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Police Discretion in Rape Cases

Mandeep K Dhami, Middlesex University, London, UK

Samantha Lundrigan, Anglia Ruskin University, UK

Sian Thomas, Metropolitan Police Service, London, UK

Abstract

Although policing requires officers to follow policy guidelines when making decisions, these nevertheless leave room for discretion. We used a within-subjects experimental design and idiographic statistical analyses to examine the factors predicting 25 specialist police officers' decisions to progress rape cases. We found little to no evidence of the influence of some factors (i.e., victim's criminal history, victim-suspect relationship, time taken to report crime, victim's prior reports of rape, victim's alcohol/drug use during offence, and suspect's previous convictions) on officers' rape case progression decisions. However, 15 officers were less likely to progress cases involving victims who provided inconsistent accounts. Thus, some types of rape victims may not get access to the justice that they desire and deserve. Although officers also reported that consistency of the victim's account was important to their decision-making, there was generally a lack of concordance between officers' self-reported and applied decision-making policies. Thus, officers' accounts of how they progressed a rape case may be unreliable and invalid.

Keywords: police decision-making; rape; victim characteristics; suspect characteristics.

Introduction

Police work ranges from conducting patrols, through maintaining order to investigating crimes. Much of this involves making judgments and decisions about whether or not to take a particular course of action. For instance, officers have to decide whom to stop-and-search, whether to use force, which services to refer disputes to, whether to arrest, if a suspect is being deceptive, and whether to caution or refer for prosecution. Modern-day policing requires officers to be trained to make such decisions in a consistent, defensible and transparent way. This involves following policy guidelines for decision-making (Bronitt & Stenning, 2011). However, both training and guidelines leave room for discretion and so allows officers to use their subjective judgment.

The opportunity for discretionary decision-making partly arises from ill-defined laws and policies. It also may arise from a lack of direct supervision. To some extent, the fact that limited resources make full enforcement of the law impossible implies that all police work involves some form of discretionary decision-making because officers must prioritize behaviors and people for law enforcement. Indeed, one could argue that discretionary decision-making is an inevitable and essential part of police work.

For Davis (1969, p. 4), "A public officer has discretion whenever the effective limits on his power leave him free to make a choice among possible courses of action or inaction." Within the policing context, Walker (1999, p. 190) defines police discretion as "an official action,…based on that individual's judgment about the best course of action." Thus, discretion refers to the exercise of subjective judgment.

Discretion in itself is not inherently negative. It is the exercise of that discretion in terms of subjectivity that can be problematic. Police decisions affect citizens and the working of the justice system. Thus, the misuse of discretion, by for example, demonstrating bias against certain categories of victims or offenders, can lead to the denial of due process and

equal protection under the law. Discretionary decision-making can lead to perceptions of discrimination and consequently poor police-community relations. It can also shape the work of other criminal justice agencies such as the prosecution and courts because the police select the sample of cases that will be dealt with by these agencies. Ultimately, the legitimacy of policing and even the wider justice system can be threatened by the arbitrary, prejudiced or unethical exercise of police discretion.

Discretionary decisions can also be difficult to audit and review because they may lack consistency and transparency, and because officers' self-reports may not be veridical. The subjective judgment arising from the exercise of discretion may involve intuitive rather than deliberative thinking (e.g., Evans & Over, 1996; Kahneman, 2003; Sloman, 1996). Intuitive thinking refers to an unconscious, automatic, holistic process, requiring little cognitive effort. It involves associative thinking and parallel processing and so decision-making can be opaque. Finally, even those motivated to overcome social desirability response-bias and defensive reasoning, may find it difficult to fully introspect and articulate the true reasons underlying their decisions when these are influenced by intuition. Although there is no past research on police officers' applied decision-making policies and their self-reported decision-making policies, past research in the criminal justice domain (e.g., Dhami & Ayton, 2001; Sensibaugh & Allgeier, 1996) and other contexts (e.g., Deshpande & Schoderbek, 1993; Sherer, Schwab, & Heneman, 1987) suggests that there are discrepancies in applied and self-reported decision-making.

Discretionary Decision-Making in Rape Case Processing

One important area of police work that has been widely criticized is how police may misuse discretion when dealing with cases of sexual violence (Cook, 2011; Gregory & Lees, 1996; Munro & Kelly, 2009; Temkin & Krahe, 2008). When a report of a rape is made, investigating officers need to make decisions about the lines of enquiry to take to maximize

evidential opportunities, ascertain the facts of a case, corroborate victim and suspect accounts and target efforts among the available investigative resources. Lines of enquiry will depend, in part, on whether a suspect has been identified but typically involve decisions about where to focus evidence gathering, such as where and how to look for witnesses and physical evidence and the number and length of victim, witness and suspect interviews. Discretionary decision-making can be exercised at many points before investigators decide whether to pursue a case or not. Currently, up to 95% of rape cases in England and Wales are not referred by police to the Crown Prosecution Service (CPS) for charging (Home Office, 2018). This is higher than comparable figures for other crimes such as violent offences (89%), drug offences (70%), and possession of weapon offences (60%) (Home Office, 2018). Similar patterns have also been observed in Europe (e.g., Lovett & Kelly, 2009), North America (e.g., Motivans, 2017), and Australasia (e.g., Jordan, 2004).

