

Police chief admits 'cultural problem' after evidence failures derail 900 trials

<https://www.thetimes.co.uk/article/hundreds-of-cases-collapse-over-evidence-blunders-c00hb5pb6>

Frances Gibb | Jonathan Ames | Duncan Geddes

January 24 2018, 12:00pm, The Times



Chief Constable Nick Ephgrave said that evidence disclosure was too often seen “as a thing to be done at the end of an investigation”

RAY COLLINS/NEWS GROUP NEWSPAPERS

Police officers have a “cultural problem with disclosure”, one of the country’s most senior chief constables has admitted as new figures revealed that hundreds of criminal cases have collapsed as a result of prosecution failures.

Chief Constable Nick Ephgrave, a senior figure in the National Police Chiefs’ Council (NPCC), said that disclosure of evidence to the defence was “too often seen by police officers as a thing to be done at the end of an investigation”. He added: “Changing this mindset is an immediate challenge for us.”

In a blog post Mr Ephgrave, who is in charge of criminal justice policy for the NPCC, called on senior officers at forces across the country to ensure that evidence was disclosed to defendants in criminal cases well before their trials had begun.

“It is also about leadership,” he said. “We need every force to have a chief officer responsible for disclosure to lead improvements and ensure supervisors and managers understand and fulfil their responsibilities. This must be backed up by robust oversight to check forces are complying with agreed standards including regular dip sampling to test cases.”

It was revealed this morning there had been a 70 per cent increase over the past two years in the number of prosecutions in England and Wales that had collapsed because police and prosecution had failed to disclose relevant evidence. More than 900 criminal cases collapsed last year due to disclosure failures, fuelling concerns about miscarriages of justice.

Charges were dropped against 916 people last year because of disclosure failures, up from 537 in 2014-15, according to figures obtained by the BBC under freedom of information laws. The number of completed prosecutions fell in that time.

The Crown Prosecution Service (CPS) said that the number of dropped cases represented 0.15 per cent of the total number of prosecutions, but there were still “systemic disclosure issues”.

Scotland Yard has announced a review of its sex crime investigations after two rape cases were dropped in the space of a week in December.

Lord Judge, a former head of the judiciary, told *The Times* on Saturday that late disclosure of evidence was “deeply worrying” because it risked undermining the faith of juries in material presented at trials. Rapists could walk free if juries were less likely to convict, he said.

Four rape trials have been abandoned since December because exonerating evidence was disclosed to defence lawyers only at the last minute, *The Times* has revealed. They include the case of Isaac Itiary, 25, against whom charges of child rape were dropped after police disclosed text messages which showed that his alleged victim routinely posed as over the age of consent.

The trial of Liam Allan, 22, was halted at Croydon crown court and days later another prosecution collapsed against Isaac Itiary at Inner London crown court. Last week charges Samson Makele was cleared of rape after hiring his own expert to retrieve crucial evidence.

Angela Rafferty, QC, chairwoman of the Criminal Bar Association, told the BBC that barristers faced “a daily struggle in respect of disclosure, delays and all the other disastrous consequences of a system that is openly described by MPs as at breaking point”.

A CPS spokesman said: “We prosecuted more than 588,000 defendants in 2016/17 and our conviction rate was 83 per cent. The number of unsuccessful outcomes due to disclosure issues represents 0.15 per cent of these prosecutions.

“That is still too many, however, and we are clear that there are systemic disclosure issues across the criminal justice system which will require a collective effort in order to bring about improvement.

“Getting this right is a priority, and along with the police and other criminal justice partners we are working to improve how we fulfil these vital disclosure obligations and ensure that cases which should not proceed are stopped as early as possible.

Alison Saunders, director of public prosecutions, said that the collapse of the four trials was disappointing and irritating. She said: “If we had had that material earlier we would have not prosecuted the case and saved somebody going through all of that. Or we could have stopped the case at an earlier stage. That’s why it’s so important and why we need to do our job and get it right.”

