



Home Office

Third Party Material Case File Review Report

Policy Exercise

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1. Executive Summary

As part of the Government's End-to-End Rape Review (published June 2021), the Government committed to limiting requests for information about victims to what is necessary and proportionate in pursuit of reasonable lines of inquiry. To support this aim, the Home Office committed to review police case files to gather data on the necessity, proportionality, and timeliness of third party material¹ requests in cases where either adults or children had been raped.

Data was collected from 139 rape investigations containing third party material from eight forces across England between January-March 2023. The cases typically started in 2021 and all had proceeded to the point of a suspect being charged. The data provide an insight into rape investigations, but due to a range of caveats, are not representative of all rape cases. Overall, the case file review found examples of TPM requests that were problematic in terms of their necessity, proportionality and focus on perceived victim credibility and reliability.

Across the 342 third party material requests seen in the case file review, requests included requests for GP records, education records, social services records, counselling records and Independent Sexual Violence Adviser (ISVA) notes. 185 forms detailing the request were found, and 62% (114/185) of these did not contain any parameters (such as a timeframe²) to limit the amount of information about the victim being requested.

The case file review also looked at the rationales within the case file for why the third party material request was made. 197 rationales were found and nearly a third (32%) focused on establishing perceived victim reliability or credibility instead of focusing on the incident itself. Most (71%) of the rationales that focussed on the victim were for requests made about victims aged under 18 at the time of the incident.

75% of third party material requests were made pre-charge, the most common week TPM was requested was the first week after the incident was recorded by the police. 3% of third party material requests were assessed to have caused a delay to the investigation.

The findings of this review corroborate previous research on third party material requests regarding necessity and proportionality. It also supports the implementation of legislative measures to ensure that all requests for third party material are necessary and proportionate, that they follow a reasonable line of enquiry and that the police engage the victim in the process of making the request.

¹ See definition in the introduction, paragraph 1

² 'Timeframe' here refers to a date range of the records requested, e.g. requests for records from the victim's general practitioner (GP) of visits between January and February 2021

options and gathered evidence on proposed recommendations to improve how police make these requests ensuring they are relevant to the investigation, necessary, proportionate and do not simply seek to establish victim credibility. The consultation results were published in 2023¹⁵ and the findings supported the qualitative evidence within earlier publications, with the majority of the 406 respondents indicating that TPM requests about victims of rape and other sexual offences are unnecessary and disproportionate, and made to establish victim credibility.

To complement the qualitative evidence gathered in the consultation the Home Office committed to gather further empirical evidence on the issue of necessity, proportionality and timeliness of third party material requests through a review of police case files. And subsequently, publishing a summary of the case file review findings, which are described in this report.

The Home Office case file review was conducted between January and March 2023. There is currently no established mechanism to gather empirical data on TPM requests in different police forces beyond reviewing individual case files. Therefore 139 rape investigations from eight police forces across England were reviewed in situ. The data collected and the insights presented in this report have and will continue to inform policy initiatives and serve (alongside the aforementioned publications) as a foundation for future improvements in TPM request processes.

3. Methodology and Limitations

This section covers the key methodological aspects and data quality/limitation considerations required to interpret the findings of this case file review. Further details on the methodology and the design of the exercise are available in the Annex of this report.

3.1 Selection of the participating forces

All 43 police forces in England and Wales were invited to take part in the case file review. 14 forces volunteered and due to timing and resource restraints, the Home Office chose eight forces: Avon and Somerset, Cambridgeshire, Hampshire, Northamptonshire, Northumbria, South Yorkshire, Thames Valley and West Yorkshire. These eight forces were selected to try to i) encompass a range of metropolitan and rural regions within England and ii) include some of the police forces who were participating in Operation Soteria^{16,17} at the time of the case file review (Avon and Somerset, Hampshire and Northumbria).

¹⁵ [Police requests for third party material: consultation response GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/police-requests-for-third-party-material)

¹⁶ [Operation Soteria Bluestone | College of Policing](https://www.collegeofpolicing.org.uk/operation-soteria-bluestone)

¹⁷ [Operation Soteria Bluestone Year One Report \(accessible version\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/operation-soteria-bluestone-year-one-report)
[para 99](#)

3.2 Selection of cases for the review

Each force self-selected the cases for analysis, based on the scope provided by the Home Office. This scope was based on extensive consultation with stakeholders across the criminal justice system.

The scope was:

- The force's 25 most recent electronically recorded/saved rape case files (this number was chosen based on how many case files the two consultants could review within the allocated time at each force)
- The case file must feature at least one TPM request
- The investigation must have progressed to the point of receiving a defence statement or equivalent¹⁸. This was included in the scope to attempt to capture any TPM requests that might originate from different parties such as CPS and defence.

3.3 Approach to gathering data

Two consultants were chosen to collect the data on behalf of the Home Office. Both consultants had retired from policing within one year of the data collection exercise and had experience of investigating rape and sexual offence cases. Their ranks at the time of retirement were Detective Superintendent and Detective Chief Inspector. A pilot exercise (see Annex for more details) at Thames Valley police force informed the design and approach of the case file review and was used to inform the training the two consultants received.

The two consultants spent five days at each force. They worked together on each case, spending typically two hours looking for the data needed to answer the question set in the Annex. If they struggled to find data, they would both then typically spend 15-20 minutes completely interrogating the full record to either find the information or satisfy themselves it was not present. Each force provided a point of contact who provided support and helped advise on where data could be found. Further details on the design of the case file review are available in the Annex.

3.4 Analysis of the Data

Due to the small (purposive) sample size (approximately less than 2% of all rape cases for the time period) and the nature of this review, data are not representative of every case or police force in England and Wales and generalisations should be avoided.

¹⁸ A defence statement is a document that outlines the strategy the defence will use to argue their case during trial. It must be provided to both the prosecution and the court in advance of trial. If the defence statement itself was not within the file then evidence was looked for to show it had reached that stage.

The data was collected from the answers given in the question set in the Annex and analysed in Excel. It is typically presented as averages (median) and most common (mode) to help summarise and interpret the data. Force by force breakdowns are not shown due to the small sample size for each force.

