

**A CONCEPTUAL AND EMPIRICAL EXPLORATION  
OF THE IMPACT OF TRAUMATIC SEXUAL  
VIOLATION ON MEMORY AND IMPLICATIONS FOR  
CRIMINAL JUSTICE**

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## **ABSTRACT/SUMMARY**

This conceptual and empirical exploration provides an in depth understanding of the impact of traumatic sexual violation<sup>1</sup> and the impact on memory. This is with particular focus on how this might affect engagement with the giving of evidence and the response of the Criminal Justice System (CJS). The role of dissociation at the time of the trauma and the development of Post Traumatic Stress Disorder (PTSD) are pivotal to this study. The conceptualisation developed from the literature provides an informative tool to increase understanding of the different ways a victim may present when in the acute stages of traumatisation and how police and other professionals within the CJS can best support them. A number of strategies are suggested that can facilitate the victim in recalling their traumatic event in a coherent way that is sufficient to be used as evidence.

The second part of the study provides findings from a number of interviews with police participants linked to the Cardiff and Vale Sexual Assault Referral Centre (SARC) that looks at how police understand the impact on memory and how this is dealt with in practice within the CJS. Although police show a good understanding of some of the problems victims face when engaging with the criminal justice process, they suggested that there are still limitations with the current adversarial system that need addressing.

This was a qualitative study utilising a cross-sectional research design by focusing on data collected at one point in time providing a focused lens on the current practice within the system and examined whether it was fit for purpose for traumatised individuals who have experienced a dissociative response and are at risk of developing PTSD or trauma related disorders.

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<sup>1</sup> Sexual violation for the purpose of this research encompasses rape, sexual assault, childhood or adult sexual abuse. These definitions are discussed more fully in Chapter 1.

*In dedication to the bravery of witnesses who have been the victim of sexual violation and have been part of the Criminal Justice System and to the on-going commitment of so many working to support them.*

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## CHAPTER 1: INTRODUCTION

*'The psychological sequelae of rape can include PTSD, depression, generalised and phobic anxiety, dissociative disorders and substance misuse. The profound and long-term consequences reflect the violent, terrifying and traumatic nature of rape and parallel the responses to other life-threatening traumas' and is deemed to be more pathogenic than any other form of violent crime' (Kilpatrick et al, 1987 in Mezey, (1997, p. 197).*

The main aim of this research was to explore and synthesise the literature in relation to memory processes following traumatic sexual violation with a particular focus on the development of Post Traumatic Stress Disorder (PTSD) and dissociative symptoms. The research provides a clearer understanding of the how this might influence engagement in the criminal justice process from evidence giving to commencing criminal trial. A particular focus was made on the processing of traumatic memories as the psychological impact of trauma impedes this process and how this is contradictory to the needs of the criminal justice system (CJS) in 'achieving best evidence' (Ministry of Justice, 2011).

As a psychological therapist working with traumatised individuals there appears to be some difficulties in meeting victim's mental health needs without a detrimental impact on the commencement of criminal proceedings. In order to broaden the psychological perspective when engaging with this issue, an exploration of police perceptions was made to facilitate a wider comprehensive understanding of the difficulties within a criminal justice context. The research engaged with the local Cardiff and Vale Sexual Assault Referral Centre (SARC) as a means to gaining access to interview participants and the CJS of England and Wales and relevant policy. The research particularly focused on traumatised victims/witnesses<sup>2</sup> and

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<sup>2</sup> Traumatized victims/witnesses are defined for the purpose of this research as having

the police interview. This research did not seek to generalise findings to other national and/or international organisations dealing with sexual trauma, but provides a focused lens and considers the wider implications in relation to policy and practice.

This chapter discusses the prevalence and reporting of sexual assault and disparities in the recording of such crimes. Some preliminary literature provides a background looking at the impact of traumatic sexual violation and the development of post-traumatic stress disorder (PTSD). Lastly, the research context is given and the aims of the research are specified.

## **1.1 Prevalence and reporting of rape and sexual assault**

*“Some events likely increase the potential for traumatising, among them physical violation or injury, relational trauma, exposure to extreme violence or witnessing grotesque death. In all cases the salient characteristic of the traumatic event is its power to inspire helplessness and terror”* Herman (1992, p. 34).

### **1.1.1. National reporting of sexual offences (England and Wales)**

In a joint Overview of Sexual Offending in England and Wales (Ministry of Justice (MoJ), Home Office and Office for National Statistics (ONS) bulletin 2013), figures provided are estimated to be in the region of 430,000-517,000 sexual offences per year. The Ministry of Justice’s report stressed the fact these are only estimated figures as reporting of these types of offences are often low in comparison to other

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developed adverse trauma related responses or posttraumatic stress disorder (PTSD). Vulnerable and intimidated witnesses, as termed by Section 16(1) of the Youth Justice and Criminal Evidence Act, 1999 (as amended by the Coroners and Justice Act, 2009), includes child witnesses under the age of 18 (defence or prosecution witnesses in criminal proceedings); or Section 16(2) those who have a mental disorder defined by the Mental Health Act, 2007, a physical disability, significant learning or intellectual impairment or impaired social functioning. Intimidated witnesses as defined by Section 17 of the Act are those who might be restricted to give clear evidence because of high levels of distress or fear. This last point is particularly relevant for complainants in rape or sexual assault as they are categorised as meeting the criteria defined by Section 17(4) of the Act. Some traumatised victims may also meet the definition for a vulnerable and/or intimidated witness. The term victim and witness are used interchangeably during the thesis. The term ‘witness’ does indicate engagement with the Criminal Justice System (CJS).

crime reporting and remains hidden for numerous reasons (MoJ, 2013). Figures for the UK indicate one in five (20%) of the population will have experienced sexual assault and/or rape in their lifetime (MoJ, 2014)<sup>3</sup>.

Figures from the Crime Survey for England and Wales (CSEW) provide a more reliable measure that shows long-term trends for different crime types. These figures provide increased accuracy of data as it includes estimates of non-reported crimes. Police recorded crimes only represent trends in the reported number of crimes to the police. The CSEW is a self-completion survey of the general population and includes un-reported incidents of crime in each domain (Flatley in ONS, 2017). The latest figures presented by the CSEW, estimate that 2.0% of adults (16-59) experienced sexual assaults and attempted sexual offences over the previous year. Estimates for rape are recorded as 35,699 for the year (Jan-December, 2016). The survey suggests there has been little change since the previous year but shows a reduction since the start of the survey in 2008/2009. This downward trend is in contrast to police recorded sexual crime. These show an increase in the reporting and recording of crimes (Flatley in ONS, 2017). Flatley (2017) suggests this illustrates improved recording practices by police forces following Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) inspection and report in 2014 which identified a significant level of under-recording of sexual offences.

The Crime Survey for England and Wales reports a much higher level of serious sexual assaults occurring from '*a partner or ex-partner (50%) or from others known to them*' (39%) (Crime Survey for England and Wales (CSEW, 2011-2012). Robinson and Hudson (2011, p. 520) also reported figures on a national

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<sup>3</sup> World Health Organisation (WHO) definition of rape is 'physically forced or otherwise coerced penetration of the vulva or anus with a penis or other body part or object' (World Health Organisation/London School of Hygiene and Tropical Medicine, 2010, p. 11). The National Crime Victimization Survey (NCVS), the largest federally funded survey defines rape as 'forced sexual intercourse including both psychological coercion as well as physical force. Also includes penetration by a foreign object and includes attempted rape, male and female, heterosexual and homosexual rape (Bachman & Schutt, 2014). The National Intimate Partner and Sexual Violence Survey (NISVS), sponsored by the Centres for Disease Control and Prevention (CDC) and National Institute of Justice defines rape as 'completed or attempted unwanted vaginal (for women), oral, or anal penetration through the use of physical force or threats to physically harm and includes times when the victim was drunk, high, drugged, or passed out and unable to consent' (Black et al. 2011, p.17).

level suggesting 53% of offences occur in a domestic situation, 47% in a public place and 12% by multiple perpetrators.

### **1.1.2 Prevalence of childhood sexual abuse**

The Ministry of Justice (2012) reported 40,345 registered sexual offenders in England and Wales. This figure includes 29,837 on the list whose victims were children (NSPCC, 2012). The NSPCC also report more than '*sixty child sexual offences are reported each day*' in the UK (NSPCC, 2012-2017)<sup>4</sup>. Snyder (2000) found only 5% of sexual crimes against children where the perpetrator was not known to the victim. This can often contribute to a reluctance to report cases particularly within families (Rape Crisis England and Wales, 2016).

### **1.1.3 International and global figures of sexual offences**

Data from questionnaire surveys of women from United States, Canada and New Zealand indicate 15% of the female sample had experienced rape and 12% had experienced an attempted rape assault. In more detailed interviews, these rates increased (Mezey, 1997). The National Intimate Partner and Sexual Violence Survey (NISVS, 2011) in the United States, report 18.3% of women and 1.4% of men have been victims of rape during their lifetime. Females reported rape to be completed by an intimate partner as (51.1%) or an acquaintance (40.8%) and their experience of completed rape (as categorised in footnote 3) was most often before the age of 25. For males, 27.8% reported being under age 10 when they first experienced a completed rape (Black et al., 2011). The World Health Organisation (WHO) Multi-country Study on Women's Health and Domestic Violence against Women (2010) reported 35% (1 in 3) women had experienced physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime. This figure includes 14-17% forced sexual initiation.

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<sup>4</sup> Child sexual abuse can involve inappropriate direct bodily sexual contact such as touching, oral, anal or vaginal sex, intimate kissing or more indirect exposure involving the watching of pornography, sexual talk or showing of sexual parts of the body. Abuse is normally regarded when a perpetrator is older than the victim, sometimes as much five years (Whealin and Barnett in National Centre for PTSD, 2016).

#### **1.1.4 Global figures for childhood sexual abuse (CSA)**

Lalor and McElvancy (2010) found prevalence rates of CSA for females in Sweden to be 13.9%, Denmark 15.8% and Spain 19%. Global estimates of childhood abuse taken from 217 studies reported an average of 11.8% of the general population had experienced CSA and noted that this was much lower than figures reported for the UK that are 27-31% (MoJ, 2012). However, these figures may not represent an accurate comparison.

#### **1.1.5 Disparities in sexual offence figures**

Although rape and sexual violence appears to be a similar problem on a global level, no direct comparisons can be made because of the diverse data collection strategies and methods of analysis. Questionnaire designs are not standardised on an international level (WHO, 2016). Differential views and legal definitions of what constitutes rape can contribute to some of the disparities found in rape statistics. Some countries do not have adequate systems in place for supporting victims and recording of crimes (WHO, 2016). The National Crime Victimization Survey is one of the main providers of statistics of sexual crimes and has been criticised for lacking some of the precision needed to inform and develop appropriate policy (Kruttschnitt et al. 2013). The National Academy of Sciences has recommended improvement in measurement standards and systematic sampling and analysis (Bachman, 2014). The World Health Organisation (WHO, 2016) continues to work towards addressing some of these discrepancies by enabling a direct comparison to be made. They suggest that questionnaire designs and methods of analysis need to be standardised on an international level to be able to gain a more accurate picture.

Different attitudes towards sexual violence can impact on disclosure reporting and responses (WHO, 2016). This may be particularly evident for those victims within some cultures that do not openly address these offences (Temkin and Krahe, 2008). Disparities in legal terms around the ages of consent can vary from 12 in Angola to 16/17 for most European countries. In the US many states do not have a legal minimum age for marriage and this means children as young as 13 can be

married. Reports suggest 4,500 children were married between 2004 and 2013 and approximately 90% of these marriages were with adult men (The Guardian, 08/07/2016). Some countries have limited legal frameworks and criminal justice systems that support sexual violation cases (WHO, 2016).

### **1.1.6 Reporting of sexual crimes**

The National Crime Victimization Survey (NCVS, 2003) found only a percentage of 38.5% of victims of sexual offences reported incidents to the police (United States Department of Justice, 2005). The National Violence Against Women Survey (NVAWS, 2003) found 19% of victims experiencing rape since the age of 18 had reported the crime and in Canada only 6% of sexual assaults were reported (Tjaden and Thoennes, 2006). Some reports indicate a fall in the number of reports made within Eastern and Southern Europe countries but there has been a continual increase in reporting trends in England and Wales, Ireland, Iceland and Sweden and this may be the extended definition of rape in the Sexual Offences Act (2003) and in the UK, a number of high profile cases being reported in the media (Lovett and Kelly, 2009; Rape Crisis England and Wales, 2016).

Reporting a traumatic sexual assault is often too difficult for victims. Crimes are more likely to be reported if there has been serious injury or there are multiple witnesses (Tjaden and Thoennes, 2006; Johnson et al. 2008). These are not mostly available in sexual crimes. Reasons for not reporting a rape can be numerous and some explanations have considered that rape case attrition is due to a '*culture of scepticism*' (BJR, 2009). Weiss (2010) proposed that it is the beliefs of the individuals that their assault may not be taken seriously or even that they do not perceive their incident as warranting criminal trial. Males may be less likely to report a crime and this can often be reinforced by rape myths suggesting '*males cannot be raped*' or that '*they should be able to fight off an offender*'. It may also raise concerns and confusion regarding their sexuality (Spohn and Tellis, 2013).

Following media coverage of the Jimmy Saville case and 'Operation Yew Tree' (2012) and other high-profile cases the number of reported offences has

increased (CSEW, 2017). As a result of media reporting of these cases, victims of abuse were encouraged to report to police and assured that their disclosure would be dealt with appropriately (IECSA, 2016). As indicated earlier, the inspection and report in 2014 provided by Her Majesty's Inspectorate of Constabulary and Fire Rescue Services (HMICFRS), still found a level of unrecorded cases of sexual offences. However, since this report police recording of rape in the UK has shown a rise of 22% for recent sexual offences and a 15% rise for non-recent historical abuse (CSEW, 2017).

### **1.1.7 Outcome to reporting**

Rates of prosecutions vary because of the different criminal justice systems and role of police in determining prosecution, and variations in procedures, policies and practice (Lovett and Kelly, 2009). Conviction rates remain low but Lovett and Kelly (2005) found countries with the adversarial legal systems in place appear to have the lowest conviction rates. They also note that countries that retain a narrower legal definition of rape also indicate higher conviction rates (Lovett and Kelly, 2009).

International studies have also highlighted the lower rates of conviction for sexual offences (Kelly et al. 2005; Johnson et al. 2015). Alderden and Ullman (2012a, 2012b) reported that 23-25% of sexual assault cases led to arrest in the United States and the numbers leading to conviction is minimal. A review of attrition studies across 75 countries including United States, Canada, England and Wales, Scotland, and Australia between 1990 and 2005 report only 12.5% result in a conviction (Daly and Bouhours, 2010). In the UK conviction rates for rape remain low in comparison with conviction rates for other crimes (Temkin and Krahe (2008). Crown Prosecution Service (CPS) data report a rise in the level of convictions from 57.7% in 2007 to 60.3% in 2013/2014. The highest level reported was 63.2% in 2012-2013. Despite this increase, convictions rates are lower than conviction rates for other crimes.

Table 1.1 shows conviction rates in England and Wales for different crimes compared to sexual offences (CPS, 2017).

ENGLAND AND WALES	
Comparison of crime data by offence group	(March, 2014)
Violence against an individual	67.4
<b>Sexual Offences</b>	<b>52.8</b>
Robbery	65.4
Theft offences	86.7
Criminal damages and arson	74.2
Drug Offences	89.7
Possession of weapons	74.4
Public Order Offences	93.4
Miscellaneous offences against society	67.0
Fraud	76.7
<b>Total indictable</b>	<b>80.1</b>

**Table 1.1: Comparison of conviction rates by offence group (Ministry of Justice, 2015, [www.gov.uk](http://www.gov.uk))**

## 1.2 Cultural influences on the disclosure of rape and sexual violation

In non-industrialised countries statistics on rape can vary and this can be due to cultural differences and attitudes towards rape and sexual violence towards women (Johnson et al. 2015). There are often strong religious beliefs or practices that are perceived differently within certain communities. As mentioned previously this can include forced marriages or genital mutilation and beliefs around these practices (Johnson et al. 2008). There may not be supportive structures for the safety of women and children reducing the likelihood of reporting a crime (Stoltenborgh et al. (2011). Differences in policing structures and attitudes of police are often barriers to reporting. This can be particularly relevant when there are varying laws regarding rape and sexual violation. Countries where same sex relationships and marital affairs can lead to the death penalty, fear of retribution can keep many crimes hidden (CPS, 2010). An individual's cultural norms and expectations of the family systems may prevent disclosure of a sexual nature and males may be particularly concerned that 'rape'

can raise doubts about their masculinity (Johnson et al. 2008).

Some adult witnesses both at home and globally may have experienced discrimination or racism and this can add to their mistrust of authorities including police (Johnson et al. 2008). In some cases asylum seekers and refugees may have come to the UK from more oppressive countries that may be threatening and they may worry that they might be deported if they engage with police (CPS, 2010). It may be difficult to communicate needs to police and others and language can often be a barrier (Johnson et al. 2008). There may be high levels of shame preventing disclosure to family, health professionals or police. Police need to have a good understanding of these cultural and systemic differences when preparing to undertake forensic examination and conducting interviews (CPS, 2010).

In cases of sexual exploitation, victims may be dependent on the perpetrator and in some cases may not be aware that they are being abused. Again police need to be aware and sensitive to these kinds of coercive relationships when gathering evidence ([www.stop-cse.org/saysomething](http://www.stop-cse.org/saysomething)). In cases of domestic sexual violence Johnson et al. (2008) found that generally many women who have been victimised only seek help when it becomes a threat to life or their children are threatened. Although much improved practice has developed over time, a number of issues continue to be reported ([www.barnardos.org.uk](http://www.barnardos.org.uk)).

### **1.3 Systematic failings for victims of sexual offences**

Systematic failings for victims of sexual violation in the past have included a lack of suitable facilities for complainants, often having to report and undergo investigative procedures in police facilities (Savage and Milne, 2007). Police attitudes to sexual violation have led to them discounting cases based on a number of stereotypical beliefs and rape myths (Walker and Stern, 1999). A Home Office Select Committee (HOSC, 2002) found evidence of a number of failures where police had failed to investigate a number of cases effectively when receiving reports of past abuses of children while in care. Some cases were not

recorded adequately and victims and families lacked support and received limited communication regarding cases. Weak prosecution processes were also highlighted as a systematic failing (Savage and Milne, 2007).

Systematic failings were not just reported as police inaction. The Independent Inquiry of CSA in Rotherham (1997-2013) highlights the inaction of other agencies in Rotherham as approximately 1,400 children had been abused and sexually exploited over a 16-year period. Professor Alexis Jay, the author of the report, found that most of the children involved were on the 'at risk' register but had not been supported during this time, blaming the socio-political issues involved. The 2014 report drew attention to a culture of police and council officials turning a blind eye to the abuse often referring to the victims as '*troublesome teenagers*' and again attributing blame to the victims. This was later reinforced by comments made by the judge hearing the case (Jay, IICSA, 2014). Savage and Milne (2007) also highlighted the lack of communication between professionals and the lack of any clear guidance on reporting of disclosures in an appropriate and timely manner.

The Rotherham sexual abuse scandal in 2014 is still (at the time of writing) under review by the Independent Police Complaints Commission (IPCC). They have more than 200 allegations including misconduct and even police corruption. At present the investigation has not found cases of police corruption but there are still cases to be reviewed. Most of the 200 allegations made by complainants included 'a lack of action' when cases were reported rather than misconduct (Cerfontyne in IPCC review, 2016-ongoing). The investigation has been highly criticised for the length of time taking to complete it (The Guardian, 09/03/2017).

Despite these systematic failures, the UK has come a long way in supporting victims of sexual offences. Chapter 2 provides an overview of the Criminal Justice System and the developments in improving outcomes in these cases. The latter part of this chapter focuses on the impact of traumatic sexual violation and considers the psychological, social and health effects on individuals who have experienced sexual violation. There is a brief introduction to the development of PTSD and other adverse trauma responses.

## **1.4 Impact of traumatic sexual violation**

Sexual violation can take many forms and can have different affects on victims.<sup>5</sup> People's reaction to rape and sexual assault can be multifaceted but can impact greatly on the individual's psychological functioning, physical health and their interpersonal and occupational functioning (Andrews et al. 1999).

### **1.4.1. Single rape or sexual assault**

A single rape or sexual assault can have a negative life changing effect on an individual and without the appropriate treatment can remain problematic for many years (Valentine et al. 1996; Petrak, 2002). Fear of a further attack (whether perceived or apparent), increased hypervigilance and feelings of guilt or shame in relation to the details of the event can prevent access to services. Psychological effects of traumatic sexual violation, particularly in the acute stages can be overwhelming and an individual may attempt to avoid any reminder of the event (Andrews et al. 1999; Vidal and Petrak, 2007; Hardy et al. 2009). Rape by multiple perpetrators is the most robust predictor of later psychopathology (McElroy et al., 2016). Intimacy can be a difficult trigger further exacerbating some of the negative impacts of rape. For males, rape by another male can question their sexuality and cause confusion of developing identities and sense of self (Hien et al. 2004). Kilpatrick et al. (2007) reported a three to tenfold increase in the rate of substance abuse for victims of sexual assault when compared with victims who had not had this traumatic experience. Figures indicate male survivors of sexual violence, particularly in childhood, have a higher risk of developing crime related behaviours (Hardy et al. 2009).

Burgess and Holmstron (1974) first described these rape sequelae symptoms and recognised that there were distinct features for most victims following the distress of rape. There are different findings however, in relation to gender and nature of victimisation. Research looking at female victims report that 79% of the sample

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<sup>5</sup> In using the term 'victim' the research does not wish to negate the incredible strengths of those involved and is used throughout to refer to individuals who have experienced traumatic sexual violation and is for the purpose of clarity for the reader.

suffered ill effects from the assault, 56% suffered mental or emotional problems, 25% difficulty trusting others and intimacy and forming new relationships. Twenty per cent suffered physical injuries and 4% attempted suicide (Office for National Statistics, CSEW, 2011-2012). On a larger scale these findings are mirrored in the National Women's Study which reported that 13% of participants in the survey had attempted suicide and as many as 33% had contemplated suicide following rape or serious sexual assault. Tarrier et al. (2013) highlight the compounding element of 'hopelessness' evident in suicidal ideations and in the traumatic experience itself. Again multiple perpetrator abuse was the strongest indicator for poor outcomes (Tarrier et al. 2013; McElroy et al. 2016). Moore (2014) highlights the experience of forced sexual acts to be one of dehumanisation and the toxic effects this can have on our sense of self worth and integrity:

*'Rape is a brutal interpersonal invasion into both body and soul and denies the victims humanity which is a basic human need'*  
(European Conference of EMDR, Edinburgh, 2014).

#### **1.4.2 Interpersonal sexual violation**

Sexual violation that is coercive and involves someone known to the victim may be internalised differently than rape by a stranger as it involves more complex interpersonal issues (Cloitres et al. 2013). If rape and physical violence are repeated, it is even more likely to lead to a detrimental adverse response (Andrews et al. 1999; Cloitres et al. 2013). An individual may also find that they appear to be coping (often by a process of dissociation or detachment) when they were in the situation but can later develop more PTSD related symptoms once removed from the relationship (Andrews et al. 1999; Van der Hart et al. 2006). The effects of trauma can continue to increase physiological arousal leading to a fear response long after the experience has ceased (Herman, 1992). It can often also lead to periods of dissociation where the person appears detached and vague regarding their trauma (Andrews et al. 1999). There may be partial or complete amnesia for some parts of the abuse or some episodes may have been assimilated into more general and personal autobiographic memory where they become clustered or associated with other non-related trauma events (Van der Hart et al. 2006). This can often make giving evidence a lengthy process.

### **1.4.3 Early childhood trauma**

If repeated and involves relational, familial and chronic stressors, the impact is likely to be enduring and can disrupt neurodevelopment, social, cognitive and emotional development, increased risk of social isolation, disease and poor socio-economic outcomes (McElroy et al. 2016; Korzekwa et al. 2009). Van der Kolk (1995) suggests additional clusters of symptoms when trauma history is prolonged during the developmental stages. These may include emotional regulation, the modulation of anger and other self defeating impulses; attentional difficulties; episodes of dissociation that can lead to amnesias for some parts of the experience; dysfunctional sense of guilt, responsibility and negative self-perception; interpersonal difficulties; somatic symptoms that are not medically explained (Van der Hart et al. 2006). In cases of more severe abuse, personality development can become fragmented and can lead to the development of dissociative disorders making engagement with the CJS more problematic (Dell and O'Neill, 2009).

Schwartz et al. (2000) also found evidence of poor information processing, increased anxiety and difficulties in establishing self-identity and appropriate maturation. The age of the child when abuse took place can have varying effects on the brain regions particularly at critical periods when these areas are under development. Sexual abuse appears to disrupt hippocampal formation and the construction of verbal memory and cortical development influencing cognitive functions during the first three years (Lanius et al. 2011). As the child becomes older the corpus callosum responsible for reading social cues can be affected between 8-10 years and long-term memory when occurring between the ages of 15-16 (Lanius et al. 2011). These environmental experiences are further detrimental when there are poor early attachments (Felitti et al. 1998). Adults with attachment complexities often find themselves drawn to further abusive and emotionally difficult relationships where there are repeated patterns of abuse (Cloitres et al. 2013).

Interestingly, McElroy et al. (2016) found that the type of axis 1 disorder developed in adulthood depends on the type of abuse characteristics, for example, whether physical, emotional or sexual abuse. Their studies showed that males had a higher prevalence of dysthymic disorder, drug dependence and thought disorders while females were associated more highly with somatoform disorder and major depression. For PTSD, anxiety disorder, bipolar disorder or delusional disorder there did not appear to be any gender differences (McElroy et al. 2016). Notably, these findings were obtained from a clinical population and not representative of the general population who may not have developed such adverse consequences. Apart from the psychological effects, there is increasing evidence linking health outcomes with trauma (Bellis et al. 2015).

## **1.5 Early childhood abuse and health outcomes**

Burghy et al. (2012) conducted a number of animal studies and cross sectional human data and found that early life stress impacts significantly on the function of the hypothalamic-pituitary-adrenal (HPA) axis and causes long term psychological impairment which is particularly evident for females. The study concludes that *'for females, the effects of early life stress and early HPA-axis function may be detected much later in the intrinsic processing of emotion related brain circuits'* p.1736. Van der Vegt et al. (2010) identified a further link between cortisol levels, childhood abuse and anxiety disorders in adults. As Korzekwa et al. (2009) conclude, there are many neurobiological effects that lead to brain pathology following the mistreatment of infants and this has longstanding effects on an individual's capacity to cope with stress.

### **1.5.1 Impact of trauma and stress**

Bergmann (2012) discusses the role of steroid cortisol and its relationship to trauma and influence on the autonomic, endocrine and immune systems. Trauma can also lead to a number of unexplained somatic complaints where there is no underlying organic cause identified (Yehuda et al. 2007). In addition Schnurr (in Bellis et al. 2015) discussed the role of childhood stressors leading to disrupted development of their immunological and hormonal systems. In the recent Public

Health Wales Adverse Childhood Experiences (ACE) report, Bellis et al. (2015) suggest that it is also the health-related behaviours that can often be detrimental to the physical health of an individual. The study highlighted the correlation between a high number of adverse events in childhood, a higher level of health harming behaviours and higher level of diseases such as diabetes, cancer, cardiovascular disease and mental illness (Bellis et al. 2015).

The on-going stress of a traumatic childhood can have long reaching physical health problems and an increased need for medicalised interventions (McElroy et al. 2016). Yehuda et al. (2007) also found evidence of decreased adrenal activity and decreased cortisol in patients with a number of organic diseases who had experienced trauma and this could be evident in infants born to mothers who were traumatised during pregnancy. Yehuda et al. (2007) have found similar neuroendocrine profiles in both mothers and their babies from their studies looking at the offspring of holocaust survivors. The impact of stress and trauma on the developing child can spill into every avenue of their life, shaping the negative outcomes of their future. High levels of crime, addictions and self-harming behaviours are social outcomes of childhood trauma and they tend to be generational as they can transcend from one generation to the next (Bellis et al. 2015).

The latter part of this chapter considers the development of Post Traumatic Stress Disorder as an adverse response of rape and or sexual assault. More complex presentations of PTSD are discussed as a consequence of childhood sexual abuse.

## **1.6 The Development of Post Traumatic Stress Disorder (PTSD)**

PTSD is a consequence of a single traumatic event or multiple stressors which lead to a re-experiencing of the event by 'flashbacks', nightmares or intrusive thoughts, avoidance of these intrusions, a withdrawal from social activity and from reminders of the event, negative alterations in mood and cognition. The person may also experience a state of hyperarousal, increased agitation, difficulty

concentrating, exaggerated startle response and difficulty sleeping (DSM-V, American Psychiatric Association, APA, 2013).

PTSD is not inevitable following a major traumatic event and epidemiological studies such as the United States National Comorbidity Survey (NCS) suggests that 35% of males and 25% of females reported more than one major traumatic event (Kessler et al. 1995) and that 74% of women and 81% men had experienced at least one traumatic event (Kessler et al, 1995). The initial cross sectional study looked at a nationally representative sample of 5,877 people and found that only 8% had developed symptoms of PTSD. Other epidemiological research has indicated 9.2% adults who were part of an urban health maintenance organisation programme reported having PTSD following a traumatic experience (Breslau et al. 1998; Breslau, 2001). DeVries and Olf (2009) suggested 8% of the American population but 7% within Europe although populations who experience war or combat exposure are more likely to have a higher prevalence. Kessler et al. (1995) found that this could rise to 58%. Sudanese refugees were also found to have higher levels of PTSD and findings supported that the number of traumatic experiences correlates with higher PTSD severity and prevalence (Neuner et al. 2004). Kolassa et al. (2015) suggests this is the result of the cumulative effects of 'trauma loading' and can often be seen alongside depressive symptoms.

Kessler et al. (1995) also reported that 80% of males and females with PTSD also meet criteria for a comorbid affective disorder or anxiety disorder. An increase in substance abuse is also highlighted in the report. In addition it was found that victims of rape, childhood abuse or neglect, sexual assault and physical assault are at the greatest risk of developing PTSD or dissociative disorders during adulthood and it is a major predisposing factor (Kessler et al. 1995).

### **1.6.1 Complex presentations of PTSD**

As discussed previously, more complex presentations of PTSD involving relational trauma can involve difficulties in emotional regulation, self-organisation, interpersonal difficulties and can result in a fragmented sense of oneself leading to

further difficulties. Some aspects of the individual's early childhood memories may be dissociated from conscious autobiographical memories, or are often dealt with in a dissociative state (Cloitre et al. 2013). Childhood trauma can result in more entrenched personality styles such as emotionally unstable personality (DSM-V, 2013) or an overly inhibited personality style such as an obsessive-compulsive personality type (Cloitre et al. 2-13). In extreme cases there can be a complete structural dissociative disorder such as Dissociative Identity Disorder where the individual has developed more than one personality (Dell and O'Neill, 2009).

### **1.7 Implications for Criminal Justice**

In cases of CSA such emotional and psychological states can hinder the reporting process and lead to higher rates of attrition. Individuals are often unable to provide coherent narratives of their childhood experiences as they may have occurred pre-verbally or have been stored in more sensory or somatic based memory networks not easily accessible to conscious retrieval (Brewin et al. 1996; Cloitre et al. 2013).

Arguably, childhood trauma and the effects on memory are very important to understand as conflicting research, attitudes and perspectives have created much of the challenges for the Criminal Justice System (CJS) in dealing with adult survivors of CSA who disclose their abuse many years after their experience. Proponents of the False Memory Syndrome Foundation believe that memories have been incorrectly interpreted or in some cases, falsely inserted (Belli, 2012).

The false memory debate includes the role of confabulation or filling in the gaps of memory and the reconstructive nature of memory (Williams et al. 2006). The debate is mainly around whether memories are completely false and confabulated or whether psychological distress or psychopathology exists because of the repression or disconnection from such memories (Lindsay and Read, 1994). Loftus, (1993) and Loftus and Pickrell, (1995) discuss the fallibility of autobiographical memory and conclude the risk is greater when there are effects of suggestions that have been repeated over time or when misinformation can distort the memory of an actual event. This is of particular importance when

interviewing victims/witnesses following sexual offence disclosure and in relation to witness testimony (Milne and Bull, 1999; O'Neill and Milne, 2014). This is discussed in later chapters.

There are also difficulties in the classification systems for PTSD. This can lead to a lack of agreement around the diagnosis and recognition of PTSD and how this is managed within the current system.

## **1.8 An evolving classification of a human response to trauma**

The arguments presented above highlight the complexities of diagnosing PTSD. The psychological and physiological impact that one may experience following intense fear has been evident in many historical texts but classification, diagnosis and treatments have evolved over time and are still developing (Friedman, 2016).

DSM-V has been criticised for lacking clarity and increasing the heterogeneity of those with a PTSD diagnosis (Zoellner et al. 2014). Friedman (2016) also states that much of the new classification allows overlap with other disorders such as depression, borderline personality disorder and dissociative disorder and this can impact on treatment planning. Zoellner et al. (2014) suggests that DSM-V does not make clear what represents a traumatic stressor and together with difficulties in making an accurate diagnosis, this can promote an ideal situation for malingering and promotes ambiguity regarding the reliability and validity of a PTSD diagnosis based on DSM-V. This might add weight to the difficulties experienced by victims of trauma accessing the correct services and having the support required (Zoellner et al. 2014).

In relation to complex trauma (omitted from the current DSM-V but included in ICD-10 and the proposed ICD-11), Cloitre et al. (2013) provide some preliminary data which emphasises this distinction in categories of PTSD and suggest there are three specific groups of individuals and that there are discrete elements to the terms of complex trauma, complex PTSD and Disorders of Extreme Stress not otherwise specified (DESNOS). Cloitre et al. (2013) agree with many professionals

working in the area of PTSD, that there are differences in presentations and these should be clearly identified in any diagnostic manual. The International Classification of Diseases (ICD-11, World Health Organisation: in development)<sup>6</sup> attempt to address these issues but this results in two separate diagnostic manuals with different classifications. ICD-11 may also be criticised for limiting the criteria for PTSD resulting in exclusion of those who do not meet this narrower criteria (Friedman, 2016).

In conclusion, the first part of this chapter has looked at the prevalence of sexual violation both nationally and internationally and discussed some of the difficulties in the systematic collection of data across countries. A number of past and recent systematic failings have been highlighted. The impact of sexual violation is discussed addressing the negative impact on psychological, interpersonal, health and day-to-day functioning. The chapter also highlights the difficulties in agreement regarding the classification of PTSD and how this makes it even more difficult for those within the CJS to provide appropriate support for those who have developed adverse trauma responses. Lastly, the chapter provides the research context.

## **1.9 The research context**

As noted above the site of the research was the local Cardiff and Vale Sexual Assault Referral Centre (SARC). The SARC opened in October 2008 and provides a multi-agency approach in supporting victims of sexual violence. The aim of the organisation is to support vulnerable or intimidated witnesses who have experienced rape or sexual assault and who wish to commence criminal proceedings. The Welsh Government supports the agency in improving rates of prosecution and providing support for the victim.

The SARCs are a national organisation although many operate in different ways. This research included interviews with police who had been linked to this specific

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<sup>6</sup> ICD-11 should be available during 2018. To date there has been agreement that complex PTSD will now form a new classification alongside PTSD for a single event.

SARC. The agency consisted of a SARC Manager, Crisis workers who are available 24 hours and Independent Sexual Violence Advocates (ISVA) who provide emotional and practical support during the legal process. Other professionals linked with the agency included South Wales and Gwent Police Services, forensic medical examiners (FME's), paediatricians, Social Services and a specialist child and adult counselling service.

Referrals to the SARC are usually made by the police but may also be via the victim themselves or by a health professional with specific concerns regarding the psychological impact to the patient. Not all service users wish to consider a legal case and are more concerned with being able to cope with the distressing symptoms they are experiencing. If clients have decided to pursue a criminal case then a forensic medical examination is carried out, if the event occurred within the previous eight days and following an initial report to the police. Trained crisis workers support witnesses through the initial stages of forensic evidence gathering and police interviews. The crisis workers also ensure individuals have the necessary information so they are able to make informed choices regarding commencing a criminal case. Follow-up support is given by an independent sexual violence advocates (ISVAs)<sup>7</sup>. Police prepare a case for consideration by the Crown Prosecution Service (CPS). It is then the role of the CPS to look at the evidence and consider whether the case proceeds to trial (CPS, 2017).

The research was influenced by the professional role of specialist counsellor and being employed through Cardiff and Vale University Health Board. This role was linked to the SARC organisation to undertake therapy for service users who have developed trauma related difficulties following traumatic sexual violation. Largely, clients requiring psychological therapy meet diagnostic criteria for Post Traumatic Stress Disorder (PTSD) with or without dissociative symptoms (DSM-V). More historical cases may also meet diagnostic criteria for complex trauma (ICD-10, 11). As part of this role, there was no involvement with the police investigation process or forensic examinations and the role of researcher and was not seen to

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<sup>7</sup> ISVAs are victim advocates. For more information, see <http://press.homeoffice.gov.uk/press-releases/supportvictims-of-sexual-abuse>

be compromised by the existing professional role. The issues of research bias are discussed in the methodology chapter.

Therapy provided at the SARC is a focused treatment approach that incorporates guidance from the National Institute of Health and Clinical Excellence (NICE, 2005) for Posttraumatic Stress Disorder (PTSD). Therapy is also informed by the guidelines provided by the Crown Prosecution Service (CPS, 2001). When working with PTSD and related trauma disorders, the emphasis is on accessing the trauma memory so that it can be processed adaptively. There are specific clinical guidelines provided by the National Institute of Health and Clinical Excellence (NICE, 2005) that suggest that any therapeutic approach that does not focus on the specific trauma memory is to be avoided. Unfortunately, these guidelines are in opposition to the guidelines set out by the Crown Prosecution Service (2001) who rule that therapy should not focus on the traumatic event as this could impact the outcome of the criminal case. This controversy influenced the rationale for undertaking the current research as it appeared that those who had been more severely traumatised by their experience and developed more severe symptoms of PTSD appeared less likely to have their case taken forward for Criminal Trial.

### **1.10 Research aims**

This research therefore aimed to increase understanding of some of the difficulties for vulnerable witnesses who have developed adverse trauma related psychopathology such as PTSD and who may be disabled from engaging in the CJS. This research focuses on this gap and aimed to develop further insights and to consider mechanisms that can be put in place to bring together the dissonance between the psychological functioning of the victim and the law.

Chapter 2 provides an overview of the current CJS in England and Wales and discusses some of the grounding work in improving responses to sexual violation in the UK.

