

## *Rape and Justice*

Slipshod prosecution work is a gross disservice to victims of sexual abuse

A serious miscarriage of justice was narrowly averted at Croydon crown court yesterday. A young man accused of serially raping a young woman was acquitted as the case against him collapsed. Finally granted access to the complainant's phone records, a defence lawyer saw that a number of her text messages to the accused when they had been in a relationship contradicted the evidence she had already given in court. Police had previously insisted that nothing in the woman's phone history had any bearing on the case. This was untrue. It has emerged that the Crown Prosecution Service (CPS) routinely withholds such data to save itself the cost of extra legal fees.

The trial judge, justifiably aggrieved, lambasted both the prosecutors and the police and ordered an inquiry into the non-disclosure of evidence. The accused man, Liam Allan, even more justifiably aggrieved, said that police and prosecutors were now acting over-zealously in the matter of rape allegations to compensate for their well-documented historical failures to investigate the crime. Mr Allan's anger is understandable. Even a modest display of detective work would have resulted in the charges being dropped at an earlier stage. Yet as a criminology student himself, Mr Allan will also understand that the exposure of one malicious allegation must not be allowed to create a context in which women are further deterred from reporting rape.

This crime is notoriously difficult to prosecute successfully. Witnesses tend to be scarce. Forensic evidence is unlikely to suggest, let alone confirm, the presence or absence of consent. Cases all too often come down to the word of the alleged victim against that of the alleged perpetrator. In such circumstances, the authorities are often reluctant to bring a prosecution and when they do, juries are often reluctant to convict.

To make matters worse, rape is enveloped in outdated, pernicious and dangerous attitudes surrounding female sexuality. One third of the general public — an average of four people per jury — believe a woman to be partially complicit if she has previously been flirting with her attacker. Similar views regarding a victim wearing revealing clothes, or being drunk or being deemed to have not resisted forcefully enough, are equally widespread. Until recently, many police forces were failing to respond to reports of rape with due seriousness or even with a modicum of human sympathy.

To the constabulary's credit, that accusation is now less justified than it was even five years ago. Since then a marked improvement in police protocols has led to a sharp rise in the number of reported rapes, which increased by 22 per cent in the year to June 2017. The result of this, however, is that while the overall number of convictions has risen, the conviction rate as a percentage of recorded allegations has fallen, from 15 per cent in 2011-12 to 7.5 per cent in 2015-16.

Criminologists estimate that five out of six rapes still go unreported. If only 7.5 per cent of the reported rapes result in a conviction, that means that for every 1,000 rapes, a paltry 13 rapists receive punishment and a pathetic 13 victims receive justice. Combating this travesty requires the CPS and police to do more than merely throw mud to see what might stick. They must redouble their efforts to collect and preserve the evidence and follow that. Suppressing it is inimical to justice.

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Londonderry Lad Dec 18, 2017

And another article in The Times made the point that rape reports had soared by 80% in the last decade whilst police resources were being cut. And people wonder why massively overworked detectives (one senior officer commented that he allotted new cases to his team on the basis of who was least tearful from exhaustion and stress that day) don't have time to go through 40,000 text messages?

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RecommendReply

Lazy Dogg Dec 18, 2017

They did Not have to 'go through ' 40 000 texts  
There Is I.T. to make this much quicker - word searches  
They Did have to  
- disclose the existence and make available primary data  
- Not lie to effect that ' nothing of interest here'

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1RecommendReply

Jack Jones Dec 16, 2017

I read, in THIS newspaper a few years ago, that the conviction rate for murder is no higher than for rape. <http://www.timesonline.co.uk/tol/news/uk/article7062386.ece>

-

Why then is there a widespread sense of scandal over the rape conviction rate, and none over the murder conviction rate?

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Is it perhaps because rape is a crime that predominantly affects women, while murder predominantly affects men? Over 70% of murder victims are male in the UK, which is low by international standards [https://en.m.wikipedia.org/wiki/Homicide\\_statistics\\_by\\_gender](https://en.m.wikipedia.org/wiki/Homicide_statistics_by_gender)

-

If that is NOT the explanation, can someone reply to explain what is? Why would a low rape conviction rate be a scandal and an equally low murder conviction rate be ignored?

