

# **EXCERPT FROM**

## **False Reports:**

**Moving Beyond the Issue to Successfully Investigate  
and Prosecute Non-Stranger Sexual Assault**

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## Introduction

Clearly, one of the most important challenges for law enforcement training in sexual assault investigation is the idea that many – or even most – reports are false. As long as this belief is accepted by professionals, training will have only a very limited impact because they will assume that it only relates to “real rape” cases (also sometimes referred to as “righteous rape”) and not the majority of cases they see on a daily basis. Yet as we will discuss throughout this module, these “red flags” that typically raise suspicion are actually the realistic dynamics of sexual assault. Difficult cases that law enforcement professionals see every day are real rapes; that is, sexual assault as it happens in the real world and not in criminal justice textbooks.

This module is designed to directly confront this issue of false reporting. By doing so, we will try to answer those questions that have historically created a bigger hurdle for sexual assault victims than any lack of training or experience on the part of law enforcement professionals.

Ironically, the needs of sexual assault victims are better served by a poorly trained officer, deputy, or investigator who believes the victim and takes the case seriously than one who is well-trained but believes that most reports are false. If there is one goal for this module, it is therefore to recognize that the training throughout this curriculum is relevant for every single sexual assault case reported to law enforcement, no matter how murky, ambiguous, or just plain difficult. These cases may be difficult to investigate, but it does not mean they aren’t “real rape.”

### “Red Flags” that Trigger Suspicion

Before we provide the actual definition for a false report, we’d like to list some of the factors that cause many people to doubt a victim’s account of a sexual assault incident. Some of the factors that are commonly given by law enforcement personnel and others as cause for suspicion are:

- The victim and suspect know each other.
- The victim and suspect have had sex before.
- The victim is an adolescent.
- No weapon was used.
- No physical violence was reported.
- There is no sign of physical injury.
- The victim is calm.
- The victim didn’t report to law enforcement for days, weeks, or even months.
- The victim first disclosed the sexual assault to someone other than law enforcement.
- The victim is difficult to locate.
- There is little or no physical evidence to corroborate the allegation.
- The victim does not follow through or participate with the investigation.
- The victim changes his or her account of what happened.
- The victim is uncertain or vague about the details of the sexual assault.
- The victim recants.
- The victim later recalls additional information.
- Details in the victim’s account are provably false.

- The victim is not seen as credible.
- The victim is elderly, disabled, or unattractive.
- The victim is a person of color.
- The victim is working class, poor, and/or on welfare.
- The victim has multiple sexual partners.
- The victim is male.
- The victim is seen as having exercised poor judgment and thus played a part in the crime.
- The victim was drunk and/or voluntarily used drugs at the time of the assault.
- The victim is suspected of being a prostitute or drug addict.
- The victim is thought to be involved in previous criminal behavior.
- The victim is belligerent.
- The victim is homeless.
- The victim has a physical or mental impairment.
- The victim refuses or fails a polygraph examination.
- The victim has reported sexual assault(s) in the past.
- No suspect can be identified.
- The suspect seems sincerely upset and confused by the allegations.
- The suspect seems respectable, credible, or even likeable.
- The suspect is white
- The suspect is from the middle class or even upper class of society.
- The suspect is attractive and has an active, consensual sex life.

Perhaps your personal “red flags” match those on the list, or perhaps they are different. Yet regardless of what our personal “red flags” are, they typically spark a similar gut reaction.

Please note that in this module and throughout the curriculum, we will typically use the term “sexual assault” because it is more general than the term “rape.” However, when we do use the term “rape” we will use it interchangeably with the term “sexual assault.” Of course, we realize that some state penal codes define the terms differently.

## **Our Gut Reaction to the “Red Flags”**

If you are like many law enforcement professionals, your gut reaction to these “red flags” is probably frustration and/or anger. You may also feel like the person filing the false report has taken advantage of you, “wasted your time,” “taken you for a ride,” and perhaps even undermined your credibility or made you look foolish. This same gut reaction is often seen among prosecutors, medical professionals, even victim advocates, and even friends and family members of victims.

The reality is, no one likes to feel lied to or taken advantage of, so it is natural that we would experience anger or frustration when we suspect that someone has filed a false report of sexual assault. Yet this type of gut reaction can obviously interfere with how we might view a victim. Thus, while the anger or frustration that law enforcement professionals feel may be completely

understandable, it may in fact be unwarranted, and it will certainly harm both the victim and the investigation. This occurs in three primary ways.

- **First, the suspicion is often misplaced.** As we have already discussed, officers, deputies, and investigators all too often suspect that a sexual assault report is false based on the “red flags” listed above. If they do, they are probably wrong. In fact, the “red flags” actually represent the realistic dynamics of a typical sexual assault. Just to illustrate, individuals with a physical or mental impairment are among the most vulnerable to sexual assault. Yet, they are often suspected of filing a false report. As with other “red flags,” these victims are capable of providing quality information and serving as a credible witness, as long as the investigation and interview is conducted appropriately. As with other “red flags,” individuals with a mental and physical impairment deserve to have their sexual assault investigated thoroughly and from the assumption that it is legitimate. The same is true for every one of the “red flag” characteristics included on our list.
- **Second, this suspicion interferes with a thorough investigation.** Law enforcement professionals typically know that they are not supposed to let their own gut reactions get in the way of doing their job. Of course, this is easier said than done, but it is critically important that officers, deputies, and investigators not let their suspicion interfere with a thorough investigation of any sexual assault report. As we will discuss later, the determination that a sexual assault report is false can only be made if the evidence establishes that no crime was completed or attempted. This evidence will only be available after a thorough investigation, not after only a preliminary investigation or initial interview with the victim.
- **Third, this suspicion is based on inappropriate personal assumptions.** To truly understand the issue of false reporting requires that we change our own personal beliefs about sexual assault, and therefore our own personal assumptions about those who sexually assault (primarily men) and those who are victimized (primarily women). For men, this can be especially challenging because it requires a re-definition of men who rape to include individuals who may seem respectable and credible, even likeable. Many sexual assault cases involve men who are like ourselves in many respects. Others involve a suspect who is known and respected in the community, such as a prominent citizen, celebrity, politician, or an athlete on a university campus or professional sports team.