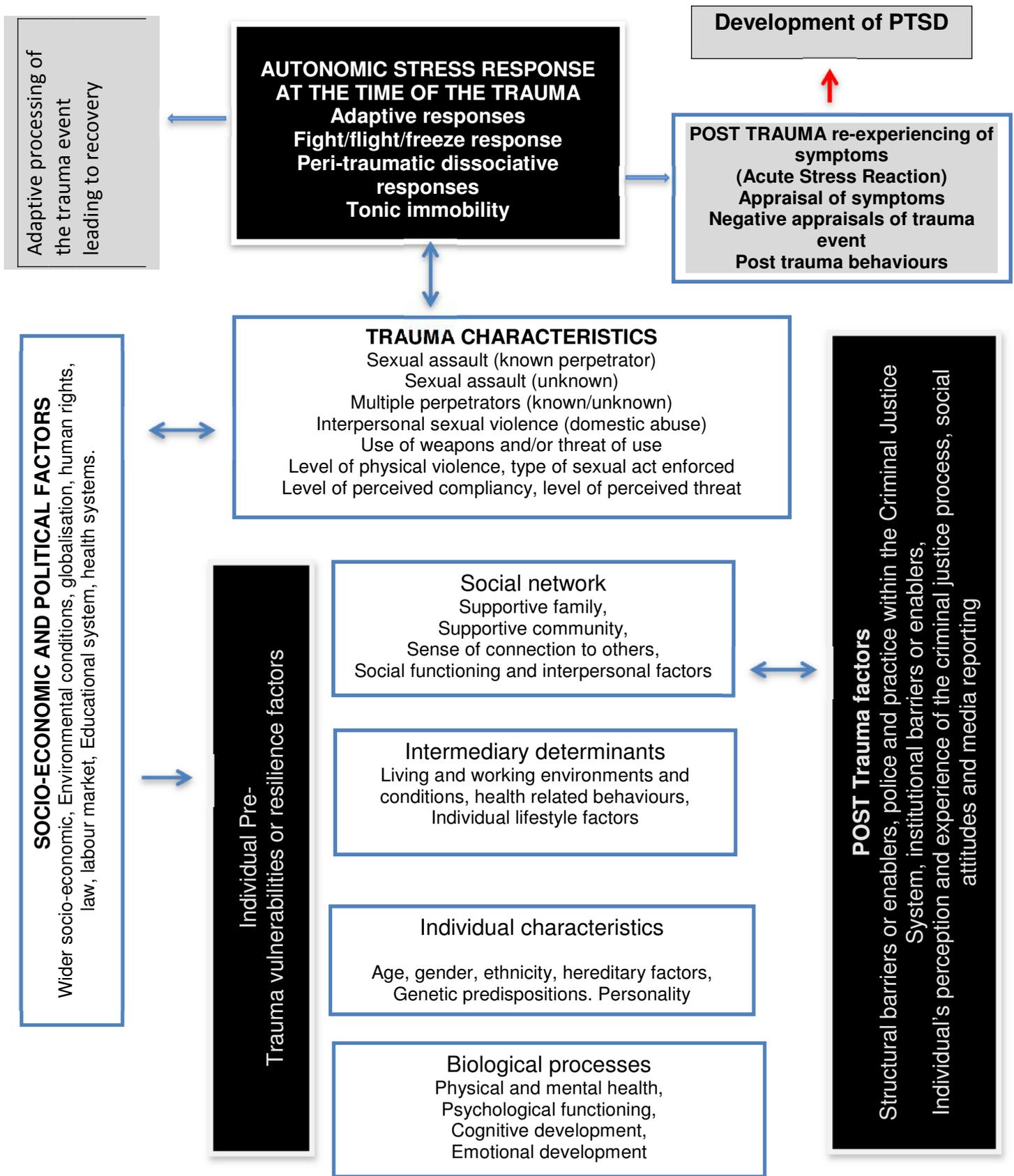
## CHAPTER 2: CRIMINAL JUSTICE SYSTEM

### Introduction

This chapter takes a more focused examination of the literature relating to the current Criminal Justice System (CJS) in England and Wales. It particularly focused on system and policy changes in the investigation of sexual offences and 'achieving best evidence'. A number of individual and system barriers were considered for those who have experienced rape or sexual assault and commencing criminal trial. The literature review provides a wider political, legal and social context in which this current research was embedded.<sup>8</sup> Figure 2.1 conceptualises and highlights some of the influences on an individual within the CJS.

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<sup>8</sup> Throughout the research the terms 'victim and witness' are used interchangeably. This is only for the purpose of allowing clarity. The term 'victim' is used for those who have endured traumatic sexual violation prior to engagement with the CJS and the term 'witness' is used when individuals have commenced the criminal justice process.



**FIGURE 2.1** Conceptual framework showing the interplay of pre-trauma characteristics, the autonomic stress response and post trauma appraisals within a socio-economic, legal and political system (Adapted from the Social

### **Determinants of Health in Marmot (2005).**

Figure 2.1 provides a conceptual framework highlighting the pre and post trauma influences within the wider social context that impact upon a victim who has encountered traumatic sexual violation and engagement with the criminal justice process. The figure illustrates a number of factors that can either be enablers or barriers to justice including the development of PTSD. Chapter 4 discusses individual factors and the effects of trauma, memory and indications for engagement in the CJS. This chapter focuses on the CJS in England and Wales and socio-legal influences that have shaped the current adversarial system.

## **2.1 Adversarialism Criminal Justice System (England and Wales)**

In the adversarial CJS of England and Wales, decisions to prosecute are made by the Crown Prosecution Service (CPS) and are mainly determined by the seriousness of the crime and whether it is considered to be in the public interest (Ellison, 2001; Blad, 2006). Cases are open to public scrutiny and decisions of prosecution are dependent on the jury (Ellison, 2001). It rightly takes into consideration the human rights of both the accused and the victim (Human Rights Act 1998). Article 6 specifically determines the right to a fair hearing and recognises the implications of miscarriages of justice (Sward, 1989; Savage and Milne, 2007; Spohn and Tellis, 2013). Articles 2,3 and 4 focus on the victim's legal rights to restitution, and rights to speak and be part of the criminal justice process (Sward, 1989). Although the timeliness of the cases put forward for trial may take longer to prepare, this does allow for deliberation and increases thorough investigation (Spohn and Tellis, 2013).

As the CPS is unlikely to allow a case to proceed to court unless it meets clear evidential support cases that are not seen to meet this criteria are given a '*no further action*' label and this means that the accused, whether guilty of a criminal offence or not, does not have to answer to any crime (Spohn and Tellis, 2013; CPS, 2017). The idea of 'due process' implies that the defendant is innocent unless proven to be guilty. However, some critics suggest that it presents a number of barriers to gaining a conviction. It limits control and authority of the police and prevents any discretionary activities of judges and crown prosecutors

(Blad, 2006). Although this system ensures the rights of the accused and promotes equality providing a system that is fair and just, this can sometimes leave victims of a crime feeling that they have not had justice (Blad, 2006).

Some of the critics have suggested that there remains an inequality as more wealthy clients are able to access better legal representation and minority groups or lower socio-economic classes are less able to access representation of their choice (Spohn and Tellis, 2013). Some criticisms have focused on the driver for lawyers are purported to be to win a case for their client regardless of the discovery of truth and can often come down to the performances of the prosecution and defence in gaining support of the jury (Sward, 1989; Ellison, 2003). This is particularly relevant in the area of sexual violence where substantial evidence is not available and acquittals are frequent. Jury decisions are often limited to the characteristics of the witness and the ability of the defence in enhancing confusion (Blad, 2006). Equally, suspect characteristics and knowledge of previous criminal behaviours can contribute to decisions by police to arrest (Blad, 2006). The defence can sometimes attempt to discredit the witness particularly when the weight of evidence is limited (Reiner, 20010). Jury decisions and the role of the media in reinforcing victim stereotypes are still evident particularly when there is an element of doubt (Spohn and Tellis, 2013).

Ellison (2003) considers the basis of trial by jury and penal sentencing provides few, if any restorative measures and leads to high levels of recidivism. It is suggested the system is based on punitive beliefs regarding justice and punishment that are well entrenched culturally and regard society as quite resistant to change. Ellison (2003) also recognises the adversarial system of criminal justice is under strain with lack of prison provision and resources resulting in a system unfit for purpose.

### **2.1.1 Alternative systems**

Some civil law countries have a legal system that is non-adversarial and gives the judiciary the responsibility of investigating the facts of the case and examining the evidence. With the inquisitorial CJS the judge also represents the interests of the

state when all the evidence is available (Walklate, 2007). Attorneys support the investigative process and can ask relevant questions regarding the evidence and decisions that have been made (Walklate, 2007). In inquisitorial systems evidence is more often written and is collected in advance of the trial reducing the impact of aggressive or challenging questioning at court (Walklate, 2007). The judge retains a position of neutrality in relation to the case. Some critics would argue that this position may be biased by the inherent influences such as the media and public pressures, socio-political ideologies, social norms and the individual's own perceptions and understanding of the specific criminal offences referred to (Walklate, 2007). The judge and magistrates leading the investigation and determining the outcome do not have adequate safeguards in place unless appeal is made against the penalty given. This could leave the system open to discriminatory tactics (World Encyclopaedia of Law, 2014). These inconsistencies and emphasis on discretionary practices is often a criticism of the Inquisitorial system and more restorative practices. It also relies heavily on the professionalism and effectiveness of the state and in some cases may be seen to have a lack of adequate punishment in relation to sexual violence (Marganski, 2013).

### **2.1.2 Restorative measures**

Restorative Models of Justice reflect a more inclusive dispute resolution approach and interventions can be made during any part of the criminal justice process. Rather than the confrontational and punitive styles of adversarial systems, there is an emphasis on therapeutic jurisprudence (Reiner, 2010). As Ellison (2003) suggests, the lack of restorative justice initiatives do not fully address the reasons for crime and can lead to recidivism. The Restorative Justice Council (2012, p.4) proposed that *"restorative processes bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward."* The Restorative Justice Steering Group highlight the benefits of a restorative justice model by allowing victim's to address the perpetrators of their crime leading to a sense of empowerment (Wright, 2012). The group purport that by hearing the emotional and physical damage that offenders have caused to the

victim, they are less likely to reoffend. The steering group point to restorative justice as also bringing about a change in the damaging and unhelpful patterns of behaviours and prevent a repetitive cycle of crime (Lammy, 2017).

More recently, The Lammy Report (Guardian Newspaper: 2017) makes a number of restorative and preventative recommendations regarding first time juvenile offenders. He suggests that for this population, particularly from BME communities, more targeted interventions such as drug/alcohol withdrawal programmes, support with mental health issues and social supportive programmes would be a move towards change for some under-represented groups. In relation to sexual violence cases, this may also be a consideration leading to more guilty pleas being made and reducing the necessity for criminal trial (Blad, 2006).

Although these issues relate to the CJS generally, there are a number of issues that have had a direct impact on the development of sexual offence policies and procedures (Savage and Milne, 2007). As a result of a number of cases where wrongful convictions have occurred as in the miscarriages of justice literature, police investigation and interviewing of suspects became professionalised as part of the Police and Criminal Evidence Act (1984). Consequently, the witness interview has now also become a fundamental part of sexual violence investigation and interviewing as much of the evidence depends on the victim's testimony (Clarke and Milne, 2001). Investigation and interviews require robust standards and quality in 'achieving best evidence' (Ministry of Justice, 2011; Poyser and Milne, 2015). 2.1.3 highlights a number of miscarriages of justice that led to these important changes in the CJS.

## **2.2 Miscarriages of Justice**

There were earlier criticisms of the CJS when numerous examples of miscarriages of justice were unfolded. The interviewing of suspects was seen as the greatest contributory factor in the wrongful convictions (Savage and Milne, 2007; Poyser and Milne, 2015). In the past confessions were elicited by suggestive techniques used by police (See Richard Ivens case, 1906 for further information: Chicago Daily News, March 15, 1906 cited in Winters, 2012). Savage and Milne (2007)

draw attention to police practices within the investigative process where their main intention was to gain a confession leading to conviction rather than gathering the evidence and determining the truth. This led to a number of miscarriages of justice highlighting police incompetence, corruption and coercive tactics particularly within the prosecution process (Ask and Granhag, 2007; Savage and Milne, 2007). Documented high profile cases where miscarriages of Justice have been identified include the Guildford Four in 1989, the Birmingham Six in 1991, the Bridgewater Four in 1997 and the M25 Three in 2000. These miscarriages of justice led to a number of recommendations being made within the CJS and a need for more transparency (Savage and Milne, 2007). Following appeals of these cases, police investigative procedures and poor or suggestive questioning at interview were seen to be the main issue leading to false confessions being made (Gudjonsson, 2003; Poyser et al. 2018). This was particularly relevant for those suspects who are psychologically vulnerable or with learning difficulties (Irving, 1981; Gudjonsson, 2003)<sup>9</sup>. Despite a number of positive changes reducing the risk of miscarriages of justice, more recently the Lammy Review (2017) still identified ongoing issues in the current system where bias is still seen to be an attributing factor.

### **2.2.1 Witness testimony**

Other factors were identified as leading to wrongful convictions and this related to witness testimony (Loftus, 1974). Numerous problems with memory were highlighted following a number of research experiments relating to errors in recalling character identifications. Although experiments were mostly laboratory based they clearly demonstrated the fallibility of memory and the role of suggestibility (Loftus et al, 1987).

Suspect identification is improved when there has not been a time delay between event and recall (Wells and Olson, 2003). Findings show the greater delay between encoding and retrieval the more vulnerable memory will be to contamination or post event misinformation (Vel Koppen and Luchin, 1997).

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<sup>9</sup> (See Eady (2016) for a fuller discussion regarding miscarriages of justice and issues raised by the Criminal Cases Review Commission (CCRC).

Memon et al. (2003) also highlight the inaccuracies in estimating time durations and investigators should be aware of this when examining the evidence. Vel Koppen and Luchin (1997) found that the quality of witness accounts is affected by time, leading to less witness descriptions being retrieved at the point of interview.

Findings suggest new information can be consciously or subconsciously integrated into the memory for an event by means of social media, news reports or discussing the case with other witnesses (Loftus et al. 1987; Loftus and Pickrell, 1995; Memon et al. 2003). Individuals can also be influenced by post event information and misinformation. Loftus (1976) was also able to illustrate the power of suggestion in witness testimonials. Loftus (1976) found non-verbal behaviours of police/interviewers as well as more overt suggestive questioning might influence the identification of a suspect. Arguably much of the earlier research related to eyewitness testimony following observation of an event rather than to victims who had experienced trauma and/or traumatic sexual violation. However, findings from these studies greatly impacted on cases involving memory recall and recognition tasks and had implications for involvement in the CJS (CPS, 2017)<sup>10</sup>.

### **2.2.2 The fallibility of memories**

Following a number of studies involving the insertion of false memories by implying false event information and descriptions that were personally relevant to the individuals and plausible, researchers were able to illustrate the fallibility of autobiographical memories particularly in recognition tasks (Loftus, 1993; Loftus and Pickrell, 1995; Wade and Garry, 2005). These researchers also showed how individuals confabulated or filled in the gaps of an incomplete memory (Loftus and Pickrell, 1995). Memories may also become more 'gist' like over time and may only be a representation of multiple similar experiences rather than a specific detailed memory (Garoff-Eaten et al. 2006). Lindsay and Read (1994, p. 318) conclude that '*the creation of illusory memories of childhood sexual abuse is not*

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<sup>10</sup> Memory recall involves the retrieval of all the memory components that were encoded during the experience (fine grained local networks) whereas recognition tasks require a more globalised process where information is matched to an existing memory network but may be more of a global representation (coarse grained maps) (Katshu and Avossa, 2014).

*merely an abstract possibility but rather a tragic reality*'. A number of experimental techniques were employed to demonstrate these factors although these have been criticised for lacking ecological value (Bellis, 2012). Lindsay and Read (1994) suggest that if participants create an illusory memory of a childhood event, which is realistic in terms of personal memory and is consistent with environmental and temporal factors, they are more likely to believe the memory is a true memory. Hyman and Kleinknecht, (1999) conclude that plausibility, imagined memory construction and source monitoring errors might increase the chances of the creation of false childhood memories. More recently Brewin et al. (2016) has advocated that the false memory experiments are flawed and can be misleading. Arguably, they have been pivotal in shaping police investigative procedures and in the level of psychological support that an individual is able to access if they are commencing criminal trial (Crown Prosecution Guidelines, 2001).

These factors need to be considered in any criminal investigations particularly when considering childhood sexual abuse. Findings from research regarding the fallibility of witness memory increased the need for optimising investigation and in conducting the interview in a way that decreased errors in recall and in recognition tasks of witnesses (Geiselman et al. 1984; Memon et al. 2003). As a result of the miscarriages of justice, the Police and Criminal Evidence Act (PACE) 1984 provided a legislative framework covering a number of areas of investigation by police. As mentioned earlier, although this is more directly involved with suspect treatment and the professionalisation of suspect interviews, it has however, been fundamental in shaping changes in the way sexual offences have been investigated and to the witness interview that is discussed in 2.4.5.

### **2.2.3 The Development of The Police and Criminal Evidence Act (1984)**

Section 66 provides a code of practice for the detention of suspects, their subsequent treatment by police and investigative questioning (Gudjonsson, 2003). The Police and Criminal Evidence Act (PACE, 1984) ensure that specific procedures are followed so that individuals are not influenced or 'led' by the police questioning in any particular direction. Police involved in the interview process

have specialised training in conducting interviews. Section 76 included the regulation of custodial questioning giving the right to judges to exclude evidence that was gained without due care and attention (Savage and Milne, 2007). The focus would be on the prosecution to show that custodial questioning meets the requirements legislated by the Act (Gudjonsson, 2003). Suspects are supported by legal representation to ensure the right conduct is maintained throughout the investigation and the court process. This also safeguards against 'false confessions' and bullying tactics towards those particularly with learning difficulties or mental health issues (Reiner, 2010). Juvenile suspects being detained are allowed the support of an 'Appropriate Adult'<sup>11</sup> or a parent or guardian to ensure clarity and understanding of the criminal justice process and/or interpreters for those whose language capacity might otherwise lead to unfair confessions (Gudjonsson, 2003).

Following the Criminal Justice Act (2009) defendants who are termed vulnerable because of age or have learning difficulties that might prevent them from understanding the criminal justice process, police questioning and find it difficult to communicate their needs may have access to intermediaries to support them. At present for defendants do not need to be regulated and there are less adequate systems in place to assure best practice in comparison to witness intermediaries (Jacobson, 2008; O'Mahoney, 2010). There also appears to be a limitation in screening for such vulnerabilities in England and Wales at the current time (Ministry of Justice, 2011). O'Mahoney et al. (2016) suggest that the role of the 'Appropriate Adult' and the defendant intermediary requires some further clarification to ensure that either role is not compromised by the other. Although some guidelines are present for the use of witness intermediaries in the Criminal Practice Directions (2013, EWCA Crim 1631, 3F), a number of policies and procedures are less applicable to a defendant. In some cases an expert witness may assess the defendant's vulnerabilities and the need for an intermediary but O'Mahony et al. (2016) suggest that needs may be complex and are not always

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<sup>11</sup> Appropriate Adults were seen as either a parent or guardian or someone who could support the juvenile or those with learning difficulties at interview and this would be as well as a further person providing legal advice (Pearse & Gudjonsson, 1996).

met within the current system by non-registered defendant intermediaries (Ministry of Justice, 2012).

Following PACE (1984) structural changes have included the introduction of specialised identification suites and the use of video parades as a result of technological advances (Valentine et al. 2003). Despite these changes in place to safeguard the individual from miscarriages of justice, it is recognised that wrongful convictions still occur. Most importantly in minimising risk is the appropriate application of suspect interviews (O'Mahony et al. 2016).

#### **2.2.4 Professionalising suspect interviews**

The UK Police Service set about professionalising the investigative process to increase competence in this area and to eliminate police corruption, reducing the use of violence without justification, and ensuring that victimisation was not evident (Jones et al. 1986). In 1986, as a result of the Prosecution of Offences Act (1985) an independent prosecution service was created and this divided the task of interviewing and investigation from that of prosecution (Crown Prosecution Service (Savage and Milne, 2007).

In addressing the shortfalls of suspect interviews the legislative framework provided regulation for the questioning of those in custody. The focus for interviews shifted from gaining confessions to eliciting an accurate account and ensuring their fair treatment (Gudjonsson, 2003). The audio or video recording of these interviews ensures transparency and that suspect's rights are being upheld (Gudjonsson, 2003; Westera et al. 2016). Read et al. (2009) advocated an approach to suspect questioning to be non-judgmental allowing the suspect to feel that they are being listened to and encouraging a free narrative approach that is detailed from their own perspective. As Milne and Bull (1999) suggest, this is very much based on therapeutic work within clinical settings when managing sensitive issues in trying to maintain a non-threatening environment and encouraging an open dialogue. This can lead to better understanding regarding the causes of crime and appropriate interventions that can help reduce the risk of recidivism (Ellison, 2003).

The first national training programme for interviewing was published by the Association of Chief Police Officers for England and Wales and applied to both suspects and witnesses (including victims) (Central Planning and Training Unit, 1992a). This involved the introduction of the PEACE interview model for all officers. As training was seen to be costly the interview strategy became a more comprehensive one aimed at different levels of officers (Clarke and Milne, 2001). *Tier 1*, new recruits or probationers, *Tier 2* aimed at officers with more experience dealing with crime and *Tier 3* for officers dealing with more serious crime and complex issues (Clarke and Milne, 2001). A national consultation of the initial PEACE model led to further development into a five-tier strategy and included additional training for 'specialist interviewing' aimed at more serious crime such as sexual crimes or murder for suspects and witnesses. Tier 3 witness courses were developed and evaluated (Griffiths and Milne, 2010). The PEACE model involves planning and preparation, engage and explain, account and clarification, closure and evaluation (Clarke and Milne, 2001). Clarke and Milne (2001) drew attention to the need for on-going monitoring and refresher training for these specialist roles. As discussed previously, the changes to suspect interviewing greatly influenced a number of changes in witness interviewing (Clarke and Milne, 2001).

In response to the changes for suspects, Ellison (2003) purported that the CJS was inequitable and lacked care for the victims of crime and was balanced too far on the rights of the accused. Some important changes rebalanced the rights of victims. 2.3 focuses on how the CJS realigned itself towards empowering victims and improving how sexual offence investigations are conducted.

### **2.3 Readdressing the balance towards a victim focused CJS**

The Impact of the 'victims' movement' and feminists in the 1960s highlighted the needs of victims and was important in bringing about key changes providing victims with support following crime (Roberts and Erez, 2004). In 1964 The Criminal Injuries Compensation Board was developed to provide information to victims of crime and Compensation. The Criminal Justice Act 1982 made

compensation a priority. Other reparative schemes were developed in the 1980s-1990s such as Victim Support and the Witness Service (Reiner, 2010).

## **2.4 System and policy changes in England and Wales in response to sexual violation and the CJS.**

Walklate (2007, p.111) suggests that:

*'The complexities, coercive nature and the continuous nature of interpersonal sexual violation is not always sufficiently addressed within the current system. Recognition of these shortcomings has resulted in an increasing pre-occupation with how the conventional criminal justice response might be better. It is those responses that I have chosen to call 'tinkering with adversarialism', since it is the adversarial system of justice itself that is frequently the barrier to the ultimate success or failure of the kinds of policy initiatives related to interpersonal violence'.*

There have been a number of changes within the CJS in relation to sexual violation and this led to increased understanding of key professionals and changes to policing and their responses to sexual violence (Roberts and Erez, 2004). There were changes to the law that widened the inclusion criteria of rape. Since 1991 husbands can be convicted of raping their wives and from 1994, the Criminal Justice and Public Order Act recognised that 'anal penetration' without consent was termed 'male rape' (Mezey, 1997). Following the Sexual Offences Act (2003) the definition of rape was widened to include forced oral penile penetration. Most significantly there have been moves to address the issue of consent so that it is the responsibility of the accused to show that they reasonably obtained consent (CPS, 2017). Following the Criminal Justice Act (1982) the rights of anonymity were taken away from the accused but complainants had their rights extended from the time of reporting a crime and throughout the process. Victim impact statements (VIM) were developed to enable the victim to '*have a voice*' and make clear the impact of the crime to the court, jury and the suspect (Roberts and Erez, 2004). Arguably, these were often criticised for '*evoking too much emotional reaction*' and not always beneficial for the witness (Bandes 1996, pp. 392-394; Hall, 2009). The Home Office also made a number of recommendations by publication of the Victim's Charter (1990). The treatment of victims by the Judicial

System was the main focus recognising that for some witnesses the ordeal could be experienced as re-victimisation or as re-traumatising (Andrews et al. 1999).

In the UK, Police and the Crown Prosecution Service (CPS) adhere to a joint National Protocol and this includes specialist legislative knowledge and specialist training in the area of rape and sexual assault alongside the development of auditing and evaluation (Government Equalities Office, 2010). These measures are performance based and Local Criminal Justice Boards (LCJBs) have their enforcement actions measured against national indicators making the services more accountable and transparent. The performance indicators also ensure that discrimination and inequalities are addressed and victims are satisfied with the service (Reiner, 2010). Arguably, there are some limitations in this system and limited resources can add to the time of investigation and a decision being made. It doesn't fully address underlying causes of crime and lacks continuity in best practice models (Blad, 2006). Another question raised from these changes is the fact that some cases that may be limited in evidence or have more complex presentations, may not be taken to trial because of these difficulties and how this might reflect on performance indicators (Blad, 2006).

Despite these positive changes there still remains a gap in the CJS whereby a defendant can be known to be guilty of a crime but the case is unable to go to trial because of the mental health of the victim or their inability to articulate what crime has occurred. As a consequence, the Youth Justice and Criminal Evidence Act (1999) provides a number of measures to optimise support in enabling vulnerable witnesses to be part of the criminal justice process.

#### **2.4.1 Youth Justice and Criminal Evidence Act, (1999)**

Following the Memorandum of Good Practice that provided revised guidance for vulnerable witnesses of all ages and in line with the Labour Government in 1997 to place the victim at the centre of the CJS, a number of reforms or 'special measures' were included in the Youth Justice and Criminal Evidence Act (YJCEA) (1999). This provides increased protection of vulnerable persons increasing safeguards for the protection of children and young adults who may be part of the

CJS and enabling the system to 'achieve best evidence' that may otherwise be compromised particularly in areas related to sexual offending (Johnson et al. 2015). These 'special measures' were available for young victims or those with specific learning or communication difficulties as outlined in chapter 1. They later applied to victims of sexual violence who may be termed as 'intimidated' to enable better support in the criminal justice process (O'Mahoney et al. 2011).<sup>12</sup>

A number of structural changes occurred as a result of the act. Victim-centred forensic suites were taken out of the police environment and specially equipped centres were made available to meet victim needs. The pioneer of these sexual offences centres was St. Mary's in Manchester that was established in 1986 and for the first time a collaboration was made between the Greater Manchester Police, Greater Manchester Police Authority and Central Manchester NHS medical staff and counselling. These have now been developed into Nationwide Sexual Assault Referral Centres (SARC) (Johnson et al. 2015). Better informed multi-disciplinary teams and inter agency structures were introduced ensuring better communication and specific guidelines allowing a clarity of process (Jones et al. 1994). The incorporation of special measures enabled flexibility in the way that witnesses are able to give evidence at court (O'Mahoney et al. 2011). Special measures may include a screen to prevent the witness from seeing the accused at court or allowing evidence to be given by a live link. In some circumstances the removal of wigs or gowns and examination of the witness may include the use of an intermediary<sup>13</sup> (YJCEA, 1999). Section 17(4) of the YJCEA, 1999 also makes provision for individuals who are complainants in sexual offences as it has been recognised that they may feel threatened or intimidated by confronting the accused in criminal trial. Following the Coroners and Justice Act (2009) further protections included the admissibility of video-recorded evidence-in-chief (O'Mahoney et al. 2011).

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<sup>12</sup> Toolkit 18 working with traumatised witnesses and defendants is still under review at the time of writing but is due to be published shortly ([theadvocatesgateway.org](http://theadvocatesgateway.org), 2017). In England and Wales Section 29 of the Youth Justice and Criminal Evidence (YJCE) Act, 1999 initiated the role of registered Intermediaries to support communication between vulnerable witnesses or victims and the CJS (O'Mahony, 2010).

The provisions also protect the witness from cross examination by the defendant in person, a restriction of using their previous sexual history and restrictions on media reporting and making the name of the adult witness known to the public (Home Office, 2014). The Home Office (2004a) initiated 'initial witness assessments' to aid identification of vulnerable witnesses' and 'impact statements' to enable victims to highlight the impact of the incident/s. Initiatives also included the right to be informed about the progress of their case within a reasonable timeframe and increased eligibility for compensation (Hagermman-White, 2008).

#### **2.4.2 Role of the witness intermediary**

In England and Wales Section 29 of the Youth Justice and Criminal Evidence (YJCE) Act, 1999 initiated the role of registered Intermediaries to support communication between vulnerable witnesses or victims and the CJS (O'Mahony, 2010). As mentioned above, cognitive deficits may include attention, memory, intelligence, thought or language and can impact on an individual's capacity to give evidence. Psychological deficits can relate to perceptual disturbances, difficulty managing emotions or compromised cognitive and communication processes involving the ability to understand what is being asked and then to be able to respond in a way that is understood by others (Plotnikoff and Woolfson, 2007). These roles were to be provided at the police investigative interview, with lawyers and at Criminal Court. At present there is limited evaluation of this role but initial findings indicate a number of benefits regarding the scheme (Plotnikoff and Woolfson, 2007).<sup>14</sup> The Advocates Gateway provides guidance for intermediaries to ensure that a vulnerable witness is able to provide sound evidence for court ([www.theadvocatesgateway.org](http://www.theadvocatesgateway.org), 2017). As well as improving communication between witnesses and the CJS, emphasis has been made in relation to the professionalisation of police investigation and conducting witness interviews (Home Office, 2002).

#### **2.4.3 Grounding work in the UK (VAWDASV (WALES) ACT, 2015)**

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<sup>14</sup> As discussed previously, the role of the intermediary is not the same as an Appropriate Adult who may provide support to a suspect. They are not interpreters or an expert witness in support of the case. Their role is to ensure clear communication only and is a neutral role.

The introduction of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act, 2015 (National Assembly for Wales, 2015), has been enacted to provide structures and assurances regarding the prevention of gender-based violence, domestic abuse and sexual violence. The Act covers violence against women and girls (although does not exclude males) including female genital mutilation, forced marriages, sexual exploitation, sexual harassment or threats of violence of a sexual nature (HM Stationery Office, WAG, 2015). The Act brings about a duty to provide a national strategy as well as local strategies, increase education and obtain performance measurements towards national indicators (Johnson et al. 2015).

#### **2.4.4 'Achieving Best Evidence' (ABE) in criminal proceedings (Home Office, 2002; Ministry of Justice, 2011)**

The previous Memorandum of Good Practice providing guidelines in conducting interviews with children led to a number of recommendations being made in the ABE in criminal proceedings policies and guidance. These ensured the safeguarding and special needs of the witness were taken into account to improve engagement and reliability of the evidence (Home Office, 2002). In response to miscarriages of justice in the past and the difficulties in establishing consent in cases of sexual assault or rape, the interview is fundamental to the prosecution process (Milne and Bull, 1999). This can be from the point of gaining initial accounts and information at the scene of the crime to the undertaking of the investigative interview (Milne and Bull in Groome and Eysenck, 2016). O'Neill and Milne (2014) emphasise the specialist skills required in conducting these interviews to enable a conducive environment and communication that enhances access to relevant detail regarding the event reported. Davies et al. (2016) emphasise the importance of adhering to interview protocols to ensure that they elicit evidence that is reliable and accurate. Details are gained without suggestive techniques or interpretation and interviewers need to remain mindful of the complexities in gaining a detailed account recognising the fallibility of memory, the unreliability or discrepancies of witness testimony and the possibility of false allegations (Loftus, 1976; Benton et al, 2006).

#### **2.4.5 Professionalising witness interviews**

In line with the PEACE approach to interviewing, the professionalisation of witness interviewing has become fundamental in cases of sexual violence. As with other crimes, it is particularly important for first responders to record clear and accurate information that can determine whether investigation is required (Milne and Bull, 1999). Another essential area of police questioning is the video-recorded interviews for evidence-in-chief that will be central in determining the outcome of a case (Milne and Bull, 1999). To minimise the risks of contamination of the interview process, the cognitive interview (CI) was developed by Fisher and Geiselman (1992). Questioning involves an open and encouraging response that allows the witness to provide a report in their own words. The CI provides a number of techniques that decrease the occurrence of biased questioning or leading the witness (Milne and Bull, 1999; Milne, 2009). One of the main components of the CI is the 'report everything' request. This involves asking the witness to provide an account of what happened in an open and uninterrupted style (Milne and Bull, 1999).

The enhanced form of the CI also focuses on memory enhancing techniques by getting the witness to reinstate the context of the experience or to adopt a different perspective such as a bird's eye view (Fisher and Geiselman, 1992). Another technique is to recall the event in reverse order. Individuals are asked to recall their memory by accessing alternative sensory modalities and with the use of memory prompts to elaborate on the witness account (Fisher and Geiselman, 1992; Milne and Bull, 1999). A number of problems developed in the utilisation of the CI as officers were concerned that it was time consuming and that it impacted on the need for a timely investigation (Kebbell et al, 1999). Officers continue to make use of the 'report everything' task but without the appropriate understanding of when and how to implement other elements of the approach (Boon and Noon, 1994). As a consequence, full utilisation of the model was restricted to more serious offences by those who had received additional training. Westera et al. (2016) also emphasise the need for preserving complainant and suspect interviews on video that can inform decision-making and better understanding of some of the more complex issues. The PEACE approach to interviewing also stresses the need for police to adopt an empathic approach that is non

judgemental. In the past, the role of stereotyping has been evident throughout the CJS (Milne and Bull, 1999; Kelly et al. 2005).

## **2.5 Raising awareness and changing attitudes to sexual violence**

Rape myths regarding complainant's inappropriate dress or behaviours have led to negative attitudes towards victims (Temkin and Krahe, 2008). They may also include negative attributions towards males who have been victims of sexual assault or rape believing that males cannot be raped (Kelly et al. 2005). This issue of consent can often be misinterpreted when there have been previous 'flirtatious' behaviours evident (Kelly et al. 2005; Temkin and Krahe, 2008). Cases that do not represent the common assumptions about rape, such as it is carried out by a stranger in a public place and involves physical restraint may be less likely to result in conviction (Daly and Bouhours, 2010). Arguably, some would argue that there has been long-term change in attitudes towards rape and sexual violation but despite these improvements there are still many reports of less favourable practices (Johnson et al. 2015).

### **2.5.1 Attitudes to sexual violation within the CJS**

As has been evident throughout the criminal justice process, findings also suggest that jury members are also likely to be influenced by their stereotyping of victim and suspect. According to Temkin and Krahe (2008), society is less likely to hold the perpetrator responsible if victim has been perceived to be 'flirtatious' or had been consuming alcohol. These attitudes were also evident in cases of drug-assisted rape where jurors still applied these attributions of blame and sexual consent. Although there are new provisions in place regarding the idea of consent, it is not considered to be without contention even now. Lonsway et al. (2009) suggests that prosecutors consider that cases that are not representative of a '*real rape*' are less likely to lead to successful conviction.

In previous years some reports have highlighted a number of attitudes of judges in relation to sexual assault. Although education and understanding has improved

over the years there could still be some biases when dealing with such cases (cited in J. Hopkins, 1984, p.81).

*'This is a sex case. Experience has shown that women can and do tell lies for some reason, sometimes for no reason at all'; 'it is well known that in sex cases women sometimes imagine things'.*

Williams (1978, cited in J. Hopkins, 1984, p.83) also speculates on the untrustworthy nature of women in the *Textbook of Criminal Law*.

*There is also the danger of a false allegation being made out of spite, when the man was in fact a lover who jilted the woman, or for obscure psychological reasons.....'*

*'That some women enjoy fantasies of being raped is well authenticated, and they may welcome a masterful advance while putting up a token resistance'*  
(Cited in J. Hopkins, 1984, p.83).

There are also numerous documented cases where police practices and attitudes have been brought to the attention of the public by the media (Kelly et al. 2005). Given the nature of policing there are going to be some behaviours and attitudes that are difficult for the general public to understand (Waddington, 1999a). 'Cop Culture' refers to the understanding of police practices and Waddington (1999a) report that often police attitudes and behaviours are incongruent. In work there is the on-going rhetoric of equalities and non-discriminatory practices but more covert institutionalised racism still exists and as Hoyle (1998) argued, there is a need for cop humour to release tensions when off duty.

Reiner (2010) suggests it is the police role that carries with it an element of power, control, authority and danger. These socialising practices are more about developing in-group mentalities and solidarity and as Reiner (2010) suggests, does not always reflect personal attitudes and behaviours towards others. Waddington and Wright (2008) purport it is the structural pressure of the occupation, particularly the relentless exposure to violence that is an integral feature of the police culture that results in these attitudes rather than the deviant nature of individuals.

Despite some inroads some police are still reported to have negative attitudes towards victims. A recent report published by the HM Inspectorate of

Constabulary (2014) suggested that 26% of all sexual offences that had been reported to police were not recorded as crimes (<http://www.theguardian.com> (2014). Heidensohn and Gelsthorpe (2007, pp. 399-400) suggest that female victims are often viewed by police as either '*whores or wives*' dependent on their personal characteristics and behaviours at the time of reporting a crime. Although there have been significant improvements in challenging some of these attitudes Temkin and Krahe (2008) suggest there is still need for continued development in dealing with victims of rape and sexual violence. As discussed previously, a number of organisational failures were identified following the Rotherham Abuse Scandals. It has taken some time for a report to be made available but the findings emphasised the collective attitudes of professionals and police while '*difficult children*' attempted to report issues of on-going abuse. Many of the teenage girls who were let down by the system were seen to be '*prostitutes with promiscuous behaviours who were responsible for their actions*' (BBC1 News, 25/02/2016).

Much of the research looking at decision-making by police and prosecutors, the 'gatekeepers' to the CJS (Kerstetter 1990) imply that decisions are made dependent on legal factors but are also intrinsically informed by personal characteristics of the victim and the suspect particularly when evidence is ambiguous (Alderden and Ullman, 2012a, 2012b; Spohn and Tellis, 2013).

### **2.5.2 Addressing inequalities within police organisations**

Focusing on inequalities within the workforce, the police recruited more females into the force and introduced female police surgeons to help victims feel less threatened by the intrusive forensic examination. With a victim centred approach to sexual assault and child abuse, police provided a more sensitive attitude to those making a disclosure and reporting to police (Jones et al. 1994). At this time, responses to domestic and sexual violence were still limited although more recently there having been a growing number of initiatives involving the safety and protection of women and children (Johnson et al. 2015).

More recently Gwent Chief Constable Jeff Farrar suggested '*Increased reporting of sexual offences shows that victims have greater confidence they will be taken seriously*' (Western Mail, 17/10/2014, p1). The number of complaints recorded for England and Wales have increased by 29% and this may be influenced by the impact of a number of high profile cases recorded in the media that has facilitated the public's trust that police will handle rape or sexual offence reports with a sympathetic understanding. Her Majesty's Inspector of Constabulary (2014) proposed that '*a presumption that a victim should always be believed should be institutionalised*'. In response, more recently, Sir Bernard Hogan-Howe suggested '*that police 'should be neutral' in sex abuse inquiries*' (the guardian.com 10/02/16). Comments made by Sir Bernard Hogan are the result of recent criticisms regarding the police's investigatory practices and the suggestion that they over-reacted to a number of allegations made in high profile cases (BBC News, 11/02/16).

## **2.6 Sexual Violation and the Criminal Justice System In Practice**

This next section considered some of the difficulties that are still evident in the CJS in practice and highlights a number of barriers to achieving successful outcomes for victims of sexual violation leading at criminal trial.

### **2.6.1 Victim barriers**

A decision to disclose rape or sexual assault may rest on a number of factors. Tener and Murphy (2014) suggest that there are a number of barriers and facilitators to disclosure and it may be a spontaneous process or one of some deliberation. As discussed in chapter 1, sexual violation remains an under-reported crime both nationally and internationally (Tener and Murphy, 2014). There are social and psychological factors that can contribute to legal outcomes e.g. language barriers, culture, ethnicity, gender, age, cognitive ability and socio-economic factors. Not all countries presently recognise marital rape as a crime. Some societal factors add to an individual's reluctance to report particularly in countries where there are extreme social stigmas and adverse responses isolating the victim (Tener and Murphy, 2014). There continues to be difficulty in the issue

of consent particularly when the alleged offender is an acquaintance or known to the victim (Daly and Bouhours, 2010).

Victims often blame themselves during a process of hindsight bias and may fear that others will be judging them negatively for not acting or responding in a particular way or for 'being stupid' (Weiss, 2010). There can be increased sensitivity to the responses of police and professionals when giving evidence particularly if the victim has internalised these feelings of responsibility and guilt as is often experienced in cases of abuse (Weiss, 2010).

Other identified factors are around the victim's ability to provide a coherent report of the event. Campbell (2012) suggests that the victim's memory impairment and confusion can promote scepticism and particularly when the individual has consumed drugs or alcohol. The effect of alcohol and drugs on memory encoding and recall is still debateable. More recently, Flowe et al. (2016) conducted a study to look at the impact of memory when under the influence of alcohol and found that memory recall was only minimally deficient. However, the study considered further exploration is required regarding varying levels of alcohol and the use of 'real' incidents rather than the experimental design utilised in the study. It should be noted that if a person is unconscious at the time of the experience, then no information is likely to be encoded during this period. This may be different when the individual has been semi-conscious when some of the information may have been encoded and may not initially be recoverable but is later recalled and verbally accessible (Flowe et al. 2016). However, under these conditions the individual may attempt to fill in any gaps in the memory (Loftus and Pickerell, 1995).

McDermott and Garofalo (2004) suggested that if individuals perceive a lack of control of the CJ process, they are more likely to feel disempowered and less likely to engage with services. They found this to be more likely when the victim had been pressurised into giving evidence and proceeding to court when they themselves were not feeling psychologically ready to pursue this action. McDermott and Garofalo (2004) found that this could increase anger towards the police and CJS and a lack of trust in the system.

Kelly et al. (2005) suggests that it is the fear of cross-examination and a concern of being humiliated that can contribute to the high level of attrition. Arguably, Bennett et al (2010) found that some vulnerable witnesses in sexual violation cases have experienced the court process as empowering. This is particularly relevant when they have felt that they have been kept up to date with the progress of their case and when they perceive they have been listened to and understood. These factors validate the victim's rights, allow for a sense of closure and of Justice (Bennett et al. 2010).

