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Summary: The historically problematic relationship between the criminal Justice System and complainants of rape surfaced again with the recent allegations made on the comedian and TV presented Russel Brand.

Reality check: Russel Brand, survivors of rape and the criminal justice system.

According to the [Office for National Statistics](#), the number of female survivors of sexual assault and rape seeking support has increased dramatically since 2017. It has also recorded an increase in sexual assaults and rape since 2005. Statistics confirm that over two-thirds (85%) of these women knew the perpetrator. Historically, these crimes have been under-reported, and they still are, making attempts to estimate an accurate statistical figure impossible.

The problematic relationship between the Criminal Justice System and complainants of sexual offences was demonstrated afresh on the 17th September 2023. The media was inundated with news of allegations by several complainants about comedian, presenter, and media mogul Russel Brand's sexual behaviour. A joint investigation by Channel 4 and The Sunday Times alleged serious sexual misconduct and coercive behaviour by Brand, which they had been investigating for over a year. Further allegations quickly followed from individuals across the comedy world. And so, Brand joined the long list of celebrities (found guilty or cleared) subject to postponed allegations of historical sexual offences.

Strikingly, the complainants of the alleged inappropriate behaviour, sexual assaults, and rape reported their accusations to the media rather than the police. One of the complainants in the [Dispatched](#) expose' said that she thought the police would not pursue her allegations; another complainant did not report her case to the police because she was worried about losing her job; it was revealed that concerns were voiced at the time about Brand's behaviour, but these were dismissed or overlooked. The events reported took place across approximately 15 years, starting from 2003.

Postponed allegations of historical sexual offences are driven by fear; this fear can be said to have its foundation in historically different sexual standards to which men and women were held. Social morals shifted towards the end of the eighteenth century, and male violence and sexual misconduct were less tolerated than in previous centuries; however, a minor transgression was unlikely to change a man's reputation significantly. The same was not valid for women. Manners that fell short of prescribed behaviour would tarnish the prospect of a respectable life, limiting marriage options and thus opening the doors for destitution.

Such a fuss was made about the female sexual character because, as the famous educator, Anglican priest and writer Thomas Gisborne explained in *An Enquiry Into the Duties of the Female Sex*, women were responsible for society's happiness - which could only be achieved by virtuous morals. He clarified to his readers that a woman who had 'obliterated' her 'feminine delicacy' had offended social utility and should be 'regarded as having debased herself to the level of brute'. It is, therefore, understandable why a culture of silencing has developed - driven by shame and blaming. The forensic early C18th social commentator, Bernard De Mandeville explained in *A Modest Defence of Public Stews: Or, an Essay Upon Whoring* that the recovery of a woman lapsing into sexual mischief was almost impossible because 'the minds of women are observ'd to be so much corrupted by the loss of chastity [...] and they can never recover that good name'.

This conundrum was also faced by the complainants who reported alleged sexual offences by the DJ, television, and radio presenter Jimmy Savile. The incidents occurred in the 1960s and affected teens and young adults, but they only reported these in 2012 in the ITV1 documentary [Exposed](#). At the time, a few of the young complainants talked about the sexual encounters they had with Seville, but they were either dismissed or told to consider themselves lucky (Saville was a celebrity, after all). In general, when sexual assault and rape cases were reported to the police, they would encourage the complainant to address the matter outside the criminal justice system – in other words, the police preferred not to get involved. As [Louise Jackson has shown](#), this was even true when victims and survivors were children. Reporting was not an attractive option because it exposed the victims and their families to disbelief, social alienation, judgment, and reputation ruin.

Victims' disinclination to use the Criminal Justice System had to do, also, with how the legislation concerning rape was framed. William Blackstone explains in the *Commentaries on the Laws of England* that it was custom to expect the victim to report the crime as soon as possible; this is evident in several court transcripts available on the [Old Baily Database](#) where the judge questioned the complainant insisting on clarifying when the incident was reported – several of these, despite clear cases of rape, and after gruelling interrogation of the victims, were dismissed because of a too long time-lapse.

For the complainants concerning Savile, the law of rape during the 1960s required the act to be driven by threat, force, and violence – which, according to the evidence given by the complainants, was not the case. Only in the 1980s was this requirement taken away, recognising that the transgression does not need to be violent and that 'submission' to the sexual act does not equate to consent. Police interviews of those reporting rape were revealed to be aggressive and sceptical in a [1982 BBC 'fly on the wall' documentary](#) filmed with Thames Valley Police; it caused a global news sensation and prompted debate in Parliament. Yet the practice has been slow to change, with deteriorating rape conviction rates in the twenty-first century and widespread evidence that police, judges and juries still hold ideals of female sexual respectability that clash with disclosures of [rape](#).

The 2003 Sexual Offences Act refined the need to pay greater attention to the victim's lack of consent, which Brand's complainants could have benefited from. Still, the first report (January – June 2023) of an ongoing survey on [Rape and Sexual assault survivors' experience of the police](#) reveals that 42% of the respondents to the survey who reported the incident to the police felt that the police did not believe them.

A celebrity case is a reality check on the current criminal justice system. The police have in some cases attempted to improve their responses to rape allegations (see [Operation Soteria](#)), although the past two centuries and the Savile and Brand cases have evidenced that there is yet a long way to go.