

# **Policing Sexual Violence: Key Informants' Report**

**WOMEN, RAPE AND  
THE POLICE INVESTIGATION PROCESS**

*by*

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**24 September 2019**

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## Acknowledgements

This research was made possible by the willingness of those approached to provide their time and share their views. I extend grateful thanks to all those from the specialist support agency sector, medical examiners, advocates and Police who so generously participated. I am very appreciative of the careful and precise work undertaken by Barbara Corcoran in transcribing the interviews and focus group recordings prior to their analysis. I also extend my appreciation to my wonderful colleague, Elaine Mossman, for her support and insights during the course of this research.

The funding for this study was provided by the Royal Society of New Zealand through the Marsden Fund, as part of a bigger project exploring barriers to rape reform.

## Key findings

A review of a sample of Police rape files from 2015 (Jordan & Mossman, 2019) was recently undertaken to compare the findings with an earlier 1997 study (Jordan, 2004). The review aimed to assess how the Police investigation process had changed post-Commission of Inquiry.

This ‘Key Informant Study’ presented in this report was undertaken to supplement this file review. The decision to conduct this additional study was made to compare changes observed in the files to those directly experienced by the specialist support agency workers, forensic doctors and victim/survivor advocates who support victim/survivors.<sup>1</sup> The principal objectives were to:

- (i) assess how well victim/survivor advocates, medical and support agencies considered victim/survivors were served by current Police investigative procedures;
- (ii) reflect on any changes perceived in relation to police responses to rape allegations; and
- (iii) identify any issues/population groups posing contemporary challenges for the Police in relation to the reporting and investigation of sexual violence.

### **Key findings**

Every interview and focus group included positive comments regarding how victim/survivors of sexual violence were now treated by Police and positive endorsements of the policy and procedural changes that had occurred since the Commission of Inquiry into Police Conduct. However, it was also clear that instances of poor practice remain, and there was not yet optimal service delivery across the country.

The significance of the Commission of Inquiry into Police Conduct as the catalyst for major change was clearly recognised. In terms of the philosophy informing policing, commentators across all sectors recognised the significance of the shift from a narrow offender-focus to adopting a much more victim-centred approach, with this attracting considerable praise for its potential to result in the more “humane” and respectful treatment of victim/survivors.

When key informants were asked to identify specific policy and procedural changes that had mostly brought positive benefits, the following developments were those most frequently mentioned:

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<sup>1</sup> A total of 18 interviews or focus groups were conducted, involving views collected from 32 individuals

- **Adult Sexual Assault Investigation (ASAI) Policy** – both its development and implementation were viewed positively, providing a focus and vehicle for change for recommendations outlined by the COI
- **Specialist training and Adult Sexual Assault (ASA) teams** – were viewed positively as an opportunity to raise the standard of practice of Police investigations, despite reservations about the lack of careful selections sometimes for who was appointed to these
- **Victim interviewing** – particularly the practice of now delaying the L3 interview until an appropriate time after the offence, and being conducted by a trained specialist, using a narrative method that encouraged victim/survivors to tell their story in their words
- **Increased partnership approach** – was welcomed and seen to be facilitating better responses to victim/survivors
- **An increasingly victim-centred approach** – commentators across all sectors recognised the significance of the shift from a narrow offender-focus to adopting a much more victim-centred approach respecting their right to choose how they would like their case to proceed
- **Auditing procedures** – introduced following the COI were seen to be closely associated with many of the positive changes observed, although some cautioned that Police strict adherence to processes and tick boxes could get in the way of customising their response to meet different victim/survivors' needs
- **Positive leadership** – identified as key to ensuring on-going improvements and preventing slippage.

What emerged was an impression of good, positive initiatives benefitting many but by no means all of those wanting to report sexual violence. Key informants identified a number of possible barriers to all victim/survivors receiving consistent and optimal Police services when reporting incidents of rape and sexual assault. Areas for further improvement identified by one or more key informant included:

- **Access to support at preliminary interviews** – some support workers expressed concern that they were now less likely to be present at the preliminary interviews undertaken at the time of the report, due to their immediacy and priority given to providing support at the L3 interview
- **Poor on-going communication with victims** – concern was expressed that sustained communication with victim/survivors over the duration of a case was often still lacking
- **Differences between areas and individual officers** – whilst overall improvements were noted, examples were given of variance between districts as well as variations within districts, with particular areas and officers
- **Rotation of ASA team members** – the rapid rotation of detectives to and from specialist ASA teams created difficulties in providing continuity for victims as well as those supporting them

- **ASA attracting day cops** – concerns were expressed that the specialist selection of the most appropriate detectives to be on ASA teams was being replaced by the deployment of those who wanted either to use it to climb the promotional ladder or were seeking a ‘day job’
- **Police culture and attitudes** – changing police culture and related attitudes was described as being a long journey and more work was needed to build on improvements made so far
- **Importance of a trauma-informed understanding** – enhancing Police awareness and comprehension of how trauma impacts the victim/survivors of sexual violence was viewed as essential to avoid misinterpretation of responses
- **Communication around cases not progressing** – support agency workers reinforced the need for them to be present when this was communicated to a victim/survivor, as well as for additional measures to be taken to be considered to ensure victim/survivors were dealt with sensitively and empathically
- **Court and trial processes** – while Police were seen to have made significant changes the efficacy of these was limited by the inadequacies of current court processes (delays, high rates of attrition, traumatic experiences and low rates of conviction)
- **Inadequate resourcing** – impacting on NGO sector and Police who were seen to be under-resourced to provide adequate, let alone optimal, levels of on-going victim/survivor support (e.g. files backing up and victim/survivors not being kept informed).

There was strong support across all groups of key informants for the need for external auditing practices to continue post-Commission of Inquiry. This was seen as essential to ensure Police practice continued to improve and even more importantly that no slippage occurred in the gains made.

A number of groups were identified that whilst being at heightened risk of sexual violation, were the same groups whose cases appeared least likely to be judged to reach the evidential threshold to proceed with a prosecution. These groups included those with:

- Learning disabilities
- Mental illness
- Youth
- Māori women
- Migrant women
- Sex workers
- Male and transgender victim/survivors.

It was felt important that Police should focus future efforts on these groups, understanding their unique characteristics and how Police and other agencies might improve responses to better address their needs and increase their chances of accessing justice.

Policing does not occur in a social vacuum, and as contemporary society changes there is a need for Police awareness and engagement also to change in order to keep up with shifting trends. Key informants identified the following issues they considered likely to be challenging for Police in the future:

- **Consent issues** – many of the key informants interviewed here highlighted current concerns about the inadequacies of our consent laws, with some under-scoring the urgency of shifting the burden of proof for consent from the victim/survivor to the offender
- **Overlaps with family violence** – some highlighted a current tension between family violence and sexual violence that could result in women victim/survivors of IPV who had been raped being switched into a sexual violence pathway in ways that could jeopardise a previous relationship of trust already developed with IPV advocates and Refuge workers
- **Internet and social media** – many of those interviewed also indicated their concerns around the growth of the internet acknowledging global concerns about the rise in technology-facilitated sexual violence
- **Pornography** – concerns were raised over the role of pornography in sexual offending, and how it encourages young people to view potentially injurious and non-consensual behaviours as ‘normal’
- **Prevention issues** – the NZP emphasis on their preventative role has increased recently and places a responsibility on officers to utilise and create opportunities to engage in sexual consent education and awareness
- **Impact of #MeToo** – there were mixed views on the impact of the #MeToo movement, mostly positive. There was a sense that no one movement could be embraced as a possible panacea and that all initiatives needed to be critically appraised in light of the many complexities that could arise from their implementation.

While some of these topics are broad in scope and may appear to lie outside the orbit of Police control, they are all part of the socio-cultural environment affecting how and why sexual violence occurs. The awareness and understanding of these issues and the dynamics involved provide a contextual framework to assist Police in determining best practice responses to all forms of sexual violence. The NZP, as a national police service, are pivotally poised to introduce nationwide initiatives addressing contemporary challenges, and the positive developments of the past ten years provide a solid platform on which to build future endeavours.

Overall, the interviews and focus groups with key informants provided a rich source of data that complements the picture emerging from the findings of the police rape file analysis (Jordan & Mossman, 2019). Both indicate significant improvements in Police investigative responses to rape victim/survivors, especially since the Commission of Inquiry into Police Conduct. Perhaps more evident from the key informant interviews were examples of where



some poor practice still remains. The challenge for Police is to continue to build on their improvements and ensure greater consistency across all regions and areas of the Police service.

# 1. Introduction

## 1.1 Background and objectives

Internationally, as well as in New Zealand, there has been increasing external scrutiny of the experience's victim/survivors have when reporting rape to the police and having their cases investigated (Bazley, 2007; Scottish Law Commission, 2006; Stern, 2010; Victorian Law Reform Commission, 2004). The reviews and inquiries conducted have typically been prompted by a particularly scandalous case that has attracted media interest and fostered public outrage. In New Zealand that case was the one involving allegations by Louise Nicholas of historic rapes committed against her by three Police officers. The re-investigation of this case revealed that many other women had not been served well by the New Zealand Police (NZP) and the broader justice system. The resulting Commission of Inquiry produced a series of recommendations that Dame Margaret Bazley stipulated were mandatory within a ten-year timeframe (Bazley, 2007). A primary aim was to improve rape victim/survivors' experiences of police reporting and investigative procedures, and to ensure greater consistency and rigour in the investigation of these cases.

The external pressure placed on NZP provided the impetus for a raft of substantive changes to be introduced addressing policy, processes, training, and supervision. These have been appraised elsewhere as constituting for NZP an effective reform package that led to improvements in: (i) the reporting experience for victim/survivors; (ii) case management and the investigations process; and (iii) relationships with external agencies (Rowe & Macauley, 2019).

The recent review of a sample of Police rape files from 2015 (Jordan & Mossman, 2019) was undertaken to compare the findings with an earlier 1997 study (Jordan, 2004) and to appraise how victim/survivors were being served by Police post-Commission of Inquiry. The study presented in this report was undertaken to supplement the analysis of rape files. The decision to extend the project to include a qualitative interview component was made after it became clear that the 2015 Police files included less information regarding how victim/survivors were perceived than those of the 1997 analysis. The ideal approach would have been to undertake an extensive study with victim/survivors but there was no budget available for a project of this magnitude. The next best option was to interview or conduct focus groups with representatives of the key agencies that interact with victim/survivors of sexual violence, plus a specialist Police officer from each of the three main research sites, and this report presents the findings. The principal objectives were to:

- (i) assess how well victim/survivor advocates, medical and support agencies considered victim/survivors were served by current Police investigative procedures;
- (ii) reflect on changes perceived in relation to Police responses to rape allegations; and

- (iii) identify any issues/population groups posing contemporary challenges for the Police in relation to the reporting and investigation of sexual violence.

## 1.2 Methodological approach

### Overall study design

The study focused on the three main areas included in the police file analysis – Auckland, Wellington and Christchurch (Jordan & Mossman, 2019).<sup>2</sup> Approaches were made to the principal agencies providing crisis support, counselling and medical support to victim/survivors in these regions, to individual victim/survivor advocates, and to four national organisations serving victim/survivors of rape and violence. In addition, one specialist, senior district-based Police officer was approached in each of the areas to ascertain their perceptions and experiences of recent changes and challenges.

All of those approached agreed to participate. The agencies could decide either to provide one key representative to be interviewed or arrange for a focus group of relevant individuals to be spoken with collectively.

### Data collection and analysis

A total of 18 interviews or focus groups were conducted overall, involving a total of 32 individuals whose views were obtained. All interviews and focus groups were conducted face-to-face by myself, and lasted just over one hour on average. Most were conducted in the agency's own rooms in Auckland, Wellington or Christchurch, apart from one interview conducted in a residence and two at Victoria University. Permission was sought and obtained in every case to record the interview. These recordings were subsequently transcribed by a professional transcriber who had signed a confidentiality agreement. The study had been approved by the Victoria University of Wellington Ethics Committee (VUW 22886).

Data were analysed with the help of NVivo to identify key issues and themes. All comments relating to specific themes were considered together then summarised for presentation within this report. The interviewees were clustered into specific groups to preserve their anonymity and are identified in this report in one of four ways:

- *Support worker* – this term covers any of those spoken with who worked within specialist sexual violence agencies whether as managers, counsellors or crisis

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<sup>2</sup> The file analysis included the five districts from these three main centres, Auckland City, Waitemata, Counties Manukau, Wellington (excluding Wairarapa) and Canterbury.

workers, as well as those whose roles in family violence-related work covered high levels of interaction with victim/survivors of sexual violence. (N=23)

- *Medical examiner* – this term is used to reference the Sexual Assault Assessment and Treatment Service (SAATS) medical examiners who provide both forensic and medical post-rape examinations and follow-up to rape victim/survivors. (N=3)
- *Advocate* – this term refers to those who provide support either to specific groups of victim/survivors (such as those with learning disabilities) or within specific contexts (such as in court settings). (N=3)
- *Police* – the Police interviewed here were all senior officers at District level with specialist knowledge and experience in adult sexual assault investigations. (N=3)

### Study limitations

While every effort was made to obtain the views of a wide range of agencies and individuals working with adult victim/survivors of sexual violence, the sample cannot be generalised across all areas of the country. The findings primarily reflect the perspectives of the largest agencies and may not adequately address issues related to specific groups such as those from rural areas, Māori and Pasifika victim/survivors, refugee and migrant women, members of LGBTQI communities, or male victim/survivors of adult sexual assault. The results may also be influenced by the differing lengths of time those interviewed had been involved with the sexual violence sector, with this ranging from less than two years to more than 25 years' experience.

### 1.3 Report structure

Participants in this study identified many significant and positive changes in Police practice while also expressing a range of concerns. In order to best reflect all views, this report is structured into the following chapters:

- Chapter 2 - Endorsement of Police policy and procedural changes
- Chapter 3 - Areas for improvement
- Chapter 4 - Responding to at-risk groups
- Chapter 5 - Current and future challenges

Given the range and complexity of perspectives expressed, the participants' views could not be as neatly divided into the above categories named so specifically in the headings. Accordingly, while factors identified positively by most are included in Chapter 2, misgivings expressed by others around the implementation of policy and procedural changes are included here also in order to represent the divergent views. This approach is followed throughout all chapters.

## 2. Endorsement of Police policy and procedural changes

Every interview and focus group included at least some positive comments regarding how victim/survivors of sexual violence were now treated by Police and positive endorsements of the policy and procedural changes that had occurred since the 1990s. This chapter begins by noting participants' views of the past and their general observations before commenting on key areas where specific changes to Police policy and practice had been introduced. Most, though not all, of these changes were introduced in response to the findings and recommendations of the Commission of Inquiry into Police Conduct, 2007 (Bazley, 2007).

### Changes and the impact of the Commission of Inquiry into Police Conduct, 2007

Within each sector represented, all of those spoken to who had been involved in the sexual assault arena since then reflected on these as the 'bad old days' in contrast to what they believed was a vastly improved institutional context now. Police interviewed willingly admitted to the errors of the past while recognising the improvements made more recently:

*I've probably got to admit that we did things really poorly.... Knowing how we do things now, on reflection we did things really, really poorly and didn't give very good victim service back then. And, in fact, it was probably appalling .... and I continually talk to my guys about the healthy culture we're in now is because of this mess that was created with Louise Nicholas and the fabulous work that she did to then get the Commission of Inquiry and all those points, and now the policy that we bind ourselves by, and putting the victims first. (Police)*

Participants agreed that the attention and pressure placed on Police by the Commission of Inquiry had resulted in a number of significant changes that generally benefitted victim/survivors of sexual violence. Many of those interviewed specifically referenced the Commission as the major catalyst for change.

*I think, the good thing is, and so noticeable, is the change that we've had through that Commission of Inquiry and the policy and procedure that's now been put in place. I think it's great. Really good. (Police)*

One Police officer was adamant that the public scandal and resultant State scrutiny was essential for change processes to occur, and for the ASAI policy to be fully implemented, asserting, 'It just wouldn't have evolved.'

This view was also shared by others outside of Police. A SAATS doctor labelled the Commission "a game changer", and when asked why replied:

*Because I think it was an external body saying, "Pull your finger out. Get with the times. Change your attitude. Don't allow these things." I think that sometimes you need a big thing like that, a crisis of some sort to change an organisation, you know,*

*and I think the Police took it seriously and have tried very hard to remedy things.*  
(Medical examiner)

Some of those interviewed said there had been perceptible changes in the police culture since the Commission of Inquiry.

*We've got away from the bullying system in the Police. The drinking culture has changed. So, everything's changed for the positive. Like, we've got all the police values now.... When they first started looking at prevention strategies and all that I remember rolling my own eyes, but I'm converted. Well, it's the – the proof is in the pudding, really, because you can see the outcome. If it was just lip-service then I would be still rolling my eyes, but it's not. You can see the difference. Yeah.* (Police)

Comments from a different officer acknowledged there were still officers with problematic attitudes and behaviours, saying:

*We've still got cultural issues. I mean, I've got a number of staff who – one who is a predator with women, with stalking them and texting them and – so I'd hate to see what he was like when women came in to report being raped.... Young guy in his 30s, predator. And we've still got these issues, right? But I think I feel comfort that we are really vigilant, and we are weeding them out, but you have to keep being vigilant, because the moment we take our eye off it, we will drop the ball.* (Police)

Other key informants noted there had been some shift towards more women in the Police but it was still a very masculinist organisation. A medical examiner stressed the importance of encouraging victim/survivor empathy in male officers in particular. She said:

*Sometimes out there it is still 90% male. I think there's a few more female, but it is overwhelming male still. I'll sometimes say to them, just imagine if this was your sister or your best friend. How would you want them to be treated if they came through your door? So, yes, it's your workplace and you need to work through your forms and your processes, but actually step back and think, if my sister had this happen to her and she told me how wonderful the Police team were and what they said, that's how you should be, really. To try and make it personal and make it feel for them like you're actually hearing them, and you want to help, and it's not all about, right, have we done all these things on my checklist.* (Medical examiner)

The medical examination was another area where positive changes were observed. For example, Police observed how few specially trained doctors there used to be and the difficulties in arranging an urgent call-out, whereas today hardly any delay is experienced, at least in the main centres. The availability of forensic examination suites within support agencies rooms or alternative comfortable environments was also commented on positively, along with the ability to conduct Police interviews outside of the station. One of

the forensic medical examiners interviewed referred to the positive shift in focus that now recognised the centrality of victim/survivors, in contrast to earlier times:

*I think there was a lot less choice and a lot less empowerment, I suppose, of the complainant or the victim, the survivor, which I definitely see as having changed, and now almost universally it does seem to be all about the victim, which is fantastic. And back in the day, possibly less victim-centred. (Medical examiner)*

Several commentators reflected on how the understanding of sexual violence had grown generally throughout society, as this medical examiner did:

*I think that the public awareness of sexual assault and the role of the Police and of getting health checks has changed. I think there's a lot more public awareness, and I think the new Safe to Talk national helpline hopefully will be a fantastic addition to the armoury of information, because I think that the patchy availability of crisis support around the country and the skill and knowledge of the crisis support workers has had a big impact on what support people could get. (Medical examiner)*

The historically highly inflated beliefs in the frequency of false complaints appeared to have faded as a result of increased training and myth-busting, with most of those interviewed considering it was now common practice to act from the start as if a complaint was genuine and let the investigation, not bias, prove otherwise. One doctor said in her extensive experience in this area she had encountered only two probably false complaints, both from women with mental illnesses. She recounted also a third case that she said Police initially alerted her may be false:

*The Police kind of were a bit like, "We're not really sure, she's a bit of a runaway and she lives in a CYFS home and she's saying there were five guys and she's 17 and she's been through the sexual assault service before..." And anyway, we did the examination, and I said, "She's really traumatised, this young woman," and they got CCTV and it absolutely was exactly the way she had told it. And they were, I think, quite surprised. (Medical examiner)*

She felt this case served to remind Police of the complexity of some women's lives and the extent of previous trauma that may underlie an allegation of rape.

While almost all of those interviewed recounted their views of greatly improved Police processes, the extent of the changes that had occurred varied across informants. There were some who had observed widespread change, others who were aware of inconsistencies, and a minority who were sceptical that much had changed at all. The latter included a focus group from a support agency, with one participant saying:

*I really do wish that the changes that they put in place after the Commission and after the inquiry and all that, I really do wish they'd made things different. But I don't think*

*they have. I think they've actually just driven underground, made less obvious, some of the behaviours that were obvious before. Because there are people there who know things now are not – some things are not okay. You can't say those publicly, it's bad and wrong and you'll get in trouble for that. They still think it and their actions still play out. Just because they're not actively speaking their misogyny doesn't mean to say that it's not there anymore. Or am I just being too mean and harsh? (Support agency)*

When asked to identify specific policy and procedural changes that had mostly brought positive benefits, the following developments were those most frequently mentioned:

- Adult Sexual Assault Investigation (ASAI) Policy
- Specialist training and Adult Sexual Assault (ASA) teams
- Victim interviewing
- Partnership models
- An increasingly victim-centred approach
- Auditing procedures
- Positive leadership

## 2.1 ASAI Policy

Interviewees who had long-term involvement in specialist crisis support work referred positively to the implementation of the Adult Sexual Assault Investigation Policy. While this was introduced within NZP in 1998, officers were only sporadically aware of its existence and requirements until after the Commission of Inquiry stipulated both its expansion and nationwide implementation.

Support and crisis workers from one agency in particular highlighted previous levels of CIB ignorance regarding this policy, commenting:

*We used to fax them their own policy. So, frontline police knowledge of even police policy about how to do this work was so low that they wouldn't know they had one. We used to fax it to them before we went on a callout. So, it's changed hugely in terms of a commitment to that policy. (Support agency)*

Police also felt their treatment of victim/survivors improved the more consistently the ASAI Policy was implemented. One officer observed:

*The way we do it is much better now, like, obviously, with the interview being recorded by way of DVD, and it's much more therapeutic than what we used to do. Like, we have a mandatory requirement to call a support service, and it's up to the victim then to say yes or no if they want them there.... I think it gives the victim more power as well. They get more decision-making in the process. (Police)*



Mention was made by some that policy had changed further after the Roast Busters case so that Police were now required to speak to any alleged offender named by a complainant. One medical examiner said this meant she and crisis services advised women accordingly:

*We tell people, if you just want to find out what Police are going to do, you can talk with Police, find out how they would proceed, but don't give them the name. Because once they have a name, then they would have to proceed. The police process in general would be they'd have to speak to that person. And obviously they'd take into account whether that puts the person in danger and things like that. (Medical examiner)*

The current system was not seen as perfect, but one support agency worker noted how useful it was to think back across time and remind oneself of the changes:

*It's also good, I think, for me to reflect on how much different it is. How it really is different, it is fundamentally different. (Support agency)*

A Policewoman, with a long-standing commitment to sexual violence investigations, began our interview by asking for reassurance regarding what Elaine Mossman and myself had found in our analysis of police rape files (Jordan & Mossman, 2019). 'Tell me we've improved,' she said. 'Otherwise my life has been futile.'

Amongst other requirements, the policy makes it mandatory for victim/survivors to have their cases assigned to specialist Adult Sexual Assault (ASA) trained detectives. This is discussed below.

## 2.2 Specialist training and ASA teams

The introduction of specialist ASA teams was recognised as a positive move by many, and viewed as an indicator of NZP's commitment to the area. There was also widespread recognition that the specialist training provided was one important ingredient in raising the standard of Police investigations. A forensic medical examiner with over 20 years' experience in this area said she had observed what she described as 'a slowish change in attitude' that enabled detectives to consider the 'wider picture' surrounding rape offending and reporting. She said attitudes appeared to be less judgmental than they had been, noting:

*It's a change in the training and the expectation and I think that allows them to behave in a way that many of them wanted to anyway, but perhaps it was the system didn't enable that. I think the Police website and the videos and things are fantastic. It's got with the times, absolutely. (Medical examiner)*

She believed the increased understanding resulted in investigators:

*...moving things through to get them [victims] to a medical quite quickly and then saying, "Right, well, we're going to leave you to catch up on your sleep," and all the rest of it, so it's a much more holistic way of dealing with people. From what I hear, the*

*interactions are kinder. And that's been enabled, it's not because the people in the past were not kind, it's just a change in attitude and the way people need to be treated. (Medical examiner)*

She attributed some of this change to the specialist ASA teams, and to enhanced communication between the different parties involved in supporting victim/survivors.