### **2.6.2 System barriers to commencing criminal trial**

As discussed previously, the literature continues to highlight the strength of stereotyping and 'rape myths' and this continues to get in the way of successful prosecution and conviction (Kebbell and Westera, 2011). Temkin and Krahe (2008) found negative attitudes towards victims who were seen to be more 'sexually experienced' and in particular, 'sex workers'. ([www.bbc.co.uk/go/em/fr/-/news/uk-21595916](http://www.bbc.co.uk/go/em/fr/-/news/uk-21595916); Her Majesty's Inspectorate of Police (HMIC, 2014).

An inconclusive account can often lead to decisions not to pursue a case. Alderden and Ullman (2012a, 2012b) implied only 23%-35% of sexual violation reports lead to arrest. Often the decision made by police to arrest a suspect is also influenced by the suspect's characteristics, behaviour and response to arrest and whether there have been any previous convictions (Bublick, 2006).

The level of 'guilty pleas' fell from 39.7% in 2012-2013 to 35.9% in 2013-2014 (Ministry of Justice, 2015). This is noted to be a consequence of the increase in sentencing and the implications to the perpetrator. Jury acquittals are seen as the main contributors of unsuccessful outcomes. Jury acquittals ranged from 56.1% in 2012-2013 to 60.3% in 2013-2014. Arguably, CPS data records reported that from the cases prosecuted and reported as unsuccessful, 10.8% was due to victim withdrawal (Ministry of Justice, 2015).

## **Conclusion**

In conclusion this chapter has considered some of the difficulties raised through the adversarial system in relation to sexual violation cases. A lack of flexibility in the current system leads to a high level of attrition in this area. Ellison, (2001) points to the need for the UK to promote a flexibility of systems in line with the changing societal needs, differential crimes and ever increasing sophistication in both crime and investigation. More recently, the political rhetoric is less blaming of the victim of sexual violation although there are still some shortcomings in the adversarial criminal justice process and the public's perceptions regarding victims in general (Reiner, 2007; 2010). Research continues to identify the influence of rape myths and stereotyping on decisions made within the CJS and particularly by jurors when there is ambiguity or discrepancies in the evidence (Horney and Spohn, 1996; Temkin and Krahe, 2008). Jury decision-making is often based on complainant and suspect characteristics particularly when the evidence is not clear. In response to a number of miscarriages of justice and systematic failings, the police and criminal evidence act (PACE), (1984) ensured a fairer and more systematic approach to investigation and interviewing of suspects. The provisions set out in the YJCEA (1999) enabled vulnerable witnesses to access the CJS by the use of 'special measures' to assist in this process and make the trial process more accessible and less intimidating for those who would have otherwise been disadvantaged. The provision of witness intermediaries resulted from these measures providing a professional support for those individuals who may otherwise find it difficult to understand the legal system or communicate their needs and answer questions effectively. These special measures were later applicable for victims of rape or sexual violation (Ministry of Justice, 2011).

In professionalising police interviewing of complainants/witnesses, an improved cognitive interview was developed to include specific techniques for enhancing the quality and reliability of memory. These techniques are based on research evidence and aim to reduce the risk of contaminating witness memory with leading or suggestive questioning (Milne and Bull, 1999). Despite a level of training, police can often find difficulties in applying these strategies during the interview process and do not always apply them appropriately (Milne and Bull, 1999). Researchers suggest there is a need for continued training and mentoring in the

use of the cognitive interview (Mahoney et al. 2011). The chapter emphasised the need for video recording of interviews to ensure appropriate interviews take place in a transparent way (Mahoney et al. 2011).

The next chapter provides an overview of the methodology involved with this current research.

## **CHAPTER 3: RESEARCH DESIGN AND METHODOLOGY**

### **Introduction**

This methodology chapter provides the research strategy that was implemented to best address the research questions. Firstly, underlying principles of ontology and epistemology are discussed leading to the research design and methodology. In addressing research question 1, the literature was examined extensively and a conceptualisation developed. For this purpose a configurative review was undertaken that takes into account theories from different aspects of the social world. There is a heavy weighting of neurological research as 'memory' is a biological construct and could be said to be a natural reality and conform to the laws of science. Although focusing more on empirical studies from a positivist tradition, it was not the aim to quantify memory processes or providing a hypothesis as in a deductive approach. The aim was to inductively generate a theoretical understanding of what happens to memory processes following traumatic sexual violation and how this impacts on evidence giving and commencing criminal trial.

The second part of this research explored police perspectives regarding such memory problems encountered by vulnerable witnesses who may have developed PTSD or adverse responses to trauma and how the CJS supports them. Qualitative interview strategies were considered the most effective way of gaining this knowledge. For practical reasons the research participants were those attached to the Cardiff and Vale Sexual Assault Referral Centre. A grounded theory methodology informed the analysis of this data (Glaser, 1992; Bryant and Charmaz, 2007).

Finally, the research strategies for validation and reliability are discussed and the ethical considerations highlighted.

### **3.1 Underlying principles of ontology and epistemology.**

In applying a pragmatic and transformative perspective to this research, there is recognition that there are some aspects of human life that are predictable and enable us to objectively measure certain behaviours and physiological changes as in a positivist approach. These studies promote generality, replication and causal explanations (Bryman, 2008). At the same time, more qualitative research emphasises the uniqueness of each individual and the essence of their implicit internal worlds and explicit external experiences (Bryman, 2008). Qualitative research attempts to capture the multiple perspectives of the self, society and the political ideologies that are constructed through interaction with each other and through the expression of language (Creswell and Plano Clarke, 2011). This placed this current research within the realms of a mixed-method paradigm or worldview that adopts a pluralistic approach and focuses on the research problem and questions to be answered rather than allowing theoretical perspectives to drive the research agenda. This leads to the most practical use of methods by which to find out and answer them most effectively to facilitate change (Tashakkori and Teddlie, 1998; Teddlie and Tashakkori, 2003; Creswell and Plano Clarke, 2011). Feilzer (2010, p.8) suggests it is '*oriented toward solving practical problems in the real world*'.

A transformative philosophy recognises the richness of both quantitative and qualitative methods and is informed by pragmatism when designing the research. A transformative worldview aims to facilitate social change by negotiating complexities of multiple perspectives within a culturally complex setting (Mertens, 2007). The research emphasises the injustice or inequity in a larger social system such as Criminal Justice Systems and crime and disorder (Mertens, 2007; Creswell and Plano Clark, 2011). This ideology challenges some seemingly rigid social systems of authority, power and control by exploring the underpinning principles and beliefs and critically evaluates how they have developed, what are the benefits and what alternative systems could be put in place (Creswell and

Plano Clark, 2011). The fundamental aim is to eliminate social injustices and inequities and facilitate transformational change (Creswell and Plano Clark, 2011). Given the scope of this current research, ethical considerations and access to sufficient resources, there was a restriction to achieving the whole agenda and recognise that this is a work in progress but does remain informed and inspired by these principles.

### **3.2 Research design**

As the research developed and ethical issues were considered, it was evident that a qualitative cross-sectional design incorporating some elements of an exemplary case would more readily address the research questions and that a quantitative approach at this point would not add depth and understanding to it (Bryman, 2008).

The qualitative cross-sectional approach allowed for the collection of data from a number of participants and alternative sources at a single point in time using unstructured interviews (Bryman, 2008). Coolican (2014) does highlight a limitation of the cross-sectional design as non-equivalent group characteristics may impact on results as different cohorts of participants have specific extraneous effects such as gender/age/position that could influence responses. Without completing a further longitudinal study, results may only be transitory and change over time (Coolican, 2014). Arguably, this current research did not focus on internal or external validity but provided an inductive approach to theory development. It was less focused on replicability and measurement that might be present in more quantitative approaches but attempted to draw out more ecological validity in considering the police understanding of the psychological effects on victims following traumatic sexual violation (Bryman, 2008).

Although the case example itself was not the unit of analysis, the main participant responses were from police associated with the Cardiff and Vale SARC at the time of data collection. Yin (2003, p.41) states that as an exemplifying case *'the objective here is to capture the circumstances and conditions of an everyday*

*situation*'. Bryman (2008) adds that an exemplifying case attempts to illustrate key social processes.

### **3.3 The qualitative research strategy**

When commencing this research, little knowledge regarding the CJS and the process of evidence gathering and commencing criminal trial was in place. In attempting to remain neutral when undertaking an extensive review of the literature and in conducting interviews, an inductive approach that remained close to the meanings given by police participants allowed new theoretical understanding to emerge. Coding of the data was made line-by-line to ensure that analysis retained the original data and was less likely to be biased by any underlying assumptions (Glaser, 1992).

Richardson (1994) would suggest that when completing qualitative research, authors may collect evidence selectively and this may be a covert process or they may unconsciously be drawn to pre-existing concepts. Strauss and Corbin (1990) developed a number of formulaic techniques that attempt to reduce the misinterpretation of data. However, Glaser (1978) argued that in using such strategies may encourage the 'forcing of data' by applying pre-conceived categories, using predetermined questioning. In considering both of these perspectives it was considered preferable to apply a more open stance to the development of theory and found that an inductive grounded theory approach was the most realistic in terms of acknowledging the interactions and interpretations of the researcher and respondents (Bryman, 2004).

Radical empiricists may conclude that by directing data collection and analysis this in fact contaminates the data (Charmaz, 2006). Glaser (1992) suggests that data be transparent and encompasses basic social processes. Researchers are able to construct rich data by collecting sufficient relevant details. By applying the constant comparison method, researchers are further able to develop meanings and understanding of underlying processes (Glaser and Strauss, 1967, Glaser, 1978, Strauss and Corbin, 1990, and Bryant and Charmaz, 2007).

### **3.4 Strategies of inquiry**

In order to address the research questions, different strategies of enquiry were incorporated. For the first part of the research, a configurative review was developed. In completing the review the literature was examined relating to memory and trauma across the developmental lifespan and from different theoretical perspectives. (Gough et al. 2012). Developmental research focused on early trauma and the impact on cognitive development and the later impact on memory. Neurobiological theories focused on the human stress response and in particular the physiological changes that impede the processing of a traumatic memory. Psychological theories focused on the cognitive component of trauma, how one makes sense of it and their appraisals of the event. Social theories considered the role of the social context and how others respond to trauma. By abstracting the literature provided by different theoretical models, an inductive approach enabled an emergent theory to develop (Gough et al. 2012). By synthesising the literature and applying it to the research problem an informative conceptual model was developed to increase understanding of the difficulties experienced by individuals following traumatic sexual violation and their ability to give evidence and engage with the Criminal Justice Process.

The second part of the research utilised a number of open but in-depth interviews with police participants and also constructed an emergent theory that provides a focused exploration of police perspectives. Informed by a grounded theory methodology, it recognises that there are multiple perspectives but does provide some insight into some of the difficulties encountered at this point in time, by police working with victims of traumatic sexual violation and within the current Criminal Justice System (Bryant and Charmaz, 2007).

#### **3.4.1 The Configurative Review and synthesis**

The first part of the methodology addressed research question 1 by examining and configuring the empirical literature over the past two decades and bringing together a cohesive framework. As discussed above, this initial exploration involved an extensive review of the literature including neuro-physiological, psychological and social theories and developing a configurative theoretical synthesis (Gough et al. 2012). The aim was to develop a cohesive conceptual framework that can inform professionals about the impacts on memory when individuals may be vulnerable to the development of PTSD. For this purpose, the literature was extensively read and analysed to enable a broad understanding of the different issues in relation to evidence giving when there are problems relating to the accuracy of witness testimonies and how these issues become more complex over time.

This empirical chapter includes some historical texts that are noted for reference but synthesis of the literature is limited to peer reviewed journal articles beyond 1990 to date. In relation to any treatment strategies or approaches discussed within the review only evidence based clinical practice and theory is included. The process of the synthesis is the planning, searching, mapping, appraisal and synthesis stages and culminates in a number of recommendations for future actions (Gough et al. 2012). The review and synthesis is an inductive and iterative process although emerging theory remains grounded in the empirical data provided (Gough et al. 2012). The review question applies to research question 1 and its sub-questions.

### **Research question 1**

*‘What is the impact of traumatic sexual violation on memory processes and functioning’?* There are four sub-questions:

- What makes a person vulnerable to developing PTSD following traumatic sexual violation?
- Are there different psychopathological pathways that may impact on memory and in what way?

- What effect does trauma have on a victim's psychological functioning and consequent psychopathology?
- How does this impact on their ability to give evidence?

The first stage of the review was to develop a search strategy and identify current research within the area of memory and PTSD, dissociation, childhood sexual abuse, rape or sexual assault. Studies were heterogeneous and were gained from a number of disciplines. Initially, both qualitative and quantitative empirical studies were considered but following a process of setting boundaries on the excessive amount of literature, only peer-reviewed articles between 1990 and 2017 were included (Gough et al. 2012). An inductive approach aimed to continue until a stage of saturation when no new themes emerged (Glaser, 1992; Bryant and Charmaz, 2007). Consideration was given to the fluidity of evolving theory and acknowledges that future research may shed more light onto the process of memory following trauma. Restrictions were also imposed because of time restraints and limits on size of thesis study.

Secondly a process of mapping was utilised to organise the literature in relation to the research questions but also to gain a holistic picture of how these different areas of study fit together to provide a wider understanding (Gough et al. 2012). By looking at the research from developmental stages of human development and the impact of trauma, a number of risks and vulnerabilities in the development of PTSD were identified (Ozer et al. 2003). Then the impact of an acute trauma was the focus. This led to a better understanding of the neurophysiology of stress and an individual's response at the time of the trauma. These responses are also influenced by certain factors relating to the trauma itself (Bergmann, 2012). For rape and sexual assault, the feeling of 'fear and entrapment' was identified as the catalyst for a dissociative response and this has an impact on the encoding and retrieval of memory (Dell, 2009). When the literature was configured and synthesised, a conceptualisation was developed to facilitate an improved understanding in practice. This model is presented in chapter 4 and in complete form in appendix 2.

### 3.4.2 Interviews with participants

The second part of the research was informed by a grounded theory methodology and involved the simultaneous purposive collection of data and analysis. Other theorists apply a more systematic approach to analysing data (Strauss and Corbin, 2008). An objectivist viewpoint would be that *'the data is out there to be discovered and can lend itself to a reductionist inquiry of manageable research problems when applied with an objectivist rendering of data'* (Glaser, 1978). Strauss and Corbin (1990) would also support the notion of an objective external reality that aims towards unbiased data collection. They do however propose that respondents should be represented as accurately as possible but acknowledging how respondents' views of reality may be differently interpreted from that of the researcher. Glaser (1978, p.56) promotes *'coding the data every way possible'* but without forcing the data into pre-conceived categories using formulaic techniques. By using an open coding of the interview data, and making constant comparisons between it, theory is allowed to develop from and is grounded in the data in an inductive and iterative process (Glaser, 1992; Charmaz, 2006; Bryant and Charmaz, 2007). The interviews provided a means of answering research question 2 and its sub-questions:

#### **Research question 2:**

How are the effects on victim's memory understood by police when collecting evidence and commencing criminal trial?

- How do police understand the impact of traumatic sexual violation and the development of PTSD?
- How do police understand the impact on memory following trauma?

- What do police consider to be barriers within the criminal justice system?
- What are the impacts within a wider social and legal context?

### **3.5 Participant recruitment strategy and interview process**

Attachment to the organisation enabled a privileged place from which to conduct this research as police participants related to the SARC who deal directly with sexual violation cases were more easily accessible. In gaining access to participants for this study, initial contact was made with the South Wales Police at their headquarters at Bridgend. A meeting was attended with the Chief Superintendent, Lorraine Davies and some of her colleagues, the main gatekeepers to accessing police participants, to present the research strategy and rationale for the study. Following the meeting details of approximately 30 officers who were connected with the Cardiff and Vale Sexual Assault Referral Centre (SARC) from the different police force areas were made available. This included the details of an officer linked to the SARC but located in an English force. Contact details for the Crown Prosecution Service and for the local training officer were also made available. The crown prosecutor made contact but there was no response from the training officer.

An email was sent to two names from each list from each force area, and the officer now working in England asking them to take part in the study. These participants were all police who were (n=6) or had been (n=1) attached to the Cardiff and Vale Sexual Assault Referral Centre and who directly dealt with sexual violation cases. These participants were informed of the research study and given an information sheet with relevant contact details should they have any questions. Confidentiality was assured, information about storage of identifiable data was discussed, and all participants were told that they could withdraw at any time prior to the completion of the project. All participants agreed to an interview that lasted approximately 30-60 minutes and took place at their place of work (at their police station). Table 1 shows the participant number and their pseudonyms for the

purpose of remaining anonymous. Data from participant 1,2,3,4,6,8 and 9 were included in the analysis.

PARTICIPANT	PSEUDONYM	M/F	APPROX YEARS EXPERIENCE	ROLE	Access
1 (CPPH)	PAUL	M	>30	Child Protection Unit (includes adults of CSA) – SOLO 3 trained	Initial interview and subsequent interview
2 (DSRC)	RICHARD	M	>30	Detective Superintendent CID – SOLO 3 trained	Interview
3 (DCKF)	FIONA	F	<10	Detective Constable – SOLO 3 trained – (CID) Mainly interviews witnesses	Interview x 2 Feedback obtained for validation
4 (DCKH)	KATRINA	F	<10	DC – SOLO 2 trained – observes witness interviews only (CID)	Interview
Interview 5 (CPSIJ)	IWAN JENKINS*	M	> 20	Crown Prosecutor Decision of case (non police) Limited direct contact with witness	Interview x 2*** Feedback obtained
6 (DCIB)	ANDY	M	10-20	SHIFT OFFICER: SOLO 1 first responder. Takes first account from witness and then passes to CID for formal interview process.	Interview
Interview 7 (CPSIJ)	IWAN JENKINS*	M	>20	Crown Prosecutor (as above)	As above***
8 (DCMH)	MICHAEL	M	10-20	Detective Constable – SOLO 3 trained (CID) – mainly interviews victims	Interview x 2 Feedback obtained
9 (DCAS)*	GERALD	M	10-20	Detective Constable SOLO 3 – Mostly observes witness interviews and then interviews suspect (CID)	Interview
Interview 10 (DLSH)	STUART HUTTON*	M	>20	DEFENSE BARRISTER	Interview***
Interview 11 (JMPM)	NHS MANAGER ANTHONY*	M	-	JURY MEMBER	Interview*** Feedback obtained
Interview 12 (SMRN)	SARC MANAGER*	F	<5	SARC MANAGER	Interview*** Feedback obtained

**Table 3.1: Participants (pseudonyms)<sup>15</sup>**

\*\*\*Participants not included in findings chapter but enabled validation of the data collection

<sup>15</sup> SOLO 2: first response to rape: dealing with the initial report and response. Includes forensic medical examination (now termed SOFR: Sexual Offence First Responder). SOLO 3: additional training in video interviewing of a rape victim (now termed SOIT: Sexual Offence Interview Trained) (Association of Chief Police Officers, 2009).

### 3.5.1 Interview process and data collection

The first interview was arranged with participant 1, Paul. As stated above, Paul was now working for an English force but was part of a case linked to the Cardiff SARC. The initial interview was a semi-structured interview and gave a lot of background information regarding the set up and process of gaining evidence from individuals who had experienced traumatic rape or sexual violation. He was particularly concerned about those who had experienced childhood sexual abuse and how they remembered events. As a consequence of this initial interview and the surfeit of data collected from the initial interview and the practicalities of time needed to cover all questions, a more open interview format was implemented for the following interviews. This allowed the themes to emerge without being constrained by the questioning format previously set (Glaser, 1992). However, the same areas emerged without the need for direct questioning. As new themes emerged, further reviews of the literature were made (Bryant and Charmaz, 2007). Box 3.1 provides the initial interview questions. A more open and flexible approach was applied to later interviews whereby only the main question was asked although some prompts were utilised.

***Main interview question: What is your experience of interviewing victims of traumatic sexual violation?***

***Sub-questions: (initial interview)***

*What is your understanding of PTSD and how this might impact on a victims' ability to give evidence?*

*What do you consider to be barriers from a legal perspective?*

*Are there any victim characteristics that may impact on your decision to take a case forward?*

*How do you inform victims about these decisions?*

*What support mechanisms do you have in place when dealing with sexual assault cases?*

### **Box 3.1 – Preliminary Interview schedule**

A further interview was undertaken with participant 1, Paul. Initially this included a summary and feed back of some of the key themes drawn from the previous interview. Some elaboration was made as a result of this and some additional themes arose that were included in the findings.

Participant 2, Richard was the next interview to be conducted. Using the open interview format, Richard provided a case as an example of his experience of interviewing victims of traumatic sexual violation. He demonstrated through the use of his case example, a number of the difficulties highlighted by participant 1.

Participant 3, Fiona was the next interview and again she provided an example of a case on going at the time of the interview. She was able to explain some of the potential difficulties she was experiencing and further exemplified the difficulties in meeting the victim's needs when this clearly caused a problem in gaining evidence.

A further meeting for interview was arranged with participant 3, Fiona to discuss some of the themes that had emerged from the previous interview. This allowed for some validation of the emerging codes and provided some elaboration of some of the issues that had been discussed previously.

Participant 4, Katrina had not completed her SOLO 3 training at the time of interviewing but had completed the basic level and level 2. At this stage of her development, she was unable to undertake interviews but could observe them. Participant 4 was not available for verification of the themes that had emerged or further interview.

As a number of issues had arisen regarding the questioning of victims at court contact was made with the Crown Prosecution Service. An email was sent outlining some of the emerging themes of the police participant interviews. A meeting was arranged and an informal conversation regarding the themes took place with a local Crown Prosecutor. This was not included in the analysis of

data but provided elaboration of some of the legal implications that emerged from the data.

Participant 6, Andy was a first responder police constable and his main job was to gain a first account from the witness or victim. Literature was reviewed regarding 'first responders' and gaining statements.

A further interview (7) was arranged with the Crown Prosecutor to discuss and validate the summary of the key points raised in the previous meeting. He had attended a meeting that was relevant to some of the themes discussed and was in agreement to meeting again to consolidate this. No new themes emerged but more emphasis was given to 'police interviewing' skills. Literature was reviewed regarding police interviewing models.

Participant 8, Michael was an experienced SOLO 3 trained officer and much of the content of his interview also drew on the interview process with victims and witnesses and the professional nature of this. A summary of the findings was later sent to participant 8 for validation.

Participant 9, Gerald provided a different perspective. Although he was also a SOLO 3 trained officer, his focus was to be conducting the interview with the suspect. He provided a balanced view of the difficulties for suspects and their 'human rights'. The literature was reviewed looking at the miscarriage of justice cases that led to changes in the way police investigation had changed.

In considering the human rights of the suspect, a local firm of solicitors was contacted. From personal experience (from previous employment), contact was made to a leading criminal barrister and an informal meeting was undertaken. This interview re-iterated the perspective of the previous participant interview and was very much focused on the rights of the individual suspect, the impact on their lives because of the negativity that surrounds this crime and the punitive measures as a consequence. He suggested a number of restorative measures that could be put in place to encourage a suspect to make a guilty plea rather than to go to trial. He suggested a more tiered penal system, as often offenders did not want to be seen

as other groups of sexual offenders. Further literature reviewing examined alternative criminal justice systems and restorative measures.

Interview 11 was more opportunistic as a colleague mentioned that they had recently sat in on a rape case and agreed to be interviewed regarding this. He discussed openly the difficulties that he had experienced as part of the jury in his decision regarding the case. He highlighted the fact that assumptions regarding the behaviour of both victim and suspect and their characteristics were the basis of this process. Literature was reviewed in relation to stereotyping and witness characteristics informing decision-making.

### **3.5.2 Coding and analysis of data**

The police participant Interviews (7) were tape recorded and typed verbatim prior to the line-by-line coding of the data (Glaser, 1992). Following the initial interview the process of data analysis commenced with the Nvivo computer assisted qualitative data analysis software (Friese, 2014). Further analysis was completed manually as there were a number of time restraints and accessibility to the programme. Increased access to the software would have been advantageous in developing some of the main categories but a manual approach did enable an immersion in the data that might have been lost if access was only available at certain times.

Table 3.2 provides a coding table. This involved the line-by-line coding of data, emergent codes and categories that provide an overarching term by which the codes are subsumed. Coding attempts to reflect the active process of the data rather than static themes as in a thematic analysis (Glaser, 1972; Bryant and Charmaz, 2007). As interviews can provide a lot of in depth data some selection of main categories were selected. These were guided by the research questions (Bryant and Charmaz, 2007). Table 3.2 provides a summary of the main codes and categories.



<b>CJS POLICE INVESTIGATION AND INTERVIEWING</b>	'Leaving it vulnerable to criticism' 'Supporting and corroborating evidence needed' 'Working with what we've got' 'Compounding the trauma' 'Shutting down' 'Internalising victim's distress' 'Contamination of the evidence' 'Lacking time and resources' 'Shifting and changing constantly' 'Disparate services' 'Drinking and regrets'	<b>memories and diminishing evidence</b>  <b>5.4.3 Conflicting system restraints and witness expectations</b>  <b>5.4.4 Legal controversy regarding false reporting;</b>	
<b>COMMENCING CRIMINAL TRIAL</b>	'Discrediting the witness' 'Attacking processes and continuity' 'Surviving cross examination' 'Deteriorating memory' 'Getting confused' 'Changing the story' 'Disclosing evidence at Court' 'Making judgments'	<b>5.5.1 'Creating jury doubt'</b>  <b>5.5.2 'Unhelpful witness behaviours and the role of stereotyping'</b>	<b>5.5: The Court Process</b>
<b>THE WIDER SOCIAL AND LEGAL CONTEXT</b>	'He is out there now' 'The sense of injustice' 'It unresolved'	<b>5.6.1 A danger to society</b>  <b>5.6.2 A sense of injustice</b>	<b>5.6: Impacts within a wider social and legal context</b>
<b>PSYCHOLOGICAL IMPACT ON POLICE</b>	'Reliving the case' 'Keeping it in' 'Professional detachment and reflective avoidance'	<b>5.6.3 'Letting go'</b>	<b>5.7: The end of the road</b>

**Table 3.2 Summary of codes and emerging categories**

The research was informed by Grounded theory strategies and includes the simultaneous collection of data and constant analysis (Glaser and Strauss, 1967). Coding is a two-step process that begins with the development of initial codes drawn from the data. Following the first interview with participant 1, line by line coding was initiated to generate codes. This initial line-by-line coding enabled a number of conceptual labels to be made. When no new codes emerged and some definite themes identified, codes were grouped into categories (Glaser, 1992). These initial categories included: *'developing a collaborative relationship'*, *'developing trust and transparency'*, *'relaying realistic expectations'*, *'initial inclusiveness'*, *'remaining neutral and encouraging'*. These categories were conceptualised as part of the interview process as *'building a conducive safe environment and trusting relationship'*. Notably, these codes were not part of the final summary of codes as there was a limit to what could be included. In this respect priority was given to those codes that best answered the research

questions.

The process of focused coding continued until a broad overview of the codes and categories emerged. Further purposive interviews followed which either built onto the framework or provided new codes and diverse aspects to the emerging framework. Glaser (1978); Charmaz, (2006) emphasise the importance of generating the codes from the data in an inductive approach and not trying to fit the data into an existing framework or one which is based on preconceptions. Subsequent interviews addressed these questions but mainly only an opening question of '*what is their experience of working with individuals who have been traumatised following rape or sexual assault?*' Findings from these interviews are discussed in Chapter 5. Ideally, interviewing would have continued until no further codes emerged resulting in saturation (Glaser and Strauss, 1967). This was not achieved in the present study. As there were limitations with regard to word count for this thesis, not all codes could be included in the final analysis.

During the course of the data collection and analysis a number of theoretical memos were made that provided some provisional ideas or notes to guide further purposeful sampling. Box 3.2 and 3.3 provide an example of early memos relating to training.

**SPECIFIC SEXUAL OFFENCE TRAINING OR GENERIC TRAINING OF POLICE OFFICERS**

**POLICE PROCESS 1** – Organisational restraints/changes in practice: Trained specific specialists within the organisation or generic training in interview procedures. More specialist police enables a better understanding of the difficulties encountered by victims of sexual trauma but limits resources, may lead to vicarious traumatisation and a lack of flexibility in approach. Generic training may result in more police being able to conduct interviews, less chance of burnout and remain more objective and neutral in their approach.

**Box 3.2: Memo writing**

These theoretical memos also guided reviewing the literature. As new themes emerged, further literature reviewing took place iteratively as completing the

literature reviewing prior to data collection can influence the shape of the emergent theory and result in its development becoming a more deductive approach (Bryant and Charmaz, 2007).

**POLICE PROCESS 2** – Gender/length of service/intelligence/ability to analyze and reflective practice or go by the rules – acceptance – fear of getting wrong – attendance at court (unconfident)

Police understanding: good (refer to 'rape trauma') – Literature

CPS DECISIONS 1 Evidence based/Meta analysis: how will the jury/judge view this evidence – Interview CPS to further explore this concept

JURY DECISION MAKING 1 Stereo typing/strength of conviction regarding one or the other – pre-existing beliefs/values/understanding/experiences (gender) – Literature – Interview Jury member – Stereo typing

### **Box 3.3: Memo writing**

At each stage of the analysis of the data, a constant comparative method was utilised to examine data from one interview to the other. Considerations of gender, experience and training appeared to affect interview responses and beliefs. Female police officers still suggested that their male counterparts may have less understanding and may continue to be led by 'rape myths'. This didn't reflect the attitudes of the police participants in this study but the role of education, training and experience appeared to be fundamental in shaping their attitudes.

By making these constant comparisons of the data, it was also useful in identifying gaps in the data. Where further information was needed to widen understanding relating to these gaps, further literature was reviewed or further purposive interviews were undertaken. Although interviews were completed with other members of the Criminal Justice System, these were not included in the overall analysis but provided a form of validation.

### **3.6 Limitations of interviews undertaken**

A limitation of the study was due to time restraints and requirements of the study. Full time work commitments of the researcher and time constraints and the unpredictability of police availability made it difficult to arrange time for interviews. There was an overall sense of not completing the interview process to its full potential. Although utilising a line by line coding of the data has given a breadth of information, saturation was not realised. A return to some of the interviewees to further explore some of the issues would have been useful but unpractical at this stage. The interviews were completed over the period of one year and it was difficult to return to some of the original participants, as they were not available and/or no longer with the force. This appeared to be a strategy employed by the Police Department so that police have an opportunity of working in many areas. It may also stop an individual becoming too absorbed in one area of work and becoming biased or traumatised by repeatedly hearing the same stories (Pearlman and McKay, 2009).

Secondly, the large amount of data collected and the difficulty in sifting out what was relevant was time consuming and recognise there were many interesting aspects or themes which were not followed up due to the restrictions on time and remit of the research. It may be useful to return to the data at a later date and follow some of the excluded themes from this research. In respect of data collection and analysis there is arguably some personal biases (Bryant and Charmaz, 2007). A different researcher may have selected different data extracts. This could equally be said for the development of categories and the theory as a whole. It was also led by the research questions.

### **3.7 Research bias**

My role within the organisation is clearly defined as a specialist psychological therapist but also emphasises that in completing this research, a position of neutrality was adopted as much as possible with a view to creating new knowledge and understanding. Although difficult to bracket off personal meaning, knowledge and attitude, professional training enabled a compartmentalised approach and an ability to see the situation from different perspectives (Bryman,

2008). Participants involved in the interview process were given the opportunity of acting as stakeholders in sharing their understanding.

The researcher's professional practice at SARC was a therapeutic role, and limited knowledge about the initial stages of the criminal prosecution process was previously in place. Only a small percentage of the service users at SARC, receive trauma-focused therapy following their earlier engagement with the service. It was essential throughout the study to highlight any bias or assumptions regarding the general experience of evidence giving at the SARC as the client population which engage with therapy have experienced high levels of distress and this might not be representative of others experiences and their involvement with SARC and evidence giving (Bryant and Charmaz, 2007). Pre-conceptions were noted and discussed so this did not bias the research findings. Initially, attempts were made to conduct the research from a student researcher perspective so not to be overly influenced by the client/victim's stories regarding their perceptions of police and the CJS. This was difficult to achieve, as there was a need for transparency with participants. Within a grounded theory methodology, there is recognition that the researcher may have existing knowledge of the research context and this needs to be made clear (Bryant and Charmaz, 2007).

Throughout the research a journal was completed and ideas were written down together with 'memos', important information and key points elicited from interviews. At the start of the research, pre-conceptions were noted regarding police participants and their knowledge regarding trauma and memory. Initial concerns were that police understanding was limited. However, by maintaining an open stance to the information obtained from interview and the process of line-by-line coding, findings emerged directly from the data and these pre-conceptions were discounted. By immersion in the data and allowing time before making decisions regarding the main categories, a more open and emergent theory developed (Bryant and Charmaz, 2007). In allowing the theory to develop from the data and in seeking other sources of knowledge, a more reductionist approach was avoided. The coding also remained close to the original segments of data (Glaser and Strauss, 1967; Glaser, 1992). By being open and transparent with any findings and areas that required further clarity, interviews were followed up or

corroborated by other practitioners within the CJS linked to the SARC. Initial perspectives regarding police understanding of the difficulties encountered by traumatised witnesses were changed as a result of the findings and by the accounts given by police. There was recognition that the system was less able to meet witnesses' needs when they conflicted with the 'achieving best evidence' agenda and this did not relate to police professionals lack of knowledge and understanding.

### **3.8 Strategies for validation and quality**

Glaser (1978, 1992) suggests that grounded theory is a process of emerging theory that adheres closely to a set of procedures and that findings are 'grounded in the data'. On the basis of validity, it is essential to check out meanings that may be ambiguous and misinterpreted with the participant so that understanding is clarified (Guba and Lincoln, 1994; Bryant and Charmaz, 2007). The research process was clear and transparent at the commencement of the interview and full consent was sought before including any transcript data.

When all interviews had been analysed, participants were emailed with an overview of the emerging theory/synthesis of interview data for validation and invited to inform the researcher if they considered any aspects of the analysis to be inaccurate or reveal identification. The overview provided the main findings from the interviews and a brief description of the main categories. Only participant 1, 3 and 9 responded to this request. A further meeting was held with the Chief Superintendent presenting some of the main findings. The Crown Prosecutor was also provided with a summary of the main findings and a further interview was made to discuss these. Some of the participants were no longer with the current service, one was on maternity leave and one was on long-term sickness and no response or feedback was obtained. As such not all participants crosschecked the findings and this was a limitation as noted previously.

Participant 1 had made a number of comments during the interview that related to organisational changes that he considered detrimental for victims. He did not wish

to include these considerations in the findings and agreement was made to withdraw this section.

Participant 3 had some concerns regarding the identification of the 'victim' discussed during her interview as the case was still being considered by the CPS. An agreement was made to ensure no identifiable elements were contained in the findings and we removed a section that related to specific characteristics of the case. As there were a number of similar cases being investigated at the time, the case details were considered less identifiable. Recognition was also given to the time lapse between undertaking the interview and the presentation of findings.

Participant 9 considered findings to be accurate but suggested that it was important to maintain a balanced view considering the rights of the suspect or defendant in such cases. This again initiated a further search for literature regarding miscarriages of justice to gain a more accurate understanding of why certain policies and procedures are in place. It also led to an interview with a local barrister working with such cases.

### **3.9 Ethical considerations**

There were a number of ethical considerations to be made for this research at every stage of the study. Initially, the main aim was to empower vulnerable victims by allowing them to express many of their concerns regarding the criminal justice process<sup>16</sup>. As it was considered that there could be a risk of retraumatisation, it was considered more appropriate to focus on the problem from an alternative perspective but with the hope of engendering some positive change. The vulnerability and care of victims must be paramount to the research process and for this reason, a more professional perspective was considered (O'Leary, 2010). Even as professionals working within the CJS, it was important to ensure

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<sup>16</sup> As discussed above, although hoping to give 'vulnerable victims a voice in the research', as is often the case in transformative research, for ethical reasons this was not achieved directly. However, in making exploration of other professionals within the CJS, it is hoped that by making appropriate recommendations, indirectly this may empower and improve the service for 'vulnerable victims'.

that care was given to participants and to recognise that trauma can have far reaching effects on all who walk in its wake (McCann and Pearlman, 1990; Pearlman and McKay, 2008). McCann and Pearlman (1990) highlight the possible impact on those working with victims and of a possible secondary stress reaction or vicarious stress<sup>17</sup>. Although the perception is that the police and Crown Prosecution Service participants are well adjusted to working with trauma, the literature identifies that vulnerabilities can be the result of cumulative traumas and experiences. A focused interview could have the potential to trigger some underlying stress or adverse trauma reaction and the interviewer needed to be mindful in order not to provoke any personal reactions that would have been outside the remit as my role as a researcher. Information was provided to participants in the event of traumatisation. Information was given and contact details for anyone who may experience any negative responses following the interview. These issues were considered as part of Cardiff School of Research Ethics process.

### **3.10 Limitations of the current study**

For practical reasons that include accessibility to the police professionals involved with the SARC, and proximity of participants for the study, this study was focused on the researcher's own place of work. Because of positioning in the organisation, it was important to manage any preconceived notions and to remain transparent throughout the research process. A grounded theory methodology allowed for a person to have existing knowledge of the phenomenon being studied but ensures that findings that emerge from participant interviews remain grounded in the data (Bryant and Charmaz, 2007).

There were some difficulties of access and organising appointments with busy police participants. There also appeared to be on-going organisational change

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<sup>17</sup> Visualising or imagining a horrific event when listening to material and developing symptoms of PTSD, such as intrusive images or nightmares, may trigger a secondary traumatic stress reaction. Vicarious traumatisation relates to a changed perspective of the world following repeated stories/crimes of a similar nature (McCann and Pearlman, 1990).

and movement of participants that restricted some checking and validation of findings. The methods of data collection and analysis that were informed by a grounded theory were not entirely fulfilled (Bryant and Charmaz, 2007). Resources, access and timeframe prevented a true saturation of data. However, the interviews did provide some new insights and were consistent across the sample of interviews.

## **Conclusion**

The configurative review and synthesis provided a clear conceptualisation regarding the effects on memory and how this might impede engagement with the CJS or in the giving of evidence. By completing a systematic configurative review of the literature enabled a synthesis of studies in order to address an element of the research question. In a configurative review the systematic mapping of studies that are a specified quality, can be put together in order to develop a more cohesive understanding of a particular phenomenon (Gough et al., 2012). By examining memory processes from different theoretical perspectives, an integrated conceptualisation was made which can inform psychological interventions that could be useful within a criminal justice situation.

In completing the interviews using an open question design, theory was allowed to emerge from the data in an inductive way. The interviews provided in depth data that was detailed. It was not representative of all police officers engaging in sexual offence investigation and interviewing but provided an exemplary case highlighting a number of social processes at a given time.

At the start of the research there was a belief that it was the insufficient understanding of the police and prosecution services that were leading to the difficulties within the CJS such as the high levels of attrition. Although the literature identifies a number of negative attitudes from police, this was not apparent from these participants. However, they did suggest that some officers still held less desirable beliefs regarding certain groups of witnesses. They saw a

lack of training as fundamental in reducing negative biases towards victims. The current research also found that the problems are more complex and embedded in the socio-political and legal constraints of the system. A number of gaps were identified and a number of recommendations have been made. Chapter 4 provides the configurative review and conceptualisation and relates to memory following traumatic sexual violation and how this impacts on evidence giving.

## **CHAPTER 4: THE CONFIGURATIVE REVIEW (EMPIRICAL CHAPTER)**

### **Introduction**

This chapter of the research focuses on research question 1 and considers '*what is the impact of traumatic sexual violation on memory processing and functioning?*' It also addresses the 4 sub-questions that start to draw out implications for criminal justice.

Firstly, the chapter provides a synthesis from a comprehensive examination of the literature and by means of an inductive process a conceptualisation is developed. The conceptualisation is presented as three parts and is developed after each stage of the chapter as they relate to the specific research question and sub-questions. Firstly, the chapter identifies the factors that can impact on a victim's psychological functioning and make them vulnerable to the development of PTSD following traumatic sexual violation. Table 4.1 provides these pre-trauma vulnerabilities, peri-trauma responses and post-trauma factors. The first part of the conceptualisation presented in table 4.2 (a) focused on the stress response and an individual's reaction to this. By deconstructing the psychological complexities in understanding the impact on memory following assault, the conceptualisation began to draw out how memory may be affected differently. Table 4.2 (b) the second part of the conceptualisation considers the impact on a victim's

psychological functioning and consequent psychopathology. The third part of the model, table 4.2 (c) consolidates these findings and suggests how these problems may present themselves when an individual reports to police and in giving evidence. Appendix 2 provides a comprehensive conceptualisation with all components.

#### **4.1 The influence of vulnerability factors in the development of PTSD**

Table 4.1 addresses research sub-question: *What makes a person vulnerable to developing PTSD following traumatic sexual violation?* There are a number of factors that impact on a victim's psychological functioning in response to rape or sexual assault. The table provides a number of pre-trauma vulnerabilities predisposing an individual's response to trauma, their response at the time of the trauma and post trauma effects.

