

Reducing Gender Bias in Sexual Assault Response and Investigation

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Sexual Assault Training and Investigations

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Acknowledgment

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Grant Disclaimer

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Chief Brian Manley or the Austin Police Department

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Training Bulletin Series: Gender Bias in Sexual Assault Response and Investigation



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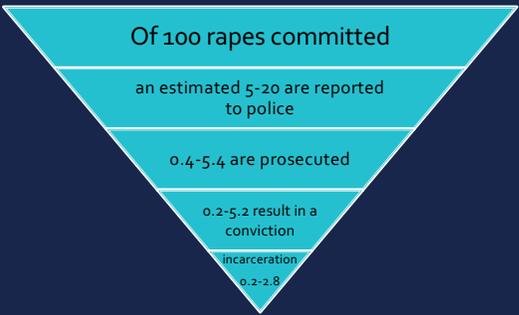
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Learning Objectives

- Define implicit bias and explore how it can affect responses to sexual assault
- Examine gender bias and victim selection, victim blaming, and victim recantation
- Describe policies and practices to avoid gender bias and improve sexual assault response, investigation, and prosecution

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Of 100 rapes committed

an estimated 5-20 are reported to police

0.4-5.4 are prosecuted

0.2-5.2 result in a conviction

incarceration
0.2-2.8

Lonsway, K.A. & Archambault, J. (2012). The "Justice Gap" for Sexual Assault Cases: Future Directions for Research and Reform. *Violence Against Women, 18* (2), 145-168.

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I THINK SOMETHING HAPPENED TO THE
 COMPL [COMPLAINANT], HOWEVER,
 WHETHER SHE WAS RAPED, OR IF THE
 DEAL WENT BAD IS YET TO BE KNOWN ...
 THIS CASE SHOULD BE CLOSED IF SHE
 DOESN'T MAKE ANY CONTACT W/US.
 SHE DID HAVE SCRATCHES ON HER
 NECK AND THROAT AREA ...

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REC CASE, COMPL AND HER MOTHER CAME TO SEX
 CRIMES. COMPL GAVE A FALSE STATEMENT ABOUT BEING
 RAPED, SHE SAYS SHE WAS OBDUCTED BY TWO BLACK
 MALES THEN TAKEN TO A VACAT BURNED OUT DWELLING
 AND THEN WAS FORCED TO LYE DOWN AND SEXUALLY
 ASSAULTED. THE COMPL WHILE AT SEX CRIMES, NEVER
 HAD CHANGED HER CLOTHES. HER CLOTHES WERE VERY
 CLEAN FOR BEING IN A BURNED OUT DWELLING LAYING
 DOWN. THE COMPL ALSO SAYS SHE WAS TIED UP AFTER
 THE RAPE BUT SET HERSELF FREE AFTER PERPS LEFT.
 COMPL HAS NO ROPE MARKS ON HER WRISTS. COMPL
 WAS SUPPOSED TO BE HOME AT 7:00P BUT DIDN'T ARRIVE
 UNTIL 8:30P. THIS CASE IS CLOSED MIJUTEEC

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Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence



Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence

U.S. Department of Justice (2015)

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DOJ Gender Bias Guidance

“Gender bias in policing practices is a form of discrimination that may result in LEAs [law enforcement agencies] providing less protection to certain victims on the basis of gender, failing to respond to crimes that disproportionately harm people of a particular gender, or offering reduced or less robust services due to a reliance on gender stereotypes” (p.3).

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DOJ Gender Bias Guidance

“Gender bias, whether explicit or implicit, conscious or unconscious, may include police officers misclassifying or underreporting sexual assault or domestic violence cases, or inappropriately concluding that sexual assault cases are unfounded; failing to test sexual assault kits; interrogating rather than interviewing victims and witnesses; treating domestic violence as a family matter rather than a crime; failing to enforce protection orders; or failing to treat same-sex domestic violence as a crime” (p.3).

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8 Principles in DOJ Guidance

1. Recognize and address biases, assumptions and stereotypes about victims
2. Treat all victims with respect and use interviewing tactics that encourage a victim to participate and provide facts about the incident
3. Investigate sexual assault or domestic violence complaints thoroughly and effectively
4. Appropriately classify reports of sexual assault or domestic violence

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8 Principles in DOJ Guidance

5. Refer victims to appropriate services
6. Properly identify the assailant in domestic violence incidents
7. Hold officers who commit sexual assault or domestic violence accountable
8. Maintain, review and act upon data regarding sexual assault and domestic violence

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Bias: 101

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Implicit Bias

- Automatic and unconscious process
- Assigning a stereotype and/or linking negative or positive attitudes to a group
- Necessary for efficient cognition
- Can be a problem with groups of people

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“An exponentially increasing number of empirical studies demonstrate a relationship between measures of implicit bias and real-world discriminatory behavior”

Casey, P., Warren, R., Cheeseman, F. & Elek, J. (2012) Helping Courts Address Implicit Bias: Resources for Education. Williamsburg, VA: National Center for State Courts, p. 15.

