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## LAW

# DPP Saunders' 'failure of leadership' to blame for disclosure failures - MPs

By [Monidipa Fouzder](#) | 20 July 2018



**T**he Crown Prosecution Service may have underestimated by around 90% the number of stopped cases with disclosure errors, according to a damning report by MPs published today.

The House of Commons justice select committee, which has been investigating the disclosure of evidence in criminal cases, concludes that disclosure failures have been widely acknowledged for many years but have gone unresolved, partly because of 'insufficient focus and leadership' by ministers and senior officials.

The committee said it was 'surprised and disappointed that the [Director of Public Prosecutions], who should be closer to these problems on a day-to-day basis, does not appear to have pressed for more urgent action to address the worsening situation during her time in post'.

The committee did not feel the DPP sufficiently recognised the extent and seriousness of disclosure failures by police and the CPS. 'It is surprising and concerning that the Director of Public Prosecutions did not know that the case against **Liam Allan** had not been recorded as a disclosure error at the point that it was stopped. The director has not acted as quickly and proactively as required and this, it appears to us, has permeated throughout the organisation,' the report states.

The committee found that data collected by the CPS did not enable the DPP or attorney general to know if prosecutors were getting decisions right or wrong, which may have allowed disclosure errors 'to prevail and that miscarriages might have resulted'. A CPS review of rape and serious sexual offences indicates that data collected on cases that failed due to disclosure might have underestimated the number with disclosure errors by around 90%. Data collected by the CPS did not include cases which proceeded with disclosure errors.

MPs are 'particularly concerned' about the lack of remuneration for defence practitioners to review unused material and the impact of changes to the litigators' graduated fee scheme, the subject of a Law Society challenge in the **High Court** this week.



**Alison Saunders**

Saunders **steps down as DPP** in October. The committee expects her successor to 'proactively address' disclosure throughout their tenure. 'The culture of "it didn't start on my watch" is pervasive and undermining of public confidence. It must not continue,' the report says.

Commenting on the report, Conservative MP Bob Neill, committee chair, said correct disclosure of evidence by the police and CPS to the defence is fundamental to ensuring a fair trial 'but is too often regarded as just an administrative headache. This is not acceptable'.

The committee welcomed the National Disclosure Improvement Plan and 'look forward' to reading the attorney general's review. However, Neill said, 'these must deliver much needed improvement. There have been too many reviews of disclosure that have not resulted in real change'.

Law Society president Christina Blacklaws welcomed the committee's message to the government urging it to consider whether funding across the criminal justice system is sufficient to ensure a good disclosure regime.

The Criminal Law Solicitors' Association 'wholeheartedly rejected' the argument made to the committee that a fuller disclosure regime will place an unreasonable burden on the CPS. 'We believe it is essential that prosecutors review all the material in any event and IT improvements and the much-vaunted digitisation process must remove both logistical and financial costs from proper disclosure,' the association said.

Angela Rafferty QC, chair of the Criminal Bar Association, said she hoped today's 'thorough and searching' report 'will contribute to the restoration of proper functioning of the disclosure process and the broken criminal justice system'.

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**Peter Balchin**

Commented on: 24 July 2018 09:25 GMT

Alison Saunders is at Royston Vasey Mags, that is why below.

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**Anonymous**

Commented on: 23 July 2018 12:34 GMT

You never see Alison Saunders and David Starkey in the same photo, do you?

I think we should be told.

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**Anonymous**

Commented on: 21 July 2018 05:50 GMT

Shouldn't someone also be examining the role the magistrates and judges have failed to play in preventing some of this?

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@Michael Martin; Commented on: 20 July 2018 15:24 GMT:

"...our criminal justice system was better than in the US because we didn't have those State prosecutors we saw in films, dedicated to winning their cases to keep their jobs. Instead we had individual barristers, hired per case, who might on another day be working for the defence. ..."