She admitted that the process had been devastating for the individuals concerned. “We want to get

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It seems Mr Ephgrave of the National Police Chiefs' Council (NPCC) is offering up this moderate confession to avoid focus on wider and even more serious issues in policing. The lack of or timing of disclosure is bad enough but at least the evidence was there. When police choose not to look for the evidence, say it never existed, create circumstances to provide the evidence or collude with other agencies, the law is denied any possibility of functioning. Officers who object to collusion, false reports and statements move on and the 'culture' persists.

The NPCC and others need to admit that they cannot change this themselves using existing laws and methods.

Flag

RecommendReply

SJR2020 Jan 24, 2018

It's all well and good for a senior police officer such as Ephgrave to allude to this apparently systematic failure to be a 'Cultural' problem for the police to address, as though this is a learning curve or training matter. However it cannot ever be a 'Cultural' failing for an investigating police officer to ignore, suppress or fail to reasonably search for evidence that might show an offence was not committed and a suspect is innocent.

I allege its corruption and there's another term for this called Perverting the Course of Justice; and incidentally if you commit it to try and avoid a speeding conviction you get prison.....

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Ann Lyon Jan 24, 2018

Even if the police have a 'cultural problem' (an expression I must remember!) in disclosing evidence before the investigation is complete, there is usually a gap of several months between the end of the investigation and the trial.

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Carla Jan 24, 2018

Surely as soon as a police officer discovers, for example, that a girl who has accused a man of rape was texting him saying she enjoyed their encounters they should inform all relevant parties and close down the case straight away? Why carry on investigating when there is no case to answer? I really don't see what's so difficult, although I appreciate some cases aren't as straightforward as that.

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7RecommendReply

Saint John Jan 24, 2018

If you measure police and prosecutors on convictions -then convictions is what you will get.

And they will not do anything to help a defence. It doesnt matter what the rules say .

You always get what you reward.

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Saint John Jan 24, 2018

Political correctness destroys justice - again

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Nicholas Reger Jan 24, 2018

Presumably the Home Secretary will have approved this disclosure and will be along shortly to give us an update on what is happening in the constabularies.

Boris was yesterday's front page and she was front and centre admonishing him. This admission on her brief is today's front page.

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1RecommendReply

Peter Hurley Jan 24, 2018

"cultural problem with disclosure" = Fitting up someone where evidence in thin or nonexistent...

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Ian Lumsden Jan 24, 2018

If one examines the salary scales of senior police officers it is clear they are well remunerated. Is it unfair to question the sheer intelligence of a system that condones material sitting on file (or desk top) for sometime years before it is released to the legal teams? This is fundamental stuff, elementary, simpleton level. Senior officers are paid well to organise these systems.

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2RecommendReply

Michael Jones Jan 24, 2018

I simply do not get this at all. The police should supply the CPS with all evidence so that they can make the judgement of whether to proceed. It is not for the police to decide who to prosecute. I keep saying, the police are technically perverting the course of justice, but prefer to call it a cultural

problem? The Chief Constable called Nick (unfortunate) in the article above does not make it clear why there is a cultural problem, in his opinion.

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The Modest Proposer Jan 24, 2018

Is "cultural problems" a euphemism for lying?

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Howard M Jan 24, 2018

The problem is the police are deciding what is relevant evidence to present such as phone records/texting and the like. Their job is to collect evidence and let the prosecution decide what is relevant.

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Michael Jones Jan 24, 2018

@Howard

You would therefore think that in a rape trial, such as the one recently, that texts or any social media contact would be relevant, so why are the police withholding (as opposed to not disclosing) relevant information to the CPS. Is it something as simple and sinister as crime figures?

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8RecommendReply

David Stewart Jan 24, 2018

Alison Saunders, director of public prosecutions, said that the collapse of the four trials was disappointing and irritating. Yeah I'd be disappointed and irritated if I'd been banged up for 2 years for a crime I hadn't committed.

