

# Unfounded Cases and False Reports: A Complex Problem

Sgt. Joanne Archambault (Ret.)  
Executive Director  
End Violence Against Women (EVAW) International  
[www.evawintl.org](http://www.evawintl.org)  
(509) 684-9800

---

---

---

---

---

---

---

---

## Unfounded Cases and False Reports of SA

- ❖ A complex problem
- ❖ Consequences of problem
- ❖ How many reports are false?
- ❖ Best practice recommendations

---

---

---

---

---

---

---

---

## In the Headlines

- *“Women victimized twice in police game of numbers” (Pittsburgh, PA)*
- *“Police figures on rape in error” (Baltimore)*
- *“Unfounded rape cases to get a second look from Oakland PD”*
- *“FBI finds Detroit’s crime rate unreliable”*

---

---

---

---

---

---

---

---

## In the Headlines

- *“What rape? Abused by the system”* (St. Louis, MO)
- *“Atlanta Police chief Launches Inquiry into Hidden Reports, Handling of Rapes”*
- *“Rape victims blast TX PD”* (Tyler, TX)

---

---

---

---

---

---

---

---

## In the Headlines

### **“Fancy gets b'day wish – apology”**

March 27th, 2004 N.Y. Daily News

Seven years ago, Queens detectives didn't believe her allegations of rape. They thought a Newtown High School sophomore, had faked the attack to cover up an unwanted pregnancy and charged her with filing a false report. She was eventually sentenced to pick up garbage for three days.

In 2003, a DNA check nabbed Elias, 33, who was already serving a 15-year sentence for raping two other teens in assaults that occurred after his attack on this victim.

---

---

---

---

---

---

---

---

## A Complex Problem

- Suspicion that many SA reports are false
  - Shared by professionals and society
- Victims know when they are not believed!
  - Sometimes direct (words, agency policies)
  - Or indirect (attitudes, everyday practices)
- Sometimes triggered by “red flags”

---

---

---

---

---

---

---

---

## “Red Flags” Trigger Suspicion

- Victim knows suspect
- Prior sexual relationship
- Victim is an adolescent
- No physical violence
- No weapon
- Victim is calm
- Delayed report
- Third party report
- Can't find victim
- No physical evidence
- Victim doesn't cooperate
- Victim changes account
- Victim is vague
- Victim recants
- Victim later recalls more
- Details are false
- Victim is not credible
- Victim is drunk/on drugs
- Victim is a prostitute
- Victim is belligerent
- Victim is homeless
- Victim is mentally ill
- Victim fails polygraph
- Suspect cannot be identified

---

---

---

---

---

---

---

---

## “Red Flags” Trigger Suspicion

- “Red flags” spark emotional “gut reaction”
  - Anger, frustration, betrayal, etc.
- Yet they reflect realistic dynamics of SA
  - Commonly see in “typical” caseload
- Most obvious aspect of “complex problem”

---

---

---

---

---

---

---

---

## Confusion Over Definition

International Association of Chiefs of Police:

*“The determination that a report of sexual assault is false can be made only if the evidence establishes that no crime was committed or attempted.”*

Source: IACP Concepts and Issues Paper: *Investigating Sexual Assaults*. July, 2005.

---

---

---

---

---

---

---

---

### Confusion with “Unsubstantiated”

- “Unsubstantiated” = insufficient evidence to determine whether or not crime occurred
  - Term used in the U.S. Army is “insufficient evidence”
- Not a clearance category for UCR purposes, but used in regular language and child abuse reports
- **“UNSUBSTANTIATED” DOES NOT EQUAL “FALSE”**
  - **“INSUFFICIENT EVIDENCE” DOES NOT EQUAL FALSE**

---

---

---

---

---

---

---

---

### Confusion with “Unfounded”

- “Unfounded” = UCR definition includes both false reports and “baseless” reports
- “Baseless” = incident does not meet the elements of the crime (but is presumed truthful)
- **“UNFOUNDED” DOES NOT EQUAL “FALSE”**

---

---

---

---

---

---

---

---

### CANNOT unfound based on:

- Insufficient evidence to prove SA happened
- Suspicion that the report is false (“red flags”)
- Victim changes his / her account of events
- Refusal of the victim to cooperate
- Failure to locate suspect or make an arrest
- Failure to locate the victim
- Findings of prosecutor, jury, judge, coroner