Across many jurisdictions, attention has been drawn to a police culture of systemic and widespread skepticism towards victims of rape (Lovett & Kelly, 2009). It is argued that the police response to a reported rape can be influenced not only by evidential factors, but also by stereotypical notions of rape victims (Hohl & Stanko, 2015; Stern, 2010). Stereotypical beliefs about rape victims typically revolve around expectations of 'appropriate' behavior before (e.g., intoxicated), during (e.g., did not physically resist) and after an attack (delayed reporting, inconsistency in account). Victims whose behavior does not meet such expectations may be less likely to be believed and/or have their cases progressed.

In order to improve how the police deal with rape, several reforms have been recently implemented. These include laws defining rape, the introduction of specialist investigative

units, and enhanced training and guidance for police investigators (ACPO, 2010[1]; HMIC &

HMCPSI, 2007; Lonsway & Archambaut, 2012; Munro & Kelly, 2009). However, despite

the positive steps taken to reduce the influence of extra-legal factors in rape case processing,

police decision-making may still be influenced by such factors (Alderden & Ullman, 2012).

There is evidence that the police tend to progress the types of cases that they believe have the

most realistic chance of criminal justice success (i.e., securing a conviction), and in doing so

inadvertently reinforce stereotypes about rape (Lord & Rassel, 2000). Below, we review past

research on police decision-making in rape cases.

Past Research on Police Decision-Making in Rape

Research examining the factors that influence police decision-making in rape cases

has employed a range of methodologies. Only a minority of studies have employed

experimental methods (e.g., Barrett & Hamilton-Giachritsis, 2013; Goodman-Delahunty &

Graham, 2011). Some studies have used quantitative or qualitative surveys or interviews with

police officers (e.g., Lord & Rassel, 2000; Schuller & Stewart, 2000). The vast majority of

studies have analyzed police records (e.g., Alderden & Ullman 2012; Bouffard 2000; Frazier

& Haney 1996). Overall, the extant literature has examined the effects of three categories of

extra-legal factors on police decision-making in rape cases. These are victim-related factors,

suspect-related factors and incident-related factors, and below we report the main findings

pertaining to each of these sets of factors.

A great deal of attention has been paid to the effects of victim-related factors on

police decision-making in rape cases (Campbell, Patterson, Bybee, & Dworkin, 2009).

Efforts have been made to explore how a victim's character, as well as behaviors during and

after the rape, influence police perceptions of credibility, which in turn can affect their

decisions to progress a case (e.g., Goodman-Delahunty & Graham, 2011). Studies have found

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[1] While ACPO guidance on investigating and prosecuting rape remain current, their limitations have been
recognised and the College of Policing are currently developing new Authorised Professional Practice
Guidelines to replace them.

that victims with previous criminal convictions, a history of previous allegations of rape or sexual promiscuity/risk taking behavior were less likely to have their cases progressed than victims without these characteristics (e.g., Barrett & Hamilton-Giachritis, 2013; Brown, Hamilton & O'Neill, 2007; Gunn & Linden, 1997; Hohl & Stanko, 2015; Kelly, Lovett, & Regan, 2005). In addition, victim drug/alcohol intoxication (e.g., Brown et al., 2007; Campbell et al., 2009; Schuller & Stewart, 2000; Spohn & Holleran, 2001) has been found to be negatively associated with case progression. Victims who delayed reporting the crime and who were inconsistent in their account of what happened have been found to be less likely to have their cases progressed (e.g., Hohl & Stanko, 2015; Kelly et al., 2005).

With regard to suspect-related factors, past research has shown that police decisions to progress a rape case are associated with whether a suspect is perceived as a criminal with a prior police record rather than a respectable, law abiding citizen (e.g., Brown et al., 2007; Hohl & Stanko, 2015; Horney & Spohn, 1996). Goodman-Delahunty and Graham (2011) additionally found that police decisions to charge an alleged perpetrator were predicted by their perceptions of culpability as to whether the alleged perpetrator was guilty of the crime of sexual assault. They also found that these assessments were themselves influenced by the extent to which the officers endorsed rape myths.

Finally, in terms of incident-related factors, researchers have typically focused on the effect of the victim-perpetrator relationship on how police deal with rape cases (e.g., Bouffard, 2000; McLean & Goodman-Delahunty, 2008). Here, the findings are mixed. Some studies suggest that rapes by strangers are more likely to be progressed (e.g., Grace, Lloyd & Smith 1992; Muldoon, Taylor & Norma, 2013) while others suggest the opposite i.e., rapes by acquaintances are more likely to be progressed (e.g., Campbell et al., 2009; Du Mont & Myhr, 2000; Gunn & Linden, 1997; Tellis & Spohn, 2008). There is, however, a discrepancy across studies as to whether or not cases where no suspect is identified are included in data

analyses – a case cannot proceed if the identity of a perpetrator is unknown and including such cases can inflate the attrition rate of cases involving stranger perpetrators.