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1RecommendReply

C J Delmege Dec 16, 2017

This confused and muddled article - and that's without the last paragraph- is evidence of the real problem, which is one of attitudes and politically driven goals. Based on this and other reported cases one should ask not just how many innocent men have been convicted but also how many have had their lives put on hold for years and potentially ruined.

Flag

3RecommendReply

jeb Dec 15, 2017

Surely the arithmetic in the last paragraph is wrong.

The author has added the number of rapes ESTIMATED by criminologists but UNREPORTED to the REPORTED rapes and inferred that in every case [ estimated and reported ] a rape took place and thus the author arrives at the figure of only 13 out of 1000 rapes resulting in conviction. This at the end of an article about a young man wrongly accused of rape because rape was reported but had not occurred.

I despair.

Flag

3RecommendReply

Jack Jones Dec 16, 2017

But jeb... have you not heard the official police statement that false allegations of rape or sexual assault are 'vanishingly rare'? That means ALL men acquitted of rape, are in fact guilty, according to the official police view (bar a 'vanishingly rare' few).

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I've been trying to find out what they know that juries do not but haven't yet. I'm sure it will all become clear in the end.

-

Anyway, I hope it clarifies things if you understand that the official police line is that there are basically no false allegations of rape. And we can trust the police, of course. So all allegations, whether proven, unproven, reported or unreported, can legitimately be added to the total.

Flag

3RecommendReply

David Page Dec 15, 2017

On what evidential basis have these Criminologists made their estimate that five out of six rapes still go unreported? If a rape was not reported to somebody then what evidence would there be that it had taken place.

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8RecommendReply

Robert Jones Dec 15, 2017

Does anyone else find the above reporting badly flawed?

Why were the police not asked about action against the accuser?

Why does the investigation of police incompetence stop with questions about the false arrest of the accused? Why not excoriate police incompetence in failing to arrest the false accuser?

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5RecommendReply

Jack Jones Dec 16, 2017

Why not properly investigate the possibility this was not negligence but a deliberate attempt to secure a conviction regardless of guilt?

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John Austin Dec 15, 2017

At lunchtime today, The Guardian reported:

"A Scotland Yard spokesman said: "We are aware of this case being dismissed from court and are carrying out an urgent assessment to establish the circumstances which led to this action being taken.

"We are working closely with the Crown Prosecution Service and keeping in close contact with the victim whilst this process takes place."

The victim is who here? It sounds like the Met is adding insult to injury.

Flag

8RecommendReply

Jack Jones Dec 16, 2017

The victim is the woman who made the allegation John, of course. Making an allegation clearly also makes you a victim. (Or, if male, an 'alleged victim'.)

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You didn't think it was the guy who was falsely accused did you? (You're very out of touch if you did.)

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2RecommendReply

John Caldwell Dec 15, 2017

I can understand that when there is a disputed claim of sexual assault or rape, and the prosecution simply fails to prove its case, that the identity of the victim should be withheld. In the present case, however, where the "victim" clearly told such malicious lies, I fail to understand why the Trial Judge did not immediately remove her anonymity. After what she put the young man through, it is the very least she merits.

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7RecommendReply

Paul Morris Dec 15, 2017

I'm not a lawyer and have probably read too many John Grisham books. But isn't there a 'Discovery' phase where both defence and prosecution have to show what they have re evidence?

Flag

RecommendReply

bluearmyfaction Dec 15, 2017

"Finally granted access to the complainant's phone records, a defence lawyer saw that a number of her text messages to the accused when they had been in a relationship contradicted the evidence she had already given in court. "

Why didn't the accused disclose his copies? Or get his lawyers to make a specific disclosure application?

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1RecommendReply

C J Delmege Dec 16, 2017

@bluearmyfaction The Police/CPS refused three times ( elsewhere on ToL).

Flag

RecommendReply

Steven Oldfield Dec 16, 2017

@bluearmyfaction It is a requirement of the Prosecution to disclose all evidence that harms the Prosecution's case as they are instigating the charges. Although one must not believe a single word about why the information was not disclosed as the CPS routinely convict people without a full disclosure of material they know would harm their case. Our Justice System is abhorrent and is mostly a one sided abuse of the law involving the requirements PACE and Disclosure.

