



End Violence Against Women International
(EVAWI)

Training Bulletin Series: Part 3

Gender Bias in Sexual Assault Response and Investigation

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Part 3: Introduction

This is the third installment in our series exploring gender bias in sexual assault response and investigation. In the previous [Training Bulletin](#), we looked at how implicit gender bias, based on gender-based stereotypes and attitudes, can influence victim selection and victim blaming. In this bulletin, we explore the relationship between gender bias and the designation of false reports in cases of sexual assault and rape.

The Stakes are High: The Case of “Marie”

First, let’s consider the following case, which took place in Lynnwood, Washington. It was meticulously documented in a Pulitzer Prize-winning article written by T. Christian Miller and Ken Armstrong, called *An Unbelievable Story of Rape*.

In August 2008, an intruder entered the house of Marie [not her real name], an 18-year-old woman recently emancipated from foster care and living on her own for the first time. The intruder covered his face with a black scarf, wore gloves, tied Marie’s wrists with shoelaces from her own shoes, put her own underpants in her mouth as a gag, held a knife to her throat, raped her and then took photos of her bound and gagged with her learner’s permit on her chest. The medical forensic exam identified abrasions on both her wrists, about 2.5 inches each, as well as abrasions to her vagina. Scuff-marks on her patio fence were consistent with someone scaling the fence and entering through the sliding glass door, which was unlocked at the time.

Despite the presence of physical and corroborative evidence, the detectives assigned to the case were skeptical and believed Marie’s account had inconsistencies suggesting she was lying. For example, Marie initially reported that after unbinding herself she called a friend – but she later reported that she called her friend while still bound with shoelaces. In addition, the detectives received a call from one of Marie’s previous foster parents who relayed that she was concerned that Marie was seeking attention and possibly made up the story. The foster parent expressed her doubts about Marie’s report, noting that her behavior was not how she would expect a rape victim to behave. Thereafter, the detectives asked Marie to come to the police station for another interview. According to the detectives’ notes, once Marie was in the conference room at the police station they immediately confronted her, telling her there were inconsistencies between her statements and accounts from other witnesses. The detectives noted that based on her answers and body language, it was clear she was lying. The detectives insisted that Marie write a new statement even though she repeatedly stated she believed she had been raped. She initially wrote that she may have dreamt that she was raped, because it seemed real to her, but the detectives refused to accept

this, and insisted that she admit to making up the story. Marie conceded and wrote another statement indicating that she made up the story. However, after returning home, she contacted the police department and insisted that she wished to recant her recantation – in other words, she returned to her original report of being raped at knife point by a stranger.

Nonetheless, the detectives ultimately unfounded the case and classified it as a false report. They then forwarded the case to the prosecutor's office and Marie was prosecuted in 2009 for filing a false police report. She accepted a plea deal based on the advice of her public defender.

In 2010, the man who raped Marie was identified by detectives from two different police departments in Colorado. These two detectives teamed up when they realized there had been a string of rapes in different communities (and police jurisdictions) with the same modus operandi. Marie was only identified as a victim in this series of sexual assaults after one of the Colorado police detectives found a picture of her, along with other the victims, on the perpetrator's computer. The photo showed Marie on her bed, bound and gagged with her learner's permit on her chest.

In 2011, Marc O'Leary was convicted of 28 counts of rape and other associated felonies, including the attack on Marie. He is now serving a 327 ½ year prison sentence, the longest allowable in Colorado.

What does it mean for the integrity of law enforcement, and the criminal justice system as a whole, when the victim of a violent crime is wrongly accused of making a false report, and then prosecuted for it? This is not just a failure or a mistake, but an abhorrent miscarriage of justice with far-reaching consequences. Because the charges against Marie, for filing a false police report, were widely reported in the media, this only helped to reinforce the stereotype that women often lie about rape within the criminal justice system.

Unfortunately, Marie's is not the only such case. Another similar case was highlighted by the U Senate Judiciary Committee in 2010, in their hearing entitled, *Rape in the United States: The Chronic Failure to Report and Investigate Rape Cases*.¹ At that hearing, Sara Reedy recounted how she was sexually assaulted and robbed while working at a convenience store in Pennsylvania. Joanne Archambault served as an expert witness in that case.

