


**Unfounded Cases and False Reports:  
A Complex Problem**



Campus Webinar Series  
Tuesday, October 26, 2010

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**Campus Program Staff**



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**Agenda**



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- I. CALCASA Announcements
- II. Technical Instructions
- III. Presentation by Dr. Kimberly A. Lonsway
- IV. Q&A

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## Announcements



- No more webinars in 2010
- Webinar materials on [CALCASA.org/campus](http://CALCASA.org/campus)
- Winter Institute scheduled for February 7-9, 2011

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## How to use the Technology



- Raise Hand
- Q & A
- Text Chat
- PowerPoint Slides

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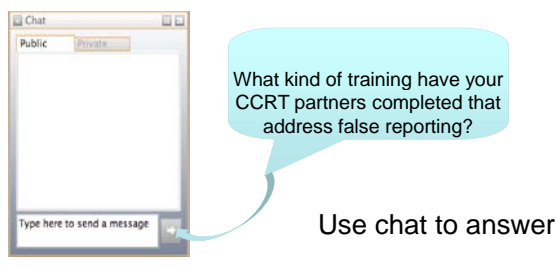

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## Chatting on iLinc



Use chat to answer

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October Webinar Presenter 

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**Dr. Kimberly A. Lonsway**  
Director of Research, EAW International

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Objectives

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- ▶ To recognize that unfounded cases and false reports of sexual assault are a complex problem
- ▶ To gain an understanding of the consequences related to unfounded cases and false reports of sexual assault.
- ▶ To know how many reports are false
- ▶ To identify best practice recommendations for potential application/adaptation on campus.
- ▶ To recognize implications for campus response

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Unfounded Cases: In the Headlines

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- ▶ **“History shows sexual-assault cases have not been a priority for Cleveland’s city leaders, law enforcement”**  
By Rachel Dissell with Leila Atassi  
*The Cleveland Plain Dealer*  
Sunday, March 28, 2010
- ▶ **“Panel Seeks More Police Training on Sex Crimes”**  
By John Eligon  
*The New York Times*  
Wednesday, June 2, 2010

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### Unfounded Cases: In the Headlines

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› **“NYPD Forced to Apologize Publicly to Rape Victim for Downgrading Her Attack”**

By Graham Rayman  
*The Village Voice*  
Monday, May 10, 2010

› **“City rape statistics, investigations draw concern”**

By Justin Fenton  
*The Baltimore Sun*  
Sunday, June 27, 2010

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### Unfounded Cases: In the Headlines

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› **“Police launch investigation into inaction complaints”**

By Gina Barton and Becky Vevea  
*The Milwaukee Journal Sentinel*  
Wednesday, July 7, 2010

› **“NOPD downgrading of rape reports raises questions”**

By Laura Maggi  
*The Times Picayune*  
Saturday, July 11, 2009

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### Unfounded Cases: In the Headlines

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› **“Cranberry rape victim's suit revived”**

By Brian Bowling  
*Pittsburgh Tribune-Review*  
Tuesday, August 3, 2010

› **“Senator Specter to hold hearing on mishandling of rape cases”**

By Craig R. McCoy  
*Philadelphia Inquirer*  
Wednesday, September 8, 2010

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### A Complex Problem

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- Suspicion that many SA reports are false
  - Shared by professionals and society
  - Perception affects everything we do
  
- Victims know when they are not believed!
  - Sometimes direct (words, agency policies)
  - Or indirect (attitudes, everyday practices)
  
- Sometimes triggered by “red flags”

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### “Red Flags” Trigger Suspicion

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- Victim knows suspect
- Prior sexual relationship
- Victim is an adolescent
- No physical violence
- No weapon
- Victim is calm
- Delayed report
- Third party report
- Can't find victim
- No physical evidence
- Victim doesn't cooperate
- Victim changes account
- Victim is vague
- Victim recants
- Victim later recalls more
- Details are false
- Victim is not credible
- Victim is drunk/on drugs
- Victim is a prostitute
- Victim is belligerent
- Victim is homeless
- Victim is mentally ill
- Victim fails polygraph
- Suspect cannot be identified

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### “Red Flags” Trigger Suspicion

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- “Red flags” spark emotional “gut reaction”
  - Anger, frustration, betrayal, etc.
  