---

---

---

---

---

---

---

---

### Other Problems with “Unfounded”

- Very different criteria used for unfounding
  - No training for officers in UCR categories
  - Lack of supervision w/ clearance decisions
  - Inconsistent across / even within agencies

---

---

---

---

---

---

---

---

### Other Problems with “Unfounded”

- Problems w/ coding procedures
  - Decisions made prematurely
  - Not understanding elements of crime

---

---

---

---

---

---

---

---

### Other Problems with “Unfounded”

- Agencies typically do not track false vs. baseless
  - No way to estimate percent of false reports
  - Again, “unfounded” does not equal “false”
  - Yet unfounded stats are used this way all the time

---

---

---

---

---

---

---

---

### Other Problems with “Unfounded”

- Narrow definition of “forcible rape”
  - UCR definition = “Carnal knowledge of a female, forcibly and against her will”

---

---

---

---

---

---

---

---

### Other Problems with “Unfounded”

- UCR definition excludes:
  - Victims who are male
  - Child victims (under the age of 12)
  - Victims who are unable to consent because they are unconscious, severely disabled
  - SA facilitated with drugs / alcohol
  - All other forms of SA: anal, oral, digital, foreign object, or other forms of sexual battery
- **Majority of SA reports are excluded**

---

---

---

---

---

---

---

---

### Other Problems with “Unfounded”

- Pressure on officers to clear cases
  - Evaluations based on clearance rates
- Used to make difficult cases “disappear”
  - When officer doesn’t believe victim
  - When victim recants, withdraws from CJS
  - When parts of the report are false
  - When no significant medical findings

---

---

---

---

---

---

---

---

### Parts of Report are “False”

- Parts of the victim’s account may be false
  - Omitted, exaggerated, inconsistent, or false
  - Does not necessarily mean report is false
  - Many reasons why this can be expected

---

---

---

---

---

---

---

---

### Reasons for “False” Information

- ❖ Trauma or disorganization
- ❖ Memory impairment (drugs, alcohol, etc.)
- ❖ Discomfort relaying details of the assault
- ❖ Afraid of being doubted or blamed
- ❖ Fear of being blamed, or even arrested
- ❖ Desire to protect the perpetrator
- ❖ Cultural reasons

---

---

---

---

---

---

---

---

### Reasons for “False” Information

- ❖ **To make the SA sound more believable  
“more like a “real rape”**
  
- ❖ Does not necessarily mean report is false

---

---

---

---

---

---

---

---

## Consequences of Problem

- In individual cases
  - Victim feels betrayed, spreads the word
  - Perpetrator given a "free pass" to rape again
  - Evidence MAY not be able to be used in a future case
- Wider impact on community
  - Misinformation about real dynamics of SA
  - Other victims do not report
  - Police departments face scrutiny when exposed
  - High rates of unfounded further fuel suspicion of SA

---

---

---

---

---

---

---

---

## How Many Reports are False?

- Estimates that are unreliable:
  - UCR statistics on unfounded cases

---

---

---

---

---

---

---

---

## National Unfounded Rates

- |                    |                  |
|--------------------|------------------|
| ➤ Philadelphia 18% | ➤ Los Angeles 6% |
| ➤ Chicago 17%      | ➤ San Diego 6%   |
| ➤ San Antonio 14%  | ➤ Detroit 4%     |
| ➤ Dallas 11%       | ➤ Phoenix 2%     |
| ➤ New York 8%      | ➤ Houston .5%    |

---

---

---

---

---

---

---

---

## How Many Reports are False?

- Estimates that are unreliable:
  - Anecdotal evidence (asking for estimates)
  - Unverifiable sources (e.g., NYC 2% study)
  - Misinterpreted data (e.g., confusion of computing % of unfounded vs. all reports)
  - Misquoted experts (e.g., Linda Fairstein)
  - **The famous Kanin (1994) study**

---

---

---

---

---

---

---

---

## The Kanin (1994) Study

- Most frequently cited study
  - Especially on websites and by defense attys
- Percent of false reports over 9 years
  - Reports from one small police department
  - Determination made by police officers
  - No method of evaluating or verifying decision
  - No check on bias of police or author

---

---

---

---

---

---

---

---

## The Kanin (1994) Study

- Decision based on victim recantation
- Used or threatened polygraph in all cases
  - No surprise that 41% of victims recanted
  - Practice violates guidelines of IACP and DOJ
- In an “addenda,” states that data from 2 universities found 50% false report rate

