

End Poem

And She Has been Raped

Rape is a plain word. But it is so hard to know
that she has been raped. How bearably hard
it is for her and how bearably hard it is
for you. In the gentleness

that will heal her

you will be fluent
in her, not your own, intentions

(Dinah Hawken, 1991)

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Notes

'She stings while she delights': Rape Definitions and Representations

1. For an overview of rape law reforms in Australia, see Heath (1998); and see Temkin (2002, chapter 2) for commentary on the debate over widened definitions of rape within English law.
2. In the United States of America, despite marital rape becoming a crime in all 50 states under at least one section of the sexual offence codes, in many states some exemptions are still available to protect husbands from rape prosecution (e.g., where a wife is asleep or unconscious, or physically or mentally impaired) (Bergen, 1996).
3. 'Riding the bull at Gilleys' refers to a mechanical bull in a bar, which patrons take turns riding in bucking bronco fashion (Scully and Marolla, 1993, p. 41).
4. In this example, the defence lawyer passes the coke bottle to a jury member, asking him or her to move it round while the lawyer tries to insert the pencil into the bottle. The difficulty of achieving entry is likened to the apparent impossibility of sexual penetration occurring without a woman's cooperation (Shapcott, 1988, p. 185).
5. The legislation enacted in New Zealand in 1986 acknowledged to some extent the role of threat, and included the offence of Inducing Sexual Connection by Coercion, in which persons might abuse their authority to have sexual relations with another party (Sullivan, 1986).
6. 'Dissociation' refers to the psychological distress symptom evident in trauma survivors when they distance themselves by temporarily separating, or splitting themselves off, from the pain (Herman, 1992). This can induce a sense of numbness, and a feeling of not being in one's body.
7. In some societies, such as Peru, the penalty for rape decreases with the age of the victim, dropping to virtually no punishment in cases involving the rape of a mature woman (cited in Koss *et al.*, 1994).
8. Highwater refers to this Goddess by the name 'Gaia'; other terms used include Triple Goddess, Hera, Great Goddess, the Creatrix, and some refer to the Ten Thousand Names of the Great Mother Goddess (Gimbutas, 1989; Wilshire, 1994).
9. For example, Deuteronomy, Chapter XXI, verses 10–15 spells out that in warfare a man take possession of a beautiful woman prisoner as his wife, until she ceases to please him, when he can discard her as he wishes.
10. The 'Sirens' were mythological women nymphs of the sea '... who had the power of charming by their songs all who heard them, so that the unhappy mariners were irresistibly impelled to cast themselves into the sea to their destruction' (Bulfinch, 1965).
11. Jean Jacques Rousseau (1712–78), a French deistic philosopher and author (Honderich, 1995).
12. Honoré de Balzac (1799–1850), who trained as a lawyer and went on to become one of France's most celebrated novelists (Lagasse, 2000).
13. Arthur Schopenhauer (1788–1860), a German philosopher renowned for his pessimism (Honderich, 1995).

14. Friedrich Nietzsche (1844–1900), German existentialist philosopher (Honderich, 1995).
15. This book was originally published in the United States of America in 1950.
16. The fact that New Zealand doctor, Morgan Fahey, could sexually assault his patients without detection for so many years, trading on his credibility and their lack of it, exemplifies this point (*The Dominion*, 26 May 2000; *The New Zealand Herald*, 2 June 2000). As well as being a respected Christchurch medical practitioner, Fahey was Deputy Mayor and had been awarded the OBE by the Queen – initially few citizens believed his women patients' allegations. His eventual conviction in June, 2000 for rape and other sexual offending provoked both national outrage and bewilderment.
17. This is common practice for COSA (Casualties of [false] Sexual Allegations), as evidenced in their organisation's newsletters (e.g., Issue 6, October 2000 contained such clippings as 'Girls fail to appear in court to back sex allegations in residential case: acquittal' and 'Patea High School teacher cleared: false sex allegations').

