



End Violence Against Women International (EVAWI)

Unfounding: False vs. Baseless Reports

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August 2013

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Sgt. Joanne Archambault (Retired, San Diego Police Department) is the Chief Executive Officer for EVAWI. In 2003 prior to founding EVAWI, Sgt. Archambault worked for the San Diego Police Department for almost 23 years, in a wide variety of assignments. During the last 10 years of her service, she supervised the Sex Crimes Unit, which had 13 detectives and was responsible for investigating approximately 1,000 felony sexual assaults each year. Sgt. Archambault has provided training for tens of thousands of practitioners, policymakers and others – both across the country and around the world. She has been instrumental in creating system – level change through individual contacts, as well as policy initiatives and recommendations for best practice.



This training bulletin is the third in our series explaining the methods that law enforcement personnel use for clearing crime reports. All of these training bulletins will be archived at the [EVAWI website](#) for later reference. In the [first installment](#), we defined the general concept of police clearance methods and offered a more detailed explanation of “clearance by arrest.” In the [second bulletin](#), we explored “clearance by exception” (also referred to as “exceptional clearance”). In this third installment, we discuss unfounding. We will then follow with a discussion of some of the problems and challenges with how clearance methods are used by many law enforcement agencies.

Unfounded Crime Reports

According to [UCR guidelines](#), a reported offense can be cleared as unfounded “if the investigation shows that no offense occurred nor was attempted.” These cases thus remain as official crime reports and are included in the departmental statistics on sexual assault crimes that are reported to the UCR. However, they are explicitly labeled as “unfounded” cases within UCR reports on the various index crimes.

According to UCR guidelines, the statistics on unfounded cases should include crime reports that are either:

False, OR
Baseless

False Reports

UCR guidelines are clear that a report can only be determined to be false on the basis of evidence that the crime was not committed or attempted. Specifically, the UCR *Handbook* 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 (p. 77).

According to these guidelines, a case cannot be unfounded if no investigation was conducted or if the investigation failed to prove that the crime occurred – this would be an inconclusive or an unsubstantiated investigation (although this is not a clearance category as defined in the UCR guidelines). Another way of describing this would be that the investigation produced “insufficient evidence.” However, none of these should be considered a false report. Rather:

Crime reports can only be properly determined to be false if the evidence from the investigation establishes that the crime was not completed or attempted.

While this is the actual definition of a false report for UCR purposes, it does not typically reflect the way officers and investigators tend to think of their sexual assault

investigations. It therefore requires a bit of a shift in the thinking of many law enforcement professionals and others.

Note: For a concise discussion of the issues surrounding false allegations, case unfounding, and victim recantation, a helpful [4-page document](#) is available from the [Oregon Sexual Assault Task Force](#).

Baseless Reports

Cases determined to be baseless include those that do not meet the elements of the offense and those that were improperly coded as a sexual assault in the first place. Calls often come in to law enforcement agencies as a sexual assault report, but follow-up investigation reveals either that no crime occurred or that some other type of crime was actually committed (or attempted). This highlights the importance of flexibility in the process for determining whether an incident is recorded with a crime report or an informational report and what criminal offense code(s) are used. Clearly, the way a crime is reported will impact how the report will be cleared or closed.

Citizens frequently report sexual acts to law enforcement that are unwanted but do not meet the elements of a sexual assault offense. To illustrate, an adult might report to police a situation where they felt pressured or coerced into having sexual contact with another person, but the coercion did not meet the criteria for a forcible sexual assault, e.g., an adult woman is coerced into having sex when her boyfriend who said he would break up with her if she doesn't do what he asked. In cases like this, best practice is for the responding officer to document this with an informational report, and then later determine whether or not to "score" it as a crime report based on the information gathered during a thorough, evidence-based investigation. If the investigation suggests that the element of force was not met, the report would either remain as an informational report of forcible sexual assault or it could perhaps be scored as a crime report for some other lesser offense (e.g., sexual battery, sexual abuse).

However, in some situations this type of report will be officially recorded as a crime report. When this happens, the proper administrative procedure for clearing the report is to unfound it – not because it is false – but because it is baseless (i.e., the element of force has not been met). This is a common – and appropriate – use of UCR unfounding, but it is widely misunderstood.

Other Guidelines for Unfounding

In addition to these general criteria for unfounding, three additional guidelines need to be described because they are critically important.

- First, cases cannot be unfounded using the UCR criteria on the basis of findings from a coroner, court, jury, or prosecutor. The decision to unfound a case using UCR criteria can only be made by law enforcement

personnel. So, investigators do not change their clearance of a case based on the decisions of a prosecutor or a verdict by a judge or jury.

- Second, UCR guidelines explicitly state that “the refusal of the victim to cooperate with prosecution, or the failure to make an arrest does not unfound a reported offense.” (Recall that the victim’s “refusal” can better be understood as an inability to participate at that time.) Although the victim’s inability to participate with a police investigation is often used as a basis for unfounding a sexual assault case, this is clearly incorrect.
- Third, a case cannot be unfounded simply because the police were unable to locate or arrest the suspect. Such factors do not establish that the crime report is (a) *false* or (b) *baseless*, so they cannot be used as the basis for unfounding it.

For More Information

For more information, please see the [OnLine Training Institute \(OLTI\)](#) module on *Clearance Methods for Sexual Assault Cases*. This training bulletin is an adapted excerpt from that module. Also relevant is the module on as well as *False Reports*.

