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Health and Sport Committee
T3.60
The Scottish Parliament
Edinburgh
EH99 1SP
Email:
healthandsport@parliament.scot

Filippo Capaldi
Detective Superintendent
Specialist Crime Division (Public Protection)

Via e-mail only

Date: 18 June 2020

Dear Convener,

Health and Sport Committee consideration of the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Bill

Thank you for your correspondence dated 11 June 2020 and the opportunity for Police Scotland to provide written and oral evidence on the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Bill.

I would wish to reiterate Police Scotland's support for the introduction of the aforementioned Bill, which ensures victims of sexual crime in Scotland have equitable access to specialist forensic medical services and high quality care, whether they wish to report to the police at the time or not.

The committee sought clarification on the statistics in respect of male and female victims of sexual crime and any detail in respect of transgender victims. In addition you sought further information and clarity on Police Scotland's views in respect of an 'anonymous DNA database'.

Having considered the request, on behalf of Police Scotland, I offer the following by way of comment.

In respect of the statistics, Police Scotland Analytical and Performance Unit have conducted a review of reported rapes, subject to the parameters outlined below, for the financial year 2019-2020. From that review, it was ascertained that for reported rapes to Police Scotland, 96% of the victims were female and 4% of the victims were male. There are a number of caveats in respect of this statistical information, namely:

- These statistics relate to adults only i.e. those aged over 16 years.
- The statistics do not distinguish the *modus operandi* of the rape i.e. oral, anal or vaginal rape.
- The statistics do not include rape at common law, which occurred before the implementation of the Sexual Offences (Scotland) Act 2009 (the category of male rape would not have applied in law, before the implementation of the 2009 Act).

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- The statistics do not distinguish newly reported non-recent oral or anal rapes committed against men or women before the implementation of the Sexual Offences (Scotland) Act 2009 as they will not have been categorised as such. They are recorded as the crime that was in existence at the time the offence was committed (i.e. Sodomy/Indecent Assault/Clandestine Injury/Lewd & Libidinous Practices at Common Law or another statutory sexual offence)

A further review was undertaken of all sexual crime recorded for the financial year 2019-2020, which indicated 88.06% of victims were recorded as female, 11.933% were recorded as male and 0.007% of victims were recorded as transgender.

It must be highlighted that all statistics are provisional and should be treated as management information. All data has been extracted from Police Scotland internal systems and are correct as at 16 June 2020.

In respect of an 'anonymous' DNA database, I note the comments of the committee and evidence provided by other witnesses who have suggested the use of such a database in respect of self-referral cases. I can advise that in 2010, legacy Strathclyde Police and Archway, Glasgow, agreed a protocol for self-referral cases in an effort to increase the number of sexual crimes formally reported to Police. Further, it was recognised that victims of rape should be afforded acute access to specialist services who were able to respond to immediate clinical needs and provide appropriate support, counselling, onward referral and information to assist the decision making process and ultimately aid future recovery.

The service also provided the option for forensic evidential capture but would remain distinct from the Police until an individual elected to formally engage and support a criminal investigation.

It was agreed that adult victims who self-referred to Archway, Glasgow were provided access to immediate clinical care from on-site health professionals and pathways for further support and counselling. They were provided with a variety of options for consideration, which included, amongst others, an option to provide their consent for a forensic medical examination to be undertaken and for samples to be obtained. This extended to providing consent for intelligence to be shared anonymously with Strathclyde Police (thereafter Police Scotland from 2013) and an option to formally engage with police during a specific timeframe. In addition, they were able to provide consent for an Anonymous Forensic Testing Process (AFTP) to be undertaken on evidential samples obtained in an effort to encourage formal reporting.

ANONYMOUS FORENSIC TESTING PROCESS (AFTP)

Where an individual consented to engage with the AFTP, intelligence was provided to Strathclyde Police/Police Scotland in that regard. Additional information was also provided by Archway, Glasgow to allow submission of the forensic samples to the Scottish Police Authority Forensic Laboratory in order to facilitate further examination. The results from the examination were subsequently provided to a nominated single point of contact in Strathclyde Police/Police Scotland and the original intelligence report was updated.

On completion of the AFTP, the samples were returned to Archway for ongoing storage pending any subsequent formal engagement. An agreed form of words was thereafter

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relayed by Archway staff to their client to the effect that after examination, DNA evidence had or had not been obtained which may or may not support the incident in question.

Following review in 2017 it was identified that, whilst self-referral delivered benefits to victims by enabling access to appropriate services, the AFTP aspect presented significant challenges, risk and ethical dilemmas, in terms of examination of forensic samples and extraction of DNA for profiling without police engagement. Consequently, Police Scotland would be unable to support the reintroduction of an AFTP and an anonymous DNA database at this time, for the reasons outlined.

I trust this information is of assistance

Yours faithfully

Filippo Capaldi
Detective Superintendent