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How Bias Develops

- Begins in childhood, when we absorb information about the world
- Ascribe characteristics to groups of people
 - Men: strong, assertive, rational, independent
 - Women: emotional, submissive, dependent

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Implicit Association Test (IAT)

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<https://implicit.harvard.edu/implicit/takeatest.html>

- Gender - Career
- Gender - Science
- Age (young - old)
- Sexuality (gay - straight)
- Weapons (White - Black faces)
- Weight (fat - thin)
- Arab-Muslim - Others
- Native American - White
- Disabled - Able
- Asian - European American
- Religion
- Skin Tone (light - dark)
- President (Trump - others)

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Gender Bias

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Sex vs. Gender

Sex is biological



Photo credit: dreamstime.com

Gender is learned



Photo credit: dreamstime.com

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Associated with Masculinity	Associated with Femininity
Take care of the family's financial needs (breadwinner)	Take care of the family's physical and emotional needs (caregiver)
Being "naturally" good at certain tasks (such as driving, mechanics, technology)	Being "naturally" good at other tasks (e.g., cooking, child care, decorating)
Being a leader, assertive, tough	Being a support person, passive, sensitive
Getting what one wants	Providing what others want
Hiding emotions associated with vulnerability (sadness, fear, anxiety)	Showing emotions associated with vulnerability (sadness, fear, anxiety)
Being sexually interested in, and sexually active with women, including promiscuity	Being sexually available to men, but not promiscuous
Being virile	Being fertile
Being a perpetrator, but not a victim of violence	Being a victim, but not a perpetrator of violence
Aggression/violence can be acceptable and even expected	Aggression/violence generally not acceptable or expected
Strong/protector	Vulnerable/protected

Chart adapted from the UN Women Training Center (2016). *Self-Learning Booklet: Understanding Masculinities and Violence against Women and Girls*, p. 11.

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Non-Binary Genders

- Presentation focus on implicit bias – male vs. female
 - Part of bias is assumption that gender only expressed in 2 ways
 - Can respond to people in ways that don't make sense or are hurtful
 - Bias may operate differently, but with similar types of impacts
 - Ask people how to best meet their needs!

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“Even those dedicated to the principles of a fair justice system may, at times, unknowingly make crucial decisions and act in ways that are unintentionally unfair.”

Casey, P., Warren, R., Cheeseman, F. & Elele, J. (2012) Helping Courts Address Implicit Bias: Resources for Education. Williamsburg, VA: National Center for State Courts, p. 2.

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Gender Bias and Sexual Assault

- Can influence:
 - Victim selection
 - Victim blaming
 - Ideas about false reporting

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Victim Selection

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Vulnerability

- Identify who might be a "good target" 
Photo credit: GraphicFuel
- What stereotypes might influence our judgments 
Photo credit: 123RF.com

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Vulnerability: Situation, Not State

- Alcohol or drug use
- Physical or cognitive disabilities
- Undocumented individual or immigrant

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Victim Selection

- Accessibility
 - Objective vs. subjective
 - Influenced by position, power, stereotypes, attitudes
- Credibility
 - Inspiring belief
 - Influenced by stereotypes (gender, race, age, etc.)

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"Last year this woman was arrested for criminal trespass at a park. She was totally intoxicated, even the following day. After she was arrested, she claimed all she remembered was walking into the park and being raped by a stranger. I authorized a sexual assault medical forensic exam and sure enough, the swabs came back with the DNA of a serial rapist we'd been looking for. You just can't discount any reports no matter how incredible they seem."

Huhtanen, H. (2009). *Situated at the Crossroad: A Sociological Exploration of Law Enforcement Decision Making on the Subject of Rape and Sexual Violence*. Unpublished Masters Research Paper, Erasmus University, International Institute of Social Studies, The Hague, the Netherlands.

