

'A system to keep me safe': An exploratory study of bail use in rape cases.

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CHAPTER 1: INTRODUCTION

This dissertation examines the impact of granting pre-charge and post-conviction bail to perpetrators of rape from the survivors' perspective and explores the views of professionals. Pre-charge and post-conviction bail are examined with regard to the influence of their use on survivors' experiences of the criminal justice system.

Policy decisions over the last twenty years have, in part, reflected the acknowledgement of the UK government of the need to improve the criminal justice system's treatment of victims (Home Office, 1996) with reforms directed towards making the system more responsive and informative (Home Office, 2015a). Nevertheless, the barriers to reporting rape, shortcomings of the criminal justice system's handling of rape claims and the detrimental impact on survivors continue to surface (Kelly, 2002; Jordan, 2001; 2004; Taylor et al., 2012). Although the number of sexual violence prosecutions has increased (Home Office, 2016), the rape conviction rate has remained stubbornly at between 5-8% of those who reported to the police since 1999 despite an increase in rape reporting of 227% (Kelly, 2015).

It could therefore be argued that in addition to policy and legislation to increase reporting and conviction rates, inadequacies in procedural justice for survivors must also be addressed to develop effective responses to sexual violence allegations.

In 90 per cent of cases where women and girls report rape to the police, they know the perpetrator (Home Office, MoJ, ONS, 2013). Since it is the minority of women and girls whose pursuit of justice ends with a guilty verdict and the temporary reassurance of imprisonment for the perpetrator (Home Office, MoJ, ONS, 2013), one of the primary concerns for women who decide to 'break the silence' is their immediate and ongoing safety and that of their family, whether the perpetrator is convicted or not (Payne, 2009).

For the survivor, coming forward to the police is perceived as a time of increased personal risk (WNC, 2009) and therefore decisions on whether to impose bail on the perpetrator and under what conditions are inextricably linked with survivors' feelings of safety (Payne, 2009). However the experience of women who report rape continues to reveal their needs are not fully addressed as part of procedural justice: "[i]f women report violence he just gets released and then he punishes her, there is no punishment for him" (WNC, 2009: p63). Survivors of rape expect: 'to be, and feel safe; and... to feel they will not be worse off as a result of reporting' (Payne, 2009: p14).

The application of pre-charge bail is used by the police to release the perpetrator after questioning while they carry out their investigations, however protection for the survivor only comes into play if and when bail conditions are attached (College of Policing, 2016). Allowing the perpetrator to continue his, 'normal routine' while the police investigate (op cit, p:5) coupled with the fact that breaching bail conditions is not an offence (CPS, 2017a) suggests that protecting survivors is at best a secondary objective.

In developing recent reforms to pre-charge bail (Gov.uk, 2017a), the conspicuous absence of the knowledge and experience of survivors has been a methodological flaw in research that has informed and influenced the course of bail policy and legislation (College of Policing, 2016; 2017; Hucklesby, 2015, HASC, 2015).

Although there are those who view the law as limited in its capacity to respond to the needs of survivors (Herman, 2005; MacKinnon, 1983), it is a process by which society recognises the harm done by sexual violence (Connell, 2009). The public are not necessarily well-informed about what constitutes rape or the significant challenges of the criminal justice process (Kelly, 1996), therefore the application and conditions of bail form an important part of procedural justice as a social indicator of the validity of the allegation (WNC, 2009; Payne, 2009). The police are generally regarded by the public as criminal justice experts, therefore decisive action taken by them in response to an allegation of rape can imply the claim is serious and credible (Patterson & Campbell, 2010; Imkaan, 2013; Women's Aid, 2015).

This dissertation examines the impact of granting pre-charge and post-conviction bail to perpetrators of rape from the survivors' perspective. It is presented in five chapters with Chapter 1 introducing the research and defining the key terms.

In Chapter 2, the literature review establishes the context of bail as a significant element of procedural justice and a focus of survivor expectations of safety and protection as a manifestation of that justice (Antonsdóttir, 2017).

Chapter Three outlines the methodological approach of the study based on ten qualitative interviews with six adult female survivors, two Independent Sexual Violence Advisors (ISVAs) and two police officers. The importance of a feminist phenomenological epistemology to the research is explained with particular regard to the role of the interviewees and researcher in exploring the research question.

In Chapter 4, the findings of the study are developed from interview narratives revealing gaps in protection for survivors from the point of reporting, up to and after conviction that are not acknowledged in the rhetoric of criminal justice agencies.

Chapter 5 draws together the implications of the findings for procedural justice and makes a number of recommendations for future research and possibilities for reform.

DEFINITIONS

This section provides an explanation and definition of key terms and concepts relevant to the research topic.

Procedural Justice

Procedural fairness or procedural justice as it is referred to in this study, is a concept that 'the process by which decisions are made needs to feel fair' (Criminal Justice Alliance, 2014: p1) for the accused and for victims-survivors. As recent Ministry of Justice research puts it: "Fair and respectful handling of people, treating them with dignity, and listening to what they have to say, all emerge as significant predictors of legitimacy, and thus preparedness to cooperate with legal authorities and comply with the law. In other words, procedural fairness may not only be valued in its own right, but it may actually be a precondition for an effective justice system" (Hough et al, 2013:p6).

Pre-charge bail

Pre-charge bail is defined within the 1984, Police and Criminal Evidence Act (PACE). It is used after arrest, where there is insufficient evidence to charge a suspect who is

released pending further investigation under obligation to return to the police station at a future date. Conditions of bail can be applied to prevent the suspect from failing to surrender, offending on bail, interfering with witnesses, obstructing the course of justice or for his own protection.

If the suspect fails to surrender to custody, they are guilty of an offence however a breach of their bail conditions is not an offence.

No distinction is made in this study between the different types of pre-charge bail and the different sections of the PACE (1984) that they relate to (Sections 34(5), 37(2), (7) (a) & (b), 47 (1A)). The focus of the study was survivor perspectives of how pre-charge bail is used and the different sections of the Act that may have been used appeared to make little difference in relation to this. Moreover, none of the participants distinguished between different types of pre-charge bail during the interviews.

Post-conviction bail

Section 4 of the Bail Act (1976) states that bail should be granted to:

A person who, having been convicted of an offence, and whose case has been adjourned for reports to be obtained before sentence.

Therefore a convicted offender has the right to apply for bail if sentencing is delayed. The right to bail post-conviction does not necessarily depend on the nature of the offence committed.

If the offender is charged with a custodial offence, bail may not be granted if the court believes that the defendant may:

- Fail to surrender to custody
- Commit another offence whilst on bail
- Interfere with or intimidate witnesses or otherwise obstruct the course of justice.

If bailed, the offender fails to surrender to custody, they are guilty of an offence.

Independent Sexual Violence Advisor (ISVA)

ISVAs are a specialist advocacy service offered to survivors of sexual violence. Their 'main role is to provide practical and emotional support and information to survivors who have reported to the police or are considering reporting to the police' (RCEW, 2018). They are a survivor-led service that work with partner agencies to provide non-judgemental support and stand alongside survivors as they negotiate systems with which they are not familiar.

Victim, Survivor or Woman?

Engaging in research that resists rape-related oppression through language and naming must acknowledge the presence of both oppression and resistance in women's lives (Lugones, 2003). The Victim's Code (Home Office, 2015a) defines a 'person who has suffered harm, including physical, mental or emotional harm or

economic loss which was directly caused by a criminal offence' as a 'victim' (p1). However women who experience sexual violence do so in many different forms and contexts and at different times they may identify themselves as victims, survivors or something else entirely (Kelly, 1988).

The women who took part in this research did not consider themselves to be victims, three of them specifically mentioned they disliked the word in reference to them. Therefore, in spite of the fact that in terms of the criminal justice system they were a 'victim' and this being a recognition of the harm done, in this study women who have experienced sexual violence will be referred to as women wherever possible. Where it is not, women will be referred to as survivors which is intended to accommodate both the harm done and their continued resistance to it. Where the criminal justice system refers to women as 'victims', the study follows suit only where absolutely necessary.

Police

Unless otherwise stated, references to 'the police' or 'police officers' are references to officers within the Child Abuse Investigation Unit and Sexual Offence Team of one police force.

Perpetrator

What distinguishes a feminist approach to working with survivors of sexual violence are the values and ethos that are at its foundation. Part of this approach is both the empowerment of and belief in survivors.

For this reason, aside from any legal outcomes, the men responsible for the sexual violence and associated harms inflicted on women and girls are referred to throughout as perpetrators. They are named suspects or defendants only where this refers to legal processes where this status is relevant.

CHAPTER 2: LITERATURE REVIEW

The key areas of this review of the literature cover: the origins and purpose of pre-charge and post-conviction bail; the use of pre-charge bail by the police and factors that have influenced its recent reform; and the ambiguity of 'victims' rights'. It focuses on what existing research tells us about survivors' expectations of protection and their need to feel and be safe during the criminal justice process. In an analytic sense it asks how a gendered understanding of risk might address survivor's protection needs more effectively and how this relates to their understanding of the role of bail.

In identifying literature for review an unexpected obstacle was encountered: there was limited reference to bail in studies focused on a survivor's perspective and no studies of bail were found with a critical feminist analysis. Where bail was referred to, it was as a small part of a larger topic and survivors' voices were entirely absent from government consultations on bail including recent reviews of pre-charge bail legislation (Home Office, 2015b). Academic analysis and research on pre-charge and post-conviction bail was mainly focused on reviewing criminal justice legislation and policy with particular emphasis on preserving the rights of those with allegations against them.

Nevertheless, survivors did voice their opinions on bail in primary feminist participatory research with women and girls across a range of topics such as child sexual exploitation (Warrington et al, 2017), access to justice (Women's Aid, 2015), sexual assault and homelessness (Goodman, Fels & Glenn, 2006), managing perpetrators (Imkaan, 2013), criminal justice responses to rape complaints (Payne, 2009) and the effectiveness of legislation (ROW, 2006).