Flag

RecommendReply

Michael Hocken Dec 16, 2017

As regards your two concluding questions @bluearmyfaction:

1. It is reported elsewhere that Mr Allan's own phone had been lost;
2. His defence lawyers are reported to have repeatedly requested disclosure of the complainant's phone records, but been persistently told that they were CND (clearly not disclosable) as they contained nothing that would assist his defence. Without specific evidence to the contrary, such a blanket assertion is very hard to counter. He himself is reported as saying that he had concluded that his accuser had deleted any relevant messages (a staggering 50,000 in total were finally disclosed, it appears, and this had been seemingly too many for the "disclosure" officer to have gone through properly or in their entirety before classifying them as CND).

What is perhaps equally surprising is that the prosecutor responsible for reviewing and preparing the case for prosecution [not the trial prosecutor, who would classically only have receive their bundle just before the trial] appears not even to have asked to review a sample of the messages found, namely those from shortly before and after the alleged assaults, especially in light of the stated grounds of the defence case (which are required to be set out long in advance of trial). Particularly scary is the thought that, had he been convicted, the same (failed) duty of disclosure at the prosecution stage would no longer have applied in the same way on appeal, and these records would probably never have seen the light of day.

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1RecommendReply

Kader Nahaboo Dec 15, 2017

Is not Justice one of the fundamentals of Human Rights?

Flag

RecommendReply

Elliot Davidson Dec 15, 2017

Siwan Hayward, founder of the No Means No campaign, said: 'Women don't lie about rape.' This is from a similar case some 24 years ago, (yes 24) in the Independent.

I understand Siwan is now Head of Transport Policing at TFL, Transport for London, an important and influential post.

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1RecommendReply

Steven Oldfield Dec 16, 2017

@JOHN CAMPBELL Almost everyone lies when necessary or when it can strike back at someone.

Flag

RecommendReply

William Croom-Johnson Dec 15, 2017

Your sub-heading: "Slipshod prosecution work is a gross disservice to victims of sexual abuse" should perhaps be re-written as "Slipshod prosecution work is a gross disservice to victims of false accusations"

Flag

22RecommendReply

Lazy Dogg Dec 17, 2017

I think it is wrong at this stage to work upon even a working assumption that this was mere incompetence ( or even gross incompetence). The dreadful prospect remains that something worse than this took place.

Flag

RecommendReply

Henry Griffith Dec 15, 2017

I hope that the young man gets compensation and that his accuser is charged with perjury. However, charged with six rapes? Has the woman concerned not a responsibility to not put herself at risk of the other five after the first one. How can such a case reach court?

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17RecommendReply

Saint John Dec 15, 2017

Everyone seems to think its ok to keep an innocent defendant on bail for two years ?

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12RecommendReply

Stan Rosenthal Dec 15, 2017

Given the fraught consequences associated with sexual behaviour, is it sensible for our society to excessively stoke the fires of such behaviour as it does in so many ways?

Flag

1RecommendReply

Tan Cris Gani Dec 15, 2017

My partner was accused of knocking down a cyclist and the police case officer did not take an eye witness statement after being told repeatedly by us of the witness name and phone number. Further more, he failed to disclose the dent in the car stated in the MOT report that was given to him, but he mentioned the dent in the court submission. The case went to court, police officer/cps was instructed to obtain the witness statement.

The case thrown out after the witness statement was read.

The case officer received a caution from their internal investigation and we received no compensation for the two thousand pounds of solicitor's fee.

Our car insurance company refuse to pay the legal fee because they would only pay if we plead guilty to the charge of dangerous driving. Police underfunding is not the case here.

Contacting the witness would had closed the case before it even started.

Less severe case of perverting the course of justice but just the same principle.

Flag

25RecommendReply

John MacArthur Dec 15, 2017

Meeting targets, nothing more or less. Some bigwig over Gs and T in the club remarks that unless conviction rates rise, the funds will dry up or somebody's bonus will evaporate. Trickling down, a very near miss for an innocent man.

I happen to know that such tactics are often - too often - employed for a particular category of offence, such as domestic violence.

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11RecommendReply

Steven Oldfield Dec 16, 2017

@John MacArthur This is a very valid point and I know from personal experience!

