



HARRIET HARMAN'S SPEECH (FULL TEXT)

Wednesday June 30, 2004

I'm very pleased to be able to be here today on the occasion of the launch of the new CPS policy on prosecuting rape and your national conference of rape prosecutors. I'd like to take the opportunity to emphasise the importance the government attaches to effectively tackling the crime of rape and remind you of some of the provisions of the new Sexual Offences Act.

Mention some of the initiatives which are getting underway or are in the pipeline to ensure effective support for victims and bringing rapists to justice.

Tackling rape is important for you as specialist rape prosecutors. And it's an important issue for me for three reasons

- Because I want women to be able to have confidence in the justice system - and rape is an offence which causes great fear and suffering to women*

- Because I want women to be able to have confidence in the justice system - and rape is an offence which causes great fear and suffering to women- Because I'm Member of Parliament for a London constituency and 25% reported rapes are in London and*

And the commitment to tackling rape is shared by the DPP, Ken Macdonald QC and across government.

The importance of effectively tackling the crime of rape. We want the public to have confidence in the criminal justice system. We want the criminal justice system to bring offenders to justice. But, of all serious, violent crime, rape is

- Less likely to be reported*

- Less likely to be prosecuted and*

- Less likely to result in a conviction*

To command confidence, the CJS must command confidence of the rape victim as well as the victim of the burglary or the mugging. To narrow the "justice gap" we must tackle the gap between the number of rapes and the number of convictions.

I want to mention, briefly, the numbers. The Rape Crisis Federation estimate that 91% of women tell no-one that they have been raped. But the number of reported rapes has been increasing. If that means an increase in rapes, then that is very worrying. But I believe that, to a large extent, what this increase in reporting reflects is an increase in confidence in the criminal justice system. Victims who in the past would have struggled to cope with the aftermath of a rape on their own are now more likely to report it and to seek support and justice. To that extent the increase in the figures of reported rapes is to be welcomed. But it's also the fact that though the number of rape convictions have been increasing, the % of convictions as a % of those proceeded against has fallen. To the extent that means that juries are more sceptical, or that investigations are getting it wrong, then that is worrying. But I believe that it is because prosecutors are more prepared than they might have been in the past to press on with a case - particularly where the victim and defendant were known to each other. Obviously there should be as few as possible cases taken to court - with the ordeal that



entails for both victim and defendant - where there is no conviction. But it will always be the case that it is hard to predict with certainty how the jury will react in a case where there is little or no independent evidence and it is her word against his. It must be right for prosecutors not to do too much by way of second-guessing of the jury but to leave it to them to decide.

Making that happen

To tackle the lack of public confidence and reduce the serious gap between offending and conviction we have done a number of things.

- Challenge the myths that beset rape and sexual offences*
- Strengthen the legal framework*
- Have the right procedures - particularly support for the victim*
- Ensure we have an effective partnership at local level*
- Backed up by an effective partnership at national level*
- And the right sentencing*

First challenging the myths

It is not long since many held the view that if a woman had been raped she probably brought it on herself - dancing or dressing provocatively, or that even though she said "no" she meant "yes". Or she consented - but later thought better of it and so cried "rape". Or she was his wife or girlfriend - so what's the fuss about or that she was drunk and so was "fair game". Or that she consented to have sex with him - so she can hardly cry rape when his friends join in.

The rare cases of women who've made false allegations get widely reported. And for many confirm the sense that rape complaints are to be treated with suspicion rather than rigour. It was only as recently as in the nineteen nineties that rape within marriage was treated as a crime - it was the CPS that challenged the conventional wisdom that a man was entitled to sex with his wife - that consent was implied through marriage and therefore forced sex could not be rape. Those who believe the myths about rape don't see what all of you here do - and as I do in my work as solicitor general - the awful cases of rape often accompanied by sickening levels of violence and which traumatises the victim and often the friends and family as well.

They don't understand that however much support you give, however sensitive all the agencies - a prosecution is always going to be an ordeal for a rape victim.