In other areas specialist support agency personnel noted similar positive changes in attitude and commented of Police:

*The understanding and knowledge shows through their empathy. So, being able to be really relational with people as opposed to harsh and disbelieving. (Support agency)*

Some attributed this change being linked to the direct involvement of rape victim/survivors in Police training, and the facilitating of greater dialogue with organisations representing different victim/survivors' needs and interests. An advocate with experience in training spoke of the need remaining for anyone likely to interact with victim/survivors to be provided with specialist training, much like how it is now mandatory for all detectives. She said this was important to counter prevalent anxieties, noting:

*There was a whole lot of controversy about you can't ask a victim a leading question, otherwise you're going to put something into their heads that didn't happen. And so, people that haven't had that training are so scared that in dealing with a victim they're going to ask something that could be detrimental to the case. They're so petrified and just want to "sit there and I'll go and get you some help," and that needs to be probably better addressed. (Advocate)*

More optimistically, a detective answered a rhetorical question in the affirmative:

*Could a random person from the uniform branch deal with someone that wants to make a complaint? They could. They know what to do. (Police)*

Another Police officer, however, did see the need for expanding the level of training to frontline officers. His concern was:

*There's a lot of files that come through to my group that didn't have to go to the extent to reach me. It could have been – if they had been asked the right questions right at the beginning it could have been decided it wasn't a sexual assault and that didn't have to come through. Some people just don't ask enough questions.... In regard to consent, because it all comes down to that consent issue. And if they had asked those same questions they would have realised had the person consented or not. So, that's the only area that I'd say needs improvement. (Police)*

While considerable praise was expressed for the specialist training given to ASA detectives, one advocate expressed concern that more was not undertaken at the recruit level. Her

impression was that family violence was prioritised as an issue of concern across all training levels, with sexual violence covered less extensively despite its high prevalence. She commented how this ignored the likelihood of many recruits themselves having been sexually victimised:

*How many are victim/survivors sitting in that new recruit wing? One in three, one in six? Yeah. I think training around sexual violence absolutely needs to start at recruit level. Have that understanding. (Advocate)*

Key informants across all sectors observed ASA teams should be an arena reserved for those with the right aptitude, passion and commitment, particularly among the top leadership positions.

*It's not just a promotion. I think you've got to really have a fire about you for it, and really care about the victims and make sure that you don't want another one treated badly. (Police)*

Support agency comments reflected this Police concern, with one focus group spending some time discussing this issue:

*Support worker 1: You get some Police who are really amazing, they've been in the role for a while and they're so respectful and knowledgeable, and then you've got new ones, because they have to rotate in and out, and it would be quite good if those who had a little bit more experience could stay if they wanted to, to remain in that role.*

*Support worker 2: I just think there's definitely Police who don't have an interest in it and would feel like they're just being put in that team because they have to be, and they're not interested.... They're just doing it because they have to, and that's not the type of person that you want to be in that role, even if they're good at other stuff.*

This was reinforced in a focus group at a different agency also, where those participating reflected on how aware and committed those first appointed to run the ASA teams had been. They felt able to form strong relationships of mutual trust and support with those individuals whereas this could be more difficult in the current climate in their city. As one commented of recent appointees:

*They're not people who are chosen because they're personally good for that particular work. So, they go through a training programme and that helps people, but training programmes still can't root out your attitudes. (Support agency)*

Training was identified by one specialist support agency as the biggest challenge facing Police, particularly for front-line staff given the extent to which attitudinal change was still needed.

### 2.3 Victim interviewing

One area of dramatic change discussed was in relation to how victim/survivors of adult sexual violence were interviewed by Police. Some participants referred to the shift from the old days of statement-taking after the victim/survivor had spent 3-4 hours at the forensic medical examination to today when only a preliminary initial interview is undertaken at the time of reporting. This is followed up later with a full evidential interview conducted by a trained specialist, usually female, in a comfortable environment and using a narrative method to encourage victim/survivors to tell their story in their words. Specialist support agencies and advocates were typically impressed by the change in style adopted by Police and for shifting away from the interrogation approach previously used to one that was less judgmental and more empathic.

*When a survivor says, "I want to actually go to the Police," and we make that connection and the interview has started, the one thing we say to them is, it's just free recall. Just start wherever you want to start. Just talk. Just, whatever you need to do for you to tell your story. And for survivors to be allowed to do that, they forget that there's actually a camera there, and they're just – they're reliving what has happened. Just being able to just talk, is quite healing for them. So, yeah, that alone is – it's hard. It's bloody hard. But it's a good way for our survivors to feel heard. (Advocate)*

There was strong support given to the switch in police interviewing to a more narrative-style interview. One support worker described the detective's approach the very morning of our meeting, when she had sat in on the initial interview process with a client, saying:

*He said, "Okay, tell me what happened." And then he let her tell the whole story. And then he goes, "Okay, just a couple of questions," and it wasn't like an interrogation at all. It was just like, "You tell me," and it was – I felt more that they're believed.... You can tell it in any way you like – and she went a wee bit on a long way around and he was fine. He didn't at any stage say, "Well, cut to the chase," kind of thing. He just sat back and listened and took notes, and it was just like – it's just kind of perfect, really. (Support agency)*

Other support workers said responses from victim/survivors could be variable. While they had observed some victim/survivors experiencing interview processes more positively now, others still struggled. One described both outcomes:

*For some I've seen it's actually been a real liberating process, that it's now all in that room and I can leave it there. For others, it hasn't. It's been devastating. And it's hard to also know beforehand entirely how someone's going to react and how – because the way that they are interviewed is very re-triggering, a full body experience, almost, of the whole process. (Support agency)*

Another believed it was still way too arduous even if an improvement on what had gone before:

*It's really gruelling. Watching someone go through an L3 for six hours with very few breaks and very invasive questions. I guess there's no real way around that, but it is really invasive. But it means that they're not interrogated by whatever dumb-ass cop happens to be at the watch tower on a Saturday night, and so I really like it in that regard. It's a bit more humane, if you can call such a process humane. (Support agency)*

Timing was mentioned as an issue in some cases, where delays in the availability of trained interviewers might result in victim/survivors waiting several weeks to be interviewed. One officer in charge of a district ASA team said. 'Typically within a week I can get a victim done', but this was not everyone's experience in other areas, despite the initial intention of undertaking it within a day or two of the incident's occurrence. One support worker described how truly victim-centred the process had felt when her agency worked alongside an excellent Policewoman. She said:

*We were really lucky that we had an exceptional female detective, and she just did such a good job holding and supporting people, and going, "We don't have to do it today, we can do it another day," and just.... knowing how to be flexible with the process to support the survivor. And that's what really made a difference for us in this area. (Support agency)*

## 2.4 Partnership models

Many of those interviewed referred to the increased partnership models that had developed, evident for example in the holding of inter-agency meetings to discuss where cases were at and what information or support the victim/survivor might need. While this had occurred to some extent previously, interviewees noted that it was now more routine and detailed in scope. One highly experienced worker described how she had witnessed the Police's relationship with this agency change from being "adversarial" to constituting more of a "partnership" now. She said of the Police:

*They're always willing to meet and talk and I feel very heard. I feel I can go and talk to them about any case. They'll be open to it, absolutely. So, it is worlds apart from where it was. (Support agency)*

One difficult situation often arising involved how victim/survivors were notified that their case would not be proceeding further. As one medical examiner noted, this as an example where a partnership approach could now assist:

*If the Police have decided, look, it's not going to cross the bar, how have they told the person, what crisis support's been involved? Sometimes we have to say, "Look, I think*

*you need to follow up on that to the crisis support,” and that might have been because there wasn’t anybody available to go with them. So we do try and troubleshoot that way. (Medical examiner)*

One support agency worker spoke of having been asked to help Police determine how best to tell victim/survivors that their case would not proceed to prosecution.

*What I’ve been asked to talk about, actually, is: how do you give people bad news? The fact that the Police are asking for that psychoeducation about when we’re not actually going to take it forward to prosecution, how do we let people know in a trauma-informed way? That’s what they’ve asked for. (Support agency)*

This was a positive indicator that, in this area of the country at least, ASA teams were proactive in seeking specialist expertise to assist them in serving victim/survivors better. In this particular district the support agency also related other approaches for their input and how these arose from the positive and collaborative working relationship that was being developed, adding:

*Those are the kinds of conversations where, when you’ve got an [Police] interviewer saying, “I’m just about to walk into this situation, a bit worried about this,” or, “I’ve just come out of this situation, I’ve got to go back in again. Got some ideas about how I can help calm this person down or be in a better space with this person?” That, to me, is gold. (Support agency)*

## 2.5 An increasingly victim-centred approach

For many years scholars of policing have observed the offender-focus driving police organisations, and the emphasis placed on arrests as a measure of police effectiveness (Reiner, 2010). Growing recognition of the importance of victim/survivors and their rights was reflected in the development of the ASA Investigation Policy but lacked significant traction until under-scored by the Commission of Inquiry. The interviews and focus groups included many comments attesting to Police having become more victim-centred in their approach, with a support worker summarising it well:

*The feedback that we get back from our clients is that they feel like they’ve been respected and listened to. So, based on that feedback I’d have to say that there has been a significant shift. (Support agency)*

This view was confirmed by others, including a medical examiner who praised Police for being more victim-focused in their approach:

*They see it as far more specialised work than they probably did before. That it’s not just about collecting the evidence and running the case. There’s actually a much bigger cultural societal context that this sits in, and actually I would say, see their role in that*

*space, the prevention, education, awareness, respect space having really changed...  
They all try incredibly hard to keep the victim at the centre of it all. (Medical examiner)*

One important aspect of being victim-centred involves respecting the victim/survivor's right to choose what she wants to happen with the case. There were several observations made across different sectors about the ways in which some Police at least are now much less rigid than previously and more open to providing victim/survivors with options to consider around taking their case forward or not, and how. One Police officer described the many reasons why victim/survivors might decide against proceeding, saying:

*For various reasons they'll decide not to go ahead. They get over it, or they think they'll get over it. They've got back together with the person that's done it to them. They're scared of the person that's done it to them. They don't want to go through the court process. They just want to get on with their lives, so they think – we tell them that – we're so victim-focused that we'll just about do what you say unless the boss says otherwise. (Police)*

This officer noted that a common response was for victim/survivors to identify the offender to Police yet decide against proceeding. He stressed that he accepted their reluctance and appreciated receiving information regarding the offending since this helped to extend his awareness of local offending and could be useful for future reference.

The manager of one ASA team said this was important to emphasise:

*I try to get my team to say look, if the victim ever wants to pull out, and they're certain they do, they have the right to do so. We can't force them. And it would be detrimental when they get to court, and they find it too hard. Let them. It's up to them. I'm not sure if everyone has that view.... (Police)*

However, the value of this victim-centred approach was acknowledged by support agency workers who had seen victim/survivors who wanted to tell Police what had happened but take it no further. Those in one focus group said:

*Support agency 1: It would be that a number of people want to just go and tell their story and have that encapsulated in a legal format so that "I've told." And the Police have got that intel in case the next person comes along and tells about that person. So, that option's been available for a really long time, and that's a good option and that's important where we quite often will talk to people about, you know, "Give it to them. You don't have to do anything else, you can walk out of there and you've got it off your chest. You've said your piece."*

*Support agency 2: And in 20 years' time if you want to go back, your statement's still going to be there.*

Support agency 1: *Yeah. And so, it's legally kept in a sound way, so that if you want to relitigate that. So, that's a really important option, actually.*

A medical examiner said this was important even if a particular victim/survivor decided against following through with her report of sexual violence on this occasion, because:

*Even if the person doesn't want to report then, they are so much more likely to want to go back, either if it happens again or just further down the track. If they decide it's something they want to revisit, the Police then seem like a safe, understanding, knowledgeable, respectful organisation to go to, and I think that's really important. You've got to keep your door open, because people won't always want to report and do anything about it now, but if it's an abusive relationship that's continuing or if it's family abuse and it's continuing, or if they're just unlucky enough to be sexually harmed again by someone else in the future, you really want to think that their experience was such that they'd go, "Actually, I know where I can go back and where I'm going to get treated with respect and dignity and good understanding of what I need." (Medical examiner)*

Police themselves also noted they were becoming more attuned to the needs of victim/survivors, with one observing:

*I just don't think we were that victim-focused as well as we are now. So, now we're really victim-focused and we weren't back then. (Police)*

A different Police officer, however, said while the changes overall appeared positive, not everyone necessarily experienced them as such.

*Like, I've had a victim say to me, "I feel like I'm being a piece of evidence still." But I'd say that she's the extreme, because she's a quite difficult victim, compared to the majority. (Police)*

Also noted was how disappointing and frustrating it could be sometimes for the detectives involved if victim/survivors decided not to continue:

*When you've got a Police officer that's put of effort in and you know you're going to get a guilty, find the person accountable, and then all of a sudden, the victim can't cope, it's very heart-wrenching to just give it away and let them go.... I know I'll try and work with the victim and try to empower them to go through the court process because I want the best outcome for what we've done, but sometimes that's not the best outcome for the victim. (Police)*

A further option spoken about was the introduction of the 'just in case' forensic medical examination. This removed pressure from the victim/survivor to decide immediately if she wanted a forensic medical undertaken as opposed to a routine medical examination for health and pregnancy issues. If she was uncertain about pressing charges, forensic evidence



could be obtained then retained by the medical examiner to allow her time to decide. As one doctor said:

*It's really nice to be able to say, "Do you know what? You don't have to decide now. It's going to take us longer, if you want to do the forensic, but why don't we just do it, if you're really uncertain, and then when things are – you're able to make a decision any time in the next six months when it feels right for you, then we can revisit that choice. You don't have to decide right now." So, I'm really pleased we've got that option. (Medical examiner)*

This doctor described that in her area about a third of those reporting opted for a 'just in case' medical, of whom a third or more went on to engage later with a Police investigation.

*I think it's a really good way of just handing back the power to them around making the decisions.... And I think that's where our therapeutic value lies, actually, in our service. More and more feel that yes, we do the support stuff and we do the sexual health stuff and the contraception, but actually, to my mind, when someone has been sexually harmed, and you can then say to them, "Right, from the minute you walk into my clinic room, the choices are entirely yours. I will give you your options and you decide what you want, how much of it or how little of it, when you want it to happen, who you want involved in your care." And I do see that as actually being that first part towards the recovery, and I think people find it – actually say it's been a really great thing to do, which you wouldn't imagine, coming for a three or four-hour examination. But they do genuinely find it a really good experience. (Medical examiner)*

She said while she hoped Police saw the merits of this approach, she could also imagine how frustrating it might be for them when a victim/survivor opted to use it.

*They then can't do anything about it, so, they can't go to the scene, they can't start analysing CCTV, they can't get any of the bedding or – they can't do anything. They have to pretend they don't know anything about it. (Medical examiner)*

In the long run she felt this approach produced more complainants willing to see the process through and could reduce the number of withdrawals:

*I think it's a much better way, and presumably better for them to have people that are committed to moving forward with the police process rather than feeling slightly like they didn't have much of a choice, and then two or three months down the track pulling out because it's all feeling overwhelming, you know, when, by that stage, the Police have put a lot of work in already. (Medical examiner)*

Another SAATS doctor affirmed the option of 'just in case' medical examinations while recognising also that some victim/survivors might become swept up in the processes at the time of reporting then later choose to withdraw. She said:

*I love the fact that we have 'just in case' cases, because it means you can remove that pressure from them. But a lot still do decide to proceed on the night, and then I think look back and go, "Actually, I was so tired and stressed and I couldn't think straight, and I just felt like that was the right thing to do. Now I've thought it over and I don't want to." (Medical examiner)*

Support agency workers referred to some of their emphasis when undertaking training sessions with Police involving encouraging them to soften their approach and be a little more transparent to victim/survivors. They acknowledged the difficulties this could pose given the different qualities demanded in contrast to many other areas of policing. Said one:

*We're asking them to straddle some things that they probably don't have to straddle in other parts of the job. Even being overt with someone and saying something like, "Hey, look, my job, the hat I'm wearing in this situation is to get the facts and do that as well as I possibly can, and if that means I'm coming across as a little bit matter-of-fact, then that's why, hey?" Even that sentence makes someone go – "I know what this is about," as opposed to doing it like that and the person sitting there thinking, "Oh, god, they don't believe me, they're challenging me." (Support agency)*

The importance of encouraging Police to explain their own emphasis as well as their limitations in meeting the victim/survivor's needs was made:

*Even if you're a hardcore matter-of-fact person and that's your personality and that's why you're a cop in the first place, we're not wanting to turn you into a Kumbaya-singing hippy, but it's about going... "Hey, I'm here to do this bit as well as I possibly can, but I get that you've got some other needs and we're going to make sure that someone looks after those. Unfortunately, I'm not so good at that stuff." Even something like that, making them human, means that victim's experience is going to be more positive. (Support agency)*

One advocate felt that the system was not victim-centred enough in terms of ensuring victim/survivors were provided with support to understand all the procedures they were going through. She said in her case:

*The detective was very good in trying to explain to me, but I think it's very different from explaining it than actually experiencing it or having someone who has experienced it explain it to you. So, I thought I'll set this organisation up, where there are pools of advocates who have experienced different forms of sexual violence or sexual abuse, and then people can disclose through the website, and then they get linked up with an advocate who has experienced similar things, and then the advocate can chat to them like a big buddy, and then refer them on. (Advocate)*

A Police interviewee maintained the recent NZP Strategy encouraged such a focus by urging officers to reflect on:

*...why we do things, what we do, and how we do it. And we really talk a lot, well, we do here [name of district], really, about why. Why we come to work. And a lot of it is about giving really good service to victims, and that's why we come to work, and that's why most people are Police officers, because we want to help people. (Police)*

A conversation was recounted where an ASA supervisor said:

*"My guys are just so frustrated they just can't give the victims the service that they deserve," and that's – what an ethos to have in the squad. (Police)*

The change in focus meant that now 'the offender a lot of the time is the icing of the cake,' a dramatic shift from earlier times when arresting an offender was the paramount concern and victim/survivors viewed as little more than evidence along the way.

Several Police also commented on the recent shift in emphasis towards more of a preventative focus, and how this was linked to a shift from being offender-focussed to victim-centred. The following observations and example demonstrate this shift well:

*We used to look at the offenders. We used to have our targets for offending, and we all concentrated on them. Now it's victimisation, where they become first – they should become first – in the views, their welfare, and the outcomes should be the best for the victim, not the outcome for the offender. So, alternate resolutions. Like, we had a victim make a complaint that she'd been sexually assaulted by a cousin historically. And then she was adamant that she wanted him prosecuted. When we arrested him and interviewed him, he disclosed he had also been sexually offended against, and he had so much remorse, though, because he admitted the sexual assault against her, and he felt so remorseful and had for many years because of what he had done to her, because he knew he was a victim. So, he was very believable, so, when we reported back to the victim, she didn't want him prosecuted. So, it ended up that we got him some help through STOP programme, and she was happy with that. So, the good thing about it is now we're not so tunnel-visioned about prosecution. (Police)*

This shift was reflected in a forensic medical examiner's reflections as she appraised how her own role within the reporting process had changed, placing far less emphasis on the offender-catching potential of the medical examination with a heightened appreciation of victim/survivors' needs. She explained:

*What I've learned over the years is the forensic bit that we do is just a tiny, tiny part of the puzzle. I think when I went into it, it was this feeling of, "We'll help them get the DNA and then...that person will be off the street." And then you understand that the bigger picture is far, far more complicated than that, and actually, what we can do, we*

*can do good forensic collection when that's needed, but really what we can do is empower and hand someone back control, give them choices, make sure they're not going to get pregnant, they're not going to get some terrible infection. All of that stuff is actually probably far more important to the patient, if you ask them, than whether or not I take DNA from the right place. (Medical examiner)*

Support workers at one agency referred to recent positive collaborative approach they had been able to use to provide women considering reporting with more information. One recounted:

*We have had a few really complex cases where I have used the Police in terms of a "Could you think of a really fantastic female officer or really fantastic male officer to sit down and anonymously give this person advice? They don't know what to do. It's a really complex thing that's going on for them." And they're great. They'll just sit down and say, "I don't need to know anything about you, because if I do, obviously, then I know who you are and that makes it really complicated, but these are the sorts of things we can offer you. This is what we can do. We can just hold your information on file, we can act on it now. Without your say we won't do X, Y and Z." And they seem really open to that kind of approach, rather, it's not the black and white "well, if you're not going with us, you're not going with us, and nothing more we can help you with." It does seem to be far more fluid and far more focused around what might actually work for this particular person than to have a one-size-fits-all approach. Which is good. And that seems like that's something we have been doing quite recently and it seems to be working really well. (Support agency)*

An option to the court route, referred to by some, was restorative justice. This had been used effectively in specific contexts but was often seen as tricky and complex to apply within the context of rape cases. One issue identified was that the time-frames for the offenders were often tight and outcomes required quickly, whereas the victim/survivor may still be recovering and need longer to feel ready for such an encounter.

*If you've got a legal process that says thou shalt, by a certain timeframe, well, getting a match on the timeframes is a really tricky journey. (Support agency)*

Concern was also expressed over the possibility of coercion within supposedly restorative processes, suggesting that while in particular cases it could be very viable and effective, great caution and expertise was required to ensure the safety and support of all parties.

## 2.6 Auditing and review processes

Almost all of those spoken with across the sectors believed strongly that the positive changes made were closely associated to these auditing procedures introduced following Dame Margaret Bazley's report.

*The Commission of Inquiry, particularly the audit requirements for ten years, that held Police to account in a way that was public, transparent, and because it was external to the Police, meant that – I think it had a huge influence. Which doesn't mean I don't think senior Police are genuine, but I think that, like anyone else, we're all overwhelmed in our work, really, and so you dance to the tune of a whip. (Support agency)*

For NZP that whip was cracked initially by Dame Margaret Bazley and resulted in an unprecedented level of attention being placed on improving ASA investigations. These included external auditing measures with many praising the thorough approach of the Auditor General's office post-Commission of Inquiry, including the inclusion of interview as well as tick-box data. A senior district officer noted:

*I just think we have to be really open, really transparent, so that we make sure that we are one of the most credible police services in the world. (Police)*

In explaining the changes introduced, a Police officer observed:

*So, with both child abuse and sexual violence, without a doubt, we were responding to crisis, we were responding to public scrutiny, and we were responding to a government-led inquiry which came with a big fat lot of recommendations on the back of it.... Flambé ourselves. Don't get flambéed publicly, flambé ourselves so that we learn from it. So, no, without a doubt, that was a catalyst for change. I would have hoped we would get there anyway, but the harsh cold reality is, once you're under that level of public scrutiny and independent public external reporting, that is the key driver. That you know that people are coming back to go through your organisation to do a public report afterwards. There is no better catalyst for improvement. (Police)*

The changes introduced have resulted in high levels of increased accountability to ensure compliance to the ASA Policy and provide optimal service to victim/survivors. This means in practice that District Commanders, for example, are now required to know what is happening in ASA from one week to the next, a requirement that one Police officer said would previously 'have been unheard of'.

From a Police perspective it was noted that some staff felt frustrated at all the compliance requirements now expected, but a senior ASA investigator said it was important to look at the 'bigger picture' of why these requirements exist.

*A couple of times now we've got historic matters that come through and you try and find files from historic complainants that said, "Well, I came and spoke to you guys 12 years ago or 14 years ago," and you just can't find the file, and it's ended up in the shredder somewhere, which is pretty horrific when you think about it. Because there was no accountability and there was no audit. Really bad for victims. So, now it's good.... People, my investigators, sometimes get fed up with the compliance, but now we're, without saying it's a work chain, they know what they need to do. They need to get a complaint, they need to do this, this and this, and then they're away. (Police)*

One salient issue arises from the final ten-year audit following the Commission of Inquiry having now been signed off. Concern was raised in several quarters over whether this might result in an easing up of effort in the ASA area and even possible slippage. A support agency manager stressed the importance of ensuring the positive momentum within NZP continued:

*They have to maintain and keep doing things better, not just tick the box because – yes, there's been a lot of work that's happened in that ten years, and we know that still it's not the best experience for women that are going forward. (Support agency)*

Across all sectors comments were made suggesting the need for auditing to continue post-Commission of Inquiry. A victim/survivors' advocate was emphatic at the necessity of this, stating of Police:

*Well, they better not take their foot off the accelerator.... I think the Auditor General's office should, every couple of years, just have a squizzy at what's going on, and how – is it still improving? Is everything still being done to the standard that Dame Margaret set in those recommendations? (Advocate)*

Similarly, a forensic medical examiner noted how important it was:

*... to keep it going. Because people move, and the new people don't have any knowledge of that, necessarily, and I think in order to tick the boxes and make sure it's happening and keep up the scrutiny is quite important, because it's very easy for things to slip when other priorities come up. (Medical examiner)*

There were differences in how Police interviewed assessed the dangers of slippage. One was adamant that this was unlikely to occur, stating:

*I think the leaders of the Police at the moment have got the means and they've got the right vision. I can't see, just because it's got the good tick that it can slide back – I don't see it. If anything, it's growing legs. It's getting better. (Police)*

Another Police officer was equally adamant that the external auditing of Police needed to continue to ensure no slippage, stating clearly, 'What gets measured and reported gets respected.' She continued:

*So, here and now we're doing everything we need to. We're being vigilant. It's the sustainability. That's the biggest risk for me. Because commissioners come and go, executive teams come and go. At the moment, we've got leaders who have lived through it. What happens when we don't? That's my biggest concern. And history would tell us it should be a concern. (Police)*

She stated how 'gutted' she felt when the Commission of Inquiry set a timeline of ten years external scrutiny of New Zealand Police.

