

Rape Investigation – a Policing Perspective

Mr John Yates QPM

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A meeting of the Society was held at Chandos House, 2 Queen Anne Street, London W1, on Thursday, 12 June 2008. The President, Mr Bertie Leigh was in the Chair.

The President: We are very lucky indeed to welcome John Yates QPM to address us. His career is something of a catalogue of the exciting and dramatic things that have happened in the police over the last ten years. His is an extraordinarily distinguished career. He has led the police response to everything from the tsunami in Asia to the Stockwell policing. Some of you may have noticed tucked away on the back pages that he looked for evidence that there might be some vestigial link between the payment of cash and the receipt of political honours and thank goodness found that there was none. He has a particular role in the investigation of serious crime, and he is talking to us on a matter that is core business in this Society and a matter of very considerable importance, namely the nature of rape and the police response to rape, and the clear up rates in response to that offence. It gives me great pleasure to welcome John Yates to address us this evening. Thank you. (Applause)

Mr Yates: President, thank you very much indeed for inviting me tonight.

It is always good to speak to different audiences on a topic that remains stubbornly high on the agenda of everybody in this room. Just to try and get you on my side to start off with I will tell you a bit about myself. I am a poor boy from Liverpool; my parents were both doctors, my sister is a doctor, my uncle is a doctor and my brother is a lawyer, so how did I end up in the Police? I do not really know, but I have had a fantastic time over 27 years.

A bit about being an A.C. – I am an Assistant Commissioner in the Met; there are three others like me. We are a fairly big organisation, there are 52,000 of us now, we cost you £3.5 billion per year.

As the President said, I seem to have developed a worrying knack of being associated with bad news and I have spoken at several conferences recently on the subject of managing crises, and most of my closer colleagues say to me: “more like creating them”.

Many would find it hardly surprising that I should be associated with a policing area that is marked, probably more than any other, around the word “crisis” – crisis around convictions rates, crisis around drug rape, crisis around lack of support for the voluntary sector, crisis around drinking and public morals, crisis around a lack of care for victims, crisis around a lack of female doctors to examine victims, crisis around sexist judges.

There is also the crisis around police stereotyping victims and not believing them, crisis around police manipulating crime figures and crisis around things such as the amnesty international survey. These are just a few of the issues that are around the subject of rape.

I have been the ACPO lead (that is the Association of Chief Police Officers’ lead) since 2003, and you think with the “ACPO lead” you have a lead, but actually what we do is influence, cajole and try to encourage the 43 fiefdoms out there (which are the Chief Constables of England and Wales) to try and raise their standards, but they are very much their individual fiefdoms.

I can honestly say that with regard to rape for the last five years I do not think there has ever been good news. Even when we do have good news around the opening up of Sexual Assault Referral Centres for victims or “Havens”, whatever you like to call them, you are always put on the back foot because there are never enough of them and people say that it is a “postcode lottery”.

My instincts are that this situation is not about to change. There is a Herculean effort going on out there by many professionals either in my field, or many of the fields that you represent here. The government is really switched on to this, but it is actually driving the change through and making it happen that is the difficulty, and it is just not consistent across the country.

Let us look at some facts.

Fact 1: there are roughly 14,000 rapes per annum reported in the UK. The experts estimate that only about one in ten are reported to us. That means as an intelligence led organisation we are actually operating in the dark. We do not know what is happening out there.

Fact 2: the conviction rate is currently around 5.7%, so work that one out – of the 14,000 reported cases around only about 800 result in a conviction at court. I will argue later that convictions on their own are not a great measure of what we do, however, if I were the chairman of a public company and convictions were what we were measured on then I think on the statistics I would be out of a job, to be honest.

Fact 3: as I say, I think it is pretty daft to have a conviction rate as the sole indicator of what we do as a collective – the CPS and us – because actually it makes us compete against one another. We want to push cases through; they want to take the best cases to court that have the very best chance of success. They do not do that but it does create those perverse incentives, if you like, around that.

Fact 4: there is rape and there is real rape – that is not true, but in my view it is a belief that is strongly held across the whole of society. Public consciousness, police effort and resources are magnetically drawn to those cases that are most concerning – the knife rapist, the DJ rapist, the Cambridge rapist, all those cases magnetically draw the full police response, and so they should – but so should every rape. That is particularly true when you assess the research that says the biggest damage to victims, the biggest trauma, is to those people who have been raped by an acquaintance.

There always appear to be symbolic moments in the way police and prosecution approach rape investigations. The media comment is all pervasive; you can just pick headlines in the last six months and you find comments around rape all the time – the false allegations and all those issues. It does remain one of the biggest challenges for law enforcement in its widest context.

