

Patterned Characteristics of Continued and Discontinued Sexual Assault Complaints in the Criminal Justice Process

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Abstract

This article draws from an in-depth analysis of data gathered from 90 Victoria Police operational case files on sexual assault complaints by adults for the period 2004–08. Complaints are examined in relation to offender/victim relationships, victim and offender characteristics, locations of assaults, victim word only evidence, historical versus recent reports, and witnesses. Witness corroboration is analysed at three different levels; this tripartite analysis has not been promulgated previously in the published literature. A bifocal pattern of characteristics was found to distinguish continued from discontinued complaints. The study found that breaking down characteristics into finer distinctions and adding conceptual detail to the existing research corpus provided additional insights. The study contributes to understanding attrition in terms of a general pattern that offers potential for theory.**

Introduction

This study was undertaken as part of an independent university research project conducted with Victoria Police ('VicPol') as an industry partner. Within this much larger project, data were drawn from 90 VicPol case files of reports to police of sexual assault complaints by adults for the period of 2004–08. There were 108 victims, 108 witnesses and 97 offenders. The main complaints made by 63 and 45 victims respectively concerned serious, indictable

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offences (rape or intra-familial sexual abuse) or minor offences (indecent assault). The focus is mainly on non-legal, rather than strictly legal, characteristics, although this focus is subject to some debate (see Bryden and Lengnick 1997; Lievore 2004). However, non-legal characteristics have long been recognised as important to criminal justice decision-making in sexual assault cases, either alongside or instead of legal factors (Kerstetter 1990; Spears and Spohn 1996; Bryden and Lengnick 1997; Lievore 2004; Fitzgerald 2006; Alderden and Ullman 2012).

This article addresses a continuing need to better understand and effectively resolve the criminal justice system's poor performance in relation to under-reporting and attrition of sexual assault complaints in Victoria and similar Western jurisdictions, as documented by numerous authors (for example, Temkin 1999; Jordan 2001; Jordan 2002; Clay-Warner and Burt 2005; Lievore 2005; Koss 2006; HMIC 2007; Page 2008; Walklate 2008; Burman 2009; Taylor and Gassner 2010; Taylor and Norma 2011). We raise the question: Is there a general pattern of characteristics that differentiates continued from discontinued sexual assault complaints in the criminal justice process? Although current data are taken from Victoria's jurisdiction alone, we pose this question with a view to conceptual development for this research area generally, given substantially evidenced empirical findings in the literature (for example, Daly and Bouhours 2010). Our aim is to present a conceptual framework along with other findings that are promising for future research work. Notably this intent arose only during inductive analysis of count data consistent with the Grounded Theory Method (Glaser and Strauss 1967) as explained below. It is not intended to generalise statistically results or test hypotheses.

The article is structured as follows. First, we selectively review the literature. We organise this according to current research results, concluding with comments on conflict in the research corpus. We then briefly describe our methodology and its limitations. We then present a simple frequency analysis in tables, also organised on the basis of current results. After this analysis, we discuss the key research question with reference to the literature. We conclude by summarising the main points with reference to future research.

Literature

There is a copious literature that has recorded a general consensus on several important findings on factors associated with sexual assault criminal justice outcomes. These factors include the offender/victim relationship; victim characteristics; offender characteristics; location features of sexual assault; corroborative evidence and witnesses; and historical versus recent reporting of the complaint — all of which were found in our study, so none is novel, although some are shown in a new light. Yet no-one has drawn these or other factors together into a *unitary conceptual framework*, as attempted here. Many authors have provided statistical analyses, but not conceptual studies (for example, Alderden and Ullman 2012). In their five-country study, Daly and Bouhours 2010 identified seven factors in criminal justice agents' sexual assault decision-making. However, they did not integrate the factors into a *conceptual framework*, instead identifying statistical attrition patterns in terms of historical, cross-jurisdictional, and stage-of-the-criminal-justice-process rates. (There are numerous other factors — for example, race, weapon use, victim resistance — found to be associated with sexual assault complaint outcomes, many of which are variations of each other, contributing to the need for conceptual development: see, for example, Alderden and Ullman (2012).) Further, there is often a lack of definition or overlapping of key terms in the literature (for example, Daly and Bouhours 2010), although some authors have taken care to

define their key variables (for example, Alderden and Ullman 2012). Also, as noted by Alderden and Ullman (2012), the investigation point has been relatively neglected to date. Research has focused mostly at the prosecutorial and judicial points of the criminal justice process, or at the pre-criminal justice point of victim non-reporting. Work has been conducted with students and other groups in the general population to examine public attitudes towards aspects of sexual assault. Since the literature is abundant and substantially in agreement as to the main factors of importance, we briefly exemplify it *with reference to our results* to show the general consensus and some inconsistencies in the research evidence to date.

Offender/victim relationship

The general finding in the literature to date is that the closer the offender/victim relationship, the more likely is discontinuation of the sexual assault complaint. For example, Lievore's work found that 'stranger rapes' were significantly more likely to proceed at the prosecutorial point than acquaintance rapes (Lievore 2005). Partners and former partners were more likely to have their cases withdrawn (Lievore 2005; SSCRSA 2006). 'Cases involving strangers and other known defendants were more likely than cases involving intimate or family relationships to proceed through the criminal justice process and to end in conviction' (Lievore 2004:37). Frohmann (1991) found that prosecutors' assumptions about normal sexual behaviour resulted in the discrediting of victims' allegations and hence in case rejections, and this was especially acute in acquaintance rape situations. Krahe et al (2009) found that victim blame was lowest in stranger rape. Wiley et al (2003) found that a friend/acquaintance as assailant was negatively associated with a legal outcome. This trend is significant because the sexual offender/victim relationship is commonly found to be one of at least a known acquaintance (HMIC 2007). In Australia, a number of sources show that a large proportion of offenders are known to their victims (ABS 2004:45).