Throughout this module, we will explore how law enforcement professionals can respond when these “red flags” are present in a sexual assault case. It is important to understand the role that these red flags play in creating unwarranted suspicion of sexual assault victims. Yet we also want to be very upfront about acknowledging the gut reaction that goes along with this suspicion. This is necessary to truly confront the issue of false reporting and appreciate how the “red flags” are actually based on our cultural stereotypes of “real rape.”

## Stereotypes of “Real Rape”

As we have said, many of these “red flags” are actually based on our cultural stereotypes of what constitutes “real rape” (sometimes referred to as “righteous rape”). Law enforcement professionals are often reluctant to believe that they share these stereotypes, but the reality is that everyone in our society is exposed to the same cultural messages about sexual assault, and they inevitably influence how we think about it. These cultural stereotypes are deeply rooted in societal sexism and strongly affected by racism. They are therefore the product of our culture’s ideas about women’s rights and roles, stereotypes about women of color, and the myth of the black male rapist. Because these are societal stereotypes, they impact not only law enforcement, but also advocates, prosecutors, juries, and even friends and family members of victims.

Whether or not we believe in the stereotype, we can all describe what our society considers to be a “real rape.” In fact, if we look back at our list of “red flags” we can see that the stereotypic characteristics of “real rape” are exactly the opposite as the “red flags” that we listed before. Take a look:

- The victim and suspect do not know each other – they are strangers.
- The victim and suspect have not had sex before – again, they are strangers.
- The victim is a responsible adult, not an adolescent.
- A weapon was used.
- Physical violence was reported.
- There are signs of physical injury.
- The victim is hysterical, not calm.
- The victim reports to law enforcement immediately.
- The victim reports the sexual assault to law enforcement first, not to someone else.
- The victim is easy to locate.
- There is a great deal of physical evidence to corroborate the allegation.
- The victim does follow through and actively participate with the investigation.
- The victim does not change his or her account of what happened.
- The victim is absolutely certain about the details of the sexual assault.
- The victim does not recant.
- The victim does not recall additional information later – it is all recalled immediately.
- Not a single detail in the victim’s account is provably false.
- The victim is seen as credible.
- The victim is young, able-bodied, and attractive – not elderly, disabled, or unattractive.
- The victim is white, not a person of color.
- The victim is from the middle class or even upper class of society.
- The victim is female.
- The victim is a virgin, abstains from sex, or is sexually monogamous.
- The victim did not exercise bad judgment at the time of the sexual assault.
- The victim was completely sober at the time of the assault – not drunk or using drugs, unless those drugs were administered without the victim’s knowledge
- The victim is not suspected of being a prostitute or drug addict

- The victim is not thought to be involved in previous criminal behavior.
- The victim is compliant and cooperative – not belligerent.
- The victim is a respected citizen – not homeless
- The victim does not have a physical or mental impairment
- The victim takes and passes a polygraph examination.
- The victim has never reported a sexual assault in the past.
- The suspect does not appear to be upset or confused by the allegations.
- The suspect is seen as sick, crazy, or deranged – not respectable, credible, or likeable
- The suspect is a person of color – not white.
- The suspect is poor or working class.
- The suspect is not attractive and does not have an active, consensual sex life.

If you asked a room full of law enforcement professionals how many of their cases resemble this stereotype, most would say that only a very small percentage of their cases do. In fact, the research<sup>1</sup> is clear that these stereotypic characteristics of “real rape” are actually quite rare:

- In reality, most sexual assaults are perpetrated by someone known to the victim, without a weapon, physical violence, or signs of physical injury.
- Very few victims report immediately to law enforcement, but if they do report to law enforcement, it is often after a delay of days, weeks, months, or even years.
- Many victims have a number of factors that limit their perceived credibility: they are often young, homeless, have a mental or physical impairment, are belligerent, and/or abusing alcohol or controlled substances.
- Victims often omit, exaggerate or fabricate parts of their account, and they may even recant altogether. They are not typically hysterical when interviewed by medical professionals, law enforcement professionals, prosecutors, or others.
- Suspects often do not fit our stereotype of a “rapist.” For example, despite the stereotypic image of black men as criminals, most sexual assaults are intra-racial, committed between people of the same racial/ethnic group. In many cases, the suspect is a respected person with status and position in the community.

In short, most sexual assault reports involve at least some of the “red flags” listed above. So, whether or not we want to admit it, these “red flags” are in fact the realistic characteristics of sexual assault in the real world and not in criminal justice textbooks or the movies. Yet despite this fact, sexual assault reports that are different from this stereotype of “real rape” are all too often viewed with suspicion, not only by law enforcement but also by everyone else in society.

### ***How the stereotype of “real rape” affects the law enforcement investigation***

So we all know what the societal stereotype of “real rape” is. Now let’s explore how might it affect the response of law enforcement professionals. How might the stereotype affect the law enforcement investigation that is conducted when a sexual assault is reported?

