



***Our latest (new look!) issue of Rape Crisis News brings together a range of articles which look at the Scottish criminal justice system's response to rape.***

***These include interviews with key players in organisations engaged in different parts of the justice process: Sandy Brindley spoke to the new Lord Advocate Frank Mulholland, QC, Dr Tamsin Groom offered a detailed insight into work undertaken at the Archway Sexual Assault Referral Centre in Glasgow, and Senior Procurator Fiscal Depute Jennifer McGill describes some very innovative awareness-raising work undertaken with young people in schools in Dumfries and Galloway.***

***Rape Crisis Scotland would like to extend sincere thanks to everyone who has contributed to this issue. Very special thanks, however, are due to Sarah Scott, who has allowed us to reprint an account of her experience of a rape trial earlier this year.***

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# Cadder & Carloway

## Human rights – and wrongs: Cadder and the Carloway Review

**The Cadder ruling, which was handed down by the UK Supreme Court in October 2010, was immediately seen as a landmark decision with serious implications for the Scottish justice system.**

Peter Cadder, who was convicted for assault based on evidence obtained before he spoke to his lawyer, made an appeal based on European human rights legislation which was upheld. The decision of the UK Supreme Court in the Cadder case led to the Scottish Government introducing emergency legislation to ensure that a suspect has the right to legal advice before being questioned by the police.



*Peter Cadder*

The Cadder ruling relates to an accused's right to legal representation during police questioning, and has had a particular impact on sexual offences. Due to the difficulties in obtaining corroboration in sexual offences cases (because they often happen in private, with no witnesses) the police prior to Cadder were often reliant on admissions from the accused to help them build a case. Since Cadder, defence lawyers seem to be routinely advising their clients to make no comment at all during police interviews, which is seriously hampering police efforts to put cases together and has the potential to make prosecutions in rape cases even more difficult than they were previously. There is already a very low rate of prosecution for rape cases – the majority of rapes reported to the police do not make it as far as court with figures from the Crown Office suggesting that only about a fifth of reported rapes result in a prosecution.

Following the Cadder decision, the Justice Secretary Kenny MacAskill asked Lord



*Lord Carloway*

Carloway to undertake a review to consider the implications of the ruling and make recommendations. The consultation period for this review ended on 3rd June 2011 and Lord Carloway published his review on 17th November. The review considered a number of key areas arising from the Cadder ruling, including rights relating to custody and questioning, arrest and detention and questions relating to the length of custody for an accused person. It also examined broader issues relating to evidence, including the requirement for corroboration and whether or not juries should be able to draw an adverse inference if the accused remains silent and refuses to answer any questions.

Lord Carloway's Review (which you can see at [www.scotland.gov.uk/About/CarlowayReview/Contents](http://www.scotland.gov.uk/About/CarlowayReview/Contents)) includes 76 recommendations, including the recommendation that corroborated evidence should no longer be required in criminal cases. Lord Carloway also said suspects should be given the right to see a lawyer, and concluded in his report that juries should not be allowed to draw an adverse inference if the accused refuses to answer questions.

Rape Crisis Scotland welcomes Lord Carloway's recommendation that the requirement for corroboration be removed, and hopes that, if implemented, this will better equip our legal system to respond effectively to the reality faced by the vast majority of rape survivors. As most rape cases take place in private, with no witnesses and frequently little if any physical injury, the requirement for corroboration

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has presented rape complainants and prosecutors with unique difficulties in mounting effective cases.

Figures released by the Scottish Government in December 2011 (see [www.scotland.gov.uk/Publications/2011/12/12131605/0](http://www.scotland.gov.uk/Publications/2011/12/12131605/0)) show that in 2010/11, there was a 14% increase in the number of rapes and attempted rapes reported to the police. Although recent years have seen a good deal of progress in the way that rape is investigated and prosecuted in Scotland, it is a matter of great concern to see that there has been a significant

These figures make the implementation of Lord Carloway's recommendation to remove the requirement for corroboration even more crucial. However, it is important to bear in mind that these figures do not include cases prosecuted under the new Sexual Offences Act, which was implemented in December 2010. Figures released (at the beginning of December 2011) by the Crown Office for convictions under the Act are very encouraging, with 62% of the rape cases prosecuted under the new Act leading to a conviction. However, it remains the case that the majority of reported rapes

do not make it to court, and the requirement for corroboration plays a major factor in this.

Central to any consideration of the Cadder decision and the issues it has raised is the question of human rights. Peter Cadder's appeal was underpinned by European human rights legislation, and reflects a growing trend for discussions on human rights within the criminal justice system to focus exclusively on the human rights of those accused of crimes.

What about the human rights of women (and

men) to be protected from rape, and to have access to justice should they experience this devastating crime?

## Scottish Govt statistics 2010/11

- **Reported rapes and attempted rapes: 1131 (14% increase on 2009/10)\***

[Source: [www.scotland.gov.uk/Publications/2011/09/02120241/0](http://www.scotland.gov.uk/Publications/2011/09/02120241/0)]

- **Rapes & attempted rapes prosecuted: 81 (31% decrease on 2009/10)\***

[Source: [www.scotland.gov.uk/Publications/2011/12/12131605/0](http://www.scotland.gov.uk/Publications/2011/12/12131605/0)]

- **Convictions for rape & attempted rape: 36 (33% decrease on 2009/10)\***

[Source: [www.scotland.gov.uk/Publications/2011/12/12131605/0](http://www.scotland.gov.uk/Publications/2011/12/12131605/0)]

\* The figures relating to rapes recorded by the police and court proceedings statistics are not directly comparable due to the police recording by offence and the court figures recording by accused (an accused might be responsible for more than one incident).

drop in the number of prosecutions – a drop of 31% compared to the previous year. The number of convictions has also fallen significantly, with only 36 convictions. Reporting a rape can take a great deal of courage, and it can be devastating for rape survivors to find out that their case will not make it to court. In our view a major factor in the drop in prosecutions will be the impact of the Cadder ruling.

# Interview with the Lord Advocate

Rape Crisis Scotland's Sandy Brindley interviews the new Lord Advocate Frank Mulholland

**SB: My first question was to ask you if you could say a bit about how much of a priority you see sexual offences as being in terms of the prosecution service.**

FM: It's a top priority. We invest a lot of resources in it. I know how important it is. I was involved with Elish (Angiolini, the previous Lord Advocate), in setting it up. I believed in it then, and I certainly believe in it now. It's a learning unit, within Crown Counsel, so they're taking the learning from the last case and applying it to the next. And I'm very, very pleased with the people we've got there. As you know Derek's (Ogg, former head of the NSCU) moved on. He did a great job setting it up. And his number two was Gillian Wade who has stepped up to take the helm. We've also appointed Alison Di Rollo, who has a lengthy background in prosecution of sexual offences including the policy side. The two of them will bring real strengths to NSCU, and I can give you an absolute cast iron commitment that, if anything, during my tenure as Lord Advocate, NSCU will be strengthened. I believe in it and I think it's one of the things I'm most proud of in the last four years.

**SB: One of the things I wanted to ask was what you thought are the key differences to how sexual offences are prosecuted now compared to ten years ago.**

FM: I was an Advocate Depute from '97 to 2000 so I prosecuted pre-NSCU. I was a Senior Advocate Depute from 2003 to 2006, and although I didn't deal with many sexual offences in my second stint as Crown Counsel, as a Senior, I did do a number of cases. So I'm well placed to understand and to take a view on pre-NSCU and post-NSCU.

I think it's down to knowledge and



experience, and the people that prosecute these types of crimes have now got that knowledge and experience. For example, when I was prosecuting in '97 to 2000, the notion that delayed disclosure was normal was pretty revolutionary. I was preparing these types of cases, and I was looking at delayed disclosure and thinking 'that's a weakness in the case'. I was trying to work out strategies of how to deal with it in the presentation of the case to the jury. At NSCU, with the knowledge and experience that they have gained, they recognise it's not a weakness in the case at all, it's perfectly normal. And so they're very comfortable with that. They're comfortable with other notions about, say lack of physical resistance. And they're bringing this experience and knowledge to bear in the prosecution of these cases in the High Court. So for example, they're identifying in advance of the trial, during the preparation of the case, what experts are required to be able to explain that to the jury. So we've got an evidential base for it. They know who's skilled in a particular area, who writes well, who presents well, who can explain these notions to juries. They're also getting very good about the case strategy for these types of cases. For example in '97 to 2000, say in a two week sitting, I would have two or three murder cases, a couple of assaults and robberies, drugs cases, historical sexual abuse, a rape case - all to deal with on a two week period. So you would be moving from murder to rape to drugs, whereas what you've got now with NSCU is Crown Counsel that are working

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in that unit and are doing multiple sexual offences cases.

So they're becoming comfortable with it, they know how to present these cases to the jury, they know the dynamic, they know about behaviour patterns, and they know how to explain that. They know where to go for the expert evidence, what the decision-making should be, the analysis of the evidence. They're very good. We're working just now within the current law on corroboration, which has developed through the Appeal Court, arguments that have been successful as to what amounts to corroboration in relation to, for example, proof of rape. We recently had a case where the conviction was upheld in the Appeal Court, where the corroboration of penetration was a pubic hair, which matched the accused hair, on I think the victim's pants. The Appeal Court accepted that that amounted to corroboration..

**SB: It's a broadening isn't it?**

FM: It's a broadening. The court also had regard to the victim's reaction to a GP about a week later, and they saw that as a piece of circumstantial evidence. Now that is something which NSCU have brought to this - they're thinking of how to present very good evidence-based arguments that there is sufficient evidence in a particular case. And that's something which I don't think we would've had with the old system, where you're given a bundle of cases to do in a particular period of time. You have expertise as an Advocate, but you don't have expertise in relation to each particular type of case. So with NSCU prosecutors I think that they are building that expertise. They are also now meeting routinely with victims in advance of court hearings. Obviously they can't discuss the evidence but they're very comfortable in meeting victims. And I think that's benefiting the presentation of the evidence.

I'm very anxious, as a Lord Advocate, to ensure that NSCU is not regarded as a niche, or a place for sympathetic women to prosecute. I don't think that would be right at all, because this type of crime is top priority for me as Lord Advocate. And I think what we should do is put our top prosecutors in there, to learn, and bring their skills to bear. So if you look at the profile of prosecutors in NSCU, these are top drawer prosecutors with a mix of skills, backgrounds and experience. We're not complacent, we need to keep on learning and build on where we are. It's only been set up for two years. I think the signs are very promising about how we deal with this type of crime.

**SB: There have been issues in the past about the reliability of figures for conviction rates in rape cases. Are there any plans to improve the data available in relation to sexual offences?**

FM: There are frustrations for us – for instance, when you have a six-charge rape indictment, and all six charges prove, they only count as one conviction.

That's a frustration. Or for example if we know we don't have enough evidence to prove rape, but we don't want to constrain the victim in giving their evidence. We know we've enough evidence to prove say, attempted rape. So we libel rape to allow the victim to give their evidence. The jury then convicts of attempted rape and statistically it's not counted as a rape conviction. So there are all these anomalies. I just want accurate statistics and then we can all be assessed and judged on what we do.

