

file

da



LEGAL  
PROCEDURE

10 DOWNING STREET

*From the Private Secretary*

14 March 1983

The Investigation of Offences of Rape

Thank you for your letter of 9 March. The Prime Minister is content for the circular attached to your letter to be issued soon, and for the Home Secretary to announce this on 21 March by means of a Written Parliamentary Answer. She is also content with the draft Answer attached to your letter.

I am copying this to David Staff (Lord Chancellor's Office), Muir Russell (Scottish Office), David Clark (DHSS) and Henry Steel (Law Officers' Department).

**L. W. F. S. RICKETT**

C.J. Walters, Esq.,  
Home Office.

15



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

9 March 1983

Prime Minister

Content that the attached circular giving guidance on the investigation of rape cases should be issued, and that the Home Secretary should announce this by means of the written answer at A?

*Den* *Wilde*

THE INVESTIGATION OF OFFENCES OF RAPE

The Prime Minister will recall that the Home Secretary announced last year that he had under consideration the issue to the police in England and Wales of revised guidance on the investigation of rape. His announcement followed expressions of public concern, particularly in the wake of a television programme showing a police interview with a rape complainant.

LM  
9/3

... The enclosed circular, which the Home Secretary proposes should be issued soon, subject to the Prime Minister's views, has been drawn up with the police and in consultation with the Lord Chancellor and the judiciary (including Mrs Justice Heilbron). The Home Secretary proposes to announce the issue of the guidance by way of arranged Parliamentary Answer (draft enclosed) on Monday 21 March.

I am sending copies of this letter and enclosures to David Staff (Lord Chancellor's Office), Muir Russell (Scottish Office), David Clark (DHSS), and Henry Steel (Law Officers' Department).

*C J Walters*  
*C J Walters*  
C J WALTERS





HOME OFFICE  
Queen Anne's Gate, LONDON, SW1H 9AT  
Direct line: 01-213  
Switchboard: 01-213 3000

Our reference:

Your reference:

The Chief Officer of Police

Dear Sir

HOME OFFICE CIRCULAR 25/1983  
INVESTIGATION OF OFFENCES OF RAPE

Chief officers will be aware of recent controversy about the investigation of rape cases. It is appreciated that the great majority of these cases are dealt with sensitively, with due attention to the advice offered in Home Office Circulars 104 and 194 of 1976 on the treatment of complainants\* but in view of the public concern which has been aroused, the Home Secretary considers that it would be helpful to draw attention to this advice and to bring it up to date. This Circular therefore consolidates the earlier advice and expands on one or two matters which have emerged in recent discussions as being particularly important.

#### The initial stage

2. As soon as a woman complains to the police that she has been raped it is important to ensure from the outset that she is treated with tact and understanding. Although in some cases it may subsequently be established that a complaint is without foundation the need for tact and understanding remains at all stages of the investigation. Before any questioning takes place - invariably, of course, in privacy - it is desirable to ensure that a medical examination is conducted, although it is recognised that any immediate questioning which is necessary, eg with a view to identifying an alleged offender who is at large, may have to take place before the medical examination. Not only will an early medical examination furnish important information on which to base further interviews, but chief officers should bear in mind that many victims of rape are anxious to wash themselves and change their clothes as soon as possible: an earlier rather than a later examination would permit this consistently with the preservation of evidence of the alleged offence. Where a child or young person under 17 is involved it will be necessary to explain to the parent or guardian the need for such examination or medical attention.

#### Medical examination

3. It is important that medical examinations take place in a proper clinical environment so as to reduce stress and produce an atmosphere of care and concern. Whether the best location will be a hospital, health centre, surgery or police station medical room will depend on whether immediate treatment is required but otherwise on the facilities available in a particular locality.

/Senior ...

---

\* These circulars drew attention to the recommendations made in the Report of the Advisory Group on the Law of Rape (Cmd 6352) and to the provisions of the Sexual Offences (Amendment) Act 1976.



