

## Home Affairs Committee

Oral evidence: [Investigation and prosecution of rape](#), HC 193

Monday 13 December 2021

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Members present: Tim Loughton (Chair); James Daly; Adam Holloway; Dame Diana Johnson.

Questions 180-225

### Witness

I: Max Hill QC, Director of Public Prosecutions, Crown Prosecution Service.

Written evidence from witnesses:

- Crown Prosecution Service ([INV0014](#))



## Examination of witness

Witness: Max Hill QC.

**Q180 Chair:** Welcome to the latest sitting of the Home Affairs Committee as we continue our inquiry into the investigation and prosecution of rape. I am pleased that here today we have Max Hill QC, the Director of Public Prosecutions—you are very welcome. You gave evidence earlier in the year to the Justice Committee, which has also been looking at issues around this, so there might be a bit of repetition—or things might have changed in the four or five months since you gave that evidence.

Would you start off with your take—albeit you might be repeating yourself—on why we have this situation with a very low, on the face of it, conviction rate? Are things getting better or worse? It is not so much where you attribute fault or blame, but what are the problems in the system that result in such depressingly low figures?

**Max Hill:** What I would characterise is a present opportunity to make a difference, end to end, across the criminal justice system. That opportunity is represented in a number of ways, including the publication last week of the scorecards, particularly those on adult rape. When I say that there is an opportunity to come together, I think it is unprecedented, but I need to say that the offence—the crime—of rape is so devastating and so present in our society that it is absolutely right that this Committee looks at it. It is absolutely right that your inquiry's title refers to the investigation "and" prosecution of rape, and right that all of us—I specifically include myself—should reflect on the life-changing devastation caused to so many women as a result of this offence, and on the attitude of some men towards women in our society in this country.

In that regard, I am aware of the evidence given, I think on 15 September, by a number of brave women who were themselves the victims of sexual violence. It is impossible to read what Emily, Rachel and Susan said, together with the ISVAs of two of the three—Lisa and Ellie—without being deeply affected by what they have been through. I absolutely recognise that, in their testimony, there is evidence of a lack of perfection from the police, and absolutely a lack of perfection from the CPS in the way in which those crimes have been investigated and/or prosecuted. They are representative of the issue that we have to come together to resolve.

By way of introduction, I want to say that we must use this opportunity—of course, I am happy to expand on this later—to do, at the very start, three things: first, speaking for myself, to support our prosecutors to continue to do better in the way we receive rape investigations from the police and how they are converted into charged cases before the courts. Secondly, that means better collaboration with the police which, I dare say, having been in post some three years, is improving, but we need to see that improvement month by month and year by year. Thirdly, we need to improve the support that is given to victims at all stages of the process.



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The Crown Prosecution Service is absolutely not immune from scrutiny—we welcome it. We need to demonstrate transparency as to not just data, but how we do everything.

I finish this answer by saying that the CPS is not some faceless organisation. It is full of people who are dedicated to delivering justice every day of the week. I will expand later, if given the opportunity, on the time that I have spent in recent months—covid or no covid—going around the country, virtually and in person, to sit alongside our rape and serious sexual offence prosecutors, and to be in the room with them, alongside local police officers, seeing their sheer determination to change the system for the better. That is the encouraging sign that I see, and it is why I say that we actually have a good opportunity to improve for the long term.

**Q181 Chair:** Thank you. The Committee will be pleased that you have had the opportunity to look at some of the moving evidence that we took, not least from the victims and survivors of rape. Perhaps later I will come back on a specific subset of victims who are deaf, from whom we took private evidence, and ask you some questions about that.

You spoke about a “lack of perfection” from the police and the justice system. I think most people would see that as a pretty gross understatement of the problem that we have at the moment, not least because of the hugely drawn-out process between somebody being brave enough to go and report that they have been attacked and it being investigated fully by the police, and then perhaps being passed over to the prosecution service, and then perhaps making it to court and then—perhaps—resulting in a guilty verdict against the perpetrator, running into several years in many cases. If that time delay were drastically reduced—say it were to be half—what do you think the impact would be in terms of outcomes and the preparedness of the victims to stick with it?

**Max Hill:** If we can all speed up, there would be a whole host of ways in which that would improve the outcomes. Putting victims first would improve the chances for victims who are brave enough to come forward to stay the course and to have confidence in the system from end to end, which is of course what we need, and we are desperately trying to rebuild. I accept that, following the recent cases of femicide, and that is what is happening here—the Sarah Everard case, the Sabina Nessa case and many others—there is a crisis of confidence in the system. What it means, though, is that when you come together and have a conversation, it is clear that no single component has all the answers here. It is not the case that a little more speed from one aspect of the system will achieve what I think you are reaching for, Chair. That is now very clear when we look at the first scorecards published only four or five days ago, because on those scorecards we can see the challenge for the police, the challenge for the CPS and the challenge for the courts. We currently have a system in which I will and do take responsibility for the time challenge that we face—in other words, the period that it takes us to go from receiving a completed investigation from the police and converting that into a charged case.

**Q182 Chair:** With respect, the use of scorecards and the greater transparency



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given to the issues at the moment, not least through this inquiry, could actually have the adverse effect of alarming women—not exclusively—coming forward, on the basis that it is now clear, despite the best endeavours of you, your service, the police and the Ministers responsible, that it could take several years for them to have their case properly heard. That is several years where they are having to be retraumatised in many respects, going through their experiences in front of multiple people before they even get to court, and where the perpetrator may still be terrorising them in various ways. Some vulnerable victims will want to run for the hills and not have anything to do with it. How on earth do we give assurances and confidence to women? In terms of the three things that you understandably set out, about supporting prosecutors, better collaboration and better support for victims, none of that is rocket science; all of that could have been said 10 years ago. What has gone so wrong now that it is basics like that that still need to be applied to the system to make it work?

**Max Hill:** Let me give a very brief overview. Those who have been scrutinising the system for a long time could do this just as well as I could, I am sure, but if you look back a handful of years, there was probably insufficient prioritisation of these cases. There was definitely a lack of financial resource—I am responsible for one element of that, but others would say the same. And there was another crisis in the criminal justice system that was playing out when I arrived in 2018: the crisis in disclosure. Alongside that, with every year that passes there has been what I have sometimes called a digital explosion in the way that we live our lives and the amount of data and information that we generate when we walk down the street or take out a mobile phone or laptop. Alongside that, there have been different, changing, evolving attitudes towards relationships between men and women, if we are talking about rape cases.