	<b>PRE-TRAUMA VULNERABILITIES</b>	<b>PERI-TRAUMA</b>	<b>POST TRAUMA VULNERABILITIES</b>
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<b>INDIVIDUAL FACTORS</b>	<p>Genetic predispositions; Attachment history: Insecure attachments; History of abusive interpersonal trauma and childhood abuse; Temperamental dispositions/personality; Previous mental health problems (self/family); Dissociative traits; Lower intelligence (efficiency of working memory); Learning difficulties; Language difficulties; Communication difficulties; Emotional reasoning; Executive functioning deficits; Tend to be more visual learners and tend to utilise more imagery than cognitions.</p>	<p>High level of fear and stress at the time of the trauma; Threat response; fight/flight/freeze Peri-traumatic dissociation (tonic immobility and/ or depersonalisation/ derealisation; Disorientation; Sense of entrapment and helplessness; Sense of dehumanisation; Behaviour in response to threat; Loss of control of bodily functions; Loss of consciousness; Levels of pain experienced Peri-traumatic shame/disgust at the time of the trauma</p>	<p>Acute stress reactions including nightmares and intrusive memories (often experienced after a traumatic event, but can indicate that a person may be vulnerable to developing ongoing re-experiencing symptoms; Dissociative episodes; as above or 'shutting down'; Emotional numbing; Ongoing heightened anxiety/arousal; Exaggerated hypervigilance/agitation; Avoidance (cognitive and behavioural) Functional avoidance (suppression of memories that might activate trauma response) Withdrawing from others Sleep directly following trauma<sup>18</sup>; Negative post trauma appraisals; including self-blame, responsibility; High levels of guilt and shame; Low confidence in self and/or system; Negative self-view; Self-hate and disgust Significant exaggerated shame; Lack of accessible memory for the trauma event; Traumatic brain injury; Physical injuries or lack of physical injuries; Traumatic rumination; Suicidal thoughts and depressive symptoms; Compromised memory specificity; Partial or complete dissociative amnesia.</p>
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<sup>18</sup> There is some evidence that sleeping within six hours of the traumatic event can lead to over-consolidation of emotionally bound memories and amygdala activation (Emily Holmes, personal communication at UKPTS, March, 2016). Further research is required in this area.

<b>SOCIAL FACTORS</b>	<p> <b>Low Socio-economic status;</b>  <b>Ethnic minority groups;</b>  <b>Dysfunctional family dynamics;</b>  <b>Living alone; social isolation;</b>  <b>Single status</b>  <b>Social norms at the time of the trauma;</b>  <b>Cultural factors;</b>  <b>Unsupportive cultural norms;</b>  <b>Lack of religious beliefs/ or strong religious beliefs of self/punishment;</b>  <b>Lack of an adaptive social network and social support;</b>  <b>Detrimental media reporting (trends and attitudes);</b>  <b>Negative Stereotyping;</b>  <b>Unstable living environment;</b>  <b>Living with continued threat.</b> </p>	<p> <b>Trauma context;</b>  <b>Trauma site;</b>  <b>Perpetrator factors (Known/stranger/ multiple);</b>  <b>Use of a weapon;</b>  <b>Specific sexual acts performed;</b>  <b>First responders - attitudes and responses (if applicable);</b> </p>	<p> <b>Interpersonal problems as a result of the trauma;</b>  <b>Loss of a relationship as a result of the trauma;</b>  <b>Low Socio-economic status;</b>  <b>Ethnic minority groups;</b>  <b>Dysfunctional family dynamics;</b>  <b>Living alone;</b>  <b>Single status;</b>  <b>Social norms at the time of the trauma;</b>  <b>Unsupportive cultural norms/attitudes;</b> </p> <p> <b>Lack of religious beliefs or strong religious beliefs of self/punishment</b> </p> <p> <b>Lack of an adaptive social network and social support</b> </p> <p> <b>Detrimental media reporting (trends and attitudes)</b> </p> <p> <b>Social networks allowing negative comments to be made</b> </p> <p> <b>Negative Stereotyping</b>  <b>Unstable living environment</b>  <b>Living with continued threat</b> </p>
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<b>LEGAL FACTORS</b>	<p>The current law, legislation and policies in place within a given time</p> <p>Police powers to arrest</p> <p>Due process procedures and the rights of the suspect</p> <p>Negative attitudes of police and other professionals within the CJS</p>		<p>Limited experience and/or training of specialist officers;  Police attitudes on reporting;  Attitudes/understanding regarding delayed reporting;  Police decisions to arrest suspect;  Access to supportive agencies that specialise in rape and sexual assault;  Lack of conclusive evidence;  Forensic evidence contaminated;  Limited time and/or resources for investigation;  Limited experience of Police interviewers;  'Due process' constraints  Lack of criminal trial and/or negative criminal trial experience;  Unsatisfactory outcome of criminal trial;  Trial open to the public (can be experienced as humiliating even if the witness isn't present at court)</p> <p>Seeing the suspect at court</p> <p>Suspect's attitude at court</p> <p>Pre- and Post trial support</p> <p>Access to evidence based therapy (pre- and post trial)</p>
<b>POLITICAL INFLUENCES</b>	<p>Political ideologies at the time of the trauma;</p> <p>Criminal Justice System 'Due process model' or 'victim centred' CJS;</p> <p>Levels of democracy in place;</p> <p>Due process model or Crime control model;</p> <p>Political influences over public perceptions;</p>	N/A	<p>Political ideologies at the time of the trauma;  Criminal Justice System in place e.g. adversarialism  'Due process model' or 'victim centred' CJS)  Limited access to compensation;  Political influences over media reporting;  Levels of prejudice</p>

Table 4.1: Vulnerability factors in the development of PTSD (Brewin et al. 1996; Conway and Holmes, 2005; Porges, 2011; Bergmann, 2012, Lanius et al. 2014; Barry et al. 2018).

#### **4.1.1 Pre-trauma vulnerabilities leading to adverse responses**

As table 4.1 highlights, there are a number of predisposing vulnerabilities that can make someone more likely to experience an adverse psychopathological response as a consequence to trauma (Ozer et al. 2003). Individual risks can include genetic dispositions, the efficiency of the stress response and previous pre-trauma functioning (Ozer et al. 2003). Early childhood trauma that involves interpersonal emotional and sexual abuse have profound effects on brain development, can lead to inefficient affective regulation systems and structural implications for the development of personality (Lanius et al. 2014). Neglect and early abuse occurring during critical stages of development are often critical to the origin of enduring pathological dissociation (Schore, 2003a; 2003b). Repeated interpersonal trauma is more likely to lead to a higher prevalence of on-going dissociation than a single episode of non-interpersonal trauma (Lanius et al. 2014). The Adverse Childhood Events study indicates a greater risk of both psychological and physiological problems in adulthood if more than four adverse events in childhood have been experienced (Bellis et al. 2015).

Given the psychopathological variations when individuals have experienced sexual trauma, it is difficult to clarify whether there are some premorbid deficits in brain function or whether it is the trauma that has caused these functional abnormalities (Bergmann, 2012). The growing neurobiological research confounds the idea that there are different neural networks that may result in different psychological dysfunction and may require discrete considerations (Porges, 2011).

There is evidence for a faulty salience network compromising connectivity between the insula, hippocampus and amygdala (right hemisphere) that is particularly evident in adult survivors of CSA (Lanius et al. 2014). The individual may find it difficult to cope with overwhelming emotions and this can lead to an emotional shutdown rather than initiating the most appropriate action in response to events. Victims may fluctuate from an inability to modulate their emotional states to more hypo-arousal dissociative states and emotional numbing (Lanius et al. 2015). When in a state of hyper-arousal, the individual may have a heightened

sense of threat particularly from the evaluation of internalised bodily sensations active when the threat system is aroused. In a state of hypo-arousal, there is under activation of the insula and this has been correlated to more dissociative responses that may include emotional inhibition and a detachment from one's surroundings (Lanius et al. 2015). These states of hyper-arousal and hypo-arousal can be difficult for police and others to manage outside of a clinical setting. Consideration needs to be given to how this could be achieved within a forensic setting prior to evidence giving.

#### **4.1.2 Peri-trauma factors**

Factors relating to the trauma experience can be varied; for example, whether the attacker is known to the victim or is a stranger. Sexual violation that involves more coercive tactics may be experienced differently to a sudden unexpected attack (Foa et al. 1995). The level of fear and perceived inescapability has an impact on the stress response and subsequent psychopathology (Lanius et al, 2014). Peri-traumatic dissociation at the time of the trauma is fundamental in the development of PTSD and subsequent problems in recalling the event (Bergmann, 2012). Some individuals can experience both an aversive response and a dissociative freeze response (Lanius et al. 2014). This can be experienced as 'tonic immobility' or an inability to move<sup>19</sup>. Fear can also lead to peri-traumatic dissociation experienced as depersonalisation, or derealisation at the time of the trauma<sup>20</sup>. This latter response has a major influence on memory encoding and memory processing (Porges, 2011). In non-stranger rape or sexual assault, the level of the fear response may be less acute but other emotional reactions at the time of the event can be experienced and can be later amplified when recollecting the event. These can include feelings of shame, disgust, humiliation and anger (Ehlers and Clark, 2000). As discussed previously, these secondary emotions can lead to attempts to suppress the memory, discount or minimise the experience and individuals may be less likely to engage with the CJS (Brewin et al. 2003). Porges (2011) also

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<sup>19</sup> Tonic immobility is an unconditioned response of involuntary physical immobility, trembling, shaking, muscle rigidity and suppressed vocal expression and reduced body temperature and can last for a few seconds to a number of hours Lanius et al. 2014, p. 54)

<sup>20</sup> Peri-traumatic dissociation (PD) is a cognitive response where an individual may feel mentally removed from their body during the trauma (Lanius et al. 2014, p.55).

posits an innate response experienced by female mammals that leads them to become immobilised for the purpose of reproduction and to optimise the chances of impregnation. This evolutionary involuntary response can be at odds with the conscious will of individuals and again lead to some conflicting and confusing thoughts and feelings about one's bodily response (Porges, 2011).

#### **4.1.3 Post-trauma factors**

Individual responses following a traumatic experience can have a major impact on recovery. If they have experienced an extreme response during their trauma experience such as a dissociative response and tonic immobility, a person can evaluate this negatively and by a process of hindsight bias, wonder why they reacted in a particular way (Ehlers and Clark, 2000). Foa and Riggs (1994) suggest that self blame and critical rumination can hinder recovery and lead to a negative impact on self-esteem. Ehlers and Clark (2000) suggest the way that an individual appraises their trauma can impact on their beliefs about themselves, others and the world generally. They may also become confused if symptoms following the trauma are still present even though they are now in a safe situation (Ehlers and Clark, 2000).

Other social factors can leave a person vulnerable to on-going difficulties following trauma. Lower socio-economic status and isolation can exacerbate problems and again delay the recovery process (Ozer et al. 2003). A supportive network of professionals, friends and family can provide a protective factor and this is essential if involved with the Criminal Justice process (Ozer et al. 2003). Support for victims of sexual trauma can be varied and depend on cultural norms and attitudes regarding 'help seeking behaviours' for different societies and the political ideologies at any given time influences the type of support available (Ehlers and Clark, 2000). As discussed in chapter 2, the attitudes of others can be fundamental to the decisions that a traumatised individual may make with regard to disclosure, reporting to police and commencing criminal trial (Weiss, 2010).

Section 4.2 focuses on the autonomic stress system that might lead to a dissociative response at the time of the trauma and how this might impact on memory processing of the event.

## **4.2 The autonomic stress response and impact on memory**

The autonomic stress response at the time of the trauma directly relates to the main research question of this chapter, '*what is the impact of traumatic sexual violation on memory processes?*' and is presented in table 4.2(a). It also identifies the different psychopathological pathways and the different effects on memory. Table 4.2 (a) forms the first part of the conceptualisation and compares adaptive responses and maladaptive responses.

<b>AUTONOMIC STRESS RESPONSE</b>	<b>PHYSIOLOGICAL STATE</b>	<b>PROPOSED IMPACT ON MEMORY</b>
<b>PARASYMPATHETIC SYSTEM (VENTRAL VAGAL COMPLEX)</b>	<b>ADAPTIVE STATES FOR SOCIAL ENGAGEMENT</b>	Adaptive functioning
<b>FUNCTIONAL NEURAL ORGANISATION THAT REGULATES VISCERAL STATE IN ORDER TO SUPPORT SOCIAL BEHAVIOUR</b>	Enables rapid engagement and disengagement. More subtle and flexible efficient emotional regulating system. Sympathetic increases or decreases, enabling more sophisticated interactions	Intact memory: synaptic plasticity within hippocampal regions and consolidation into cortical networks forming episodic memories (Kitamura et al. 2017)
<b>SYMPATHETIC SYSTEM</b>	<b>STARTLE RESPONSE</b>	<b>Increased functioning</b>
<b>INITIAL FREEZE RESPONSE: Focused attention and orienting to threat</b>	Sustained cardiac deceleration Startle response Defensive analgesia Increased responsivity to stimuli Considered action tendencies	Probable consolidation of memory related to experience. Intact memory formation remaining stable over time. Often experienced with vivid recall of novel stimuli (See flashbulb memories: clear visual representations of the experience including emotional re-experiencing (Lanius et al. 2012). Remote memories may become weak over time and could be vulnerable to reconstructive elements (Conway and Holmes, 2005).
<b>SYMPATHETIC SYSTEM Sympathetic adrenal system engagement (mobilisation and action)</b>	<b>FEAR RESPONSE</b>	<b>Impaired functioning</b>
<b>FLIGHT or FIGHT RESPONSE Attempts to escape Attempts to fight</b>	Potentiated and sustained startle response Rapid accelerated heart rate, Increase in activity	Increased visual memories for the object of threat (weapon) and facial details of attacker. Decreased ability to recall peripheral details. May have difficulty recalling time and/or locations or spatial aspects (Bergmann, 2012).
<b>PARASYMPATHETIC SYSTEM (DORSAL VAGAL COMPLEX) Vestigial immobilisation</b>	<b>FEAR RESPONSE (Terror and entrapment)</b>	

<p><b>TONIC IMMOBILITY (FREEZE RESPONSE)</b> Behavioural response to perceived inescapability</p> <p>(Parasympathetic and sympathetic systems) Initial loss of motor control; high emotional arousal; hyperalertness and fear (or anger). Still able to initiate learning and memory</p> <p>Second stage tonic immobility with parasympathetic activity alone: “shut down period”</p>	<p>Amygdala activation leading to cortex inhibition caused by overactivation of the limbic system (Amygdaloid functioning) projecting to the midbrain Periaqueductal Gray (PAG) in the brainstem involved with tonic immobility</p> <p>Physical immobility and suppressed vocal expression; Increased Analgesia; Activation of a pool of interneurons in the reticular formation, inhibiting the motor neurons of the spinal cord (Moskowitz, 2004)</p> <p>More rigid tonic immobility and peri-traumatic dissociation</p>	<p>Memory retention and intact memory recall Increased visual memories for the object of threat (weapon) and facial details of attacker. Contextual memory provided by hippocampal mediation induces anxiety at related aspects of the experience and related avoidance. May have difficulty recalling time and/or locations or spatial aspects but clear recollection of some aspects (Bergmann, 2012)</p>
<p><b>Simultaneous activation</b></p>		
<p><b>PERI-TRAUMATIC DISSOCIATION</b> A cognitive response to perceived imminent loss of life</p> <p>▪ DEREALISATION</p> <p>▪ DEPERSONALISATION</p>	<p>Physiological changes include hypoarousal, hypotension, vasodilation A subjective experience involving altered cortical functioning; Cognitive failure; Emotional numbing A feeling of detachment from the environment</p> <p>A feeling of detachment from one’s body</p>	<p>Memory disruption. May involve fragmented or disorganised memory recall* Partial and complete amnesia; Decreased autobiographical specificity of memory.</p> <p>As above. Can include dissociative amnesia for some elements of the trauma. May have some gaps in the memory. Some parts of the memory may be resistant to conscious recall and may be experienced as physiological states*</p>
<p><b>PATHOLOGICAL SHAME</b> Vestigial midbrain</p>	<p><b>MID-BRAIN DOMINANCE</b> Urge to withdraw and hide</p>	
<p>▪ <b>PERITRAUMATIC SHAME</b></p>	<p>An aversive and high arousal state Negative view of self Vaso-dilatation, a shrinking response Loss of clarity in thinking as de-</p>	<p>Memory intact but the individual may employ cognitive strategies to attempt to suppress the memory. Attempts to avoid thinking about the memory and/or periods of traumatic</p>

<ul style="list-style-type: none"> <li>▪ <b>POSTTRAUMATIC SHAME</b></li> </ul>	<p>activation of the PFC and activation in parietal areas A physiological urge to hide and withdraw</p> <p>Shame occurring after the trauma based on a cognitive re-evaluation of the trauma event Reduced arousal Lack of positive emotional Responses. Recurring images of the event elicit further physiological arousal of shame</p>	<p>rumination going over and over the event. May pay attention to the actions of self rather than the attacker.</p>
<p><b>ADVERSE CHILDHOOD SEXUAL VIOLATION</b></p>		
<ul style="list-style-type: none"> <li>▪ <b>CHILDHOOD ABUSE (ONE EPISODE NON-FAMIAL)</b></li> <li>▪ <b>CHILDHOOD ABUSE (REPEATED)</b></li> <li>▪ <b>CHILDHOOD ABUSE (REPEATED INTERPERSONAL/ FAMILIAL ABUSE)</b></li> </ul> <p><b>FEAR BASED SHAME BASED</b></p>	<p>As above</p> <p>May continue to re-experience elements of the abuse or representations. May continue to have nightmares intrusive images. Nightmares tend to be more abstract by intrusive images and/or flashbacks remain significant representations of an aspect of the trauma</p> <p>May affect personality development, interpersonal functioning, cognitive development and organisational capacity</p>	<p>Chronic PTSD (Could be delayed PTSD if only occurring after a period of time)</p> <p>Complex PTSD involving emotional dysregulation, interpersonal functioning, organization and attentional deficits. Lack of autobiographical memory specificity. Impaired executive functioning may prevent storage of high number of memories. Functional avoidance of aversive or fear based memories or associated memories.</p> <p>Complex PTSD and/or Dissociative disorders Somatisation disorders Personality disorders In extreme cases the development of Dissociative Identity Disorder and/or dissociative fugue states (this is outside the current remit of this research)</p>

**Table 4.2(a): Responses to traumatic sexual violation and Impact on memory**  
Adapted from Panskepp, 2011; Porges, 2011); Bovin and Marx, 2011; Lanius et al. 2014; Bergmann, 2014

The stress response is usually determined by the level of fear experienced at the time of the trauma but also highlights the perceived sense of 'entrapment and helplessness' that initiates a peri-traumatic dissociative reaction (Lanius et al. 2015). This can be experienced as an '*out of the body experience or watching oneself*' or 'that one's surroundings appear surreal' (Dell and O'Neill, 2009; Lanius et al. 2015). This mental and physical 'shut-down' cushions the horror of the trauma while experiencing it, but appears to impact on the apparent encoding of the memory and from recalling the memory in a coherent way following trauma (Lanius et al. 2015). In some cases where the person has developed PTSD, they can continue to experience these dissociative states that again prevent an integration of the memory as a whole and it can become over consolidated in sensory form fragmented from other aspects of the memory (Dell and O'Neill, 2009; Bergman, 2012; Lanius et al. 2015). The memory that is inaccessible to conscious recall can be experienced as more visceral, emotional or somatic form but can later become accessible to conscious and verbal recall when a process of adaptive information processing has been enabled (Shapiro, 2001; Bergmann, 2012; Lanius et al. 2015).

Table 4.2 (a) also highlights improved visual memory for certain aspects of the trauma experience, particularly for facial details. This can occur when the object of threat such as a weapon or the threatening facial expression of the perpetrator can cause a heightened arousal as in the 'orienting phase' (Porges, 2011). This can be re-experienced in outstanding clarity and detail and the mental image may intrude regularly without conscious recall (Shapiro, 2001).

This next section focuses on the stress response in more detail as it is so relevant to memory processing for an acute trauma and addresses the research sub-question: '*are there different psychopathological pathways that may impact on memory and in what way?*' The effects of traumatic sexual violation may be experienced differently dependent on the nature of the attack, its severity and the individual's perceived level of threat (Porges, 2011). Panskepp (1998) describes a number of innate defence responses and behaviours that are often more easily identifiable in animals and can be slightly more subtle in humans. The defence

responses are linked to structures within the basal ganglia and cerebellum. The basal ganglia are responsible for the most efficient response based on incoming sensory information and activates the action system that is most appropriate for the perceived threat and to achieve safety and survival (Porges, 2011). Porges (2011) terms this '*neuroception*' or the ability to correctly monitor the level of safety of threat in our environment. Abuse and neglect can manifest in faulty neuroception resulting in withdrawal and inhibition or an inability to discriminate healthy adult attachments often presenting as uninhibited. This can greatly affect the way they may relate to police and others in authority (Porges, 2011). When the threat system is activated, there is a shift in the defence response (Bergmann, 2012).

#### **4.3 The 'orienting' response and scanning**

Incoming sensory information from external stimuli are firstly directed to the thalamus, the sensory gateway. If a threat is perceived, there is an immediate genetically programmed response initiated as information is directed to the amygdala, the body's alarm system, the midbrain and subcortical regions (Porges, 2011). The amygdala reacts to threat immediately by evaluating the emotional content of the sensory information and whether it represents an immediate danger. The surge of excitation from the amygdala signals the hippocampus to release dopamine. This creates heightened focused and riveted attention. In animals, this can result in an alert stillness (Bovin and Marx, 2011). Simultaneously the thalamus relays the information through a number of cortical layers in the cerebral cortex that involves perception but this is a much slower process (Scaer, 2014). The amygdala sends signals to the hippocampus that enables a cognitive evaluation of the threat. If no immediate threat, dorsolateral and ventrolateral areas of the prefrontal cortex inhibit the input from the amygdala within the basolateral nucleus and are involved with enabling more cognitive strategies of dealing with the threat (Bergmann, 2012). The myelinated vagus nerve originating in the brainstem facilitates a more relaxed state. When the situation is resolved the person normally returns to a resting or neutral state (Damasio, 2010; Bergmann, 2012). We can suppress emotions, change our understanding of an event and attempt to communicate to the other person our

reasons for concern. Newly acquired knowledge is stored within higher cortical areas of the brain and allows preparation for future events such as avoidance of the same situation in the future (Porges, 2011).

In continuing anticipation of threat, the cortical structures are able to monitor imminent danger utilising the insula which is a small area of cortex embedded beneath the temporal fissure within the limbic area that responds to visceral sensations (Lanius et al. 2015). The ventral vagal nucleus in the medulla regulates sympathetic and parasympathetic oscillation preserving energy for imminent threat if required. This ventral vagal 'brake' enables the individual to rapidly engage with the threat but to disengage when the threat has subsided. This process of regulation maintains the equilibrium of the body's autonomic system allowing an efficient and evaluative response to be made (Lanius et al. 2015).

#### **4.3.1 Adaptive memory processing and storing of memories**

Signals from the amygdala to the right hippocampus that processes conscious memory enables a cognitive neural map or engram to be formed and directed to the right orbitofrontal cortex for elaborating information and memory processing (Scaer, 2014). When we have a new or novel experience, sensory information from all the senses comes together in the thalamus to create a system of neural networks or spatial maps. Information is then sent from the thalamus to the amygdala (except smell which has a direct route to the amygdala). The amygdala infuses sensory stimuli with emotional valence strengthening the neural pathway for any similar events should they occur in the future (Bergmann, 2012). As discussed earlier, the Information is also directed through a number of cortical layers to the neocortex (Bergmann, 2012). For the memory to become stable over time, the hippocampus requires a level of synaptic plasticity that enables the formation of consolidated information in neocortical networks to become more permanent (Kitamura et al. 2017). This was found to be more likely if neocortical memory engram cells receive inputs from both hippocampal-entorhinal cortex network and basolateral amygdala (Kitamura et al. 2017). Kitamura et al. (2017) propose that without engram cells in the basolateral amygdala that are necessary

for fear memory, the hippocampal engram cells become weakened over time. Their findings suggest that fear memory basolateral amygdala engrams that form at the time of the event remain stable over time. Although this research is beyond the scope of this current study, it does highlight the different memory processes and recognises that fear memories remain highly functional over time and are less likely to deteriorate or be vulnerable to reconstructive elements (Tonegawa et al. 2015).

These neural maps or engrams are fragments of sensory, perceptual, emotional, cognitive, memorial and somatosensory aspects of a given experience each oscillating at their own signature frequencies (Bergmann, 2012; Lanius et al, 2015). The binding process of the thalamus enables these fragments of the experience to be bound together by modulating the action potentials and synthesising them to produce an integrated conscious experience or temporal map (Llinas, 1988; Bergmann, 2012; Lanius et al. 2015). Thalamocortico-binding also promotes neural binding to other existing associative memory networks that contain similar relative information and by synthesising these different aspects of the experience creates temporal and contextual memories bound in 'time and place'. This process enables the experience to be constructed and stored as a whole memory or in more permanent and adaptive memory systems mediated by the hippocampal neuronal network and (Bergman, 2012; Lanius et al. 2015).

Lanius et al. (2014) emphasise the need for information processing of our internal and external environments including somatic, perceptual, affective or cognitive elements to remain within the 'window of tolerance' (Ogden et al. 2006) or as discussed earlier 'synchronised frequencies' (Bergmann, 2012) preventing dysregulated arousal to occur (Lanius et al. 2012). This leads to the normal processing of memories into permanent structures within autobiographical episodic and semantic memory (Bergmann, 2012)<sup>21</sup>.

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<sup>21</sup> Episodic and semantic memories were seen to be different, while episodic related to our own personal experiences including specific people, events or objects that were associated with it, semantic memories were associated with facts (personal) or general knowledge (external world) and these are less likely to be associated with any emotional or physiological arousal (Tulving, 1974). This distinction has become amalgamated more

Holmes and Mathews (2010) emphasise the qualitative difference in episodic memories that include a sense of 'ourselves' in the past with associated images, emotional responses and physiological arousal that is less likely to be apparent with semantic recollection. Holmes and Mathews (2010) imply a more discrete role within episodic memory as being image based particularly for events that have evoked high levels of emotion and suggest that neural processes involved in mental imagery are associated with the same neural processes involved with perception and because of its evolutionary status there is a more rapid response when perceiving or recalling memories of an episodic nature (Holmes and Mathews, 2010).

Episodic memories tend to retain the original elements of the event over long periods of time and these are most often in the form of visual representations or images. They are usually ordered and generally become linked to conceptual knowledge in existing memory networks or they may be forgotten if they are no longer important (Conway and Holmes, 2005). They are also easily and purposely accessible when recollected or may be retrieved involuntarily when activated by an internal or external memory cue (Conway and Holmes, 2005). When traumatic fear memories have been appropriately processed and consolidated, they may become episodic memories (Holmes and Mathews, 2010).

#### **4.3.2 Reconstructive view of memory**

As discussed in earlier chapters, autobiographical memories may consist of factual biographical information or may consist of more experiential memory that is associated with relevant sensory experiencing (Conway and Holmes, 2005). There is some debate regarding whether memories are complete replications or whether they have been reconstructed or updated with new information that has become assimilated into the memory (Brewer, 1999). Neisser (2003) also highlights the generic representation of multiple memories of similar events and differentiates between an objective and subjective perspective. Neisser (2003)

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recently suggesting that episodic and semantic knowledge are more interactive and co-dependent (Conway and Holmes, 2005).

purports that observer or objective perspectives are more prone to being vulnerable to reconstruction whereas personal subjective experiences are more likely to be more vivid and retain more emotional charge. Robinson and Swanson (1992) found that when students were asked to change perspectives during their recall of personal memories, affect was diminished.

### **4.3.3 Memory retrieval and recall of events**

For the memory to be recovered the neuronal networks mediated by the hippocampus and parahippocampal regions reactivate the separate synaptic pathways of the spatial maps that were activated when encoded. This integration of the separate systems enables the memory to be retrieved as a whole synchronised memory system in its initial form when required (Squire and Kandel, 1999; Damasio, 2010; Bergmann, 2012). These linked neural systems may be experienced as images or representations of perception and may be in our conscious awareness or sometimes unconscious and can be re-created in imaginative recollection (Bergmann, 2012).

Kandel 2006, pp. 214-215 concludes:

*‘In Aplysia, we could see for the first time that the number of synapses in the brain is not fixed – it changes with learning! Moreover, long-term memory persists as long as the anatomical changes are maintained’.*

We may have a memory of our first meeting with someone who is important to us. At the time we would have encoded all kinds of information regarding the person, how we were feeling and other sensory information encoded at the time. The stronger the emotional response at the time, the stronger the memory trace for this event (Bergmann, 2012). The memory can later be recalled consciously or purposely. It may also be activated by a sensory or perceptual cue such as hearing music that was played at the time of the event, or recognising a particular scent and this may initiate a similar emotional reaction, whether negative or positive, that we experienced at the time (Bergmann, 2012). We may also recall certain conversations and factual information regarding where we were, the date

and other details regarding the meeting. If we have had subsequent meetings with the same person and newer experiences, our original memory may be reconstructed as newer information is assimilated with existing knowledge and beliefs. This would not mean that the original novel experience would be lost, but the emotional reaction to it may be different (Bergmann, 2012).

Damasio (2010) describes the internal process of remembering someone whereby our perceptual system allows us to not only see them but to also have a *sense of them*. Declarative or explicit memories containing cognitive and conceptual meanings of an event or factual information can be recalled with a verbal component. These memories may include semantic (conceptual knowledge) about oneself, others and the world, or episodic memories (personal autobiographical) and semantic (factual and contextual) of when we learned this information and may also be associated with other more permanent neural networks containing personal autobiographical information learned through previous experiences (Bergmann, 2012). Autobiographical memories also enable a sense of time and an awareness of '*ourselves*' across time. These memories are dependent on medial temporal lobe and the ventral prefrontal cortex (Kolb and Wishaw, 2015). These memorial relational templates are particularly influenced by earlier attachments and influence our interpersonal communications and can implicitly inform our later experiences, attitudes and perceptions of an event (Arntz and Jacob, 2013).

Normal autobiographical memories are constructed dynamically and may change over time. When a memory is retrieved, new information can form part of the memory and reconstructing the initial encoded experience. Often the recall of the reconstructed memory may be less accurate and may be vulnerable to the normal decay of memories over time (Conway, 1995). Rehearsal may strengthen the memory although it may also strengthen new information, false information or updated cognitive appraisals of the event. Wang and Conway (2004) also highlight the influence of culture, self-identity and individual goals on what is remembered.

#### **4.4 Arousal of the sympathetic arousal system**

If the threat continues and the individual considers they are in possible danger, our evolutionary neuroendocrine-immune response is activated (Bergmann, 2012). The sympathoadrenomedullary axis (SAM) may be aroused by communication to the adrenal medulla gland situated in the kidneys and adrenaline is released. The Hypothalamo-Pituitary-Adrenal (HPA) axis is stimulated producing a secretion of corticotropin-releasing factor (CRF)/corticotropin-releasing hormone (CRH) from the hypothalamus and signals the anterior pituitary gland to produce adrenocorticotrophic hormone (ACTH). This in turn initiates the release of cortisol from the adrenal cortex (Bergmann, 2012). As cortisol increases, fats and proteins are converted into blood glucose giving optimum energy. Signals to the cerebellum allow for movement and action. The cardiovascular system is activated mediating metabolism, blood pressure, digestion and respiration in order to maximise effectiveness of the 'fight' or 'flight' response (Porges, 2011). This activation also causes an increase in the level of neurotransmitters within the brainstem to be released. The noradrenergic projections from the more primitive warning system, the locus coeruleus (LC) within the brainstem again sustaining increased attention and by continued connectivity to the amygdala through the release of norepinephrine, arousal is sustained particularly towards the object or person of threat (Damasio, 2010, Bergmann, 2012).

Cortisol also exerts a negative feedback effect on the hypothalamus and inhibits further release of CRF so that cortisol continues to be secreted. This is useful in the acute stages of threat but can have a detrimental long-term impact when sustained over a period of time or when stress continues to be repeated over time (Bergmann, 2012). In most cases, this response is transitory and if the threat is resolved, for most experiences, the person is able to return to their previous baseline state of homeostasis and adaptive recovery (Bergmann, 2012). If the 'fight' or 'flight' response is mobilised the person may remain in a state of hyperarousal even when the threat has subsided (Bergmann, 2012).

#### **4.4.1 Sympathetic arousal and impact on memory**

Following a traumatic event, specifically, sexual violation that has evoked a 'fight' or 'flight' reaction, dependent on the level of arousal and or distress at the time of the event, the memory may be well encoded. Arguably, the individual may experience a high level of emotional distress when remembering the experience and this can lead to an acute stress reaction (Damasio, 2010; Bergmann, 2012). Others may experience a high level of anger and seek to get justice for the event. Individuals may also experience a noxious response experienced as disgust and shame leading to a reflexive withdrawal when just thinking about the event (Lanius et al. 2014).

Remembering the event can cause the re-experiencing of intense feelings and the victim may attempt to suppress the memory. Arguably, recall of this event is usually clear and can be activated again given a further sensory cue that is similar. The more intense the activation of the amygdala the stronger the neural pathway and the stronger the memory imprint (Le Doux, 1996; Goleman, 1995). If the experience is assimilated into the individual's existing neuronal networks, recall may include both semantic memories such as the time and place of an event and episodic (autobiographical) memories of the specific experience (Kolb and Wishaw, 2015). In some cases the individual may still experience a level of hyperarousal (fear, anger) when reminded of the event by an external or internal cue (e.g. visual image). There may be a strong urge to attempt to suppress the memory but only some individuals with a high level of dissociative tendencies are likely to be able to escape the re-experiencing of this event. Dell and O'Neill (2009) refer to dissociation-potentiated repression as one's ability to sufficiently dissociate unacceptable realities from their conscious awareness. This is sometimes possible, particularly in childhood trauma and if there are no external reminders of the event and the individual is able to temporarily accommodate the experience usually by minimising the importance of the event or by self blame (Ehlers and Clark, 2000; Bomyea et al, 2012).

Where there has been a high level of arousal following rape or sexual assault, encoding may include an innate focus to the formation of the face, particularly

when in an upright (rather than an inverted) position (Kolb and Wishaw, 2015). Memories can be extremely clear, particularly for facial details as the normal cortical regions that process other visual stimuli are activated and a further extensive system encompassing occipital lobe and several other regions specifically for this task are also active (Kolb and Wishaw, 2015). Farah et al. (1998) proposed a specific pathway within the visual system is available for analysing faces. The fusiform gyrus located in the temporal lobe becomes activated when individuals are presented with faces in close proximity, as is often the case in sexual violation. This increased awareness and focus of the brain enables recall of the image to be clear and have consistency and remains stable over time (Kolb and Wishaw, 2015). They may also have vivid recollections of the object of threat that received the focused attention. In some cases, there could be optimal encoding of this kind of information (Brewin et al. 1996; 2010; Bergmann, 2012). Brown and Kulik, 1977 p. 84 refers to '*clear episodic memories of unique and highly emotional events*' as '*flashbulb memories*' and recognises that a memory of a traumatic event is different to a memory for ordinary events.

#### **4.4.2 Flashbulb memories**

If the experience has been one that was unique and of special interest to the individual and involves a high level of emotional arousal at the time of encoding, memories tend to be extremely vivid (Brown and Kulik, 1982). These are often referred to as 'flashbulb' memories because of their perceptual re-experiencing quality (Brown and Kulik, 1982; Peace and Porter, 2004). Peace and Porter (2004) regard them as 'remarkable memories' retaining their original valence and that memories of this kind are imprinted and remain static over time. Peace and Porter (2004) concluded that flashbulb memories differ in intensity dependant on the emotional impact, personal involvement and perceptions regarding the outcome at the time of the event. This is particularly evident when individuals perceive their life is at threat (Brown and Kulik, 1982). High levels of emotion, attention, surprise and perceived consequence of the event appear to trigger this mechanism and is seen to have an evolutionary element in ensuring that we remember events or experiences that could be threatening (Brown and Kulik, 1982). Opponents of the 'flashbulb memories' idea, suggest it is the role of rehearsal in the repeated

retrieval of this memory because of its nature and this is why the memory retains much of its detail (Neisser, 1982).

As discussed earlier, moderate excitation and inhibition of amygdala and cortical areas allows for optimal encoding of an experience and memory consolidation. Layton and Krikorian (2002) also propose the amygdala mediates a process of memory intensification for the emotionally experienced aspects of the assault and at the same time, this causes a weakening of temporally connected aspects of the traumatic experience particularly related to peripheral details, time distortions and spatial information. They also purport that if there is over-activation of the amygdaloid connectivity to prefrontal cortex and hippocampal functioning may be compromised (Layton and Kirkorian, 2002; Blakemore and Choudhury, 2006). Information processing is impeded and the normal process of synthesis and binding of connections within diverse neural networks results in the traumatic experience being stored dysfunctionally in state-specific form (Bergmann, 2012).

#### **4.4.3 Activating the fear network**

The fear network model that is more in line with ICD-11's proposed classification emphasises how the intensity of the fear stress response can lead to the over-consolidation of trauma memories as they become stored in propositional networks that normally shape new learning (Brewin et al. 2010). Sensory and perceptual information, cognitions and adverse feelings together with the physiological arousal experienced at the time of the event are re-experienced when a traumatic cue later activates the traumatic memory. These sensory-bound inflexible representations of the initial trauma memory are held in perceptual areas of the brain such as the amygdala, insula and representational cortex (Brewin et al. 2010). They are disjointed from higher cognitive areas involving the hippocampus and medial temporal lobe structures preventing the experience being contextualised and oriented to the present situation in time and space. These higher order cognitive abilities that enable conscious control over the trauma response are dysfunctional when highly aroused (Brewin et al. 1996; 2010). When under extreme threat, the neural circuitry of the fear system initially activates a sympathetic fight or flight response but when this is no longer an

option, more parasympathetic responses take over (Bovin and Marx, 2011; Lanius et al, 2014). This is of particular importance for those who have encountered a sudden and threatening sexual assault or rape as this parasympathetic response is most likely.

#### **4.5 Fear, entrapment, peri-traumatic tonic immobility and dissociation**

If the traumatic event is significant enough for the individual to experience overwhelming helplessness, fear or entrapment, the response continues until the brain recalibrates its form of defence. As 'fight' or 'flight' are no longer sufficient means of escape from the horror, the amygdala signals the opioid centres in the cortex and endorphins are released. The opiate generated parasympathetic response provides the individual with sustained periods of analgesia and plays a modulatory role on the regulatory system (Van der Kolk et al. 1996; Panskepp, 1998). In these situations where the individual is not able to attack or flee from the threat, the individual may become demobilised encountering a freeze/faint reaction (Panskepp, 1998; Corrigan, 2014). The literature suggests that rape victims may be particularly vulnerable to tonic immobility describing episodes of involuntary physical immobility, trembling, shaking, suppressed vocal expression and decreased body temperature and this has been linked to the perceived inescapability of the experience (Van der Kolk et al, 1996; Lanius et al. 2014). Burgess and Holmstrom (1976) found that 37% of rape victims reported some paralysis and this figure was even higher for survivors of childhood sexual abuse (Heidt et al, 2005). The literature involves retrospective reports and has not been studied in situ, but it is in line with animal research where 'fear and inescapability' have been reproduced under experimental conditions. Later research has also found significant results for tonic immobility in other traumas as well as sexual violence (Bovin et al. 2010). Animal studies of rats have shown this response to be more likely for females but findings are sparse in humans (Bovin et al. 2010).

In order to produce this parasympathetic response, anaesthetic neurochemicals reduce the communication between the different brain structures and create a decoupling of the limbic cortex and neocortex from the brainstem. Sensory pathways of the spinal cord may also provide an inhibition of nerve transmission

including pain (Lanius et al. 2014). This opioid-mediated response also inhibits the ability to control movement of the muscles. In evolutionary terms, this system enables the animal under attack to conserve energy by physically 'shutting down'. This is an involuntary hard-wired affective response and plays a major role in the modulation of stress by lowering blood pressure and ultimately decreasing cardiovascular reactivity and depressing the central nervous system providing this sedative response (McNally 2003; Lanius et al. 2014). This can result in the predator terminating their attack. Rape victims are often confused by their inability to move when they experienced the encounter. As suggested earlier, later appraisals of the event can lead to uncomfortable questions about their level of resistance and this is often mirrored by other's perceptions regarding rape (Foa et al. 1995).

