



DPA

CHARGING DECISION/ADVICE & CASE ACTION PLAN (FOR CPS COMPLETION)

DPA

Review Type:
Full Code Test

Charging decision and advice, specifying or attaching charges (refer to documents/evidence seen, decision on offences)

Case Analysis / Evidential Issues

Update 24/9/14

VRI with NO-A286 checked - she is not describing rape. NOY does take advantage of the fact that he made her climax with his fingers and used that to persuade her to continue ie. you enjoyed it before, it's our secret, it's something that you do etc. During the VRI she said she felt it was her fault, it was wrong and she shouldn't be doing it, she felt obligated and she also felt frightened that if she didn't go along with it she would be taken away from a decent home. At no point does she say that she made it clear she didn't want to do it. She said she felt she was consenting but not emotionally. She later describes it as grooming and then sex. She does not use the word rape but 'sex with me'. She said that she knew what she was doing was sex but she failed to understand what was appropriate due to her previous abuse. The OIC has explained to NO-A286 by the OIC that we cannot charge rape. She is still determined to give evidence herself too which is good.

Conclusion

Irrelevant

• Charge:

- NO-A286 b. DPA/70 (DPA)
1. Bet. [redacted] and [redacted] 86 Indecent assault - Touching breasts under clothing – bet. DPA and DPA 86
 2. Bet. DPA and DPA 86 Indecent assault - Digital penetration – DPA and DPA 1986 (15)
 3. Bet. [redacted] and [redacted] 86 Indecent assault – Vaginal intercourse – Indecent assault (Note: this is not rape – the problem with this is that the offence under s.6 SOA 1956 (consensual) is time-barred after 12 months. However, the case of R v Jones [2003] suggests it is possible to still charge indecent assault where the circumstances are exceptional. Here, we have the offences being disclosed after 12 mths, the suspect was a foster carer and she was already damaged though a post-traumatic stress disorder so it might still be possible to charge indecent assault. Counsel's advice will need to be sought in due course – the other option is indecency with a child

Irrelevant

Irrelevant

- Further actions:

- Statement from [Name Redacted]
- Statement from [Name Redacted] Consultant Dermatologist
- Officers report from DS 2247 BALL
- The civil action records will be required.
- Statement from [Names Redacted]
- Statement from her psychiatrist re diagnosis of post-traumatic stress disorder
- Annex B material

Evidential Criteria

See previous advices

Public Interest

These are very serious sexual offences involving penetrative activity on minors. These matters will be sent to the Crown Court.

Mode of Trial

Indecent assault is either way (s.14). Sexual intercourse with a child under 13 (s.5 SOA 1956) is indictable only. All matters will go on the same indictment.

ECHR

No issues

DPP Consent

Not Relevant

Brief Summary

See previous advices

Charge / Plea Issues

The reviewing lawyer should be consulted about the offer of any pleas.

Witness / Victim Issues

NO-A286 and [Name Redacted] - video evidence in chief and probably screens

Issues re matters refused charge

2nd opinion – Anne McCarroll

Irrelevant

Continue on separate sheet if necessary

Prosecutor to indicate general nature of decision and advice (*Tick one box only*)

Suspect	Code	Advice	If 'K', enter Evidential reason	If 'C, D, D2, D5, E, F or L',

			code	enter Public Interest code
1. NOY, Stephen	A	Charge + Request Evidential File		
FURTHER ACTION AGREED for codes A, B, B2, H, I, J:				
<Acti onPI an> <ol style="list-style-type: none"> 1. Statement from Name Redacted 2. Statement from Name Redacted Consultant Dermatologist 3. Officers report from DS 2247 BALL 4. The civil action records will be required. 5. Statement from Names Redacted 6. Statement from her psychiatrist re diagnosis of post-traumatic stress disorder 7. Annex B material 				
Charging review/action date: <ActionReviewDate>				
Return bail date: <BailDate>				
Further consultation needed pre-charge: Y /N♦ <i>(If further consultation necessary, use continuation sheet</i>				
Prosecutor name <i>(print)</i> : Susan Matthews Contact details: Date: 24/09/2014				
Investigation stage at which advice sought:				
Post Interview				
How Advice Delivered:				
Written				