All those things have undoubtedly contributed to the decline in volumes that I have found, and it has taken the wider system some time to get to grips with that and to collate data that we were individually holding—whether it was policing, through the Home Office, or the CPS, or the Courts Service and the Ministry of Justice—and put it in one place. There is not actually a great deal that is new in the data, but the picture that it gives you right across the system is, I absolutely agree, stark in terms of the decline in numbers.

To anyone who takes a look at the scorecards and chooses to say, “That’s a reason not to engage in the system,” I would say that that is absolutely the wrong way to look at it. If we look at the system now and we track the journey that cases take, not just through one organisation but at all three stages, if we introduce prioritisation at every stage where it is needed—I am responsible for the prioritisation of rape in terms of charging and giving advice to the police—and if we work with the additional financial resource that certainly my organisation has been given for the next three financial years, from all of that should come encouragement that we will be able to improve.



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Let me add one other factor: the data in part looks as stark as it does because, on top of everything else that I have mentioned, we have had covid to deal with, and 18 months ago the criminal justice system, through nobody's fault, had to stop for a period of time. Courts were not able to sit, so when you look at the delay between charging a case and its conclusion in court, the covid impact of the backlog of unconcluded cases has been very substantial.

**Chair:** I think we would all acknowledge that there has been a problem in the entire justice system with covid, but this was a problem before anybody had ever heard of covid, and it has compounded it rather than created those problems.

Q183 **Dame Diana Johnson:** May I ask a little more about the insufficient prioritisation that you just talked about? What does sufficient prioritisation look like? In terms of delays, when we hear about the number of years that people are having to wait for their case to get to court, what is sufficient prioritisation going to mean?

**Max Hill:** Let me start with collaboration between the police and the CPS. Instead of an investigation by the police running from start to finish without any involvement, exchange or communication with the prosecutors, the more communication that there is, the more help that that will give to building cases and ensuring that, when they are received by the CPS, we will be able to charge them. In the context of rape, we know—it is a fact—that approximately 10% of the volume of rapes that are reported to the police reach the CPS, so from my perspective, our prosecutors are seeing that nine out of 10 rape complaints do not ever come to them. In my world, that means that we do not have a chance to help. I am not blaming the police for that, but I am saying that that is the position.

What is needed is the structure that we now have in place. I can talk about the joint national action plan with the police. I can talk about RASSO 2025, our strategic build in this area. I can talk about what are called the Operation Soteria pathfinder projects. Through all those mechanisms, if we have an earlier conversation where the police can come to the CPS, almost at the outset of an investigation, for some initial legal advice, the investigation still belongs to the police but that can guide them, for example, on reasonable lines of inquiry to take. I am pretty confident, because I see this happening in the Operation Soteria projects, that an early conversation might change the perception of an investigation from one where it might have been thought that it was not capable of satisfying the legal tests that we have to apply to charge it to one that is capable of being built so that it will satisfy those tests.

This is taking us to what we call the offender-centric approach. Don't spend your time investigating a rape by scrutinising unnecessarily the account of the victim; do spend time looking at the offender, who may be, in some respects, apparently a charming and urbane individual. That is why, as some of the victims who have given evidence to you have said, they will commence that relationship—even marry that person. But that



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person is still capable of the crime of rape. So taking an offender-centric approach and looking at what he did and said before, during and after the offence may build a much stronger case, with a far greater prospect of us being able to say when we apply our standard code tests, "This is a case which should be charged."

I think there are myriad other examples where, if you come together, you can change the outcomes and you can have a realistic conversation at an early stage, which is going to build the case.

**Q184 Dame Diana Johnson:** That is very helpful and I think that my colleague Mr Daly will want to come back on that particular issue.

I also wanted to ask you about the comment you made about supporting victims and I just wanted to check something with you. We have heard quite a number of times about a belief that giving complainants access to independent legal advice would help, particularly around the disclosure of digital information and private data. I just wondered whether that is your view. Is that something that should be introduced?

**Max Hill:** I have no objection on principle to, and these terms are interchangeable, a complainant, a survivor or a victim—I absolutely do not mind using the phrase "victim", although some in the legal system object to it; I do not mind using that word at all—a victim seeking legal advice. The hope would be that if we work better together, it will be less and less likely, and less and less necessary, for victims to seek legal advice. That is because when a proper request is made by an investigating police officer, if it is thought through, if it is a reasonable line of inquiry and if it is communicated in the right way to the victim, then it can easily be answered; it can easily be accommodated.

That is why, for example, we have produced in recent months what we call an ISVA framework, namely the way in which we are looking to use the expertise of independent sexual violence advisers to help to unpack all of the technical language, all of the legal jargon and all of the police jargon that, inevitably, professionals use, to say, "Actually, in this case, there is a good reason why your telephone could be holding relevant information. For example, something in your telephone might prove the case or strengthen the case." What do I mean by that? If, after something has happened, it is the phone that you first use to contact either the police or your nearest relative or a friend, perhaps by text message, to say what has happened, the lawyers can look at that as evidence of the first complaint. That goes to strengthen the account that the victim is presenting; it builds the case.

Equally, let me give another example. If in the context of a relationship—so I am not talking about the rape of a stranger, but in the context of a relationship—there are close communications, let's say on social media, between the couple, as they were before this offence took place, then that conversation, the content of it, could be relevant.

Here I would have to say that it could be relevant in one of two ways. It could go to prove what has happened, when you really understand the



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context of the messages, or it could undermine what has happened. As lawyers, which ultimately is what prosecutors are, when we say of some cases that there are reasonable lines of inquiry, we are doing no more than what the law requires to ensure that the balance in the criminal justice system is upheld and that when we charge, we charge the guilty and we drive those cases forward, and we do not charge in cases where there is material that undermines that case. That is the balance that we have to find.

**Q185 Dame Diana Johnson:** I guess what you have just done there is demonstrate how an articulate lawyer can set out very clearly why certain actions are going to take place and what the basis of them is. That is why a number of people have said, "We need to have independent legal advice available to complainants." It sounded like you were hedging your bets there a bit, because you were saying that the ISVAs could perhaps do that.

**Max Hill:** I repeat that I do not have an objection on principle to independent legal advice. I suspect that almost every participant in the criminal justice system would agree that you cannot have, in our trial system, a third advocate at trial, but I do not think that that is what you are suggesting.

**Dame Diana Johnson:** No, it is not at all.

**Max Hill:** At an earlier stage, you need to make sure that there is a sensible conversation about what is necessary and what is not necessary. Having stated no objection in principle and I repeat that, the reason that I think there are things that we can do which might make that less and less necessary is that when I sit down with ISVAs, even though they may not be lawyers, they are experts in this area. These are the people who literally look after a victim of sexual violence from first report all the way through to the court case. When our legal team sits down as they do right around the country, I have seen for myself the nature of the conversation and the debunking of legal language that goes on in the room. That is really all it takes to encourage people to understand two fundamental principles.