The literature review was therefore not systematic but iterative, with initial searches seeking out areas relevant to developing the dissertation proposal and topic guides. These were re-visited using terms that snowballed from reading and reflections on possible interview themes. Different combinations were used of search terms such as; 'bail'; 'survivor'; 'victim' 'victims' rights'; 'rape'; 'protection'; 'safety'; 'feminist'; 'feminist analysis'; 'police discretion'; 'experience'; 'perspective'; 'risk'; 'procedural justice'; 'expectations'; 'evidence'; 'knowledge'.

Searches were mainly of journal articles, books and legislation from 1990 onwards, although most were post-2000. A small number went back to the 1970's to provide an overview of the legislation and policy development of bail and victims' rights. Literature was obtained from a variety of sources including; Academic Search Complete; MetCat; Google Scholar and websites such as the College of Policing, Gov.uk, AVA, Rape Crisis England & Wales, CWASU, Rights of Women and Women's Aid.

PURPOSE OF BAIL

The purpose of bail has ranged over time from protecting the state from suspects absconding, protecting the public and state from further criminality before trial, to protecting prison authorities from an elevated prison population.

Authorities have allowed those accused of crimes, including rape, to pledge an agreed level of assets in exchange for their pre-trial freedom for at least 1500 years. In 1976 the Bail Act abolished the recognisance system where a monetary sum became payable in the event of the suspect failing to appear at court and created a new offence of failing to surrender to custody whilst on court bail. The major change brought in by the Act (Bail Act, 1976) imposed a presumption to bail suspects as the Home Office moved away from custodial remand pending investigation in an attempt to decrease levels of imprisonment.

The Bail Act (1976) went still further and applied the presumption of bail to offenders post-conviction, on the basis that many prisoners were remanded into custody while reports were prepared but few were given custodial sentences (Dell, 1975: p186).

In 1984 the Police and Criminal Evidence Act (PACE) allowed the police to bail arrested suspects without charge, pending further investigation and the power of re-arrest if they failed to appear. The intention again was to reduce the prison population on remand, particularly the numbers of suspects who were eventually released without charge and to provide the police with an effective method of monitoring suspects (Hucklesby, 2001).

In 1994 the powers were strengthened by the Criminal Justice and Public Order Act allowing the police to apply conditions to pre-charge bail, one aspect of which was intended: 'To protect the victim or witnesses from the risk of danger, threats, pressure or other acts by the defendant' (CPS.co.uk, 2012). However any safety or protection this gives a survivor is a secondary aim of the conditions which are primarily concerned with actions by the perpetrator, 'which might obstruct the course of justice' (op. cit.).

Where pre-charge bail conditions are applied, failing to attend court or the police station while on bail is an offence however breaching bail conditions is not. As Herman (2005) explains, the legal framework problematizes the inconvenience to the police or court but not the lack of protection of women and children; one is political, a crime against the state, the other is private and to be dealt with between individuals. This is a clear indication that it is the state, not the victim, who is considered the injured party in a rape case under the law in England and Wales.

PRE-CHARGE BAIL IN SEXUAL OFFENCE CASES

Research shows the police use pre-charge conditional bail to monitor perpetrators and as an impetus to complete investigations (Hucklesby, 2016). Importantly the police recognise that it demonstrated to survivors, 'that the case was being taken seriously' (p2).

The, 'appropriateness and legitimacy of the use of pre-charge bail' by the police was examined by the National Policing Improvement Agency (Hillier & Kodz, 2012: p9). They found decision-making was influenced by three factors: 'PACE requirements and welfare of the arrestee; evidence gathering; and acquiring a charge' (p17-18). None of these relates to survivors' needs for protection. Although police participants

in the study thought applying bail conditions ‘could provide reassurance’ (p20) for survivors, the overall view was that pre-charge bail conditions were a ‘toothless tiger’ (p28) and since breaching conditions was not an offence, it was seen as actively disruptive to officers’ workloads to arrest and re-bail due to what were seen as ‘inadequate’ (p28) penalties for breaching pre-charge bail.

Pre-charge bail decisions were taken by the police with a high use of discretion by individual officers whose understanding and interpretation of the law around bail was inconsistent (NPIA, 2012; see also, Hucklesby, 2016). The paucity of data in the public domain does not allow for clarity on the numbers given pre-charge bail or conditions applied in sexual offences cases. Of an estimated 404,000 suspects granted pre-charge bail in 2013-14, 74,000 were on bail for three months or more (Home Office, 2015b: p25) and around two-thirds had conditions applied (Hucklesby, 2016). This suggests that a number of these cases involved forensic analysis which is a characteristic of serious sexual offence cases (College of Policing, 2016: p7) however it is not possible to be more accurate without further data.

In research, survivors expressed concern at what information had been used to arrive at the bail conditions applied: ‘When my partner was arrested for raping me, he was actually bailed by the police back to my house, I rang the police and asked what were they thinking of, why don’t the police check this kind of thing out?’ (WNC, 2009: p66). Not only is the protection of survivors not a core element in why bail is used, the conditions applied can actually reduce a woman’s safety and increase her chances of re-victimisation.

POST-CONVICTION BAIL IN SEXUAL OFFENCE CASES

Post-conviction bail was introduced (Bail Act, 1976) to reduce the number of offenders remanded into custody before sentencing for non-custodial offences (Dell, 1975). However, data suggests the non-custodial premise is no longer relevant in practice with post-conviction bail being granted in cases of rape. Rape Crisis Network Ireland (Hanly, Healy & Scriver, 2010) found seven per cent of perpetrators granted post-conviction bail in rape cases absconded, prompting them to recommend that: ‘Bail should not be granted to a defendant who has been convicted of rape’ (Hanly, Healy & Scriver, 2010: p12).

In response to a written question, the Ministry of Justice (parliament.co.uk, 2014) confirmed neither they, nor individual police forces collect or collate data on the numbers of rapists who are bailed post-conviction. As part of that response, the figures revealed 316 rape defendants had been given post-conviction bail between 2011 and 2013; an average of 9.4 per cent of all those convicted of rape during those three years. Of 95 men convicted of rape in 2013 and granted post-conviction bail, 11 failed to appear for sentencing (parliament.co.uk, 2014).

Data on the use of bail and conditions at any stage; pre-charge, post-charge or post-conviction are not routinely collected or reported on by police authorities, CPS or collated by the Ministry of Justice (Hucklesby, 2016; parliament.co.uk, 2014; parliament.uk, 2017). Without insight, it is not possible to review the appropriateness

of courts' use of post-conviction bail for sexual offences such as rape although women's organisations have suggested monitoring and evaluating the 'accountability of judges' decisions' (ROW, 2006: p20).

FEAR DETERRING AND FOLLOWING REPORTING

During a consultation of the London mayoral strategy to tackle violence against women and girls undertaken by Imkaan (2013), women explained that conditional bail did not address their need for safety during the criminal investigation: "where is the help for women who are petrified?... I haven't been protected and have to protect myself" (p35).

Doak (2008) frames the laws to protect witnesses created within the Criminal Justice and Public Order Act (1994) as a realisation that, 'witness intimidation was more commonplace than has previously been imagined' (p59). Research commissioned by the Home Office (Tarling, Dowd & Budd, 2000) found, 'Women were particularly likely to experience intimidation following a violent offence; a quarter of women did so. Many of these incidents involved domestic violence' (p5) and that where violent offences were not reported to the police, 'fear of reprisals accounted for... ten per cent' of those not reported (p11).

The Home Office acknowledges (Doak, 2008) that continuing increases in incidents of witness intimidation are most likely due to increased awareness and detection by criminal justice agencies (p59), rather than a rise in prevalence. In his review of secondary victimisation research, he identifies groups with the highest risk of intimidation during a criminal justice process as: women; racial and sexual minorities; survivors of domestic abuse and sexual offences and those in poorer socio-economic groups (Tarling, Dowd & Budd, 2000; Hamlyn et al, 2004; Elliott, 1998; Lees, 1996).

Despite evidence that women who experience sexual violence are at increased risk of reprisals, protections are still inadequate. In Payne's (2009) study of the victim experience of making a complaint of rape she found, 'Women frequently mentioned that they were reluctant to report a rape because they did not feel confident that the system could keep them safe' (p23).

Intersecting inequalities in the lives of women combine with experiences of sexual violence making accessing criminal justice a potentially dangerous business: 'women tended to make the rational assessment that engaging with the justice system will decrease their safety rather than provide protection' (WNC, 2009: p66). An illustration in research on sexual assault in the lives of homeless women (Goodman et al, 2006) found that: 'the very public nature of life on the streets means that few women have a place to hide if an abuser or rapist learns she has "ratted" on him' (p8). Thus the absence of protection deters women from reporting sexual violence.

For those who chose to report, the key motivations were a combination of stopping the abuse, safety and elimination of further risks to themselves and others. Conversely, fears these expectations may not be met by the authorities were key

obstacles to reporting (Warrington, 2017; Payne, 2009; WNC, 2009; Goodman et al, 2006). A study of young people's experiences of seeking support found: 'The key positive associated with police involvement is the potential for physical safety from a perpetrator' (Warrington et al, 2017: p10). The study revealed that in some cases, there was a delay between survivors reporting and the arrest and subsequent conditional bail of perpetrators. During this time, young people were both exposed as having spoken out but unprotected with: 'periods of days or weeks between a disclosure of sexual abuse being reported to the police and initial witness statements and subsequent protective actions being taken. These periods were marked by considerable anxiety and strain' (Warrington et al, 2017: p 122).