*I thought it short-sighted, because even though they probably thought they were being long-sighted and doing ten years, whatever they did, it's not. It's short-sighted. Because ten years in our history is a short period of time. So, the question I would have asked is: how do we make sure, for something like this, that it's safeguarded against slippage? (Police)*

A specific concern held was that with the passage of time, and as current Police leaders retired, the internal review processes set in place could be diluted or even phased out.

*So, what if a new leader comes in and goes, we don't need to do that anymore? So, the QAIF [Quality Assurance and Improvement Framework] – you can see how it happens. The QAIFs stop, you start going, "What does ringfencing look like? We can just do a bit of general..." I can see that it would happen over time. But it won't happen if there's an external watchdog. It won't happen. (Police)*

Later this officer stated:

*If I was the Commissioner.... I would welcome that sort of external – you can call it scrutiny, or you can call it assistance, to make sure that New Zealand has got a Police service that actually keeps moving forward and keeps asking ourselves the really important questions that we need to ask. So, a litmus test around issues like this are a safety net, not a wagging, judgmental finger. (Police)*

Such a view shifts the emphasis from viewing external auditing as burdensome and risky to seeing it as an early warning system of potential dangers that could still be averted.

## 2.7 Positive leadership

While many interviewees stressed the importance of structures and frameworks to ensure compliance and reduce the influence of individual personalities, some also referred to the impacts made by key personnel. This is consistent with the findings of Rowe and Macauley's review article that emphasised the importance of positive leadership in change implementation (Rowe & Macauley, 2019).

Having Police leaders who maintained an active commitment and prioritised sexual violence was seen as essential to ensure the positive gains made were not lost. A victim/survivors'

advocate applauded Police leadership for their implementation of the recommendations but was aware also of the need to guard against complacency, saying of Police:

*I think they're doing a bloody good job, but I also know that if they haven't got the right support around them, then it's all going to fall back, and we don't want that to happen. I think New Zealand Police are leaders in policing, right around the world, because they took the bull by the horns and said, "You know what? We definitely had a bad culture." And simply because they had the wrong people within the culture of New Zealand Police, and yeah, they gave themselves a good hard kick, with the help of Dame Margaret, bless her. But again, it came down to leadership and someone who was actually prepared to go "yeah." And that, I believe, filtered down. There was many a copper who hated it, but many a copper who embraced it. And those are the ones that are still there today trying to keep that movement going into what we can do for our communities. (Advocate)*

One Police officer referenced multiple times in this regard was Superintendent Tusha Penny, who had an extensive background working in child sexual abuse before being appointed as the first National Adult Sexual Assault and Child Protection (ASACP) co-ordinator. One example of how she was described follows:

*She is a human dynamo and she made a whole lot of stuff happen. And so, the structure helped, of the Commission, but also there's been some key influential people that made a difference, and she's definitely one of them.... She has a personal power that is so staunch that the men move to the side and go along with what she says should happen. She's a very powerful person. (Support agency)*

Also referred to by some was the importance of the leadership style adopted by key individuals. For example, praise was given to the way the current National ASACP co-ordinator, Detective Inspector Dave Kirby, liaised with crisis support agencies about such issues as police training needs.

Fears were expressed by some that without committed leadership there was a real risk of the gains that had been made being lost. As one officer expressed it:

*We can't have slippage. We've got to have leadership. (Police)*

## 2.8 Summary

This chapter highlighted the significance of the Commission of Inquiry into Police Conduct and its essential role as the catalyst for major change within how NZ Police responded to adult victim/survivors of rape and sexual assault. It was clear from the interviews and focus groups that this factor was well known and understood and that, as one Police officer expressed it, such changes would never have simply "evolved" without the external push of Dame Margaret Bazley's report and recommendations (Bazley, 2007).



Clear benefits were noted stemming from the increased specialisation within the Police, with training seen as an important conduit and the ASA teams viewed as vitally important. Maintaining the gains made in the last ten years was viewed as a pressing challenge demanding the on-going retention of the external auditing practices that had been set in place post-Commission of Inquiry. In terms of the philosophy informing policing, commentators across all sectors recognised the significance of the shift from a narrow offender-focus to adopting a much more victim-centred approach, with this attracting considerable praise for its potential to result in the more “humane” and respectful treatment of victim/survivors.

### 3. Areas for improvement

The previous sections show that while the overall impression conveyed was one that recognised the positive changes made by Police, many participants identified areas for further improvement or change.

One agency worker spoke of her disappointment when, after she started believing the 'everything's changed' rhetoric, a spate of reported rapes in her area were dealt with in a manner she considered unprofessional and disrespectful. As she expressed it:

*It was ten years after the Bazley Report. So, there'd been a lot in the paper about what the Police had been doing and I'd been asked to comment and Louise had been asked to comment, and I'd said fairly confidently, "I think that the Police are doing a lot better," and then I got these calls and I'm like, "Oh, my god, but are the Police doing better at all?" And I do think they are, but there's always room for improvement [emphasis added]. (Support worker)*

This chapter explores the areas most consistently identified by research participants as needing improvement, noting also occasions where mixed perspectives were expressed. The following key areas were raised:

- Access to support at preliminary interviews
- Poor on-going communication with victim/survivors
- Differences between areas and individual officers
- Rotation of ASA team members
- ASA attracting day cops
- Police culture and attitudes
- Importance of a trauma-informed understanding
- Communication around cases not progressing
- Court and trial processes
- Inadequate resourcing

#### 3.1 Preliminary interviews and access to support

Support agency workers from an Auckland agency expressed concern that they were now less likely to be present at preliminary interviews to support victim/survivors. This reflected in part the fact that this interview happened more quickly now, which was probably good for victim/survivors, and also the size of the city and transport difficulties reducing the window for crisis support workers being able to reach the venue in time. This was recognised as far from ideal, with one worker commenting in relation to having support:

*When I put myself in a complainant's shoes, I go, "When do I really need someone?" Then, when it's happened. (Support agency)*

A further difficulty preventing victim/survivors receiving initial support sometimes arose from agency under-resourcing – when all workers were committed during the day with other clients and providing support for planned L3 interviews, no-one was available at short notice to be despatched. In such situations, support workers endeavoured to at least speak with the victim/survivor over the phone to establish a point of connection. This was not considered ideal for two major reasons:

*One is that if we're really looking to prevent the development of PTSD [Post-traumatic stress disorder], which we do see as a core part of our role, helping people to reduce their nervous system arousal as soon after the event as possible is important, a wellbeing aspect to that. The second part is that the preliminary interviews are often not conducted by the ASA team. They're conducted by the crime squad, so they are not necessarily people trained in doing this work, so the advocacy role... is probably most required at the preliminary interview and we're often not present to do that role.*  
(Specialist SV support worker)

### 3.2 Poor on-going communication with victim/survivors

The importance of sustained communication over time with victim/survivors was emphasised by many of those interviewed. For example, a medical examiner referred to how she expressly asked if Police had been in contact with the victim/survivor following initial reporting:

*One of the issues for patients is knowing what's going on and being kept in the loop, and that can be problematic.... I know, because I see people for follow-up, I'll say, "How's it going with Police?" and they'll say, "Oh, we haven't heard from them."*  
(Medical examiner)

This doctor recounted how her patients may often have been given a card and told they could ring but found it too difficult.

*But actually, just handing a card over for a doctor or handing a card over for a crisis support, or handing your card over, people don't want to bother us. We are in positions of power, and they don't think they can call the Police officer.* (Medical examiner)

The authority of the Police was intimidating to many, combined with their heightened fear and vulnerability post-assault, placing the onus on others to be proactive when it came to maintaining contact and open lines of communication.

One advocate expressed this very directly by urging Police to:

*Pick up the phone! That keeps that person alive, and that keeps that person committed to seeing the process to the end.* (Advocate)

Support agency workers agreed how important regular contact was to victim/survivors, particularly during the long delays that could occur during investigations as well as in the lead-up to court. One said regarding the Police:

*I think there's a bit of a rule, like they're supposed to get in touch every three weeks for an update, but it doesn't always work out like that, because they can end up with something more pressing and the client gets forgotten about, so they don't feel like what they've shared is being valued. (Support agency)*

One support agency recounted being proactive recently in trying to enhance Police awareness of the importance of maintaining communication and connection, and described how:

*One of the things we've been really trying to reinforce to the Police is, 'Tell people what you're doing.' Because what they often do is, they wait until they've got something to tell you, and we advocate for the fact that, ring them once a week in the middle of an active case, or at least once a month if things have gone a little bit – and say, "Hi, how are you doing? This is what we've been doing. This is what we're waiting on." Even saying, "Nothing's happened yet." (Support agency)*

The power of such a call lay in the reassurance it provided that "You haven't been forgotten,"

*... but often Police will go, "Well, why would I do that, because I haven't got anything to tell them?" .... They kind of don't realise that actually in a position of authority and respect, even that phone call can be very, very supportive and validating for that particular victim. (Support agency)*

In one district a Police officer admitted many files were unassigned but stressed these were historic and that she saw it as her responsibility to maintain contact with the victim/survivor in the interim:

*This office here is probably one of the busiest in the country, and we have a lot of files that at the moment aren't assigned to an investigator due to – we just haven't got enough staff. So, but I then take it upon myself to keep in contact with those victims. And not – I haven't had one complaint. I say to – you know, they're – because they're historic, they're unlikely that they're going to be offended against right now. They've got the support in place. I explain this all to them, "You're not going to be forgotten about. I'm going to contact you each month. I'm going to address your concerns each month until your file can be assigned."... I've always had files that have been unassigned, and sometimes up to eight, nine months. As long as they feel like they haven't been forgotten about and you're addressing issues, they're fine. (Police)*

She said regular, monthly contact was important for three key reasons: to ensure no risk of further victimisation; to ascertain that the victim/survivor was coping; and to check there was no danger of the offender absconding.

One support worker noted also that there was no one approach that was likely to work for all victim/survivors and stressed the importance of Police being more victim-centred, and checking out what individuals might expect and desire in terms of contact:

*It's about having an openness to having a conversation with the person about what do you want me to do. How do you want us to do this? Do you want me just to wait and tell you? Do you want to contact me? So, it's that kind of process stuff, which takes a bit of time at the front end, but can be really, really therapeutic and important.*

(Support agency)

A specific issue referred to was what felt like the 'obstructions from the Police to get to the people we want to talk to', with it being noted that if this were true for support and crisis workers, then how much more difficult it would be for victim/survivors when making contact. One worker said:

*Just the other day I rang up, wanting to talk to the crime squad, and the guy who answers the phone was just like, "No, I won't give you his number. I won't give you his email address. Do you know his email address?" I was like, "No, I just want to speak to him. I'm from Rape Crisis." And he was like, "I'll send him an email and he can contact you." And it was just like, if I was a survivor wanting to make a complaint or just find information, I would have hung up and I would never have gone back. His whole attitude just kind of reeked of arrogance and absolutely no care, no empathy, no anything at all. (Support agency)*

Some support agency workers referred to positively experiencing local inter-agency meetings in their areas that provided the opportunity to review how active cases were progressing. Within such contexts there was scope for alerting Police that a particular victim/survivor was struggling with not hearing from them, and encouraging greater on-going communication. One worker felt victim/survivors' needs pointed to the importance of introducing an initiative that would provide a support person to stand alongside a victim/survivor throughout all police and court processes, explaining and reassuring throughout the journey. The current support services were said to be too inundated with growing numbers of clients to provide such on-going support, particularly if the current climate of under-resourcing continues.

Doctors also stressed the importance of the Police maintaining frequent and positive communication with victim/survivors, with one citing this as the main problematic area she was aware of in relation to current processes.

*What I most often hear when I'm seeing people for follow-up is, "I've just heard nothing. I don't know where the case is at. I don't know whether they've arrested him. I don't know when the next hearing or whatever is. I don't know anything about the process." And that was the same back then as it is now, actually, and I think probably reflects huge overwork and under-resourcing rather than any desire to keep the victim out of it. But that probably would be the main negative feedback I ever get about the involvement with the Police. (Medical examiner)*

Comments made by Police sometimes showed they had a good understanding of how important it could be to victim/survivors to have that regular contact with them. As one specialist woman officer said:

*I know if I was a victim, I'd want contact. But there is a requirement that you need to contact a victim each month. Sometimes I have got a victim that has been unassigned. They've contacted me and said, "I'm not coping." I've said, "All right. I'll ring you each week until – if that's going to address this issue." They've gone, "Yeah, that would be great. I just want to talk through it." And I have. That doesn't happen very often, but I have. (Police)*

Sexual assault was viewed by some Police as still being a lesser priority than family harm, with one stating this was evident in the lack of campaigns to address it and the under-funding of this area of policing. We're 'back in the 90s' said another officer in relation to sexual violence. While many changes had been made, these were by no means sufficient to raise its profile within policing generally to place it on the same footing as family violence.

### 3.3 Differences between areas and individual officers

Generally, as seen in the previous chapter, there was considerable praise voiced across all sectors over the improvements Police have made in recent years, particularly in areas with ASA teams. Examples of poor practice were nevertheless still evident. Comments were made suggesting variance between districts as well as variations within districts, with particular areas and officers described as 'less responsive' to victim/survivors' needs than others.

One support agency referred to several troubling cases, including one involving a teenage complainant in a provincial area. This girl was not believed by Police and felt blamed for what had happened. She ended up refusing to go to school and engaging in cutting and suicidal behaviours. The support workers added:

*We've had some of these conversations nationally, and so those are not unique situations. There are some of those situations still happening across the country. (Support agency)*

A different agency praised their local specialist Police team but lamented the inconsistencies that still existed nationwide.

*We have had complaints from people about things that happened in other areas that we've helped them sort through their response that they got from somewhere else, and sometimes I'll take it to the ASA squad, and they'll be like, "Oh, dear. Really? What on earth?" You know. And it's stuff that I know wouldn't happen here. (Support agency)*

Others noted that while some officers were now much better informed and empathic, this was by no means universal:

*I've seen cops who are absolutely aligned with the new way of thinking, who are very victim-centred, who really want to get all cases across the line, and are non-judgmental and accept the range of circumstances that rape occurs in. And then others, particularly in the higher positions, or supervisors, who absolutely reject that [thinking].... And Police officers making comments like, "You have to ask yourself how reasonable it is for a man to stop halfway through," and things like that, on a fairly regular basis. Or Police using the term regrettable sex quite regularly with victims.... I feel a fair amount of confidence that most victims walking through the door can tell the difference between sex that they regret and sex that they didn't want. (Support agency)*

Several of those interviewed made specific mention of Whangarei and Dunedin as problem areas in relation to sexual violence reporting, while noting also the difficulties faced by complainants in rural and provincial areas. A Police officer noted the challenges involved in trying to provide rural victim/survivors with optimal service, saying:

*So, it's a matter of (a) prioritisation and (b) the workload that they've probably got as well. So, there could be a complaint from way down on the West Coast somewhere. Some cop's going to have to drive three hours to go and see someone. They're not home, so he drives three hours back. (Police)*

Another agency suggested other inconsistencies could arise within districts depending on which particular Police units or work areas were involved. They said that while for the most part the detectives they engaged with these days were good, the difficult issues they encountered arose mostly from when complainants walked up to the counter. This was reinforced by other comments suggesting a need for better processes and training throughout all sectors of the organisation where contact with sexual assault victim/survivors might occur. One support worker had to take her own daughter into the police station to report an assault and was appalled at the way the Policewoman began making assumptions regarding what had happened:

*She started asking my daughter questions, like the normal one, what's your name and your age. And then goes, "Aw, was it your boyfriend? Was it your friend?" And so, I had to stop it. There was no talk whether or not it was sexual or whether it was physical, but she was just making the assumptions by herself, without actually thinking what that impact would have on my girl later on. (Support agency)*

Some support agencies and advocates said they advised women considering reporting to choose a way more likely to result in a positive experience for them. This began with deciding how to report:

*Have a support person go with them, and ring the police station and make an appointment to go in. So, don't just rock up to the police station. You're going to get some new constable on the desk who may not have had any training. (Support agency)*

The point was made by several that at times Police adherence to processes and tick boxes could get in the way of customising their response to meet different victim/survivors' needs. For example, one support worker said:

*I've had a couple recently who have been asked to do things by the Police reasonably forcefully, like, sort of as though there wasn't a lot of choice about doing it. One was about looking at a whole lot of videos that had been made of her sexual assaults over the years, that the perpetrator had made, and they didn't recommend that she take a support person with her – I was just slightly horrified. There's been a couple of things like that recently where they've clearly been really on the process, and this would be really, really helpful, but haven't seemed to have really thought through the impact that that would have on a very vulnerable person. (Support agency)*

Other support workers and advocates recounted specific instances where individual officers and detectives failed to respond appropriately to victim/survivors. For example, one advocate expressed her anger at the insensitivity and rudeness displayed by a detective towards the victim/survivor she was supporting. She described how angry she felt when an officer spoke to this woman as if she was 'dumb':

*I pulled a cop out and said, "Do that again, mate, and I'll take your head off. Don't you dare speak to her like that." "Well, she didn't understand what I was saying." "Really? I didn't understand what you were saying!" (Advocate)*

A support worker recounted an example of a client who had relocated into their area for safety reasons, had a complex background and had not previously engaged well with Police. She said:

*The court staff had worked quite hard with her to try to get her motivated and keep her engaged with the very lengthy court process, and then the Policeman who was supposed to pick her up that morning for court didn't, because he couldn't get hold of*



*her in the weekend. So, you can feel a little bit let down sometimes, because we're all trying to work together to help get this person to speak, and then it kind of falls over just because of a lack of experience or insight. (Support agency)*

A forensic examiner referred to a situation where she and an officer ended up offside with each other over whether a victim/survivor was able to consent to the medical examination. It felt as if he was agitating for her to commence the medical examination while still describing the victim/survivor as 'drunk and distressed.' The doctor maintained she could not proceed if the victim/survivor was too out of it to consent, which presumably also meant she was too drunk to consent to sex either, and somewhat of a stand-off ensued.

Some interviewees in Auckland described differences within the city in terms of police station environments and how these might be experienced by victim/survivors. One described very positively her experiences of the multi-agency centre in Manukau:

*It was a beautiful building. It was well-resourced. It has tons of hot chocolate machines. And it's just really welcoming. And Police weren't uniformed. You never saw a uniformed cop. So, it was really, really welcoming for people who had historically negative interactions with Police. (Support agency)*

In contrast the other stations lacked the facilities and atmosphere seen as conducive to interviewing traumatised victim/survivors, with the comment made of Auckland Central being:

*Their building is horrendous. Like, you walk in and it smells bad and the Police are all uniformed and you have to walk through all these security processes, so that has a really different feel to it as well. (Support agency)*

Support workers from a nationwide agency referred to area differences and singled out for praise Police in the Coromandel:

*They had such an exceptional group of detectives, that we just had a perfect working relationship with. Often, they would be challenging victim-blaming attitudes before I could even start, like, there was one case we were at hospital and the dad was going off that his daughter, "She's a liar," this and that. And I was about to do my spiel, but the detective came in and said, "At this moment, the most important thing is that we look after your daughter, and that's it. It's not our job to figure out what exactly has happened right now. We're in hospital." And actually, seeing that father having that response from a male detective, it was like, "Yeah. Sweet." I can move on and do the other piece of work. So, yeah, they were a pretty cool group. (Support agency)*

Differences in experience were noted by some in relation to the gender of Police detectives and interviewers. Women were by no means assumed to be preferable to men when it

came to interacting positively with victim/survivors of sexual violence. One focus group described their experiences of often finding male detectives to be preferable:

*Support worker 1: Partly because the men were amazing; we trusted them a lot more than the women to be sensitive. And possibly because they were conscious of their maleness, and the fact that that might come across as confrontational, so they were very aware. They were really gentle, really, really respectful. Took a lot of time to explain things, and women cops sort of got on with things a lot more.*

*Support worker 2: And it was really great, sometimes, for people to see men being gentle and wonderful.*

The SAATS medical examiners interviewed spoke positively of the particular relationships they mostly had with Police, but were aware this was not necessarily consistent nationwide. One doctor had received a request for assistance the same day as our interview from a Police officer in a provincial centre who felt she did not have a local relationship to call upon for advice. This doctor attributed a large part of the good working relationship she had to the regular collaborative meetings held between the agencies and to the strong, mutual local relationships established and sustained with the same personnel over the years.

Support workers suggested that regional variation was not limited to Police practices. An agency focus group also commented on the 'huge' variability they saw across the country in terms of sexual violence support.

*Especially because, particularly in rural areas, there aren't a great deal of ACC registered sexual abuse counsellors, so advocates finding someone who is equipped with the right qualifications and the right experience to deal with them, and who isn't going to necessarily pose a negative experience, can be really difficult. (Support agency)*

It is important to note that when examples such as these were described, those voicing concerns were sometimes quick to point out that these days such problems were rarities and by no means the norm. The number of 'rarities' referred to, however, indicates that ensuring the consistency of nationwide optimal service for all victim/survivors of rape remains an on-going challenge.

### 3.4 Rotation of ASA team members

The comment was frequently made by support service workers that the rapid rotation of detectives to and from specialist ASA teams created difficulties for victim/survivors as well as those supporting them. This practice often meant that a victim/survivor might have to start building a relationship with someone new part-way through the investigation of their case.

*The Police are on a two-year rotation, so they do two years here and then they leave there, and they're placed somewhere else. So, when you have a court case going over five years, you've got someone who's going to end up with two or three detectives involved, so the relationships break down, which doesn't build security and stability and trust and all the rest of it. So, that is one of the issues that is not okay. (Support agency)*

While such rotation might be normal practice from a police perspective, support agency workers said the impacts on victim/survivors could be 'terrible':

*The anxiety, increased post-traumatic stress symptoms, fear about are they going to be believed by the new person who's taking over, and have they read my file properly, because it's so big? They're only skimming over it, they're not getting it properly. You know, all that anxiety rising up, and then that feeling not important, that the detective's been placed on another policing role. That they're not feeling important. They're not feeling like this matters. You know, sexual violence is not important, that you've been placed somewhere else. (Support agency)*

The perception of sexual violence not being a Police priority was reinforced when other crime investigations, the most common being homicides, would result in ASA investigators being taken away from their teams for deployment elsewhere. Such a lack of protection signalled that sexual violence victim/survivors were less important and expected simply to adjust to personnel changes and delays to case progress.

A victim/survivors' advocate recounted the example of a teenage girl who had needed to keep herself going through multiple trials and who now, with yet another pending, discovered the Officer in Charge of the case had moved on and neither she nor the advocate could determine who would be taking over. The advocate described her own personal frustration at the lack of Police communication while noting of the young girl, 'It's amazing she still wants to go ahead.'

Such changeovers meant support agencies were also frequently rebuilding relationships, with previously agreed to arrangements having to be re-negotiated with new personnel and time needed for the newcomers to fit into their roles. The loss of institutional knowledge from ASA teams was also regretted, and support agencies were often critical of the ways high staff changeover made for inconsistencies, particularly in relation to leadership roles.

