

Questioning Survivors of Sexual Assault: Overcoming Implicit Bias

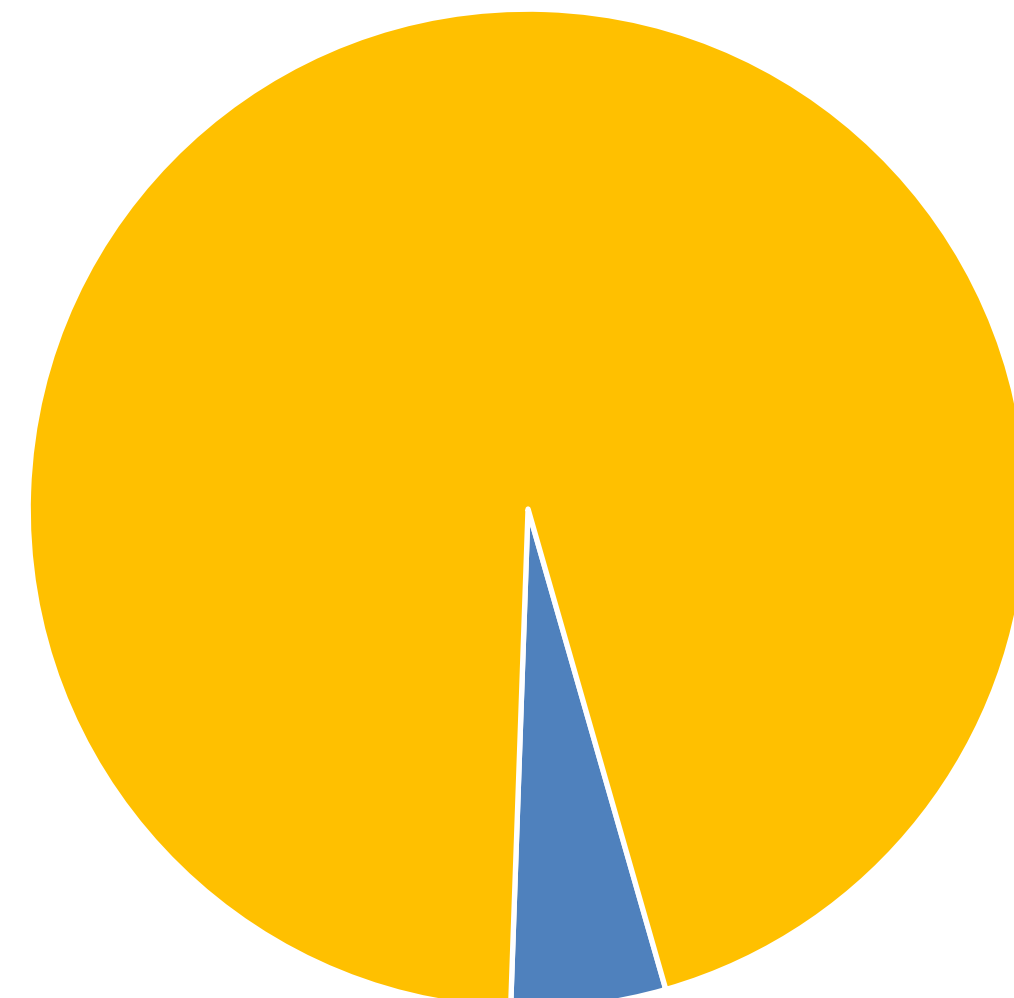
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Background

- Legal reforms in the 80's and 90's gave Canada some of the most progressive sexual assault laws in the world. Despite these reforms, low reporting rates, high attrition, and low conviction rates have persisted in the justice system's handling of sexual assault cases.
- Despite strikingly low rates of false reporting, rates of cases not being fully investigated remain high, representing 1 in every 5 of sexual assault cases encountered by the police nationwide (Doolittle, 2017a).
- Police officers are the first point of contact a survivor has with the criminal justice system. As gatekeepers to this system, their attitudes and biases stand to have significant impacts on reporting and attrition rates (Quinlan, 2016).