3.5 Data Quality and Limitations: Reliability of the data gathered

3.5.1 Impact of the Case File Review's Scope

The requirement of the cases within this review to have proceeded to the point of receiving a defence statement had a number of implications for interpretation of the results. In 2021 when most of the investigations within the sample were recorded, only 3.6% of rape cases on average progressed to the point of a suspect being charged¹⁹. As discussed later, the sample of cases here is not representative of the vast majority of rape investigations that do not reach this stage (e.g. No Further Action (NFA) cases). Furthermore, sampling from cases which have advanced to charge / defence statement means that the characteristics of TPM in non-charged cases may be very different.

The requirement for the case to have proceeded to the point of receiving a defence statement meant that the average year of recording the incident was 2021. Thus, the data is looking back to police practices for requesting TPM from 2021 and policies and guidance initiated since 2021 may not be adequately reflected within the dataset analysed – see Table A1 in Annex for a breakdown by year when each TPM request was made.

3.5.2 Sample Size

The overall sample size of 139 cases is too small to be representative of rape investigations overall. The number of investigations analysed for each force is even smaller, ranging from 15 to 23 cases. Thus, this data cannot be used to represent the full spectrum of rape investigations.

3.5.3 Data Location

The data used for this case file review exercise was based on the information contained within individual force electronic case file systems, rather than paper files. Likewise, any information shared verbally or via email and not recorded in the electronic case file was not available for this analysis.

3.5.4 Case Characteristics

There was variability in the type of cases each force contributed for analysis. The characteristics of the victim and the context of the offence are likely to be important factors in determining the likelihood and type of TPM sought, the

¹⁹ [The end-to-end rape review report on findings and actions \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944447/the-end-to-end-rape-review-report-on-findings-and-actions.pdf)

volume of the material requested, and the reason for the TPM being requested e.g. whether the victim is/was in care, or the presence of protected characteristics such as race, religion, sex, sexual orientation etc ^{20 21 22}.

3.5.5 Non-random sampling

The files provided were not selected through random sampling but rather the eight participating forces chose a sample of their most recent rape cases that fit a set criteria chosen by the Home Office. The main limitation of using a non-random sample of case files is that it limits the extent to which the findings are generalisable to the wider population (e.g. to all cases containing TPM within the selected forces). Certain categories of TPM evidence, such as medical records, have been demonstrated to be strong predictors of charge outcomes²³. Given that this file review focuses on charged cases, it is possible that TPM of this nature may be overrepresented within the sample relative to all rape investigations and similarly other types of TPM may be under-represented.

4. Case File Review Findings

4.1 Overview of the case file review

The Home Office case file review was conducted between January and March 2023 and focussed on the necessity, proportionality, and timeliness of third party material requests in rape cases of adults and children through a review of a non-random sample of police case files where a suspect had already been charged. Case files were selected by police forces to comply with certain criteria (see Methodology section) and thus the findings of this exercise should not be generalised to represent how TPM is requested in all rape cases in England and Wales.

The 139 investigations in this case file review were recorded between 2018 and 2022. The most common year that cases were recorded was 2021 (35% of cases). Of the 196 TPM requests where the date of the request being made was recorded, the most common year that the TPM was requested was 2021 (45% of requests) with 95% of requests made between 2019 and 2022 (see Table 1).

Table 1: Key details about the sample of cases in this review

| | |
|-------------------------------|-----|
| Number of cases in the review | 139 |
|-------------------------------|-----|

²⁰ [Investigating and detecting recorded offences of rape 2007](#)

²¹ [The end-to-end rape review report on findings and actions \(publishing.service.gov.uk\)](#)

²² [Operation Soteria Bluestone Year One Report \(accessible version\) - GOV.UK \(www.gov.uk\)](#)

²³ [Investigating and detecting recorded offences of rape \(nationalarchives.gov.uk\)](#)

| | |
|---|------|
| Number of cases of which the victim was aged under 18 at the time of the incident | 50 |
| Number of TPM requests in the sample | 342 |
| Number of TPM request forms in the sample | 185 |
| Number of TPM requests where a rationale for the request was given | 176 |
| Most common year investigations recorded by police | 2021 |
| Most common year TPM was requested | 2021 |

4.2 Necessity of the TPM requests

Existing case law, legislation and guidance makes clear that an officer should only request third party material if they believe that it is relevant to a reasonable line of enquiry, not due to speculation.

Assessing each of the TPM requests for necessity, i.e. whether it was relevant to a reasonable line of enquiry in an investigation, requires an in-depth understanding of all aspects of each individual case and then an informed judgement. This was not possible within the timeframes and design of this review, therefore the necessity of each TPM request cannot be determined directly. Instead data was collected to infer necessity indirectly through both the type of TPM requested and the reasons and specificity of the TPM request to the case itself. The impact of the age of the victim on the reason for the TPM request was also investigated.

4.2.1 Types of TPM requested in this review

The most commonly requested type of TPM within the sample were GP records, which were requested in 99 (71%) of the 139 cases. Counselling/therapy notes were requested in 29% of cases, followed by hospital records (25%) and Independent Sexual Violence Advisers (ISVA) notes (7%).

Table 2: Most commonly requested types of TPM in the case files reviewed

| TPM requested | Count | Percentage of all TPM requests (342) | Percentage of all cases (139) |
|--------------------------------|-------|--------------------------------------|-------------------------------|
| GP records | 99 | 29% | 71% |
| Social services record | 66 | 19% | 48% |
| Education records | 60 | 18% | 43% |
| Counselling/therapy notes | 41 | 12% | 29% |
| Hospital records | 35 | 10% | 25% |
| Sexual Assault Referral Centre | 13 | 4% | 9% |

| | | | |
|-------------------------------|----|----|-----|
| (SARC) records ²⁴ | | | |
| ISVA notes | 10 | 3% | 7% |
| Other providers ²⁵ | 18 | 5% | 13% |

Records that are held about a person, and therefore can be requested, will vary depending on individuals and the services they have engaged with. Thus, whilst 29% of the 139 rape cases contained a request for counselling records, it is not clear whether only 29% of victims had accessed counselling, or whether victims in other cases had accessed counselling but their notes were not requested.

The ten cases where the notes written by an Independent Sexual Violence Advisor (ISVA) were requested, was also unexpected. The role of an ISVA is to provide ongoing continuity, advocacy and impartial advice and information to a victim of sexual violence. Discussion of the offence itself is outside of the scope of the role²⁶. Therefore, ISVA notes should ordinarily never need to be requested by police.