First, if you have been raped and you are brave enough to come forward, you will not have to divulge the contents of your phone and laptop in every case. We have to dispel the myth and, in some cases in the past, the reality that victims have found that they are asked to make general disclosure of the total contents of their digital devices. That should not be happening, and a lot of work has gone on in the last two years to update guidance and understanding and make it clear that it is only in rare circumstances—in some categories of case, this would not apply at all—where a reasonable line of inquiry does mean that you have to look at background material, including what people have on their phones and laptops.

I think it is possible to explain that in a way that gives confidence rather than coming across as some extra burden, which a woman who has been



raped will find—absolutely understandably—hard to take. I could say more later about the sheer extent of the trauma that rape represents and the post-traumatic stress disorder that it sets up. We all have got to be alive to that and explain in human terms what is going on in an investigation and what will happen in a prosecution. We do have some real allies there, starting with independent sexual violence advisers.

**Q186 Dame Diana Johnson:** Okay, thank you. Can I just ask you about the end-to-end rape review? I just wondered what your view was about the ambition to return to rape prosecution rates of 2016 levels. Is that ambitious enough?

**Max Hill:** As a prosecutor, what I would be saying is that our specialist rape and serious sexual offence prosecutors, who live every day to review cases and to prosecute them, would want every viable case to be brought forward so that it can be prosecuted. Put that another way, the code for Crown prosecutors only asks two questions: is there sufficient evidence and is it in the public interest to prosecute. It is almost always in the public interest to prosecute offences of rape. It is hard, frankly, to think of any situation in which you would say, "This case is not in the public interest", so it is all about evidence. If we have the evidence, we will prosecute. That is the first thing to say and, I hope, for everyone to hear.

On actual volume, we are so far adrift at the moment. I repeat: only 10% of reports of rape ever come to the attention of the Crown Prosecution Service, so it would be naive to say that that should increase to 20%, 30%, 40% or 50%. In the Government rape review, there is an aspiration to return to 2016 volumes. What I have seen in my time in this job is that increases are flowing back. We of course could all debate whether that is enough, and whether it is quick enough. We are all conscious that we are still only receiving a small minority of these cases.

There are multiple reasons why the volumes are low. I have mentioned some of them. Our aspiration is to see the line continue to rise. I do find it difficult, though, and I suspect that anyone, being honest, would find it difficult, to predict exactly what number of cases will be reached and by what chronological date. For our people, who work all their days on these cases, all they would say is: "I'm not trying to make a charging decision on a certain number of cases this week; I'm trying to make a charging decision whenever and wherever I find sufficient evidence to satisfy the code test." That is their aspiration. That is what they are dedicated to.

**Q187 Dame Diana Johnson:** The Rape Review Progress Update, which I think you referred to, states: "Clear leadership of this work and accountability to the highest levels of government will improve cooperation across government and agencies to deliver on the agreed ambitions." In your opinion, is it clear who in Government is ultimately responsible for the implementation of the rape review?

**Max Hill:** The rape review came from Her Majesty's Government full stop, so what has been necessary is for all of us at our individual levels to pay attention to it and to drive our resources towards it.

Q188 **Dame Diana Johnson:** Who in Government? I just want to be clear on who it is.

**Max Hill:** The three sections on the scorecard are the three components here that can drive progress: policing, which ultimately is under the Home Office; the Crown Prosecution Service, which is independent but is superintended by the Law Officers; and the Courts Service, which is also independent and works in conjunction with the Ministry of Justice. We are all invested in this, and when the rape review itself was published in the spring, in six months what we saw published yesterday was the first national scorecard, so there is evidence of that coming together.

Can I add that we have not sat on our independence? The Crown Prosecution Service is legally independent, set up by statute in an Act of Parliament. We have not said that we are not prepared to take part in a conversation. We have not said, "We won't talk to the police. We won't talk to the courts." I could elaborate on just how much is being done not only to have early conversations with the police to pull cases forward but then to have much better relationships locally, court by court, with those who are responsible for listing cases in court, because that is beyond our direct power.

Q189 **Adam Holloway:** Surely it is about justice, not volumes, targets and percentages. Surely it is about people who are innocent not being prosecuted and people who are guilty being prosecuted and found guilty. In your sense of the thing, what percentage of rapes that happen are being convicted at the moment?

**Max Hill:** If you look at overall volumes of existing cases, the percentage of rape convictions is 68%. That is the current number. At the start of covid I think it was 71%, so there has been a very small movement. I would suggest that that is a small movement. If you look at that in comparison with conviction rates for other offences, it varies offence by offence. Nationally, if you look at the total caseload of the Crown Prosecution Service, it is 80% or just above, so we are seeing a slightly lower conviction rate for rape, but I think there are reasons for that. The legal tests that we have to apply and the ways in which we have to satisfy judge and jury for rape are very particular.

Q190 **Adam Holloway:** Forgive me, but what is the figure for rape convictions last year?

**Max Hill:** Do you mean numbers?

**Adam Holloway:** Yes.

**Max Hill:** The numbers have been affected very significantly by covid. I think the fall that we have seen has been from a little over 3,000 in 2016 to 2,000 or just below.

Q191 **Adam Holloway:** So let's say the number each year is 3,000 convictions. How many would be convictable cases that you are not able to do because of the sorts of problems that you have outlined? In an ideal world, how many convictable rapes do you think are going unjudged?



**Max Hill:** It is very difficult to put a number on that.

Q192 **Adam Holloway:** Of course, but do you have a sense of it?

**Max Hill:** I think we are working away to answer that through the Operation Soteria pathway. Just in a few phrases, let me explain. Over the last 12 months, we have sat down with police forces in a number of geographical regions—five of the CPS geographical areas. Starting a year ago this month—predating the Government rape review—we have launched at least one of these projects. In the policing sphere, most people are familiar with Operation Bluestone, which is an Avon and Somerset programme. What we see through those programmes and pathfinders, by experienced prosecutors sitting down with experienced police officers, is that it is possible to increase quite rapidly the number of cases that the system is looking at in a joined-up way. What you are seeing currently is that, because that has been happening for a year or less, the volume of cases charged or convicted is moving slowly.

Q193 **Adam Holloway:** Sorry to press this point, but what is your sense? Do you think we are convicting half the number of rapes that happen, a quarter or 10%? What is your sense of this?