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15RecommendReply

Ed R Jan 25, 2018

@David Stewart Yes, irritating, isn't it? The men could have been fishing, or raising a family, or whatever, rather than being banged up for a good long stretch. But I think she meant that it was a pity that the men weren't convicted anyway. After all, all men are rapists, as we know, whatever the issues that have come to light about footling disclosure.

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Alan Simpson Jan 24, 2018

I served in the Royal Ulster Constabulary for 25 years mostly as a senior CID officer. During one of the many dark episodes of The Troubles, it was discovered that Special Branch, guided by MI5, were providing us with false statements of evidence for inclusion in prosecution files which were being submitted to the DPP.

Understandably, the DPP was outraged when this falsification of evidence was uncovered. Thereafter, his dept would not accept any evidence from SB unless it was accompanied by a certificate from an assistant chief constable verifying that to the best of his ability the evidence supplied by SB was a true account of events. Failure, to honestly verify the evidence may result in a prosecution for perverting the course of justice.

That soon cured the problem and I now believe that every police file going to the CPS or DPP should be accompanied by a similar certificate. The thought of a senior officer being caught out, and the possible loss of further promotion, concentrates their minds wonderfully.

Flag

18RecommendReply

Richard Keane Jan 24, 2018

@Alan Simpson. Thank you Alan, for having the courage to post your comment and provide insight into an issue that is deeply concerning. Hopefully, your suggestion of having a senior police officer 'sign off' on the validity of evidence, will become policy.

Flag

6RecommendReply
PB Joyce Jan 24, 2018

Lord Judge is right that late disclosure means rapists could walk free, but isn't it even more disturbing that it has sent innocent people to jail? Oh wait, the CPS head thinks that probably hasn't happened. Whew, that's a relief!

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4RecommendReply
Janet Brown Jan 24, 2018

Perhaps if we had a fully funded justice system these things would not happen

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1RecommendReply
RECH Jan 24, 2018

@Janet Brown Well, it would help if people did their jobs properly. But I'm sure more money would help - where did you say you saw that money tree growing?

Flag

4RecommendReply
Michael Jones Jan 24, 2018

Janet, why does it cost more money to give full disclosure of the facts?

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10RecommendReply
John B Jan 24, 2018

This is the result of target culture. The police are not supposed to be there just to meet some arbitrary targets, they are there to uphold the law. The abandonment of Robert Peel's principles, which were frankly the best basis for a civilian police force ever devised, had done untold damage to law and order in this country.

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David Batten Jan 24, 2018

Is it not the position that false Rape accusations are in part motivated by the belief that the Justice system is biased in their favour.....plus of course that the punishment for " Wasting Police Time " is rarely applied to false Rapist initiators.

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3RecommendReply
Samuel Trefgarne Jan 24, 2018

@David Batten Except wasting police time is a summary only offence with a maximum sentence of 6 months in prison. Whereas doing an act tending and intended to pervert the course of public justice is an offence contrary to Common Law and therefore sentence is at large (life).

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John Sheppard Jan 24, 2018

It is not about disclosure it is about ignoring EVIDENCE that exonerates the accused. For goodness sake what sort of brain do you need to be elevated to these positions of responsibility? I am in despair that the very people that are supposed to protect us just don't get it. For goodness sake someone has to run with this attitude and clear these cretins out of office before they can do any more damage.

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15RecommendReply
anyfool Jan 24, 2018

“cultural problem with disclosure”

A rather opaque description of deliberate corr@ption, because no matter how you cut it, they are fitting people up.

Flag

16RecommendReply

MAGISTER Jan 24, 2018

Police officers have a “cultural problem with disclosure”,
Possibly code for incompetent, lazy or just plain thick.

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14RecommendReply

vincent ayre Jan 24, 2018

The police should simple hand over everybit of evidence then its down to the cps as to whether they go forward, up to that point no names should be made public.