---

---

---

---

---

---

---

---

## Reliable Research

- EAW International “MAD” Study
  - Data from 8 U.S. communities
  - All sexual assault cases, 18-24 months
  - Law enforcement personnel trained in clearance categories (esp. false vs. baseless)
  - 2,059 cases with known case dispositions
  - **7.1% were classified as false reports**

---

---

---

---

---

---

---

---

## Reliable Research

- The Boston Study (Lisak et al., in review)
  - Major northeastern university
  - All 136 sexual assault cases from 1998-2007
  - 2 independent teams of coders
  - Reviewed each case report
  - Interviewed investigators
  - **5.9% were classified as false reports**

---

---

---

---

---

---

---

---

## Reliable Research

- British Study (Kelly, Lovett & Regan, 2005)
  - 2,643 cases reviewed over 15 year period
  - Reviewed case files, reports, some interviews
  - 8.2% classified as false reports by police
  - **2.5% classified as false reports** by researchers using standardized criteria from police manual
  - A “clear and credible admission by the complainant” or “strong evidential grounds”

---

---

---

---

---

---

---

---

## Reliable Research

- Australian Study (Heenan & Murray, 2006)
  - 812 cases reported to police in Victoria
  - Used quantitative and qualitative analysis
  - **2.1% were classified as false reports**

---

---

---

---

---

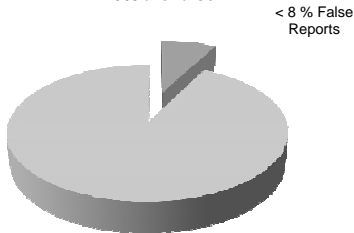
---

---

---

## Conclusion: Reliable Research

Of all reports of sexual assault, less than 8% are false.



---

---

---

---

---

---

---

---

## Reliable Research

- Many people dramatically overestimate the percentage of false reports
  - Not surprising with media coverage
  - And many insist that “it is different here”
- Idea influences the response of society

---

---

---

---

---

---

---

---

## The "Cycle of Suspicion" Against Victims

- Begin with suspicion that a high percentage of sexual assault reports are false
  - Communicate this suspicion to victims
  - Victims become upset / withdraw cooperation
  - Further fuels the suspicion that many if not most reports of sexual assault are false

---

---

---

---

---

---

---

---

## The Cycle of Suspicion

Investigator doesn't believe the victim



Communicates this suspicion to the victim

"See, I knew it was a false report!"

Victim withdraws and/or becomes non-cooperative

---

---

---

---

---

---

---

---

## The "Cycle of Suspicion" For Suspects

- Suspect is credible, respectable, likeable
  - Suspect may have plausible story, believe he had consent, be confused and upset
  - Sympathy is communicated to suspect with questions, statements, and tone
  - Investigator lends credence to statements

---

---

---

---

---

---

---

---

### Cycles of Suspicion and Sympathy Converge

- Victim feels doubted, while the suspect gains confidence that he is believed
  - Investigation is going “his way” or “nowhere”
  - Suspect gains confidence, credibility
  - Victim withdraws, may be non-cooperative
  - Attitudes carry over, and the cycle repeats

---

---

---

---

---

---

---

---

### The Bottom Line

- False reports higher for property crimes
- Yet not same attitude as sexual assault
- **Why?**

---

---

---

---

---

---

---

---

### The Bottom Line

- Attitude is bigger problem than lack of training or technical expertise
- Best place to create change

---

---

---

---

---

---

---

---

## “Real” False Reports

- Even if we tend to overestimate their frequency, no one will deny they occur
  - Damage extends well beyond the case
  - Previous research on potential indicators based on FBI (stranger, high profile cases)
  - No rigorous empirical research on actual characteristics of false reports

---

---

---

---

---

---

---

---

## Potential Indicators of a “Real” False Report

Potential indicators are actually the stereotypical characteristics of “real rape”

- This is not a coincidence

---

---

---

---

---

---

---

---

## Consider this:

*If you were going to file a false report of sexual assault, would you describe the realistic dynamics of sexual assault? Would you really say that you were assaulted by someone you knew, perhaps someone with whom you have had a relationship or even had sex? Would you really say that you were drinking at the time, or perhaps even taking drugs, or engaging in other risky behavior?*

---

---

---

---

---

---

---

---

### Probably Not

- By describing the realistic dynamics of sexual assault, you probably wouldn't get the response you want from people
  
- So you would describe a sexual assault that looks like the stereotype of "real rape"