The only reference to immediate and unconditional protection for survivors following reporting was put forward by women's organisations in a workshop on procedural justice where they suggested that: 'restraining orders should be an automatic bail condition, as there is no protection in place to keep a perpetrator away from a victim' (ROW, 2006: p20).

RECENT CHANGES TO THE BAIL SYSTEM

In October 2012 an ITV programme aired, *Exposure: The Other Side of Jimmy Savile* posthumously alleging the sexual abuse by Jimmy Savile of five women between 1968 and 1974. After the broadcast, the Metropolitan Police instigated Operation Yewtree to investigate the claims of hundreds more victims and this marked the beginning of a series of investigations into alleged non-recent sexual offences by a number of high-profile figures. Celebrities such as Paul Gambaccini were arrested and granted pre-charge bail, and subsequently campaigned for changes to the investigation process after their cases were dropped for insufficient evidence.

The subsequent review by the Home Affairs Committee did not take evidence from survivors (HASC, 2015), despite the origin of the concerns specifically relating to sexual offences. Instead, they chose to question the police, CPS and alleged perpetrators only. Their report recommended that pre-charge bail be limited to an initial period of 28 days, reduced from three months, with extensions authorised first by a Superintendent, then at Magistrates Court (HASC, 2015, p4). In addition it was suggested that the presumption to bail introduced by the Bail Act (1976) be changed to a 'presumption to release without bail' (Ibid: p5).

An exploratory study on the proposed reforms by the College of Policing (2016) collected data from nine police forces and a focus group made up of 'force representatives' but again, no survivors of rape were involved as part of the study. The survivor perspective was limited to police concern regarding how the new legislation would be 'marketed' to the public to avoid any loss in 'public/victim' confidence (College of Policing, 2016: p66).

In April 2017 the presumption to release without bail and the time limit of 28 days came into effect (Gov.uk, 2017a), strengthening the protection and rights of suspects in spite of the College of Policing (2016) identifying adverse implications of the time limit. These implications were considered especially problematic for serious sexual offences investigations and rape cases in particular (College of Policing, 2016: p33-

34), with the police describing the time limitations as 'operationally unworkable' (College of Policing, 2016: p66). Survivors' voices have yet to be heard in the legal reform debate at any point throughout the process suggesting they were considered irrelevant to the consultation, evidence or decision to change the legislation. An interim report on the reforms acknowledged that the impact, 'in particular, [on] victims and witnesses, is unlikely to be fully understood for some time' (College of Policing, 2017: p4).

SAFETY

Payne's (2009) review of the victim experience of making a complaint of rape reported survivors 'were not confident that the system could keep them safe' and some women were left feeling 'worse off' due to the perpetrator being bailed, cases being dropped or sentences being, in their opinion, too low (Payne, 2009: p23).

Where issues of bail and conditions were touched on by survivors in research, it was clear their understanding of its purpose was, at least in part, to give protection: the more stringent the bail conditions, the more survivors felt they had been taken seriously by the police (WNC, 2009; Payne, 2009; Imkaan, 2013; Women's Aid, 2015; Warrington et al, 2017). However, decisions on what bail conditions the police would apply to perpetrators did not always take, 'into account the woman's evidence, her level of fear' (Women's Aid, 2015: p54).

The literature review revealed only one formal mechanism for obtaining the survivor's perspective of her own safety needs in the form of the Victim Personal Statement (VPS). In an attempt to improve the victim experience, the Government set out a series of entitlements in the Victim's Charter (Home Office, 1996) and the VPS was introduced in 2001. One of its aims was to allow survivors to 'express their concerns in relation to bail or the fear of intimidation' (CPS.gov.uk, 2013).

However, Roberts & Manikis (2012) found use of the VPS was inconsistent across police forces and suggest this was in part due to a variation in understanding of the VPS scheme by police officers. Although that may be true, this explanation obscures the structural invisibility of survivors' voices which sit outside the justice process. As Edwards (2004) points out, the language of 'balance' in the government's claims (Home Office, 2002) around victim-focused measures could be seen as a political palliative and he draws our attention to the illusion of entitlements offered as 'victims' rights' which if breached, cannot be enforced through legal remedies.

Messages about survivor entitlements from criminal justice agencies appear disingenuous when looked at through the lens of the reality of survivor experiences: 'The CPS in particular, felt that... the issues of safety, support and satisfaction of victims should be the overriding consideration of any agency involved' (Payne, 2009: p24). So it is not surprising that in the minds of survivors, there is an assumption that bail and safety are linked (AVA & Agenda, 2017; Payne, 2009; Goodman et al, 2006). Further, that women who come forward to the police believe they have a right to immediate protection from the perpetrator based on their understanding of the danger he poses; an expectation that is not always met (ROW, 2006; WNC, 2009; Imkaan, 2013; Women's Aid, 2015; Warrington et al, 2017).

Survivors were left feeling, 'they had not initially been taken seriously by the police' (Warrington et al, 2017: p122) and in some cases, 'police actions had not

significantly restricted potential contact with an abuser (while sometimes simultaneously alerting an abuser to their complaint)' (p122).

RIGHTS OR RECOMMENDATIONS

Survivors of serious sexual offences want the authorities to, 'set limits on the perpetrator's freedom of action' (Herman, 2005: p594) rather than reduce their own and other's freedoms. However the issue for survivors is whether 'rights' for victims are a reality and if they exist, whether they are accessible and enforced.

Rights of survivors are contained within the EU Victims' Rights Directive (2012) which was fully implemented by the UK in 2015. The Directive intended to recognise a range of needs including, 'respect and dignity' and the need, 'to be protected and supported' (European Commission, 2013: p4). Encouragingly, it recognises that, 'Women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation' (European Commission, 2013: p39). It also notes that member States should specify, 'clearly and precisely the moment at which criminal proceedings are considered to begin' (European Commission, 2013: p11). As yet the UK has not ratified the Istanbul Convention (Council of Europe, 2011) into domestic law, which sets comprehensive standards specifically to tackle violence against women and would make the protection of survivors a legal requirement.

Public protection, 'has always been core police business' (NPIA, 2010: p16), strengthened by the European Convention on Human Rights (Council of Europe, 1950) which reinforces the public's right to expect protection from the police as a function of their duty of care (NPIA, 2010). Human rights are a key concept in current policing but it has yet to acknowledge survivors', 'multiple justice goals' (Holder & Daly, 2009: p15) some of which are embedded in their expectations of and rights to safety and dignity (HRA, 1998).

International mechanisms are implemented in England and Wales by means of the Victims' Code (2015), setting out the standards of treatment to which survivors are entitled, professing to, 'transform the criminal justice system by putting victims first' (p1). However failure to comply with the code is not legally enforceable. In spite of the State having a duty to implement effective legislation and policy frameworks to protect survivors when they come forward (EU, 2012; European Commission, 2013; Council of Europe, 1950), the literature suggests the mechanisms currently available are neither sufficient nor effective.

THE SAFETY GAP

It is in the context of their lived experiences that women understand the heightened threat to their safety at the point at which they report sexual violence to the authorities (WNC, 2009; Women's Aid, 2015) and it is from this point that they expect to be protected (Warrington et al, 2017). However research evidence shows women feel their fears are dismissed (Imkaan, 2013), that they are vulnerable to reprisals (Warrington et al, 2017; Goodman, Fels & Glenn, 2006) and are left feeling angry and helpless as a result (Payne, 2009; WNC, 2009; Women's Aid, 2015).

There is a legal duty of care for women who report rape to the police (Council of Europe, 1950; NPIA, 2010) and police and CPS rhetoric consistently refers to keeping women safe as a priority (CPS, 2017b: p1; Police.uk, 2017). However this literature review reveals a safety gap in legislation, policy and practice which has been overlooked in research with regard to addressing women's legitimate fears when they put their faith in the authorities and report rape. Protection is not automatic, it is not immediate and women's knowledge of the danger posed by the perpetrator is not always part of the decision-making around protective measures.

Walklate (2006) explains that attempts by criminal justice agencies to 'understand what constitutes criminal victimisation' (p13) are framed within what women are told represent legitimate, rational risks. Any continued fears she voices are put down to irrationality or do not represent valid evidence. Hannah-Moffat and O'Malley (2007) argue there is a failure by authorities to critically engage with the gendered perspective of crime. This literature review reveals this is not lost on survivors, who are exhorted to come forward and expose themselves to increased risk which is then denied in legal, political and social discourse. She proposes that existing structural inequalities and gender discrimination serve to maintain 'inequalities of safety' (op cit, p11). The safety gap influences the criminal justice experience of survivors from the very point of reporting up to and after conviction, revealing fracture points between the needs of the legal system and the survivors' need for procedural justice. The impact on survivors is acute: the legal process, in many ways mimics the abuses of power they are trying to escape (Herman, 2005).

This review has demonstrated that women are so afraid of reprisals that it can stop them from reporting sexual violence (Payne, 2009; WNC, 2009). It shows their fears are well-founded, with evidence they are at a high risk of experiencing retaliation after reporting (Doak, 2008). Too often, the only option left to survivors is to manage the risks and consequences themselves (Imkaan, 2013).

The following section explains the choice of methodological approach in exploring the survivor perspective of pre-charge and post-conviction bail.

CHAPTER 3: METHODOLOGY

This chapter discusses the methodology, methods and process of data collection and analysis for the research. Sections cover the research aims, methodological approach and design, participant sampling and recruitment, interview process, data analysis, ethical issues and research limitations. The final section provides a reflection on the key learning in undertaking the research study.

RESEARCH AIMS AND METHODOLOGICAL APPROACH

The research aims to explore the impact on adult female survivors of the current bail arrangements for perpetrators of rape and corresponding effects on the views and behaviour of professionals. Pre-charge and post-conviction bail are examined with regard to the influence of their use on women's experiences of the criminal justice process.

