

Prosecutions chief part of the problem, say MP and judge

David Brown

The director of public prosecutions was criticised by politicians and lawyers yesterday after insisting that innocent people were not in jail despite admitting there were "systemic issues" in disclosing evidence.

Alison Saunders was described as "part of the problem" by one Tory MP and "complacent" by a part-time judge after saying that the justice system was working despite failures with evidence leading to a string of trials collapsing.

She met senior police officers, senior representatives of the judiciary and legal professionals yesterday to discuss concerns that vital material is not being disclosed.

Ms Saunders acknowledged in a statement before the meeting: "It is clear that there are systemic issues across the entire criminal justice system. We will be considering what role each of us — police, prosecutors, and judiciary — should play in disclosure and immediate action we can take. We will also discuss whether any changes to systems, legislation or guidance might help address the issues we face."

Speaking on BBC Radio 4's *Today* programme she added: "The problem we have found recently is around the ever-increasing use of social media, all the digital material we obtain." She



Alison Saunders maintains that the system worked

suggested that photographs and social media accounts did not need to be fully checked in rape cases despite such evidence having been crucial in clearing a number of recent defendants.

Ms Saunders said that police were obligated to pursue "all reasonable lines of inquiry" but "that doesn't mean going into every single avenue of your life". Asked whether it was possible that there were people in prison because of failures of disclosure, she replied: "I don't think so because what these cases show is that when we take a case through to trial there are various safeguards in place; not least of which is the defence indicating what their defence is going to be."

Anna Soubry, a Conservative MP and former minister, said that she feared Ms Saunders was "part of the problem".

"Appalled at the ill informed comments of DPP Alison Saunders. Have been longstanding problems with disclosure," she wrote on Twitter. "Those duties extend to investigation of all allegations not just a few serious offences. I fear Alison Saunders is part of the problem."

Nick Rhodes, QC, a criminal barrister and part-time judge, wrote on Twitter: "Alison Saunders here displays precisely the complacent attitude that lies at the root of the failures in the approach to disclosure shown by her department and the police."

A senior prosecutor, who asked not to be named, accused Ms Saunders of being "in denial" and sending the "wrong message". The prosecutor added: "It is up to the attorney-general now."

Concerns about prosecutions for rape and serious sexual offences have

been highlighted since the trial of Liam Allan, 22, collapsed when it emerged that police had texts proving that his accuser had lied. He had spent nearly two years on bail and three days in the dock.

The case against Samson Makele, 28, was halted at Snaresbrook crown court last week after his defence team unearthed images from his mobile phone of him cuddling in bed with the alleged victim which had not been made available. Mr Makele, who said that they had had consensual sex, had spent 18 months on bail.

Ms Saunders said of Mr Makele's case: "How would anyone have known that there were photographs there until the defence had told us that they were there?"

She added: "The system worked. What I think should have happened in that case is it should have happened much earlier."

Rape cases under review

Scotland Yard is reviewing all current rape cases after the trial of a criminology student collapsed last month when it was revealed that police had failed to disclose evidence (David Brown writes).

Liam Allan, 22, spent almost two years on bail and three days in the dock at Croydon crown court, south London, before the trial was halted when it was revealed that text and social media messages proved that the complainant had lied. The trial judge demanded a review of disclosure of evidence by the police and warned of the risks of a "serious miscarriage of justice". The court was told that lawyers for Mr Allan had repeatedly been refused access to records from the woman's phone because police had insisted it held nothing of interest.

Days later the prosecution dropped charges against Isaac Itiary, 25, after he had spent four months in jail awaiting trial on child rape charges. Lawyers for Mr Itiary, discovered that the investigation had been led by Detective Constable Mark Azariah, also the officer in Mr Allan's case, and asked for the disclosure of all phone records in the case. Police handed over text messages showing that although the girl concerned was 14 and 15 at the time of the alleged offences she routinely posed as a 19-year-old.

Scotland Yard said before Christmas that its review of investigations into alleged rapes and serious sexual assaults would give priority to 30 cases where trials were about to start. The police and Crown Prosecution Service (CPS) have refused to say how many of those cases have collapsed.

This week it was revealed that Samson Makele, a handyman accused of rape, had been cleared after police failed to disclose photographs of him cuddling in bed with the alleged victim. Mr Makele, 28, hired an expert to retrieve the crucial photographs from his mobile phone after the police said that it contained nothing of interest. Mr Makele met the woman at the Notting Hill Carnival in 2016 and they spent the night at his home. The CPS offered no evidence at a pre-trial hearing.