

Jury Decision Making in Cases of Male Rape

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Policy Context

In the UK, 1 in 10 men report experiencing rape or non-consensual penetration. This project investigated, for the first time in the context of England and Wales, the relationship between juror characteristics (attitudes, experiences, traits) and verdict decisions in a case of male rape. We partnered with Avon and Somerset Constabulary, the Crown Prosecution Service, and We are Survivors to run a series of highly realistic mock rape trials, with a RASSO ticketed judge, experienced barristers, and professional actors, to better understand this issue.

Key research findings

The mock defendant was charged with 2 counts of rape; 1 anal and 1 oral. On both counts from 12 separate mock jury panels; 8 returned not guilty verdicts (4 unanimous, 4 majority); 3 were hung; and 1 returned a majority guilty decision.

- **Male rape myths and stereotypes were prominent in mock jury deliberations, including evidence of victim-blaming.** Mock jurors applied myths relating to the complainant's sexuality; not 'fighting back'; and the truthfulness of allegations, even those who found the defendant guilty.
- **Mock jurors used judicial directions and the route to verdict document to varying extents in their deliberations,** often in the later stages. Despite being provided with written copies of all documents, there was little evidence that these were consistently (or sometimes accurately) used.
- **Certain mock juror attitudes had a relationship with the mock juror verdicts.** For example, mock jurors who scored higher in conviction proneness tendencies pre-trial, were significantly more likely to select *guilty verdicts* on the charge of anal rape, both before and after deliberation.
- **Mock jurors believed that there was a lack of evidence for them to consider, particularly given the absence of forensic evidence.** Five pieces of witness evidence were presented during the trial, including live testimony from the complainant and the defendant. This was often not viewed as 'real' evidence.
- **Mock jurors struggled to reach the burden of proof.** Whilst many mock jurors expressly stated they believed the complainant's allegation, they felt they did not have enough evidence to be sure of the defendant's guilt.
- **Knowing a person who had been accused of having committed a sexual offence appeared to influence mock jurors' decision making.** For example, mock jurors who reported having a friend or family member that was previously accused of a sexual offence rated the defendant's testimony as significantly more believable post-deliberation and expressed greater confidence in their not-guilty verdict decisions.

Policy recommendations

- **The Judicial College should review the Route to Verdict document and written and verbal directions given in RASSO trials.** This review is necessary to improve overall comprehensibility, reduce unnecessary complexity, and prevent information overload, by considering when key information is delivered to jurors and how jurors are expected to apply it during deliberations. Legal jargon should be avoided wherever possible, and should be supported by specific, contextualised examples. Judges should be encouraged to explicitly emphasise the value of the Route to Verdict document at the onset of deliberations.
- **The Judicial College should review and update the judicial directions given to jurors about myths and stereotypes in cases involving male complainants of sexual offences.** Specifically, we recommend that case-specific myth and stereotype directions should be used, considering factors such as the complainant and defendant's gender and sexuality. This should be in place of a more generic approach to myth and stereotype directions that do not consider such factors.
- **Prosecutors and judges should undertake standalone training on male rape myths and male sexual victimisation.** This training should focus on dispelling misconceptions unique to male sexual victimisation, exploring the diverse ways male complainants may present or disclose, and recognising how myths can influence jury decision making. Separating this training from broader sexual offences education will allow for the nuances of male experiences of sexual victimisation to be given sufficient and distinct attention.
- **Prosecutors should consider how witness evidence can be most effectively presented to jurors** to overcome issues around what constitutes 'real evidence', particularly where forensic, eyewitness, or technology related (e.g. CCTV, mobile phone) evidence is unavailable in a case. Where jurors are making assessments of whether a sexual offence was committed (as opposed to assessments of whether consent was given), this is likely to be particularly important.
- Given current legislative restrictions on observing or researching real jury deliberations, **further research is needed to better understand how jurors and juries make decisions in cases involving male complainants of sexual violence**, particularly regarding how they interpret and use legal documents such as the Route to Verdict. Policymakers should prioritise highly realistic research methods which closely reflect actual jury decision making procedures and processes, such as simulated trials, to explore these issues in depth.

Work with us

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