*But the adult sexual assault relationship's been a more recent thing, and it's been – they have a principle of moving the head around, like they change – they have about a two-year cycle. And I can mark all the variations on the personality. So, that's a bit of a problem, because if you get a good person who's really good to relate to, you get a great result, and then you might sit it out with someone for a couple of years with someone who's kind of mediocre. (Support agency)*

One Police officer described common realities that worked against achieving ideal practice:

*In the ideal world, the assigned detective would monitor the interview, and then they would be in constant contact with that victim throughout the investigation and the leadup to the court case.... The trouble we have is, depending on how long the investigation takes, whether that investigator leaves Police, leaves that squad, gets promoted, the case may get handed on to someone else. (Police)*

Having heard accounts of victim/survivors not being informed regarding 'their' detective moving on, I asked how such handovers were managed. She replied:

*In the ideal world again, the initial person would get in touch with the victim, or he'd take the new investigator to meet the victim, so they know what's going on. (Police)*

In a different district, a female ASA manager said that detectives working on specific rape cases would take them with them, adding:

*Police: I think it has to happen, unless they leave the Police. And then we'll do a handover.*

*Interviewer: How do you do a handover?*

*Police: Well, we will get that Police officer to then introduce someone else and make sure they're comfortable. And then, it's important for that new Police officer to start building that relationship. So, go out and visit them, go for a coffee and start talking.*

The rotation policy was seen as important in providing all investigators with experience undertaking sexual assault offences, just as it was important for them to have experience policing drugs, burglaries and all other types of crime. Support agency workers recounted an example of how this had worked out well on one occasion when a particular detective they knew from his time on ASA moved into a different area of policing where he was able to use his specialist understanding to good advantage. They said:

*Support worker 1: Even though there's a disadvantage-ish potentially around people moving around, one of the advantages is that if they've had an engaged time in one of those roles, then when they go to work for other departments, that doesn't stop.*

*Support worker 2: They take it to other departments.*

*Support worker 1: So, one of the stronger relationships is with someone who's now in the preventions space with Police, which is a new office, and he's now going, "Okay, what I know from this area and what I know from that area, can we bring that together and can we do something over here?"*

*Support worker 2: So, there's an infusion into the police force, which is useful.*

Police interviewees also pointed out that another advantage of the rotation policy was to ensure staff avoided burn-out. One cautioned:

*From having done it for years. I mean, it does get in your blood, but I always say to everyone, "There comes a time when you put your hand in the fire, and then you've got to step away from the fire. Because it does burn you." You know, that sort of work does burn you, all the time. It just does. (Police)*

A different Police interviewee also commented on the dangers of burn-out and when asked how long a term would be recommended, replied:

*Two years max, I reckon. I know that on my times, I feel burnt, so I need to move.... It doesn't mean that you can't come back. (Police)*

The positive aspects to the rotation policy reflected the advantages for Police in terms of gaining experience, avoiding burnout etc, while from the victim/survivors' and support agency perspectives the greater priority may have been ensuring consistency and continuity in the relationships developed. It could also be disadvantageous when some officers were rotated to specialist teams but lacked the necessary aptitude and skills needed for such a role, as the next section explores.

### 3.5 ASA attracting day cops

Several support agency workers expressed some concern regarding the specialist ASA teams no longer being staffed by officers selected specifically for their expertise in the sexual violence arena. Training was not viewed as sufficient to counter deeply held attitudes or give officers the extra edge needed to work successfully in such a challenging area. Focus group participants referenced this while reflecting on the pros and cons of adult sexual assault having become more of a priority area for Police than it was:

*Support worker 1: The ASAT teams now are a normal kind of thing and part of their police development is they rotate and do things. So, when they were first established, we had people who wanted to be in them, because they were not high-profile Police jobs, and so it was people who had a commitment to sexual violence who worked in the ASAT teams. That's not what happens now. It's problematic. Because again, Police draw from the normal population. You bring your rape myth attitudes in with you, because – let's be frank – most of the population holds those attitudes.*

*Support worker 2: And they rotate, anything from 8-9 months to 18 months. It's a pain.*

*Support worker 1: So, it's become just another Police rotation job. It's no longer something for people who have a particular empathy for the work.*

Some Police agreed that officers might sign up to work on ASA for purely pragmatic reasons:

*I'm sure you still get your people who maybe just want to work day-shifts and have really set hours. (Police)*

They defended the practice, however, by noting that the changes implemented mean all detectives are now required to follow the ASAI Policy and are supervised to a much greater degree, including being accountable for their actions through QAIF internal auditing procedures.

Some comments were also received regarding 'career cops' who may pass through ASA but with their eyes set primarily on their own personal advancement. One interviewee observed:

*I've heard some awful stuff around policing districts, around managers and career cops.... The hierarchy, they've got career cops in there and they're just wanting to head up the food chain and actually don't give a shit about districts and the men and women that are working so bloody hard to keep their community safe. So, yeah, I guess with all the good still comes some of the ugly. (Advocate)*

Comments from a focus group conducted with one support agency revealed the frustrations they experienced also when officers were appointed whose primary commitment was to be ticking off a work area on their way to the next promotion. What was reinforced through such comments was that ASA was a challenging area requiring dedication and passion, and specialist selection was important alongside specialist training.

### 3.6 Police attitudes and culture

There were many comments made across all sectors referencing a positive shift in attitudes towards rape victim/survivors that was evident in a range of different ways. Several interviewees said that while Police attitudes towards victim/survivors overall may have improved, differences still existed. One area of difference observed was between senior Police at Headquarters compared with some of those in districts. While the former might demonstrate a commitment to improved investigative procedures and increased victim/survivor care, this was not a perspective always shared by all officers. The observation was made:

*At that highest level of Police, the Police hierarchy, they are absolutely really committed to doing a fantastic job in this. We still have some problems on how that gets communicated to what is a very large organisation full of middle New Zealand, in a sense. The Police is not full of philosophically enlightened people at the front line. That's full of normal New Zealanders, and so the attitudes that normal New Zealanders hold about rape and sexual violence are what Police bring in with them. (Support agency)*

In recognition of the differences in attitudes that still exist, interviewees from all sectors commented on the continued importance of having Police officers with the 'right' attitudes involved in sexual violence investigations. Police personnel were amongst those arguing that this was and should be actively recognised as an area requiring not only specialist training but specialist selection of appropriate personnel. Several observed that broader social attitudes were still likely to be manifest in many Police. One Police officer stated of ASA investigations:

*You've got to talk about the wider culture that it operates in, too, and we've still got some challenges there, I believe. And the reason I think that's really intrinsic is because the way you act and the way you operate actually becomes the way you play out professionally. (Police)*

Warnings were also voiced regarding assuming all problems in this area were now solved. Within Police interviewees, for example, opposing views were expressed regarding the extent to which police culture was changing. One senior woman detective stated that women in the Police had 'a voice' now, adding:

*We won't put up with sexism in the office or anything like that. So, I think it stops that occurring. Like, I'm a really stickler to it. I don't like – my old boss used to say – I remember hearing him saying, "Oh, the boys are all going out to do a warrant," and I'd think, "Well, I'm not a boy, and I'm about to do the warrant with them." So, I would say, "Oi! It's not the boys, it's the team." And he'd go, "Sorry, [name], sorry." It's stopping that. (Police)*

Another Policewoman took a different perspective, arguing that more changes were needed within Police as an organisation regarding how women officers were treated before changes in the treatment of women by Police could substantively change. She asserted:

*The way we treat women. It's wider society, but as a police culture, the more inclusive we become, the more our own women say if they got raped, they'd report it, because that is probably the greatest litmus test of our culture and how we respond to women and sexual violence. How many of our own women would report sexual violence on themselves? So, I just had a young female staff member who said she was sexually violated. And the work to try and get her to complain about it. So, you've got to unpick all that rationale why. (Police)*

She argued there was "a direct correlation" between how Police treated women within policing with how they responded to women as victim/survivors. Such comments alert us to the existence of parallel social realities and the ways in which societal gender inequalities may remain manifest throughout diverse contexts, despite being masked beneath layers of visible change.

She referred to a study conducted internally within Police that showed how few Policewomen felt they could ever report a sexual assault committed against them.

*It was a huge amount of women said there's no way they'd report it.... And there was things – so, some of it came out about the justice system. “We see the way victims are treated and they're treated like offenders and I would never put myself or anyone through that, or my family through that.” Other people were like, “Are you joking? I hear the way people talk and know the way victims are treated.” (Police)*

She expressed a degree of scepticism regarding my commenting how much the recent police file study (Jordan & Mossman, 2019) appeared to reflect significant improvements in the treatment of rape complainants compared with my earlier 1997 study. The true test of attitudinal change, she said, would be evident in the private and informal exchanges between officers:

*Police: I always say, “It's the conversations you are having in the meal room. It's the conversations going in the I-car. It's how we – it's all our unconscious biases. They play out in all the investigations. So, actually, if we get the culture truly right and vigilant around that, the rest will follow. Because you have your processes, your training, your everything else. But if we're having people in a really unhealthy culture which has attitudes towards ethnicity, women, prostitutes, whatever, I tell you what, you might read those files and think they're really good, but behind it, and behind the decision-making, it will not be good. Because you can make a file look good.*

*Interviewer: Yeah. And I guess part of me is wondering how much of the files that –*

*Police: Did they get chosen for you?*

*Interviewer: No.*

*Police: Are you sure?*

*Interviewer: Sure, in that we got every file for a three-month period from different districts and went through them.*

*Police: Okay.*

She added that it was the ‘invisible stuff’ behind the files that was still her worry, ‘because from having done it, I know how that plays out.’ She referred to when as a young officer she had been involved in interviews with women later recognised as the victims of a prolific serial offender, but at the time comments on file had been written such as ‘This woman is a fuckwit.... The things we wrote – we would never do that now. But it doesn't mean we wouldn't think it.’ For her, the attention currently being given to unconscious bias was wrongly restricted to issues around Māori and ethnicity when wider recognition was needed



of all the ways it was manifest within contemporary police culture. Nothing was more vital than working to achieve a culture based on respect for all. She said:

*We've got to – our culture is actually the cornerstone, whether you want to talk about ASA or whether we treat that woman over the road with respect or the African dad down the road, or how we treat the youth on the street. Everything comes back to the culture. And if we are not vigilant on that, I tell you what, you watch everything unfold.* (Police)

She cautioned me against being too easily swayed by what was written down, saying:

*It's more than the files, is what I'm saying, Jan. It's way more than the files. You can make a file look fine. But actually, do you truly know the decision-making that's gone on behind it? Do we truly know what sort of culture has led to it and how they – and these women who don't want to go forward, how hard have we worked with it, how hard? It's far broader for me.... Don't get me wrong, we're way better than we ever were, but we've still got a journey.* (Police)

The views expressed by some support agencies reinforced the notion that changing police culture was going to be a long journey in the making. The deeply ingrained sexism was seen as a factor affecting Police responses both to victim/survivors as well as to their own staff. One gave an example based on her experience of sitting in on an appointments process:

*We had two candidates that were basically exactly the same, male and female, and had both led projects relating to family violence, change programmes, that sort of thing. Same level of seniority. And they described the guy as being a real go-getter, being really assertive, knowing exactly what he wanted and not letting any barrier stand in his way. Persevering through challenges, all of that kind of crap. The woman, just like, "Oh, she obviously cares about what she does but she's a bit pushy." And I was like, "Oh, fuck." (Support agency)*

The observation was made that being a woman in the Police involved walking a gender tightrope, where the women were expected to be both super-tough as well as super-caring and maternal. One focus group participant expressed it this way:

*If they're hiring women, they want them to be good women as well as good men.* (Support agency)

While it was recognised that on one level women were encouraged to speak out against harassment, also noted was how difficult it was in practice for most to feel able to do so. Reference was made to a recent campaign oriented towards reducing bullying and harassment, with one commentator observing in relation to Police National Headquarters:

*You go into any of the women's bathrooms there and they've all got the anti-bullying posters in every bathroom. They're plastered everywhere, those anti-bullying posters.*

*And then, processes to fix things and how to deal with things and all that sort of carry on. And then talk to individual officers, men and women, who will then say, "I'm not using that. You know, it's career suicide. Career suicide to take one of the bosses on." So, you know, they've got all the processes in place, but the culture of the behaviour hasn't changed. (Police)*

Also commented upon was the extent to which the traditionally masculine ethos of policing remains evident despite attempts to recruit more women into the organisation. The discussion in one support agency focus group in particular suggested that while masculine values prevail, the scope for changing how women are treated will remain limited. One commentator said of Police:

*Their move towards being gender-equal hasn't included a valuing of femininity. It's just included a consistent valuing of masculinity but more encouragement for women to fall into that category, to adopt traditionally masculine traits as opposed to recognise both as valuable. The feminisation of their workforce hasn't resulted in the feminisation of practice in any way, shape, or form. (Support agency)*

While widespread recognition was given to how the Police had made significant improvements, some pointed out that these changes were likely to be more experiential rather than result in fundamentally different outcomes for victim/survivors. The following quote expresses this well:

*Support worker 1: A lot of victims experience their interactions, or seem to experience their interactions with Police, a lot more positively now. It's not as re-traumatising and horrendous. I don't think that necessarily translates to any difference in outcome, because Police still aren't progressing those cases. They're just finding better ways to say why they're not.*

*Support worker 2: More sensitive ways.*

*Support worker 1: Yeah. So, they'll sit down and explain to a victim for half an hour how much they believe them, and they support them, and they really want them to see justice, but that it's not possible because there is no evidence, and that they won't be able to prove that there was lack of consent. And that, again, that probably is an issue with evidence law, or with the way that juries perceive sexual violence. But also, Police are still signing off with the same line, that there was no offence or that they couldn't be proven. It doesn't even go to investigation. And then Police will offer other ways. So, they say, "You could go to court. It could take about two years and the judge will put you through the wringer and he'll pull you up on your drug and alcohol history, and the fact that you were doing this at the time and had been drinking, or we could go and talk to the guy and let him know that it's not on." And they see that as being victim-centred, and I see that as deterring people away from the justice system.*

Reservations were expressed by several support workers about the efficacy of having Police go to speak with the offender, with concerns raised regarding that this could be done in ways that effectively reinforced such rape myths as the vindictive, lying woman. Telling offenders that they needed to obtain the woman's consent "to cover their arse" reflected the sceptical ways in which some workers said Police instructed their own children:

Support worker 1: *"With my sons, I always say to them, make sure that it's really explicit because you don't want some chick turning around and filing charges against you later." So, the belief that they [Police] have is still very much around regrettable sex.*

Support worker 2: *Where did that term come from?*

Support worker 1: *I don't know.*

Support worker 2: *The history of the malicious woman.*

Support worker 1: *That's right. One of those 'false complaints'.*

Advocates from one agency queried the widespread use within Police of the term 'regretful' sex and how it could undermine perceptions regarding the veracity of a sexual violence allegation. One maintained:

*Most victims walking through the door can tell the difference between sex that they regret and sex that they didn't want. I think most people are fairly clear about that.*  
(Support agency)

Other rape myths were also referenced during some interviews, particularly the notion that girls and women 'ask' to be raped and have only themselves to blame. One support agency worker referred to a rape that had occurred in a provincial city and which two 'city detectives' were despatched to investigate. This case involved a 16-year-old out partying, using drugs, being out of it, and being targeted. There was evidence of texts of a sexual nature between this teenager and the offender that were interpreted as:

*She seemed to be flirting, inviting sexual interaction, and then subsequently was seriously sexually assaulted in the park, sodomised, raped, in the park, in the small hours of the morning. She managed to communicate with her family, who went to pick her up and took her home and rang the Police. Asked for a female officer. Professional family who know about professional ethics and systems. Asked for a female officer detective team to come. Two males turned up the next day. They'd already looked online. There was some online interactions already, so she was not believed. After a few weeks they decided not to proceed with the investigation.* (Support agency)

In pressing for an explanation, the support worker was told the case was very complex and she uncovered evidence of connections with gangs, drugs, and the young woman's links to a

former Police officer. These factors were interpreted as reducing the victim/survivor's credibility. She felt disbelieved and unsupported and the support worker said of her:

*She's still in a really bad way, disengaged from several counsellors, several services. Just really chaotic. Is now living with one of the young men in the community who is part of the drug-selling system. So, yeah, really, really bad outcomes for her. (Support agency)*

Support workers often referred to having to work hard to counter internalised rape myths in their clients, particularly the self-blame so many feel. This was recognised as very difficult to address:

*Because then they'll go out into society and just one person will say something and it's just like all that shame goes right back on. (Support agency)*

### 3.7 Importance of a trauma-informed understanding

A common refrain through many of the interviews was the importance of enhancing Police awareness and comprehension of how trauma impacts the victim/survivors of sexual violence. One of the medical examiners, for example, expressed concerns over sometimes feeling pressured to rush a woman prematurely into the forensic examination, an invasive procedure of 2-3 hours duration that could add to the victim/survivor's trauma. She described how:

*Sometimes the Police are saying, "Come on, you need to do this forensic," and it's us saying, "Hang on a minute. "How are they? What's their –" They're very keen to get the evidential information – and then it might be us putting the brakes on a bit to say, "Well, there's a few other issues here that we need to just sort out before we go sticking a speculum in the vagina to get some forensic swabs, actually." (Medical examiner)*

Several key informants referred to the importance of appreciating the ambivalence that will surround decisions to report, and how this is frequently manifest in such behaviours by victim/survivors as cancelling arrangements, failing to show up for meetings or interviews, and being tentative during disclosure processes. For example, one support agency said:

*We have 100 people on our waiting list. But about a third of those will never – we're chasing all the time, "Do you want to come?" Or they make the appointment and then they don't show up. And then we have three phone calls and then a letter and some texts, and then kind of give up, but we always say and let them know that they can come back any time. But that's the ongoing major issue for everyone in the sector. (Support agency)*

Other counsellors also talked about the high numbers of cancellations and no-shows they encountered, adding:

*It's really usual that people kind of go – they might have about ten goes at it before they actually engage, and then they might engage for a bit, and then it all gets too much, and then they'll back off. So, this is a thing that you do a lot of that about. And so, they're going to do it with the cops as much as they do it with all of our services.*  
(Support agency)

One explained how frightening it was for many victim/survivors to report their experience, saying:

*Once I hand it over to you as the Police officer, it's then not about me. So, this is my story and my thing, and the idea of handing it over to anybody or disclosing to anybody feels scary.... It's kind of like, I'm handing it over to you, and what the hell are you going to do with it?* (Support agency)

Maintaining connection could be difficult sometimes when victim/survivors might move round frequently or change phones as they tried to keep themselves safe from the perpetrator.

Misinterpretation by Police and others of how some victim/survivors might respond was also identified as an issue of concern by several of those interviewed. One support worker, for example, described situations where young people's behaviour post-rape could be interpreted in ways that resulted in the premature dismissal of their allegations. As she explained it:

*The victim or survivor acts in ways that aren't a 'good victim'. Or, you know, how the normal trauma response is, they might be breaking down or doing all the normal things that we would expect them to do, but then it becomes, "Oh, they're attention-seeking." That narrative still seems to be quite strong. Not just in the Police, but in the community in general, actually. All this, "Oh, they're attention-seeking so it can't be that true," when it's like no, they're traumatised, and this is absolutely normal.*  
(Support agency)

Sometimes, as our file analysis showed, the complainant would decide to withdraw their allegation as a means of managing their trauma, having decided that proceeding would be "detrimental to their own health or healing" (Support agency).

There was also widespread reference to how trauma might impact on what victim/survivors could recall and how they might relay their experience. One support worker expressed it strongly, saying:

*Trauma response is that you can't remember clearly. That's what your brain does.*  
(Support agency)

There was also recognition of how trauma might under-lie what appeared to be inconsistencies in victim/survivors' memories and accounts. Doctors and support workers/counsellors referred to the need to increase awareness of the impacts of trauma on memory generally and particularly in relation to how trauma can make recall patchy and changeable. One medical examiner discussed this in relation to inconsistencies in victim/survivor recall:

*I think the impact of acute stress and distress at the time of the event impacts your memory, and I think time impacts your memory, so I'm interested in the delay between the event and the interview. Irrespective of how you say, "Don't talk about it," of course people talk about it, and so that must impact on your memory. (Medical examiner)*

In discussing this, one support worker referred to how research findings in this area had informed judicial awareness in some jurisdictions, saying:

*Because in Australia and England, I think, the judge's instructions in court actually go towards that and say inconsistencies in stories are expected. (Support agency)*

### 3.8 Communications around cases not progressing

The police file analysis report identified the potential difficulties involved when Police decided a case would not proceed to an offender being charged. It was noted that Police policy stated this decision needed to be communicated very carefully to victim/survivors, with a support agency person present, although we found multiple instances where this did not occur. In this study comments made by support agency workers reinforced the need for them to be present, as well as for additional measures to be taken to be considered to ensure victim/survivors were dealt with sensitively and empathically. For example, one worker referred to how victim/survivors can feel too upset to be able to listen when told at a meeting with Police that their case will not proceed:

*My experience is, now, after seeing a few of these unfold, is that often they need a second one. So, as soon as they hear that, they well up, and they sit there, and they shut down. And the officers keep talking, do their thing, to explain their process and how it doesn't mean that they don't believe them, it just means that they can't make a case, blah-blah-blah-blah-blah, and then two months later the person comes back and, "I want to ask about this, and what did they do about that? And did they pursue this? And did they ask that?" And so sometimes you need another meeting to revisit that. (Support agency)*

A note of caution was sounded over whether the auditing processes viewed so positively by some actually worked in ways that benefitted victim/survivors by facilitating case progression. These included misgivings surrounding a possible 'tick box' mentality

developing that only measured success using narrowly defined quantitative outcomes. Support agency personnel commented of the Police:

*They're very process-driven, and it's all about data. It's all about being able to measure. It's almost the opposite of what we do, which is around how we are with each other and our clients. (Support worker)*

Some support agency personnel expressed serious concerns regarding how few cases the Police were prepared to advance to trial. Only taking through the cases where a conviction was expected to result resulted in the majority not advancing, not because no offence had occurred but because the adversarial justice system works against the interests of the victim/survivor. In discussing this, one support worker added:

*There is no effective deterrent, still, for sexual violence. Like, that's one of the purposes, I think, of having a justice system, is that you create a consequence, not just for that person, but a consequence as a message to society, that society doesn't tolerate this. But with a 1% conviction rate, we tolerate sexual violence. Absolutely we do. (Support agency)*

Others emphasised the lack of available options for victim/survivors and saw a pressing need for a range of possible methods of resolution in sexual assault cases.

*At the moment with the Police there's prosecution or not very much else. I mean, with young people they can go and speak to someone and say, "There's been a complaint made. We're not going to take it any further," that kind of an option, which is often what young people want. But I think looking at alternative ways of conflict resolution is quite important, and whether that's led by the Police or somebody else is interesting but making that more widely available and recognised as a possible outcome would be good. Because often people don't want the other person to go to jail. It's about what's acceptable, and society needs to step up and say what's acceptable, too. Which, I guess, the MeToo is doing, to a certain extent. (Support agency)*

Police personnel also referenced the difficulties of achieving convictions with one arguing the need for specialist sexual violence courts and the specialist training of all parties involved. Another Police officer agreed and lamented the long delays that added to the victim/survivors' stress.

*It's harrowing for victims at court, it is. It's just not set up for victims at all. It's set up for the offenders. And that's my biggest bugbear, is the criminal justice system for adult sexual assault victim. It's so heavily stacked for the offender.... the victimisation that goes towards the victim in a court case, and the time delay is just unacceptable, in my belief anyway. (Police)*

He believed it had been a good move introducing that victim/survivors could have their Police interview played in court as evidence in chief, but this still left the rigours of cross-examination and defence lawyer tactics having to be managed. He had heard at a conference about the pre-recording of the cross-examination happening in some overseas jurisdictions:

*Prior to the court case, the defence counsel, the judge, the crown solicitor and the victim get together, and it's recorded. The cross-examination is recorded and then it's just played to the jury and that's it. So the defence lawyer doesn't get the opportunity to act up and make a theatre out of victimising the victim again in front of the jury.*  
(Police)

### 3.9 Court and trial processes

Several of those interviewed felt that the Police had made significant changes but the efficacy of these was limited by the inadequacies of current court processes. The observation was made repeatedly that after plucking up the courage to report, victim/survivors had to wait to be assigned a detective and then wait for the investigation to unfold, and if their case was one of the few to go to trial, 'They could get there two years later, and then they're revictimized.'