But progress is being made and now the criminal justice system recognises that whatever the circumstances, whether or not the victim and perpetrator are known to each other, rape is a crime which will be treated with the utmost seriousness.

Our focus on rape is not political correctness - it's a criminal justice imperative. And we will not be deflected. Convicting the perpetrator is not just about ensuring justice for the victim - it's also a preventive measure. Sex offenders usually go on committing crimes until they are stopped. So a prosecution is not just about this victim - but also about protecting what might otherwise be his next victim.

The right laws in place As well as challenging the myths, we have to have the right legal framework to tackle rape. I'd like to remind you of the key provisions of the Sexual Offences Act which drew support from all political parties, the criminal justice system and the voluntary sector and which came into effect on May 1st this year.

falselyaccused.co.uk (Ltd) is a private limited company incorporated in England & Wales, Registration No: 5961273 V.A.T No: 911 9160 42, Data Protection Act Reg No: Z6556946. Registered Office is: 27 Old Gloucester Street, London, WC1N 3XX. falselyaccused.co.uk (Ltd) uses every possible care in compiling, preparing and issuing the information herein given but can accept no liability whatsoever in connection with it.



· It changes the law so that the prosecution will not have to prove lack of consent where the victim is a child under 13 years. This will spare the child having to answer, and the police having to ask. A case I had recently was a stark reminder of this. The statement of an 8 year old girl included her denial that she had "led on" her stepfather who had had sex with her.

· There will be a presumption - rebuttable of course - that the victim did not consent where she (or he) was asleep, unconscious, held against her will or threatened with violence. The previous defence of honest, or mistaken belief, however unreasonable such a belief might be, has been replaced by a test of reasonableness.

With extensive consultation and widespread support we have changed the law on sexual offences. The challenge now is to effectively enforce sex offence laws. What is critical is the effective partnerships between all those involved - the police, you in the CPS, the courts and the health services - victims support and the witness service - the statutory agencies and the voluntary sector. All the parts of the system need to work together to ensure rape victims get the support they need and get justice and ensure that perpetrators know they can't get away with it.

In all areas now the local criminal justice boards are working together - strengthening partnerships between chief constables and chief crown prosecutors and Courts, prison and probation. At local level, the CPS are giving advice to the police earlier on in a case to ensure that the right evidence is gathered and the appropriate charge laid. Soon you will all be framing the charge from the outset.

Great strides have been made in the police treatment of rape investigations. And in the CPS all rape cases are now handled by you experienced, designated specialist rape prosecutors. What is important, too, is that there is continuity of the prosecutor, the caseworker and prosecuting counsel in the case.

I'd like to thank all of you who have played your part in drawing up the new CPS Rape Policy. It is the result of widespread consultation both within and outside the CPS and will mark a further improvement in the way rape is tackled.

What continues to be important in tackling sex offences is

- Ensuring that there is good partnership working*
- Ensuring continuity of the different members of the team in a case*
- Ensuring that all the team are properly trained.*
- Ensuring that the victim is properly supported and kept informed throughout*

There needs to be continuity, not just of police and prosecutors but also of counsel through the earliest stage right through to trial. And the DPP has this week issued new guidance requiring that only the most senior counsel and those with the proper level of sensitivity and expertise are used in rape cases and their performance before and in court is effectively monitored.

This is necessary to support the victim as she is likely to face a defence in which she is accused of lying - where an acquittal may leave her feeling stigmatised not just as a liar but as having consented to sex in circumstances which are repugnant to her. (such as consent to sex with a complete stranger, with a close family member, or with a group)

The prosecution of rape - depending, as it sometimes does, on his word against hers - is challenging.



I am struck by the many cases that I see where the specialist rape prosecutor - working at the centre of a team which includes the police but also the support services for the victims - undertakes the often extraordinary difficult task of enabling a case to come to court by helping a traumatised victim have the confidence that her interests will be protected by a professional prosecution team working in partnership. Some truly remarkable cases are seeing offenders brought to justice when in the past it may have been thought impossible - such as where the victims are abroad, terrified, or even after the victim has died.