**Max Hill:** To give you a published number, it is clear from the scorecard that in quarter 2, which is April to June of this year, the number of recorded adult rape offences—complaints to the police—was 11,300. Looking across the system, if we are able to charge only 3,000 and convictions are returned on 2,000, it is obvious that there are many more complaints of rape than there are cases that ever enter the system.

Q194 **Adam Holloway:** Again, sorry to keep going on, but I am not talking about complaints. From the standpoint of justice, those who are innocent do not get prosecuted, and those who are guilty should be prosecuted and convicted. What is your sense of the number of rapes that could be prosecuted and convicted but are not at the moment? Is it 10%, or is it 90%? What is it?

**Max Hill:** Genuinely, it is impossible for me, sitting in the Crown Prosecution Service, to say how many cases have been reported to the police—by definition, we have not seen them yet—that, if we did see them, would convert into charged cases. But I am confident that there are lots there. It is very difficult, though—it is actually impossible—for me to put a volume on that.

From the early indications from the pathfinder projects, if we can increase by 200% or 300%, in six to 12 months, the number of cases that we receive for consideration on charge, that is an indication that volumes can be brought up. I think that is a good sign, but to answer your question, it would be necessary for me or another prosecutor to look at all 11,000 reports of rape in a quarter of a year. We are neither resourced to do that, nor is the system set up in that way, because we have guidance between ourselves and the police. The police, a far larger organisation, have all the expertise in investigating rape and every other crime. Indeed, the police have the power to say when cases will not be capable of being taken



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forward and to stop investigations, and that will continue. What I am interested in is those cases where the police can say, "We have a case here that has real potential. We have evidence that we think will satisfy the test to charge. Can we talk to you about it?"

What is different, as evidenced by the scorecards and all the structures in place now, is that that conversation is taking place earlier than ever before. On our side, we are making the biggest offer that we can and making ourselves as available as we can to have those conversations up and down the country. Ultimately, I am saying that I am confident that the numbers will rise, but it is impossible for me to put a number on that unless and until we see the cases.

Q195 **James Daly:** Good evening, again, Director. I should perhaps disclose that I am on the Justice Committee, and we have had a previous discussion on these matters. There is such a lot in what you have said. The first thing I want to ask about—hopefully we will both be straight to the point—is your statement, which I was rather stunned by. I could well be wrong, but I think you said, "when we charge the guilty". That is interesting terminology. If you are charging the guilty, there is very little point in a case going before a court. The job of the Crown Prosecution Service is, as you have said, to assess the test as to whether there is sufficient evidence to convict somebody. You are not charging the guilty, are you? You are charging people who are potentially not guilty, but where there is sufficient evidence to justify a charge. Would that be right?

**Max Hill:** I will take the criticism for trying to avoid the detailed language of the code. However, under that challenge, I will read to you the terms of paragraph 4.7 of the code for Crown prosecutors, which very clearly sets out the test. It says that "an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged."

**James Daly:** That is not charging the guilty.

**Chair:** Potentially guilty, not guilty.

Q196 **James Daly:** Exactly, that is the point. It goes back to the questions that Mr Holloway was just asking. In one sense, there really is very little point in us talking about your conviction rate of 68% for the amount of cases that you charge, which is a ridiculously small amount compared to the number of complaints. The charging rate is about 1% in Greater Manchester. Just for the record, what is the charging rate for the whole country that you get through? What percentage of complaints come through to the Crown Prosecution Service?

**Max Hill:** What I can tell you is that the proportion of rape investigations that we charged in the last quarter was 69%.

Q197 **James Daly:** I accept that, but that is not the point I am making. You quoted this figure: there were 11,200 complaints of rape made during a



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set time. I think my figures were that 3,000 of those were referred to you. Is that correct?

**Max Hill:** I am not sure—

Q198 **James Daly:** Rather than messing around with numbers, I will just ask you a straightforward question. From the latest figures you have, you are aware of the total number of complaints of rape made to the police. What percentage of that total number is referred to the Crown Prosecution Service?

**Max Hill:** Around 10%.

**James Daly:** It is around 10%.

**Max Hill:** And of that 10%, by proportion, we charge more than two thirds of the cases that we see.

Q199 **James Daly:** So, give or take, somewhere between 6% and 7% of the total number of complaints that are made to the police end up in a charge.

**Max Hill:** Yes.

**James Daly:** The figures show that the conviction rate for that 6% is about 68%.

**Max Hill:** That is right.

Q200 **James Daly:** I have never been very good at maths, but we are then getting down to somewhere between 4% and 5% of the total number of complaints of rape in this country leading to a conviction. I am a pretty naive fella about these types of things, but that, to me, is appallingly bad. Would you agree?

**Max Hill:** Yes, I would agree. Let me be clear: the opportunity that we all have through these scorecards and the joint working is to make it clear, as you helpfully have, that there is a lot more to do. We have to look right across the system, rather than concentrating on one place only.

Q201 **James Daly:** Director, I understand that. You are an eminent lawyer, and I genuinely have the utmost respect for the job that you are doing. We politicians get, quite rightly, challenged, shall we say, on many things that we do, but one of the things that we expect when we question is a basic level of competence in respect of a job—nothing miraculous, just the basic level of competence. When you come in front of us and say that the police should have an offender-centric approach and that's a revolution—an offender-centric approach? I am staggered that that hasn't been the way these matters have been approached for the last however long it has been.

If you do not take into account the nature of the offender—and one of the things that you actually said, which is extremely significant, is that you seemed to suggest that instead of actually concentrating an investigation on what the offender has done, the police seem to be concentrating on



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the character and nature of the complaint. Very helpfully, you are nodding. That is what you are saying, effectively, isn't it?

**Max Hill:** I am not saying that in every case the police are investigating wrongly. I have not come here to point the finger at the police; I have come here to accept the very real responsibility that we have to do everything we can. But it is a fact that in the past there are examples where cases have been investigated from perhaps only one perspective when if you had looked at it from another, you might have actually been able to change the outcome.

Q202 **James Daly:** I understand that, and that is a very fair point, but when you also say to us that one of the things that police officers and the CPS could do is perhaps have a phone call at an early stage, it is hardly what I would suggest as revolutionary stuff. As you know—we have both been doing this. I did it for 16 years and I am certainly aware that during that period of time phone calls were being made. This is nothing new, so you are not coming in front of this Committee and telling us that we have got a new way of dealing with this matter. It is just incompetence; it is an incompetent way of dealing with matters. Can I ask you this? Release under investigation—how many cases of rape allegations in England and Wales are currently released under investigation?