A qualitative methodology was chosen for the research and thematic analysis as the 'foundational method for qualitative analysis' (Braun & Clarke, 2006: p78). Feminist research practice respects the sense that women make of their own lives and it is 'an important principle of this project's methodology that women define their own experience' (Kelly, 1988: p140). A qualitative approach and the systematic process of thematic analysis seek to co-produce social knowledge that 'moves away... from facts and towards meanings' (Bochner, 2001: p134), combining participant perspectives and researcher interpretations.

The research was designed and carried out by paying specific regard to the welfare of the women survivors and is conducted within a feminist epistemology sensitive to the gender and power dynamics of sexual violence (Hester, Donovan, Fahmy, 2010). A qualitative feminist methodology facilitates the participation of survivors as primary sources of expertise, promoting the belief that survivors are 'active agents' (Downes, Kelly & Westmarland, 2014: p6) and the desire to maximise: 'opportunities for positive experiences and impacts of research' (p6).

The methodological choices were informed by feminist principles of gender and power analysis:

- 'rape incidents usually involve no witnesses apart from the key parties involved, thus reducing the situation to one of her word against his' (Jordan, 2004: p2);
- the location of the truth is situated within the lived and/or embodied experiences of the research participants (Stanley & Wise, 1990);
- 'researchers' understandings are necessarily, temporally, intellectually, politically and emotionally grounded and are thus as contextually specific as those of 'the researched' (Stanley & Wise, 1990: p23);
- 'to fully understand women's experiences and theorise these experiences with a view towards social change' (Westmarland, 2001: p10).

Inherent in the researcher/participant relationship is the notion of power: the researcher decides what topic is to be explored and how. Since they are studying at an academic level, they can be accorded a level of intelligence by the participant which may or may not be appropriate. Consequently the feminist research design

has a strong ethos of survivor-focus based on power relations as an enabler both individually and collectively: 'not just to act but to act in concert' (Arendt, 1970: p44). Reciprocity and exchange within a feminist framework were considered in aspects of consent, engagement, questioning and ending the relationships, based on the researcher's wish to work with all participants but particularly survivors, in a process of ongoing co-operation and respect (Miller, 1992).

The researcher intends to privilege the voices and experiences of the women survivors who participated, whose truths and perceptions of the impact on their lives of decisions to grant bail to perpetrators are central to the research. According primacy in phenomenological epistemology is 'about understanding people's everyday reality, in great detail, so as to gain an understanding of the phenomenon in question' (Braun & Clarke, 2006: p8). The research aimed to recognise the 'situated and embodied knowledge' (Haraway, 1998: p29) with which the women described their experiences of the bail process as valid and legitimate.

Reflexivity

The theoretical and methodological framework of the research reflects my position as a feminist, a former Rape Crisis worker and a white, able-bodied, British woman.

I had worked with Rape Crisis Centres on research projects previously and conducted interviews with women and men, individually and in focus groups, so had some experience with the ethical and moral dimensions of working with survivors as research participants.

In collecting and interpreting participants' experiences and realities and capturing how context, time and their background influences them, I cannot fail to be aware that I analyse 'the data from my own political, personal and intellectual perspective' (Letherby, 2002: p4). For instance, interviews with police officers and ISVAs acknowledged their positions of authority and possibly more in the case of police participants, were conducted from a perspective of 'asymmetrical reciprocity' (Young, 1997: p340). This allowed me to listen to and understand differing views whilst paying attention to power positions as part of a feminist research practice.

Building meaning from conversations I have had with the various participants has been a process of translating different knowledges. As a participant myself, I am mindful that my understanding of what constitutes knowledge and meaning plays just as significant a part as other participants, arguably more so, since the report is predominantly my voice, decisions and interpretations.

However despite there not being an absolute truth for me to 'discover', my motivation to research this topic is to enhance understanding of what I believe to be an under-researched area. My aim is that any knowledge we have collectively produced here contributes to a clearer understanding of the reality the impact granting bail can have on the lives of women who have experienced sexual violence.

Research Design

Semi-structured interviews were conducted with ten participants individually, face to face and all interviews were audio recorded. Participants were asked about the purpose of bail, how it was used, its effectiveness and impact on survivors and the responses to survivors of perpetrators, community and other professionals.

Pre-charge and post-conviction bail processes were examined at the points where they intersected with questions of what and whose knowledge is legitimate and so it was essential to obtain a range of perspectives. Six adult female survivors were interviewed, all of whom had reported to the same police force who had at some point during the investigation granted bail to the suspected rapist(s). The women had different criminal justice outcomes; two cases were dropped by the police, three ended in a guilty verdict and in one case there was an acquittal.

Two police officers were interviewed and two Independent Sexual Violence Advisors (ISVAs) working out of a Rape Crisis Centre. Since the research covered cases of rape reported to the same police force the police officer participants were also recruited from that police force and the ISVA participants recruited from a local Rape Crisis Centre. Police and survivor participants were recruited via an established relationship between the researcher and the local Rape Crisis Centre, while the ISVA team at the Centre decided who would be the most appropriate to participate. It was preferable that participants were able to consent to a face-to-face interview within a three month period with ongoing consent confirmed at every stage leading up to and during the meeting.

Sampling and recruitment of participants

Participants were recruited as a purposive sample typically adopted in qualitative studies (Mason, 2002) to be symbolically representative, as opposed to statistically, ensuring their experiences and knowledge covered key characteristics (Bryman, 2012).

Six women participants were recruited with the support of the ISVA service at a Rape Crisis Centre. Given the limitations of the researcher's capacity and resources, inclusion criteria were agreed with the ISVAs and women would be eligible to participate if they were 16 years old or over, had no ongoing police or CPS investigation, spoke fluent English and did not have learning disabilities. The ISVAs were provided with the survivor participant information sheet (see Appendix 1) and were asked to contact possible participants and give them an overview of the research.

In initial discussions, the ISVAs expressed some doubt about whether they would be able to identify women who fitted the research criteria on the basis that in their experience, women did not talk about concerns with bail specifically. The researcher clarified that although women may not mention bail or conditions specifically, they may instead refer to fears for their or their family's safety, reduction in freedom of movement and so on. It transpired that women consistently make the connection between their personal safety and the granting of conditional bail but discuss their needs outside of any dictates of the criminal justice process. It was beneficial for the researcher to recognise that both ISVAs and survivors may approach the question of bail from a solely survivor-led criteria. Explaining the research from their perspective was an important step in obtaining support from the ISVAs and recruiting participants.

ISVAs approached women who fitted the criteria and discussed their participation, providing them with the survivor participant information sheet. Women who were interested in being interviewed gave their permission for the researcher to contact

them directly and all six of the women contacted agreed to participate in the research.

The ISVA Service Manager was provided with the participation information sheet for police officers (see Appendix 1) and agreed to discuss the research with officers in the Child Abuse Investigation Unit and the Sexual Offences Team with a view to officers giving permission for the researcher to contact them. One officer from each team agreed to be contacted and both agreed to participate in the research.

The ISVAs themselves were provided with an ISVA research participation information sheet (see Appendix 1) and two ISVAs agreed to be interviewed for the research.

Consent was a key consideration and is discussed in further detail in the 'Ethics' section of this chapter.

The participant sample was entirely self-selecting and recruitment was not aimed at achieving diversity for instance of age, ethnicity, sexual orientation or socio-economic background: the research question necessitated that each woman had reported to the police and the perpetrator had been arrested and bailed.

All three participant information sheets explained that contributions would be anonymous and confidential and outlined how the data collected would be used and how the research would be disseminated. All participants were informed that they could withdraw their participation at any point, without providing a reason. The main differences in the participation information for the three categories of participant were; researcher obligations where safeguarding or issues of professional concern were raised; the request of personal impacts from survivors rather than professional experiences; that a copy of the audio recording was offered to survivors after the interview.

Research Participants

Six women participated in the research, ranging in age from 18 to 49 with one woman from a minority ethnic background. All six were survivors of rape; five had been abused as children; of those, two had also been abused as adults and one was the survivor of sexual violence as an adult.

All six women had been or were still being supported by services within the Rape Crisis Centre and all had reported to the same police force and received ISVA support during the criminal justice process.

Justice outcomes for the perpetrators varied; three cases received a guilty verdict after a trial, with one of the three committing suicide while on post-conviction bail; one further trial collapsed due to a police paperwork error and the perpetrator was acquitted; two cases were dropped during the police investigation stage.

The ISVA role is delivered solely by female staff who are specialist advocates providing survivor-focused, practical and emotional support to women, men and children who have experienced sexual violence, including those going through the criminal justice process. The two ISVA participants had at least four years of experience each in an established ISVA team, therefore they were well-positioned to voice the narratives and agendas of survivors within the community.

The two police officers both had responsibility for taking bail decisions in sexual offence cases. One was a female officer working in the Child Abuse Investigation Unit with nine years' service and one male officer working in the Sexual Offences Team investigating non-domestic and non-recent sexual offences with twelve years' service.

Interviews

A series of semi-structured, face-to-face interviews were conducted to collect the qualitative data. This form of guided conversation is designed to gather data relevant to the research aims but allows the freedom for participants to discuss the topics based on their own experiences. The framework of a semi-structured interview permits the researcher to explore their understanding more deeply with further questions, working with participant narratives as they unfold.

Initial reading of the literature on the origins and use of bail across the criminal justice system but in particular pre-charge bail and women's views of their experiences of the criminal justice system provided the researcher with the outline questions for the topic guides (see Appendix 2).

Questions were deliberately designed to be open and encourage participants to discuss what was most relevant to them with regard to the impact and use of bail, albeit that there was a common core of questions/themes across the three groups of interviewees. Questions for survivors focused on their feelings and needs, specifically with regard to the use of bail in their case. They were asked whether the use of bail had influenced responses from friends, family and community and how that had impacted on them.