As well as this physical immobility, the victim of extreme events including traumatic sexual violence can also experience peri-traumatic dissociation as '*an out of body experience*' (depersonalisation) or '*feelings of unreality*' (derealisation). Bremner (2007) suggests it is the high levels of glutamate to the brain that causes these dissociative peri-traumatic responses. Lanius et al. (2014) suggest that it is the massive release of endogenous opioids that inhibit the thalamus to incoming sensory information and activates the parasympathetic system and this provides the state of hypo-arousal.

Harvey and Bryant (2002) suggest that it is the peri-traumatic dissociative response that prevents an individual processing the trauma memory and integration into autobiographical memory. Brieres et al. (2005) regard these findings as tentative and that dissociation is a construct that relies on the subjective reporting of an individual's experience and there may be distinct differences that need to be considered. Brieres et al. (2005) considered dissociative avoidance following the trauma to be of more significance.

High levels of alcohol or drugs can increase the likelihood of a parasympathetic 'freeze' response and memory encoding and recall can be hindered. If the person loses consciousness then there can be a gap in the memory for this period. However, there is sometimes a level of sensory aspects of the experience that

remains within the sensory neural networks and the victim can develop more psychosomatic re-experiencing responses following the trauma (Bergmann, 2012; Scaer, 2014).

#### **4.5.1 Dissociative responses and impact on memory**

Pezdek et al. (2006) consider that peri-traumatic dissociative responses of depersonalisation or derealisation at the time of a traumatic event cause the disruption to the encoding process creating a partial amnesic response. In some cases this peri-traumatic dissociation can inhibit the encoding of the traumatic event as the sensory modalities appear to be disconnected from further conscious awareness. They also highlight that these dissociative processes inhibit assimilation of the event and disable the person to deal with it adaptively (Janet, 1907; Van der Kolk and Fislser, 1995; Dell and O'Neill, 2009). When victims have experienced this dissociative response they may be aware of a strong perceptual memory such as a smell or visual image related to the event, or they can re-experience the physical pain experienced at the time, but may still lack contextual details. This is particularly relevant in childhood repeated interpersonal trauma (Cloitres et al. 2013). However, Janet (1907) recognised that it also prevents the individual from accessing other psychological processes that may aid their recovery.

Dell and O'Neill (2009) has concluded from numerous studies that individuals may subjectively experience some 'dissociative amnesia' following their traumatic experience, but their objective performance is the same as non-traumatised individuals and there is memory for the event but that it may not be readily available to conscious experience. With support utilising cognitive strategies, most of this memory can become accessible in coherent form (Brewin et al. 2010).

According to Hardy et al. (2009) in their study looking at peri-traumatic dissociation participants who have experienced this response, reported more difficulty in recounting their trauma memory during the police interview. Arguably, other researchers have shown that a peri-traumatic response during the trauma is less

significant than peri-traumatic dissociation<sup>22</sup> followed by persistent dissociation whereby the individual continues to dissociate when reminded of the event. It is this latter response that is considered to prevent the trauma memory from being processed and consolidated, as the person re-experiences the horror of the trauma repeatedly as if they are experiencing it again (Hardy et al. 2009).

As high levels of fear and the subsequent threat reaction impedes the processing of memory and the individual attempts to avoid thinking about the event, intrusive symptoms or flashbacks are experienced. These intrusive involuntary images<sup>23</sup> that are so prominent in PTSD and acute stress reaction are fragments of sensory perceptual recollections of the traumatic event (Brewin et al. 2010). They are normally particularly vivid and detailed and carry with them the horror of the initial experience. According to Brewin et al. (2010), imagery and internal representations of the event are supported by the same neural networks as memory. When flashbacks are experienced they are normally repetitive in nature and are involuntary. Following a traumatic experience there may be '*the existence of decrements in voluntary trauma memory that coexist with enhanced involuntary memory for the trauma*' (Brewin et al. 2010, p.211).

Memories may be much more difficult to access when there has been childhood abuse, although it can be noted that some elements of fearful traumatic childhood experiences may still retain its initial vividness and clarity and the person is able to recall the memory although they may not always have the verbal competence to provide a narrative. This is particularly the case for those who have experienced trauma at an early age or pre-verbally (Van der Hart et al. 2006). These victims are more likely to experience more visceral sensations, emotional reactions and a physiological fear response. For some the memory has become dissociated from the conscious awareness and may present as more somatosensory problems or psychosomatic disorders (Brewin et al. 2010). Intrusive nightmares can also provide a clear indication of the trauma event although they can sometimes

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<sup>22</sup>Peri-traumatic dissociation (depersonalisation/derealisation) usually involves a '*transient change in sensory-perceptual awareness*' and the individual can become confused and disorientated in time (Lanius et al. 2014).

<sup>23</sup> Images can be defined as '*contents of consciousness that possess sensory qualities as opposed to those that are purely verbal or abstract*' (Hackmann, 1998, p.301).

become entangled with previous trauma experiences. This is particularly evident for those who have encountered on-going abuse.

Flashbacks can be experienced as though the person is reliving and re-experiencing the event. During the flashback of the traumatic memory, time and place appear distorted and the individual may become disoriented when they may also lose a sense of their surroundings and in some cases their autobiographical self (Brewin, 2003; Ehlers and Clark, 2000). These experiences may be transient in nature or may be extremely debilitating. The memory remains in sensory form and is intrusively re-experienced by way of nightmares or flashbacks as fragments of visual, olfactory, auditory, kinesthetic or visceral memories. The important factor here is that the individual has encoded the trauma or at least partially encoded it. In moving the memory from the sensory expression of memory, the individual attempts to achieve a state of adaptive resolution whereby the memory becomes consolidated into autobiographical memory and more accessible to conscious awareness and a less fragmented narrative to develop (Shapiro, 2001). This process can take a varied amount of time but for individuals with PTSD, there is a difficulty to differentiate the re-experiencing symptoms from the actual traumatic event and they are unable to correctly assess whether current dangers are threatening or non-threatening (Van der Hart et al, 1996; Brewin et al. 2010).

Waller et al. (1996) found that amnesia and depersonalisation or derealisation were most common factors in PTSD with dissociation and Holmes et al. (2005) emphasised the interrelationship between trauma related dissociation and re-experiencing symptoms. An individual is more likely to re-experience one aspect of the event that is a significant factor during their dissociative episode. Van der Hart et al. (2006) suggest that dissociative amnesia can also be the result of a period of unconsciousness whereby no memory is encoded. However, studies of patients with traumatic brain injuries have the same prevalence of PTSD whether or not there is amnesia for the event. Dell and O'Neill (2009) found that regardless of levels of consciousness during the course of the event, full recall of the incident could be made. For more severe cases where there was a significant alteration in consciousness either partial memory could be recalled or 'islands of memory' prior to or following the event (Dell and O'Neill, 2009). Although conscious explicit or

declarative memory can be greatly affected, implicit memories were activated if triggered by external stimulæ related to the trauma.

#### 4.6 Responses to trauma and impact on psychological functioning and consequent psychopathology

This section considers how these different responses may affect a victim's psychological functioning and the development of PTSD. It focuses on research sub-question 2:

- What effect does this have on a victim's psychological functioning and consequent psychopathology?

	PHYSIOLOGICAL RESPONSE	PROPOSED RESULTANT PSYCHOPATHOLOGY
PARASYMPATHETIC SYSTEM (VENTRAL VAGAL COMPLEX)	ADAPTIVE STATES FOR SOCIAL ENGAGEMENT	
FUNCTIONAL NEURAL ORGANISATION THAT REGULATES VISCERAL STATE IN ORDER TO SUPPORT SOCIAL BEHAVIOUR	Enables rapid engagement and disengagement. More subtle and flexible efficient emotional regulating system. Sympathetic increases or decreases, enabling more sophisticated interactions	Adaptive recovery
	↓	
SYMPATHETIC SYSTEM	STARTLE RESPONSE	
INITIAL FREEZE RESPONSE: Focused attention and orienting to threat	Sustained cardiac deceleration Startle response Defensive analgesia Increased responsivity to stimuli Considered action tendencies	Adaptive recovery
	↓	
SYMPATHETIC SYSTEM Sympathetic adrenal system engagement (mobilisation and action)	FEAR RESPONSE	
FLIGHT or FIGHT RESPONSE Attempts to escape Attempts to fight	Potentiated and sustained startle response Rapid accelerated heart rate, Increase in activity	PTSD (with dissociative symptoms) hyperarousal; Flashbacks; hypervigilance; intrusive re-experiencing Feelings of panic
	↓	





chapter 1, the differences in classifications can cause some discrepancies in the diagnosis and treatment of post trauma responses.

Some individuals may react adaptively to the stressor showing high levels of resilience and minimal symptoms of distress. Normal recovery from a traumatic event may follow a period of initial distress but decrease over time (Brewin et al. 2010). Adaptive regulation of arousal following trauma, particularly fear related symptoms can lead to a discrimination of the fear related cues and the normal process of extinction is achieved. The individual may also have good or realistic appraisals of the event aiding recovery and enhancing resilience (Ehlers and Clark, 2000).

#### **4.6.1 Acute trauma related responses**

An acute stress reaction can be experienced in the first two days to four weeks after the event. This is characterised by 'a subjective sense of numbing or detachment, reduced awareness of cues surrounding the event, derealisation, depersonalisation or dissociative amnesia'. The (APA, DSM-IV, 1994; DSM-V, 2013) criteria state that the person would require three of these dissociative reactions to fulfil the criteria. Harvey and Bryant (2002) reported a high prevalence of those who meet the ASD criteria are at risk of developing PTSD. However, it is recognised that not all individuals who have developed PTSD have experienced these initial difficulties (Bryant, 2003).

Acute posttraumatic dissociation may continue for a couple of weeks following the trauma and persistent posttraumatic dissociation may be evident after two weeks (Briere et al. 2005). For traumatic experiences that have been repeated and enduring, more chronic dissociative responses can be seen and the individual may develop an early dissociative response even to low levels of distress in their day-to-day functioning. This has a higher prevalence with individuals who have experienced childhood interpersonal and relational trauma (Cloitre et al. 2013). For a comprehensive understanding of dissociative disorders, Dell and O'Neill (2009) provide extensive literature illustrating the diverse spectrum of dissociation from primary dissociation as discussed above to more structural dissociation of the personality.

#### 4.6.2 Adverse reactions and the development of PTSD

If these symptoms persist for more than a month a person is classified as having PTSD and this might be with dissociative symptoms or without. The individual may also experience other comorbid difficulties such as depression (Bomyea et al. 2012). Arguably, it is mostly the symptoms of PTSD that are more prevalent, particularly if the traumatic event was fear based as opposed to more shame based traumas where more aversive emotions are experienced. This may be due to the physiological component of the fear based response and the neurological insult at the time of the trauma which can impact on the capacity to process the event (Cloitre et al. 2013).

For individuals living in traumatic environments that are endured over a long period of time, the symptoms of PTSD may be more chronic and subtle. Victims of war, imprisonment, domestic violence and childhood abuse are essentially repeated levels of trauma which require the individual to desensitise to their environment and may become emotionally, cognitively or physiologically detached from their surroundings. (Cloitre et al. 2013). In these situations, individuals may have some dependency on their environment and/or on the person/s that are causing the traumatic situation. They may perceive themselves to be helpless and trapped within their current situation and may develop more dissociative and depressive symptoms. Occasionally, on leaving these environments, the person subsequently develops more complex PTSD symptomology (Cloitre et al. 2013).

Brewin et al., (2000) would suggest that the type of trauma event could impact on the development of PTSD and a person's appraisal of the event, particularly if an individual perceives their reactions to the event as negative. Ehlers and Clark (2000) give emphasis to the role of faulty appraisals in relation to the traumatic event and also when assessing symptoms in response to the trauma. A lack of understanding in this disorder, can attribute to a person feeling overwhelmed, lacking control and often report that they think '*they are going mad*'. Foa and Kozak (1986) stress that mental representations of the event and subsequent appraisals may be overly evaluated leading to an accentuated sense of risk of recurring danger. Heightened arousal and hypervigilance also maintain this risk

alert. Subsequent, cognitive processes focus on these exaggerated threat beliefs (Ehlers et al. in press).

Ehlers and Clark (2000) emphasise the negative appraisals that might attribute to the trauma and their self-beliefs in relation to this. On-going negative appraisals exacerbate the negative affect and lead a person to develop unhelpful coping strategies. Pre-existing values and beliefs regarding how one should have responded to the trauma and perceived shame can lead to comorbid depressive symptoms. Following a traumatic experience, Boon et al. (2011) emphasise the role of suppression in attempting to avoid the traumatic re-experiencing of the event. This can lead the individual to consciously avoid any thoughts of the event or by avoiding any external reminders of the event that may activate the trauma memory and the negative manifestations that follow. The more the individual attempts to suppress this re-experiencing such as 'flashbacks', nightmares, or intrusive memories, the longer it takes for the individual to recover from their trauma. This avoidance may include reporting to police for fear of their responses (Ehlers and Clark, 2000).

#### **4.6.3 Delayed onset of PTSD**

On some occasions, individuals do not respond outwardly distressed following the trauma and can appear to be coping extremely well. This can also be seen within the 'grieving' population. It is often some later event or environmental cue which triggers the PTSD. This is known as delayed onset PTSD and for some it can be years later when memories of their trauma are recovered (Brewin, 2012). They may appear to have little symptomology immediately following the trauma, but a number of post trauma factors can later trigger an increase in symptoms. This delayed response can be experienced months or even years following the traumatic event (Brewin, 2012). This delay in response can cause some difficulties in diagnosis as in the past this has caused some scepticism.

#### **4.6.4 Complexities in PTSD**

More complex presentations of PTSD can occur in situations that are continual or repeated in some way. They may not represent a distinct episode of trauma but rather a number of negative experiences that are cumulative. This can often be the result of domestic violence or occupational trauma or situations of war (Brewin et al. 2000).

In consideration of the impact of trauma on an individual's psychological wellbeing and consequent psychopathology, the final part of this chapter considers the impact on their ability to give evidence and commencing criminal trial.

#### **4.7 Psychopathological responses and the impact on evidence giving and commencing criminal trial**

The final part of this chapter considers how these adverse responses may impact on the victim disclosing and reporting their trauma and providing detailed evidence. It particularly draws on the difficulties an individual may encounter if they have experienced a peri-traumatic dissociative response at the time of the trauma and have subsequently developed an acute stress reaction that could lead to the development of PTSD (Brewin et al. 2010). Table 4.2(c) draws together the findings highlighted in table 4.2 (a) and (b) and considers how these issues and responses can impact on evidence giving and providing a coherent interview.

ACTIVATED NEURAL SYSTEM	PROPOSED RESULTANT PSYCHO-PATHOLOGY	POSSIBLE IMPACT ON EVIDENCE GIVING AND COMMENCING CRIMINAL TRIAL*
PARASYMPATHETIC SYSTEM (VENTRAL VAGAL COMPLEX)		
FUNCTIONAL NEURAL ORGANISATION THAT REGULATES VISCERAL STATE IN ORDER TO SUPPORT SOCIAL BEHAVIOUR	Adaptive recovery	Able to undertake forensic and interview proceedings with minimal support. Clear memory for events.
SYMPATHETIC SYSTEM INITIAL FREEZE RESPONSE: Focused attention and orienting to threat	Adaptive recovery	Able to undertake forensic and interview proceedings. Clear visual memory for specific elements of the event e.g. (facial details). May have some reservations following event and worrying about what might have happened. Ability to provide clear and detailed verbal interview with time and context in place.
SYMPATHETIC SYSTEM Sympathetic adrenal system engagement (mobilisation and action)		
FLIGHT or FIGHT RESPONSE Attempts to escape Attempts to fight	PTSD (with dissociative symptoms) hyperarousal; Flashbacks; hypervigilance; intrusive re-experiencing Feelings of panic	May wish to avoid reminders of the event including associated reminders. Important for individuals to feel safe and to have some control over events. May be highly anxious and hypervigilant; May need increased support to undergo Forensic examination. May require a period of time for heightened arousal to reduce prior to undertaking interview. Grounding techniques and psychoeducation required; Normalisation of symptoms useful; May be helpful to develop a stepped approach by developing a time-line and a written narrative prior to commencing interview. Important to consider 'arousal level' prior to interview as too much activation will reduce ability to retrieve memory Lack of emotional arousal can result in a lack of detail being recalled.
PARASYMPATHETIC SYSTEM (DORSAL VAGAL COMPLEX) Vestigial immobilisation		

<p><b>TONIC IMMOBILITY (FREEZE RESPONSE)</b> Behavioural response to perceived inescapability</p> <p>(Parasympathetic and sympathetic systems) Initial loss of motor control; high emotional arousal; hyperalertness and fear (or anger). Still able to initiate learning and memory</p> <p>Second stage tonic immobility with parasympathetic activity alone: “shut down period”</p>	<p><b>PTSD</b> (Predominantly re-experiencing feelings of anger) and/or other negative emotions; May develop a conditioned response to related phenomenon; May have dissociative symptoms</p>	<p>The victim may be highly emotional, angry and/or fearful. It may be difficult for them to recount the trauma and make sense of it. There may be a level of shame experienced if they have perceived themselves as helpless and ‘not fighting back’.</p>
<p>Simultaneous activation ↓</p>		
<p><b>PERI-TRAUMATIC DISSOCIATION</b> A cognitive response to perceived imminent loss of life</p>	<p><b>Chronic PTSD</b> (high-level dissociative symptoms)</p>	
<p><b>DEREALISATION/ DEPERSONALISATION</b></p>	<p><b>Chronic PTSD (with dissociative symptoms)</b> May have further episodes of depersonalisation/ derealisation when re-experiencing memories of the event May involve somatisation (re-experiencing the physical elements of the trauma)</p>	<p>They may appear extremely distressed and confused or may remain detached from the trauma and appear emotionless.</p> <p>More time and support required in developing the trauma narrative. As there may be gaps in the memory, these can be gently encouraged.</p> <p>If the person is overwhelmed they will need to be calmed and grounded so that cognitive abilities enable engagement with interview and providing a clear account.</p> <p>If pushed too hard, the victim can experience further episodes of depersonalisation or derealisation. If there is a previous history of trauma, this may also be activated and the person can become overwhelmed. It may be difficult for them to have a sense of safety.</p> <p>More time should be allowed to enable a sense of trust, rapport and safety to be developed.</p> <p>Again the use of time lines may enable an</p>

		<p>individual to start to put the pieces together. Important that Officers do not attempt to fill any of the gaps unless they have specific evidence that enables this e.g. CCTV footage, other witnesses to the event (not normally available with cases of rape or sexual assault).</p> <p>Police officers undertaking interviews should have specialised training in working with victims of trauma and/or mental health training. Alternatively, a mental health practitioner should be available during this period to be able identify risk.</p> <p>Where possible the same police officer should overlook the case and be accountable for the wellbeing of the individual giving evidence.</p>
<b>PATHOLOGICAL SHAME</b> Vestigial midbrain		
<ul style="list-style-type: none"> <li>▪ <b>PERITRAUMATIC SHAME</b></li> </ul>	<p><b>Chronic PTSD involving the re-experiencing of negative emotional valence and shame based. May be accompanied by depressive symptoms and traumatic rumination. May attempt to suppress memories utilising cognitive strategies.</b></p>	<p>The victim may experience a level of shame and/or disgust for the event, themselves.</p> <p>They may wish to withdraw from any reminders of the event and from engaging with police and the criminal justice process.</p> <p>They may have a distorted perception of responsibility and blame for the event and find it difficult to draw attention to certain aspects of the event that triggers a re-experiencing of the negative affect and shame.</p>
<ul style="list-style-type: none"> <li>▪ <b>POSTTRAUMATIC SHAME</b></li> </ul>	<p><b>Chronic PTSD as above but may be accompanied by feelings of anger and defensiveness.</b></p>	<p>The victim may be extremely sensitive to attitudes of police and questioning. They may withdraw from police and CJS if they perceive any negative judgment or that they are not believed. With increased sensitivity the witness will be able to provide a clear account of their trauma but they may minimise some aspects.</p>
<p>*These reactions are for guidance and can vary between individuals dependent on the vulnerability factors considered in Table 4.1.</p>		

Table 4.2(c) Response to traumatic sexual violation and the impact on evidence giving (Porges, 2011; Lanius et al. 2014; Lanius et al. 2015; Milne and Bull, 1999).

Functioning of the central executive regarding cognitive processing, working memory and episodic memory may be impeded making it difficult for the individual to provide a consistent narrative of the trauma experience. Interventions to repair and recover cognitive function may be fundamental in the process of evidence giving and will be the subject for further research (Lanius et al, 2015).

## **Conclusion**

In conclusion, this chapter has addressed research question 1 *‘what is the impact of traumatic sexual violation on memory processing and functioning?’* Traumatic sexual violation can have a varying degree of influence on memory processing and subsequent psychopathology. A number of pre-trauma vulnerabilities and risk factors were highlighted. The literature emphasises the role of childhood trauma that is enduring and pervasive as having the greatest risk to the later development of PTSD and other trauma related health and psychological difficulties (Bellis et al. 2015). This is particularly evident when trauma has occurred at critical periods of neural development, leading to emotional reactivity and faulty neuroception that can make it difficult to successfully monitor safe and unsafe environments (Porges, 2011). At the time of the trauma a dorsal vagal parasympathetic response including tonic immobility and peri-traumatic dissociation, the body’s freeze (faint) reaction is seen to have the greatest impact on information processing at the time of the trauma and subsequent difficulties in recalling the trauma and is fundamental in the development of PTSD (Porges, 2011). Following a traumatic event, the greatest risk factor is the lack of adequate social support (Ozer et al. 2003).

The chapter has explored the processes of encoding memory and the optimal modulation required for storage and retrieval. There is evidence of accurate memories of a precise and specific nature but there is also evidence to suggest the fallibility of autobiographical memories (Conway and Pleydell-Pearce, 2000; Bergmann, 2012; Lanius et al. 2015). Reconstructions can be apparent when an individual is subjected to external or internal updates of the original experience, alternative perspectives or ordinary forgetting (Loftus and Pickrell, 1995). Loftus (1979) states memory as a fragile and malleable process particularly in relation to

witness testimony. Conway and Pleydell-Pearce (2000) also suggest that all memories are reconstructed. Arguably, some of the experimental designs for studying the fallibility of memories link to third party observational data and do not always replicate real life experiences of trauma. Brewer (1988) argued a more partial reconstructive view and this current research would support that. The literature would certainly identify a number of vulnerabilities in memory and that practical issues such as distance, visibility, time-lapse, interest, and time encoding the experience and whether the individual has divided attention or focused attention will add to the intensity and clarity of the memory. More visual and emotionally laden memories have stronger activation patterns and are more likely to remain vivid for longer (Conway and Holmes, 2005).

Memories are best remembered when activated by an appropriate memory cue, normally sensory or when associated with a specific tag/word. Tulving and Thomson (1973) suggest that it is easier to recall information if it is specific to the encoding process. Some memories can be less accurate and may be embellished or distorted by the person's pre-existing schemas, previous events or general assumptions about the world. These memories may be more generalised if they are repeated patterns/events (Conway and Pleydell-Pearce, 2000). Children may not have the cognitive structures to enable this process and this is often referred to as childhood amnesia. Retrieval cues may need to be associated with the age of the child when the trauma occurred (Conway and Pleydell-Pearce, 2000). Memories of high emotional propensity are often difficult to put into words and in situations of trauma may be dysfunctionally stored lacking appropriate contextual, peripheral or time related details. Appropriate methods of retrieval can facilitate the integration and consolidation of these memories leading to more verbal narratives of the event set in time and place (Bergmann, 2012; Lanius et al. 2014). Memories are vulnerable to different effects and need to be treated with optimal care, consideration and understanding (Westera et al. 2016).

Semantic memories contain the specific facts about the memory but are less likely to evoke strong emotional re-experiencing (Conway and Holmes, 2005). Memory following a highly distressing traumatic event may not be assimilated into these more permanent structures and may be less likely to be affected by the difficulties

experienced with witness testimony and other memory errors until it has become integrated into existing associated networks (Lanius et al. 2014).

A number of varying psychopathological pathways that may impact on memory were considered and the role of the stress response is pivotal to the different presentations of PTSD and subsequent difficulties with memory processing and recall (Porges, 2011). Acute trauma may cause significant difficulties in episodic memory formation although this can be integrated into long-term memory structures after time or with the appropriate interventions (Ehlers and Clark, 2000). In situations involving entrapment or perceived loss of life, the processing of memories are interrupted and may become cut off or fragmented from episodic memory and these elements are likely to be re-experienced as flashbacks, nightmares and/or intrusive memories. Each time the individual re-experiences the trauma they attempt to push it from mind preventing its integration and consolidation with other aspects of the memory. There may be partial or complete amnesia for the event (Bergmann, 2012).

The heterogeneity of victim's responses to traumatic sexual violation is illustrated and conceptualised for the purpose of informing professionals within the CJS as to the complexities. Table 4.2 (c) highlights a number of issues that may impact on the victim's ability to give evidence and commence criminal trial and the essential need to provide a more flexible approach to supporting them. As discussed previously, optimal conditions are needed to enable memory to be processed into a fully cohesive narrative of the trauma. It would appear that police investigators and interviewers would need to have additional knowledge and skills when working with traumatised witnesses and may be required to adopt a more flexible approach to increase engagement with the CJS.

The next empirical chapter 5 considers police perspectives on working with individuals who have experienced traumatic sexual violation and how they see the impact of this on memory as a barrier to commencing criminal trial.

## **CHAPTER 5: FINDINGS AND DISCUSSION OF POLICE INTERVIEWS**

### **Introduction**

This chapter explored police understanding regarding the effects on memory following traumatic sexual violation and the development of PTSD and how they make sense of the difficulties experienced by witnesses. It addresses research question 2: How are the effects on victim's memory understood by police when collecting evidence and commencing criminal trial? It also addresses the 4 sub-questions. The findings draw on seven interviews undertaken with South Wales Police who are associated with the Cardiff and Vale Sexual Assault Referral Centre (SARC). Some external comments are included from a local prosecutor, a Cardiff defence barrister and a member of the jury in order to augment understanding of the concepts that emerged from the police interview data. Table 5.1 provides a summary of the main findings and themes discussed in this chapter.

<b>CODING AND EMERGENT THEMES/CATEGORIES</b>	
<b>5.1.1</b>	<b>Police ‘empathic’ understanding</b>
<b>5.2.1</b>	<b>Ambiguous memory recall</b>
<b>5.2.2</b>	<b>Making sense and normalising adverse memory phenomenon</b>
<b>5.2.3</b>	<b>Outside the parameters of own understanding</b>
<b>5.3.1</b>	<b>Recognising gaps in training</b>
<b>5.3.2</b>	<b>Valuing experience</b>
<b>5.4.1</b>	<b>The core task of interviewing</b>
<b>5.4.2</b>	<b>Delayed reporting: emerging memories and diminishing evidence</b>
<b>5.4.3</b>	<b>Conflicting system restraints and witness expectations</b>
<b>5.4.4</b>	<b>Legal controversy regarding false reporting</b>
<b>5.5.1</b>	<b>‘Creating jury doubt’</b>
<b>5.5.2</b>	<b>‘Unhelpful witness behaviours and the role of stereotyping’</b>
<b>5.6.1</b>	<b>A danger to society</b>
<b>5.6.2</b>	<b>A sense of injustice</b>
<b>5.6.3</b>	<b>‘Letting go’</b>

**Table 5.1 Summary of main findings**

These findings emerged from the data as shown in chapter 3. They are now discussed in some detail.

As table 5.1 illustrates, the main themes arising from police interviews were the attitudes that expressed a good understanding of the problems victims faced following traumatic sexual violation and the impact this had on their memory. They recognised that these difficulties were at odds with the requirements of the CJS and felt they were quite 'helpless' in meeting victim's needs because of the system restraints placed on them. They suggest the more ambiguous memory recall is, the more difficult it is for the case to proceed to court as the jury would not understand these deficits in memory retrieval. Participant 1 and 2 emphasised the pressures that were placed on the investigation of these sexual offence cases and the interview process. They drew attention to the fact that sometimes the needs of the victim are unable to be met because of reduced resources. Participant 3 focused on the victim's mental health. Her main argument was focused on the training that she'd had in relation to rape and the impact on the individual but she drew attention to the fact that others within the system such as the CPS or jury may not have this understanding. She could envisage that the victim's response may not stand up well at court. Similar themes emerged from participant 4 but attention was also made to the difficulties experienced when a case is taken to court for victims. She highlighted a number of court processes that she viewed to be detrimental to the victim's experience.

Participant 6 drew further attention to the essential nature of the interview process in limiting the difficulties experienced at court when there are discrepancies. He considered police required further training in interviewing victims. Participant 8 also highlighted the need for police to have good understanding of the nature of traumatic sexual violation when conducting interviews. He emphasised that witness characteristics or behaviours could play a part in jury decision-making. Further reviewing of the literature relating to the interviewing of witnesses was undertaken and reinforced this finding.

## **5.1 Police understanding of the effects of traumatic sexual violation and development of PTSD**

This section draws on findings that focus on police understanding of the impact of traumatic sexual violation on witnesses within the CJS and the development of PTSD.

### **5.1.1 Police 'empathic' understanding**

The police interviewees portrayed a sound understanding about difficulties a witness may experience following their trauma even when some of these manifestations go against normal expectations of how we believe people may respond. Participants expressed a level of empathy from understanding the trauma related phenomenon and the impact on the individual even when talking about historical abuse. Mike, Paul and Katrina acknowledge the pervasiveness of these effects.

*'You know trauma affects different people in different ways' (MIKE)*

*'It, 'rape' has such a big impact on their lives and nothing surprises me anymore, it's so difficult for them' (PAUL)*

*'But some people can be more traumatic about something that happened 20 years ago than someone who has been raped 2 days ago. The effects can be the same, its terrible what they have been through' (KATRINA)*

Participants were able to identify that some of the adverse effects and difficulties experienced by witnesses could be related to PTSD. Although Richard and Andy highlighted this point, there is no mention of what this might mean for the victim in practice. It would appear that if an individual does develop symptoms of PTSD, this might not change the course of police intervention in the initial stages of investigation.

*'But we've recognised he has suffered from post traumatic stress disorder, so we understand some of the difficulties' (RICHARD);*

*'Because we now know that there is such thing as rape trauma and whatever else' (ANDY).*

Rape Trauma first identified by Burgess and Holmstron (1974) described a number of stages from the immediate impact of the rape, the adjustment period and finally regaining a sense of self and normality. Although the research on rape trauma is perhaps simplistic and lacks the complexities that are now understood regarding PTSD and dissociative responses, to some extent it provides a comprehensive understanding for non-clinical professionals to comprehend the impact of rape. As well as the impact on the individual following sexual attack, the trauma can have a detrimental effect on memory.

## **5.2 Police understanding on the impact on victim's memory following trauma**

Police also demonstrated an understanding that victims may experience a number of difficulties in recalling details of the event. They appear to engage a number of strategies to make sense of this phenomenon. When memory becomes really problematic and they are unable to make sense of it, they start to consider how others will view these problems, in particular, the jury.

***'If we can't make sense of it, how are the jury supposed to understand' (Richard)***

### **5.2.1 Ambiguous memory recall**

Participants expressed an understanding that there are all kinds of memory problems for individuals who have been raped or sexually assaulted. Even when the memory was ambiguous or difficult to understand, the police accepted that this might be a response to trauma and not that the victim is 'lying'. As discussed in the literature, jury decisions are affected when there is ambiguity of evidence and this can result in a conviction not being made (Temkin and Krahe, 2008).

Although police participants expressed confusion, they were non-judgmental towards the different scenarios presented to them. Andy and Gerald identified some instances that have been significant to them:

***'I've noticed there has been an instance where people have noticed perhaps a missing item of underwear or that they have tears to their underwear or sensations down below that suggest to them that they've been involved with intercourse but they have no recollection of it. Its not that she's making it up, she just couldn't remember!'***  
**(ANDY)**

***'We are able to do enquiries even when there is little information forthcoming. We had one recently, there was CCTV evidence around it although the female's recollection was very minimal. She recalled meeting a male outside of a club, having a few drinks and again, the next thing she could recall was being found in a car park in a heap on the floor. In between those points, she had no memory whatsoever'***  
**(GERALD)**

Mike and Andy appeared to have a deeper understanding and recognised the impact of trauma on memory and how the individual may recall it in a *disorganised* manner or explaining that their memory is *vague* even when the incident has just occurred.

***'That's the way it is, some people are just more vague than others!'***  
**(ANDY)**

***'Sometimes they can't recall something that happened just a couple of hours ago. Trying to get clear evidence, asking them if they could tell me something in terms of 'you know' a time line, where I could see on another witness statement or on camera that it's not right. You can see as they recall it that they believe that it is correct. But due to the traumatic nature of what's happened its become disorganised'***  
**(MIKE)**

Although the police participants were not discouraged from investigating a case based on the initial presentations, they attempted to make sense of some of the memory problems by either putting themselves into the position of the victim or by considering external factors in making sense of these obscure memory issues. These considerations are valid ways of understanding some of the difficulties.

### **5.2.2 Making sense and normalising adverse memory phenomenon:**

Participants draw on a number of intrinsic factors such as guilt and shame and suggest that the witness may wish not to remember. Other police participants focused more on extrinsic factors such as drugs and alcohol. Fiona tried to make

sense of the memory difficulties by drawing on her own experience in an effort to make sense of a difficulty in recalling a detail of a memory.

***'Because, if I've been involved in a chase and have to make an arrest in the street, as a police officer... and then I'm asked to provide a statement of what he was wearing and stuff, I can't always tell you.'* (FIONA)**

Andy also considers the difficulties that being under scrutiny can cause in relation to memory. He suggests that this can be difficult for victims but also difficult for police themselves when they are being questioned about it. The literature in chapter 4 also illustrates that a high level of stress/arousal is detrimental to both memory encoding and recall (Ogden et al. 2006; Lanius et al. 2014).

***'It must be really difficult for victims themselves. I mean hugely difficult I would imagine. But I think perhaps also as professionals there are.... having your work scrutinised by somebody who, I suppose, tries to pick up something that perhaps questions your memory about the event, particularly if it was quite a while ago, it would be quite difficult to recall it properly....'* (ANDY)**

Mike suggests that the witness may choose to forget about what happened to them. Mike talks about 'selective forgetting' as if the witness makes a conscious choice to forget. As discussed in the literature, motivated forgetting or suppressing a memory can happen in some cases where there is no longer a trigger or cue to activate the memory but this would be difficult to achieve when having to discuss the traumatic event (Anderson and Hanslmayr, 2014). A person may actively attempt to 'forget' the memory or 'to not think about it', but this can often lead to the intrusive symptoms occurring (Belli, 2012).

***'Obviously recall, sometimes they don't remember, sometimes they don't want to remember. Sometimes they do remember but they don't want to say. Sometimes they can't remember because of the trauma, but you can understand them not wanting to think about it.....'* (MIKE).**

Fiona relates to a specific case that was on going at the time of the interview:

***'And then the next day she comes in for interview and sits there and says, "I can't, I really can't remember. I know I got in a taxi and I know something happened. And I remember calling my friends but I***

***can't tell you exactly what happened in that taxi. But I know that I wasn't happy with what was going on. But I can't tell you what." And that's her video interview, that's the evidence for court. So it's a tricky one. Is it that she wants to forget?' Everyone who has seen my victim recognise we have a massive weakness, we're not going to find him guilty. The CPS, basically said this guy is going to be found not guilty because she can't remember and she just won't remember'***  
**(FIONA)**

The explanations put forward by the police officers interviewed clearly resonate with the literature on PTSD and memory. Forgetting of autobiographical memories that have been encoded but that have been pushed away repeatedly can be more difficult to retrieve. If an individual continually pushes the thoughts from their mind, then there is less likelihood of the memory gaining strength by repeatedly thinking about it (Brewin et al. 2007). A number of studies have also shown that the more that a person is able to repress certain unpleasant memories they are also able to block or inhibit any further retrieval (See for example Myers and Brewin, 1994; Anderson and Huddleston, 2012). However, Individuals are able to block more aversive memories but at some point, any fear related memories do tend to resurface if triggered by a specific salient retrieval cue. Geraerts, et al. (2006) suggest, these suppression techniques whether conscious or unconsciously driven are initially adaptive but can create more intense intrusions and psychological dysfunction even when the trauma is no longer evident. These findings were also raised in the literature in chapter 4. It is also noted in chapter 4, that memory can be encoded psychosomatically or split off from other parts of the memory network. This can leave gaps in the memory that are not easily made sense of until these disconnected fragments can be integrated into the consolidated memory network (Bergmann, 2012).

As the psychological impact and subsequent symptoms such as flashbacks<sup>24</sup> following trauma can often be disabling, individuals may attempt to avoid any stimuli or reminder that might reactivate the trauma memory system. This makes

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<sup>24</sup> As discussed in chapter 4, flashbacks refer to the intense physiological reactions that are cued when internal or external reminders of the trauma are activated and the person re-experiences the traumatic event. Individuals often experience a loss of time and orientation while experiencing it. These are discussed in chapter 4 in detail.

reporting an arduous task for the victim or it might be avoided completely (Tener and Murphy, 2014).

Mike offers a number of other explanations in trying to explain the difficulties in memory recall. He suggests that it might depend on the personality of the witness. Both he and Katrina suggest that perhaps the witness doesn't want to remember because they might be too embarrassed to say it even if they did remember.

***'I think it depends a lot on personality and how embarrassed they are to talk about things. Because it isn't a nice thing to talk about, to talk about rapes and sexual offences and things. So sometimes you'll get people who will talk to you in massive detail about everything that happened up until the incident...and then it's like....' Then he raped me...!' Then we have to know in more detail around that. It's not that they don't remember, but they just don't want to talk about it in detail'***  
**(MIKE)**

***'It depends on the mind-set of the person and sometimes they're prepared to take it forward and then others just prefer to put it behind them rather than delving further into something they'd rather not know about I suppose'***  
**(KATRINA)**

As the literature highlights in chapter 2, there are a number of reasons why individuals may not wish to engage with the CJS. These include a belief that the event may not be taken seriously (Tener and Murphy, 2014), that it is too difficult for them to report (Andrews et al., 1999), or the victim may require more time to put their experience into words (Tener and Murphy, 2014) or because victims blame themselves for the attack or minimise the importance and significance of the event (Weiss, 2010).

The literature in chapter 4 also emphasises the role highlights the role of shame and disgust following the incident. This sense of disgust and associated shame can be experienced as an intrinsic aversive neurological reaction and can be experienced as an intense visceral response as the individual recalls certain aspects of the event (Vidal and Petrak, 2007). It might be their own lack of control of bodily functions and emotions, their inability to 'fight back' or it may relate to the disgust of the offender such as 'the bodily smells' associated with the

sexual violation. Notably, a recent study by Stotz et al. (2015) suggests that the prevalence of guilt and shame is higher when there is interpersonal or emotional distress experienced at the time of the trauma. The literature also highlights the shame and guilt that can often contribute to individuals withdrawing from shame-eliciting situations and seeking support for their distressing symptoms (Andrews et al. 1999; Vidal and Petrak, 2007).

Weiss (2010) suggests that shame is a '*culturally mediated response*' and a fear of being negatively judged by others. The National Crime Victimization Survey (cited in Weiss, 2010) found that over 13% of victims of crime expressed '*shame, self blame and humiliation*' in their accounts of their experiences. They also implied concerns regarding '*a fear of public scrutiny*'. Fiona also reports that her witness started to rubbish her own account due to the difficulties in remembering what happened and started to internalise the responsibility for the event.

***'Yeah, she's rubbishing her own account because she can't remember. She started rubbishing herself!' (FIONA)***

As suggested in the literature, this is not uncommon for witnesses of sexual violation and Weiss (2010) discusses a number of implicit cognitive and behavioural strategies that victims may utilise to either discount the experience allowing previous beliefs about others, themselves and the world to remain intact. Weiss (2010) suggests that by attributing blame to one self, the victim is still able to maintain some sense of control and a sense of safety and neutralise their role as 'victim'. Weiss (2010) found that often the individual might deny the motives of the perpetrator to cause them actual harm.

Minimising of the event from a victim of childhood sexual exploitation is identified in this quote from Richard, below. However on this occasion it is more to do with the lack of recognition that a crime has been committed. This could be due to the age of the child, the level of '*grooming*' encountered and a lack of psychoeducation. There may also be a lack of social or family support. As is often the case in child exploitation, victims may hold their abuser with high regard (Allen, 2001). These issues are also highlighted in chapter 2, the literature review, highlighting the way in which institutions have failed to provide protection and

recognition against the sexual abuse of children (IICSA, 2017; <https://www.iicsa.org.uk/>). Unfortunately, this inquiry has come up against a number of barriers hindering completion.