---

---

---

---

---

---

---

---

### Potential Indicators of a "Real" False Report

- Suspect is a stranger or vaguely described acquaintance not identified by name
  - Victim physically resisted to the utmost
  - Use of a weapon, serious physical violence, and/or injury to the victim
  - An assault involving only penile-vaginal penetration and no other sexual acts

---

---

---

---

---

---

---

---

### Potential Indicators of a "Real" False Report

- Escalating problems in life or relationships
  
- History of mental or emotional problems
  
- Characteristics of "copycat" crime

---

---

---

---

---

---

---

---

## Determining a Report is False

- None significant if they occur in isolation
- Could indicate either:
  - an increased risk of actual sexual assault
  - or an increased likelihood of filing false report
  - for example, mental or emotional problems

---

---

---

---

---

---

---

---

## Determining a Report is False

- A report should only be seen as suspect when a number of indicators are present
- Truth is in the facts

---

---

---

---

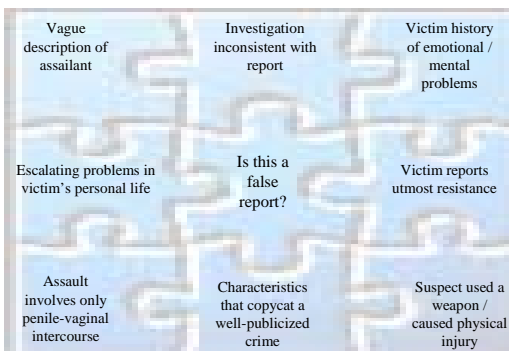
---

---

---

---

## Putting All the Pieces Together



---

---

---

---

---

---

---

---

## Responding to a Suspected False Report

- Act on suspicion only if concerns are very serious, based on investigative facts
- Devastating if suspicion is misplaced
  - Destroys trust and eliminates prosecution
  - Challenge must be with supportive tone
  - Allows for correction, clarification if wrong

---

---

---

---

---

---

---

---

## To prosecute or not?

- Advantages of prosecuting false report
  - Exonerate innocent person who was arrested, booked, subjected to forensic examination
  - Address very high profile cases
  - Hundreds of hours of investigative effort
  - Seek restitution for agency expenses
  - Help law enforcement professionals deal with the negative impact

---

---

---

---

---

---

---

---

## To prosecute or not?

- Disadvantages of prosecuting someone for filing a false report, even if justified
  - Media coverage fuels juror suspicion
  - Deters future victims from reporting

---

---

---

---

---

---

---

---

### To prosecute or not?

Difficult to justify the time / expense for prosecuting a misdemeanor offense

- Use investigative facts already in the case file

---

---

---

---

---

---

---

---

### To prosecute or not?

False reports are typically the result of serious psychological and emotional problems

- Extremely frustrating situations, but perhaps best handled with referrals for social services

---

---

---

---

---

---

---

---

### Take Care of Yourself!

➤ Maintain physical/psychological well-being

- Recognize the toll taken by your job
- Identify the negative effects of burnout
- Seek out resources to deal with frustration

---

---

---

---

---

---

---

---

### Best Practice Recommendations

1. Offer definitions / training on false reports, unfounded cases, recantations, and unsubstantiated investigations
  - AG's office can take the lead to offer a position paper like Oregon Attorney General's Office Sexual Assault Task Force
  - [www.oregonsatf.org/resources/positionpapers/html](http://www.oregonsatf.org/resources/positionpapers/html)

---

---

---

---

---

---

---

---

### Best Practice Recommendations

2. All SA reports documented with written report / investigated to the extent possible
  - Not seen as "false until proven true"
  - Assigned number for case tracking
  - Crime report vs. informational report

---

---

---

---

---

---

---

---

### Best Practice Recommendations

3. Cannot unfound SA report based on preliminary investigation or initial interview
  - Need evidence from thorough investigation
  - If investigation is inconclusive, cannot be false

---

---

---

---

---

---

---

---

### Best Practice Recommendations

- 4. Follow up with all SA victims to verify information and conduct investigation
  - Provide multiple opportunities to respond
  
- 5. All SA reports reviewed by supervisor
  - Or co-worker, colleague with specialized training

---

---

---

---

---

---

---

---

### Best Practice Recommendations

- 6. Provide training in clearance methods
  - (1) Open
  - (2) Cleared by Arrest
  - (3) Cleared by Exception (DA Reject, VDP)
  - (4) Cleared as Unfounded
  - (5) Suspended / Inactivated
  - (6) Informational Reports

