paragraphs. Given the overwhelmingly positive trainee feedback on SOCIT/VARE trainers it would be well to build upon their existing excellent 'brand' rather than use a separate team and training regime. It would also be useful to have SOCIT/VARE trainers exposed to alternative training models other than simply central classroom venues etc.

> **RECOMMENDATION:** VicPol trainers should be provided with advice from experts in the field of training and development in how to alter VicPol's current training framework to optimize refresher training.

Training needs identified by police interviewees. The case file findings were supported through triangulation regarding results from strand two interviews and focus groups conducted in late 2011. The interviewed investigators reported that they were neither experienced nor trained, except for DTS and sexual assault experience as a detective, ranging from three to 22 years. (Notably, this point was made by the 2010 SOCAU and SOCIT focus groups conducted in strand one - that is, earlier trained specialists saw themselves as inadequately trained, so refresher and top-up training are necessary for experienced specialists who have not benefited from the later, enhanced SOCIT course – see s. 4.6.1). On the job, asking questions, and getting a copy of someone's Brief were mentioned as the main means of learning. Some said they were due to undertake SOCIT training in early 2012. Mention was also made of an OPP package on how to do sexual assault Briefs, along with occasional OPP training sessions. Both these were seen as valuable, but work demands and being new to SOCIT prevented investigators taking full advantage of them.

Specific training needs identified by ROs and AOs. ROs said there is specific training required in sexual assault matters, including cultural issues, and "you've probably got to be a little bit more in touch emotionally". They also said they had no training in sexual assault Brief supervision and considered this would be worthwhile. AOs likewise typically reported in interview that they received no training specific to sexual assault Brief authorisation, however have seen the need for that as they have accumulated experience in the job, and any Brief preparation or supervision training was 'old' and no longer offered. They would value training although some saw problems with not enough time and thought that it would be best left as telephone feedback from the OPP relating to each Brief and outcomes after trials. Additional training is necessary for those ROs and AOs who have not been sufficiently or at all trained in the specific sexual assault area. Again, the literature has shown additional training - separate from refresher training - to be a key element of a comprehensive and effective training regime in the area of sexual assault policing (Kinney et al., 2007; Lonsway et al., 2001).

A specific example of this sort of training need was given by one AO who said a training regime for sexual assault Brief authorisation needs to take account of some victims being quite competent in their statement of complaint yet incompetent at trial when faced with cross-examination, whereas the opposite holds true for other victims. This point of not being able to easily rely on a victim's presentation at the time of complaint/statement to predict later performance at trial was made by several police

interviewees. Again, this links with strand one findings on how options talk was given by police to victims they felt presented poorly even before taking a statement consequent to subjective judgements about victim stamina and worthiness and thus screening out cases or outright discouraging victims from reporting (s. 4.5).

However, there was no focus on the preparation of Briefs of evidence, or any other written documents at the SOCIT Course. A legitimate argument here was that these items were excluded as already being covered in Detective Training School. Yet it is apparent from AO and RO comments that specialized Brief preparation is required for sexual matters and as such, specialized training in preparing, supervising and authorizing the same would be advantageous. Further, the manual entry of data into VicPol systems (e.g., Interpose) is not included in SOCIT training. This aspect might be covered in a generalist training course, however all police interviewees and focus groups were also adamant that Interpose and computer skills training were especially inadequate, resulting in real problems doing this aspect of the work, which need redress in specific training.

Tapping the thoughts and experience of specialist police. There are likely to be many small 'gems of wisdom' such as the above in the minds of experienced sexual assault police officers at all levels that could be tapped further than currently done for both basic and later training purposes. These could be picked up in a training audit and training needs analysis for future courses, which would be appropriately undertaken at this juncture now that the SOCIT model has been completely rolled out across the State.

A problem in data-collection in these regards was the VicPol restriction of researchers to interviewing only police officers who had not already undertaken 'whole-of-story' training (s. 2.4). However, evaluation of the SOCIT/VARE sexual assault training course demonstrated continuing attitudinal deficits on the part of graduates. Also, ROs and AOs mentioned that investigators were inadequately trained for the job of sexual assault policing; and the OPP focus group referred to informants not being trained, for example in relation to inappropriate disclosure of information to defence lawyers. These sources thus further confirmed the currency of continuing training deficits or, at least, that training was not being carried over into workplace practice. Furthermore, training needs of specialist police were also identified in these and/or other respects by victim/survivors, CASA counsellors and police themselves in the strand one research (ss. 3.5; 5.2, 5.5 and 5.6; and 4.6.1 respectively), demonstrating their persistence over recent years.

> **RECOMMENDATION:** A Training Audit and Training Needs Analysis (TNA) - complete with learning objectives and evaluation criteria - should be undertaken to identify the refresher and additional sexual assault learning requirements of existing SOCIT police at all levels. As part of a TNA, the bank of existing practice wisdom of experienced officers should be tapped and taken into the design of future training courses.

Specific elements of specialist sexual assault policing that need inclusion in training. As discussed earlier (s. 8.3), the emotional aspect of the policing of sexual assault was mentioned by investigators, ROs and AOs as a distinctive element, which does not characterise most other crimes. That is, the intensity and nature of sexual assault victims' emotional suffering is unique. There is also an emotional drain on investigators. Sexual assaults were commonly said to be especially different in being so personal and intimate, having a life-long impact upon victims, involving a need for victim and witness statements that are often lengthy and complicated, and being 'fought hard' by defendants due to their likely imprisonment and the stigma of the crime itself. Other features peculiar to sexual assault investigations were also emphasised by interviewees and focus groups – e.g., absence of a monetary value placed on the offending; heightened sense of police accountability to survivors; complex victim reactions; lengthy duration of offence episodes; and a requirement for objectivity and balance in highly emotionally charged situations that differs from that in other investigations (see s. 8.3). There is a need for specialist training in this area as a result that focuses upon these elements in particular.

The current SOCIT/VARE course is underpinned by the 'whole story' approach which uses distinct elements of this crime type to re-define how police are trained to look at, investigate and present findings specifically for sexual offences. That is, the training has significant elements dedicated to the specialization of this crime type, such as sex offender theory and specialist offender interview techniques. Yet it is evident that the uniqueness of sexual offending from the victim's viewpoint is lost on many trainees given the above discussed continuing attitudinal barriers and training inadequacies observed by ROs, AOs and OPP lawyers, as well as strand one findings (see ss. 3.2.3, 3.2.4, 3.4.4 and 4.5).

> **RECOMMENDATION:** Accreditation of the SOCIT course should be conducted bi-annually by a panel constituted of a representative of the SOCIT training team and members drawn from a state-wide network monitoring body (see s. 7.4).

Critical elements of a sexual assault police training program. On the basis of the case file, interview and focus group findings, as well as strand one research results, critical elements of training for sexual assault policing can be itemized as follows:

- Comparative uniqueness of sexual assault policing and Brief preparation
    - Emotional aspects
    - Victim impacts, including stigma and life-long effects
    - Offence features such as lengthy duration
    - Police impacts, including heightened sense of accountability, need for balance between caring for victim and investigation objectivity
- Statement taking
- Interviewing offenders in a way that gains their cooperation and does not make them defensive
- Brief preparation, supervision and authorisation skills
- Case studies of 'good' and 'bad' examples of Briefs
- 'Whole-of-story' training
- Legislation and case law, including historical amendments etc
- Need to consider each victim and complaint on its own merits as well as to frame it within known parameters of past 'successes' at Court
- Assessing victims' competencies and capabilities in Court room performance and evidence giving under cross-examination
- Sensitivity and reflexivity, self-awareness in respect to police officers' personal values and attitudes
- Research literature
    - Attrition rates
    - Factors associated with non-authorisation
    - The role of rape myths, typifications and taken-for-granted beliefs
    - Delayed reporting, reasons why victims are reluctant to report
    - Cultural aspects of sexual assault complaints and barriers to reporting
    - Strategies for encouraging and supporting victims to continue with complaints
- VARE training
- Interpose and computer skills
- Familiarity and partnering with CASA and other network players and local victim support agencies

Although some of these elements overlap with other areas of policing, they are distinctive in form and/or process. These elements are presented in Table 9.1 identifying the current status of each in terms of SOCIT/VARE training.

Table 9.1: Critical Training Elements, SOCIT Status and Action/Comment.

Critical Training Element	SOCIT Status	Action / Comment
Comparative uniqueness of sexual assault policing and Brief preparation	Missing	Include session and assessment on Brief preparation for sexual offences including LEAP and case management
Emotional aspects	Included	Explained well in Victimology
Victim impacts	Improve	CASA & victim speakers to continue Provide resources to Investigators to provide to victims/survivors – e.g.: Surviving the Legal System by Prof. S. Caroline Taylor
Offence features such as lengthy duration	Included	Covered
Police impacts	Included	Covered
Statement taking	Improve	Whole-of-story approach suggested as way of getting victims to tell their story and interviewing vulnerable witnesses, lengthy, but no actual training on how to take statement
Interviewing offenders in a way that gains their cooperation	Included	Suspect Rapport Building & Planning session
Brief preparation, supervision and authorisation skills	Missing	Not discussed specific to sexual offences
Case studies of 'good' and 'bad' examples of Briefs	Missing	Include real examples
'Whole-of-story' training	Included	Well received by trainees
Legislation and case law, including historical amendments etc	Improve	Include practical exercises
Need to consider each victim and complaint on its own merits as well as to frame it within known parameters of past 'successes' at Court	Improve	OPP visit included discussion around progression through CJS, however give real case examples
Assessing victims' competencies and capabilities in Court room performance and evidence giving under cross-examination	Improve	Competency to give evidence discussed regarding only child and cognitively impaired victims
Sensitivity and reflexivity, self-awareness in respect to police officers' personal values and attitudes	Included, requires improvement	This is not always translated into attitudinal change
Research literature	Improve	Provide relevant reading list and access to materials to trainees
Attrition rates	Improve	Not a point of focus
Factors associated with non-authorisation	Improve	Not a point of focus
The role of rape myths, typifications and taken-for-granted beliefs	Improve	Attitudes remain unchanged or poorly towards victims
Delayed reporting, reasons why victims are reluctant to report	Included	Covered well in Victimology
Cultural aspects of sexual assault complaints and barriers to reporting	Improve	Only one generic session by Multicultural Liaison – inadequate
Strategies for encouraging and supporting victims to continue with complaints	Improve	As above, give tools to police to give to victims eg: C Taylor Book - Surviving the Legal System
VARE training	Improve	High demand for more practice with VARE Equipment - facilities inadequate
Interpose and computer skills	Missing	Include with practical exercises

Familiarity and partnering with CASA and other network players and local victim support agencies	Included, and could be improved	Presented well – continue – add detail and provide local resource directories to trainees relevant to their particular SOCITs. Also, CALD and Indigenous groups neglected

9.2 Recruiting into SOCIT units and developing police for the future

A comprehensive training and development framework entails not only base training to adequately equip sexual assault investigators prior to entry to the field, but also robust recruitment procedures with defined selection criteria prior to base training (Epstein & Langenbahn, 1994; HMCPSI & HMIC, 2007; Lord & Rassel, 2000), and ongoing professional development in terms of additional and refresher training after entry to the field (HMCPSI & HMIC, 2007; Kinney et al., 2007; Lonsway et al., 2001). The following section deals with the front-end and back-end of a best practice sexual assault policing investigation and Brief preparation regime in relation to Victoria.

9.2.1 Recruiting into SOCIT units

In the previous chapter it was suggested that the field conditions of investigation and preparation of sexual assault Briefs were at least partly responsible for mono-directional police decision-making, including particularly in formal non-authorisation argument (s. 8.3). However, it was apparent from RO and AO interviews that this was not the sole explanation.

Problematic recruitment of specialist sexual assault police. From these interviews, there is strong evidence that recruitment of investigators in particular has been problematic, as indicated in earlier discussion (ss. 7.4 and 8.4). For instance, one AO recounted: "I know a few who've gone to it (SOCIT) and I wouldn't trust them with a victim or a Brief because of their attitudes or simply that they do sloppy work." Further, a number of ROs and AOs indicated that too often investigators have been 'press-ganged' into SOCIT units. It was put that VicPol personnel implementing SOCIT "tell us that we now need (a certain number of) detectives from CIU to go to it and if they don't volunteer they'll just point the finger at who goes" (AO). Consequently, it was said that investigators are taken into SOCIT who do not have the appropriate motivation, attitudes or commitment to do the onerous and specific kind of work involved in sexual assault policing. The OPP focus group referred similarly to informants who are not really interested and who "have an attitude that once it gets to trial it's our responsibility". That is, some are not genuinely committed to this form of specialist policing, and some even have antithetical values in relation to women and sexuality issues. A related recruiting problem identified was the employment of

part-time police officers in a work-role that demands a full-time (and often over-time) commitment. For example:

> (W)e've got part time people here, most of them are women because they've got kids and that and that's fine but this job now doesn't suit that. It probably did when it was SOCA and it was victim centred and taking statements but now they're supposed to handle the victim and all the statements and handle the offender and do the investigation and that includes field investigation and the forensics and all that and we've got women here working part time saying 'well I can't do that, I have to leave at 2.30 to pick up my kids' or a victim comes in at 2pm and they won't handle them because they want to get out of here in half an hour or you need investigation matters done and they can't follow through because they only work (so many) days a week so it either doesn't get done and so it gets stuffed up or we have to take it from the part timers. It doesn't work. The whole idea is focus and consistency and it doesn't happen (AO).

This view was supported by the Success Works (2011) finding that several part-time SOCAU members (all women) were concerned about becoming SOCIT detectives, with a need to manage the workload (including court appearances and follow-up detective work) within a part-time work allocation; and a number of SOCAU members indicated they were much more interested in the victim/survivor-focused work and not at all interested in being a detective. Some of the officers interviewed in the Success Works (2011) research also mentioned the potential difficulty of not being able to reconcile the inherent role conflict between being 'impartial' and analytical in dealing with the evidence and their ability to show that they believed the victim/survivor. This was also a matter mentioned by police interviewees in strand one (s. 4.6).

Furthermore, from the AO interviews there is evidence that ROs recruited to perform the complex and demanding duties of overseeing sexual assault investigations and Brief preparations are not always suitable for the role. The aptitude and skills of some senior police officers in this work-role have also been called into question.

As canvassed earlier, appropriate recruitment policies and procedures have been discussed in the literature as an essential first step to effective policing of sexual assault (Epstein & Langenbahn, 1994; HMCPSI & HMIC, 2007; Lord & Rassel, 2000). The PJO research evidence clearly shows this crucial first step is too often circumvented in current SOCIT recruitment practice. Aside from creating morale problems, this results in poor sexual assault investigations and contributes to antithetical local SOCIT cultures. In turn, SOCIT/VARE training, the *Crime Investigative Guidelines – Sexual Crimes v 1.1* (Victoria Police, 2010) and the *Sexual Assault Code of Practice* (Victoria Police, 2005) are 'white-anted' and left without the

force and authority that is their due and that is expected by the general public. Eventually, the repercussions of poor recruitment are played out in the open courts of public opinion and emerge as major police image problems in the media and public arena. In this respect, it has been noted that driving organisational change in policing (as elsewhere) requires appropriate changes to incentive systems and procedures relating to reward and promotions as well performance review (e.g., Chappell, 2009; Ikerd, 2010). To help redress this situation it is necessary to employ contemporary management performance and remuneration principles, for example those relating to strategic human resource management, including 360º appraisal systems linked to organisational goals and objectives such as a defined percentage reduction in attrition rates of sexual assault at the policing point in the criminal justice system.

> **RECOMMENDATION:** The SOCIT recruitment process should be overhauled and brought up to best practice standards, including defined and robust selection criteria that ensure only aptly motivated police officers are taken into SOCIT teams.

> **RECOMMENDATION:** SOCIT graduates should receive an annually renewable appraisal-linked certificate of SOCIT detective practice status along with a premium remuneration package attached to that annual status.

> **RECOMMENDATION:** VicPol should develop and implement a 360° performance appraisal system for SOCIT police that includes feedback from sexual assault complainants as well as from peers and immediate superiors. This system should produce annual appraisals that contribute to whether or not individual officers remain SOCIT members. Consistently under-performing officers should be transferred out of SOCIT and lose their premium remuneration benefits in the train of departure.

> **RECOMMENDATION:** Appropriately de-identified appraisals and related statistics should be made available to a state-wide network monitoring body for review and advice (see ss. 7.4 & 9.1.2).

9.2.2 Developing SOCIT police for the future

> (E)ducation and training is going to be really important, I think, with the people that can authorise Briefs. Interesting enough, there are 12 senior sergeants, now, around the state, that will be in charge of these (SOCIT) units, and I think that they need to be – at least do a two day refresher every year on this, and more of a chance for them to get together to be able to discuss some of the issues around these Briefs (AO interviewee).

Update and refresher training needs. As this AO points out, there is a continuing need for specialist sexual assault police to be updated and share in developments as well as to recapture 'forgotten knowledge'. Although AOs are highlighted in his view, ongoing development opportunities need to be systematically entrenched in VicPol organisational and budget arrangements. A number of the SOCIT/VARE trainees also mentioned that regular refresher training was necessary, a point that has also been raised as a best practice benchmark in the literature (e.g., HMCPSI & HMIC, 2007**;** Kinney et al., 2007). Strand one SOCAU and SOCIT focus groups in 2010 similarly offered these comments:

> Like I want to do a VATE refresher I haven't done one since 2001. There is no refresher (SOCAU group participant).

> The training is probably a little like the Victoria police across the board very light on for people who are in it. They actually need more staff, they need to be taken a bit more seriously and getting the SOCA's through with refresher courses (SOCAU group participant in another location).

Although there has been progress since these views were expressed in 2010, they show an enduring need for updated and refresher training especially for early trained sexual assault specialist police and even more recently trained investigators still see needs in these respects.

The need for specific Interpose training. The Interpose computer management program presented as a major difficulty for investigators who commonly cited lack of training in that and other respects as one of the most severe obstacles to timely, quality Brief preparation. The following quotation from one investigator captures their commonly expressed frustration and ambivalence in regard to Interpose.

> Now what they're doing is they want us to create events and tasks so an event for every entity, so for every witness or for crime scenes, an event for witnesses, an event for victims, and for every different entity of an investigation you create an event and for every different event your tasks, the things that you need to do … You'd never leave the office. I've probably got 50 outstanding tasks that are all unassigned because I don't even know how to assign them to myself, but they're there … I think I need to do an Interpose course. All good and well and no time for that. So Interpose has the potential to be absolutely brilliant and save a lot of time, but most of us don't have the ability (Investigator).

Utilising the field knowledge of existing specialist police. As noted earlier (s. 7.1.2), the OPP focus group made it clear that there was a lack of uniform quality of Briefs, not that this was a universal difficulty. That is, some of the knowledge and skills are already embedded in VicPol's SOCIT units and the police who have the expertise could be identified, then, along with appropriate OPP input, co-opted into a training and development program across the state's SOCITs.

It is also clear that ROs and AOs differ in their style of supervision and approach to reviewing Briefs as noted earlier (ss. 7.4 and 8.4). For example, one AO described reviewing from the back to the front of the Brief – looking first at the offender's interview, secondly at witness statements, then other corroborative evidence and only finally at the victim's statement. This procedure was designed to see whether the case could be carried forward without relying on the victim's word only and hence expediting the decision-making process as well as early discovery of the strength of the case. Another AO described the procedure as front to back, starting with the victim's statement, making notes then examining the rest of the Brief to tick off the noted items, then checking other statements (e.g., witnesses, first complaint), and finally looking at the offender's interview. This procedure was designed to provide a checklist of questions to be put to investigators for follow-up. The question arises as to whether such differences in supervision style and reviewing procedures matter and if so how and what to do about them, and if not whether it would be worth establishing ways of cross-fertilising them to other police and SOCIT units.

Ensuring uniformity of 'best' practice. The ROs and AOs agreed that they do not interfere with each other's decisions, as discussed earlier (s. 8.4). Yet there arises, as one AO pointed out, an issue potentially of comparative performance of different SOCITs and areas. Thus:

> But, you know, if you had an area, for example, that was having a 20 per cent Brief authorisation rate, compared to another area that had a 60 per cent, or the State average was 50 per cent, I would be wanting to look at that area with the 20 per cent, okay, and some area – for probing in, just to find out what is that that's there. The other thing is, too, is perhaps a review process for non-authorised Briefs.

Aside from reviews of the kind mentioned by this AO, which essentially call for non-authorised Briefs to be sent away from a SOCIT for another opinion to a central VicPol vetting unit team or between regions, there is an option of establishing an ongoing development program for all SOCIT police aimed at updating and sharing best practice across the SOCITs in a non-threatening, mutual learning, peer-based environment.

RECOMMENDATION: In accord with the earlier TNA recommendation, a robust regime of refresher and additional training should be implemented to meet ongoing KSA needs of sexual assault police at all levels.

9.3 Summary and recommendations

Two decades ago, the now retired Partner Investigator of the PJO Project, David Bradley, delivered a paper at the Annual Conference of the Australasian Association of Criminal Justice Educators, held at Manly in New South Wales, 7-9 July 1992. It concerned the need for police to address the problem, as he identified it, of 'unreflective policing', to engage in university level research and education in the same fashion as other occupations, such as social work, medicine, teaching, the law, military, and so on. He concluded with a vision of police academies as separate facilities having disappeared into the tertiary education landscape. Whilst this has not transpired, police organisations, including Victoria Police, have opened their doors to external researchers such as the PJO researchers, accepting greater scrutiny from without, and increasingly expect their police officers to have a broader, more self-critical higher education frame of mind that arms them for their complex and challenging daily duties in a world of rapid and expansive ongoing change.

Yet in Victoria at present the evidence from the PJO research queries how far this higher education process has penetrated the minds and hearts of serving police officers charged with addressing the calls from the VLRC (2004) and Victoria Ombudsman (2006) to improve policing responses to the claims of sexual assault victims.

There is no doubt that many have done so, and that is especially true of ROs who supervise investigators, at least as far as the interview evidence is a reliable indicator of their frame of mind and commitment. They have been persuasive that they support sexual assault victims, ensure appropriate implementation of the Code of Practice and, most recently, have taken up the challenge of recommending authorisation in cases that only a short time ago would have been assessed in terms of 'insufficient evidence' and 'success unlikely' because only the victim's word was available and the victim for one reason or another was assessed as a poor witness or uncooperative, if not blameworthy. From the evidence given by RO/AOs, OPP lawyers and that arising from the survey of SOCIT/VARE graduates, however, it is apparent that much still needs to be done in terms of instilling a broader and deeper understanding of the plight of sexual assault victims into the minds and hearts of investigators in particular, but also at least some SOCIT managers as well. Nor is the difficulty of attitudinal change sited only at the operational level, as testified in the RO/AO interviews, and even interactions with more senior police officers (see s. 7.4).

Clearly, the strong consensus of positive trainee opinion indicated in the feedback sheets and survey responses augers well for the training team and the perceived value of the existing course to trainees. However, whilst the SOCIT/VARE program is 'fine as far as it goes', it has not managed to make the quantum of attitudinal and behavioural shifts necessary for real and lasting positive change at the level of everyday operational sexual assault policing. Data across the research strands lend support to attitudinal factors that drive decision making among some police working in sexual offence units. By themselves these attitudes are problematic, however it was clear also that resourcing issues also drove decision-making and when complemented with poor or questionable attitudes, some police were apt to draw on attitudes about

victims to make decisions in cases where they viewed resources as an issue. This is a difficult educational challenge that arguably requires additional input to that currently delivered by the SOCIT/VARE course. Moreover the present recruitment process is flawed and there is a need for a comprehensive, ongoing professional development program that generally updates SOCIT police and particularly those whose specialist training occurred long ago.

What this problematic means is that organisational change at the levels of policy, procedure and structure – with the transitioning from a SOCAU to a SOCIT model - are by themselves a hollow vehicle to achieve the objective of lowering the sexual assault attrition rate. Unless such structural and name changes are accompanied by a deep and lasting commitment – a change of heart and mind - from VicPol personnel especially at the investigating level, but also with some higher echelon personnel, then there will remain restraints on the efforts of supervisors and middle managers. Gaps in implementation and compliance with formal rules and protocols and actual policing practices have been identified in the research literature (Bradley, Walker & Wilkie, 1986; Chappell, 2009; Eade & Shepherd, 2000; Edwards, 1999). Resistance to change is a well known phenomenon in the organisational and management fields. Victoria Police is not exempt from such resistance. Its basic challenge lies there. Further, police traditionally distrust intellectuals and so "change must be championed within the organisation rather than the product of academic research alone" (McLachlan, 2007, p. 181). If it is to champion the needs of sexual assault victims Victoria Police must do more than provide robust and comprehensive guideline documents, and do more than champion its own image and undertake public relations exercises. It must be prepared to acknowledge not only the problem of sexual assault, but also the problem of a continuing less than optimal policing response, despite SOCIT and other progressive changes. In order to effect such fundamental change, it must upgrade its training regime to world's best practice, with a TNA-based program and evaluation system, along with robust recruitment procedures and ongoing professional development, and utilisation of contemporary management principles and practices. As discussed in Chapter Eight, it must also provide transformational rather than management-by-exception leadership at all levels.

This said, it is also necessary to recognise and value the existing SOCIT/VARE specialist sexual assault course, its trainers and, by-and-large, its external presenters. The course at present provides a very sound foundation for further development into a world class training and development program, notwithstanding the limited available research evaluation evidence of specialist sexual assault police training courses. In further development of the existing course, Victoria Police should bear in mind that the requisite additional resources would have significant pay-offs in terms of victim/survivors' quality of life, positive impacts on the attrition rate of sexual assault complaints from the criminal justice system, and the dollar bottom-line of the Victorian economy that will accrue as a result of improved police responses.

To re-iterate, Victoria Police rightly deserve congratulations for developing and resourcing this course, taking an excellent step forward to provide a syllabus and learning arrangements that build knowledge and competencies of police responding to sexual offence complaints. The next step is to build it into a truly word's best practice framework.

The following recommendations are made as a result of the data analysis and evidence presented in this chapter.

> **RECOMMENDATION:** More substantial provision should be made by VicPol for providing sexual assault education to generalist police officers. (s. 9.1.1)

> **RECOMMENDATION:** The Victoria Police sexual assault training course should be re-designed and upgraded to enable challenging of SOCIT unit placement antithetical re-learning and poor practices; to consolidate initial learning through trainee reports of positive practice effects; and to facilitate construction and implementation of an even more robust system for evaluating the course and trainees' learning accomplishments with reference to the Victoria Police (2010) *Crime Investigative Guidelines – Sexual Crimes v 1.1* and the *Sexual Assault Code of Practice* (Victoria Police 2005). Re-design should take advantage of the benefits of a module-based framework in course delivery and evaluation. (See later recommendations in this chapter) (s. 9.1.2.1)

> **RECOMMENDATION:** Trainers should be provided with advice from experts in the field of training and development in how to alter VicPol's current training framework to optimize refresher training. (s. 9.1.3)

> **RECOMMENDATION:** A Training Audit and Training Needs Analysis (TNA) - complete with learning objectives and evaluation criteria - should be undertaken to identify the refresher and additional sexual assault learning requirements of existing SOCIT police at all levels. As part of a TNA, the 'well' of existing practice wisdom of experienced officers should be tapped and taken into the design of future training courses. (s. 9.1.3)

> **RECOMMENDATION:** An upgraded specialist SOCIT training course should take greater explicit account of the distinctive nature of sexual assault policing viz-a-viz other forms of criminal investigation. (s. 9.1.3)

> **RECOMMENDATION:** Accreditation of the SOCIT course should be conducted bi-annually by a panel constituted of a representative of the SOCIT training team and members drawn from a state-wide network monitoring body (see s. 7.4). (s. 9.1.3)

RECOMMENDATION: The SOCIT recruitment process should be overhauled and brought up to best practice standards, including defined and robust selection criteria that ensure only aptly motivated police officers are taken into SOCIT teams. (s. 9.2.1)

RECOMMENDATION: SOCIT graduates should receive an annually renewable appraisal-linked certificate of SOCIT detective practice status along with a premium remuneration package attached to that annual status. (s. 9.2.1)

RECOMMENDATION: VicPol should develop and implement a 360° performance appraisal system for SOCIT police that includes feedback from sexual assault complainants as well as from peers and immediate superiors. This system should produce annual appraisals that contribute to whether or not individual officers remain SOCIT members. Consistently under-performing officers should be transferred out of SOCIT and lose their premium remuneration benefits in the train of departure. (s. 9.2.1)

RECOMMENDATION: Appropriately de-identified appraisals and related statistics should be made available to a state-wide network monitoring body for review and advice (see ss. 7.4 & 9.1.2). (s. 9.2.1)

RECOMMENDATION: In accord with the earlier TNA recommendation, a robust regime of refresher and additional training should be implemented to meet ongoing KSA needs of sexual assault police at all levels. (s. 9.2.2)

10.0 Conclusion: policing just outcomes for the future

Sexual assault appears to be a never-ending societal story, reflected in the following comment from current research:

> (B)ut just the amount of sexual offending that occurs in society is unbelievable, and not many people actually understand, or no one would really understand unless they actually dealt with it or they work within the section, or, you know, they're police – even police members, unless they work within a SOCA team or - a SOCA team, just would not understand the gravity or the depth of the sexual offending that occurs in society (OPP focus group lawyer).

To put an end to that story Victoria Police has made a number of significant changes in the organisational framework of policing sexual assault subsequent to VLRC (2004) and Victoria Ombudsman (2006) recommendations. The Sexual Assault Reform Strategy has been implemented in large measure and there has now been a transition from SOCAUs to SOCITs, along with a commendable SOCIT/VARE specialized sexual assault training course. Other developments have included new legislation and the Victims Charter; and subsequently the Victoria Police policy and procedure framework is clearly very robust and pertinent in details as to what is expected of operational police in dealing with sexual assault complaints, as encapsulated in the *Code of Practice for the Investigation of Sexual Assault* and *Crime Investigative Guidelines version 1.1 – Sexual Crimes*. There have also been strong and continuing efforts to consult and work with external agencies such as CASA and the OPP's Specialist Sexual Offences Unit. All of these efforts have been laudable and there is no doubt of the genuine commitment of very many police officers, including trainers as well as SOCIT investigators and their immediate superiors.