'Have you really been raped?' Criminal Justice System Responses

18. When I visited Thames Valley Police in 1996, two young officers, who would have been at school when the documentary was first screened in 1983, greeted me proclaiming that things were no longer like they had been on 'that programme'. The power of this incident probably lives on in the cultural memory of not only Thames Valley, but British police forces generally.
19. COSA is an advocates' group for men who believe they have been falsely accused of sexual assault.
20. The 48 women had reported a total of 50 incidents of rape or sexual assault to the police in the period 1990–93 – two women had been raped on two separate occasions by the same perpetrator.
21. Details of the women's experiences of the medical examination and support agency services are contained in the full 1998 report (Jordan, 1998a).
22. Further discussion of the gender variable in relation to police interviewing is contained in Jordan, 2002.
23. Further detail concerning each of these themes is available in Jordan (1998a).
24. Relevant literature on this distinction includes Kerstetter, 1990; LaFree, 1981; Shapcott, 1988; Warsaw, 1988; Weis and Borges, 1975.

Beyond Belief: Police Files on Rape

25. It should be noted that, in 1998, the police instituted major changes to their method of recording offences, in effect doing away with the statistics for reported offences and replacing these with recorded and resolved categories. Cases where the offence was declared to be 'no offence disclosed' are no longer being recorded as such, and the proportion of such cases is now extremely difficult to determine.
26. The figures in this row include all offences within the Sexual Violation category, including complainants over 16 years.
27. New Zealand has a national, centralised police agency, with headquarters based in Wellington.

28. Under New Zealand law, the term sexual violation covers the offence categories of both rape and unlawful sexual connection, with the latter category applied to incidents involving non-penile violation such as forced oral sex, and rape with an object.
29. Cases were filed as involving intellectual impairment when the police described the complainant as being intellectually handicapped, simple, or having a mental age well below their chronological years.
30. The category of psychiatric disturbance was applied to cases described as involving current or former mental or psychiatric patients, persons with personality disorders, or those with histories of depression or self-mutilation (or anybody else categorised in police shorthand as a '1M').
31. Hospital-based psychiatric teams are notified of patients who may require mental health assessment and treatment.
32. It should be noted that the latter involved a young woman of 17 years making a charge against the man who was now her ex-partner, and who had been her de facto partner – the use of the Husband Rapes Wife offence category on the files suggested there was no consistency in the use of this term whatsoever. Current husbands were not necessarily charged under this category, while ex-de facto partners sometimes were.
33. In 1997 the minimum age for admission to licensed premises was 20 years of age – this was reduced to 18 in 1999.
34. NIS refers to a New Zealand police national database, known as the National Intelligence System. These records are separate from the main police computer, and are used to store information on persons who have been in police contact for various reasons deemed noteworthy, whether or not these resulted in their arrest. Should, for example, this complainant have subsequent police contact, information will be available to police showing that she has a previous record for making a false complaint.
35. New Zealand does not have a separate, independent prosecutions service.

Having 'a nose for it': How Investigators Investigate

36. The specific areas are not identified, to provide some anonymity for the participants.
37. Each detective was given a numerical code (e.g. D1, D2) to assist in distinguishing his/her comments from others interviewed.
38. For brief background notes on Fahey, see Chapter 2, note 16.
39. At the discretion of the police, who make prosecutorial decisions in New Zealand, the option of having a case 'diverted' from the formal criminal justice system is offered to offenders on the basis that they admit guilt, and agree to the payment of fines or reparation, undertake community service, or fulfil other specified conditions.
40. A reference to Operation Park, one of the biggest investigations held in New Zealand to identify a serial rapist in Auckland.
41. Three major serial rape investigations were conducted in Auckland, New Zealand's largest city, in the 1990s, referred to by the police as Operation Park, Operation Harvey and Operation Atlas. Operation Park resulted in the arrest of Joseph Thompson, who pleaded guilty in 1995 to 46 counts of Sexual Violation by Rape and 15 counts of sexual violation by Unlawful Sexual Connection, as well as multiple counts of burglary related offences (Williams, 1998, p. 237). Operations

Harvey and Atlas were merged when it became clear that these investigations involved the same offender, the person later identified as Malcolm Rewa.