Flag

RecommendReply

Innominatus Dec 15, 2017

More use needs to be made of "we-consent" and like apps, to protect against this kind of malicious crime.

Flag

3RecommendReply

Jack Jones Dec 16, 2017

Useless. A person can simply say they changed their mind after signing. Which is only reasonable. If they DO change their mind, the existence of a consent form should not entitle their partner to proceed as s/he pleases.

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RecommendReply  
Innominatus Dec 16, 2017  
How do you protect against false allegations?

Flag

RecommendReply  
simon daglish Dec 15, 2017  
This is nothing to do with underfunding. The Met officer in this case said that he/she had reviewed the phone material and had found nothing in it which related to the case. This was a lie, a bare faced lie by a Policemen. Who are now trying to cover their lies with a political accusations of cuts. Sadly I fear the Met have become politicised which is a fundamental flaw in them being able to do their job.

Flag

49RecommendReply  
Richard Marriott Dec 15, 2017  
@simon daglish  
You are certainly correct about the Met having become dangerously politicised - something I never expected to happen in this country.

Flag

23RecommendReply  
Peter Jordan Dec 15, 2017  
@simon daglish The officer certainly lied, but in asserting that this was "nothing to do with underfunding" your logic is faulty. This is not a case of "either/or". It is likely that underfunding is one of the reasons for lying about tasks not done. So it's both underfunding and lying.

Flag

1RecommendReply  
Jack Jones Dec 16, 2017  
I think the point is underfunding is no explanation. If you know the evidence has not been properly reviewed, you should say so. You don't proceed to court anyway falsely claiming there is no relevant evidence left to disclose.

-

That was a lie - and underfunding has nothing to do with that lie.

Flag

1RecommendReply  
Steven Oldfield Dec 16, 2017  
@Peter Jordan @simon daglish This matter has absolutely nothing to do with under funding for it is simply yet another instance of a wrongful accusation involving dishonest Police Officers who are prepared to let someone go to Jail rather than admit they got it wrong because they were dishonest and incompetent.

Flag

RecommendReply  
Nick Tilley Dec 15, 2017  
We see here the consequences of underfunding and performance targets influencing a police and prosecution service, underfunded and under trained, unduly influenced by PC attitudes, destroying, without any right to redress, people's lives.

We should see both police and prosecutors at the CPS in court for their behaviour, but we won't!

Flag

14RecommendReply  
BigJim Dec 15, 2017  
@Nick Tilley

Nothing to do with underfunding and performance targets.

This was just a case of a police officer intent on securing a conviction even if it meant perverting the course of justice.

And they very nearly succeeded.

Flag

11RecommendReply

Jack Jones Dec 16, 2017

Underfunding can never either explain or justify lying. The cops either KNEW they had not reviewed the evidence adequately, and deliberately covered that up, or reviewed it, realised it might jeopardise their conviction, and suppressed it. There's no other possible explanation available.

-

Underfunding plays absolutely no role here.

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RecommendReply

Nick Tilley Dec 16, 2017

@Jack Jones

I am inclined to agree with you, but the police and CPS will argue otherwise and this Government will do nothing to address the issues raised concerning police attitudes.

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RecommendReply

Saint John Dec 15, 2017

So what happens now.

Flag

2RecommendReply

Chris Huckle Dec 15, 2017

Lessons will be learned.

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1RecommendReply

Jamie Henderson Dec 15, 2017

Perhaps your last paragraph should read for "every 1,000 alleged rapes...". What this story tells us, as if we didn't know, is that not every allegation of rape is as a result of rape and we cannot go into cases presuming guilt.

Flag

26RecommendReply

Pukewhare Dec 15, 2017

The complainant in this case appears to have given evidence which was at variance with the facts as later revealed. She gets name suppression unlike her victim. I hope she is prosecuted for perjury and will have her name revealed.

Flag

57RecommendReply

Chris G Dec 15, 2017

@Pukewhare It's astonishing to think the police investigation neglected to look at the complainant's text and social-media messages after the date of the alleged crime - police incompetence alone can't explain this.

Surely the on-going pressures/targets to increase the conviction-rates came into play?

Surer still, this woman has got to be charged for false-accusation - why didn't the judge address that in his dismissal?