4.2.2 Rationale for the Third Party Material Request

When police request TPM, they are required to have a clear rationale based on a line of inquiry justifying the necessity of the request²⁷. However, in the review of 342 TPM requests, only 176 requests had a recorded rationale²⁸, leaving 49% of requests (166 out of 342) without an explanation for the necessity of the request. There was not a notable difference between the type of TPM requested and whether a rationale was recorded or not (see Table A3 in the Annex).

In response to concerns that investigations of rape and sexual offences can unduly focus on victim credibility instead of on the incident itself²⁹ the reasons recorded for making the TPM request were analysed.

The rationales were categorised into five themes shown in Table 3³⁰.

²⁴ The number of requested SARC records found in this case file review was highlighted as lower than expected by participating forces. Their anecdotal for this is that the close relationship between police and SARCs means that SARC records requests are not always formally recorded in case files by the police. Likewise, the victim may have already granted their permission for the records to be sent to the police during their visit to the SARC and therefore the request may not be recorded in the case file.

²⁵ See Table A2 in Annex for breakdown of other providers

²⁶ [The Role of the Independent Sexual Violence Adviser. Home Office 2017](#)

²⁷ [Disclosure Manual: Chapter 5 - Reasonable Lines of Enquiry and Third Parties | The Crown Prosecution Service \(cps.gov.uk\)](#)

²⁸ The rationales were found in a variety of locations within the electronic case file, many within the TPM request form, but sometimes also in the Officer Enquiry Log.

²⁹ [Information Commissioner's Opinion "Who's under investigation?" | ICO](#)

³⁰ The rationale themes were determined with guidance from the CPS and policing as part of a CJS-wide reference group.

Sometimes the reason given for a request was relevant to more than one of the five themes, therefore the 176 TPM requests had a total of 197 rationales.

Table 3. Recorded rationales for TPM requests (total of 197 rationales)³¹

| Rationale Theme | Percentage of 197 TPM rationales (for the TPM requests where a rationale was provided) |
|---|--|
| 1. To see if it supports an incident occurred | 36% |
| 2. To establish a separate account of the incident | 24% |
| 3. To establish the facts of the incident | 4% |
| 4. To establish the perceived reliability of the victim | 10% |
| 5. To establish the victim's perceived credibility | 22% |
| 6. Other reason ³² | 4% |

The categorisation of the rationales was limited to the content available in the case files reviewed. It is possible that the data presented was not reflective of the full reasoning behind the request.

The five themes in Table 3 were then further grouped into two, the first includes those themes that focus on the incident (themes 1-3) and the second are themes that focus on the victim (themes 4-5). The rationales given for the TPM requests in the cases within the review were 64% rationales that focussed on the incident and 32% rationales that focussed on the victim. Each case is unique and while TPM requests that are focussed on victim reliability or credibility³³ can not be shown to be unnecessary on an individual basis, current guidance³⁴ is that the evidence in cases of rape should focus on the behaviour and actions of the suspect - the 'suspect-centric' or 'offender-centric'

³¹ Out of the 176 TPM requests with recorded rationales, 16 included more than one reason. Therefore, the total number of rationales (197) is higher than the number of TPM requests with recorded rationales (176).

³² 4% (8 out of 197) of the rationales were classified as 'other,' including requests for details about previous allegations, supporting investigations into additional offenses against the victim by the suspect, and generic requests to check if the victim had any previous involvement with children's social care.

³³ Credibility is a person's truthfulness, evidence of being untruthful in the past would have an impact on their credibility. Reliability is the person's ability to accurately recall and recount an event.

³⁴ [How we make a decision on what to do in your case - Rape and Serious Sexual Assault | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk/how-we-make-a-decision-on-what-to-do-in-your-case-rape-and-serious-sexual-assault)

approach³⁵.

The necessity of making a TPM request can also be inferred by how specific the reason is for making the request - TPM should only be requested in an individual case if it has been identified as relevant to an issue in the case³⁶. In the rationales for the requests studied in this review, 44 out of 197 (22%) were generic/not specific to the case (Table 4.) If the reasoning for making a TPM request is speculative/generic it is unlikely to be necessary to make the request in pursuit of a line of enquiry.

The rationales that were generic were probed further to see if they were incident-focussed or victim-focussed. The 153 rationales that were specific to the details of the case were predominantly focussed on the incident (75%) rather than the victim. Of the 44 rationales that were generic, 70% focussed on victim reliability/credibility. The predominance of these generic requests to be also focussed on the victim's reliability/credibility also adds further concern to the necessity of these requests.

Table 4: Recorded rationales for TPM requests compared to whether the rationale was judged to be specific to each case (based on the 197 rationales recorded).

| | Count | Rationale focussed on incident (%) | Rationale focussed on victim perceived reliability/credibility (%) | Other reason ³⁷ (%) |
|--|-------|------------------------------------|--|--------------------------------|
| All TPM request rationales | 197 | 64% | 32% | 4% |
| Rationale clearly linked to specifics of case | 153 | 75% | 21% | 5% |
| Rationale generic/does not reference specifics of case | 44 | 27% | 70% | 2% |

4.2.3 Rationale for the Third Party Material Request by age of the victim

³⁵ [Investigator's journey | College of Policing](#)

³⁶ [Attorney General's Guidelines on Disclosure - GOV.UK \(www.gov.uk\)](#)

³⁷ 8 out of 197 of the rationales were classified as 'other,' including requests for details about previous allegations, supporting investigations into additional offenses against the victim by the suspect, and generic requests to check if the victim had any previous involvement with children's social care.

The necessity of a TPM request, and therefore the rationale for the request, should focus on the pursuit of a reasonable line of enquiry and not be determined by the characteristics of the victim³⁸. Table 5 compared the rationales provided for TPM requests for victims who were aged under 18 at the time of the incident, and the rationales for TPM requests of victims aged 18 or over. The 111 rationales found for victims aged 18 or older predominantly focussed on the incident (77%). Over half (52%) of the 86 rationales found for victims aged under 18 at the time of the incident focussed on establishing perceived victim reliability or credibility. Thus of the 63 rationales that focus on victim perceived reliability/credibility, 71% related to under 18 victims.