Nonetheless - unsurprisingly given the size, complexity and some of the cultural traditions of the Victoria police organisation - there remain quite significant challenges in the policing of sexual assault in Victoria. To pretend that this is not so would not only deny the complexity of contemporary society and the research evidence relating to similar jurisdictions elsewhere, but also would contradict the weight of evidence gathered in the PJO project following on from earlier research in relation to Victoria Police.

Summarily, those challenges include a need for police to recognise and consider the complexities of reporting and non-reporting behaviour in their responses to sexual assault victims and claims of sexual assault. For example, police could be better attuned to the range of barriers to reporting as well as victims' altruistic 'symbolic

protest' and the sense of responsibility and self-sacrificing motivators of reporting. Whereas police on the present evidence generally have a reasonable grasp of barriers, they have more limited perceptions of motivators. The PJO strand one evidence shows that victim experiences of police in the reporting process have a defining influence on whether or not they will continue with their complaints. Some police were seen by victims to respond positively and even to an excellent degree at times. Yet there were also other police who profoundly influenced victims in a negative fashion, not only deterring further pursuit of justice but leaving them with sometimes devastating feelings of betrayal and hopelessness. These effects, tragically, also have had the effect at times of leaving already vulnerable victims helplessly prone to continuing patterns of sexual assault.

Notably, strand one victim/survivor proffered three recommendations to enhance sexual assault reporting: the establishment of an independent advocate to work directly with victims quite apart from SOCIT police or CASA counsellors; provision of readily available information in public places for victims who need advice; and inputs to the Victoria Police training courses and community education programs that dispel rape myths and other misinformed views about sexual assault. This last recommendation clearly questions the efficacy of the generally very sound Victoria Police SOCIT/VARE specialist sexual assault course.

From the police interviews in 2010, moreover, there were two general streams of police thought and consequent reporting responses. One involved recognition by a number of specialist sexual assault police of the difficulties faced by victim/survivors in reporting, including for instance the role of family deterrents, along with associated compassion and supportive responses that enabled victims to continue with the rigors of reporting. These police officers also tended to be frank in speaking of other specialist police who did not share their level of understanding and victim enabling strategies. The other stream of police thought and decision-making tended to be victim-unfriendly if not victim-blaming, showed a lack of appreciation of victim reporting behaviour and engaged the 'options talk' as a device to dissuade victims from pursuing their claims of sexual assault. Police in this second respect were forthright, furthermore, in their beliefs about false reporting and limited police resources that justified their use of the options talk in this fashion, thus putting aside clear policy and procedural directives.

CASA counsellors who were interviewed by strand one researchers made similar observations about this negative approach of police. CASA counsellors generally enjoyed good relations with police, however those relations turned on whether or not local SOCIT culture and leadership were amenable to regular and genuine partnership interactions. The CASA view also stressed the need for training of specialist police particularly around attitudes and values, noting that as necessary to obviate stereotyped beliefs about certain types of offences and or victims.

In addition to strand one research findings, strands two and three often echoed many of the same themes over time. Thus, in terms of the 2011 case file research, it was found also necessary to address the reasoning processes behind police decision-making both for authorizing and not authorizing Briefs of evidence in sexual assault cases. To attain best practice that reasoning would be overhauled in terms of clear criteria for decisions; all case files would obey some uniform structure and contain formal reports in authorisation as well as non-authorisation cases; all three police officers typically involved would provide a written account of his/her decision input; and all case files would be complete in documentation, 'reader-friendly' and rationally organized, not a motley collection of documents and evidentiary materials. Further, only relevant evidentiary factors would be used as a basis for decision-making and that would not only *be* the situation but clearly *appear to be* the situation. There would be no imbalance in argument, which would be comprehensive and an accurate reflection of file materials, and especially no omission of reasons evidenced for prosecution. That is, argumentation would be clear, cohesive and unified; appropriately detailed in terms of relevant evidence; optimise the authentication and value of the victim's story; and duly allow for Brief (non-)authorisation to be the prerogative of senior police officers. It would strenuously avoid providing defence lawyers with adversarial materials. Very few case files reflected these best practice criteria to a substantial extent. Investigators in particular need to learn and demonstrate the art of argument, and not be satisfied with only the practical collection and presentation of evidence. Research evidence from 2011 individual interviews of ROs and AOs as well as the OPP focus group confirmed these best practice needs as a current management goal of considerable importance. This suggests also a significant need for an updated and rigorous SOCIT quality control system.

There was also strong evidence of an accumulating morale problem afflicting SOCIT personnel, which had already emerged in the 2010 interviews, with the great majority of interviewees describing in detail a highly demanding work environment that is under-resourced and unappreciated by other elements of Victoria Police including Command. Frustration in this respect was especially highlighted by ROs and AOs.

> They don't want to hear from the cops actually doing the work that it isn't working because it interrupts their good news story for the press (AO).

The lack of adequate resources combined with unmet training needs – e.g., Interpose, Brief authorisation practice and supervision – were responsible partly for the evidenced deficiencies in doing the job at best practice levels. However, another source of these deficiencies was evidenced in terms of some officers whose attitudes and commitment were questionable and at times said by ROs and AOs to be very poor indeed. That source of deficiency was said to include some senior officers at SOCIT as well as higher levels. There is a related need for best practice leadership to be

shown at SOCIT level in terms of conspicuously ethical and positive symbolic styles as well as adoption of a team leadership ethos, and for these styles to be exemplified and championed at executive level if SOCIT is to be successful in the medium and longer terms. The PJO research found that more needs to be done regarding Victoria Police organisational culture and individual police attitudes and beliefs if benefits of recent changes are to be realized in an ongoing and indisputable fashion. Yet another source of sub-optimal job performance is embedded in the legislative environment that constrains police in putting forward Briefs of evidence for prosecution of sexual assault. This source is exemplified in the OPP guidelines which require serious and urgent review to facilitate appropriate and effective police responsiveness to sexual assault victims and their complaints.

Although there are recognizable police networking improvements already in place these still require fine-tuning and more expansive structuring to achieve optimal synergies that accrue from tighter coordination and cooperation among police and other interested community parties in addressing sexual assault. Multi-Disciplinary Centres as defined by Victoria Police are yet to be placed firmly on the ground in Victoria - albeit there is evidence of this occurring to some extent (Success Works, 2011) - as distinct from co-location facilities. This is not to deny or demean in any way the professionalism and commitment of the various practitioners in these facilities, but rather highlights potential for enhancement of their work. These facilities are a step in the right direction and can be relatively easily converted into MDCs through correctly devised protocols and agreements, including dove-tailing of work roles and expectations. An essential component however remains the need to develop a more robust state-wide monitoring body that receives regular, appropriately de-identified information on the policing of sexual assault throughout the State. This body could also serve to lobby State Legislators with a view to remedying external constraints on the policing of sexual assault and the prosecution of sexual offenders in the Courts. If its charter were marginally widened it could also help to educate the judiciary and wider public, serving as a strong ally of Victoria Police in its ongoing SARS efforts.

Interestingly, both police and OPP lawyers expressed ambivalence towards each other, saying that the other is doing a good job and yet not doing a good job, tending to blame yet praise the other, and each citing very similar working conditions with a great deal of complex and demanding tasks, tight timelines, insufficient and sometimes inappropriate personnel, and inability to maintain continuity or commitment to a case as a result. This circumstance represents a particular need to be addressed in terms of strengthening the communication and educational ties between these two key criminal justice agencies that must work together efficiently and effectively if there is to be a resolution of sexual assault as a societal problem.

In regard to Victoria Police SOCIT/VARE training, the general excellence of current course delivery, trainers and external presenters ought not to obfuscate the need to address not only the gap in learning-to-practice concerning attitudinal blocks – raised also in the strand one research – but also refresher and additional training requirements. To ensure these are accurate and up-to-date a properly designed and executed Training Needs Analysis along with expert advice on structural and learning framework innovations as well as a robust, evidence-based training evaluation program are all necessary and timely in view of the recent SOCIT transition. In developing the course further, particular attention needs to be paid to adequately resourcing and developing not only the core existing course but also its necessary supplements of ongoing professional and refresher training for specialist sexual assault police, as well as training inputs to generalist police as first responders to sexual assault complaints. Particular attention is also required to employ the full range of contemporary evaluation tools, including inbuilt external evaluation, formative and summative procedures, regular on-the-job training needs assessments, as well as longitudinal evaluations of retained learning practice of members of SOCIT and generalist policing units across the state.

Sexual assault is now widely recognized as a societal scourge of immense proportions that reaches into and profoundly affects the health, welfare and economic prosperity of a nation in a variety of ways. It is not just another nasty crime. It ranks at least as the equal of such more popularly advertised crimes as organized crime, illicit drugs, terrorism and cyber-crime. Accordingly it requires the very best of police efforts and those only of officers capable and committed to its discovery, investigation and prosecution in the Courts. Hence, the flawed current Victoria Police recruitment effort needs to be replaced with a best practice procedure that recognizes the significance of sexual assault as a crime that undermines the foundations of a free and egalitarian society.

A 360° performance appraisal system embedded in a dedicated specialist career framework is needed to accompany this best practice recruitment procedure. This is necessary to ensure SOCIT members are both appropriately rewarded for a peculiarly demanding job and that they do not use it as a mere stepping-stone on the way to other, more lucrative or 'glossy' job assignments. Exiting from that career either willingly or by reason of being found wanting in skill or aptitude should carry a loss of dedicated extra remuneration benefits or promotional basis. That is, sexual assault policing needs to be warranted as a highly desirable and sought after specialist service with its own career paths.

It remains to be seen whether Victoria Police is not only willing to accept credit due to its reform efforts to date, but also equally willing to acknowledge and make further diligent efforts to address the need for continuing reforms in accord with the findings and recommendations of present research evidence, which have been rigorously

developed within a multi-pronged, robust research design. A sign of Victoria Police
commitment to ongoing work will be the promulgation of this report and its findings,
along with a strong public commitment to make those necessary further changes to
policing sexual assault in Victoria. This represents a critical opportunity for Victoria
Police to continue moving forward and to establish itself as a genuinely progressive
State agency committed to not only improving responses to sexual assault allegations
but also to unambiguously contributing to reductions in the unacceptably high
attrition rates that characterize this crime, thus sending a clear message to sexual
predators that their crimes are not tolerated in Victoria.

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Appendix one: On-line questionnaire for victims/survivors, strand one, (administered in 2010)

The online survey tool was designed to be an innovative and unique data collection tool. Designed by the lead researcher in conjunction with her staff and a survey consultant, the survey was trialled with survivors in 2008 in a private workshop and again trialled online in the latter part of 2009. The survey was not badged with the Victoria Police insignia as it was felt it might hinder respondents whose trust we were seeking and to their credit, members of Victoria Police we were communicating with at the time understood this and supported the decision.

The online survey went live in December 2009 remaining open until the end of May 2010. The survey website invited respondents to self-select participation in the survey. Media response to the online survey was tepid which proved somewhat frustrating for researchers. A lack of media interest in sexual violence issues is not surprising. We did not have the level of support from the Victoria Police Media Unit we had originally sought so gaining media support was at times difficult to sustain. Nonetheless we did secure two interviews with ABC radio Victoria in prime listening spots and secured small news items coverage. Attempts to secure media coverage in free newspapers such as MX – provided to Melbourne public transport travellers - were not successful and the reasons given reminded us of the difficulty of having media support public awareness of sexual violence in the community and the rights of victims to come forward.

Posters advertising the survey as well as hard copies of the survey with SSAE were sent to all police stations/locales that had a SOCA or SOCIT unit attached to them with a request from police that the posters be prominently displayed in the foyer and SOCA/SOCIT units and surveys available for victims seeking any form of police contact with regard to sexual violence.

(NOTE: For the sake of brevity and clarity, formatting changes have been made to the following copy of the questionnaire in converting it from an on-line instrument to a word document).

On-line Questionnaire:

This survey is part of an Australian Research Council Large Linkage grant between Edith Cowan University and Victoria Police.

Edith Cowan University and Victoria Police

Adult Sexual Assault Project
"Policing Just Outcomes - Survey"

Welcome to this Survey
This survey should take between 10 and 20 minutes to complete.

Who should complete this survey?
Women and Men in Victoria, 18 years of age and over, who at any time in their life have experienced sexual assault and either have or have not reported it to police in Victoria.

What is the purpose of this survey?
By completing the survey you will help Victoria Police better understand the experiences of sexual assault victims and identify where police can improve their response and investigation of sexual offences.

Can I be identified by filling out this survey?
No. The information will not and cannot be used to identify individuals.

Can I see the final Report?
Your survey will be one of many that contribute to a pool of information.
Collected data will be made available in an aggregated form only and no individual data will be able to be identified. Updates and results of the survey will be published on the project website:
www.policingjustoutcomes.org

Can I change my mind about the survey?
You can choose to withdraw from the survey at any time whilst completing the survey. Once you have submitted the survey you have given consent. If you feel you need to speak to someone about any issues that arise for you in filling out this survey you may contact: **The Centre Against Sexual Assault** 24 Hour Crisis Line on ph. 1800 806 292 Or **Lifeline** on ph. 13 11 14

This survey has been approved by;
Edith Cowan University, Human Research Ethics Committee.
The following survey is divided into sections. Each box with a shaded heading is a new section. Please read the section headings carefully. There may be whole sections that you do not need to complete.
Please mark the check box that *best represents your response*.

To complete the survey,
Please tick the box that you feel is the most appropriate response.
Please feel free to comment in any of the boxes that allow for additional information.
Your completion of the questionnaire will indicate your consent to be included in our study

Please do not include any information that may identify you.

Section 1: About You

1 What is your gender/sex? ☐ Male ☐ Female

2 Is English your first language? ☐ Yes ☐ No

3 Are you from a non English speaking background? (were you, or one or both of your parents born in a non English speaking country)

☐ Yes ☐ No

4 Are you of Aboriginal or Torres Strait Islander descent? ☐ Yes ☐ No

5 What is the post code or town/suburb where you currently live?

6 What is your age now? Years

Section 2: About the assault(s) and police

7. Were there multiple incidents of sexual assault? ☐ Yes (omit Q 9) ☐ No

8. How old were you at the time of the first assault? years

9. How old were you when the last sexual assault occurred? years

10. What is the gender of the offender(s) who assaulted you? ☐ Male ☐ Female ☐ Both male & female

11. Following your sexual assault, before deciding whether to contact police, what was your perception of, or attitude toward police? (Please circle)

Very negative Negative Neutral Positive Very positive

12. Was/were the offender/s related to you?

☐ Yes. (tick as many as apply) ☐ No. (go to next question)

Spouse or partner ☐ Current ☐ Previous

☐ Mother ☐ Father ☐ Step-Parent ☐ Grandparent ☐ Step-Grandparent ☐ Uncle ☐ Aunt

☐ Brother ☐ Sister ☐ Step brother/sister ☐ Cousin ☐ Other (please specify)

13. Was/were the offender/s unrelated to you?

☐ Yes. Tick as many as apply

Boyfriend-------------------- ☐ current ☐ previous Girlfriend-------------------- ☐ current

☐ previous

☐ Family Friend ☐ Neighbour ☐ Teacher ☐ Sports Coach ☐ Minister of Religion or Priest

☐ Health Professional ☐ Carer ☐ Client ☐ Employer ☐ Work Colleague ☐ Stranger

☐ Other (please specify)

14. Over what period of time did the sexual assaults occur? Tick one only.

☐ it was a single incident

Or over a period of

☐ 1-6 Days ☐ 1-3 Weeks ☐ 1 month ☐ 2-3 months ☐ 4 months - 1 year ☐ 2-5 years

☐ 6-10 years ☐ More than ten years

15. At the time of completing this survey, have you made a report or spoken to police about your experience of sexual assault?

☐ Yes (got to Q 17) ☐ No (Go to Q 16)

16. If you did not report to police, who, (if anyone) did you tell? (tick as many as apply)

☐ I did not tell anyone

I told one or more of the following

☐ G.P./Doctor ☐ Priest/Minister ☐ Friend ☐ Family Member ☐ Counsellor/Therapist

☐ Work Colleague ☐ Other (please specify)

17. Where did the assault/s occur?
(Tick as many as apply)

☐ My home ☐ Someone else's home ☐ Offender's home ☐ Vehicle

☐ Professional Setting e.g. Doctor's surgery, dentist, etc. ☐ Outdoor location ☐ Work Place

☐ Orphanage ☐ Foster Home ☐ Hotel/Motel ☐ Hospital ☐ Boarding School ☐ School

☐ Public transport ☐ Night Club ☐ Other (please specify)

Section 3: Reporting/speaking to police

If you have made no contact with police please go to Question 47 now.

Please note: If you have made more than one report or spoken to police more than once about sexual assault, please answer focussing on your most recent contact with police.

18. In what year did you contact the police about this assault? If you are unable to remember exact year, please give an approximate year.

19. How did you contact police? (tick one only)

☐ Telephone ☐ In Person ☐ **Someone** contacted police on **my** behalf

☐ Other (Please Specify)

20. Following your experience of sexual assault, how much time had passed before you told police about it? (choose 1 only)

☐ Within 72 hours (3 days) ☐ 4- 7 days ☐ 8 days - 1 month ☐ 2 – 3 months

☐ 4 months – 1 year ☐ 2 – 5 years ☐ 6 – 10 years ☐ More than 10 years

21. a) Did someone support you to make contact with police?

☐ Yes (go to 21b) ☐ No (go to 22)

b) If yes, was this person

☐ Family member ☐ Friend ☐ Professional e.g. Doctor, Counsellor

☐ Work Colleague ☐ Other (please specify)

c) If someone did assist you, would you have made a report without this other person supporting you? (please circle)

Highly unlikely Not likely Unsure Likely Highly Likely

22. What was name of the town or suburb where you contacted police or made a report?

23. Were you offered the choice to speak with a police officer of the same gender/sex as you?

☐ No ☐ Unsure ☐ Yes

24. Were you offered the choice to speak with an officer in a specialist sexual assault unit?

☐ No ☐ Unsure ☐ Yes

Section 4: How Police Responded

This section asks you about how you feel police responded to the report you made. You may have had contact with several different police members, but the following questions are asking you to rate your experience of the police response overall. (please circle your response)

25. I felt supported by the police (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

6. I felt the police listened to what I said (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

27. I felt the police believed what I said (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

28. I felt the police treated me with respect (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

29. I felt speaking with police was a good decision (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

30. During my talk with police I felt I could make decisions about what I wanted to do next (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

31. Police showed concern about my safety (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

32. Police talked to me in a way that was easy to understand (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

33. Police explained to me my choices about going further with my report(circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

34. Did you feel that police thought your report was false? ☐ No ☐ Unsure ☐ Yes

35. Did police explain the consequences for making a false report? ☐ No ☐ Unsure ☐ Yes

36. Did police give you information about other support services you could contact?

☐ No ☐ Unsure ☐ Yes

What was the outcome of your initial contact with police?

37. I got some information on the Criminal Justice System, referrals or both

☐ No ☐ Unsure ☐ Yes

38. I made a formal typed or recorded statement to police about the sexual offence

☐ No ☐ Unsure ☐ Yes

39. I made a formal report but requested that no further action be taken

☐ No ☐ Unsure ☐ Yes

Section 5: Police Investigation

This section asks about your experience of police who further investigated your report after you made a formal statement

40. How often did the police contact you after you had made a statement? (choose 1 only)

☐ At least once per week ☐ Fortnightly ☐ Monthly ☐ 3 monthly ☐ 6 monthly ☐ Never

41. Police contact with me was helpful (please circle)
Strongly disagree Disagree Unsure Agree Strongly agree

42. Police contact with me helped me feel confident to continue with my report (circle 1 only)
Strongly disagree Disagree Unsure Agree Strongly agree

43. Were charges laid by police?

A Yes (please go to box **A** below)

B No (please go to box **B** below)

C Unsure (please go to box **C** below)

D Still waiting for outcome (please go to box **D** below)

A If **yes**, from the time you made your police statement how long did it take before charges were laid?

Please give your best estimate of the time.

days weeks months years

B If **no**, how long did it take before police notified you that charges would not be laid?

Please give your best estimate of the time.

days weeks months years

Did they explain why?

☐ No ☐ Unsure ☐ Yes

C If **unsure**, how long is it since you last heard from the police?
Please give your best estimate of the time.

days weeks months years

D If **still waiting**, how much time has passed since you made your statement?
Please give your best estimate of the time.

days weeks months years

44. Did you at any time withdraw your report/statement?

☐ No ☐ Unsure ☐ Yes

I**f Yes, did the reason have to do with……**

☐ Police (please explain) ☐ other (please explain)

45. Since the assault(s), and any related contact you have had with police, what is your perception of, or attitude to police now?(circle 1 only)

Very negative Negative Neutral Positive Very positive

46. If there has been a change in your perception of or feelings toward police (Question11) **to your final perception** (Question 45), **please comment on the reason for this change.**
Reason for change:

Section 6: Reporting the assault(s)

Please complete this section whether or not you have made a report to police

This section asks about things that prevented you from reporting the assault(s) to police, or made it difficult to do so.

47. Please tick as many of the following that you have experienced as a result of being sexually assaulted.

a) Feelings of ...
☐ Guilt ☐ Shame ☐ Embarrassment ☐ Fear ☐ Anger ☐ Shock and disbelief

☐ Other (please describe)

b)Fear of …
☐ The offender(s) ☐ Family members ☐ Community ☐ Being publicly identified ☐ Police

☐ Being labelled/stigmatized ☐ Family break down ☐ Others finding out ☐ Not being believed

☐ Bringing shame to my family ☐ My children finding out ☐ Other (please specifiy)

c) Fear of Losing…
☐ My job ☐ Family support ☐ Friends ☐ My connection to my Community

☐ My Home/Place where I live ☐ Support ☐ Custody of my children ☐ Other (please describe)

d) I experienced intimidation or threats….
☐ By offender ☐ By others

e) I experienced concern ….
☐ For my safety ☐ For safety of others ☐ For the safety of pets

☐ For the safety of my property ☐ Other (please specify)

f) I experienced a lack of confidence in …

☐ Police ☐ The legal system

g) I experienced a lack of support from …

☐ Family ☐ Friends ☐ Professionals (e.g. Doctor, Counsellor, etc.) ☐ Community

☐ Work/Work Colleagues ☐ Employer ☐ Police ☐ Other (please describe)

48. If you chose not to report to police please indicate reasons why.

☐ I was unsure if what happened to me was a crime

☐ I had a concern that reporting would not lead to conviction

☐ I wanted to deal with it myself

☐ I did not feel that reporting it would make me feel any better

☐ I had a concern about the community standing (reputation/power) of the offender

☐ I had concerns about my current or previous occupation

☐ I had concerns about language barrier (not confident making a report in English)

☐ other (please describe)

49. Do you regret the decision you made about reporting or not reporting to police?

☐ No ☐ Unsure ☐ Yes

Please comment….

50. Please feel free to use the space below to write any further comments. Please feel free to use the other side of this page to write further comment

Thank you for completing this survey, we appreciate the time you have taken to do so. This survey will help inform/improve police responses to sexual crime.
If you feel the need to talk to someone about any issues that arise for you in filling out this survey, you may contact:
The Centre Against Sexual Assault 24 hour Crisis Line on
ph. 1800 806 292

or

Lifeline on ph. 13 11 14

If you feel you would like to make a report to police, please contact your local police station.

Other services you can contact for support or assistance are located on the website.
www.policingjustoutcomes.org.au

An Invitation to be further involved in this important research.

As part of this important research we are conducting individual interviews and focus groups with victim/survivors of sexual assault.

These interviews and focus groups will be more in depth than a survey allows and will further inform us of the issues that face victim/survivors when reporting to police.

If you wish to be part of further research and are willing to be contacted for focus groups and face to face or phone interviews please include your contact details in the section below and return to us in the provided reply paid envelope.

Please DO NOT send this form in with your survey. Send your contact details in the second reply paid envelope provided, this is to ensure that the surveys remain anonymous and confidential.

Name……………………………………………………............
Address……………………………………………………............
………………………………………………………………..............
………………………………………postcode………..............
Telephone………………………………………………............

Please indicate below whether you have reported to police in Victoria

☐ I HAVE reported to Police
☐ I HAVE NOT reported to police

I hereby give permission for researchers on The Policing Just Outcomes project to contact me regarding my experience of sexual assault and my contact with the police regarding this.
Signed…………………………………………………..
Print name………………………………………………….

N.B. A random sample of participants will be chosen for individual interviews
Thank you, once again, for you contribution to this most important research.

Appendix two: Interview schedule for victims/survivors who reported to police, strand one, (2010 interviews)

The interview is open and semi-structured and invites open narrative from the participant so these questions are around key themes with some directional questions to elicit further discussion and reflection. Some themes and questions apply specifically to those who have reported, some to those who have not, and some to all participants and will be asked according to participants' response to the initial questions.

Key question: Can you tell me about your experience of contacting police to make a report?

Prompts:

Were police the first people you spoke to about your experience of sexual assault or were you encouraged by someone else to speak with police?

Was the police response what you expected?

Key Question: Can you tell me about any concerns or fears about anything you might have had that made it difficult for you to contact police?

Prompts:

How did you deal with/overcome these concerns/fears?

Did others help you to overcome these barriers or fears?

Did you discuss these concerns/barriers with police and if so, did they offer any assistance or advice?

After you made a report to police did you continue to experience any of the difficulties you have spoken about?

Can you reflect on how these barriers/concerns/ fears affected you personally.

Key Question: Can you tell me about the police investigation after you made a formal report?

Prompts:

Did police ever make you feel disbelieved or make you feel uncomfortable in their reporting or investigation?

Did police maintain frequent contact with you?

What, if any, aspects of the police response did you find helpful, useful, or encouraging?

What, if any, aspects of the police response made you lose confidence, doubt yourself, make you feel angry or upset etc. or withdraw your complaint?

If a survivor withdrew a complaint after making a report they will be asked to discuss the reasons for choosing to discontinue with a report.

If no to reporting …
Have you considered the possibility of reporting the assault/s against you to the police? What things did you take into consideration when you were considering about a report to police?

Key Questions across themes:

Can you tell me about your reasons for choosing not to make a report to police at this time?

At the time of the offence, is there anything that would have helped you make a report?

Can you tell me how strongly these factors affected you when you were considering whether or not to report the crime to police?

Do you believe that if certain situations changed, you would feel able to make a report to police in the future?

Prompts:

Support structures the survivor had at the time – and whether they inhibited or facilitated reporting

Did the survivor encounter specific fears of or threats of loss of support from family, friends or work colleagues should they report to police?

Feelings of shame; embarrassment; confusion and fear about the process

Fears about retribution by offender or others

Demographic location – did a rural environment create additional fears and difficulties for reporting (e.g., lack of anonymity; lack of access to support services; offender having high profile in the community; fear of community or offender retribution)

Lack of confidence in the police.

Fear of not being believed.

Language barrier was overwhelming.

Fearful that the context of the assault may cause disbelief or shame and embarrassment for the survivor

Pressure by others connected to the survivor's cultural, social or religious affiliation.

Fear of losing job, home location and custody of children.

Fear that the survivor's background e.g., Occupation or prior or current medical treatment may be a barrier to reporting to police.

Fear of negative reactions or views from others – family, friends, work colleagues, community, police and the court system

Fear of being blamed for the assaults

Feelings of intense trauma and other health issues that made it hard to deal with the prospect of reporting to police.

Dissuaded by others not to report (identify others – e.g., other survivors, professionals, work colleagues, friends, family, police.

For those who did and those who did not report:

Key Questions:

Finally, can you tell me about your feelings of reporting/not reporting?

Do you believe it has been the right decision for you?

Has not reporting helped you to recover from the assault or has not reporting made you feel angry or regretful about not reporting. If so, what is it that makes you feel upset or angry about not reporting?

In order to make it easier for survivors to report sexual offences and have those reports proceed to court, what things do you think police, legal system and society could do to help you or other survivors overcome barriers and fears about reporting?

Prompts
What can police do?
(If you reported) can you give me examples of what police did to make it less daunting?
(If you reported) can you give examples of anything police did that may have made it more difficult for you?
(If you reported) do you believe that you received a consistency in response between SOCA and the Criminal Investigation Unit?
What might others do? And who?

FINAL QUESTION

From your experience, what would be your advice to fellow victim/survivors in regards as to whether to report or not report the offence to police?

Appendix three: Focus group questions for victims/survivors, strand one, (2010 focus groups)

1. We want to start off with a question to break the ice and make everyone feel more at ease. Going around the group, could you please each tell us one thing that you like to do to relax at the end of the day? This is not compulsory and you can just pass if you like. You can introduce yourself if you wish, or not.

2. Thinking specifically about rape or sexual assault, from your experience and in your opinion what do you think could make it hard for someone to tell someone else, be it family, friends, medical practitioners, police or other people that they have been sexually assaulted?

3. Did you consider or would you have considered going to an emergency department to seek help?

4. If not what would have stopped you seeking help there?

5. From your experience, and in your opinion what aspects or barriers do you think make it difficult for victim/survivors to report a sexual offence to police?

6. We know from research that the vast majority of victim/survivors are sexually abused by someone known to them. Do you think that victims who know the offender have more difficulty being believed and more difficulty reporting to police?
(Invite comments)

7. Is there anyone here today who chose not to report the crime to police?
 (Invite comments about reasons for decisions).