¹ [Rape in the United States: The Chronic Failure to Report and Investigate Rape Cases](#) (2011). Hearing before the Subcommittee on Crime and Drugs of the Committee on the Judiciary, 111th Congress, Serial No. J-111-107, 1-276.

Sara Reedy Case

In July 2004, 19-year Sara Reedy was working at a convenience store, where she was robbed and sexually assaulted at gunpoint. After the assault, she ran to a neighboring business, and an employee called 911. Reedy had a medical forensic examination, even though the doctor said he believed she was lying about the rape. Her clothing was also collected as evidence, but it was clear that both the responding officers, and the investigator assigned to the case, believed she stole the cash herself and fabricated the sexual assault and robbery to cover for the theft. In his interview, the detective told Reedy that “things would go a lot easier” if she confessed, and that her “tears would not save [her].”

In fact, the detective never investigated Reedy’s sexual assault and robbery, even when he was assigned another case with a very similar fact pattern three months later. These two assaults were the only two rapes reported in the jurisdiction that year. Instead, in January 2005, a warrant for Sara Reedy was issued for theft, receipt of stolen property, and filing a false report, all misdemeanors in the state of Pennsylvania.

Reedy turned herself in when she learned that a warrant had been issued. She had cooperated with the investigator for months (other than refusing to confess to filing a false report). Nonetheless, the detective appeared at her arraignment and argued, contrary to the evidence and facts, that Reedy was a flight risk. He had no known address for her at the time of the hearing, and said she had no job and no ties to the community. As a result of the detective’s testimony, Reedy spent five days in jail, despite the fact that she was five months pregnant at the time.

If the evidence in this case had been analyzed, it might have identified the perpetrator before he went on to assault numerous other women. The only evidence tested was the blood and urine sample taken from Reedy, which indicated the presence of THC and Diazepam. These toxicology findings were then used to discredit her.

Finally, in August 2005, seven months after her arrest, Wilbur Cyrus Brown was arrested when he attacked another convenience store clerk. This assault took place just a little more than a year after Reedy’s. In this case, the victim managed to sound an alarm during the sexual assault. Brown had tied her up, doused her with lighter fluid, and threatened to set her on fire before police arrived and took him into custody.²

After his arrest, Brown confessed to 11 attacks across the state, including Reedy’s. Only then were the charges against her dropped. She sued the detective and won a \$1.5 million settlement. Yet it is worth noting that there were many other failures in the response system as well, including medical personnel and, according to the victim, the local rape crisis center, which denied her services based on her “false report.”

² [“Serial rapist gets jail and chilling lecture.”](#) *Lancaster Online*. Posted April 27, 2007. Updated September 11, 2013.

Identifying False Reports of Sexual Assault

While law enforcement professionals and others may have various ideas about what constitutes a false report of sexual assault, the most accurate definition is this: A false report is a report of a sexual assault that did not happen (i.e., it was not completed or attempted). More complicated is the question of when someone can appropriately decide that a report is false. For example, this decision is all too often made on the basis of certain characteristics of the victim, suspect, or the assault. However, this is not the proper basis for such a decision. Instead, law enforcement should base any such judgment on a thorough, methodical, and evidence-based investigation that shows clear evidence that the sexual assault was neither completed or attempted. In other words, the determination that a report is false should only be made when there is sufficient evidence to establish that the sexual assault did not happen.

Just as a report of sexual assault does not prove that a sexual assault took place, a recantation does not prove that the report was false. Indeed, the standard of evidence for a false report should be the same as referring a case for prosecution. Either there is evidence to support any such determination, or the determination should not be made.

Resources: False Reports of Sexual Assault

For more information on the topic of false reports, EVAWI offers a training module entitled, [False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assault](#). This module is available as a downloadable document in our [Resource Library](#). An interactive version of the training module in the [OnLine Training Institute \(OLTI\)](#) includes review exercises, practical applications, and an end-of-course test. After passing the test, participants can print a personalized certificate of completion. EVAWI also offers a Training Bulletin addressing questions related to the topic of [Prosecution for Filing a False Report of Sexual Assault](#).

Despite this clearly articulated threshold, research in the US and UK consistently reveals that law enforcement professionals often hold an exaggerated belief about the number of false reports of sexual assault that are made (Jordan, 2004; Rumney, 2006; Lisak et al., 2010; Rumney et al., 2013). For example, a survey of 891 police officers found that over half (53%) believed that up to 50% of all victims lie about being raped (Page, 2008). Another survey revealed that on average, patrol officers believed that one-third (32.7%) of all reported cases of rape were false allegations (Schwartz, 2010).