**First, how might this stereotype of “real rape” affect our response to victims who don’t look or act anything like they are “supposed” to?**

*The stereotype makes us less likely to believe these victims, and more likely to suspect that they are lying about having been sexually assaulted.*

**Second, how might this stereotype affect our view of a suspect who seems like a “nice guy” and doesn’t look like the societal image of a rapist?**

*The stereotype makes us more sympathetic to suspects, and more likely to believe their statements, including the claim that the victim consented to sexual activity.*

**Finally, how might this stereotype affect our estimate for how many sexual assault reports are false? Will the stereotype lead us to overestimate or underestimate the percentage of sexual assault reports that are false?**

*If we suspect that cases with “red flags” (i.e., the realistic dynamics of sexual assault) are actually false reports, we may dramatically overestimate the percentage of sexual assault reports that are false.*

If we believe the stereotype of “real rape,” this will lead us to doubt the claims of victims whose cases don’t look like the stereotype. However, since the realistic dynamics of sexual assault are actually the opposite of the stereotypic characteristics, this suspicion is likely to be misplaced. It also makes it unlikely that a thorough law enforcement investigation will ever be conducted and it makes successful prosecution even less likely.

### ***How the stereotypes make successful prosecution less likely***

Of course, prosecutors are also exposed to the same societal messages about what constitutes a “real rape,” so they share the same “red flags” for suspecting that a sexual assault report is false. This doesn’t necessarily mean that prosecutors personally believe in the stereotypes of “real rape.” They may or may not. Often, prosecutors understand the realistic dynamics of sexual assault, but know that this stereotype will be prominent in the minds of judges and jurors as they make decisions regarding a sexual assault case. Prosecutors therefore believe that they cannot ethically charge a defendant in cases that depart too much from the stereotype of “real rape,” because a jury would not be likely to convict. All of this makes cases with “red flags” more difficult to investigate and prosecute – despite the fact that at least some of these “red flags” are actually seen in the vast majority of sexual assault cases.



### ***How to confront the issue of false reporting***

To confront this issue of false reporting, it is important to first recognize the serious damage that is done to the reputation and credibility of a law enforcement agency when sexual assaults are incorrectly labeled as false. As with the rest of society, law enforcement professionals must think carefully about these “red flags” and come to terms with the fact that they are based on the cultural stereotype of “real rape” and not the realistic dynamics sexual assault. Only then can we truly confront the issue of false reporting as the primary barrier to successful sexual assault investigation and prosecution.

- First, we must all acknowledge that we share the same cultural stereotype of “real rape” and recognize that it causes us to view reports with suspicion if they depart from this stereotype and actually exhibit some of the “red flags” discussed above.
- Second, we need to own up to the fact that all of us are likely to feel anger and/or frustration when we suspect that someone is filing a false report of sexual assault.
- Third, we must re-examine our own personal assumptions about what constitutes a “sexual assault” and who is likely to be a victim or a perpetrator.

By recognizing that the “red flags” actually represent the typical dynamics of sexual assault in the real world, we can recognize that training in sexual assault investigation does in fact apply to all of those difficult cases that law enforcement professionals handle, day in and day out – and not just cases that look like the stereotype of “real rape” or “righteous rape.”

### ***Cases that may seem to be “unbelievable”***

Of course, there are also plenty of examples of sexual assault reports that seemed to be unbelievable – and were suspected of being a false report – when they were 100% true.

- For example, one case in the Boston area involved a woman who claimed to have been sexually assaulted by a man she had dated briefly. He denied the charge, and provided evidence that he was thousands of miles away at the time of the sexual assault. At this point, many people would suspect a false report, but a dedicated investigator remained open-minded enough to question the suspect again – only to discover that he had an identical twin brother who was unknown to the victim. The twin brother ultimately pled guilty to the sexual assault.<sup>ii</sup>
- In another case, sex crimes investigators in Philadelphia doubted the report of a woman who said she was sexually assaulted by a stranger who gained entry to her apartment through a seven-inch gap in the security bars of her window. Within days, the case was classified as inactive, even though a neighbor reportedly saw a man drag a trash bin under the window and try to squeeze through the bars – and at least one other woman in the community reported being sexually assaulted by a man who entered through an opening approximately the same size. DNA evidence eventually

linked the same man to a total of six separate sexual assaults. He is currently imprisoned in Colorado, facing life sentences in both Pennsylvania and Colorado.<sup>iii</sup>

Obviously, these cases would raise “red flags,” even among the most reasonable of people. Such cases therefore challenge all of us to remain open-minded about sexual assault reports, no matter how many “red flags” they raise or how unbelievable they may seem.

The reality is that all sexual assault reports must be taken at face value and investigated thoroughly, fairly, and with sensitivity.

Only a thorough, evidence-based investigation can be used to make judgments about a sexual assault case, not assumptions – even when those assumptions may seem to be reasonable on the basis of the initial facts of the case. It is therefore critically important to follow all the evidence that the investigation reveals, and not just the evidence that supports an initial judgment about a case. As any experienced investigator will tell you, the evidence may reveal that this initial judgment was wrong.

## **What is the Actual Definition of a False Report?**

Law enforcement professionals and others clearly have a variety of different ideas about what exactly constitutes a false report, but the most reasonable definition is that:

**A false report is a report of a sexual assault that did not happen (it was not completed or attempted).**

While we might all agree with this simplistic definition of a false report, people have different ideas about exactly when they can decide that the sexual assault did not actually happen. For example, law enforcement professionals and others all too often decide that a sexual assault did not happen based simply on their own views of the victim, the suspect, and their credibility. This is an unacceptable practice.