We (the police) have a fairly chequered history in terms of our response. I expect many in this room will remember “Project Rape” interviews and the Thames Valley case from 1982, when you saw two detectives on screen virtually bullying a victim.

That programme was the catalyst for a seismic shift in our attitude, in the way we delivered rape investigations, but it did not change for ever, unfortunately.

As I say, the vast majority of cases sometimes do not even reach our crime books, and that is because people actually think: “Seeing that programme, seeing what we see, seeing what we read, the police are not going to believe us so what is the point of reporting it?”

Those of you in this room will remember that in 1991 the law changed to make marital rape a crime. Before then it was considered that a woman consented once and for all time upon marriage.

It was only in 2004 that we were given a definition of consent. Before that we had what was called the “Morgan Defence” – many of you will be familiar with that – and you could have a genuine, but wholly unreasonable belief that the woman consented and that was okay. At least now we have something called “consent” and a definition that says: “choice and freedom and capacity to make that choice”, but still there is an enormous amount of discretion about how that is interpreted across the country.

We are not alone across the world, though comparisons of crime statistics are notoriously difficult because they are collected differently. In the US 13% of reported cases reach conviction. In many developing countries, particularly the Muslim countries, many victims do not even report it to the police because it is so difficult to secure convictions.

So, we are not alone but in my view it must not lead us to the hand-wringing despair that we can do nothing about it. My view is that we in the criminal justice system have to be far more ambitious. Far from saying that it is one person's word against another (which 90% of cases are) we have to really start exploring with detectives every aspect from the start of the case: How can we prove the version of events, be it to implicate or to exonerate? We are in danger of becoming what I term "DNA lazy" – DNA is a fantastic, unbelievable science that does wonderful things and which has secured convictions in the most difficult circumstances, in the most difficult crimes. However, I sense that we have become rather complacent about it saying "No DNA, no investigation", and actually if we place so much reliance on the probative value of that we are just not going to be able to deal with acquaintance rape.

In my view some of this is back to basics, in the sense that we need to start interpreting crime scenes in every possible sense, looking for all the nuances that will either prove or disprove the case. I will never advocate – as some have – that there should be a reduction in the burden of proof in these cases, or that we should move the goal posts in some way, given that the suspects are potentially facing life imprisonment. We have to build better cases from the word "go" – the continuum of the investigation from the intelligence picture to scene management, though to proper victim care and to case building with the CPS, managing the case through the court and reviewing and learning lessons; in my view that is the key. Every stage can yield more evidence. Conversely, every stage is littered with potential pitfalls around disclosure and all yield opportunities for skilful defence lawyers to ambush poorly prepared cases.

I therefore strongly advocate the development of rape investigation as a specialism in its own right. I suspect many of you here say "Isn't it already?" The answer is: "Yes, nearly in some places, but not in many areas."

Let me take you through some comparative areas of policing. In London, we have 160/170 murders a year; it has come down from about 210 on average. The graph is going down, which is great – much of that, I have to say, is down to the skill of surgeons and para-medics in getting to scenes early and their early intervention actually saves victims. So murder is going down, but why is that from our perspective in terms of what we do? You will all be familiar with the tragic murder of Stephen Lawrence and the William Macpherson Report which completely overhauled and professionalised our response to murder. That introduced the concept of critical incident management – that golden hour – 24/7 homicide advice teams go to scenes straight away with all their expertise and knowledge in order to do the first things critically well. There are dedicated family liaison officers, dedicated exhibits officers, dedicated disclosure officers, and we revamped the training at every level from PCs to scene investigators. So grave was the concern we even introduced dedicated teams to deal with crimes in particular communities. The result was that detection rates for murder in London rose from around 70% to nearly 90% per annum, and has stuck there ever since. In the black community where we were really struggling to get evidence, to get witnesses to come forward, it has risen from 40% to over 90% at the moment. Community confidence in our ability to investigate murder – I hope – has never been higher. Witnesses are actually coming forward from the black communities and other communities now to give evidence because they know they will be protected and dealt with and managed appropriately.

Child Protection is very, very similar. Lord Laming's Report following Victoria Climbié's tragic death transformed – revamped – the way we deal with child protection.

Both those examples are seen as specialisms, they have a cachet – people want to join these departments. The detectives are immersed in them, they know their case law and prepare their cases really well. They are experts in their field. In fact, if you speak (as I do regularly) to Treasury Counsel at the Old Bailey who prosecute many of our cases they will universally praise the quality of the investigations before them.

How can we justify having dedicated homicide teams, dedicated child protection teams, dedicated robbery teams, dedicated burglary teams, dedicated teams to deal with road rage and road deaths but we do not have such teams to deal with rape?