8. Is there anyone here today who went ahead and reported to police?
(Invite comments about reasons for decisions)

9. What was the Police Handling Like In
    a. The initial report?
    b. Where the police good/bad about keeping you up to date about the investigation if it proceeded?
    c. At any stage during the process did you think about withdrawing? Did you withdraw? Why did you withdraw?
    d. Were the police good/bad in supporting you IF it went to trial?

10. Do you believe that victims receive the same treatment and response between SOCA police who take the initial statement from you and the Detective who may then be assigned to your case? (Invite comment and stories)

11. What specific actions might police take that could help a victim/survivor in reporting a sexual assault?

12. From your experience and in your opinion do you believe that the police response to a victim/survivor can make their trauma worse and make healing more difficult?

13. Based on your experience of reporting, or from your knowledge of other survivors who have reported to police, would you have confidence to report a sexual offence in the future?

14. If a friend, relative or acquaintance told you they had been a victim of sexual assault, would you advise them to report the crime to police?
 (Invite reasons for and against)

15. If you were asked to give your opinion about the good things about SOCA and what police could do to improve their response to victims of sexual crimes that would:

a) Improve victims' confidence to report sexual offences to police in the first instance
b) Enable victim/survivors to feel confident and informed about the investigation process
c) Improve the number of reports that actually get to court.

FINAL

From your experience, what would be your advice to fellow victim/survivors in regards as to whether to report or not report the offence to police?

Any other further comments?

Close of focus group session.

Appendix four: Focus group questions for SOCAU/SOCIT police, strand one, (2010 focus groups)

Please bear in mind that what we are talking about today is your experiences of working with victim/survivors of rape or sexual assault. It is important that the identity of victim/survivors and identifying details of cases be kept anonymous to protect victim/survivors and other police.

Researcher to introduce a short 'ice-breaker' activity for the group.

Key Question: POLICE SERVICE AND TRAINING:

1. Going around the room what is the range of years experience with Victoria Police? Experience within SOCA Unit and/or SOCIT?

2. What training have you received to deal with victims of sexual assault?

Prompts

Training in the academy,
Specialist SOCIT course which commenced in 2009
Detective training,
In-service-sexual assault training or other courses.
Has training been ongoing and involved in-service training opportunities?

3. In your opinion and from your experience do you believe the training you have received to date has been satisfactory to enable you to deal with victim/survivors of sexual assault in your role?

4. In your opinion and from your experience are there any areas of training/education you believe would be beneficial for you in terms of enhancing your knowledge and practice in the area of sexual assault and working with victims?

5. In your opinion and from your experience what are the strengths of SOCA Units/SOCIT in responding to adults reporting sexual assault?

Prompts
Attending to the welfare of the victim.
Obtaining a statement from a victim/witness for evidentiary purposes.
Completing and submitting the relevant reports.
Interviewing offenders for minor sexual and physical assaults after consultation and in liaison with the relevant Criminal Investigation Unit (CIU).
SOCIT conducting full investigation

6. In your opinion and from your experience are there any areas of SOCA Units/SOCIT you feel could be improved or changed to enhance the work of the unit?

Prompts

Work load
Liaison between different Agencies
Internal support structures
Resources and Infrastructure
Processes in dealing with and communicating with victim/survivors

7. Do you believe the current (2005) Code of Practice for the Investigation of Sexual Assault is adequate as a guide for police practice and a guide for advising victims of police responsibilities and expectations with regards to reporting?

8. In your opinion and from your experience, do you believe that the work of SOCA/SOCIT Police is regarded as valuable and as important as other police criminal investigation work and practice?

Key Question: BARRIERS TO REPORTING

9. Thinking specifically about sexual assault, from your experience and in your opinion what do you think might make it hard for someone to tell police they have been sexually assaulted?

10. What are the barriers that you are aware of that victims encounter?

Prompt

Language barrier, issues of confidence in police and/or the criminal justice system, being believed, history of abuse, ethnicity, religion, victim's personal background/life history

11. Do you believe that any of these barriers impact on a victim/survivors decision making in terms of whether or not they will report a sexual assault to police? If so which ones do you believe have a greater impact?

Key Questions: REPORTING

12. From your experience can you tell me about any examples of what SOCAU/SOCIT police have done to help a victim to continue with a report or to alleviate any emotional distress or issues they had at the time?

13. Does SOCAU/SOCIT have any strategies to assist particular victim/survivors with the process of reporting?

Prompt
Victims from a non-English speaking background
Victim with a disability
An elderly victim with dementia,
A victim who is fearful of reporting or continuing with a report?

Key Questions: ATTRITION RATES OF REPORTED OFFENCES:

Sexual assault reports have the highest attrition rate of all other reported crimes. A significant number of reported assaults exit the police system prior to a completed investigation.

14. In your opinion and from your experience, how common is it for victims to withdraw their complaint or the victim requests no further action?

15. What do you believe to be the main reasons for this action?

16. To what extent, if any, do you believe police contribute to complaints being withdrawn by victims?

Prompt:

17. Heenan and Murray's report (2006) (commissioned by Victoria Police) suggested police 'attitudes' to victims played a significant role in victims withdrawing a complain (p13). Are you aware of cases where this has occurred?

18. What do you believe are the reasons police might close a case on the grounds of 'no further police action' where such action is not requested by the victim?

Prompt:

Heenan & Murray study identified this at p (.20-21).

Key Questions: POLICE INVESTIGATION

At most SOCA Units once a statement has been made to SOCA it is forwarded to CIU detectives for investigation.

19. In your opinion do you think detectives handling sexual offence cases should have specialist training similar to SOCA Unit police?

20. In your opinion and from your experience are there any differences in attitudes between SOCA Police and CIU detectives that may create difficulties for:

Case progression/investigation
Victim confidence
Complaint withdrawn

21. In your opinion and from your experience do you believe that sexual offence reports and subsequent investigations should all be handled within a specialist SOCA Unit, rather than investigations being handled in many instances by general CIU detectives?

Please comment on your reasons for and against this?

For those who are now SOCIT do they believe the new model will alleviate such problems and improve the quality of investigations?

Research shows an inability to make a report to police makes recovery for the victim survivors difficult.

22. On reflection do SOCAU/SOCIT officers feel an inability to make a report to police has implications for victim/survivors recovery? If so what do you think some of the issues are?

23. From your experience and in your view, in what ways do you think reporting could be made easier for victim/survivors?

Thank you for your time and input.

Appendix five: Focus group questions for CASA counsellors, strand one, (2010)

Please bear in mind that what we are talking about today is your experiences of working with victim/survivors of rape or sexual assault. It is important that the identity of victim/survivors and identifying details of cases be kept anonymous to protect victim/survivors and other police.

Researcher to introduce a short 'ice-breaker' activity for the group.

Key Question: BARRIERS

1. Thinking specifically about sexual assault, from your experience and in your opinion what do you think might make it hard for someone to tell police they have been sexually assaulted?

2. Do you think there are any specific issues that make it more difficult for victim/survivors to report?

Prompt

E.g., Victim or offender constellation; victim or offender characteristics, context of the assault, age of victim or offender, cultural or religious background etc Any one thing, or any combination – a particular combination?

Key Question: SERVICE PROVISION:

3. From your experience, at the time of contacting your service:

4. What percentages of victim /survivors have reported the assault to police?

5. What percentages have not reported the assault to police?

It is a requirement that police (within 72hrs) contact your service immediately when a victim reports a recent assault.

6. From your experience, is this practice adhered to by police, and does the practice assist with victim support and recovery?

7. From your experience, when you meet with victims who have made a recent report to police, are the victims confident to continue with making a report?

8. What, if any, fears or concerns do they discuss with you about reporting, and do you feel you are able to allay these fears or assist the victim and the police to address these fears?

It is a requirement that when a victim reports an historical sexual assault to police (assaults that occurred more than 72 hours ago) police advise the victim of your service.

9. From your experience do police provide this advice to victims?

10. As part of your counsellor/advocate role have you ever assisted a victim to contact police and/or to make a report to police?

11. As a counsellor/advocate, are you confident in the police response to victims both at the initial report stage and across the investigation stage?

12. From your experience and perspective, does your particular CASA service have a good working relationship with police in your area?

13. Does your service meet with police to discuss cases, reports, other issues connected with victim reporting and SOCA/SOCIT responses?

14. What are the strengths and positives of this relationship?

15. What areas, if any, could be improved to benefit the services you provide to victims?

Key Questions: REPORTING

Recent studies show that complaints withdrawn by victims after an initial report are of concern.

16. From your experience with victims, what are some of the reasons and factors that make a victim withdrawn a complaint?

17. What affect has this had on the victim?

Recent studies also show that many reported assaults to police result in police taking no further action.

Prompt:

Heenan and Murray's report (2006) (commissioned by Victoria Police) suggested police 'attitudes' to victims played a significant role in victims withdrawing a complain (p13). Are you aware of cases where this has occurred?

18. From your experience working with victims, are you aware of any instances where victims have been advised that police are not taking their case any further and on what grounds?

Prompt:

Heenan & Murray study identified this at p (.20-21).

19. What affect has this had on the victim?

20. Are you aware of any cases where a victim has been accused of making a false report?

21. What affect has this had on the victim?

Under-reporting of sexual assaults is of major concern. Many factors are said to influence underreporting.

22. From your experience as a counsellor/advocate for survivors what are some of the factors you are aware of that affect reporting?

23. Some Victims report a lack of confidence in police as a reason for not reporting. In your opinion and from your experience how significant is this factor?

24. What do you believe police can do to improve victim confidence in reporting?

25. From your experience can you tell me about any examples of what police have done to help a victim to continue with a report or to alleviate any emotional distress or issues they had at the time?

26. Do the police you have worked with have any strategies to assist particular victim/survivors with the process of reporting?

Prompt
Victims from a non-English speaking background, victim with a disability or an elderly victim with dementia, and so on

27. If a victim says that because of circumstances particular to her or him there is no way they would ever report a sexual assault to police do you think this can impact their recovery and healing?

28. From your experience and in your view, in what ways do you think reporting can be made easier for victim/survivors?

Prompts
What can police do? What do they do that they shouldn't do?
Can you give me examples of what you know police have done to make it less difficult? What about things that made it more difficult?
Do you have any experiences where police could have handled a case better and you felt police may have made it more difficult for the victim?
Do you believe that victims receive consistency in response between, say, SOCA and the Criminal Investigation Unit?
What might others do? And who?

Key Question: FEEDBACK

29. If you were asked to give your opinion about the strengths of what SOCA/SOCIT police do and advise on any areas that need improving with regards to increasing confidence and minimising trauma: what would you want to say?

Prompt

Increasing the confidence of sexual assault victims in the police management of sexual assault cases?

Minimising the trauma for victim/survivors during reporting to police, investigation and court attendances?

30. What Was The Police Handling Like in:

a. The initial report?
b. Where the police good/bad about keeping them up to date about the investigation if it proceeded?
c. Were the police good/bad in supporting them IF it went to trial?

Thank you for your time and input.

Appendix six: Data collection and analysis in relation to the VicPol case files (strand two)

This appendix is provided to show the extent of rigor applied to examining the case files and to warrant the robustness, reliability and authenticity of data collection, data analysis and findings. Other research standards also evident include accuracy, precision and fineness of granulation. This Appendix concerns the case file methodological underpinnings of the text chapters, numbers six, seven and eight as well as partially that of chapter nine.

What are the VicPol adult sexual assault case files?

It is important to explain what is meant here by the phrase "VicPol adult sexual assault case files" (hereafter termed case files) and to distinguish that data set from what is called "LEAP". LEAP refers to an electronic database and management system maintained by VicPol which is utilised on a daily basis for operational and other purposes and which allows VicPol accredited personnel to access information in a timely fashion across Victoria. The case files are *not* an electronic database. These are normally a paper-based collection of a variety of documents provided for the researchers according to a set of search criteria for purposes of the current research. These do not represent the entirety of the information available on LEAP in relation to any 'case' – understood to refer to a particular set of allegations made by a complainant/s against a particular accused/s at a certain point in time. Rather the case files included paper form printouts from various LEAP electronic files relating to the case, these commonly being called summary reports or sub-incident and progress reports. As well, the case files potentially included a series of other paper documents such as described below. Additionally, the case files included on occasion photographs and computer discs. The case files examined by the researchers were held in manila and spring-back folders in boxes stored at VicPol Headquarters specifically and only for the purposes of the ARC Linkage Major Grants Project. The researchers did not have access to the LEAP daily operational electronic database and hence had no recourse to ongoing investigations or Court outcomes for the cases examined except insofar as in the latter instance the Court outcome had occurred, had been recorded and had been included in the paper based case files provided to the researchers.

Data collection sources and categories

The collection of data from the case files was an intensive and time-consuming process. It usually involved close reading several documents within each case file to discover, de-construct and re-construct relevant narratives. The most common documents included (see Appendix 11 for a detailed listing):

- Summary report at the front ranging from a paragraph to almost two pages and usually a page of dense material

- Victim statement(s) – usually at least a page of type-written material and often more
- Witness statements (ranging from one or two to many more) – usually a fairly brief paragraph or two, but sometimes a page or more
- Accused interview transcript(s) – varying from a 'no comment' three or so pages to seventy or more pages of searching question/answer interrogative
- summary of charges – often a short paragraph that adds to other accounts of the offence(s)
- usually some other significant document such as a report from a psychologist/psychiatrist, medical or forensic report, or an internal police memo/letter/report, or a variety of police incident reports, or a combination of some of these – see further detail below

As another way of indicating the size of the task of data collection, these parameters might serve:

- in case eight there were 70+ pages of documentation from a high profile professional body which had taken action against the alleged offender for breaching professional ethics
- in another case there were 25 pages of handwritten victim's statement and 163 pages of typed accused interview notes
- another file contained the summary report followed by a Brief of evidence heading page that entailed 165 pages of documents
- in many cases documents were held in manila folders that measured several centimetres thick
- case 43 held a total of 77 pages of typed accused interview transcript and 85 pages of typed interview transcript
- in a number of cases documents were held in spring-back folders

There was thus a very large quantity and variety of significant data sources within the case files. As a rough average some 20 data sources were found in a case file, although that number was highly variable, sometimes many more and sometimes only one, two or three.

The most commonly occurring narratives and their containing documents were the following:

- *police narrative(s)* – as contained in
  - The LEAP summary report
  - Other LEAP reports: e.g., Incident Field report, Incident report & case progress, LEAP Identifiers report, Sub-incident report, Intelligence report and others
  - Internal police reports/letters/memos/patrol duty return/running sheets/diary/log/notes
  - Informant's statement
  - Summary of charges/charge and summons
  - Criminal history sheet
  - Brief-head
  - List of material in hand-up Brief
  - Witness list

- o Exhibit list
- o Actual exhibits
- o Other court documentation (applications for court orders, affidavits etc)
- o Brief authorisation: any specific report from investigating officers, recommending officers and authorising officers outlining authorisation decision and reasons – these were usually in the form of memoranda/letterhead documents

- **victim narrative(s)**
  - o Victim statement(s) on alleged offence
  - o Victim statement of withdrawal of complaint
  - o Victim impact statement for Court consideration

- **witness narrative(s)** – Witness statements on alleged offence(s) and related particulars

- **accused narrative(s)** – Transcription of audio record of interview of accused by the investigating officer along with any corroborating officers' contributions

- **other narratives** – as contained in
  - o Other reports/letters (e.g., OPP, CASA, Psychiatric)
  - o Forensic reports
  - o Medical reports

The extensive nature of data collection

There were an even much greater number of data categories and items. The following provides an abridged account of the sorts of data that were available for collection. (See Appendix seven for the data frame tool for collecting this data). All of the documents in each file were listed by exact title. Particular attention was paid to any interaction with the Office of Public Prosecution and whether there was a report at the front of the file pertaining to the Brief authorisation decision and reasons for making it. The various police units involved in the case were identified, as well as any other organisations involved, with the latter potentially shedding light on 'networked policing'. The time of the report of the alleged offence to police was noted to determine whether it was recent or historical. Notes were made on the age, gender and number of police, victims and accused. Other characteristics of the victims and accused were also examined, such as whether they had interpreter needs or disabilities, and whether or not they were related in some way or strangers to each other. The context of the alleged crime was examined in terms of the type of location (e.g., home, street, public venue); time of day/night/week; the presence of alcohol or illicit drugs; and the duration, type and any particular features of offending (eg social descriptors).

Attention was paid to the evidence gathering techniques and practices employed by the police in each case. Examination of the investigating officer's commentary

included noting any recommendations concerning authorisation of prosecution; as well as any comments on victim(s), witness(es) and accused as to their character, credibility and other matters; and any other features of the investigating police narrative. Data were also scrutinised as to investigators' knowledge of police protocols and practice concerning sexual assault victims, and for any indication of difficulties they confronted in their policing.

The narratives of the police, victims and accused were particularly scrutinised for indications of their nature, consistencies and disparities. This involved making detailed notes as well as verbatim quotations from each narrative where those were especially insightful, emblematic or otherwise significant to the story being told.

The files were examined specifically in relation to the Brief authorisation/non-authorisation decision rationale and practice of the police in each case. In this respect, aside from the investigator, the focus was on recommending and authorising officer(s), and their interactions with each other, with the investigator, and with Office of Public Prosecution personnel. Data were scrutinised for signs of consultation; directions and feedback; shared norms, rules and policies; and time or other resource constraints.

The management of each file was also examined for any distinctive features. This meant noting whether the file was updated appropriately, whether there was adequate and relevant documentation and whether extant documentation was completed at quality levels. In addition, if there was a court hearing, the file was examined for any indication of whether the case was closed, whether there was a record of conviction/sentence/other outcome, and whether there was an indication of a still pending matter.

It should be noted that this comprehensive data collection exercise did not result in sufficient detailed data in many instances to warrant analysis beyond a certain point and consequently the text of the report does not reflect all of the data items described in the foregoing paragraphs. Once it was realised that particular items were too deficient in data the collected data in those respects were removed from the data frames (see next two sections).

Case file data collection and analysis

The main case file data collection was conducted over the period of 8 December 2010 to 28 February 2011, with initial analysis and progress report-writing continuing through to 25 March 2011. Tracking details were kept on each of the case files – see 'authenticity, validation and reliability' below - to permit returning to re-read already examined files to check facts if questions arose later and to check observations and insights revealed in later examined files against the data collected from earlier files. Thus, research was a highly iterative process, which is characteristic of this form of qualitative case study. Iterative research means that – unlike purely quantitative research and especially the sort that is concerned with hypothesis testing - data collection and analysis are not distinct stages, but rather interrelated. Data were analysed even in the earliest collections; collection continued even quite late in the

initial analysis; and there was continual cycling back and forth from the collecting and analysing of data, and from one level of analysis to another. Analysis of data collected from the case files involved intensive, painstakingly detailed scrutiny at both the intra-case and cross-case levels. Albeit not temporally separate, four durations of data collection and analysis could be distinguished in this initial period of present case file research.

First, the case files were examined and data were summarily transcribed in handwritten notes. This involved the extensive collection of data as described above. Data were collected from source documents in order of their inclusion in each file (see Appendix 11 for a listing of the most common documents found in the examined case files). That is, data were collected as each document was read from the case file, moving from the front to the back of the file. The intent was to allow the cases to 'speak for themselves', without overly pre-determining what was considered important for collection. Thus, although the data frame instrument shown in Appendix seven was devised to ensure gathering of certain categories of data, it was not rigidly imposed upon the collection effort, but rather used as a guide and check in a close reading of the files. This meant that the data were not simply forced into preconceived categories. Data analysis also commenced in this phase with the making of conceptual notes at relevant points in the page margin and in brackets of the body of the data text.

Secondly, the transcribed data from each of the case files were then re-organised as the handwritten notes were typed up in the data frame format (Appendix seven) as PC word documents. The data frame served the purposes of allowing a second duration of analysis at the individual case level, thus making sense of the mass of data and casting it into a more communicable form. The emphasis was on analysis of the data in each case – that is, intra-case analysis was the focus (see below). However, it also facilitated an early comparison and contrast of data across the cases – that is, for later cross-case analysis (see below). The handwritten notes were destroyed as the data frames were developed and secured with back-ups and as confidence in completion of this task was achieved, thus providing for confidentiality and security of the data concerning all relevant parties (including both the victims and the police members who provided the case data).

Thirdly, case vignettes were written and grid analyses were undertaken (see below). The case vignettes were summaries of a number of cases that were of particular value in illustrating and substantiating findings. Grid analysis enabled the data to be more systematically interrogated to discover themes, issues and patterns across the cases and thus to build cross-case patterns. This duration of analysis occurred across the case files, rather than being confined largely to the individual cases. At this point – as discussed in chapter two - the broad technique of analysis was that of pattern-matching and the following specific tactics of meaning generation were employed: counting; clustering; subsuming particulars into the general; comparison and contrast; and factoring (Miles & Huberman, 1994). New insights emerged, conceptual discoveries were made and intra-case issues, themes and patterns were re-formulated in this duration.

The final duration of analysis occurred in writing-up the previously analysed data and findings in the first research progress report. The iterative nature of this form of qualitative research was demonstrated again at this point. Even though some

considerable work had already been completed in analysis, report writing led to re-formulating and refining earlier insights and findings.

A second period of analysis occurred over the period of 28 March to 30 June 2011 during which the earlier analyses were re-visited, with amendments and additional analysis to provide for a more polished and comprehensive account to be included in the final report. At this stage, there was no further case file data collection. During this second period a series of frequency tabulations augmented the earlier largely qualitative and descriptive account. This second analytical endeavour was even more robust and rigorous, providing a very finely grained understanding of the data, with more detailed substantiation of the earlier results as well as adding new findings.

Data frames and intra-case analysis

The uploading of transcribed raw data into data frames and analyses within cases occurred over the period of 9 December 2010 to 14 April 2011. The procedure here was to first upload the data into the frames within the following seven broad categories: the Victoria Police organisational context; characteristics of victims' characteristics of accused; the context of the alleged crime; evidence and documentation; the investigating officer's commentary; Brief authorisation/non-authorisation decision rationale and practice; and interaction between authoriser and the Office of Public Prosecutions (see Appendix seven). An eight category was related to linkages with data collection in the other strands of the larger Policing Just Outcomes project.

For each case an initial analysis was conducted after the entry of the data into the various categories. This analysis was concerned first with how police approached victims and the accused in terms of indications of empathy, the nature of language adopted, and the presence of any myths or popular images within the police discourse. The police narrative was de-constructed to examine the extent to which processing of the case demonstrated evidence-based argument. Data were scrutinised for evidence of any perspectives informing the Brief authorisation process and for any shared understanding of norms, rules and policies among police and OPP personnel. Any evidence of collaborative partnerships was also sought at this point.

At this point, the case materials were systematically and critically re-examined for emerging themes, issues and patterns both within the case at hand and, to some extent, across the cases so far examined. This reflected the iterative nature of data collection and analysis. Analysis focused on whether there were indications of a systematic framework or paradigm governing the progress of sexual assault cases to OPP prosecution and, if so, what was its nature and operating principles. Data were examined for 'taken-for-granted' signifiers; recurring stories and their methods of construction; the nature of the language in any of those stories; whether victim and accused stories were evident, diluted or suppressed; and whether any master or thematic narratives were to be found in the case files.

This involved the process of de-layering which applied to all aspects and discoveries of data analysis. Whenever the researcher discerned an issue, theme, pattern or other

insight, it was critically interrogated by searching and re-searching not only the documents in each case file as it was under scrutiny, but also reconsidering, comparing and contrasting its materials with those of other already examined cases whose data had been entered into the data frames (see below, 'cross-case analysis'). De-layering did not involve an exhaustive re-examination of all the data collected or every case analysed previously, but rather meant a selective returning to cases and data that came to mind in whatever respect prompted by the analysis item of the moment. Nonetheless, it was an intensive and time-consuming process. De-layering was central to the reading of file documents within an Action Research/Critical Discourse/Case Study framework (see the methodology chapter for additional explanation of this framework).

Case vignettes

After establishing the data-frames and conducting an initial sweep of the cases for a general cataloguing of issues, themes and potential patterns, selected cases were written up in vignette form. Case vignettes were also written up during grid analysis and report writing as the need arose. Cases were chosen for this purpose according to their cogency in illustrating an issue, theme, pattern insight, or some other finding. Case vignettes captured the essentials of the case along with key observations, quotations and references to other cases for any particulars of interest. Particulars of interest were for both similarities and dissimilarities relating to, for example, type of offence situation; victim and accused characteristics; investigative aspects; and authorisation decisions, reasons and outcomes. Excerpts from these case vignettes were utilized in the text chapters, numbers five, six and seven.

Data grids and cross-case analysis

Another phase of data analysis involved transferring selected data from the data frames and vignettes into grids that allowed comparison and contrast of the data according to established issues, themes and patterns discovered in the earlier phases. In addition, a key intent of this analysis was to discover any issues, themes and patterns that had not so far emerged through the earlier durations of analysis.

Rosalind Hurworth (2000) further developed a grid framework based on Miles and Huberman (1994) style grids that is very useful to conducting analyses of qualitative data. Such grids are usable with transcripts from any qualitative data sources, including the focus group, interview and documentary modes of the current research. A grid analytical framework provides for a systematic display of material that can be noted, descriptively coded and classified into issues and themes etc. It is also possible to highlight particularly interesting or insightful comments and to include verbatim quotations, thus enriching reports with the voices of subjects themselves. Due to the number of cases and size of the raw data load, verbatim quotations could not be included in this level of the case study analysis and, instead, those were transcribed directly into the report analysis mode as appropriate to demonstrate and warrant findings.

The Grid Analysis Method is described briefly in the methodology chapter, however its application in strand two involved a variation of the usual way in which this method is employed in analysis. In the case file research, codes rather than raw data items (such as quotations) were entered into the cells for analytical comparison and contrast across the cases, with consequent pattern-matching. This was an innovative use of the grid method and it permitted the collapsing and analysis of a great deal of data within a relatively small visual space. Although it was an exhaustive and time-consuming process there was no easy short-cut and it provided a rich and robust set of findings. Appendices 13 and 14 illustrate the use of GAM in relation to strand two case file research.

Report-writing and analysis

The final phase of analysis occurred during the writing of the initial draft research report. Even at this stage there was an iterative return not only to the grids and case vignettes but also to the data-frames and raw data storage. Further, this stage was also a multi-phase endeavour since each progress report and draft, including the final report and its drafts, were utilised in ongoing analysis.

Authorisation and non-authorisation analysis procedure

The following outlines the specific procedure employed (within the foregoing described framework) in analysis of the reasons behind police authorisation and non-authorisation decision-making as discussed in Chapter Six. This provides for transparency of analysis and facilitates understanding of the results.

Notably, the reasons extracted from the case files were initially taken literally as they appeared in the case files, so they were often highly specific, varied and numerous. This is shown to some degree in the listings that are provided along with the analysis tables in the text. However, for analysis purposes it was necessary to cluster many specific reasons into fewer, manageable data items, and some generalised reasons were already stated in the original narratives. In this process, particular reasons were subsumed where necessary into more general categories to form rationale factors. The generalised factors were then utilized for tabulation and counting purposes.

Additionally, reasons often overlapped in meaning in a case and they were counted separately only when they appeared as separate reasons in a particular argument. For instance 'insufficient evidence' can mean 'success unlikely'; and 'absence of seminal stain on underpants' might be subsumed under 'lack of corroborating evidence'. If the same reason was stated by different police in a case, it was counted once only. If different reasons were stated by the same or different police in the one case narrative, they were counted distinctly. The same procedure was adopted in relation to other parties in a case and in regard to non-formal reasoning.

De-layering was not an easy process as it had to be carefully considered as to whether factors for or against prosecution could be reasonably inferred to exist in what were often complex evidentiary proceedings. For instance, in case 68 the investigator

noted: "I am weary (sic!) of unleashing a flood of complaints against taxi drivers that are not connected to this investigation". This note could have been inferred as a reason leading to the eventual non-authorisation. However, it was not determined as a valid inference in the circumstances since the police had vainly followed-up the victim to sign a statement after she had initially made a hand-written complaint.

Again, de-layering took account not only of the police narrative but also of narratives from the victim, accused and witnesses. Thus, non-formal reasoning necessarily was inferred by the analyst as being what police would or should have taken into account from the other parties as well as their own officers. This is tantamount to 'putting words into the mouths' of the police concerned, yet there was no alternative given the absence of formal authorisation argument – see the text of Chapter Six - as well as the role of the interpretive method in de-layering to discover reasons in file documents other than formal argument memoranda.

Authenticity, validation, and reliability

In qualitative research of the kind pursued in the case study aspect of the PJO project, a widely recognised key requirement of authenticity and validation processes is the construction of a chain-of-evidence. A well constructed chain-of-evidence allows any duly authorised, ethically credentialed party to re-trace precisely how the researchers did their work from initial raw data collection through analysis to the final report. In investigation of the case files, care was taken to develop a strong chain-of-evidence by ensuring that reported findings and their supporting data could be traced back to their exact sources.

The strand two case study chain-of-evidence was started by assigning a unique case number to each case file, within which all the materials comprising the case related to a specific sub-incident (subinc) number used by VicPol for operational purposes. This was a necessary first step given the large number of cases and hence the futility of identifying each case by means of a descriptive title. Each case was also identified in terms of its source region and the box in which it was housed within the storage room at the VicPol premises. Each box was identified by region number and box number so that every case could have been re-located at will by examining the case listing where details were recorded (if the chain-of-evidence procedure had been maintained).

The following short excerpt from the tracking tool constructed for this purpose shows the nature of this part of the chain-of-evidence procedure:

C	SUBINC	R	B
1	xyz	5	1
2	xyz	5	1
3	xyz	5	1
4	xyz	5	1

(Note: xyz is shown instead of actual subinc numbers to protect the identities of police officers and their organisational units in the first instance as per the just noted ethical issues).

This simply says that case one had a specific subinc number and it came from region five and it was stored in box one of that region's collection of boxes. Every box was correspondingly labelled by its region and box number so, for example, case one could have been relocated by finding the box inscribed as R5, B1, then locating within that box the folder identified by the specific subinc number. The folder contained all of the materials provided to the researchers in relation to the victim(s) and offender(s) concerned in the investigation identified by the subinc number. (The collation of materials was actually sometimes more complicated than this suggests, however this covers the essentials of the bulk of the case files).