**Max Hill:** You have asked me that question before, in front of the other Committee, and I said then and say now that I do not know and I would not know, because if a case is released under investigation by the police, that means it does not come to us, so I cannot give numbers. What I can say is that it is quite clear, since 2017 and the police Act legislation of that year, that there has been a very substantial increase in the use of release under investigation, as opposed to a Bail Act approach, where an investigation will go on with an individual subject to bail conditions. We are now waiting—because all of this legislation is not for us but is for Parliament—for the current courts Bill to go through and to see whether there are differences in approach which might reduce—

**James Daly:** I understand that—

**Max Hill:** The number of cases released under investigation.

Q203 **James Daly:** I am terribly sorry to interrupt, Director, and I am not trying to be difficult here, but it goes back to what Dame Diana was just asking you about. If you are saying to us as a Committee that you need a joined-up approach—this is the relationship between all the agencies, including the Crown Prosecution Service and the police—the fact that you do not know, and feel that you should not know, the number of cases that are being investigated by the police is frankly—“worrying” is probably the nicest way to put it, because you should know that as part of your role. RASSO does not work; none of it works unless the Crown Prosecution Service are proactively involving themselves in how the police are investigating rape allegations in their area, because on the logic that you have just said, this is allowing the police months and months and months, if not years, to allow investigations to slip and



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nothing to happen. While that happens, victims, complainants—everybody involved in the system is being let down. Would you agree with that?

**Max Hill:** I have said and absolutely maintain that we need to continue the focus, to increase the numbers, to do better in terms of outcome and to give greater support to victims. I do not go so far as to say that in each and every case, with every report of crime, that must automatically be reported to the Crown Prosecution Service, which is far smaller than policing in this country. What we have done and continue to do is give guidance and training as to the circumstances in which we encourage the police to come to us—for example, for early advice on how to conduct their investigation. Some of that is mandated by the Attorney General's guidelines on disclosure, which have been in place for almost exactly a year, and my own guidance on charging, which went to a sixth edition on new year's eve last year.

Q204 **James Daly:** Can I ask you one final question? You have been very clear in respect of that. When Mr Holloway asked you the questions, you said—I am sorry again; I do not have the exact figures, but they are on the record—let us hope, or whatever phraseology you used, that we are able to increase the throughput from the police to the Crown Prosecution Service by 200% to 300%; I may have got it wrong, but it was a figure such as that.

Now if we take it that that is your intention as an organisation to increase the number of cases that are coming through, and as Mr Holloway pointed out, those cases—I think we accept—are potentially cases that could be charged, because 90% of the rape allegations are disappearing into the ether; you have not even looked at the strength of the evidence of those. So, half of those could pass the charging standard.

I just want to know, specifically, how are we going to do it? How are you, as the Crown Prosecution Service—if you do not know what these cases are in relation to investigation, how will you get them in front of you for advice?

**Max Hill:** What we are here to do is to say, whether it is rape or any other offence, "This is what the law requires if we are to prosecute. These are the legal elements of the offence. This, therefore, is the proof that a court will require of a charged case." In the documents that I referred to, including the charging guidance, we make that very clear.

There are many cases—many investigations—where the police, on their own, are perfectly capable of reaching a conclusion about which cases can come forward and which will not. Indeed, as a national statistic, about 63% of all of the crime charged in this country is charged by the police and not by the Crown Prosecution Service. So it is only a minority of cases that do come to us—

Q205 **James Daly:** I do accept that. However, there is no way in 1,000 years that 90% of rape convictions should be discontinued before they get through to you. The question therefore for us here is this: at least with



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those cases that should come through to you or your organisation, how does that happen? How do we—as a Committee—make sure that happens? If we have to go to the police and ask them, “What are you doing about it?”, we will ask the police. But RASSO is all about joined-up working. If you are not having an input into how that will happen, we will continue to have this problem for the next however many years.

**Max Hill:** Let me try to answer that by giving you an example from Operation Bluestone. I went to Bristol two weeks ago and I sat in the CPS offices in Bristol and talked to our RASSO unit—our rape and serious sexual offence prosecutors—alongside two senior officers from Avon and Somerset police. That is a very good sign, that in one room you have investigators and prosecutors. And I was taken through what is called the gold standard investigation and response to RASSO. It is actually capable of being drawn up on an A4 sheet of paper.

What stands out to me in that document that I had not seen—it is a police document; I had not seen it until two weeks ago—is that there are five occasions on that sheet of paper where there is specific reference to going to the CPS to have a conversation, to seek advice, to take the case through. I take that as a really good sign; I think it is an excellent initiative by Avon and Somerset police. It has been picked up rapidly by our RASSO unit. It is being replicated in the Operation Soteria pilots. If I had been looking two years ago, I am not sure that I would have found five reference points where there is a reminder to investigators to check in with the CPS.

So, that is the structure that is being put in place. That is why I say I am confident that we will see more cases coming through. I just find it very difficult to say exactly what the volume is going to be, because we will have to wait and see.

Q206 **Chair:** Mr Hill, I want to come back to those figures, but can I just ask you about communications with victims and survivors, from whom we have had a lot of fairly critical evidence? Let me quote to you one witness named Emily. She described the CPS thus: “The police process is difficult enough, but the CPS almost feels like a completely disembodied thing that sits above that. It’s even harder to get in touch with or even more lacking in empathy...it does kind of feel a bit like your case just gets sent off to this big formidable body of people that you have no idea what they look like, who they are, what their job is. And it’s never actually even really explained to you what the CPS are meant to do, and how they make the decisions that they make.”

Is that fair comment from Emily? What would you say to Emily? Why have we got to such a position, if that is a fair assessment of how victims view the system?

**Max Hill:** If Emily was here today, I would say sorry to her. I am sorry that that was her experience and that was the way that she feels. I would not second-guess what she is saying, because she clearly thought about this; she has lived through a traumatic experience and that is the outcome for her. It is very important that all elements of the criminal justice system



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express some humility about that and make it very clear that we are sorry that that was her experience. We are determined to improve on that for all the Emilys who come after.

**Q207 Chair:** That all sounds good, but what does it actually mean? That case is not untypical; if it were an outlier, there may be some excuse for it but it is not. We have heard similar feelings from many victims and survivors who have given us evidence. How does the CPS get to be, on the face of it, such an unfriendly user organisation? What specifically will you be able to do in the near future so that you can go back to Emily in X number of years to say, "Are you happy now that if you came to us afresh, that would be very different?"

