

Crown Office and Procurator Fiscal Service

Media Briefing

The Prosecution of Sexual Offences



The Crown Office and Procurator Fiscal Service (COPFS) take crimes of rape and sexual offences extremely seriously. We are committed to ensuring that all such cases are investigated thoroughly and sensitively and prosecuted appropriately, where there is sufficient credible and reliable evidence and it is in the public interest.

The National Sexual Crimes Unit was established in May 2009 and leads the prosecution of the most serious sexual offences, including rape, child sexual abuse, and sexually motivated murder. The Unit is based at the Crown Office in Edinburgh and comprises a team of specialist Crown Counsel and a dedicated team of specialist Procurators Fiscal. The Unit direct these criminal investigations from the earliest stages, providing advice and expertise to Procurators Fiscal and can properly be described as a European leader in the way it deals with sexual crime.

Each Area of COPFS has a specialist Sexual Offences Team able to provide advice and guidance to COPFS staff. They exchange experience and expertise in the National Sexual Offences Forum. Every member of staff dealing with sexual offences must have intensive specialist training, provided at the Scottish Prosecution College and drawing on experts from within and outwith the service.

Overall COPFS has 300 members of staff around the country who have undergone training in order to become certified as specialists in the field of sexual crime.

The challenges in obtaining convictions for rape cases under Scots law are well known, but this must not deter victims of such serious offences from reporting them to the police. We want victims to have confidence that their cases will be handled by specialists trained to ensure that the prosecution of these crimes is as professional and effective as possible, and that their needs are dealt with sensitively.

It is in the interest of all to ensure that reporting of this issue is accurate. Victims of sexual crime can be discouraged from coming forward and seeking help if they believe misleading reports that the conviction rates are low. Overall there is a high conviction rate for sexual offences in Scotland. (78% of accused persons prosecuted for crimes of indecency in court are convicted)

The following are key points to note regarding the prosecution of rape and other sexual crimes in Scotland: -

- There is a strong presumption in favour of prosecution of rape.
- Many factors affect conviction rates for rape. In Scotland, the legal definition of rape has historically been narrow, though it has now widened with the commencement of the Sexual Offences (Scotland) Act 2009 in December 2010.
- Internal Crown Office statistics announced recently by the Lord Advocate show that there have been 13 concluded prosecutions for cases with a charge of rape under section 1 of the 2009 Act . The conviction rate is 62%. Overall for sexual offences there has been a conviction rate of 69% under the 2009 Act. While the operation of the Act is at an early stage and the data is relatively limited, the initial figures are encouraging.
- Overall there is a high conviction rate for sexual offences prosecuted in courts in Scotland with the latest Government statistics showing that overall 78% of accused persons prosecuted

for crimes of indecency in court are convicted. Of those prosecuted for rape or attempted rape, 44% are convicted.

- Prior to NSCU being set up the conviction rate was 35% - post NSCU it increased to 46 % in 2009/10 and 44 % in 2010/11.
- The conviction rate has remained steady despite the significant impact of the Supreme Court ruling in the Cadder case. COPFS figures identified 7 High Court cases involving sexual offences which could not proceed. 5 of these were rape cases.
- Scots law requires corroboration which is often difficult to achieve in rape cases as there are often no witnesses other than the victim. Lord Carloway recently published a report following a review of the Scottish criminal law and practice in light of the decision of the United Kingdom Supreme Court in Cadder. The report contains 76 recommendations. One of those recommendations is that the current requirement for corroboration be abolished.. The Law Officers (Lord Advocate and Solicitor General) support this recommendation, although they recognise that this is ultimately a matter for Parliament to consider.
- Many cases involve historical sexual abuse going back many years, which can be difficult to establish because of the passage of time and often the lack of medical and other forensic evidence.
- In cases where the accused is prosecuted for a course of conduct involving multiple rapes, he will for legal reasons often be indicted on a lower number of charges than those recorded by the police.

- Some crimes that are initially reported to the police as rape will result in prosecutions and convictions for other sexual offences. Cases can also be libelled as rape on an indictment for evidential reasons (e.g. to allow the victim to speak to the whole incident), even when it is known that rape cannot be proved.

Recent High-profile sexual offences convictions

- **Neil McIntosh**

This case involved two victims, with offences of assault, assault to injury and permanent disfigurement and rape occurring over an extended period of time. He pleaded guilty and was sentenced on 10th September 2010 to 10 years 6 months imprisonment, with an extended sentence of five years.