42. 'Michelle' was the name used to refer to this woman in an article published in the *New Zealand Woman's Weekly*, 15 June 1998.
43. 'Hammer' was Malcolm Rewa's nickname, given to him by Highway 61 members after he became known for strapping a hammer to his motorcycle 'to sort out any trouble' (Williams, 1998, p. 219).
44. K3 refers to the New Zealand Police's code for cases filed as 'no offence disclosed'.
45. Progress is being made in this area – in 2003 the New Zealand Police offered three-week long courses, each attended by approximately 20 detectives, on adult sexual assault investigations.

Perfect Victims/Perfect Policing? In the Words of the Women

46. A full account of this research process is contained in Jordan (2001b).
47. The 1998 trial included also charges against Rewa relating to the rape and murder of Susan Burdett in 1992. Rewa was initially acquitted on both counts but at a retrial in December 1998 he was convicted of the rape of Susan Burdett, but not of her murder.
48. A detective who interviewed both rapists commented that Thompson began confessing as soon as he was arrested, even to rapes that the police did not know about, whereas Rewa remained mute and hostile.
49. Only one of the women I interviewed was attacked away from her home, when Rewa abducted her as she returned to her car late at night.
50. Figures presented here refer primarily to the 14 women interviewed whose cases were tried for the first time in the 1998 court case and exclude the experiences of the woman attacked in 1975 unless otherwise stated.
51. Each woman decided how she wanted to be referred to in the research, usually by choosing her own pseudonym.
52. Detective Sergeant Dave Henwood, commonly known as Chook, a senior member of both the Malcolm Rewa and Joseph Thompson investigation teams.
53. Detective Inspector Steve Rutherford, who headed the Rewa investigation.
54. My questions are included where I consider these a useful preface to the women's responses.
55. One of the first women detectives assigned as a dedicated complainant officer left the police and was replaced during the trial preparation period.
56. Although I spoke with this woman several times by phone, during which she shared details of her experience, she decided not to be formally interviewed because of her current life circumstances and desire to move on emotionally after the trial.
57. The issues of complainant credibility evident here are strongly reminiscent of the factors identified earlier in this book as being linked to police perceptions and judgements concerning victim veracity.
58. Whilst the police were confident that Rewa was the offender in both these incidents, the jury acquitted him on all counts derived from these two attacks. The jury's decision appears to have been related to an absence of corroborative evidence that Rewa had intended raping these women when he attacked them (he was charged with Assault with Intent to Commit Rape).
59. Several of the women interviewed indicated that they chose to spend considerable periods of time at the court after they gave evidence. Some were keen to see

Rewa take the stand, and/or be present for the judge's summing up, jury verdict, and sentencing.

60. A computer-assisted sketch to aid in offender identification.
61. It is also possible that other mistakes and errors were made which were not detected by the women and which the police managed to keep concealed.

'Getting it right': Reviewing Police Responses to Rape

62. Strident opposition to the concept of specialist squads has been voiced at recent training sessions for police detectives that I have participated in, as well as in debate over the content of the New Zealand Police Sexual Assault Investigation Policy.
63. When the New Zealand Police introduced a specific policy on family violence in 1994, a Police Family Violence Coordinator was appointed; however, that individual left the police in 2000 and, as yet, no one has been appointed to assume specialist responsibility in this area.
64. The national police training college in New Zealand has recently incorporated some of the suggestions made on pages 228–229 into an expanded adult sexual assault investigators' course.
65. In my earlier research (Jordan, 1998a), two women rape complainants were sexually propositioned by officers involved in their cases.
66. My attention has been drawn recently to a reflective and challenging book by Rebecca Campbell, in which she researches the impacts experienced by those involved in interviewing rape survivors (Campbell, 2002).