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Victim Selection: In Sum

- Influenced by:
 - Perceived vulnerability, accessibility, credibility
 - All influenced by gender stereotypes, attitudes

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Case Scenarios

- Present basic fact pattern
- Then compare 2 case scenarios
 - Why victim might be seen as vulnerable, accessible, or lacking credibility
 - Why suspect might be seen as credible
 - How will this affect evaluation of the case, and how it is handled by professionals

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Basic Fact Pattern

A woman is sexually assaulted by a male supervisor, at the convenience store where she works. Her supervisor asked her to stay late, to help stock the shelves. When she said she could not work late because public transportation would not be available at that time, her supervisor offered to give her a ride home. The woman agreed to stay late and accepted the offered ride. She then reported that her supervisor raped her in the car, after driving her to an isolated area.

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Scenario #1

<p>Female victim:</p> <ul style="list-style-type: none"> ▪ College student ▪ From rural community ▪ In affordable housing ▪ Works a lot of hours ▪ Doing well in school ▪ No criminal history 	<p>Male suspect:</p> <ul style="list-style-type: none"> ▪ Criminal history ▪ Report of DV ▪ Employed < 1 year
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Scenario #2

<p>Female victim:</p> <ul style="list-style-type: none"> ▪ In mid-40's ▪ Children taken away ▪ Criminal history ▪ Needs \$ to pay fine ▪ Trying to get kids back 	<p>Male suspect:</p> <ul style="list-style-type: none"> ▪ Store manager ▪ Employee of Month ▪ At store > 3 years ▪ Married with 3 kids ▪ Active in church
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Difference in 2 Scenarios?

- Credibility is not objective, it's an opinion
- "Bad victim" makes a "good target"
- Can override, but must be conscious

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Victim Blaming

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Victim Behaviors

- Hitchhiking
- Drinking alcohol
- Going to a bar alone
- Engaging in sex outside of marriage
- Accepting a ride from the suspect
- Going to the suspect's home (LaFree, 1980)
- Dressing or behaving "provocatively"
- Having sex with the suspect
- Being involved in criminal activity (illegal drugs, sex trade)

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Quiz Time!

- a) Leave in search of the restroom
- b) Cover the young woman with a blanket
- c) Notify the host that someone is passed out
- d) Commit sexual assault

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Victim Selection / Victim Blaming

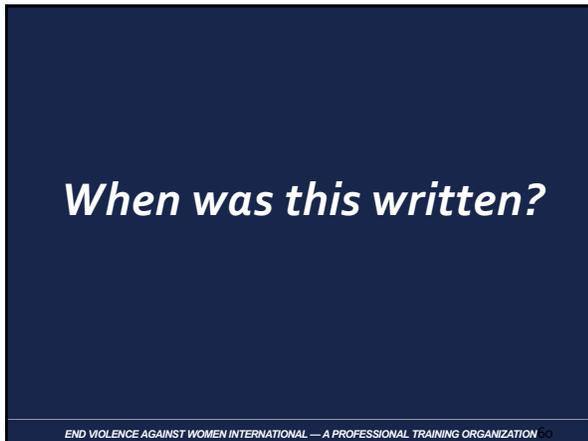
- Victim selection based on perceived vulnerability, accessibility, credibility
 - Influenced by gender stereotypes, attitudes
 - "Good target"
- Same factors used to blame victims
 - "Bad victim"
- Gender bias affects victim selection and blame