Questions for ISVAs and police were directed towards their understanding of survivors' feelings and needs coupled with the processes and mechanisms, both legal and professional, that supported or conflicted with those. They were also asked to comment on the potential impacts of legal changes to pre-charge bail on survivors of rape.

Probing questions were used to clarify understanding, such as, 'What would have made the difference for you?' or 'Could you say more about that?'

At the end of each interview, participants were encouraged to talk about topics that had not been covered but they wanted to discuss. Those that did, raised questions that had remained unanswered for them: why breaches of bail were not punished; why bail had been granted post-conviction or topics relating to their experiences of the justice system but unrelated to bail.

Since the feminist principles that underpin the research call for a conscientious effort to equalise power relations between researcher and 'researched', each survivor was asked at the end of the interview if they had any questions for the researcher. This created an opportunity to share personal narratives about what motivated the survivors to participate and the researcher to study this particular area in 'intimate conversation' (Glassie, 1982: p14; Thompson, 1995).

Interview Process

Prior to the interview starting, each participant was given time to review the participant information sheet specific to whether they were a survivor, ISVA or police officer and ask questions of the researcher. This repeated the information participants were given before the interview was arranged. Participants were not given the questions in advance of the interview, the semi-structured nature of the topic guide was intended to guide the dialogue rather than create a prescriptive question and answer format.

Once the researcher was confident that questions regarding confidentiality, anonymity and research purpose had been answered and understood, the consent forms were reviewed. These were signed before the interview, with all participants reminded that they could stop the interview, decide not to answer any question or withdraw completely without giving a reason at any time.

Women participants were current or previous Rape Crisis clients and were familiar with the Centre location, they felt safe, were anonymous and were assured of the confidentiality of the conversation. For these reasons the researcher offered to conduct the interviews at the Rape Crisis Centre. The researcher confirmed with the Centre that women participants could contact a counsellor or ISVA if they wanted additional support after the interview. None of the women who contributed felt the need to use this facility.

Five of the survivor interviews and the two ISVA interviews took place at the Rape Crisis Centre, one woman preferred to be interviewed at her home and the two police officers were interviewed at the police station where they were based.

Interviews lasted from approximately 45 minutes to 1 hour 45 minutes and were both involved and absorbing for participant and researcher. After each interview there was time to talk about subjects unconnected with the research so that both could establish a level of emotional relaxation and ease before the session ended (Booth & Booth, 1994).

Four out of the six women chose to take a copy of the audio recording with them, two declined the offer. After each interview the researcher made notes on the content and process of the interview to identify any emerging themes across participants along with subjective impressions from the perspective of an engaged participant.

DATA ANALYSIS

Analysing qualitative data thematically, followed a process adapted from Braun & Clarke as a method for 'identifying, analysing and reporting patterns within the data' (2008: p79).

The researcher transcribed the ten interviews, with the average interview consisting of approximately 12 pages of text, with each transcript identified by a pseudonym and identifying details removed. No transcription convention was considered essential for the thematic method to be applied consistently. Nevertheless in acknowledgement of transcription as an 'interpretative act' (Braun & Clarke, 2008: p87) audios were typed verbatim and took into account non-verbal communication such as pauses, sighs, clapping to keep the meaning on paper faithful to the

meaning understood by the researcher both in the interview and listening to the audio.

During the close listening required for transcription, patterns of responses and meanings were noted which represented possible themes and codes: however, some patterns were only visible once the whole data set was analysed. For example a feeling of powerlessness in the survivor narratives was echoed in the police interviews and patterns of survivors' agency and resistance to further abuse became more apparent. Some codes reflected recurring themes across many interviews, for example survivors' expectations of protection, others were less frequent but directly relevant to the research aims, such as the use of civil protection orders.

The resulting codes were applied to the entire data set and themes identified using an inductive approach, 'strongly linked to the data themselves' (Patton, 1990 cited in Braun & Clarke, 2008: p83), and were not limited to the initial questions. This is not to suggest patterns emerged objectively from the data; data analysis requires the researcher to make decisions on what they see and interpret the information. Nevertheless the aim was not to see personal narratives as data to support theories but rather as original material to develop concepts (Frank, 1995).

A relatively large number of codes were applied to the data and then reduced to a smaller number of themes capturing broader meanings following the procedure outlined in Braun & Clarke (2008: p87):

- Familiarisation with the data, in this instance through transcribing and re-reading the data set
- Generating initial codes
- Searching for themes
- Reviewing themes
- Defining and naming themes
- Producing the report.

The process of analysis was not linear, it involved continuous reviewing of the data set, moving back and forth to achieve a thematic interpretation of the text: a process of refining the codes into themes and sub-themes and identifying relationships between them.

Data extracts are an integral part of illustrating arguments and providing evidence. Despite the need to choose the most affecting examples, extracts were chosen deliberately to accord each survivor an approximately equivalent voice. After all, the study was not only the complex story of the data but was also the story of collective collaboration between researcher and participants to seek 'meanings that help us cope with our circumstances' (Bochner, 2001: p154).

ETHICS

Ethical considerations are part of the researcher's moral responsibility to protect participants from harm. The research followed a series of core values which guide ethical practice for research with women and children who have experienced violence and/or abuse (Downes, Kelly and Westmarland, 2014: p1; WHO, 2003: p4). These were reinforced with a research design that centred on respect and openness

in the relationship between researcher and participants, particularly in the provision of informed consent as an ongoing process.

Consent was discussed as a continuous process of co-operation which acknowledges the particular ethical responsibilities of interviewing women who have experienced trauma. Signing the consent forms was only one aspect of confirming participants were fully informed and it was made clear that irrespective of signing the form, participants could withdraw at any point. All ten participants confirmed via the consent form that they wished to receive a summary of the research once it was completed (see Appendix 3 for consent forms).

Within this methodological framework the researcher was able to be responsive to context as an 'ethical thinker' (Clark and Walker, 2011) and acknowledge unforeseen issues by discussing and agreeing them with participants as an ongoing process of consideration of their rights, welfare and dignity (Cromer and Newman, 2011).

The research was predominantly shaped by women survivors through first person testimonies shared with the researcher. Given the feminist participatory values and ethics of the research process, it felt important to offer the survivors a copy of what had been taken; the recording of their own voices and experiences.

Ethical guidelines for the research were agreed between the researcher and the Course Leader of the Masters in Woman and Child Abuse at the Child and Woman Abuse Studies Unit (CWASU) based at London Metropolitan University. Research tools such as topic guides and consent forms, were agreed with the Course Leader and a Senior Research Fellow at CWASU.

RESEARCH LIMITATIONS

This was a small-scale exploratory study of an under-researched area with a sample size from which it is not possible to generalise. However while particular contexts are police force specific, themes identified may be relevant for other forces.

The original proposal intended to explore the impact of bail at pre-charge, post-charge and post-conviction stages, however it became clear during the interviews that data collected from participants related predominantly to pre-charge and post-conviction bail. This was in part due to police and ISVA interviewees wanting to talk through the impact of recent changes to pre-charge bail legislation. Additionally, it was not possible in the scope of this study to interview representatives from the CPS who grant post-charge bail. As a result, the research focused on pre-charge and post-conviction stages of bail, although all three stages would bear more research scrutiny.

REFLECTIVE NOTES

Since starting work at a Rape Crisis Centre nearly ten years ago I have been consistently angered and driven by the injustices faced by survivors of sexual violence.

Listening to survivors has always been a source of rich information and despite there being little data on bail and conditions available from the criminal justice system, survivors were very forthcoming about their experiences and procedural justice

needs. Any fears of not having sufficient data were allayed quickly after starting the interviews. My primary concern throughout was to do justice to the narratives given by the participants but particularly the survivors and to interpret their voices respectfully and productively and there were times when this responsibility felt overwhelming.

Navigating a path through such diverse perspectives as the police and survivors was demanding, as was the organisation and presentation of narratives in a way that clarified their meaning as I interpreted it. Each individual story begins, 'in separate narrative and ends in collective memory' (Langer, 1993: p21) and I am learning to live with the idea that my anxieties over any (mis)representation of survivor narratives is something that will stay with me and forms part of what it means to me to be a feminist participatory researcher.

The next chapter presents the study findings, developed from the interview narratives and builds on the review of literature.

CHAPTER 4: FINDINGS

This chapter discusses the themes that were most prominent once the data was analysed with regard to the impact of bail from a survivor perspective.

It is organised into six sections covering an overview of the participants and brief observations on how their experiences and views on professional practice differed, a summary of how pre-charge and post-conviction bail applies to sexual offences and a discussion of the findings structured thematically across four main areas.

PARTICIPANT OVERVIEW

The findings are taken from the viewpoint of three groups of participants; survivors, ISVAs and police officers. The findings focus specifically on how their differing perspectives influenced the survivors' experiences of bail at the pre-charge and post-conviction stages of the criminal justice process.

Perpetrators breached their bail conditions in four out of six cases: breaches were multiple, at least two occasions during the investigation ranging from contact via social media to gun pellets shot through a sitting room window. In one case the perpetrator did not breach his conditions and in the last case the perpetrator did not have any conditions attached to his bail.

Two police officers were interviewed; one specialising in child sexual offences cases and one specialising in adult non-domestic and/or non-recent sexual offence cases. Both had responsibility for taking bail decisions in sexual offence cases. The final participants were ISVAs working in a Rape Crisis Centre whose role was to support survivors through the criminal justice process.

The focus of the research was to explore the impact on rape survivors and the views of professionals of current bail arrangements for rape suspects. Although it was expected that the views of professionals, in particular police officers, might diverge from those of the survivors what was not expected was the polar difference in their understanding of the effectiveness of bail.