Conclusion: True 'lies' and 'false' Truths

67. A British Home Office study revealed that, of all cases recorded as rape by the police, only 6 per cent resulted in conviction; this represents 9 per cent of 'crimed' rapes (Harris and Grace, 1999).
68. In early 2004, as this book was nearing completion, media investigations prompted the re-opening of a rape complaint originating in 1986 (*The Dominion Post*, 31 January 2004, *Sunday Star Times*, 1 February 2004). The case involved a teenage woman allegedly raped by three policemen, including the forcible use of a police baton. The failure of senior police to investigate this matter fully, and statements from detectives implying that many in the organisation closed rank to protect their own, has now resulted in the New Zealand Government ordering a Commission of Inquiry into this case, as well as suggesting the need for a re-examination of police culture and investigation procedures. The fact that one of the accused officers is currently an Assistant Commissioner, and in the running to be the next Commissioner (the highest ranking officer in the land), has further enhanced public interest in this case. The Commission of Inquiry is not expected to complete its report until late 2004.

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Index

- acquaintance rape, 3, 5, 20, 25, 62, 95,
98, 107, 110
effects of, 33–4
police attitudes to, 85, 95, 140–2,
156, 175
see also date rape
- Adler, Zsuzsanna, 60–1, 221
- Aiken, Margaret, 69–70, 73, 233–4
- alcohol
complainant, 53, 72, 95–9, 104–6,
109, 114–16, 128, 132, 135, 139,
159–63, 165, 167, 215, 218, 236,
244
offender, 98–9, 160–2
- Amir, Menachem, 41–2
- Anstiss, Vivienne, 81
- Aristotle, 39
- art, women in, 22, 40
- Australia, 7, 24, 51, 54–7, 67–8, 100
- Balzac, 39
- Blair, Ian, 59–60, 63, 67, 71
- British Crime Surveys, 19–20
- Bronitt, Simon, 31, 50–1
- Brown, Jennifer, 220–1
- Brownmiller, Susan, 22, 25
- Burgess, Ann Wolbert and Hazelwood,
Robert R., 34
- Byron, Lord, 44
- Canada, 7, 20, 100
- Chambers, Gerry and Millar, Ann, 62,
66, 68, 72
- Chan, Janet, 219–20
- child sexual abuse, 4, 6, 222, 239–40
- Code of Hammurabi, 21
- community policing, 74, 223–4
- complainant credibility, 160–5, 182–3,
191–2, 216
- consent, 14–17, 28–9, 43–6, 50–1, 53,
71, 99–101, 115–20, 141–3,
161–3
- corroboration warning, 32–3,
50, 55–6
- Cossins, Annie, 27, 56
- creation stories
Adam and Eve, 35–7
Gaia, 35
- credibility conundrum, 1, 7, 14, 248
- criminal justice system, 3, 7, 28–9, 32,
45, 52, 54, 57, 59, 62, 90, 153, 199,
225–8, 244
- courtroom, 40, 189–90
- law reform, 75–6
- police, 58, 217, 225, 247
- prosecution, 58, 189–90
- responses to rape complainants, 2, 47,
51–2, 68, 74, 225–6, 245
- rights of the accused, 135
- Dann, Christine, 74
- date rape, 25, 57, 84, 141–2, 156
see also acquaintance rape
- demeanour, 1, 75, 102–3, 106–7,
115, 126, 128–9, 163, 216, 218–19,
228, 240
- Deutsch, Helene, 43
- doctors, 34, 118, 131, 142, 159, 165–70
views on rape, 42–3
- Doctors for Sexual Abuse Care
(DSAC), 168
- domestic violence, 6, 24, 26, 108,
239–40
- ‘drug rape’, 99
- drugs
complainant, 53, 95–9, 109, 114,
132–4, 165, 218, 236
offender, 98–9
- Eastale, Patricia, 23
- Enns, Carolyn Zerbe, 6–7
- Fahey, Morgan (serial offender),
142, 160
- Faith, Karlene, 23, 247
- false memory, 4
- false rape complaints, 31–2, 40, 42–8,
62–4, 70–1, 94–8, 119–20, 127–8,
130–4, 233–4
- impact on police, 144, 230–1