- In reality, law enforcement investigators cannot determine that the sexual assault did not happen, simply because they suspect that the report is false, view it with suspicion, or because the victim changes his or her account of what happened.
- Investigators certainly cannot determine that the sexual assault did not happen because the victim lacks credibility – perhaps because the victim is young, drunk, taking drugs, belligerent, or suspected of being a prostitute.
- Similarly, investigators cannot determine that the sexual assault did not happen because: they sympathize with the suspect, he seems sincerely outraged and upset by the charges, he has a credible story, or he appears to be a responsible citizen who does not meet our personal assumptions about who is likely to be a “rapist.”
- In other words, investigators cannot determine that the sexual assault did not happen just because any of the “red flags” are present in a sexual assault case.

- In many cases, these stereotypes create a bias that we may not be aware of but nonetheless causes us to both: (a) doubt or discount the victim's allegations, and (b) sympathize with the suspect or lend credence to his version of events.

Rather, law enforcement professionals must base all final judgments of a sexual assault report on the findings from a thorough, evidence-based investigation. The determination that a report is false can then only be made when there is sufficient evidence to establish that the sexual assault did not happen (was not completed or attempted.) This is so important that it bears repeating:

**The determination that a report is false can only be made when there is sufficient evidence to establish that the sexual assault did not happen (was not completed or attempted).**

This does not mean that the investigation failed to prove that the sexual assault happened – in that case the investigation would simply be inconclusive or unsubstantiated. It also does not mean that the suspect was unable to successfully complete the sexual assault – this would be an attempted sexual assault and/or some other sexual offense.

Again the determination that a report is false must be supported by evidence that establishes that the sexual assault (or attempt) did not actually happen.

While this is the actual definition of a false report for law enforcement purposes, it does not typically reflect the way officers, deputies, investigators, and even supervisors tend to think of their sexual assault investigations.<sup>iv</sup> In fact, at virtually every training on this topic, we hear from law enforcement professionals who routinely unfound cases either because they do not believe the victim's account or they failed to prove it conclusively. As we will discuss throughout this module, this practice fails to meet the needs of both victims and the larger society.

So, although the actual definition of a false report should be the same for every law enforcement agency, it is clear that the practices that are really used vary dramatically. This is why the percentage of sexual assault reports that are unfounded by various law enforcement agencies are so different; many are labeling sexual assault reports false without any evidence to establish that they did not occur. This issue is discussed in greater detail in the module on Clearance Methods.

## **But What if Part of the Report is False?**

When we defined a false report, we said that it was a report of a sexual assault that was determined on the basis of the evidence to have not been completed or attempted. Now we want to address the very common problem that police investigators face – that parts of the victim's account may be false, omitted, exaggerated, or inconsistent with other information that is given.

- In other words, how false does a false report need to be?
- Does the whole report have to be false to constitute a false report of sexual assault?

This issue is discussed extensively in the module on Victim Interviewing, but it also requires attention here. That is, many victims will give inconsistent or untrue information as part of their statement, but this must never be confused with a false report.

For most law enforcement professionals, it is not difficult to come up with reasons why sexual assault victims might omit, exaggerate, or even fabricate aspects of their report.

- For example, victims might give inconsistent or untrue information out of **trauma or disorganization**. When we are traumatized, we do not always think clearly and cannot necessarily provide information that is 100% complete and accurate. This is especially true for victims who have been **sexually assaulted more than once**, because aspects of the prior sexual assault may be confused with the current one. Victims may also have memory impairment due to **alcohol or drug use**.
- Victims might also give incomplete, inconsistent, or untrue information because **they are uncomfortable relaying details of the sexual assault**. This may be particularly likely for details regarding the sexual acts involved. For example, it is quite common for sexual assault victims to describe the incident as involving only penile-vaginal penetration because they are uncomfortable reporting other crimes such as oral copulation or anal penetration.
- Victims also frequently **minimize the details of the sexual assault and the extent of the trauma** they experienced. Often, victims will offer an initial description of the event that sounds trivial, but when encouraged to elaborate, it becomes clear that the victim experienced considerable force, threat, or fear. The reasons for this vary. For many victims, minimizing the trauma of the assault is a strategy (whether conscious or not) for attempting to gain control over it. There is also a great deal of pressure in our society to handle traumatic events stoically and without complaint; this is particularly true in certain cultural groups. In many cases, however, victims haven't had time to process what happened to them at the time of the initial community response, so they do not realize themselves the significance of the assault and the enormity of the impact it has had on them.
- Many victims give information that is incomplete, inconsistent, or untrue because they are **afraid that they won't be believed** or that **they will be blamed for the sexual assault**. To illustrate, victims may omit details that will undermine their credibility, such as drug or alcohol use, prostitution, or other unflattering or even illegal behavior. Of course, victims may also omit details about their own unlawful activity out of the **fear of being arrested**. We will address this issue in more detail later. For now, we must simply accept that this fear is real.
- Victims also sometimes minimize what happened or change the details in order to **protect the perpetrator**. This can occur when the two have a relationship, when the victim depends on the perpetrator for financial or emotional support, or is afraid of getting the perpetrator "into trouble." As a result, victims may give incorrect or confusing information about what actually occurred.

- Victims also may give information that is incomplete, inconsistent or inaccurate because of their **immigration status** (or assumed status). Many victims have learned from experiences in their country of origin that authority figures are not to be trusted, particularly law enforcement officers. In addition, suspects often use immigration status against victims, threatening to report them to immigration authorities or to have them deported if they tell anyone about the sexual assault.
- There can also be **cultural reasons** for exaggerating or minimizing the facts of a sexual assault report. For victims from another culture, beliefs about what is acceptable to tell a stranger and taboos about sexuality and sexual activity may influence their description of what happened. This problem can be especially pronounced when the (female) victim is from a minority culture and the (male) law enforcement professional is from the dominant culture of the United States.
- Victims from a **minority cultural group** may be particularly reluctant to report a sexual assault against another member of their cultural group, because it is sometimes seen as a betrayal of the victim's cultural group. This reluctance may be heightened when there is a perception that the cultural group is treated unfairly by law enforcement (e.g., African-Americans, Americans of Arab descent).