Their court concerns began over how few cases ever made it into the courtroom in the first place. This was difficult given how strongly many victim/survivors felt about having their day in court where they could have their story heard and see their offender held accountable. The evidential threshold needed was seen by some as too high, with Police being the ones who had to inform victim/survivors that their case would not proceed. Many support agency workers noted how victim/survivors perceived "lack of evidence" to mean their case was not deemed serious enough – "How could it not be serious enough when it's completely ruined my life?" An advocate described it this way:

*The goal for many of our survivors, is actually, "I want to go to court. I want them to know what he or she did." But Police can actually squash that quite early on. And sometimes I can understand why, but if it's not explained in a sense that the survivor has an understanding, then it's, "I hate Police, because they didn't believe me."*

*And I think in terms of when they are not going to take cases forward, that they have a really good and clear process about informing the victim about that, because I've certainly heard – I'm going to carry on talking and just put this away – I've certainly heard of cases where that's been the case, that they've just had a quick phone call, "Oh, sorry, there's not enough evidence and we're not going ahead with this." And that can be absolutely devastating for someone who's been awaiting a decision. I think sometimes it takes a while for those decisions to be made, and that would be really stressful as well. (Advocate)*



From a Police perspective, however, it is clear that they are constrained by the Solicitor-General's guidelines. One officer described their position as follows:

*If there's no chance of winning it, don't put them through it. And so, I cut them off if we can't. If I think, "Oh, that's a bit dodgy, we're not going to win it," it doesn't go through. And, you know, that's really hard to tell a victim that, but if you sit down and explain it to them, and just say, "We're looking, not just for your welfare," some of them want to just chance it and say, "I just want to be heard." We can say, "Well, that's not why we're here, for you to be heard. It's to hold someone accountable and put them through." (Police)*

This officer added that every case is different and that sometimes even a case that might seem unwinnable might succeed because of how a particular complainant comes across.

*One person can come in, make a complaint, and there's no corroborating evidence, but it's so believable and so overwhelming that you want to prosecute it. And you know that that person's going to get on the stand and get everyone believing exactly what has occurred. And it's the way they've said it, the way they've delivered it, and it doesn't mean because they're well-educated or – they can be – I had a woman that was raped by her flatmate and she had a huge history of mental health, and she had a history of making rape complaints, and it all came out, but she still won it. You know, we won it. (Police)*

A support agency worker described the particular difficulties associated with rape trials:

*It's different to any other crime. You're proving that you are a victim. And you're up there and you're asked questions as though you're the offender. It's totally different to any other criminal process. If you've been beaten up you've got black eyes and things. All you have to do is show photos.... But the sexual side of it is so difficult or can be so hidden. (Support agency)*

Frequent reference was made to the limitations of the adversarial justice system and how these were to some extent now being highlighted because of how much they contrasted with what Police had achieved.

*So, it's kind of like, for me, it's highlighted the stuff we're seeing now around misogyny in the court room.... the Police used to take the brunt of it, I think, and I think now the law, the actual legal profession is under the spotlight, and rightfully so, because I think the misogyny that's going on within that institution is leaking – it leaks into the court room and creates the misogyny we see in there as well. And that's what's being highlighted at the moment, the misogyny of the judges, the misogyny of the lawyers and all of that. That the way that we – you know, that they – survivors are cross-examined, you know, "What were you wearing? What were you drinking?" All the myths come out in the court room and that's seen to be okay. (Support agency)*

The time delay was often mentioned as problematic, with court trials occurring so long after the offence. In discussing her clients, one counsellor said:

*Something dreadful happens, and they want – they want to get back to normal really quickly.... And then the thought that you've just put it in a box and you're just dealing with things, and then 18 months later you've got to revisit it, and then appear distressed, as distressed as you were when it happened yesterday, you know, otherwise you're not believed. It's a crazy process. (Support agency)*

A support worker new to the sexual violence sector suggested New Zealand needed to introduce an option of 'not proven' to enable victim/survivors to have the court's validation even in the absence of a guilty verdict. She felt that recent overhauls demonstrated that:

*We have come a long way in terms of believing people. You believe them first and then investigate. And then all those supports along the way through that whole process. I think we've got quite a good model, but it just seems that's the last bit that hasn't been worked on. (Support agency)*

The arduous nature of trial processes and how they impacted on victim/survivors was stressed by most advocates and support agency personnel.

*It's such a big thing to start that process, to disclose and then to want to keep going and do all of that they have to do, and all the repeated storytelling is so traumatic, and then – they've given their all, to find out that it's not going to change anything for them. That they're not going to get what they want, and that is to get a result. (Support agency)*

*They're either going to get a no or they're going to have to get harassed going in front of a defence lawyer. Have another 12 untrained people hear their story, possibly not believe them. It's very, very daunting. (Support agency)*

One said she had supported two clients through a court trial, describing it as:

*Absolutely fucking horrific. It was one of the worst experiences of 30 years of social work.... I mean, it's stuff that I guess I knew, in theory, but when you see it playing out, it just feels really wrong. So, she has to tell her story. He doesn't have to tell his. He can tell his lawyer to put forward some ridiculous, revolting alternative event, and she just has to sit there and listen to that. And they present that alternative view in little bits. And so, the person has to say no, no, no, no, no. Not, "No, I didn't offer sex for \$50," but "No, I didn't take off all my clothes and dance around him. No, I didn't say – no, I didn't, no, I –" Endlessly. And they just say, "But, actually, you blah-blah-blah," and she's already said no, right, to this other event, but she has to keep saying no. And it's like, they don't question her version of events. They actually just put forward a whole other one. .... They're like, "No, you got him, you took him down there, you took off*

*your clothes, you danced naked around him ...,” that’s just gross. That’s just gross. She was really angry. (Support agency)*

A medical examiner shared the view that court would always be traumatic, with the time delay adding to the trauma:

*I still think the whole format of an adversarial system is always going to be traumatic. It’s just the nature of it, isn’t it, really?... And the time. You know, that sometimes people have moved on. They don’t want to go back and remember all that again by the time the court case comes up, and that must be very hard. (Medical examiner)*

The capacity for defence lawyers to manipulate juries through rape myths was condemned by some. Challenging myths wherever they were voiced was stressed as important.

*You know, “Drunk as a skunk, what was she expecting?” And I always come back and say, “Well, if you were drunk as a skunk, would you expect to have your wallet nicked? Well, in that case, don’t judge other people for complaining when they get things much more precious nicked.” (Medical examiner)*

While the brutal impacts were well-recognised, most could see no easy alternative. Some suggested changes to the current system, such as fixing a definite court date so their clients were not having to adjust constantly to the frequent postponements that currently happen. They noted how each time the client mentally prepared herself for the day and how gruelling the changes were, yet it seemed as if defence lawyers treated it like a ‘game’ they hoped would advantage their client.

*Defence counsel and offenders are very, very good at playing the game and just hoping that if we keep on delay, delay, delay, then she’s going to give up and walk away. (Advocate)*

Praise was given when detectives kept in regular contact with victim/survivors around shifting court dates and generally maintained reliable contact.

*Keep your word, because, you know, sexual violence is about trust and not knowing and all those things. Mistrust and so, yeah, the relationships with the Police officers are pivotal to security and feeling believed and valued and important. (Support agency)*

One advocate observed, however, that sometimes Police might fulfil their requirement to notify the victim/survivor but do it in ways that the victim/survivor found difficult to manage or understand. She said Police needed to communicate court information in ways victim/survivors could understand:

*They've got a language all of their own, so they could actually ring a survivor and say, "There's a call-over, just letting you know that." And so, a lot of our survivors think, "Oh. I've got to go to court." (Advocate)*

She was then approached by an anxious victim/survivor thinking the court case was commencing. She said it was a matter for Police training to make them aware that:

*When you ring up and say, "Well, there's a call-over," good on you for doing that, but explain what a call-over is. And that, "No, you don't need to – it's just that he's appearing, this is going to be done, that's going to be done, and hopefully we'll get a date. If not, da-da-da-da." Explain it. They're not very good at explaining. (Advocate)*

The advocate spoke also of how victim/survivors will often nod and agree with Police and appear to understand what's being said when in actual fact they are confused and fear eliciting an angry response if they cannot follow what she termed 'Police speak':

*It's that power balance, or imbalance....I've been sitting in a witness room and the OC's [Officer in Charge of the case] come in and said, "This is how it's going to happen, da-da-da-da-da," and the survivor will go [nods]. "You're clear on that?" "Yeah, yeah, yeah, got it, yeah." The OC walks out, and I'll go, "Do you understand anything he's just said?" and they go, "No, but I didn't want to look dumb." (Advocate)*

Also reinforced was the need for Police to find ways of giving victim/survivors some degree of control over the processes followed. One example given was by agreeing to a contract over how things would progress, such as asking how they liked to be contacted by Police:

*"How would you like to know when I get the court date? Do you want me to ring you? Would you like me to send you a letter, text? How would you like to know? How would you like us to communicate?" (Advocate)*

Some support workers commented on the difficulties they felt through not always being permitted to console victim/survivors when they became distressed and overwhelmed. This could begin with the L3 interview where the support worker usually had to wait outside while the Police interviewer went through the process, though sometimes the interviewer facilitated a break during which the complainant could receive support. During one focus group the support agency workers all agreed how it was even harder when their client went to court, with one saying:

*You sit in the courtroom, but you're not allowed to make any contact, eye contact or touching or anything like that. But you just sit. (Support agency)*

What this agency had recently introduced was a switch from having a different group of workers providing court support to ensuring their clients had the same support person with them through all processes.

*It's a wraparound service, and it's about the client feeling secure and not having to tell their story to multiple people, or feel like, "They don't know me." Someone coming in is not the same as somebody who's been through those previous experiences with them.*  
(Support agency)

This continuity also benefitted family and whānau members who often needed their own support, with an advocate pointing out:

*Everybody thinks it's just about the survivor, and it so isn't. I mean, it is, but if the family and whānau are well supported as well, and they have an understanding of how this process works, then that rubs off. They can actually support the survivor better than what we can, because they're there all the time. We're only there this much of the time. So, that's why, you say to the coppers, make sure that the family are well informed as well. Don't separate them.* (Advocate)

Also recognised were the ways in which the defendant's family and supporters might harass the victim/survivor and/or their family at court, with this being a greater risk when court environments necessitated all parties being in close proximity.

The issue of support persons not being able to touch or comfort complainants in court was discussed by an advocate who said she had been advised by a senior judge that there was in fact no law prohibiting this and it had simply become a common, but erroneous, belief. She recounted a court trial she had attended involving two younger complainants where the judge agreed that she could place a hand on their shoulder and find ways of reassuring them that she was there. They were able to give their evidence without needing any breaks, a practice that stood in contrast to trials where complainants became repeatedly distressed and breaks were frequent.

*We had a couple of young girls, and he gave a direction to say that if they start to get upset, just reassure them that you're there. We did that. No breaks.... We said to them, "As soon as you feel – I've noticed that you're getting a bit wound up. I'm just going to put my hand on your shoulder and that just means stop, deep breath, glass of water, get some tissues, and carry on."* (Advocate)

This advocate's view was that it was preferable to allow supporters to provide physical touch and reassurance and avoid the breaks that could often anger jury members impatient for the trial to keep going.

Support ran high for radical changes to be made to what was seen as an:

*...old system, and a system that's very patriarchal. So that's where it began, and how much in reality has it really shifted?* (Support agency)

Alternative options such as restorative justice were viewed as necessary to explore, although strong cautions were extended regarding a total switch to any other process when

it was options that victim/survivors needed most. Participants in a focus group all expressed reservations about restorative justice being viewed as the 'answer', one noting:

*I think it needs to be there. But I wouldn't like to see it just sort of rolled out wholesale and everyone does it like they have with the criminal court, where it's sort of compulsory for everything, because that will be really risky. (Support agency)*

One participant referred to her experiences of it having made her very wary, saying:

*I don't like restorative justice. The clients that I know who have engaged in that, it's been a futile exercise, and then the perpetrator has had time off for taking part in a process which just made that person feel more vulnerable again. (Support agency)*

An advocate working with survivors agreed, saying in her experience she had seen women 'pushed' into it, at times by the judiciary. It appealed because it offered a way for the victim/survivor and offender to hear each other but this was never guaranteed and could backfire unless managed expertly by those running it. This view was shared by support workers who knew their clients might appear compliant and look fine on the surface while experiencing trauma internally. As one explained it:

*It is complex, because I think that the abuse might have stopped, but there are lots of layers to that. So, physically I might be safe, but in fact if that person comes in and they're wearing the cologne they wore when they abused me, or the look they might give me, or whatever. Unless that's really worked through and explicit, then I might be in that restorative justice process and be, for all intents and purposes, looking like I'm nodding and smiling and going, "That's fine," but in fact I'm right back there. Or even the perpetrator or the person who's done the harm might be truly repentant, but actually sometimes that can also be another play. Now, hopefully those things get weeded out, but unless you've got a specialist working alongside that process and taking some time, the risk is that those things get in and you've got a process that can do harm. (Support agency)*

Another said it had the potential to produce some 'amazing outcomes' and be a 'powerful experience' but had to be managed very carefully and only when people were ready as well as willing. She cautioned:

*It's not a piece of work for young players, basically, or people that haven't got some depth in sexual violence, because it would just be one of the biggest manipulation possibilities, really. So, there's always going to be those scenarios where you've got a really potentially good process, but who enacts it? (Support agency)*

What some support workers suggested was that it would be useful if Police were more willing to 'step up in challenging the court system' given that they so regularly see the

injustices of that system. One reflected on the impact of court processes on the Police themselves, observing:

*It's such an interesting dynamic when you see them going from being the top dog of being the detective to the bum boy, having to run around for the crown prosecutor. It's a fascinating little dynamic, and just seeing them getting ripped to shreds in court and that process being horrific for everyone, and actually having their voice going, "This really is not working. We know that this was a baddy," in their language, or, "We know this person did something that was horrific, and we weren't able to put them away." Not that we think "putting them away" is necessarily the solution, but at some level this person wasn't held accountable, and we knew that they did something not okay.*  
(Support agency)

Some interviewees noted that providing victim court advisers in the courts was essential for making the current system more navigable and user-friendly. One advocate had her own experience of also being a victim/survivor whose case went to trial and spoke positively regarding the two victim court advisers she had providing support. Members of particular vulnerable groups were often identified as needing additional supports in court, with the major point made being that any victim/survivor has the potential to be a credible witness if they are provided with support appropriate to their needs. One example given by an advocate involved a young mute victim/survivor who was accommodated in the court through a combination of mechanisms (signing, an interpreter, use of CCTV) as well as emotional support for herself and her family. She said this example made her 'so proud of our court that day. They did brilliantly', illustrating that this kind of experience was possible. Specific at-risk groups are discussed later in this report.

The support needs of family and whanau were recognised by some of those with experience in the courtroom. One advocate said it was ideal if there were two support people available at court, one to support the complainant who could be inside the court and the other to support the family.

### 3.10 Inadequate resourcing

The resourcing issue was raised repeatedly during interviews. A support agency worker maintained strongly there was a lack of resourcing and prioritising of sexual violence everywhere. This impacted on Police as well as the NGO sector. She added:

*It's really hard to deliver a good service if you don't have enough people, enough time, and enough resources. I mean, I just think that's hard for anybody. It's hard for us. It's hard for them.* (Support agency)

Concern was expressed by some that the Police were under-resourced to be able to provide adequate, let alone optimal, levels of on-going victim support. For example, one advocate

spoke about the impacts of files backing up and victim/survivors not being kept informed. She explained:

*Advocate: I've got one lady at the moment who has been trying to get hold of her detective for about a month or so. When I phoned, I was told that he was away on leave. And so, I said, "Why couldn't you let the survivor know that?" And this person said, "I will." And she still hasn't heard from this person. But she did get a phone call the next day from the OC, stating that because hers is historic, they've got to actually prioritise the files - they haven't even started looking at her complaint yet, because they've got a backlog.*

*Interviewer: Right. So, how long ago would she have made the complaint?*

*Advocate: She made this complaint – it will be well over six months, nearly to a year ago.*

From her experience of supporting victim/survivors of sexual assault, she stressed what others did also, namely that at the heart of it was good on-going communication.

*If our survivors are informed and kept informed, then they're okay, and they accept that, you know, "I get it. You've got other cases," and all that's going to happen. But when they don't hear, that's when they go, "Well, they obviously don't believe me. They're not going to do anything about it," and they go down and their PTSD just skyrockets and it's hard to contain their emotions. So, they start to get angry, or they just – I worry for them. Their mental health – it's a vicious, vicious circle. All it takes is just keep them informed. (Advocate)*

Support agency workers also spoke of how resourcing issues in their areas meant multiple files remained unassigned while detectives who did have files allocated to them were being moved to homicide investigations. One spoke of her distress at 'losing' all the detectives she had built relationships with as well as being aware of how overworked those remaining were, a situation that made it impossible to prevent further trauma to already traumatised victim/survivors.

It was clear some support agency workers recognised the pressure such under-resourcing placed on the Police, such as when "you lose four detectives on to homicide teams, when you already have so many unallocated cases". This support worker referred to a detective being placed under pressure to close a file relating to an allegation made by an older, alcoholic woman when his approach of developing a relationship of trust with her was likely to reduce the number of unsubstantiated allegations she made, while she maintained his kindness to her meant she would try not to let him down by driving drunk in future. The worker clearly felt this was the style of policing that had the potential to make a real difference in individuals' lives but was unlikely to be recognised as important. She expressed her empathy for the workload Police, like them, strive to manage:



*I just thought, they've got all this pressure, too. They've got to get the next case allocated, they've got to get it investigated, they've got close it off, they've got to triage all that happened ten years ago, so it might be another five years to get to it because actually we've got to get to this one that happened yesterday. And I think it's really hard. I think they're really pushed as well. (Support worker)*

Mention was also made of how difficult it often was for support agencies to voice any criticisms of Police behaviour given the risks of overstepping boundaries and risking contractual relationships.

There was acknowledgement from Police participants also that the sexual violence sector needed greater on-going resourcing. One senior detective said the workload of files had increased "at least 50% in the last year" as people began to feel more comfortable talking about it, but there was a lack of staff to respond. What was needed was for it to come "under the spotlight" to the same extent as family violence, the implication being there was still a way to go to reach that point.

Comments from all sectors interviewed expressed concern over the lack of consistent funding for the NGO sector. One support worker with 30 years' experience said it felt to her as if every year there was a funding shortfall, accompanied far too often by fears of closure. This translated into a constant pressure to be making funding applications, conducting street appeals and engaging in other fund-raising activities, with the spectre of closure always imminent.

A Police officer also expressed concern for the lack of funding for the NGO sector, recognising the importance of their role providing counselling and support services for victim/survivors. In his view, Police and medical services were well-funded and reasonably consistent across the country, but great disparity existed between the different NGOs.

This view was reflected in a doctor's comments when she made the following suggestion:

*I think that some kind of national training of crisis support will be great. I think so, some robustness of expectations of skills and knowledge, and some understanding of the dynamics, and that requires a bit of life experience. (Medical examiner)*

While she appreciated the work of the support agencies, she also held concerns regarding the limited funding and lack of professionalism that could exist.

*We have crisis support people coming to all the acutes wherever we can, but if we have a hundred and something acutes a year and you have six or eight volunteers who change, quite often, they don't get to go to many. So how do you build your skills up, or your knowledge, or your experience? And that's because it's not a paid role and they haven't got a lot of money for them. You don't get people who can commit long-term and there are all sorts of challenges. So, that's why I think providing that role*

*with a bit more funding behind it and a bit more expectation of skills and training would be really good. And that's what, as far as I understand, all the victims or patients say they want - someone who knows what they're about supporting them.*  
(Medical examiner)

It is hoped substantive benefits to the NGO sector will result from the Government's recent budget announcement promising \$320.9 million of funding to sexual violence and family violence over the next four years (New Zealand Government, 2019). The first Joint Venture Budget, part of the Wellbeing Budget 2019, is the largest ever funding package for family violence and sexual violence. It specifies that \$50.6 million of the total is to be spent increasing access to specialist crisis support for victim/survivors of sexual violence.

### 3.11 Summary

Many concerns were expressed across all sectors regarding possible barriers to all victim/survivors receiving consistent and optimal Police services when reporting incidents of rape and sexual assault. What emerged was an impression of good, positive initiatives benefitting many but by no means all of those wanting to report sexual violence. There were concerns that the specialist selection of the most appropriate detectives to be on ASA teams was being replaced by the deployment of those who wanted either to use it to climb the promotional ladder or were seeking a day job. Fears were also expressed by some participants that even if complainants mostly received better treatment now than they may have earlier, it seldom translated into cases proceeding to court and offenders being convicted. The entry point to the justice system may hold its gates wider open now but they were slammed shut just as quickly at the other end as before, with attrition rates remaining unchanged.

## 4. Responding to at-risk groups

The Police file analysis (Jordan & Mossman, 2019) revealed that many groups at heightened risk of being sexually violated are the same groups whose cases are less likely to be judged as reaching the evidential threshold to proceed with a prosecution. It was felt important to highlight who these at-risk groups are and the challenges they face in order to provide a focus for future Police efforts in improving their responses. Hence, during the key informant interviews participants were asked whether they considered there were particular population groups in our communities who faced higher risks of sexual victimisation than others.

There were many cross-overs in their answers, with those groups identified most frequently discussed below. These were victim/survivors with one or more of the following characteristics:

- Learning disabilities
- Mental illness
- Youth
- Māori women
- Migrant women
- Sex workers
- Male and transgender victim/survivors

Other groups mentioned only occasionally included women who were homeless living on the streets or in caravan parks, or in other environments where it was difficult to keep themselves safe. These included women in a range of institutional settings, including hospitals and rest homes, where vulnerabilities ran high and risks could be posed by others housed there or working there as staff or carers. Women with drug or alcohol addictions were also identified as being at risk of rape and exploitation, and all of these women were thought to face evidential credibility hurdles should they decide to report their sexual victimisation to the Police.

### 4.1 Learning disabilities

Internationally recognition runs high regarding the heightened vulnerability of women with learning disabilities to all forms of sexual violence (Mirfin-Veitch, Gates, Diesfeld & Henaghan, 2014; Stanko, 2014). Concern has also been voiced regarding abusers viewing them as 'safe' victims, given that they are typically viewed as lacking credibility and seldom put before a court. Several key informants in the current study acknowledged their vulnerability to exploitation and abuse, with an advocate who had been involved in researching this area stating:

*Some of the studies we've done, 80% of the women have experienced sexual violence. And very few have had legal redress. (Advocate)*

Support workers from one agency said they had heard about:

*People brought over who had an intellectual disability to be the partner of a Kiwi with an intellectual disability, and you wonder around consent around that. You've been brought over with a specific purpose, which is all around sex. So, yeah. Horrible, really. (Support worker)*

These women were perceived as being at heightened risk due to a range of factors, including their openness to others, the absence of sex education, and perceptions that they were less likely to be believed – this latter factor was also linked to the incredulity of some that such women could be viewed as sexually desirable. A specialist advocate in this area cited research suggesting that stereotypes prevail that women with learning disabilities are sexually naïve and innocent while men with learning disabilities are viewed as dangerous predators. Both stereotypes can get in the way of the truth, which is more complex than that.

*People with learning disabilities, but particularly women, are the perfect victim....all of the kind of things that might heighten someone's vulnerability to sexual violence are incredibly heightened for women with learning disabilities, and I don't want to be portraying people as vulnerable, but that's an inescapable reality, really, for a lot of women – not all women. (Advocate)*

The factors that heightened vulnerability included the women's relative powerlessness, the assumption that they would not be believed, and what she termed "one of the most awful and offensive reasons" – that they were too unattractive to rape.

One dynamic she had observed was that women with learning disabilities were often sought after by men without such disabilities, but she had never seen the reverse, i.e. women without disabilities seeking to initiate sexual relationships with men who had learning disabilities. This, she suggested, may be linked to the traditional dominance of the male role in tandem with female submission, and was an area of interest for future research.

Support workers suggested Police had a responsibility to become better informed and able to provide specialised services for such victim/survivors, with one focus group including the following suggestions:

*Support worker 1: I would really like to see someone who specialises in understanding and working with persons who may have a disability, and also as we shared, the mental health, just a psychologist or someone who's able to help support and give some guidance around that. Just because someone has a mental illness doesn't preclude them from being able to make a complaint and see that through.*

Support worker 2: *Without feeling judged.*

Support worker 1: *Yeah. And there needs to be additional support within Police to help support those more at-risk vulnerable groups.*

Several spoke of the need to up-skill criminal justice practitioners in order not to prevent this group of victim/survivors from having their abusers held accountable. Otherwise the system was failing to provide everyone with the same opportunities to take their case forward. An observation made more than once was that:

*Historically the research has told us that women with learning disabilities aren't responded to and taken seriously. (Advocate)*

An advocate cited the example of a young woman who had experienced date rape and was being supported by her parents to proceed against the offender but whose case was turned down on the basis that she would not make a credible witness. This advocate had conducted her own research in this area and felt strongly that with the right specialist support those with learning disabilities can be credible witnesses. A key aspect of this support was accessing it early. In referencing the findings, she stated:

*If I was to go back to what people with learning disabilities would tell me it is about having someone involved really quickly that they recognised as someone who recognises their particular needs for support.... the concept was expressed in a whole lot of ways, but one person said, "Someone who knows us," meaning someone who knows about disability. (Advocate)*

She observed that the women she saw were often very open about what they had experienced:

*It's often talked about quite matter-of-factly, like "this happened," and an acceptance of that happening. (Advocate)*

She referred to a woman she had met recently:

*She had experienced sexual violence in childhood, then adolescence, early, and then again through into her adult life, and one of the occasions was in a work setting.... And then she had just been preyed upon, like, literally in the community, out doing her thing and someone sexually abused her, and as a child through connection – like, someone she knew. And this was part of the story of her life she was telling. And it was one of things she told me, the first time I met her. (Advocate)*

From her extensive knowledge of people with learning disabilities, she expressed serious misgivings over using child interviewers to interview women making sexual violence complaints.

