


**Unfounded Cases and False Reports:
A Complex Problem**




Campus Webinar Series
Tuesday, October 26, 2010

Campus Program Staff



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Agenda



- I. CALCASA Announcements
- II. Technical Instructions
- III. Presentation by Dr. Kimberly A. Lonsway
- IV. Q&A

Announcements



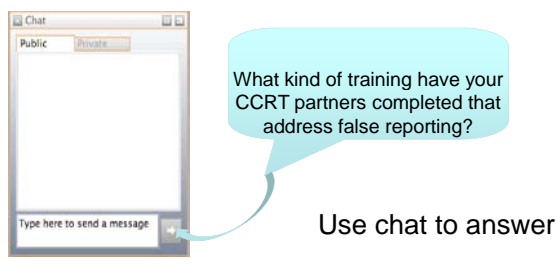

- No more webinars in 2010
- Webinar materials on CALCASA.org/campus
- Winter Institute scheduled for February 7-9, 2011

How to use the Technology



- Raise Hand
- Q & A
- Text Chat
- PowerPoint Slides


Chatting on iLinc



What kind of training have your CCRT partners completed that address false reporting?

Type here to send a message

Use chat to answer

October Webinar Presenter 

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Dr. Kimberly A. Lonsway
Director of Research, EAW International

Objectives

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- ▶ To recognize that unfounded cases and false reports of sexual assault are a complex problem
- ▶ To gain an understanding of the consequences related to unfounded cases and false reports of sexual assault.
- ▶ To know how many reports are false
- ▶ To identify best practice recommendations for potential application/adaptation on campus.
- ▶ To recognize implications for campus response

Unfounded Cases: In the Headlines

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- ▶ **“History shows sexual-assault cases have not been a priority for Cleveland’s city leaders, law enforcement”**
By Rachel Dissell with Leila Atassi
The Cleveland Plain Dealer
Sunday, March 28, 2010
- ▶ **“Panel Seeks More Police Training on Sex Crimes”**
By John Eligon
The New York Times
Wednesday, June 2, 2010

Unfounded Cases: In the Headlines

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› **“NYPD Forced to Apologize Publicly to Rape Victim for Downgrading Her Attack”**

By Graham Rayman
The Village Voice
Monday, May 10, 2010

› **“City rape statistics, investigations draw concern”**

By Justin Fenton
The Baltimore Sun
Sunday, June 27, 2010

Unfounded Cases: In the Headlines

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› **“Police launch investigation into inaction complaints”**

By Gina Barton and Becky Vevea
The Milwaukee Journal Sentinel
Wednesday, July 7, 2010

› **“NOPD downgrading of rape reports raises questions”**

By Laura Maggi
The Times Picayune
Saturday, July 11, 2009

Unfounded Cases: In the Headlines

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› **“Cranberry rape victim's suit revived”**

By Brian Bowling
Pittsburgh Tribune-Review
Tuesday, August 3, 2010

› **“Senator Specter to hold hearing on mishandling of rape cases”**

By Craig R. McCoy
Philadelphia Inquirer
Wednesday, September 8, 2010

A Complex Problem

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- Suspicion that many SA reports are false
 - Shared by professionals and society
 - Perception affects everything we do

- 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

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- 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

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- “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

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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”

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➤ “Unsubstantiated” = insufficient evidence to determine whether or not crime occurred

➤ **“UNSUBSTANTIATED” DOES NOT EQUAL “FALSE”**
• “INSUFFICIENT EVIDENCE” DOES NOT EQUAL FALSE

Confusion with “Unfounded”

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➤ “Unfounded” = Uniform Crime Report (UCR) definition includes both
(1) false reports
(2) “baseless” reports

➤ “Baseless” = incident does not meet the elements of the crime (but is presumed truthful)

➤ **“UNFOUNDED” DOES NOT EQUAL “FALSE”**

Cannot Unfounded Based on...

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- Insufficient evidence to prove SA happened
- Suspicion that the report is false ("red flags")
- Victim changes his / her account of events
- Details in the victim's statement are false
- Victim is unable / unwilling to cooperate
- Failure to locate suspect or make an arrest
- Findings of prosecutor, jury, judge, coroner

Other Problems with "Unfounded"

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- Very different criteria used for unfounding
- Agencies do not track false vs. baseless
- Pressure on officers to clear cases
- Used to make difficult cases "disappear"

The "Cycle of Suspicion" Against Victims


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- Begin with suspicion that 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 Sympathy" for Suspects

- Suspect is credible, respectable, likeable
 - Suspect may have plausible story, believe there was consent, be confused and upset
 - Sympathy is communicated to suspect with questions, statements, and tone
 - Credence given to suspect's statements

Cycles of Suspicion & Sympathy Converge

- The investigation dead-ends...
- Appears to confirm the report was false...
- Attitudes carry over...
- And the cycle repeats...

Consequences of Problem

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> In individual cases

- Victim feels betrayed, spreads the word
- Perpetrator given a "free pass" to rape again
- Evidence cannot be used in a future case

> Wider impact on community

- Misinformation about real dynamics of SA
- Other victims do not report ("why bother?")
- Police departments / agencies face scrutiny if caught
- High rates of unfounded further fuel suspicion of SA

How many reports are false?

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› Estimates that are unreliable:

- UCR statistics on unfounded cases

National Unfounded Rates

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- | | |
|--------------------|------------------|
| › 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?

