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Blog

How to report sexual assault trials responsibly

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NB: These guidelines *supplement* legal requirements in relation to the reporting of rape and sexual assault cases, and focus on ensuring reporting does not *legally but inappropriately* lean towards a guilty or not—guilty narrative *whilst the trial is ongoing*.

For more general guidance on reporting on (men’s) violence against women, see [Zero Tolerance](#)’s media guidelines. If you would like further advice on these issues, see the experts list and additional resources listed at the end.

The New York trial of Harvey Weinstein has brought unprecedented global coverage to the criminal prosecution of rape and sexual assault over the past two months. For those of us in the UK – where much tighter legal restrictions are in place for reporting sexual assault trials - the level of detail in the media has been dizzying. There has been some phenomenal reporting in the Weinstein case: let’s not forget it was the investigative journalism of Jodi Kantor, Megan Twohey and Ronan Farrow and the bravery of the women who spoke to them that brought Weinstein’s abuses to light. At the same time, much of the media reporting of the trial has been sensationalist and a cause for concern for those of us working to support survivors, challenge myths about rape and sexual assault, and work towards gender equality. At Gender Equal Media Scotland, this has led us to take stock of what we already know from our work and research in this area, and think about what responsible reporting of rape and sexual assault trials looks like.

Media organisations reporting on ongoing trials will be rightly conscious of ensuring the accused has a fair trial. At the same time, research on media reporting of sexual assault has consistently demonstrated that **what passes for “fair and accurate” reporting is often subtly biased *against* complainants and witnesses**.

Responsible reporting means more than giving equal prominence to defence and prosecution arguments: though of course that’s important. It means ensuring the language used does not *implicitly* endorse either a guilt or innocence narrative and avoiding replicating gendered stereotypes, particularly in the characterisation of the accused, complainers and witnesses. A

principle underpinning all reporting on sexual assault trials must be that **the presumption of the accused's innocence does *not* mean a presumption that complainers and witnesses are lying.**

Responsible reporting of rape and sexual assault trials is also alert to the way in which these reports reverberate beyond the courtroom. The audience for sexual assault trial reporting includes potential and actual perpetrators and victim/survivors. How these cases are reported can make it more – and less – likely that potential perpetrators reflect on their actions, that incidents are reported to the police, and that victim/survivors seek support.

The Weinstein verdict may be in, but there will be other high-profile sexual assault cases in the future. At Gender Equal Media Scotland we have therefore identified eight principles for responsible reporting. These are accompanied by suggested sources and additional resources (points 9 & 10). An abbreviated version of these principles for quick reference is available [here](#).

We hope that these can become embedded in the way we think about the reporting of *all* sexual assault trials.

1. A sexual assault trial is about whether the prosecution can establish, beyond a reasonable doubt, that the accused committed the crimes he has been charged with.

This is an obvious point but it's worth repeating.

When the accused is a public figure, there is a tendency for reporting to emphasise the implications of the trial for the accused and the organisations and people associated with him. Men in positions of power are often held up as representatives of the organisations they lead. This can lead to coverage which diverts attention from the specific charges against *the accused*.

Particularly in cases involving assault within workplaces or public institutions, the relative power of the accused will always be relevant and there will likely be broader questions emerging about workplace and institutional cultures. It is appropriate, indeed necessary, to consider these. However, **in coverage of the trial itself, it is important to remember who is on trial and what he has been charged with.**

Remember who is on trial

Don't present the trial, or its verdict, as a metaphorical trial about something else.

Broader issues are most likely to be covered in reporting leading up to a trial and, in particular, in its aftermath. Read on for advice on handling these issues.

2. Remember the specific charges

The accused in a sexual assault case is not charged with sex so phrases like “sex claims” or “sex case” are inappropriate.

Report the charges accurately.

Don't use euphemisms like sex, kissing, touching or fondling to describe sexual assault charges.

3. Give equal weight to prosecution and defence during the trial.

Because of the nature of a criminal trial, it is likely that there will be periods during the trial where either defence or prosecution dominate proceedings. This is inevitably reflected in media reporting such that the question of *balance* might be weighed *over the course of a trial* rather than in a specific report.

Nevertheless, where a report emphasises the defence case, the charges should always be restated with the same prominence as given to the accused's plea in reports focusing on the prosecution case.

Balance may be weighed across the course of a trial.

However, individual reports should still include both the charges and the accused's plea.