Of course, false reports of sexual assault do occur, just as they do for other crimes. However, evidence-based estimates fall in the range of 2-8% for sexual assault (Lisak et al., 2010; Lonsway, Archambault & Lisak, 2009). This level of false reporting does not indicate a need for special measures designed to identify and address false reports; indeed, there is no indication that there is an increased risk of false reports in cases of sexual assault versus other types of crime. However, there is a risk that an exaggerated fear of false reporting can lead to the improper over-classification of false reports.

In fact, the data indicates that there is a far greater risk of a sexual assault report being wrongly classified as false, as compared to an actual false report.

After reviewing 164 rape cases in one research study, Jordan (2004) concluded that:

While false complaints do occur, approximately three-quarters of the incidents concluded by the police to be false appeared to have been judged, to some extent at least, on the basis of stereotypes regarding the complainant's behavior, attitude, demeanor, or possible motive. Suspicious file comments were made by the detectives regarding a woman who laughed while being interviewed, others ... were seen as 'attention seeking,' and some ... were said to be 'crying rape' for revenge or guilt motives (p. 48).

This quote illustrates the real risk of responding based on gender-based stereotypes and implicit biases – rather than a thorough, methodical, and evidence-based investigation. Indeed, explicit and implicit gender biases, including the exaggerated fear of false reporting, can significantly influence law enforcement investigations and deter investigators from following best practices, or even initiating the investigation at all.

Gender Bias and False Reports

As discussed throughout this series of Training Bulletins, gender bias – whether implicit (unconscious) or explicit (conscious) – is shaped and informed by gender-based stereotypes and attitudes that assign various characteristics, roles, and behaviors to men versus women – and this includes sexual roles and behaviors. While many of us hold attitudes and values in support of gender equality, as well as equal, impartial and fair access to justice, implicit gender bias can nonetheless remain a significant barrier to both. That is because implicit biases operate at an unconscious level. Our judgments can be made in a matter of seconds, without any conscious awareness. Even more important, they can and do often contradict our consciously held beliefs and values.

Gender bias may, therefore, explain the widely-held belief that sexual assault reports are often false. This belief, in turn, can affect the responses of professionals both inside and outside the criminal justice system. Responding professionals will inevitably make unconscious determinations about the veracity of a report – but if these judgments are wrong, they can fail to take appropriate action or draw inaccurate conclusions.

What happens if law enforcement does not believe a victim is credible? What happens if law enforcement does not believe a victim to be worthy of the expenditure of police resources or a thorough, methodical and evidence-based investigation?

The US Department of Justice (DOJ) sheds light on the answer, by outlining what happens – or rather, what doesn't happen – in many such cases. Specifically, DOJ's

2016 investigation of the Baltimore Police Department (BPD) found that “gender bias may be affecting the BPD’s handling of sexual assault cases” (USDOJ, 2016, p. 11).

We found indications that officers fail to meaningfully investigate reports of sexual assault, particularly for assaults involving women with additional vulnerabilities, such as those who are involved in the sex trade. Detectives fail to develop and resolve preliminary investigations; fail to identify and collect evidence to corroborate victims' accounts; inadequately document their investigative steps; fail to collect and assess data, and report and classify reports of sexual assault, and lack supervisory review. We also have concerns that officers' interactions with women victims of sexual assault and with transgender individuals display unlawful gender bias (USDOJ, 2016, p. 11).

Following this report, DOJ published groundbreaking new guidance for law enforcement on identifying and preventing gender bias in sexual assault and domestic violence investigations. This guidance came in response to a series of investigations into the practices of municipal and university police departments when responding to sexual assault. Notably, the DOJ investigations documented problematic practices such as:

Police officers misclassifying or underreporting sexual assault; inappropriately concluding that sexual assault cases are unfounded; failing to test sexual assault kits; [and] interrogating rather than interviewing victims and witnesses (USDOJ, 2016, p. 3).

To summarize, gender bias has been documented in both research studies and DOJ investigations as a common barrier to thorough, professional, and evidence-based investigations. Thus, our challenge is to understand how gender bias operates in this context; and then to identify how to prevent its harmful influence.