In addition to this physical relocation procedure, wherever a specific case was referenced in any analysis or part of a report, its case number was also cited so that the particular analysis or report commentary relying upon that case for supportive data could have been traced back to the actual raw data source. Any duly accredited person who wished to check the veracity of a quotation from a particular case, for example, would have had a means for re-tracing that quotation to its exact source and thus satisfying him/herself that the researcher did not make an error.

The durability of this chain of evidence depended upon VicPol continuing to maintain a secure and locatable storage facility for the case files once they were no longer required for present research purposes. It had been envisaged to negotiate with VicPol an arrangement whereby anyone who wished to examine the case files would require clearance from both the Victoria Police and Edith Cowan Research Ethics Committees. However, this chain-of-evidence and research access arrangement became redundant due to confidentiality and anonymity concerns (see Chapter Two of the text). Nonetheless, it is described to demonstrate the rigor and robustness of the data-collection/analysis and to warrant the authenticity of the research and its findings.

The present effort was directed to achieving two of the key criteria of qualitative case research, viz: authenticity and reliability. Authenticity refers to the capacity of the research findings to reflect the truth of the cases in their individual and collective expressions of social reality. Reliability refers to its capacity to enable others to repeat the research so as to verify, extend, modify or correct its truth claims. Both of these criteria were fulfilled in the foregoing now voided procedure.

Additionally, authenticity, validity and reliability of strand two case research claims were strengthened through the use of researcher triangulation and key informants (police). Researcher triangulation refers to two or more researchers examining the same data set independent of each other. In strand two research, two researchers collected and analysed data from the case files in this fashion, each taking responsibility for different sets of case files. Each researcher collected and initially analysed data from their respective case files, concluding their analyses at the intra-case and cross-case levels before sharing the results. This procedure ensured that they brought to bear different viewpoints and arrived at separate understandings of the cases, providing for a later cross-fertilisation and checking of their respective analyses. This in turn enriched the findings by corroborating emerging issues, themes and patterns as well as embellishing, querying and adding others.

The key informant method employed here involved the researchers taking advantage of the in-house experience and expertise of a number of police officers regarding both operational matters as well as ongoing VicPol initiatives such as the SOCIT Project Brief. These officers provided invaluable advice to the external researchers helping to avoid errors and misunderstandings due to lack of 'insider' knowledge of the complex VicPol mega-organisation. They also assisted greatly in planning and implementation of the research plan. On occasions they were also a source of rich data which complemented and supplemented that obtained from other sources such as the IO, RO and AO interviews/focus groups.

Finally, the strength of truth claims of strand two research findings was further warranted by triangulation across the case file, interview and focus group data collection and analysis, as discussed in several chapters of the text.

Appendix seven: Data frame collection instrument for Strand two VicPol case file research

Strand two Case No. XYZ – data collected (DATE)

Tracking details: sample no. xyz (subinc xyz) Box Rx(y)

Summary report at front: yes/no – Printed (date); Dated (date)

Report at front of file outlining authorisation decision and reasons: yes/no

Time of report to police – recent/ historical
recent – within 72 hours
historical – note lag time in days, weeks, months, years

OPP involvement – yes/no

Networked policing – yes/no

Allegation(s)/Charge(s) - xyz

Outcome(s)
authorised/not authorised – IO/RO/AO
intent to summons/summons
warrant of apprehension/arrest
465 warrant of search & seizure
court mention/committal date
bail/remanded in custody
court hearing date
court result

Excel Spreadsheet

VICPOL ORGANISATIONAL CONTEXT

VicPol Organisational Units
Region
SOCAU/SOCIT – yes/no
CIU – yes/no
SCS – yes/no – no action
Uniform police station – yes/no
other

VicPol Personnel/location/gender/number involved
Inf/IO – e.g., DSC CIU (Location), m/f
Corroborator – D/SC (Location), m/f
RO – e.g., DSgt (Location), m/f
AO – e.g., DSSgt CIU (Location), m/f

Prosecutor – e.g., DSC (Location), m/f
Number of police involved

CHARACTERISTICS OF VICTIMS

age
gender
ethnic/cultural background
recent migrant/refugee
English second language – lack of fluency
occupation
residential suburb
disability (physical, mental illness, intellectual, elderly, other)
incomplete or missing victim information
other notable features

CHARACTERISTICS OF ACCUSED

age
gender
ethnic/cultural background
recent migrant/refugee
English second language – lack of fluency
occupation
residential suburb
disability (physical, mental illness, intellectual, elderly, other)
relationship to victim (family member – identify precise relationship(s); partner; in loco parentis (e.g., foster care, family group home, child protection worker); carer (e.g., home care, nursing home); other trust position (e.g., school teacher, scout leader, religious leader, doctor); stranger
number of accused
incomplete or missing suspect information
other notable features

CONTEXT OF ALLEGED CRIME

From summary report

Summary of charges

Informant's statement

Location type
family home/event
workplace
street
entertainment venue (e.g., night club)
other public venue
Time of day/night/week
Alcohol, illicit drugs, other drugs

Number of charges/allegations
Type of alleged offence
main one - e.g., rape (cite the legal category)
add any social descriptors – e.g., rape in marriage, predatory
role of technology – use of internet to 'groom' and/or 'trap' victims
Duration of alleged offending
once only
stalker
childhood
Particular features of alleged offence(s)
physical injuries
trust
other

EVIDENCE & DOCUMENTATION

Evidence gathering techniques and practices employed – E.G., interview with accused (audio taped); statements from victim and witnesses; surveillance tape footage.

informed accused of rights
in presence of accused unsealed 3 audio cassette tapes and inserted in recording unit
corroborator present at accused's interview
checked master tape for voices
gave accused copy of typed interview

Nature of witness statements – transcription, recording, use of **VATE/VARE**

Briefhead

Witness list

Exhibit list

Court documentation (summons, court orders, affidavits etc)

Internal police reports/letters/memos/patrol duty return/diary/log/notes

Other reports/letters (e.g., OPP, CASA, Psychiatric)

Forensic report

Medical examination performed?

Physical injuries – nature and severity

Trauma – nature and severity

Victim's statement of interview, VATE/VARE (consent form)

Witness statement(s)

Accused's record of interview

Informant's statement

Summary of charges

Incomplete or missing evidence/crime information

INVESTIGATING OFFICER'S COMMENTARY

From summary report, Incident Field report, Incident report & case progress, LEAP Identifiers report, Sub-incident report, Intelligence report, Internal police reports/letters/memos/patrol duty return/diary/log/notes, Summary of charges, Informant's statement

Recommendation
authorisation – reasons
non-authorisation - reasons

Strength of evidence - comments by IO
strength of evidence indicators

Victim comments by IO
character (type)
credibility
threats or hindrances – accused/family/other
how identified, how recorded by police
indication of victim being kept informed of progress of case

Witness comments by IO
character (type)
credibility
how identified, how recorded by police

Accused comments by IO
indication of empathy/excuse/prejudice
how identified – stranger or known? how recorded by police

Other Police Narrative features
omissions
extraneous inclusions
indicators of personal values and beliefs
nature of language
use of metaphor, analogy, non-evidence based argument and discussion
framed in terms of assault or (consenting) sexual behaviour?
lexical bias? victim given voice? accused given voice? passive voice?

VicPol procedures and protocol for sexual assault victims - indications of level of knowledge and application

Interactions with other agencies – e.g., CASA – 'networked' policing or lack

Police difficulties confronted - comments by IO
initial police response – e.g., time lag issue
gathering evidence
using technology
framing a persuasive case
time or other resource constraints – are there especially frequent or important constraints?
indications of consultation/support/guidance **given to IO** and from whom – nature and quality

BRIEF AUTHORISATION/NON-AUTHORISATION DECISION RATIONALE AND PRACTICE

Recommending Officer

Authorisation – reasons
Non-authorisation – reasons
Interaction with IO?
consultations prior to authorisation/non-authorisation decision **– written,** telephone**,** face-to-face meetings
Directions and feedback given to IO
nature and quality
further investigation required
absence of directions or feedback for follow-up
Nature of relationship – e.g., immediate superior, ad hoc/systematic
Norms, rules and policies governing their interaction indications?
Time or other resource constraints – are there especially frequent or important constraints?
Indications of consultation/support/guidance **given to RO**
from whom
nature and quality

Authorising Officer

Authorisation – reasons
Non-authorisation – reasons
Interaction with RO/IO?
consultations prior to authorisation/non-authorisation decision **– written,** telephone**,** face-to-face meetings
Directions and feedback given to RO/IO
nature and quality
further investigation required
absence of directions or feedback for follow-up
Nature of relationship – e.g., immediate superior, ad hoc/systematic
Norms, rules and policies governing their interaction indications?

Time or other resource constraints – are there especially frequent or important constraints?
Indications of consultation/support/guidance **given to AO**
from whom
nature and quality

IO, RO & AO agreed or disagreed?

INTERACTION BETWEEN AUTHORISER AND OPP

Authorisation supported – reasons
Non-authorisation supported – reasons
Interaction with IO/RO/AO?
consultations prior to authorisation/non-authorisation decision **–** written**,** telephone**,** face-to-face meetings
Directions and feedback given to IO
nature and quality
further investigation required
absence of directions or feedback for follow-up
Norms, rules and policies governing their interaction indications?
Time or other resource constraints – are there especially frequent or important constraints?
Indications of consultation/support/guidance **given to/by OPP officer**
from whom
nature and quality

LINKAGES TO OTHER DATA COLLECTION

strand 1
interview categories – e.g., indications of 'physical harm rule', 'protest reporting', 'protection reporting', socio-cultural barriers, family or community interference, 'the talk'
individual interview questions
focus group questions
survey questions

strand 3
individual interview questions
focus group questions
survey questions

INITIAL ANALYSIS OF CONVERSATIONS, NARRATIVE DISCOURSE

Approach to victim - indications
empathic
non-empathic
neutral, dispassionate, logical
emotive language
myth(s), popular images – e.g., menstrual taboo

Approach to accused - indications
empathy/excuse/prejudice
non-empathic
emotive language
neutral, dispassionate, logical
myth(s), popular images – e.g., habitual, inevitable escalation

Argument
Evidence-based OR
'second guessing' jury or court deliberations
ie, presence or lack of teleological element in determination of 'a strong case'

Emerging themes

Emerging patterns

Emerging issues – e.g., differences between processed v. unprocessed files?
authorised v. non-authorised files?

Perspective(s) informing the Brief authorisation process –
IO and RO – nature
RO and AO – nature
Police and OPP - nature

Shared understanding of norms, rules and policies or lack of it governing
interaction between
IO and RO – nature:
RO and AO – nature:
Police and OPP – nature:

Evidence of collaborative partnerships along the chain of processing Briefs that
enhances prosecution outcomes for victims of sexual assault?

Socio-legal paradigm governing the progress of sexual assault cases to OPP
prosecution and, if so, what is its nature and operating principles?
Recognisable 'taken-for-granted' signifiers, symbols and emblems shared across
IOs, ROs, AOs and OPP?
Recurring stories of sexual assault cases that are 'worthy' v. 'unworthy' of CJS time
and resources?
Methods of construction (detection and determination) of those stories?
are there particular or favoured ones?– e.g., external/internal attributions (Coates &
Wade, 2004)
Nature of the language in those stories – e.g., violent or erotic terms? (Bavelas &
Coates, 2001)
Narrative
typical or 'master' narrative? or
number of thematic narratives? or
widely varying according to the particulars of cases?
Victim's story evident, diluted or suppressed? (Cotterill, 2004)

Accused's story evident, diluted or suppressed? (Cotterill, 2004)

Resource adequacy or lack - comment

File management
updated appropriately?
documentation
incomplete – i.e., missing documents
poorly completed
E.G., undated
E.G., absence of signatures

if court hearing, is the case 'closed'?
record of conviction/sentence

Appendix eight: Interview schedule for Investigating Officers' focus groups in 2011 (strands two and three)

Introductory comments:

Thanks to everyone for attending today. Introduce yourself.
Explain briefly the ARC project and VicPol's SOCIT project.
Introductions all around.
16 general questions, about 50 minutes, will need to move fairly quickly, and at the end there will be time for any additional thoughts that are important to note for the research.

Ensure the focus is on adult sexual assault not other crimes (remind them every so often)

In your opinion and from your experience (say this at regular intervals)

Key Question 1:

> What **norms, rules, policies and perspectives** guide your investigation and preparation of Briefs of adult sexual assault? (Allow 10 minutes)

Prompts

Norms   Rules   Policies   Perspectives or viewpoints

Key Question 2:

> Are there any kinds of **evidence** that are essential to include in a Brief? (Allow 5 minutes)

Prompts

If any, probe for what sorts and their relative importance
Importance of corroborating evidence
Have you ever prepared a Brief based only on the victim's word?
Successful?

Key Question 3:

> Do you contact any **agencies** or services outside of VicPol when investigating sexual assault and preparing a Brief? Do you experience any problems in this regard? (Allow 5 minutes)

Prompts

Who have you contacted, and why?

Probe for whether routine or unusual with respect to whatever agencies are nominated
CASA, OPP – explore these particularly
If any, what are problems and solutions here?

Key Question 4:

> What **consultation**, support, and guidance do you have in investigating allegations and preparing Briefs? (Allow 10 minutes)

Prompts

Probe for who supports
Quality of feedback
Brief checking guide on intranet – is it adequate?
Value of a checklist and its content (SOCIT Project) – would it be different?
Do you contact the OPP either formally or through informal networks?
If not have you thought of doing it?
Do you get advice from colleagues who have contacts?
Is this encouraged or accepted as practice?
Are you confident doing this?

Key Question 5:

> In your opinion and from your experience what are the **most important considerations** in preparing Briefs? What do you regard as the features of a **quality Brief**? (Allow 5 minutes)

Prompts

What would a 'best practice' Brief look like?
Probe for how important is victim credibility
Would you like to see more collaboration between police and prosecutors at an earlier stage to ensure quality of Briefs?

Key Question 6:

> Are there any **aspects that take up the most time** when you are investigating cases and preparing **Briefs on adult sexual assault**? (Allow 5 minutes)

Promp
Probe for whether a lot of time is spent on record keeping and file management
Also probe for verbal discussions with the recommending officer and the authorising officer

Key Question 7:

> Do you experience any **constraints** or pressures in preparing these sorts of Briefs? (Allow 5 minutes)

Prompts

Probe for knowledge, resources, time, expectations
Is there any ranking of factors as to their importance?

Key Question 8:

What **experience** have you had in preparing sexual assault Briefs? What **training** have you had in this respect? (Allow 5 minutes)

Prompts

Probe for what if any sorts of knowledge need to be provided
Legal knowledge and its importance

Key Question 9:

In your opinion and from your experience are there any kinds of adult sexual assault **cases** that make the most difficult Briefs to write? EASIEST? (Allow 5 minutes)

Prompts

If any what?
Probe for the reasons – e.g., cognitive impairment, mental health issues, character of victims
Have you ever recommended this sort and if so why?
What about victims in special needs groups (if not already mentioned)? – name them.
Any special needs victims especially difficult?
Any victims that are especially easy? Why?

Key Question 10:

Are there **types of Brief that generally cannot be recommended** for authorisation? **Types of Brief that generally can be recommended** (Allow 5 minutes)

Prompts

Apart from your assessment of false reports

Key Question 11:

Are there **differences between adult sexual assault Briefs and Briefs for crimes more generally** (Allow 5 minutes)

Prompts

Probe for specific differences and their relative importance

Key Question 12:

What **most works and most doesn't work** in the current system for preparing Briefs (Allow 5 minutes)

Prompts

Probe for differences between lower and higher courts
OPP interface
Strengths
Weaknesses
Suggestions for improvement

Key Question 13:

> Have any of your Briefs ever been returned for more work? What kind of **extra work** have you done? (Allow 5 minutes)

Prompts

Has it been necessary and if not why not?
Have you ever disagreed strongly with the recommending/authorising officer?
How has this been handled by you? By the RO/AO?
From your experience and knowledge what can happen in these situations?
Do you wait until s/he goes on leave and present the Brief to another RO/AO?
How often are Briefs returned to you for more work?
Has the prosecutor/OPP asked for more work done? (REPEAT THE PROMPTS)

Key Question 14:

> Have you changed the **way you prepare sexual assault Briefs** over the years? (Allow 5 minutes)

Prompts

Probe how this has changed, for better or worse?

Key Question 15:

> Why do you think sex offences continue to have **lower conviction rates**? (Allow 5 minutes)

Prompts

What do you see as problems in this respect?
Is it related to any pattern in Briefs being taken up by prosecutors?
Is there any connection to the way prosecutors handle Briefs at Court?
Is it because cases are being taken to court that do not fit narrow stereotypes of sexual assault victims and thus challenge courts and jurors to hear these cases?

Key Question 16:

> Do you have **any other thoughts** about the Brief authorisation process concerning sexual assault? (Allow 5 minutes)

THANK YOU FOR YOUR TIME AND INFORMATION

YOUR CONTRIBUTION IS MUCH APPRECIATED

Appendix nine: Interview schedule for Recommending Officers in 2011 (strands two and three)

Introductory comments:

Thanks for agreeing to be interviewed. Introduce yourself.
Explain briefly the ARC project and VicPol's SOCIT project.
17 general questions, about 50 minutes, will need to move fairly quickly, and at the end there will be time for any additional thoughts that are important to note for the research.

Ensure the focus is on adult sexual assault not other crimes (remind them every so often)

In your opinion and from your experience (say this at regular intervals)

Key Question 1:

> What **norms, rules, policies and perspectives** guide you in supervising preparation of Briefs of adult sexual assault and making recommendations? (Allow 10 minutes)

Prompts

Norms   Rules   Policies   Perspectives or viewpoints

Key Question 2:

> Are there any kinds of **evidence** that are essential to include in a Brief? (Allow 5 minutes)

Prompts

If any, probe for what sorts and their relative importance
Importance of corroborating evidence
Have you ever seen a Brief based only on the victim's word and asking for authorisation?
Did you support it for prosecution? If so, why? If not why not?
Was it successful at Court if it went there?
Was it Magistrates or County Court? Both?

Key Question 3:

> Do you ask the investigator to contact any **agencies** or services outside of VicPol when supervising sexual assault Briefs? Do you experience any problems in this regard? (Allow 5 minutes)

Prompts

Who has been contacted, and why?

Probe for whether routine or unusual with respect to whatever agencies are nominated CASA, OPP – explore these particularly

If any, what are problems and solutions here?

Key Question 4:

What **consultation**, support, and guidance do you have in supervising investigations and preparation of Briefs? (Allow 10 minutes)

Prompts

Probe for who supports
Quality of feedback
Brief checking guide on intranet – is it adequate?
Value of a checklist and its content (SOCIT Project) – would it be different?
Do you contact the OPP either formally or through informal networks?
If not, have you thought of doing it?
Do you get advice from colleagues who have contacts?
Is this encouraged or accepted as practice?
Are you confident doing this?

Key Question 5:

In your opinion and from your experience what are the **most important considerations** in preparing **sexual assault** Briefs? (Allow 5 minutes)

Prompts

What would a 'best practice' Brief look like?
Probe for how important is victim credibility

Key Question 6:

Are there any **aspects that take up the most time** when you are supervising investigations and preparation of Briefs on adult sexual assault? (Allow 5 minutes)

Prompts

Probe for whether a lot of time is spent on record keeping and file management
Also probe for verbal discussions with the investigator and the authorising officer

Key Question 7:

Do you experience any **constraints** or pressures in supervising these sorts of Briefs? (Allow 5 minutes)

Prompts

Probe for knowledge, resources, time, expectations

Is there any ranking of factors as to their importance?

Key Question 8:

> What **experience** have you had in supervising sexual assault Briefs? What **training** have you had in this respect? (Allow 5 minutes)

Prompts

Probe for what if any sorts of knowledge need to be provided
Legal knowledge and its importance

Key Question 9:

> In your opinion and from your experience are there any kinds of adult sexual assault cases that make the **most difficult Briefs** to assess and supervise? EASIEST? (Allow 5 minutes)

Prompts

If any what?
Probe for the reasons – e.g., cognitive impairment, mental health issues, character of victims
Have you ever recommended this sort and if so why?
What about victims in special needs groups (if not already mentioned)? – name them.
Any special needs victims especially difficult?
Any victims that are especially easy? Why?

Key Question 10:

> Are there **types of Brief that generally cannot be recommended** for authorisation? **Types of Brief that generally can be recommended** (Allow 5 minutes)

Prompts

Apart from your assessment of false reports

Key Question 11:

> Are there **differences between adult sexual assault Briefs and Briefs for crimes more generally** (Allow 5 minutes)

Prompts

Probe for specific differences and their relative importance

Key Question 12:

> What **most works and most doesn't work** in the current system for preparing and supervising Briefs (Allow 5 minutes)

Prompts

Probe for differences between lower and higher courts
OPP interface
Strengths
Weaknesses
Suggestions for improvement

Key Question 13:

> Have any of your supervised Briefs ever been **returned by the authorising officer** for more work? What kinds of **extra work** have you had to ask the investigator/member to do? (Allow 5 minutes)

Prompts

Has it been necessary and if not why not?
Have you ever disagreed strongly with the authorising officer when a Brief has been put up?
How has this been handled by you? By the AO?
From your experience and knowledge what can happen in these situations?
Do you wait until s/he goes on leave and present the Brief to another AO?
How often have you had to return Briefs to members for amendment or additional investigation?

Key Question 14:

> Have **you** returned Briefs for **more work** before you have sent them on to the OIC? (Allow 5 minutes)

Prompts

How often have you returned Briefs to members for amendment or additional investigation?
What extra work have you asked the investigator to undertake?

Key Question 15:

> Have you changed the **way you supervise preparation of sexual assault Briefs** over the years? (Allow 5 minutes)

Prompts

Probe how this has changed, for better or worse?

Key Question 16:

> Why do you think sex offences continue to have **lower conviction rates**? (Allow 5 minutes)

Prompts

What do you see as problems in this respect?
Is it related to any pattern in Briefs being taken up by prosecutors?
Is there any connection to the way prosecutors handle Briefs at Court?
Is it because cases are being taken to court that do not fit narrow stereotypes of sexual assault victims and thus challenge courts and jurors to hear these cases?

Key Question 17:

Do you have **any other thoughts** about the Brief authorisation process concerning sexual assault? (Allow 5 minutes)

THANK YOU FOR YOUR TIME AND INFORMATION

YOUR CONTRIBUTION IS MUCH APPRECIATED

Appendix 10: Interview schedule for Authorizing Officers in 2011 (strands two and three)

NOTE: While this set of interviews sought to cross-relate data to that obtained from ROs and the IO focus groups, a greater emphasis was placed on allowing AOs maximum room for providing their views in a largely unstructured, free-flowing fashion.

Introduction: Researcher introduced herself and explained PJO and SOCIT projects etc

1. Describe your understanding of the Brief authorisation process as it operates in the station/unit? And what is your role in it?

2. What types of information do you consider important to include in the Brief of evidence? And what to exclude and why?

3. What works in the current process/structure? What is in need of improvement?

4. Do you think that the process of handing up Briefs to the OPP works well?

5. Do you think that what the OPP are looking for works with the kind of evidence that the police can collect?

6. What are the strengths and weaknesses in the coordination between the police and the OPP? How can this be improved from the police perspective?

7. There has been a lot of discussion surrounding the attrition rate for sexual assault. What sort of role do you think the Brief plays in this?

8. What are the specific problems for you as a police officer, responding to sexual assault in a place like [insert geographical area]?

9. Are there specific problems in the Brief authorisation process when it's a sexual assault as opposed to other offences e.g. Property offences. Why is this?

10. What do you think needs to happen differently in regards to the investigation and prosecution of sexual assault?

11. What sort of evidence do you want to see in the Brief before it's authorised for prosecution?
    a) What's your understanding of corroboration?
    b) What is your understanding of credibility and reliability of witnesses and documents?

12. What do you think of the way sexual assault offences are defined by law? And what effect does this have on the job you do?

Appendix 11: Most common documents found in the LEAP case files (strand two)

Case file data collection and analysis typically involved close reading of several, often complex documents. The following lists the most commonly found documents on file.

Summary report
Incident Field report
Incident report & case progress
LEAP Identifiers report
Sub-incident report
Intelligence report
Brief-head
Witness list
Exhibit list – e.g., photographs
Court documentation (summons, court orders, affidavits etc)
Schedule 8 Application for a DNA sample
Warrant – Search, Apprehension, Arrest
Internal police reports/letters/memos
Patrol duty return/log/notes/diary
Investigator's formal memorandum requesting (non-)authorisation
Recommending Officer's formal memorandum requesting (non)authorisation
Authorising Officer's formal memorandum of (non-)authorisation
Other reports/letters (eg OPP, CASA, Psychiatric)
Forensic report (VIFM)
Medical examination report
Victim statement(s)
VATE (consent form)
Witness statement(s)
Accused's record of interview
Audio tape of accused interview
Informant's statement
Summary of charges
Evidence Movement Record
Criminal history sheet (accused/offender, victim)

Appendix 12: VicPol Outcome Categories and the LEAP electronic database (strand two)

Case file data collection and analysis required familiarisation with VicPol outcome categories and an understanding of what is meant by the LEAP system. The LEAP database is utilized to record, track and make available to authorised persons what is happening in relation to any criminal investigation. It records matters according to what is termed an incident or sub-incident. An incident refers to a specific event or series of events, which can involve more than one accused person and/or more than one victim. A sub-incident sits within the framework of the incident and refers to specific allegations/charges relating to the incident. Each allegation/charge is assigned to a sub-incident number. This allows recording and tracking of each and its investigative status.

There are three categories of Investigative Status:

- **"A" Active** The investigation is ongoing and further avenues of inquiry are to be followed. This can refer to an overall investigation or to one or more of its elements – that is, one or more accused persons and/or one or more allegations/charges
- **"P" Pending** The investigation has been taken as far as possible at a given point in time and all avenues of investigation have been exhausted with no final result. This includes investigations where the offender has been identified and a "whereabouts desired" has been recorded on LEAP.
- **"C" Complete** The investigation of the entire incident has been completed and each sub-incident has been cleared by one of the following:
  - o **OFPR** = all offenders have been processed by way of charge and bail
  - o **ITS** = Intent To Summons = all offenders have been processed by way of an application to summons
  - o **NOD** = no offence has been disclosed. This includes cases of a proven false report/complaint.
  - o **CPWD** = complaint withdrawn by complainant
  - o **SNA** = Brief submitted but Summons not authorised
  - o **OTHER** = Offender deceased, underage, mentally ill, etc.

An ITS matter will be either authorised or not authorised. If authorised, the matter proceeds to court. If not authorised, the matter does not proceed to court. Broadly, the reasons for not authorising are coded in the LEAP system as one of the following: underage; deceased; no identity known; insufficient evidence; complaint withdrawn; exonerated; mental impairment; caution issued; PIN issued; and processed via another sub incident. A PIN is a Penalty Infringement Notice which means an on-the-spot fine.

Appendix 13:

Grid 1 - Case status: (non-)authorisation, formal report, Office of Public Prosecutions involvement, and known final outcome (strand two)

This grid summarises the status of LEAP file cases in terms of authorisation or non-authorisation, with or without formal reasons stated; a formal report or not; Office of Public Prosecutions (OPP) involvement; and known final outcome. The complexity of coding captures the diversity of data in the case files. Line spaces are inserted between different types of authorisation and non-authorisation to assist reading of the grid.