**SB: The next thing I wanted to ask was just what you think are the key issues or key challenges just now, in terms of prosecution of sexual offences.**

FM: One of the key challenges is sufficiency, given the Cadder case. And that's something I'm on record as saying that I was really concerned about. I think it's a danger for

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human rights that they are seen as only applying to a person charged with a very serious crime. We all have our human rights and are all protected by the European Convention of Human Rights. And it's a right in the Convention to effective criminal sanctions. The effect of Cadder on the requirement for corroboration will mean that there are many good cases which we can't take up because we have insufficient evidence, whereas pre-Cadder we would've had sufficient evidence. As you know the nature of rape means that rarely do you ever get a witness other than the victim. So we always relied for corroboration, in a significant proportion of cases, on the accused's police interview, where he would say something like, "oh I didn't rape the girl, we had consensual sexual intercourse". Well that gets you quite a significant way towards there being sufficient evidence, because with the current definition of rape you need to corroborate penetration. And the interview provides corroboration of penetration. We don't have that in many cases now because of the effect of Cadder. So it is very difficult in some cases to identify sufficiency. And that's looping back to what I've said, that our prosecutors in NSCU have been very creative about looking for new avenues or new legal arguments, to argue successfully that there's corroboration. That's a major major challenge; I've expressed those concerns to Lord Carloway in the review. But I think rape is one of the vilest crimes in society, and it's

a duty of any criminal justice system worth its salt to deliver justice, and not just to an accused. Justice is a broader concept than that. It's about delivering justice to all. And that includes the victim. I think sometimes we can overlook that.

**SB: You mentioned Article 8 rights in terms of privacy, to just ask you a bit about the new Crown guidance on seeking complainers' medical records. We've been a bit concerned about it not going far enough in terms of protecting Article 8 rights, but on another side I'm also aware it's been criticised for not going far enough of terms of disclosure. And obviously operating within a framework of disclosure, you've been trying to balance out victims' privacy rights with your obligations in terms of disclosure. And I suppose I'm just wondering what you're thinking about that?**

FM: Well I was always concerned about unrestricted access. It's the keys to the warehouse argument, which we've faced over the years in disclosure. What they say is that the defence want to see everything so that they can then apply their assessment as to what's relevant and material. Now if that's applied, it means that if the defence want to see someone's medical records, social work records, educational records, and so on, they get to see that, decide what's relevant and then they produce it as part of their defence, and the Crown can be very comfortable that our disclosure obligations have been carried out. But that's not going to serve victims. Firstly it's going to slow up the criminal justice process, for example in a case which dealt with disclosure, the court noted that it would take three years for the defence to go through everything. So are you going to wait three years until someone can be tried? I don't think so. So, what you have to do is devise a system, and the system we've got is the Crown

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assesses all the information to determine relevance and materiality. And that which is material, and relevant is then disclosed. We deal with it in schedules. Now it is of course open to the court to appoint a commissioner, they can do that to go through someone's medical or social work records. We think, with our experience, and with sensitivity and an understanding of the issues, that it's best for the prosecutors to look at the medical records and the social work records to assess materiality and the relevance for disclosure. Detailed guidance has been issued as how that should be done, involving the victim in the process. I think that protects the privacy of medical records and social work records, and still ensures a fair trial in its accordance with Strasbourg jurisprudence, Supreme Court jurisprudence, Appeal Court jurisprudence, on how a modern disclosure system should work. I know there are tensions - ideally, you wouldn't want to trawl through someone's medical or social work records. And ideally you certainly don't want the defence to do it. But we must ensure a fair trial because it's not in a victim's best interest for us to mount a great prosecution after which the accused is convicted, and then that conviction is quashed because of a disclosure issue in relation to records. So, it's a new set of guidance and approach to it.

I think we need to be very careful and see how our guidance works over time. And inevitably we're going to have an Appeal Court decision in this. What we need to do as prosecutors is identify the right case, present the best arguments, present our guidance and the way we operate it to the Appeal Court and seek a definitive judgement on it. So that will come. So what we need to do is, we need to watch and await developments. That is in my view the best way to operate to ensure that a fair trial is maintained and that victim's interests are protected.

**SB: What would you say to women who**

**have been raped, who's saying well, what's my medical records got to do with the fact that someone's raped me? How would you respond to that?**

FM: I have seen medical records which detail information which we weren't aware of. And social work records, where there's a history of making false allegations. When the police are asked to

investigate further into that, there are real concerns about the truthfulness of what's been said. I have seen some concerning things in medical and social work records that significantly impact on the fairness of the trial. That doesn't necessarily mean that if someone's made a false allegation in the past that they're not telling the truth. But forearmed is forewarned. And the last thing you want is a prosecutor to be ambushed. So I think the system we've got, currently, is the best to protect victims' Article 8 rights and confidentiality, whilst ensuring a fair trial. What we need to do is give it time and get the definitive judgement from the Appeal court on this.

**SB: On a related note, there's been concern for quite some time about the provisions around sexual history, sections 274, 275. We obviously don't have any up-to-date information at the moment around how that's operating because the evaluation was quite a number of years ago. Do you have any views on how well the provisions are working or whether or not you think we need new legislation in this area.**

FM: A lot of the 275 applications are not necessarily sexual history, it's broader than that, so I think what you really need



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is accurate statistics on the nature of the 275 application. It's certainly complex legislation. But again it's something about which NSCU are building a good database, good arguments and lines. There was an encouraging case in Strasbourg (Judge v UK) which said the Scottish rape shield legislation was compatible with the convention so that's good - we've had challenges in the past that say it's incompatible with an accused's Article 6 rights. So it was very good to see Strasbourg endorsing the Scottish approach.

I always feared there was a danger though when you enact rape shield legislation, that what it does is it makes defence counsel make an application in advance of the trial for areas in which they wouldn't have done normally.

It's kind of Anderson dynamic. That they don't want to be criticised for not doing their job thoroughly. So what they'll do is they'll put an application covering absolutely everything they can think of. If they get say twenty percent of it then fine. And once of course you've got an order for the court, saying that it's admissible, or permissible

## Recent Crown Office statistics

- **Prosecutions concluded to date which include a charge of rape under Section 1 of the Sexual Offences (Scotland) Act, 2009: 13\***
- **Proportion of these which resulted in a conviction: 62%\***
- **Sexual offences prosecuted under the 2009 Act which resulted in a conviction: 69% (including but not restricted to rape)\***

\*Source: <http://bit.ly/vyzEAg>

It was very good because it was the first endorsement of the Scottish rape shield legislation as being compatible with the convention. And that was written by a chamber presided over by Judge Bratza, Nicolas Bratza, who is the president of the European Court of Human Rights in Strasbourg, so is a major judgement.

for defence counsel to cover that twenty percent area, then it's difficult for a counsel not to do it. Other than the fact it's very complex to operate, I think it achieves the best balance.

**SB: We had the new Sexual Offences Act implemented, just in December there. Do you have any update or sense of what**

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**difference it might be making or how it might be working?**

FM: It's certainly widened the definition of rape. So it's certainly increased the number of cases reported for rape.

**SB: There was a commitment in the SNP's manifesto about introducing judicial directions in sexual offence cases around delayed reporting and lack of physical resistance. Just what difference do you think those directions could make?**

FM: I think it really should ensure fairness in the trial, which should ensure that there are no misconceptions, myths, amongst the jurors who ultimately make the decision in these cases. And I think it'll ensure that trials are fair and that the rights of victims are recognised. We talk about the learning that's now embedded in NSCU, their knowledge and understanding of the behaviour of rape victims. But part of the education of jurors is getting a direction from the judge, that it's a neutral piece of evidence and shouldn't be taken into account. So I see it as a positive. I certainly support it, and I'm pleased to see it in the manifesto.

**SB: Do we know when it's going to be?**

FM: The manifesto commitment is to legislate in this parliament so I've no doubt the Government will legislate for that to happen.

**SB: There have been a lot of really positive changes in how sexual offences are prosecuted over the past few years. How do we measure the impact of those changes?**

FM: It's a good question. Statistics are pretty raw, they only give you basic data. I'd be grateful for your views on it. What do we do? At the end of a trial do you want to go and see a victim in a terrible case

and say "well, how was your experience?" We've always shied away from that. How do you measure the other aspects of the prosecution? The statistics are conviction rates. That only tells a small part of the story. Maybe that's an area we should do some debriefs in.

**SB: We have had feedback, even in cases where there's no conviction, that being able to speak to the Advocate that tried the case afterwards can make a big difference - at least somebody is getting some reassurance that they were believed and it wasn't that they did anything wrong. So I can understand the concern about approaching people after the case, but I think even if it's not a conviction you could still get some helpful feedback. I think there's a gap in research, we could do with some research into complainers' experiences.**

The Lord Advocate offered to organize a meeting with Rape Crisis Scotland to discuss further statistics and ways of obtaining feedback from complainers.

**SB: My very last question is just to ask if there's anything else that you wanted to say?**

FM: No, other than to say that we're absolutely committed to what we're doing. As Lord Advocate and as Solicitor General, I took the view that in the most serious cases we should resource them best, put our best people in them. And that we should never shy away from the difficult areas of crime that are work intensive. Just because they are difficult and work intensive, I always saw that as a challenge that you should meet.

# A perspective from ACPOS

**Rape Crisis Scotland asked DCS Malcolm Graham, until recently ACPOS lead on Sexual Offences, for his views:**



**Can you tell us about the background to the ACPOS review and its main recommendations?**

The ACPOS Review of investigating sexual crime was initiated to run alongside the COPFS Review initiated by the then Solicitor General in 2004. The main outcomes for the police were closer joint working with the Crown, both at a policy and operational level, the formation of the ACPOS Sexual Crime Working Group, and a series of improvements in the commitment to rape investigations, including more seniority of supervision, standardised investigative procedures across Scotland, greatly enhanced training for many different types of police staff or officers.

**How has it impacted on training in particular, especially with regard to sexual offences?**

Training is critical to ensuring awareness of the issues that relate specifically to the myths and perceptions that have traditionally, and quite wrongly, been attached to rapes and victims of rapes. We initiated the role of Sexual Offence Liaison Officer, so that victims reporting rape to the police should always be listened to and believed by a specially trained officer, who will be consistent in the initial stages of an investigation, and who has been selected to perform the role as a volunteer, and as somebody suitable for such an important role. Such officers are trained to a common standard across Scotland now, and feedback on their deployment has been positive to date. We have also integrated training into existing Senior Investigating Officer Training, and produced a 'First Contact' DVD, which is an excellent way of

raising awareness amongst non-specialist staff who will more than likely be the first point of contact for victims who phone or come into a police station.