The past research on factors associated with police decision-making in rape case processing has several methodological shortcomings that may limit our understanding of why some rape cases are progressed, while others are not. Studies that employ self-report methods may be affected by social desirability response bias, fallibility of memory, lack of insight into cognitive processes (particularly when they involve intuition), and clarity of expression. Studies that utilize police recorded statistics and records may be missing information that could have affected decisions. Furthermore, neither of these methodologies allow for the examination of cause-effect relationships.

One further concern is that the relative effect of factors associated with police decision-making in rape cases can change over time especially in response to rape law reforms and policy and procedural reviews aimed at challenging stereotypical attitudes towards rape. In a review of the literature, Daly and Bouhours (2010) examined the findings of 33 studies conducted from 1970-2005 that together investigated several factors associated with police decisions to either drop or proceed further with a rape case. The studies were divided into two time periods i.e., 1970-1989 labelled 'early' and 1990-2005 labelled 'later'. Daly and Bouhours found that, in the early period, some of the factors that were most frequently positively associated with police decisions to proceed a rape case were a victim's good character and credibility (broadly defined as no drugs/alcohol, no criminal convictions and no risky behavior prior to rape) (100% of 7 observations); and a suspect's criminal history (80% of 5 observations). However, this picture changed in the later period (1990-2005), when the importance of these factors was reduced and the influence of other factors increased, including the factor defining the relationship between victim and perpetrator as strangers (43% of 12 observations).

The Present Study

Although there is now greater policy and guidance in England and Wales on the factors that should inform police decisions to progress a case (CPS, 2010; NPCC, 2015), concerns remain, particularly relating to the influence of victim characteristics on the progression of a rape case (Hohl & Stanko, 2015). The primary aim of the present study was to examine how the police use their discretion in making decision about case progression (i.e., whether to refer a case the prosecution service or take 'no further action'). Specifically, we investigated how experienced officers consider specific factors pertaining to the perceived credibility of the victim, the perceived culpability of the suspect, and the belief that 'real' rapes involve strangers. We selected seven specific factors to examine based on the above review of past research. Notably, the influence of these factors on police decision-making has been criticized because it reflects a bias against the victim and/or suspect.

We predicted that officers would be less likely to progress a case if: the victim delayed reporting, if there was inconsistency in the victim's account, if the victim was intoxicated at the time of the alleged offence, if the victim had made a prior allegation of rape, and if the victim had previous criminal convictions. We also predicted that officers would be more likely to progress a case if the suspect had previous criminal convictions. No a priori predictions could be made for the effect of victim-suspect relationship on police decisions to progress the case due to the mixed findings of past research.

A secondary aim was to measure the extent of concordance between the factors that predict individual officers' decisions and the factors that officers report as being important to their decision-making. As mentioned, subjective judgment may be based on intuitive thinking which is more difficult to introspect and articulate. Based on past research on human judgment and decision-making reviewed above, we predicted that there would be discrepancies in the factors that officers' stated as being most important to their decision-

making in rape cases and the factors that were statistically found to predict officers'

decisions. Beyond this, we refrain from making directional hypotheses about the degree of

concordance between officers' self-reports of the importance of specific factors and the

statistically captured importance of these factors, due to a lack of past research on this issue.

Method

Participants

The present study involved the largest police service in England and Wales. Here,

there is a standalone unit comprising specially trained officers who deal solely with the

investigation of rape and serious sexual assault. Senior Investigating Officers (SIOs) in this

unit are responsible for deciding whether a case should result in 'no further action' (NFA)

against a suspect or whether the case should be referred to the CPS for charge.[2] At the time of

the study, 35 SIOs had either worked in the unit (and moved to other areas) or were still

working in the unit. Of these, 25 agreed to take part; representing a large (i.e., 71%) response

rate. Attrition was largely due to a lack of time to participate.

Seventeen (of the 25) participants were male. Five participants were aged between 31

to 40 years, ten between 41 to 50, and ten between 51 to 60.[3] On average, the sample had

served in the police force for 22.4 years ($SD = 6.53$). The average time the sample had

worked as a SIO was 2.79 years ($SD = 1.56$).

Design, Stimuli and Measures

The present study employed the method of policy capturing (also called judgment

analysis; see Brehmer & Joyce, 1988; Cooksey, 1996; Hammond, Stewart, Brehmer, &

Steinmann, 1975). Simply stated, this requires individual decision-makers to each make

judgments on a set of cases that comprise a combination of factors or cues (i.e., independent

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[2] To make these decisions an SIO must apply the Full Code Test which is the national standard against which evidence is assessed. The standard of proof "is there a reasonable prospect of a successful prosecution at court?" Directors Guidance on Charging (2011).