Resources: Gender Bias in Law Enforcement Responses

For more information and recommendations for practice, please see the US Department of Justice (2015, December) guidance entitled, [Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence](#).

Gender Bias and Victim Credibility

Let’s consider Marie’s case from the beginning of this Training Bulletin. Notably, her case met all of the standard criteria for a stereotypical “real rape” – a stranger broke into her home, tied her up, raped her at knife point, and then disappeared into the night. Yet, Marie was apparently not seen as credible by the detectives, especially after her foster parent raised the specter of doubt. Was this because Marie was young (only 18 years old), and/or because she grew up in foster care and had a history of abuse? Or was it because of the doubt raised by her foster parent? Was it a combination of these factors,

along with Marie's demeanor and (minor) inconsistencies in her account? While we cannot know for certain, what we do know is that the detectives chose to interrogate the victim until she agreed to recant – rather than conduct a thorough, methodical, and evidence-based investigation. This was in spite of compelling physical and corroborative evidence. This example illustrates the powerful role that victim credibility plays in the police response to rape and sexual assault, and the extent to which gender-based stereotypes influence perceptions of credibility.

Then there is Sara Reedy's case in Pennsylvania. Joanne Archambault was asked to serve as an expert witness in Reedy's lawsuit. In that role, she reviewed the case files, supporting documentation and numerous depositions. Archambault found numerous failures during the course of the investigation, which centered exclusively on Reedy, and not the suspect. As just one of the many problems identified, two of the patrol officers who responded to the radio call, and the case detective, all noted that Reedy's "fake crying" was seen as a cause for suspicion, and indeed, evidence that she was lying. In his deposition, the detective stated that he had never attended training on sexual assault response or investigation, but he had received "some training on fake crying."³

Research conducted with 45 sexual assault investigators from the Houston Police Department similarly revealed that "investigators reported assessing the sincerity of victims' emotions, looking for 'real' versus 'fake' tears" (Campbell, 2015, p. 34).

Although most investigators agreed that displays of emotion enhance victim credibility, some looked for 'flat affect' and interpreted 'excessive' emotionality with caution (Campbell, 2015, p. 34).

In other words, investigators seemed to agree that victim behavior is relevant to identifying credibility and truthfulness. What they did not agree on was the type of behavior that would identify deception. In recent years, training has increasingly focused on neurobiological research illustrating that there is no "typical" response to sexual assault, or any traumatic event for that matter (Campbell, 2012; Wilson, Lonsway & Archambault, 2017). There is therefore no set of behaviors that necessarily indicate deception, rather than traumatic impact. Assessing truthfulness on the basis of any victim behavior, whether "fake crying" or a "flat affect," is not an evidence-based evaluation, but an opinion-based judgment that is profoundly informed by stereotypes about how victims should behave in the aftermath of a sexual assault.

As noted in the previous bulletin in this series, there are a number of common stereotypes and attitudes that have been shown to influence criminal justice responses to sexual assault. These are often based on victim characteristics or behaviors, such as "voluntary victim intoxication," "inconsistent statements," "mental deficiencies," "previous

³ This quote is taken from the case materials in *Reedy v. Evanson*, 615 F.3d 197, 203–04 (3d Cir. 2010).

sexual relationship with the suspect,” “inability to recall details of the assault,” “delayed reporting of the assault,” and “engaging in prostitution” (Campbell et al., 2015, p. 30-1). These findings show a pattern of gender-based stereotypes regarding appropriate behavior for women, and attitudes that shape who is viewed as having intrinsic value or credibility. That is, women who behave outside of the realm of what is considered appropriate run the risk of being viewed as unworthy of society’s protection, culpable for their own sexual victimization, and not believable in their report. Their motivation may be seen as hiding consensual sexual activity, gaining attention, or enacting revenge on a man. As a result, law enforcement investigators and others may justify their actions – or the lack thereof – by stating that the victim was not credible, and therefore the case was not legitimate.

Indeed, research has shown that perceived inconsistencies in the victim’s account, like in Marie’s case, are often used to justify curtailing an investigation, frequently before it has even begun (Avalos, 2016). Investigations are also cut short when victims are perceived as being “uncooperative” or even belligerent with officers.⁴ This type of behavior may simply be a response to trauma, or it may be the result of how they were treated by criminal justice professionals, health care providers, or others. When sexual assault victims receive poor treatment, whether it is blatant skepticism, hostile interrogation tactics, or other forms of mistreatment, it is not surprising that they frequently respond by withdrawing their participation or even becoming angry and “uncooperative.” Some even recant.