I pose the questions often. What is it that makes rape different to any other investigation? Why is rape the only crime where we seriously assess the credibility of the victim first? Why, when I talk about victims of rape, do I get rebuked by barristers and judges who say I should not talk about victims, because it is pre-judging the case, but that I should talk about complainants. You do not hear about complainants of murder, complainants of burglary or robbery, or complainants of road traffic accidents. It does not sound right to me. So, why is rape treated differently to other crimes?

How do we ensure that victims get the best possible deal? Why is rape a priority in some Forces and not others? Why do people not implement best practice? Why is there not complete coverage across UK of Sexual Assault Referral Centres, which everyone knows provides a better start in terms of these cases? Just why is the conviction rate so appallingly low? I often say to colleagues "Just how much more of a beating do we want to take as a Service before we actually get these matters treated and resourced appropriately?"

The answer is that some are getting there and some have not moved. The Met led the way in many respects with the introduction in 2002 of Operation Sapphire – this introduced the concept of dedicated teams to deal with rape and improved the training and response to rape at all levels. They recognised that that there is no point in improving the quality of the detective response if you do not at the same time improve the training of the front counter officers and the 999 operators who are often the first people who come into contact with victims.

As I said earlier, as a service I think we may have been collectively and corporately complacent. That is not to say that there are not many, many who are dealt with expertly, sympathetically and very professionally, but I cannot be confident at all that every case will be dealt with in that way. The recent HMIC report (Her Majesty's Inspectorate of Constabulary) certainly endorsed this view and that is after a visit to all 43 Forces.

My concern is that amongst all the range of priorities that Forces have rape is not a top priority. Some Forces are doing exceptional things and they are to be applauded, but I know this is not the case everywhere. Performance measures are terribly dry, I know, and we have never had a proper measure of rape and serious sexual violence until this coming year (2008/2009). We lobbied hard for this, and you will have seen recently about four or five Chief Constables have broken ranks and said: "We are going to ignore some government targets", well I sincerely hope they do not ignore this target because that would be disastrous. The old adage of "what gets measured gets done" I am afraid applies to this, and by having this performance measure I sincerely hope that Chief Constables will move resources to this clearly dreadful crime.

I will talk about some of our initiatives a little later, but before that, I will try and answer the questions I have posed a few moments ago.

What is it about rape? Well I am not sure anyone understands really. The media distort it without doubt, their concept of real rape being the stranger with a knife in the church yard, the acquaintance rape, the date rape, being far less important – a potential misjudgement by somebody, not meriting the full weight of the law, is the impression you get.

You may have read the Amnesty International Report – about 18 months to two years old now – it surveyed over 1,000 people and is a great barometer of the prevailing mood out there. Of those 1,000 people a third believed that a woman is partially or completely responsible for being raped if she has behaved flirtatiously. 25% believed she is partly to blame if she has worn revealing clothing or been drunk. These are the very people that sit on juries in judgment on these cases. So fundamentally the concept of rape is misunderstood and as long as that persists I think that the conviction rate will remain at the level it is.

The next question is: why is rape different? Why do we always assess the credibility of victims in these cases? Is it experience? Is it a legal requirement, or is it because the whole focus of the adversarial system is such that we know what a terrible time they can go through at court so we automatically do that to see whether or not they would be ready for it? In a recent consultation paper, “Convicting Rapists and Protecting Victims – Justice for Victims of Rape”, there was a real determination by the Government to put some of this right, and there has been a bit of a sea-change in some of the things they are bringing for enactment, hopefully soon. But we cannot expect them to micro-manage these issues, this is down to us, the police.

That takes me to my next question: Why are some Forces better than others? This simply is the case. In many Forces (the Met included) you will have areas within a Force that are better than others. I know if I look at performance across the Met I will see some Boroughs are absolutely brilliant, and some Boroughs not so good; that is in one Force, albeit we are the biggest. Clearly Chief Officers have to plan their year in accordance with both the National Policing Plan and their local priorities. That sometimes means that the steady-state business (which rape regrettably is) can get ignored and not subject to detailed measurement and attention that it deserves. I know there are Forces who have a champion at Chief Officer level and there are other Forces who just do not have that. I often ask people at conferences, “When was the last time a rape investigation on your Force was reviewed, either for why it went wrong or why it worked?” The answer is normally silence.

Why is the conviction rate so appallingly low? The vast majority of these offences take place behind closed doors, this is why it is so difficult, where it is the word of one person against another, with little forensic corroborative evidence and a potential high jeopardy – life imprisonment – for the alleged perpetrator. Our task – and we have to keep reminding ourselves – is to convict the guilty and ensure the innocent go free, and that is a very, very heavy task for us. The level “beyond reasonable doubt” is exactly the right level in these cases and we must never forget it. We should not be surprised therefore that juries are sometimes reluctant to convict. Our job in the Police is to ensure that these juries have the best possible case to enable them to make that judgment, and so for me building better cases is the answer.