We recognise that achieving balance in reporting on rape and sexual assault trials is complicated by the need to ensure the anonymity of the complainers. This tends to mean that where the accused appears as a fully-fleshed out individual in reports (particularly where he is already a well-known figure), complainers can seem like stock characters.

This can be partially addressed by not giving unnecessary detail about the accused if you can't provide similar detail about the complainers: this might include details of who accompanies the accuser to court, for instance, or information about his family or social networks which are not pertinent to the case.

Don't give unnecessary detail about the accused where similar detail cannot be given to humanise the complainer.

Where profiles or portraits of the accused run during or immediately following the trial, care should be taken to ensure that complainers are not blamed (implicitly or explicitly) for consequences to the accused which flow from the charges and/or verdict. These might include impact on reputation, job opportunities, and personal relationships.

We recognise that this information *can* be relevant to reporting, particularly when it is mentioned in court or following the verdict. However, it is important to remember that it is the accused's *alleged behaviour* – and the judgement that there is sufficient evidence that he has a case to answer – that has led to this point. Any discussion of impact on the accused should also be balanced with a consideration of the impact of criminal proceedings – and of sexual assault - on victims, survivors, complainers and witnesses. This is likely to be of particular relevance in the lead up to a trial, as well as in post-verdict reporting.

Avoid presenting the accused as a victim of the *complainers'* actions or statements.

Use experts who can provide context and commentary on the experiences of complainers in sexual assault trials, particularly in post-verdict reporting.

4. It is the job of the jury to decide if there are perpetrators and victims. Therefore, media reports should use comparable terms for the accused and those giving evidence against him.

As the job of a criminal trial is to ascertain whether or not there is evidence “beyond a reasonable doubt” that a crime took place, it is appropriate that terms like “victims” and “survivors” are used only with qualification (e.g. *alleged* victim). However, if comparable terms are not used for the accused (e.g. *alleged perpetrator*), this creates a subtle bias against those testifying for the prosecution. Whilst the terms “accused” and “complainer” will necessarily be used in reporting on proceedings in Scottish courts, try to avoid phrasing which can portray the accused as the victim and complainer as the as the aggressor.

Accused and alleged victim are not equally weighted terms.

Avoid accused/ accuser: this portrays the accused as the victim and the witness as the aggressor.

Instead use, accused and witness; or accused and complainer.

5. It is the job of the jury to decide the relative value of the accounts given in court. Therefore, media reports should use comparable terms to describe the testimony of both sides.

Research has repeatedly shown that media reporting of court testimony in sexual assault cases rarely accords equal value to the defence and prosecution. Instead, it often betrays an implicit bias towards the accuser, his legal team and witnesses by describing their statements in neutral or assertive terms whilst subtly casting doubt on the prosecution. For instance, the accused, their teams and witnesses *said, stated, asserted, denied*; whilst prosecutors and their witnesses *alleged, accused* or *claimed*. **It is important to remember that the charges against the accused are made by the prosecution *not* by an individual or group of individuals.**

Avoid using allegation and alleged in relation to only one side of the evidence.

Fair and balanced reporting uses equivalently weighted terms: she said/ he said; she testified/ he denied.

6. Make the provenance of statements clear, including in headlines.

Responsible reporting is too often undermined by a sensationalising headline. It is particularly irresponsible to use quotations from the defence, prosecution or any of their witnesses or supporters *without explicitly acknowledging the source*.

If using a quote in a headline always use quotation marks, and clearly indicate if the statement is made by a party in the case.

7. Carefully consider the language used to describe the accused and witnesses.

There are lots of myths around rape and sexual assault. These can inflect reporting on criminal trials as well as the reporting of rape and sexual assault more broadly.

There are decades of research to demonstrate that where men are presented as credible perpetrators of sexual assault, they are often presented as inhuman: monster, sex beast, fiend, animal. This is reinforced by physical descriptions which present the perpetrator as animalistic, grotesque or ugly – something we saw a lot of in the coverage of the Weinstein case. These descriptions can reinforce the myth that men who are deemed sexually attractive do not “need to” rape or sexually assault others. Whilst these terms are far less likely to be used to describe the accused in an ongoing trial, we include them here as they can sometimes be used to refer to the outcome of other trials and so impact on ongoing trials.

There are restrictions on the use of sexual history evidence in court, but even so reporting can sometimes play into these myths: for instance, with detailed physical descriptions of a witness, or comments about her relationships, demeanour or behaviour. It is also important to be alert to the fact that descriptions of complainers over the course of a trial may compromise their anonymity.

Avoid describing accused or convicted men as monsters, beasts, fiends or animals.