**Max Hill:** It was clear to me, although Emily, Rachel and Susan did not mention dates, that their lived experience had spanned a number of years—it is difficult for me to say how many. I am sure they are representative of past cases. What has happened more recently are a whole host of things that should make their experience far less likely in future. That starts with the fact that at the CPS, for the first time ever, alongside our operational plan and strategic plan for the whole organisation, we have a specific RASSO 2025 strategic plan for how we approach these cases as opposed to any other. The way we communicate with victims is one of the headlines of that strategic plan that we put in place, under my leadership, a year ago.

From there, we go to the joint national action plan announced at the very beginning of the year, before the Government review was published, between the CPS and the police where, again, the way that we look at and communicate with victims, spanning prosecutors and investigators, is a key part of the joint national action plan.

From there, we go to the framework published later this year for independent sexual violence advisers, which I have mentioned and shall not repeat. We are focusing on those good people who can communicate sometimes better than us or police officers with survivors of rape.

But to bring that back home to the CPS itself, I accept your challenge. We are not faceless or emotionless. Every time I go around the country to sit with our RASSO prosecutors and their support staff, I find people who absolutely understand the trauma that victims go through and who want to do everything they can to help. What I am saying is that we are reviewing what we do in communicating with victims. That has been necessitated by our own inspectorate reports, which have looked at the outcome letters that we write to victims. It is clear that there is room for improvement there. I accept the challenge.

**Chair:** Okay. We have heard a lot about frameworks, initiatives, joint operations and whatever else. That all sounds good, but I am concerned about what that means in practice to someone like Emily. In all that, you have not mentioned anything to do with counselling and support services for survivors. We have heard from survivors that they can be advised not to have particular forms of counselling until after the trial, which is



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impacting on their mental health. It is particularly important to keep them sticking with the process, which goes on for so long, which was my opening gambit to you.

I gather that the CPS has been consulting on draft guidance around pre-trial therapy for victims. Is that the case? When are you going to make some announcements? Why haven't you mentioned it up to now? It is quite a practical thing that lots of women like Emily might just have benefited from and which would have given them a rather different picture of the CPS than they have actually got. I have no doubt that there are some really good people that you have met, seen or sat next to and who are working for your operation around the country. I am trying to understand why the system does not allow them to be able to do what I am sure they want to be able to do on behalf of victims and survivors, as you described. Clearly, for some reason, the system does not enable them to do that.

**Max Hill:** I could talk about resourcing here, and the money and the people available, but really, to address what you are raising—thank you for raising it—I need to talk about what sort of trauma sets in when a victim goes through an offence of this type, which we do understand. To answer your question directly, we are going to publish revised guidance on pre-trial therapy. Let me be absolutely clear: I disagree with advice that people should not seek therapy pre trial. I say the opposite is necessary, drawing on expert advice that we have been using to train our prosecutors for a year or more now on the neurological impact of trauma. Materials are available to our prosecutors on exactly that and have been in place for a year. We know, and our prosecutors know, what happens to the brain of a survivor of serious crime. The emotional trauma makes it difficult for them to remember what has happened and order the events in their mind.

**Chair:** Which is part of the problem, as we discussed.

**Max Hill:** That is not because anything that they are saying is untrue. That is the effect of the trauma.

Q208 **Chair:** We all appreciate that. When is that guidance coming out?

**Max Hill:** The only reason why it has been suspended is because we have a consultation on the victims' Bill, which was announced a couple of weeks ago. There is to be an eight-week consultation on that. There, as in some other areas, we have to be sensitive to the will of Parliament and the steps that Parliament may take, and try to time our guidance accordingly. We have been doing the work on training in neurological impact for our prosecutors. We know that pre-trial therapy can actually put someone in the best position to give evidence in court, to tell their truth in court. It is not in any sense counter-productive to their case.

Q209 **Chair:** So it is ready to go but is being delayed because of other activities within Parliament. Is that what you are saying?



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**Max Hill:** Effectively, yes. I am saying that we have to look at the timetable of other events and try to make sure that we answer in the right sequence.

Q210 **Chair:** But if that consultation was not happening, you could produce that at any time now?

**Max Hill:** Yes, absolutely.

Q211 **Dame Diana Johnson:** Following up on that point, why can you not publish it? I understand that there is the victims' Bill consultation, but this seems quite a specific ask. I do not quite understand why there is a consultation on the victims' Bill.

**Max Hill:** It is a wide-ranging consultation on what support should be offered to victims at all stages of the process.

Q212 **Dame Diana Johnson:** But this is a specific request, and you have been looking at this for a while.

**Max Hill:** We have, but as with the Government's rape review, the courts Bill, which is still going through Parliament, and the victims' Bill, there are circumstances in which it is not always possible for us to publish what we might wish to. However, I reiterate that we give guidance to our prosecutors. We sit with experts so that when our prosecutors are going through accounts given by victims, they factor in the sheer mental trauma and anguish that a person has been going through.

To add to that, on disclosure and interrogation of private information, we are very keen to extend that to notes that are created during counselling sessions. What I cannot do is give an absolute guarantee that there are no circumstances in which counselling notes might have to be disclosed at a later trial, but those are very specific, exceptional circumstances. I think a lot of people perhaps feel that if they go into counselling, anything and everything they say to the counsellor will end up being disclosed in court. That is not the position. There are some circumstances where the legal tests that we have to apply can lead to disclosing all, or part, of what takes place in a counselling session.

However, in the vast majority of cases, the positive impact of counselling is that it allows the victim to tell her account in court, and it allows us to assess the ways in which further support might be needed, through special measures or assistance in court, when it comes to trial. We are already looking at that, and there is already guidance out on the neurological impact. We will try to bring forward the pre-trial therapy piece as soon as we can.

Q213 **Dame Diana Johnson:** Okay. You have stressed quite a lot that you are independent. I am thinking that you could use that independence and bring that forward.

I will ask you one other question. You have talked a lot about the relationship with police forces, and being able to work constructively with them; can you confirm that the best model, and the best service to



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victims, is where there is a RASSO team within police forces? Is that the best model that the CPS have, in terms of communication and the ability to provide a good service to complainants?

**Max Hill:** We could not prosecute rape without dedicated prosecutors, and it could not be investigated without dedicated investigators. You need specialists on both sides.

Q214 **Dame Diana Johnson:** Are those police forces that do not have specialist teams a problem?

**Max Hill:** We often use the word “gatekeeping”; it is a problem if they are not applying gatekeeping. In many of our geographical areas and in many of our offices, we will invite an officer or two to come and sit with our legal teams, so that when we are reviewing files that have been received from the police, we can talk to the police team about what more may be needed and why there is a problem in not charging that case immediately.