So, what are we doing about it? As ever with ACPO work, though this is in addition to a day job, I see it as a clear part of my professional duty to lead and influence work in this area. We have an excellent professional body set up under me in ACPO which includes a lot of people from the voluntary sector, the CPS, Forensic Science and the Policing Standards Unit, it is a broad, broad church because this is a collaborative effort – we cannot do this on our own. It has a number of work streams around such areas as intelligence, the role of the FME (forensic medical examiner), forensic issues and rape abroad – there is lots of work going on and we are encouraged by that.

In addition, we are always looking for new ways of doing business. The concept of restorative justice may be familiar to you and you would think “That could never work in rape”, but in Denmark it does, so we are always looking for different ways of improving the outcomes, if you like, of science and that is some of the stuff we are looking at.

There is a huge amount of work to be done. I had a team recently who have made two complete visits to all 43 Forces; there has never been a better picture about what is going on than we have now. The gap is pretty much as I expected. It looks like this:

- Rape is not on the radar of most Forces.
- Rape is worryingly ignored as a serious crime issue.
- Stranger rapes are serious, relationship/acquaintance rapes are not.
- Cultural issues, (myths and stereotyping) remain incredibly significant.
- There is an apparent lack of ability to implement change, although there is much willingness at a junior level to do so.
- Previous recommendations have not been implemented by some Forces.

And that is the picture in the last year. We have had a number of HMI reports, we have been beaten up in the press: “How did all this happen?” What are we going to do about it? What have we done about it? The good news is you have Sexual Assault Referral Centres now, 19 sites across the country. We had about seven or eight four years ago and it has now grown dramatically. There were consultants and Home Office funding for work we are doing which is really good news. Eleven out of the 43 forces now have some form of dedicated approach to rape. There is a national training programme in place. There is ACPO guidance – more guidance than you can shake a stick at. There is great engagement with senior Forensic Physicians. The voluntary sector are involved. We have “Working Together” protocols with the CPS, we have performance measures – it is all there.

One could be forgiven therefore for believing that the necessary building blocks are in place to make inroads into this. The improvement looks something like this: 0.1% improvement in conviction rate since 2002 – I will not even try and do the maths for you, I think it is about three convictions a year. One of the biggest criticisms we face is that lack of implementation of good practice. We had a very senior guy in the Met in our Police Authority – in the House of Lords – and he used to say “The Metropolitan Police is policy rich, implementation poor.” We can churn out policy but we cannot actually implement it. The traditional measure of judging us is by the statistical route of benchmarking performance against the sanctioned detections, which is somewhat unimaginative in my view. As long as we continue with that, the picture will be one of relatively poor performance.

There has to be an acknowledgement that the offence of rape is unique and exceptional and cannot be equated in performance terms to acquisitive criminality such as shoplifting, assault and so on. The interpersonal nature of the crime often means that there is little or no corroborative evidence. We know from research recently published in July 2007 that as many as 38% of victims do not want it to go beyond the police stage; they simply do not want that to happen. That means there are almost 6,000 (out of the 14,000) that just do not go to the CPS at all.

Rather like domestic violence offences, in our professional view, what constitutes success for victims is often predicated on factors that do not include the criminal justice system, and you cannot blame them, so successful victims have been able to move on with their lives, but in terms of performance data this translates into an “undetected” crime for us and we cannot do anything about it.

We believe firmly that future performance measures should include victim withdrawal and victim satisfaction rates. There would need to be some rigorous quality control around that, but that is what we ought to have, otherwise we will still have these perverse outcomes that I have mentioned.

When you have a single performance measure in any quantitative terms, we find across the country that Forces recording rates vary so the crime does not get on to their books, and again what does that do for the victim?

To their credit some forces have progressed better than others and successes include:

- dedicated teams;
- SARCs;
- trained specialists;
- Strategic Grip.

However there is not a single force in England and Wales that has introduced the recommended procedures from cradle to grave. The problem is compartmentalisation: they introduce better examination facilities and dedicated victim care, but do not train their detectives to do it properly. So if you rely on a single element of the investigative process you will not improve your performance in response, so it is a completely flawed philosophy that some of us are following.

In my view, what is needed is a structured and sustained approach to all the elements in the investigative continuum – the cradle to grave:

- initial contact;
- first response;
- victim examination;
- Investigative Grip;
- building cases;
- CPS involvement at an early stage;
- victim care;
- review your cases afterwards.