Table 5: Recorded rationales for TPM requests (176 TPM requests had at least one rationale recorded, giving a total of 197 rationales in the sample).

| | All | Victim aged under 18 at time of incident | Victim aged 18 or older at time of incident |
|--|-----|--|---|
| Count | 197 | 86 | 111 |
| Rationale focussed on incident (%) | 64% | 48% | 77% |
| Rationale focussed on victim perceived reliability/credibility (%) | 32% | 52% | 16% |
| Other reason (%) ³⁹ | 4% | 0% | 7% |

This is demonstrated further when the rationales provided are compared to the different types of TPM requested for all victims where a rationale was available (176 TPM requests). TPM types for services that a victim would be more likely to encounter as a child (social services and education records) showed a higher percentage of rationales focused on the victim than the incident, whereas other TPM types including GP records and counselling records focused more on the incident (Table 6).

Table 6: Recorded rationales for TPM requests compared to the type of TPM request (based on the 197 rationales recorded for the 176 TPM requests where a rationale was recorded).

| | Number of rationales recorded for | Rationales focused on | Rationales focused | Other reason % |
|--|-----------------------------------|-----------------------|--------------------|----------------|
| | | | | |

³⁸ [Disclosure Manual: Chapter 5 - Reasonable Lines of Enquiry and Third Parties | The Crown Prosecution Service \(cps.gov.uk\)](#)

³⁹ 4% (8 out of 197) of the rationales were classified as 'other,' including requests for details about previous allegations, supporting investigations into additional offenses against the victim by the suspect, and generic requests to check if the victim had any previous involvement with children's social care.

| | each TPM type | the incident % | on the victim % | |
|---------------------------|---------------|----------------|-----------------|----|
| Social services record | 30 | 33% | 60% | 7% |
| Education records | 34 | 38% | 56% | 6% |
| GP records | 60 | 70% | 28% | 2% |
| Counselling/therapy notes | 25 | 72% | 24% | 4% |
| ISVA notes | 5 | 80% | 20% | 0% |
| Other provider | 17 | 88% | 6% | 6% |
| Hospital records | 20 | 90% | 5% | 5% |
| SARC records | 6 | 100% | 0% | 0% |

All cases selected for this review contained at least one TPM request, with an average of 2.5 TPM requests across the 139 cases. The 50 cases with victims who were aged under 18 at the time of the incident had an average of 2.9 requests per case, whereas the 89 cases where the victim was aged 18 or older at time of incident had an average of 2.2 TPM requests.

The rationales provided for cases with one, two, three, four and five TPM requests were compared to test if cases with higher numbers of requests also had higher numbers of victim-focussed rationales, however the relationship was not clear (Table A4 in Annex).

The data in this section suggests that at least some of the TPM requests within this review were unnecessary, e.g. the 10 requests for ISVA notes (see Table 2) and the 44 rationales for TPM requests that were generic/speculative and unrelated to the specifics of the case (see Table 4). Furthermore, the number of TPM requests that are aimed at establishing perceived victim reliability or credibility seem to vary depending on the age of the victim at the time of the incident (Table 5), suggesting that not all requests in this study were deemed necessary based on the features of the incident, but were influenced by the characteristics of the victim.

4.3 Proportionality of the Third Party Material requests

As with necessity, it is difficult to definitively determine whether a TPM request was proportionate to pursue a relevant line of enquiry and therefore exploring the proportionality of the TPM requests was studied through proxy indicators, such as the level of detail in the information shared by the police with the third parties in their request form. A proportionate request would ensure that only TPM related to the line of enquiry is requested, rather than a generic request

or 'fishing expedition' ⁴⁰.

Of the 342 TPM requests reviewed, 54% (185/342) of the TPM request forms sent to third parties were recorded in the case file^{41,42} and were included in the analysis below.

Table 7 demonstrates that in 63% (116/185) of the forms sent to third parties there was no information regarding the precise type of TPM being requested. In 41% of the TPM request forms (76/185) there was no information on the legal basis for the request. The reason why the request was being made was missing in 38% of the request forms (70/185) and 56% of these requests (104/185) did not explain how the TPM would be handled or stored by the police throughout and after the investigation.

Table 7: Information on the TPM request within the 185 TPM forms seen by third parties.

| | Percentage of forms (n=185) |
|--|-----------------------------|
| Did not specify the precise type of TPM requested | 63% |
| Did not explain the legal basis to the request | 41% |
| Did not explain why the request was made⁴³ | 38% |
| Did not explain how the TPM will be stored/retained | 56% |

Limiting the request for third party material by putting a timeframe or theme as a parameter can reduce the intrusiveness of the request. A blanket request for all records about a victim is likely to be disproportionate, unnecessary, highly

⁴⁰ [Rape and Sexual Offences - Chapter 3: Case Building | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk)

⁴¹ At the time of the case file review (2023) there was no universal/standardised method for police to request TPM from third parties, although the Criminal Procedures and Investigations Act 1996 has laid out a spectrum of guidance and principles that ought to be adhered to⁴¹. As each force operates independently, the forms and the processes followed were also different.

⁴² The remaining 46% TPM requests were made using alternative systems, such as paper requests, email correspondence, in person or via phone. Details of these TPM request were recorded in the case file such as in the Officer Enquiry Log on Niche and detail of the request was limited to what was requested rather than why.

⁴³ An example of why the request is being made might be including within the form the line of enquiry the request relates to. The number of forms where the reason why was included (115 out of 185 forms) is smaller than the 176 TPM requests where a rationale was given, as discussed in section 4.2.2. This is because the data in Table 7 focuses exclusively on the data within the 176 TPM forms rather than the data in section 4.2.2 which looked for a rationale anywhere in the case file for each of the 342 TPM requests.

intrusive and not align with data minimisation principles^{44,45}. Table 8 shows that 62% (114/185) of the TPM request forms did not contain a limit to the volume of material being requested, such as a timeframe or theme to restrict the information about the victim that would be supplied by the third party.