***'It was a child sexual exploitation case and there were 12 girls being supplied with drink and drugs and it was like a party house and they actually thought they were the suspects in all of this. They thought they were doing wrong. They had been stealing from this individual and they thought that this is what the investigation was about. 'Well she wasn't aware why she was being questioned... she was like 'yeah well I know I did steal money from the drawer' and not realising that the reason they were there was that he was exploiting them for sex' (RICHARD)***

Since the Victorian Law Reform Commission (VLRC) report in 2004, recommendations were made to the Victorian Police in the investigation of sexual crimes. In response the Victorian Police developed additional specialist training to include 'specialist sexual assault and child abuse investigation'. The training involved sexual crime investigators to get 'the Whole Story' by integrating a more comprehensive understanding of sexual offenders behaviours and the relational dynamics involved with grooming or other controlling behaviours. In developing a better understanding of how these coercive behaviours affect victims of abuse and their responses, and are more informed when listening to victim's narratives (Tidmarsh, 2016). The Whole Story approach to interviewing aimed to increase knowledge, change attitudes and improve interviewer skills. Following evaluation of the Whole Story methodology and on completion of the training, participants accentuated their beliefs that there is a need for sexual crime investigation to be a specialism (Tidmarsh, 2016). Although the skills and style of this methodology is in line with the PEACE approach to interviewing, better understanding of the grooming process and the relational information allows a more holistic understanding to develop. The Whole Story approach also emphasises the individual signifiers that might be present in individual reports (Tidmarsh, 2016).

The role of alcohol and drugs is seen as a major factor in some of the difficulties in remembering. Generally, the police participants leaned more towards external factors such as drugs or alcohol in trying to make sense of the difficulties. Mike suggested that if a witness was intoxicated, then memory recall is even more likely

to be unclear. There is limited research into the impact of alcohol/drugs on memory and most professionals would expect that memory is adversely affected particularly at the encoding stage. However, findings from a recent study conducted by Flowe et al. (2016) indicated that the efficiency of memory while under the influence of alcohol was not greatly decreased although recall may be slower. Arguably, if a person has become highly intoxicated and this has resulted in unconsciousness, there may be no memory encoded (Cambell, 2012).

***‘To be honest the majority of cases can be confusing in relation to memory and of the witness’s recall. One of my first cases, she was intoxicated and involved her going back to a room with a person. Her recall wasn’t that good and very confusing at the time. ‘It might be because they were under the influence of a substance, or intoxicated at the time or possibly being spiked or something like that’ (MIKE)***

Individuals may be disoriented, confused and incoherent or may present in a detached, calm, remote manner as if in a ‘state of shock’. Gerald also added that drugs or alcohol also contribute to these reactions:

***‘They are in complete shock! With the impact of the trauma and being disoriented and tired, maybe alcohol as well, it can have a knock on effect ...particularly on memory!’ (GERALD)***

Andy continues:

***‘Through drink, we do get a lot of reports where it would appear that sex has been consensual and in the morning the person has had a few regrets and then decided to report. In most situations, its not progressed, they decide they don’t want to take it any further. The reports are documented, the appropriate people notified but again, for whatever reason, the decision not to progress the matter means it is not taken any further’ (ANDY)***

Here Andy is considering that it is not the impact of drugs/alcohol per se that has prevented the individual from recovering their memory but that it is a more conscious decision to withdraw from reporting or continuing with involvement with police and the CJS.

As chapter 2 highlights, the Sexual Offences Act 2003 has attempted to make clear the issue of consent particularly with regard to a statutory definition of the

term in section 74. This includes ‘... a person consents if he agrees by choice, and has the freedom and capacity to make that choice’. High levels of intoxication in some cases can suggest that the victim was incapacitated to give consent. Whereby being drunk was seen as a negative impact on their case proceeding to trial, it is now possible to gain a conviction as intoxication can mean that the victim was unable to give consent and may have been overpowered at the time of the act. There have been some problems in the application of this law and it may need some redefining (CPS, 2017).

On some occasions, there was a greater struggle for police participants to understand witness memory difficulties and they agreed it was difficult to reconcile some of these issues. 5.2.3 draws on a number of case examples given by participants.

### **5.2.3 Outside the parameters of own understanding**

Paul’s quotation below suggests there are some instances that are beyond the realms of investigation. This view was not shared by others interviewed and may reflect recent changes regarding the charging of a defendant and whether a case goes to trial without consultation with the CPS<sup>25</sup>. Paul having worked in the area of child protection and historical cases of CSA for many years suggests that there are some experiences that he would probably not investigate unless there was corroborating evidence. This might be in the case of recovered memories that have been activated many years following the trauma.

***‘And if it’s come back, if they had no knowledge of it, but they know that something’s wrong and then they say, “It’s come back to me in flashbacks,” or, “I’ve been having dreams about what happened to me,” then to be perfectly honest with you, if that was all we had and there was nothing to corroborate what they were saying, the likelihood is that it wouldn’t go anywhere’. (PAUL)***

As discussed in the literature in chapter 4, people often experience intrusive traumatic memories that cause distress or experience nightmares relating to some aspects of abuse. Often these first recollections can be fragments of memories

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<sup>25</sup> Investigators and prosecutors work on a case together but decisions to prosecute is the responsibility of the CPS (Ministry of Justice, 2011).

that are decontextualised and lack a definitive time scale (Brewin and Andrews, 1998). This is not uncommon and can be understood by the existing literature on recovered memories as outlined in previous chapters (Dell and O'Neil, 2009; Lanius et al. 2015). More time allowed to examine these memories at this point in time may have been useful but taking into account any leading or suggestive questioning could have devastating results leading to wrongful conviction (Savage and Milne, 2007).

Understandably, a recovered memory that is vague and has only just appeared to be recognised by the witness on a conscious level may be a difficult case to investigate. Very often recovered memories are activated by an external cue in the individual's current situation. Nightmares of the traumatic event can replicate the trauma experience or may constitute some representation of the event and will have significant salient factors relative to this (Davis and Dalgleish, 2001). As discussed in previous chapters there is a lot of controversy regarding the initiation of trauma memories and the concern that gaps will be confabulations of the truth (Barclay, 1993; Conway and Pleydell-Pearce, 2000). From a legal perspective there are a number of contentious issues. Arguably, Dalenberg et al. (2012) completed a meta-analysis of thirty-eight studies and concluded that the relationship between dissociation and trauma could be seen across varying research paradigms, cross culturally and over time. Dalenberg et al. (2012) also concluded that recovered memories are as accurate as continuously recalled memories. Arguably, more recent studies have shown that individual differences measures do not correlate with false memory incidence but conclude that all memories are vulnerable to misinformation effects (Patihis et al. 2018).

As discussed in chapter 2 and chapter 4, there is evidence that suggestions can lead to an integration into an individual's own memory and this is more apparent with susceptible clients. Much of the literature reports that the implanted memory is more likely to be integrated if it is plausible, 'it feels right' and is context related. Garoff-Eaten et al. (2006) suggest that the associative network is triggered from a single cue such as asking an individual to remember a person, we are likely to retrieve information from different memory localities and these may consist of factual information about the person, a visual representation and an emotional

reaction. Holmes and Mathews (2010) suggest it is mental imagery that mediates the emotional response that is particularly relevant to those with PTSD. Garoff-Eaton et al (2006) studied electro-cortical responses and the neuronal activity within the brain. They recorded similar responses with the same intensity for both true memories and related false memories. Slotnick and Schacter (2004) suggest that memory activation can be created by any related cue. We are also prone to recalling memory that has a similar theme or by a part formed memory trace but this may not be the complete accurate memory (Conway and Pleydell-Pearce, 2000).

Persinger (1992) holds therapist suggestibility and false interpretations of client material as evidence of 'false memories being implanted'. Persinger (1992) also purports that individuals may absorb false imaginations and mistake them for their own personal memories after reading about events of CSA in self help books. Harvey and Herman (1994, p. 296) emphasise *'there is no evidence to suggest that psychotherapists have the degree of power and influence that would be required to produce this fabricated memories effect'*.

Meyersburg et al. (2009) set out to investigate the mechanisms involved in the inhibition of memories from childhood and equally, the underlying structures involved in forming false memories. Previous laboratory experiments have used the Deese (1959) and Roediger and McDermott (1995) paradigm of associated word lists in order to investigate which participants are more prone to naming an associated word not on the list. Findings have suggested that those who have recovered memories may be more prone to including the 'false word' on either the recall test or on a recognition test. Conclusions of these studies suggest that these participants have developed a false memory. There has been criticism of these experiments as not being relative to 'real life' and significantly different to the recovery of a traumatic memory (Gallo, 2006). It could also be argued that although some of the detail was incorrect, the general memory was in fact in place (Brewer, 1986). Arguably, if the participants had been victims of childhood abuse, then research suggests that this might impact on their cognitive functioning and memory. If an individual has a weakness in their autobiographical memory and also in their 'working memory' or executive functioning, it could be that memories

are stored more thematically rather than in detail and this could be the cause for the false recognitions of words (Holmes et al. (2005).

Clancy et al. (2000) found that there was a higher rate of false recognition with women who reported CSA and had forgotten the memory and later recovered it, compared to other adult women victims of CSA who had never forgotten their abuse. Gallo (2006) emphasises the idiosyncratic nature of individuals who have recovered memories and findings are not limited to the internalisation of false memories. Geraerts et al. (2007) make a distinction between processes by which memories are recovered. Memories that have been recovered spontaneously by an environmental cue or reminder are relatively verifiable whereas Geraerts et al. (2007) reported less validity and corroboration in the group that had recovered their memories during suggestive psychotherapy. Meyersburg et al. (2009) also claimed that there are some *'individuals who are more prone to elevated absorption and magical ideation and that individuals are less likely to be able to discriminate between imagined and real events'*.

Paul drew attention to the fact that it might be difficult for others to understand why a witness can't remember something and Fiona suggests that she may hear some colleagues talking in this way:

***'When she was asked to look at pictures, she couldn't remember. Because it's just such a blur when you actually deal with it and it's easy to sit there and say, "Oh, she can't remember what he looks like. It must not have happened.'*** (PAUL)

***And I even hear some of them say, "Can she remember? Or is it that she doesn't want to remember? What's the truth here?'*** (FIONA)

In some cases the police participants expressed some frustration in the knowledge that these difficulties in memory recall would impact on the outcome of the case. They found it particularly difficult when these problems were more complex and difficult to make sense of. Fiona, although empathic to her witness's experience finds it hard to understand how the individual did remember and then a couple of hours later forgot.

***'The biggest factor is she had said because she couldn't remember,***

*she didn't want anyone to get arrested wrongly. Now she knew in her mind, she knew that it was something that happened to her but because she couldn't remember exactly, she says, "I'm not sure really what happened and I'm not sure if he would've known I didn't consent." And bang, there's our problem. Because she couldn't remember she was convincing herself it hasn't happened.'* (FIONA).

*'She rang me and she said, "Look. I keep sort of, I'll be somewhere or I'll read something." And she said she was in the library and she read a word and she doesn't know what it was about that word but it caused the first flashbacks' and I said, 'How do I document that now?'* (FIONA)

### 5.3 Increasing practitioner training and awareness

All interview participants suggested that both training and long-term experience had been fundamental in increasing their understanding in relation to the effects of trauma and memory and how this might impact on evidence giving. This section discusses sexual trauma training undertaken by the participants and how they see this to be at the core of what they know and how it has changed their attitudes and increased their empathy when dealing with these cases. The training has allowed for acceptance that individuals may be finding it difficult to go through the process of evidence giving. There is a National Strategy for training in investigative interviewing but interviewees made no reference to this training but were enthusiastic about the specialist rape-training workshop given to them by an external trainer<sup>26</sup>. Police participants agreed that the training they had undertaken regarding rape trauma had an impact on their understanding. This understanding was evidenced by their use of related terminology and recognition of some of the symptoms of PTSD. Police participants referred to 'Rape Trauma'. This term accurately describes general reactions to rape and sexual assault and is seen as a familiar response given the crime committed. Milne et al. (2007) also point to the need for trainers to have knowledge of appropriate interviewing methods and in identifying vulnerable/intimidated witnesses. Griffiths and Milne (2006) suggest that interviewers' skills levels and knowledge should be monitored regularly and on going mentoring and supervision should be in place.

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<sup>26</sup> The training workshop was provided by [Zoe Lodrick](#) a specialist trainer in the area of rape and sexual abuse. She has also provided services to Association of Chief Police Officers (ACPO) Rape Support Programme.

As Fiona suggests:

***'The training is fundamental to what we know. I think everyone should have it. It has helped me make sense of a number of things'.***

### **5.3.1 Recognising gaps in training**

The participants inferred that there were differences in the amount of training individuals were given and this appears to be dependent on the level of involvement in interviewing victims of crime. All participants suggested that more training would be useful. Richard, a Detective Superintendent implied training had been limited in the past and would appear that specialist training in dealing specifically with rape and sexual violence would appear to be 'ad hoc'.

***'As I said, the actual input to us within our detective training has been very limited so we would then look at the process of bringing in people to assist us, such as the SARC and then rely on them to have completed the training and then report back to us' (RICHARD).***

Fiona also draws on the training that she has undertaken to question the witness's presentation and difficulties in remembering her experience:

***'And she recalls she was drunk. I don't know the reason why she can't remember. I've got a toxicology report saying that this person was so intoxicated that that could be associated with blackouts and memory loss. And yet from my very, very basic sexual offences training course that I went on last year, in the back of mind I'm thinking, "Well is it that? Or is it this rape trauma?" And I'm swaying towards the trauma side of it because of the fact that she's had the flashbacks and something' (FIONA).***

The training had allowed a better understanding and an acceptance when more complex presentations of trauma are present. Participants suggested that the training had resulted in changing their previously held assumptions and their understanding regarding rape victims. They remarked that they had previously not understood why victims might not fight back and why they wouldn't report to police.

As Richard suggests:

***'I know in the past I might have thought 'you would tell the police, you would if this happened to you, you would tell somebody'. But in reality, unless you've experienced it you just cannot say that. You cannot say how people are affected by the trauma and an experience like that' (RICHARD)***

Andy, who is not involved with interviewing victims for trial but is very often the Policeman who is first at the scene and has to take down an initial statement, also suggested that training had changed earlier understandings.

***'The training has changed my mind about a number of things.... I think everyone should have the training... People within the system tend to ask questions when a victim presents in a calm way ... and its easy to think, well, if something has happened they'd have been upset, like how I would have reacted in that situation. I wouldn't have been like that .... but through the training we've had, we've come to understand that this is one of the ways that they can present'. (ANDY).***

As his quotation shows, there is the impression that others are less knowledgeable.

### **5.3.2 Valuing experience**

As well as training, long-term specialist experience was also considered as integral to the understanding of the impact of trauma. Paul has been a specialist working with child protection within the police and unlike the other participants has been in his role for many years. As Paul emphasises in his interview:

***'I've been working in the area of child protection for many years. That's all I've focused on so I've seen some things in my time and I know how differently individuals can react' (PAUL)***

Paul was not directly working in the South Wales area and was concerned as the system was changing in his area and this type of work was being opened up to officers as part of their general duties rather than being a specialised area. He questioned whether this would be beneficial for police or for witnesses. Paul also emphasised the need for specific experience in dealing with cases of historical abuse because of the complexities of the cases, arguing that the issues that these raise may be difficult for other officers working generically to properly understand:

***'I really believe that you need experience in relation to dealing with historic cases and I believe this so much since doing this job. It's knowing about the evidence that is important as well, you know, the evidence of disclosure, the evidence of school records from these people, although it may have happened a long, long, time ago. You need to know where to go and look for it. If you are experienced as myself, in dealing with this sort of work, I now know. I can imagine now that I'm going to get an awful lot of other officers that are not going to really know exactly where to go with their enquiries.'* (PAUL)**

Quotations highlight respondents' frustration that other officers do not fully understand how and why a victim may present as they do. Katrina emphasises her frustration at attitudes and misunderstandings of other police officers when discussing a particular case used for the purpose of the training regarding a man who had been raped:

***'It was on CCTV, but then when officers went around, the witness denied it. From my understanding I could understand some of the reasons why he might deny it, but the men in the room were like 'no, I'd fight. Definitely I'd fight'. I was like, 'no, you're not listening, like it does make sense. It's just that sort of macho attitude isn't it? No I don't want to believe that. So they don't.'* (KATRINA)**

These quotations would add to the fact that not all police officers appear to have undertaken the same level of training and are not always in a specialist post for a long period of time so that they can gain this specialist knowledge. Some reforms have been suggested but in practice there still appear to be inconsistencies (Poyser and Milne, 2015). Following the Independent Review into the Investigation and Prosecution of Rape in London by the Rt Hon Dame Elish Angiolini, DBE QC, a recommendation was to provide a specialist rape investigators' training course and qualification to ensure quality of specific sexual offences training enabling individuals to fully undertake this role. The Metropolitan Police Service (MPS) consulting with the National College of Policing and the MPS Crime Academy to commence this training and to introduce a national qualification that provides a consistent approach to training on a national level and fits with the ABE best practice guidance (Home Office, 2002). It is also recommended that all first responders would benefit from training regarding the difficulties for individuals in reporting a rape or sexual offence and an awareness of rape myths and how these can inadvertently affect initial responses (Dando et al. 2009).

### 5.3.3 Police training on investigative interviewing

It is also evident from the interviews that experience is an important factor in the understanding of complex cases and in developing the skills and confidence in the task of interviewing and managing the competing demands on Police. As highlighted in the literature, Dando et al. (2009) found that the current investigative interviewing model for witnesses, the cognitive interview procedure, in England and Wales was often not applied consistently or regularly<sup>27</sup>. They noted that this could be a result of time constraints and a difficulty in police officers applying it appropriately. There has been some criticism that the cognitive interview is a structured and rigid protocol that has specific steps to be covered. However, Fisher and Geiselman (1992) intended it to be a more flexible tool that could be tailored to individual needs and circumstances. As Clarke and Milne (2001) state it is not intended as a standardised approach and needs to be accurately matched with different investigative factors. Dando et al. (2009) suggest that police may lean towards more standardised interview techniques. Dando et al. (2009) devised an alternative method, namely a sketch plan mental reinstatement of context for less serious crimes as they found it to be less time consuming and relied less on police flexibility and application. This is particularly relevant for first line officers (Dando et al. (2009)).

The next section of this chapter relates to what police consider to be barriers within the CJS.

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<sup>27</sup> Other models of investigative interviewing include the Conversation Management Model developed by Shepherd (1993) as requested by Merseyside Police. This was an approach mainly for suspect interviewing based on a more counselling style and was in line with the requirements of PACE (1984). The Cognitive Interview was developed by Geiselman and Fisher as a way of refining the witness interview. The enhanced form of the CI incorporates elements of the Conversation Management Model but has a focus on memory-enhancing techniques (Fisher and Geiselman, 1992; Heaton-Armstrong et al. 1999). The PEACE model provided a phased approach to interviewing for all officers and an instructional pamphlet and rulebook was produced (Central Planning and Training Unit, 1992a and 1992b). A revised model was published in *Investigative Interviewing: A Practical Guide* in 1996 and 1998 that comprised of four parts (principles of investigative interviewing, interview skills, the PEACE model, interviewing law and procedure) (Heaton-Armstrong et al. 1999).

## 5.4 Police perspectives on barriers within the Criminal Justice System

However much training police have received or the level of experience, most police participants agreed that evidence is required to support any case going forward. This is particularly relevant for acute cases. As Katrina suggests:

***'It depends on the evidence that you've got. If its only one word against the other, the case is quite difficult. Defence barristers will do everything to try and discredit the witness, to try and attack police processes, to try and find something that we've done wrong'*** (KATRINA)

***'Even if we have DNA, it doesn't prove anything only that intercourse has taken place. We have to have enough evidence for the CPS to even consider taking a case forward'*** (GERALD)

In contrast, acute cases cause additional problems in relation to the evidence needed and how this evidence will be perceived. Flexibility in gaining evidence and undertaking interviews for acute cases is limited. Even if witnesses have provided a forensic sample that clearly identifies intercourse has taken place and can provide DNA identification, it does not prove the issue of consent. This leaves the case heavily balanced in the interview process (Milne and Bull, 1999). As the police have a close interaction with the witness, they are more able to understand the complexities of the witness presentations. At the same time there is consideration as to how others might evaluate the evidence, this includes the CPS and the jury. For the CPS to decide to prosecute, corroborating evidence is essential (CPS, 2017). A finding from HM Inspectorate of Constabularies was that often police are too ready to drop a case because of witness behaviours that they consider would be detrimental to a case. Such behaviours were particularly relevant in cases of sexual exploitation where individuals returned to the perpetrators or were addicted to alcohol or drugs (HMIC, 2014). Advice for lawyers is available via the Advocates Gateway ([www.advocatesgateway.gov.uk](http://www.advocatesgateway.gov.uk)) and when working with vulnerable witnesses, there is guidance in the Achieving Best Evidence in Criminal Proceedings in England and Wales (Ministry of Justice, 2011). Evidence needs to pass a threshold test whereby a judgment is made at the evidential stage based on 'enough evidence that is likely to lead to a conviction'. The seriousness of the case does not immediately mean that the case

will go forward if there is insufficient evidence. Secondly, a criterion for a case to be taken to criminal trial is based on whether it is in the public interest (The Code for Crown Prosecutors, CPS.gov.uk/publications/prosecution/rape, 2015, p.4). Again the interview witness interview is often the main source of investigation (Milne and Bull, 1999).

#### **5.4.1 The core task of interviewing: an interpersonal or task led**

##### **focus**

The Police have to balance the needs of the individual and their ability to cope with the evidence giving process. Having the support for the victim at the SARC, takes off some pressure for police to provide emotional support as well as undertaking the task of evidence gathering and interviewing. This was certainly appreciated by the male interview participants, Richard, Gerald and Paul, who also had more experience within the force and of a higher rank.

For Richard and Gerald, who observes the witness interviews and also has the task of interviewing the suspect, their focus was to undertake the police interview and gather evidence as soon as possible. Richard considers the needs of the CPS in proceeding with an investigation and Gerald reminds us of the person accused of the crime and emphasising that they also have rights. These issues are discussed in the literature in chapter 2 that takes into consideration the right to a fair trial and due process.

***'We need this evidence for the investigation to proceed if there is going to be a realistic prospect of the case going to court from the CPS. 'So that's one of the skills of being a senior investigating officer, of having to juggle the complainants and putting all the support in place, dealing with the suspects, crime scenes, witnesses, CCV inquiries, the house to house, the mobile data, social network... I mean there's a lot to do and you just have to press on' (RICHARD)***

***'From experience, it's almost like we have one shot at it. Does that make sense?' 'We wouldn't necessarily go back unless there's a clear further allegation later on that day to say we have something. It is normally triggered by the complainants or the SARC rather than the police ... it is very rare that we would interview and then go back again .. ' (RICHARD)***

***'Okay there needs to be some urgency in the recovery of the evidence for the very nature of that. We want the investigation to succeed and then balance that against the welfare and consideration of the complainant but we also need to consider the human rights of the person who has been arrested as well. If there is no progress with the case, say six hours or so later .. they start to question why we are keeping the suspect ... and then you get to 24 hours and they may be released' (GERALD)***

Some of the female participants however appeared more concerned about the psychological wellbeing of the witness during the interview process. Fiona was more reticent in her approach to interviewing.

***'I let them talk for a bit, sometimes they give you a long story but then find that they don't have details of the actual event... It can take a couple of hours. I just told her to take her time, go home and think about things and see if anything came back to her. I knew this probably wouldn't help her case but she couldn't remember and was getting distressed' (FIONA)***

Utilising the cognitive interview is recommended for serious offences or sexual crimes and as discussed in the literature review provides a number of strategies for retrieval of memory and in gaining a clear and accurate narrative (Fisher and Geiselman, 1992; Clarke and Milne, 2001). Arguably, Clarke and Milne (2001) suggest that police officers often fail to apply appropriate techniques during their investigative interviews. The witness in the case discussed above may have benefited from some grounding techniques to calm her levels of distress and allow her to put the memory together. This also raises questions about the timing of interviews as it is evident this witness was not going to be able to provide a clear and detailed narrative or report of the event at this time (Clarke and Milne, 2001).

There appeared to be different approaches in gaining evidence between participants. This may have been gender related or dependent on the level of experience and confidence in interviewing witnesses. One approach is where the witness is seen as a priority and the other where the task is seen as the priority. Interestingly, often the former approach that put the witness as a priority was seen to be detrimental to the task and getting the interview completed. The police interviewed as part of this study were acutely aware that the defence will draw out any discrepancies of the witness account during the court process and this can be

enough to create doubt in the jury's minds. As discussed in the review, any irregularities in the interview or under cross-examination can lead to a 'not guilty verdict' (Kelly et al. 2005). Studies focused on adherence to recommended interview practice found that police interviewers were still over using closed questions and were often led by pre-interview biases and case theories. This led officers to be more suggestive and react more favourably to information that supported their predetermined theories (Westcott and Kynan (2006). Other research highlighted the use of complex questioning inappropriate to the child's age or witness's mental capacity (Powell and Guadagno, 2008).

The Achieving Best Evidence in Criminal Proceedings (ABE) protocol (2002) recognised the need for a pre-interview meeting to gather information relevant for the formal recorded interview. It was recommended that this would also enable the needs of the witness to be properly met. Initially these additional measures were for child or juvenile witnesses but later became applicable to other complainants (Ministry of Justice, 2011). Evaluations of police interviewing techniques informed by ABE protocols and guidelines continue to raise some concerns within the CJS (Criminal Justice Joint Inspection, 2012). Training costs, a lack of systematic evaluation and monitoring of standards are among these concerns. Compliance to the open question approach is not always evident (Lamb et al. 2008). Since the Coroners and Justices Act (2009) there was further revision of the ABE guidance in 2011 that recommends that initial stages of the interview such as rapport building should be completed without being video-recorded. The Association of Chief Police Officers (2010) have been fundamental in shaping the amendments (Ministry of Justice, 2011).

In personal communication (2014) with a local Crown Prosecutor the importance of keeping the client's interview focused was stressed. He suggested that it needed to be to the point and not allowing the witness to '*ramble*' recognising that the jury will need to hear the main part of the story within a short time span and suggested that they may not listen if it isn't provided in a succinct and logical manner. However, the ABE guidelines and the cognitive interview emphasise the need to 'report everything' in an open and uninterrupted format (Westera et al. 2016).

***'I think they need more training on how to maintain a structured and focused interview. They need to get the balance right and interviews should be focused and factual, structured. The jury only have twenty minutes to get to grips with the story!! They shouldn't allow the witness to ramble. 'To be honest, if the jury don't get the point of it at the beginning, they will be unable to follow it and will lose their attention' (personal communication: CPS, 2014)***

In England and Wales, the cognitive interview procedure (CI) is the current investigative interview framework utilised by police officers involved with the interview process (Fisher and Geiselman, 1992). However, as Dando et al. (2009) suggest in the literature, police still often apply it incorrectly or do not use appropriate techniques when conducting interviews. Arguably, Dando et al. (2009) highlighted the risk of inadvertently leading the witness by inappropriately emphasising wrong information. This leaves the evidence vulnerable to false recollections and negative scrutiny by the defence.

The following case highlights the problems of irregularity of a victims account and how interviews need to be conducted in a way that they cannot be seen to be leading in any way.

***'If there's a gap from the first interview and a further interview, they will keep asking what happened between this time and it would leave ourselves open then to criticism about how and why. So it's difficult one to manage... ' (RICHARD)***

***'The defence massively picked up on that.... They asked me about it as well when I was giving my evidence. That's how I knew what had happened because they were pressing me then, about what did you hear and say... yeah.... And did she say this? And where is it recorded? And really pushing me about this... So I thought 'Oh God', I can imagine what they must have pushed her like when she was giving her evidence'. (ANDY)***

Surprisingly, it appears that gaining evidence to support historical cases is an easier task. When interviewed on this matter, police interviewees suggest it is easier to investigate historical childhood abuse as there is more flexibility in their time frame to collect evidence and there is often supporting evidence from school records, GP reports and other psychological support over the years, as the following quotations highlight:

***'No, it is easier to get supporting evidence in historical cases..... as long as there are medical records available, you usually are able to build up a picture' (PAUL)***

***'Whereas if it's like historical and maybe many years since they've gone through that trauma and I would think that its easier to get prosecution with it because they're able to say, "Well, this happened to me at this age. Okay, I can't remember the exact date. Or I was this old or.... I think the jury can understand that these memories may not be so clear' (FIONA)***

***'Although there are some gaps in the memory, there is usually some corroborating factors or very often there is more than one victim' (GERALD)***

The police participants found that there had been an increase in awareness since the media reporting of Operation Yew Tree and there has been an increase in reporting of historical cases. This has also been reported on a national level (BBC News 17/6/15).

Despite police training and improved levels of understanding, the police recognised that they were only part of the system. Consequently, whilst they could (at times) recognise that memory recall is related to trauma and PTSD, they also acknowledged that this may be more difficult for the jury or other CJS professionals to understand. Again police were empathic to the difficulties victims may experience in reporting and commencing criminal trial.

Richard and Andy highlight the difficulties for individuals when disclosing or giving evidence.

***'When they are traumatised it is no wonder they get confused. There is so much to take in... 'But that's where the discrepancy is coming early on. That's where your weaknesses are formed, that first 24 or 48 hours where they have to give different accounts because they see, they see the person that they first see. It might be the friend or they might bring someone. And then they see an initial officer and then they see a SOLO officer. And then they see me and then they have their interview. And they're trying to keep their accounts steady throughout the whole thing. They don't really have time to get their thoughts together' (RICHARD)***

***'She was so scared. Again we did what we could with her. We took her down to the SARC, took a first account from her, while the information she was able to provide was limited, we just kind of worked around it but in the end it was too much for her' (ANDY)***

Katrina and Richard empathise with the victim and their understanding of how difficult the forensic examination must be and how this can exacerbate victim's responses, particularly if the case doesn't go any further.

***'You know all the forensic stuff and I know this is all traumatic in itself. I can see that this process can even compound the initial traumatic experience that they have had' (KATRINA)***

***'She was then ready to be examined.... But she had a total shut down in the examination. She wouldn't have a forensic examination even though there was both anal and vaginal rape and we needed the evidence, its understandable!' (RICHARD)***

Apart from the process of gathering evidence, Katrina also recognises the difficulties for witnesses giving evidence at court.

***'I feel so sorry for these girls who have to go and give their evidence. Because I've seen them when they've come out and they are just crying. And oh!..... Its just horrible for them to be asked questions like that, because its something so private, isn't it'. (KATRINA)***

Participants drew attention to the conflict between an individual acceptance of the victim's presentation and an externally driven need for corroborating evidence in support of a case. Interesting this evaluation appeared to be based on their previous internally held beliefs and stereotypical attitudes. In trying to assimilate their own understanding of the witness's responses in relation to memory, there was also a need to consider how others might understand these reactions. First, there were concerns about how the CPS would view the evidence (as already implied in the quotations above). Second, there were concerns around the victim/witness giving evidence in court, particularly when a case was not clear-cut, and third, how the jury would make sense of the evidence, and perceive the victims accounts. This is a point supported by the literature regarding ambiguity and jury decision-making (Teners and Murphy, 2014).

***'I think for a jury, one of the things that changed my opinion.... I wouldn't say I was biased towards things like that, but I suppose***

***everyone thinks to an extent like ‘oh I wonder if it did happen and that sort of thing’ or why didn’t she do something’. The training I’ve had has really helped me to understand these things better, but the jury don’t have that!’ (ANDY)***

***‘I think everyone just assumes that you get raped and you remember it. You tell this perfect story with no inconsistencies and then you go to trial and you give the evidence. I think that’s what everybody seems to think really. It’s the real world isn’t it!... and the jury won’t get it.’ (FIONA)***

Fiona and Paul also suggest that changes to how victims present themselves in the interview may not be viewed well by the jury. Both imply that the jury need to see the witness’s distress. Christie (1986) wrote about the role of stereotyping and the need for a witness to be seen as a ‘victim’.

***‘Massively, massively distressed and all three friends that took her phone calls and all were the first people to see her. They’d never seen anybody so distressed in her life, physically shaking, gone pale, clammy skin obviously in shock. The police have said the same thing. She was distraught. But that doesn’t come across on her video interview because it’s two days later. She got her make-up back on. It is what it is!’ (FIONA)***

***‘To be honest, the juries need to see the witness and to be able to see their distress’ (PAUL)***

Chapter 2, the literature review also highlights the need for a ‘witness to be seen as a victim’ and that this stereotyping continues to be a barrier within the CJS (Christie, 1986; Kearon and Godfrey, 2007). Later research indicates that there are still characteristics that demonstrate vulnerability and are widely accepted as such by professionals within the Criminal Justice System and by society generally. Cultural norms can add to these morality issues. As they are deeply internalised within individuals and societies, they are resistant to change. Elias (1986) considers that these stereotypical perspectives can apply to both victim and offender. Kearon and Godfrey (2007, p. 31) suggested that ‘*radical victimology should expand notions of victim to include, real, complex, contradictory victims of crime*’. This can be particularly evident for minority groups or those seeking asylum. Rogers et al. (2015) highlight the importance of non-judgmental attitudes when asylum-seeker populations present with less recognisable symptoms of distress that are counter to perceived stereotypes and expected behaviours and

responses. Bogner et al. (2007) revealed that most asylum seekers reported difficulties in conversing in a Home Office interview. This was particularly evident by those who had experienced sexual violence. Equally, a police interview and the need for forensic examination can be particularly difficult for this population. Trauma reactions and psychological effects can hinder successful interview engagement and confusion can be misinterpreted as inconsistency and dishonesty (Bogner et al. 2007; Quiros and Berger, 2015).

#### **5.4.2 Delayed reporting: Emerging Memories And Diminishing Evidence**

Memory recall and timely reporting will also have an impact on the police's ability to identify, find and charge the perpetrator as this is usually dependent on the witness disclosure and some supporting evidence. The interviewees all spoke of delayed reporting following the emergence of memories during the course of the investigation being a particular problem when considering the case. Some of the participants also referred to the difficulty in gaining best evidence once the window for forensic examination closes. This puts pressure on police to gain this evidence quickly. Again this may sometimes be to the detriment of the witness's psychological wellbeing, but an advantage to their case if taken to court. This might be particularly relevant for acute cases where corroborating evidence is essential, as the following quotation from Gerald suggests:

***'If she did start to recover some of the memories, it would obviously be investigated but, by that stage forensic evidence would have been contaminated. We would have lost information regarding the scene.... Depending on the timeframe, CCTV evidence might have been lost. So what was evident before would be lost. Any likelihood of successful prosecution, even getting to court, would be massively affected by delaying a report' (GERALD)***

Apart from these practical difficulties, delayed reporting has become more recognised and understood since the recent reporting of historical cases of childhood sexual abuse as in the Jimmy Saville reports. The average time before disclosure in historical cases is approximately 21 years. This is particularly relevant for familial abuse (Herbert et al, 2009; Cloitre et al. 2013). Lisack et al, (2010) found that 1 in 5 victims never disclosed their abuse experience and that

more than 60% delayed reporting their abuse for more than a five-year period. Although there has been much discussion about the disclosure regarding childhood abuse, there may be less understanding of delayed reporting from an acute case. As the research suggests, the impact of trauma can have significant impact on information processing at the time of the event. The police participants in this research recognised the detrimental impact of delayed reporting in gaining forensic evidence following the event and how this might impact on the outcome of a case. Although the impact of the training has allowed for this process of acceptance regarding witness presentations and the fact that there may be gaps in the memory, they still recognise that it can sometimes cause a weakness to the case. Although the police were fully accepting of the array of difficulties the witness may be experiencing, they also emphasise that inconsistencies in witness statements may not be useful as evidence.

#### **5.4.3 Conflicting system restraints and witness expectations**

It is often difficult for police to meet the expectations of witnesses and the legal system and a number of legal, organisational and political restraints that conflict with these needs. System constraints often conflict with meeting the needs of the witness. Police often report a lack of time and resources to take into account the needs of witnesses, particularly if they have developed adverse reactions and even if they are vulnerable to developing PTSD.

Police participants recognised that given the need to gain early forensic evidence, photographs and interview, this is often compromised by the witness resisting certain procedures or making demands that are not available within the existing service.

***'So we continue our investigation, we go and see the witness and they won't even allow the lady (Police Officer) into the house. They talked to us through the crack in the door. .... But no, she didn't want to speak to me, she would only speak with the one officer and it's only that officer that she would deal with. We don't always have the time or the resources ' (RICHARD)***

Apart from considering the lack of resources and how police were unable to spend adequate time to meet individual needs, the participants also recognised that there may be some difficulties in the fact that it was not always the same officer working

with the victim. Some of the police participants recognised the challenge for the witness in holding all the facts of their story together and emphasised that it is not always helpful for them to be passed onto different professionals and having to repeat their experience a number of times. They understood that this could add to the victim becoming confused or overwhelmed and likely to forget elements of their narrative. Again this could be seen to be detrimental to the case.

Andy also draws attention to the demands placed on the police at any given times and this could be dependent on shifts, sickness, maternity, and crime trends. Andy suggests that there is a lot of change within CID who work with sexual offences and this may impact on a depth of experience.

***'Things are shifting and changing all the time' (ANDY)***

***'This is particularly with CID, they might be taken to work on a major crime or something like that and then someone fills in for them. They're generally quite a fast moving department as well' (ANDY)***

There also appear to be inconsistencies in specialist provision.

***'In some areas they do have specialist teams. So for example Gwent do, North Wales do, in the West section of South Wales, police do, but the rest of South Wales they don't. These inconsistencies in approaches are decided by the Chief Constable from the police and are influenced by their agenda at the time. A lot of things go into it, budgetary, through to geography'***

At the time of these interviews participants were not allocated solely to the SARC but did have specialist investigative training that would mean they would interview suspects from a range of crimes. It also appeared that they wouldn't remain within an area of work for a long duration. This factor requires further clarification.

#### **5.4.4 Legal controversy regarding false reporting**

Andy made the point that he couldn't recall any false reports being made:

***'I personally can't recall any false reports that... reports for the sake of it, reports through malice, reports for crying for help or whatever. Just the ones that do drink that appear to have been through'***

### ***something they regret' (ANDY)***

As Geis et al. (1978) reported, there are discrepancies in the recording of false complaints with police recording a higher level and other medical examiners recorded a much lower population. Estimates of false reporting 2-8% (Lonsway et al. 2009) found that police respondents of a survey estimated that 31.4% of complaints were false. For female respondents this reduced to 23.2%. The study found that more experienced Forensic Police Surgeons who had investigated rapes following disclosure, suggested only 4% involved false reports. Police suggested that complainants sometimes provide false reports because of vindictiveness, fears of pregnancy, and fear of discovery by a spouse or partner following sexual intimacy outside of that relationship. More research in this area is required and there are vast discrepancies to date.

## **5.5 Commencing Criminal Trial**

Participants strongly believed that the day at court could present the biggest barrier to justice. They commented on how the Defence creates witness confusion and doubt that then leads the jury to question their response and at this point, an element of doubt can be enough to ensure a guilty verdict is not made.

### **5.5.1 Eliciting jury doubt**

All participants drew attention to the fact that at court the Defence will create jury doubt by questioning some element of the witness's recall of events. All police participants suggested that Barristers often use covert tactics to undermine the witness until they do become confused. As discussed in the previous chapter 4, memory is less efficient when under too much stress. If witnesses start to become confused, they could experience a difficulty in retrieving the memory in a coherent way and it is possible this could trigger some of the symptoms of PTSD and the witness may want to withdraw from the situation (Brewin et al. 2010).

***'Then, there was a massive sort of issue in court over trying to discredit her. That, in saying, 'well you said earlier that you saw it, so***

*did you or didn't you?' ... you know and sort of pushing her at that point, which is horrible for a victim, isn't it? (MICHAEL)*

*'Okay, if the evidence is there I have no doubts having sort of been in this field for the long time that defence council will not attack the evidence. They attack processes and they attack continuity in order to put doubts into the juries' minds in court. And you know there's very little protection for individuals giving evidence on cross-examination as the defence will ask them to re-tell it .... and sometimes more information that has come out, they would say 'well what did happen? and what's happening here?'* (RICHARD)

*'And their memory tends to be a bit worse anyway, doesn't it, with children? But yeah, she was pressed so much on whether she did or didn't see something that she started to believe she didn't see it! I think there are new rules coming in now though, actually for court, on what you can ask children and what they can't. Because barristers are really like not very nice to children at all'* (ANDY)

*'She got confused... I think she possibly had some kind of learning difficulties but nothing major to affect like her memory or anything like that...the notes in the interview said that she'd said that she saw his penis I think, or something like that.... And then, when she gave her evidence, she was saying that she heard his trousers drop, but she didn't see anything... then there was this massive sort of issue in court over trying to discredit her.'* (RICHARD)

The participants suggested that there are also some witness behaviours that can be detrimental to the case and that stereotyping was still evident within the CJS.