[3] A precise age was not requested in order to increase anonymity.

variables). Each individual's judgment policy is then 'captured' by regressing the judgments on the cues using regression statistics. An individual's judgment policy is therefore described in terms of, for example, statistically significant cues in the model and relative cue weights. Individuals' self-reported policies (e.g., statistically significant cues) can also be compared with their model.

The present study was designed to ensure that it did not ask officers to deal with anything they would not normally deal with on a day-to-day basis. Seven independent variables/factors (cues) were manipulated. These were: length of time taken to report the crime, victim's previous convictions, suspect's previous convictions, relationship between the victim and suspect, consistency of the victim's account, victim's prior reports of rape, and victim's alcohol/drug use at the time of the alleged incident. As mentioned earlier, these cues have been previously shown to unduly affect police decision-making in rapes cases (e.g., Alderden & Ullman 2012; Bouffard 2000; Frazier & Haney 1996), and their influence on police decisions reflects a bias against the victim and/or suspect. Table 1 lists the seven cues and their values.

TABLE 1 HERE

The stimuli (cases) comprised an orthogonal combination of the seven cues. A full factorial combination of the values of all the cues would have yielded an unmanageable number of cases, and so we employed a fractional factorial design (see e.g., Dhami & Ayton, 2001). The orthogonal design option in SPSS yielded the smallest subset of possible cases (i.e., 32) while simultaneously retaining the orthogonality of the cues.[4] Therefore, the police decision-making task consisted of a set of 32 hypothetical cases (see supplementary information for an example).

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[4] The main disadvantage of this design is that it precludes an analysis of interaction effects. We deemed this to be acceptable given that we did not hypothesize any interaction effects.

In addition to the seven cues manipulated in the present study, eight cues were held constant – they provided background information to all of the cases. These 'constant' cues were: all cases involved one suspect and one victim; all victims and suspects were aged over 18; all victims were female; all suspects were male; all cases involved vaginal rape; in all cases the suspect had been identified and arrested; and in all cases the suspect had stated that sexual intercourse was consensual.

For each of the 32 cases, participants were asked three questions. Firstly, they were asked to rate the likelihood that they would take NFA. Secondly, they were asked to rate the likelihood that they would refer the case to the CPS for charge. Responses to these two questions were provided on 0% to 100% scales, marked at 5% intervals. Thirdly, participants were asked to report what they believed was the most important piece of information for their decision. Responses were open-ended.

Procedure

Approval to conduct the study was obtained from the police service. University ethics approval was also obtained. All police officers eligible to participate in the study were sent a request by email to volunteer for the study. They were informed that the study was focusing on police decision-making in rape cases, and was being conducted independent of the service. Those who agreed to participate were sent an information sheet, consent form and the decision-making task via email by the third author. Participation was voluntary and anonymous. Participants were told that they would be asked to make decisions on a set of hypothetical cases, and were informed of their right to overlook some questions and/or withdraw from the study at any point without reason and negative ramification.

Participants were instructed to read each of the 32 cases in the order presented and to answer the questions that followed. The cases were randomized across participants. For ease of reading, the cues were placed in the order as shown in Table 1. Participants were asked to

provide their demographic information at the end of the decision-making task. Signed

consent forms and completed questionnaires were returned separately by email to the third

author. On receipt of the completed decision-making task, a de-brief sheet was sent to

participants which included details of how further information on the study could be

obtained.

Analysis and Results

Across participants and cases, the grand mean likelihood of taking NFA was 36.32%

($SD = 13.31$, $n = 23$).[5] The grand mean likelihood of referring the case to the CPS was

59.82% ($SD = 14.20$, $n = 25$). For all but one participant ($n = 23$),[6] there was a statistically

significant negative correlation between judgments of NFA and referral to the CPS. The size

of these correlations ranged from -.22 to -1.00, with the mean correlation being -.88 ($SD = -$

.17). Therefore, for further analyses, the two judgments were aggregated by subtracting the

NFA judgments from the referral to the CPS judgments. The new variable is called 'case

progression'. Further analyses involved identifying the factors that predicted each

individual's decision-making across the cases, and comparing each individual's self-reported

and captured cue importance across the cases. These analyses are described below.

Factors Predicting Police Decision-Making

In order to identify the relative power of the seven cues in predicting officers'

decision-making, multiple linear regression models were computed for each of the 25

participants. The seven cues were the predictor variables that were entered simultaneously

into the models, and decision (measured in terms of the case progression variable mentioned

above) was the criterion variable. Below, we describe the results across the sample.

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[5] Two participants judged all of the cases as being 0% likelihood of NFA, and so they were excluded from this analysis.

[6] This correlation was not computed for the two participants who judged all of the cases as being 0% likelihood of NFA.

