

Ms Alison Saunders CB
Director of Public Prosecutions
CPS Headquarters
Rose Court
2 Southwark Bridge
London, SE1 9HS

06 November 2014

Dear Ms Saunders,

Charging rape complainants with perverting the course of justice

We have recently been made aware of the tragic case of a young woman, Eleanor de Freitas, a rape complainant, who took her own life on 4 April 2014, on the eve of a trial where she had become the defendant on an indictment of perverting course of justice. We write to raise serious concerns about the conduct of the CPS in this case which appears to have contributed to the tragic death of this young woman.

Justice for Women are a voluntary organisation that campaigns against discrimination in the criminal justice system as it impacts on male violence against women. We are particularly known for our work on the homicide laws and the defence of provocation, but we have worked around related issues supporting and advocating on behalf of victims of injustice and campaigning for change.

In 2011 we contributed to a consultation by the CPS on perverting the course of justice¹, examining charging decisions on rape and domestic violence, in which we raised concerns about the prosecution of rape complainants with this offence and submitted that this should only happen where there was clear and unequivocal evidence that the complainant had lied.

Our understanding of the circumstances of the case involving Eleanor de Freitas and her tragic death suggest that she should never have been prosecuted for perverting the course of justice, and that the decision to proceed with this case may have influenced the tragic outcome.

We have been provided with details of this case by the family of the deceased and understand the following facts:

¹<http://www.justiceforwomen.org.uk/storage/Perverting%20the%20Course%20of%20Justice%20May11.pdf>

Ms de Freitas, who suffered from a mental illness, made a formal complaint of rape in January 2013 and the alleged perpetrator was arrested by the Metropolitan police and investigated. A decision was then made by the police not to charge, on the basis that there was not a realistic chance of a conviction, although the crime of rape remained recorded. We understand that the alleged perpetrator then approached the police inviting them to arrest Ms de Freitas for perverting the course of justice. The police declined and the alleged perpetrator then instructed a firm of solicitors to bring a private prosecution. In August 2013, Ms de Freitas was served with a summons for the offence of perverting the course of justice. The CPS were invited to take over the prosecution. They met with the police, who indicated again that they did not consider there were grounds to begin a prosecution. However, in December 2013, the CPS made the decision to proceed with the prosecution without the cooperation of the police. We understand the alleged perpetrator then applied to the CPS for in excess of £200,000 costs incurred on bringing the private prosecution. The defence team made representations that the prosecution did not pass the two stage test set out in the Code for Crown Prosecutors and the provided psychiatric evidence in support of those submissions. However, the prosecution continued and was due to commence on 7 April 2014. Ms de Freitas took her own life on the weekend before the trial. Her family are convinced that the trial was the key precipitating factor.

We consider that that decision by the CPS was offensive for the following reasons:

1. Ms de Freitas only ever made a complaint of rape. Although her complaint did not result in a positive charging decision being made, she did not retract it. The police made the decision not to refer her complaint to the CPS on their assessment of the available evidence. There can be no public interest in prosecuting women who simply make a complaint of rape. As we stated in our consultation response in 2011, Justice for Women believe that prosecutors must explicitly recognise social beliefs and preconceptions about survivors of domestic and sexual violence which too often result in investigating officers failing to properly conduct investigations into complaints of male violence. Where a complainant may appear to be lacking in credibility, that assessment is often born of prejudicial attitudes or preconceptions of how victims of rape ought to behave, so the complaint itself must be judged in that context.
2. The police themselves refused to support the CPS in continuing with the private prosecution being brought against Ms de Freitas. This in itself suggests that despite a climate of disbelief of rape complainants within the police force, the police still did not believe Ms de Freitas to be lying. This speaks strongly to Ms de Freitas' credibility and to the malicious nature of the private prosecution being brought against her by her alleged rapist.
3. In the majority of cases – even when there has been a retraction of a rape complaint, which in this case there was not – the public interest is

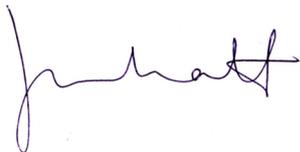
always overwhelmingly in favour of not prosecuting a rape complainant. In this case it is abundantly clear that not only was Ms de Freitas a rape complainant, but she was manifestly vulnerable, having suffered for many years as a result of persistent and severe mental health problems.

As we stated in our 2011 consultation response, “we believe it is imperative that the overwhelming public interest in improving the UK’s appallingly low conviction rate for rape offences is considered by all prosecutors when deciding whether to charge women for perverting the course of justice.” By prosecuting rape complainants, when there is not overwhelming evidence that they have fabricated their complaint, we create a hostile climate which would actively discourage women from reporting rapes, as they will fear not just disbelief but prosecution, which cannot be in the public interest.

In the light of these points, we find it astonishing that the CPS made the decision to pursue this case. The point of the CPS having conduct of a matter of this sensitive nature is that there are appropriate safeguards in place for all parties, which are not guaranteed in a private prosecution, as we have seen in this case, with disastrous results for Ms de Freitas.

We believe that the tragic case and the role of the CPS in relation to it require a thorough examination and we ask you to review the steps taken and conduct an inquiry.

Yours faithfully



Julia Hilliard
On Behalf of Justice for Women