**At Rape Crisis Scotland we have heard quite a bit recently on the subject of women being charged after a complaint of rape has been withdrawn: could you describe the sorts of circumstances in which this might happen? How common do you think this is? Is it becoming more common and if so why do you think that is?**

I don't have any specific data, but know from the hundreds of rape reports received from victims by the police the likelihood of this happening is extremely low, and I strongly suspect diminishing over time. I've never heard of a case where a complaint of rape has been withdrawn and a victim has been charged with an offence. Our aspiration is to thoroughly and effectively investigate every report of rape made to the police. In a very small number of cases such investigations sometimes do show that a person reporting to be a victim has made a malicious statement, and it is clear they have not been the victim of any crime. Once the reasons for this have been assessed in a small number of these cases and after liaison with the COPFS it may be appropriate to charge such a person with making a false statement, given the effect may have been to wrongly bring some other person under suspicion of a very serious crime, and on occasion deprive them of their liberty. Clearly we do not wish such occasions to deter any victims from having confidence in reporting to the police, and indeed I know in the vast majority of instances where a false report has been made, which I should emphasise is a small number, there are reasons why it would not be appropriate to pursue the person making the false report further.

**There seems to be quite a widespread**

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**perception among police officers that false allegations of rape are common – what is your view on this?**

I do agree that there has been an issue in the past that people's perceptions of false reports is far far higher than the reality – but I don't think this was confined to the police. I do know that the police across Scotland have taken seriously efforts to debunk such myths, and ensure that people who may come into the police with skewed perceptions are presented with facts about rapes and rape victim experiences, to ensure that victims are believed and trusted. Rape is a very difficult crime to effectively investigate, because manipulative and calculated offenders often only commit crime where they know it will be difficult to secure unequivocal evidence of what has happened, or rely on abuses of power or vulnerability to ensure victims are less likely to report. I constantly tell all officers that the absence of information that would provide a sufficiency in law to evidence a rape does not in any way diminish a victim's credibility, or right to be believed.

**Under what circumstances would a complaint of rape be “no-crimed”? Is this something that still happens in Scotland?**

This should only happen if there is evidence, gained as part of the investigation, that the crime did not occur, and certainly not just if there is not sufficient evidence to report to the COPFS or proceed to a court case. The criteria for marking a report as 'no-crime' is very strict, requires sign off at senior level, and is independently scrutinised through crime recording audits.

**The Worboys case in England led to concerns that skeptical attitudes among police officers in England & Wales are letting men away with rape – do you think this is a problem we share in Scotland, and how do you think we can**



**most effectively avoid these attitudes affecting women's chances of obtaining justice?**

I think the answer I've provided for question 4 [on false allegations] starts to answer this question. I'm sure we all acknowledge that in society there are still some unhelpful stereotypes, myths and perceptions about the crime of rape, and other gender based offending. It would be naivety or complacency to imagine or state that some of that does not permeate into any organization. Importantly, by recognizing the risk of this, and implementing training and awareness programmes from recruits, through to senior investigators we are constantly reducing the risk of this happening in the police. I'm constantly aware of the perception that the police may be seen as dismissing or minimizing a victims' experiences or reports, and yet my experience is that officers are providing an excellent level of service. I think highlighting some of the excellent experiences that victims have with the police would go a long way to providing some balance, and hopefully present an accurate picture of the experience victims can expect if they report being a victim of rape to the police.

# A perspective from ACPOS

## **What is your view about the introduction of medical records in cases of rape? In what sorts of circumstances might permission to access these records be sought?**

I fully understand why this is a difficult and emotive subject, with very careful consideration on a case by case basis required before any such records would be sought. Within the constraints of the Scottish Law system, I think it is appropriate in some circumstances that a discussion can take place between the COPFS and victim about issues that might arise in court. Whether the legal system best serves victims' needs in such circumstances is a different question.

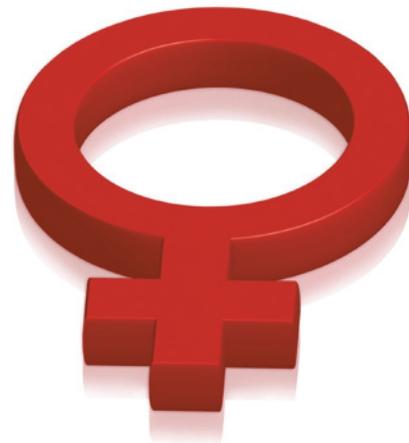
## **Can you tell us a bit about what you think of the new automatic police referral to Rape Crisis Scotland / what you hope will be achieved by this?**

I believe that increasingly ACPOS should develop victim focused action for serious sexual crime, and this is one example where the needs of the victim may be better served than they might have been otherwise. Accessing support and assistance to make the journey from victim to survivor is critical to ensuring positive outcomes for victims in such terrible situations, and the police should be at the forefront of any efforts to support this. Importantly, the opportunity to get feedback on the police in each case is critical to improving services from a victim perspective, and I'm delighted that whilst the feedback has in the main so far been very positive, there are always areas to improve in.

## **What difference do you think the new Sexual Offences Act will make?**

The Act provides greater clarity in the law around legal definitions, and consistency across gender and age in different crimes. Whilst the rates of recorder crime will change

as definitions have changed, I think there are only some small opportunities to improve detection rates. Most importantly, it provides an opportunity to communicate, both with professionals and communities, how important the police and COPFS believe this area of crime is, and efforts that are being taken to enhance a whole range of services in support of victim needs and outcomes. I also believe there is a long journey that needs to be started, to focus communication efforts from all agencies, including the police, towards influencing perpetrator behaviours and attitudes in today's society.



# Raising awareness in schools

***Jennifer McGill is Senior Procurator Fiscal Depute and Team Leader for the Dumfries and Galloway Area Sexual Offences Team. In conversation with Eileen Maitland from Rape Crisis Scotland, Jennifer describes a highly innovative initiative which has seen her collaborating with local police and teaching staff in an effort to raise awareness among young people of the myths that blame women in the context of rape, and to get them to discuss their own attitudes and consider to what extent these are reasonable.***

**EM : Could you start by giving a bit of background to your work in general?**

JM: I've been a fiscal for 27 years and for quite a lot of that time I have dealt with sexual offences. Following the Lord Advocate's Review of Sexual Offences – in fact, going back a bit before that, I was involved in one of the sub-groups as part of the review, and it's always been an area that I've had a lot of interest in. In the review, one of the aims was to try and address society's attitudes towards the victims of rape – you know the stuff about being shown photographs of girls with short skirts and they think "oh, she's up for it".

So we *know* that this is what the public think, and we know that it's the public that we've got on our juries. We know that the attitudes that they have outside are bound to come into the court with them, so part of the review was about trying to address those attitudes – and that's a really really difficult thing to do. And I think Rape Crisis have done a fantastic job with the advertising campaigns. I think these campaigns are really good, but you need to have them in everybody's face all the time - it's really difficult, isn't it? So, we fiscals were asked as part of our instructions following the review, to see what we could do in our own areas about addressing public attitudes. So various people gave interviews to

newspapers and things and I've done a couple of talks to the Rotary & the Women's Guild and things like that -and say to them you can have me as long as you take the public's attitudes toward victims of rape as part of what I'm going to talk about!

**EM: What kind of a response do you get there?**

JM: The Rotary was mainly all men. I'd started off with the funny stuff about the job, and then I got onto my current role, and talked about how, you know, a typical rape victim, if there is such a thing, might well be somebody who's been out in a night club, and I felt they were really taking it in – you could hear a pin drop when I was talking about that – they were a really good audience. When I did the Women's Guild I spoke to them about what do people have to wear then? You know? Do you have to wear a tweed skirt?

**EM: Were they venturing the opinion that you should dress modestly?**

JM: They didn't really get a chance because this was just me talking to them. I was trying to show them - trying to make it kind of extreme – do you need to wear a tweed skirt or can you wear a mini skirt? Of course you can wear a mini skirt! Do you need to have one small sherry or can you actually get bloated? Where do you draw the line and say that's ok and that isn't? Do you need to wear bloomers or can you wear a thong? So it was quite interesting doing that.

**EM: Did they ask questions or give feedback afterwards?**

JM: They did, and I felt the women were harder on a potential victim than the men are, which is something that I'll talk about when I come onto talking about schools. It's really quite interesting but it's a difficult part of the recommendations to follow through on. We've done the other

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recommendations – Sexual Offences teams, Specialist prosecutors, all that kind of thing, but this was always hard – changing public attitudes. So round about the autumn of 2009 the Fiscal's Office in D&G was asked if we would be prepared to do an input to a day that the police were proposing in schools. This was actually in Stranraer. Dumfries and Galloway is quite a large area geographically – we are in Dumfries, there's a fiscal's office in Stranraer which is actually 75 miles away.

The school liaison police officer in Stranraer and 2 police officers in Newton Stewart, which is in the same sort of area, were putting on a day for 3<sup>rd</sup> year pupils at schools. There had previously been another thing I'd been involved with called "**Prison – me? No way**" which is an event for 3<sup>rd</sup> years in schools which I think is really good but it was getting quite expensive so the police were looking at doing something else that could be just as effective but do it with less outlay. So they were putting together this day and I was nominated to go and they were going to have a play about kids drinking in the park and so when we had the meeting I said to them my agenda is tackling public attitudes to rape – so we need to have a rape in the play and we need to have people not believing her.

## **EM: Who wrote the play?**

JM: The play was written by Ken McClymont - he is a drama teacher at Douglas Ewart High School in Newton Stewart. He was at the meeting and he produced the script of the play and I was delighted because he got it – he did exactly what I'd wanted in this play. The day itself is called "**Do The Right Thing**" and initially one half was on the sexual side and the other half was on knife crime and antisocial behaviour – that was the first year they did it which was in 2009. In 2010 when we did it again knife crime wasn't such a big issue so they decided to take out the knife crime and put in domestic

violence. But domestic violence both from the point of view of how kids might act to their parents beating each other up but also how a teenager – a teenage boy basically, is becoming controlling to his teenage



girlfriend. So half of it is on that and the other half is on this play that I'm involved with. So we had three separate days in 2009 and three separate days in 2010.

## **EM: And what sort of format does the day take?**

JM: In Douglas Ewart High School the third year maybe has 120 in it so we can take all of them at once. In Stranraer Academy there is twice that number so we have two days and we have half of third year each day. So the kids come in – start off in the Assembly Hall and they do a wee exercise called Quizdom. There are questions up on a screen and the kids have handsets where they can answer A, B, C, or D – they press the button and the questions are to test their knowledge of things at the beginning – it's quite fun – it breaks the ice a bit. So there are questions coming in on the various different themes that we're looking at. There are questions on underage intercourse. You know, who's committing a crime if a boy of whatever age has sex with a girl of such and such, which will all need to change now that we've got the new Act - we'll need to change the questions. There are questions about – how can they get

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contraception if they live in Newton Stewart? “You can’t”, you know – or, “You have to go to Dumfries”, or “You have to tell your parents” – they have to get the right answer.

And then they break up into two groups – I would be with one group – they have “A Night to Remember” – it’s the play and it involves three girls who are 15 and they are at the house of one of the girls. The other two are phoning their mothers and they’re saying “So-and so’s mum has invited us for a sleepover is that ok? No she’s not here just now she’s just gone out to get some crisps for the sleepover. We’re going to have a video and you know I’ll be home early tomorrow morning”. Basically, they persuade their Mums to let them stay. In actual fact, so-and-so’s Mum is out on the town, is not going to be back till 4am and – complete lack of supervision, and hasn’t agreed to them staying or anything.