Building better cases means dealing with and linking every aspect. That is the vision we have, but the vision will only become a reality if it is supported by specialist investigators who are experienced and experts in their field. It is only then that we will see a real difference. At the moment, it takes one aspect to fall and the domino effect happens.

As I said in an interview to *The Guardian*, if, when a victim comes in, a policeman raises an eyebrow or gives a slightly jaundiced look that victim will be put off for ever – absolutely no doubt about it, it happens, and that means that case is doomed from the start.

So, in conclusion, taking a glass half full approach would indicate that police are indeed beginning to build better cases, they are working better together with other professionals like yourselves in the criminal justice system, and victims are getting a better deal – there are plenty of examples where this is indeed the case.

The half empty approach would indicate that myths and stereotypes around rape are still there and are operating at every level – in the police, the medical profession, at the Bar and within the judiciary. Allegations of crime are not getting reported to the police because they do not trust us, the whole SARCs process is a postcode lottery and the Bar and judiciary appear remote and out-of-touch. Equally, with the glass half empty approach there are plenty of examples of that as well.

I called this speech “Building Better Cases” and with a 5.7% conviction rate it does not take a brain surgeon to work out that is what is required. But, as I said, everyone has their part to play. Specialism is the key for me, but not just at a few levels. The “Jack of all trades and master of none” approach does work in some areas of crime investigation but it cannot work in an area which is universally accepted to be one of the most difficult areas to prosecute.

Thank you very much. (Applause.)

Discussion

The President: Has anyone any questions for Assistant Commissioner Yates?

Mr Colin Bishop: Colin Bishop, I am a plastic surgeon. A man resigned from Parliament today on the basis that we are an over-surveyed society, one camera per 14 people. Can I ask you (and particularly in relation to rape) do you first of all agree with the 42 day rule – I have no position on this personally – and would it help in building the case of rape; and do you think we are an over-surveyed society and would that help in rape as well?

A.C. Yates: 42 days – we have a rule, certainly at my level of management, that you only speak on your specialism, so I leave those views to the man who runs counter-terrorism.

Are we over surveyed? I do not think we (the Police) half use the surveillance there to the maximum. You probably read, about a month ago I think, that we use about 3% of CCTV properly, which may be true. There are issues around CCTV and rape, because we have found that a number of perpetrators, the predators who target women, will deliberately get themselves surveyed with a victim in a nightclub – what we call the “late acquaintance rape” – they will be deliberately seen with the victim in a place they know they are on camera behaving in a way that it’s boyfriend and girlfriend, or flirting together. Are we over-surveyed? You would not get me saying that because we need all the help we can get, so I do not think we are. The checks and balances around all this in terms of how we can do things are hugely high, and reassuringly high. Some of the most intrusive techniques require someone like me at Chief Constable level to authorise as many people know, so it is not as if PC So-and-So can just say: “We fancy doing that now”, there is a whole process we go through questioning the proportionality, the necessity and not least the legality of doing these things, and they are monitored very, very carefully on a monthly basis ensuring it remains proportionate and necessary. So the power is there and we will use it, but be assured that checks and balances are there at a very, very senior level to ensure that it is not misused.

The President: Can you think of a single case where a prosecution of rape has been assisted by close circuit television?

A.C. Yates: I cannot think of specific ones, but I can think back that it has helped, yes.

The President: You have actually used it in court?

A.C. Yates: We only use it to implicate, so you have to take it that way as well. Personally, because I have been out of investigation for a few years in terms of direct stuff, no I have not, but it is used on a regular basis.

Ms Betty Regan: Betty Regan. I am a gynaecologist working in Paddington and I was involved in setting up the local Haven Trust, St Mary’s. My question was that you alluded at the beginning of your speech to the fact that many cases were known to the victim, were family members or friends. What sort of percentage is that?

A.C. Yates: If you take the 100% of all cases – again this is research, not mine but academic research – between 6 and 8% are false, around 10 to 15% are stranger attack, a completely unknown predator attack, and the rest are known in some sense; as in boyfriend/girlfriend, husband/wife, or through to “I met him in a night club”, which is like an acquaintance but not really an acquaintance. The vast majority are those and the vast majority of those are the ones where consent becomes the issue, so forensic evidence in its most probative sense becomes fairly useless.

Ms Betty Regan: And is there an ethnic divide as well?

A.C. Yates: Not really, again it is the reported and the non-reported. In many communities, particularly the largely ethnic communities, and as I alluded to many Muslim communities, will not feel comfortable reporting such crimes because of the acute shame involved. But there are ethnicity issues around rape absolutely, no doubt.