- **Hector MacLennan**

Hector MacLennan was found guilty at the High Court in Aberdeen on 13 August 2010 following a 3 week trial. His case involved rape and sexual abuse of a number of witnesses including a victim with learning disabilities. An Order for Lifelong Restriction was imposed, with a minimum period of 5 years.

- **John Ssewagudde**

John Ssewagudde was convicted of rape in January 2011. This was a case that involved complex tracing of the online communications between Ssewagudde and his victim. During the course of their investigations, the police contacted Facebook in America to gain computer evidence. The admissions made by the accused on Facebook were led as essential evidence in this case, and therefore helped secure the conviction. He was sentenced to four years imprisonment.

- **Adrian Ruddock**

The accused was the first to be prosecuted under section 1 of the new Sexual Offences (Scotland) Act 2009 and was convicted of rape after trial. On 30 June he was sentenced to 8 years imprisonment with a 3 year extended sentence.

- **Piotr Skut**

The accused was convicted after trial of the sexual assault to severe injury of a 2 year old. On 24 June 2011 he was jailed for 8 years.

- **John McKeown**

The accused pleaded guilty the rape of a female after breaking into her house and threatening her and her family with a knife and with violence. Part of the assault is witnessed by a child. He was jailed for six years on 28 July 2011.

- **Patrick Rae**

The accused was convicted after trial of the murder and rape of Mary McLaren on 25 February 2010 in Dundee. He was sentenced to life imprisonment with a punishment part of 20 years.

- **Ryan Liddel**

The accused was convicted after trial of the assault with intent to rape of a 76 year old in her own home. Sentence was deferred until 16 January 2012.

- **Craig and Beukan (Operation Factor)**

In Scotland we have recently had our first convictions for human trafficking.

The convictions involved a significant Police operation – Operation Factor.

This operation spanned the United Kingdom, including addresses in Glasgow, Belfast and Aberdeen and was conducted over a number of months involving officers from the PSNI, Strathclyde Police and officers from England and Wales working in close liaison with the Procurator Fiscal at Glasgow and involved consultation with United Kingdom Human Trafficking Centre (UKHTC), United Kingdom Border Agency (UKBA), Trafficking Awareness Raising Alliance (TARA) and Migrant Helpline (MHL).

On 3rd November 2011, Stephen Craig was sentenced to 40 months' imprisonment and Sarah Ashleigh Beukan (known as Ashleigh) was sentenced to 18 months' imprisonment, after pleading guilty on 9th September 2011 to human trafficking, in a contravention of Section 22(1)(a)(i) of the Criminal Justice (Scotland) Act 2003

- **David Morrison**

Innovative techniques were required in the prosecution of David Morrison.

The accused pled guilty to the rape of a baby girl and to the possession of indecent images of children. This case provided evidential challenges as the evidence was obtained primarily from indecent photos and chat logs from his computer.

It was ultimately body part identification which allowed the accused to be identified raping the baby girl. Professor Sue Black, from the centre for Anatomy and Human Identification at the University of Dundee, was able to identify Morrison as the perpetrator of the abuse by comparing images of his hand.

He is awaiting sentence.

- **William Lynn**

The case against William Lynn involved the abuse of 4 of his partners over a 20 year period, the charges included multiple rapes and indecent assaults dating back to 1988. Each complainer had been subjected to between 3 and 5 years of horrific and repeated physical and sexual abuse and each was particularly vulnerable.

Two of the victims had children with the accused.

The victims had all attempted to leave Lynn at various times and move into new accommodation but he had persuaded them to re-establish the relationship.

Lynn pled guilty on the first day of trial. Sentenced has been deferred against him until January 2012 for a risk assessment to be carried out.

- **Brian Dick**

On 3 November 2011 Brian Dick was found guilty after trial of sexually abusing 4 vulnerable female children.

The victims gave their evidence on commission.

These offences involved multiple instances of abuse against the children. The charges included sexual assault, rape and sodomy and the charges on the indictment spanned an 18 year period between 1991 and 2009. He is currently awaiting sentence.

- **William Barr**

The accused forced his way into complainer's house and attempted to rape her - accused was her neighbour but not known to her.

After trial, the accused was sentenced in the High Court on 20 September 2011 and received 6 years imprisonment.

- **John Steen**

This case involved a number of young females who were abused by the accused over a period of 15 years.

After trial, the accused was sentenced in the High Court on 14 November 2011 and received 11 years imprisonment.

- **Kenneth Blair**

The accused pleaded guilty to 6 charges involving physical and sexual violence, including the rape of a young female, over a period of 19 years - sentences of between 3 and 9 years were imposed in relation to each charge on 16 September 2011.

