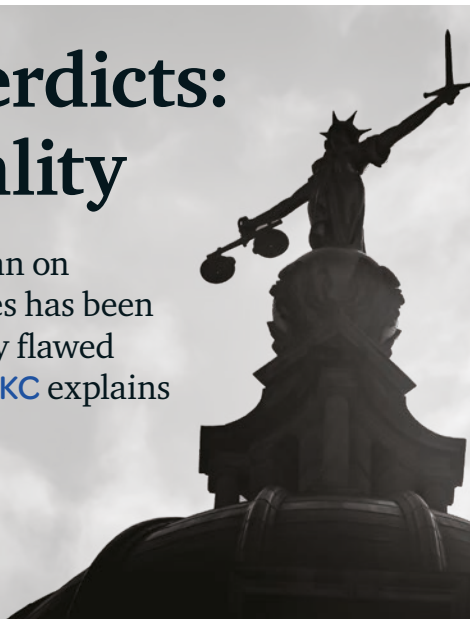


Jury rape verdicts: myths & reality

The government's action plan on conviction rates in rape cases has been based upon a fundamentally flawed premise, as [Michael Zander KC](#) explains



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IN BRIEF

► The government's 'End-to-End Rape Review Report' in 2021 was based on the assumption that there had been an unprecedented drop in charging levels for rape since 2016.

► However, a new study has shown that the decline in rape prosecutions that occurred after 2016 was part of a much wider systemic problem affecting the volume of prosecutions in the Crown Court in general.

A petition to Parliament in 2018 claimed juror bias against rape complainants and low conviction rates in rape cases. The petition called for all jurors in rape trials to complete compulsory training about rape myths on the basis that 'jurors accept commonly held rape myths resulting in many incorrect not guilty verdicts' and that 'rape conviction in the UK is very low'.

In reality, in each of the last 15 years juries have been more likely to convict than to acquit in rape cases, and the conviction rate for rape and all sexual offences has steadily increased over this period.

The government's 'End-to-End Rape Review Report' (2021) was based on the premise that there had been an unprecedented drop in charging levels for rape since 2016. In fact, the precipitous fall in rape charging was part of a systemic fall in charging for *all* offences.

The actual facts are shown in a study conducted by Professor Cheryl Thomas, director of the Jury Project at University College London, published this week in the *Criminal Law Review*. The study is based on analysis of all charges, pleas and outcomes in rape and other sexual offences in England and Wales 2007–2021. It examines a dataset of over 5.6 million

charges and all 68,863 jury verdicts by deliberation on rape charges in this 15-year period.

The study's findings

The not guilty plea rate The action plan in the government's review called for an increased number of early guilty pleas in rape cases. Professor Thomas' study shows not only that rape has the highest not guilty plea rate of any type of offence (85%), but that this has been the case consistently for the last 15 years. The next highest is for homicide-related offences (68%). The rate for sexual offences in general (44%) is far lower.

Average number of annual rape convictions The average number of jury verdicts per year in rape cases in the 15 years was 4,590. For seven of the past eight years the number was above the average—the only exception being 2020 when jury trials were severely restricted because of the pandemic. Fluctuations in rape charges reflect wider fluctuations in charging levels each year over the 15-year period, not just for all sexual offences but for all offences.

Jury conviction rates in rape cases The Rape Crisis website states: 'Despite high rates of rape and an increase in reporting in recent years, charging and conviction rates remain among the lowest since records began.' This turns out to be incorrect. Professor Thomas' study shows that for much of the 15-year period the jury conviction rate on rape charges was in the region of 52–55% annually, and that since 2018 it rose considerably. Over the 15-year period the jury conviction rate in rape cases was 58% on average—meaning they were more likely to convict than to acquit.

The focus of the government's review was on rape of a female aged 16 years or

over charged under the Sexual Offences Act 2003, which is only one of the ten possible charges for rape. Professor Thomas notes that the most recent annual jury conviction rate for that offence was 67%.

Hung juries On average over the period, juries were unable to agree a verdict in fewer than 1% of all jury verdicts on rape charges.

Downgrading of rape charges The study found no evidence that juries in rape cases tended to downgrade charges by finding the defendant guilty of some alternative offence or lesser charge. In the 15-year period this occurred in only 0.3% of all rape cases.

Jury conviction of younger rape defendants It had been claimed in recent years that juries in England and Wales were reluctant to convict younger defendants and, if that was so, juries should not try rape cases. Again, the analysis showed this belief to be mistaken. In seven out of the past 15 years, the lowest jury conviction rate in adult female rape cases was for defendants in an age group over 25 years of age. And in recent years, the analysis showed that juries have been more likely to convict than acquit a defendant in adult female rape cases for both defendants under and over 25 years of age.

Implications of the study

One of the main ambitions of the government's review was that 'more cases get to court, and more convictions are delivered, with an initial ambition of returning to 2016 levels.' Professor Thomas says: 'The findings presented here show that 2016 was not just an unprecedented, highwater mark for the volume of charges and outcomes for rape offences in the Crown Court. It was an unprecedented, highwater mark over the 15-year period for charges and outcomes for all offences in the Crown Court, and that there was also a rapid fall in charges for all offences in subsequent years.'

This indicated that the decline in rape prosecutions that occurred after 2016 was part of a much wider systemic problem affecting the volume of prosecutions in the Crown Court in general.

'Unfortunately', she said, 'without this longer-term analysis those wider problems were not acknowledged by the Review or taken into consideration in its Action Plan... An Action Plan based on what is perceived to happen in rape cases, not empirical evidence of what actually does happen, is likely to lead to policies that will struggle to be effective.'

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