Dr Peter Dean: Thank you for an excellent presentation. Peter Dean, I work part-time as a Coroner, and with my other hat on I have worked as an FME with the Met. for nearly 20 years. In that capacity one of the areas of particular interest I have had is working in the area of sexual assault with about 20 years of doing child abuse examinations, but also with victims/complainants in respect of rape allegations. The plea I guess that I would have is for better communication and please use the resources that the Met. and other Forces have within their areas. You will be interested in hearing I was on the Whitechapel Steering Committee when that was set up and when it came to the implementation I, like many others of us, were not then allowed to play a part because we had Y chromosomes, and were therefore taken out –

A.C. Yates: I remember this.

Dr Peter Dean: It was a big problem at the time, particularly at a time when we were coming with a message of working together. The difficulty is that many of us do defence work, as we had done at that time. None of us want to see guilty people get off; equally none of us want to see people who may well be innocent locked up on questionable evidence. There is a need really to involve all doctors in the process much more, to have better consultation between the forensic doctors and the CPS before things go as far as they do in court sometimes; more consultation between defence and prosecution actually, using the large amount of doctors within the police forces to get experience from the work – we are still there and we are still keen to try and do our bit.

A.C. Yates: I remember the difficult debate around female doctors and SARCs, and all those issues. My recollection was it was: what did victims want? Now, most victims, in my understanding, in my knowledge, would prefer a female doctor. Most victims are women, and most victims would prefer a female doctor. So the business goes all for women, but that was the premise – that is not to say we should exclude the enormous wealth of talent, knowledge and experience out there, and I actually take your point – we cannot ignore that, we want to use it.

Dr Neville Davis: Neville Davis. Thank you, Assistant Commissioner, for passing on your insight which is very valuable. You spoke of the Sexual Referral Centres, and there is no doubt whatsoever that as far as the complainant is concerned the treatment she receives is far superior than it ever was. However, if you start to think in terms of the evidential input, I am not quite so sure and I am not quite so sure for this reason. Now, it is politically incorrect, is it not, for gentlemen to examine ladies. So all the sexual offence examiners are women, and they are women who are doctors, who are used to the doctor/patient relationship. Because of this they tend in many cases to almost identify with the complainant. Their opinions tend to come out in favour of the complainant. Now, we all know that juries pay too much attention to medical evidence anyway. But, having said that, if the Crown presents medical evidence which is biased towards the complainant a defence expert can demolish this with the greatest of ease, and then the whole Crown case suffers, and what Peter Dean said just now is very relevant – I do a lot of expert work too – I do not want the guilty to get off. There are many cases in which I have had an opinion that the chap was probably guilty and yet I have had to give evidence to demolish the Crown's medical evidence.

A.C. Yates: That may be a point of view you have, but the key for us surrounding all the professionals involved in this investigation is training, awareness and understanding of the rules of disclosure and my desire is that the professionals stick to the facts that they know about and do not try to interpret them in a way that goes off piste in the areas where they are matters for the jury or are just completely outwith their professional views. So doctors stick to the facts, stick to their findings – they can still be asked for their view – but whether female doctors identify with the victims or not I am not sure about. Some doctors are better trained than others, some doctors give better evidence than others.

The President: Before we leave that is it your perception, as a police officer, responsible for this, that there are problems in the quality of evidence that you get from sexual offence examiners?

A.C. Yates: It is not in London, but I am aware there are all sorts of debates around contracts and the like, but I am also aware around the country there are some challenges. We are heavily engaged at the moment in that respect with trying to ensure that the checks and balances are right and the appropriate people are examining these victims. I know in some places there are an awful lot of accession State doctors coming in with nothing like the awareness you have – they may be damned good doctors but have nothing like the awareness that you collectively have and others like you in terms of what is required in these types of cases. So it is a problem across the country.

The President: But in London of the many components of the problem you have described in your conviction rate you do not think that it is the quality of the medics that is responsible?

A.C. Yates: There may be pockets but they certainly do not get raised at my level.

Mr Richard Slee: Richard Slee, surgeon. Commissioner, do you not think that rape represents yet another facet of our society. I understand there is even check-out rage today – a chap was murdered at a check-out. Our society is violent and has broken down in many ways. I lived for quite a long time in Saudi Arabia and we had a lot of women working there and they all used to tell me they felt safer in the streets of Jeddah and cities like that than they ever did back home in America or in London. Do you not think that part of the problem with rape – apart from the fact that sexual intercourse is a normal activity on the one hand and a criminal activity on the other (in contrast murder is never a normal activity, so it is a particularly special crime) – do you not think it is a reflection to some extent of our society, that our society is very violent? As we get more crowded in this country people are less tolerant of each other because there are too many people in a small space, and rape is an expression to some extent of that violence which may come out – it may come out as violence against women, and it may come out as violence against men and so forth.

