False Allegations of Rape

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Adapted from content created by Mike Milnor & Judy Casteele for Trauma to Trial: Investigating and Prosecuting Adult Non-Stranger Sexual Assaults, sponsored by the Commonwealth’s Attorneys’ Services Council.
What is a false allegation?
Is it...

- a sincere report erroneously made (baseless)?
- a purposeful lie with malicious intent?
- an ambivalent report made in a confused circumstance?
- a report made to address secondary psychological needs?
- a valid report withdrawn (recant)?
Confusions in terminology/definition

- Case Unfounding
- Victim Recantations
- False Allegations
UCR states that a case can only be unfounded if it is “determined through investigation to be false or baseless.”

In other words, no crime occurred.
A working definition:

A false allegation is a statement that is unproven AND untrue, made in the spirit of deliberateness or deceit.

Gibbon, 1998
Does the whole story have to be untrue to constitute a false report of sexual assault?
Why might a victim give inconsistent statements or recant?

- Trauma—disrupted memory storage and recall
- Drug or alcohol use
- Discomfort in describing sexual acts
- Afraid they won’t be believed or will be blamed
- Omit details of their own unlawful activity
Why might a victim give inconsistent statements or recant?

- To protect the perpetrator
- To protect immigration status
- To protect their cultural group
- To create a more believable story
How many allegations are false?
Note about the data...

- 20 published studies, however, most profoundly flawed
  - Rely on un-scrutinized police data—for ex. Assuring a uniform set of criteria for reviewing data and classifying as false
  - Inappropriate sampling

- Small number provide credible estimates:
  - Clark and Lewis (1977): Analyzed 116 rapes investigated by Metro Toronto police. 12 cases (10%) false. Of those, only seven (6%) were made by the victim
  - Kelly, Lovett & Regan (2005): Largest and most comprehensive study to date. Applied police classification rules, found 2,643 rape cases reported, 67 (2.5%) could be classified as false.
  - Lisak et al., (2009): Analyzed all 136 sexual assaults reported to police at a major University over 10 yr period. (5.9%) met the IACP criteria and were classified as false.

Source: David Lisak, Ph.D. Fact Sheet
Estimates for the percentage of false reports begin to converge around 2 – 10 %
False reports are rare.

The widely held belief that false allegations are common is one of the primary elements of rape mythology in our society.

Source: David Lisak, Ph.D. Fact Sheet
In “real rape” we expect...

- Corroborating physical evidence
- The victim to actively participate in the criminal justice system
- The victim’s story to remain consistent
- The victim to remember every detail
- The victim will not recant
- The victim to tell the whole truth and nothing but the truth
How many cases resemble this stereotype?

ALMOST NONE!
In reality...

- Most sexual assaults are perpetrated by someone the victim knows.
- Very few victims immediately report to law enforcement.
- Many victims have factors that limit their perceived credibility.
- Victims may omit, exaggerate or fabricate parts of their story.
Potential Indicators of a False Report

- Stranger or vaguely described perpetrator
- Physical resistance to the max
- Use of a weapon, serious physical injury
- Only penile-vaginal penetration
- Escalating life or personal problems
- History of mental health or emotional problems
- “Copycat” of highly publicized crime
The best way to identify a false report is to uncover evidence that actually contradicts the victim’s accounts of the events.
So what does this mean?

- False allegations do occur; but heightened concern is based on myths and misconceptions.
- There is no credible evidence that false allegations are widespread.
  - The best study indicates that a small percentage are false ~or~ most allegations are true.
- It remains a task for trained investigators to make the determination.
The best way to get the job done

- Treat every case as valid
- Expect high standards of investigation
- Encourage broader thinking in sexual assault cases
- Discontinue the use of interrogation tactics with alleged sexual assault victims
- Use appropriate clearance labels/methods
Tips for encouraging truthfulness

- Establish a good working relationship with your local Sexual Assault Crisis Center
- Think about your language and terminology
- Be sensitive to victim blaming
- Create an atmosphere that encourages truth telling
- Be open and upfront about your goal
Tips for encouraging truthfulness

- Be aware of your own biases
- Remember that you play an important role in a survivor’s healing
- Communicate - be honest and open about your next step
- Expect new and conflicting information may surface later
- Get some good press!
Resources

- False Allegations, Case Unfounding, and Victim Recantations: Presentation by Deputy Chief Bellshaw, Salem Police Department and Christine Herman, JD, Oregon Attorney General’s Task Force.