Senior officers are invited therefore to draw up or review appropriate local arrangements in consultation with local police surgeons. Amongst other things, local arrangements should be made with reference to two points. First, it is important to ensure that victims and suspected assailants are examined in different rooms, if possible by different doctors (so as to avoid the risk of cross-contamination of trace evidence). Secondly, it should be noted that some complainants may prefer to be examined by a female doctor.

#### Further interviews

4. Care should be taken to ensure that detailed questioning is conducted by an experienced officer who may be designated or trained for this purpose. Interviews by a number or series of different officers are likely to unsettle the complainant, who may be in an emotional and shocked condition, and should be avoided. While sympathy in the interviewing officer is more important than his or her sex, consideration should always be given to the participation or presence, where practicable, of a woman police officer.
5. The complainant should normally be asked whether or not she would like a friend or other third party present during the interview; but the interviewing officer remains responsible for deciding whether there is a risk of this prejudicing the conduct of his enquiries. Interviewing officers should bear in mind the possible application of paragraphs 4 and 4A of the Administrative Directions to the Police appended to the Judges' Rules.
6. It should be explained to the complainant that Section 2 of the Sexual Offences (Amendment) Act 1976 (reproduced at Annex A) places strict limitations on the opportunity for the defence to cross-examine or produce evidence in court about any sexual experience with a person other than the defendant. Such matters can be raised only with the leave of the judge, who must withhold leave unless he is satisfied that it would be unfair on the defendant to do so. It should not in general be necessary to ask a complainant questions about her previous sexual experience. It may, however, be necessary to ask questions which could be directly relevant to the offence under investigation, for example, whether the complainant has had sexual intercourse with anyone in the period immediately before the offence is alleged to have taken place, or about any relationship with the alleged offender. Particular care should be exercised in deciding whether to ask a complainant questions about any previous sexual experience with a third party. Before asking such questions the limitations on the admissibility of such evidence in court should be carefully considered (if appropriate after taking legal advice). If questions about a complainant's previous sexual history do have to be asked, it should be explained to the complainant why they are necessary and that she does not have to answer them. Since such questions may be of a highly personal nature tact and sympathy are, of course, essential. The complainant should also be made aware that her statement will have to be disclosed to the defendant and his legal advisers.

/Welfare .....



### Welfare

7. Throughout the period a complainant spends with the police, consideration should be given to her comfort and refreshment. Before leaving the police station she should be told of and, unless she has already contacted them, be given the opportunity to be referred to any appropriate local services, whether medical, social or voluntary. Similarly, how to apply for compensation to the Criminal Injuries Compensation Board should be explained in the normal way.

### Anonymity

8. Section 4 of the Sexual Offences (Amendment) Act 1976 (subsections 1-4 of which are reproduced at Annex A) prohibits the publication, after a person has been accused of a rape offence, of matter likely to lead to the identification of the complainant by members of the public, other than by direction of the judge in the special circumstances provided for in section 4(2) of the Act. Complainants should be made aware of this provision at the earliest possible stage. In the spirit of this provision, it continues to be important that the anonymity of complainants should be protected from the moment that an allegation of rape is first made.

### Follow-up action

9. The police should bear in mind the desirability of maintaining contact with the complainant pending the apprehension or trial of the alleged offender. This could be achieved through a designated officer who should also be responsible for informing the complainant of the outcome.

### Training

10. Finally, it will be helpful to mention training, even though it is readily recognised that chief officers keep training needs under constant review. This is a practice of which, of course, the Home Secretary strongly approves and which he imagines will take the matter of this circular in its stride. This circular does not prescribe, and its contents do not indicate the need, for the general introduction of specially trained squads, to deal with allegations of rape. It remains open, however, to individual chief officers to consider establishing such squads if the local circumstances justify it.

R M MORRIS

E.R.