RESTRICTED (When complete)

CHARGE(S) DRAFTED/SPECIFIED BY CROWN PROSECUTOR

24th September 2014

URN

DPA

Local Reference Number <LocalReferenceNumber>

DPA



Suspect

NOY, Stephen

DoB

DPA

Charge(s)

1. **Code:**

SX56026

Offence:

Indecent assault on a girl under the age of 16 years (**DPA** 1986 - **DPA** 1986) – s.14 SOA 1956

Particulars:

Between **DPA** 1986 and **DPA** 1986 indecently assaulted **NO-A286** nee **Name Redacted**, a girl under the age of 16 years, namely 15 years by touching her breasts under clothing.

2. **Code:**

SX56026

Offence:

Indecent assault on a girl under the age of 16 years (**DPA** 1986 - **DPA** 1986) – s.14 SOA 1956

Particulars:

Between **DPA** 1986 and **DPA** 1986 indecently assaulted **NO-A286** nee **Name Redacted**, a girl under the age of 16 years, namely 15 years by penetrating her vagina with his finger.

3. **Code:**

SX56026

Offence:

Indecent assault on a girl under the age of 16 years (**DPA** 1986 - **DPA** 1986) – s.14 SOA 1956

Particulars:

Between **DPA** 1986 and **DPA** 1986 indecently assaulted **NO-A286** nee **Name Redacted**, a girl under the age of 16 years by penetrating her vagina with his penis.

4. **Code:**

SX56025

Offence:

Indecent assault on a girl under the age of 14 years (**DPA** 1986 - **DPA** 1989) – s.14 SOA 1956

Particulars:

RESTRICTED (When complete)

Between [DPA] 1986 and [DPA] 1989 indecently assaulted [Name Redacted] a girl under the age of 13 years, namely 3 to 5 years by touching her vagina under clothing.

5. **Code:**

SX56025

Offence:

Indecent assault on a girl under the age of 14 years ([DPA] 1986 - [DPA] 1989) – s.14 SOA 1956

Particulars:

Between [DPA] 1986 and [DPA] 1989 indecently assaulted [Name Redacted] a girl under the age of 13 years, namely 3 to 5 years by penetrating her vagina with his finger.

6. **Code:**

SX56025

Offence:

Indecent assault on a girl under the age of 14 years ([DPA] 1986 - [DPA] 1989) – s.14 SOA 1956

Particulars:

Between [DPA] 1986 and [DPA] 1989 indecently assaulted [Name Redacted] a girl under the age of 13 years, namely 3 to 5 years by rubbing her hand on his penis.

7. **Code:**

SX56025

Offence:

Indecent assault on a girl under the age of 14 years ([DPA] 1988 - [DPA] 1990) – s.14 SOA 1956

Particulars:

Between [DPA] 1988 and [DPA] 1990 indecently assaulted [Name Redacted] a girl under the age of 13 years, namely 5 to 6 years by penetrating her mouth with his penis.

8. **Code:**

SX56025

Offence:

Indecent assault on a girl under the age of 14 years ([DPA] 1990 - [DPA] 1992) – s.14 SOA 1956

Particulars:

Between [DPA] 1990 and [DPA] 1992 indecently assaulted [Name Redacted] a girl under the age of 13 years, namely 7 to 8 years by penetrating her mouth with his penis.

9. **Code:**

SX56005

Offence:

Unlawful sexual intercourse with a girl under 13 years of age ([DPA] 1988 - [DPA] 1990) – s.5 SOA 1956

Particulars:

Between [DPA] 1988 and [DPA] 1990 had unlawful sexual intercourse with [Name Redacted] a girl under the age of 13 namely 5 to 6 years.

10. Code:

SX56005

Offence:

Unlawful sexual intercourse with a girl under 13 years of age ([DPA] 1990 - [DPA] 1992) – s.5 SOA 1956

Particulars:

Between [DPA] 1990 and [DPA] 1992 had unlawful sexual intercourse with [Name Redacted] a girl under the age of 13 namely 7 to 8 years.

Authorised by Susan Matthews

Crown Prosecutor