- Yet they reflect realistic dynamics of SA
  - Commonly see in “typical” caseload
  
- Most obvious aspect of “complex problem”

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### Confusion Over Definition

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International Association of Chiefs of Police:

*"The determination that a report of sexual assault is false can be made only if the evidence establishes that no crime was committed or attempted."*

Source: IACP Concepts and Issues Paper: *Investigating Sexual Assaults*. July, 2005.

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### Confusion with "Unsubstantiated"

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➤ "Unsubstantiated" = insufficient evidence to determine whether or not crime occurred

➤ **"UNSUBSTANTIATED" DOES NOT EQUAL "FALSE"**  
• "INSUFFICIENT EVIDENCE" DOES NOT EQUAL FALSE

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### Confusion with "Unfounded"

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➤ "Unfounded" = Uniform Crime Report (UCR) definition includes both  
    (1) false reports  
    (2) "baseless" reports

➤ "Baseless" = incident does not meet the elements of the crime (but is presumed truthful)

➤ **"UNFOUNDED" DOES NOT EQUAL "FALSE"**

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### Cannot Unfounded Based on...

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- Insufficient evidence to prove SA happened
- Suspicion that the report is false ("red flags")
- Victim changes his / her account of events
- Details in the victim's statement are false
- Victim is unable / unwilling to cooperate
- Failure to locate suspect or make an arrest
- Findings of prosecutor, jury, judge, coroner

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### Other Problems with "Unfounded"

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- Very different criteria used for unfounding
- Agencies do not track false vs. baseless
- Pressure on officers to clear cases
- Used to make difficult cases "disappear"

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### The "Cycle of Suspicion" Against Victims

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- Begin with suspicion that high percentage of sexual assault reports are false
  - Communicate this suspicion to victims
  - Victims become upset / withdraw cooperation
  - Further fuels the suspicion that many if not most reports of sexual assault are false

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### The Cycle of Suspicion

Investigator doesn't believe the victim

Communicates this suspicion to the victim



"See, I knew it was a false report!"

Victim withdraws and/or becomes non-cooperative

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### The "Cycle of Sympathy" for Suspects

- Suspect is credible, respectable, likeable
  - Suspect may have plausible story, believe there was consent, be confused and upset
  - Sympathy is communicated to suspect with questions, statements, and tone
  - Credence given to suspect's statements

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### Cycles of Suspicion & Sympathy Converge

- The investigation dead-ends...
- Appears to confirm the report was false...
- Attitudes carry over...
- And the cycle repeats...

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### Consequences of Problem

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- > In individual cases
  - Victim feels betrayed, spreads the word
  - Perpetrator given a "free pass" to rape again
  - Evidence cannot be used in a future case
- > Wider impact on community
  - Misinformation about real dynamics of SA
  - Other victims do not report ("why bother?")
  - Police departments / agencies face scrutiny if caught
  - High rates of unfounded further fuel suspicion of SA

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### How many reports are false?

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- › Estimates that are unreliable:
  - UCR statistics on unfounded cases

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### National Unfounded Rates

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• Philadelphia 18%	• Los Angeles 6%
• Chicago 17%	• San Diego 6%
• San Antonio 14%	• Detroit 4%
• Dallas 11%	• Phoenix 2%
• New York 8%	• Houston .5%

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### How many reports are false?

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- › Estimates that are unreliable:
  - Anecdotal evidence (asking for estimates)
  - Unverifiable sources (e.g., NYC 2% study)
  - Misinterpreted data (e.g., confusion of computing % of unfounded vs. all reports)
  - Misquoted experts (e.g., Linda Fairstein)
  - **The famous Kanin (1994) study**

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### The Kanin (1994) Study

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- › Most frequently cited study
- › Percent of false reports over 9 years
  - Reports from one small police department
  - Determination made by police officers
  - No method of evaluating or verifying decision
  - No check on bias of police or author