*So, the worry that I have around, "Here's a person with a learning disability; let's bring in a child interviewer," is that they're not children, they are adults, and they might think differently or appear to think differently, or express themselves differently to adults that don't have an intellectual impairment, but they are adults. (Advocate)*

She was concerned that treating such women as children ran the risk of viewing them as childlike, and minimising recognition of the ways they could be competent and credible witnesses in their own right. Her view was that encouraging them to tell their story in their own way, with the right support available including a communication assistant if needed, was important to provide them with the same chances as others of seeing those who offended against them held accountable. This advocate maintained:

*So, there's two things. So, what does that person need to be able to understand, to access this process? And then the next level is – what are some of the higher-level things we might need to do around process and procedure, that you have to apply to the court for. (Advocate)*

She had seen the provision of appropriate support and assistance make a difference in court to the extent that convictions could result, even in one case where the abuser was a highly credible doctor who had groomed a mother before violating her daughter who had learning disabilities.

Considering the importance of having the right support, a key point stressed by this advocate was the need to acknowledge that only a limited number of all those with learning disabilities were currently linked to support agencies and services. Many were not, especially those with lower intellect or neuro-developmental disabilities such as autism and foetal alcohol syndrome, the implication being that:

*When we're thinking about sexual violence, for example, we can't assume that people with learning disability are going to be linked with services in a way that that's going to be their automatic gateway to support. And that's why I think the Police do need to think about that – that they can't assume that someone else is going to do that stuff. (Advocate)*

Specialist support tailored to the learning and communication difficulties experienced by different victim/survivors had the potential to increase justice outcomes in this sector. She concluded from her own experience:

*If there is a commitment to responsive practice right through the process, right through the proceedings, then there can be really good outcomes. (Advocate)*

## 4.2 Mental illness

The question of how best to support and respond to the many women presenting with mental health issues was addressed by numerous participants. The degree someone is affected by mental health concerns spans a full continuum from mild to severe. One particularly challenging arena involved mental health patients in institutional facilities whom a medical examiner identified as a distinctly at-risk population:

*They're a really vulnerable community and they're often housed with other vulnerable people and people who do things that they shouldn't be doing, and how you manage that and keep people safe is tricky. Trying to work your way through that is difficult.*

(Medical examiner)

Multiple references were made by interviewees to the difficulties faced by women with mental health issues when reporting rape. Some felt that often these women discontinued reporting processes fearing these would impact detrimentally on them. A support worker said:

*In my experience, the people with mental health issues have pulled out of the Police process. Generally, they'll want their interview, and they'll say, "To look after me, I need to stop here, but I want to have it recorded, so that if they hurt anyone the Police can call on me." So, and this is just my experience with my clients, that they have decided that it's in their interests to look after their own health by not going through what could be quite a traumatic court process.* (Support agency)

Another worker, noting how prevalent self-doubt is amongst rape victim/survivors generally, said this was exacerbated for those with mental health difficulties. A particular concern raised was when Police elected to postpone the L3 interview due to concerns over mental health status. The women often felt they were not believed to be genuine victim/survivors because of their mental illness, and some struggled to understand why Police would not permit them to undertake a L3 interview. A support worker noted their frustration when "they were blocked from doing the tier three", adding that this was usually in those with more severe forms of illness. This worker said she could see both sides of the argument and thought the Police usually tried to explain their reasoning to the woman:

*They put it quite well that they needed the clients to be in a really good place and well to be able to talk and share their story and get all the information accurately.* (Support agency)

A Police officer described from their perspective a preference for getting a patient's mental health issues stabilised before recording any sexual assault allegation.

*We've had a number of complaints come from people in mental health wards that have just been admitted, and I always say to them, "This isn't your biggest concern*

*right now. Your mental health is. You're in safe hands, and when you're well, we'll come – we'll talk again, and we'll make contact.”... I think to get it right, we address the mental health first, get them well, and then work out, is there an offence here?*  
(Police)

What was emphasised was that this was not a dismissal of their complaint but a strategy to delay taking it until they were in a clearer head-space. This detective pointed out that:

*We keep in contact with them. We don't write the file off saying just “mentally ill”, let's just get rid of it. We see it all the way through ...if they're still unwell six months, seven months later, we'll inactivate the file and hopefully they'll come back to us.*  
(Police)

Some interviewees reflected on the difficulties clients with mental health concerns generally could pose for all involved. A medical examiner identified specifically:

*Those who perhaps have got borderline personality disorder, who make a lot of complaints, and they are much more vulnerable, but equally, often the complaints cannot be validated, so how do you manage that? We've had some people that we've seen here [SAATS] 12 times. And if you see them at 2.00 in the morning and you think tomorrow we're going to find there's nothing happened, or whatever person they're saying did this isn't even in town, managing that is quite hard, and I think that's a challenge for Police, because the push now is if somebody makes a complaint you must go through this, and then investigate and find out it's not true. But they get exasperated.* (Medical examiner)

She described how quite possibly they developed borderline personality disorder in response to previous traumatic victimisation, and that the Police were better now at recognising that while this might not be a genuine recent assault requiring investigation, it may appear real for the victim/survivor. She said:

*I don't think the Police necessarily think they've made the whole thing up. They might have imagined these contacts, but they seem to recognise that that doesn't mean they're a liar. It might be a reactivation of an old thing, but it's just the resource involved in investigating this one today is high. And the cost, and they've got budgets to manage and all of that. And I think that's a bit of a challenge.* (Medical examiner)

This doctor described how, following recognition of the time-consuming nature of such repeat allegations, her area had set up an inter-disciplinary approach to manage them:

*What we've done a few times here is we've had a multidisciplinary meeting where we've got everybody that might be involved in that person's care, be it Police, health, youth, one-stop shop, school counsellor if there is one, or whatever, and tried to develop a plan with the patient and say, “Look, if you think this has happened, this is*



*what you need to do at the time, and this person will provide health care the next day.” So that we’re not getting the escalation in the same way, but we’re not losing anything, because the next day is fine, if there is evidence, but it allows everything to settle down a bit. And we’ve done that for a couple of people who have been the frequent flyers. (Medical examiner)*

She recounted an example of a psychiatric patient who gave a vivid account of being raped by several men but it was soon identified as a fabricated complaint, even though maybe she had experienced something similar in the past. The doctor praised a Policewoman who worked with the woman’s psychiatrist in an effort to ascertain what was going on for this patient and how to get her the appropriate help. She said:

*I thought, that’s really trying to get to the bottom of what’s going on and understand it for other people too. I thought that’s very good. I don’t think everybody would be able to do that. But I thought the fact she was able to and the flexibility allowed her to do that, that that was a valid role and she should be able to do that, was good. (Medical examiner)*

In a different district a support worker told the story of a woman who presented with the same rape story twice in three weeks. She was impressed with a Police officer who was aware and prepared to see beneath the surface, saying:

*He said, “It’s the only way she can get her needs met. When she says that she’s been sexually assaulted, people come, they look after her, they get things sorted.” He said, “So, what we’re going to try and do is get her more attention.” Basically I was like, “Oh my god,” you know? So they were engaging the community constable in her local area. We tried to pull together the mental health services and the supports she had in the [area] so that she wouldn’t need to get to that point where she was so at a loss and needed help, because she knows that – unconsciously or consciously - she knows that there’s a big response and she gets looked after really well. (Support agency)*

Not all support workers had such stories to share. Those from a different agency had major concerns regarding how women with mental illness were sometimes dealt with by Police, especially the more extreme disorders that were also the ones linked to high vulnerability and victimisation histories.

*Having the word ‘borderline’ in any kind of information that the Police get before they interview effectively means that it will never proceed. Because the Police hold such massive stigmatisation around the disorder.... And I mean, I sympathise with that, partially. I think probably most of us do, as well. It’s really – it’s a difficult thing to work with. (Support agency)*

What many agreed was that mental health services were in desperate need of an extensive overhaul in this country. A Police officer was adamant that this sector was significantly

under-resourced, in contrast to Police who were currently the best resourced in the sexual violence arena they had ever been.

### 4.3 Youth

Many of the support agencies noted the challenges associated with sexual assaults committed between young people. Some felt involving Police might not always be the best option in terms of encouraging the offender to take responsibility or seek help, and considered current options to be limited.

There were concerns expressed by some support agencies regarding the difficulties of getting cases progressed when alcohol was involved. One worker was personally aware of five cases that she felt were not handled seriously by Police.

*One was a father whose daughter had reported her rape and didn't feel that it had been taken seriously at all. The rape was by somebody that she knew. She'd been drinking. And the Police were "Well, we won't get anywhere with this." (Support agency)*

She said she felt Police needed to be able to give women choices regarding case progression as well as improve how they explained the reasons informing their decision-making. Victim/survivors often struggled to comprehend these and even to hear what Police were saying while they remained trauma-impacted.

When asked about any particular population groups of rape victim/survivors posing challenges, one doctor who was also aware of the co-occurrence of sexual violation and alcohol use answered:

*In the last five to ten years, or five years in particular, would be young people who are completely pissed as newts. Alcohol is a really big problem. (Medical examiner)*

She also said she noticed significant changes in sexual behaviour from when she began working in this area, with people having more frequent sexual contacts and "friends with benefits".

*Medical examiner: We're getting a lot more people who come in and you'll talk to them and say, "Okay, one of the things we need to ask you about is sexual contacts in the last ten days," or we'll also talk about their sexual health, so, "How many contacts have you had in the last three months?" "Twenty," completely different to 15 years ago.*

*Interviewer: What would you be getting then as an answer to that?*

*Medical examiner: One? Three? That kind of thing.*

She described women she'd seen as patients who had met men through Tinder and been sexual previously then decided they did not want to be next time they saw them. This was their right, she explained, but also challenging:

*They've had some consenting sex which has then turned nonconsenting. So, I think that makes patients vulnerable, because they meet all sorts of people who are not who they say they are or what they say they are, but it makes it difficult for the Police, who then have to work out whether this is going to have any legs or not and how to explain that to people why it doesn't and all that sort of thing. So, I think that's a challenge, the changing social mores. (Medical examiner)*

She spoke of the need to keep educating those interacting with young people in order to understand their language and their world better. Otherwise having a conversation with them about what had happened could be impossible, because:

*The young person won't tell you anything if they don't think you know anything about it, whereas if you ask about something, then they will talk about it and you can help a bit more. (Medical examiner)*

#### *University students and halls*

Multiple mention was made of university students as one particular group of young people who appeared at high risk of sexual violence. Some narrowed this down even further to those living in halls of residence. Workers at a specialist support agency said it felt like a 'relentless' stream of students from halls approaching them, one saying, "it's unbelievable how many". Another added in relation to such residences, "A lot of money you pay to be not safe."

A support worker from a different agency similarly commented:

*If I had a kid, I'd never send them to a hall of residence.... we've had so many people come through who have been sexually assaulted by someone else who's living in the hall. (Support agency)*

An advocate said that in terms of challenges facing Police:

*It's a big one. Yeah. I don't know how many times I've heard about halls of residence. Because I know people who have worked in halls of residence, where they obviously have disclosures brought to them all the time as well. (Advocate)*

Whilst acknowledging the limitation of the current criminal justice system and the need for more options, this support worker expressed her concern over the appropriateness of restorative justice processes in all such situations, and referred to a recent case where both students involved lived in the same hall.

*Advocate: For one particular girl that I know, she just did not want to be there. She did not want to be sitting in front of him, where it felt like they were all against her, because it was all concentrated on what can we do to keep him in the halls and keep him at uni, worrying about his future. Yeah.*

*Interviewer: Right. And do you know what happened to her?*

*Advocate: Nothing. Nothing came of it. She moved away ... She just dropped out of university and just moved.*

Support workers at another agency thought there may have been some improvement in how these situations were responded to, with one saying:

*I think they are getting better. I actually just spoke with someone the other day, and they made the complaint to the hall management and they were offered to move to another hall if they wanted to. But again, that's her leaving her group of friends and having to go to a new hall.... And again, you know, it's the whole thing around the removal of the victim and not the offender. It drives me nuts, that stuff. We see it time and time and time and time again. (Support agency)*

One support worker referred to all the peer pressure she saw being applied around, "Why are you doing this to him?"

*There's still that pressure not to ruin his life. Misogyny's rife. The Police have looked at theirs, but society unfortunately isn't looking at theirs very well. (Support agency)*

In terms of trying to understand the inflated risks of rape faced by young girls in halls, an advocate suggested that as well as the oft-cited factors of being away from home, access to alcohol etc, another reason relates to a lack of training around communication and consent issues. She commented:

*Advocate: I know from my friend who has worked in the halls that some of the boys, they just don't know that what they're doing is not okay, until they're actually told that it's not okay, because they haven't had that before coming to uni.*

*Interviewer: Right. So, did she say what sort of behaviours they're doing that they think are okay?*

*Advocate: Like stalking, creeping behaviours, or inappropriate touching, that's not okay. Like, he's had to pull a few boys aside and go, "You can't do that," and the boys are very surprised, like, "Oh, we can't?" "No, that behaviour's not okay." They don't actually fully know or understand that that's not all right.*

*Interviewer: Where do you think the boys are getting messages around what they think is okay, what's not okay?*

*Advocate: I think it's both a lack of being told, either from parents or school, and also adding to that, just if they're in a group of friends who are going through puberty or they've got all their hormones rushing around everywhere and they've got idols that they look up to, be they music, media, who treat women a certain way, and then they think that that's okay, it's being enabled to continue, and so they're just reflecting that in their own lives.*

Comments were made also regarding how male predatory behaviour can be enhanced when men within the university environment socialise in 'packs', encouraging and showing off to each other, 'trying to be the man'. This woman described how:

*Advocate: In terms of catcalling, a male won't do it on his own. He'll only do it when he's around his friends.*

*Interviewer: How common is it now?*

*Advocate: It's quite common. Like, you can be fully clothed in like a potato sack and it doesn't matter, you're still going to get something.*

#### 4.4 Māori women

The high numbers of Māori women experiencing sexual violence were referred to by several agencies. There was recognition of how these women often faced additional pressures around reporting and concern over how frequently they might disengage from Police processes. Agencies with Māori support workers still referred to the difficulties of retention, with one support worker from a national organisation observing of Māori victim/survivors:

*Definitely what I saw, potentially they might go through to a Level 3 and then drop out. Disengage with the process a lot quicker, and with support a lot quicker. (Support agency)*

She added that the ambivalence was particularly manifest in certain contexts:

*With some of the cases it was, in particular when it was a whānau member involved, foreseeing the massive ruptures that it would create and not wanting to go there. So, I think the impact it has on the whānau relationships just feels too much to go through with it. (Support agency)*

Support workers elsewhere felt Māori wahine were poorly served by current services.

*Particularly there is no Māori pathway.... There is no specialist service, not even in terms of reporting.... [We have] an underrepresentation of Māori women coming into to our services.... How do we actually encourage our Māori to report these crimes*

*against them, and what system there is, in terms of protecting whānau.* (Support agency)

Participants said difficulties in accessing appropriate services were sometimes compounded by the high numbers of Māori women living in rural areas and communities. The particular issues facing Māori women as victim/survivors need to be researched separately using a kaupapa Māori approach, and similarly for Pasefika women.

#### 4.5 Migrant women

The vulnerability of migrant and refugee women was referred to by several support agencies. One worker recounted in a focus group:

*We've had a few clients that have had immigration issues, and sexual violence has been a big part of the picture. We've helped them extricate themselves from that and also helped with the situation, but often it's related with family violence as well.* (Support agency)

Discussion regarding how these women were positioned included reference to their low status within their own cultures, and the relative lack of human rights they had. Rape myths and views around sexual entitlement were typically far more prevalent in men's appraisals of them:

*If women are out, then they must be asking for it, because good girls stay home, so, "I can do what I want." And also, within marriage, "We're married so I'll do what I want." And we see quite a bit of that coming through.* (Support agency)

Another support worker added:

*And also, if you're procuring a bride or a female from another country, you have paid for that lady, therefore there's expectations.* (Support agency)

A different support agency discussed how many migrant women struggle to end their relationships and dependency on men even when the latter are abusing them. They provided the example of a European woman with no English who was befriended by a man of a different nationality who also had no English. The pair communicated, and argued, through Google Translator. She would repeatedly phone for help and be removed to a safe space then return to him. Even though these support workers well understood the dynamics, they described how frustrating this can sometimes feel and why it was useful to discuss this in their professional supervision sessions:

*The natural human response is to go, "Fuck! I haven't got time to do my job and you're doing this again," you know. To be fed up with it, that's a natural kind of response. And so, you can see why Police get frustrated with that, and do they have the space*

*and resource to process that and be able to hold that? They're just humans. (Support agency)*

As well as inconsistent behaviour from many women, the sexual violence support agencies said another difficulty was that agencies supporting migrant women were sometimes inconsistent in their willingness to work in partnership to address these issues.

#### 4.6 Sex workers

Sex workers have often been recognised as an at-risk group for targeting by abusive men, even though the majority of clients will engage respectfully with them. One agency referred to having seen and supported about five sex workers recently, most of whom were not keen on taking a case through to prosecution but did want the details recorded. One specialist worker supported a sex worker through the L3 interview and was impressed by her clarity:

*She was like, "Well, it was definitely rape because this is what happened, and I always tell people at the beginning of a session that these are the rules." And really, like, she's health and safety master class. And so, she was very clear. (Support agency)*

The support worker recounted that the offender was arrested on other charges and when they took his DNA, there was a hit from her medical.

*It was the only CSI moment in my life because generally, it's not like CSI, you don't put it through the system and get a hit. In this case, they did. (Support agency)*

The Police searched for the sex worker:

*They couldn't locate her for ages and then she popped up in the system because she was in Arohata [prison]. So, we did [the L3 interview] out there, and the Police are like, "Well, it's really important that we follow through on this, because, you know, without the stress of what happened you probably wouldn't even be here, would you?" So, coming from that place of understanding how trauma and stress plays out and influences people's actions. (Police)*

This example indicates positive attitudinal change in some officers combined with increased awareness of how trauma consequences may be linked to subsequent offending and/or victimisation.

In one Wellington area a series of nasty attacks on sex workers prompted a positive period of consultation between Police, the New Zealand Prostitutes' Collective and specialist sexual assault agencies that culminated in the production of a booklet addressing safety initiatives for sex workers and outlining reporting practices (New Zealand Prostitutes' Collective & New Zealand Police, 2018). The aim is to distribute this booklet widely to all sex workers to emphasise the relationship of trust that is being established with Police, and the supportive responses they can expect to encounter when reporting any sexual assault or rape.

Encouraging greater reporting could be useful for Police, with one support worker observing:

*Sex workers could also feed information about clients, even if they weren't making a complaint, so that the Police are finding people who are regularly abusive. Because they're going to be abusive to other women in their lives as well. (Support agency)*

#### 4.7 Male and transgender victim/survivors

While numerically male victim/survivors of sexual assault number far fewer than female victim/survivors, in recent years greater recognition has been given to why this group may report sexual assaults at even lower levels than women. Male sexual assault victim/survivors were referred to by only a few participants. However, a medical examiner identified them as a concerning and challenging group whom some Police may struggle to engage with.

*In terms of males disclosing. I think that's really hard, and perhaps just something about males going to the Police station and it being extremely likely you're going to be seen and talked to by a male, and I think that's really, really hard. (Medical examiner)*

This was something she believed needed to be emphasised in Police training in order to improve the chances of male victim/survivors being responded to with empathy and understanding.

*I've often said, when I've done the training, look, I would really like you to put yourself in that person's shoes. If they come and say this to you, that is extraordinarily brave, no matter who it is, but probably even harder, male-male conversation to have, and you need to really respect that. (Medical examiner)*

Participants in only one focus group referred to the elevated risks of sexual assault they saw within the transgender community. They identified this group as high risk and referred to a client who had experienced multiple instances of stalking and sexual harassment. When I asked if there was a specialist liaison person within Police for the transgender community, one support worker said this would be great to have while another observed that they seldom heard of Police discrimination against this group.

#### 4.8 Summary

This research identified a range of diverse groups within our communities who were perceived as experiencing enhanced risks of sexual violence victimisation. Those whose work roles involved significant contact with members of these groups observed the ways they were often doubly discriminated against. Firstly, they faced increased risks of being sexually violated. Secondly, if they reported it, some also faced inflated risks that they, and their allegations, may not be viewed as sufficiently credible to proceed to prosecution.



Their vulnerable status thus effectively became a barrier to their credibility, and translated into real barriers to achieving justice. Such individuals posed particular challenges for Police in requiring levels of support appropriate to their needs in order to be interviewed effectively and supported as witnesses. This suggests the importance of enhanced Police training and understanding to ensure the right kinds of support can be provided to reduce possible victim/survivor withdrawals and increase the chances of victim/survivors being credible witnesses.

## 5. Current and future challenges

All interviewees and focus group participants were asked to identify any issues they considered likely to be challenging for Police in the future. Apart from topics already covered, those that recurred across all sectors included:

- Consent issues
- Overlaps with family violence
- Internet and social media
- Pornography
- Prevention issues
- Impact of #MeToo

While some of these topics are broad in scope and may appear to lie outside the orbit of Police control, they are all part of the socio-cultural environment affecting how and why sexual violence occurs. The awareness and understanding of these issues and the dynamics involved provide a contextual framework to assist Police in determining best practice responses to all forms of sexual violence.

### 5.1 Consent issues

Issues around consent lie at the heart of rape allegations and investigations, and were referenced by many key informants as an area of on-going challenge and complexity.

One controversial aspect identified by some of those interviewed involved girls under 16, the age of consent, having sex with older men. Those who commented seemed to agree that if he was more than 10 years older than she was then, even if she said she consented, he should be charged with having sex with a minor. However, it became much less clear-cut the closer in age the two parties were if both said they were consenting. A support agency focus group drew attention to the complexities of which part of the justice system should be adjudicating any such cases that proceeded that far. They noted:

*Support worker 1: If the person is underage and they're both underage, there's something about: how do you prosecute? I think it just kind of freaks the adult sexual assault team out, because it is a bit of a grey area, and we talked about that in the last child-centred practice meeting, that it should potentially sit with the child protection team, but sometimes they come to the adult sexual assault team, and that's why I think it gets a bit murky.*

*Support worker 2: I agree. Sometimes there's been times when – because philosophically in the sector I think there's a few of us that have different positions about it, that if a person's under the age of 16, absolutely goes to the children's process. But some say that if they have been sexually active for a period of time they're*

*effectively living as an adult in the world, then it should be dealt with in the adult team. So, I think that, you know –*

Support worker 1: *It's very tricky.*

A medical examiner said, based on her professional experience, she identified two main scenarios where sexual assaults occurred, both raising consent issues. One involved high levels of alcohol or drugs being used to facilitate assaults between new acquaintances, where if the victim/survivor contacted Police:

*There's really no recall, but they've woken up and they might just say to the Police, "I just felt like someone had had sex with me," or, "I woke up and my pants were on back to front," or, "I didn't have my pants on," or, "I feel sore," or whatever it is. (Medical examiner)*

The second kind of scenario often encountered involved what was described as:

*The real grey area where it might be someone they've hooked up with before several times, and the victim has instigated the contact this time and gone around, and then actually something has happened that hasn't been consensual. (Medical examiner)*

She spoke of her efforts over the years to play an educative role with Police to help them accept the likely veracity of such scenarios and said she was heartened that more Police seemed to understand and accept such accounts now, and had expanded their awareness of the impacts of trauma overall on victim/survivors' responses and recall.