CODES:

C – Case number

Authorisation status
- **A** – authorised
- **?** – assumed, because it was processed 'as if' it had been authorised
- **NA** – not authorised
- **R** – reasons formally stated
- **NR** – no reasons formally stated
- **B** – Brief-head indication of authorisation/non-authorisation, no reasons evident
- **OL** – authorisation/non-authorisation indicated in other location in the file, no reasons evident
- **OL*** - OL + some reasons evident

Formal report at front of file outlining authorisation details
- **Y** – yes
- **N** – no

Office of Public Prosecutions
- **OPP** – indicated

Outcome:
- **OPC** – offender processed/charged
- **PO** – prosecution outcome
- **CPWD** – complaint withdrawn by victim
- **SNA** – summons not authorised
- **NOD** – no offence disclosed
- **U** – unsolved
- **CWP** – charge withdrawn by prosecution

C	Authorisation status	Formal Report/ OPP	Outcome
5	**A B**	**N**	PO - Court – conviction

6	**A B**	**N**	PO - Court – conviction
7	**A B**	**N/OPP**	PO - Nolle Prosequi - CPWD
8	**A B**	**N/OPP**	PO - Court – no result on file
9	**A B**	**N**	PO - Court – no result on file
10	**A B**	**N**	PO - Court – conviction
40	**A B**	**N**	PO
44	**A B**	**N/OPP**	PO - Court – no result
45	**A B**	**Y[1]**	OPC
48	**A B**	**N**	OPC
49	**A B**	**N/OPP**	PO - CC – acquitted
50	**A B**	**N/OPP**	PO - CC – 5y7m
90	**A B**	**N/OPP**	PO
11	**A B OL**	**N**	PO - Dismissed + VicPol costs
42	**A OL**	**N**	PO - Conviction
3	**A? NR**	**N**	OPC
4	**A? NR**	**N/OPP**	OPC - Court – no result on file
15	**A? NR**	**N**	OPC - Court – no result on file
16	**A? NR**	**N**	OPC - Court – no result on file
17	**A? NR**	**N/OPP**	OPC - Court – warrant issued
18	**A? NR**	**N**	OPC - Court – no result on file
27	**A? NR**	**N**	OPC
28	**A? NR**	**N**	PO - CCrt – 6/5y min
29	**A? NR**	**N**	PO - Court – no result on file
30	**A? NR**	**N**	PO - Court – adj w'out convic
31	**A? NR**	**N**	PO - Court – not guilty all counts
32	**A? NR**	**N**	PO - Court – 2 yrs imp/18mth susp
34	**A? NR**	**N**	OPC
35	**A? NR**	**N**	PO
37	**A? NR**	**N**	PO - Court – 3 months imp + CBO
38	**A? NR**	**N/OPP**	PO
39	**A? NR**	**N**	PO
41	**A? NR**	**N**	PO - Court – conviction
46	**A? NR**	**N**	OPC
47	**A? NR**	**N**	OPC
55	**A? NR**	**N**	PO - CC conviction
1	**NA R**	**Y**	SNA
2	**NA R**	**Y**	SNA
12	**NA R**	**Y**	SNA
13	**NA R**	**Y**	SNA
14	**NA R**	**Y**	SNA
33	**NA R**	**Y**	SNA
36	**NA R B**	**Y**	SNA
43	**NA R B**	**Y**	SNA – OPC[2] – Court – no result on file
56	**NA R**	**Y**	SNA

57	**NA R**	**Y**	SNA
58	**NA R**	**Y**	SNA
59	**NA R**	**Y**	SNA
60	**NA R**	**Y**	SNA
61	**NA R**	**Y**	SNA
62	**NA R**	**Y**	SNA
63	**NA R**	**Y**	SNA
64	**NA R**	**Y**	SNA
65	**NA R**	**Y**	SNA
66	**NA R**	**Y**	SNA
67	**NA R**	**Y**	SNA
68	**NA R**	**Y**	SNA
69	**NA R**	**Y**	SNA
70	**NA R**	**Y/OPP**	SNA
71	**NA R B**	**Y**	SNA
72	**NA R**	**Y**	SNA
73	**NA R**	**Y**	SNA
74	**NA R B**	**Y**	SNA
75	**NA R**	**Y**	SNA
76	**NA R**	**Y**	SNA
77	**NA R B**	**Y**	CPWD
78	**NA R**	**Y**	CPWD
79	**NA R**	**Y**	CPWD
81	**NA R**	**Y**	CPWD
82	**NA R**	**Y**	CPWD
87	**NA R**	**Y**	CPWD
88	**NA R**	**Y**	CPWD
89	**NA R**	**Y**	SNA
54	**NA B OL***	**N**	CPWD
25	**NA OL***	**N**	CPWD
19	**NA NR**	**N**	CPWD
20	**NA NR**	**N**	CPWD
26	**NA NR**	**N**	CPWD[3] - Court – CWP
52	**NA NR**	**N**	CPWD
80	**NA NR**	**N**	CPWD
83	**NA NR**	**N**	CPWD
84	**NA NR**	**N**	CPWD
85	**NA NR**	**N**	CPWD
21	**U**	**N**	Unsolved
23	**U**	**N**	Unsolved
24	**U**	**N**	Unsolved
53	**U**	**N**	Unsolved
51	**NOD**	**N**	NOD - CPWD
22	**NOD**	**N**	NOD - CPWD

86	**NOD**	**N**	NOD - CPWD

NOTES: 1. In case 45 a formal report was included on file without any reasons; 2. Case 43 was in fact prosecuted at least to a committal hearing, having been formally not authorised beforehand, without clarification on file; 3. Case 26 was especially unusual, the charge being withdrawn by the prosecution at Court after the complaint had already been withdrawn earlier by the victim.

Appendix 14:

Grid 2 - Case status: original main allegation, main charge that eventuated, type of case and networked policing (strand two)

This grid summarises the status of LEAP file cases in terms of original main allegation, main charge that eventuated, type of case and networked policing.

C – Case number

- **Allegation** (main, original):
    - **R** = rape
    - **AR** = attempted rape
    - **IA** = indecent/sexual assault
    - **IN** = incest
- **Charge** (main):
    - **R** = rape
    - **AR** = attempted rape
    - **IA** = indecent/sexual assault
    - **IN** = incest
- **Not authorised** = **NA**
- **Type of case**:
    - **DR** = domestic rape
    - **GR** = gang rape
    - **SR** = stranger rape
    - **SA** = stranger attempted rape
    - **AR** = acquaintance rape (includes friends and known others)
    - **AA** = acquaintance attempted rape
    - **IN** = incest
    - **SI** = stranger indecent assault
    - **AI** = Acquaintance indecent assault (includes friends and known others)
    - **UR/UI** = unknown due to lack of detail on file
- **Networked Policing**:
    - yes
    - no

C	Allegation	Charge/ NA	Type of case	Networked Policing
1	R	NA	AR	yes
2	R	NA	AR	no
3	IA	IA	SI	no
4	R	R	AR	no
5	IA	IA	AI	no
6	IA	IA	SI	no
7	R	R	AR	yes
8	R	R	AR	no
9	R	R	SR	yes

10	IA	IA	AI	no
11	IA	IA	SI	no
12	R	NA	GR	no
13	IA	NA	AI	no
14	R	NA	AR	no
15	R	R	DR	yes
16	IA	IA	AI	no
17	R	R	AR	no
18	IA	IA	SI	no
19	R	NA	SR	yes
20	R	NA	SR	yes
21	IA	NA	SI	yes
22	R	NA	AR	yes
23	AR	NA	SA	yes
24	IA	NA	SI	no
25	IA	NA	AI	yes
26[1]	IA	IA	AI[2]	yes
27	R	R	SR	yes
28	R	R	SR	yes
29	IA	IA	SI	no
30	IA	IA	SI	no
31	R	R	AR	no
32	R	R	AR	yes
33	IN	NA	IN	no
34	IN	IN	IN	no
35	IA	IA	SI	no
36	R	NA	AR	no
37	IA	IA	SI	no
38	IA	IA	AI[3]	no
39	IN	IN	IN	no
40	R	IA	AR	no
41	IA	IA	SI	no
42	R	IA	AI	no
43	R	NA	AR	no
44	R	R	AR	yes
45	IA	IA	AI	no
46	R	R	UR	no
47	R	R	UR	no
48	IA	IA	AI	no
49	R	R	AR	no
50	R	R	AR	no
51	IA	NA	AI	no
52	R	NA	AR	yes
53	IA	NA	SI	yes
54	R	NA	AR	yes
55	IN	IN	IN	no
56	R	NA	AR	no
57	R	NA	AR	no

58	R	NA	AR	no
59	R	NA	AR	no
60	R	NA	AR	no
61	IA	NA	AI	no
62	R	NA	AR	no
63	IA	NA	AI	no
64	R	NA	AR	yes
65	R	NA	SR	no
66	IA	NA	SI	no
67	IA	NA	AI	no
68	R	NA	SR	no
69	IA	NA	UI	no
70	R	NA	AR	yes
71	IA	NA	AI	no
72	R	NA	AR	no
73	R	NA	AR	no
74	R	NA	AR	no
75	IA	NA	AI	no
76	R	NA	AR	no
77	AR	NA	AA	no
78	IA	NA	AI	no
79	R	NA	AR	yes
80	IA	NA	AI	no
81	R	NA	SR	yes
82	R	NA	AR	yes
83	R	NA	UR	yes
84	IA	NA	SI	yes[4]
85	R	NA	SR	no
86	R	NA	SR	no
87	R	NA	AR	yes[5]
88	IA	NA	AI	no
89	R	NA	SR	no
90	IN	IN	IN	no

NOTES: 1. Case 26 was not formally authorised albeit a charge was taken forward; 2. In this case the alleged offender was the victim's mother's boyfriend of eight years, so it could be construed as a quasi-incest attempt; 3. The accused was the step-father of the underage victim who reported as an adult; 4. Offered but refused; 5. The victim in this case contacted CASA herself.

Appendix 15: Data collection relating to the Victoria Police SOCIT/VARE sexual assault training course (strand three)

This appendix is divided into four sections: online questionnaire; SOCIT course trainee feedback sheets; non-participant observation; and in-depth interview of SOCIT training team members. (NOTE: Not all of the data collected were analysed and incorporated into the body of the report due to aspects relating to child sex offending being outside the PJO project scope and to the data mine being largely for the purpose of the Post-Graduate student's thesis).

Online questionnaire

Victoria Police 4 Week Sexual Offence Investigation Course Survey

Q1 Do you give your consent to completing the following questionnaire about the Victoria Police 4 Week Sexual Office Investigation Course?
no 1 (If this option is selected no values will be stored in database as user will not be allowed to complete survey)
yes 2

Q2 Are you male or female?
Male 1
Female 2

Q3 Which category below includes your age?
18-24 1
25-29 2
30-39 3
40-49 4
50-59 5
60 or more 6
Other (please specify) 7

Q4 What is your rank?
Senior Constable / Detective Senior Constable or below 1
Sergeant / Detective Sergeant or above 2

Q5 Work location
Metro 1
Rural 2

Q6 Which of the following describes your office / unit?
SOCAU 1
SOCIT 2
CIU 3
Uniform 4
Other (please specify) 5

Q7 How long have your been a member of Victoria Police?

Q8 Briefly describe your experience in the policing of adult sexual offences, and/or years working in this field.

Q9 Which month and/or year did you attend the 4 week sexual offence investigation course?

Q10 Do you believe Victoria Police need specialist training in investigating sexual offences?
yes 1
no 2
unsure 3

Q11 Did the course instructor clearly explain the objectives of the 4 week sexual offence investigation course to you?
yes 1
no 2
comments:

Q12 Did the course instructor clearly explain how the course was to be assessed?
yes 1
no 2
unsure 3
comments:

QUESTIONS 13 to 15 ALLOWED SPACE FOR COMMENTS AND INCLUDED THE FOLLOWING RATING SCALE

unsatisfactory 1
poor 2
neutral 3
good 4
excellent 5

Q13 From a design perspective, how do you rate the following aspects of the 4 week sexual offence investigation course?

Enrolment procedures

Curriculum content and resources

Linkage(s) between the program and other programs (e.g.,: DTS)

Course relevance to work role

Teaching and learning methods used

Assessment methods used (quiz's and simulated VARE interviews)

Use of Feedback Sheets for program evaluation

Expertise/experience/qualifications of teachers

Location of physical facilities and resources

Access to administrative and educational support

Duration of the course

Q14 How did you find the quality of teaching for the following aspects of the 4 week sexual offence investigation course?

Theory about adult victims of sexual offences

Techniques for interviewing victims of sexual offences

Techniques for interviewing peoples with intellectual disabilities

Theory about suspected sex offenders

Techniques for interviews with suspected sex offenders

Q15 From your experience, how did you generally find the following aspects of the 4 week sexual offence investigation course?

Quality of Course Materials

Quality of teaching of theory in Victims/Survivors of Sexual Offences:

Quality of External Presenters

Access to Teachers

Access to Resources e.g., Accommodation, Meals

Access to Educational Resources (e.g., library services)

Assessment of Course

Curriculum Content

Relevance to Work Role

Please add any other feedback about your experience as a student on the course:

QUESTIONS 15 to 19 ALLOWED SPACE FOR COMMENTS AND INCLUDED THE FOLLOWING RATING SCALE

irrelevant 1
inadequate - needs improvement 2
neutral - no comment 3
can't remember 4
good - relevant and informative 5
excellent - useful and highly relevant 6

Q16 Week 1 of the SOCIT course

SOCIT Philosophy & Background

SOCIT Transition

Introduction to Victimology

Grooming - 'The Whole Story'

Victims - Child Development

Memory - Impact of Trauma

Interviewing Theory (victim/witness)

VATE Procedural Guidelines

Q 17 Week 2 of the SOCIT course

Centre Against Sexual Assault (CASA) - guest speaker

Victim/Survivor - guest speaker

Gay and Lesbian Liaison Officer - guest speaker

Cultural Diversity/Multicultural Liaison Officer - guest speaker

Family Violence Safety Notices

Victorian Institute of Forensic Medicine

SOCIT/DHS Collaboration

Q18 Week 3 of the SOCIT course

Intellectual Disability and Communication Failure

Mental Health

Interviewing Theory Part 2 - (interviewing children and other vulnerable witnesses)

Legislation - a history of relevant and recent cha nges to sexual assault legislation

Pretext - information and instruction

Drug & Alcohol Facilitated Sexual Assault

Sex Offender Register, Intel, Proactive Legislation, Risk Assessment Tool

Q19 Week 4 of the SOCIT course

Suspect Interviewing Theory

Suspect Rapport Building & Planning

OPP - guest presenter

Specialist Sex Offences Unit - guest presenter

County Court - site visit

Child Witness Services - site visit

Look after yourself - support for sexual offence investigators

Surviving Sexual Assault - guest presenter

Q20 The length of the course was appropriate

Yes 1
No 2
Unsure 3
Comments:

Q21 Do you feel the course adequately addresses its intended purpose?

Yes 1
No 2
Unsure 3
Comments:

Q22 Are there any aspects of the course you would change?

No 1
Yes 2
Comments:

Q23 Overall, how satisfied were you with this course for preparing you as an investigator of sexual offences?

Not satisfied at all 1
Poor, needs improvement 2

Neutral 3
Good, satisfied 4
Extremely Satisfied 5

Q24 Can you give any examples where you have utilised theory or skills from the course in action?

Q25 Now that you have returned to your workplace, can you identify any topics that are relevant to the investigation of adult sexual offences, but not included in the course? If so, what are they?

Q26 Would you recommend this program to other police?

Yes 1
Unsure 2
No 3

Q27 Do you believe Victoria Police should provide "Refresher Training" in sexual offence investigation?

Yes 1
No 2
Comments

Q28 If yes, how often should sexual offence investigators receive "Refresher Training"?

Q29 As a result of the 4 week Sexual Offence Investigation Course, have you experienced any of the following...? ALLOWED SPACE FOR COMMENTS AND INCLUDED THE FOLLOWING RATING SCALE

not at all 1
not much 2
neutral 3
a little 4
very much 5

Improvement in Investigative Skills, Tools and Techniques

Changes in your ideas and attitudes towards survivors of sexual violence

Networking and opportunities to meet other sexual offence investigators

Increased confidence dealing with suspected sex offenders

Increased confidence interviewing vulnerable victims/witnesses

Improvement in your role as a Sexual Offence Investigator

Q30 In your experience, and from what you have learned from colleagues, what percentage of reports of sexual assault made to police do you believe are false?

Q31 Do you have any further thoughts, suggestions, comments or questions?

SOCIT course trainee final feedback forms

SOCIT trainees were asked for written responses to the following questions:

- What is your opinion of the standard of the sessions delivered by external presenters (expertise, presentation style, content)?
- How did you find the Vitoria Police instructors/course staff?
- What do you consider to be the strengths of the course?
- What do you consider to be the weaknesses of the course?
- How do you think the course could be improved?
- Any further general comments on the course?

Non-participant observation of course delivery

A PJO researcher attended as a non-participant observer of the SOCIT course held from 19th July until 18th August 2010. Three sessions were off-site, with one day in the city to visit courts and related services in Melbourne, another session at Dandenong Police Complex. The Dandenong site was used because Academy facilities were fully booked by other training programs on the day. Other off-site sessions were related to child sex offences, which were not observed as research was focused on adult sexual assault. There was no preconceived instrument for data collection.

In the opening session of the course, trainees were asked "What do I want from this course?". Student responses were recorded by the PJO researcher.

In-depth interview of SOCIT training team members

**Interview Schedule for Focus Group with
Course Designers / Teachers
(Victoria Police SOCIT Course)
Project conducted by Edith Cowan University and funded by Australian
Research Council Large Linkage Grant, in partnership with Victoria Police**

Introductory comments:
Thanks to everyone for attending today. Introduce yourself.

Explain briefly the ARC project and VicPol's SOCIT Training involvement in strand 3

Explain confidentiality and the need to sign a consent form

Explain that the interview will be taped and information will be de-identified and no police or region identified and no VicPol personnel will have access to session audio. Introductions all around

15 questions, 1 ½ hours, will need to move fairly quickly, and at the end there will be time for any additional thoughts that are important to note for the research.

Ensure the focus is on SOCIT Training with regards to Adult sexual assault not other crimes (remind them every so often)

In your opinion and from your experience (say this at regular intervals)

Key Question 1:

> Do you think VicPol need the SOCIT training course? Tell me about why / why not? What do you see as the main purpose of the SOCIT training course? (Allow 5 minutes)

Prompts
What drives the need
SOCIT Model
VLRC
Victims/Survivors

Key Question 2:

> Who is the course designed for? (Allow 2 minutes)

Prompts
Detectives
SOCAU/SOCIT staff

Key Question 3:

> What are the intended learning outcomes of the program ? (Allow 5 minutes)

Prompts
Any qualifications? (VARE)
Any other expertise?

Key Question 4:

> Tell me about the course enrolment procedures? (Allow 5 minutes)

Prompts

Advertising
Screening
Selection
Tests, interviews, pre-requisite qualifications?

Key Question 5:

Tell me how the SOCIT course team was established and how resources are allocated (Allow 10 minutes)

Prompts
Who decides?
What input did you have?
Was an operating budget provided?
expertise/experience/qualifications requirements of teachers

Key Question 6:

What was the driver(s) for curriculum content topics (Allow 5 minutes)

Prompts
Direction from "above"
Crime Stats – reported
VLRC
Theoretical basis

Key Question 7:

What proportion of the training is relevant specifically to adult sexual assault compared to that specifically focussing on child sexual abuse? How is this decided? (Allow 5 minutes)

Prompts
Use course syllabus as reminder

Key Question 8:

Are there any linkage(s) between the SOCIT program and other VicPol programs? (Allow 5 minutes)

Prompts
Can same training be used elsewhere?
Aspects of ?
Probationary Constables
Or other programs e.g.; courts, casa, health, parole

Key Question 9:

Tell me about the types of teaching and learning techniques used, How and Why are these chosen (Allow 5 minutes)

Prompts
Lectures
Roles plays
Syndicate work
Mock interviews

Key Question 10:

How is the program evaluated ?if at all (Allow 8 minutes)

Prompts
Key Learning
Qualifications
Knowledge
Skills
Attitudes

Key Question 11:

What kind of administrative and educational support services were devised? (Allow 2 minutes)

Prompts
student learning support/remediation
library
readings

Key Question 12:

What can you tell me about costs of delivering the program, as well as the per capita cost per successfully completing student/participant, and which agencies bear which parts of these costs? (Allow 5 minutes)

Prompts
numbers of working days/shifts lost by employees
curriculum materials
Venue hire
library usage
teacher salaries

accommodation costs
associated costs (e.g., travel allowance)

Key Question 13:

Tell me about sites, resources and equipment actually deployed and used. Have these been adequate? (Allow 5 minutes)

Key Question 14:

How are student enrolments handled, is there enough administration support or time? (Allow 2 minutes)

Key Question 15:

With a team of 3 teachers, and up to 18 visiting speakers, how do you manage? (Allow 5 minutes)

Prompts
Do you have any back up staff?
Staff succession plans?
Managing staff leave
Written policy or documents on training

Key Question 16:

What are the staff / student ratios? Are these appropriate ? (Allow 2 minutes)

Key Question 17:

Are there any processes for distribution of learning materials? (Allow 3 minutes)

Prompts
Is there a "set" of notes or learning materials ?
How has this evolved?
Tell me about how and when materials are distributed?

Key Question 18:

What academic and administrative support is available to the Training team? (Allow 3 minutes)

Prompts
How are they used?
Are they adequate?
What would you like to see?

Key Question 19:

What is the student progression/course completion (attrition) rate (Allow 2 minutes)

Prompts
Drop out rate?

Key Question 20:

How have costs of delivery impacted the design and implementation of the course. (Allow 2 minutes)

Key Question 21:

Discussion on syllabus; What are the key elements of the syllabus? Why is this so? (Allow 5 minutes)

Prompts
Victim/survivor
Offender
Other

Key Question 22:

How has the syllabus evolved over time? What does your idea of the perfect syllabus look like? (Allow 5 minutes)

Prompts
More / less topics
Which topics

Key Question 23:

> Tell me about the teaching strategies used? (Allow 3 minutes)

Prompts
Formal/ informal/relaxed
Language / dress/ demeanour

Key Question 24:

> Tell me about the assessment practices. What types of learning outcomes do you measure? (Allow 3 minutes)

Prompts
Tests - Pass/fail
Formal/informal
Qualifications – VARE

Key Question 25:

> Tell me about the assessment practices. What types of learning outcomes do you measure? (Allow 3 minutes)

Prompts
Formal/ informal
Attitude changes
Work performance improvement

Key Question 26:

> Do you have any further thoughts, suggestions, comments or questions? (Allow 5 minutes)

Thank you for participating in this focus group, your opinions and experiences are highly valued and help improve our understanding of the effectiveness and appropriateness of the SOCIT course.

Appendix 16: Police SOCIT/VARE sexual assault training course outline (strand three)

In respect to SOCIT/VARE course content, the following is an outline of the training sessions (NOTE that this is the July/August 2010 course, and the course has been modified over the years, being a three week course in April/May 2009 and extended to four weeks from the November 2009 course):

WEEK ONE
- Course opening – 1 hour & 20 minutes
- SOCIT Philosophy & Background – 40 minutes
- SOCIT Transition – 40 minutes
- Introduction to Victimology – 3 hours
- Introduction to offenders/offending – 3 hours & 20 minutes
- Grooming - 'The Whole Story' – 3 hours
- Victims - Child Development – 4 hours & 20 minutes
- Memory - Impact of Trauma – 2 hours
- Interviewing Theory (victim/witness) – 5 ½ hours
- Code and Tally Pre-course interview – 1 hours & 40 minutes
- Briefing – 40 minutes
- School visit – 1 hour & 10 minutes
- VATE Procedural Guidelines – 3 hours & 10 minutes

WEEK TWO
- Briefing – (40 minutes)x2
- Assessment, VATE interviews – (5 ½ hours)x2
- Developmental review – 40 minutes
- Centre Against Sexual Assault (CASA) - guest speaker – 40 minutes
- Victim/Survivor - guest speaker - 40 minutes
- Gay and Lesbian Liaison Officer - guest speaker - 40 minutes
- DHS Joint Investigation – Child First – 2 hours & 50 minutes
- Family Violence & Child Abuse - 2 hours & 40 minutes
- DHS/VicPol practical study - 2 hours & 50 minutes
- Victorian Institute of Forensic Medicine – 1 hour & 20 minutes
- Court transcript – 40 minutes
- VFPMS – 1 hour & 20 minutes
- Cultural Diversity/Multicultural Liaison Officer - guest speaker – 1 hour & 20 minutes
- Code & Tally – 1 hour & 20 minutes
- Family Violence Safety Notices – not listed
- SOCIT/DHS Collaboration – (2 hours & 40 minutes)x2

WEEK THREE
- Intellectual Disability and Communication Failure – 3 hours & 20 minutes
- Mental Health – 3 hours
- C I Briefing – 40 minutes

- Assessment VATE Interviews – Cognitive – 3 hours & 40 minutes
- Developmental Review – 1 hour & 40 minutes
- SUDI Morning – 3 hours & 10 minutes
- Interviewing Theory Part 2 - (interviewing children and other vulnerable witnesses) – 3 hours
- Briefing – 40 minutes
- Legislation - a history of relevant and recent changes to sexual assault legislation – includes reference to the Investigative Guidelines - 1 hour & 20 minutes
- Pretext - information and instruction – 40 minutes
- Drug & Alcohol Facilitated Sexual Assault – 1 hour & 20 minutes
- ICET – 40 minutes
- Child Pornography / E Crime – 1 hour & 40 minutes
- Sex Offender Register, Intel, Proactive Legislation, Risk Assessment Tool – 6 hours & 20 minutes

WEEK FOUR
- Check Transcript/ Code & Tally – 40 minutes
- Suspect Interviewing Theory – 5 ½ hours
- Suspect Rapport Building & Planning – 5 hours & 20 minutes
- Debrief – 40 minutes
- Suspect Interview Practice – 6 hours & 20 minutes
- OPP - Specialist Sex Offences Unit - guest presenter - 6 hours & 20 minutes
- County Court - site visit - not listed
- Child Witness Services - site visit - not listed
- Look after yourself - support for sexual offence investigators – 1 hour & 20 minutes
- Final Exam / Course Debrief – 1 hour & 20 minutes
- Surviving Sexual Assault - guest presenter – 2 hours & 40 minutes
- Course closure – 1 hour & 40 minutes

Appendix 17: Ethics- plain language explanation statement and consent form (all strands)

The following are examples of the plain language statements and consent forms used in all PJO research strands and studies. The wording of each statement varied slightly to reflect the specifics of the particular study for which it was relevant.

Plain Language Statement for Individual Interviews

Project conducted by Edith Cowan University and funded by Australian Research Council Large Linkage Grant

Project Title: Policing Just Outcomes Project: Improving Police Response to Adult Sexual Assault.

Researchers

Project Director and Chief Investigator: Professor Caroline Taylor
Researcher: Dr Shane Muldoon
Researcher: Ms Caroline Norma

Explanation of Project:

This Edith Cowan University project, in which you have been invited to participate, is funded by the Australia Research Council. Victoria Police is the Industry Partner for this five year project. The aim of the research is to better understand the factors and dilemmas encountered by victim/survivors when making decisions about whether to report rape and sexual assault to police. The research material will be used to inform the development of an evidence-based policy, practice and advocacy model for Victoria Police.

- **Your Involvement**: Participation in this project is voluntary. If you choose to be a participant in the project you will be involved in an interview. The interview will be conducted by the researcher and audio recorded for later transcription. You will be asked to indicate your age within a six year range on a data collection form.

- **Time**: the duration of the interview will be approximately 50 minutes.

- **Privacy**: All information contained in the transcript and survey tool will be de-identified before use in any report or published document. Participant personal details will only be accessible by the researcher. No identifying information about participants will be used in any material arising from the project. Audio tapes will be destroyed when transcription is complete, in accordance with Edith Cowan University policy and procedures.

- **Benefits**: Your participation in this research will provide valuable information to help Victoria Police improve their policy, practice and training in responding to reports of rape and sexual assault. In addition, the focus group discussions will provide a forum for police to share their work experiences of decision-making about sexual assault cases. Your experiences and views will help researchers and Victoria Police to generate greater understanding about this topic area.

- **Withdrawing from the research:** You are free to withdraw from the research at any point up until the data is aggregated. Should you decide to withdraw your contribution all information provided by you will be destroyed immediately in accordance with Edith Cowan University ethics requirements and reference to your material in any report/s removed.

- This project has been approved by Edith Cowan University Human Research Ethics Committee

Further Information: If you have any questions, or you would like further information regarding the project titled: 'Adult Sexual Assault, Decision-Making Processes about Reporting: An Evidence-Based Policy, Practice and Advocacy Model for Victoria Police' please contact the Project Manager, Mr Gary Cozens on 0427 985 211.

Consent form:

This is the consent form given to and duly signed by all participants in the PJO research project prior to their involvement.

INFORMED CONSENT

<u>Consent (fill out below)</u>

I, ... of . . . .
.

. . . .
. . . . . .

hereby consent to being interviewed in the above research study.

The research program in which I am being asked to participate has been explained fully to me verbally and in writing, and any matters on which I have sought information have been answered to my satisfaction.

I understand that: all information I provide will be treated with the strictest confidence and data will be stored separately from any listing that includes my name and address.

- my participation will be audio-taped

- aggregated results will be used for research purposes and may be reported in scientific and academic journals

- I am free to withdraw my consent at any time during the study in which event my participation in the research study will immediately cease.

- In the case of my withdrawal I understand any information I have given will not be able to be taken out due to all the participants not being identified during the interviews.

SIGNATURE: . . . . DATE: . . . .
.

The ties that bind: Family barriers for adult women seeking to report childhood sexual assault in Australia ☆

S. Caroline Taylor [a],[*], Caroline Norma [b]

[a] Edith Cowan University, 270 Joondalup Drive, Joondalup, WA 6027, Australia
[b] RMIT University, Melbourne, Australia

ARTICLE INFO	SYNOPSIS
Available online 6 December 2012	In this article, we observe that barriers to the disclosure and reporting of sexual assault reside within families. We draw on qualitative survey data, as well as interviews with adult victims of childhood sexual assault, to show how women are impeded by family members when attempting to disclose or report sexual assault. Taylor and Putt (2007) identified three 'family constraints on [sexual violence] reporting' for women from culturally and linguistically diverse (CALD) backgrounds in Australia. These were: 1) Family denial that sexual violence exists, 2) Reluctance to report a partner perpetrator, and 3) Fear of being ostracised for bringing shame upon the family (p. 4). We examine whether similar barriers to reporting exist for adult female survivors of childhood sexual assault who are from non-CALD backgrounds. On the basis of our findings, we urge greater police and public recognition of, and sensitivity to barriers extant within non-CALD families that contribute to the under-reporting of sexual assault by women in Australia.

Introduction

Many barriers to the disclosure and reporting of sexual assault can be found within families. Feminist criminologist Denise Lievore writes that, "if the [sex] offence occurs within the family[,]…[f]amily members may not want to hear about the abuse; may be unwilling to become involved; may not believe that their male relative was violent…" (Lievore, 2003, p. 80). However, only a handful of studies have explored in depth this problem of family members resisting the disclosing and reporting efforts of survivors, and this scholarship is mostly concerned with the reactions of partners or with "social networks" in general (Australian Institute of Family Studies, 2007; Davis & Brickman, 1996; Davis, Taylor, & Bench, 1995; Ullman & Najdowski, 2011). The most substantial comment on the topic is found within the (mostly) Australian literature that

discusses difficulties faced by Culturally and Linguistically Diverse (CALD) and Indigenous women who seek to report sexual assault in the absence of family or community support (Aly & Gaba, 2007; Department of Families, Community Services and Indigenous Affairs, 2007; Fairfield Multicultural Family Planning, 1996; Fairfield Multicultural Family Planning, 1996; Neame & Heenan, 2004; Rubin, 2010). Taylor and Putt (2007), for example, identified three *family constraints on reporting* for female victims of sexual violence from CALD backgrounds in Australia. These were: 1) Family denial that sexual violence exists, 2) Reluctance to report a partner perpetrator, and 3) Fear of being ostracised for bringing shame upon the family (p. 4). According to a Women's Health Services Australia publication, CALD victims of sexual assault experience particular difficulty with family members when they seek to report because "issues to do with rape and sexual assault are still shrouded in secrecy and shame" in their communities (Fairfield Multicultural Family Planning, 1996, p. 3). A report from an Australian federal government agency in 2004 explains that "[c]ultural issues… impact on the reporting of sexual assaults, as it is considered "shame", not necessarily to *be* sexually assaulted, but to *report*

sexual assaults" (Neame & Heenan, 2004, p. 14, their italics). In this article, we examine whether similar family-based barriers to the disclosure and reporting of sexual assault exist for victims who do not belong to CALD communities in Australia.

