

Police making basic disclosure errors, says attorney-general

<https://www.thetimes.co.uk/article/police-making-basic-disclosure-errors-says-attorney-general-bnvvwg0rd>

Fiona Hamilton, Crime Editor

January 29 2018, 12:01am, The Times



Jeremy Wright, QC, denied that a lack of resources was behind the problems
JONATHAN BRADY/PA

Police and prosecutors are not carrying out basic procedures when it comes to disclosure and there is no excuse for recent failures to uncover key evidence that exonerated or supported the case of defendants, according to the attorney-general.

Jeremy Wright, QC, said there was a “substantial problem” with the disclosure regime but he did not believe that there was evidence of widespread malpractice or dishonesty.

Mr Wright’s criticism came after the Crown Prosecution Service announced emergency measures related to disclosure after a string of collapsed cases.

Every rape and serious sexual assault case in England and Wales is being reviewed and Alison Saunders, the director of public prosecutions, said that some sexual cases were likely to be stopped as a result of the inquiries.

It came after *The Times* revealed that four rape trials had collapsed when crucial evidence was disclosed at the last minute.

These included the case of Liam Allan, 22, a criminology student accused of rape, whose case was dropped after it emerged that police had failed to disclose texts that proved his innocence.

Oliver Mears, 19, an Oxford student, was also cleared of rape nearly a fortnight ago after spending two years on bail.

The scandal has begun to spread. A crown court judge has summoned prosecutors to appear before him on Wednesday to explain disclosure failures in a human trafficking case which was halted at Wood Green crown court, in north London. Judge Gregory Perrins complained of a “wholesale” failure to hand over vital evidence after 65,000 phone messages that undermined the prosecution case against three defendants were released two days into proceedings.

Mr Wright told the *Today* programme on BBC Radio 4 on Saturday that he had asked for a review because it was clear that disclosure procedures were not being properly followed.

Asked whether Ms Saunders should consider her position, he said that addressing the issue required a “joint effort” of the police and the Crown Prosecution Service.

Mr Wright rejected the suggestion that a lack of resources was behind the problems and said that the number of specialist prosecutors who dealt with rape and sexual offences had risen by 40 per cent since 2015.

He said: “The failings in these cases have not been because there wasn’t a police officer and there wasn’t a prosecutor. It’s because they didn’t appear to be applying the regime they are expected to apply in conducting disclosure.”

Mr Wright said he recognised the justice system was in a new world as a result of the often large volume of digital evidence, such as social media messages. However, he added: “There really is no excuse for investigators and prosecutors not getting to grips with social media and text messages.”

Last week the police and the prosecution service announced emergency measures to shore up confidence in the justice system. They include a review of training and the development of disclosure experts in every force.

Comments are subject to our community guidelines, which can be viewed [here](#).

31 comments

+ Follow

Newest | Oldest | Most Recommended

SJR2020 Jan 30, 2018

It is frightening to hear the Attorney - General believes this is not a widespread problem. If it was just one Detective Constable, Detective Sergeant and Detective Inspector that was failing to search for evidence or worst still suppressing evidence in rape cases this would be bad enough. But the problem appears to be systematic from the anecdotal evidence of recent media reporting. How many innocent men have been jailed? How many are currently on bail pending court, lives already ruined by the stigma of arrest? There has to be a review of all convictions over the last decade where the allegation amounts to non violent, non consensual sex, rather than the stereotypical violent 'Rape' offences.

Flag

4RecommendReply

Bishop Jonathan Blake Jan 29, 2018

A system that sends the innocent to prison loses all public credibility. Defendants, deprived of the police evidence, prevented from presenting their own evidence and blocked from being able to

uncover new evidence, all that would clear them, are being falsely convicted, sentenced and imprisoned. The system itself is criminal.

Flag

5RecommendReply

Mike Greenland Jan 29, 2018

The next thing to tackle is the lop sided anonymity rules. If the accuser is allowed anonymity then so should the accused until and if found guilty. Furthermore, if an accuser is found to be lying then they should lose anonymity and be prosecuted.

Flag

6RecommendReply

PB Joyce Jan 29, 2018

If proper disclosure becomes the norm, fewer men will be in jail, and then where will we be? What would happen to rape conviction targets? There must be a way to solve this problem without such a dire outcome.