- false rape complaints – *continued*
 incidence of, 143–5
 media, 5–6, 66
 motives underlying, 56–7, 67, 81,
 123–5, 128, 134, 145–9, 152, 233
 police attitudes to, 64–74, 81, 86–7,
 123, 127, 149–60, 171–2, 217
 previous rape complaints, 98, 101–2,
 111–12, 118, 152, 172, 217
 family violence *see* domestic violence
 Feldman-Summers, Shirley and Palmer,
 Gayle C., 66
 feminism, 2–5, 8–9, 15–17, 24–6, 33,
 51–2, 74–6, 227, 237, 245–7
 Foley, Marian, 231
 foot binding, 38
 forensic evidence, 46, 99, 157, 159–60,
 168–70, 203–5, 207–8
 Foucault, Michel, 46
 France, 28–9, 40
 French, Marilyn, 24, 47
 Freud, 6
- Gavey, Nicola, 5, 20, 47
 gender differences
 police, 80, 217, 221–2, 230, 247
 gender inequalities, 2, 17, 23, 246–7
 Gilmore, K. and Pittman, L., 58–9,
 72, 187
 Goleman, Daniel, 65
 Goodstein, Lynne and Lutze, Faith, 58
 Grabosky, Peter, 51
 Grace, Sharon *see* Harris, Jessica and
 Grace, Sharon
 Greek myths and legends
 Apollo, 35–6
 Cassandra, 36–7
 Pandora, 36
 Zeus, 36
 Gregory, Jeanne and Lees, Sue, 59, 62–4,
 69–70, 145, 168, 221
see also Lees, Sue
 Griffin, Susan, 24–5
- Hale, Lord Matthew, 23, 32, 244
 Hall, Ruth E., 19
 Hamlin, John, 5
 Harris, Jessica and Grace, Sharon, 64
 Hazelwood, Robert R. *see* Burgess, Ann
 Wolbert and Hazelwood, Robert R.
- Heidensohn, Frances, 220–1
 Her Majesty's Inspectorate of
 Constabulary (HMIC), 240–1
 Her Majesty's Crown Prosecution Service
 Inspectorate, 168, 240–1
 Herman, Judith, 4, 6, 130
 Herodotus, 37
 Highwater, Jamake, 35–6
 Home Office, British, 63–4
 'hue and cry', 30–1, 55
- indecent assault, 17, 63
 intellectual disabilities, 95, 97, 100–1,
 107, 116–18, 120–3, 126–7, 153,
 157–8, 218, 229, 234, 237, 240
- Jefferson, Tony, 25, 46
 Judeo Christian doctrines, 21, 35–8
- Kanin, Eugene, 69, 233
 'Karpman triangle', 235
 Kelly, Liz, 4, 18, 21, 25, 30, 73, 168, 206,
 216, 223, 239
 Kemmer, Elizabeth Jane, 24
 Koss, Mary P., 20, 226
- Lee, Angela and Searle, Wendy, 226
 Lees, Sue, 45–6, 54–6, 168, 183
see also Gregory, Jeanne and
 Lees, Sue
 Lombroso, Caesar and Ferrero,
 William, 41
 London Metropolitan Police, 60–1, 63
 Lutze, Faith *see* Goodstein, Lynne and
 Lutze, Faith
- MacKinnon, Catharine, 15, 25–6, 30
 Madonna-whore polarisation, 35, 38
 male rape, 2
 male sexuality, uncontrollable, 41, 45
Malleus Maleficarum, 39
 Mapes, C.C., 28, 43
 marital and partner rape, 18–19, 22–3,
 27, 33, 44, 47, 53, 84, 91, 95,
 99–100, 108, 110, 119, 140–2,
 245–6
 Marolla, Joseph *see* Scully, Diana and
 Marolla, Joseph
 masculinity, 25–7, 46, 247
 media, 5–6, 42, 47, 66, 89, 227, 229