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- 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

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- Most frequently cited study

- 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

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- 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

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- › 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)
 - 1,984 cases with known case dispositions
 - **7.1% were classified as false reports**

Reliable Research

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

Reliable Research

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- › 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 criteria from police manual: "clear and credible admission by complainant" or "strong evidential grounds"

Reliable Research

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- 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

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Of all reports of sexual assault, approximately 2-8% are false.



Real "False" Reports

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

Consider This:

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If you were going to file a false report of sexual assault, what would it look like?

Potential Indicators of a “Real” False Report

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- › 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 not other sexual acts

Potential Indicators of a “Real” False Report

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- › Escalating problems in life or relationships
- › History of mental or emotional problems
- › Characteristics of “copycat” crime

Determining a Report is False

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- Not necessarily significant 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

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- Devastating if suspicion is misplaced
 - Destroys trust and eliminates prosecution
 - Challenge must be with supportive tone
 - Allows for correction, clarification if wrong

Responding to a Suspected False Report

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- A report should typically only be seen as suspect with a number of indicators
 - Truth is in the facts

Responding to a Suspected False Report

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False reports likely to be result of serious psychological and emotional problems

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

Best Practice Recommendations

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- Offer definitions / training on false reports, unfounded cases, recantations, and unsubstantiated investigations
 - Example of position paper by the Oregon Sexual Assault Task Force: www.oregonsatf.org/resources/positionpapers/html
 - Provide training in clearance methods or other criteria for resolving cases

Best Practice Recommendations

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- All SA reports documented with written report / investigated to the extent possible
 - Not seen as "false until proven true"
- Follow up with all SA victims to verify information and conduct investigation
 - Provide multiple opportunities to respond
 - Victims often try to withdraw from CJS

Best Practice Recommendations

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

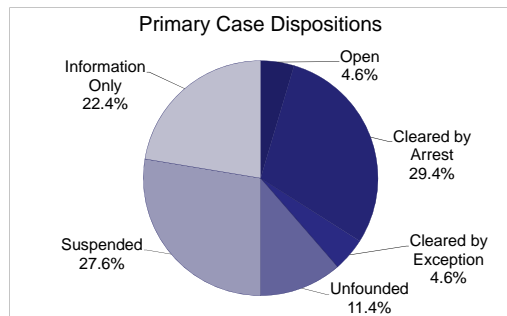
Best Practice Recommendations

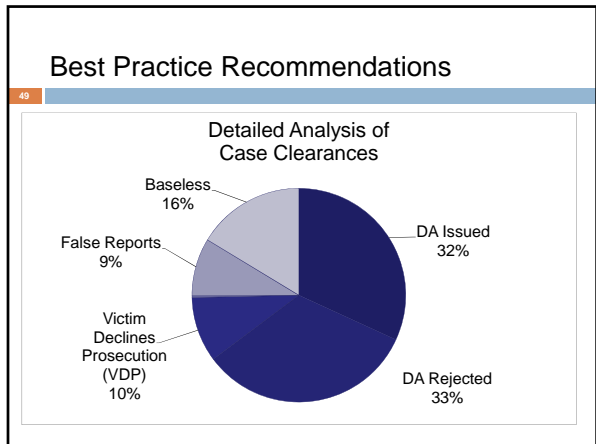
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5. Reduce pressure to clear % of cases
- Formal review systems and informal culture
 - Reward thorough investigations, regardless of case outcomes
6. Supervisors review dispositions of all sexual assault cases for balance

Best Practice Recommendations

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Best Practice Recommendations

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7. If there is insufficient evidence, clear the case that way rather than unfounded

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.”*

Best Practice Recommendations

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- › 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 media pressure, a lawsuit or complaint by a victim and with further investigation determine that they were legitimate (and improperly unfounded).

Best Practice Recommendations

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8. Improve tracking system, to track progress of SA cases through CJS

- Track attrition, identify / address problems

Best Practice Recommendations

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9. 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

10. Multidisciplinary review for unfounded cases to ensure they are cleared properly

- Also for difficult but ultimately successful cases – what factors led to the outcome?

Best Practice Recommendations

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11. Address issues proactively, not in crisis

- Cross-training between professionals
- Regularly invest in relationship building across disciplines and practitioners
- Foster investigative response culture that encourages questioning and learning at both the practitioner and organizational level

Best Practice Recommendations

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

- 13. Develop clear protocols for communicating case disposition to victims

Implications for Campus

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- ❖ Campus law enforcement / security
- ❖ Judicial affairs / student discipline
- ❖ Other first responders (e.g., health care)
- ❖ Prevention educators
- ❖ Anyone receiving disclosures (e.g., staff)

Take Care of Yourself!

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- 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


For More Information

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- EVAW International (www.evawintl.org)
 - On-Line Training Institute module on false reports
- Oregon Sexual Assault Task Force's position paper www.oregonsatf.org/resources/positionpapers/html
- APRI *Voice* article on false reports: www.oregonsatf.org/resources/positionpapers/html

Q&A

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Webinar evaluation

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Complete the webinar evaluation emailed to participants

Please complete the evaluation to inform the Campus Program in developing future webinars.



Acknowledgements



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Dr. Kimberly A. Lonsway

Webinar participants

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Office on Violence Against Women

CALCASA