Flag

RecommendReply

Samuel Trefgarne Jan 29, 2018

"Mr Wright rejected the suggestion that a lack of resources was behind the problems and said that the number of specialist prosecutors who dealt with rape and sexual offences had risen by 40 per cent since 2015."

A blatant, barefaced lie. This has nothing to do with dishonesty of CPS or police, it's purely that disclosure is done in a slap-dash fashion due to resourcing pressure.

Flag

3RecommendReply

Sally Gordon Jan 29, 2018

Too true, would the attorney-general please read my horror story: A Tale of One House, and then, tell me why, the police, lawyers and the judge were not jailed.

Flag

3RecommendReply

Mrs L Baker Jan 29, 2018

We are expecting ordinary cops and investigators to have the dedication and ability to properly sift all of the evidence when they think they have a case which will lead to conviction. Problem goes back many years and maybe pressure of work or just wanting an easier working life is the beginnings of the failure . Nevertheless a few simple questions to the investigator by the prosecutor should always avoid any difficulties or failures.

Flag

2RecommendReply

Trevor Hayes Jan 29, 2018

The genie is out of thee bottle now and I suspect it won't go back in. Juries in rape trials have always had to balance conflicting accounts of events that usually happen in private, with no corroborating evidence. They have always know that one version of events is a 'lie'. I suspect that there has never been a single jury member in these cases who believed that a woman would lie, EVEN when there was evidence of her lies floating around in IT space – 'surely no woman would be so malicious as to continue her allegations if there was a chance texts and emails would find her out' – Well as we now know, not only could it happen, but with a distinct sub-set of women, it seems prevalent. I suspect from now on in a lot of cases juries will be less likely to believe what a woman says in the witness box of a rape trial...."beyond all reasonable doubt" can now really only lead in one direction.

Flag

13RecommendReply

Hayhoo Jan 29, 2018

With f

Flag

RecommendReply

it'sme Jan 29, 2018

Declaration to be signed by investigating officer;

"I know of no material, relevant or otherwise, uncovered during the investigation of this case, which has not been brought to the attention of the CPS" ...

A pro forma document should be provided for the OIC to complete & attach to the declaration.

Nothing to do with lack of funding whatsoever!

Flag

7RecommendReply

RM Jan 29, 2018

'Uncovered' is the problem. If they've not investigated sufficiently then they can sign this declaration without worry.

Flag

5RecommendReply

it'sme Jan 29, 2018

@RM

They cannot 'declare' that which they do not know-

The quality of the investigation, or lack of it, would be obvious to the most junior COPS supervisor who can, and do, call for further investigations.

My suggestion is an attempt to limit 'non' production!

Flag

1RecommendReply

Michael Smith Jan 29, 2018

CPS lawyers are civil servants paid what for lawyers are relatively low sums of money. No doubt many of them are very good and conscientious but the rules of the market will naturally ensure that a large number of the least capable lawyers end up working for the CPS.

Flag

3RecommendReply

Ian Boyce Jan 29, 2018

@it'sme

'Relevant or otherwise'

by that standard they'd have to disclose the football results...

Flag

RecommendReply

TommyCovi Jan 29, 2018

@it'sme They are under no obligation to pass material they don't think is relevant over to the CPS and the defence are not entitled to see all the material uncovered by an investigation. Obvious flaw.

Flag

RecommendReply

BigJim Jan 29, 2018

Asked whether Ms Saunders should consider her position, he said that addressing the issue required a "joint effort" of the police and the Crown Prosecution Service.

Eh no.

A minimum expectation would be that independent investigators looked into every rape and sexual assault case in England and Wales since 2015, and that the Police and CPS stay well away.

As the Attorney General appoints the DPP, Jeremy Wright QC is rightly identified as being part of the current failed justice system. If he doesn't manage to demand Saunders resignation or fire her, then he should make way for someone who can.

Flag

13RecommendReply

Janet Brown Jan 29, 2018

The CPS finally doing their job . The police are not even allowed to charge without their approval, and they are supposed to be in charge of checking files and managing cases . Obviously they are another service being asked to do more with less staff .

Flag

3RecommendReply

RM Jan 29, 2018

You are quite right, CPS need to take the burden of responsibility here. However they base their decisions on what is fed to them by the police. They, like the police are working in a target driven environment and their minds have been polluted to such an extent that morals, on which our laws are based, have been eradicated in return for personal gain.