Table 8: Presence of parameters to the TPM request within the TPM forms seen by third parties by type of TPM.

| | No parameters to the request provided (%) | Parameters (e.g. timeframe or theme) provided % | Count |
|------------------------------|---|---|-------|
| All TPM request forms | 62% | 38% | 185 |
| ISVA notes | 75% | 25% | 4 |
| Counselling/therapy notes | 74% | 26% | 23 |
| Education records | 71% | 29% | 24 |
| GP records | 69% | 31% | 59 |
| Social services record | 66% | 34% | 32 |
| Hospital records | 46% | 54% | 24 |
| SARC records | 40% | 60% | 5 |
| Other provider ⁴⁶ | 14% | 86% | 14 |

As well as being highly intrusive for the victim, incomplete or missing information may negatively impact how quickly the third party will respond with the material. The generic nature of the requests may result in the third party having to find and supply a large volume of material. This volume of material, possibly much of it irrelevant, will also take longer for the officer to review and process further delaying progression of the investigation.

4.3.1 Victims' Involvement in the Request

In addition to examining the forms that were sent to the third parties, data was also collected on how many of the TPM requests showed evidence of victim involvement in the request, for example through a victim's signature on details of the TPM request. This could either be the same form that was sent to the third party, or an alternative form. This data was collected to see if the details of the TPM request that were shared with the victim were more or less detailed and proportionate than the details shared with the third party.

In 64% (219) of the 342 TPM requests, there was evidence of victim engagement on a TPM request form. In 10% (34) requests victim involvement was mentioned in the file but no further evidence for this was present. In 26% (89 requests) no evidence of victim involvement was seen.

In the 219 requests where victim involvement was seen on a TPM request form,

⁴⁴ [Law enforcement processing: part 3 appropriate policy document - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444444/law-enforcement-processing-part-3-appropriate-policy-document.pdf)

⁴⁵ [Data minimisation | ICO](https://ico.org.uk/our-work/data-protection/data-minimisation/)

⁴⁶ See Table A2 in Annex for breakdown of other providers

78% of these requests did not specify the type of TPM, and 79% of these requests did not contain limits or parameters such as a timeframe to the TPM request (Table 9). In 54% (119 out of 219) of the forms there was no evidence that the form had any information to inform the victim that they had the option to disagree to the TPM request being made. Across all 139 case files, no data was found to suggest that victims were given information about the expected timeframe for receiving their TPM records or provided with updates on the progress of their TPM requests.

It is possible further information may have been communicated to the victim, but not recorded in the case file and therefore undetected here. However, if taken at face value, this lack of engagement with victims on TPM requests is relevant because the Information Commissioner’s Office found that if the criminal justice sector fails to gain the trust and confidence of victims, victim involvement in the process is not sustained and can lead to low charge and conviction rates⁴⁷.

Table 9: Information within the TPM request forms seen by victims

| | Percentage of 219 TPM request forms that the victim saw. |
|--|--|
| Did not specify the precise type of TPM requested | 78% |
| Did not contain parameters to the TPM request | 79% |
| Did not contain information to explain that the victim could disagree with the request | 54% |

4.4 Role of the Crown Prosecution Service (CPS) and Defence in Third Party Material requests

Previously, there have been suggestions from the HMCPSP in 2019⁴⁸ and policing⁴⁹ that the CPS may sometimes be responsible for driving the police to make unnecessary and disproportionate TPM requests. The Home Office sought to understand the origin of TPM requests, specifically if the proposal to

⁴⁷ [Information Commissioner calls for an end to the excessive collection of personal information from victims of rape and serious sexual assault | ICO](#)

⁴⁸ [Rape-inspection-2019-1.pdf \(justiceinspectorates.gov.uk\)](#)

⁴⁹ [Police requests for third party material: consultation response \(accessible\) - GOV.UK \(www.gov.uk\)](#)

seek the material came from police, CPS, or defence. Police forces do not routinely record the origin of the request, therefore three methods were used to try to understand the likely origin of the request.

Firstly, examples of TPM requests arising from Early Investigative Advice (EIA)⁵⁰ were considered. EIA also known as 'Early Advice' is the process wherein prosecutors offer guidance and counsel to assist police in determining "the evidence that will be required to support a prosecution or to decide if a case can proceed to court⁵¹." In this case file review instances of EIA pertaining to TPM requests were observed in 35 out of 342 requests (10%) in total. This may be reflective of a low frequency in police seeking EIA in 2021, when most investigations within this sample were taking place, or lack of a record of EIA within the case file.

Secondly, more ad hoc correspondence between CPS and police was reviewed through reviewing the officer's log of the case (e.g. Niche Occurrence Enquiry Log) and the uploaded documents within the case file. From the available information, there was evidence that CPS initiated 7% (23/342) of requests; 4% (12/342) were made from consultation between the police and CPS; and no requests were noted from defence.

Finally, the time frames of when the TPM was requested to see if it could be indirectly inferred where the TPM request originated, for example how far after the incident being recorded was the request made, as CPS and defence involvement is more likely to occur later in the investigation timeline.

The most common week TPM was requested was the first week (0-7 days) after the incident was recorded (26 of the 197 requests (13%)). This varied considerably across the 197 requests - the median was 7 weeks (Table 10 and Chart 1).

When the date of each TPM request was compared to the date a suspect was charged within that case (data available for 196 cases), 147 (75%) of TPM requests were made pre-charge (Table 10). Requests were made on average 282 days before a suspect was charged, although this varied considerably, with a range from 51 months before a suspect was charged to a request made 24 months after a suspect was charged. The most common week for a TPM request to be made relative to a suspect being charged was week 0, i.e. the same day or in the following six days a suspect was charged, however this only accounts for 15 of the 196 (8%) requests (see Chart 2). While this may indicate CPS involvement in those requests, overall from these findings there is little evidence that the majority of TPM requests within this review were driven by the CPS or defence.

⁵⁰ [Early advice protocol | College of Policing](#)

⁵¹ [Early investigative advice - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(justiceinspectors.gov.uk\)](#)

Table 10. Date TPM was requested relative to the incident being recorded and a suspect being charged.

| | |
|---|---------------------------------------|
| Most common duration between the case being recorded and TPM requested | 0 weeks (26/197) |
| Average (median) duration between the case being recorded and TPM requested | 7 weeks (197 requests) |
| Percentage of TPM requests made pre-charge | 75% (147/196 requests ⁵²) |
| Average (median) duration between the TPM requested and a suspect charged | 282 days before charge |
| Most common week TPM requested relative to a suspect charged | 0 weeks (15/196) |

Chart 1. Count of TPM requests made week by week from date incident recorded by police (data available for 197 TPM requests).