- medical examinations, 79, 111,
 128, 159, 165–70, 197–8, 208–9,
 218, 224
- Millar, Ann *see* Chambers, Gerry and
 Millar, Ann
- misogyny, 34, 38–40, 244–5, 248
- Morris, Allison, 20, 41, 77
- multiple rape victimisation, 77,
 100, 229
- Myhill, A. *see* Walby, S. and Myhill, A.
- National Center for Women and
 Policing, 67, 72, 234
- New South Wales Department for
 Women, 53–4, 99
- New Zealand
 - Commission of Inquiry 2004, 254
 - false rape complaints, 66
 - medical examinations, 165, 168
 - Offender Profiling Squad, 106,
 156, 167
 - policewomen, 220
 - rape law, 3, 7, 18, 22, 225–6
 - Rape Law Reform Bill, 75–6
 - rape penalties, 3, 226–7
 - rape trials, 45, 57, 177, 189–91,
 198–200
 - research, 74–82
 - spousal immunity, 18–19, 22–4, 76
- New Zealand Police, 220, 222, 224–5,
 229–31
 - interactions with Māori, 77
- New Zealand Police Sexual Assault
 Investigation Policy, 137, 168, 175,
 224–5, 231, 236
- New Zealand *Rape Study* 1983,
 75–6, 81–2
- New Zealand *Rape Study* 1998,
 76–88
- New Zealand Survey of Crime Victims
 2001, 20, 77
- Newbold, Greg, 6, 91
- Nietzsche, 40
- Nixon, Christine, 72
- no criming, 62–4, 72
 - see also* no offence disclosed and
 unfounded
- no offence disclosed, 70, 90–2, 108,
 170–3
 - see also* no criming and unfounded
- official crime statistics, 19
- Ovid, 37
- Paglia, Camille, 3
- Painter, K., 19
- Palmer, Gayle C. *see* Feldman-Summers,
 Shirley and Palmer, Gayle C.
- patriarchy, 1–5, 21–4, 26–7, 30, 35–9,
 47, 49, 51, 242–6
- Pittman, L. *see* Gilmore, K. and
 Pittman, L.
- police attitudes to rape, 192–3, 196–8,
 139–43
- police interviewing, 59, 68, 80, 86–7,
 149–51, 166–7, 173, 202–3
 - interview environment, 186, 193–6
 - officer continuity, 187–8
- police investigative processes, 57–62,
 71–4, 135–6, 175–6, 225
- police occupational culture, 64–6, 72,
 215–17, 219–21, 224–5, 242–3,
 247–8
- police procedures, 3, 78–9, 82, 86–7,
 165–8, 175–6, 181–2, 202–10, 224–5
- police relationships with complainants,
 174–5, 209, 211–12, 216–19,
 235–6, 242–3
- police statement-taking, 79, 86–7, 170,
 186, 194, 202–3, 208, 224
 - complainant stress, 144–5, 165–7
 - delayed, 165–8, 232
- police stress, 216–17
- police supervision, 173–5, 230–1
- police training, 3, 60, 76, 82, 173–5,
 213, 216, 221–2, 228–30, 234–6
- policewomen, 60, 80, 220–2
- Polk, Ken, 27, 62
- Pollak, Otto, 41
- postal surveys, 60–1
- power and control, 3, 15, 25,
 46, 193–4
- previous sexual history, 49–51, 53, 72,
 99–100, 152
- prior sexual victimisation, 97, 127–8
- prostitution, 33, 51, 81, 109, 114,
 132–5, 159–60, 196, 215
- pseudologia phantastica, 43
- psychiatric disabilities, 34, 97, 100–1,
 116, 120–1, 148–9, 164, 218, 233–4
- psychiatric treatment, 43