Some of the research findings are inconsistent with the main trend; for example, Alderden and Ullman 2012 draw a similar observation with reference to several studies other than those cited here. Krahe et al (2009) found that victim blame was lower in ex-partner rape than in acquaintance rape, implying that ex-partners would more likely have their cases proceed. Spears and Spohn (1996) found that a stranger rapist was not a key consideration in the prosecutorial decision and an acquaintance rapist would be prosecuted as long as the woman was a 'genuine' victim; that is, 'if her background and behavior at the time of the incident correspond(ed) to traditional gender-role expectations and if she made a prompt report to police' (Spears and Spohn 1996:201).

Victim characteristics: Vulnerability

The concept of vulnerability employed here is wider than that usually used in research studies, where it commonly refers to a physical, intellectual or psychiatric disability. Various victim vulnerabilities are among the most researched characteristics in relation to victims and their complaint outcomes. In general, the literature demonstrates that the more vulnerable the victim, the more likely is discontinuation (note, however, that this generalisation has significant exceptions, as indicated below). For instance, intellectual disability and mental or psychological problems were noted as possible factors by the Victorian Community Council Against Violence ('VCCAV') (1991) in attrition at the investigation point. Those results are corroborated by other studies, albeit at various points in the criminal justice process (for example, Spears and Spohn 1996; Bryden and Lengnick 1997; Frohmann 1998; Stewart 1998; Lea, Lanvers and Shaw 2003; Clay-Warner and Burt 2005; SSCRSA 2006; HMIC 2007; Krahe et al 2009; Segrave and Wilson 2011).

The VCCAV (1991) also noted drug problems as possible factors in attrition at the investigation point, as have others (for example, Bryden and Lengnick 1997). The SSCRSA (2006) identified the role of a victim being or not being under the influence of alcohol/drugs to the likelihood of charges or no charges, respectively. Bryden and Lengnick (1997) associated heavy alcohol consumption by victims with negative criminal justice decision-making at different points, including investigation, prosecution and adjudication. Frohmann (1998) provided compelling examples of how drug/alcohol-influenced victims were discredited and their sexual assault complaints consequently failed at the prosecutorial point. Segrave and Wilson (2011) also found that victim consumption of alcohol or drugs at the time of the offence was one element in police identification of a 'non-ideal' victim. The 'ideal' versus 'non-ideal' victim distinction originated in Christie's (1986) thesis and it has been commented upon in a variety of similar terms in much of the sexual assault literature (for example, Spears and Spohn 1996; Jordan 2008; Reiner 2010; Daly and Bouhours 2010).

The literature also clearly relates attrition of sexual assault claims to the victim's perceived immorality and poor character, exemplified in promiscuity and prostitution (for example, LaFree 1979; Kerstetter 1990; Spears and Spohn 1996; Bryden and Lengnick 1997; Spohn and Holleran 2001; Neame and Heenan 2003; Lievore 2004, 2005; Page 2008), and reflected in the 'ideal' victim as including a 'respectable', law-abiding citizen engaging in legitimate business activities at the time of the offence (Segrave and Wilson 2011).

The research literature strongly suggests that vulnerable victims in these senses — sometimes with and sometimes without a moral overlay — generally do not see continuation of their complaints. The literature suggests two broad explanations for this trend. First, some of these victims are prone to being considered less reliable and credible as witnesses due to memory or other deficits; this is the legal evidentiary explanation. For example, an intellectually or psychologically disabled and/or alcohol/drug-affected victim is vulnerable because he or she is less able to particularise what happened and hence less likely to be able to persuade that he or she did not consent. Alternatively, police may reflect a wider view held in society that victims who are alcohol/drug-affected, promiscuous or sexually exploited are responsible for their own plight due to immorality and/or allowing themselves to be in risky situations; this is the social stereotype explanation. Either way, it is ironic that those who are most vulnerable are also prone to not enjoying the protection of the law. There is some evidence that this does not always hold, at least at the prosecutorial point, which might result from more recent socio-legal changes (for example, Beichner and Spohn 2012).

The key similarity between victims with socially recognised disabilities and those who are alcohol/drug influenced or perceived to be promiscuous or otherwise of poor character is that they are all in relatively powerless positions comparative to other citizens, and thus taken advantage of by their predators. This does not mean other sexual assault victims are not victims of a gendered crime. It is a matter of degree of disempowerment where vulnerable victims in these senses point up the nature of this crime as one of power and control, rather than one simply of a sexual nature. Yet relative disempowerment does not always result in discontinuation as it is also critical in the role of age, to which we now turn.

Victim characteristics: Age

Researchers have reached a general consensus that both elderly and very young victims are likely to have their complaints continued (provided the latter do not involve adult complainants reporting childhood sexual abuse). For instance, Segrave and Wilson's (2011)

study revealed operational police in Victoria distinguished between ‘ideal’ and ‘non-ideal’ victims, with the ‘ideal’ victim including a child or elderly person. They found that the ‘ideal’ victim was more likely to receive a positive response at the investigation point, at least in terms of a ‘bedside manner’ approach to the victim’s complaint and extra attention compared to the ‘non-ideal’ victim. Page (2008) found that 68 per cent and 81.9 per cent of the 866 police in her study indicated that they were likely to believe a rape complaint by a teenager or elderly person, respectively. Spohn et al (2002) found that 13- to 16-year-old victims were associated with prosecution going forward. By contrast, the SSCRSA (2006) found younger victims among those whose cases were typically more likely to result in no further police action, again illustrating some inconsistency in the research corpus.

Offender characteristics

The literature commonly shows the overwhelming majority of offenders are male (ABS 2004: 43) and Australian court statistics indicate the highest proportion are aged 45 years and over (36 per cent), with the next highest proportions being 35–44 years (24 per cent) and 25–34 years (22 per cent) (ABS 2004:45). There is sparse research on the role of other offender characteristics in complaint (dis)continuation. An exception is Lievore’s (2005) prosecutorial study, which examined defendants’ relationship status, gender, age, race/ethnicity, employment status, substance use and criminal history. Her analysis did not break down employment by occupation (as in our study) and it indicated that no characteristic was statistically significant aside from race/ethnicity (which she cautioned could have been due to study bias).

