

The Guardian

Rape prosecutions: senior police officer raises concerns over 'risk-averse' CPS

Sarah Crew meets director of public prosecutions as charging rate plummets

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Max Hill, the director of public prosecutions, denied the Crown Prosecution Service had changed its approach to rape charging. Photograph: Home Office/PA

The most senior police officer for rape in England and Wales discussed concerns about a more risk-averse approach to charging rape and serious sexual assault with the head of the Crown Prosecution Service, the Guardian can reveal.

A letter from Sarah Crew, the National Police Chiefs' Council (NPCC) lead for adult sex offences, to every chief constable and force lead on rape reveals she had a meeting with Max Hill, the director of public prosecutions, about the government's review of the treatment of rape in the criminal justice system. In the meeting, Crew raised the issue of whether the CPS has moved to a more risk-averse approach to charging.

On Thursday CPS figures revealed that the charge rate for rape had dropped to its lowest level since records began. Just 34.4% of cases referred by the police to the CPS during 2018-19 resulted in a charge - in 2014 the rate was 62%.

Despite a sharp increase in the number of rapes being reported to the police, far fewer

defendants were prosecuted and convicted of the crime last year. The total number of completed prosecutions dropped by 32.8% from 4,517 in 2017-18 to 3,034 in 2018-19, and the total number of convictions fell by 26.9% from 2,635 to 1,925.

On Thursday the director of public prosecutions again denied there had been any shift in the CPS approach to charging, blaming the fall on a drop in the number of referrals from police and an increase in the volume of evidence from digital information on mobile devices for slowing down investigations into allegations of rape. The number of suspects referred by the police to the CPS for a charging decision fell from 4,370 in 2017-18 to 3,375 in 2018-19.

But Guardian analysis of the figures reveals that since 2014 CPS decisions to prosecute have fallen at almost double the rate of police referrals to the CPS - 51% compared with 27%.

The Guardian has also found the proportion of cases charged by the CPS decreased in every police force area even where referrals had increased, except Derbyshire where it remained flat, between 2013-14 and 2018-19.

In the NPCC letter, sent out to officers in June, Crew states that she and the Metropolitan police assistant commissioner Nick Ephgrave met Hill to discuss the current comprehensive criminal justice review into rape.

During the meeting Crew told specialist rape police officers that she had raised "themes emerging from engagement with forces on issues which may be relevant" to the review, including "approach to charging rape and serious sexual assault cases - a move to a more risk-averse approach", "effective communication", and "challenges in accessibility and timeliness in some areas".

The letter also acknowledges "inconsistency in both police and CPS approaches" to disclosure - the practice of ensuring that all evidence in a case is made available to defence lawyers before trial. Crew, who is deputy chief constable of Avon and Somerset police, states that "the meeting was positive and the DPP listened to the issues raised".

It is understood that many officers who specialise in the investigation of rape have become increasingly concerned that prosecutors have raised the bar for evidence in rape cases, meaning that cases - especially those involving the most vulnerable witnesses - have become less likely to reach court.

Last September the Guardian revealed that CPS leaders had carried out a series of unpublicised training "roadshows" encouraging the removal of hundreds of "weak rape cases". Concerns were raised that it had shifted away from the "merits-based approach" of prosecuting, which requires prosecutors to make decisions guided by the quality of the evidence rather than by a perception of how a prejudiced jury might respond to evidence.

A far-reaching review into how the criminal justice system deals with rape was announced in March after a steep fall in the number of prosecutions and warnings that victims are routinely having their privacy violated with intrusive disclosure practices.

The most recent Home Office statistics highlight an alarming decline in rape prosecutions in England and Wales over recent years at a time when victims are reporting more attacks. Ministry of Justice figures also reveal that victims of sexual assault are being forced to wait longer to secure justice in the crown court.

Sarah Green, the director of the End Violence Against Women Coalition, said it “strongly believed” the CPS had switched to a more conservative approach. “What have police forces been feeding back to Sarah Crew, and what are police experiencing on the ground to make them raise this question?” she said. “We need to remember the deeply serious human rights implications of this - women reporting rape are less likely to get justice and offenders may be getting away with their crimes.”

An NPCC spokesperson said: “We are not saying there is a risk-averse approach, but that this needs to be examined as part of the end-to-end government review we are all actively engaged in.”

In a statement following the release of the figures, Crew said they reflected “a justice system that is stretched and under pressure”. The “huge increase” of digital evidence was also “extending the length and complexity of investigations”, she said.

Crew told the Today programme on Friday the review also had to look at whether both the police and CPS had become more risk averse.

“Both the investigators and the prosecutors want to prosecute these cases,” she said.

A CPS spokesperson said the criminal justice system was working to understand and address the “complex reasons” behind the drop in referrals, charges and convictions.

“Rape is a devastating crime, and it would be profoundly wrong to take a risk-averse approach to its prosecution.” The spokesperson said the director of public prosecutions repeated this message in his meeting with Crew, “in which he was clear that there should be no risk-averse approach. Every case must be judged on its merits and whenever the legal test is met, it will be robustly prosecuted.”

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