We pursue this discussion in order to encourage greater sensitivity and responsiveness on the part of police and the public to the possibility that women in Australia are impeded by family members when attempting to disclose or report sexual assault. We focus on non-CALD families, but we recognise that issues of family *shame* and *honour* comprise a particularly serious and pernicious barrier to reporting for women from some CALD groups (Fairfield Multicultural Family Planning, 1996; Women's Legal Services NSW, 2007). It is not our intention to overlook this experience. On the contrary, research on the experiences of CALD women alerted us to the possibility of similar barriers—even if different in degree—arising in the experience of non-CALD survivors of sexual assault.

The question that guides our research was posed by Lievore (2003). She asked "whether families and friends prevent access or provide a pathway to further help seeking from legal and professional sources of support or vice versa" (p. 18). Research on the experience of CALD and Indigenous women answers this question to some degree, but examining a broader population of women is useful for confirming the findings of this scholarship. On this basis, as we discuss below, we test whether Taylor & Putt's, 2007 aforementioned three family constraints on reporting (i.e., family denial that sexual abuse occurred, reluctance to report a partner[1] perpetrator, and fear of being ostracised for bringing shame upon the family) are also part of the experience of non-CALD female survivors of sexual assault in Australia. We extend these family constraints a little further to include evidence of harm minimisation by family members, intimidation and threats by perpetrators and sometimes other family members, and families expelling victims from the family unit for disclosing and/or reporting to police.

To some extent, women's services in Australia already recognise the need for intervention to encourage non-perpetrating family members to better support survivors. In a campaign run by the Fairfield Immigrant & Refugee Women's Network NSW (Australia) in the mid 1990s it was stressed that "non-offending members of the family like sisters and mothers need to be supportive of the victim and take a firm stand against the perpetrator" (Fairfield Multicultural Family Planning, 1996; pp. 29–30). In this campaign, increased solidarity among female family members was seen as a way to combat family-based obstacles to victims speaking out. It did not, however, directly call on victims to make police reports in the style of the 2008 London Metropolitan Police campaign 'Don't be afraid to report rape and sexual assault' (http://content.met.police.uk/Article/Dont-be-afraid-to-report-rape-and-sexual-assault–Campaign-results/1400002039898/sapphirecampaign08). While informal disclosure to friends and family members may positively influence the likelihood of police reporting (Lievore, 2005, p. 38), in the absence of clear public exhortations to report the crime, victims may remain vulnerable to intimidation or dissuasion by family members (including perpetrators) who have an interest in keeping matters "private". For this reason, in this article we explore family-related barriers that prevent women coming forward as victims of sexual assault in order that public agencies like the police may consider incorporating measures against

family interference in future campaigns to increase sexual assault reporting.

Theoretical approach and previous research

Our focus in this article on the role that family members play in the delayed or non-reporting of sexual assault is theoretically informed by the work of Catherine Itzin (2001). Itzin describes in vivid terms the situation of children in families who are sexually abused by male household members. She describes these children as suffering "pain, humiliation and torment", and as incurring "permanent emotional damage" as a result of the abuse. Itzin notes that these children make up a population that is "captive… and vulnerable". Significantly, she writes that this 'capture' necessarily "involves deceiving and disarming adults, and in particular the children's mothers" (p. 45). Such deception is carried out by perpetrators who "may be good at their jobs and respected by their colleagues", and are also "adept at avoiding detection and criminal charges". Most importantly, these perpetrators "are inadvertently assisted by the assumptions and values of our social institutions" (p. 45). While, in this article, we draw on interview and survey data from adult survivors of childhood sexual assault (and not children), Itzin's (2001) insights are nonetheless useful for their articulation of the way in which perpetrators can be assisted in their crimes by the 'assumptions and values' of the social institutions around them.

Understanding intrafamilial sexual assault crime in this way allows us to avoid the "incest family" or "dysfunctional family" approach that is popular in the psychology and social science literature discussing abuse in the family. Feminist scholars have been vocal in condemning the development and mobilisation of a discourse that located mothers as the causative agent of men's sexual assault and rape of their children in the family unit.[2] Sarah Ruddick's (1997) alternative argument is that "the family"—when it is constructed out of the idea of "fatherhood"—is detrimental to the wellbeing of women and children to the extent that fatherhood is accompanied by "a right…to intrude, humiliate, exploit, and assault" (p. 213). Historically men as fathers and husbands have been legally and socially sanctioned and vested with significant power and status both within the family and society at large. Taylor's work exposed and made explicit the status accorded to "fathers" accused of committing sexual crimes against their child/ren (Taylor, 2001, 2004). Similar can be said for domestic violence. We concur that, when fatherhood is the organising principle of families and is afforded a degree of power and credibility not afforded women and children, this imbalance of power and rights creates significant barriers for women and children to speak and to disclose acts of violence perpetrated upon them. Moreover, it can create a family climate where members feel unable to protect others being victimised by the father. Accordingly, family members may emotionally withdraw from victims by declaring their support for perpetrators, in spite of the offences committed. Russell (1986, p. 370) has noted that one cause of this misplaced family loyalty is the fact that "[n]ot only does the person with the good reputation have a stake in that reputation, but often others do too. When reality conflicts with the reputation, some people prefer to uphold the reputation". This insight is particularly relevant to cases in which mothers protect perpetrator fathers against daughters. The ability of mothers to protect daughters is diminished in

families that are organised around the principle of "fatherhood" because, in Ruddick's understanding, women lose "cognitive or moral authority". Similarly, daughters experience "confusion, resentment, and contempt when confronted with the submissiveness of a mother who in their eyes is powerful and, in the absence of the father, often trustworthy" (Ruddick, 1997, p. 213) Taylor has commented on the notion of the "good father" and "good citizen" that is often woven into the fabric of the family and community life of perpetrators, that often leads family members and the wider community to question the credibility of a victim's disclosure over the cultivated facade of the perpetrator (Taylor, 2004, p. 274).

A publication by Donna Rafanello (2004) is the only work we found containing substantial qualitative data from survivors on problems experienced with family members when disclosing or reporting sexual assault. Taylor (2004) identified similar problems but her data was confined to victim police statements and impact statements which detailed barriers and threats erected by family members and the dreadful reality of being expunged from the family unit for disclosing and/or reporting the father for the sexual abuse committed upon them. Rafanello interviewed sixty lesbians at length about various aspects of their lives as survivors, and a number of her interview questions elicited qualitative data about respondents' experience of disclosing to family members. Her respondents came from 28 different states of the US, as well as from New Zealand and Canada. They ranged in age from 18 to 66 years. Unfortunately, Rafenello does not disaggregate her data according to the linguistic or cultural background of respondents, so it is not possible to tell how many respondents came from 'Hispanic, African-American, Latina, White, Asian, Native American and Polynesian' backgrounds, as she describes her research sample. Regardless of background, though, Rafenello describes her respondents as generally citing negative reactions to their disclosures of intrafamilial sexual assault to non-perpetrating family members. While Rafenello does not thematically categorise her data according to the nature of obstacles faced by survivors in disclosing or reporting, as we attempt in this article, the following comment from one of her respondents is typical:

> In my family I'm the big liar. When I wrote my mom a letter about the abuse, she had a fit. When she asked my dad he denied it. So she said it must not have happened. What else is he going to say? 'Of course I did'? She said I was doing this to hurt her. She said it never happened (p. 97).

While there exists only limited research on the issue of family barriers to sexual assault reporting, police are nonetheless aware that family-related factors contribute in some way to low reporting rates for crimes of violence against women. A report from Victoria Police (2009), for example, notes that:

> it is very difficult for victims to take action against their own partners and family members. Fear of ostracism, reprisals against themselves and their children, and disbelief from family, friends and police are some of the reasons why [these] women find it so hard to report (p. 8).

Melanie Heenan and Suellen Murray in 2006 further noted that members of the Criminal Investigation Unit (CIU) and the Sexual Offences and Child Abuse Unit (SOCAU) of Victoria

Police believe that victims withdraw complaints of sexual assault because of "pressure from family" in intra-familial (i.e., incest) cases (Heenan & Murray, 2006, p. 12).

This recognition by police of family-related factors as influencing reporting is somewhat ahead of academic literature. Most scholarly discussion of the under-reporting of sexual offences to police focuses on decision-making by individual victims, which is seen to follow a "cost–benefit calculation", the results of which "determine whether contacting the police [would be] worth the effort" (Goudriaan, Lynch, & Nieuwbeerta, 2004, p. 934). While institutional barriers like the legal system feature in the academic discussion, family (and community) influences are left largely unconsidered. A typical example is Lievore's, 2003 research, which divides "barriers to reporting" into "personal barriers" and, "barriers related to the criminal justice system" (p. 27). These two categories frame much of the existing scholarly discussion of sexual assault non-reporting (see Home Office Research, Development and Statistics Directorate, 2005; Jordan, 2004).

This focus on individual victims is being gradually broadened to include social factors that impede victims in approaching police, and a broader, political view of the causes of sexual assault underreporting is starting to emerge in the feminist criminological literature. This scholarship looks outside the perceptions of victims—and outside institutional impediments to reporting imposed by the courts—toward obstacles posed by local communities. Pamela Rubin's (2010) work, for example, draws on interviews conducted with 125 female survivors of domestic violence in the Canadian state of Nova Scotia in 2000. Rubin found there was a "systematic failure to provide safety for abused women in [Nova Scotia], and a lack of community and awareness and understanding" (p. 80). She writes that her interviewees testified that there was "community hostility to abused women" and, therefore, "[f]or many women, community shrank and changed radically after…surviving abuse" (p. 80). They described feeling "shock and despair when trusted community members directed… [victim-blaming hostility] at them and supported the abuser or assailant" (p. 80). In Australia, Andrea Neame and Melanie Heenan have similarly noted community-based barriers to sexual assault reporting for women living in non-metropolitan areas. They found, similar to Rubin, that

> [w]omen's responses to sexual violence, the range of options that are available to them, and their own capacity to take action after an assault will all be affected by the sociocultural dynamics of the place in which they live (2004, p. 6).

Research by Taylor on the difficulties often posed by smaller communities for victims of intrafamilial sexual abuse observed:

> Relationships among community members may create situations in which child abuse, domestic violence and sexual violence is difficult to report and/or follow up. It is possible that community members may close ranks to inhibit proper investigation, stigmatise the victim or offender or treat those who report such offences…as a whistleblower (Taylor, 2003–2004, p. 13).

This view of sexual assault reporting, in which structural constraints extant in the community are understood to play a part in women's inability to achieve recourse for crime looks

beyond individual factors. It is an approach to the problem of sexual assault under-reporting that emphasises the responsibility of wider society to create an environment that facilitates reporting, regardless of personal barriers that individuals may face.

Methods and data

In 2010, we advertised an online survey in newspapers and via radio advertisements in the state of Victoria (Australia), and via posters in police stations and other public domains. Our advertising solicited participation by adult sexual assault victims currently residing in the state of Victoria who were willing to discuss their decision-making in regards to (non-)reporting of sexual assault crime to police. The online survey questions were piloted among a group of fourteen female survivors and two male survivors, and modified according to their feedback. The survey questions elicited quantitative as well as qualitative data, but we draw only on qualitative responses in this article. The survey was completed by 336 respondents, of which 88% were female and 12% male. Just under 60% of respondents entered a metropolitan Victorian postcode. Of the total sample, 14% of respondents were from non-English speaking backgrounds, and 2.4% identified as either Aboriginal or Torres Strait Islander. Overall, 130 had reported to police, and the majority of respondents who had reported to police had done so in the previous four years (2006 to 2010). Significantly, 43% of respondents reported sexual assault beginning in childhood.

A total of 64 survey respondents elected to participate in a subsequent semi-structured, in-depth individual or focus group interview about their views, feelings, and experiences of (non-) reporting to Victoria Police (47 respondents chose individual interviews). Of these, 36 interviewees had contacted police for the purpose of reporting. Interviews were carried out over three months in mid-2010, and sex-segregated focus groups were held with no more than four participants. The individual interviews were held at community centres or venues close to where respondents were working or living. Payment was not offered but a "thank you" gift was given at the end of each interview. Researchers ensured that counsellors were on hand for focus group interviews, and individual interviewees were given information on where help was available if needed. One interview was conducted in the presence of the participant's psychologist, and one respondent submitted written testimony of her experience of police reporting (she did not feel comfortable enough to meet with researchers). Most individual interviews lasted one hour, but one extended to three hours, and focus groups generally exceeded two hours. Twelve per cent of interviewees came from CALD backgrounds, but in this article we draw only on data from female survivors of childhood sexual assault who self-identified as *Caucasian*.

Analysis of the qualitative survey and interview data involved a close, line-by-line reading by three researchers in order to achieve a degree of triangulation at the researcher level (see Minichiello, Sullivan, Greenwood, & Axford, 2003; Perlesz & Lindsay, 2003). This reading resulted in data coding according to a range of different themes, but the discussion of this article is based on, as mentioned, coding that was performed to specifically examine the three family constraints on reporting that were posed by Taylor and Putt (2007). This method of analysis aimed to ascertain whether non-CALD survivors of

childhood sexual assault experience similar barriers to reporting that have been identified for other survivor populations, and to describe the nature of these barriers. Our approach was qualitative in its aim to understand the nature of the family constraints, rather than their prevalence, severity, or relative frequency compared to those of CALD victims.

Family denial and trivialisation of disclosures

Please try to make children who are sexually abused in the home feel ok to go to police…because it's hard when it's your father or other family members. Maybe have ads on television to show children and scare the offenders (Survey Respondent 47).

The above comment from a survey respondent was one of several similar comments from survivors alerting researchers to the problematic area of disclosing and reporting intrafamilial sexual abuse. Survey analysis from our study revealed that 66.0% of respondents reported a "fear of not being believed" by family members with the result substantially higher for females (69%) than males (39%).

In line with findings by Taylor and Putt (2007) and Taylor (2004), a number of survivors in our study encountered disbelief and outright rejection of their disclosure by mothers and other family members. What is poignant is that some survivors sought to disclose and re-disclose, even seeking one to one dialogue with individual family members in the hope that they may change their stance:

The second time I told my parents and nothing was done, the third time I told my parents and was disbelieved, the fourth time my mother initially believed me, then she didn't believe me, the perpetrator was exonerated (Survey Respondent 221).

[M]y father absolutely did not believe that his own father… could have sexually abused three girls, his own three granddaughters. It caused such devastation really for dad. He was absolutely horrified. I never actually spoke with dad directly, mum said to me that dad had said his father would never have done that, it's just not true, and he actually said that us three girls were lying, we must be lying because his dad would not do that (Individual Interview, Transcript 2).

My grandfather was a respected member… of the community…he was idolised by [the] family with full knowledge of the sexual abuse of my mother (Survey Respondent 12).

In this next example the survivor sought dialogue with her siblings and in-laws in an attempt to have them understand and support her disclosure. She expressed feelings of distress at having to virtually mount a series of debates and arguments her siblings to counter the rejections of her disclosure and reporting to police:

First of all I reminded [siblings] that one of the main reasons I was taking this action [to report to police] was

because of the [their own girl children]. I pointed out how it was likely they would feel great anger toward me if dad did abuse [their own daughters] and I later came and told them about my experience but hadn't bothered to warn them. That one garnered [sister-in-law's] sincere support [for a short time only] (Individual Interview, Transcript 31).

In a related vein some survivors experienced family members not explicitly rejecting the disclosure but partaking in a discourse of victim blame for the assault; trivialising the assault and ipso facto voiding the experience as a crime of sexual violence; or minimising or denying victim harm. One interviewee told researchers that "[m]y mum thought what he [the perpetrator] did was a mistake and [it was] not like he had murdered anyone, [and she is] in the process of moving back in with him, and I suspect will support him at the court case" (Individual Interview, Transcript 20). With regard to family members minimising harm or trivialising the abuse the following comments are instructive examples:

[when I told] family members they said I must have brought it on myself (Survey Respondent 300).

my father ridiculed me when I told him [of sexual abuse by relative] and I felt no one else would believe me either (Survey Respondent 103).

I told mum 3 years after the fact and she said it was all over with now [and to] get over it (Survey Respondent 215).

In another poignant example, another woman similarly told researchers she was unable to properly talk to family members about having sustained childhood sexual abuse because her husband and adult children believed she should have "gotten over it" now that she was aged in her fifties. This was in spite of the fact she suffered ongoing psychiatric illness as a result of severe and sustained assault by her father in childhood. Her 28-year-old son blamed her for "dragging down" the family finances because she was psychologically unable to manage paid work, and told her he didn't want her to have contact with his new born daughter because she was a "depressed grandmother". When she was later hospitalised for stomach surgery arising from years of depression, both her husband and eldest son refused to visit (Individual Interview, Transcript 23).

This tendency for families to believe that victims should "get over" sexual assault was particularly evident in cases where survivors had disclosed to family members after a delayed time period. Families can misunderstand delayed disclosure as somehow indicating successful "recovery", and a cultivated ability to cope with the crime sufficiently enough to open up about it. Families may not understand that a victim's recovery may be wholly unrelated to their motivation for disclosing sexual assault. On the contrary, survivors may disclose to family members precisely at a time when they find themselves no longer able to cope with the memory and feelings of victimisation. One interviewee expressed the view that disclosing was something she did because "she could no longer face living anyway" (Focus Group Interview,

Transcript 35), and another woman spoke of having approached police in a disassembled psychological state after reaching the point where she felt no longer able to deal with life (Focus Group Interview, Transcript 35). In the case of these two women, disclosure/reporting was driven by personal crisis, and was embarked upon as a last-ditch attempt to get relief from the emotional and mental pain of living with the consequences of crime.

While family members may adopt a disbelieving stance in terms of being unable or unwilling to understand the effects of sexual assault as being serious and far-reaching, respondents also spoke about family members expressing disbelief on the grounds that they were unable to see how they could have been unaware of abuse that was occurring within their own household. One woman recalled of her and her sisters' disclosure of intrafamilial sexual assault to their parents that, "unfortunately[,]…there was a lot of disbelief from our parents". She speculated this disbelief arose from the fact her parents were probably shocked and really unable to deal with the enormity of what was being told to them, and really hard to comprehend that this had been going on for a number of years in their home and they either didn't see it or weren't able to recognise the signs (Individual Interview, Transcript 2).

While family members might well be surprised at not knowing about the sex offending of fellow householders, this type of reaction is also largely derived from fears generated by the disclosure. Fear motivated by self-interest that the family will be torn apart by the disclosure; fears that the family name will be stigmatised; fear that the family will suffer irreparably financially and socially; fear of retribution by the offender against the victim and perhaps other family members and even general ignorance that such abuse simply could not have been perpetrated by the family member in question. It is often much easier to silence and expunge the victim from the family unit than face the shocking reality of sexual abuse within the family unit. These fears are most often internalised by victims who greatly fear disclosure to family members (Armstrong, 1994; Herman, 1981; Taylor, 2001, 2004). The aforementioned respondent described her relationship with her parents as having been "destroyed" by the fact they were unable to comprehend the fact she had been sexually assaulted by an extended family member in childhood (Individual Interview, Transcript 2).

The reactions of family members can deeply affect the confidence of a victim to disclosure further and report the crime, as indicated by this next respondent: I couldn't even get my family to believe me — [so] how on earth is a "jury of your peers" going to believe you (Survey Respondent 133). Police and other professionals need to be very aware of the extent to which family members can deny a victim's disclosure and it's flow on effect in terms of being able to report or disclosure the offence beyond the family walls.

Denial and lack of support from mothers

Researchers heard a number of accounts of mothers failing to appropriately support their daughters in exposing the sex crimes of male family members. One survivor reported that her mother's rejection of her disclosure of sexual abuse by her step-father destroyed their capacity for a relationship, however

this young woman believed that the act of disclosure was liberating for her:

> The relationship between myself and my mum has hit the point of no return, but I think it was always going to do that. I don't regret what has come out in the process (Survey Respondent 20).

In one particularly serious case, an interviewee said her mother viewed her husband's sexual abuse of his daughters as an "accident", and procured an abortion for her youngest daughter who had been impregnated by him. Further, this mother refused to believe that her eldest daughter's disabled daughter had been fathered by her husband. The following is an excerpt from the interview (Individual Interview, Transcript 3):

> Respondent: He [my father] came out of jail and raped me at my friend's house. I fell pregnant with his daughter.
>
> Interviewer: Your mother thought this was an accident?
>
> Respondent: Yes, it shattered me. When all this came up in 2004/2005, my mother denied it all and blew up. She said, "when the [paternity] results come in I will believe you". The results came in and I have not spoken to her since…in court she sat on his side.

While the actions of this woman's mother were reprehensible, and she was rightly angry about them when speaking with the researcher, in discussing her experience we are mindful of the "mother-blame" discourse that permeates many discussions of childhood sexual abuse, and we do not suggest that mothers are primarily responsible for the obstacles to reporting that are enacted in families against victims. S. Caroline Taylor's research included cases where mothers supported their children's allegations of intrafamilial rape and sexual assault as well as mothers who rejected their daughter's disclosures and actively supported her husband, who was the perpetrator. In these cases the overarching dominance of the perpetrator was tangible. A significant body of research has analysed in depth the elevation of mother-blame in non-feminist psychological, medical and legal discourse and the flawed and at times misogynist rationale motivating such a discourse. Moreover, the notion that a mother's ubiquitous presence in the family is a safeguard against abuse and that a mother would somehow *know* if sexual abuse of her child were occurring are erroneous and ignore the role of perpetrators to both abuse their children and wholly dominate other family members (Taylor, 2001, 2004). The role that perpetrators play in creating an environment that leads women to abandon support for their child or grandchild was an experience for some of the women in our study as highlighted in following examples from our study. One young woman expressed disappointment about her grandmother's defence of her perpetrator grandfather at the time he was abusing her as a child. The grandmother had told her she was the "evil" one in the situation. The location of the victim as evil haunted her and prevented her from further disclosure and reporting. However, the survivor also acknowledged that her grandmother was "virtually a slave" to the perpetrator, and that "[h]e was an abusive horrible type of character and she was in great fear" (Individual Interview, Transcript 2). A survey respondent wrote

that she has struggled to overcome her feelings of distress despite telling her mother, nothing was done: my mother knew what was happening, my sister (It was her husband who assaulted me) she knew, neither did anything to stop what was going on. The offender was a powerful person [in our family] (Survey Respondent 170). Another respondent wrote that she told her mother only to receive no concern or care and no action, leading the victim to suffer in silence for decades, and feel unable to disclose any further or report the matter (Survey Respondent 127).

Family members closing ranks, taking sides and expelling victims to a familial wasteland

This tendency for family members to deny, close ranks and to ostracise or to eject outright the survivor from the family unit has been discussed in some detail in the work of S. Caroline Taylor (2004) who linked these actions as resulting in various forms of social death for victims. The degree to which families can exact punitive retribution to a victim for disclosing sexual abuse by the father or other family member has also been articulated by the judiciary when sentencing perpetrators (see Taylor, 2001, 2004). This form of punishment metered out to survivors and its impact is discernible in the following examples relating to family rejection post disclosure:

> [I feel] shame, because I feel I am a broken person and I feel I should cope better. I don't apply this standard to others, just myself. I felt so much horror that I needed time to process the rapes as a kid and a teenager… because few people in my family treated [offenders] like criminals. I was ostracized from family gathering and [offenders] were not… it takes a long time to get the true non-mythical story from the self-serving delusions from your family and your community (Survey Respondent 302).

> My whole family rejected me…every living relative[,] all my friends and family. None of them would have a bar of me from the moment I walked out the front door. It's like I'd done this thing, and [my family says] no we're not going to [stand for] this, you can't break that secrecy. You can't break that code of silence (Individual Interview, Transcript 5).

> [as a consequence of] telling I now have no aunts, uncles or cousins who will [speak to me]…I eventually reconciled with my brother and mother…but cannot forgive them for supporting my uncle at the time I [disclosed] (Survey Respondent 301).

Another survivor in a similar circumstance had nonetheless come to the view that she

> would still have taken the steps that I did because although I have now lost any place in my extended family my integrity would not allow me to sell out the innocence and safety of my nieces in order to enjoy a position in a family (Individual Interview, Transcript 31).

Sometimes family members used the threat of rejection or the threat of emotional withdrawal or support as a means of

dissuading survivors from further disclosure or reporting to police. These actions add another layer of trauma-laden decision making for victims who are faced with a most personal level of retribution should they disclose further. One woman who told her brother and sister that she wanted to report the sexual abuse of their father because she was reaching the point where she was unable to mentally cope with it anymore was told they would cut her out of their lives if she stepped forward, despite her sister having also been victimised (Individual Interview, Transcript 35). One young woman experienced dreadful obstacles being put in her way by her mother and grandparents for continuing with her decision to report her father's sexual abuse of her to police. They actively withdrew support for her to visit her youngest sister who suffered with a severe and debilitating disability. This blocking of access was clearly linked to the survivor's determination to maintain her police report and resulted in her having to initiate legal proceedings to secure a legal right to visit her young sister. These actions added to the distressing legal processes the survivor was going through as a consequence of her police report for sexual abuse at the hands of her father. Within that same year the survivor's youngest sister died as a consequence of her illness. In order to attend her sister's funeral the survivor had to seek further legal assistance to enable her to attend the event in safety and without harassment (Individual Interview, Transcript 24).

The young woman had to go to these lengths to continue contact with her sisters because her mother, aided by her grandparents and (perpetrator) father disallowed her any contact with family members from the time she reported to police. She was able to attend the funeral of her younger sister only as a result of intervention by the courts and police. At the time of interview, she had been granted permission to speak on the phone to her sole surviving sister on a weekly basis, but had not yet been allowed to see her in person.

There were other respondents who described efforts by family members to dissuade them from reporting by fostering disbelief among others about their disclosures. In several cases, families actively appealed to health workers that the victim was mentally ill. Respondents told researchers they believed these appeals were made specifically in order to protect male family members from the scrutiny of authorities. The woman cited earlier who was impeded in reporting the sexual abuse of her uncle witnessed her mother attempt to persuade hospital and community services staff that she was mentally ill (Individual Interview, Transcript 33). While this survivor had, indeed, suffered a mental illness earlier in her life, her mother used this medical history to convince hospital staff that her daughter's disclosures were incredible. In the case of another woman whose father physically and sexually abused her in a regional Victorian town throughout childhood, both of her parents attempted to convince counsellors (appointed by the court) that their daughter was mentally ill. She noted in an interview that, "even in our family counselling[,] they…my parents together decided that I had some mental illness and that's why I had lied about everything and made it up" (Individual Interview, Transcript 24).

Family environments in which women and girls are discredited as liars, unreliable or attention seeking might be understood as constituting a specific "familial cultural" barrier to the reporting of sexual assault. While research on women from CALD backgrounds indicates that family members "never believing" sexual assault victims is a substantial barrier for victims (Taylor & Putt, 2007), the women in our sample experienced a range of denials across a spectrum that included explicit denials, trivialising and minimising harm and casting the victim as unstable and thus unreliable.

The Nexus of 'fear', 'shame' and burdening family through disclosure or reporting

Analysis of the survey and in-depth interview data revealed the large scale impact of negative emotions such as feelings of shame, stigma, stigma threat, and guilt experienced by victim/survivors, which impeded their capacity to both report sexual victimisation to police and to disclose to others. Feelings of shame and fear of being stigmatised resulted in significant isolation in terms of fear-induced silence and non-reporting (see also Weiss, 2010, who identified similar findings). Survey results showed that 72.5% of survey respondents reported feelings of "stigma" and 76.6% "feelings of shame". More specifically, 78.4% of respondents reported a "fear of bringing shame to the family". As such feeling of, and a fear of attracting shame was a visceral feeling and one which survivors also felt may also be attached more generally to their family:

> I didn't want to cause my family to feel shame like I did because I knew it would just destroy them… it's bad enough that I feel stigmatized without sharing the burden on them… (Individual Interview, Transcript 39).

> [I felt] too ashamed to talk about it to anyone… Things may be getting different now but the shame of incest has been too much for me to bear. It has destroyed much of my life. I don't believe I have been the best wife or mother I could have been. I cannot talk about it to anyone because of the shame I feel (Survey Respondent 21).

> I didn't want to cause my family to feel shame like I did because I knew it would just destroy them… it's bad enough that I feel stigmatized without sharing the burden on them…. (Individual Interview, Transcript 39).

> And 'cos of that [feelings of shame] I didn't want to (report) 'cos it would bring shame on our name (Focus Group Interview, Transcript 42).

The predominance of these findings in the survey make clear that feelings of shame and stigma are not culturally specific. Of concern was the finding that those reporting feelings of shame and stigma were unlikely to seek support from friends, family and professionals and were less likely to report to police.

Linked closely to these negative feelings and fears was the fear that disclosure would be a burden to family members. The degree to which women believed disclosures of childhood sexual abuse would unfairly burden family members emerged as a theme particularly for women who reported inadequate feelings of self-worth. One interviewee expressed the opinion that her own perceived lack of self worth had led

her to decide against telling her children about her history of sexual assault in childhood:

> …you become like a martyr. You don't want to burden anyone. That's because of your own self-worth, you don't feel like you are anyone. And so you keep it tucked away…because you feel like you are nothing (Individual Interview Transcript 44).