However, one of the most common reasons why victims alter or exaggerate the details of what happened is to **create a case that seems more believable**. This can be due to guilt, shame, or a fear of not being believed. Just like everyone else in society, sexual assault victims know the stereotype of a “real rape” – that it is perpetrated by a stranger with a weapon or physical violence, that it is reported to law enforcement immediately, and that the victim is emotionally hysterical. In an effort to be believed, therefore, victims may change aspects of the reported incident to make it sound more like this stereotype.

- For example, victims may report that they were assaulted by a stranger when they really knew the suspect, and perhaps even had a prior sexual relationship together.
- Victims may also report that the suspect used a weapon when this is not really true, or describe threats of physical violence that were not really made. Remember that victims also struggle with the same societal stereotypes as well.

When we think about these dynamics, it makes sense why victims might provide inconsistent, incomplete, or even untrue statements. Yet many investigators and others have seen this as evidence of a “false report.” In fact, none of these situations meets the actual criteria for a false report – because even if aspects of the victim's account of the incident are missing, exaggerated, or false, this does not necessarily mean that the sexual assault did not happen.

The bottom line is that while these types of cases can be extremely difficult to investigate when the victim provides partial or distorted information, they cannot be considered false reports unless there is evidence to support that determination.

## How Investigators can Create a “False Report”

Another factor to consider is the ways in which law enforcement professionals can create a “false report” out of one that is actually legitimate. As described by Latts and Geiselman (1991), this process begins with the suspicion held by many officers, deputies, and investigators that a large percentage of sexual assault victims are lying.

*If the police do not believe the victim, they may directly or indirectly make this known to her, perhaps by excessive questioning that focuses on an absence of obvious injury or some delay in reporting the incident. The victim, in turn, may become upset and withdraw her cooperation. Though the woman may have been an actual survivor of rape, her lack of cooperation is itself considered sufficient grounds for marking a case as unfounded in most jurisdictions (Latts & Geiselman, 1991, p. 8)*

Investigators also sometimes use information from the suspect to aggressively question the victim. For example, they may interview suspects who claim that the act was consensual and offer facts to support that claim (e.g., how the victim was dressed, what the victim was doing, etc.). Then, the investigators question the victim repeatedly about these claims, until he or she finally gives up and recants.

In this type of situation, no real investigation is even conducted. Rather, the “investigation” stops in the initial stages of the interview with the victim. Or in this case, it sounds like an interrogation was actually conducted of the victim, which is of course totally inappropriate.

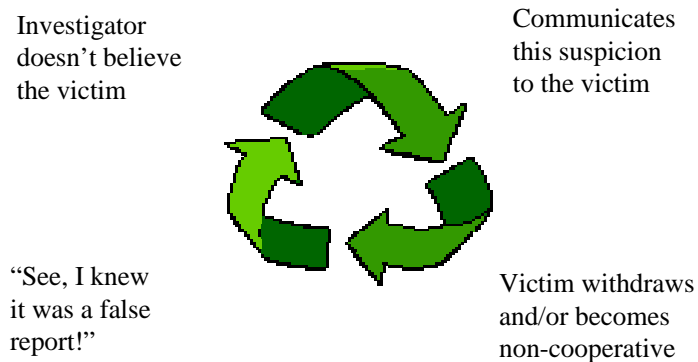
### *The “cycle of suspicion” against victims*

We describe this process as the “cycle of suspicion” against victims. When law enforcement professionals do not believe the victim, and communicate this (misplaced) suspicion, either directly or indirectly, they can lead victims to become non-cooperative when they would not otherwise have been. Worse, by “creating” non-cooperative victims in this way, investigators further fuel the myth that most victims will not participate in a law enforcement investigation and most sexual assault reports are false. This mistrust is then heightened and carried over into the next case. “The result is a never-ending spiral of suspicion and pain,” for both victims and investigators (McDowell & Hibler, 1987, p. 275).

In the short-term, this “cycle of suspicion” compromises individual investigations. In the long-term, however, it undermines community trust and respect for the law enforcement agency itself. This problem is seen in the kind of headlines provided before, and in quotes like this one from a Police Chief on a Florida university campus, which was cited in a newspaper article with the headline: ***FAU police had hunch sex assault claim untrue:***

*“People were saying the school wasn’t safe, that there weren’t enough qualified police officers, that we weren’t police officers, we were security guards ... I wanted so badly to say we don’t believe this happened.”<sup>v</sup>*

## The Cycle of Suspicion



Without detailed information from the investigation, it is impossible to determine from this newspaper article whether or not the report of sexual assault was false. However, quotes like this from a police chief clearly send a damaging message to the community that reports of sexual assault may be viewed with suspicion and investigated with the motive of proving them false.

### *The “cycle of sympathy” for suspects*

A parallel cycle can also occur when investigators sympathize with the suspect in a sexual assault investigation. We can describe this as a “cycle of sympathy,” to distinguish it from the “cycle of suspicion” that involves sexual assault victims.

- This cycle takes place when an investigator meets a suspect, and the suspect appears to be credible, respectable, or even likeable. In other words, the investigator feels that the suspect does not “look like a rapist” or seem like someone who would commit a sexual assault.
- The suspect may even have a plausible story to explain what happened and may truly believe that he had permission from the victim to engage in sexual activity. This leaves the suspect feeling upset, outraged, and disoriented by the charges.