Avoid physical descriptions of accused or convicted men which play into myths about sexual assault (e.g. that only ugly men sexually assault women).

Avoid physical descriptions of witnesses and complainers which play into myths about sexual assault (e.g. that women are “asking for it”).

We recognise that these myths are sometimes mobilised in court by the defence or prosecution and it may be relevant to report on these. However, it is not *inevitable* that myths about sexual assault used in court are reported on. Only some aspects of a day’s proceedings make it into news reports, so you can *choose* not to replicate obvious myths in full or, for instance, not use direct quotations from defence/ prosecution which deploy these myths. If you do report on these issues it is important to clearly attribute the claims and not to then reproduce them in your own descriptions of the accused or witnesses.

When choosing which aspects of a day’s proceedings to emphasise in your reporting, reflect on whether it is really necessary to reproduce myths about sexual assault used in court.

If you *are* reporting on the use of myths about sexual assault in court, make sure statements are clearly attributed and avoid leading with them where possible.

If you are reporting on the use of myths about sexual assault in court, take care to provide alternative viewpoints, whether from defence or prosecution. Post-verdict, consider using external experts who can comment more generally on these myths.

Please remember that decades of research with victims and survivors of sexual assault has demonstrated that there is no one way, and certainly no “right” way, for victim/survivors to behave. The impacts of sexual assault vary widely and a witness’s emotional state on the stand gives no indication of her truthfulness.

Finally, we recognise that *all* of these points are a lot more difficult to police in comments threads where commenters are also unlikely to be aware of the implications of expressing opinions which may put them in contempt of court. With this in mind we strongly encourage news organisations to:

Turn off commenting functions for stories relating to ongoing sexual assault cases, including when sharing stories on Facebook.

8. Provide links to relevant helplines.

Organisations supporting victims and survivors of rape and sexual assault experience an increase in demand for their services when there are high-profile stories in the media. ***Whatever the outcome of a criminal case***, there are victims and survivors in your audience and the coverage of the trial may well be triggering for them. Providing links to relevant helplines can provide a lifeline.

For Scottish media, the following boilerplate statement can be used:

The Rape Crisis Scotland national freephone helpline is open nightly 6pm-midnight: 08088 01 03 02.

9. The bigger picture.

- For facts about sexual violence in Scotland, including the most recent statistics relating to criminal justice:
 - <https://www.rapecrisisscotland.org.uk/help-facts/>
- On rape and sexual assault trials and experiences of witnesses, victims and survivors:
 - Brenna Jessie, Press + Campaigns Officer, Rape Crisis Scotland: 07936362932 or Brenna.Jessie@rapecrisisscotland.org.uk
- On myths about sexual assault:
 - Brenna Jessie, Press + Campaigns Officer, Rape Crisis Scotland: 07936362932 or Brenna.Jessie@rapecrisisscotland.org.uk
- On sexual harassment in the workplace:
 - Brenna Jessie, Press + Campaigns Officer, Rape Crisis Scotland: 07936362932 or Brenna.Jessie@rapecrisisscotland.org.uk
 - Scottish Women's Rights Centre, 0141 331 4183 or communications@scottishwomensrightscentre.org.uk
- On social and cultural context of #MeToo:
 - [Professor Karen Boyle](#) (University of Strathclyde): karen.boyle.101@strath.ac.uk, @ProfKarenBoyle
- On gender equality in Scotland:
 - Alys Mumford, Communications Manager at Engender - 0131 558 9596 or 07889805785 or media@engender.org.uk.
 - Jenny Lester, Communications + Events Officer, Zero Tolerance: jenny.lester@zerotolerance.org, 0131 556 7365
- On media coverage of sexual assault:
 - Brenna Jessie, Press + Campaigns Officer, Rape Crisis Scotland: 07936362932 or Brenna.Jessie@rapecrisisscotland.org.uk
 - Jenny Lester, Communications + Events Officer, Zero Tolerance: jenny.lester@zerotolerance.org, 0131 556 7365
 - [Professor Karen Boyle](#) (University of Strathclyde): karen.boyle.101@strath.ac.uk, @ProfKarenBoyle

10. Additional resources

- [Zero Tolerance](#) have useful guidelines relating to responsible reporting of (men's) violence against women more generally.
- [Pass the Mic](#) is a growing list of expert women of colour in Scotland who can be consulted about a range of issues.
- [Women in Journalism Scotland](#) offer a range of resources, with an Online Members Directory coming soon.

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