The regression models were statistically reliable for 21 of the 25 participants. Across these participants, the mean adjusted R^2 was .37 ($SD = .16$). Table 2 summarizes the results of the regression analyses across the 21 participants (see supplementary information for individual-level regression results for the full sample).

TABLE 2 HERE

Across participants with a statistically reliable model, the mean number of statistically significant cues in the models were 1.33 ($SD = .58$). As Table 2 shows, consistency of the victim's account had on average the greatest weight (excluding sign) attached to it across participants. By contrast, the suspect's previous convictions had on average the least weight (excluding sign) attached to it.

Consistency of the victim's account was a significant predictor in 15 participants' models. As hypothesized, for all but one of these participants, inconsistency in a victim's account reduced the likelihood of case progression. The victim's previous convictions was a significant predictor in six participants' models. As hypothesized, for these participants, the victim's previous criminal convictions reduced the likelihood of case progression. One participant's model contained the length of time taken to report the crime as a significant predictor. As hypothesized, delayed reporting of a rape reduced the likelihood of case progression. One participant's model contained the victim's alcohol/drug use at time of the alleged incident as a significant predictor. As hypothesized, victim intoxication at the time of the offense reduced the likelihood of case progression. The victim's prior reports of rape was not a significant predictor in any of the participants' models. The suspect's previous convictions were not a significant predictor in any of the participants' models. The relationship between the victim and suspect was a significant predictor in five participants' models. No a priori prediction was made for the effect of this variable on police decisions to

progress the case due to the mixed findings of past research. We found that for these five participants, case progression was less likely if the suspect was known to the victim.

Finally, eight of the 25 participants said they would need other information, beyond that presented, to make their decisions. This included CCTV, witnesses, early complainant evidence or forensics. Some participants stated that they needed further information or confirmation that there was no further corroborative evidence to assist the decision-making. Some participants also required further detail surrounding the details of the victim's previous sexual allegations such as the particulars of the case and the outcome.

Comparing Self-Reported and Captured Cue Importance

In order to compare officers' captured cue importance (from their applied decision-making policies) with their self-reported cue importance, we conducted two analyses. First, we used Kendall's tau-b correlations[7] to explore the relationship between each participants' self-reported cue importance (measured in terms of whether or not they said they used it at least *once* over the 32 cases) and whether the cue was statistically significant or not in the participants' regression model. This analysis indicates whether officers were correct or not in reporting the *independent* influence of each cue in their decision-making. Across participants, mean tau-b (excluding sign) was .33 ($SD = .14$, min = .09, max = .55, $n = 21$).[8] None of the correlations were statistically significant, ps > .05.

Second, we used Kendall's tau-b to correlate each participants' self-reported cue importance (measured in terms of the rank order of the cues according to the number of cases in which participants' said they were most important) with the rank order of cues indicated by the size of the standardized beta weights (excluding sign) in each participants' regression model. This analysis indicates whether officers were correct or not in reporting the *relative* influence the cues in their decision-making. Mean tau-b (excluding sign) across participants

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[7] Kendall's tau-b is used for small samples.
[8] This analysis was only conducted for the 21 participants who had statistically significant regression models.

was .35 (SD = .22, min = .06, max = .76, n = 21).[9] Only three of the correlations were statistically significant, ps < .05.

For a general indication of the cues that were ranked differently in officers' self-reported and applied decision-making policies, the median rank order of each cue in both types of data was calculated, across officers. Figure 1 illustrates the concordance between the self-reported and applied rank ordering of cues summarized across the sample.[10] For ease of illustration, the rank order of importance was reversed from the above analysis and so a rank of seven represents the most important cue. The greatest discrepancy between self-reported and applied cue importance was for the length of time the victim takes to report the crime (Time) and for victim alcohol/drug use at time of alleged offense (Vic Alc/Drug). Although officers claimed that Time was important, this was not reflected in their actual decision-making. Conversely, Vic Alc/Drug was given more weight in officers' decision-making than they said it was.

FIGURE 1 HERE

Discussion

As gatekeepers to the criminal justice system, police decisions can determine which victims get access to justice. Typically, the police have discretion in which cases are progressed i.e., referred to prosecution. The exercise of such discretion has been particularly criticized in the context of sexual offense cases (Newman & Wright, 2014). It has been argued that police officers may have negative perceptions of rape victims; they may believe some types of victims are partially to blame for their victimization, and this consequently introduces inequalities in rape victim access to justice (Temkin & Krahe, 2008). Indeed, although there has been an increase in reported rapes in recent years, the number of offenses referred for prosecution has not risen proportionately (Angiolini, 2015). For example, a

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[9] This analysis was only conducted for the 21 participants who had statistically significant regression models.
[10] A figure could be created for each officer, but for brevity we have only created one across the sample.

recent review of the investigation and prosecution of rape in London showed that although between 2005/06 and 2013/14, the Metropolitan Police Service recording of rape and penetrative offenses increased by 68%, the charging rate only increased by 17%. Angiolini (2015) also pointed to the large volume of cases that police decided should receive no further action.