So they’re deceiving their parents, they’re getting ready and they’ve arranged to meet the guys in the park and one of the girls is a bit shyer than the others and she says “Oh you know I don’t really drink...I’m not really sure about doing this” and the others are going “Ah, no, come on, there’s vodka left over from somebody’s party”, “I’ll be sick if I drink that.”

Then you see the boys coming on. They’ve got somebody to go and buy them drink from the off-license and the girls are coming up, so they all meet up and they’re drinking in the park and the particular girl that becomes the victim is Zoe. Zoe’s the girl

and Jamie’s the boy. Zoe’s talking to Jamie and she’s saying “I really can’t drink – I don’t drink” and there’s also been a wee bit about the girls are saying to her “Jamie’s gonna be there – do you fancy him?” and she’s saying “I’m not ready for a relationship, I’m not wanting to have sex with anybody you know – I’m not ready for that.” So that’s what she’s saying and she’s saying later on she doesn’t really want to drink.



However she does and she gets sick and she feels really awful and she wants to go home. The other girls can’t let her go home though because if she goes home her mother will find out that they’ve been drinking. So, no “You can’t go home – you’ve got to go back to my house, but we’re not coming back”. The other girls are not coming back – “We’re having a great time here in the park”. Jamie says “Don’t worry folks – I’ll take her home.” She’s saying “Ah, thanks Jamie, thanks Jamie you’re a mate, you’re a pal”. He says “I’ll help you.” She says “Aw, I just need to go to sleep – I just want to get in my bed and go to sleep.”

He takes her out and the next thing you see is she’s coming on looking distressed and

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a bit dishevelled and is saying Jamie had taken her up the stairs, started to kiss her, she'd said she didn't want to do any of this. And he'd ended up having – he'd had sex with her although she was saying no and trying to get him off. And you see her friends and they're saying "Do you hear what Zoe's saying? She's saying Jamie raped her, but did you see that skirt she was wearing last night? She was clearly up for it. She better watch she doesn't get Jamie in trouble." So they're not believing her despite the fact that she's said, early on "I'm not interested in Jamie, I'm not ready to have sex."

So after they've seen the play, they go into three different workshops, of which my one is called "What do you think?" The others are about sex education and antisocial behaviour because they're messing things up in the park and stuff...

I've been doing it with a female school police liaison officer and I wasn't 100% sure how to tackle this so I spoke to somebody from Rape Crisis. She gave me some ideas and so what we do is we divide them into groups and then we have the flip charts and we ask them about their feelings towards Zoe and their feelings towards Jamie and it's split down the middle and then things that they might blame Zoe for and things that they might blame Jamie for. And the idea is to get them talking about how they feel about it – what they're blaming each of them for - the skirt is a big issue, cause the actress wears a denim skirt up to about here...

**EM: Pretty short then?**

JM: Yeah, but if she hadn't been raped, nobody would've said anything about her skirt. It wouldn't have been an issue at all, but because she's been raped, that skirt is an issue.

**EM: What sorts of things are they saying?**

JM: Well – and do you know it's the girls

– mainly the girls: "She was asking for it." What's their phrase? "Easy access. Easy access wearing that skirt. She's not even



wearing any tights" and I'm saying "Well do you wear tights in the summer?" "No." And then I'll say to the boys "What do you think?" And obviously you get different groups but it has tended to be the boys – I'll say to them "If a girl wears a short skirt do you think she's looking for sex?" And they say no. So I think that the girls' parents are saying to them "Look, you can't go out looking like that" right? "Boys'll think you're asking for it."

**EM: Sort of perpetuating from one generation to another...**

JM: It is! So then I say lets have a look at the other things we know about her. What do we know about her? We're going on the basis that everything she says is true so we know she's said she's not ready for a relationship – she's not wanting a sexual relationship with Jamie, we know that she's really ill – all she wants to do is go home and go to bed. And we know that when they go there Jamie forced her – she said no and he forced her. Whereabouts in all that does wearing that skirt make the difference? So it is challenging it. I'm not always changing their minds but I think if we can at least get

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them to think, so that if, you know, at a stage in the future they're on a jury they might think now I've got to keep an open mind here – I've got to look at all the evidence about what that girl was saying, how she was feeling about it, how she was reacting, and I can't just go on what she was wearing. So that's what I'm hoping.

**EM: Even in discussion with friends you are effecting some kind of cultural change by having that discussion.**

JM: Yes. I'm not saying that doing a few sessions with schools is going to change society but you've got to start somewhere, don't you?

**EM: Do you discuss the boy's motivation and behaviour?**

JM: No we don't because we haven't really got time. We do think about what are their feelings towards Jamie, but we don't go into that really because we've only got 20 – 25 minutes in each group so we've got to concentrate straight on the one bit. But I was interested that last year 2010 when I did it several of the kids did mention the advert involving the skirt.

**EM: What sorts of things were they saying?**

JM: One boy in particular said "Aye well she was wearing that skirt but wait a minute – remember that advert we saw? Yeah that's not right, that's not right – her skirt was nothing to do with it" And I thought "Bingo!"

**EM: That's great.**

JM: I thought that was really really good –and I think that they had actually had it as part of some sort of social education class. I'm not 100% about that but it was just the way it came across – he was saying "Remember" to his pals as if they had all been there together. So I thought that was

really impressive.

**EM: And are you going to be doing that on an ongoing basis?**

JM: Yes. At the moment for the two years that we've done it – 2009 and 2010. So far we've just done it in Stranraer and Newton Stewart. The police officers are hoping to do a presentation to the other secondary school cluster groups, but only in the West of the area. When we had Regionalisation there were four districts: Wigtown, Stewartry, Annandale and Eskdale & Nithsdale. Wigtown and Stewartry are over in the West and Annandale & Eskdale and Nithsdale are in the East. The police that have been doing it are based over in the West so they're hoping to spread it to the schools there. I had hoped that I could persuade them to expand it to the schools in the whole of Dumfries and Galloway but the schools in the rest of Dumfries and Galloway have got a project that they call "The Big World" but it's for 6<sup>th</sup> years and is not the same – very good, but has a different aim.

**EM: Why do you think it's important that the Fiscal's office gets involved in this kind of work?**

JM: It's important and if we don't do it, nobody else would. Plus I suppose when I'm going out and I'm talking to the kids I can say this is actually what I do. And the scenarios that the teacher wrote – the play that he wrote was almost identical to something that I had just been dealing with right at the other end of the region, which he knew nothing about. A case which involved a 16-year-old who had raped a 15-year-old under almost identical circumstances. And I am able to say to the kids "That guy is now in prison." So it is quite useful to be able to talk about it from an experienced point of view.

**EM: Reality.**

JM: Given that the police are looking to

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expand it in the schools, I've asked them if, instead of me doing it with a police officer, why don't I see if I can do it with someone from our local Rape Crisis? So I've spoken to Rape Crisis and they've said yes they'll do that so I'm hoping that for the next swatch of things that I can have a partner from Rape Crisis in with it. Our area Fiscal Ruth McQuade is on the [violence against women] partnership and she has organized that we the fiscals will have some input to presentations for teachers, so that they can then go on and use it in some way in the schools. The education department are part of the domestic abuse and violence against women partnership, so they can insist that the teachers come so we're going to do sessions for all – for two teachers from each of the secondary schools in the area.

Some of them are going to be in our office in Dumfries – we've got an hour and a half and we're going to do something on what we're calling "crossing the line" which is when playground behaviour becomes criminal so it won't just be sexual things but things like knife crime and hate crime and that sort of thing and but also could be things like sexual bullying - it can be the kind of thing that the schools in Dumfries are quite worried about at the moment which is the girls taking photographs of their boobs and sending them to people on the phone.

So we can cover all of that and also something on what we're doing on "Do the right thing" The police have got the play videoed and I'm thinking about using that – or also thinking about using your adverts but I've got to produce something interesting for the teachers. I need to do something kind of interactive with them.

**EM So you're sort of rolling this out to teachers in the hope that they'll sort of take it forward within their own schools?**

JM: Yes.

**EM: I was also going to ask you if you if you'd be interested in seeing it developed as a more formal part of the curriculum?**

JM: Yes, I think there is definitely a place for it in the schools.

**EM: Thanks very much indeed for taking the time to do this.**

JM: You're welcome.

**Postscript:** Since this interview, Jennifer and her colleagues on this project have just finished another 5 days with schools, and this time the local Rape Crisis centre (South West Rape Crisis and Sexual Abuse Centre) were involved in the workshops too and thought it was really useful. The work will continue next year, again with the involvement of Rape Crisis.



# The Archway SARC, Glasgow

*Tamsin Groom was acting lead clinician for Scotland's first Sexual Assault Referral Centre, the Archway in Glasgow in 2009. As such, she was responsible for all the doctors involved with the Archway, and the clinical management of a complainer's journey through the service, which is based on models that have been used in England and Wales, since the 1980's. She spoke to Eileen Maitland from Rape Crisis Scotland about the service.*

**EM: What would you say makes the Archway different from other existing services?**

TG: In Scotland, this is the first SARC, it provides a holistic model of care for survivors of recent rape and sexual assault. It provides an opportunity for people who choose not to report to the police to access medical, psychological and emotional care, and also gives them the opportunity to have forensic samples taken and stored so that hopefully in the coming weeks, months, years, people may feel able to engage with the police - because at the time of the incident there are a lot of things going on and people often may not feel able to engage with the police. Maybe that's from past experiences they've had...the reasons are many, obviously... Since we opened in 2007 there have been a few changes and one of the most important recent developments is being able to offer anonymous testing. This has been done in England for many years now, but it means that forensic samples can be tested anonymously and if DNA is found then it gives an opportunity to speak to the survivor and let them know there is some proof of what has happened to them. This may mean that they feel more comfortable engaging with the police, which we can then support them to do.

For police referrals, it is different from what happened in the past in police stations and suites. We see the survivors here at Archway. We are able to offer them



screening for sexually transmitted infections, immediate emergency contraception to prevent unwanted pregnancy, and other medications such as anti-HIV medication which we call PEPSE ( post-exposure prophylaxis following sexual exposure).

We're also (because we're hosted by the Sandyford Initiative) able to link people in very quickly to more specialist services should they require it – for sexual health, and counselling through SCASS, (Sandyford Counselling and Support Services) so, there's in-house support also. We are very fortunate to have a 2 full-time support workers working within Archway so that anyone who's come to us has an opportunity for support and advocacy. Should the complainer need more in-depth support - counselling, then we have dedicated Archway counsellors who work within SCASS and they are able to provide quick access to counselling.