What I am seeing in the Soteria projects is building on that again. In Avon and Somerset, to give one example—it is not the only example—I am seeing gatekeeping, or supervision, by suitably experienced officers at the point before investigation files are transmitted to the police. Beyond that, I do think we have to be sensitive to the needs and resources of policing; it is not for me to dictate precisely what sort of police officer might be asked to assist in an investigation into sexual offences. I do not have the power to direct the police or to say how it should be done.

Q215 **Dame Diana Johnson:** No, you do not. However, you can say what works and what is most effective.

**Max Hill:** What I can say is, “Use every opportunity to come to the CPS for advice, and when you are progressing to a stage where you are able to send us the result of the investigation for us to conduct our code test, have another conversation then and ensure that suitably qualified police officers go through the material before it is sent to the CPS.” That can only streamline the system. In area after area, that is the model that I am seeing. In our south-east area, with Kent, Surrey and Sussex police, that is what we put in place—a great relationship with policing in all three areas. We are seeing that sort of model, which I believe will drive good results.

Q216 **Chair:** I want to come back to the numbers—without going through all the various percentages again. Notwithstanding your comment about resourcing, which has been a common theme that has come up, even with more resources, how would it be dramatically different? There is a disconnect—which is one of the criticisms—between the police and the CPS. We have heard accusations that the police are only submitting those cases where they feel there is a much higher than normal chance of getting a successful conviction, in order to “massage” the success rate. This would suggest that there are an awful lot of cases, as Mr Holloway was trying to get at, that really should have ended up going to court, and for which there was a good chance that the perpetrator would be found guilty—but it is not suiting the situation.



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If you had the resources, do you think that a much greater role would benefit the CPS? Would it benefit the CPS to have early sight of some of those 80% of cases, or however many it is, that do not get to your office? You could almost do some sampling of some of the complaints that come to the police for investigation, and say, "Hold on, that one actually looks more serious than one that you gave us last week." Would that be a useful use of your time if the resources enabled it?

**Max Hill:** I have to say that in order to look at every allegation of rape, given the headline numbers, you would need a Crown Prosecution Service several times larger than it is now, and I am not asking for that. Nor am I asking for the Crown Prosecution Service to have the power to direct the police. What we are here for is to give guidance as best we can, in writing and in person, to help to ensure that those cases that should be brought forward are brought forward.

Q217 **Chair:** I understand that. What I am trying to get you to say is that, if the CPS were to be able to display an interest in cases that the police are not progressing to court earlier, it might give you a better ability to judge that the police are giving you the wrong cases, or not giving you enough of the right cases. I entirely respect the integrity and the independence of your service against the police, but you are both trying to do the same job: you are trying to put perpetrators behind bars.

Despite all the witnesses that we have had, from eminent legal professionals to police witnesses and, most importantly, victim witnesses, I am still struggling to understand where the system is allowing such an appallingly low conviction rate, which is acting as a severe deterrent to victims coming forward, because they think that it is just not worth it for all the grief that they are going to have to go through. That sort of partnership and dual assessment of things when they come in the front door strikes me as an improvement. I wonder whether, if you had the resources to do it—notwithstanding the independence of both parts of this—you think that it would be a good idea.

**Max Hill:** Given the size and scale that you are rightly asking about, we need to take it in stages and look at what works. What is new about the last 18 months to two years are all the pathfinder projects, as they are called, which are trying a new model—the gold investigation model that I referred to in Avon and Somerset, and the way that we sit with police teams across our south-east region. We need to look at the outcomes from those projects, see what works and then see what should be done nationwide.

To those who say, "That's too slow," I agree. I will go this far: it cannot be right that nine out of every 10 rape complaints have no prospect of arriving in the courts. That cannot be right, but we do not see nine out of 10. My experience very recently is that we are seeing increased numbers and, through working together and the guidance that we produce, we are seeing a better appreciation of what the legal tests are and how cases can be built. That takes us to offender-centric approaches, etc.

Q218 **Chair:** My point was just about trying to get an acknowledgement from



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you that your being able to sample-see some of those nine out of 10 might benefit everybody in making sure that that figure is lower and that there are some strong prospects coming forward. I will ask you two short things specifically and then we will end with Mr Daly and another question.

How much has the whole situation been complicated by historical sexual abuse cases post Savile from October 2012? We know that a lot of historical sex abuse cases, including for children, have come forward post various high-profile grooming gang cases. It has also, perhaps, emboldened some more recent victims to come forward who previously might not have done because of the higher focus that sex abuse cases have had. Of course, historical sex abuse cases are much harder to get a successful prosecution in, for all the reasons involved when you are going back 20, 30 or 40 years. To what extent can you attribute these lousy figures to historical cases being much more part of your workload, and the police's workload?

**Max Hill:** Historical or non-recent sexual offences are undoubtedly an important part of the picture, but I would not characterise that as a problem. Indeed, our very experienced and dedicated prosecutors are adept at taking strong cases to court—as you say, they are sometimes many decades old. What that means is that we should not look at the offence of rape as being capable of a “one size, one solution” here. There are a huge range of possibilities in terms of how cases will be investigated and how long they will take, and when you put together the historical or non-recent cases with all the contemporary or recent cases, there are often different timelines and different solutions, depending on what you are looking at. You are right to say that if you put it all together—particularly at a time when the system has been so challenged through the range of things I mentioned, including covid and financial resource—that has undoubtedly played a part in the overall picture that we are discussing today.

Q219 **Chair:** Okay, but you would acknowledge that historical claims—however you want to define them—are a greater part of the mix than they were, say, 10 years ago, when Jimmy Savile was just an amiable, eccentric disc jockey rather than a serial sex offender.

**Max Hill:** Yes, I think it is undoubtedly true that high-profile, significant cases, perhaps looking over past decades, have the effect of encouraging others to come forward. That is one of the reasons why I would not support the call that many make for anonymity when it comes to cases, because experience shows that, actually, people will come forward and tell the truth about what has happened, and a stronger case is built as a result. Therefore, from the Savile cases onwards, it is true that there was a very significant rise in the amount of time that was required in the Crown court each year to deal with those cases. But I am not complaining about that.

Q220 **Chair:** No, I am not trying to drive away business. I am just trying to get the complexion of it. Anonymity is a whole different subject, on which



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this Committee has opined before, and I don't want to go there.

The last specific point from me before we go to Mr Daly is on deaf victims. We had a quite moving and really alarming private session with four deaf women who had all been the victims of serious sexual abuse. From memory, I don't think any of them had seen the perpetrator convicted. There were very clear signs that because the capacity to communicate between them and, initially, the police right at the outset, when evidence was fresh, was woefully inadequate, the chances of prosecution were greatly diminished. We are talking particularly about the availability of sign language. They were signers and, in some cases, English was not their first language, so there were further complications. They could not report to the police and, if they had been taken to hospital, could not communicate with the police to indicate where there was evidence that needed to be prosecuted in a timely manner, which had diminished the prospects.