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Stephen Ellis Jan 24, 2018

If 900 bent coppers, one for each case that has been thrown out for illegal non-disclosure of evidence, plus each of their superiors, who authorised their action, are still on the payroll of the Police Force, then the admiration for, and loyalty to the forces of law and order, to which I have clung, throughout my lifetime, has finally DIED!!

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10RecommendReply

Northern Boy Jan 24, 2018

@Stephen Ellis

I would suggest that the phraseology of the first half of your comment belies the second half.

Flag

RecommendReply

Stephen Ellis Jan 24, 2018

@Northern Boy @Stephen Ellis Sorry, I don't understand your criticism?

Flag

1RecommendReply

Northern Boy Jan 24, 2018

@Stephen Ellis @Northern Boy

My apologies..... your use of the words bent and illegal implies a certain view of the police which would not usually suggest support for them.

Have a read of my response to Harris' comment below how cuts CAN make a difference.

Flag

RecommendReply

Stephen Ellis Jan 24, 2018

@Northern Boy @Stephen Ellis Thanks. I probably did waffle on a bit!

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Sinverguenza Jan 24, 2018

It is not a "cultural" problem it is a competence problem.

Flag

19RecommendReply

anyfool Jan 24, 2018

@Sinverguenza It is a corr@ption problem brought about by the idiots at the top, especially that feminazi Saunders, how many innocent people are in prison because of this over promoted halfwit.

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4RecommendReply

MB Jan 24, 2018

Ms Saunders has to go. She is not in control and is out of her depth.

Flag

19RecommendReply

peter sitch Jan 24, 2018

While acusing someone of rape carries no consequences, even when you have lied to the police, then disturbed or vengeful women will continue with accusations. Not least because there ment is a financial reward. Exposure of both or confidentiality of both is the only answer, this has been promised more than once.

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22RecommendReply

Merrypeterpan Jan 24, 2018

@peter sitch But there are consequences, the police could support your claim for victim compensation even if there has been no trail!

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Robin St.Clair Jan 24, 2018

Whilst police and prosecutors are tasked with charging individuals with crime and obtaining convictions against those charged, respectively, this situation is not going to improve.

There is no reward for uncovering truth, just for clearing outstanding crimes and convicting those before the courts.

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11RecommendReply

Mrs C Frog Jan 24, 2018

People who falsely cry rape for what ever nefarious reason should be made to spend some time with a real sufferer. Perhaps an encounter with a Rohingya victim may be a salutary lesson, prior to a lengthy jail sentence.

Flag

7RecommendReply

Jack Hunt Jan 24, 2018

@Mrs C Frog I would argue that for those that have been proven to have made false allegations(not cases where there simply isn't enough evidence to convict) that a custodial sentence should be in order.

Flag

17RecommendReply

lancsmarsbar Jan 24, 2018

@Jack Hunt @Mrs C Frog Yes, and that would put an end to this farce of life-long anonymity.

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Mark Jan 24, 2018

The real scandal is political pressure on the justice system. Police and prosecutors are only human, and if they are told there are not enough convictions it can affect how they react to allegations, however subtly. A fair, balanced justice system is something many countries do not benefit from, and citizens in this country need to be vigilant that we don't lose what we have.

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14RecommendReply

Richard Keane Jan 24, 2018

So in all of the cases where evidence has been withheld, or tampered with by the police in an attempt to secure a prosecution, there must have been a conscious decision by one or more individuals to do so. Why does the CPS, or some other independent body, not investigate these failings and prosecute the culprits for obstruction of justice.

Simply apologizing to the 'victims' is grossly inadequate. If the law was different in the UK, there should be punitive damages awarded against the police for this behavior.....then the culture of evidence tampering might change.

Flag

14RecommendReply

Northern Boy Jan 24, 2018

@Richard Keane

"Not disclosed" is not the same as deliberately withheld or tampered with.

I would generally suggest cock up rather than conspiracy or corruption.

Flag

RecommendReply

lancsmarsbar Jan 24, 2018

@Richard Keane Because the current conviction-target culture from the top of the CPS is part of the problem.