In the present study, we used an experimental (policy capturing/judgment analysis) method to examine how specific factors pertaining to the perceived credibility of the victim, the perceived culpability of the suspect, and the belief that 'real' rapes involve strangers, influence police decisions to progress a case (i.e., refer it to the prosecution service or take 'no further action'). The influence of such factors in police decision-making in rape cases has been criticized (Stern, 2010). In addition, according to police policy guidelines, these factors should not influence whether or not a case should be progressed (ACPO, 2010; NPCC, 2015).

Statistically Captured Use of Discretion

We found that one victim-related factor, namely the consistency of a victim's account, was a significant predictor of case progression decisions for the majority of the specially trained officers in our sample who deal solely with the investigation of rape and serious sexual assault. As hypothesized, these officers were less likely to progress cases involving victims who provided inconsistent accounts. This finding is compatible with previous research (Alderden & Ullman, 2012; Barrett & Hamilton-Giachritsis, 2013; Frohman, 1991, Hohl & Stanko, 2015). Hohl and Stanko (2015) for example, found that inconsistencies in the victim's account increased the odds of a police 'no further action' decision by 295%. In addition, as we point out below, officers' self-reported and applied decision-making was concordant with respect to the influence of one factor, namely the consistency of a victim's account. Simply stated, officers were well aware that they considered this factor important to their decision-making.

Officers may be less likely to progress a case when a victim provides an inconsistent account because they perceive the victim to be lying and therefore no crime has been committed and/or because they believe it might be difficult to secure a prosecution in such cases. The idea that victims may be unable to access justice because of biased police perceptions is troubling. Similarly, the idea that officers are 'second-guessing' jury decisions and thwarting the prosecution and trial of potential sex offenders is also troubling. Our findings are particularly worrisome given the National Police Chiefs' Council guidance on addressing myths in rape investigation states that inconsistencies in victims' accounts should not be assumed to be an indication of lying but can be caused by shame, fear of repercussions, distress, trauma, etc., (National Police Chiefs Council, 2015).

The victim's previous criminal history was a significant predictor of only six officers' case progression decisions. Similarly, the relationship between the victim and the suspect was a significant predictor of five officers' decisions to progress a case. As hypothesized, cases involving victims with previous convictions were less likely to be progressed. Cases involving perpetrators who were known to the victims were also less likely to be progressed. Therefore, the majority of officers' case progression decisions were not significantly influenced by the victim's previous criminal history and the relationship between the victim and the suspect. This is compatible with some previous research (Hohl & Stanko, 2015) but not others (Alderman & Ullman, 2012; Brown et al., 2007; Campbell et al., 2009; Jordan, 2004; Kerstetter, 1990; McLean & Goodman-Delahunty, 2008). However, the present findings are difficult to compare directly with those of previous research because of the different methodological and analytical approaches employed. We used an experimental design that captured the decision-making policies of individual officers, whereas previous research has used qualitative interviews and police recorded data that has been analyzed across groups of officers.

The three remaining victim-related factors included in the present study (i.e., length of time taken to report the crime, the victim's prior reports of rape, and the victim's alcohol/drug use at the time of the alleged incident), and the one suspect-related factor (i.e., suspect's previous convictions) were not significant predictors in the officers' case progression decisions (with one exception). These findings are contrary to previous research that has found a relationship between these indicators of victim credibility and case progression (e.g., Beichner & Spohn, 2012; Campbell et al., 2009; Goodman-Delahunty & Graham, 2011; Hohl & Stanko, 2015; Jordan, 2004; Kerstetter, 1990; Schuller & Stewart, 2000) and research suggesting that a case including a suspect who is a 'credible' criminal is more likely to be progressed (Hohl & Stanko, 2015; Horney & Spohn, 1996). Again, these previous studies have used a range of methods i.e., interviews with police officers, police case files, and experiments involving police officers. Those studies using experiments have analyzed (averaged) the data across officers, whereas we analyzed data idiographically, which enables us to pinpoint the factors that predicted individual officer's decisions (see Dhami & Belton, 2017).

There are a number of different explanations for why these four factors were not considered by officers in their case progression decisions. In relation to length of time to report and victim's previous reports of rape, it may be that the impact of recent high profile historical sexual offence cases (e.g., Jimmy Saville) has been to reinforce the importance of taking all cases seriously, regardless of when they occurred or whether a victim has previously reported rape.

Recent UK policy for rape investigation and prosecution suggests investigators view factors such as alcohol/drug intoxication as indicative of potential victim vulnerability as perpetrators who will often target victims based on ease of access and opportunity. This may help account for why this factor was not considered by officers in the present study.

Investigators in our study did not consider the previous criminal convictions of the suspect in their case progression decision-making. This is despite the fact that current UK policy recommends that investigators should always consider the behavioral history of a suspect (including previous convictions). However, it may be that investigators deemed the particular behavioral history we included (dishonesty, violence) as not pertinent to the case under review.