Location features

Regarding offence location, Lea et al (2003) found an association of no further police action where victim and perpetrator contact initially occurred in a private place or the where the victim had been willingly in the home of the perpetrator. Spohn et al (2002) found that prosecutors were less likely to reject a complaint if the assault occurred somewhere else than in the victim’s or offender’s residence. Greenberg and Ruback (1992) found that victim reporting was more likely if rape was committed outdoors. By contrast, LaFree (1979) found that assaults at the victim’s home and during day hours were less likely to be unfounded by police.

Kerstetter and van Winkle (1990) employed the offence occurring on the offender’s property as one variable in testing three theories of police influence on a complainant’s decision to seek judicial redress, and they found it was not statistically significant. Clay-Warner and Burt (2005) found that whether rape attacks occurred outdoors versus inside any public or private building was not statistically significant. Lievore (2004) reported on the proportion of attacks in the victims’ residences, the offenders’ residences and other locations such as public places (including nightclub car parks, streets and ‘outdoors’), but location features were not among the factors she found to be statistically significant to prosecutorial decisions. In short, the research evidence to date is mixed in relation to location features impacting criminal justice decision-making.

Corroborative evidence and witnesses

The importance of corroborative evidence — rather than only the victim’s word — to complaint continuation is well established in the research literature, albeit usually researched at the prosecutorial point (for example, Kerstetter 1990; Bryden and Lengnick 1997; Spohn and Holleran 2001; Spohn et al 2002; Lievore 2004, 2005; Taylor and Gassner 2010). Notably, as Kerstetter (1990), Kerstetter and Van Winkle (1990) and Lievore (2005)

among others have observed, the importance of evidentiary factors other than the victim's word poses a legal issue of consent in acquaintance cases (broadly understood to include family, friends and anyone known to the victim prior to the assault) as distinct from the legal issue of the assailant's identity in stranger cases. This observation is significant because, as noted above, the majority of rapes are perpetrated by someone known to the victim.

Often corroborative evidence has meant physical evidence of some kind (including DNA). However, Kerstetter (1990), for example, found that the availability of a witness to the offence was statistically significant to the police decision to take the matter forward. Spohn et al (2002) similarly found that prosecutors were more likely to proceed with a complaint if there was witness testimony. Lievore (2004) found that an eyewitness was one of the factors influencing prosecutors' decisions to proceed with or to withdraw sexual assault cases, although she also noted that eyewitnesses are rare in sexual assault cases. By contrast, against the main research trend, Spears and Spohn (1996) found that a witness to the assault had no effect on the prosecutor's decision to charge, nor did other corroborative factors (victim injury, physical evidence, suspect use of gun or knife).

Historical versus recent reporting

Generally the research evidence to date indicates that the sooner a complaint is lodged with police, the better the chance of continuation. This trend relates partly to evidentiary issues such as collection of physical evidence (for example, DNA, physical injury to the victim, availability of witnesses). However, 'late' reporting also raises questions in the minds of investigators (and others), such as the reliability of victims concerning memory and motivation.

Conflict in the research corpus

There are many reasons for the variable research results to date. For instance, comparative research is not readily compatible with changes to legislation over time and jurisdictions (including definitions of 'rape' and rape shield laws) and criminal justice agency practices (see, for example, Daly and Bouhours 2010; Alderden and Ullman 2012). Also, it has been observed that factors influencing police decisions against further action are not necessarily the same as those influencing later discontinuation of a complaint because the latter are more visible to external scrutiny (Spears and Spohn 1996; Lievore 2004). Brown, Hamilton and O'Neill (2007:355) observed that 'cross-comparison from different studies reveals that a variety of definitions ... have been employed'.

In the present study we focus on this last issue, which entails often subtle conceptual variation in the research corpus. For instance, the victim/offender relationship has been conceptualised and defined in many ways, including a focus on strangers, partners, former partners, family, and 'other known' (Lievore 2004), and acquaintances/relatives and intimate partners (Spohn and Holleran 2001). Victim vulnerability has been researched in terms of intellectual disability, mental or psychological problems, drug problems, heavy alcohol use, drug/alcohol influence/consumption, and various aspects that have been drawn together to define the 'ideal' or 'good' and 'non-ideal' or 'bad' victim (Kerstetter 1990; Spears and Spohn 1996; Spohn, Beichner and Davis-Frenzel 2002; Daly and Bouhours 2010). Again, location features have been conceptualised in various ways, and corroborative evidence/witnesses have covered a range of signifiers. There is no uniform use or agreed-upon research protocol as to what concepts should be examined, even when they are uncontroversial in meaning.

Further, researchers and practitioners alike often use key terms with nuanced meanings without defining them. Resultant difficulties are not easily rectified, as shown in current research where ‘drug problems’ and ‘drug use’ do not necessarily have the same meaning. Our research was constrained to use these and other terms as discovered in the police files, which were not compiled with a view to the rigours of academic research.

It is our intention to contribute to conceptual development not only because of the absence of a unitary conceptual framework, but also because the literature is often conceptually ‘muddy’. As explained below, the current methodological approach helps to address the problem of conceptual development by clearly defining key terms (apart from those ‘given’ by police). But there was no conceptual pre-structuring because key concepts were induced from the data. That is, identification and definition of concepts was undertaken only *after* data collection. However, to avoid cumbersome discussion, the terms ‘victim’, ‘offence’, ‘offender’ and ‘sexual assault’ are employed throughout this article in their usual legal meanings, although complaints might not have been resolved as criminal convictions in some of the cases examined in the current research (cf Daly and Bouhours 2010).

Methodology

Using a random numbers table, 90 files were selected from 3000 files that were organised in boxes according to the VicPol decision outcomes described below. File selection was undertaken to provide some assurance of the files being representative and ensuring that they were manageable for intensive examination within research time constraints. This selection involved meeting VicPol’s expressed needs for better understanding the basis of sexual assault complaint decision outcomes made by operational police in order to enhance their capabilities in addressing the problem of attrition. These needs were compatible with the aims and independence of the larger university project, and files were not selected according to any of the factors that might influence those outcomes. Still, it was possible to scrutinise only a limited number of files. Further, file materials did not exhaust the original records due to destroyed and missing documents, and the provided materials most often lacked adequate demographic data. In addition to the inductive conceptual intent noted above, these limitations preclude statistical inferential analysis. Although research results are largely consistent with the literature, this study is therefore heuristic, and no claims are made for statistically generalisable findings.