---

---

---

---

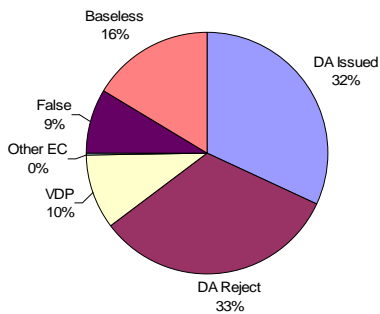
---

---

---

---

Case Dispositions:  
Detailed Analysis of Case Clearances



---

---

---

---

---

---

---

---

### Best Practice Recommendations

7. Use the same standard form to record clearance methods for each SA case
- Include form in all investigative case files
  - Not just UCR definition of “forcible rape”
  - Track unfounded cases as false vs. baseless

---

---

---

---

---

---

---

---

### Best Practice Recommendations

8. Supervisors need to review dispositions of all SA cases for balance

---

---

---

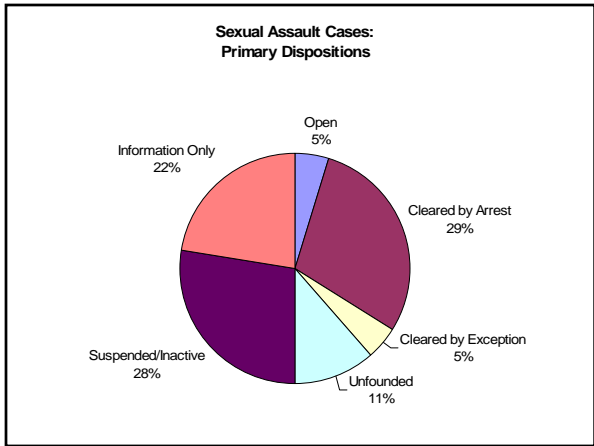
---

---

---

---

---



---

---

---

---

---

---

---

---

### Best Practice Recommendations

- 9. Eliminate pressure to clear % of cases
  - Formal review systems and informal culture
  - Reward thorough investigations, regardless of case outcomes

---

---

---

---

---

---

---

---

### Best Practice Recommendations

- 10. Suspend / inactivate cases if needed

UCR Guidelines: *“Departmental policy in various law enforcement agencies permits the discontinuance of investigation and the administrative closing of cases in which an investigation has been completed.”*

---

---

---

---

---

---

---

---

### Benefits of Suspending or Inactivating Cases when Needed

- Relieves pressure to clear cases
- Decreases improper use of unfounding
- More likely to assist in prosecution later
  
- Many agencies re-open unfounded cases as the result of a lawsuit or complaint by the victim and then determine that they were legitimate upon further investigation.

---

---

---

---

---

---

---

---

**Best Practice Recommendations**

- 11. Improve tracking system, to track progress of SA cases through CJS
  - Track attrition, identify / address problems
  
- 12. Work with Child Abuse Units to standardize recording crimes of sexual violence against children and adolescents

---

---

---

---

---

---

---

---

**Best Practice Recommendations**

- 13. Improve response w/ team approach
  - Prosecution not only indicator of success
  - Multidisciplinary outreach for victims whose cases are not likely to be prosecuted
  - Critical in cases of repeated victimization
  
- 14. Multidisciplinary review for unfounded cases to ensure they are cleared properly

---

---

---

---

---

---

---

---

**Best Practice Recommendations**

- 15. Address issue proactively, not in crisis
  - Cross-training between professionals

---

---

---

---

---

---

---

---

### Best Practice Recommendations

16. Provide rape crisis centers and others with the total number of SA's that are reported and how they were disposed

17. Immediately investigate complaints or inquiries about the outcome of any case

---

---

---

---

---

---

---

---

### For more information:

- EAW International ([www.evawintl.org](http://www.evawintl.org))
  - On-Line Training Institute module on false reports
- Oregon Attorney General's position paper
  - [www.oregonsatf.org/resources/positionpapers/html](http://www.oregonsatf.org/resources/positionpapers/html)
- APRI Voice article on false reports:
  - [www.oregonsatf.org/resources/positionpapers/html](http://www.oregonsatf.org/resources/positionpapers/html)
- Email:
  - Joanne Archambault: [Joanne@mysati.com](mailto:Joanne@mysati.com)

---

---

---

---

---

---

---

---