Yet again, these patterns speak to the gender-based stereotypes and attitudes that fuel a widespread belief that women routinely lie about sexual assault.

Officers continue to exhibit an unjustified skepticism of rape complainants, while others interpret such things as a lack of evidence or complaint withdrawal as “proof” of a false [report] (Rumney, 2006, p. 142).

In other words, when criminal justice professionals and others believe they have identified inconsistencies in the victim’s account, they often use this finding to confirm their belief that the victim is lying, and has filed a false report. This highlights the degree to which implicit bias can influence our assessments, our opinions, and even our behaviors. Ultimately, it speaks to the concrete need for each of us to identify and confront our own gender-based stereotypes and attitudes, to ensure that we don’t participate in a miscarriage of justice, like in Marie’s and Sara Reedy’s case.

Prosecutions for Filing a False Report

These issues are articulated in a study conducted by the English Crown Prosecution Service (CPS) in 2013, to examine cases involving “allegedly false allegations of rape or domestic violence, or both” (p. 2). In that study, a total of 121 rape cases were examined

⁴ For discussion of victim cooperation in sexual assault cases, see Kaiser, O’Neal & Spohn (2016).

where prosecution was considered for filing a false report.⁵ Yet analysis revealed that many of those cases did not appear to be false reports – or even if they were false, they were not made with deliberate intent.

- For example, just over half (51%) of the cases involved young people, many of whom “showed a clear failure to think about (or even awareness of) the seriousness of making an allegation of rape” (p 26).
- Almost one in five (19%) of these individuals had “mental health difficulties.” In some of these cases, it was clear that the person “did not understand the legal definition of consent” (p. 31).
- Almost half (46%) of the cases were initially reported by a third party (more than half of which also involved a victim who was under 18 years old). In many of these cases, the person “later reported that the whole thing had spiraled out of control and he or she felt unable to stop the investigation” (p. 14).
- Alcohol and drug use were particularly common in these cases, including those where the person “might have been raped, but could not recall because s/he had drunk alcohol or taken drugs” (p. 32).

In fact, many of the cases included in the CPS study involved no clear allegation of rape at all. This was particularly true when the person was young, where drugs or alcohol were involved, and/or when the report was made by a third party.

- In some cases, the person “had undoubtedly been the victim of some kind of offence, even if not the one which he or she had reported (p. 4).
- In other cases, analysis revealed that there was no evidence to support the charge of a false allegation: “On close examination ... there was nothing to show that what she was saying was untrue” (p. 31).

As described by the researchers, some of these victims called police to report that they might have been raped, but they could not recall any details because of their drug or alcohol use. Given the facts described, it is hard to understand what evidence was used to support the probable cause needed to support an arrest and prosecution. The decision to pursue charges was likely based on gender-biased stereotypes and attitudes that fuel an unwarranted skepticism of sexual assault victims.

⁵ These 121 cases constituted all of the rape cases considered for prosecution by the Crown Prosecution Service during a 17-month period. Of these, 35 were ultimately charged with the felony crime of “perverting the course of justice,” whereas 10 were charged with the misdemeanor offense of “wasting police time.” The report begins by contrasting these numbers with the 5,651 prosecutions for rape in the same time frame.

Misperceptions about Lie Detection

Another explanation for our skepticism of sexual assault reports has to do with our beliefs and stereotypes about what lying looks like – not just *who* lies, but also for what *purpose*. The ability to detect lies is often seen as a skill set or area of expertise for law enforcement. Yet, research suggests that a person's ability to detect deception is, at best, in the range of 60% accuracy (Ekman, 1992). Then there are several groups that are consistently less accurate than that – and this list includes:

- Forensic psychiatrists
- Police officers
- Lawyers, and
- Judges (Ekman, 1991)

Ekman (1991) found that there was a very small group of people who could detect lies at a much higher rate, with an accuracy level of about 85%. But these individuals studied, trained, and practiced this skill consistently. That was not true for the majority of people in the study, and the majority of the individuals in the groups listed above.