Flag

1RecommendReply

Richard Keane Jan 24, 2018

@lancsmarsbar. Thank you for your insight. I wonder whatever happened to the meaning of the word 'justice'. Almost seems that it is something that existed in a by-gone era. A sad day has dawned, when you are judged by your ability to meet a statistical target rather than to ensure that the law is applied in an equitable manner.

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RecommendReply

Janet Brown Jan 24, 2018

Well cuts do have consequences

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1RecommendReply

Harris Jan 24, 2018

@Janet Brown Oh? Just how would cuts lead to the withholding of evidence?

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19RecommendReply

Northern Boy Jan 24, 2018

@Harris @Janet Brown

Dear Harris

The wording of your question is loaded. "Withholding suggests a deliberate and therefore corrupt act!

.....Failing to disclose is not remotely the same as withholding evidence.

If you reconsider your question with "failing to disclose" inserted rather than "withholding" and then factor in a significant reduction in criminal justice admin staff, frontline officers taking up that slack to service the system, 20% less officers and increases in reported crime you might just then conceive why cuts might have consequences.

I hope you and the 15 who starred your comment may then at least consider there may be another answer.

Flag

RecommendReply

Harris Jan 24, 2018

@Northern Boy @Harris @Janet Brown 'Police officers have a "cultural problem with disclosure", one of the country's most senior chief constables has admitted' and 'disclosure of evidence to the defence was too often seen by police officers as a thing to be done at the end of an investigation'. So, whether you want to call it withholding or failure to disclose, it still has nothing to do with cuts.

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3RecommendReply

Carla Jan 24, 2018

I think you're trying to make political capital out of this when there is none. Why does it cost money for a police officer, on discovering evidence that proves someone is not guilty, to pass on the information? Surely it costs more to carry on with the case?

Flag

1RecommendReply

Germann Arlington Jan 24, 2018

"Hundreds more prosecutions are collapsing because of failure to disclose evidence, adding to fears that serious criminals are walking free because of mistakes in the justice system."

Is it "adding to fears that serious criminals are walking free"? Really?

How does the fact that the evidence proving the defendant's innocence is suppressed helps the guilty go free?

In my view this fact raises fears that hundreds and maybe thousands of innocent people were convicted and had their lives ruined.

Flag

19RecommendReply

RComer Jan 24, 2018

Are the women who cry rape but then evidence later shows they consented to it ever prosecuted for making false claims? What happens? It costs tax payers hundreds of thousands of pounds to bring a case to trial so when the rape allegations is subsequently found to be malicious or untrue then what happens to the women who made the claims? Surely those women need to be punished so it doesn't deter the genuine victims from coming forward and pressing charges. These boys (some of them are very much still boys) have had their lives ruined by these false allegations when sometimes all they're guilty of is not phoning her to declare their love after a pretty rubbish encounter. I'm glad I'm not a student anymore!

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32RecommendReply

Zenocrate Jan 24, 2018

As a young woman I agree with every point you make.

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10RecommendReply

PB Joyce Jan 24, 2018

@RComer In answer to your question, they can be prosecuted (consider the case of Jemma Beale) but almost never are. Check the CPS criteria for prosecuting a suspected false rape accuser on the accused.me website. Unlike with rape itself, where a prosecution proceeds if there is a likelihood that a jury will convict according to "beyond reasonable doubt", with false accusations a conviction needs to be virtually certain. Also, false accusers are delicate little flowers, so even in slam-dunk cases prosecution may not be seen as in the public interest. Feminist campaigners call false accusations rare because they base their numbers on convictions, which are obviously low. Oddly,

even the CPS seems fooled by this misreading of the figures. Yet no one would dare say rapes must be rare because so few suspects are convicted of rape.

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10RecommendReply

stephen cole Jan 24, 2018

This is down entirely to the head of the CPS telling Police prosecute alleged rapists regardless of evidence

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28RecommendReply

Mizula Montana Jan 24, 2018

That's probably true. Get someone new in. Preferably someone not so ideologically bent.

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