## THE SEXUAL OFFENCES (AMENDMENT) ACT 1976: SECTION 2

2. (1) If at a trial any person is for the time being charged with a rape offence to which he pleads not guilty, then, except with the leave of the judge, no evidence and no question in cross-examination shall be adduced or asked at the trial, by or on behalf of any defendant at the trial, about any sexual experience of a complainant with a person other than that defendant.

(2) The judge shall not give leave in pursuance of the preceding subsection for any evidence or question except on an application made to him in the absence of the jury by or on behalf of a defendant; and on such an application the judge shall give leave if and only if he is satisfied that it would be unfair to that defendant to refuse to allow the evidence to be adduced or the question to be asked.

(3) In subsection (1) of this section "complainant" means a woman upon whom, in a charge for a rape offence to which the trial in question relates, it is alleged that rape was committed, attempted or proposed.

(4) Nothing in this section authorises evidence to be adduced or a question to be asked which cannot be adduced or asked apart from this section.

## THE SEXUAL OFFENCES (AMENDMENT) ACT 1976: SECTION 4: SUBSECTIONS 1-4

4. (1) Subject to subsection (7)(a) of this section, after a person is accused of a rape offence no matter likely to lead members of the public to identify a woman as the complainant in relation to that accusation shall either be published in England and Wales in a written publication available to the public or be broadcast in England and Wales except as authorised by a direction given in pursuance of this section.

(2) If, before the commencement of a trial at which a person is charged with a rape offence, he or another person against whom the complainant may be expected to give evidence at the trial applies to a judge of the Crown Court for a direction in pursuance of this subsection and satisfies the judge-

(a) that the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the trial; and

/(b) that ....



(b) that the conduct of the applicant's defence at the trial is likely to be substantially prejudiced if the direction is not given, the judge shall direct that the preceding subsection shall not, by virtue of the accusation alleging the offence aforesaid, apply in relation to the complainant.

(3) If at a trial before the Crown Court at which a person is charged with a rape offence the judge is satisfied that the effect of subsection (1) of this section is to impose a substantial and unreasonable restriction upon the reporting of proceedings at the trial and that it is in the public interest to remove or relax the restriction, he shall direct that that subsection shall not apply to such matter relating to the complainant as is specified in the direction; but a direction shall not be given in pursuance of this subsection by reason only of an acquittal of a defendant at the trial.

(4) If a person who has been convicted of an offence and given notice of appeal to the Court of Appeal against the conviction, or notice of an application for leave so to appeal, applies to the Court of Appeal for a direction in pursuance of this subsection and satisfies the Court-

(a) that the direction is required for the purpose of obtaining evidence in support of the appeal; and

(b) that the applicant is likely to suffer substantial injustice if the direction is not given,

the Court shall direct that subsection (1) of this section shall not, by virtue of an accusation which alleges a rape offence and is specified in the direction, apply in relation to a complainant so specified.

## ARRANGED QUESTION AND ANSWER: RAPE GUIDELINES

7 To ask the Secretary of State for the Home Department if he has yet issued revised guidance to the police on the investigation of offences of rape; and if he will make a statement.

## DRAFT REPLY

Yes. My Department has issued guidance to chief officers of police which brings up to date and supplements previous guidance. A copy of the revised guidance has been placed in the Library.

The revised guidance stresses the need for rape complainants to be treated with tact and sympathy and covers a number of important areas such as medical examination, questioning about previous sexual history, anonymity and follow up action. It emphasises the importance of training and the need for interviews to be conducted by an experienced officer, and urges the participation or presence of a woman police officer.

The proper and sensitive investigation of offences of rape is a matter to which the public and chief officers of police rightly attach great importance. It is vital that women who have undergone the terrible ordeal of rape should have the confidence to report the matter to the police and I therefore welcome the opportunity which the guidance gives to draw attention to existing best practice.





1

9 MAR 1937

10 11 12 1 2 3 4 5 6 7 8

2