In the past, if you reported a rape to the police (and this still goes on - if unfortunately

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we're too busy and the complainer prefers not to wait and various other situations), the complainer is seen, usually in a dedicated suite within the police station, by a police casualty surgeon, who will then need to refer the client on for all the medication and additional support. So the survivor is going to have to access that themselves, the onus is on them, and that can be very traumatic if you've got to try and access lots of different services, tell your story to numerous people. We hope that by coming to Archway, they'll really not need to tell their story to very many people at all, and we'll also be able to let their GP know (if they consent to that) which means that if for example, they're having trouble sleeping, or other issues following the incident then they don't have to actually tell the GP everything in order to access that care - the GP will have had the letter from us, with a brief outline of what's happened and what medical treatment they've already been given, what supports have been put in place, what concerns we have for them, and, so hopefully that makes things easier for them as well.

## **EM: Can you take me through the process that someone presenting themselves to the Archway would go through?**

Well first of all, it's telephone-only referrals - we have had a publicity campaign and hope that people can now get our telephone number easily, but you can access it through NHS 24. If you put Archway Glasgow into Google on the internet it will lead you to a variety of pages including the Sandyford website, Rape Crisis website, Glasgow Womens Network site - all will tell you the contact details and lots of other partners have details/links also.

So the person that it's happened to would ring up and would speak to Catherine our Administrator and would be put straight onto one of our nursing staff or one of the doctors who would basically just assess that they meet the criteria for attending

the Archway (**the only criteria is that the rape or sexual assault occurred within the preceding 7 days**) and then we would make an appointment for them to come and see us. If it is a self-referral, we tend to encourage people to come more or less within working hours really, because once the Sandyford is closed, there's nobody else in the area, so when it's a self-referral we don't have any personal protection ourselves and we don't know who we're seeing and other people that are coming, so that's why it tends to be limited to daylight hours.

Once you come to Archway, you're welcomed by the nurse, who will then take you upstairs to our forensic suite. It's reasonably comfortable with couches and things like that. It is quite clinical, because we have to be able to wash it all down afterwards to maintain the forensic integrity of the unit. We would find out a little bit about the survivor themselves, just demographic details, where they stay, who the GP is...we do all that sort of thing, first of all.

And then he or she would meet with the doctor and the doctor would then go through what had happened, whether they had reported it already, get brief details about what happened and ask whether they wished to involve the police at that stage because if they do then it's useful to have the police there to take all the samples and get them processed and things quickly. If not, then, finding out exactly what they're wanting from the service is obviously of paramount importance.

They don't have to have a forensic examination at all if they really don't want that, but a lot of people have concerns about possible injuries that might have occurred and want to know that they're ok, so if we're doing an examination, sometimes we still will offer to take forensic samples, just a few so that we can store them and if they then do change their mind in a month

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or two they've at least got that knowledge that there is something there for them.



So following quite a detailed discussion about the events - because it could be that this was the first disclosure, then we would record all that – it may be needed if a court case is going to occur and then we would take them through into the forensic suite if that's what they were wanting. They would go behind a curtain. If it's a non-police engagement it is just the doctor, the nurse and the complainer. If they wish for somebody to support them, that's ok – it's not encouraged totally because theoretically it can contaminate the samples - there is a small risk of that - but if that's what the complainer wants then that's fine, and then if they've got any of their clothes that they were wearing at the time we would package those if they'd brought them. Or if they were still wearing them, then we would ask them to undress behind the curtain, (we would be the other side) and we would put the clothes into brown paper bags.

We would give them a paper gown to wear, and blanket...it's not very dignified, but so that they feel a bit more secure rather than just wearing the gown. And then the examination would occur – we would just have a little look over the body, just to check if there are any cuts bruises or any other injuries and we would mark all their injuries down on bodymap diagrams...that can take a little bit of time, and then the actual forensic examination would start. Usually that would start by using little cotton buds, swabs, and we use a wet and a dry swab for each area. So perhaps we may take swabs from round the mouth...we would start with a wet swab round the mouth, and then a dry swab round the mouth, moving on to neck, breasts, tummy – anywhere that...the assailant had touched the survivor. Those swabs would be packaged just as if it was a police engagement in police production bags. Those productions would then be put in

our freezer, having recorded them in what we call a production book, just the same as the police process, so that there should be no questions asked when the case goes to court. After we've done the body examination and swab-taking it would be the genital examination, and that's just like having a smear test really, depending on the type of complaint that it was. If it was a rape, then the best evidence is usually from the vagina so we would take samples from the vulva first, the lower vagina, and then use a plastic speculum, just like when you're having a smear – to take samples from further up.

If there'd been an anal assault, then, again we would take samples from around the back passage and then we'd use another little plastic tube called a proctoscope to take samples from the rectum and anal canal itself. And all those are processed as I've described and then the complainer is offered a shower. We've got a nice shower suite, we've got toothpaste, shampoo and bodywash and things, so [the survivor] can have a shower and just hopefully feel a bit better afterwards. A lot of people actually don't choose to do that, they just want to go home and use their own facilities, but we have that there if they want to do that.

And then after they've had a shower, we would usually address all their medical, and more social concerns, so we would offer emergency contraception, if it was a particularly risky time of the month for instance, and there was a particularly high risk of pregnancy, we would offer them an intra-uterine device because the effectiveness of that emergency contraception is much much higher than the morning after pill. The morning after pill's failure rate is about 1 in 30, whereas the copper coil is one in 1000. Obviously if you have been raped you're not necessarily wanting to go through such an invasive procedure and the tablets seem an easy option, but they've got 5 days after the

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incident at least to consider that, and we'd give them a fast track card to come into Sandyford, to have that put in, in one of our clinics. Some of us can just do it on the night, if that's what the complainer chooses so that's absolutely fine as well.

And then we offer testing for chlamydia and gonorrhoea and arrange for a further test two weeks post-assault. Because of concerns about antibiotic resistance we no longer give antibiotics out routinely. We offer injections against hepatitis – we start a course of 3 injections to protect against hepatitis, and we make an assessment with the client whether they would like anti-HIV medication. That has to be taken within 72 hours of the assault. The medication itself is quite noxious and actually the incidence of HIV in the general population is really very small, but certain things would increase the likelihood of that being transmitted. So it's certainly a discussion that we have with every client but not every client will choose to take it.

## **EM: What about support?**

TG: At the time, if the support worker's there they will meet the survivor and address those issues. If it's a police engagement, which tends to be more in the night, then we would just say "a support worker will give you a ring in a couple of days to see how you're getting on is that ok?" and if they feel that they would like that, then that's what will happen. We're being a bit more proactive about that now, because people don't always know exactly what they do want at that time. People have found the support very helpful, because they don't want to necessarily tell their family - they can feel quite isolated, so having the support of the support worker over the telephone in the first instance seems to be very helpful to people.

## **EM: What kind of uptake do you get on that do you think?**

TG: To start with it was quite low, but that was because we were only counting face to face interactions, but in 2009 we saw 189 – round about that – 189 people came to Archway. Alison our support worker then made something like 1000 support phone calls – and we weren't recording that to start with, so that's a lot of unrecognized work. She had something around about 180 actual face to face sessions, but that wouldn't have been with all the clients... maybe only something about like 40 – so about a quarter would actually have face to face support. Around about a quarter would have – actually wished to have a face to face interview. It isn't as much as we thought, but nearly everybody will get telephone support.

Our very vulnerable clients, women involved in prostitution, addiction, homeless...can be more difficult to contact. They may also have a lot of other services involved with them. The support worker's role may be more about sharing information with those supports that they've already got, if the client wishes it. For example, they may not feel able to go and pick up their methadone, which could mean that they get thrown off the programme, and have all the repercussions of that, so if somebody could actually ring them up and say look she's been to our service, she's not wanting to come and get her methadone today – just being able to do that will help support people through that. We've got the ability now to actually give clean needles as well, for substance users. And they may have a social worker - may need additional social support, so it would really be about sharing information as the client sees fit, and also keeping the client up to date if we get any information about what's happening with the case.

## **EM: How closely do you work with the police?**

TG: Very closely! It is a multi-agency service

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and the police actually fund 55% of the Archway, and they want to make good use of the service. They provide us with three quarters of the clients, so basically 75% of people that come through the Archway are as a result of a police engagement. The other one quarter are from other agencies – maybe health, GP, yourselves, other partners and self-referrals. We offer third party reporting to all clients who do not wish to involve the police - this is anonymous information sharing with the police which may highlight areas, or particular patterns of crime so the police can increase surveillance in certain areas or in some instances they may wish us to try and support the survivor to speak to them sooner rather than later. So we do work very closely with them. The Consultant staff are also involved in delivering training about Archway/sexual assault to police officers on the SOLO (Sexual Offences Liaison Officer) training which is being rolled out across Strathclyde.

**EM: What would you say are the key lessons learned from the pilot...if other areas were hoping to set up sexual assault referral centres, what sorts of things would you be telling them in order that they could benefit from that?**

TG: Basically, the Archway has only been able to get up and running because of the support of all the agencies. It's been about 10 years in consultation before we even got to getting funding from the Scottish Government and I wasn't around during that, so it really has been the enthusiasm of voluntary services, Glasgow City Council, Violence Against Women Partnership, police as well and various policy changes that has really brought it into fruition.

The Home Office for England and Wales has been committed to increasing the amount of SARCS that are available and they have wanted one in every health board

area in England and Wales...I don't know what the expectations are for Scotland, but certainly that would be great. They are very expensive...because of the infrastructure – you've got to have premises and all that. I suppose the thing that's come out really for us is – you need to have a lot of funding to make it work. We were given funding based on projections from a few years ago so therefore it has been quite difficult. We perhaps haven't been able to maximize the amount of space we've got. That's what you really need – to really think about exactly what space you need, because ideally if it's going to be a truly one-stop shop you need a police interview room, so that the police can use that, you would probably need more than one forensic room ideally.

We've been training up doctors and nurses to work in the service and that's a big commitment to training, to appraising your staff, to make sure they're maintaining their competencies, and also that they're willing to work, and being willing to work means that you have to remunerate them properly, and that is a big issue - remuneration, particularly for our nursing staff is pretty poor. I think police casualty surgeons can come out under a fairly decent fee, but we're not paid the same sort of amounts as that, but that's because the whole package of care for a rape survivor coming through Archway would be more expensive than one that went through the [pre-existing channels].

I don't know that there are a lot of lessons to learn, really. I think it's been a really exciting project and everybody's worked very hard together. I think recognizing each other's perspectives is – has been a challenge and something that's ongoing. The police have been very keen to get the crime sorted and the evidence and get the perpetrator behind bars and that's their main focus.

The understanding around rape and sexual assault and the experience of the

# The Archway SARC, Glasgow

person that's the survivor of it is thankfully improving – I think partnership working and a willingness from all agencies to work together has been a major achievement. Health obviously have priorities round about health issues, and voluntary agencies like yourselves have priorities around supporting the complainer and the criminal justice system have priorities around about getting the information and being able to have enough information to make a case. The most difficult thing for the survivor I think can be the feeling that they are just a witness to it and that they're not necessarily kept in the loop about what's happening down the line and those are the things that we need to keep working at...Because we are all working together and coming to understand each other's roles and sharing experiences, then I think that is improving things. I think getting the service users' perspective is extremely important and the evaluation did aim to look specifically at that that.