Case file data were collected and analysed within a multi-case study (Cohen, Manion and Morrison 2007; Stake 1998; Yin 1994), Grounded Theory Method (‘GTM’) approach (Glaser and Strauss 1967). Note that the unit of analysis (‘case’) is the *victim*, not the VicPol case file. The 90 files/108 victims are a very large number in terms of a case-study approach as undertaken here. As a collective case-study effort, this research grouped together individual cases to provide a more substantial basis for description (Stake 1998) and conceptual development (Glaser and Strauss 1967).

Consistent with GTM, the lead author (who conducted most of the data collection and all of the analysis in this part of the larger research project) was unfamiliar with the relevant body of literature before undertaking data collection and analysis.¹ This avoided

¹ This does not mean that GTM *demands* no familiarity with relevant literature, just that it is compatible with this inductive methodology.

pre-structuring and, to use a common phrase from the GTM literature, 'allowed the data to speak for themselves'. Instead, categories of data were inductively developed and coded from file materials using Meaning Generation Tactics ('MGT': Miles and Huberman 1994), not pre-conceived constructs. Consequently, the characteristics found in this study did not rely upon preceding research and do not exhaust the possible range. Further, GTM emphasises analytic generalisation as distinct from inferential generalisation based on probability logic. Analytic generalisation refers to development of conceptual materials, rather than the testing of postulated conceptual relationships through probabilistic logic. Concepts and relationships thus derived can then be employed in further research.

Current research involved a close, line-by-line reading of the case files, which ranged from a page (containing a relatively large amount of data) to three spring-back folders, usually containing a large range of complex documents, including but not limited to victim and witness statements, offender interview records, police computer print-out summary reports, police memoranda and formal non-authorisation reports, and various court documents (for example, summonses). Comprehensive case notes were made from these intensive readings. Through lengthy open, axial and selective coding processes (Glaser and Strauss 1967), data from these notes were reduced to an increasingly smaller set of manageable and meaningful factors that could be examined across the cases. These coding processes were facilitated by the use of the MGT techniques of comparison and contrast, clustering, subsuming particulars into the general, counting, and factoring. This involved searching for conceptual patterns of meaning by constantly looking for similar and dissimilar data items, using the Constant Comparative Method of cycles of iteration back and forth to data from within and between cases (Glaser and Strauss 1967). Thus, a relatively small number of factors were induced that generally described the collection of cases (Stake 1998). Once the factors were finalised for each and every case, the counting method was further employed to produce the frequency data presented in the tables offered below. All of these methods have been the subject of substantial literature, and they are highly regarded for research rigour and robustness.

The meaning of complaint (dis)continuation

In this study, complaint continuation and discontinuation are defined with reference to VicPol operational decision categories. Victoria Police categories included two other key decision outcomes: 'unsolved matters' and 'false reports'. 'Unsolved matters' refer to situations where an offender could not be located so investigations remained incomplete and open, and 'unsolved' data are not included in analysis of complaint continuation or complaint discontinuation. No complaints identified by police as 'false reports' were found in the present study. Despite some ambiguity in these categories, it was necessary to accept them since file data were recorded in these terms.

Complaint continuation means that the complaint was authorised by police for a court hearing. This includes VicPol categorised outcomes where the offender was taken to court ('prosecution') or the offender was charged and awaiting court proceedings ('offender processed').

Complaint discontinuation means one of the following three decision options. Police decided a charge could not be sustained in terms of current criminal law because particulars of the offending behaviour were judged not to constitute an offence ('no offence disclosed'). Alternatively, the complaint was not authorised by police for a court hearing subsequent to finalising investigations with the submission of a brief of evidence because, although the particulars of the behaviour would constitute an offence, police judged that there was

insufficient evidence to warrant prosecution ('summons not authorised'). Third, police decided not to prosecute because the complaint was withdrawn by the victim ('complaint withdrawn'). Withdrawal by the victim is acknowledged as a complex issue (see, for example, Lievore 2003; HMIC 2007; Alderden and Ullman 2012). However, police can still prosecute matters despite victim withdrawal of complaints (Bryden and Lengnick 1997; Frohmann 1998; Lievore 2004).

Analysis

As flagged above, following is a frequency analysis of VicPol decision outcomes in terms of the offender/victim relationship, victim characteristics, offender characteristics, location features of sexual assault, corroborative evidence and witnesses, and historical versus recent reporting of the complaint, in that order. Tabulated frequency data are supplemented in instances with other observations drawn from the case files. Following this analysis, the main findings are drawn together in a discussion with reference to the literature of a potential conceptual pattern of characteristics that differentiates between continued and discontinued adult sexual assault complaints at the investigation point in the criminal justice process.

Offender/victim relationship

Data on the police decision outcome are examined in respect of the offender/victim relationship at three levels. First, as is commonly reported in the literature, the decision to (dis)continue is examined according to whether the offender and victim were simply acquaintances, or strangers, or family members/friends. Second, police decision outcomes are examined in relation to a novel distinction drawn through inductive development of the data on whether the acquaintance relationship was commercial or non-commercial in nature. Third, the outcomes are analysed in relation to the family versus friend relationship.

Table 1 presents frequency data on the offender/victim relationship and outcome. An 'acquaintance' refers to an offender who was known to the victim prior to the offence, other than a family member or friend. A 'stranger' refers to an offender who was unknown to the victim at the time of the offence.

Table 1: Offender/victim relationship by outcome

<i>Offender/victim relationship</i>	<i>Outcome^a</i>				
	Continuation		Discontinuation		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Summons not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Acquaintance	7	5	23	10	2
Stranger^b	12	10	4	6	1
Family member/friend	11	8	9	3	nil

a. 'Unsolved' data are not included in analysis of complaint continuation or complaint discontinuation since there is no final police decision.
 b. This category included four 'unsolved' cases which were omitted from analysis.