### **5.5.2 Unhelpful witness behaviours at court and the role of stereotyping**

As discussed in the literature, regardless of whether a witness had developed an adverse response following their trauma, the role of stereotyping still appears to be a major component of the jury decision-making process particularly when evidence is ambiguous (Horney and Spohn, 1996; Temkin and Krahe, 2008). As Temkin and Krahe (2008) report, these stereotypes can also influence decisions made by investigators and prosecutors and can lead to attributing blame to the victim. The participants suggested that there were a number of witness behaviours that they considered would initiate confusion and allow the defence to pick up on it. In particular, Gerald and Richard consider the importance of

maintaining consistent accounts. This was also highlighted in respondents' view regarding the importance of the interview task and how the victim can get confused if they have to go over their story a number of times with different police investigators. This is often picked up at the court hearing.

***'I've not had anyone who couldn't remember ..... like that she couldn't remember anything. Some people are a bit more vague than others. I have had one of my cases where she said something... I think she said something in her interview... and then, when she went to court and gave her evidence, she said something different... but I don't think she was lying.... I don't think she was making it up! (GERALD)***

***'And in the middle of the case, when the witnesses gave their actual evidence during the process of the trial, they came out with more evidence but they hadn't told us.. so this girl in the cross examination say 'well actually I was in a relationship with him as well, I was pregnant by him and we were going to have a baby, well we had sex... this was a massive chunk of the story and if we'd known it he wouldn't have been found 'not guilty'. (RICHARD)***

Richard emphasises the need for the witness to put as much as possible in their interview and not to add certain aspects within the court setting and this just amplifies confusion and doubt for the jury. The cognitive interview encourages the open questioning technique and the 'report everything' stance to interviewing witnesses. By utilising this method reduces risk of contamination of memory or for new areas to be recovered when later at trial (Milne and Bull, 1999; Savage and Milne, 2007).

In personal communication with a jury member who had just completed his jury service for a case of domestic violence and rape locally, it was reported that he had in fact evaluated much of his decisions on the presentation of the victim and the accused. The jury member considered his initial assumptions regarding the suspect when first assessing the witness even before hearing the case.

***'I was making assumptions about him, immediately thinking he's guilty, even before I'd even heard what the case was!'***

Temkin and Krahe (2008) refer to generalisations which are presumed from existing stereotypical beliefs about the 'violinator' and 'victim' and these early

assumptions can drive decisions and get in the way of more data-driven evaluations based on the evidence. Temkin and Krahe (2008) found evidence of these stereotypical beliefs about rape to interfere with decision making at all levels of the prosecution process. Defence lawyers also draw on the public's misconceptions as a means of placing responsibility onto the victim. The jury member also noticed and evaluated the witness again drawing on his own internal scripts and biases as reported in previous literature regarding jury decision making (Kelly et al. 2005).

***'She was overweight, wearing stilettos, with a tight skirt and top, she was a big girl, with a hard looking face - I know I was making judgments. How we so quickly make them about a person! 'She was a tough girl; she was not a shy retiring type. She was quite robust, difficult to know whether she was lying....***

***'I thought that's interesting 'is she hiding something'? 'She was checking out the jury as she was answering', I couldn't see her face, it felt like she was hiding'***

Finch and Munro (2005) found that the jury was less sympathetic towards victims when intoxicants were involved. The Crime Survey for England and Wales (2011-12) looked at public attitudes towards victims of sexual violence and although the majority of the sample didn't feel the victim was responsible for the sexual assault they did hold some negative blame perspectives regarding their vulnerability. Some 8% of the sample thought that the victim to be 'completely' or 'mostly' responsible for someone being under the influence of drugs, 6% if they were drunk and 7% if the victim had been '*flirting heavily*' with the assailant before hand. Men were more likely to hold women responsible (CSEW, 2011-12, ONS). Temkin and Krahe (2008) suggest that attitudes are affected by predetermined rape stereotypical beliefs, gender prejudice and bias and consider these processes to be evident with the public in general and also the professionals. As discussed in chapter 2, improving police attitudes to sex offence allegations is on-going but much of the research still highlights this issue as a barrier to justice (Horney and Spohn, 1996; Kelly et al. 2005).

## **5.6 Impacts within a wider social and legal context**

As a result of this lack of understanding by the jury and even other professionals, an individual who is able to get as far as the trial may still be faced with difficulties. This section will now examine these issues in more detail. The participants draw on the fact that we have to live with the consequences of the case not gaining a conviction. Apart from the distress of the witness having endured the whole process there is the fact that there is a possible perpetrator who doesn't have to face charges and there are no restorative measures so nothing changes. There are no conciliatory measures and the witness is left to pick up the pieces of their life.

### **5.6.1 A danger to society**

Police participants expressed their frustration and dissatisfaction when a case is acquitted. As Fiona and Richard purport in their interviews. Richard is particularly concerned with what the witness has endured as part of the court process and Fiona makes the point that the perpetrator is still able to cause harm to others.

*'....I mean, it's like that when she wouldn't give her evidence in court. It infuriated me because I knew he'd done it. Like, there was no doubt in my mind, absolutely no doubt from the evidence. And she was just intimidated. It wasn't that it didn't happen. And then, you look at someone like that, and think, he's out there now.'* (FIONA)

*'They go out, found not guilty... and after all the complainant went through, all of that traumatic experience and the court process didn't support her... and do they have proper closure? No. I personally believe that it happened and she is still in fear'* (RICHARD)

*'It still feels unresolved'* (RICHARD)

*'I mean how do you cope if you know, somebody's done it but for whatever reason, it can't be taken forward, and then you kind of know that there's somebody out there that should not be out there'* (FIONA)

### **5.6.2 A sense of injustice**

Understandably, witnesses who have gone through the court trial after many

months of preparation and anticipation can often feel devastated when the case is lost. They are particularly distressed if they attribute the outcome to their own performances in court. Police participants also indicated that they felt frustrated that cases did not lead to prosecution. Their main concern was the fact that there is a potential perpetrator who could go on to hurt others and justice has not been made.

### **5.6.3 Letting go!**

To deal with this police adopt an element of professional detachment and reflective avoidance driven by the pressures of the job and to be able to manage the ambiguity of the unresolved outcome. This behaviour could also be indicative of risks to occupational stress or vicarious traumatisation (HMIC, 2014).

***'Yes its very rare that I speak about the case because if you do, I would be reliving it. Because it was such a challenging investigation that I'm almost going through it as I was at the time' (RICHARD)***

Victim accounts following the court process where the case has received a 'not guilty verdict' can vary greatly and it would appear that police officers within Cardiff and Vale provide different levels of support and feedback to witnesses. In some cases, the CPS has provided the feedback regarding their decision not to proceed to trial and possibly at the end of a case.

## **Conclusion**

In conclusion, findings in this chapter have provided an understanding of the way in which police conceptualise a number of the problems experienced by victims of traumatic sexual violation. Training and experience are fundamental to this understanding and allow police to recognise symptoms of PTSD following trauma. They also try to make sense of memory difficulties by either trying to put themselves into a comparative situation or by considering external factors such as *'drugs, alcohol, a desire not to remember, being too embarrassed to say'*. They are acceptant of the fact that memory can be affected and can be inconsistent when first reporting to police and show empathy for the victim but agree that this

might be detrimental to taking a case further. They project a number of their own assumptions and consider how the jury will perceive these problems. In situations where the memory was affected badly and the individual displayed some uncharacteristic symptoms of PTSD, they were not confident that they would be able to pursue a case or if it did go to trial that they would get a conviction.

Findings from this current research also highlight the fact that the investigation and interviewing of witnesses is compromised when memory problems are evident, particularly when participants couldn't make sense of it. These findings are reinforced by the literature regarding witness ambiguity and decision-making (Teners and Murphy (2008)). Participants in this study reacted differently in response to this. Female participants appeared to put the witness emotional needs as a priority and the male participants put the task of the interview before these additional needs and were more likely to rely on other professionals to undertake the more supportive role.

As highlighted in the literature and from police participant interviews, there is a lack of flexibility in the interview process. Police saw this inflexibility in the timings of the interview to be one of the main barriers in the criminal justice process. They also expressed concerns regarding difficulties the jury would have in understanding the impacts on memory and a witness's inability to recall certain events or when inconsistencies are drawn from their evidence, this would lead to a conviction not being made. The main implications from a wider social and legal context means that there may be a 'rapist' who is still at risk to causing harm to others and there is no system in place to manage this. Police find this situation frustrating and suggest that they '*psychologically move on*' or become emotionally detached from the case and move on with the next case. It is recognised that this could be a cause for a cumulative stress response or an occupational hazard that could result in negativity and despondency within the force (Pearlman and McKay, 2008). Police regarded peer support as a means of managing this but would sometimes find it difficult to go back to a case when they had emotionally withdrawn from it, often leading to a lack of communication with the victim following engagement in the CJS. This can have an impact on the witness who may be equally frustrated with the lack of conviction (CPS, 2017).

## CHAPTER 6: GENERAL DISCUSSION

### Introduction

This chapter brings together the themes raised in the configurative review and synthesis (chapter 4) and findings from police participant interviews (chapter 5).<sup>28</sup> Although there has been increased attention to sexual abuse cases, attrition rates remain high and conviction rates low. Even with improved public and professional understanding of some of the issues relating to memory following traumatic events, the reliability and authenticity of memory is often still disputed and is at odds with the criminal justice process (Poyser et al. 2015).

In consideration of the thesis as a whole an exploration was made in understanding memory processes following traumatic sexual violation and how this could deter engagement with services. Further consideration was given to how the development of Post Traumatic Stress Disorder (PTSD) and dissociative symptoms would further hinder disclosure, reporting, and commencing criminal trial. An empirical configurative review and focused exploration of the existing literature in the area of trauma and memory was undertaken. Theory was abstracted from the literature then synthesised to provide an informative conceptualisation in relation to memory processes following traumatic sexual violation. to answer research question 1: *What is the impact of traumatic sexual violation on memory processing and functioning?* The review also addressed the four sub-questions and these are discussed below. The full conceptualisation is presented as one table in appendix 2 and directly relates to the research questions in a comprehensive format. The findings from police participant interviews are also discussed and a number of implications drawn.

Firstly, the review emphasised the factors that can impact on a victim's psychological functioning and lead to the development of PTSD following assault. The literature was deconstructed illuminating the psychological complexities in

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<sup>28</sup> For ease of understanding 'this current research' refers to this current study and 'the literature' or 'previous studies' refers to existing research (Bryman, 2008).

understanding the impact on memory. During acute traumatising, the person may have experienced a dissociative response of derealisation or depersonalisation and this can have profound implications for memory and a victim's ability to give evidence (Lanius et al. 2015).

In response to childhood pervasive trauma, the infant may have learned to dissociate as a means of surviving the trauma and the memory may become either suppressed (cognitively) or repressed (cut off from conscious awareness). These adverse responses and the development of PTSD have further implications for the training of police interviewers in more severe cases and is the focus for this discussion (Dell and O'Neill, 2009; Bergmann, 2012; Lanius et al. 2015).

- ***What makes a person vulnerable to developing PTSD following traumatic sexual violation?***

Table 4.1 includes a number of psychological, neurological and social factors that have been found to be risk factors prior to the traumatic event or contributing factors following trauma. The table highlights the peri-traumatic dissociative stress response during trauma as a predictor of PTSD and can also have a detrimental impact on the encoding of memories, particularly for peripheral details. The high level of stress hormones at the time of the trauma prevents the memory from being integrated into episodic or semantic autobiographical memory that allows long-term storage that is more readily available to conscious recall. Adverse psychological functioning and/or the development of PTSD are more likely to occur following this dissociative response. (Brewin et al. 2010).

Childhood sexual abuse that is repeated, particularly familial and lack of a secure attachment were prominent features of pre-trauma vulnerabilities (Cloitre et al. 2013). A number of post trauma factors were identified including the individual's support network such as family and friends. This could also include support of the CJS and Health organisations. As discussed in the literature, an individual's negative appraisals following a traumatic experience can also prolong recovery and deter from engagement with services (Foa and Riggs, 1994).

- ***Are there different psychopathological pathways that may impact on memory and in what way?***

In considering research sub-question 4.2, '*are there different psychopathological pathways that impact on memory and in what way?*' the stress response, memory encoding and memory recall is closely linked to the autonomic stress responses described by Porges (2011) Polyvagal Theory and discussed in chapter 4. By deconstructing the psychological complexities of these biological reactions and their impact on the neural activity, understanding of the impact on memory was made. Table 4.2(a) provided the first part of the conceptualisation and shows the impact on memory in relation to the specific stress response.

The literature highlights the optimal neural conditions for encoding and consolidating memories. More adaptive responses following trauma may include the encoding of the context and the source of the memory. Incoming information is rapidly associated with pre-existing knowledge and earlier schemas (Cohen and Conway, 2008). Sensory elements, both external and interoceptive elements require adequate linking and binding into a coherent, integrated whole experience. More permanent memory structures such as autobiographical memory enables the use of language and communication. This system actively revises, modifies and updates information, linking the past, present and future that provides an integrated and coherent system that is contextual and time-framed (Cohen and Conway, 2008). At this point, remembering involves the reactivation of the memory components that were used to encode the memory. This may involve a sensory cue, evoking a particular mood state or reinstatement of context as indicated in the 'encoding specificity theory' (Tulving, 1972; Fisher and Geiselman, 1992). Here the emphasis is on the need for the recall of memory to be activated by a memory cue directly related to the encoding of the event (Tulving, 1972). Within these more generalised memories there are also likely to be some more specific autobiographical 'episodic' memories that were encoded at times of unique, important or distressing times. These are more likely to hold some vivid elements that contain more specific details (Holmes and Mathews, 2010). It has also been suggested that there are separate memory sub-systems for face

recognition, spatial memory and in some aspects of semantic memory (Neisser, 2004). The amount of rehearsal may also predispose a memory to remaining intact and stable over time (Conway and Holmes, 2004). A multinational study concluded that vivid memories such as episodic memories with high levels of emotionality and personal importance may be encoded in a different way to other events and are normally activated by a similar mood state or consequentiality (Conway, 1995; Nyberg et al, 2000). As discussed in chapter 4, in some cases clear episodic memories may be referred to as 'flashbulb' memories (Brown and Kulik, 1982) or 'remarkable memories' (Peace and Porter, 2004). In these cases the encoding of an event or experience is enhanced and becomes one of intense veracity and provides clear visual recollections that are more easily retrievable. They remain static over time and are less vulnerable to normal memory deficits (Brown and Kulik, 1984).

Arguably most of the studies concerning flashbulb memories involved important and historic events that are culturally important. Memories for these events retained accuracy over time and when recollected involved the event itself and personal information about what they were doing when they observed or learned about the event, where they were, who they were with and other peripheral details. A traumatic memory does not always contain these details and is highly vivid for the object of threat or for the facial details of the offender but may lack much of this contextual and peripheral detail as discussed in chapter 4 (Lanius et al. 2015).

The impact on memory for a single event trauma is dependent on the level of distress at the time of the trauma and how memory is encoded. Too much stress and/or arousal at the time of the trauma can lead to the amygdala shutting down the functioning of hippocampus and this restricts the memory from being processed in its entirety. Some fragments of the memory may remain disjointed from consciousness and may not be verbally accessible (see Brewin et al. 2010). When recalling the memory it may initially be fragmented and may lead to some amnesia for parts of the event although this is normally recoverable with appropriate techniques (Ehlers and Clark, 2000).

This would also relate to a single event trauma for children dependent on the level of distress at the time of the trauma and their understanding of the event. Their support or attachment to their primary care giver would be of utmost importance in the development of PTSD or other dissociative responses. It may be more difficult for them to verbalise their experience and they may exhibit certain behaviours and emotions demonstrative of their trauma experience as they struggle to contextualise or put into words (Cloitre et al. 2013).

Multiple and/or enduring trauma for child and adults may be less specific and may involve 'composite' memories that are representative of the trauma but may lack some of the discrete details regarding time and context (Holmes et al. 2005). Memories for similar events may become merged and involve representations of memory. This can be vulnerable to memory distortions or perceptual misinformation effects (Conway and Holmes et al. 2004). Dissociative amnesia of autobiographical memories can be of varying levels from mild to severe (Holmes et al. 2005).

For recollection of childhood memories or when there are substantial gaps in the memories, they can be more vulnerable to interference from external sources. In some cases because recollection may be ambiguous the individual is unable to differentiate whether it is a true event or an imagined event (Conway and Pleydell-Pearce, 2000). True memories can often be judged on their perceived credibility, coherence and plausibility whereby more internalised memories of imagined events may lack some of these criteria (Conway and Pleydell-Pearce, 2000). Confidence in the source of the memory can also be an indicator of an actual event (Cohen and Conway, 2008). Often the recall of childhood trauma may not always meet this criteria when it is initially recollected as it may not be in a logical sequence, may appear vague and some details may be missing. Time distortions and perceptual experiences at the time of the trauma may also confuse accounts (Bergmann, 2012).

This is not to say the event/s didn't occur but interviewers would need to be extremely vigilant to ensure they do not misinterpret information or allow themselves to be guided by internal processes such as their personal assumptions

or stereotypical beliefs (Conway and Pleydell-Pearce, 2000). Trace memories from childhood can also be susceptible to wrongful interpretation by the victim/witness (Lindsay and Read, 1999). There are often misattribution errors where the memory is driven by pre-existing negative schemas such as '*I'm a bad person*', '*I'm to blame for my abuse*', '*others will harm me*' and '*others can't be trusted*' (Ehlers and Clark, 2000).

- ***What effect does trauma have on a victim's psychological functioning and consequent psychopathology?***

Table 2(b) forms the second part of the conceptualisation and considers the resultant psychopathology as a result of the trauma response and the effect this might have on the victim's psychological functioning. The main finding was that there are different psychological trajectories that are influenced by pre-trauma vulnerabilities, the peri-traumatic response at the time of the trauma and post-trauma factors (Bresslau, 2002). Chapter four highlights the specific dissociative response, the parasympathetic freeze response (dorsal vagal) when a person has experienced a high level of fear and entrapment to be most crucial to the impact on memory and to the development of fear based PTSD (Brewin et al. 2010). At worst this can lead to a partial or total traumatic amnesia or may lead to gaps in the memory (Brewin, 2011). In some cases memory may be held as somatic bodily sensations that may not readily link to the trauma event (Ogden and Fisher, 2015). However, most of the literature suggests this is temporary problem although it can remain inaccessible to consciousness for a number of years.

The review also identified PTSD with more depressive symptoms resulted from more shame based traumas when an individual experienced more negative emotions such as anger or humiliation (Brewin et al. 2000). Memory may not be affected in the same way as an acute stress reaction, but the person may attempt to suppress recall of the memory because of the negative affect this can have on their mood or how they perceive others will judge them (Brewin et al. 2000).

- ***How does this impact on victim's ability to give evidence?***

The final part of the conceptualisation provided in table 2(c) considered how these responses and consequent psychopathology may impact on evidence giving and commencing criminal trial. In some cases where arousal is optimum, there may be very clear memories particularly for facial details. At worst, where the individual has experienced a dissociative response, there may be some gaps in memory and police investigators need to be mindful of the way in which they get evidence from the victim so there is less chance of contaminating the evidence (Poyser and Milne, 2015). Memories may be vague, lack order and clarity and this can cause difficulties in providing evidence for criminal trial. When an individual has developed PTSD there can be a tendency to avoid talking about the event or being reminded of their experience. This can lead to an avoidance of reporting and disclosing to police. Often the fear of the criminal trial is too overwhelming (Mc Elroy et al. 2016).

As discussed in previous chapters there is a higher prevalence of dissociation for those who have developed PTSD and in severe forms of childhood abuse, this can lead to dissociative identity disorder (Dell and O'Neil, 2009). In the criminal justice literature there have been a number of studies that highlight the problems with memory including the view that dissociation can cause suggestibility or susceptibility towards fantasy and this can lead to the confabulation of traumatic memories (McNally, 2003; Loftus and Pickrell, 1995). This has resulted in the stringent laws regarding prosecution and convictions in sexual violation crimes. More recently, because of the depth of research regarding trauma and dissociation and that recovered memories are likely to be accurate, there is a narrowing of the memory wars (Dalenberg et al. 2012). There is also recognition that treatments focusing on the trauma has less effect on dissociation and memory and could be advantageous in addressing the problems faced when victims are asked to provide evidence fit for court (Patihis et al. 2018). This is not to say that the memory problems do not still exist but as Patihis et al. (2018) conclude these problems are no worse for dissociative victims than other victims.

The second part of this research focused on question 2 and emerged from findings taken from police participant interviews. *'How are the effects on Victim's memory understood by police when collecting evidence and commencing criminal trial?'* The chapter also answered the four sub questions related to police understanding.

- ***How do police understand the impact of traumatic sexual violation and the development of PTSD?***

Police reported a good understanding of the impacts of trauma and some basic understanding of how PTSD can impede the criminal justice process and an individual's ability to give a detailed interview that is fit for the purpose of criminal trial. A key finding of this research was that despite their acceptance of victim's difficulties they recognised that others may not have this understanding and this might include the CPS and in particular members of the jury. They suggested that unless a good understanding was evident this would leave the witness testimony vulnerable to defence tactics of creating doubt. This was also evidenced in the literature presented in chapter two regarding jury decision-making when there is ambiguity being less likely to result in a conviction being made (Fisher et al. 2009).

- ***How do police understand the impact on memory following trauma?***

Police attempted to understand obscure memory problems by likening them to situations that they have been involved in where they may have found it difficult to remember, or by considering external factors such as drug/alcohol abuse, wishing to forget or shame as possible reasons for not remembering. In normalising or making sense of trauma related memory problems, police were more likely to feel more confident in the outcome of a case.

- ***What do police consider to be barriers within the criminal justice system?***

As discussed in the literature, the role of shame can inhibit an individual from disclosing information. Interviewer attunement, sensitivity and neutrality are

essential when drawing out details of sexual content (Kelly et al. 2005). Westera et al. (2011) report less detailed explicit accounts are given when complainants perceive they are being negatively judged or treated with scepticism. The police participants in this study expressed a sympathetic response to their witnesses who had found it difficult to discuss the trauma and attempted to understand their 'shame' from their own perspective. Further training would enable interviewers to establish an empathic response that retains a level of neutrality and non-judgement to what the other person is experiencing rather than applying their own assumptions (Westera et al. 2011). The police participants also suggested that other police professionals may still hold some negative attitudes towards victims or may lack understanding particularly when they had not received adequate and specific training in the area of sexual violence and assault. This reflects earlier research where police were seen to disbelieve rape allegations (Kelly et al. 2005). Arguably, as Waddington and Wright (2008) purport, it is the persistent exposure to these types of crimes that lead to these 'cop culture' attitudes and rhetoric that help alleviate some of the stress associated with this.

The police identified learning and experience as fundamental to their understanding and agreed that this is sometimes inconsistent and needs a more systematic approach. This would include more training on dealing with victims with PTSD and other adverse effects rather than focusing on the interview process. Arguably, the CPS emphasised the importance of the interview process and suggested that police need additional training in this area. A key finding also recognised the importance of how an interview is conducted as imperative to memory recall and yet this does not necessarily reflect what is best for the case and commencing criminal trial and could be detrimental to it.

As discussed in the literature in chapter 5, the Whole Story approach was developed to increase police investigators' understanding of the complexities regarding sexual violation including the grooming process, the relational dynamics and the idiosyncratic signifiers involved in these cases (Tidmarsh, 2016). This current research also emphasised the need for an improved understanding of the impact on memory following trauma so that more focused and specific interventions are planned and applied based on this understanding. It was

recognised that these specialist roles would require prolonged training and continued mentoring/support in the incorporation of all these areas as suggested in the evaluations completed by Griffiths and Milne (2010).

The police found difficulties in memory recall, incoherent evidence and witness characteristics as being potential barriers to commencing criminal trial. Police considered the lack of jury understanding of the effects of trauma on memory particularly in cases where memory was unclear and ambiguous as a block to gaining a conviction. They also recognised the fact that some police may still hold some stereotypical beliefs and attitudes and witness characteristics could feed into this 'victim blaming culture'. This supported previous literature regarding attitudes towards sexual violence victims (Alderden and Ullman, 2012a, 2012b; Spohn and Tellis, 2013; Johnson et al. 2015). Police participants' main concern was the fact that this ambiguity in memory creates jury doubt and allows processes of stereotyping, rape myths and attitudes to drive decisions. This is also supported by previous literature (Kelly et al. 2005; Temkin and Krahe, 2008). Participant findings also suggested that when victim's memory recall was fragmented, or did not make sense and could not be attributed to normal forgetting, this presented more of a barrier (Spohn and Tellis, 2013). As discussed in chapter four, when individuals have been highly traumatised, it is likely that their memory for the experience has become disconnected from other autobiographical memories or longer term memory structures and until relevant processing has occurred, temporal, spatial and contextual aspects of the memory may be disjointed and/or disoriented (Bergmann, 2012). Even without trauma, memory is affected by temporal or duration estimates and these are often inaccurate but are not necessarily incorrect (Memon et al. 2002).

In response to the difficulties of memory and the preservation of details, chapter two focused on the development of the cognitive interview by Fisher and Geiselman (1992). The cognitive interview has a number of mnemonics that were found to be particularly useful in rape cases where the complainant's testimony is central to the investigation and subsequent decisions in pursuing a case. Fisher and Geiselman (1992) emphasised the need for a suitable environment for undertaking interviews that enables the witness to be relaxed and away from

interruptions. This is in line with the findings in chapter 4, the configurative review that illuminates the process of thalamocortico-binding (Bergmann, 2012; Lanius et al. 2015) and Ogden et al.'s (2008) 'window of tolerance' and the need for the right level of emotional activation for memory to be processed and for the recall of a traumatic event. Westera et al. (2016) reiterate the need for validated methodologies for the interviewing of witnesses as they facilitate higher quality and relevant information. Findings from the current research also recommend a number of considerations when interviewing traumatised victims of sexual violation.

Participants indicated some difficulties in carrying out the investigative interview when complainant/victim's emotional needs were problematic. In this small-scale research it would appear that the male participants were more likely to focus on the interview task, but the female participants emphasised the care of the victim even when this might impact on the outcome of the case. In all cases police participants found it difficult to manage both aspects. Poyser and Milne (2015) also reported these difficulties for police in providing the full range of memory enhancing techniques suggested in the enhanced cognitive interview. As discussed in chapter five, a specialist trauma intermediary or police with specific trauma informed knowledge could advise on which specific memory enhancing techniques might be helpful for individual victims/witnesses if they have developed an adverse trauma response. These may need to be far more flexible and individually considered to ensure witness safety and to best preserve the witness memory. For witnesses of an event, although rare in sexual offence reporting, the normal procedures can be followed.

The more experienced participants appeared to have a better understanding on the structure and interview approach. Only one police participant referred to memory enhancing techniques as part of the interview process. As discussed in the literature, chapter two, the enhanced cognitive interview provides a number of memory aids to increase recall and these have been developed from numerous research studies (Milne and Bull, 1999). In this study the participant 8 referred to '*contextual reinstatement*' and '*accessing different sensory modalities*' during the interview. Adopting a different perspective, recalling in reverse order and

activating and probing the victim's mental image were not included (Fisher and Geiselman, 1992; Milne and Bull, 1999). Other memory joggers were not referred to but most of the interviewees appeared to adopt an open and empathic approach.

Poyser and Milne (2015) also highlight on-going difficulties in obtaining evidence and for police generally to have some difficulties in applying the structured cognitive interview utilising the full range of memory enhancing techniques. This may be partly attributed to the fact that they do not fully understand when to apply specific strategies and attempt to apply a '*one size fits all*' approach (Poyser and Milne, 2015). There is also currently a lack of flexibility in the timings of interview that may be detrimental in the retrieval of a traumatic memory (Lanius et al. 2014).

- ***What are the impacts within a wider social and legal context?***

Victims of sexual traumatisation who have developed PTSD may find it more difficult to be part of the CJS as their symptoms and experience can be overwhelming and result in their withdrawal from reminders of the event. This can lead to low levels of reporting and the disclosure of crimes (Johnson et al. 2015). When a crime is reported, there are further difficulties that prevent a case going to trial or result in a 'not guilty' verdict. This has implications for the safety of the public as no other measures are in place and a perpetrator is able to commit a further crime.

Police participants reported discomfort when cases were dismissed from criminal trial or when a conviction was not gained. They found it difficult in considering the accused being let off and the resulting impact on the victim. They found that 'letting go' and 'moving onto the next case' was a way of maintaining an optimistic perspective. The police participants recognised the role of work related cumulative stress as discussed in chapter 5 (Pearlman and McKay, 2008). As suggested in the literature, police participants reported that they depend on colleagues for peer support during these times. Notably, police participants didn't consider the impact of their withdrawal from the case for the witness when a 'not

guilty' verdict was obtained. Understandably, witnesses may feel 'let down' by the CJS when further contact is not provided.

## **6.1 Implications for practice**

In chapter four, the configurative review and synthesis identified a number of factors relating to memory that can better inform the interview process for traumatised individuals. In relation to some of the factors that contribute to victims being disbelieved regarding their testimony particularly when memory is vague or inconsistent, the findings provided an improved understanding and consideration of how the interview process could be adapted to take into account different memory processes and the general deficits that apply to all remembered events. As chapter four illustrates as part of the conceptualisation, different types of sexual offences may affect memory differently and the individual may present with varying psychological difficulties. A more flexible approach to interviewing would be required depending on the impacts of the trauma (Bergmann, 2012). Daly and Bouhours (2010) also highlight the need for sensitive questioning regarding the issue of consent as many complainants know their alleged offender and may have concerns about being believed.

Much of the research suggests that memories that are accessed via the field perspective, the subjective experience will be more vivid and include more rich detail than memories recalled objectively, from a third person perspective (Cohen and Conway, 2008). If the witness is showing little emotional reaction when accessing the memory, it is important to find the right memory cue to carefully activate the memory system directly related to the traumatic event (Tulving, 1972; Fisher and Geiselman, 1992). As discussed earlier, the literature suggests that highly traumatic or distressing memories are unable to be processed in the normal way and become fragmented from the integrated memory, lacking temporal and contextual binding. Llinas, (2001) suggest that if the thalamic nuclei are deactivated because of increased levels of arousal, this can affect the synchronisation and integration of the sensory elements of the experience. As discussed in chapter four, as the thalamus provides a relay station within the brain

where information from external and internal input is directed to the relevant areas of the cerebral cortex and from the brainstem and limbic structures, high levels of arousal reduces thalamic activation and can lead to a disruption in thalamic sensory processing (Llinas, 2001). This is particularly evident in the transmission of sensory information to the amygdala, cingulate gyrus, frontal cortex and hippocampus and is hypothesised to cause flashbacks in PTSD (Portas et al. 1998). This thalamic dysfunction is also thought to be the cause of other dissociative symptoms (Bergmann, 2012). Bergmann (2012) also suggests that the altered brain connectivity creates the fragmented nature of the trauma memory particularly those memories that are not consciously accessible. It can also contribute to the deficiency in assimilating the experience leaving the memory in static form lacking temporal and contextual integration and consolidation into personal autobiographic episodic memory (Van der Kolk, 2014). Victims experiencing 'flashbacks' indicative of an acute stress disorder or PTSD have shown increased activation of the brain's right hemisphere rather than left hemisphere activation patterns that are the response of the recollection of personal autobiographical memories that have been integrated and stored accordingly. In extreme cases this can result in a complete fragmentation of personality, identity and loss of self (Bergmann, 2012). Findings discussed in chapter four regard this as a transient process and in the right conditions the memory can be processed into a clear and detailed account (Lanius et al, 2014). Arguably, accessing the memory when it remains in sensory or psychosomatic formats requires specialist knowledge and applicable skills in the processing of memories so that an integrated experience can be articulated (Bergmann, 2012; Lanius et al. 2014).

Given the complexities in these memory processes following traumatic sexual violation, it is important in considering the timing of interviews for traumatised witnesses, as memory may only be coherent once integration has occurred. It is also noted that some preparatory memory work is required prior to interview stage. In relation to traumatic memories, findings from Peace and Porter, (2004) suggest, recollections can be gained through various means and normally retain their reliability over time particularly if there was mental imagery related to the event. In

a longitudinal study, they found that imagery related to a traumatic memory persisted over time without a weakening of their content (Peace and Porter, 2004). The literature supports memory-enhancing techniques as in the cognitive interview such as eliciting a free narrative of the individual's experience, developing a written narrative or with guided imagery (Peace and Porter, 2004). However, special care and attention should be made when assessing a victim's readiness for interview.

Although the cognitive interview provides a method by which errors in memory recall are limited, some traumatised victims may fail to construct a coherent narrative when there are layers of trauma, particularly from earlier years (Lanius et al. 2014). Interviewers also need to be attentive to any material that is recovered during the police interview. The British Psychological Society (BPS, 1995; 2016) report provides some clear guidance for therapists working in areas of trauma and the recovery of memories. These guidelines would also benefit those working with traumatised adults when conducting interviews. Guidelines for the emergence of traumatic memories, emphasise that no suggestion is made and to allow a natural process of recovery, not to draw inferences from other symptoms which may be unconnected to previous abuse, not to impose their own conclusions, to take into account that the recovered memory could be literally true, may be a mental representation of the truth or may have been confused by dreams/fantasies. Interviewers should remain open to the ambiguity of the recovered material. Interviewers should make use of more cognitive strategies and avoid interpretation or suggestion (Bellis et al. 2010; BPS, 2016).

As discussed in the literature, video recording of sessions would be considered a necessary adjunct to the completion of an interview following a high level of trauma. Westera et al. (2013) found that two thirds of the narrative is lost using live evidence. Note-taking would be particularly difficult if the memory recall of the individual was fragmented or not in any logical order (Westera et al. 2013). The interviewer may return to more case hypothesis style questioning using closed or leading questions in order to try and make sense of what the interviewee are saying (Shepherd and Milne, 1999). Police can find themselves closing down the interview before all information has been gained or by inadvertently biasing the

answers of questions when they fit with any predetermined case theories (Shepherd and Milne, 1999). The time delay from interview to trial can also be disadvantageous for witnesses and the stress of the court environment could result in discrepancies causing doubt for juries (Deffenbacher et al. 2004). As Heaton-Armstrong and Wolchover (1993) suggest, any irregularities between written statements and later oral testimony during cross examination will be responded to by the Defence in an attempt to discredit the witness. In video recorded evidence in chief, memory can be treated in the same way as other crime scenes by preserving the testimony in a safe way. Westera et al. (2013) suggests that this optimises the 'achieving best evidence' goal of the CJS. It also reduces the stress for victims when not having to testify at court.

## **6.2 Increasing flexibility for sexual violation cases**

As discussed in previous chapters, the emphasis of the cognitive interview is to allow the witness to provide an account of the experience using his or her own words by using an open questioning style without leading the recollection in any way (Milne and Bull, 1999). Initially a number of problems in applying these methods and approach were identified and the need to achieve best evidence was not always actualised (Kebbell et al. 1999). Some of these issues have been highlighted in previous research and evaluation of police interviewing standards (Fisher et al. 1987; ACPO, 2010).

In some cases, recovery may be adaptive and good recall of the event can be obtained. The PEACE model discussed in chapter 2 emphasises the physical environment for interviewing such as the need for a comfortable and safe space, away from distractions to put the witness at ease. For a traumatised witness, other grounding techniques may be required to ensure the physiological arousal is within the 'window of tolerance' (Ogden et al. 2006) or at the right frequency for temporal and contextual binding to take place so that a cohesive narrative can be given for the event (Bergmann, 2012). This is unlikely to happen within one interview and would probably benefit from being completed over a number of interviews or with prior engagement before the formal interview. At present this

might be at odds with the CJS because of fears of the contamination of memory (Savage and Milne, 2007).

In addition, it may be necessary for interviewers to have some idea as to the trauma related 'emotional hot-spots' to ensure particular care and attention when retrieving these highly significant elements of the memory (Ehlers and Clark, 2000). It would be important to keep the level of engagement within the 'window of tolerance' (Ogden et al. 2006) to enable a synchronisation or thalamocortical-binding as highlighted in chapter 4, to take place enabling a coherent narrative to occur naturally (Ehlers and Clark, 2000; Bergmann, 2012).

### **6.2.1 Applying a flexible approach for traumatised witnesses**

For police to be able to recognise how best to address the witness's needs to gain evidence in the most thorough and efficient way. Using some flexibility when there are difficult relational issues involved, particularly with regard to childhood familial abuse. Understanding of some of the issues related to abuse such as emotional regulation skills, substance misuse and difficulty communicating their needs should not automatically discount engagement with the CJS. For cases of rape or sexual assault police need to understand the adverse trauma effects that might impact on the investigation and interviewing of victims so that they can adapt their protocols accordingly. Highly traumatised individuals require more time for memory to be processed and to elaborate on their trauma narrative. A specialist intermediary could help support this assessment and appropriate procedures. The Advocates Toolkit is developing a protocol for guidance on working with traumatised individuals. Individuals would need to understand the type of offence that has occurred as being raped by a stranger is often experienced differently from a rape by an acquaintance. The developmental age of the individual when the abuse occurred could have consequences for the way that memory is accessed and what memory cues may be useful. Developing a comprehensive conceptual plan, although time consuming would be beneficial in the planning of investigation and interviewing procedures that would facilitate optimum memory recall and appropriate evidence gathering.

In investigating cases of childhood abuse, corroborating evidence can be sought to ensure the validity of the memory. The first police participant highlighted this fact and suggested that when he was investigating adult experiences of childhood abuse, it was essential to get other evidence from school reports, medical records and other family members. This can also increase the witness's confidence in the memory and allow for consolidation. It is likely that an individual will recall events by levels of importance and this may not be chronological (Ehlers and Clark, 2000). This would be difficult to present at trial and although there is a need for open recall, some structure as provided by the timeline enables the individual to hold a narrative that makes sense to them and is less likely to become confused by cross examination.

By undertaking this preliminary work, the witness interviewer (whether police or intermediary) is also able to gauge any risk to the individual or likelihood that they will become re-traumatised from re-activating the trauma memory or of any dissociative responses the individual may have. If the witness is highly traumatised or distressed by developing the timeline and talking about events in this objective way, they are not ready to proceed with an in-depth subjective interview of their experience using some of the memory enhancing techniques. If witnesses still exhibit a high level of distress, it may be useful to develop a factual written narrative rather than accessing the memory by open recall. This could be read over a number of times and the witness could add any additional information as it arises naturally from their memory of the events. Specific nightmares or trauma related intrusions indicate the most significant element of the trauma although these are more likely to be representations of the event rather than an exact replicate (Brewin et al, 2010; Bergmann, 2012; Lanius et al. 2014).

Using these preliminary resources may also be beneficial if an individual is displaying a dissociative response or appears emotionally numb at the time of reporting. Again a good assessment of the individual's psychological presentation is essential at this time to reduce risk and to inform memory interventions. When a victim has lost consciousness and there are no other external witnesses to concur the crime scenario, victims may be particularly vulnerable to post event information or confabulation (Loftus and Pickrell, 1995). Gaps in the memory

appear to prevent adequate processing of the trauma event (Bergmann, 2012). The emphasis here might be the need for additional skills and resources in gaining a true and accurate account and eliminating the risk of contamination (Westera et al. 2016). As discussed earlier, corroborating evidence and research informed interview methods reduce the risk of this process. With specific techniques, these memories can become synthesised into a coherent narrative (Ehlers and Clark, 2000). If the individual becomes distressed during the interview process, distancing techniques and grounding techniques can be utilised in order to maintain the optimal window for memory recall (Paulsen and Lanius, 2014).

### **6.3 Adaptations in applying the cognitive interview for traumatised witnesses**

In consideration of the different effects on memory from the literature synthesised in the configurative review and gaining an improved understanding of the difficulties faced within the CJS and for police undertaking interviews a number of adjustments are proposed. At this point police interviewers would need to be aware of these difficulties and may need to provide a more phased approach to the interview. It may also be beneficial for the victim to be reassured about some of the symptoms they are experiencing and to normalise their response (Ehlers and Clark, 2000).

#### **6.3.1 The ‘report everything’ instruction (Milne, 2004)**

Although the ‘report everything’ principle of the cognitive interview limits the chance of interviewers leading or making suggestions that can impact on the reliability of the complainant’s report, when there is multiple abuse or numerous accounts of the trauma, these need to be placed within a contextual framework or time related framework to enable some containment of the report and to keep it manageable. Interviewers can use principles from other therapeutic work such as ‘reflecting’ and ‘paraphrasing’ elements of the report that enable some way of keeping the interview focused and but without leading or suggestive implications. Using open questions would still be the method used for initiating an account (Milne and Bull, 1999; Milne, 2009).