As with the cycle of (misplaced) suspicion involving victims, this cycle of (misplaced) sympathy for suspects is communicated by the investigator – to both suspects and victims – through the type of investigation that is conducted, the particular questions asked, and the statements made to the suspect, victim, and others. Of course, victims pick up on this attitude of sympathy toward the suspect, and often react by feeling that their statements have been discounted or not believed.

### *Where the “cycle of suspicion” and “cycle of sympathy” converge*

So this is where the cycle of misplaced suspicion and sympathy converge. By communicating an attitude of suspicion to the victim and sympathy to the suspect, the investigator inevitably begins to lend credence to statements made by the suspect and discounts statements made by the victim. In other words, the victim starts to feel like a suspect, and the suspect starts to feel like a victim.

- Then as the suspect gains confidence that the investigation is either “going his way” – or “going nowhere” – the victim is likely to withdraw from active participation in the investigation or even become non-cooperative.
- This heightens the investigator’s suspicion that the victim was not trustworthy or reliable, and increases the attitude of sympathy toward the suspect.
- So the cycle repeats. This suspicion of sexual assault victims is carried over to the next case – and so is the sympathy for the suspect who seems like “a nice guy” and not at all like the stereotype of a rapist.

In a nutshell, these cultural stereotypes about victims and perpetrators of sexual assault influence the way law enforcement professionals and others view real cases – by increasing the likelihood that the suspect’s statement will be seen as true and the victim’s statement will be seen as false.

### **So How Many Sexual Assault Reports Really are False?**

Now we’ve talked at length about the societal myth that a high percentage of sexual assault reports are false, and we’ve explored how this can damage the law enforcement response to victims. However, the question remains: “How many sexual assault reports really are false?”

In the research literature, estimates for the percentage of sexual assault reports that are false have varied widely, virtually across the entire possible spectrum. This is not surprising given variations in law enforcement practices for determining a complaint to be false and recording it as such: “variations, so diverse, in fact, that some police agencies cannot find a single rape complaint with merit, while others cannot find a single rape complaint without merit” (Kanin, 1994, p. 89, emphasis added).

- To illustrate, estimates provided over the years have ranged from lows of **0.25%** (O’Reilly, 1984), **1%** (Krasner, Meyer, & Carroll, 1976), and **2%** (Hecht-Schafran, 1993) to highs of **80-90%** (Bronson, 1981; Comment, 1968).
- In one survey conducted at the Denver Metropolitan Area Police Department, detectives from within the same agency provided estimates for the percentage of false reports ranging from **5% to 65%** (McNally, Bennett, & Munch, 1999).
- In another informal survey of conference participants including law enforcement, victim advocates, and other criminal justice personnel, the participants’ estimates varied even more widely, from **0% to 98%** (McNally, Bennett, & Munch, 1999).



In the most frequently cited study on this topic, Professor Eugene Kanin (1994) reported that **41%** of the 109 sexual assault reports made to one midwestern police agency were deemed to be false over a 9-year time period. He also reported that **50%** of the 64 sexual assault charges were recorded as false by two college police departments studied. However, in all three agencies the determination that the charges were false was made solely by the detectives; this evaluation was not reviewed substantively by the researcher or anyone else. Moreover, there are a number of very serious problems with the methodology that limit confidence in the validity of his conclusions.<sup>vi</sup> These same problems are evident in more recent research on the topic as well.<sup>vii</sup>

In contrast, when sex crimes investigators actually try to determine the number of sexual assault reports that are false – based on the evidence from a thorough investigation – the picture is quite different. In that situation, the determination that a sexual assault report can be made with much greater confidence and the estimates begin to converge around 2-4%.

- For example, the Portland, Oregon police department examined 431 complaints of completed or attempted sexual assault in 1990, and found that **1.6%** were determined to be false. This was in comparison with a rate of 2.6% for false reports of stolen vehicles (Oregon Attorney General’s Office, 2006).
- Similarly, Sgt. Joanne Archambault of the Sex Crimes Division of the San Diego Police Department routinely evaluated the rate of false reports over several years and found them to be around **4%**.
- Interestingly, the statistics even appear to converge internationally. In a recent study of 2,643 sexual assault cases reported to British police, **8%** were initially classified as false allegations. Yet when the researchers applied the actual criteria for establishing a false allegation, this figure dropped to **2%**. These criteria specified that there must be either “a clear and credible admission by the complainant” or “strong evidential grounds” (Kelly, Lovett, & Regan, 2005).

In reality, no one knows – and in fact no one can possibly know – exactly how many sexual assault reports are false. However, estimates narrow to the range of 2-4% when they are based on a careful analysis of actual case files by experts in police investigation and coding.

Of course, this realistic and evidence-based estimate of 2-4% suggests that the American public dramatically overestimates the percentage of sexual assault reports that are false. It’s probably not hard to imagine why. For example, we have all seen how victims are portrayed in the media accounts of rape accusations made against popular sports and cultural figures. These media accounts show us just how easy it is for us as a society to believe the suspect’s statements (a respected cultural icon) and both discount the victim’s statements and disparage her character.

This tendency to overestimate the percentage of false reports can obviously introduce bias into the law enforcement investigation because it causes us to give less credibility to victims and more credibility to suspects. This is especially true if the victim’s behavior is seen as risky or problematic and if the suspect seems like a “nice guy” who doesn’t look like a stereotypic rapist.