From Table 1, offenders who were acquaintances were almost three times as often discontinued; and this was 1.9 times as often because the matter was not authorised, rather than because the victim withdrew the complaint. By contrast, offenders who were strangers

were twice as often continued to court. Offenders who were family members or friends were 1.6 times more often than not continued.

Table 2 presents a breakdown of data on the victim/offender relationship according to whether it was commercial or non-commercial. ‘Commercial acquaintance’ means that the victim knew the offender as a result of the latter’s occupation, for example as a masseur, or a boss/ex-boss (whether or not an employer or supervisor). ‘Non-commercial acquaintance’ means the victim knew the offender other than as a family member, friend or in a commercial sense.

Table 2: Commercial versus non-commercial offender/victim acquaintance relationships by outcome

<i>Offender/victim acquaintance relationship</i>	<i>Outcome</i>				
	Continuation		Discontinuation		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Summons not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Non-commercial	3	5	18	9	2
Commercial	4	nil	5	1	nil

From Table 2, non-commercial victim/offender acquaintance relationships were 3.6 times more often than not related to complaint discontinuation, whereas commercial acquaintance relationships were 1.5 times more often than not associated with discontinuation. This breakdown of relationships revealed that victims non-commercially acquainted with offenders saw their complaints discontinued much more often than victims who knew their offenders commercially.

Table 3 presents data on family and friend relationships and outcome.

Table 3: Family and friend relationships by outcome

<i>Offender/victim relationship</i>	<i>Outcome</i>				
	Continuation		Discontinuation		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Summons not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Family	7	7	7	1	nil
Friend	4	1	3	1	nil

Table 3 data show that family relationships and friendships were 1.75 and 1.25 times more often than not related to complaint continuation, respectively. That is, family members were more often than friends continued to court as the subject of a sexual assault complaint. Again, breaking down the relationship more precisely was revealing.

Victim characteristics

Next, police decision outcomes are examined in respect to six victim characteristics that were inferred from the data. Tables 4 and 5 present the frequency data in these respects. All of these characteristics are interpreted as rendering the victim more vulnerable to sexual predators.

The rationale for this concept of vulnerability is that victims with one or more of these characteristics are generally less able to defend themselves against an attacker or to represent their case as a sexual assault than other members of society. In some instances, the interpretation of vulnerability can be argued as being replaced by or overlaid by a notion of moral culpability; for example, in relation to victims being regarded as wilful in alcohol or

drug consumption, thus reducing their capabilities and supposedly contributing to their becoming victims. We take the strong view that this sort of interpretation is not only misguided but excuses offenders, and it cannot be justified in any criminal justice sense.

Table 4: Victim characteristics by outcome

<i>Characteristics of victims</i>	<i>Outcome</i>				
	<i>Continuation</i>		<i>Discontinuation</i>		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Summons not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Psychiatric condition	1	nil	6	nil	1
Intellectually impaired^{a, b}	2	1	3	2	1
Sex worker	1	nil	1	2	nil
Alcohol/drugs affected^c	4	nil	9	8	1
Spiked drink victim	nil	nil	2	2	nil

a. Due to the small numbers and similar vulnerability involved, this category included not only victims medically diagnosed as intellectually impaired, but also those with an acquired brain injury and Alzheimer’s disease.
 b, c. One case in each of these categories was ‘unsolved’ and excluded from analysis.

From Table 4, complaint discontinuation for victims with a psychiatric condition occurred at a frequency of seven to one; and for alcohol/drugs-affected victims, at a frequency of nine to two. Intellectual impairment was five to three times as often associated with complaint discontinuation. None of the four ‘spiked drink’ complaints were continued, and three of the four sex workers did not have their complaint continued for court action. From other file data, prosecution in the case of one sex worker was linked to a range of features, including the escape of the complainant semi-naked to a neighbour’s house and the early attendance of police to the scene where they were confronted by the offender armed with a knife. In sum, all of the factors indicating victim vulnerability were more often than not associated with complaint discontinuation, and usually with a noticeable difference in frequency against the victim’s complaint being continued on by police.

Despite significant gaps, Table 5 presents available frequency data on victim age by outcome.

Table 5: Age of victim by outcome

<i>Age of victim</i>	<i>Outcome</i>				
	<i>Continuation</i>		<i>Discontinuation</i>		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Summons not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Under 16	3	4	3	1	nil
16 to 20^a	5	6	5	2	1
21 to 30^b	9	6	10	3	1
31 to 40	5	1	3	6	nil
41 to 50	2	1	nil	1	nil

<i>Age of victim</i>	<i>Outcome</i>				
	<i>Continuation</i>		<i>Discontinuation</i>		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Summons not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
51 and over^c	2	2	2	nil	nil
Unknown	1	4	13	1	nil

a, b Two cases in each of these categories were ‘unsolved’ and excluded from analysis.
 c. One case was ‘unsolved’.

One finding from Table 5 is that a victim who (as an adult) reported having been sexually assaulted under the age of 16 almost twice as often as not saw their complaint continued to court. A complaint from a 16- to 20-year-old victim was more often than not acted upon with a court proceeding, at a frequency of 11 to eight. Complaints from victims in the 21- to 30-year-old bracket were marginally more often than not continued. In the 31 to 40 age bracket, victim complaints noticeably more often did not result in court proceedings, at a frequency of nine to six. Complaints from victims aged 41 to 50 were continued at a frequency of three to one. Complaints from a victim over the age of 50 twice as often as not resulted in continuation. Further, drawing from case file details additional to the tabulated results, five victims were aged over 55 years, four of whom saw continuation of their complaints. Notably, therefore, complaints were substantially more often than not continued if made about sexual offences against the very young and the elderly.

Offender characteristics

Police decision outcomes are examined in respect of five offender characteristics. Tables 6 and 7 present relevant frequency data.

Table 6: Offender characteristics by outcome

<i>Characteristics of offenders</i>	<i>Outcome</i>				
	<i>Continuation</i>		<i>Discontinuation</i>		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Summons not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Alcohol/drugs affected^a	4	2	9	8	1
Taxi driver	2	nil	2	nil	nil
Masseur	2	4	nil	nil	nil
Psychiatric condition	nil	nil	1	nil	1

a. One case was ‘unsolved’ and omitted from analysis.