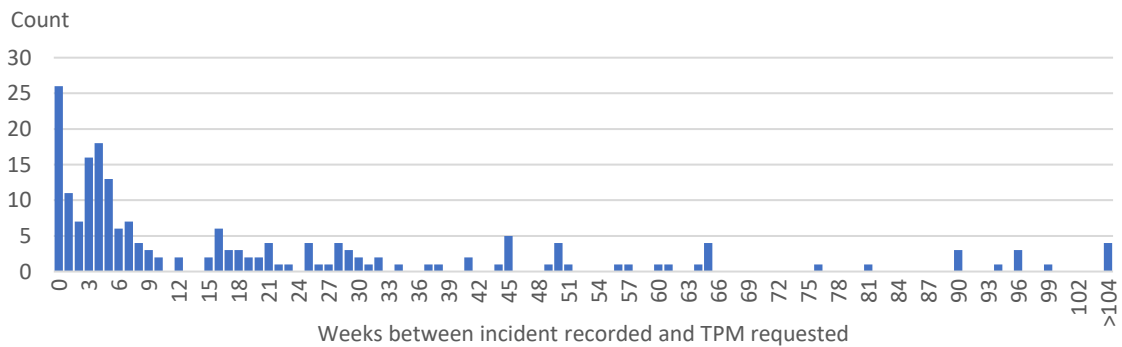
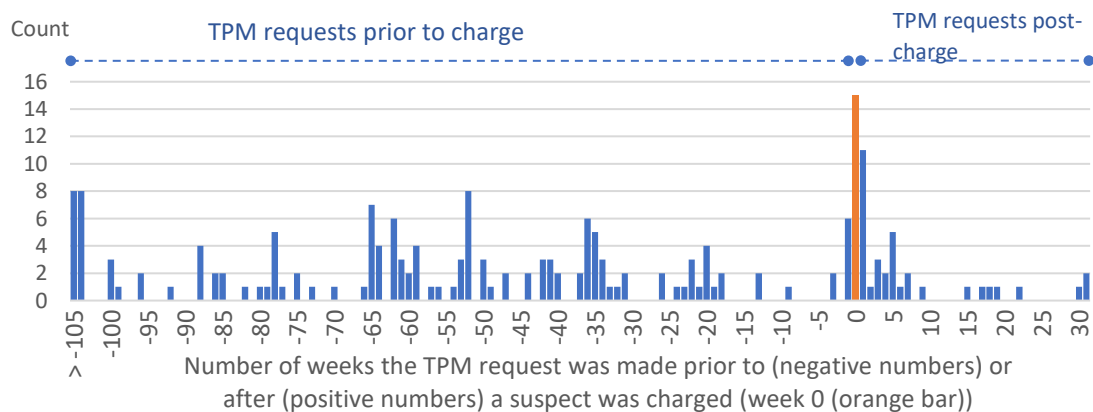


Chart 2. Count of TPM requests made before and after the date the suspect was charged (week 0, orange bar) (data available for 196 TPM requests)



⁵² When comparing the date a suspect was charged to the date the TPM was requested there was one less available data point (total 196 data points) than there was when it was compared to the date the incident was recorded (total 197 data points).

4.5 Timeliness of Third Party Material Requests

In addition to understanding the necessity and proportionality of the TPM requests, the third aim of the case file review was to understand whether the TPM requests were responsible for delays to the investigation. Data was gathered where possible on the timeframes associated with third party responses and whether these timeframes contributed to delays in investigations, however the small sample size and lack of formal recording of this information makes conclusions on the impact of the TPM request on the overall progression of the case challenging. Determining whether the TPM request delayed the investigation was inferred based on the available information within the officer enquiry log for each TPM request and the time it took for the police to receive the TPM from the third party.

4.5.1 Response time of the third party in fulfilling Third Party Material requests

128 out of 342 TPM requests contained both the date the request was made to the third party by the police and the date the material was received by the police.

Of these 128 TPM requests, 74 requests (58%) were received within 28 days, while the remaining 54 requests (42%) took 29 days or longer. 21 days was the average number of days for third party material to be sent to the police. Notably, seven of the 128 requests (5%) TPM requests took more than 6 months to be received by the police.

Examples of further correspondence between the police and the third party were examined to understand potential issues with the information provided to the third party, or a slow response by the third party to provide the material. However, as this information is not recorded as standard within case files there were few examples and it is not possible to assess whether this correspondence did not happen very often or if it just was not recorded.

Across the 342 TPM requests there were 14 (4%) occasions where the third parties sought further guidance/information from the officer. There were 29 (8%) occasions where the police chased the third party for a response. There was one instance where a court order was obtained to gain access to GP records.

Data was also sought on how the third party responded to the request. There was again little documentation of this. Across the 342 TPM requests made, a refusal to provide the information was seen for three requests, partial fulfilment of the request was noted for five requests. There was no data on the remaining requests which may mean they were completely fulfilled by the third party or it may be that the details of their fulfilment were not recorded.

4.5.2 Delays in Third Party Material

A delay was classed as an event where all other lines of enquiry had been exhausted and the case was unable to progress without the TPM. 217 out of 342 TPM requests contained sufficient context to allow an assessment as to

whether the requests delayed the investigation - in only 6 out of 217 (3%) cases was a TPM request determined to have caused a delay, for example one of the delays caused by a third party's refusal to supply the TPM resulted in the police having to seek a court order for the TPM request to be fulfilled (Table 11).

Table 11. Did the TPM request delay the investigation timeline and if so by how long?

| Did the TPM request delay the investigation timeline and if so by how long? | Count | Percentage |
|---|------------|------------|
| Yes-delay of 1 month or less | 0 | 0% |
| Yes-delay of 1- 3 months | 2 | 1% |
| Yes-delay of 3-6 months | 4 | 2% |
| Yes-delay of more than 6 months | 0 | 0% |
| No – no evidence that it caused a delay | 217 | 97% |

This low number of incidents where TPM requests have caused a delay is again in contrast to responses to the Home Office consultation⁵³. From conversations with participating forces, it is possible that delays to investigations caused by TPM requests were masked due to more substantial delays from other factors, such capacity and pressures as a result of the COVID-19 pandemic. Additionally the number of TPM requests that delay an investigation may be different when looked at across all rape cases, where the majority of cases do not receive a charging decision, rather than the sample of charged cases within this review.