Finally, in addition to the factors that were examined in the present study, officers provided other factors that they believed could be relevant to their decision-making. These factors fell into two categories. One was further information about the victim's character (credibility) such as more details of the victim's previous sexual allegations and their outcomes. The other category was information related to the presence or absence of corroborative evidence (e.g., CCTV, witnesses, early complainant evidence or forensic evidence). Before we discuss these two findings, it is worth pointing out that whereas people often want more information, this does not necessarily influence their decision-making. Indeed, there is a growing body of research demonstrating that people use only a small fraction of the relevant information that is available to them when making decisions (see Gigerenzer, Hertwig, & Pachur, 2011).

The idea that officers would like further information about the victim's character (credibility) such as more details of the victim's previous sexual allegations and their outcomes suggests that officers may see victims' prior reports of rape as important to their decision-making. Further research is needed to understand under what circumstances such reports are considered relevant or not.

The desire to have information related to the presence or absence of corroborative evidence (e.g., CCTV, witnesses, early complainant evidence or forensic evidence) suggests

that officers are considering factors typically used by prosecutors when deciding whether or not to charge a suspect. Corroborative evidence is part of the case-building process. However, such evidence can also be used to assess the credibility of the victim. In order to further investigate the novel finding relating to the effects of perceptions of victim credibility on officers' case progression decisions, future research could compare how officers respond to cases where victims provide inconsistent accounts with and without corroborative evidence, and where victims provide consistent accounts with and without corroborative evidence. In addition, research could explore what factors (e.g., victim intoxication) predict officers' desire to have more corroborative evidence?

Self-reported Use of Discretion

For the reasons enumerated earlier, it is important to distinguish between what information officers think they use to inform their decisions and what information may actually influence their decisions. There is evidence to suggest that there are discrepancies in the applied and self-reported decision-making policies of trained experts and professionals (e.g., Deshpande & Schoderbek, 1993; Dhami & Ayton, 2001; Sensibaugh & Allgeier, 1996; Sherer et al., 1987). Therefore, a secondary aim of the present study was to measure the extent of concordance between individual officers' captured cue importance (as in their applied decision-making policies) and their self-reported cue importance. To our knowledge, this issue has not been previously examined.

We conducted two analyses. The first indicated whether officers were correct or not in reporting the *independent* influence of each cue in their decision-making, and the second indicated whether officers were correct or not in reporting the *relative* influence of the cues in their decision-making. Both sets of analyses suggested that, with the exception of one factor i.e., the consistency of a victim's account, there was little concordance between individual officers' self-reported and applied decision-making.

While some have claimed that the discrepancy between self-reported and applied decision-making policies demonstrate a lack of self-insight (e.g., Summers, Taliaferro, & Fletcher, 1970; Ullman & Doherty, 1984) and an inability to access cognitive processes (Nisbett & Wilson, 1977), others note that self-reported decision-making may be biased by social desirability and the limits of memory (Brookhouse, Guion, & Doherty; 1986; Shepard6031416991, 1964). Future research could explore if the self-reports represent a genuine lack of insight or if they reflect a bias in reporting. Reilly and Doherty (1989, 1992) recommend using recognition methods to distinguish between these two explanations, where, for example, officers are asked to identify their own applied decision-making policy from as set of others' policies. Evidence for a lack of insight would be compatible with the idea that officers' subjective judgment in their exercise of discretion involves intuitive rather than deliberative thinking.

Strengths, Limitations and Potential Implications

As mentioned, past research on police decision-making in rape cases has employed a variety of methods. As we have shown, self-report (interview and survey) methods may yield unreliable and invalid findings. Whereas studies of real cases (e.g., using police records) has greater external validity than other methods, they may yield unreliable and invalid findings because such records are often incomplete, with high rates of missing data. By contrast, experimental studies, such as ours, measure behavior (i.e., decisions) rather than self-reports, and they can examine the effect of multiple variables of interest. Compared to other experimental studies in this area (e.g., Goodman-Delahunty and Graham 2011), who have analyzed data aggregated over groups, we used an idiographic approach to analysis. This allowed us to obtain a more nuanced understanding of the factors predicting officers' decisions.

Another strength of our approach was the sample. We studied the decision-making of specially trained and experienced officers who were representative of those dealing with rape cases. The response rate was also relatively high for a study involving busy professionals. Nevertheless, the relatively small size of the sample, precluded analysis of individual differences in officers' applied decision-making policies, although the degree of agreement in officers' policies would render such analysis somewhat moot.

The present findings have potential implications for police officers investigating rape cases. Police forces, such as those in England and Wales, provide specialist training to officers who deal with sexual offense cases, and toolkits are available to assist in rape investigations (National Police Chiefs Council, 2015). Our study involving specially trained and expert officers might therefore be used to question the effectiveness of such training. Future research should examine the extent to which officers with less training and experience may be influenced by cues relating to victim credibility when investigating rape cases. Our findings pertaining to individual officers' decision-making policies suggest that officers may need further guidance or training in order to properly understand the complex ways victims can respond to their victimization and how they give accounts of their victimization.