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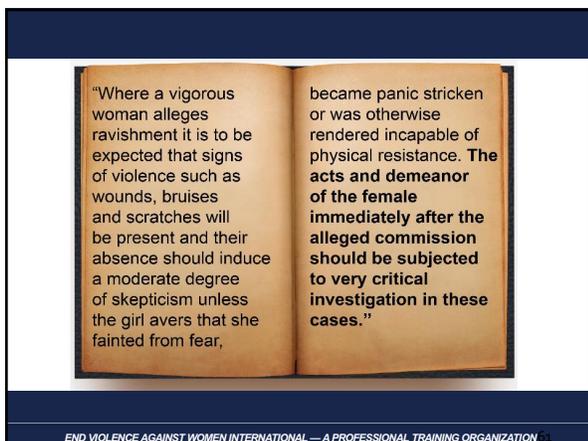
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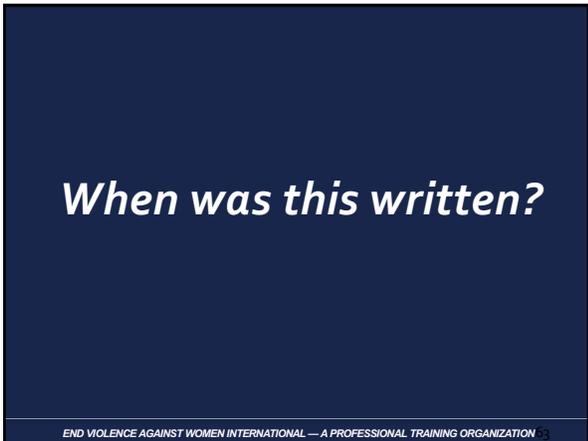
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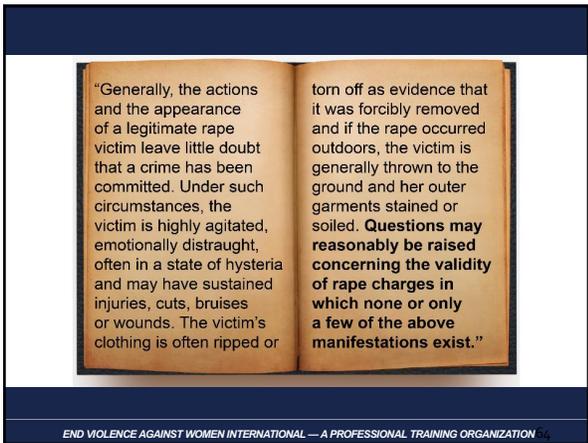
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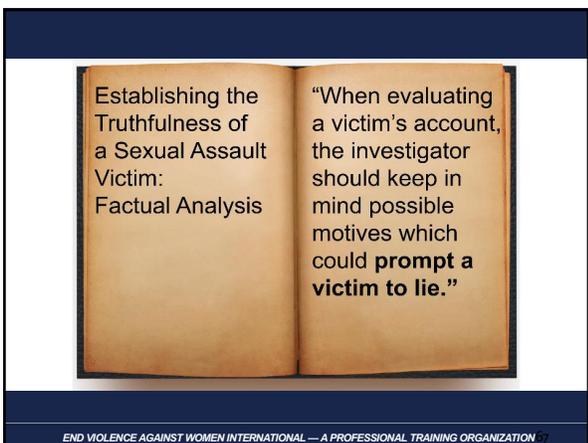
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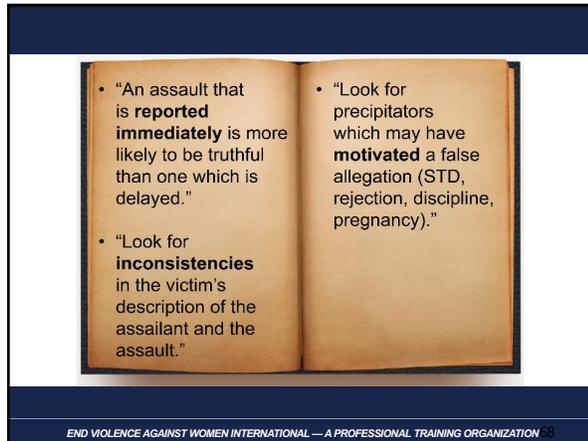
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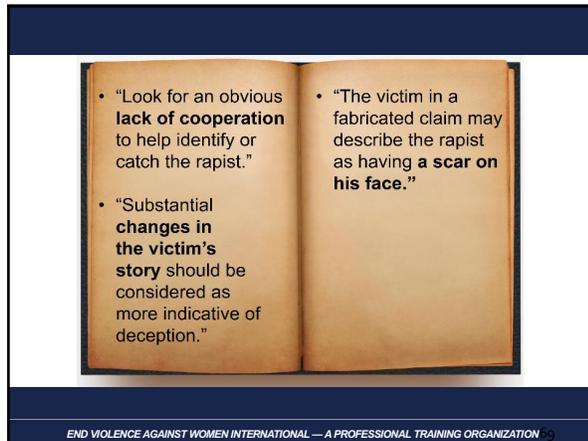
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Ideas about False Reporting

- Report of sexual assault that did not happen
 - Estimated 2-8% of sexual assault reports are false
 - When to make the determination?
 - Standard as referral for prosecution
- Examples of sexual assault victims who are not believed, report is later proven true
 - Greater risk of report wrongly classified as false

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Identifying a False Report

- People believe victim behavior is relevant to identifying credibility and truthfulness
 - No agreement on which behaviors

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“Eye contact, facial expressions . . . the other thing we look for is overdramatization. True victims have a very flat affect, whereas someone that is trying to cover for her own sexual activity will put on a show. Sobbing, yelling and covering their face. That’s a problem.”