But I'm struck too, and share the incredulity with which some prosecutors tell me of some of your cases where there was clear forensic evidence and yet the jury still acquitted. - eg. It clearly helps the victim, and also the prospects of a successful prosecution where there is a Sexual Assault Referral Centre, such as the Haven in Kings College Hospital which serves my constituency. I want to pay particular tribute to the work of Dr Jan Welsh, who will be speaking to you later. The care and attention she and her team provide to every victim means not only that they are well looked after and issues such as emergency contraception, sexually transmitted disease and cuts and bruises dealt with - but also forensic evidence is taken and carefully preserved. In many cases it may be by chance, sometimes many years later, that the same DNA will come onto the national database and lead to the apprehension of the victim. There are now 11 Sexual Assault Referral Centres in operation and by the end of this year 4 more will have opened up. I was privileged to open the new centre in Walsall earlier this month. Next to the hospital - it is nevertheless in a separate building - which also houses the local rape crisis centre. We expect, with the support of both the police and the NHS to see more of those.

Special measures for victims in court - such as allowing victims to give their evidence from behind a screen, or on video - can help sustain cases which would otherwise stand no chance of getting to court. But it is, of course, vital to think carefully about such applications - and to make clear to the court why it is necessary for such measures to be allowed. The court needs not only to be prepared to grant the application but also to be clear why it was necessary. So that there can be no misunderstanding if there is an acquittal in the face of the evidence that the case was jeopardised by special measures which were not actually necessary.

All the difficulties of coping with the aftermath of rape affect men who are raped. And the shame and stigma that still affects so many rape victims is magnified for men. I suspect that it is even harder for a man to "admit" that he has been raped and the cases I've dealt with where a young man has been the victim have shown that rape victims need high levels of help and support to enable them give evidence in court and try and move on in their lives. I'm very pleased that we have a representative from Mankind at this conference to talk about this further and how we can work together to support male victims of rape and sustain prosecutions where the victim is a man.

The Sexual Offences Act came into effect in May this year. We want to ensure that we don't, after a flurry of debate about this in parliament, simply move on to the next issues. We want to ensure the Act is working how it was intended and will to support those of you who are enforcing it.

So the Home Secretary has set up a ministerial group - chaired by Baroness Scotland - which monitors the progress of tackling rape. It includes, as well as Home Office ministers and myself, ministers from the departments of Health, Constitutional Affairs and Education. We will monitor how the act is working and support those of you who are enforcing it. I'd like finally to turn to the question of sentencing.

The Sentencing Advisory Panel is consulting and will make recommendations on the sentencing of the offences in the new Sexual Offences Act. They will have the benefit of the



Court of Appeal judgment in the case of Milberry which sets out the new starting points in rape cases after a trial · 5 years without any aggravating or mitigating features · 8 years where there are some aggravating features such as rape of a child, or by a person in a position of trust or by a group and · 15 years for serial rapes and those likely to remain a danger. It is, of course, important that the courts sentence appropriately in every case, including rape cases where there is, generally speaking, a lack of confidence amongst victims as to whether the Criminal Justice System will take their complaint seriously.

The Attorney General, Lord Goldsmith, and I can, as Law Officers, refer to the Court of Appeal sentences which we regard as unduly lenient. This is an exceptional jurisdiction, only to be exercised in the public interest. The Court of Appeal can then confirm the original sentence or increase it. So bear in mind that you, or indeed anyone, can refer a case to us and we will consider it seriously. But we can only refer it within 28 days of the sentence.

I hope, that working together, we can make progress on getting to grips with tackling the crime of rape and I hope that you have a productive debate over the rest of the day. Much progress has been made, and I thank you for your work. I am full of admiration for your commitment and determination which I see as I come to your areas to hear about your work. It is one of the great privileges for me as Solicitor General to be working with you. We have made much progress - but there is more to do.

<http://politics.guardian.co.uk/homeaffairs/story/0,,1250660,00.html>