Lawyer letter in the Guardian

Friday, 14 March 2008

In his interview with Clare Dyer (March 4), Metropolitan police assistant commissioner John Yates readily accepted systemic underperformance in the investigation of rape complaints. He is certainly right that officers need to be fully conversant and compliant with all investigative protocols. Similarly in their dealings with complainants - not "victims", a term which prejudges the verdict of the jury - they need to remember to adopt a professional manner. Clearly this means avoiding hostile assumptions based on stereotypes and overt judgmental responses signalling disbelief.

Yates blames detectives for not applying the same professionalism to rape as they do to other serious crimes, and the findings of a report by the inspectorates of constabulary and the CPS in 2002 suggest he may not be altogether wrong.

However, he is misguided when he suggests officers "must absolutely accept the victim's version of events unless there are very substantial reasons to do otherwise". Professionalism is a two-way street. A willingness to take on board a complainant's account must always be balanced by objective scrutiny - though of course courteously and respectfully. Trial advocates with recent experience in rape cases will confirm that when interviewing complainants most officers comply with this standard; interviews with rape complainants are generally now video-recorded and the conduct of the police is open for all to see.

Investigative scepticism in rape is necessary for a good reason. The experience of both trial and appeal courts is regrettably of rape allegations which prove to be quite false. Even though, they represent a comparatively small minority, shocking cases are reported in the press every few days. Some of these show to what lengths some false complainants will go to create an appearance of credibility. Documented motives for invention include diversion of parental or partner wrath, perhaps amplified by the fear of pregnancy; revenge for being spurned; in the case of an alleged celebrity rapist, the desire for reflected glory or financial gain; in other cases, psycho-pathologically induced attention-seeking or predisposition to fantasise. These should not be lightly discounted.

In an appeal case last year Lord Justice Judge, head of criminal justice, said memorably that "every occasion of a proved false allegation has an insidious effect in public confidence in the truth of genuine complaints, sometimes allowing doubt to creep in where none should in truth exist". In their desire to show they are acting to send more rapists to prison, the police must not forget their duty to suspects - those still presumed to be innocent and who may well be innocent - to investigate fairly, objectively and rigorously; to keep an open mind and to refrain from adopting a particular standpoint as a matter of public policy.

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