Interesting to see the Times (and other newspapers) report that the text messages 'proved' Liam's innocence, whereas the Guardian prefers "cast doubt on the case".

All too shocking in too many ways.

Flag



26RecommendReply

Steven Oldfield Dec 16, 2017

@Chris G @Pukewhere The rates of prosecution for Perjury are almost none existent and have been dropping for years as the Judge, I believe, has the responsibility to declare Perjury. In my experience most Judges ignore Perjury and will assist most convictions to prevent Police Officers who have lied from being jailed for Perjury.

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RecommendReply

Mr Anthony Kerron Dec 15, 2017

Is the woman to be charged with perjury?

Flag

54RecommendReply

SARAH Dec 15, 2017

@Mr Anthony Kerron And she should immediately lose her right to anonymity too!

Flag

29RecommendReply

Richard Ambler Dec 15, 2017

"Is the woman to be charged with perjury"

No, because it may deter victims of real rapes coming forward. "Innocent until proven guilty" will cause many real rapists to go free. I think this is right (see my comment) so we must not put further barriers in the way for rape victims to report their crime. The world is unfair and we will never get a perfect solution, just the best solution available. However, MR. Allan has my sympathy.

Flag

2RecommendReply

antipodes Dec 15, 2017

Crazy logic. It was going to court except there was PROOF the complainant lied! This is what caused the case to collapse, NOT there are obstacles in the complainant getting "justice". In fact, she was believed too easily and it went to court without proper investigation which would have established maliciousness on her part.

Flag

15RecommendReply

TP Dec 15, 2017

@Richard Ambler You are mixing up concepts. There will be three kinds of women involved in these cases 1. those who complain and there is a conviction, 2. those who complain but there is no conviction because evidence does not justify conviction and then 3. those who complain and evidence blatantly proves lies and false accusations of the complainant. Category 3 should be named a shamed - how will that deter real victims?

Flag

13RecommendReply

Sam Brock Dec 15, 2017

@Richard Ambler So we're going allow the woman to get away with perjury and stay anonymous? BTW, innocent until proven guilty is the legal standard we use, and always will be.

Flag

11RecommendReply

Antony Martin Dec 15, 2017

@Richard Ambler So the best solution available is to have a system that protects malicious/vexatious claimants' whilst innocent men are incarcerated? That, I'm afraid is not the best solution available. Indeed, with that logic we should reintroduce the death penalty as the best solution available to get rid of child murderers and the like forgetting of course that innocent men and women have been executed in the past.

Allowing this woman to simply walk away from her crime undermines our faith in the justice system. I fail to see how prosecuting this woman for what is clearly a crime would deter a real rape case victim from coming forward.

Flag

11RecommendReply

Adrian Townsend Dec 15, 2017

@Antony Martin @Richard Ambler Going further, it would quite correctly deter false accusers from their course of action

Flag

2RecommendReply

Stan Rosenthal Dec 15, 2017

@Richard Ambler

Surely an exception to what you say can be made in the case of clear-cut, proven perjury as in this case.

Flag

6RecommendReply

MKW Dec 15, 2017

@Richard Ambler I disagree. There should be a prosecution here.

Usually when a man gets off a rape charge, it's because it cannot be proved that he did do the rape. There's nothing to suggest that the accuser lied, and it's quite right that there is no prosecution of the complainant.

Here, the guy got off because it can be proved that he didn't do it. She lied. Provided there is no defence of mental illness on her part, it's only right that she pay. She messed up a bloke's life for two years (and however much of his future it takes him to learn to breathe easy) and she screwed over every genuine assault victim who is less likely to be taken seriously in future.

Flag

6RecommendReply

Jack Jones Dec 16, 2017

He clearly does not have your sympathy if you feel there should be no penalty for deliberately trying to destroy an innocent person's life. Keep your phoney sympathy to yourself, maybe?

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Are you seriously saying we should ditch the presumption of innocent until proven guilty? And if so, are you claiming we should ditch it for ALL crimes? Or just this one?

-

She clearly committed perjury and should be tried for it. As for your claim it will deter real victims - OF COURSE it won't! Real victims are undermined far more by her false allegation than they would be by her prosecution.

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