

# ***SATI e-News***

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## **So How Many Rape Reports are False?**

By Joanne Archambault, SATI Founder and Training Director

After literally decades of feminist lobbying and demands for better treatment of rape victims, many police agencies across America are still stuck in a 1950s-era view of sexual assault.

Despite the official promises that victims would be treated with sensitivity, police frequently don't understand how to achieve that goal. And although thousands of dedicated law enforcement officers want to do the right thing, there often is little support for sex crimes investigators. Rape complaints often are not properly investigated when police departments don't allocate the necessary resources to do the work or train their investigators.

In my 25 years of work as a police officer, sergeant and now as an independent consultant, I've seen dramatic improvements in some law enforcement agencies. But others have shown little progress. I've seen problems in tiny sheriff's offices, in big city departments and in the FBI.

The number of officers who come up to me at lunch, after class or during a break to tell me they rarely respond to a valid complaint of sexual assault is surprising to me. Recently, a 22-year female veteran of a state police agency told me she had never investigated a valid complaint in her entire career. Two detectives recently approached me and said they had not received a single valid sexual assault complaint in the five months they had been assigned to their specialized Unit. When I asked these detectives about the details of the cases they had been assigned, they generally cited a number of reasons for believing the allegation to be false, such as alcohol and/or drugs being involved or the fact that the victim was uncooperative.

Some of the perception can be explained by looking at the training often provided to law enforcement officers. For example, some of the training provided to law enforcement officers teaches them that any of the following may be indicators of a false report:

- Delayed report
- Report made to a person other than law enforcement
- The victim is indifferent to injuries or seems to experience a lack of pain
- The victim is extremely vague about details of the assault, or is extremely detailed
- The victim attempts to steer away from unsafe details in the description of the assault, i.e., suspect description or location of offense

There are huge differences in the estimates given for the rate of false reporting of sexual assault. Studies and surveys range from 0% to 98%. This is not surprising given the differences in definitions and the different ways of determining a complaint to be false and then recording it.

In response to this perception of false allegations, some Rape Crisis Advocates search for a source to counter this argument, often stating that only 2% of reported rapes are false allegations, essentially the same rate as other crimes.

The truth is that the data they are citing doesn't actually exist. In fact, we have no knowledge of what percentage of sexual assaults are false on a national level. The number often cited is from the Crime Index Offenses tracked by the FBI. For example, the 1997 UCR states that, "a higher percentage of complaints of forcible rape are determined "unfounded" or found by investigation to be false, than for any other Index Crime. While the average of "unfounded" rates for all Crime Index offenses was 2% in 1997, 8 percent of the forcible rape complaints were "unfounded" for the same time frame."

This paragraph is obviously confusing and is often interpreted by others as though unfounded and false are synonymous. The FBI Guidelines for the Uniform Crime Report are no clearer: "If the investigation shows that no offense occurred nor was attempted, the reported offense can be unfounded for UCR purposes." Although a "false allegation" is not defined in the UCR, an unfounded allegation is defined as baseless OR false.

When unounding a crime report, an investigator might use a phrase like, "The elements of the crime could not be met or established."

For example: A patrol officer is dispatched to evaluate a sexual assault. The officer speaks to a victim who reports he was sexually assaulted because he believes the suspect should have known that he had not consented to sexual contact beyond fondling. When the detective received the investigation for follow-up, she spoke to the victim who admitted there was no discussion with his partner about what was acceptable nor did the victim ever say no, or resist in any way. When questioned further, the victim could not articulate any fear of force. Based on this information, the detective determined that the elements of forcible sexual assault or rape had not been met. Although it is possible that the crime report could be changed to reflect a less serious offense, i.e., sexual battery, the original charge of rape would appropriately be unfounded.

I have found that in some agencies, investigators unound a case if the investigation doesn't produce evidence to corroborate or substantiate the allegation. I believe this practice is in error, however, one can see that absent guidelines, a variety of different interpretations are possible. Because investigators essentially receive little to no training on the UCR, it is likely that detectives sitting next to each other are using different standards for clearing their caseload. The problem may also stem from our work in the area of child sexual abuse since many Sex Crimes detectives may have started their career as a detective in Child Abuse and in some police departments, detectives work sexual assaults involving both children and adults. Child abuse cases are closed and often reported to state child protection agencies as unfounded, substantiated

or unsubstantiated. However, Child Abuse cases are not one of the Crime Index Offenses reported by law enforcement to the FBI.

For example, in California, these terms for case disposition are defined in the penal code.

11165.12 of the CA penal code states the following definitions shall control:

- (a) “Unfounded report” means a report which is determined by a child protective agency investigator to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse as defined in Section 11165.6 PC.

The section goes on to also define a substantiated report. I would like to see something similar adopted for sex crimes. For example, it might read something like:

- (a) “Unfounded report” means a report which is determined by a law enforcement agency investigator to be false, to be inherently improbable based on the evidence, or not to constitute a criminal offense as defined in penal code sections (every state would list their specific penal code sections for the applicable sex crime offense)
- (b) “Substantiated report” means a report which is determined by a law enforcement agency investigator, based upon some credible evidence, to constitute a sex crime as defined in penal code sections...
- (c) “Unsubstantiated report” means a report which is determined by a law enforcement agency investigator not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether a crime occurred as defined in penal code sections....

In addition to working with the FBI, the IACP and the National Sheriffs’ Association to establish clear guidelines and definitions for scoring and clearing reports, investigators need quality training so that they can learn to recognize and effectively respond to sexual assault.

For example, the following should be included in Sex Crimes Training 101:

- Sexual assault victims will most likely be acquainted with the suspect(s) in some way.
- The victim rarely expected intimacy and the stereotype of date rape rarely applies.
- Suspects rarely use weapons. Their weapon is their betrayal and the victim’s confusion, shame and embarrassment.
- Victims normally delay hours, day, weeks and months in reporting their assault. Many never disclose to anyone, including their closest friends.
- Victims rarely report to law enforcement or authorities first.
- Few victims are injured to the point that emergency medical attention is needed.

- Alcohol and drugs are involved in a high percentage of sexual assaults.
- Victims might lie about the circumstances of the sexual assault because they may feel their actions contributed to the sexual assault or that they won't be believed if the case doesn't fit the stereotype of rape often depicted in the media.
- Professionals responding to sexual assault must reassure the victim that he or she will not be judged and the complaint will be taken seriously.
- Sexual assault victims need validation. This is often more important to them than conviction of the assailant. Regardless of what anyone else in the system does – the forensic examiner, officer, detective, prosecuting attorney, jury or judge – each professional has the power to help a person recover from sexual assault.
- No matter how much time and heart the investigator or prosecutor invests in the case, he or she is not the victim. The investigation must be victim centered at all times.
- Professionals will burn out if a victim's inability to participate in an investigation is taken personally or the investigation is viewed as a waste of time.

Perhaps most importantly, we need to recognize that there are false allegations of sexual assault. Although good research in this area is severely lacking, I believe the numbers are very low in comparison to property crimes where we see a much higher incidence of fraud such as arson, automobile accidents, burglary and theft.

Determining an investigation to be false based on a competent investigation is not a waste of time. Investigators should always be commended for conducting a comprehensive, evidence based investigation. A thorough investigation may exonerate an innocent person rather than leaving doubt in the minds of others. I think this reflects the Criminal Justice System at its best.

1 Part I Index Offenses are Criminal Homicide, Forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny, Motor Vehicle Theft and Arson

2 Crime in the United States, 1997 Uniform Crime Report, US Department of Justice, Federal Bureau of Investigation Release Date: Sunday, November 23, 1998, pg. 26