- Radford, Jill, 60
- rape
- social attitudes towards, 24–7
 - attrition rates, 54, 60, 62–4
 - complainant withdrawal, 94–5, 129, 151
 - concealment, 41, 65, 72, 74, 96, 102–3, 114, 119–20, 235–7
 - definition of, 2, 14–19, 25, 28
 - delayed reporting, 31–2, 34, 50, 78, 96–7, 99, 105–6, 112, 170, 217
 - effects of, 33–4, 55, 75, 95, 102–3, 129–30, 218, 236–7
 - history of, 1–2, 21–4, 34
 - incidence of, 17, 19
 - law, 7, 16–19, 22–4, 27–34
 - law of recent complaint, 30–1
 - law reform, 49–52
 - measurement of, 19–21
 - offenders, 16, 24–5, 41, 106, 142, 164, 192, 212–13, 219, 229
 - physical injury, 25, 28–31, 56, 59–60, 66, 72–3, 102, 108–10, 135
 - police dedicated complainant officers, 181, 188
 - police specialist units, 60, 173, 221–3, 232
 - prevalence rates, 17, 19, 21, 66
 - reporting of, 7, 19, 30–2, 55–6, 58–60, 90–1, 113, 197
 - resistance, 28–9, 46, 53, 56, 73, 102
 - sentencing, 226–8
 - spousal immunity, 7, 18–19, 22–4, 76
 - trials, 40, 45–6, 52–7, 172, 181, 189–91, 198–202, 226
 - victim attributions, 95–103
 - victim or survivor debate, 11–12
- rape crisis agencies, 74–5, 231
see also support agencies
- rape examination suites, 60, 168
- rape motivations, 25–6
- rape myths, 42, 56, 85, 247
- Rape of the Sabines, 22
- ‘rape shield’ laws, 49
- Rape Study*, 75–6, 81–2
- rape survivor, 11–12, 205
- rape trauma syndrome, 34
- ‘real’ rape, 66–7, 72, 139–43, 247
- Reese, James, 217
- research
- ethical issues, 10–11
 - impact on researcher, 178, 237–9
 - impact on victims/survivors, 179
 - interviews, 9–10, 20, 137–9, 177–9, 182
 - methodology, 8–11, 19–20, 61, 76–7, 92–4, 103, 137–9, 177–9
- Rewa, Malcolm (serial rapist), 138, 141, 158–9, 176–216, 237–9
- Roipe, Katie, 3, 5
- Rousseau, 39
- Russell, Diana, 19
- Samuels, Dover, 89–90
- Saphira, Miriam, 74
- Schopenhauer, 40
- ‘scold’s bridle’, 23
- Scully, Diana and Marolla, Joseph, 25
- Scutt, Jocelynne, 1–2, 15–16, 51–2, 244
- Searle, Wendy *see* Lee, Angela and Searle, Wendy
- serial rapists, 142, 176, 181
see also Fahey, Morgan; Rewa, Malcolm and Thompson, Joseph
- Sexual Experiences Survey, 20
- Smart, Carol, 25, 32, 53
- St. Augustine, 38
- Stace, Michael, 70, 75, 91
- Stanko, Elizabeth A., 239
- Stanley, Liz and Wise, Sue, 8, 10
- ‘stranger danger’, 246
- stranger rape, 3, 25, 59, 62, 72, 75, 106, 110–11, 131, 139–42
- Sullivan, Ginette, 50, 75–6
- support agencies, 3–4, 25, 79, 168, 224, 228, 231, 236–7
see also rape crisis agencies
- Taslitz, Andrew E., 2, 6, 14, 57, 244, 247
- Temkin, Jennifer, 56, 61–2, 67, 69, 82
- Thames Valley Police, 59
- The Victims of Offences Act 1987*, 226
- therapists, 4
- Thompson, Joseph (serial rapist), 138, 141, 157–8, 181
- Tunnell, Kenneth, 9
- unfounded, 63, 69–71
see also no criming and no offence disclosed

- United Kingdom, 24, 51, 59–60, 70, 145,
168, 221–2, 229, 240
 England, 7, 22–3, 28, 30, 59, 60–3,
 100, 168, 216, 237
 Scotland, 62, 66
 Wales, 62
United States of America, 20, 24, 59–60,
63, 66, 69, 222, 229, 234
- van de Zandt, Pia, 54–6
‘victim feminism’, 4
Victim Impact Statements, 33
victimisation surveys, 20–1, 77
- Vigarello, Georges, 28–9, 40
Voltaire, 28–9
- Walby, S. and Myhill, A., 20
Walklate, Sandra, 17–18, 26
Wellington Women’s Workshop, 74
witches, 38–9, 54, 244–5
Wolf, Naomi, 98
Wolfthal, Diane, 22, 31, 40
women, nature of, 35–42, 47–8
women’s movement *see* feminism
- Young, Warren, 7, 71, 75, 81