Both police officers demonstrated a commitment to keep survivors' needs at the centre of their practice at the same time as acknowledging the constraints of legislation and policy on their ability to achieve that. It was their belief that the majority of survivors had a good experience of bail use as part of a sexual offence investigation. Nevertheless, interviews with survivors described practices that suggested this commitment was not consistent and that bail did not meet their protection needs. Survivors interpreted this as a deficiency in police attitudes and practice. The stark contrast in their views may have been as a result of the purposive sampling method but it was not possible to draw conclusions within the limitations of such a small study.

The main themes are discussed with verbatim extracts from the interviews for illustrative purposes. The names given to survivor participants are pseudonyms agreed with each woman after their interview.

Analysis of the data is structured into four themes:

- Perceptions and expectations of bail
- Realities of bail
- Changes to pre-charge bail
- Rights

PERCEPTIONS AND EXPECTATIONS OF BAIL

Issues of safety for survivors once they had reported was a key concern for all participants, survivors expected to be protected and action taken by the police was for them, an important indication of their safety and credibility. Women expected restrictions to be placed on the perpetrators' freedom of movement to reduce the risk of reprisals. This made conditions of bail significant, to the extent that they reflected their needs.

Broadly, the police view suggested that this might be the case, with the use of conditional pre-charge bail said to be motivated by the, '*protection of victims, protection of witnesses, minimising any opportunities to reoffend, supporting safeguarding measures*' (Sexual Offences Team - SOT).

Credibility of allegations

Women's understanding of the purpose of conditional bail was significantly influenced by their interpretation of the basis on which those decisions had been taken, which in their minds and the minds of those around them reflected how seriously the police took the offence. As a result it was of great importance to them that the strength of the bail conditions validated the severity of their allegations and the corresponding risks they and others faced.

My best friend said, 'I take it there are conditions attached to that' and I said, 'well, no'. And he said, 'if they were taking you seriously there would have been conditions attached' and I said, 'what do you mean?' 'They obviously are not taking into account the fact that they have just unconditionally bailed a child rapist' he said, 'if they genuinely believed that this is what had happened to you... there's no way' (Angie).

The ISVAs were explicit: when a perpetrator was arrested, questioned and conditional bail was granted, it suggested the allegation was credible and influenced the level of support survivors received:

[Granting bail] forms part of that evidence doesn't it, where people are making judgements about whether or not it's a lie, which they're assuming... most family and friends are assuming it's a lie or a false allegation' (ISVA2).

Survivors expected the conditions applied to bail to reflect the risk perpetrators posed and the corresponding safeguards required to protect, not only them but others.

I said to the police... you know...he also had his own business. So even though he was on bail... I said... 'what about the fact that he's going to people's houses and there's possibly children there?' And they said,' look, until he's found guilty we can't do anything'. And I just thought... this is just a wind up now!' (Miracle).

The absence of legal constraints meant the perpetrator, unlike the survivor, was able to continue his 'normal routine' (College of Policing, 2016: p5) with impunity. With no visible sanction, social acknowledgement of his crimes and corresponding support for the survivor is unlikely. The lack of practical public protection once survivors disclosed their abuse came as an unpleasant shock and was experienced as further humiliation based on indifference by the authorities.

'They're allowed to live their lives normally, although they've been bailed for something that's disgusting and they're still allowed to... to be associating with young girls. I'm thinking to myself – this is crazy. This is actually crazy.' (Miracle).

Safety

Survivors expected to be entitled not only to personal safety but to dignity and were distressed when bail conditions were, in their opinion, inadequate.

On my mum's death bed... for three days my mum was dying, she was unconscious and ...he was allowed to be in the same room as me! I was 15... how was that fair?! What if he'd done something then? (Nicole).

For Angie, the lack of bail conditions left her feeling exposed and neglected, particularly as she was left to guess the police's rationale behind the decision.

I think it was less paperwork... I don't know because I don't know the system... I just think it shows a total lack of regard for me as... as a former victim to not make sure that I was safe and cared for (Angie).

The ISVAs explained that survivors who reported to the police expected they would immediately be protected and supported through the criminal justice process: *'that's the impression that's given by the criminal justice system in outward, public-facing media reports or advertising campaigns'* (ISVA2). Their experience was that survivors believed the perpetrator would be arrested straight away and they would be protected from that point: *'safety is often the primary concern because that's often one of the reasons they don't report in the first place'* (ISVA2). However more commonly, the evidence needs of the investigation delayed the arrest and therefore any protective measures such as conditional bail, resulting in survivors feeling: *'I'm on the back foot... immediately. I've done this huge thing and how am I going to be protected within this?'* (ISVA2).

None of the survivors who participated knew how the police assessed the risk posed by the perpetrator for the purposes of bail conditions. Their own estimate of his current and future risk was based on their knowledge of his potential for violence and their experience of multiple offences as an established pattern of behaviour. In their opinion, this knowledge should have been central to decision-making on bail conditions.

The person who knows the biggest risk to themselves, no matter how many qualifications you've got or how long you've been in the police force, is the victim themselves. They know best. And that should definitely be where the police should have a meeting with them and say, what do YOU think?' (Neesha).

... as soon as they come out on bail, the first thing they're gonna be thinking is... right... we're going for this bitch now (Miracle).

The ISVAs were aware that survivors come into the criminal justice system believing that conditional pre-charge bail will provide protection and safety.

... you meet people who are very frightened and distressed and they say, he's not allowed to contact me, he's not allowed to come down the street and I do think to myself, do you know what, if he does, not a lot's going to happen anyway. But I don't verbalise that because I do see that people hold on to thinking that bail holds a lot more weight than it does (ISVA1).

Risk assessment and decisions on pre-charge bail and conditions were taken by police officers on a case by case basis using the professional experience of the officer concerned: *'Every time we do a job it's a kind of balancing act, where do we fit on this... it's a bit of an art'* (SOT). The ISVAs confirmed: *'it would definitely be on the individual officer taking the time to make sure to talk about their welfare'* (ISVA2).

Survivors' perceptions that conditional bail had little impact on perpetrators was confirmed by officers who described it as: *'water off a duck's back'* (SOT). Even for those perpetrators with no previous police involvement: *'it may have an impact, but not very often'* (SOT). If bail conditions do not restrict the freedom of the perpetrator, they are unlikely to be breached, meaning the survivor must restrict her own if she wishes to avoid him.

... [the police] advised me, 'look, if you go to that building there's nothing we can do and so, we advise you to not go to church'. For two years I missed out on church. Them relationships I'd built with my church friends... had been destroyed (Nicole).

Where officers assessments of risk differ from the survivor's need for safety, justifying bail conditions comes down to what constitutes a legitimate threat and what is considered to be evidence. Some bail decisions were subject to officers' views about the risk posed based on the status of perpetrators.

.... we do tend to voluntary interview professionals [rather than arrest and bail] because I suppose they behave themselves, also we do have to be wary that you get a higher proportion of false allegations against professionals (Child Abuse Investigation Unit -CAIU).

ISVAs recognised the disparity between the police formulation of risk and that of the survivor, as well as the significance of different forms of sexual violence to their feelings of safety.

[The police] are primarily thinking about physical risk, threats to life rather than thinking about other forms of risk and I think survivors, particularly of childhood sexual abuse have felt so unsafe as children, and continue to feel so unsafe as a result of the trauma of that abuse, that their assessment and the risk that perpetrator poses to them is obviously quite high... But the police might say, they're a school teacher, they've got no criminal record, no violent offences, no history of violence where's the risk here?' (ISVA2).

The emphasis in survivor narratives was the importance of their safety and protection as a source of validation. Further, that a key motive for them involving the

police was the possibility that action taken by the authorities could start a process of making the perpetrator accountable.

REALITIES OF BAIL

Survivor interviews suggested that they were profoundly invested in positive outcomes to make the ordeal of the justice system worthwhile. The interviews revealed the importance of whether survivors believed they had been listened to and treated fairly in establishing a sense of personal validation.

Credibility of allegations

Issues of credibility were closely connected to a survivor's goal of re-establishing elements of power and control after abuse reflecting 'different dimensions to justice' (Holder & Daly, 2017: p15). Whether they went on to obtain a conviction or not, survivors gained a sense of justice being served as a consequence of perpetrators having to report to the police station regularly or being re-arrested for breaching bail conditions.

He wouldn't have liked [being on bail] because he really thinks he's something and... at least that's some sort of (sighs) ... recompense... torture for him... humiliation. A bit of public humiliation for him, he humiliated me (Niamh).

I'm not that nine year old girl, I'm a woman and for all the fear you put in me, even though I was still scared of him, I'm going to let you know how that feels when you're getting questioned (Neesha).

In five of the six cases, survivors' families and friends actively sided with the perpetrator and the granting of pre-charge bail was one of the justifications used to discredit the allegations and the survivor herself.

The whole two years before he got charged it was... oh it's going nowhere! All that time ago? As if! There's no evidence, that's never going to stand up in court. He's not even going to get charged! (Niamh).

Five of the six survivors and both ISVAs talked about survivors feeling 'worse off' after reporting and bail conditions were applied. Survivors who had thoughts about withdrawing from the criminal justice process as a result of feeling unsafe, remained engaged predominantly because they wanted vindication: 'you can't call me a liar anymore' (Nicole).

Safety

The only formal method of taking the survivor perspective as part of decisions on bail at any stage is the Victim Personal Statement (VPS), where one of its aims is to: 'allow victims to express their concerns in relation to bail or the fear of intimidation by or on behalf of the defendant' (CPS.gov.uk, 2013). However, in practice the ISVAs explained it is not considered relevant to decisions on bail conditions and was: 'only used as part of sentencing, it's not used for any other reason. And if they're not convicted, that won't be used' (ISVA2). This view was confirmed by the police: 'the VPS itself, at the point of statement... because of the timing of it, we don't particularly rely on that around bail conditions' (SOT).