Campbell, B.A., Menaker, T.A. & King, W.R. (2015). The determination of victim credibility by adult and juvenile sexual assault investigators. *Journal of Criminal Justice*, 43, 29-39 (p.34).

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“The person who is truly upset and crying will have a runny nose along with the tears.”

Campbell, B.A., Menaker, T.A. & King, W.R. (2015). The determination of victim credibility by adult and juvenile sexual assault investigators. *Journal of Criminal Justice*, 43, 29-39 (p.34).

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Detecting Deception

- We all think we know what lying looks like
- But average accuracy is about 60%
 - Even for professionals
 - Chance level is 50%

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Ekman & O'Sullivan (1999)

- Police Investigators
- Psychiatrists
- Judges
- U.S. Secret Service
- Federal polygraphers

Ekman, P. & O'Sullivan (1993). Who can catch a liar? *American Psychologist*, 46 (9), 913-920.

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Why So Bad?

- We all lie
- We rely on wrong cues:
 - Avoiding eye contact
 - Being fidgety
- No statistical relation to deception

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Lying vs. Trauma

Deception – Lying	Traumatic Victimization
Guilt about lying	Self-blame
Fear of being caught	Fear of not being believed
Excitement about lying successfully	Shame about what happened

Salter, A. (2003). *Predators, Pedophiles, Rapists, and Other Sex Offenders*. New York, NY: Basic Books.

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“Red Flags” for Sexual Assault

- Delayed reporting
- Inability to recall details, chronology
- Inconsistent statements
- Too much, or too little, emotional expression
- Recantation
- **Yet the reality is there is no research indicate that these, or other specific identified behaviors, predict whether a sexual assault report is likely to be false.**

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Recantation ≠ False Report

- At least, not necessarily

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IACP Model Policy on Sexual Assault Investigation

“Understand that recantation of any or all aspects of the initial disclosure is not necessarily indicative of a false report. Victims who recant or decline participation in the investigation should not be asked to sign a non-prosecution statement. In addition, the facts of the case, as provided by the victim may change over time. Officers should understand that this does not indicate deception” (2017, p. 2)

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Importance of Investigations

- There are no legitimate “red flags”
 - These are based on feelings
 - Subject to logical leaps, unfair assessments
 - Thus potentially fueled by biases
- There is only evidence, or a lack thereof

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Case Scenario

- Read the case summary
 - Think about possible explanations
 - Identify next investigative steps

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Case Summary

A woman reported waking up in the middle of the night, shocked to find that she was being raped by a man she had dated briefly. They had not seen each other for several months, but even in the dark, she recognized his voice, his body, and the silhouette of his face.

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Case Summary (continued)

The woman showered thoroughly and then went to the hospital for a medical forensic examination. Although biological evidence was collected by the nurse, and it was submitted to the laboratory for analysis, no foreign DNA was detected. The nurse also took photographs of some genital abrasions.

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Case Summary (continued)

There was no sign of forced entry into the home, but there was an unlocked sliding glass door in the dining room that could have been used by the suspect. Fingerprint evidence was collected during the crime scene investigation, but the prints recovered all matched to known individuals. In other words, none of the prints belonged to an unknown individual who might have been the suspect.

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Case Summary (continued)

Law enforcement contacted the man identified by the victim and learned that he was thousands of miles away at the time of the assault. This was corroborated with airline tickets and hotel records from his trip. Nonetheless, the woman was adamant in stating that she was raped by this man, and she pleaded with the police to continue investigating her report.

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The Starting Place



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Recommended Practices

- 1) All reports thoroughly investigated
 - When this reflects the victim's wishes
- 2) No "lie detection" with victims
 - Polygraph, voice stress, handwriting
 - Investigators are not human lie detectors

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Recommended Practices

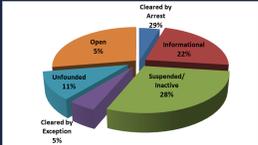
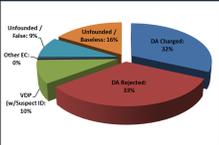
- 3) Recantation alone does not establish probable cause to file charges for filing a false report, obstruction of justice
- 4) Never pressure victims to recant
 - Or threaten to arrest if they don't "confess" to a false report

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Recommended Practices

- 5) Supervisors must review clearance rates
 - Of individual investigators, and Units

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Conclusion

- Best way to prevent gender bias?
 - Start by Believing, then...
 - Thorough, evidence-based investigation
- Looking for help? EVAWI has it!

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