



BRIEFING

False allegations (2021)

**RAPE
CRISIS
SCOTLAND**

RCS False allegations briefing 2021

Public perceptions of rape reporting are often skewed by misinformation, particularly around the issue of false allegations. Claims that these are common are not supported by research and greatly harm survivors, for whom the decision to disclose or to report to the police can be agonising, with fear of not being believed one of the greatest barriers to doing so. They also fuel demands for those accused of rape and sexual offences to be given the same anonymity as complainers.¹

Disclosing an experience of sexual violence takes enormous courage, and a sceptical response can seriously compound an already profound harm, and increase someone's reluctance to engage with the justice system.

Meanwhile, individual police officers², the men's rights movement³, popular culture and social media⁴ continue to reinforce both the myth and the damage it causes.⁵

These assumptions have no equivalent in any other crime type - and the reality is that false allegations of rape are very rare.^{6,7}

What do we mean by false allegation? Why is there confusion?

The term 'false allegation' is used in different contexts to mean very different things. Statistics labelled in this way often include cases which were 'no crimed'. The figure for false allegations is inflated as a result, skewing the picture significantly.

A case may be 'no-crimed' for many reasons, including false allegations, but other factors may also lead to this designation, and these must be applied consistently for a true and accurate picture. In some cases which are 'no crimed', no evidence was found of assault, often in a situation where the alleged victim was incapacitated (e.g. through drink or drugs). The initial suspicion might have been raised by them or by someone else on their behalf. But a suspicion that something might have happened is not the same thing as a false allegation, and discovering that it has not can be a huge relief to someone raising that suspicion with the police.

¹ **Almandras, S. (2010)**. Anonymity in rape cases. Standard Note SN/HA/4746, House of Commons Library.

² **McMillan, L. (2016)**. Police Officers' Perceptions of False Allegations of Rape. *Journal of Gender Studies*. vol. 27, no. 1, pp. 9-21.

³ **Gotell, L. & Dutton, E. (2016)**. Sexual Violence in the 'Manosphere': Antifeminist Men's Rights Discourses on Rape. *International Journal for Crime, Justice and Social Democracy*, Vol.5, No. 2.

⁴ **Stabile, B. et al (2019)**. "She Lied": Social construction, rape myth prevalence in social media, and sexual assault policy. *Sexuality, Gender & Policy*, Vol. 2, Issue 2.

⁵ [The truth about women 'crying rape'](#) (Eva Wiseman in the Guardian, 31st March, 2013)

⁶ **Lonsway, K.A. (2010)**. Trying to move the elephant in the living room – Responding to the challenge of false rape reports. *Violence Against Women*. 2010 Dec; 16(12): 1356-71. 'At this point, there is simply no way to claim that "the statistics are all over the map." The statistics are actually now in a very small corner of the map.'

⁷ [The truth about women 'crying rape'](#) (Eva Wiseman in the Guardian, 31st March, 2013):

'The *Daily Mail* specialises in perpetuating this narrative, with stories such as "The rape lies that ruined our lives" – it used the phrase "cried rape" in 54 headlines over the past year.'

In Scotland, guidelines state that, once recorded, a crime must remain recorded (i.e. cannot be 'no-crimed') "unless there is credible evidence to disprove that a crime had occurred".⁸

In many cases, the decision to classify a case as a 'false allegation' is taken solely by the police, whose interpretation of inconsistencies as indicators of a false allegation is a cause for concern⁹ and a key factor in the situation survivors face when seeking justice for rape: typical signals of the impact of rape are often exactly those which are seen as factors that undermine complainers' credibility.¹⁰ There is also a close correlation between these and the most common stereotypes and misconceptions attached to rape.¹¹

Mental health, alcohol and drugs, and previous allegations or a previous relationship between alleged victim and alleged perpetrator have also often played a significant role in decisions to designate a case a 'false allegation'. Again, assumptions made about complainers' credibility very much feed into this process; it is not only in court that prejudicial attitudes obstruct justice for survivors – they can also prevent them from reaching court in the first place.

Research has also shown that an intersectional perspective and approach on this issue is essential.¹² It is vital, therefore to 'critically examine which segments of society are given the least credibility and problematize the multiple layers of identity associated with not being believed about sexual assault.'¹³

A distinction must also always be made between false allegations and retractions. People do sometimes retract allegations of rape, but there can be many different reasons for this, and it should never be read as an admission that an allegation was false. It is just as possible that it has come about because of fear of or a lack of confidence in the justice process – or fear of the alleged perpetrator as in the case of the Powys woman who was jailed in 2010 after retracting an allegation of rape by her husband.¹⁴ The appeal judge in this case commented:

⁸ **Police Scotland (2019):** [Scottish Crime Recording Standard – Crime Recording and Counting Rules](#).

⁹ **McMillan, L. (2016).** Police Officers' Perceptions of False Allegations of Rape. *Journal of Gender Studies*. vol. 27, no. 1, pp. 9-21.: 'Police officers' estimate of false allegations varies widely from 5% to 90%.'

'Inconsistencies were routinely interpreted as false allegations despite the fact consistent stories in such circumstances are quite unlikely due to the impact of trauma itself.'

¹⁰ **Lonsway, K.A., Archambault, J., & Lisak, D (2009).** ['False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute NonStranger Sexual Assault'](#).: 'The "red flags" that raise suspicion in the minds of most people actually represent the typical dynamics of sexual assault in the real world.'