Why are we so bad at detecting lies? The first answer is perhaps the most simple – we all lie, and so to that extent, we are all practiced liars. Of course, lies can be nominal and unimportant, or significant and consequential. Take, for example, research documenting that approximately 15-18% of ever-married people in the US have had an extramarital affair (Laumann et al., 1994). Infidelity is a lie of significance and consequence, but clearly, it is common and routinely goes undetected.

The second answer is that we tend to use well-known, yet entirely inaccurate stereotypes about *what lying looks like*. The two most commonly associated behaviors are gaze aversion and being fidgety (Salter, 2006), but these are not effective indicators of deception.

Even the guilty liar probably will not avert his gaze much, since liars know that everyone expects to be able to detect deception in this way ... Amazingly, people continue to be misled by liars who are skillful enough to not avert their gaze (Ekman, 1992, p. 141).

As a result, this framework is useless for detecting deception, and it has the potential to trip up victims of sexual assault, rather than perpetrators. For example, consider the feelings associated with lying, versus a traumatic experience – particularly when the traumatic experience includes an element of shame or secrecy (Salter, 2003):

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

As this comparison illustrates, a liar may feel guilt and fear, but they may also be more aware of these emotional reactions and better able to control them. Thus, a person who has committed a sexual assault, and is being interviewed by law enforcement, will know that the stakes are high, and also know that they need to appear truthful. This gives them an advantage for controlling their responses and demeanor, to avoid the appearance of deception. Also, prior research has shown that many sexual assault perpetrators are serial offenders (e.g., Lisak & Miller, 2002; McWhorter et. al., 2009), so they may be well-practiced at planning and executing an assault, and then subsequently lying about it.

In contrast, victims do not have a plan nor are they practiced, and they typically feel confused, ashamed, and uncertain about how to respond. They may fear that police officers, family members, friends, and other members of their community will doubt or blame them. As a result, they do not generally approach an interview with a goal of appearing believable. Rather, they exhibit manifestations of their fear and uncertainty, and this is layered on top of the guilt and shame that are often associated with sexual assault.

Nonetheless, research has identified that law enforcement professionals feel more confident in their ability to detect deception (Eckman, 1991), and they routinely evaluate victim behaviors and characteristics to determine truthfulness. For example, 29% of Juvenile Sex Crimes investigators interviewed expressed the belief that a victim allegation is false when inconsistencies in statements are present (Campbell et al, 2015). According to one investigator, "willing victims are honest" and have the "ability to describe the mechanics of what happened," while another suggested that a "true" victim report "does not lack details" (Campbell et al, 2015, p. 33). Perhaps even more relevant, the same interviews revealed that investigators place high importance on "evaluating whether victims' emotional presentations were genuine, noting that contrived displays of emotion were a strong indicator of false reporting" (Campbell et al, 2015, p. 34).

One investigator went so far as describing a method to identify genuine crying, saying that, "the person who is truly upset and crying will have a runny nose along with the tears" (Campbell et al., 2015, p. 34). Crying was not the only identified emotional indicator of truthfulness (or the lack thereof), but there was a general attitude among the investigators that there were certain features to look for on how victims should present.

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 et al, 2015, p. 34).

In sum, gender bias, whether explicit or implicit, can fuel the belief that women routinely lie about sexual assault, and this can be reinforced with inaccurate stereotypes about what lying looks like (e.g., someone who does not make eye contact and is physically uncomfortable). When this is coupled with the fact that trauma impairs a person's ability

to record and retrieve memory (for review, see Wilson, Lonsway & Archambault, 2016), the result can be a self-fulfilling cycle of bias reinforcement.

All of this underscores the need to conduct thorough, professional, and evidence-based investigations – rather than drawing on gender-based stereotypes and attitudes, whether explicit or implicit. The responsibilities of law enforcement are summarized in a Concepts and Issues Paper on Investigating Sexual Assaults by the International Association of Chiefs of Police (IACP, 2005). The IACP notes that there are a number of victim behaviors that can be misinterpreted by police – and that these behaviors should not be used as the basis for labeling a report false. This includes (p. 13):

- Victim's delayed report
- Lack of corroborating evidence
- Lack of cooperation by the victim or witnesses
- Discrepancies in the victim's story
- Wrong address was given by the victim
- Victim's drunkenness
- Victim's drug use
- Victim's being thought of as a prostitute
- Victim's sexual history
- Victim's uncertainty of events
- Victim's belligerence
- Victim's failure to follow through with the investigation and prosecution
- Recantation by the victim

The IACP paper goes on to say that, “[e]ven if aspects of the victim’s account of the incident are missing, exaggerated, or false, this does not automatically imply that the sexual assault did not occur” (IACP, 2005, p. 13).