This view was reinforced by a medical examiner from a different area who said she had observed a shift in Police awareness:

*I have seen, really noticed a change in their understanding of consent. So, what used to be brought in to us – and we still get these cases, too, where it's a really clear "sexual assault," but the greyer areas, where it might be an existing partner that they've already had sex with consensually, or they might have had sex with this person in the same night, consensually, but then something happens, and the next part of that is not consensual. Or they don't remember a thing about what happened, and they'd had a lot to drink, and they wake up feeling like someone's had sex with them, but there's nothing more than that to go on. Those cases now, they are treating really seriously. They are bringing them all to us, and they're saying, "This is a suspected sexual assault." (Medical examiner)*

Alcohol often complicates the issue of consent, with judgments still common in some quarters that drunk women "ask to be raped." Some of those interviewed across all sectors felt that an increasing number of Police were more likely to understand the impact of alcohol and how it can affect a victim/survivor's ability or otherwise to give consent, as well as how her drunken compliance might be misinterpreted as consent. Difficulties could still

be encountered stipulating that meaningful consent was impossible if a woman was highly intoxicated, unconscious or asleep – as one participant said:

*To say yes, you've got to be compos mentis. (Support agency)*

In a focus group of specialist support workers several recounted recent clients presenting with consent issues that could have been challenging for Police. One said:

*I've had cases where a woman's even paid – bought condoms. Like, gone with him and he's directed all the happenings and she's just in a fog of alcohol, essentially. And saying, "I don't know if I want this. I don't want this. What am I doing?" Just paralyzed, really, in terms of having no agency of their own to change the course of events. (Support agency)*

Another described a recent rape client she had supported:

*One that I've just had, the guy brought her to his house and told her that he was taking her home, so she got into the car thinking that she was going home. Got out, realised it wasn't her home, and he was like, "Oh, no, just come inside, because we're going to get – I'm going to help you." And, yeah – so, she was so drunk that she wasn't paying attention to where they were driving, because he said he was going to take her home. (Support agency)*

Such cases highlight the complexities involved when the impacts of alcohol or drugs prevent women from being able to comprehend enough to act in their own interests and leave them at risk of rape by a man who will later suggest they 'wanted it'.

Reflecting on the increased awareness in some quarters of the population post #MeToo about consent, a doctor described a recent conversation where she wondered if there had also been a shift in the victim/survivors' awareness and understanding of consent:

*Because people are going, "I don't remember anything. One, was I drugged, and if I was too wasted, then people can't have sex with me because I can't give consent," and there's that knowledge that that's not okay. So, we wondered whether that was increasing people's sense that they can report, and they will be taken seriously. Whereas when I used to do that I would have just gone, "I shouldn't have got pissed. It's my fault." That different – there's a change in that. (Medical examiner)*

Police were praised for those times when they delivered a stern message to the alleged offender:

*When they meet with them, some say, "Well, you might believe that she gave consent, but she didn't. So, you need to look for something different next time, and you're on record now." (Support agency)*

There was support for the need to shift the onus of proving consent to the alleged offender, so that instead of the focus being on how she showed herself unwilling, he was required to explain:

Support agency: *“So, what was it that made you think she was consenting?” And it wasn’t because something happened three weeks last Thursday and that was okay and now it’s not. I think you’ve seen that British police video on tea, giving someone a cup of tea? [See: <https://www.youtube.com/watch?v=pZwvrXVavnQ>]*

Interviewer: *Oh, yes. Yeah.*

Support agency: *That explains it beautifully.*

Interviewer: *It’s a very good one, that.*

Support agency: *Yeah. Once you watch that, you’re like, “How would anybody ever go wrong on the whole consent issue?”*

A medical examiner who also liked this video recommended changes to make it more engaging for young people:

*I tell you what I would like to see is, you know the cup of tea and consent thing? I would love to see a youth one of those done, because young people don’t have cups of tea. So, I always talk to them and say, “Imagine this is a pie. Someone’s giving you a pie,” or something like that. I’d love to see something more targeted towards youth, in that same frame, with exactly the same issues being discussed. That would be good.*  
(Medical examiner)

Another medical examiner spoke of her efforts to never presume anything on the basis of gender, but did see differences. She said:

*I try not to be gendered, but I haven’t seen any men come forward to me and say, “I woke up in bed with a girl. I don’t know if I had sex or not. Did she assault me?” Whereas I see lots of women come forward and say, “I woke up with a man, and did I give consent?” And that –I don’t know whether that’s about gender or not, or about barriers to reporting.* (Medical examiner)

Criticisms were frequently made regarding the current consent emphasis that was seen as favouring the offender’s perspective. One support worker expressed her anger about this when recounting how the accused defended their actions. She was particularly dismissive of men who tried to put the blame back on the victim/survivor:

*Oh, you were drunk at a party and they were giving you signals. Whatever rubbish that is.... And it goes back to, “Are you an adult with a brain, or are you just stupid? Which are you? You can’t have it every which way.” I definitely think we need to change that consent thing in court.* (Support agency)

Some specialist support workers described the confusion in their clients when the offender blatantly denied any wrong-doing, and how they found themselves explaining why to help counter the self-blame:

*And women will say to me, like, why do they say they didn't do it? There's all that self-doubt. Maybe I did let them think that – maybe I did something that made them think it was okay, blah, blah, blah. And I'm like, "Well, no. People say they're not guilty because they think they can get away with it, because they have the wrong ideas about consent and entitlement and all that stuff, and they maybe think it was okay when it's not. And because they don't want a rape conviction. Simple as that. Who wants that?" (Support agency)*

The difficulties associated with our current consent laws, combined with problematic views regarding what constitutes consent, meant that this was identified as an issue of immediate challenge for Police.

## 5.2 Family violence

Many comments were made regarding family violence and the similarities and differences with sexual violence. The distinction made between family and sexual violence was described as too rigid in comparison to the actual behaviours, given that the majority of those victimised by what we traditionally refer to as family violence, now family harm, will also be victim/survivors of sexual violence by the same perpetrator. This is confirmed by research findings both internationally and within New Zealand (Fanslow & Robinson, 2004; Hamby, 2014). A small focus group conducted with women from an organisation specialising in family violence support and interventions began with one commenting:

*I would argue quite strongly that there wouldn't be a woman that walked through our door anywhere in the country that hadn't experienced sexual violence as a part of their DV. It goes together, chalk and cheese, if somebody is going to abuse their partner in any other way, I very much doubt that sexual abuse wouldn't be a part of it. (Support agency)*

A forensic medical examiner recalled hearing a visiting speaker point out once that if an offender was going to be controlling and violent throughout the house, how plausible was it to believe that stopped at the bedroom? It was observed by interviewees across all sectors that sexual violence remained often a hidden component of family violence, with victim/survivors typically finding it easier to report physical assaults than sexual assaults. Sometimes this was seen as linked to the circumstances within which victim/survivors reported the violence. As a Police detective noted about the silence surrounding the sexual violence component,

*It's the hardest for the victim to talk about.... You're in a family home and you're taking a complaint right there and you've got all the rest of the family hanging around, they're not going to tell you. (Police)*

One Police investigator noted that even within reports of sexual violence, victim/survivors sometimes refrained from disclosing some aspects.

*I remember Bruce Howse, I think his name was, the guy that raped a whole lot of women in Wellington and – so, some of them didn't disclose the whole sexual assaults because they were embarrassed, so, they had been raped, but they'd also been forced to do oral violation and they never disclosed it. (Police)*

Incidents of strangulation were recognised now as a significant issue, with these sometimes linked explicitly to sexual behaviour. One doctor said she found it sad that many women did not want their own GPs informed about this aspect of the violence they had experienced, and considered this may be because of the high levels of shame they felt about it.

Those interviewed from an organisation with an explicit family violence focus said similarly:

*Support worker 1: We have women that come through our service who talk about quite serious sexual violence, and don't identify it as sexual violence. They simply don't.*

*Support worker 2: It's just part of being a woman, in their eyes.*

*Support worker 1: And part of being in that relationship.*

It helps in understanding why under-reporting is common when so few recognise their experiences as constituting sexual violence:

*I would say there's a lot of minimisation with the clients that I see, that will say, "No, no, no," and then when you dig a bit deeper there will definitely be some things that are sexually abusive and coercion and that sort of stuff, but they'll be, "No, I've never been sexually abused or sexually assaulted," in the context of the relationship. (Support agency)*

There was recognition from support agencies of how greater Police awareness of sexual violence was translating into increased reporting of such incidents by victim/survivors. This was viewed both positively and cautiously, the caution being that sometimes the sexual violence component could then dominate the investigation. Accordingly, one specialist sexual violence support worker said she was not always in favour of Police being too intrusive in their investigations with family harm victims as to whether they had experienced sexual assaults within the relationship. She said:

*If you look at the kind of natural disclosure pattern for women who have been beaten by their partners, usually naturally, if they're not poked and prodded, they disclose the sexual violence quite a way down the track. And that's when they've got the capacity*

*to kind of deal with that, because actually their lives are at stake, so they have to deal with that first. (Support agency)*

Their delays in talking about it could be understood in terms of safety issues and priorities, as well as linked to the shame and reticence that often characterises sexual violence reporting. Workers from one agency with extensive experience of both forms noted that in their experience the kind of sexual violence that occurred within the context of a violent relationship was often of a particularly sadistic nature and involved behaviours that the women found particularly difficult and shameful to disclose.

*So, I say leave her to disclose. Because survivors tend to disclose when it's safe to do so. So, they've checked, or they've tested the environment. Is it safe? Will this person be able to hold this? (Support agency)*

This approach was reinforced in the reflections of one forensic medical examiner who queried if it was always in the victim/survivor's best interests to be questioned too quickly about any sexually violent component within their relationship. She said she was prompted, from a health perspective, to ask:

*Why are we doing that? Are we doing it for us, to label it, or are we doing it for a person, to make them feel even worse?... We have to be careful not to do it because we need to be ticking boxes. (Medical examiner)*

Others observed that Police recognition of the frequency of partner rape was not always seen as matching the high reality of this phenomenon, with one support agency focus group expressing concern about this.

*I actually found that Police needed guys to be obviously arseholes before they would believe any kind of, or even pursue any kind of accusation of rape by their partner. They actually needed to see all of the other ways that they'd behaved badly in order to buy into that story at all. (Support agency)*

What they observed was a double standard in relation to what Police might expect from women assaulted within IPV contexts:

*They would sit there at the pre-L3 meeting, you know, as being victim-centric, where they allow victims to explore whether or not they wanted to proceed, and say things like, "But we need to know exactly how you resisted. Can you tell us what you said, the evidence that you resisted, because otherwise we can't proceed with it," which is not something that they did when it was a 22-year-old at a party, for instance. It was very specific to relationships. (Support agency)*

Doctors referred to the links between physical and sexual violence while also drawing attention to the differences. One expressed it this way:



*There is a lot of sexual violence within family violence. But often the patient that we see in that context, the intimate partner violence where they're presenting with a physical assault and they may have a history of sexual violence, the patients themselves will often not describe that as sexual violence. They won't recognise it. It's almost suppressed, if you like, and it's all to do with very complex things, I think, but it's to do with what they've presented with, a black eye or whatever it is. That's the thing that's taking precedence and they don't want to go to the sexual violence side of things at that time.*

*People who have been sexually assaulted, often that is the prime thing that they're coming forward with and that is the thing they're wanting help with.... Some of them have experienced intimate partner violence as well, but many of them haven't.*

(Medical examiner)

She emphasised the lack of recognition that still exists regarding sexual violence being a significant aspect within most violent relationships, and said victim/survivors themselves will often minimise or fail to define what's happened to them as being sexually harmful. She explained how:

*They don't recognise that coerced sex is a form of sexual assault, or "make-up sex" is a form of sexual assault, or wanting their partner to wear a condom and they won't is a form of sexual assault, or their partner exposing them to sexually transmitted infection by having other partners, is a form of sexual assault. (Medical examiner)*

There was diversion in the views expressed regarding whether the different agencies supporting and counselling women victimised by different forms of violence should remain distinct in relation to family and sexual violence or become more integrated. Those from support agencies providing extensive family violence services felt aggrieved at times that they could be involved with a woman who had made allegations of assault but once any sexual assault was disclosed, she was immediately transferred to a specialist sexual violence agency. This would translate into their advocates being excluded, for example, from supporting a victim/survivor through the L3 interview since their agency was not part of the tripartite contract between Police, SAATS (Sexual Assault Assessment and Treatment Service), and TOAH-NNEST (Te Ohaakii a Hine – National Network Ending Sexual Violence Together). It could mean that some victim/survivors had to have a support person they had never met sitting in on their interview while the advocate they knew was required to remain outside. They felt this action disrupted the trust relationship a woman had been building with their advocate, and ignored the IPV context within which she had been assaulted. They queried that the on-going relationship their agency had with this woman was cast aside and that the "sexual violence, that rape, was prioritised over all the other violence that she'd experienced." In their view, the rape perpetrated by her partner should be viewed as

“symptomatic of IPV, not of sexual violence generally”, but not allowed to be responded to as such.

An example was given where the family violence workers felt the rigidity of definitions could work against a victim/survivor’s best interests.

*In this incident this couple had been at a friend’s place. Things had got a little bit out of hand. He’d given her a smack and she’d gone outside to get some air. Had been about to come back inside. Her partner had bailed her up in the doorway, pushed her into the laundry, and raped her across the washing machine. It was a pretty horrible sort of a story. But it was clear that the initial officer had identified it, the identifying officer had identified it as domestic violence, and it clearly was. This was occurring in the context of her relationship and he was punishing her for her behaviour, using sex to do that. When we tried to hook up with her, or said in the meeting that we would, we were told that actually no, that that referral had been made to the sexual assault service, and our services were not required. (Support agency)*

Some support workers in specialist sexual violence agencies identified potential dangers in equating these areas too strongly and believed the distinction needed to be maintained. As one explained:

*I don’t think Refuge can do the sexual violence thing. The two things are very, very different. Fundamentally one of the things I say about the difference is: DV, you’re keeping the person alive from the offender. Sexual violence, we’re keeping the person alive from themselves. Those are fundamentally the core psychological differences of what you’re doing in that work, and so they don’t blend easily. It would be nice if we worked more closely together, but I don’t think we can do DV and I don’t think they can do SV, because you’re doing fundamentally different things. (Support agency)*

A medical examiner reflected also on how those working in family violence may be highly skilled to provide support in many areas but were unlikely to have acquired sufficient knowledge of sexual violence. As she saw it:

*Someone who’s working in a crisis support role for one of the refuges may have a lot of experience and understanding of emotional abuse, physical abuse, leaving safely, all of those things, but not necessarily much knowledge of the sexual violence, because it hasn’t been a prominent part of family violence knowledge and education, because it’s minimised by everybody, in a way. (Medical examiner)*

Others interviewed from specialist sexual violence agencies also focused on the different perspectives adopted by family violence organisations compared with sexual violence agencies. The major factor identified within the sexual violence sector was the trauma-informed approach that maintained a strong client-centred focus throughout. One support worker described how she felt the physical safety emphasis of women’s refuge-type

agencies could co-exist alongside the trauma focus dominating the sexual violence sector. She said:

*You can be safety-driven while making sure that the person hasn't disassociated and you bring them down and go, "Okay, where did you go? Let's start that again."*

(Support agency)

While multiple comments across the sectors drew attention to the sexual violence component of much family violence, also emphasised was the importance of not viewing all sexual violence as a feature of intimate partner violence. As one Police officer stressed, sexual violence occurs in multiple contexts and within the confines of a varied range of relationships including those that are collegial, professional, dating, friendship, as well as some that are stranger-perpetrated, and all forms need to be acknowledged.

The view was expressed that a conversation between the sexual and family violence sectors could be potentially useful, but one agency said they considered this unlikely to eventuate while both sectors were so inadequately resourced, a situation that could foster competition and patch protection. Reference was made to Scandinavian countries moving to end the distinctions in favour of a response centred around a 'violence against women' focus, or shifting towards recognition of all 'gender-based violence'.

A support worker told me NZP had recently adopted a new way of dealing with family violence. She said:

*Support worker: They don't talk about family violence, they talk about family harm, and sexual violence has also been diluted down to sexual harm.*

*Interviewer: What do you think of that?*

*Support worker: To be honest, it just really pisses me off. I think that both those terms are neutralising what's going on and they're really not taking into account the seriousness of incidents.*

This may be an issue to monitor as usage of the new terms increases, and adds to the challenges for NZP of determining how best to respond and make referrals to different agencies given the diverse yet overlapping contexts within which sexual violence occurs.

### 5.3 The internet and social media

There was at least brief discussion in almost all interviews and focus groups about the challenges posed today by the internet and social media, reinforcing the growing international attention being given to this arena (Henry & Powell, 2015; Powell & Henry, 2018). High levels of concern were expressed at times regarding how dating practices had changed and the extent to which these placed women at greater levels of risk. Said support workers:

Support worker 1: *People are quite trusting, you know, when it comes to the internet. You have a conversation and you feel like you know the person all of a sudden and you go meet them.*

Support worker 2: *Yeah. I think as well, it starts to cross that boundary, because, "I've agreed to meet with you, so have I agreed to consent to something that I wasn't quite expecting to happen?"*

Some talked specifically about the risks of using dating sites like Tinder to meet up with people, which was often seen as potentially dangerous:

*From my perspective, in the past, in the good old days, I should say, before social media was there, if you wanted to meet someone you went and met them face to face in a social setting, somebody else might know them or have some knowledge of them. So there was some security in that, whereas now people look to find somebody on the internet, which means you haven't got any of those other clues or cues, which makes you vulnerable. (Medical examiner)*

While most agreed, the view was also expressed that maybe this was no more dangerous than previous dating scenarios:

*We are talking a different world. Young people these days meet via Instagram. Strangers. I have no idea how you do it, but I know they do.... It can put you at great risk of meeting [dangerous] people, but I don't know if it's any greater than it was meeting them in a pub or anywhere else. If they're going to drug you and do that, they could do that anywhere. (Support agency)*

A few participants queried the practice of sending nude selfies, with one commenting:

*I think that just social media per se means that people are sending off pictures of themselves naked and it's kind of normalised that there's a whole lot of exposure of yourself, which I think increases the risk of people being groomed online. So, that whole online world is a little bit of a challenge. (Support agency)*

Some also queried the consented sending of images vs the unconsented sending and the potential this had to be a major issue.

Several commentators reflected on the shifts that saw many young people participating in a hook-up culture and having multiple sexual partners. In discussing hook-up culture and 'body counts' (the number of people an individual has had sex with), a support worker reflected:

*You wonder about how the internet impacts on that, and social media and the Kardashians and the access to porn, how that's changing young people's views and their expectation about what they can have in life and what they do, and I don't know.*

*I mean, we had Woodstock in the 60s. Maybe it's just like an everlasting Woodstock.*  
(Support agency)

Others talked about how the problems arising when Tinder dates went wrong had prompted positive moves by some bars:

*One of the things I got told last year, some bars in Auckland got together because they were seeing – what they were seeing was a lot of, mainly women, meeting Tinder dates, and then not connecting and feeling really uncomfortable, and not feeling that they were able to get away. And so, they started – they did a really good media campaign putting signs up in the toilets saying, you know, just talk to one of our bar staff and they'll organise a taxi for you or make sure you get out safely.* (Support agency)

The assumption that Tinder and online dating were a young person's domain was challenged by several participants who knew of older couples using it. A doctor gave one example:

*I had a woman who – she was widowed, and sometime after her husband had died she thought she would go on a site which was for people, older women and men who were widowed, and she had a conversation with someone, said she wasn't interested in sex, she just wanted company to go to the movies, go out for a meal, and that's what happened, and then he sexually assaulted her when she got home, and she was deeply ashamed, embarrassed, traumatised by the whole thing of the abuse of trust that she thought she had with this, and that is just the tip of the iceberg. I think lots of people never get to us, never go to the Police, and she did, but I don't think she wanted to go through with it. She had daughters who were in their thirties, and she was too embarrassed to even let them know what had happened.* (Medical examiner)

Social media and dating apps could be used to establish initial contact but also to prolong it post-rape or sexual assault. Several support workers spoke of men using cell-phones and social media to harass or intimidate women who had made a rape complaint.

*A lot of it is pressure, in terms of just getting them to drop the charges or change their mind or not to go through with the process, but – yeah. A lot of the clients that I see are getting text messages and that kind of thing. I just talk to them about going back to the investigating officer and just letting them know that this person has been trying to contact them or is messaging them, and let them deal with it, because if they've already made their complaint then that's also things that will go towards their case.*  
(Support agency)

The proliferation of the internet has created new options for establishing connection and the arena of technology-facilitated sexual violence is fast becoming an area of international policing concern (Henry & Powell, 2015; Powell & Henry, 2018).

## 5.4 Pornography

The contemporary availability and nature of pornography was raised as a concern by many participants, whose views often echoed international research findings documenting significant increases in the levels of sexual aggression and violence directed at women (DeKeseredy & Hall-Sanchez, 2017; Bridges, Wosnitzer, Scharrer, Sun, & Liberman, 2010).

Those interviewed varied as to the extent to they had encountered, or at least had been made aware of, pornography as being an issue. One support agency said:

*It's only something we've come across a couple of times. It's not a big feature of the work that we do. I think, in saying that, the youth may be experiencing some of that damage around social media, particularly the release of harmful images, but that, because we work with 18 and over, we're not often seeing those sorts of incidents. (Support worker)*

Others, however, said they were aware of pornography's influence in a range of different ways but particularly concerned about the impact on youth:

*So, there's viewing, which we know an average first exposure to porn is 11 in New Zealand, I think nine in Australia, so very young. And just kind of that it's ordinary that you'd be seeing porn, and then what the messages are in porn, and then being photographed to be used in pornographic sites. (Support agency)*

The ease with which children and young people could access and/or be exposed to pornographic material was commented on by many.

*The children are in a world that the adults aren't in, to be honest.... They're operating in a world that's got a lot of sexual content very readily at hand. (Support agency)*

*Things generally are sexualised.... not only on pornography, but just stuff is more sexualised. So, pictures and adverts, music videos and other bits and pieces. So, I think kids become sexual beings, or things become sexualised. (Support agency)*

One support agency worker provided an example from her experience:

*The youngest child I've seen is five, and his parents were really worried about his behaviour at school, and then they found out that he – somehow he was exposed to adult pornography and had become basically addicted to it, and was five. So, it's a huge, huge problem. (Support agency)*

Another recounted a conversation between one of the agency's therapists and a nine-year-old who asked her, "You mean, all the kids don't know about Pornhub?"

Also mentioned as a concern to some was the growing prevalence of anal rape and the injuries sometimes accompanying it. One crisis worker noted a distinct trend in this offence

among young women, and others spoke of how they saw pornographic images of anal sex being used to promote it: “Well, they all like it, why don’t you?” *kind of thing*. She added:

*I remember the educators in Auckland – you’ve probably heard this before, saying that the most common question in the secret question box was, “Do we have to do anal?” And so, it’s like the norming of what is sex that we all have to do. (Support agency)*

Other behaviours of concern cited were the violence and sexual aggression infusing much contemporary pornography. The normalising term, ‘rough sex’, was rejected by some:

*When you look at what is actually going on, it is far from rough sex. It is non-consensual, harmful, rape is what it is. And, you know, our young women, and our young men, are being taught – many young boys are thinking, this is what girls like, this is what you do, this is how you do it. Do you know what I mean? (Support agency)*

While a spectrum of views emerged regarding the extent to which pornography caused rape, many recognised its influence throughout the culture within which both victims and offenders were raised. One support agency worker was clear when she stated that pornography was:

*Making rapists out of young men. And victims out of our young women, and they don’t know any different, and so they don’t even equate it as being rape any more, and so we – by the time we see them, they’re in a really bad way. (Support agency)*

Others in this focus group agreed and were worried about how to stem its influence, with one describing pornography as:

*It’s a blight on the landscape, and it’s like pushing an uphill battle with our young people coming through. It’s like the new rape. (Support agency)*

Criticism was levelled at the inadequacies of much current sex education and the few opportunities schools provided for students to be taught how to critically appraise what they were viewing in pornography. Discussing this, a focus group of support workers discussed how:

Support worker 1: *You go to sex ed class and they teach you how not to get pregnant or how not to get STDs, but nobody actually talks to you about what good healthy sex is and what that looks like, and how that feels.*

Support worker 2: *And how to talk about it, how to negotiate it.*

Support worker 1: *Yeah. And then you see this pornography that’s so violent, the free ones, that they just think, “Well, that must be it, and that must just be how it feels,” because there’s no education around that.*

While the work of sexual violence prevention educators such as SAPN (Sexual Abuse Prevention Network) was well-recognised and applauded, concern was expressed over the limited number of sessions students might be able to attend and how this constrained its effectiveness.