## **EM: Does each service user complete some kind of evaluation for the service?**

TG: Yes they did during the first three years, this was a very brief sort of service user evaluation – 'how many police officers have you had to tell your story to?' 'Were they male or female?' 'Did that bother you?'; 'The nurses here are female, would it have bothered you if it was a male' – just that sort of information, and 'the doctors are all female, was that ok'; 'Would it have made a difference if it was male doctors seeing you?'...Interpreters also – 'Would it have been difficult if it was a male interpreter', that sort of thing. We have a policy here that everybody's female because we do know from studies that people do prefer female...

And also – 'Is there anything we could have done better?' And then recorded what they've said - it's not very objective, perhaps, but it gives us a little bit of information at the time and a few comments.

The evaluation was very detailed – it was a big questionnaire that was sent through the post if they agreed to it. Currently we ask Archway clients if there is any thing we could have done better and our support workers also collect comments and suggestions for service improvement.

## **EM: You've talked a bit about the space – do you want to describe the facilities here?**

TG: It's just beside the Sandyford Initiative on Sauchiehall Street - it's up the disabled ramp so there is disabled access. It is quite discrete with a sign that just says 'Archway Glasgow' on the wall. There's a main office - as you come in where you'll be welcomed by the support worker, the administrator or the nurse, and taken through to a little office which has photocopiers and things like that in it - we may have a very brief discussion there.

Then it's upstairs to the forensic suite itself. The forensic suite has a large room, with windows which have all got blinds on, and a couch and two other chairs, orange floors, some creamy walls, a few sort of innocuous pictures on the walls of flowers and things. And then through into the forensic suite itself, which is just a very large clinical room that can be separated off. The forensic examination area itself is like going to the gynaecologists or doctors – it's a big room with lots of cupboards all around, bright lights and a chair a bit like a dentist's chair that goes up and down, forwards and backwards. There's a computer screen in the corner and then there's a curtain that can be pulled because the police never go behind the curtain – they don't witness any of the samples being taken, and that's something that's actually different. If somebody didn't come to Archway, the police actually witness the taking of the samples on the whole because it's just the police and the casualty surgeon whereas here we have nurses that are trained to do

# Interview with Tamsin Groom

that, and they pass the productions through the curtain to the police who stay there and package everything.

There's another table where the doctor's consultation goes on and there's also a big cupboard full of spare clothes and blankets and things like that in so that if somebody's come and they haven't got any spare clothes with them, we've got a clothing budget so we can give them joggies and long- or short-sleeved t-shirts and shoes and things to go home in. There is a shower room, with a big walk-in shower, with disabled access – a toilet and sink, basin - it is quite clinical – that's all white – everything has to be able to be fully cleaned after each client comes through, the whole room is thoroughly disinfected to get rid of any DNA that could be left so there's no cross-contamination between cases. The whole suite is cleaned at the start of every day and then after each client has been through so, and that's all recorded. If you went into a police station at the moment, to one of their suites, then, I don't know who cleans that, but I don't think that it's the same...it's nothing like as rigorous.

**EM: Where does the support happen – is there a dedicated support space?**

TG: The counselling space upstairs. The complainer may go into the little couched area again and can see the support worker there. If they're needing immediate support, she will introduce herself and do a debrief there. When people come back for support...usually they're shown into the little waiting room downstairs and then she takes them upstairs to the counselling space upstairs. There's a lift directly outside the Archway that goes straight up to the counseling space where all the rooms are quite soft and friendly with cushions and soft lighting and plants and things like that. A lot of people don't like to actually revisit the actual place so...they tend to be met there, and then taken, within the same building,

just through a door, and up in the lift to the counselling space.

**EM: What would you say have been the main challenges following the widening of Archway's remit to all of Strathclyde?**

TG: The police are the major funders and they are seemingly very happy with the service that we're providing - the evidence and the robust report writing: they're wanting that side of things. They were fairly keen for us to offer the service to everybody who accepts that they would like to come to see us in the Strathclyde area. The challenges are that there are 5 different board areas and they already have services to support survivors of rape and sexual assault, and so really it's partnership working with them – with the other boards – with health from the other board areas, with voluntary agencies. The police are quite happy for us to see everybody, but the complainer may not wish to travel 3 hours to see us. On the other hand they may wish to, because it's a very anonymous place. They know they can get everything all done, hopefully, once the police have talked to them – everything all sorted while they're here. But we wouldn't be suggesting that people came backwards and forwards for support. Once they'd been here, our support worker would be linking with local support agencies and arranging for them to support them in the way that they always have done.

**EM: How long has that been going on?**

TG: Well, the roll-out was requested on 31<sup>st</sup> March 2009, so it happened from 6<sup>th</sup> April, and initially it was all of Strathclyde. There were some issues around the support of adolescents - we are very keen to support adolescents coming in particular. We feel that we are able to give them a very thorough risk assessment, a very sympathetic examination. We understand the sexual health needs of young people and we've all got a wealth of experience

# The Archway SARC, Glasgow

of dealing with vulnerable young people: getting everything sorted out then and there – the morning after pill, sexual health screening, vaccinations against Hepatitis B, ongoing contraception ...linking in with social work, the guidance teacher if that's what they like – those are all things that we do as a result of the young person coming to us, they are also offered support from Sandyford's specialist Young person's team

If they're seen in other areas, they are seen by a child medical examiner, and a paediatrician. Paediatricians are usually female, while the child medical examiners are all male – this maybe fine, and they're all very nice. I don't know if they've ever asked the young people what they think about having two doctors examining them. At Archway we don't have two doctors on the whole – we do a recording of the examination and that recording is reviewed by a senior clinician. So only one doctor gets to peer at this poor young person's genitals, and if the young person decides they don't want the colposcopic recording, we would have to get another doctor in, but it would be a female, and the examination it would have to be deferred to arrange it.

So there are challenges, because services have been well established – they obviously feel that they are providing a very good service and I'm sure they are, but we feel that ours, for the acute survivors of sexual assault, is likely to be preferable because most paediatricians don't have the experience of dealing with sexually active young people that we do. However for pre-pubertal children - we don't have their expertise. We wouldn't be thinking that we were better at that and the historic side of things...that's very much their remit, but the acute sexual assault, for client experience and the wider service that we can offer is – I'm biased, obviously – I think we do provide an excellent service.

**EM: Have you had quite a bit of uptake**

**from the other parts of Strathclyde?**

TG: Currently about a third of our clients are from outside the Greater Glasgow & Clyde Board area for example Lanarkshire and Ayrshire and Arran. Before the roll-out we were restricted to Greater Glasgow boundaries. This is for police referrals – we have always taken self-referrals from anywhere in the whole of Scotland, you know – if somebody found out about us or wanted to access us, so we've had people from Edinburgh, Manchester and London coming to use our service, as a self-referral. We need to continue to publicise our service, and prioritise the funding for running good advertising campaigns, because they're very, very expensive.

This year (2011) we have had 390 clients so far, so it certainly appears that the campaigns to date have had some effect with attendances rising year on year.

We now need to ensure that the service continues to be seen as a priority and that funding is sufficient to staff it and to maintain a seven day service. Which in the current economic climate may not be possible.

## Stop press!

**Rape Crisis Scotland and the Archway are planning to hold a joint conference during the coming year looking at current issues and shared concerns vis-a-vis responses to rape.**

**Watch this space!**

# Operation Federal

**In October 2010, police in West Lothian launched Operation Federal, a dedicated unit comprising 5 officers for investigating sexual offences.**

The initiative followed a period which demonstrated a marked increase of reported sexual offences compared to the previous year. Between April and November 2009, 23 rapes were reported, compared to 37 over the same period the following year. The figure has since shown a significant increase since then, and the region currently sees between 50 and 60 reported rapes every year. Operation Federal was born of a recognition among police in West Lothian that it is important to be responsive to change, and also that it was possible to make improvements in the standard of investigation without incurring additional costs. The new, dedicated team comprises 5 officers experienced in dealing with sexual offences and is committed to offering a consistent level of investigation and avoid the “choking” effect that bureaucracy and “box-ticking” can have on enquiries.

The approach taken by Operation Federal is victim-centred and proactive and represents a move away from the previous approach which was very much focused on criminal justice and prioritized the eliciting of as much information from victims as soon possible over other considerations. A visit to an initiative by police in Gwent, and information gathered from the experiences of other forces, for example in Merseyside really highlighted the advantages of doing things differently however, and revealed how a more victim-centred approach

could pay real dividends not only to the complainer, but also to investigations.

Where police might previously have followed an initial account from a complainer at 2am and the forensic examination and discussions with the Sexual Offences Liaison Officer which would follow that, with a further push for information, they would now send the victim home and leave the full statement until later on. This was based on the realization that factors such

as alcohol, distress, worry and exhaustion coupled with a need to be in a familiar and comforting environment were unlikely to aid this process. A full account taken later on is likely to be a better one, and is less likely to have to be revisited subsequently for further detail and clarification. A complainer who is

treated with understanding in a supportive and non-judgemental environment will not have trauma already undergone further exacerbated by the police investigation that follows, and is also likely to be able to contribute more effectively to that investigation.

Under the approach that had been in place previously, a referral would go in at the end of a shift, and there would not necessarily be any connection between those officers making it and anyone dealing with it subsequently. The new system demonstrates far more continuity and investigations are also completed much more quickly than they were previously. Between November 2010 and March 2011 the unit received more than 800 enquiries and took around 450 statements in connection with these. This level of activity



# Operation Federal

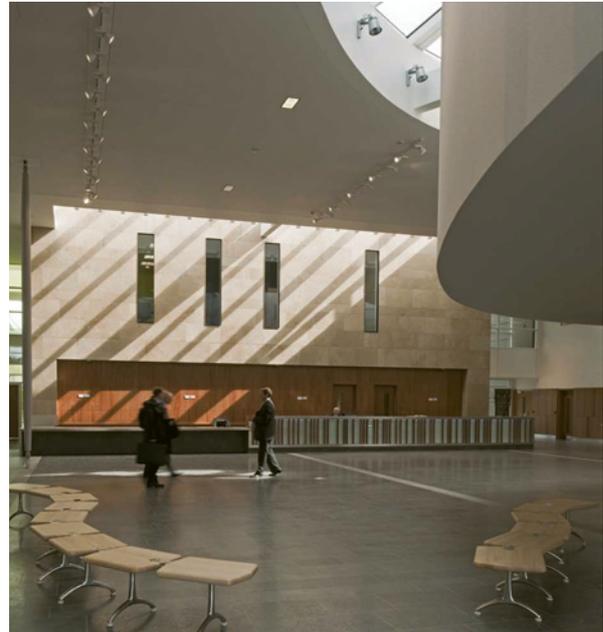
would previously have been impossible within the main reactive CID office in West Lothian. Contact made with the police throughout this period included people who came forward in crisis related to sexual assault by individuals who did not at that point want to make a complaint.

Operation Federal's close working relationship with (and physical proximity to) the local DASAT (Domestic and Sexual Assault Team) and Victim Support means that its officers are able to link people who come to them in quickly with support services offered by the domestic abuse team housed in the same building, and give them time to think about what they want to do while receiving the support they need. As a result of this coordinated approach, some people who come forward have felt confident enough to give an early evidential report along with swabs and clothes as potential evidence in the event that they should decide later on to lodge a formal complaint.