A.C. Yates: It is funny you should say that in terms of that contrast between then and now because we were talking about that at the Met. today. I think you hear more about violence because of the vast exposure of 24/7 media and all those issues. Actually 25 years ago it was just as bad, people were arming themselves with cudgels, cutlasses and all those sort of things, it just never got reported, you would not hear about it. It would simply happen and would not get reported. Women were getting raped, it would not get reported; it is just now we are much more sensitised, much more aware and violent crimes sell newspapers – absolutely. Monday morning in the Met. we get press cuttings and last Monday morning because of all the 42 day stuff I had 280 pages of cuttings and that is only from Saturday and Sunday and Monday – two of those pages were something to do with the police. It is a huge industry. So I do not think society is any more violent now than it was then, but you just get, for example, that terrible case this morning – he was not even the person, would you believe, that had the contretemps in the queue, he was just mis-identified; absolutely awful, a 57 year old man with a five year old daughter – a shocking case, but it was splashed in the *Daily Mail*, it was splashed on the news tonight and you will have a perception that crime is on the up. From the serious crime aspect at the Met. as I said, no, it is going down, but that cannot be a good news story when 27 children were killed last year, when 16 children have been killed so far this year, it is just not a good news story. But crime in every count is coming down and yet you, here, will think it is more dangerous out there.

Mr Cyril Horsfall: Cyril Horsfall, barrister. I spent some of my career on the staff of the Old Bailey, and I think the problem is the trial rather than the investigation. You have been very frank about the shortcomings of the police such as they are in certain cases, I am sure, in the early stages of the investigation, but the big thing about rape is the one element in the trial is consent. It is unique amongst crimes really in that regard and that is the problem today with juries. A Lord Chief Justice in the past has said that if you go down for rape you should get between five and seven years, and in cases where there is acquaintance rape juries are, as you know yourself, reluctant to convict except in the most obvious cases. What I believe the police prefer is the sort of man who comes out of the bushes at you on your way back to the station, that is a clear rape.

A.C. Yates: Yes, and probative DNA as well is always helpful.

Mr Cyril Horsfall: And, of course, since my days when I was younger society has altered considerably and of course acquaintance rape is quite different from what it was in my day. We were all encouraged to marry virgins – virgins are now like hens' teeth. (Laughter.) So it is a social thing and the judges of course respond accordingly.

A.C. Yates: Yes. Is the experience of the room that the definition of “consent”, the new definition, has made any difference at all to any of these cases? Is there anybody who is practising can say: “It has really transformed the way we can prosecute or defend cases?” I do not know. It seems it has such a liberal interpretation that it has not made that much of a difference.

Dr Moffat: When we met on Tuesday I said I was going to ask you a question about SARCs which Neville I know has already mentioned. There is no doubt the SARCs and the havens that we know about do a wonderful job and the victims are properly treated there rather than in a police station which is what used to happen in the past. What worries people like myself, when we get to trial, is that the 25 page pro-forma containing 966 boxes which have to be ticked by the FME or associate are gone through, very often, by a defence barrister and it is an open goal for them because they will go through the whole 25 pages and the doctor appearing for the Crown is put in a difficult position. Do you think there is anything wrong with the methodology?

A.C. Yates: I do not say there is nothing wrong with it because that would be naïve and probably complacent. You have to remember why SARCs exist. SARCs exist not only for us from the investigative perspective but primarily – absolutely primarily – for the victim in terms of it being a one-stop shop to enable the victim to go to one place where there is all the initial, the immediate and all the aftercare necessary. I agree, tick boxes are not great because people just rush through them and there are own goals and open goals as well, and I will look at that but I have not had a chance. We need to constantly review and revise procedures to make sure that they fit the purpose and we are not actually making things even worse. SARCs as a generality are, I think, fantastic. The original one at St Mary's, for example, is genuinely fantastic, staffed by wonderful people who work extraordinarily hard in order to improve the service that victims get, but we can still improve, and that is one point I will pick up.

Dr Moffat: One of the problems is that the victim is treated so well that when she gets to the Bailey she has a difficult time, and she thinks she has gone through all this and the man has been acquitted.

A.C. Yates: In fairness to the CPS – anyone from the CPS here? One of the things that has encouraged me around Ken McDonald is I can remember that I was responsible for the second Damilola Taylor trial and we were doing pre-brief for the media, really warming up for defeat almost, and what Ken was saying was that the CPS have a duty to take the most difficult cases to court. I know it is said it is a 51:49 thing but there is that notion in their head and they have a duty to take those difficult cases to court sometimes in order to see justice done. Justice is around seeing that the guilty are convicted and the innocent go free, and you cannot just take the cases that are 98% absolutely dead certain. That is not justice as we think of it in this society.