- **Robert Mains**

This case involved the sexual abuse and attempted rape of a female child, some of which was recorded by the accused on a mobile telephone.

After trial, the accused was sentenced in the High Court on 19 July 2011 and received 8 years imprisonment.

- **Thomas Goddard**

This was a historical case involving the two children over a period of 7 years, including repeated rapes of a girl when she was aged 14 - 16 years.

After trial, the accused was sentenced in the High Court on 18 November 2011 and received a cumulo sentence of 7 years imprisonment.

- **Duncan Young**

On 1 November 2011 the accused was sentenced to 9 years imprisonment with a 6 year extended sentence in relation to charges of sexual abuse of 3 children, and include a charge of contravention of s20 of the SOSA.

- **William Gove**

On 10 November 2011 the accused pleaded guilty to contraventions of Section 1 and Section 3 of the Sexual Offences (Scotland) Act 2009, assault and attempt to pervert the course of justice - the complainer was his on / off partner - the accused was sentenced in the High Court on 1 December 2011 when he was sentenced to a total of 4 years and 6 months with a 3 year extended sentence.

The Statistics

COPFS Statistics

The latest statistics published by COPFS in June 2011 relate to charges of rape reported to the PF from April 2008 to March 2009. This is the most recent year from which we can track all offences right through the criminal justice system to see how they are dealt with.

These figures predate the changes made in May 2009 to improve the way in which sexual offences are investigated and prosecuted. The National Sexual Crimes Unit now leads the prosecution of the most serious sexual offences, including rape and sexually motivated murder. The Unit comprises a team of specialist prosecutors and a dedicated team of specialist Procurators Fiscal. The Unit directs these criminal investigations from the earliest stages, providing advice and expertise to Procurators Fiscal. Specialist Sexual Offence Teams were also formed in each COPFS area.

The full statistical bulletin is available on the COPFS website:

<http://www.copfs.gov.uk/Publications/2011/06/Conviction-Rates-Rape-Charges-Scotland-Charges-Reported-1-April-2008-31-March-2009>

Key points to note include:

- the Procurator Fiscal received 413 reports from police, containing 528 charges of rape
- there was sufficient evidence to indict the accused for rape in 179 of these charges
- 32% of indicted charges resulted in a conviction

- These figures predate the inception of the National Sexual Crimes Unit.

COPFS also publishes data regarding rape charges reported to the Procurator Fiscal that are not indicted.

Key points include:

- in 49% of charges, it was not possible to proceed for evidential reasons – either due to insufficient evidence (40%) or the quality of the evidence (9%)
- in 9% of charges, further action was taken to prosecute on other charges in the report (1%) or the conduct was included in another charge (6%), or the case was referred to the Scottish Children's Reporter Administration (2%)
- in 4% of charges, Crown Counsel decided to discontinue proceedings due to the health of the victim or her view as to the continuation of proceedings.

Scottish Government Statistical Bulletin

The most recent Scottish Government figures state that 78% of accused persons prosecuted for crimes of indecency in court are convicted and 44% of those prosecuted in court for rape or attempted rape are convicted (Criminal Proceedings in Scotland 2010-11, published by Scottish Government on 13 December 2011)

It is often reported that Scotland has 'the lowest conviction rate in Europe' but it is important to note that comparisons with other jurisdictions are meaningless as in Scotland, the legal definition of rape has historically been one of the narrowest in Europe and is therefore not comparable with rape defined in other jurisdictions. The definition has now widened with the commencement of the Sexual Offences (Scotland) Act 2009 in December 2010. It applies only to offences committed on or after 1 December 2010. The 2009 Act was only in operation for 4 months of the 2010-11 statistics and is not measured within this statistical bulletin.

Among the important points to note about the statistics are:

- Whereas police statistics count the number of offences reported to them, the Scottish Government statistics record the number of people convicted of at least one charge of rape. In cases of more than one rape therefore only one rape will be recorded in these figures. Cases of historical abuse often contain a number of charges of rape.
- The Scottish Government figures only record rape where rape is the 'main' charge. This means that the figures from which the "low conviction rate" is derived do not include rapes which are indicted for example along with murder when only the murder will be recorded. Many of the high profile cases listed at the end of this briefing therefore would only be recorded as a single charge of rape, or not at all, despite successful convictions for one or more rapes.

- The figures published separately by COPFS count all charges of rape regardless of whether it was the main charge.
- Proper international comparisons are not possible because of different counting rules, definitions and laws of evidence