This woman felt she was not entitled—even as a 45-year-old full-time professional with teenage children—to burden her family with the pain she carried as a result of years of sexual abuse. She remarked that she hadn't disclosed the information to her teenage children who were sitting high school exams because she didn't think it would be fair to burden them at this important time in their lives. This expectation that women and girls are responsible for protecting the emotional and physical wellbeing of family members can cause them to hide or minimise their experiences of sexual assault, and this doesn't auger well for their ability to report the crime. One survivor expressed the view that her disabled younger brother was already a handful for her parents, and so her experience of violent rape outside the family as a 15-year-old was not something she felt able to burden her parents with at the time. Even looking back as an adult, she doubted whether her parents would have taken the assault seriously anyway, given other problems they faced at the time with having ten children (Focus Group Interview, Transcript 23). In another woman's case, her mother had just given birth to a male sibling, and had a sad history of suicide attempts. As a sixteen-year-old, this woman thought that telling her mother about having been raped might have put her mother at risk of self harm (transcript 9). Another respondent wrote in the online survey that, "[w]hile I still ha[d] family members alive, I didn't want them to feel that they should have known and feel guilty for not knowing" (Survey Respondent 94). Similarly, while another woman regretted the fact that family barriers had prevented her obtaining "justice", her concern for her mother's wellbeing outweighed her belief that the perpetrator should not "get away with it so easily":

> I sometimes wish that I had [reported], for [the sake of] justice — so that he didn't get away with it so easily. But overall, I still probably wouldn't have simply to protect my family from small town gossip and to save my mother from experiencing the probable pain and guilt that a parent would feel (Survey Respondent 140).

Reluctance to report perpetrators based on fear

Survivors of intrafamilial sexual abuse have nothing to gain and everything to lose from disclosing the crime (which is most cases) and survivors receiving inadequate, poor and even violent reactions from family members to disclosure is sadly an all too common feature of intrafamilial sexual abuse (see Taylor, 2001, 2004). In our study, actual familial responses, or a fear of how family might respond to disclosures were significant factors that inhibited the ability of survivors to report the abuse to police. Statistical analysis of our online survey revealed the degree to which victims of sexual violence were either fearful of disclosing to family members or were

intimidated either by the offender or other family members against disclosure and/or making a report to police. It is illustrative that when the offender was reported as being related to the victim, 88.2% of respondents reported a "fear of family" with regard to reporting/disclosing. Other findings included:

- 42.9% reported a "fear of losing family support" if they reported.
- 35.4% reported a "fear of family breakdown" if they reported.
- 72.5% reported "intimidation" by the offender as a reason they feared reporting the offence.
- 66.1% reported "concerns" for their safety if they disclosed.
- 33.1 reported "concern" for the safety of others if they disclosed.
- 43.3% reported "experiencing fear" of others finding out they had been sexually victimised.

Threats to harm or kill victims or other family members or pet featured heavily in our data and the following examples are reflective of the general tenor of comments pertaining to this:

> He threatened to kill me if I told anyone (Survey Respondent 33).

> I didn't want to break up the family and I was told nobody, including police would believe me, and [offender] threatened to kill me (Survey Respondent 66).

> I'd been told by my father that he'd kill my mother and that he'd kill me if I told anyone and he was very physically abusive so I had this fear in the back of my mind that I couldn't [report] (Focus Group Interview, Transcript 35).

> Firstly he told me he would kill me but first he would kill my mother in front of me (Individual Interview, Transcript 44).

Extra-familial offenders are likely to use threats and intimidation against victims also, but the added layer of terror and fear for intrafamilial victims is the lineal relationship and proximity of the offender, giving them access and surveillance of the victim 24/7, and thus the capacity to exert and reinforce their threats and dominance (see Taylor, 2001, 2004).

In one particularly sad account recorded by researchers, a survivor recalled the means by which her perpetrator father manipulated her in order to continue his assaults:

> Because I knew if I didn't stop him if he wasn't happy with me, he would go hunting elsewhere and I didn't want that. And then sometimes I would buck the system a bit and say no, then he would become very vicious, tongue lashings with my mum and my sister and myself and then the wheels would fall off in the house and my mum would say, "what is wrong with him, god you know I wish to god he would get it out of his system". You know then she would get upset and then I would think it's not worth it, I'm only making things worse for everybody. Give in and go back to it…and he threatened…he said he'd kill my dog…sometimes I'd race home from school and the first

thing I'd do is a headcount to make sure all [pets] were accounted for… (Individual Interview, Transcript 19).

This form of threat made by perpetrators against victims serves a common end in coercing victims into continued acquiescence, and continued silence, about the crimes being perpetrated against them. This form of intimidation is particularly relevant to our discussion of family-based barriers to reporting, given that this technique involves perpetrators exploiting a victim's role within the family unit — an issue discussed at some length in the work of S. Caroline Taylor (2001, 2004). Without the commitment of victims to their mothers and siblings and the general wellbeing of the household, perpetrators would not be as successful in waging this type of threat. It is therefore a particularly illustrative example of how perpetrators are able to mobilise the family unit in defence of their crimes.

The rational basis upon which victims are frightened and even terrified to report sexual assault in the face of death threats to themselves and their family members is a barrier that is difficult for victims to overcome and represents a challenge for police in terms of having victims trust them enough to report the crime. The same rational basis for failing to approach police can be found, of course, in a range of crimes where witness protection measures are deemed necessary. Crimes involving intra-familial sexual assault should be considered "high risk" in terms of the likelihood of victim intimidation and extortion, given the depth of knowledge that perpetrators have of their victims, and the ability they therefore have to enforce silencing tactics against them (see Taylor, 2004). The police and the public might become better informed about the prevalence and severity of threats made by sexual assault perpetrators against their victims in relation to cooperating with police. The impact of perpetrator threats on the ability of victims to approach police is an area of future research that might yield significant insights for policing practice.

Discussion

Families exist within a social environment that is generally unsympathetic to rape victims, particularly female ones (Costin & Schwarz, 1987, pp. 894–901; Flood & Pease, 2006). Families are also beset by a lack of knowledge of the crime, particularly in regards to intrafamilial child sexual abuse. Researchers in Australia in 2009 found that "critical information about CSA [child sexual assault] cases is outside of the experience and common knowledge of laypeople" (Cossins, Goodman-Delahunty, & O'Brien, 2009, p. 445). They noted that stereotyped and unsympathetic ideas about child sexual assault still circulate popularly among the Australian population. Unsympathetic responses to survivors can stem from the circulating idea that sexual assault does not inflict particularly serious or ongoing harm on victims (Feldman-Summers & Palmer, 1980, p. 19–40; Madigan & Gamble, 1989), and that victims who are unable to "successfully" move on with their lives after assault are overreacting or being self-absorbed (Taylor & Mouzos, 2006). Insensitivity may also result from general public unawareness of the lifelong health problems that victims of childhood sexual assault endure (Nelson, 2000; Taylor & Pugh, 2010; Taylor, Pugh, Goodwach, & Coles, 2012).

The tendency for families to blame the victim for bringing the crime upon themselves is reflective of the wider social view that women are responsible for men's abusive behaviour (Ben-David & Schneider, 2005; Davis, Taylor, & Bench, 1995; Pollard, 1992). While we might not expect families to be in a position to buck this entrenched social belief, their prejudicial views have an especially direct and serious impact on sexual assault reporting (Thapar-Björkert & Morgan, 2010, pp. 32–59). The 1996 *Women's safety survey* found that victims of sexual assault consult friends and family before they consult police, work colleagues, counsellors, legal practitioners, and doctors about the crime (Australian Bureau of Statistics, 1996; Stein & Nofziger, 2008, pp. 158–177). This means that a major crutch to reporting is removed for survivors who encounter disbelief from family members upon disclosure. Feminists have discussed the problem of women being unable to comprehend their own sexual victimisation as a "real" crime deserving of official remedy (Easteal & McOrmond-Plummer, 2006). Trivialisation of sexual assault by family members compounds this already existing tendency for women not to report on the basis that they are unable to perceive of themselves as socially worthwhile enough to be deserving of protection by public agencies like the police (Miller, Handley, Markman, & Miller, 2010, pp. 1120–1137).

The problem of family members seeking to encourage disbelief among others and discredit victims was addressed by Sarah Nelson (2000) who argued for professional and social service organisations to stand up publicly in support of survivors and against the "misrepresentation" and "distortion of facts" that is carried out against victims who speak up (p. 387). The social environment that surrounds child sexual abuse can be not only unsupportive of survivors, but also their supporters. In critiquing those who say that mothers "collude" with their offending male partners in orchestrating the sexual abuse of children, Armstrong (1983) notes widespread evidence from the courts of mothers attempting to protect children from perpetrators by removing them from the household after disclosures of sexual abuse. She notes that the courts and child custody systems are often unsupportive of mothers who take these steps to protect children from the sex offending of their fathers. While this evidence does not ameliorate the emotional pain survivors feel when their mothers fail to support them, it does highlight the extent of social forces that work against the building of a community environment that is encouraging of sexual assault crime victims and their supporters approaching police.

In the case of women from CALD backgrounds, the "social forces" that work against their successful reporting of sexual assault crime may be described as "cultural" in so far as notions of family shame appear to be a more prominent dissuading factor. However as our study shows, shame was an influence that also dissuaded women from non-CALD backgrounds reporting to police. It was also an element linked to a belief that shame would be transferred to the family unit as well thereby creating a further consideration against reporting as victims took account of exposing their family to shame and stigma. This sense of not wanting to burden or cause distress to families is indicative of the sense of responsibility victims' adopted and in doing so, put subjugated and suppressed their own welfare and feelings in order to protect the family unit.

In addition many victims feared rejection by family members as a result of causing them "trouble" through reporting sexual assault. Similar to CALD and Indigenous women, non-CALD women were inhibited in reporting by the thought that they would be ostracised by family members. Indeed, many women who did report found themselves facing hostility from whole families. This familial reaction from non-CALD Australian families that disbelieves victims, sides with perpetrators and expunges victims from the family unit with accusations they are liars or mentally ill and bringing shame upon the family has been documented by Taylor (2001, 2004). We contend that this "familial culture", as distinguished from some aspects of ethnic cultures that potentially impede reporting (e.g., honour), is a factor commonly encountered by a broad range of victims of sexual assault, regardless of their cultural backgrounds.

Conclusion

While some question the value of police taking on a "mediation" role in relation to crimes against women (Breci & Murphy, 1992), police have nonetheless already begun to play a more proactive role in dealing with family violence and advocating for the rights of women as targeted victims of domestic and sexual violence (Council of Europe, 2008). There is, in our view, a role for police in ensuring the safety and well-being of a victim who discloses abuse by a family member (or even non-family member) where the victim feels they are in danger of retribution, disbelief, losing family support, or being expelled from the family unit. This is where a police sexual violence liaison officer could play a role in promoting confidence and trust among victims to report and to feel supported post-disclosure/reporting. Police and social services may also need to champion the cause of victims against institutions that have been co-opted by hostile family and community interests, particular in the case of victims who find themselves contending with families that have institutional backing. The close coordination of police with social services is a particular need in the case of victims reporting intrafamilial sexual assault, given the risk of homelessness they face. Even when victims are able to resist the attacks of perpetrators and find the wherewithal to escape the household, they can come under the threat of homelessness (and therefore further victimisation) as a result. Survivors who disclose or report sexual abuse by family members are also at risk of homelessness through being expunged from the family by household members who aim to threaten the victim into silence. We see an opportunity for further research in this area to address the range of tactics that perpetrators and their supporters use against victims in defending themselves against exposure for sexual assault crime. Police and other social service agencies are vulnerable to manipulation by perpetrators against family complainants, and this has serious consequences for the ability of victims to continue with reporting. We believe that further research in this area will better prepare police to combat the "family barriers" that victims face, and which contribute to low rates of reporting of intrafamilial sexual assault in particular.

Endnotes

[1] For the purposes of this research we ignore the 'partner' qualifier.

[2] See, for example, Koch and Jarvis (1987) and Thompson-Cooper (2001). For critiques of these discourses, see Caplan and Hall-McCorquodale (1985), Elbow and Mayfield (1991), Jacobs (1990), and Schonberg (1992).

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Feminist Criminology

The "Symbolic Protest" Behind Women's Reporting of Sexual Assault Crime to Police

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What is This?

The "Symbolic Protest" Behind Women's Reporting of Sexual Assault Crime to Police

S. Caroline Taylor[1] and Caroline Norma[2]

Abstract

We introduce the term *symbolic protest* to identify and analyze a key motivator for the reporting decisions of victims of sexual violence. We contend that reporting sexual assault crime to police is an important expression of "symbolic protest" at a criminal justice system that does not generally serve women's interests. Women show great courage and self-sacrifice in reporting sexual assault crime, and we identify three major factors that motivate them to do so, namely, (a) the need to have sexual assault recognized as a crime, (b) a desire to raise community awareness of sexual assault, and (c) a desire to protect other women and girls.

Keywords

policing, psychology of women and girls, rape, sexual assault, survey research

Introduction

This article draws on research findings from a large Australian Research Council-funded project conducted in collaboration with Victoria Police.[1] We contend that the decision to report sexual assault crime to police is an important expression of "symbolic protest" at a criminal justice system that does not generally serve women's interests. The unresponsive and sometimes hostile reaction of police and the courts to the reporting of sexual assault may make women's decisions to report appear irrational. Although the proportion of victims of sexual assault who report the crime in

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Australia is very low,[2] in this article, we explore factors that motivated a significant number of women in our study to approach police. Feminist criminological scholarship highlights a range of barriers that prevent women seeking recourse for this category of crime (Daly, 2010; Jordan, 2004; Kelly, Lovett, & Regan, 2005; Lievore, 2003; Taylor & Gassner, 2010). Fear of offender retaliation, mistrust of police and the courts, and personal embarrassment and shame are just some of the obstacles scholars cite as stopping women reporting sexual assault to police. In this article, we first highlight the significant "social and material costs" that Kelly (Kelly et al., 2005, p. 66) observes victims of sexual assault sustaining when they report to police. We then consider factors that nonetheless lead a small number of women to bear these personal costs and report sexual assault. From our interviews with more than 60 female survivors of sexual assault who had reported to police in the Australian state of Victoria, we identify three major factors that motivate women to report sexual assault crime: (a) a belief in the criminal nature of sexual assault, (b) a desire to protect other women and girls, and (c) a desire to raise community awareness and to see the proper recording of crime "statistics"[3] (i.e., civic duty and concern for the greater good). We believe these factors motivate women to "symbolically protest" the failure of state agencies to properly intervene to stem men's sexual violence against women. We argue that women demonstrate great courage and sense of civic duty in approaching police and sustain considerable personal cost as a result of reporting sexual assault crime.

Although Denise Lievore has observed similar factors motivating sexual assault victims to report as we discuss in this article, neither does she draw out any implications of these observations nor does she describe any context surrounding a woman's desire to protect others or exercise civic duty in reporting sexual assault (Lievore, 2005). Building on Lievore's extensive body of work, therefore, in this article, we discuss factors motivating women's reporting under the umbrella of "symbolic protest," which is a concept developed by philosopher Hill (1979) to describe one form of response to injustice.[4] Using Hill's framework, we interpret the decision of female survivors of sexual assault to report to police—in spite of the personal cost they sustain in doing so—in terms of the concept of "symbolic protest" and, from this discussion, we conclude that researchers and advocates must redouble their efforts to critique the "licensed abuse" (Taylor, 2004) that permeates the criminal justice system if we are to honor the courage and self-sacrifice shown by survivors in protesting sexual assault and demanding that state agencies work harder to suppress this category of crime. We believe the theoretical concept of "symbolic protest" is a powerful way to describe a particular set of driving forces that lead some women to report sex crime in the face of seemingly insurmountable and intractable barriers.

Current Knowledge of Why Women Report Sexual Assault Crime

When feminist criminologists discuss barriers to women's reporting of sexual assault crime, they generally do so to propose improvements that might be made to the courts,

the police, and social services so that women can be better supported to come forward (Lievore, 2003). Increased reporting of sexual assault crime is a goal that is officially proclaimed by Victoria Police (2006, 2009) as well as by police organizations in other jurisdictions (Fawcett Society, 2009). This aim is held for reasons of equity and justice because, as Heath (2007) writes, at present, "the law of rape remains a largely theoretical construct: one with very limited consequences for people who perpetrate rape" (p. 192). There are also institutional reasons why police and other state agencies currently seek to improve reporting rates. Sexual violence is known to cause extensive and lifelong physiological and psychological injuries in women and reduce their capacity to work and effectively contribute to the raising of children and the cultivation of friendship and family networks (VicHealth, 2010). Sexual assault is also understood to be a precursor of high suicide and self-harm rates among women (Taylor & Pugh, 2010). These outcomes place a large burden on the health care system, impact on the productivity of the workforce, and cause disruption in the families and communities that are important to the cohesion of society. State agencies like Victoria Police therefore maintain a significant institutional interest in seeing reporting rates for sexual assault crime rise and in seeing a decline in the rate at which men sexually assault women and girls in Australian society.[5]

Feminist criminologists respond to this concern of state agencies by carrying out research that identifies a range of hardships that victims face when they initiate "help-seeking" measures for sexual assault (Lievore, 2005). Scholars envisage that more responsive policies and practices might be developed as a result of this research. For example, Lievore recommends that "more transparency and accountability among criminal justice system staff, particularly in respect of biases, prejudice, intolerance and apathy," would improve reporting rates (Lievore, 2005, p. viii). Not all of the hardships faced by survivors in reporting sexual assault are seen as caused by inadequate or inappropriate responses by police and the courts, however. Lievore notes the "crippling effects of sexual violence on victims' self-esteem, confidence and will" (Lievore, 2003, p. 38) that prevent women coming forward in any circumstance. Nonetheless, scholars generally focus on barriers maintained by police and the courts that impede women in approaching state authorities about sexual assault crime. Lievore and most other criminologists in the field consider obstacles inhering to the operation of the criminal justice system to be very important among the myriad causes of low reporting rates. She writes, for example, that "women are indeed aware of, and take revictimisation into account in their reporting decisions, [and this] is indicated by 77 per cent of respondents in an Australian study agreeing that the criminal justice system treats rape victims badly" (Lievore, 2003, p. 33).

Most researchers identify barriers to reporting without considering how women have overcome these barriers, however, even if the number of women who have done so is low. An exception is Liz Kelly who expresses the opinion that learning more about why women decide to report sexual assault to police is likely to produce helpful insights for researchers who seek to improve reporting rates. She writes that "knowing what women are seeking when they approach the police may offer insights into their

subsequent decision making" (Kelly et al., 2005, p. 31). Kelly sees knowledge of why women report sex crime as potentially assisting academics and policy makers in the creation of measures that would encourage victims to come forward. We would argue further that this knowledge is also critical for police training. Kelly writes that

> [w]hile non-reporting behaviour has been analysed to some extent, less attention has been paid to victims' decisions to contact police. Further analysis of factors that motivate and inhibit reporting behaviour would be useful for determining strategies to encourage more women to report sexual violence. (Kelly et al., 2005, p. 118)

In 2005, Lievore interviewed more than 30 survivors of sexual assault who had reported the crime to police and isolated 13 separate reasons for why women approach police about this category of crime. Of particular interest to us is her specific observation that women who report sexual assault to police are

> motivated by a desire for self-protection and to protect others. They may believe that they have a personal or civic duty to ensure that the offender is prevented from inflicting further harm. (Lievore, 2005, p. 35)

Although Lievore makes this important observation, she does not offer any further comment as to how and why survivors of sexual assault might want to protect others or exercise their civic duty. She also does not make mention of any personal cost that women might sustain in coming to a decision to report on the basis of these factors. We draw on the testimony of women interviewed or surveyed as part of the Policing Just Outcomes Project (herein referred to as the Project) to understand how a desire to protect others, or a wish to prevent sex offenders inflicting further harm, leads women to disregard barriers that prevent others reporting sexual assault. Although it is true that only a small proportion of women come forward to report the crime, and they report in a context where the criminal justice system does not generally act in the interests of women, we believe that understanding the decision making of this group of women is nonetheless an important task. We do not believe that women report out of ignorance of the many shortcomings of the Australian legal system or out of a misguided belief that their reporting is likely to produce good results. Rather, we examine their decision making from the point of view of its symbolic force. We take the view that in deciding to report to police, survivors tacitly express the view that the criminal justice system should actively respond to sexual assault and that state agencies should intervene to protect women and children from men's sexually violent behavior.

The symbolic nature of women's reporting of sexual assault is not generally recognized by feminist criminologists. Kelly writes that "[d]ecisions to report and to continue with the case are made when an interest in justice and protection for themselves and others outweighs the potential costs, and where victims/survivors feel supported in this decision" (Kelly et al., 2005, p. 79). In contrast to this, women interviewed in

the current study made decisions to approach police even when they anticipated severe personal costs (e.g., loss of contact with family members, fear for their own safety and well-being, public identification and stigmatization), when they did not have family or community support, and in situations where they did not expect police or the courts to respond appropriately to their report, or see justice served.

Theoretically Understanding Women's Reporting of Sexual Assault Crime

Of the women in the current study who had contact with police, a significant minority described experiencing varying degrees of loss and grief as a consequence of making a report to police. Many also told of harrowing experiences as a result of family rejection, retribution by offenders, court trials, and disbelief from observers. Nonetheless, and perhaps counterintuitively, many survivors concurrently expressed the belief that they had done the right thing in reporting to police and recommended other victims do the same. Of those survivors who reported an unhelpful or negative police response, many retained a strong belief that their decision to report had been the right one. To understand this apparently paradoxical position occupied by survivors, we draw on philosopher Hill's (1979) notion of "symbolic protest" to describe a situation in which someone decides to take action against injustice heedless of the fact that the "perpetrators of injustice will not be moved, protest may be inconvenient or risky to oneself, and its long-range effects on others may be minimal or may include as much harm as help" (p. 83). Hill identifies four defining conditions of "symbolic justice," but of particular interest to us is his second condition, in which people protest injustice in spite of the fact that the "protest cannot reasonably be expected to end the injustice, to prevent its recurrence, or to rectify it in any way" (p. 84). Hill believes there is rational cause for people to protest injustice even when there is no reason to think the protest will change an unjust situation. Hill formulated his understanding of "symbolic protest" solely to describe the actions of people who protest injustice done to others, but we believe his concept is useful also for understanding women's apparent self-sacrificing decisions to report their own sexual victimization. Sexual assault survivors report the crime to police even while recognizing they are likely to be harmed by this decision through family rejection or public alienation, and even while recognizing that the perpetrator is unlikely to be brought to justice.

Research Method

The observations we make in this article are based on semistructured individual and focus group interviews carried out with survivors in the Australian state of Victoria in 2010. As part of a research team headed by the lead author, we interviewed a total of 76 female and male survivors of sexual assault, and an additional 336 survivors responded to an online survey that posed questions about the sexual assault they had sustained and the decisions they had made with regard to approaching Victoria Police.

Researchers asked respondents why they chose to report their sexual victimization. This approach was taken by Jordan in 2001 (p. 686).

Our discussion in this article draws on qualitative interview and survey data about female survivors specifically. Although researchers also surveyed male survivors, this data will be discussed in later research. Of 336 respondents to the online survey, 12% were male and 88% female. Nearly one third of these respondents reported sexual assault during childhood by male family members. Of this total population, 130 had reported sexual assault to police and 206 did not. Interviewees comprised 10 men and 66 women, and the proportion who had sustained childhood sexual assault was roughly the same as online respondents. The survey had various open-ended questions allowing for qualitative responses. One question, for example, invited comments regarding the experience of deciding whether to report or not, and subsequent experiences with police. Approximately, 90% of respondents provided qualitative responses.

Three researchers were involved in interviewing survivors, and the total body of transcript data from these interviewees were reviewed by these three researchers in the first instance and by a fourth researcher in a later reading. Interview data were transcribed verbatim but references identifying research participants were removed at the transcription stage. Analysis of interview data was carried out by the three researchers who coded the data according to 12 themes that were identified on a first reading of the transcripts. The transcripts were further coded in second and third readings, which included cross-checking by researchers of the coding ascribed by each team member. From this coding, the Project team designed a matrix framework that included thematic, conceptual, and axial coded data. A further round of checking was then carried out to ensure context and correct theme identification. Where themes had multiple elements, thematic complexity was achieved through deep, line-by-line readings of transcripts. This was carried out also to reduce researcher bias and enhance coding validity, accuracy, and rigor. A fourth researcher who had not been involved in any data collection or first level of analysis was involved in checking researchers' work to strengthen the reliability of findings.

Interviews were mostly conducted in the meeting rooms of community centers near to where the interviewee lived, and care was taken by researchers to restrict questions to the subject of (non)reporting, rather than details of sexual assault, to minimize stress to participants. Interviewees were provided with contact details for the Project, as well as community counseling services and police, and encouraged to access the Project website to read the published results of the research. No time limit was placed on researchers' meetings with survivors, and interview questions were only loosely structured so that interviewees had the freedom to speak on issues they felt most comfortable discussing. Survivors were given a "thank you" pack at the end of the interview, which included the lead author's book on the topic of pursing sexual assault through the courts. This pack also contained a wallet-sized card with information for counseling and other information for government and nongovernmental organization (NGO) services as well as police. The research team worked closely with rape crisis centers to ensure contact person was available after interviews if needed. For focus groups, a

rape crisis worker was physically present. Researchers responded to emails from inter-viewees who wished to maintain contact after interviews.

The data that were generated by the interviews was particularly reflective of the experience of women who had sustained sexual assault by male family members in childhood. The significant representation of this category of victim among research respondents makes the data generated by the Project unique. This population of women is usually difficult to access in empirical studies of sexual assault (Taylor & Pugh, 2010), especially in the case of women who have never accessed social services, reported to police, or disclosed. Their inclusion is a particular strength of the research, given the oft-cited fact that "the odds of a victim reporting to police or disclosing the abuse decreases when the victim is known to the offender, despite the level and type of violence" (Lievore, 2003, p. 28). It is notable that the discussion of this article reflects particularly the motivations of childhood survivors of intrafamilial sexual assault in reporting to police, given that this population of women are even less likely than other survivors to report the crime and also less likely to participate in formal research. The data as a whole generated by the Project constructs a comprehensive and detailed picture of the reasons why this vulnerable group of women decide—perhaps counterintuitively—to approach police.

Survivors' Views of the Criminal Justice System

We agree with Lievore's observation that "reporting decisions are likely to be made in stressful conditions and under the influence of strong emotions" (Lievore, 2005, p. 38), but we nonetheless observed from interview and survey data that women approach police after contemplating at length the personal costs they are likely to bear as a result of reporting sexual assault. One woman who submitted written testimony to researchers had sustained ongoing rape attacks by her father throughout childhood but hesitated to report these crimes to police in adulthood out of an understanding that she would be rejected by family members (individual transcript, no. 31). She was, indeed, rejected by her family when she ultimately decided to report her father's crimes, but she steeled herself against this outcome in making the decision to step forward. Nonetheless, she admitted to researchers that she was "badly rattled by the extended family's immediate rallying to my father's defence", and she was thereafter cut out of her father's will. Reflecting on the significant personal cost she sustained as a result of this decision to report her father, she wrote that "I still wrestle with it now but I know that I have at least have done what I could" (individual transcript, no. 31). Other interviewees similarly expressed the opinion that, although they regretted the personal cost they were forced to bear as a result of reporting, they had anticipated this cost from the outset and decided to report regardless. The decision to report sexual assault is an ongoing one for survivors, often over many years, and one that is eventually made sometimes heedless of the costs to the individual.

Women who report to police have, furthermore, not necessarily found a way to evade the disbelief, ostracism, and reprisals that survivors generally sustain when they

disclose or report sexual assault. Women report to police often in the absence of family support and also in the face of community hostility and rejection. To their credit, some police appear to recognize this fact, and one woman testified in an online survey response that a

> [f]emale officer involved encouraged my mother to be supportive of me and my decision to go forward to the police with my story. My parents were angry when I initially told them I had been in touch with the police. They questioned "why" I would do that? They did not see it as a positive step (online survey, no. 177).

In this case, a police officer took proactive steps to try and garner family support for a victim. For most women, however, no such support is forthcoming. As a result, survivors are forced to accept family rejection, threats to safety, and even homelessness because they can no longer cope with the knowledge and experience of having endured sexual abuse and are driven to suicide attempts and self-harm as a result of this burden. One woman expressed the view that reporting was something she did because "she could no longer face living anyway" (focus group transcript, no. 35), and another woman spoke of having approached police in a severely disassembled psychological state (focus group transcript, no. 35). In the case of these two women, reporting was driven by personal crisis and was embarked on as a last-ditch attempt to get relief from the emotional and mental pain of living with the consequences of crime.

There was very little evidence in interview data that survivors harbor unrealistic or rosy views of Australia's criminal justice system, or inflated perceptions of the quality of the response they are likely to receive from police and other agencies if they report sexual assault crime. One woman reported to police even though an "[o]utcome was not expected or hoped for" (individual transcript, no. 12). One young woman who was assaulted in January 2010 discussed why she delayed reporting to police and her interview transcript shows in vivid terms the level of skepticism she felt about the possibility of having any kind of positive experience with police. She commented that, before reporting, she

> had a real idea that I would be kind of mocked or undermined or just sort of treated in a kind of dismissive way [by police], . . . I had that idea really in my head of some older middle aged man I would have to sit in a room and explain myself to who would think I was an idiot, or blame me, or how could you get yourself in that situation, that's your problem, not a police matter kind of thing, I really had that idea in my head . . . (individual transcript, no. 18)

This woman nonetheless went ahead with reporting. In other words, she accepted the (perceived) fact she would be dismissed or mocked by police on approaching them and decided to bear this cost regardless. On the surface, this woman's decision making would appear to be faulty or irrational. However, if her actions are considered in light of Hill's concept of "symbolic protest," her decision to report heedless of the personal

difficulty she expected to face might be seen as a public declaration of a view of sexual assault crime in which state agencies are held responsible for intervening in male sexual violence as a matter of justice. We describe this survivor viewpoint in more detail later.