Ms Bernadette Butler: SARC, Camberwell. I take on board the points that were made, and obviously any criticisms that are directed at us we would be happy to hear because otherwise we are not going to improve. I did not want to hijack your talk which I enjoyed very much. Would you mind talking a little bit about the other things that the police have provided in terms of approach to sexual assault – in particular non-police referrals because we see that as not only valuable for healthcare but also valuable for the intelligence that it provides to the police in a part of this crime which is very much hidden.

A.C. Yates: Are you talking about third party referrals and the ability SARCs had to...?

Ms Bernadette Butler: Yes, thank you.

A.C. Yates: It is a crucial issue for us. This is where a victim or complainant would go to a SARCs, report it and not involve us at all, but can have every measure taken to preserve what can possibly be found at that point in order that at some stage – weeks, months, years later – they can come back to us and report it. It is crucial. In terms of our intelligence picture I think it is fair to say that the SARC in Camberwell has identified two very, very serious series of crimes in the last few years, one very recently which frankly our intelligence system did not pick up. So the intelligence pitch that provides us, as I said at the start we are flying blind half the time, we do not know what is going on out there, so it is a really, really important thing. Actually, if you read some of the research on rape trauma syndrome and all those issues, the concept of the victim coming forward to us at the start – the police – is perhaps flawed, because they just do not want to do it; they have read about what happens, they are not going to get viewed sympathetically. So the fact they can do this is fantastic. The fact that a week later they can say, “I do want to do something about this”, and then whatever was available is preserved is fantastic. We are great advocates of it and we thank you for all the work that you are doing down there.

Ms Bernadette Butler: Could I just add something to that? Your colleagues provide something called the “SOIT Clinics”, this is a clinic within the NHS structure, but when they see a police officer, and your police officers in London are so easy to talk to, that 60% of those who would otherwise not be known to you certainly come to Camberwell then go on to formally report.

Mrs Diana Brahams: Diana Brahams, barrister. The law has been recently changed and before that if the defendant did not put his character in issue you could not bring up previous behaviour and previous convictions. Has this change in law helped at all with regard to trials for rape in particular?

A.C. Yates: It has. I am aware of a couple of cases recently where it has helped. It helps in all sorts of serious crime. When you look at the Barry George and Dando retrial the bad character reference in there is absolutely crucial, but it is always going to be helpful, from a law enforcement perspective you can see a person with propensity has committed – I think was it the Edwards case – *R v Edwards* – where an individual who had been numerous times charged and got off rape allegations where you could never get that character in, so we welcome those things; it provides the jury with the fullest possible and best picture.

Mrs Diana Brahams: I have just retired, but I never did practise in the criminal courts, however I did personal injury compensation work and I acted a long time ago for a young girl who was a teenager who had been raped by her neighbour when she was babysitting – it was a very extraordinary case. He used to fix her Coke-Cola with Ativan and she would bed down in her sleeping bag in the lounge in the house next door and she would have these strange dreams and eventually after the third occasion she reported it. The case went to trial and the first thing to happen was that she was identified by the fact that she lived next door to the person whose name was printed in the paper. The second thing was that he was not convicted because of a hung jury so there had to be a second trial. They had a second trial and after that he was convicted, and it then turned out he had previous convictions for sexual assault. I am quite sure that if the jury had known that on the first occasion they would have convicted the first time, but that is only my thought.

Dr Edward Josse: Eddie Josse, one of your principal medical examiners in the Met., in fact I chaired the principals group. Forgetting about rape for the moment – if I see an individual who has a bad laceration he is going to be charged with GBH, and if he has lots of lacerations he is also going to be charged with GBH, and of course the sentence will be tempered by the nature of the injuries. It has been brought up that stranger predator rape in most people’s minds is something more awful to understand in terms of human behaviour than a friend who thinks that by going out with the girl all will be well but things get out of hand and then the consent issue arises. Is there any merit in considering two different types of rape, if you like: rape 1 and rape 2, like we have murder and manslaughter? Then if you have the stranger predator rape – it would be difficult to define – that it is one serious type of rape, but the “friendly” rape comes into a different class of case with a much higher rate of conviction I would suggest.

A.C. Yates: It is not a thing on which I can provide a response politely – probably “no” is my answer. I firmly believe that is not the case, I think it would be disastrous. When you look at the lasting trauma of those who are raped by someone they know, the effect is deep and lasting. Conversely, it is said victims of stranger rapes from research find it easier to get over the trauma, so, no, there is one offence of rape and that is the way it should be – I am sorry.

The President: Thank you very much indeed. Can we give you an envelope.

A.C. Yates: So long as it’s not brown!

The President: No, it is honorary membership of the Society for the next year which we now present to you. Thank you very much indeed. (Applause.)