

# Rape: The experience of complainers



Sandy Brindley

Rape Crisis Scotland

0141 331 4180

[www.rapecrisisScotland.org.uk](http://www.rapecrisisScotland.org.uk)

# Intro to Rape Crisis Scotland

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- ❑ Established 2003 as national office for rape crisis movement in Scotland
- ❑ Works to: raise awareness of sexual violence; improve services for survivors experiencing such violence; support work of local centres
- ❑ 17 local rape crisis services operating across Scotland
- ❑ Launched national rape crisis helpline in October 2007 to offer initial support, info and signposting to anyone affected by sexual violence; open daily 6pm – midnight; automatic referral agreement with the police for anyone aged 16 and over
- ❑ Launched Sexual Violence Prevention Programme in 2013
- ❑ Launched Scottish Women's Rights Centre in 2015
- ❑ Launched National Advocacy Project in 2016

# Reactions to rape & sexual assault

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- Shock
- Feelings of powerlessness, feeling out of control
- Fear, nightmares and sleeplessness
- Feelings of shame and guilt
- A need to carry on as if nothing has happened
- Anger
- Depression
- Panic attacks
- Flashbacks
- Eating problems
- Self-injury
- Abuse of drugs, alcohol etc
- Changes in relationships

# Public attitudes

**Sir John Gillen, Northern Ireland review:  
"Rape myths undermine the notion of a fair trial".**

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## **End Violence Against Women Survey (2018) survey of 4,000 people**

- ❑ **A third** of men think if a woman has flirted on a date it generally wouldn't count as rape, even if she hasn't explicitly consented to sex (compared with 21% of women)
- ❑ **A third** of men also believe a woman can't change her mind after sex has started
- ❑ **Almost a quarter** of people (24%) think that sex without consent in long-term relationships is usually not rape

## **Scottish Government research (2010)**

- ❑ **23%** of people think a woman can be at least partly responsible if she is drunk at the time of the attack
- ❑ **17%** thought a woman bore some responsibility if she wore revealing clothing
- ❑ **15%** say there should be some burden of responsibility if a woman is flirting
- ❑ **8%** think rape can be a woman's fault if she is known to have had many sexual partners

**Significant research using mock juries about the impact of attitudes and preconceived notions about rape and how someone will react**

[http://www.parliament.scot/S4\\_JusticeCommittee/Inquiries/ABSH2\\_Ellison\\_and\\_Munro.pdf](http://www.parliament.scot/S4_JusticeCommittee/Inquiries/ABSH2_Ellison_and_Munro.pdf)

# Criminal Justice Response to Sexual Offences

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Significant under-reporting of rape: less than 50% of survivors in contact with rape crisis services in Scotland have reported to the police

Reasons survivors give for not reporting include:

- ❑ fear of not being believed or of being blamed for what happened
- ❑ not feeling strong enough to go through police & legal procedures
- ❑ fear of aspects of their private lives being brought up
- ❑ fear of what would happen in court, esp. during cross-examination by the defence

# Reports, prosecutions and convictions

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## *Prosecutions & convictions for Rape & Attempted Rape in Scotland*

<b>Rape &amp; Attempted Rape</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
<b>Reported</b>	1809	1878	2255
<b>Prosecuted</b>	216	251	247
<b>Convicted</b>	105	99	107
<b>% of cases prosecuted resulting in conviction</b>	<b>48.6%</b>	<b>39%</b>	<b>43.3%</b>
<b>% of cases resulting in Not Proven</b>	<b>21%</b>	<b>17%</b>	<b>19%</b>

# Barriers faced by survivors during legal process (1)

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- Fear and anxiety about confronting attacker in court
- Lack of information and control over role on legal proceedings- can reinforce disempowerment experienced by survivors; survivors report feeling subject to a process they do not feel a part of
- Length of time between reporting to police and the case coming to court- very distressing for survivor
- Memory gaps, due to delay in case coming to court, blocking or repression as coping mechanisms- makes it difficult to recall details of attack as specified in statement

## Barriers faced by survivors during legal process (2)

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- ❑ Fear of being 'ripped to shreds' during cross-examination
- ❑ Use of privacy related evidence
- ❑ Lack of recognition or understanding of survival or coping mechanisms that may present as counter-intuitive to those not experienced in impact of rape/ trauma eg woman returning to work straight after incident
- ❑ 'Retraumatization- feeling raped/ violated again
- ❑ Embarrassment; finding it difficult to find language to describe what happened; feelings of shame, feeling 'dirty' or 'stupid'; feelings of self-blame and self-doubt
- ❑ Impact of societal attitudes- reinforcing survivor's own negative feelings towards herself



## Complainers' views

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- ❑ *"I was not prepared.... it was the most degrading and terrifying thing."*
- ❑ *"In our court system, you are totally humiliated. It was the most degrading experience I have been through".*
- ❑ *"Court was absolutely horrendous, it was worse than being raped".*
- ❑ *"Although there was a guilty verdict, I would never go through it again."*

Quotes taken from the Inspectorate of Prosecution Thematic Review of the Investigation & Prosecution of Sexual Crime, November 2017

# Areas of concern identified by Inspectorate review

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- ❑ Complainers' cases being allocated to floating trial diets resulting in significant uncertainty;
- ❑ Considerable and long delays in the progression of cases, in particular in pre-petition cases;
- ❑ Significant and concerning gaps in communication; in one case it took 15 months from the police report for the Crown to contact the complainant;
- ❑ Poor standards of communication from the Crown Office and Procurator Fiscal Service in pre-petition cases with almost half of cases being below the standard expected;
- ❑ Significant proportions (12%) of sexual offence complainants withdrawing from the process.

## Possible ways forward

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- ❑ Reduce delays / give certainty about when giving evidence
- ❑ Pre recorded evidence
- ❑ Advocacy support – complainers describe this as 'life changing'
- ❑ Greater protection around invasion of privacy
- ❑ More intervention by prosecution and judiciary during cross examination
- ❑ Interventions around jury attitudes

# The role of the Crown

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“The Crown act in the public interest. If there is questioning, which the Advocate Depute or the procurator fiscal depute considers transgresses the line of propriety then my own view is that they should be objecting to that question, on the basis that it is harassing the witness.

I know that some Advocates Depute are reticent in objecting for fear of perhaps getting on the wrong side of the jury. They sometimes think that juries prefer just to let evidence flow so that they can make up their own mind on the subject, but my own view would be that they do have a role in objecting to cases that cross the line of legal propriety.

We have an adversarial system and judges are reluctant to react unless they have got a decision to make. If somebody objects, they must make the decision, and they will make the decision. If they don't have an objection, they haven't got a decision that they have to make...” Lord Carloway, February 2016

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