What this approach demonstrates is an understanding that the start of the process is crucial. It is vital that victims are able to feel supported at the same time as their autonomy in the decision-making process is respected. Above all, it is important that they have choices; they may consent to the gathering of forensic evidence – but that will not be accessed unless they decide to make a formal report. These innovations in the approach undertaken by Operation Federal to the investigation of sexual offences have reduced the attrition rate meaning that fewer cases drop out of the system at this point in the process of getting a rape or serious sexual assault case to court. Operation Federal is still in its infancy and still learning as it develops, but it is hoped that the close connection it has established with other agencies in West Lothian supporting survivors of sexual assault will pay dividends to the work of every service – and above all, to survivors

themselves.

There are two main types of reporting cases to the Procurator Fiscal. Where there is a sufficiency of evidence, a report is sent to the Procurator Fiscal. Where evidence is lacking, meetings are held with



the Procurator Fiscal in order to discuss and seek opinion on a case that is less far advanced. An extensive report is sent to the Head of Public Protection at this point. Statements and everything else associated with the case is kept together in preparation for further developments and additional case material later on. Operation Federal also benefits from the fact that the local Fiscal's office and court are also located within the same building.

From the point of view of the Fiscal, it is very beneficial having a single point of contact within the police as resulting action can be taken more swiftly than was previously possible. Before the current arrangement was in place, perhaps 15 points might be returned from the Fiscal for further clarification, but this is no longer the case. Now a huge volume of work can be completed at an early stage.

# Operation Federal

One of the few drawbacks to a victim-led system is that if the case in question is a stranger rape, there may be a question of public interest and protection at odds with the assault victim's feelings about delaying (or not) reporting. However operationally, the development of Operation Federal offers a far more streamlined approach that offers benefits to the police service as a whole within West Lothian.

## Operation Federal at a glance:

- **Established December 2010 as a 6-month pilot**
- **Investigates both current and historical cases**
- **Forms part of West Lothian Rape & Sexual Assault Service**

Where previously 5 Detective Superintendents might have 5 rape investigations on the go and it could at times be difficult to provide consistency of service, they are now able to hand those over exclusively to Operation Federal to investigate. To have a dedicated team to which fellow officers can hand over all sexual offences allows the resources which would previously have been tied up with those to be allocated elsewhere, for example to investigate murders, stabbings and other crimes. Operation Federal has greatly facilitated consistency in the investigation of sexual assaults, as well as early detection and arrest.

Those involved in Operation Federal have clearly identified the access to long-term support through the close links with the DASAT as key to the fact that survivors have come forward later on to report at a moment that felt right to them. The multi-

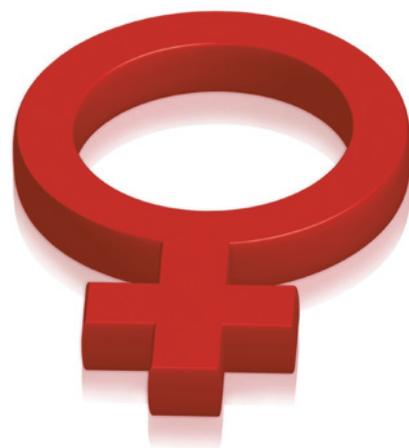
agency approach also allows a huge amount of information-sharing among the agencies involved, and for resources to be targeted more effectively on the back of this. These discussions which are similar in their approach to those carried out for domestic abuse and offer many of the same benefits.

More recently, Operation Federal's remit expanded to include historical rapes, which were previously handled by the Public Protection Unit.

## Future developments

Recognition that the first interaction with a victim is paramount will be reflected in training given to officers who will be "first responders" at reported serious sexual assaults. This will include information on what officers need to be aware of in such circumstances (for example about what is said to them, about distress etc) and to remain there until a SOLO arrives.

A "continuity casebook" is kept from the outset so that all information can be handed over to the SOLO when he/she arrives. The SOLO will then supervise medical consent forms and productions. Such booklets are very common practice in England and Wales and offer enough information so that the victim will not be disturbed again within the next 24 hour period, and possibly not even for up to 3 days.



# “Consent”

Review by Charlene Moore

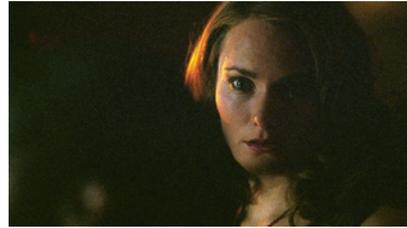
**Channel 4’s unique drama Consent allows viewers an intimate look at a rape trial, giving a realistic insight into why so few rapes end in conviction.**

Consent, by BAFTA-winning director Brian Hill, is a dramatisation of a fictional rape case, with actors playing the part of the victim and the rapist, but all other roles – the police officers, the doctors, the lawyers – are performed by real people from the profession, not actors. The most important aspect of this blending together of actors and non-actors is the position of the jury: selected in the usual way (from the electoral register), the jury in Consent give an honest, and rather shocking, account of the opinions held and used by the public in rape trial deliberations.

Becky and Steve, two typical twenty-somethings, work together in a small but friendly IT company in the process of restructuring. One night, they are invited to a client party at an upmarket hotel where the host has arranged for hotel rooms and a free bar for guests. Becky and Steve – accompanied by two other work colleagues – enjoy the evening, dancing together while drinking the free vodka and champagne, until the heel on Becky’s shoe breaks. Becky slips off to her hotel room to change her shoes, with Steve following her moments later.

Up in Becky’s hotel room the pair share more champagne, and when Becky stumbles on her uneven heels Steve catches her, using the opportunity to initiate a kiss. Becky reciprocates and the moment becomes quite heated. Then the scene ends. Later viewers – who do not know what happened after those first few kisses – are presented with two conflicting versions of events: Becky claims that she did not want to have sex and Steve is prosecuted for rape, while Steve adamantly claims that it was consensual.

By cutting the scene at such a pivotal moment Consent creates a mirroring between



viewers at home and the jury: neither knows what happened between Becky and Steve that night, and both must consider whether Steve is guilty or not guilty as the trial unfolds. This ambiguity helps to emphasise one of the most problematic aspects of many rape cases: the verdict relying solely on one version of events against another, mostly over the giving of consent.

The use of a subtle plot – involving two work colleagues in a social setting, rather than a stranger rape situation – makes the message of Consent all the more powerful: when two individuals *might* have had sex, but consent is contested, then the honest responses of real people (both the members of the public in the jury, and in the audience) are even more interesting. In the Glasgow screening that I attended, several people commented that, as no one knew what had really happened in the hotel room, it was interesting to make a decision alongside the jury and see the contrast between all of the opinions which surfaced.

For many at the screening, the outstanding performance of Steve – played by actor Daniel Mays – stressed the problem of making a decision in court based entirely on testimony. In one moment of apparent complete sincerity, when it is put to him that he bruised Becky’s shoulder from holding her down, Steve protests: “... she’s a very fragile person, she’s quite slight, and I have to hold my body weight up somehow. And if you can imagine we were in the missionary position... I, at one stage, put my right hand over on to her right shoulder to give myself

# “Consent”

leverage.” These continual explanations and pleas of innocence even began to convince those at the screening who had initially been convinced that Steve was guilty, with one woman admitting: “There were points during the film where I did start to believe that he may have genuinely mistaken her signals, as they had both been drinking, so in his eyes he hadn’t done anything wrong.”

The uncertainty of those at the screening was regrettably not mirrored in many members of the jury, with several individuals revealing their extreme prejudicial attitudes during the jury deliberation. For those at the screening, the exploitation of rape myths to undermine Becky’s testimony was one of the more shocking aspects of the trial process. In one particularly humiliating moment, it appears to be suggested by the defence lawyer that Becky could not have been raped if she had been aroused at the time of intercourse: “I suggest, that when he entered you, your vagina was reasonably lubricated, wasn’t it?” When Becky insists that it hurt when Steve entered her, the defence lawyer further pushes the insinuation by stressing that Becky and Steve had been kissing and engaging in foreplay, and sarcastically asking her: “You’re suggesting you were still entirely dry, are you?”

This detrimental attitude was further used against Becky in the jury deliberation, with many members of the jury manipulating various rape myths to brand Becky as a liar. I spoke to several people after Consent was screened and, while there were many different points made, every single person was shocked by the attitude of the women in particular on the jury. In one example – out of many – one woman on the jury challenges Becky’s version of events, by arguing that she didn’t manage to fight Steve off, and if she had really been raped she would have managed to have “found an inner strength from somewhere... she’s got two hands – she’d be slapping, she’d

be scratching...”

For one woman the assumptions of how they would react were the most deplorable aspect of the women’s arguments against Becky: “I was shocked that these attitudes were coming from other women... I couldn’t believe that they could sit there and make assumptions about the victim and about how they would have reacted had it been them. I think that was entirely unfair.”

For others, the personal attack on Becky’s character by female members of the jury was the most disturbing aspect of being privy to a jury deliberation of real people. In one instance, one woman on the jury argues that “someone that is socially unconfident wouldn’t take their knickers off with a stranger”, to which others nod in agreement. In this moment the jury seem to almost unanimously accept the sexist angel/whore dichotomy, heavily suggesting that if Becky was confident enough to become intimate with a work colleague, then she must have been completely willing to have sex with him. The prejudiced attitudes which the jury held were so strong that after the screening one woman commented that she thought that Becky was “criminalised and was even made to feel like she was to blame for what had happened to her.”

Consent is an absorbing, but ultimately dispiriting drama which cleverly exposes the sexist prejudices put forward by real members of the public during rape trials. By manipulating the order in which events are revealed, Consent forces viewers to not only bear witness to the honest, and often appalling, opinions of others, but also to confront the reality of the decisions that they would make if they were part of a rape trial jury. In its last moments Consent flashes back to the night of the office party, revealing what happened after those initial few kisses between Becky and Steve. For

# Police Referral Protocol

those at the screening – and, hopefully, for those on the jury who repeatedly condemned Becky – these last few minutes horrifyingly emphasise that the justice system, through the prejudicial attitudes of many members of the public, shamefully failed Becky, and other women like her.



**On 1<sup>st</sup> Dec 2010 a police referral system developed by the Association for Chief Police Officers in Scotland (ACPOS) and Rape Crisis Scotland went live.**

The referral ensures that anyone over the age of 16 reporting a sexual crime – recent or historic – in Scotland, will receive an automatic referral to the RCS Helpline.

The referral is offered on an opt-out basis, allowing those who have reported to the Police the opportunity to engage with the service or opt out of it altogether. The referral process can be enacted immediately if this is what is wished by the survivor, ensuring that they can receive crisis support and information the same day as they report. If immediate support is not requested then this is offered 3 days after the report is made to the Police, allowing the survivor to consider if indeed they wish to take up the referral.

Although the referral process officially went live on 1<sup>st</sup> Dec 2010 it is being gradually rolled out across forces, and the majority of referrals have been received since May this year. To date the RCS Helpline has responded to 124 police referrals, offering initial and crisis support and information with signposting or referral options to local Rape Crisis Centres for longer term support.