Not just Barristers, but before the POOA 1985, don't forget the local Solicitors Firms prosecuted in the Mags. I was sure I recalled that one of the criticisms there was that Firms effectively 'climbed into bed' with the DPP's Office. The built in balance seems to be that those Firms did not only do Prosecution work but Defence work as well and thereby retained more of an unbiased approach.

I don't recall any actual real scandals because the local work was tendered out as Agency Work does anyone on here? Can they point to any specific malfeasance, because I don't see any suggestion of such, in either the news reports of the past, or the case law or Research work that predated the CPS.

There doesn't appear to be much history in Wade or Craig or Bailey on this either (to suggest there was a major risk). Far from it, can we ask the question whether the Professional Conduct Rules are more likely to be honoured by the Independent Solicitors and Bar than the average CPS Lawyer - who is of course not to be critical, supported by a bullet proof Govt. institution on any complaint, .hence presumably the feeling they can take liberties with disclosure and hence our current situation.

Perhaps for that reason it is time for a drastic reigning back of the Service and redistribution of the work amongst the local firms and Bar in the respective CPS Areas?

Obviously the DPP's Office always took over the more serious prosecutions.

I am not sure. I can be persuaded the other way.

Is the Profession 'further lowered in the public esteem'?

Not per se. But perhaps the question might be, 'is the CPS now irretrievably damaged such that they are seen as merely an institution that a Defendant has to do a deal with now, with the recurrent problem of funding a defence properly (including getting the costs back out of Central Funds), and overcharging by the CPS simply to obtain conviction at all costs.

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@Sir Richard Richard; Commented on: 20 July 2018 10:26 GMT:

"...And she wanted to fully reverse the burden of proof on rape cases? She's a joke..."

Richard Richard, was this not Vera Baird's proposal? If it was AS's later (?) proposal, then where may I find the appropriate link/reporting etc.. please?

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### Michael Martin

Commented on: 20 July 2018 15:24 GMT

@ 1231 In the dim and distant past

By the early 60s, I had learnt, maybe in school, that our criminal justice system was better than in the US because we didn't have those State prosecutors we saw in films, dedicated to winning their cases to keep their jobs. Instead we had individual barristers, hired per case, who might on another day be working for the defence. Now, "disclosure of evidence by CPS" (barristers/lawyers, apparently more concerned for their jobs than for justice) "to the defence is fundamental to ensuring a fair trial, 'but is too often regarded as just an administrative headache'". Is it now justifiable to consider them jobsworths, and further lower the legal profession in public esteem?

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### TIMOTHY DAVID HAWKINS

Commented on: 20 July 2018 13:18 GMT

She couldn't go quickly enough for me. She's clueless. Mind you Starmer wasn't far behind.

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### Anonymous

Commented on: 20 July 2018 12:48 GMT

Why is Ms Saunders waiting until October to step down? I think back to Lord Carrington, whose death was reported recently. He resigned as foreign secretary three days after the invasion of the Falklands, notwithstanding the fact that he could not have known what was planned. That is not the case here. I also understand that Ms Saunders is to parachute into a city job with one of the big boys. Shame. She does not appear to have the slightest empathy with those who have suffered as a consequence of massive failures of disclosure on her watch.

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Three jobs guaranteed to end in failure are, 1. Prime Minister 2. Care Home Manager and 3. Head of the perpetually under resourced CPS.

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**Anonymous**

Commented on: 20 July 2018 12:31 GMT

Clown Prosecution Service  
Completely Pathetic Service

In the dim and distant past when I undertook criminal work we all knew that you had to look very carefully at the unused material. The police and the CPS routinely sought to hide things. It is now very easy for them because electronic records aren't even on paper.

At university I was told that if I wanted justice I should go to church and that what we were learning was merely the law.

Alison Saunders and the like have no idea of what it is like in the real world, and rely on the fact that they are the government and therefore they are right and as another poster put just sprung as much money as a matter as they like with complete impunity.

This country is comfortably on the road to hell with the handcart rapidly accelerating on the downhill slope. Alison Saunders and her colleagues should be stripped of their pensions in the same way that a police officer who is dismissed loses his pension. That is the only way to stop these clowns.

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