In reflecting on pornography's influence, one long-time experienced support worker said:

*I think it possibly does have an impact. We certainly know it has an impact with young people in terms of their ideas about sex, where they're getting their education about sex, and what their expectations are about what a sexual relationship is, when what they are watching is often very violent. Anal sex is the norm.... I don't think porn is showing any intimacy in a relationship, and it's really important that young people understand that sex is about intimacy, and that's not what they're getting when they're watching porn. They're not getting any messages about consent. (Support agency)*

An advocate expressed a similar concern regarding consent issues:

*I think pornography is obviously from a male view, in terms of how it's portrayed, and the way it's portrayed is coercion into getting a female to have sex with you. And so, that's their sex education is from pornography. (Advocate)*

Such coercion was criticised in a support worker's observations when she described:

*A lot of the images are aggressive. So, a woman says no and it's like you overpower the woman, or you give her a whack. (Support agency)*

Young people were not being prepared, argued some, for the realities of sex and intimacy since pornography was such a flawed and insidious product.

*There's no instructions on how to do it. Everything just looks like it happens very easily. Everyone's bodies are perfect. So, I do think that that's differently influencing young people, and no doubt it's influencing older people as well. You know, I mean, everyone's able to access pornography so easily these days, and we know that that's happening. (Support agency)*

Some expressed concern that earlier advances for women were being lost beneath the online objectification of women's bodies that young women today were constantly bombarded with. One commentator observed:

*I think the internet stuff has taken us back. The explosion of – we used to, when I was at school, many years ago, it was all feminism and you weren't putting up with this and you weren't putting up with that. And now you talk to young women and they don't even know what feminism is. And you've got your Kardashians and all this – it's all what you look like. Let's have a big bum, tiny waist and all this "ooh, ooh, ooh". The*



*fact that – those other women, they're "taking the world by storm". No, they're not!*  
(Support agency)

The Police were more likely to see its influence in relation to offenders, with one observing:

*In regard to pornography, when we're doing search warrants and especially if we've had a rape and that, pornography's consistently there, in the homes. But how much of that has any influence over their offending, I don't know.* (Police)

Several participants, particularly the medical examiners, referred to the growing popularity of choking and strangling they were seeing, and how it reflected one of contemporary pornography's emphases. One said:

*It's really common that there's anal penetration and it's relatively common that there's strangulation. Like, there is lots of strangulation happening.* (Medical examiner)

Consent issues arise when, for example, a woman might say she likes 'rough sex with a bit of choking' but finds the pressure from his hands on her neck intensifying to terrifying and almost unmanageable proportions.

Although within a different context, the dangers of strangulation within IPV are being increasingly recognised, as reflected in recent legislation, and one medical examiner referred to the growing awareness of how important it was as a training issue given that such behaviour could be a precursor, intentional or otherwise, to death. She said:

*We have got much better at asking. We've done a whole lot of training with our doctors around asking that question, and a whole lot of training with the Police about what an important predictor that is in terms of outcomes. So, it's something like you are seven times more likely to be killed by a violent partner if he has ever attempted strangulation during a sexual assault, in the future. So, in terms of a future homicidal risk it's really huge.* (Medical examiner)

A recent survey by the Office of Film and Literature Classification (2018) found that 67% of young people had viewed pornography. The implications of this and subsequent generations of youth receiving their primary sex education from pornography has recently been recognised (Flood, 2007; Sun, Bridges, Johnson, & Ezzell, 2016) and poses challenges for Police in relation to issues of consent, harm and injury.

## 5.5 Prevention issues

New Zealand Police have recently placed an increased emphasis on crime prevention, seeking to balance out the traditionally staunch adherence to crime detection and offender apprehension. Within the sexual violence arena, this focus has been mandated within Case

Investigation Plans and resulted in Police-initiated conversations with both victim/survivors and offenders.

Several of those interviewed across the different sectors said that addressing rape myths was still a necessary part of rape prevention. One support agency worker, for example, said:

*I talk so much about rape myths with our clients. We have big talks about society and everything like that, because, you know, even though they know that it's a myth, they still hold it. (Support agency)*

There were several occasions where discussion turned to addressing the extent to which individual women might be expected to act in their own best interests to prevent themselves becoming a victim/survivor. One of these arose in a support agency focus group where a worker suggested:

*Support worker 1: If I walk down a dark street, I'm not asking to be raped but I'm putting myself at a high risk of being raped. And so, if I was in the bright light of day and got grabbed by someone, then there's no blame that can be attached to me. Whereas if I put myself in a risky scenario, now, I didn't ask to be raped, but actually the attributing of blame, there's a little bit in there which I probably should be responsible for.*

*Support worker 2: But – and if you think about the police paradigm, you know, leave your door open, you get burgled. Well, you want sympathy? You're just silly. And it's kind of like that. So, they do equate some of that crime prevention thinking to the rape space, I think, in their judgments.*

Reference was made to the risky dating practices and hook-up culture discussed earlier, with one worker clearly stating:

*I haven't grown up in that generation, so I'd kind of think, "Well, fuck, it's pretty risky to meet someone somewhere and da, da, da, da," and that's where the cops come from too, I'm sure, which is, "Actually, if you were at home with your cup of tea, you wouldn't have got raped." (Support agency)*

An advocate urged strongly that women with learning disabilities needed to be included in prevention education. In discussing the factors contributing to the high prevalence of sexual assaults and rapes inflicted on this group, she commented:

*A critical feature is a lack of access and education around sex and respectful relationships and that sort of thing. So, if you've lived a life devoid of education or people not raising, or you're seen as someone who's never going to have a relationship or intimacy in your life, you don't know the rules. And you don't know what's right and what's not that right. (Advocate)*

Within Police, one officer spoke of encouraging detectives to undertake what could be viewed as consent education with some victim/survivors, adding:

*You've got to explain the two sides of consent. Just because you felt that you didn't consent, you actually implied that you were consenting because you did this. And that person thought you had been. And you've got to look at it from that point.... And then I say, look. I'd get my team to do some prevention here, saying, "This is where it became grey, and in future, to make sure you continue to be safe, or your friends, you need to be doing this." And we do that all the time – it's mandatory. (Police)*

The ways prevention is approached in relation to rape offences include not only disseminating prevention advice to potential victims but also using opportunities to warn and educate men accused of rape. As one officer said, even if a complainant withdraws, the men can still be spoken to as if they were offenders:

*Police: You can call them offenders even if they don't go to court. Just haven't been convicted. So, yeah, no, and that is a big thing, that prevention advice. So, for want of a label, complaint withdrawals, or if they don't get to that evidential sufficiency where, nine times out of ten, getting in front of that offender and saying, "We've taken what this complainant has said very seriously. Lucky you're not being charged. Should this happen again, this event could be used as propensity evidence and we're asking for DNA."*

*Interviewer: And how do guys respond?*

*Police: It's 50-50. Some are good, some are not so.*

Some of those interviewed felt this was a supportive move on the part of Police and might serve to educate, or at least warn, the offender about the need to obtain consent. However, one support agency expressed some cynicism, saying of the men offered this preventive advice:

*Support agency 1: They accept it because they have no option.*

*Support agency 2: And they do, because – and for some of them, it does sound desirable, but then the Police, they would talk in the lunchroom afterwards and they were like, "Yeah, we went and saw the guy. We told him, 'Come on, dude, you've got to get the permission verbally. We don't doubt you that it was there, but you've got to cover your arse because women can file charges.'" So, they don't even talk to the offender as though he has committed a crime. They just talk to him as in, like, "This is a risky area in the law. You need to cover your arse by making sure you get verbal consent."*

*Support agency 1: And record it. Get it written. Get it signed.*

One agency worker recounted an example where a male Police officer countered the message an offender was giving his partner in an effort to help raise her awareness and prevent further violence. This occurred within the context of a mutually supportive relationship between Police and this agency which saw officers often ‘popping in’.

*This woman was telling about her partner, who was watching porn and then assaulting her, and she was going, “Oh, but it’s normal,” and he [Police] was like, “I’m a man and I can tell you that that’s not normal.” So, it’s like that level of powerfulness of actually being able to articulate their role and do really powerful interventions. They get a gold tick from me, [Police in that district]. (Support agency)*

Other commentators were positive about the potential Police had to be effective prevention agents with young men, observing how impactful they thought it would be:

*... for the Police to come and say to someone, “Look, you guys, it’s not okay if she’s wasted, or if he’s wasted, to have sex with somebody, then that’s not okay,” and to have that told to you by a Police officer, I think – my perception would be that would be very powerful. (Medical examiner)*

One Police officer argued that prison inmates should be the focus of some prevention activity given how prevalent their experiences of sexual abuse/victimisation were and how these issues and the associated anger would keep fuelling their offending behaviour until they were addressed.

*One of the aims of Police now is prevention, and I think, well, why have we not been looking at people that are committing the offences? Why are they committing them? (Police)*

An example referred to earlier (p. 18) involved a victim/survivor reporting a historic sexual assault perpetrated against her by a cousin, who when spoken to disclosed his own abuse history and said he had been remorseful for a long time over what he had done. The woman decided she did not want him prosecuted and the outcome of the case involved his referral to a male survivor STOP programme.

The NZP emphasis on their preventative role has increased recently and places a responsibility on officers to utilise and create opportunities to engage in sexual consent education and awareness.

## 5.6 Impact of #Me Too

One of the last areas canvassed in focus groups and interviews involved assessing the extent to which #MeToo was perceived as having been influential. There were varied responses.

Some believed there had been greatly increased numbers of referrals as a result, putting many agencies and Police departments under strain.

*Between #MeToo and the inquiry into state care – I think quite a few services are feeling quite overwhelmed with how many referrals they're getting. (Support agency)*

This was reinforced by a Police detective who stated:

*Police: We've increased our file load by at least 50% in the last year. And it's just going to grow, keep growing.*

*Interviewer: Why is that?*

*Police: It's the culture. People are, with the #MeToo – it's becoming okay to talk about sexual assault.*

A similar increase was noted by Police in a different district, where officers had been discussing what it might mean:

*We've been talking about this in the office quite a bit and I don't think we can blame it on MeToo, but MeToo I think has made it more acceptable to speak out about sexual offending or perceived sexual offending in the community. And that's my only reason to think, why has my workload increased 40% from this time last year? (Police)*

Elsewhere a support agency worker commented that she felt like there was an 'epidemic' occurring:

*It's really interesting at the moment – all the talk about MeToo and so many women coming forward, and so many women who've never disclosed abuse before, feeling that they're able to talk about it, and it's just an epidemic. It's just this massive epidemic of – just about every woman you know seems to have experienced some kind of – I think all women have experienced some form of harassment at the very least. (Support agency)*

Others saw #MeToo as one of many factors that were generally encouraging women to speak out regarding their experiences of sexual assault and harassment.

*I'm guessing that there are some people who will say or have said, "I read again about this famous person in America doing the #MeToo thing so I thought, right, I'm going to be brave and come forward." So, there have been the odd disclosures like that. But yeah, I think it's a combination of factors again, that there's much more public awareness. There's much more a sense of injustice about sexual violence happening to everybody. Much more knowledge. (Support agency)*

However, some had consciously noticed no change:

*I certainly haven't been aware of people coming in here saying, "I'm part of the MeToo," or anything like that. But there might be out in the community, but it hasn't filtered through to here. (Medical examiner)*

Support workers at one support agency expressed anger at the way #MeToo had hijacked the media and felt it was being seriously over-emphasised. Said one:

*I feel pissed about the MeToo bit from one angle in that everybody's kind of – we've been asked a million times by media, in particular, that "this is all because of MeToo and you'll have so much more work to do and it's all because of the MeToo" and I'm like, "You've only latched onto that because it's your thing. You've launched MeToo, so you think that you've changed the world." The reality is, I can give you a chart that shows our demand just going like this continually for 24 years, but particularly over the last ten years. Sociologically we've had a huge number of things going on. You can put things back to Louise Nicholas, to Margaret Bazley, to the government actually sticking their nose into the problem and looking at it, Roast Busters, there's been so many incidents that have all cumulatively done this. MeToo is one very minor matter in a multitude. (Support agency)*

In reflecting further on the impacts of #MeToo, this group raised concerns regarding the potential dangers from having a process that was essentially too one-sided because it could produce an imbalance.

*Because people can go, "Well, Johnny raped me," on social media, and whatever, and there's not that evidential process. So, there's some lack of safety for people being blamed or being outed. Now, they may completely deserve to be outed, but even though we've spent this time complaining about some aspects of the evidential process, you need one. And so, what happens next? So, what are the messages about if you actually want to be safe from Johnny or have your voice heard, how do you do that in a safe way? How do you do that in a protected way? (Support agency)*

Also criticised was the media's emphasis on victim/survivors needing only to tell their story and all would be fine. Of the media they said

*And so, they're all about the story, because that's what it is. It's tell a story. And when I really dug into why that was grating with me, it's because people who are telling their stories are spilling their guts, and then not realising exactly what the impact was on their life. When you come to a sexual violence service, we don't say, "Tell us your story." We say, "What do you need? What help do you want?" And in due course you'll tell us your story at a pace that's suitable for you, and we'll wrap help around you. The story is not actually the thing, in a way, but it is the thing, and you need the juice and the meat and the grit in your story for the media. And then we've had people who've told their stories and then they're a mess. (Support agency)*

This agency had experience of needing to support women who agreed to tell their story to a journalist then felt fearful and fragile afterwards. These were the reality aspects they felt

were often overlooked, given that different outcomes could eventuate and needed to be prepared for:

*It can be very helpful, especially if you're heard and you're validated, but what if people that you care about hear that story and go, "Well, I don't believe you."*  
(Support agency)

Support and crisis staff from a different agency urged caution also around the possible backlash to #MeToo, and how this could affect the responses victim/survivors receive. For example, one support worker observed:

*Part of the pendulum swing is there's people there who are numb to it, who are saying, "I've had enough of this. Every second person's been sexually assaulted. I'm over it. I'm not listening to it anymore." You know, so the kickback is pissing lots of people off, too, so they're actually coming forward to get help. They're not being believed because there's so much publicity. So, there's a spin around, if you like, to that. So, people are sick of it, and that's raising a sense of injustice even more.* (Support agency)

A Police officer, however, hoped #MeToo might lead to more happening in the space, so that sexual violence became more of a widespread campaign like family violence was:

*I think that we had a family violence campaign which now is called family harm, and it's – everyone talks about it. I think we need a public drive, and it needs to be in the spotlight. And it is becoming in the spotlight that the whole #MeToo campaign did a lot of good, but I think it needs to keep momentum, and it's going to dry up and that will be forgotten about, so it just needs to be kept – yeah.* (Police)

What emerged overall was a sense that no one movement could be embraced as a possible panacea and that all initiatives needed to be critically appraised in light of the many complexities that could arise from their implementation. A support agency worker set the current picture out well when she pondered:

*We've got these real dichotomies, haven't we, really? Because we've got the people having more partners, being a bit more – I won't say "promiscuous", I don't know if that's the right word. But sleeping with more people and having more random connections. And then we've got the Me Too. And somewhere between there is a balance, but there is such a lot of confusion and mixed messages, and I think it is quite difficult for men and women in society to find that balance. And the law's somewhere in the middle, trying to make sense of it.* (Support agency)

## 5.7 Summary

Policing does not occur in a social vacuum, and as contemporary society changes there is a need for Police awareness and engagement also to change in order to keep up with shifting

trends. Many of the key informants interviewed here highlighted current concerns about the inadequacies of our consent laws, with some under-scoring the urgency of shifting the burden of proof for consent from the victim to the offender. Some highlighted a current tension between family violence and sexual violence that could result in women victims of IPV who had been raped being switched into a sexual violence pathway in ways that could jeopardise a previous relationship of trust already developed with IPV advocates and Refuge workers. Many of those interviewed also indicated their concerns around the growth of the internet and pornography, acknowledging global concerns about the rise in technology-facilitated sexual violence. The NZP, as a national police service, are pivotally poised to introduce nationwide initiatives addressing contemporary challenges, and the positive developments of the past ten years provide a solid platform on which to build future endeavours.



## 6. Summary and conclusion

The interviews and focus groups with key informants provided a rich source of data that complements the picture emerging from the findings of the police rape file analysis (Jordan & Mossman, 2019). Both indicate significant improvements in Police investigative responses to rape victim/survivors, especially since the Commission of Inquiry into Police Conduct. While instances of poor practice remained, and there was not yet optimal service delivery across the country, overall Police were described as less likely to dismiss allegations prematurely as false complaints and more likely to display empathy.

The practice of having the L3 interview conducted a little after the offence was applauded, although some queried when this was not scheduled for a matter of weeks rather than days. Specialist training and ASA teams were also given the thumbs up, despite reservations about the lack of careful selections sometimes for who was appointed into these teams. While many of those spoken with did not necessarily know much about the internal auditing procedures, they were pleased with the improved case quality overall.

Earlier in this report material was presented identifying specific groups of victim/survivors whom interviewees identified as being at increased risk of sexual violence. One significant challenge facing Police involves how they will improve their service delivery specifically for each group, and the kinds of partnership they will develop with relevant support and community groups. There were indications given by advocates interviewed for this study of a willingness to work alongside Police to reduce the vulnerability of these individuals to sexual assault and maximise their abilities as witnesses. For instance, while some victim/survivors may currently not be viewed as credible witnesses for court, the potential exists for Police to partner with advocates in providing client-appropriate measures that will enable them to be credible witnesses. Such moves would help to extend the likelihood of just outcomes and offender accountability being achieved in contexts where currently such outcomes often appear impossible.

As noted, concern was expressed across all sectors that the change process begun by Police needed to continue, and especially so given that the ten-year close scrutiny instigated by the Commission of Inquiry had now ended. A senior Police detective was adamant that the bar still needed to be lifted to ensure adult sexual violence was given as much priority within the organisation as family violence/family harm. Despite being positioned to know all the many changes implemented, she maintained sexual violence was still not sufficiently 'under the spotlight' for the necessary improvements to be made. While no longer the hidden, 'taboo' subject it once had been, Police recognition of, and attention to, sexual violence had reached only where family violence was in the 1990s. In her view:

*The issue is, we're opening a can of worms and it's only going to get bigger. (Police)*

Multiple voices from different sectors supported the idea of on-going external auditing of the Police in order to ensure that the current commitment to improving responses to reported sexual violence was sustained into the future. One of those calling for on-going scrutiny post COI went further in recommending that an extensive, independent and anonymous study be undertaken to provide in-depth knowledge from all sectors regarding police performance. Said one participant:

*I would say that if you want to get an honest assessment of what's going on with Police, institute an anonymous 360 process. And do it in the districts. Don't just do it at national headquarters or around a process. Actually, do it in the districts where you actually guarantee your informants' anonymity, where you go and talk to the local Refuge manager and an advocate, where you go and talk to Oranga Tamariki. Where you go and talk to sexual violence groups. (Support agency)*

The anonymity factor was stressed as particularly important because, as another participant explained, 'None of us can afford to jeopardise those relationships.' An example was provided of a recent conversation between the agency manager and the Minister of Police in which she raised the issue of a problematic culture within Police still needing to be addressed. She said:

*He wanted me to provide some accounts, instances, that identified districts and people, and I went back to those [local agencies] that had made those complaints and they wouldn't do it, because they know that if they provide information to the Minister, he will respond and talk to the Commissioner. The Commissioner will give someone a rark-up and all of a sudden, the relationship between that [agency] and the local Police would be frosty. And they can't afford that. So, they wouldn't – they just wouldn't go there. So, I had to go back to the Minister and say, "Sorry, Minister, but can't be doing it." (Support agency)*

As well as concerns about jeopardising the relationships essential to their abilities to provide on-going support to victim/survivors, anger was expressed regarding how the standard Police response model of demanding to know the victims' and officers' identities meant issues were viewed as involving 'bad' individuals rather than arising from systemic problems.

*Support worker 1: Then they'll address it as a one specific thing rather than as symptomatic of anything that they should work on.... it's just a protection, making sure the smoke and mirrors stays nice and thick and sparkly. They just want to make sure that they can soothe it, smooth it, make it go away.*

Interviewer: *Right.*

Support worker 2: *And make me grumpy.*

Interviewer: *And make you grumpy?*

Support worker 2: *Just in case you hadn't noticed that one, Jan.*

Maintaining a focus on individual Police officer's attitudes being at fault can, whether intentionally or not, preserve systemic patterns of gender inequality and prejudice in ways that limit some women's access to justice.

Looking forward, a few of those interviewed stressed the need for cultural change to keep occurring within NZP. In one discussion the emphasis again came back to leadership as well as to the importance of challenging the masculinist ethos that has traditionally infused police organisations worldwide.

Support agency 1: *I would love to see the sexist culture changed, but without – instead of a focus of bringing more women on board (not that it's ever a bad thing) actually look at how they do masculinity – and they challenge that with their fucking men, not with the women. And there are some cops that are incredible, that are really beautiful and gentle and amazing.*

Support agency 2: *They're generally not valued in the organisation.*

Support agency1: *And even putting a woman in as commissioner wouldn't fix it.*

Support agency 2: *No. I mean, if anything, it would be putting a man in who refused to put up with macho bullshit.*

They referred to a senior male in the family violence arena who had been willing to challenge what they identified as the 'macho' culture and lamented his having moved on. Having someone of his ilk at the top would be a positive move, they felt, while considering it unlikely a person with such qualities would currently reach such a position. Change, however, was needed if violence against women was ever going to be meaningfully tackled by an organisation upholding different values. One commented:

*I don't think they've had a commissioner for some time that actually really gives a rats about this stuff other than making sure that the numbers don't go too bad for them. And that they don't get on the front page for doing things wrong. (Support agency)*

One challenge identified lies in finding ways to engage effectively around the increasing use of digital technology in crimes of sexual violence, and the need to understand and be trained to counter the ways in which fear and power can be transmitted via cell-phone. A second area of growing concern involves the use of pornography in sexual offending, and how it encourages young people to view potentially injurious and non-consensual behaviours as 'normal' as well as how its viewing is used by some men to legitimate their asking their partners to perform specific sexual practices.

A range of factors, including #MeToo, have influenced growing numbers of victim/survivors to come forward but the agencies expected to provide support are often seriously under-funded. This is particularly so within the NGO sector where they are the only party to the tripartite agreement between themselves, Police and SAATS, who have to make annual funding applications and sell cupcakes to keep their service going. The NGO sector was in fact recognised by at least one Police commentator as grossly under-resourced, with the under-funding meaning they struggled to survive when they were “begging for funding all the time.”

Resourcing issues were evident within Police also in that specialist ASA teams were often down on actual numbers due to officers being transferred to other, more serious cases, or were impacted on by having members who were there principally for promotion purposes and lacked the essential skills and empathy needed to do one of the most demanding jobs in policing well. The overall under-resourcing was evident also in the length of time victim/survivors often had to wait to have a detective assigned to their file, and in the workload pressures that meant detectives were unable to maintain contact and engagement with them.

Many of those interviewed, including some from within Police, expressed their fears that attention and resourcing would shift away from sexual violence again now that the formal external auditing required by the Commission of Inquiry had ended. ‘Slippage’ would be inevitable unless high levels of external and internal scrutiny were maintained monitoring on-going change processes. The move towards providing gender-equal policing of rape offences will only come, as one Police officer said, in tandem with growing moves towards a gender-equal police organisation.

In the first rape file analysis police (Jordan, 2004), Police emerged in part as a barrier to justice because of their role as gatekeepers to the justice system and the study revealed how in this role they were buttressed by adherence to traditional rape myths. The findings of this study suggest that while Police may adhere less to rape myths, their actions can still pose a barrier to justice because of how they are constrained by the requirement of meeting the evidential threshold of the justice system.

Taken together, the 2015 file analysis (Jordan & Mossman, 2019) and this report based on interviews with key informants, show rape myths to be less influential within Police than they had been. Nevertheless, given their on-going prevalence in other arenas, and their reduced impact within Police, it is important to keep challenging these while emphasising the importance of positive Police relationships with victim/survivors:

*Sexual violence is about trust... and so, yeah, the relationships with the police officers are pivotal to security and feeling believed and valued and important.*  
(Support agency)

The biggest issue affecting Police rape investigations currently is how they are constrained by the evidential threshold required within the current adversarial justice system. This means in practice that reported rapes may proceed further in the investigation process but attrition rates remain so high that few still ever proceed to court. Within courts, rape myths typically continue to impact defence lawyer questioning, jury deliberations, and sometimes judicial directives, resulting in a victim/survivor having only the rarest of chances of seeing the perpetrator convicted of her rape. As a support worker reflected during a focus group discussion:

*[It's] a system that's very patriarchal. So, that's where it began, and how much in reality has it shifted? (Support agency)*

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