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### The Kanin (1994) Study

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- › Decision based on victim recantation
- › Used or threatened polygraph in all cases
  - No surprise that 41% of victims recanted
  - Practice violates guidelines of IACP and DOJ
- › In an "addenda," states that data from 2 universities found 50% false report rate

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### Reliable Research

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- › EAW International "MAD" Study
  - Data from 8 U.S. communities
  - All sexual assault cases, 18-24 months
  - Law enforcement personnel trained in clearance categories (esp. false vs. baseless)
  - 1,984 cases with known case dispositions
  - **7.1% were classified as false reports**

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### Reliable Research

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- › The Boston Study (Lisak et al., in press)
  - Police Dept. of major northeastern university
  - All 136 sexual assault cases from 1998-2007
  - 2 independent teams of 2 coders
  - Reviewed each case report
  - Interviewed investigators
  - **5.9% were classified as false reports**

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### Reliable Research

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- › British Study (Kelly, Lovett & Regan, 2005)
  - 2,643 cases reviewed over 15 year period
  - Reviewed case files, reports, some interviews
  - 8.2% classified as false reports by police
  - **2.5% classified as false reports** by researchers using criteria from police manual: "clear and credible admission by complainant" or "strong evidential grounds"

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### Reliable Research

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- Australian Study (Heenan & Murray, 2006)
  - 812 cases reported to police in Victoria
  - Used quantitative and qualitative analysis
  - **2.1% were classified as false reports**

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### Conclusion: Reliable Research

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Of all reports of sexual assault, approximately 2-8% are false.



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### Real "False" Reports

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- Even if we tend to overestimate their frequency, no one will deny they occur
  - Damage extends well beyond the case
  - Limited empirical research on actual characteristics of false reports
  - Previous writing on potential indicators based mostly on FBI (stranger, high profile cases)

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### Consider This:

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*If you were going to file a false report of sexual assault, what would it look like?*

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### Potential Indicators of a “Real” False Report

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- › Suspect is a stranger or vaguely described acquaintance not identified by name
  - Victim physically resisted to the utmost
  - Use of a weapon, serious physical violence, and/or injury to the victim
  - An assault involving only penile-vaginal penetration not other sexual acts

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### Potential Indicators of a “Real” False Report

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- › Escalating problems in life or relationships
- › History of mental or emotional problems
- › Characteristics of “copycat” crime

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### Determining a Report is False

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- Not necessarily significant in isolation
- Could indicate either:
  - an increased risk of actual sexual assault
  - or an increased likelihood of filing false report
  - for example, mental or emotional problems

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### Determining a Report is False

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- Devastating if suspicion is misplaced
  - Destroys trust and eliminates prosecution
  - Challenge must be with supportive tone
  - Allows for correction, clarification if wrong

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### Responding to a Suspected False Report

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- A report should typically only be seen as suspect with a number of indicators
  - Truth is in the facts

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**Responding to a Suspected False Report**

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False reports likely to be result of serious psychological and emotional problems

- Extremely frustrating situations, but perhaps best handled with referrals for social services

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**Best Practice Recommendations**

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1. Offer definitions / training on false reports, unfounded cases, recantations, and unsubstantiated investigations
  - Example of position paper by the Oregon Sexual Assault Task Force: [www.oregonsatf.org/resources/positionpapers/html](http://www.oregonsatf.org/resources/positionpapers/html)
  - Provide training in clearance methods or other criteria for resolving cases

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**Best Practice Recommendations**

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2. All SA reports documented with written report / investigated to the extent possible
  - Not seen as "false until proven true"
3. Follow up with all SA victims to verify information and conduct investigation
  - Provide multiple opportunities to respond
  - Victims often try to withdraw from CJS

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### Best Practice Recommendations

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4. Cannot unfind SA report based on preliminary investigation or initial interview
- Need evidence from thorough investigation
  - If investigation is inconclusive, cannot be false

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### Best Practice Recommendations

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5. Reduce pressure to clear % of cases
- Formal review systems and informal culture
  - Reward thorough investigations, regardless of case outcomes
6. Supervisors review dispositions of all sexual assault cases for balance