5. Conclusion

This case file review found that there were examples of TPM requests that were likely to be unnecessary (e.g. ISVA notes, disproportionate (e.g. requests with no parameters attached to them) and speculative/generic rather than focussed on a line of enquiry. Likewise approximately a third of TPM requests were made to probe a victim's reliability or credibility, and this was concentrated amongst victims who were under 18 at the time of the incident, who accounted for over 70% of such rationales. The majority of forms that showed evidence of having been seen by the victim did not contain information on the precise type of TPM being requested or limits to the TPM request such as a timeframe. Third party material requests did not seem to be responsible for creating delays in the

⁵³ [Police requests for third party material: consultation response \(accessible\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/police-requests-for-third-party-material)

progression of the majority of cases - with 21 days being the average waiting time for police to receive the TPM and only a small minority (3%) of investigations were found to be delayed by the third party being slow to provide the third party material.

There was only a small number of requests where there was data within the case file that the TPM requests within this review originated from the CPS or defence, with the majority of TPM requests made pre-charge and soon after the incident was recorded. However police forces did not routinely record the origin of the request and there were only examples of early advice between the CPS in 10% of the requests. The Rape Review⁵⁴ and recent research as part of Operation Soteria⁵⁵ highlight the benefits that can arise from increasing the instances of early advice being sought of the CPS by the police. Therefore it would be interesting to probe this result further in future reviews.

The findings of the case file review confirmed many of the conclusions of the Government End-to-End Rape Review⁵⁶, Operation Soteria⁵⁷ and the anecdotal results of the Home Office TPM consultation⁵⁸. Some discrepancies are to be expected when comparing the consultation with the case file review, as the consultation reflects the views, mostly from policing, on all TPM requests, and are likely to be dominated by 'no further action' (NFA)⁵⁹ cases, while the case file review focused only on charged cases.

It is important to note that these findings have a number of limitations, specifically the non-random sampling of rape cases, the small sample size and only looking at rape cases where a suspect has been charged. Furthermore the data captured a snapshot in time, most commonly from 2021, regarding requests for TPM in investigations of rape. The review focuses only on the data within a case file and thus the complexity and nuances of the investigation that lie outside of that are not included. Hence, the findings of the case file review are not reflective of the most updated practices regarding TPM requests in investigations and should not be generalised to how TPM is requested in all rape cases.

Following completion of the review all participating forces were briefed on the findings. Forces were enthusiastic about the possibilities that the data offered, viewing these results as a resource to pinpoint areas to build on and improve

⁵⁴ [Rape Review progress update \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁵⁵ [Operation Soteria: Improving CPS responses to rape complaints and complainants - summary briefing from independent academic research, December 2023 | The Crown Prosecution Service](#)

⁵⁶ [End-to-End Rape Review Report on Findings and Actions - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁵⁷ [Operation Soteria Year One Report - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁵⁸ [Police requests for third party material: consultation response \(accessible\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁵⁹ [How we make a decision on what to do in your case - Rape and Serious Sexual Assault | The Crown Prosecution Service \(cps.gov.uk\)](https://cps.gov.uk)

where necessary. The Home Office is grateful to all the police officers and staff who enabled the review to take place.

5.1 Next Steps

Since the case file review was carried out, the government has introduced new clauses as part of the Victims and Prisoners Bill to ensure that police are absolutely clear on their responsibilities when requesting personal information about victims, ensuring that these requests are necessary and proportionate, and that they follow a reasonable line of enquiry. The new duties will also require police to provide clear and consistent information around TPM requests to both the victim and the third party who are being asked to provide information. This includes the information being sought, why it is being sought, and how the material will be dealt with once it has been obtained.

These duties also require the Secretary of State to prepare a Code of Practice to add clarity to the expectations on policing following these reforms. It will contain guidance for police, and other authorised persons, on how to carry out the duties outlined by the legislation and ensure they are complying with their obligations. This includes best practice around making requests and informing victims.

These proposed changes will promote consistency of practice across England and Wales and reaffirm the Government's commitment to increasing victim confidence in the criminal justice system as well as addressing the issues raised by the case file review and wider research.

Additionally the Home Office worked closely with the National Police Chiefs' Council (NPCC) to design and implement a new form for police to use when requesting third party material. This will help to ensure that TPM requests made by police are consistently limited in their scope, specific for each case and aligned with guidance and recommendations by the Attorney's General Office (AGO) and the ICO. The NPCC rolled out an interim version of the form and accompanying guidance documents in October 2023. The statutory Code of Practice that accompanies the legislation on TPM will signpost authorised persons to use this standard TPM request form to give notice to victims.

Furthermore, the Home Office invested £9.4 million to develop a new National Operating Model for the investigation of rape, which launched in July 2023. This model was developed through Operation Soteria, which brought together frontline policing from across 19 forces and academics from a range of disciplines to test new tools and techniques. All police forces in England and Wales are now implementing this new approach to rape investigations to support officers to ensure their investigations are victim-centred, suspect-focused and context-led⁶⁰.

⁶⁰ [National operating model for the investigation of rape and serious sexual offences | College of Policing](#)

In conclusion, the results of this small case file review found examples of TPM requests that were problematic in terms of their necessity, proportionality and focus on perceived victim credibility and reliability. This corroborates previous research on third party material requests and supports the implementation of legislative measures to ensure that all requests for third party material are necessary and proportionate, that they follow a reasonable line of enquiry and that they engage the victim in the process of making the request.

6. Annex

6.1 Further Details on Methodology

6.1.1 Design of case file review

6.1.1.1 Reference Group and Design of the Question Set

The design of this case file review, including the scope of the data gathered via the question set was informed by a Home Office-chaired Data Collection Reference Group. Membership was comprised of representatives from the Home Office (Forensics Policy Team, Digital Policing Policy Team and Analysis & Insight Team), the National Police Chief's Council Disclosure Portfolio, the Attorney General's Office, the Crown Prosecution Service, the Ministry of Justice, No 10 Delivery Unit, His Majesty's Inspectorate of Constabulary and Fire & Rescue Services and the Victim's Commissioner's Office. Data Protection Impact Assessments and Memoranda of Understanding were completed and shared between the Home Office and participating forces.