Four of the six women survivors were clear that the conditions of pre-charge bail were not effective or sufficient for their needs. The manipulation and control by perpetrators that forms a characteristic feature of sexual violence appeared to survivors to be explicitly tolerated through the bail conditions which, in their opinion, failed to reflect the severity of the harm they had suffered or the disturbing nature of the allegations.

... that was the place me and my mum went and I had to give that up for him. Again, he was controlling and manipulating my life and the police wouldn't do anything about it (Nicole).

Personal safety and the safety of their children was expected by survivors to be a right when they reported to the police. They understood their position within a criminal justice context as a victim of serious crime and wanted the authorities to take an immediate and unequivocal stand to protect them and other potential victims from the abuser(s). Where pre-charge conditional bail did not deliver safety, it was viewed by survivors as an additional injustice perpetrated by the very institutions that were supposed to protect them.

They've [perpetrators] already affected my life but just because I've now opened up about how they've affected my life that shouldn't then affect my life going forward (Angie).

Rhiannon's narrative is a case in point where poor decisions on bail conditions allowed the perpetrator to continue to terrorize her with the tacit permission of the authorities.

'He moved within two hundred feet of my house. He could see my house from his house because the bail conditions were on him. The bail conditions were not... you need to be in this place. He knew that and he used what he could within what his bail conditions were, so he moved over the road, to watch me instead.

It was an abuse in itself... for him to see me. He could see me coming and going, he could see who was at my house, he could see whether I was there or not... so yeah, it really terrified me, it really upset me... You don't easily come down from that either. It takes ages... for that... that... [sighs]. So yeah, it was horrific, that was horrific, that was horrific and I don't understand how he was allowed to do it.

They could easily have said to me, 'what would help you?' I was horrified, I was distressed, I was really emotional, I was really upset, very upset and I knew that [the police] set the bail conditions so I knew that they weren't being very helpful. They could have done... they could have done something for me' (Rhiannon).

Survivors were indignant and angry that conditional bail as a formal legal sanction for perpetrators of serious sexual offences impacted so fundamentally on their own freedom: the reduction of the space they considered safe just one more injustice.

We got told that obviously they'd been released on bail and [the police] said... you probably won't be able to come home. That's not fair. So I'm having to live my life... trapped (Miracle).

Survivors were left constantly troubled by intrusive thoughts concerning their safety. Niamh explains how her knowing the perpetrator was on conditional bail changed her everyday behaviour.

I was setting like booby traps up, I wasn't sleeping anyway, I was in a very, very bad place emotionally, I was just living on my nerves (Niamh).

The ISVAs stressed the importance of managing survivors' perceptions of fear as well as the reality and expressed frustration with an unhelpful attitude from some police officers based on their belief that pre-charge bail is: *'not worth the paper it's written on'* (ISVA2). ISVAs felt this contributed to survivors' experiencing, *'a cycle of frustration'* which, *'can be really disempowering'* (ISVA2) when breaches of bail conditions were not followed up by the police. From the ISVA perspective, the impact on a survivor's feelings of safety can be profound: *'I'm no safer reporting, in fact I'm less safe because now they know that I've spoken out'* (ISVA2).

The lack of consequences for breaches of conditions compounded survivors' anger at the authorities, left them feeling 'neglected' and 'abandoned' and unanswered questions preoccupied their thoughts.

So it's like... what's the point?... what's the point in even... and it takes your voice away from you, it makes you feel so... disempowered and so helpless you think... what's the point? If they're [police] not gonna support me and they're not gonna do anything about [breach of bail conditions], what's the point of this whole court case? If they're not gonna protect me... who else is going to? (Nicole).

I'm sure there's loads of paperwork... but if I'm going to bring information out into the open, I need to know there's a system that's going to keep me safe (Angie).

The views of survivors suggest that of those who report, many leave the justice system with unfulfilled justice goals (Holder & Daly, 2017), particularly with regard to their safety. The protection of survivors did not appear to be a core element in why bail was used and the conditions applied could actually reduce a woman's safety and increase her chances of re-victimisation.

CHANGES TO PRE-CHARGE BAIL

The reduction of pre-charge bail limits to 28 days with extensions requiring authorisation by a police superintendent or above and then by a magistrate (Gov.uk, 2017a) was starting to have serious repercussions for survivors.

Post-April... our office [Sexual Offences Team] conditional bail rate has probably dropped by about 80%. We can't work this system (SOT).

The ISVAs noted changes to pre-charge bail legislation meant police were less likely to extend conditional bail: *'not extending the bail has had a huge impact on her and I've seen a significant change in her presentation to me and her anxiety and distress'* (ISVA1). Survivors were left to arrange their own protection in the form of civil orders. Nevertheless, the process of applying for a non-molestation order was not straightforward and perpetrators can defend themselves in person with no guarantee

the order will be granted: *'it's better protection but it's obviously the fact that she's had to see him isn't it and the re-traumatisation of that'* (ISVA1).

Bail dates also had an important influence on investigation timescales, *'bail would have kept a focus on the investigation. By making the decision to say we'll release pending investigation, there are no checks and balances in that'* (SOT). Officers worried that the significant drop in their use of conditional bail could increase investigation delays and consequently, withdrawal rates: *'Longer term we'll see a rise in drop-outs during the progression of the investigation. People will just say... I don't want to deal with this anymore'* (SOT).

Survivors were fearful of what decision would be taken around bail dates, their priority was safety for themselves and others. They recognised that some monitoring or control over the perpetrator might increase the likelihood of this security.

... every time I thought... he's going to go in this time, he's going to go in this time, he's going to go in this time... and for two years, that was me every time he answered bail' (Nicole).

Pre-charge bail had previously been used as a method of partnership working between the police and other agencies, for instance to delay social care assessments or with regard to potentially difficult decisions on managing perpetrators in a position of trust. The officers were clear that their reduction in pre-charge bail use would need to be followed by a change in the way their partners worked and more robust disciplinary policies within organisations.

Social care are quite worried about this new bail system... Social care might ask us and have asked us in the past, can you bail him for a few weeks and that way he is not allowed to go back to the family home and we don't have to worry about doing a family assessment today (CAIU).

Position of trust meetings can hide behind the bail conditions and say... we're just working in line with what the bail conditions are. Now we haven't got that and we're having to push back... and say, what can you do about this? (SOT).

ISVAs expressed concern that the significant reduction in police use of pre-charge conditional bail would leave a gap in protection of survivors that may not be addressed by policy and practice in institutions such as schools, universities or social care.

...[bail] makes them take it more seriously and as soon as there's an NFA [no further action] decision, well that's the end, you know, nothing happened... often there's not that understanding of the challenges of the criminal justice system. So... bail conditions do send a message to professionals that this needs be... that this is a serious case (ISVA2).

They worried that survivor requests for protection from professionals would not carry the same weight.

I don't think it would have been as easy for that survivor to say, I'm not sitting in a room with that person during the child protection conference. You'll have to do a section with me and a section with them, separately. I wonder whether or not that would have happened if there hadn't been bail conditions (ISVA2).

The ISVAs had used bail conditions as a mechanism to leverage safeguarding across partner agencies or in workplaces.

Even though [bail conditions] couldn't necessarily result in anything, they still offered something, whether it's reassurance or just even a framework to hang protection and safeguarding off... you could always go back to it... there are bail conditions, there are bail conditions. But when that's not there, what have you got? (ISVA2).

Police officers were concerned that despite their stated reservations, they may be called to account on any detrimental consequences of the pre-charge bail reform to their performance. However, survivors' safety is doubly impacted, both by the reduction of the police use of bail and by the fact that conditional bail is used as affirmation influencing survivor protection in the wider safeguarding system.

Post-conviction bail for rape

Post-conviction bail was originally introduced for non-custodial offences (Dell, 1975), however data suggests the non-custodial premise is no longer relevant in practice, with on average nine per cent of convicted rapists being granted bail post-conviction (Parliament.uk, 2014).

ISVAs felt survivors who were subjected to the perpetrator being granted bail post-conviction came away from the justice system deeply disillusioned, believing it was intrinsically designed to advantage perpetrators: *'post-conviction bail is... quite frankly absurd'* (ISVA2). The ISVAs' exasperation recognised the heightened risk of perpetrators committing suicide or absconding and where this was the outcome, the ISVAs described the impact on survivors as *'absolutely devastating'* (ISVA2).

Your experiences have been validated, you've been told it's a crime, what happened to you wasn't your fault, it's no longer minimised. You're moving into a place of maybe I can heal and move on and maybe what happened to me wasn't my fault and then that person... to take their own life puts it all back on their shoulders (ISVA2).

Nicole saw the perpetrator plead guilty of multiple child abuse offences against her, only to be released on post-conviction bail. His suicide on the day of sentencing was regarded by her as a final act of betrayal, not only by the abuser but by her family and the criminal justice system:

When it came to court, he admitted all his crimes, he got released on bail, even though he admitted to his crimes and then, on the day of sentencing, he killed himself. And on that morning, I was chucked out because of it. And that's why I haven't got any family (Nicole).

RIGHTS

This last theme describes how survivors do not experience having rights, but instead recognised their interests are subject to unequal power relations reproduced through the criminal justice process including pre-charge and post-conviction bail.

Right to information

Survivors exited the criminal justice system with unanswered questions. In the case of Nicole, she had seen the perpetrator convicted, only to be granted post-conviction bail which was originally intended to apply to non-custodial sentences (Dell, 1975). When he committed suicide on the day of sentencing, she was informed he would have been given an 18 year jail term.