## How to Handle the Frustrating Reality of “Real” False Reports

Of course, having demonstrated that the percentage of false sexual assault reports is not as high as many people think, this does not deny their terrible reality. We all know that false reports do really exist, and they are incredibly damaging both to law enforcement personnel and to the countless victims of sexual assault whose credibility they undermine.

### *Potential indicators of a false report*

Sex crimes investigators may already be familiar with some of the training materials that are widely available to describe “indicators” of a false report. Unfortunately, some of these indicators are based on research that is extremely limited and/or inappropriate for this purpose. For example, many were developed on the basis of FBI experience with false reports of stranger sexual assaults. These may not be appropriate, however, with the vast majority of sexual assault reports involving a perpetrator who is known to the victim. Regardless, these training materials typically suggest that the potential indicators of a false report are actually the same stereotypic characteristics of “real rape” described previously. 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 this type of realistic sexual assault, you might not get the kind of reaction you were looking for, because people might respond to you in the same way they respond to victims of sexual assaults in the real world. That is, you might not be believed, or you might be blamed for the sexual assault yourself.

Therefore, if you were going to file a false report of sexual assault, you would probably describe a sexual assault that looks like the stereotype of “real rape” that we have discussed at such length throughout this module.

For this reason, it is not surprising that the potential indicators of a false report are actually the same as the stereotypic characteristics of “real rape.” To summarize material developed by McDowell and Hibler (1987), realistic indicators of a false report could potentially include:

**A perpetrator who is either a stranger or a vaguely described acquaintance who is not identified by name.** As previously discussed, most sexual assault perpetrators are actually known to their victims. Identifying the suspect is therefore not typically a problem. However, victims who fabricate a sexual assault report may not want anyone to actually be arrested for the fictional crime. Therefore, they may say that they were sexually assaulted by a stranger or an acquaintance who is only vaguely described and not identified by name.

**Victim claims of having physically resisted to the utmost.** In fact, many victims do not physically resist during a sexual assault. There are a number of reasons for this. Many victims are simply too surprised or confused to resist, because they are assaulted by someone they know and trust. Often, they do not resist during the sexual assault because they are simply trying to make sense of what is happening. Other victims do not physically resist because they don't trust their own perceptions of what is happening, or blame themselves for the situation.

Of course, physical resistance is not likely among victims who experience dissociation or frozen fright, and those who have been drinking and/or taking drugs. Still other victims do not physically resist because they are too frightened, and may even fear that resistance will anger their assailant and increase their risk of injury or death. Therefore, although many sexual assault victims do not physically resist, a false report may include a description by the victim as having resisted vigorously.

**Use of a weapon, serious physical violence, and/or signs of injury.** Most sexual assaults do not actually involve a weapon, physical violence, or evidence of physical injury. Yet fabricated claims may be more likely to resemble the stereotype of "real rape" in this regard. In some cases, individuals who falsely report a sexual assault may even inflict physical injuries upon themselves to bolster the credibility of their report. These can sometimes be identified by their nature and placement, which suggest that they were self-inflicted and are generally superficial.

**An assault involving only penile-vaginal penetration.** While other sexual acts are commonly experienced by sexual assault victims, fabricated claims typically include only this "classic" form of rape (i.e., penile-vaginal penetration).

Still other indicators may be based on the lifestyle or history of the reporting party, such as:

- Escalating problems in life or personal relationships
- A documented history of mental or emotional problems
- Characteristics of the allegation that "copycat" a highly publicized crime

While these indicators may therefore raise suspicion that a report of sexual assault may be false, none of them should be considered significant when observed in isolation. In fact, some of these factors are particularly challenging because they are associated both with an increased risk of actually being sexually assaulted and with an increased likelihood of filing a false report. Examples include "escalating problems in life or personal relationship" and "a documented history of mental or emotional problems."

- On the one hand, these factors make an individual more vulnerable to actually being sexually assaulted.

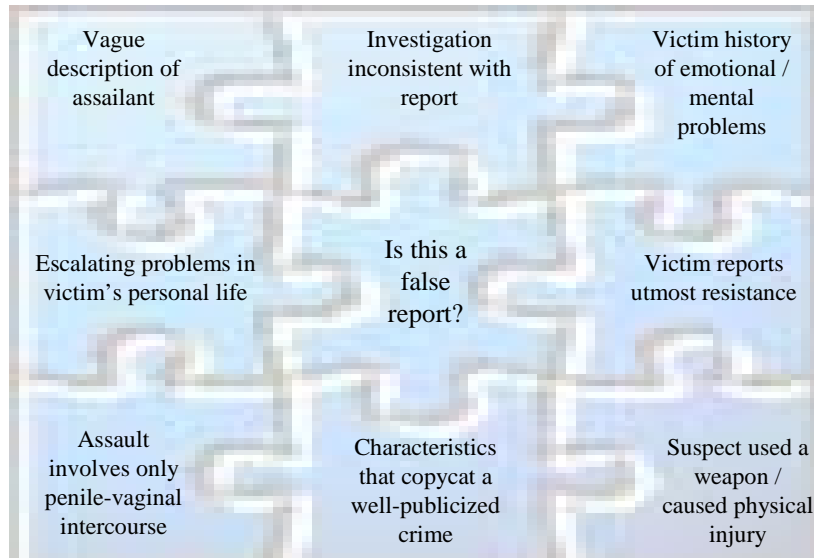
- Yet these same factors may also indicate emotional instability that could potentially lead an individual to file a false report of sexual assault.

Therefore, a report should only be considered suspect when a number of these indicators are present. The decision that a sexual assault report is false should never be made solely on the presence of one of these indicators. Then the report can only be determined to be false when the investigative facts directly contradict the victim's account of events. In fact, the best way to identify a false report is to uncover evidence that actually contradicts the victim's account of events or make it impossible for the sexual assault to have taken place as described.