It was deeply worrying that they had been denied justice through no fault of their own, but through their disability and the inability of the necessary agencies to deal with the cases on the same basis that they would for any of us around this desk today. Are you aware of specific problems with the deaf community in this respect?

**Max Hill:** The deaf community are one part of what we would call the victim community who have protected characteristics—in other words, they form a minority of one sort or another. That spans those who are deaf or blind, those who come from minority communities, possibly by ethnicity, and those who have mental health disorders. At the Crown Prosecution Service since my arrival—I can remember doing work on this in 2019, which was my first year in post—we have tried to go much further in providing guidance and assistance whenever we have custody of a case, to ensure that the principle of achieving best evidence is carried out, regardless of the particular characteristics of individuals.

My answer is that I am not personally aware of individual cases where representatives from the deaf community have had poor experiences or where their cases have not resulted in justice. In the legal guidance on rape and serious sexual offences, which we set out earlier in the year, we provided aide-memoire documents to help our prosecutors to ensure that, whenever they are reviewing a case, they are mindful of the protected characteristics and the difficulties of some victims in some cases. That can lead to a whole host of improvements—for example, the appointment of an intermediary at court to assist the victim while giving their evidence.

**Chair:** You are absolutely right, but the damage has been done by then. In fact, they were saying that the resources and facilities in court were not bad, but if, by the time you get to court, the evidence had been lost or was not there because of the communication way upstream, then you can have any number of signers in court and it won't make the difference. We are not trying to pull out one particular protected characteristic. There are obviously other people who have lost out. It just so happened that we took this evidence session. As a result of it, the Committee is writing to



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both the Justice Secretary and the Home Office to point out particular shortcomings. We are about to publish our note. It was a private session, but we produced a record of the main points that came out of it. It would be valuable if you were to read that. We will make sure that it is flagged up to you. There were some really alarming things that came out of that.

Q221 **James Daly:** We are out of time, so this will be a brief question. There is obviously a lot to discuss, but I want to pick up on what the Chair was asking a few moments ago. I think it is incredibly important that we gain an understanding of the 90% of cases that are not coming to the Crown Prosecution Service. Unless I am to be corrected, nobody on the Committee is saying that the Crown Prosecution Service should look at every single case that comes to it. Perhaps you can answer this: in terms of raising the issue, whether it be yourself or your regional directors with their local police forces, are people saying to each other, "If there is a problem, we as the CPS can help the police to address it."? Are you having those conversations? Are you or your senior management team saying, "We are extremely concerned about the relatively small percentage of rape cases that are coming through to us. What is the reason, please?". Are those conversations happening? Is that question being asked in that direct manner?

**Max Hill:** I think I can give an encouraging answer to that. I have had recent experience, and over previous months, of the head of a rape and serious sexual offence unit in the CPS having very close liaison with officers who are at an operational level in charge of casework and investigations in particular areas. When those conversations take place—and I have seen some of them—it is not a case of the CPS asking the police to only bring us a certain number of cases or setting a volume target. What it is saying is, "Show us what investigations are under way, and let us see whether we can help."

Q222 **James Daly:** So the answer to that is, "Yes." My final question is, again, direct. I am sorry to be over-critical, but I think these are important questions. In every police force in England and Wales, there are hundreds, if not thousands, of alleged offenders released under investigation for rape offences. Some of them have been on that for over 12 months. The CPS cannot wipe its hands of that. The vast majority of those cases involve CPS advice. There is a role for the Crown Prosecution Service. You might disagree with this, I don't know; that is the question. In terms of cases where people are released under investigation, is it the case that the Crown Prosecution Service is engaged in conversation with the police—whether it is about evidence or anything else—or are you saying that from your experience, the vast majority of those rape cases that are currently RUI are just simply the police putting on an RUI and doing nothing?

**Max Hill:** Let me be clear: the police, of their own accord, can release a suspect under investigation without ever bringing that to the attention of the CPS. That is one category of cases. It may be the largest—I do not know the volume because we would not know the volume. But there are



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other cases where early advice may have been given by the CPS about what is needed to build the case so that it would satisfy the—

**Q223 James Daly:** But you can see how it would be helpful for us to know the answer to that. We need to know the percentage of RUI cases that the CPS is involved in and the percentage that you are not. If the CPS is not involved in 60%, we have a real problem, because the police are just releasing under investigation and, on the face of it, doing nothing.

**Max Hill:** We would never instruct or request the police to release under investigation. That is not our role, so we do not give that instruction.

**Q224 James Daly:** I am not saying that; I am saying that released under investigation has taken place. It is a fact that we have lots of alleged offenders on RUI for months, if not longer, for rape offences. I have a final direct question, which I think you cannot answer: of the cases of rape that currently are RUI, do you know what percentage the Crown Prosecution Service is involved in, to the extent that it is giving the police advice on how to proceed?

**Max Hill:** I do not. What I think you are raising, if I could answer briefly—this is a matter of interest on the national scorecard that was published last week—is that as I speak, the data we hold does not distinguish between cases that are referred to us for advice and cases that are referred to us for a charging decision. That strikes us as a data gap that we are looking to improve in the coming months. Historically, we have not seen a need to disaggregate those two figures.

**Q225 James Daly:** If we were concerned by your answer and we wanted to speak to the police about what you just said, who would we speak to? Do we have to invite a variety of chief constables, or the police and crime commissioners? Who from the police can give us the answer to that question?

**Max Hill:** It is hard for me to answer that. By police force area, I am sure there will be information held on the volume of cases that have been released under investigation. Over time, it is my hope that that figure will reduce, through all the collaborative working and better communication that I have spoken to.

In that regard, I would add that although it is not specific to release under investigation, there is a joint operational improvement board, which came out of the national disclosure improvement board of 2018, which I still chair alongside Assistant Commissioner Ephgrave of the Metropolitan police, which looks, on behalf of the College of Policing, the National Police Chiefs' Council and the CPS, at disclosure, case progression and RASSO cases. As much as we can, we try to superintend information and drive improvement on all those matters through the joint operational improvement board.

**James Daly:** Thank you.

**Chair:** Thank you very much for that. I should explain, while we are still in public session, that our numbers are slightly denuded today due to a



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combination of our lack of a Chair until Wednesday following the reshuffle, plus some other reshuffle casualties, and some covid and other physical injuries. You have had the crème de la crème of the Committee today. We are very grateful for your evidence, which will enhance our inquiries.