The 'report everything' instruction has been found to be a useful strategy with witnesses and victims of crime and ensure the interview remains close to the witnesses account. It may be less beneficial for those who have been traumatised by sexual violation where there may be gaps in the memory or when the memory is fragmented and disordered. Although it may be useful at investigative stage, it is likely that the memory remains in raw sensory form and the person may not have acquired a verbal narrative of the event. If there are a number of gaps in the memory, developing a timeline can be particularly useful (Hope et al. 2013). This might be particularly relevant for prolonged trauma where memories have become gist like and lack temporal order and contextual richness (Conway and Holmes, 2004). Drawing out a timeline can help to put events in order (Hope et al. 2013; Ehlers and Clark in press). Hope et al. (2013) found account utilising the timeline technique particularly for events involving multiple perpetrators facilitated more accurate recall, improved sequencing of events and recalling specific actions of the perpetrators than those not using the timeline as a way of organising memory.

### **6.3.2 The '*mental context reinstatement*' instruction (Milne and Bull, 1999)**

This component of the CI/ECI is often considered to be the most significant factor in the enhancement of memory (Davis et al., 2004). As indicated above, this may need to be put in place prior to the report everything when there are large gaps in the memory (Ehlers and Clark, 2000). However, once the initial memory work is completed such as the timeline of events, the instruction could be revisited to include linking to their personal features and emotional response at any given time. Specialist investigators would again need to keep attuned to any risk that might be associated with activating the memory in this way such as dissociation or re-traumatisation (Steele et al. 2017). In some cases when the abuse occurred within the family home and continued over a period of time, many of the memories emerging may not be contextualised and remain in sensory or somatic form (Bergmann, 2014).

If the trauma is a single event and there are major gaps in the memory, context

reinstatement by means of a site visit (if allowed) or via Google Earth (Ehlers and Clark, in press) would be useful in drawing out and activating the trauma account. Going slowly down the route where the event occurred can help stimulate the memory and place it in context (Cohen and Conway, 2008). However, these techniques would not be acceptable within the CJS because of the risk of contamination (Fisher and Geiselman, 1992; Milne and Bull, 1999). There is also limited empirical evidence for the use of Google Earth at this time. Although these evidence-based techniques facilitate recall of both the psychological and physical environment of the event and is accessible to the witness, it involves an element of complex facilitation by police. Investigators are required to provide appropriate retrieval cues as this could lead to inaccurate information should inappropriate retrieval cues be given. As an alternative the use of a sketch plan as described by Dando et al. (2009b) may be more appropriate at this stage.

Dando et al. (2009b) recommend the use of a sketch plan in order to elicit memory recall. These sketch plans may be useful in providing a contextual framework enabling individuals draw out a more detailed narrative that is context specific. This links to the encoding specificity principle by Tulving and Thomson (1973) and may be an additional tool that can be utilised in the preliminary stages of investigation.

Dando et al. (2009) found that police were not regularly applying the recommended *mental reinstatement of context* (MRC) technique that is a fundamental part of the recommended cognitive interview. Dando et al. (2009) reported that police often found the need for flexibility at the time of interviewing difficult and the requirement of extra time for witnesses to retrieve information led to poor appliance of this method. In undertaking necessary preliminary work, police may find it easier to apply relevant methods and techniques informed by this initial work. Alternatively, a trauma intermediary may be able to assist in supporting police at this stage.

### **6.3.3 The ‘*reverse order recall*’ instruction**

It is recognised that this strategy is useful for witnesses, particularly eye witnesses to an event and helps prevent wrongful identification because of memory errors previously identified (Fisher and Geiselman, 1992). Although the reverse order technique is to elaborate the memory by moving from semantic memory to episodic, memory for a traumatic event is less likely to be stored in semantic formats as it is often still in sensory and perceptual networks. Moving to long-term permanent memory structures would require some preliminary work before recalling the event in reverse order (Holmes and Mathews, 2005). In considering the fallibility in memory, deficits in memory processing for individuals with PTSD this instruction may only cause confusion and undo some of the earlier work in mapping out the timeline of events. Until memory has been processed into contextualised memory format, the ‘*reverse order recall*’ may further disorientate recollection (Bergmann, 2012).

### **6.3.4 The ‘*change perspective*’ instruction**

As Fisher and Geiselman, 1992 reported, individuals are more likely to report their experience from their own perspectives. For witness testimony, this change of perspective may be useful to re-call information that is inconsistent with their previous beliefs and attitudes that can lead to a bias in reporting. By changing their perspective, they are able to access parts of the memory not initially accessible (Fisher and Geiselman, 1992). For a traumatised individual, this strategy may provide an element of distancing that may be useful when affect or distress is high. In distancing and changing perspective, a more objective view can be made. This may also be useful in reducing issues of self-blame and responsibility for the event that victims of traumatic sexual violation often do (Steele et al. 2017).

### **6.3.5 ‘*Imaginal reliving*’ technique (Ehlers and Clark, 2000)**

In addition to the above techniques memory retrieval is amplified when individuals close their eyes and go through the event in first person, present tense and being asked about their sensory experiences as they go through the event (Holmes and

Mathews, 2005; Holmes et al., 2006, 2007a, 2008d; Ehlers and Clark, 2000). Much of the research leads to this approach or developing a field perspective in retrieving clear visual and detailed memories (Nigro and Neisser, 1983). This would require specialist training and understanding as it would again be important to keep the witness/victim within the window of tolerance or optimal levels for processing memory (Ogden et al. 2006). There are a number of empirically grounded clinical interventions that are supported by experimental research, systematic clinical observations and controlled trials. The efficacy of imaginal reliving is supported by the research (Holmes and Mathews, 2005; Holmes et al. 2006; 2008d; Holmes et al. 2007).

Imaginal reliving (imaginal exposure to disturbing memories with eyes closed and talking in present tense, first person 'as if you are experiencing the event in current time') can help access memories and new understanding that was previously inaccessible when using verbal recollections only (Foa et al. 1991; Hackmann et al. 2011). It can help individuals make sense of their experience and lessen their emotional reaction to it. It would be essential that interviewers would not proceed with this technique if affect is overwhelming, where there is severe childhood trauma or severe mental illness (Hackmann et al. 2011). Given the effectiveness of this technique appropriate training would be crucial. Hackmann et al. (2011) emphasise the need for a trusting relationship to be in place and there is time for discussing and reflecting on the experience. Grounding techniques would be needed and ongoing support. It is recognised that this may not be available if there are limited resources. The interviewer would be able to prompt the witness with open questions such as 'what is happening now?' as in the open recall techniques already utilised by police investigators. It would be critical at this point of reliving that investigators/interviewers do not impose any leading questions or suggestions as the memory is at its most fallible at this point (Bergmann, 2014; Lanius et al. 2014). However if completed with skill and appropriately, this process can enable consolidation of the previously raw sensory memory to a reconstructed verbal memory that is contextualised within time and place. This process was described in the configurative review regarding neural maps that are recorded and stored implicitly in an often unconscious, dormant and encrypted format that once activated is able to become conscious, explicit episodic

memories that can be converted to more semantic formats where verbal descriptions of the memory can occur (Damasio, 2010; Bergmann, 2012).

Previous studies have found mixed results with eyes closed on the level and quantity of recall during police interview procedures (Perfect et al. 2011; Vredeveltdt and Penrod. 2012). These differences may be due to the experimental designs or with different participants. It may be considered beneficial when accessing dissociative elements of the memory but may be limited if the individual lacks capacity to visualise events in this way (Perfect et al. 2011). Further research may be required to ascertain which witness groups are more likely to benefit.

Care and attention is most important prior to utilising any of the strategies discussed. Appropriately trained professionals with specific training would need to ensure no harm results by retraumatising the witness. Smith and Milne (2017) have developed a witness care strategy that consider the safety and risk of witnesses and to ensure therapeutic support is available in these cases. They emphasise that the impact of trauma should be considered throughout the whole of the investigation and interview process (Witness Interview Strategy for Critical Incidents, 2017).

In conclusion the discussion of findings from chapter 4 and chapter 5 have emphasised the need for flexibility in approaches to investigation and interviewing traumatised witnesses. Consideration of a specialist role for either an intermediary and/or specialist trauma informed SOIT interviewer so that problems related to the trauma and difficulties in retrieving the trauma memory can be appropriately assessed and considered so that most effective techniques can be applied when investigating the crime and undertaking video recorded evidence fit for trial. A number of adaptations to the existing cognitive interview and memory enhancing techniques were considered and a number of recommendations made. The next chapter concludes the research as a whole, again providing a number of recommendations and directions for future research.

## **CHAPTER 7: CONCLUSIONS AND RECOMMENDATIONS**

Firstly, the introduction focused on the difficulties in accurately capturing the prevalence of rape and sexual assault and recognised that figures vary greatly. This is due to differential criterion for studies and different methodologies undertaken in data collection and recording systems. Global differences in legal definitions and laws add to the disparities in assessing occurrence of rape and sexual assault. Societal attitudes were also seen to influence decisions to report to police and for victims' decisions to engage in the CJS (Temkin and Krahe, 2008). Rape myths, stereotyping and negative police attitudes towards complainants were seen to add to the reluctance to disclose these crimes. In the past the non-recording of crimes by police was identified as an area to be addressed (Kelly et al. 2005; Temkin and Krahe, 2008; Westera et al. 2013b; Her Majesty's Inspectorate of Constabulary and Fire Rescue Services (HMICFRS, 2014). The WHO (2016) highlight the need for continuing to increase global understanding and attitudes in relation to sexual violence and this should lead to improved policies and legislation allowing lasting change in the future.

In this current research, participants had a good understanding of the impact of sexual violation for victims but recognised that not all professionals within the CJS had the same attitudes and suggested that some had limited knowledge in this area. The literature review provided in chapter two discussed the issue of 'cop culture' where the rhetoric is often detrimental towards victims. In contrast, it was argued that partly this is a way to manage the distressing aspects of the police role and humour is seen as a way of diffusing negative responses to their experiences. In this research, police participants also emphasised the need for team support when dealing with difficult cases.

The research emphasised the damaging impact of sexual violation on an individual's psychological functioning, interpersonal relationships and on health, illustrating how early childhood distress and adverse childhood events can lead to negative health behaviours and outcomes (Bellis et al. 2017). This current research paid particular attention to issues relating to victims who may have

developed PTSD and recognised this as a major barrier to commencing criminal proceedings.

Findings from chapter four, the configurative review highlighted the parasympathetic dissociative stress response at the time of the event as fundamental in the development of PTSD. This would also appear to have the greatest impact on memory (Brewin et al. 2010). The research provided a number of different physiological responses to sexual violation and established a clearer understanding of the possible psychological trajectories resulting from the traumatic stress response at the time of the offence and aimed to provide guidance on how police may need to be more flexible in the way that they collect evidence, undertake interviews and prepare an individual for trial. An emphasis was made on a flexibility of approaches and adopting preliminary measures prior to interview and gaining victim's narratives enabling a coherent memory structure to emerge.

Consideration was given to the difficulty in diagnosing more chronic presentations of Post Traumatic Stress Disorder (PTSD) as the disorder has been classified differently over time and across different populations. The literature highlights some of the continuing debates regarding diagnosis particularly in the area of childhood interpersonal and sexual abuse where more complexities are apparent. The current DSM-V is criticised for removing 'complex trauma' from its PTSD classification. It is expected to be part of ICD-11 that will continue to conceptualise the difficulties as 'complex trauma' regardless of definition and classification of DSM-V.

Increased access to research, learning and education provides a better understanding and recognition of different aspects of sexual violation from issues of trafficking and sexual exploitation, interpersonal sexual violence, female genital mutilation and rape within the conflict situations or war (Johnson et al. 2015). The seriousness of these crimes and the associated cultural and contextual intricacies is more readily addressed (Johnson et al. 2015). There have been global developments in addressing these previously hidden crimes particularly in relation

to violence against women (VAWG)<sup>29</sup> where a major part of this includes sexual abuse and rape and have developed assurance systems and measures to identify and improve performances in the timeliness of pre-charge decisions (Chantler and Gangoli, 2011).

Despite ongoing changes, chapter five encapsulated some of the difficulties that the participants in this current research found to be problematic. This was most significant when police participants were unable to make sense of the victim's narratives when recalling events and where there was ambiguity. Even when police participants were acceptant of the individual's presentation, they considered this would not be a case that would result in conviction, as the jury would have difficulties in understanding the memory errors or inconsistencies.

Past research studies identified the fallibility of memories and errors in recall in relation to witness testimony and this has implications within the CJS (Loftus, 1977; Loftus and Pickrell, 1995). Witnesses to crimes are more likely to give wrong information when they are under pressure to give an answer to a closed question. Ceci and Bruck (1993) also identified individual differences that can make a person more prone to suggestion. Very young or very old witnesses can be more prone to suggestibility and if an individual is more prone to dissociation. Research in these areas also highlighted the role of confabulation and recognised when there are gaps in the memory, how easily recollection can become contaminated by suggestive interview techniques or by applying leading questions (Loftus and Pickrell, 1995; Gabbert et al. 2006). In some cases, Gabbert et al. (2006) report that the original source memory may be lost or 'overwritten' by post event information.

In addressing errors in memory recall and minimising bias, Savage and Milne (2007) argued that memory should be treated by the same rigour as more physical and forensic evidence. Numerous studies have attempted to uncover whether false memories can be implanted (Loftus and Pickrell, 1995; Loftus and Mazzoni, 1998). The general consensus is in support of this notion particularly when a

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<sup>29</sup> Violence Against Women and Girls. An equality and human rights issue. Resource Guide [www.vawgresourceguide.org](http://www.vawgresourceguide.org).

person has actively imagined the event or where elements of suggestions have been inappropriately made. Loftus and Pickrell, (1995) and other research in the area of false memories conclude that it is most likely to be integrated in the more generalised autobiographical memory system when it is feasible and makes sense to the individual. This does not account for the false memories of childhood sexual abuse that was uncovered during sessions of psychotherapy and hypnosis (Lindsay and Read, 1999). Debatably, most laboratory studies are not always representative of real life situations (Brewin et al. 2010). As with other memory studies many of the findings refer to autobiographical memories, both episodic and semantic and have limited relevance to a traumatic memory relating to a personal event where the individual has experienced a perceived threat to life and extreme fear and the memory has not been processed to these more permanent networks (Lanius et al. 2014).

Memories of memorable events depend on the event characteristics and what this meant to the individual at the time of encoding. Williams et al. (2008) suggest that events that were significant, novel, of interest to the person and were experienced with an emotional response are better encoded in episodic memory. If this experience has been recalled on numerous occasions, this will further aid retention of the memory in personal autobiographic memory and will be well established. It may be vulnerable to reconstructions over time (Cohen and Faulkner, 1988; Williams et al., 2008). These '*reconstructive*' aspects of memory are relevant in the discussions within a legal setting as there is an indication here that memories may not be exact reproductions of the experience that occurred but representations of that experience that can vary between individuals, over time and in different contexts. The stability, reliability and fallibility of memory is particularly important in relation to the criminal justice process and this research as there is still contention about these issues and this is fundamental in the area of the law. The research seems to suggest that both processes are correct and that some memories may remain static but our experience of it may change over time and that memories are flexible and dynamic and change with new learning (Bergmann, 2012). In line with Brewer (1986), a more moderate perspective is aligned with a partial reconstructive view in relation to episodic and semantic personal autobiographic memories but that in view of traumatic memories a more

unique neurological system operates at the time of the event and this can cause a disruption to the normal processes. Regardless of the intensity of the traumatic memory that has become fragmented from other parts of the memory, it is still vulnerable to suggestion or updating information (Conway and Pleydell-Pearce, 2000). False or recovered memories of abuse may be attributed to poor reality monitoring judgements and confused with imagined events in some cases and this has been particularly problematic when suggestive or leading inferences have been made (Heaps and Nash, 2001).

The review discusses the optimal recall for memory is when the stress reaction is moderate. When there is overwhelming stress at the time of the traumatic event, memory may be encoded in fragmented form and some parts of the memory may be disjointed from the conscious recall of the victim (Bergmann, 2012). Arguably, with the right support and memory techniques, the experience can be re-activated, reprocessed and integrated into more permanent neural networks that are accessible by conscious recall and include a full trauma narrative that is context and temporally bound. This is in line with Peace and Porter (2004) who concur that the level of stress at the time of the crime impacts on the encoding of the event and the emotional response or levels of distress at the time of interview requires the appropriate interviewing procedures.

As there is a need to establish a narrative that is without contamination of biased or suggestive questioning, it is essential that appropriate investigative techniques and interview strategies is followed. Shepherd and Milne (1999) stress the essential requirement of complete and detailed witness interview accounts to really ensure the quality and fidelity of information gained. They reaffirm the importance of accurate details from the police interview, as decisions within the CJS will be dependent on this. The main concern for police participants in this current research centres on the role of ambiguity in victim's accounts particularly when they have been highly traumatised. Although the participants in this study had a good understanding gained through additional training on sexual violation and were empathic and open to victim presentations, they again considered this to be a barrier to gaining a conviction.

Criticisms of empirical research related to witness testimony and the fallibility of memory may include its lack of validity in real life situations. It is also noted that much of the research was conducted in ways that were unable to replicate memory when an individual has been highly traumatised (Brewin et al. 2010). What these experiments have shown is some interesting findings related to witness observations and generalised memory systems. Other studies have focused on autobiographical memories and have noted the reconstructive nature of memory generally. Police require a good understanding of these effects on memory particularly when they are involved with investigation and interviewing of vulnerable or intimidated witnesses. Arguably, as discussed in chapter four of this current research, the lack of integration and consolidation of the trauma memory might mean that it is not privy to the same mechanisms as those found in more permanent structures and may need additional understanding (Bergmann, 2012; Lanius et al. 2015).

As a way of addressing these problems, suspect and victim interviews have become professionalised and this current research has concentrated on the PEACE approach to interviewing with a particular focus on the cognitive interview utilising memory enhancing techniques that have been informed by research (Fisher and Geiselman, 1992). As O'Neil and Milne (2014) propose, communication is crucial in the success of an investigation and recognise that the occurrence of miscarriages of justice can be minimised by gaining quality and detailed accounts using these systematic and empirically proven interview procedures. The 'Achieving Best Evidence in Criminal Proceedings' Guidance (Home Office, 2002; Ministry of Justice, 2011) proposes that police investigators and interviewers should take into account individual differences to meet their needs. As illustrated in the integrated conceptualisation discussed in chapter four and presented in appendix two, the proposed approaches when working with highly traumatised individuals requires even greater flexibility as we take into account the development of PTSD, dissociative disorders and other adverse responses to trauma. ACPO (2010) provides advice and guidance on the structure of victim/witness interviews when video recorded statements are required. This current research has highlighted some additional areas of development when working with traumatised victims.

## **7.1 Recommendations**

Despite the many changes, the review highlights the disparities between the psychological needs of traumatised victims and the necessary requirement for the witness to provide coherent evidence that will stand up within the present adversarial system of Criminal Justice. This research aimed to increase understanding and identification of vulnerable witnesses who have developed adverse trauma related psychopathology such as PTSD and who may be disabled from engaging in the CJS and considered a number of modifications to address these problems. The next section provides a number of recommendations for consideration by the different professionals working towards a multidisciplinary framework that supports the victims and takes into account the possible impact of PTSD on their capacity to give clear evidence.

### **7.1.1 Increasing flexibility in the CJS**

Blad (2006) points to the need for the UK and Europe to promote a flexibility of systems in line with the changing societal needs, differential crimes and ever increasing sophistication in both crime and investigation. Blad (2006) suggests utilising ideas from different sources and constantly reviewing different systems, programmes and local laws. From this perspective the development of the CJS is fluid and adaptable to any transitional changes in needs. This would be particularly important for sexual violation, as it is a complex area of investigation.

For cases where the individual has been highly traumatised or for complex cases, a recommendation would be to give opportunity for cases to be heard in a closed court format without the public and media influences. In complex cases, the use of trained professionals, medical and legal, consider the evidence on the basis of knowledge and understanding and the law. Away from the public gaze and from misunderstandings of the jury, more restorative measures could be considered. This would be advantageous to the case being dropped because of the difficulties for the witness to present their evidence in an orderly way. This also reduces the tactics utilised in public courts to create jury doubt because of aggressive or

confusing cross-examination of the witness ultimately leaving the jury to base their decisions on stereotyping and assessing witness characteristics.

In identifying cases where the engagement in the adversarial system is deemed to be detrimental for the victim, other systems should also remain in place. For example, completion of the impact statement, a chance for the victim to have their say, access to Criminal Injuries Compensation, on-going support, retention of any evidence that could contribute to other cases (as in the case of anonymous reporting) so that the individual has played a part in the Justice System and are given recognition that their evidence may prevent others from being in a similar situation or that it may help support another case should there be a further misdemeanour.

As discussed in the literature the sentences for rape and sexual assault are often not in line with the complexities of the defendant. If cases of rape and sexual assault carry a large sentence that might not be in line with the type of abuse/crime, offenders may be less likely to make a plea of guilty. This might suggest a breaking down of the crime committed and the related sentence. In line with other restorative justice suggestions, this may require reduced sentencing or sanctions available for first time young offenders and 'minor' sexual offending. Identification of the underlying causes and addressing these may be more beneficial in preventing the crime being repeated. Integration programmes could facilitate a change in behaviour following completion of a sentence again minimising the chances of reoffending.

The adversarial system has been criticised for lacking flexibility in providing alternatives to the court system and a lack of restorative measures that are fit for purpose in relation to sexual offending (Ellison, 2001; Blad, 2006). Westera et al. (2013) provide a number of incentives of more reparative approaches and highlight the necessity for thorough detailed investigative interviews to inform sentencing. High sentencing can lead to a low level of guilty pleas prior to the court hearing and prevent more reparative systems of justice to be employed. Restorative measures can take into account the needs of both complainant and perpetrator (Westera et al. 2016). Applying some restorative measures and

adjudication to the system was seen to encourage guilty pleas being made and alleviating the need for the vulnerable witness to go through the court ordeal. Ward and Brown (2004) also suggest appropriate sentencing can provide a more targeted preventative approach and provide treatment interventions for a number of social problems or mental health issues that might be risk factors in recidivist offending.

- **Increasing flexibility in conducting interviews**

Following the introduction of the professionalised interview framework as discussed in earlier chapters, the cognitive interview (and enhanced cognitive interview) is based on well-founded empirical methods of conducting interviews and minimising the effects discussed above. Following completion of this current research, the configurative review and findings from police interviews, it is evident that an adapted approach to this interview approach may be required for traumatised witnesses of sexual violation. This is likely to be in addition to measures already applicable for vulnerable and intimidated witnesses.

Existing literature highlights the number of errors on recall and recognition tasks is increased the longer the delay in retrieval but in relation to traumatic memories, more time is required to allow the integration of the memory and while it remains cut off from normal autobiographical memory, it remains in static form (Kulik, 1977; Brewin et al. 2010). This makes the timing of interviews paramount in the planning and preparation stages. The vulnerability of memory emphasises the need for specialist interventions and flexible approaches by police and/or other professionals in managing the traumatic sequelae and the consolidation of memory. Supporting evidence or knowledge will help facilitate an improved construction of memory. Technological advances can support investigation by gaining timings and mapping movements of the individual. In childhood events or multiple traumas the use of previous or corroborating information is essential. Developing timelines can help provide an order or sequence to events. For single events, 'sketching' the scene may be a useful way of contextualising their memory. Increased communication and collaborative working in these areas can

help build a case that achieves best evidence for criminal trial. These considerations have led to a number of recommendations. Some specific adaptations have been made to the current interview strategies for these individuals. It is hoped that this research will go some way to inform policy and practice when interviewing vulnerable and/or intimidated adult witnesses that have encountered traumatic sexual violation and experienced adverse trauma related psychopathology and difficulties recounting their narrative for the purpose of criminal proceedings.

Again, the memory-enhancing techniques devised by Fisher and Geiselman (1992) can improve access to the memory. This may be particularly relevant for visual memories (Holmes and Mathews, 2010). To reinforce suggestions made by Clarke and Milne (2001), a number of specialist interviewers who are specific to the role of sexual violence interviewing would enable '*exemplars of good practice*' in this specialised area of work. This training would be in addition to the SOIT/SOLO training at levels 3 as it would be less generic and would involve more in-depth understanding of the adverse consequences of trauma particularly in relation to sexual assault and rape. The specialist investigator would require an ability to assess the psychological impact of the victim/witness and whether they have or may be vulnerable to the development of PTSD. In considering how this might impact on memory and in what way, improved training would enable the development of an individualised and flexible approach in eliciting memory that takes into account any deficits in the processing and recall of the required detailed narrative.

In keeping with the findings from chapter four, the configurative review, memory may have major gaps or may, as in the case of multiple traumas or historical abuse, consist of fragmented memory that may produce 'composite' memories or representations of memory that may require some work prior to conducting an interview. The specialist investigator would need to have a good understanding about the fallibility of memory and how this can be conducted without contaminating the memories (Ehlers and Clark, 2000). At all times, the specialist investigator would require an understanding of risk and adverse effects of activating a memory system that has remained dormant for many years, repressed

or dissociated from conscious awareness and be able to manage this both at the time and by subsequent signposting if such a response was identified (Steele et al., 2017).

This research has however discussed how victims will present with a varying level of resilience and tolerance of distress. In recounting the trauma narrative, memory functioning is optimal while inside this window of tolerance. Under-stimulation could result in a detached recollection that might be vague and disjointed without emotional engagement. Over stimulation could result in a total shutdown, a dissociative response and hyperarousal. Under these circumstances the trauma memory might not be accessed at all. It is important for interviewers to titrate the interview within the individual's capacity.

The current PEACE model for interviewing provides individuals with a preparation phase and involves engaging with and explaining the interview process to the victim/witness. This phase may require more preparation, psycho-education and a discussion of what the victim may need after the session. This might include safety and support. Some understanding about the possible reactions when undertaking some of the memory focused interviews, particularly when dissociation has been identified (Steele et al., 2017). Some resources may be useful so that the individual is able to contain the activation of other memories that may emerge during or after activation of the elicited memory (Boon et al., 2013).

- **Ongoing training and development**

Specialist training and continuing professional development and/or experience were seen to be fundamental for police working in the area of rape and sexual assault. As indicated in the research, police receive good structured training as recommended by the Association of Chief Police Officers (1992; 2010) and follow guidelines for the preparation and implementation of visually recorded witness interviews. However, findings from this research and previous literature drew out the need for ongoing supervision and mentoring in applying the cognitive interview particularly if the use of the memory enhancing techniques is to be correctly implemented. This also ensures good practice is maintained. This would entail a

more comprehensive understanding of the complexities when working with traumatised individuals and an ability to identify risk and potential difficulties for those with mental health problems. The Whole Story approach was also considered to be an important adjunct for any police investigator. Understandably, to have specialist knowledge and skills in understanding and assessing mental health problems, understanding the impact on memory and having appropriate interview skills is an unlikely requisite for one professional only. It may be more realistic to develop a team approach whereby different individuals may have specific skills in one or more areas. A whole team approach could offer the victim more tailored approaches to optimise their ability to provide a clear narrative of their experience. In addition, the development of supplementary training for trauma informed intermediaries could provide an additional support to police during the investigative stage.

Police participants in this current study recognised that they often depend on other professionals to support with the victim's emotional needs when undertaking the role of interview. It is a recommendation that there would also be further specialist training for an intermediary to specifically work with traumatised witnesses. This role would ensure a sound understanding of theory and application of trauma and its effects and could help advise on sufficient and appropriate interview strategies.

### **7.1.2 General recommendations**

- **Preventative measures**

Providing psycho-education for males and females in Primary Schools so that appropriate understandings of relationships, boundaries and risks are available systematically on a national level. The World Health Organisation addresses these issues on a global level but more focus could be made for vulnerable groups such as minority groups, refugees and asylum seekers (WHO, 2016).

- **Improvement in measurement standards and systematic sampling**

The World Health Organisation is addressing the collection of data on a global level but national databases require a systematic approach to clearly indicate where resources are required (WHO, 2016).

- **Ensuring victim empowerment and choice**

Complainants who become part of the CJS are given realistic expectations regarding the outcome of cases if they go ahead with the court process. Although this is part of the guidance at present, in practice this is not always clear.

- **Professional support for professionals**

Police are able to access support when dealing with traumatic sexual violation and have increased learning regarding vicarious traumatisation, secondary stress related disorders or other work related mental health problems. However, the police participants in this current research suggested that they relied on their peers for support. It may be beneficial to adopt more formal systems that specifically deal with some of the problems when exposed to continuous forms of trauma.

- **Clarity and systematic identification of trauma related disorders**

As there is currently a lack of agreement as to what constitutes PTSD (DSM-V AND ICD-11) a recommendation is that there is some consistency in classification systems. There are added complexities to the diagnosis of PTSD since DSM-V amended the criteria. There is more flexibility around the disorder that can have legal implications. Zoellner et al. (2013) suggest that this can make malingering and misdiagnosis more possible. Arguably, if there are discretions between professionals in fully categorising the disorder, this is going to be even more difficult for other professionals within the legal system and the jury.

For initial purposes the screening tool could be utilised in order to indicate possibility of PTSD. The Trauma Screening Questionnaire (TSQ10) can measure

symptoms of hyperarousal and intrusive re-experiencing related to the traumatic event (Brewin, 2005). Following a systematic review of the different screening tools available to measure symptoms of PTSD, the TSQ was considered as effective as longer screening tools and provided a good indicator of PTSD in patients with whom it was administered. Although the efficacy of the TSQ is high, it has limitations. It is often difficult to pick up more shame based PTSD or chronic PTSD where an individual has a more prominent comorbid diagnosis or when symptoms are masked by the use of drugs and alcohol. The TSQ10 is a patient self-report questionnaire and can have a degree of subjectivity (Brewin, 2005). However, this would aid as a good marker for individuals who have been traumatised and may be vulnerable to PTSD and requiring appropriate interventions both psychological and in respect of giving evidence.

- **Updating the Crown Prosecution Guidelines in relation to accessing therapy prior to commencing criminal trial (2001)**

As these guidelines are out-dated and are based on research that primarily focused on childhood sexual abuse the recovery of memories, further consideration should be given to acute cases that are less likely to have these difficulties. Updated guidelines could accommodate this new understanding. A lot of research has been completed that now explains the existence of recovered memories and this is a different concept than the implanting of false memories (Dell and O'Neil, 2009).

If therapists were specifically trained in providing therapy within a criminal justice context, then safeguards could be in place that would limit the possibility of any leading or interpretive accounts. Only evidence based therapy to be provided for individuals who have developed PTSD and this should not be detrimental to the court case. A better understanding of what therapy entails could alleviate any concerns about it.

- **Allowing expert witness testimony in complex cases**

If a case is one that is complex, there is a need for an 'expert witness' to provide a fair and neutral educative element to the jury. In some cases it may be useful to have a number of professionals with expertise to consider the case and provide an informative report that would highlight any mental health difficulties that may be detrimental to the case or prevents the individual from engaging with the CJS.

- **Policy changes**

Since 2011 more attention has been given to the exploitation of children. Increased multiagency working and robust safeguarding policies holding professionals accountable for lack of reporting have become the strategic objectives. However, information sharing appears to still be problematic. This can often be because of time restraints, lack of resources, and lack of shared information technologies. Although there have been some moves to provide police with access to patient information systems, there is a need for all those within health to be able to access it also. There would then need to be clear guidelines as to what information is available and what remains protected and confidential, who is able to access information and for what purpose it will be used.

## **7.2 Directions for future research**

- The research aimed to allow the illumination of the different processes regarding traumatised witnesses following sexual violation within the criminal justice system at a particular time (Bryman, 2008). Findings also highlighted some of the issues that can hinder engagement with the CJS and how police professionals working with vulnerable witnesses understood some of the difficulties they encountered. At this stage it was considered that comparing these experiences to those of other police localities as in a larger cross sectional design would reduce the depth of understanding albeit increasing generalisability. This may be appropriate for a follow up study (Bryant and Charmaz, 2007). A quantitative analysis of a structured questionnaire could be developed in order to generalise

findings from this study to the wider police communities involved with sexual offence investigation and interviewing. If some of the issues highlighted are similar on a national level when working with traumatised survivors of rape or sexual abuse, a number of adapted protocols could be examined.

- Implementation of a specialised role for intermediaries dealing with PTSD and adverse psychopathology and evidence giving could be evaluated by improvements in memory recall and specificity.
- Development and implementation of a trauma focused cognitive interview for victims of traumatic sexual violation who have developed an adverse response and meet criteria for ASD, PTSD or complex PTSD and trauma related dissociative disorders (see appendix 1 for DSM-V and proposed ICD-11 criterion). This would be an adaptation to the current model and would entail a number of measurable components.
- A focus group involving main stakeholders and professionals within the system may enable a more flexible approach to the CJS in response to sexual violence and this could be informed by more elaborate methods of gaining victim's experiences and understanding the complexities of needs.
- When undertaking this research, it became apparent that more research would be required to clearly understand the impact on memory following traumatic childhood sexual abuse. A better understanding of the dissociative responses that are chronic may enable us to be more confident about memories of past abuse, false memories and other memory phenomena.
- Further research to enable reconciliation of the memory debates regarding false memories including research that clearly delineates the psychological and neuroanatomical basis of dissociative amnesia. It is important for professionals to fully understand the different mechanisms that relate to memory issues in line with cognitive development and developmental

stages and the differences that might impact on memory for early trauma and for an acute episode of trauma. This research has started to draw out these differences.

- There continues to be new research regarding the neurobiology of trauma and memory and translation of this research can inform the criminal justice guidelines and policies in relation to sexual traumatisation. Two areas of interest are:
  - Further research looking at the impact of alcohol on memory encoding and recall.
  - Further research on sleep following trauma and the processing of memory.

(Findings from these studies may have implications for the timings of interviews).

- There is a need to understand the heterogeneity of the sex offender population. There appear to be vast differences in aetiology and until we can gain a better understanding, appropriate preventative measures cannot be put in place. A new pilot project has been initiated to provide more serious cases of interpersonal violence. The project will be based on 1-1 support for the perpetrator utilising individual treatment plans based on the needs. There will be penalties applied if individuals do not take part in this process (BBC News 18/02/16). This could also be applied to sexual offenders in some circumstances.

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## APPENDIX ONE

### Historical overview of PTSD and classification by DSM-V and ICD- 11

Hippocrates (4607-377bc) talked of frightening dreams of battles fought and re-experiencing the horrors of the event. Further accounts were put forward by physicians working alongside the battle-fields during the French Revolution (1792-1800) and the Napoleonic wars (1800-1815). Similar psychological responses are later noted following the period of the Industrial Revolution from those survivors of railway disasters. Initially symptoms were thought to be of an organic nature resulting from *'microscopic lesions of the spine or brain'* (Crocq & Crocq, 2000). In 1884 a German Physician first expressed PTSD as 'traumatic neurosis' following an emotional shock that resulted in symptoms of hysteria. Janet (1889) and Freud (1893) also found similar responses from their psychiatric patients.

World War I prompted an increase in scientific exploration and psychiatry as a result of the horrors of this war. Many literary autobiographies portrayed the horrors of war and the lingering chronic effects. Millian (1917) reported cases of 'battle hypnosis' and Robert Gaupp (1917) reported the surge of cases of men who didn't bear the physical scars of war but were presenting with extreme mental disturbances.

*'The main causes are the fright and anxiety brought about by the explosion of enemy shells and mines, and seeing maimed or dead comrades....the resulting symptoms are states of sudden muteness, deafness... general tremor, inability to stand or walk, episodes of loss of consciousness and convulsions..'*  
(Ulrich & Ziemann cited in Fishcer, (1994, p. 102-103).

As always, conflicting perspectives gave rise to the possibility of malingering. Many people thought that symptoms were exaggerated by men trying to escape the 'frontline' (Kraeplin, 19830). However, the impact of a traumatic stressor and an individual's experience at the time of the event and subsequent physiological and psychological experiences following the event culminated in inclusion of DSM-I (1952) under the category 'gross stress reaction'. Psychiatric treatments at the

time varied from electrical shock treatment to a new form of treatment developed by William Rivers (1864-1922). Although integrating some of the foundations of psychoanalytical theory and methods developed by Freud, Rivers emphasised that soldiers were not repressing their sexual urges but were trying to contain their fear as they experienced the horrors of the war. Rivers encouraged patients to talk about their difficulties and to express their emotions, still very evident in today's treatments. This was not an easy task for soldiers who were expected to be fearless in the face of war and for their country and may have contributed to feelings of shame. The occurrence of the disorder appeared to diminish after this time and was excluded from DSM-II in 1968. It would appear that political attitudes and societal values played a large part in the acceptance or rejection of the disorder.

DSM-III (1980) included the category of PTSD in response to Vietnam veterans and their reported difficulties. At the time there was a lot of political debate regarding this inclusion as again some perceived it as a means to gain financial award. Other negative attitudes involved peoples' perceptions of those in combat and an expectation that they would be involved in the trauma of war. The diagnosis was based primarily on the trauma event itself and how much of a threat it had been for the individual or how horrific. Subsequent editions of the DSM have focused on the response to the event rather than the event itself. In DSM-III diagnosis was made on a number of recognisable symptom clusters mainly relating to biochemical or anatomic pathology, signs and biological changes reported by the patient following excessive stress (Brewin, 2003). DSM-III-R (1987) emphasised that levels of distress should be evident for durations of over four weeks for a diagnosis of PTSD. Recognition that some may experience an acute reaction following a traumatic event or symptoms may be delayed initially, only to emerge at some later stage. DSM-IV recognised that Acute Stress Disorder may occur more readily in those who have experienced a traumatic event but symptoms may be significantly reduced after a period of resolution. For some, more chronic manifestations persist and develop into PTSD.

DSM-IV provided a definition that was more psychologically based. Criteria involved a stressor, re-experiencing, avoidance and arousal clusters. These are

quantified by the duration and levels of distress reported. The avoidance maintains the cycle of re-experiencing and prevents memory consolidation (Breslau, 2002). Symptoms can cause 'clinically significant functional impairment or distress'. It may include a person experiencing, witnessing or being confronted by an event or number of events which have involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others and a response of 'intense fear, helplessness or horror' (Diagnostic Statistical Manual IV-R (DSM1V-R) American Psychiatric Association, 1994, pp. 427 -428).

DSM-V (APA, 2013) has removed the previous system of categorisation of a number of disorders. PTSD and Acute Stress Disorder (ASD) are removed from the anxiety disorders to a new category of Trauma and Stressor related Disorders. Criteria A2 from DSM-IV which indicated that the individual will have experienced '*fear, helplessness or horror*' has been eradicated and is now limited to 4 clusters: criterion B 're-experiencing including intrusions, criteria C, avoidance, criterion D, persistent negative alterations in mood and changes in cognition. Criterion D, includes '*persistent and distorted blame of self or others and persistent negative emotional state*' and this is often very significant in cases of sexual violation. Criterion E, alterations in arousal and reactivity includes reckless or destructive behaviour and includes dissociative symptoms'. Although 'adjustment disorders' have been moved into the trauma category, complex trauma has been removed.

DSM-V does include a clinical subtype '*with dissociative symptoms*' which includes depersonalisation and derealisation. Children under the age of 6 are also noted as a preschool subtype as they may display alternative symptomology and behaviours than characterised by those above this age (DSM-V, APA, 2013). Arguably, those working with patients with long-term abuse issues, continue to conceptualise the term complex trauma (Cloitre, et al. 2013).

## Trajectories of PTSD and Dissociative Disorders

NORMAL ADAPTIVE RESPONSE

ACUTE STRESS REACTION (ICD-10/11\*) – Transient responses following initial distress – symptoms subside within 1 week

ACUTE STRESS DISORDER (DSM-V) – Severe stress reactions within the first month

ADJUSTMENT DISORDER (ICD-11\*<sup>30</sup>) – Symptoms of distress continue past a week – may be classified as PTSD

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<sup>30</sup> ICD-11 (World Health Organisation) – expected to next be published in 2017 has more emphasis on re-experiencing symptoms and core elements of PTSD and less on comorbid symptomology. ICD-11 allows a more simple classification.

PTSD (WITH OR WITHOUT DISSOCIATIVE FEATURES)

- Dissociative subtype of PTSD (DSM-V)
- DELAYED PTSD (DSM-V)

COMPLEX PTSD (PROPOSED FOR ICD-11) – Core features of PTSD plus affective, self and relational disturbance

DISSOCIATIVE DISORDERS: (DSM-V/ICD11)

Depersonalisation disorder (only 3% is trauma related/some correlation with emotional abuse) (Dell, 2009)

Somatoform Disorder (DSM-V/ICD11 – includes Conversion Disorder)

Dissociative Fugue

Dissociative Identity Disorder

**Figure 2: Trajectories of PTSD and different classifications systems**

*'Memory is perfectly preserved in an orderly ganglionic record. It can be recalled from there and replayed under certain circumstances. With preserved time and sequence. The difference between brain and motion pictures is that while each had a playback mechanism, the brain produced no special effects. Its film 'runs forward' never backward, even when resurrected from the past and it can't be speeded up nor played in slow motion. It moves at time's own unchanged pace. Once revived it has a power of its own. There is no holding it still no turning it back'*

Wilder Penfield and the Recording of Person Experience (1952)