¹¹ **Weiser, D.A. (2017).** Confronting Myths About Sexual Assault: A Feminist Analysis of the False Report Literature. *Family Relations*, 66, 46–60.: 'Cases are often erroneously classified as either false or unfounded because victims refused to cooperate with the investigation, alcohol was involved, the victim and suspect are known to each other and have a previous sexual relationship, the victim changes his or her account or is uncertain about details, the victim does not seem sufficiently emotional or is overly emotional, there are no signs of physical injury, or the victim did not report the assault immediately (Archambault & Lonsway, 2012; Lisak et al., 2010)'

¹² *Ibid.* : 'Women who are racial minorities and those who are economically disadvantaged are at higher risk of experiencing sexual assault and are more likely to be discredited as victims of sexual assault (Belknap, 2010; Loya, 2014) than women who are White or from higher socioeconomic statuses.'

¹³ *Ibid.*

¹⁴ [I accused my husband of rape. I was locked up – and he was set free](#) (Helen Pidd in the Guardian, 26th November 2010).

“The difference between the culpability of the individual who instigates a false complaint against an innocent man and the complainant who retracts a truthful allegation against a guilty man will often be very marked.” Even among the tiny number of complaints which those who make them later confess to be false, the context sometimes reveals them to have been made out of utter desperation, as in the example cited in Kelly’s research of a young Asian woman trying to avoid being taken to Pakistan for an arranged marriage.¹⁵

Survivors of rape **must** feel able to report what has happened to them, safe in the knowledge that if they later feel unable to support a prosecution and withdraw, they can do so without fear of prosecution.

What is the reality?

An extensive study into rape case attrition undertaken by Kelly et al in 2005¹⁶ concluded that the rate of false allegations stood at 3%.

A study produced by the Crown Prosecution Service in England & Wales in March 2013¹⁷ revealed that over a 17-month period between January 2011 and May 2012 – when all false allegation cases were referred to the DPP – there were 5,651 prosecutions for rape, but only 35 for making false allegations of rape.

In Scotland, rape and attempted rape have the lowest conviction rate of any crime type. However an acquittal does not mean that the allegation was false, it means that the jury did not consider that the Crown had proved the case beyond reasonable doubt.

Weiser’s 2017 overview and analysis of the false report literature highlighted that studies applying rigorous and correct methodologies ‘consistently find that the false report rate is estimated to be between 2% and 10%’.¹⁸

Channel 4’s 2018 fact check¹⁹ reinforced the fact that false allegations of rape are rare, concluding that ‘Men are more likely to be raped than be falsely accused of rape’. A separate fact check conducted the same year by Full fact concluded that as a figure for the number of reported rapes based on false allegations: ‘Evidence from England and Wales suggests that 3-4% is a reasonable estimate.’²⁰

In Scotland, all rape reports marked ‘no crime’ are now reviewed by the National Rape Task

¹⁵ Kelly, L. (2010). The (In)credible words of women: False Allegations in European Rape Research. *Violence Against Women*, 16, 1345-1355.

¹⁶ Kelly, L. et al (2005). A Gap or a Chasm? Attrition in reported rape cases. Home Office Research Study 293.

¹⁷ Levitt, Alison, QC & The Crown Prosecution Service Equality & Diversity Unit. [Charging perverting the course of justice and wasting police time in cases involving allegedly false rape and violence allegations](#). March 2013.

¹⁸ Weiser, D.A. (2017). Confronting Myths About Sexual Assault: A Feminist Analysis of the False Report Literature. *Family Relations*, 66, 46–60.: ‘Focus should be on more recent and rigorous studies in which researchers independently analyze crime reports, use correct definitions of false reports, and attempt to corroborate information with victims, police officers, and other trained individuals. Studies from the United States, Australia, New Zealand, and the United Kingdom using such methodologies consistently find that the false report rate is estimated to be between 2% and 10%.’

¹⁹ [Men are more likely to be raped than to be falsely accused](#) (Channel 4 Fact Check (2018))

²⁰ [Allegations of rape](#) (The Full Fact – BBC Question Time: factchecked, 2nd February 2018)

Force Rape Review Team.

What are the consequences?

The misconceptions surrounding rape reporting harm women, and survivors of rape in particular. They reinforce prejudicial attitudes to complainers, who already face many barriers to justice, including scrutiny and judgement on numerous irrelevant factors (dress, flirting, alcohol consumption etc) – even when an allegation *is* taken seriously.

It is on the evidence, not complainers, that the focus should remain. It is the evidence which must be tested and examined. But enduring myths perpetuate a relentless scrutiny on the motives, sexual history, demeanour, credibility and behaviour of survivors, leaving perpetrators unchallenged by comparison, and in relative obscurity.

This has sometimes allowed serial offenders (such as John Worboys and Kirk Reid) to act with impunity and continue attacking women, sometimes for many years, because doubt was cast on the words of their victims.

The principle that an accused man is innocent until proven guilty should not mean that someone is doubted when they disclose that they've been raped. The fear among so many survivors that they will not be believed is a major factor in the low level of reporting.

Misrepresenting statistics and facts around rape reporting makes this far worse and has serious consequences, with many survivors considering reporting fearing that they will not be believed if they do.

What can be done?

»» Cases only ever 'no crimed' according to guidelines laid down by the Home Office (England & Wales) or in the Scottish Crime Recording Standard - SCRS (Scotland) - never on subjective and prejudicial assumptions

»» Detailed, comprehensive and consistent case-tracking to monitor the progress of all sexual offence cases

»» Raised public awareness of rape myths – including those surrounding false allegations

»» Promotion of a culture of belief to aid confidence in reporting among survivors

FACT

The rate of 'false allegations' made for rape stands at around 3% - this is no higher than for any other crime