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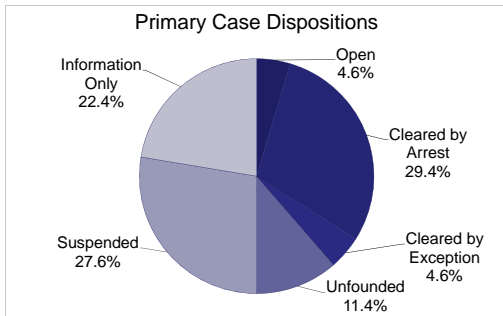
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### Best Practice Recommendations

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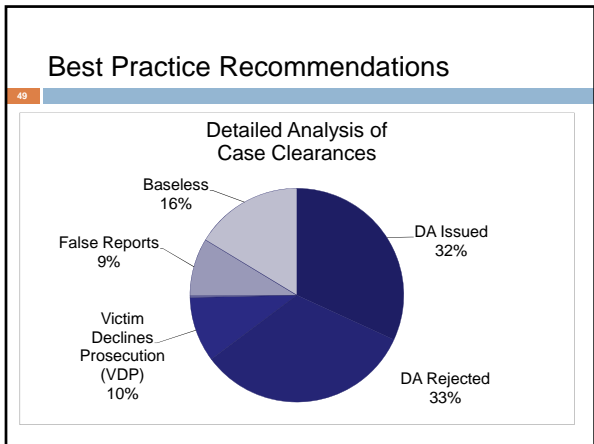
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### Best Practice Recommendations

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7. If there is insufficient evidence, clear the case that way rather than unfounded

UCR Guidelines: *“Departmental policy in various law enforcement agencies permits the discontinuance of investigation and the administrative closing of cases in which an investigation has been completed.”*

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### Best Practice Recommendations

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- › Relieves pressure to clear cases
- › Decreases improper use of unfounding
- › More likely to assist in prosecution later
- › Many agencies re-open unfounded cases as the result of media pressure, a lawsuit or complaint by a victim and with further investigation determine that they were legitimate (and improperly unfounded).

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**Best Practice Recommendations**

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8. Improve tracking system, to track progress of SA cases through CJS

- Track attrition, identify / address problems

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**Best Practice Recommendations**

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9. Improve response w/ team approach

- Prosecution not only indicator of success
- Multidisciplinary outreach for victims whose cases are not likely to be prosecuted
- Critical in cases of repeated victimization

10. Multidisciplinary review for unfounded cases to ensure they are cleared properly

- Also for difficult but ultimately successful cases – what factors led to the outcome?

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**Best Practice Recommendations**

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11. Address issues proactively, not in crisis

- Cross-training between professionals
- Regularly invest in relationship building across disciplines and practitioners
- Foster investigative response culture that encourages questioning and learning at both the practitioner and organizational level

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### Best Practice Recommendations

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- 12. Immediately investigate complaints or inquiries about the outcome of any case
- 13. Develop clear protocols for communicating case disposition to victims

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### Implications for Campus

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- ❖ Campus law enforcement / security
- ❖ Judicial affairs / student discipline
- ❖ Other first responders (e.g., health care)
- ❖ Prevention educators
- ❖ Anyone receiving disclosures (e.g., staff)

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### Take Care of Yourself!

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- Maintain physical/psychological well-being
  - Recognize the toll taken by your job
  - Identify the negative effects of burnout
  - Seek out resources to deal with frustration

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### For More Information

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- EVAW International ([www.evawintl.org](http://www.evawintl.org))
  - On-Line Training Institute module on false reports
- Oregon Sexual Assault Task Force's position paper [www.oregonsatf.org/resources/positionpapers/html](http://www.oregonsatf.org/resources/positionpapers/html)
- APRI Voice article on false reports: [www.oregonsatf.org/resources/positionpapers/html](http://www.oregonsatf.org/resources/positionpapers/html)

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### Q&A

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### Webinar evaluation

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Complete the webinar evaluation emailed to participants

Please complete the evaluation to inform the Campus Program in developing future webinars.



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## Acknowledgements



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Dr. Kimberly A. Lonsway

Webinar participants

United States Department of Justice,  
Office on Violence Against Women

CALCASA

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