A number of studies have found no significant effect of existing specialist training on attributions of blame and responsibility towards rape victims (Goodman-Delahunty & Graham, 2011; Sleuth & Bull, 2012). New approaches to training may need to be considered such as those based on active learning principles (Bonwell & Eison, 1991, Charles, 2000). Active learning involves instructional techniques that engages students in the learning process through the use of meaningful activities and reflection (Felder & Brent, 2009) and has been shown to deepen learning and understanding in a range of educational settings (Prince, 2004). Examples of active learning activities include virtual and physical simulation and behavioral role-playing. Such activities can be used to replicate substantial

aspects of the real world in an immersive and interactive fashion and help deepen understanding around complex topics (Lateef, 2010).

An alternative avenue for future research would be to investigate the extent to which investigators' decision-making is influenced by legal rationality, i.e., where their decisions are based on whether a case has a reasonable prospect of passing the CPS evidential test (Crown Prosecution Service, 2004) and ultimately succeeding through to a conviction in court. One method that may be used to explore the concept of 'legal rationality' is to ask officers to report CPS guidelines, and think-aloud when making case decisions so their reasoning for decisions could be recorded.

Finally, our findings regarding the discrepancy between officers' self-reported and applied cue importance ought to be a cause for concern. Officers are accountable for their decisions and must be prepared to provide a rationale for what they did and why as well as often being required to give public statements of their decision-making, including in court. The fact that self-reported accounts may be unreliable and invalid indicates a need for strategies to increase officers' ability and/or willingness to accurately report the factors that influenced their decision-making. In addition, those reviewing police decisions and actions ought to be warier of relying heavily on officers' self-reports.

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Appendix A

Example Hypothetical Case Used in the Present Study

The victim reports the incident to police immediately. The victim has no previous

convictions. The suspect has previous convictions for dishonesty. It is a stranger two

attack. The victim is consistent in her account. The victim has made previous allegations

of sexual assaults to the police. The victim has consumed alcohol and drugs prior to the

incident.

Appendix B

Individual-level Regression Models Predicting Case Progression for Full Sample

	Standardized beta weight for each cue								
Pp	Time	Cons	Vic Alc/ Drug	Prior Rep	Vic Prev	Sus Prev	Rel	Adj R^2	F
1	-.09	-.32*	-.24	.22	-.26	-.17	-.52***	.47	4.93***
2	-.22	-.13	-.03	.01	-.13	-.01	-.53**	.18	2.00+
3	-.02	-.13	.06	.21	-.02	-.01	-.44*	.04	1.17
4	-.24	-.14	-.02	.02	-.14	.00	-.53**	.19	2.04+
5	-.05	.74***	-.08	-.12	-.02	.06	-.12	.48	5.04***
6	-.26	-.47**	.22	-.06	-.16	.12	-.15	.23	2.30+
7	-.01	-.27	-.14	-.08	-.52**	.30	-.14	.32	3.10*
8	-.06	-.77	.08	.08	-.13	.18	.11	.57	6.94***
9	-.23	-.39**	-.10	-.21	-.53***	.15	.02	.44	4.48**
10	-.10	-.69***	-.16	-.08	-.20	.15	-.12	.48	5.14***
11	-.03	-.71***	-.30*	-.16	-.28*	.02	-.08	.62	8.22***
12	-.18	-.84***	.02	.03	-.12	.06	-.09	.69	10.72***
13	-.24	-.14	-.02	.02	-.14	.00	-.53**	.19	2.04+
14	-.01	-.27	-.14	-.08	-.52**	.30	-.14	.32	3.10*
15	-.27**	-.75***	-.03	-.06	-.21	.00	-.21	.64	8.92***
16	.17	.06	-.29	.13	.17	.17	.13	-.02	0.91
17	-.15	-.28	.06	.11	-.39*	-.22	-.37*	.30	2.89*
18	-.08	-.15	-.07	.11	.15	-.04	.24	-.13	0.50

19	-.07	-.22	-.22	-.22	-.22	.17	.00	-.01	0.97
20	.09	-.50**	-.18	-.13	.04	-.23	-.11	.19	2.01+
21	-.14	-.34*	-.10	-.21	-.39*	.22	-.23	.27	2.65*
22	-.01	-.72***	-.05	-.02	-.04	-.00	-.02	.39	3.78**
23	-.00	-.61***	-.15	-.09	.09	-.01	-.22	.30	2.92*
24	-.10	-.49**	-.18	-.13	-.25	.04	-.13	.20	2.08+
25	-.03	-.52	-.15	-.23	-.17	.13	-.06	.23	2.30+

Note. $^+ p < .10,$ $^* p < .05$ $^{**} p < .01,$ $^{***} p < .001$. The regression model data from participants 3, 16, 18 and 19 were excluded from further analyses.