Of course, not all women are able to weather the personal costs of reporting, even for the sake of justice, and the unlikelihood of conviction and inadequate sentencing of perpetrators was commonly cited by women as reasons why they did not or would not report. In the words of one interviewee, "I believed there would be no conviction for a very harrowing process" (online survey, no. 165). Another woman had "[c]oncerns about how the legal system treats victims of abuse" (online survey, no. 241). This finding is in line with the reports of other feminist criminologists. Heath (2007), for example, notes that "the low rate of convictions already persuades some people that there is no point in reporting rape to the police" (p. 177). For others, fear of family reaction was a disincentive to reporting. One interviewee wrote online that "[w]hile I still ha[d] family members alive, I didn't want them to feel that they should have known and feel guilty for not knowing" (online survey, no. 94). Another interviewee regretted the fact that family barriers had prevented her obtaining "justice," but her concern for her mother's well-being outweighed her belief that the perpetrator should not "get away with it so easily":

> I sometimes wish that I had, for justice—so that he didn't get away with it so easily. But overall, I still probably wouldn't have simply to protect my family from small town gossip and to save my mother from experiencing the probable pain and guilt that a parent would feel. (online survey, no. 140)

Nonetheless, some women who were persuaded that there was no point in reporting still went ahead and contacted police. It is heartening that many received a positive response. However, a number of interviewees encountered difficulties when they reported. Although they made clear to researchers the impact of negative police reactions in terms of exacerbating their trauma, they continued to press forward with their decision. The depth of their commitment to protest sexual assault was shown in the way survivors forged ahead with reporting even when they faced a negative response from police.

At first glance, these women would appear to be acting in a self-defeating way. However, the impetus to do something about sexual assault crime for the sake of other women and the wider community was an ever-present consideration in the interview data, even among women who saw little point in reporting for the sake of themselves. For example, one interviewee expressed the concern to researchers that she had to keep chasing a police officer assigned to her case but that her main motivation in repeatedly phoning him was not to progress her own case but because she suspected the offender was targeting other women. She commented that she "made it very clear to him [the investigating detective] that the point of my initial phone call or, or my actual last few [phone calls], has been he [the perpetrator] is still out there and he could

be perpetrating, so what are you going to do about that?" (individual transcript, no. 4). This concern for the public good was prominent among women who had reported to police, and we discuss this motivation in detail later.

Recognition of Sexual Assault as a Crime

A number of survivors made comments that reflected a view that sexual assault crime should be officially recognized and recorded. These women noted that they had discussed their victimization with family, friends, counselors, but, for them, this private or domestic action did not feel sufficiently proportionate to the crime that had been committed against them. For these survivors, reporting to police was a means of appropriately notifying state authorities of crime. One woman commented in this vein that she was happy a report of her victimization resided

> [i]n a folder with police, so . . . you're not only contributing to the statistics but it's like "I've placed it in a forum where it actually belongs because it was a crime." So even if I say it doesn't go any further and it doesn't get to court, in this forum I've been able to put it down, as opposed to writing it down in a journal home under the bed. (focus group interview, no. 23)

Another woman talked about a claim she made to the Victim's Compensation Tribunal (which required a police report) in terms of the opportunity it gave her to "stand up and say no":

> [T]o have somebody—a magistrate—sit there and say "thank you for bringing this to us, we believe you, and we award you this . . ." Even if it's just that it's covered my counselling fees over the years, it's awesome . . . It may not have gone to court but I stood up and I said "no" to you then, and this is just another way that I've said "no" . . . it was really powerful to do it, and I'd support anybody to do the same. (focus group interview, no. 23)

A large number of interviewees expressed a desire for police to record the name of the person who had sexually assaulted them so they might later have a case against an offender if he were to be caught again. Women imagined that police might keep a "database" of names of men who had been "reported" as sex offenders and that this "database" might be used to check on men who were subsequently named by survivors. Women expressed this desire for a tracking system for reported (if not charged) sex offenders most often when their assault had been perpetrated in childhood, for which they believed they had insufficient "evidence" to officially report their assailant. In one woman's case, the fact that her uncle worked within Victoria Police led her to express a desire to anonymously record her offender's name with police because she feared family backlash if her uncle was to find out she had made a report about another family member (individual interview, no. 43). Although perhaps indicating

some degree of unawareness among survivors as to police systems and processes in responding to sexual assault, these comments might, however, be taken as a "recommendation" to police that recording and keeping track of alleged offenders is an undertaking that is seen as a serious response to sex crime that meets the needs of survivors in terms of being able to exercise a sense of civic duty.

Raising Community Awareness of Sexual Assault

Even before reporting, women are aware of the large time, emotional, and financial burden that the criminal justice system is likely to impose on them, but some nonetheless decide to wear this cost. One interviewee was aware specifically of the time burden that approaching police imposes on victims but still believed that reporting was an important social duty:

> [E]ven if it took the rest of my life to go to court it doesn't matter—it's not the point. The point is reporting, the point is to let people know that this is what's happening and I mean victims like in my father's case . . . they have the right to know. (individual interview, no. 4)

In another woman's case, it was hearing that another family member had been sexually assaulted, as well as a number of friends, and the fact that "everyone else" had experience of rape that prompted her to see herself as having a responsibility to "do everything in her power" to do something about men's sex offending in general:

> Found out another friend in the family had a sexual assault yeah, and . . . yeah, basically having heard everyone else had gone through it. I've got a couple of friends that have been through it that sort of experience as well. And I thought, that's it I don't want to be a statistic. I'm gonna try everything I can in my power to do something about it. That and yeah, I feel confident in mind that there's nothing else that I can do. (individual interview, no. 42)

A duty to "prevent" men's sex offending was a theme that was identifiable in the interview data. Even when women felt intimidated and personally disassembled by their experience of sexual victimization, they drew on their commitment to the greater good to overcome these feelings of inadequacy and take steps to "do the right thing":

> I looked back and thought; well I'm not going to let one situation put me off from doing the right thing and going through. I know it would be a harrowing experience sitting there telling them what happened over and over again, but at the end of the day you know people need to be accountable for what they've done. And I thought I've, whether it goes to court or whether it doesn't I've done everything in my power you know to prevent something, and 'cos they

found the suspect, they interviewed him for fifty minutes, photographed and finger printed him. (individual interview, no. 42)

Survivors often accepted the fact that reporting to police would be unlikely to help them or change their personal circumstance, but they believed another individual or the wider community would benefit from their decision to engage state agencies like the police. This duty to the greater good was felt by women even when they anticipated their decision to report to police would be long and arduous. Survivors testified in interviews that they were prepared to carry through on their perceived obligation to society to raise awareness of sex offending and individual sex offenders, even when they risked exposing themselves publicly as victims of sexual assault (and therefore perceived social ostracism). One woman who successfully obtained a conviction against her perpetrator complained that police had tried to keep media reports of the case out of the local newspapers (she lived in a small town). Although she was grateful for this sensitivity of police, she nonetheless believed that, given the high community profile of the offender, it was important to expose his crimes to educate the community that offenders come from respected backgrounds, in opposition to some of the stereotypes about who offenders are (individual interview, no. 11).

There were a significant number of interviewees who said they had been fully aware their cases would be unlikely to get to court, or even proceed past the reporting stage, but they decided to go ahead with reporting regardless. For some, this emanated from a need to have the crimes against them recognized by public agencies state (i.e., the police). One woman commented that reporting would make her

feel it would be me having the respect, it would be me finally acknowledging and respecting that what did occur to me was a crime and it did have serious effects . . . It's almost like I need to do it because no-one around me is going to do it, and in the end I'm going to have to do it, and also because I understand about how much more it's important that we get the statistics right. If nothing else, I want it recorded for that reason, so that reality is being reflected somewhere. (online survey, no. 79)

Survivors repeatedly expressed the view that rates of male sex offending were high in Australian society, and this led them to believe they had a duty to society to report the crimes they had endured to "get the statistics right" so that measures could be taken to reduce the problem overall. One interviewee commented that "I know this happens everyday, but it needs to stop happening everyday, and that can't happen unless people stand up and say ok, this is what's happened, this is the guy that did it—lock him up" (individual interview, no. 5). Similarly, another woman testified that "[m]aking the initial report provided my impetus to pursue justice not just for myself (my case) but equally for all those who have been affected by their own personal experiences of sexual abuse" (online survey, no. 85).

Even women who told researchers their experiences with police in reporting sexual assault crime had been negative still believed that other women should report sexual assault crime. This sentiment was expressed by a number of interviewees and was a strong theme that emerged in the online survey data as well:

Although I had a bad experience during my reporting to police I would always report an incident. It is important for communities and crime statistics that community safety is correctly reflected. (online survey, no. 173)

I don't regret reporting even though it was a horrible experience but I do regret that he just got away with it leaving the community at risk. (online survey, no. 231)

I am glad I reported to the police so that it is on record in case of future victims. However, in hindsight I would reconsider whether it's worth proceeding further as I have totally lost faith in the legal system. (online survey, no. 40)

The extent of civic duty that survivors feel in reporting sexual assault is indicated in a written comment by a survivor that she reported her sexual assault in an attempt to bring greater awareness to the community of the impact that sex crime has on victims and the way in which it curtails the ability of women to live successfully in a society where they have been dealt a "life sentence" through sexual assault:

Making the initial report provided my impetus to pursue justice not just for myself (my case) but equally for all those who have been affected by their own personal experiences of sexual abuse . . . [people need to understand the] magnitude of emotional impact these types of crimes have on the victims i.e.: their entire lives are affected, their ability to cope with not only the normal, everyday experiences but also any additional burden placing weight on their capacity to show resilience, fortitude, continuity, even rationalism. It is a life sentence. (online survey, no. 85)

Through testimony like this, in which women report the effects of sexual assault as being so serious as to constitute a "life sentence" for them, the act of reporting to police might be seen in a new light. For survivors who face problems in coping with even "normal, everyday experiences," the decision to report sexual assault contains substantial meaning, given the extremely diminished position from which they speak. Although deciding to speak from such a position of vulnerability might be seen as having an irrational basis if we focus on the personal costs sustained by individual women in coming forward, the public protest against male sex crime that survivors thereby lodge might alternatively be seen as a social contribution of extreme symbolic worth.

Reporting to Protect Other Women and Girls

The majority of women in our study had not reported the crime to police at the time of consultation. For most women, it was years if not decades since they had sustained the last assault. Survivors expressed a range of emotions, ranging from intense sadness, regret, anger, grief, confusion, and most of all a sense of a life diminished by the inability to report the crime to police. Some had disclosed to family, friends, and professionals, and some had their disclosure rejected or minimized, with many experiencing levels of familial rejection and other repercussions. A number of others had never disclosed to anyone and on occasions we, as researchers, were the first people they had told. Nonetheless, among respondents to the online survey, 60% of those who had not reported to police "regretted" this decision not to report.

Sadly, one of the most frequently given responses for regret at not reporting was that survivors felt they had let down other victims. Although the current authors do not believe survivors should feel any responsibility to report for the sake of other victims or future victims, women repeatedly expressed the opinion in interviews that the decision to report was one connected to considerations of others. These views were spontaneously expressed by survivors, and researchers did not ask any questions that addressed this issue. One interviewee who had been unable to approach police, for example, expressed regret over this fact on the basis that her multiple offenders might have gone on to attack others:

> . . . I guess it still resonates with me a bit because I still have done nothing really about it . . . I am angry these guys have got away with it. I was a young kid and they had control and power which I couldn't do anything about, so for all I know they could have done it again and they could have been caught and they could have been in gaol, I don't know. (individual interview, no. 16)

Other women who similarly had not reported to police were regretful of this fact on the basis that they felt they had abrogated their duty to society. Overwhelmingly, women regretted their inability to report to police not for the sake of themselves but for the burden they perceived later generations of women and girls as having to bear as a result. One survivor rued that

> I probably should have said something even as an adult as it happened many years ago . . . for statistics and so people can be aware . . . the more they know about how much it is happening and the subtlety of it, then things may be channelled into managing the situation. It can't help me or change my circumstances but it might help other people who are young children in those situations now and raise the awareness of it. (individual interview, no. 1)

Survivors face real dilemma over their inability to overcome the myriad of barriers that scholars have identified as operating to stop women reporting to police because

they blame themselves for the outcomes their nonreporting might have in terms of other women and girls becoming victims. One woman expressed this dilemma when she said that "I feel regret for not reporting it as I now know he didn't stop at me and I thought I was the first in his line up" (online survey, no. 24). Another woman testified that "[m]y guilt was about other girls who were abused because I hadn't spoken to someone. I told people 15-20 years after it happened and found it had happened by the same offender to my sister and her friend" (online survey, no. 11). Similarly, another survivor wrote in the online survey that "I feel very guilty that this person may have done this to others because I was not brave enough to report" (online survey, no. 206). Other women expressed feelings of regret at not reporting that were based on actual knowledge of the perpetrator having gone on to sexually assault other women and girls. One survivor wrote in the online survey that her

> guilt was about other girls who were abused because I hadn't spoken to someone. I told people 15-20 years after it happened and found it had happened by the same offender to my sister and her friend. (online survey, no. 11)

Although we do not necessarily agree with these survivors that they have any obligation to "protect others" through reporting, their articulation of this kind of sentiment was strong:

> Just worried it may have happened to others and maybe I could have stopped it happening to others. (online survey, no. 157)

> I should have reported it to the police because I am sure he has attempted or has assaulted again because I have read about it in the news. He actually got away with it again and I should have reported it in order to have stopped him, he hurt other people and it's my fault. (online survey, no. 200)

In the case of women in prostitution, this expectation that the men who perpetrated against them would be likely to offend against other women in the sex industry was particularly acute:

> May be if I reported it would prevent it happening to others but no one gives a damn about prostitutes getting assaulted. (online survey, no. 294)

Another woman in prostitution noted that her regret at failing to report pertained not to herself "but . . . other sex workers who have been raped by these same perpetrators as a result of my silence" (online survey, no. 295).

Hearing survivors describe regret at not reporting was difficult for researchers, given our knowledge of the daily hardship already endured by women who have become victims of crime, and particularly women in prostitution. Hearing that these women were undergoing further personal distress as a result of feelings of guilt and

regret at not reporting was certainly not a form of data that was expected or desired by researchers. These expressions of regret were difficult to read and listen to also because they showed the great value that survivors attached to the act of reporting. In this light, the many barriers that currently stand in the way of women reporting to police are particularly lamentable for the compounding hardship they place on survivors of sexual assault.

A consequential issue that resonated in interviews and online surveys relates to the mental health and well-being of survivors who are unable to report their victimization. The burden that women bear across their lifetimes as a result of being unable to report sexual assault crime was illustrated in the comments of a number of survivors:

> I wish I had the strength to follow through with reporting to police. I still hate myself for what happened and I'm scared. I'm confused and I don't know how to get on with my life. (online survey, no. 73)

> I wish I reported it when it first happened. Now I feel that if I had I could have done better in school and had a happier life. (online survey, no. 124)

> Maybe had I reported the situation, I would not have had the weight that I have borne all these years. It would have fractured the family at the time. But I was so young and confused; I tried to deal with it myself but actually did nothing except kept quiet. In hindsight, I should have reported it regardless of the outcome. It left me with no confidence or trust, questioning everything and everyone. Deep, dark secrets just make you bitter and twisted. (online survey, no. 82)

These sad expressions of regret and feelings of inability to approach police might serve as an impetus to feminist criminologists to redouble our efforts in reforming the police and courts to better respond to sexual assault crime so that women may not become victims in the first place and so that survivors may not have to live with the emotional distress and personal disablement that comes with not being able to report or disclose sexual assault.

Reporting to Protect Women and Girls

There were a significant number of interviewees who expressed the view that they did not regret reporting because it had allowed them to fulfill their sense of responsibility to other women and girls. Women felt glad that they had reported, even in cases where their experience of approaching police had been a negative one (online survey, nos. 143, 165, 201, 231, 232, 235, 247). The testimony of the following survivor is particularly poignant because she felt "betrayed" by police for a range of reasons to do with their handling of her statement. She nonetheless had come to the view that she

would still have taken the steps that I did because although I have now lost any place in my extended family my integrity would not allow me to sell out the innocence and safety of my nieces in order to enjoy a position in a family. (individual interview, no. 31)

This motivation to report out of a sense of responsibility to other women and girls is a common one. Jordan (2001) noted that fully one third of her interview respondents reported sexual assault crime to police out of a desire to "protect others" (p. 686). In the current research, this factor was voiced repeatedly and was often cited by survivors as the sole factor that had driven them to report. In other words, women expressed the view that they would not have reported their assailant to police if they had not become privy to information that he was targeting, or was likely to target, other women and girls. Many women cited the prospect of offenders being "locked up and off the streets and unable to harm anybody else for 5-10 years" as their only motivation in reporting the crime, even when they expected the reporting and court process would be personally detrimental (individual interview, no. 6). One woman reported that physical and emotional exhaustion had prevented her reporting her abuser to police, until the day she found out he had sexually assaulted her niece. She commented that

the minute my niece called me and told me, it was the very next morning that I went to SOCA [the Sexual Offences and Child Abuse unit within Victoria Police]. Because I just think the reality of the situation hit me: if I don't do this there is going to be other people and she is a child. (individual interview, no. 4)

This woman decided that she would endure the physical and emotional exhaustion that reporting would entail for the sake of protecting her niece. Up until the time she found out about her niece, she had been unable to overcome the obstacles that stood in her way of reporting to police. However, her desire to protect her niece overrode the hardship she perceived she would face as a result of reporting. Her self-sacrificing decision in this case was clearly made on the basis of a deeply held belief that authorities should intervene to protect girls from men's sex offending. This example in which survivors report only after becoming privy to information about the offender posing a direct threat to other women and girls was repeated among many women interviewed by researchers. These data show that women's decision to report can be dependent on circumstances that might change. In other words, at some stage in their lifetimes, any survivor may reach a point where they are strongly motivated to approach police, irrespective of the barriers that might have prevented them coming forward for decades. In this light, the act of reporting to police might be seen as a possibility that survivors wake up to every day and as a course of action that is open to them—even to a small degree—for their whole lives. For authorities like the police, this fact should be taken into account in devising strategies that aim to increase reporting rates for sexual assault.

The girls whom women seek to protect through reporting to police do not necessarily have to be related to them, moreover. Even the expectation that the offender will

target other girls at random is enough to cause survivors to make a "split decision" to subordinate their own personal interests and approach police, even after decades of having kept their victimization secret. One woman in the current research had not wanted to approach police because of the personal hardship she knew it would bring her, but she coached herself that she was doing it for "other people" who she knew "would have been affected by him":

> I just sort of made that split decision that yes I am going to follow this because I know other girls were involved so I just sort of kept that in my head that I am doing this for the other people that I know would have been affected by him. (individual interview, no. 49)

From their own experiences of victimization, survivors understand that girls in particular do not possess the ability to withstand the manipulation and deception that sex offenders exercise to commit their crimes (Armstrong, 1983; Taylor, 2004). They therefore see their decision to report as undermining the power that offenders have in this regard and as a means of preventing the emergence of other victims. One woman discussed the fact that she

> knew that his [the perpetrator's] good friend had just had a child. And I know how manipulative and smart he is and how easy it would be for him to do that to that child and I couldn't have that on my conscience. So, that was another reason why I sought to report it. (focus group transcript, no. 35)

Women were realistic about the fact that sex offenders were unlikely to discontinue their behavior unless the police or courts intervened. In the words of one woman, "to me it's like the dog that bites. They do it once, they'll do it again. You do it and get away with it, they're gonna keep on doing it" (individual interview, no. 36). Another woman wrote in the online survey that "[i]t keeps the perp[etrator] going by not reporting" (online survey, no. 4). This keenness to hold offenders accountable for their actions did not, however, appear to be based on an urge toward punishment or retribution. Rather, a desire to protect other women and girls was strongly evident in the testimony of survivors, and this was particularly borne out in the fact that survivors sought to protect women and girls with whom they had no familial relationship. In the case of a woman who was interviewed about reporting the childhood sexual abuse of her stepfather, her sole concern was the need to get the offender removed from the small community where she had been living as an adult in order that he could not offend against his granddaughters (whom she had never met). She said that

> my sister had heard that . . . [the offender] actually remarried. He'd been looking after his granddaughters. So, I guess that played on me a little bit. And I thought, well, if I could stop it from happening to someone, to someone else, I should do that [i.e., report to police]. Because, I know how it felt for me. So, yeah, I was

at home one day and, and was on my own. And I thought, I'm just gonna do it. I didn't tell anyone about it. I just rang the police station and made an appointment and went in and made a statement. (individual interview, no. 11)

In this case, the interviewee reported the offender to police not to get protection for herself (she had been living in the same small town as the offender for the whole of her adult life) but because she found out there were girls who needed protection from him. The sense of responsibility that survivors feel toward protecting potential victims extends well beyond their immediate family, and even often encompasses "women and girls in general." This sense of responsibility extends even to the plight of sexual assault victims who may access the criminal justice system at some point in the future. In response to an online survey question asking whether respondents regretted their decision to report to police, one survivor wrote that

I do not regret my decision to report the incident to the Police because at least I am trying to seek justice and influence and have an input into the Justice system to try and improve outcomes for future victims of sexual assault and bring the offender to the attention of the Police in hopes that he will not reoffend. (online survey, no. 74)

The tone of resignation in this testimony that "at least" the survivor was "trying to seek justice" in taking steps to report to police is reflective of the serious doubts that women have in the ability of Australia's criminal justice system to deliver them any individual benefit or justice. Nonetheless, survivors persist in reporting to police in an attempt to "try and improve outcomes for future victims of sexual assault." This symbolic protest waged by survivors in relation to the criminal justice system is significant for the extent to which it reflects a belief in the appropriateness of state-based interventions in men's sexually violent behavior. This belief was also indirectly expressed in the frequent comments of survivors that they saw the opportunity to participate in the current research as a way they were "helping" other victims of sexual assault and contributing to the reform of the criminal justice system, which they anticipated might help other victims. One woman wrote enthusiastically in the online survey that she was "thrilled to find out this survey existed. Finally. What can I do to help!" (online survey, no. 234). Particularly, in face-to-face interviews, researchers were impressed by the regularity with which women expressed a desire to help or contribute to the well-being of other victim/survivors or join volunteer groups that work to protect children from sexual abuse. A number of women later emailed researchers to get information on women's or children's rights groups they might join. Although women's eagerness to help other victims and make a contribution toward stopping the prevalence of male sexual violence in Australian society may or may not be correlated with decisions they had made regarding reporting, it is nonetheless an important point that the outward-looking attitude of survivors, even among those who struggle greatly with the personal consequences of sexual assault crime, is a factor that exists in the background

of sexual assault reporting. That survivors are often looking for opportunities to act on a sense of civic duty is something that might be better recognized by police and other state agencies as a result of the current research.

"Empowerment" Through Reporting

Researchers found that "personal empowerment"–related factors such as the need for "closure" was articulated by women as reasons why they had reported to police. Overall, however, respondents cited this kind of "empowerment"-related consideration as driving their decisions to report much less than they cited considerations that reflected other concerns, such as a desire to protect others or a desire to inform the community about the prevalence of men's sex offending. Even when women cited personal benefits as behind their decision to report, these benefits were often bound up with a desire to protect others:

I feel a lot lighter than I used to. I feel like some of the weight's been lifted but I know I have to finish what I'm doing before I can let go of this completely. I do, for whatever reason, I believe in the belief. I believe in justice, I believe that people deserve justice and, I fight very, very hard for people that are suffering. And I thought one day, why not fight for yourself. I'll continue on this journey until it is completed. (focus group transcript, no. 35)

In the findings of the current Project, reporting further appears to help survivors come to terms with sexual assault because the crime becomes "real" to them through documents produced by police as part of the reporting process. In the words of one woman, ". . . putting it down in black and white actually means it's . . . real . . . it's tactile . . . It is evidence: this is what happened, actually happened . . . it's a relief and validates" (focus group transcript, no. 45). Another woman reiterated this sentiment when she told researchers that her decision to report constituted "verification that you're not mad. It's verification that . . . this actually happened, it's not in your head" (focus group transcript, no. 45). Another interviewee lamented the fact that photographs taken of her by police at the time she was assaulted had been destroyed in a house fire, because, in later years, she wished to look at them to reassure herself that the emotional pain she carried with her was based on something that had been historically real (focus group transcript, no. 9). A number of interviewees expressed the opinion that they were personally validated through approaching police and that police had assisted them to come to terms with crimes that had been perpetrated against them. This was obviously a stronger theme among women whose experiences with police had been positive. One woman expressed this opinion vividly when she commented that

in that first hour [of dealing with police] I reckon she [the police officer] got rid of 80 per cent of my guilt and my grief [about the crime] . . . to walk out of something with that lifted off you is amazing and the other 20 per cent takes a while. (individual transcript, no. 12)

This woman described "walking tall" for the first time in her life after coming out of a police station following her decision to report childhood sexual assault and in noticing for the first time that she had been walking around in her daily life with her "shoulders stooped and her eyes lowered" (individual transcript, no. 12). This interviewee described reporting to police as "empowering" because "to have someone believe you and on your side and actually doing something for you . . . even if it doesn't go to court, just reporting it I think is a really empowering thing to do. It's a very hard thing to do but just to hear someone say this is illegal and this is wrong, just to for that alone it was worthwhile" (individual transcript, no. 12). Feminists have written at length about the difficulty that women and girls have in recognizing the fact of their sexual victimization because of the extent to which sexual violence is normalized and accepted (Easteal, 1994; Levy, 2005), but reporting to police appears to consolidate women's understanding of the criminal nature of their victimization. One interviewee testified along these lines that

> the first time I ever heard that officer say to me that it would go to county court was the first day I actually realised the significance of what he had done to me, on a bigger picture, the significance of his actions and the significance of the person that he actually is, and that was huge to realise that, huge to realise that the county court would hear my case potentially. So I think until, if more women believed that their abuse was real and important enough . . . it's healing it's empowering it's the right thing to do. It certainly gives back the shit that was given to them back to the person the perpetrator essentially. (individual transcript, no. 4)

Another woman commented to similar effect that

> the act of reporting and the seriousness with which the police responded to my report ensured that responsibility for my assault was attributed to my attacker. They assured me, and their actions confirmed this, that I was not to blame. The power of these positive responses to heal some of the trauma cannot be underestimated. (online survey, no. 233)

Although personal "empowerment," validation, and "closure" are factors that certainly motivate some women to approach police, researchers did not see these factors as predominating. Even if these motivations are strong in women's decisions to report, they are significantly qualified by the heavy personal cost that survivors bear in going ahead with reporting in terms of emotional, financial, and relational hardship. For most survivors, these costs outweigh any potential personally "empowering" benefits they might derive from approaching police. Rather, for women who come forward, considerations relating to other people—and not themselves—often drive them to disregard personal consequences and act in a self-sacrificing way. The extent of hardship we observed women as sustaining as a result of their decision to report sexual assault

to police is illustrative of the depth of the "symbolic protest" of sexual assault crime we saw survivors as waging.

Honoring Survivors' Commitment to the Criminal Justice System

In this article, we have discussed three factors that motive female survivors of sexual assault to report the crime to police. First, we observed that women approach police out of a belief that sexual assault is a crime and should be appropriately recognized and recorded as such. Second, we have observed that women report to protect the community out of a sense of civic duty, and, third, we discussed the fact that women report sexual assault crime to protect other women and girls from perpetrators. We have noted the extent of the personal hardship that women sustain as a result of their decision to report to police, but we see women as being self-aware in bearing this cost for the sake of the community or other women and girls. We discussed the fact that women who report to police do not necessarily avoid the retribution, family rejection, and emotional hardship that other survivors fear on a daily basis, which causes most women to keep their victimization private. Rather, these women are self-sacrificing in deciding to report to police and often suffer serious personal consequences as a result. We do not see these women as ignorant of the misogynistic tendencies of the Australian justice system or as deluded as to the likelihood their reporting is going to produce any good effect. Rather, we examined the decision making of these women from the point of view of its symbolic force. We took the view that, in deciding to report to police, survivors tacitly express a belief in the criminal justice system as an appropriate means of recourse for men's crime against women and that state agencies should intervene on their behalf to protect other women and children from men's sexually abusive behavior. This belief was strongly expressed in the case of survivors who approached police solely on the basis that they came to understand that their offender was going to target other victims. In the case of these women, they often approached police after years of having kept their own victimization secret. We conclude from these observations that feminist criminologists should resist the currently fashionable push toward "restorative" or "community-based" justice schemes for sexual assault crime. Rather, we recommend greater efforts toward reform of the criminal justice system to deliver better outcomes for female citizens who become victims of crime. It is not for survivors to lower their expectations of the criminal justice system or of police but for police and the criminal justice system to raise their standards in order that true "justice" is delivered. We believe that important lessons can be learned from survivors in terms of changes that might be made to policing policy and practice to better support women to come forward.

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Declaration of Conflicting Interests

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Notes

1. The data are drawn from the Policing Just Outcomes Project, which is a Large Australian Research Council (ARC LP 0668126) Linkage Grant between Edith Cowan University and Victoria Police with collaborating institution, the University of Tasmania. See www.policingjustoutcomes.org
2. For example, see Australian Bureau of Statistics (1996, p. 16) that found only 15% of women report to police out of a random sample of 6,300 women aged 18 and above. See also Daly and Bouhours (2009, p. 4) that found only 14% of victims are likely to report this category of offence to police.
3. See MacFarlane & Korbin (1983).
4. See also Nancarrow (2010) for this understanding of police reporting of sexual assault crime to have "symbolic" value for survivors.
5. See Taylor and Gassner (2010).

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