Flag

3RecommendReply

Stephen Glass Jan 29, 2018

Why would u trust the police to charge

Flag

4RecommendReply

it'sme Jan 29, 2018

@Stephen Glass

The Police have been responsible for 'charging' for the past couple of hundred years. 'Charging' is NOT a conviction!

Now It is merely an admin step prior to the file being reviewed by CPS who then decide if court proceedings are appropriate etc etc

Flag

4RecommendReply

Nick Tilley Jan 29, 2018

While it is welcome that a review of rape and sexual assault cases has been ordered, it would seem that the failures in disclosure are systemic in a system that was been starved of funds, personnel and training, reserving justice as the preserve of those with the wealth to defend themselves, while the CPS and Police appear obsessed with prosecuting, indeed perhaps persecuting, those who are seen as members politically incorrect elites, who give them the opportunity, by coming to their notice.

We need to see a return to justice for all, not just those seemingly fashionable 'victims' of the moment, funded and staffed properly so that wealth and determination can not affect the outcome of illegal behaviour or disadvantage the poor or vulnerable.

Flag

8RecommendReply

RM Jan 29, 2018

Here we go again. Failure to disclose evidence did not start in December 2017 when Liam Allan's case made headline news. It has been going on for ages and The Justice Gap wrote about it back in July 2017

<http://thejusticegap.com/2017/07/police-failing-disclose-properly-four-10-crown-court-cases/>.

It has taken the destruction of these people's lives to make those in authority 'review' the current cases. If they hadn't made headline news, would the same action be taking place? What about those cases that have been finalised and resulted in a prison sentence? Judge and Jury have based their decision on possibly incomplete disclosure and many of these cases need reviewing now.

Flag

21RecommendReply

MJR Jan 29, 2018

@RM

Absolutely right.

If there is concern over current trials, why isn't the same concern valid in trials that have already been completed?

Unless there was a fundamental change in procedures or working practices, there is every likelihood that people have gone to prison on the basis of the same issues that have caused the review to take place.

Flag

7RecommendReply

Michael Jones Jan 29, 2018

"It's because they didn't appear to be applying the regime they are expected to apply in conducting disclosure."

Stone the crows. Is it really that difficult? Pinch me someone.

Flag

5RecommendReply

Michael Smith Jan 29, 2018

Clearly practice throughout the CPS which must have been directed if not dictated throughout by Saunders. Why on earth is she still in her job?

Flag

1RecommendReply

Muroy Jan 29, 2018

Why doesn't the headline also mention that it is prosecutors as well as police who are failing or does the headline back up that Wright sits a bit too close to Alison Saunders to sack her?

The Attorney General is supposed to oversee the way cases are prosecuted and answer to parliament about them, it's high time our representatives asked some searching questions. If Wright won't deal with this mess then he should go and someone with the backbone to resolve it needs to step in.

Flag

9RecommendReply

A Firswell Jan 29, 2018

@Muroy

I think that in many cases the prosecution is as startled by the new evidence as the rest of the world.

No, this is the police, yet again, failing to do their job properly. It may be lack of staffing / resources or it may be that they simply can't be ar5ed once they feel a case is going to go "their way" to bother to find out if there's anything contrary that would undermine this.

Flag

2RecommendReply

Careless Wispers Jan 29, 2018

Why don't the police just pass all the evidence on to the solicitors?

That way they can just sit back and relax whilst other people do the real work.

Flag

2RecommendReply

RM Jan 29, 2018

That assumes the police have collected all the evidence. A defendant has no right obtain personal details about the alleged victim if the police have not collected it or the police deem it of no interest. This runs far far deeper than we read in the paper. What we are seeing is the superficial damage.

Flag

10RecommendReply

james murray Jan 29, 2018

Every criminal case going to trial is supposed to have a named disclosure officer who is usually, but not always, the officer in charge of the case.

-

Try getting the name of that officer confirmed and you will be extremely lucky even to get that revealed let alone have questions about other documents extra to the disclosure schedule of unused material.

-

It is normal to have just about every request refused out of hand as that officer considers themselves the arbiter of whether any such evidence 'will help the defence case or damage that of the prosecution '

-

The four cases of undisclosed evidence are not unusual at all.

-

Jim Murray

Flag

22RecommendReply

RM Jan 29, 2018

You speak such truth. It is simply impossible to question the police about any concerns. They close rank and threaten you.

Flag

12RecommendReply

livefyre 

Ref.: Police making basic disclosure errors, says attorney-general.docx
26/04/2018 10:22