As part of the referral process RCS helpline workers ask callers if they are willing to

participate in anonymised feedback on their experience of reporting to the Police. This feedback is reported to ACPOS on a monthly basis and will be used to review and improve responses to complainers of sexual crimes. So far the majority of feedback has been positive and where this is not the case, callers have appreciated the opportunity to discuss their experiences knowing that they will be raised on their behalf.

The RCS Helpline works with survivors of sexual violence regardless of whether or not they report this, however we are delighted to be offering this response to survivors of sexual violence immediately or very soon after reporting. For those who do not feel able to fully engage in support or are not ready to access longer term support at local centres, we hope that this initial contact will mean that they are aware of Rape Crisis services if or when they do feel ready.

Research into the needs of people who have recently been raped or sexually assaulted suggests that survivors particularly value the provision of pro-active support\*. We hope that the introduction of this new referral protocol will go some way to better meeting the needs of survivors of sexual violence across Scotland.

\* See for example <http://rds.homeoffice.gov.uk/rds/pdfs04/hors285.pdf>

# Diary of a Rape Trial

***My name is Sarah. On the 30th of June 2011 my journey through the legal process of being a rape victim ended with the imprisonment of my rapist for 8 years in custody and 3 years on license. This post details my ups-and-downs through my rape trial from start to finish.***

## **Before the trial**

My attacker, Adrian Ruddock [pictured] was arrested on the day he raped me. He appeared before a judge in private and was remanded for seven days, after this he was further remanded for the duration before and during the trial.



In March 2011 I attended the Procurator Fiscal's office in Aberdeen for the first time and I was introduced to my precognition officer. She asked me to walk through the events of the night of my rape and asked me a variety of questions relating to my statement and the evidence the police had gathered. She also introduced me to a VIA (Victim Information and Advice) officer who asked me if I'd like to take advantage of any protective measures that are offered to victims of sexual assault - e.g. a screen which prevents me from seeing my attacker in the court room - and asked me if I'd like to take a tour of the court to familiarise myself with where everyone will be during the trial. At the end of this meeting I was allowed to ask questions about anything relating to the trial.

A few days before the trial commenced in May I met her again and she asked me if I'd like someone from Witness Services to attend court with me as a support person. I agreed. I also decided at this point I would not like a screen – I decided to face my attacker.

## **The Trial**

The trial began on the 13th of May 2011 in Aberdeen High Court.

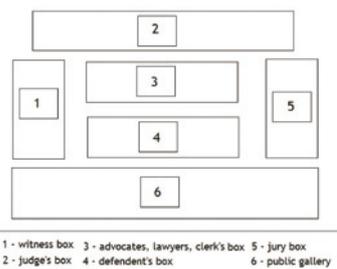
### **DAY ONE - 13/05/2011**

I arrived at court at 9am with my sister and my mother, my citation stated that I should be there at 9.30am but I wanted to be early. The actual court day begins at 10am but they have to empanel the jury and this takes around 30 minutes. We were allocated a witness room beside the court room and I was introduced to the Advocate Depute, Iain McSpornan, who would be questioning me for the prosecution in court. I was also introduced to a Witness Service volunteer, Pearl, who would support me whilst giving evidence. At this point I was very nervous, my heart was beating fast and I couldn't stay

still because

I was so  
anxious.

At 10.30am  
a tannoy



announcement said "In the High Court of Justiciary – Her Majesty's Advocate V Adrian Lloyd Ruddock – Court Room One". This signaled for me to enter the court room to give my evidence.

I was escorted to the court room with Pearl by my side. I had to stand in the witness box whilst Pearl sat just behind me. The court room was smaller than what I thought although it was still very daunting. Above is my illustration of the layout of the court room in Aberdeen. Other court rooms may vary slightly but are all very similar in design.

The first person to address me was the judge, Lord Bracadale, he made me repeat the oath and then the questioning began. The first to question me was the

# Diary of a Rape Trial

Advocate Depute (McSporran). He asked me questions to paint a picture for the jury of everything that occurred before, during and after my assault - from when I arrived in Aberdeen on 15th of December until the police found me in the early hours of the 16th of December. I was extremely nervous and emotional - the man who raped me was sitting just a few metres in front of me, this was the first time I'd seen him since the assault.

The hardest part was having to explain the exact 'gory details' of the rape itself, in court you have to be very precise about what happened and use words such as 'penis' and 'vagina' because the law, although broadened with the introduction of the Sexual Offences (Scotland) Act 2009, is very narrow. It was very hard to say these things to anyone, nevermind in a crowded court room full of strangers in wigs.

After McSporran was finished asking me questions my attacker's advocate, Mr Ronnie Renucci, stood up. Throughout McSporran's questioning of me he was taking notes and I realised why when he began to question me. I will start off by saying that defence questioning is horrific and it's really hard to remain calm when you are being accused of things that are simply not true.

Renucci came across as very arrogant and cold. He clutched at any straw he could find to try to discredit me as a witness. He brought up my mental health history and other parts of my past which had little to no relevance to what his client was accused of. He twisted everything to try to get a rise out of me and at one point I let my emotions get in the way and proclaimed, 'How can you do this to people?!?', so the judge called an early lunch break. I really didn't want to go back after lunch time as the questioning was too much but as there would be a warrant for my arrest if I didn't return I had no choice.

After lunchtime he continued to question me on irrelevant details and tiny things that were really not important to the case. I guess when their client is guilty all they can do is grasp any inconsistencies to make them into something bigger than they are. After Renucci was done questioning me, McSporran re-questioned me to smooth out any doubt Renucci may have created with the jury and reiterated that I was indeed raped. After this I was excused from the witness box.

I was only witness one, there were around 30 witnesses for the prosecution. On day one there was only enough time for one other witness to be questioned. He was a corroboration witness who was the first person to speak to me after the assault. I was not present during this as I realised that the trial itself was too much for me to handle, despite thinking I'd sit through every minute of it, so I remained in the witness room at the side with my mother. I was not allowed to speak to my sister because she was another witness in the case and was to speak on day two.

## **DAY TWO - 14/05/2011**

I did not attend day two but my sister, other witnesses and some police officers were questioned.

## **DAY THREE - 15/05/2011**

Again, I did not attend day three but the remainder of witnesses were questioned. On this day the police doctor, more police officers and the forensic team gave evidence for the prosecution.

Also on this day my attacker chose to give evidence for his defence. I am glad that I wasn't there to listen to him lie about what happened. Apparently he came across as very rude and his lies were obvious.

## **DAY FOUR - 18/05/2011 - VERDICT**

I attended day four. On this day the prosecution and defence gave their closing

# Diary of a Rape Trial

arguments and the jury was left to deliberate. I couldn't find the courage to sit and listen to the closing arguments although in hindsight I wish I had. My mother, sister and friends, like every other day of the trial, listened and reported back to me though.

After lunch time the Lord Bracadale defined the law according to the Sexual Offences (Scotland) Act 2009 which came into place only two weeks before I was assaulted. After explaining the definition of consent in Scotland and other facets of the law the jury were left to deliberate at about around 2pm.

My family, friends and I sat in the witness room during the time the jury were discussing the case. This was very, very scary. My main fear was the verdict of 'not proven'. The time passed very slow and I was very anxious. The court closes around 4pm so when it was approaching closing time I was getting even more nervous because I thought the verdict might not be given on that day.

At 4pm exactly a tannoy announcement sounded in the building. My heart jumped. 'In the High Court of Justiciary HMA V Adrian Lloyd Ruddock, court room one, jury verdict.' I couldn't even stand so I stayed in the witness room with my sister and Pearl whilst my mum and my friends went through to the court room. About 10 minutes later they walked through with the verdict - **GUILTY** by a majority verdict. I jumped in the air, I was ecstatic. Finally there was an outcome in the case.

The sentence was deferred until 28th of June for social enquiry reports and his past convictions were revealed to the jury. McSporran came through to speak to me and I gave him a great big hug! I was so thankful that he had fought so tirelessly to get justice for not only myself but the rest of Scotland.

***The conviction against Ruddock was the first conviction for rape since the***

***introduction of the Sexual Offences Act (Scotland) 2009.***

## **After the trial**

My attacker was due to be sentenced on the 28th of June 2011 but this was delayed because the Lord Bracadale forgot the case notes. I was really gutted. I'd travelled all the way from home to Glasgow to see him sentenced for what he did to me to no avail all because he forgot his notebook. My mum and I had spent a great deal of money traveling but thankfully with the help of my precognition officer we were reimbursed and given rail warrants to see him sentenced on the new date - 30th of June 2011 in Edinburgh.

I had to go to sentencing alone because my mum was watching my son although she was in Edinburgh with me. It was very nerve-wracking although lots of staff from the court sat with me for support so I felt okay. Renucci, his advocate, spoke in mitigation - he said that in defence of Mr Ruddock he had not committed any offences between 2002-2009 (seven years) and that he had not been convicted of any sexual offences before.

He also said that he was in a long-term relationship and his partner was standing by him. Bracadale didn't seem to take any of this into consideration and said that although he had no previous sexual convictions he did have a serious criminal record including a four year sentence for carrying a firearm and ammunition. He sentenced him to eight years and three years on licence (extended sentence).

This is pretty much the end of the legal side of things. I have had correspondence from the Scottish Prison Authority to let me know when he will be eligible for parole and when he is released.

# Diary of a Rape Trial

## Advice from a victim

- When you are asked a question only answer the question you are asked. Do not elaborate or say anything other than the answer to that question
  
- Before the trial took place I bought a notebook and wrote every piece of information about the case in it. I had a page for each witness and pages for the evidence. I also had a page for the defence where I wrote down every possible negative thing they could bring up and discredited it. I found this really helped as I felt totally familiar with the case and everything that was said. It's hard to write down negative things you may be asked about but it really helps to know what may be said
  
- Get as much support and advice as possible from the Procurator Fiscal office and the Victim Information & Advice office
  
- When giving evidence I took a little picture of my son to look at to give me strength. It sounds silly but it really helped me personally
  
- If it helps ask VIA about getting a tour of the court before you give evidence so you're familiar with the layout
  
- If you need a break during giving evidence then just ask. It's one of the hardest things any sexual assault victim can do and in these circumstances the judge should be sympathetic to this
  
- Bring a relative or a friend to court with you. It's hard being inside a court building, especially under these circumstances and having someone you love is helpful to talk to before and after you give evidence
  
- Prepare for the worst. This is the hardest part and it may be easy for me to say because my attacker was found guilty but even I had to prepare for the fact he may not be convicted. The conviction rate in Scotland is quite poor, even for cases that go before a jury and even when the evidence is strong. There really is no way to prepare but make sure you're prepared if he is released
  
- Talk. Talk to anyone you can to get advice. Rape Crisis Scotland have a helpline where trained volunteers can help you with every aspect of sexual assault including the legalities and court process, talk to friends and family or if you would like some advice feel free to contact me through contact form at the top of this page: <http://bit.ly/vRLiqz>