Resources: Sexual Assault Response and Investigation

Detailed guidance is available in EVAWI’s broad portfolio of training and technical assistance resources. The [OnLine Training Institute \(OLTI\)](#) offers comprehensive modules on topics such as: the preliminary investigation of sexual assault, law and investigative strategy, effective victim interviewing, false reports, and the role of DNA in a sexual assault investigation, among other topics. Also available are recorded [Webinars](#) and [Training Bulletins](#), which are archived in our online Resource Library.

In addition to the [Concepts and Issues Paper](#), the International Association of Chiefs of Police (IACP) has developed a number of helpful tools as part of their Police Response to Violence Against Women Project. These include a [Model Policy on Investigating Sexual Assaults](#), and a [Supplemental Report Form](#) for sexual assault that includes helpful guidelines for case documentation, effective techniques for victim and perpetrator

interviews, and a pocket “tip” card for officers. There is also a [training video](#) that can be used for law enforcement, along with a corresponding [discussion guide](#).

Eliminating “Red Flags” – Eliminating Gender Bias

In order to overcome the harmful consequences of gender bias in sexual assault response and investigation, we must be willing and able to confront our individual stereotypes and attitudes. That includes eliminating the notion that there are legitimate “red flags” for determining that a report of sexual assault is false. In fact, there are no such “red flags” – there is only evidence, or a lack thereof. A “red flag” is a feeling – and as such, it is likely to produce logical leaps, unfair assessments, poor judgments, and bad decisions. This is perfectly illustrated in Marie’s case.

In contrast, to successfully investigate cases of sexual assault we must be willing to suspend our disbelief – to recognize and confront our biases and stereotypes – and then conduct a thorough, methodical, and evidence-based investigation.

Let’s put this model in practice with a short, problem-based scenario. In this scenario, your job is to read the case summary and then identify possible explanations and next investigative steps, with the goal of corroborating both victim and suspect statements.

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.

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.

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.

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.

Possible Explanations:

Next Investigative Steps:

This case is meant to challenge your instincts and any “red flags” that might be triggered by this scenario. Clearly, the woman, in this case, could be lying, to exact revenge on the man after their relationship ended. There is no conclusive evidence of a rape or home invasion, and the primary suspect has a solid alibi. For many people, this case would appear to be a dead end, at least as far as the suspect who was named by the victim. But what if the woman was telling the truth? What if she was in fact raped by someone – someone who looked and sounded like the man she dated? What would it mean for our concepts of security and access to justice if this woman was afforded no protection or recourse? What would it mean for our society if the perpetrator went undetected and remained free to commit additional crimes?

In fact, this scenario is based on a real case – a case that was solved by a dedicated and open-minded detective who was willing to look beyond the “red flags” and pursue an investigation, even though it seemed like a dead end. What the detective found was that the man had a twin brother – and that brother, after being confronted, admitted to committing the sexual assault (Benson et al., 1999).⁶ Perhaps no case demonstrates more clearly the need for confronting our biases, identifying ‘red flags,’ and then suspending our disbelief in order to conduct a thorough, methodical and evidence-based investigation.

Conclusion: Gender Bias and False Reports

Research documents many cases where women have wrongly been accused, charged, and even prosecuted for filing a false report, when in fact no real investigation was ever conducted (Avalos, 2016). This reinforces the need to follow recommendations for best practice, as summarized by the IACP and explained in detail in EVAWI’s training resources. With such concrete guidance, and extensive tips and tools, responding professionals can avoid being influenced by their “red flags” and gender-based stereotypes, and law enforcement can follow the necessary steps for conducting a thorough, methodical, and evidence-based investigation of every sexual assault report.

⁶ Some details were added to this case in order to provide the necessary substance for a case analysis. However, the basic fact pattern that a woman was raped in the middle of the night by someone she previously dated but who turned out to be the twin brother of the man she dated, is true.

Up Next

This concludes the third Training Bulletin in our series on gender bias and sexual assault. The next installment will explore the relationship between gender bias and victim recantations. This includes exploring why victims recant and determining whether criminal justice professionals, knowingly or not, might play a role in encouraging this unfortunate outcome.

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