Table 6 data show that complaints involving alcohol/drug-affected offenders were most often not taken forward, at a frequency of three to one. On the data available, complaints against taxi drivers equally often continued as not; and those against masseurs were all continued. Neither of the complaints against the two offenders with a psychiatric condition — both of whom were hospitalised along with their victim at the time — was taken to court.

Again, despite significant gaps, Table 7 presents frequency data on offender age by outcome.

Table 7: Age of offender by outcome

<i>Age of offender</i>	<i>Outcome</i>				
	<i>Continuation</i>		<i>Discontinuation</i>		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Summons not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Under 16	nil	nil	nil	nil	nil
16 to 20	2	nil	6	nil	nil
21 to 30^a	8	4	3	3	1
31 to 40^b	5	3	7	6	1
41 to 50	1	2	4	2	nil
51 and over	9	2	4	2	nil
Unknown	nil	nil	11	6	3

a, b. One 'unsolved' case was omitted from analysis in each of these categories.

Data in Table 7 show that complaints against offenders aged 16 to 20 were most often not continued, at a frequency of three to one. By contrast, complaints against offenders aged 21 to 30 were noticeably more often than not taken forward by police, at a frequency of 12 to seven. A complaint against an offender aged 31 to 40 did not continue beyond the investigation point almost twice as often as it continued, at a frequency of seven to four. A complaint was twice as often discontinued as continued against a 41- to 50-year-old offender. By contrast, complaints against offenders aged 51 and over were almost twice as often continued to court as discontinued at the investigation point. Supplementary case file details showed seven of the 10 offenders aged over 55 years of age were associated with continued complaints. Summarily, complaints from adults about sexual offences were most often discontinued if against late teenage offenders, but more often than not continued if against elderly offenders.

Location features

As indicated earlier, the literature is concerned with the location of sexual assaults mainly as to whether or not offences occurred in private, behind closed doors, or in a public place such as a street or park. Through the inductive processes of GTM and MGT current research developed six such factors in relation to the frequency of police decision outcomes. Clarification is worthwhile in regard to three of these factors. 'Public, open space' means a place that was readily observable by members of the public, but not concealable in some way such as a bushland setting. 'Isolated' means a feature of the offence location prevented the victim from readily appealing for or expecting help. 'Public transport' means the offence occurred in a train, tram or taxi, or at a train station, or subsequent to travelling by taxi. Data in these respects are presented in Table 8.

Table 8: Location features of sexual assault by outcome

<i>Location of sexual assault</i>	<i>Outcome</i>				
	<i>Continuation</i>		<i>Discontinuation</i>		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Isolated^a	10	13	16	10	2
Domestic dwelling	14	6	17	5	nil
Public, open space^b	9	5	2	4	nil
Public transport^c	3	nil	2	nil	nil
Institutional setting	1	nil	1	1	nil
Other^d	1	1	2	4	nil

a. One ‘unsolved’ case in this category was excluded from analysis.
 b. Three ‘unsolved’ cases were excluded from analysis.
 c. Two ‘unsolved’ cases were excluded from analysis.
 d. This category included motel room, night club, voluntary agency, back-packers’ hostel and brothel locations, and more precise analysis was forgone due to the small numbers. Where there was sufficient information, sexual assaults in these categories were included in either the isolated or public, open-space categories for analysis.

Table 8 data show that complaints about offences that occurred in isolated settings were more often than not discontinued, at a frequency of 23 to 28. Domestic dwelling complaints were marginally less often taken forward, at a frequency of 10 to 11. Acknowledging that there were small numbers for analysis, victims in an institutional setting saw their complaints discontinue twice as often as continue and, in other locations, victim complaints were even less often found to go forward, at a frequency of three to one. By contrast, public, open-space complaints were more than twice as often as not continued, at a frequency of seven to three. Public transport victims saw their complaints taken forward at a frequency of three to two.

This analysis does not show finer distinctions in the location factor to be noticeably important; however, the data are too limited to provide much confidence that research work concentrating on the broad public/private distinction remains adequate to our understanding of what influences the police decision outcome. Since these conceptual distinctions resulted from inductive GTM processes independent of the established literature, we believe further research is worthwhile.

Corroborative evidence and witnesses

We identified three types of witnesses in our research. A ‘primary witness’ refers to someone involved at the scene at the time of the offence or part thereof. A ‘secondary witness’ was involved shortly before or after the offence or gave evidence related to the scene or first complaint. A ‘tertiary witness’ provided evidence that was unrelated to the scene or first complaint, such as character testimonial or evidence about events and places of some import to the offence. A witness might be supportive or contradictive of the sexual assault claim. The term ‘witness’ here excludes the police involved in a case, except where an officer was directly involved at a crime scene in a primary or secondary capacity.

It is also important to state that analysis of witness evidence related to outcome is based upon the recorded police view. Also, a single case could involve multiple witnesses, some of whom might be supportive and others contradictory of the victim’s assault claim. Where a case involved contradictory and supportive witnesses, they were distinguished and counted separately according to whether they were primary, secondary or tertiary witnesses. So, for example, in one case there were four listed witnesses: two supportive tertiary, one contradictory primary and one contradictory secondary. In another case, there were six witnesses: two primary, two secondary and two tertiary, but all contradictory. The analysis does not take account of the robustness of witness evidence.

Table 9 presents frequency data on type of witness by outcome.

Table 9: Type of witness by outcome

<i>Type of witness</i>	<i>Outcome</i>				
	<i>Continuation</i>		<i>Discontinuation</i>		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Primary supportive	7	11	nil	1	nil
Primary contradictory	1	nil	5	nil	nil
Secondary supportive	18	12	6	5	1
Secondary contradictory	2	nil	9	2	1
Tertiary supportive	5	2	3	nil	nil
Tertiary contradictory^a	nil	nil	14	1	1

a. One ‘unsolved’ case in this category was excluded from analysis.