6.1.1.2 Pilot of the Question Set

In October 2022, the Home Office trialled a pilot of the case file review with support from Thames Valley Police. The pilot informed the design of the main data collection exercise through facilitating production of a short-list of likely locations for the data; a suggested methodology for how to approach answering the questions and a fine-tuning of the question set.

6.1.1.3 Amount of time spent per case file reviewed

Each investigation was different in complexity (i.e., number of suspects / offenders) and how the officer in the case (OIC) had stored the detail. Each OIC constructed and uploaded their files of evidence and the associated documents on an individual basis and there was often substantial variation, even within forces, of how that information was stored. In some instances, it took 2-3 hours to find the information whilst on others it was 30-40 minutes. An estimated average time per case was about 90 minutes.

6.1.1.4 Location of the data

Where to find the relevant data within case files varied. In all cases at the outset, the force was asked to clarify the use of specific forms, how material / work was commissioned from third parties.

Typically, a sample of files within each force was cross-checked with the point of contact. The point of contact within the force was asked to help find any missing data. Occasionally this resulted in some information but in the vast majority of cases, all available data had been found. If data was missing it was recorded as not available.

Data regarding the crime report was the most straight forward to find. More variable/difficult data to find were victim updates and communication; rationale for decisions; relevant dates for TPM. A list of the main locations of the data

used to answer the question set is below:

- Case file documentation (e.g. MG3)
- Unused material
- Investigation Management Document (IMD)
- Officer Enquiry Log (OEL)
- Many different iterations of TPM request and consent forms
- Copy emails
- Property records
- Hearing Record Sheets (Court Results)

6.2 Question Set used to collect data from case files during the review

1. Last two digits of crime/incident number
2. Date of the offence
3. Date the crime was reported
4. Was the victim under the age of 18 at the time of the offence?
6. Date suspect first interviewed
7. Date suspect charged
8. Date of defence statement
9. If applicable, was the suspect convicted at court?
10. Was Early Advice from the CPS sought by the police on requesting this TPM?
11. Who initiated the request for the third party material?
12. What stage of the investigation was the request made?
13. Who made the decision on the parameters of the information to request?
14. If the third party request was initiated by the CPS or Defence, was there any additional correspondence between the police and the CPS on the request?
15. Was a rationale recorded for seeking access to the Third Party Material?
16. Was the rationale specific to the details of the case?
17. Is there evidence of a TPM request form sent to the third party?
18. Does the TPM request form specify the precise type of TPM requested?

19. Does the TPM request form specify the parameters that limits to the line of enquiry?
20. Does the TPM request form explain the legal basis for requesting the TPM information?
21. Does the TPM request form explain why the TPM information was requested/what it will be used for?
22. Does the TPM request form explain how the TPM information will be stored/retained?
23. Date TPM request was sent/made by the police to the Third Party
24. Was there any additional correspondence/discussion between the police and the third party e.g. on clarity or chase-ups?
25. How did the third party respond to the scope of the request?
26. Date TPM received by the police from the Third Party (if supplied)
27. Is there evidence of a TPM request form (or equivalent) seen by the victim?
28. Does the TPM request form seen by the victim specify the precise type of TPM requested?
29. Does the TPM request form seen by the victim specify the parameters that limits to the line of enquiry?
30. Does the TPM request form seen by the victim explain the victims right to not agree to the TPM request?
31. Did the victim provide agreement to the TPM request?
32. Was the victim advised on how long it would take to receive the TPM?
33. If yes, was the time estimation given to the victim for the TPM request met?
34. If the time estimation was not met was the victim kept informed about the delay and the reason for it?
35. Did the TPM request delay the investigation timeline and if so by how long?

6.3 Additional details and supporting Tables.

Table A1: TPM requests per year in the case files reviewed

| Year | Number of TPM requests made each year |
|------|---------------------------------------|
| 2016 | 3 |
| 2017 | 0 |
| 2018 | 2 |
| 2019 | 19 |
| 2020 | 42 |
| 2021 | 89 |
| 2022 | 37 |
| 2023 | 4 |

Table A2: Providers of TPM requests found in the case files reviewed classed as 'other'.

| Other providers | Count |
|-------------------------|-------|
| Employers of the victim | 5 |
| Victim support services | 5 |
| Ambulance services | 2 |
| Dating websites | 2 |
| Taxi companies | 2 |
| Telecoms companies | 1 |
| Housing authorities | 1 |

Table A3: The absence of a rationale for the 342 TPM requests within the case files reviewed was mapped to the different types of TPM.

| | Total count of all requests | No rationale recorded percentage |
|------------------------------|-----------------------------|----------------------------------|
| Counselling or therapy notes | 41 | 49% |
| GP records | 99 | 45% |
| Hospital records | 35 | 43% |
| ISVA notes | 10 | 50% |
| SARC records | 13 | 54% |
| Social services record | 66 | 59% |
| Education records | 60 | 53% |
| Other provider | 18 | 11% |

Table A4: Recorded rationales for TPM requests compared to the volume of TPM requests in each case (based on the 197 rationales recorded).

| | All TPM request rationales | 1 TPM request in the case | 2 TPM requests in the case | 3 TPM requests in the case | 4 TPM requests in the case | 5 TPM requests in the case |
|---|----------------------------|---------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Number of cases | 139 | 33 | 36 | 47 | 19 | 4 |
| Count of available TPM rationales | 197 | 23 | 37 | 70 | 46 | 21 |
| Request around incident (%) – | 64% | 74% | 81% | 56% | 72% | 38% |
| Request on victim reliability/credibility (%) | 32% | 26% | 16% | 43% | 15% | 62% |
| Other reason %) ⁶¹ | 4% | 0% | 3% | 1% | 13% | 0% |

⁶¹ 4% (8 out of 197) of the rationales were classified as 'other,' including requests for details about previous allegations, supporting investigations into additional offenses against the victim by the suspect, and generic requests to check if the victim had any previous involvement with children's social care.