I do want to get answers... Nobody did sit me down and explain it to me... my police officer... she sat me down and told me what happened... like... but I don't understand it. I haven't had anyone try to contact me or anyone be like... would you like to sit down and talk about it? (Nicole).

Updates from the police are entitlements contained in the Victims' Code (Home Office, 2015a) however, information as an exchange was considered by the survivors to be equally vital to their feelings of security and power.

I think the only way of stepping out of feeling like you're a victim is by taking control and part of that is to have a say in what you need to feel safe (Angie).

Officers provided information to survivors constrained by their need to manage survivor expectations within a system they believed to be designed around the perpetrator's best interests: 'The courts are defendant-focused' (SOT). Where bail conditions are breached officers 'tend not to' (CAIU) tell survivors breaches are unenforceable but recognise survivors' frustration when they are informed the police: 'can't arrest or that it's not productive to arrest' (SOT).

A police culture of benevolent withholding of information risked evolving into a more opportunistic and convenient compromise depending on the attitude of the officer.

Some officers can be a bit lazy with it. Say someone rings 999 and says the person who's on bail and they've raped me, I've just seen them down the bottom of my street and the officer will say, we'll pass that on to the officer in the case. They won't come out and have a look and make a report... and the officer might not get it for three or four days. WE know there's absolutely no point in arresting him because we're not ready and... it just sort of gets left (CAIU).

Civil Orders

There is no obstacle prohibiting survivors from obtaining protection via a civil order at the same time as having bail conditions (Gov.uk, 2017b). In contrast to bail conditions, breaking the terms of a civil order is an offence and if the police investigation is dropped, bail conditions immediately come to an end however the protection of a civil order will remain intact for as long as the order is valid. It appeared that these entitlements were not always offered to survivors. 'If someone is on bail they'll [domestic violence services hub] say, well he's got bail conditions so that's the same as an injunction. It's not, but that's what they say' (CAIU).

The ISVAs had also experienced different responses with regard to whether survivors could apply for non-molestation orders when bail conditions were in place: 'I've definitely been told on a number of occasions that I have to wait until the bail

conditions were over before a non-molestation order can be applied for. I've had mixed messages.' (ISVA2).

Rhiannon successfully applied for a non-molestation order while the perpetrator was on pre-charge conditional bail due to, 'mis-advice' (Rhiannon). This was a response to what were, in her opinion, inadequate bail conditions for her and her daughter's safety.

When the police withdrew the pre-charge or whatever they call it, I'd got a non-mol so it [protection] was just covered anyway with a non-mol that hasn't been given an end date (Rhiannon).

Right to protection

A survivor's entitlement to protection from the point of reporting, forms part of the rhetoric of criminal justice strategies, (see, for example, CPS, 2017b), website communications (Police.uk, 2017), responses to research with survivors (Payne, 2009), and their policy for prosecuting rape (CPS.gov.uk, 2012). It forms part of the Victims' Code (2015: p55) and the survivor perspective on what protection means to them is an integral part of the VPS (CPS.gov.uk, 2013: p4). The intentions may be good, however the gap between the needs of the legal system and the survivor's need for procedural justice make these claims disingenuous at best, dangerous at worst. Therefore it could be argued that despite survivors not yet having a legal right to immediate and automatic protection, there is an obligation by the authorities to deliver on promises of safety for those who come forward in good faith.

However where a sexual offence was reported and officers were not in a position to arrest immediately, the delay between a report and an arrest and subsequent granting of bail conditions that might protect the survivor was delayed (Warrington et al, 2017). This is what I am calling a 'safety gap', and it created a time of fear and anxiety for survivors.

I was thinking, they're gonna come after me. So... I said to them well what... what can we do... you know, before... before they were arrested? Uhhhm... and the aspect of that was... you know, we can't do anything until they've been arrested and put on bail (Miracle).

Although survivors were not always able to express it in specific terms, their consensus was that perpetrators were advantaged within the justice system, sometimes to an even greater extent than their formal rights allowed. Their experience of bail formed only one part of this overall picture.

All the way down the line, I think my case was very much angled at the abusers as far as... making things easier for them, than it ever was getting the full story (Angie).

Where power imbalances in the justice system (Lees, 1996) go unchecked this results in real and symbolic implications that are assimilated by survivors. Fractures between women's demands for justice and the practices of the criminal justice system can leave women's claims for safety and protection unrequited.

The final chapter draws together the implications of these findings for procedural justice and makes a number of recommendations for future research and possibilities for reform.

CHAPTER 5: CONCLUSION

Reporting rape to the police affected every aspect of the survivor participants' lives. In this study, as in other research (Herman, 2005; Warrington et al, 2017; Payne 2009) survivors were shocked and distressed when they realised their safety and protection was not a priority for the criminal justice system: their narratives reveal fracture points between the needs of the legal system and the survivor's need for procedural justice. This study reinforces the necessity of linking survivors' personal experiences to implications for bail legislation, policy and practice which professes to protect those who report sexual violence.

Part of this is to understand the meaning of bail and bail conditions to survivor participants – for them, and others in their social network, it represented an official evaluation of the seriousness of the offence they reported (Hucklesby, 2016; WNC, 2009). Applying conditional bail not only went some way towards affirming their value and credibility but also influenced responses from other agencies, family, friends and communities.

When women choose to report to the authorities they are making a 'justice claim' (Daly & Stubbs, 2006: p19-22, cited in Holder & Daly, 2009) based on 'multiple justice goals' (Holder & Daly, 2009: p15) some of which are embedded in their expectations of safety. Feeling safe and being protected in public spaces, family gatherings, schools, work and home is a 'manifestation of justice' (Antonsdóttir, 2017) for survivors. Whereas the invasion or contraction of her territory by the perpetrator or his supporters is experienced as continued abuse, an injustice actively sanctioned by ineffective bail conditions and too often reinforced by family, friends and community.

If survivors are to feel believed and if the justice system is to be effective, procedural justice must take account of their needs and goals. Women want the prioritisation of their safety in public and private spaces to send a clear message to perpetrators of their ongoing accountability (Herman, 2005; Holder & Daly, 2009). They want recognition of this by those around them, to put the burden of shame on the perpetrators, where it belongs and consequently to be treated with respect and dignity, as is their right (HRA, 1998).

Despite the 'marketing' (College of Policing, 2016: p66) of reporting to the police as a form of protection (Police.uk, 2017; Payne, 2009) this study shows there is a safety gap where delays in arresting a perpetrator and applying protective measures of any kind leave survivors vulnerable to reprisals (Doak, 2008; Warrington et al, 2017). The minimum survivors should expect from the justice system is that it puts their protection at the centre from the point of disclosure.

The safety gap widens when women's knowledge and insight into the danger posed by the perpetrator is not part of decision-making on protective measures (Women's Aid, 2015). Survivors who come forward and expose themselves to the significant risks associated with that, need reassurance that the protection put in place meets their needs (Women's Aid, 2015). The gap widens still further as women who may wish to apply for civil protection orders are denied the opportunity and support from services if bail conditions are in place, whether they meet her protection needs or not.

The criminal justice system has specified that criminal proceedings and therefore protective measures are deemed to begin on the arrest of a perpetrator and not at the point where a survivor reports (Warrington et al, 2017: p122). What protections they receive at any point in the criminal justice process are not automatic but given at the discretion of the police, CPS or courts (ROW, 2006). However government rhetoric (Home Office, 2015a), criminal justice policy (CPS.gov.uk, 2013), cross government strategy goals tackling violence against women (Home Office, 2016) and police websites (West Midlands Police, 2017; Warwickshire Police, 2017) tell survivors a very different story, one of their safety as a priority (CPS, 2017b: p1; Police.uk, 2017). This study confirms that legal protective measures available to survivors are simply insufficient, ineffective, inaccessible or absent, raising a question of whether criminal justice agencies are guilty of misrepresenting their ability to provide the most basic protection.

Were survivors to make informed decisions on their involvement with the criminal justice system they would be told they might experience the safety gap, that changes to pre-charge bail have reduced the levels applied in sexual offence cases by 80 per cent in favour of voluntary interviews and that post-conviction bail is granted to around nine per cent or 100 convicted rapists every year (Parliament.uk, 2014).

RECOMMENDATIONS

This study asked survivors for the first time what their perspective was of bail when granted to perpetrators of rape. The findings reveal women's protection and safety is not always immediate, automatic, effective or related to their needs. Furthermore the impact of applying conditional bail can influence the level of support from family, friends, community and other agencies and/or workplaces. The following areas would benefit from further examination to improve women's experiences of the justice system.

- Research with survivors to establish the full extent of safety gaps and their locations in the bail process, building on those identified in this study, exploring their implications for criminal and civil justice legislation, policy and practice. In particular the implementation of immediate and unconditional protection for survivors who report to the police and decision-making on post-conviction bail.
- Research to further identify/substantiate the influence of applying bail conditions in cases of sexual violence on the responses of other agencies and institutions, including workplaces, schools and universities. In particular the influence on safeguarding and protection.
- Research to further identify/substantiate the impact of bail arrangements on a survivor's physical and mental health, her future relationship with her family and her recovery.
- Clarify the accessibility of Civil Orders to survivors when bail, with or without conditions, has been granted.
- The scope of the VPS should explicitly and unequivocally include obtaining survivors' views on bail conditions.
- Comprehensive pre-charge and post-conviction bail data should be collected and published by the accountable Ministry for the purposes of review and possible reform. This should include associated conditions and breaches including absconders and suicides.

- To avoid misrepresentation, criminal justice agencies need to audit the messages they promote, to ensure they accurately reflect the reality of what they offer and what victims and survivors need and expect from them.

Gaps in the safety and protection needs of women who report rape must be addressed from the point of reporting, throughout the criminal justice process and beyond conviction. It is of paramount importance that survivors effectively participate in discussions on legislation and policy to meet these basic needs.

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