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# Why are rape prosecutions falling?

By Rachel Schraer  
BBC Reality Check

29 April 2019

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**Recorded rape offences have been rising in England and Wales, but the proportion of offences making it to court has fallen significantly over the past few years.**

Police and prosecutors are asking **complainants in rape cases to agree to hand their phones over** or face the prospect of prosecutions being dropped - something victims' commissioner Baroness Helen Newlove has said is "unlikely to do anything to help reverse the fall in prosecutions for rape and sexual violence".

The Crown Prosecution Service (CPS) decides whether cases investigated by the police go to trial. In September 2018, it said the proportion of reported rapes being prosecuted had reached their lowest level in a decade.

In the year to December 2015, 14% of rapes recorded by police in England and Wales led to a criminal charge. That's compared with 17% for all crimes, according to Home Office figures.

By December 2018, the proportion of rapes leading to a charge had fallen to under 2%, compared with 8% for all crimes.

During the same period, the number of rapes recorded by police rose from 29,385 to 41,186 - a 40% increase.

In 2007, there were 13,774 recorded offences of rape, so there has been a tripling

in numbers in a decade.

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There was a particularly significant fall in cases making it to court between 2016 and 2017, from 8.1% to 3.3% in a single year.

This coincided with amendments to the Policing and Crime Act, meaning the law in England and Wales now presumes in favour of releasing people suspected of crimes without bail - when there isn't enough evidence to arrest or charge them for a crime. Previously, they might have been released on bail with various conditions attached. Their case would have been regularly reviewed.

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But the 2017 amendments meant more people being released under investigation, which, according to Ian Kelcey, who co-chairs the Law Society criminal law committee, has led to cases being left to drift, with no oversight.

The 2011 introduction of the right for complainants to review the handling of their cases, and the aftermath of the Metropolitan Police's Operation Yewtree investigation, set up following revelations about paedophile Jimmy Savile, had led to a large increase in reports, he said.

And this had been linked to a fall in the proportion of prosecutions leading to a successful conviction - because the CPS preferred to progress the case and leave it to a jury to decide even if it was not "evidentially there".

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- **Rape charges at lowest level for 10 years**

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The success rate from prosecution to conviction fell slightly from 2011.

But now the CPS has become more reluctant to allow cases to proceed without strong enough evidence, according to Mr Kelcey, sending cases back to police if they are not trial-ready.

If they do not receive a reply within three months, the CPS will "administratively" end the file.

"It's an easy way to fob off a case," Mr Kelcey said.

Katie Russell, of charity Rape Crisis, said gathering strong evidence for rape cases was particularly difficult as there was usually no-third party witness and forensic evidence became irrelevant if the alleged perpetrator said they had had consensual sex with the complainant.

Resourcing was also an issue, Ms Russell says, with both the police and prosecutors needing more funding to pursue these complex cases.

A CPS official said: "Rape has a devastating impact on victims but can be one of the most challenging offences to prosecute.

"We have worked hard in recent years to improve how we deal with sexual offences and are working across the criminal justice system to make improvements.

"We will always seek to prosecute where there is sufficient evidence to do so and all our specialist prosecutors receive ongoing training so they are fully equipped to manage these complex cases."

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