Only 2-8% of sexual assault allegations are false reports (Murphy, 2017)

Implicit Bias

- Police officers often hold narrow and stereotyped views about how real survivors respond to sexual assault (as opposed to those presumed to be lying about it).
- Quinlan (2016) found that Canadian officers implicitly looked for certain indicative 'signs' that an alleged victim was lying. Some officers readily admitted to using various techniques to "poke holes" in the survivors' stories.
- Survivors are often met with disbelief and skepticism from interviewing officers. Half of survivors in a study felt that the officer did not believe them, especially if they had been engaging in risky behaviour at the time of the assault (Johnson, 2017). Some survivors are even reminded by officers of the legal repercussions of lying (Johnson, 2017; Doolittle, 2017a).

Contributing Factors

- A lack of awareness of the current sexual assault laws in Canada is reflected in many of these cases. For example, not 'fighting back' is sometimes taken as a sign that consent was given by the survivor, when in reality Canada has affirmative consent laws that require clear "yes means yes" (Quinlan, 2016).
- Misinformation about how trauma manifests itself in behaviour and how it can affect memory is pervasive. For example, many officers do not know that trauma affects the way memories are shaped, often causing victims' memories to be fragmented and to focus on only the most salient details (Doolittle, 2017a).
- Training that implicitly or explicitly promotes the belief in rape myths contributes to implicit bias as well. Clinical psychologist and leading memory researcher Dr. Lori Haskell notes that even the most well-intentioned officers may conclude that someone is lying based on the approaches they have been taught (Doolittle, 2017a; Quinlan, 2016).

A Multi-Faceted Approach to Combatting Implicit Bias

- Given the nature of implicit bias with regards to sexual assault, I argue that a multi-faceted approach is needed to target the intersecting contributing factors.
- Basic educational training as well as guidelines and procedures that put this knowledge into concrete practice are required.
- In addition, this approach acknowledges that rules and guidelines, while vital, cannot work alone. Virtue Ethics provides a lens through which we can understand the importance of fostering practical wisdom in interviewing practices within the Canadian police community.

Training and Education

Improvement of training and education, including but not limited to:

- Training in trauma-informed practice, discussing how trauma affects the brain, memory, and behaviour [Illinois, USA] (Sweeney, 2017)
- Addressing and breaking down rape myths [Winnipeg] (Doolittle, 2017a)
- Implicit bias awareness training
- Ensuring that current sexual assault laws in Canada (e.g., affirmative consent laws) are properly understood

Guidelines and Procedures

Guidelines and procedures that incorporate educational training, and that reduce implicit bias, such as:

- Always writing and filing a report, regardless of whether the officer personally believes the survivor [Illinois, USA] (Sweeney, 2017)
- Requiring intake officers to *always* forward the case on to a specialized sexual assault officer [Winnipeg] (Doolittle, 2017a)
- Annual review of sexual assault cases by independent groups to check for errors [Philadelphia, USA] (Doolittle, 2017b)

Virtue Ethics: Practical Wisdom

As important as training and procedures may be, they cannot adequately account for the amount of discretion and professional judgment required to successfully interview survivors.

Knowing when and how to apply different interview techniques is often determined by the fine details of what agents learn through their lived experience.

Non-technical excellences, including traditional virtues, are important, but virtues pertaining to the specific professional environment are vital. In the case of officers, this could include a sensitivity to the psychological implications of certain lines of questioning for a given individual.

Trauma-Informed Practice: Relevant Findings

- Gaps in memory are to be expected following a traumatic event.
- Timing of questioning is crucial, because, for example, memories are still consolidating so survivors should not be questioned in detail directly following the attack; instead two days later is ideal.
- Trauma affects and manifests itself differently for different people.

Conclusion

- All three elements of the proposed multi-faceted approach play an important part in combatting implicit bias in police interviewing of sexual assault survivors.
- New training and education provides contradictory evidence to myths and stereotypes about sexual assault, while also providing a strong justification for new guidelines and procedures. At the individual level, practical wisdom encourages officers to use their (new) knowledge and practical experience to develop more effective and less harmful interview techniques.
- Each of the training strategies and guidelines proposed have been implemented in different areas in the US and Canada. It is imperative that we combine them into a single approach and standardize them across police departments in Canada.

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