Table 9 data show the following. Some 18 primary supportive witnesses were associated with continuation, compared to one in a discontinued complaint. By contrast, five primary contradictory witnesses were associated with discontinuation, compared to one for continuation. Secondary supportive witnesses were 2.5 times as often associated with continuation compared to discontinuation. By contrast, secondary contradictory witnesses were six times more often associated with discontinuation than continuation. Tertiary supportive witnesses were more than twice as often associated with continuation, compared to discontinuation, at a frequency of seven to three. By contrast, 16 tertiary contradictory witnesses were associated with discontinuation, compared to none with continuation. In sum, primary supportive witnesses were comparatively most often associated with complaint continuation (cf Kerstetter 1990; Lievore 2004) — with secondary supportive witnesses also important in this respect — whereas tertiary contradictory witnesses were comparatively most often associated with complaint discontinuation.

Corroboration versus ‘victim’s word only’

In this analysis, ‘victim’s word only evidence’ means there were no primary witnesses and no physical, medical, DNA or other evidence directly linking the offender to commission of the sexual assault.

Table 10 presents frequency data on victim’s word only evidence versus corroboration by outcome.

Table 10: Victim’s word only evidence versus corroboration by outcome

<i>Evidentiary basis of complaint^a</i>	<i>Outcome</i>				
	Continuation		Discontinuation		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Victim’s word only^b	3	7	27	14	3
Corroboration	26	12	1	3	nil

a. Five VicPol case files lacked relevant data and were excluded from analysis.
 b. Four ‘unsolved’ cases were excluded from analysis.

Table 10 data show that victim’s word only evidence was considerably more often than not associated with discontinuation, at a frequency of 22 to five. Corroboration by contrast was far more often than not associated with continued complaints, at a frequency of 19 to two.

Historical versus recent reporting and outcome

Following police convention in Victoria, a report was deemed ‘historical’ if it was made more than 72 hours after the offence, although in the literature longer periods of delay are often used to draw this distinction. Some shorter periods have also been employed in research (for example, six hours in the Alderden and Ullman (2012) study).

Table 11 presents frequency data on historical versus recent reporting by outcome.

Table 11: Historical versus recent reporting of complaint by outcome

<i>Historical versus recent report of complaint^a</i>	<i>Outcome</i>				
	Continuation		Discontinuation		
	<i>Prosecution</i>	<i>Offender processed</i>	<i>Not authorised</i>	<i>Complaint withdrawn</i>	<i>No offence disclosed</i>
Historical	8	16	15	5	1
Recent^b	20	7	15	12	2

a. Two VicPol case files lacked relevant data and were excluded from analysis.
 b. Four ‘unsolved’ cases were excluded from analysis.

From Table 11, it is apparent that historical reporting of complaints resulted in the matter being taken forward marginally more often than not, at a frequency of 24 to 21. Recent reports resulted in complaints being discontinued marginally more often than not, at a frequency of 29 to 27.

Discussion: Is there a characteristic pattern in relation to investigation outcomes?

Drawing together the main findings of the above analysis, a general pattern of characteristics can be described that differentiates between continued and discontinued adult sexual assault complaints at the investigation point in the criminal justice process:

- Complaint continuation was associated with victims who were very young or elderly; offenders who were strangers; offenders who were family members and friends; offenders who were masseurs; offenders who were elderly and those in their twenties; offence locations involving public, open space; witness evidence that was supportive, especially if it was of a primary kind; and corroborative evidence.
- By contrast, complaint discontinuation was associated with victims aged between 31 and 40; vulnerable victims in terms of psychiatric conditions, working in the sex industry, intellectual impairment of some kind, and/or alcohol/drug (especially 'spiked drink') incapacitation; offenders who were acquaintances of their victims, especially in a non-commercial fashion; offenders aged 16 to 20 and those aged 31 to 50; alcohol/drug affected offenders; offenders as psychiatric inpatients; isolated offence settings; witness evidence that was contradictory, especially if it was of a tertiary kind; and where the victim's word was the only evidence available.

This *bifocal pattern* is consistent in important respects with what is known in the existing literature, albeit with some interesting divergence in conceptualisation and findings.

Offender/victim relationship

With respect to stranger versus acquaintance offenders, our study found complaint continuation was associated with the former and complaint discontinuation with the latter (especially in terms of non-commercial acquaintances). This pattern component is supported in various ways and at differing points in the criminal justice process by a broad range of research studies (Kerstetter 1990; Frohmann 1991; Bryden and Lengnick 1997; Wiley et al 2003; Lea et al 2003; Lievore 2004, 2005; Fitzgerald 2006; SSCRSA 2006; Brown et al 2007; Krahe et al 2009).

Although appearing to contradict the main research trend to date, there is some research evidence for the more specific result of complaint continuation being associated with family member and friend offenders. For example, Spohn et al (2002) found stranger cases were much more likely to be rejected or dismissed at the prosecutorial point than those involving acquaintances, relatives and intimate partners of offenders. They were surprised at this result given the main research trend. Lea et al (2003) similarly found a higher than expected conviction rate for rapes involving a partner or male relative and did not find that stranger rapes of single young women were most likely to achieve a conviction. Again, Wiley et al (2003) found that a partner/spouse assailant was positively associated with a legal outcome.

In our study, whereas complaint continuation was associated with offenders who were family members and friends, complaint discontinuation was associated with acquaintance offenders, especially in non-commercial relationships. That is, it was not broadly defined acquaintances who were associated with complaint discontinuation — as was often found in earlier research — but a more specifically defined acquaintance offender, namely the acquaintance not commercially known to the victim. The victim typically knew the

acquaintance in an *en passant* fashion, such as someone regularly seen at the local pub, a brother's friend, or friend of a friend.

Our research thus suggests that breaking down the victim-acquaintance relationship into more specific types potentially reveals a more precise and accurate picture regarding outcomes than analysis of broadly defined stranger versus acquaintance sexual assaults. This suggestion has support in the literature. Spohn et al (2002) found differences among offenders in terms of intimate partners/relatives, acquaintances and strangers; and Lea et al (2003) have observed a need for more fine-grained research in relation to stranger versus acquaintance sexual assault outcomes to address research corpus inconsistencies. These studies support our argument that insights, rather than apparent conflicts, will arise through greater differentiation, definition and measurement of acquaintance types (among other features of sexual assault complaints).