- For example, there might be no sign of a physical struggle or injury when there logically should be.
- Or perhaps the victim states that she was "hit over the head with a bat and knocked unconscious" or "cut with a knife" yet there is no evidence of such an injury.

There might even be evidence that the victim purchased materials used in the sexual assault or wrote a note or letter that is attributed to the suspect (McDowell & Hibler, 1987). Therefore, the determination that a report is false is the result of "putting all the pieces together."

## Putting All the Pieces Together



## Conclusion

As we hope you have seen throughout this module, one of the most important challenges for successfully investigating and prosecuting cases of non-stranger sexual assault is the idea that many – or even most – reports are false. As long as this belief is accepted by law enforcement professionals, prosecutors, jurors, and others, our efforts to improve the criminal justice response to sexual assault will have only limited impact. Only those cases that look like our societal stereotype of “real rape” will be successfully investigated and prosecuted.

- To move beyond this issue of false reporting, one of the most important steps we can take is therefore to recognize that the “red flags” that raise suspicion in the minds of most people actually represent the typical dynamics of sexual assault in the real world.
- Once we accept this reality, we can begin to move beyond this issue to more successfully investigate and prosecute sexual assault cases, especially those involving non-strangers.

By directly confronting this issue of false reporting, we therefore hope to answer those questions that have historically created a bigger hurdle for sexual assault victims than any lack of training or experience on the part of law enforcement professionals. If there is one goal for this module, it is to accept that the training throughout this entire curriculum is relevant for every single sexual assault case reported to law enforcement, no matter how murky, ambiguous, or just plain difficult.

## For More Information

**International Association of Chiefs of Police** (July, 2005). *Investigating Sexual Assaults: Model Policy and Concepts and Issues Paper*. Published by the IACP National Law Enforcement Policy Center, Alexandria, VA. Available at: [Investigating Sexual Assaults Concepts and Issues Paper \(July 2005\)](#), [Investigating Sexual Assault Model Policy \(May 2005\)](#). Three corresponding are also available: *Part I: Investigating Sexual Assaults*; *Part II: Elements of Sexual Assault & Initial Response*; and *Part III: Investigative Procedures*, and *Part III: Investigative Strategy & Prosecution*. These training keys are also published by the International Association of Chiefs of Police ([www.theiacp.org](http://www.theiacp.org)) and available at: [training keys](#).

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## ENDNOTES

<sup>i</sup> Extensive research documents the characteristics of sexual assault victims, perpetrators, and incident. For example, see: Bachman & Saltzman, 1995; Bohmer & Parrot, 1993; Brenner, McMahon, Warren & Douglas, 1999; Fisher, Cullen & Turner, 2000; Humphrey & Kahn, 2000; Koss, 1988; Koss & Cook, 1993; Koss, Gidycz & Wisniewski, 1987; Merrill et al., 1998; National Victim Center, 1992; Tjaden & Thoennes, 1998.

<sup>ii</sup> Joan Zorza (personal communication, May 29, 2005). Joan Zorza is the editor of *Sexual Assault Report* and *Domestic Violence Report* and the book, *Violence Against Women* (Civic Research Institute).

<sup>iii</sup> Serial rape investigation widens to a sixth attack. By Clea Benson, Mark Fazlollah, Michael Matza, and Craig R. McCoy. *The Philadelphia Inquirer*, October 7, 1999.

<sup>iv</sup> This calls to mind the terminology of “factually innocent” which the courts use to dismiss cases where it can be established that the suspect did not in fact commit the crime. To illustrate, the California appellate court has defined someone as “factually innocent” when:

“The person did not commit a crime. It does not mean a lack of proof of guilt beyond a reasonable doubt or even a preponderance of the evidence, nor does the term encompass those situations where an accusatory pleading is not issued for technical reasons such as search and seizure issues.”

<sup>v</sup> FAU Police had hunch sexual assault claim untrue. S. Slater. *Palm Beach Post*, April 4, 2006.

<sup>vi</sup> Kanin (1994) stated that these cases likely constituted false allegations because the complainants involved were all asked to subject to a polygraph examination as part of the investigation and they voluntarily recanted. He noted that some of the recantations could have been false, “in an effort to “avoid a ‘second assault’ at the hands of the police” (Kanin, 1994, p. 85). However, Kanin stated that this was unlikely for several reasons: (1) because “these complainants were suspect at the time of the complaint within a day or two after charging,” (2) because the recantations “did not follow prolonged periods of investigation and interrogation that would constitute anything approximating a second assault,” and (3) because “none of the detectives believed that an incident of false recantation had occurred” (Kanin, 1994, p. 85). Each complainant was then “informed that she will be charged with filing a false complaint” (Kanin, 1994, p. 85).

A number of these statements raise concern regarding the practices of the police agency being studied and the conclusions that are based on the research. For example, the polygraph is known to be unreliable when used with individuals who are experiencing crisis. Even the threat of being polygraphed can have a profound effect on the willingness of victims to participate in an investigation. Other concerns with the agency stem from the very high percentage of complaints that are deemed to be false – police detectives reportedly viewed 41% of the rape complaints with immediate suspicion, and recorded them as false (rather than simply unfounded) after an admittedly limited investigation, and then informed the complainants that they would be charged with filing a false report. By basing the judgment that a charge is false based on the recantation of the victim, the researcher failed to consider the fact that sexual assault victims frequently recant – especially when faced with a police investigation that is orientated toward questioning their own actions and credibility.

<sup>vii</sup> See, for example, Rassin & van der Sleen (2005).