Location

Regarding location features, our research suggests public, open space is important to complaint continuation, especially compared to isolated settings. There is some research evidence support for and some against this finding. It is consistent with the works of Lea et al (2003), Greenberg and Ruback (1992) and Spohn et al (2002). Other research does not support the present result (Clay-Warner and Burt 2005; Lievore 2004; Kerstetter and van Winkle 1990; and LaFree 1979).

Victim characteristics

Turning to the age characteristics of the pattern, there is also general support from existing research, albeit again with conceptual and measurement divergences. The pattern indicates that complaint continuation was associated with victims aged under 16 or over 55 years, while discontinuation was associated with victims aged between 31 and 40 years. This resonates with findings by Segrave and Wilson (2011), Page (2008) and Spohn et al (2002).

Victim vulnerability

There is also research literature support for the association of complaint discontinuation with vulnerable victims in terms of psychiatric conditions or intellectual impairment of some kind (Spears and Spohn 1996; Bryden and Lengnick 1997; Frohmann 1998; Stewart 1998; Lea et al 2003; Clay-Warner and Burt 2005; SSCRSA 2006; HMIC 2007; Krahe et al 2009; Segrave and Wilson 2011); alcohol/drug incapacitation (VCCAV 1991; Bryden and Lengnick 1997; SSCRSA 2006); and/or working in the sex industry (La Free 1979; Kerstetter 1990; Spears and Spohn 1996; Bryden and Lengnick 1997; Spohn and Holleran 2001; Neame and Heenan 2003; Lievore 2004, 2005; Page 2008). The pattern currently found in these regards is consistent with the weight of research evidence to date as detailed earlier.

Corroborative evidence and witnesses

As noted above, corroborative evidence — rather than only the victim's word — is well established in the research literature as important to complaint continuation (for example, Kerstetter 1990; Bryden and Lengnick 1997; Spohn and Holleran 2001; Spohn et al 2002; Lievore 2004, 2005; Taylor and Gassner 2010). In particular, the current result that shows witnesses are significant is supported by the literature (for example, Kerstetter 1990; Spohn et al 2002; Lievore 2004), although there is some contrary research evidence as to the value of witnesses and other corroborative factors (Spears and Spohn 1996). Notably, whereas prior research has not explored the impact of different types of witnesses, our study found

different types of witnesses were significant in different ways to complaint continuation and discontinuation. This finding adds an important new direction for future research.

Despite methodological challenges of comparative research (Brown et al 2007; Daly and Bouhours 2010), our findings help extend current knowledge in this important area. First, there is no general pattern like that identified in our study already reported in the literature. While this pattern has some support from the literature, research to date has identified factors in a linear fashion, one by one, or in groupings of factors, without being placed in a conceptual frame. We suggest there is a *bifocal* pattern of factors that drive decision outcomes. Although considered tentative and incomplete, we proffer this pattern as *one* potential path of integration of the currently diverse set of research pieces.

Second, key concepts are clearly defined to allow for replication studies and any subsequent amendment. We argue that this is a vital building block of a consistent and robust knowledge base for future research and policy development. Third, related to this conceptual clarity, our study adds detail concerning characteristics already identified in the literature. For example, we examined the victim/offender relationship not only in terms of strangers and acquaintances, but also family and friend relationships, as well as commercial and non-commercial acquaintances. As discussed above, this suggests that finer distinctions in the victim/offender relationship can be revealing (Spohn et al 2002; Lea et al 2003; Lievore 2004, 2005). Similarly, we believe various dimensions of location features also deserve further work. Furthermore, while many studies have examined witness contributions to complaint (dis-)continuation, there are no fine-grained analyses in this regard. Our study offers particular promise for future research.

Conclusion

Our study utilised data on adult sexual assault complaints from VicPol records that were not initially 'screened' by the police themselves. The records were those of operational police compiled during the investigative and prosecutorial decision-making process. Victoria Police have not previously made such case file data available to external researchers in this unvetted fashion. In fact, such unvetted access to police records is unusual in other jurisdictions, but not unknown, especially in the United States. Even then, access to *all* of the police records is not always available, as in the Alderden and Ullman (2012) study, which did not include victim and suspect statements.

From a practice perspective, our study contributes to police efforts to address the attrition of sexual assault complaints in the criminal justice process. For example, quality monitoring of brief of evidence and authorisation processes could benefit from focusing on cases involving non-commercial acquaintance offenders compared to commercial acquaintances, as well as other distinctions in the offender/victim relationship. Looking at different offence location dimensions and different types of witness evidence and how/why these relate to different decisions might also be useful to monitoring brief preparation and authorisation.

From a research perspective, our study points to the need for and the beginning of a more systematic, in-depth understanding of patterned characteristics of adult sexual assault in relation to known outcomes of complaint continuation and discontinuation. It does so as a conceptual contribution drawn from limited empirical evidence. It does not provide a statistically based generalisation to any larger population of cases. Rather, it is a multiple case study that employs the MGT counting method to help ground the potential concepts and relationships of the identified bifocal pattern.

Future research on a larger data set would be worthwhile to validate, clarify and/or amend the general pattern offered here and render a more comprehensive picture of adult sexual assault complaints to Victoria Police. Such research could be extended to other police organisations and other areas of various criminal justice systems to further develop a consistent and more robust knowledge base in this important yet often neglected policy area. Further work is also needed to add qualitative detail that tells us how and why the general pattern does or does not hold in specific situations. Closer scrutiny of the particulars of cases would shed light on why some complaints are continued or discontinued despite the general pattern. We plan a companion paper drawing upon detail from the VicPol operational files to assist initiating this important qualitative direction. Our study also suggests future lines of inquiry concerning different types of witness evidence, location features, and offender/victim relationships.

Additional research promises considerable benefits to investigation of adult sexual assault in Victoria and like jurisdictions elsewhere. Benefits include valuable input to improved police training, to investigative and prosecutorial practice, to quality monitoring by senior police officers, to an enhanced public image for police organisations, to reduction of the enormous social and economic costs to society that ensue from sexual assault and, not least, to more just outcomes for victims.

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