

A person with dark hair is shown from the chest up, with their head buried in their hands. They are wearing a dark, textured sweater. The background is a plain, light-colored wall. The overall mood is one of despair or regret.

Investigating Recantations

**“I TAKE IT
BACK”**

WHY DO VICTIMS RECANT?

- **HOW CAN WE REDUCE RECANTATIONS?**
- **HOW DO YOU INVESTIGATE RECANTATIONS**



MISCARRIAGE OF JUSTICE ?

- Young woman reported rape at hands of her intimate partner
- Reported victim added information about additional sexual assaults during investigation
- Some of the additionally reported sexual assaults were unfounded by investigators
- She recanted all of her reports of rape and sexual assaults
- The reported victim then stated the original rape did occur
- Prosecutor said he would prosecute her for false statements – “no matter what, she lied either way. I don’t care which one was a lie. It doesn’t matter whether she lied about the rape or recantation, she lied and will be held accountable.”
- The victim was tried and convicted for lying to police
- The reported suspect was not held accountable
- The recantation was never properly investigated even though the original rape was provable – in fact, the reported suspect admitted to the rape during a police interview

**HOW MANY REPORTED CASES OF CHILD ABUSE,
DOMESTIC VIOLENCE, RAPE, & SEXUAL ASSAULT
ARE RECANTED?**



JUSTICE SYSTEM INTIMIDATION

- **Constitutional right of confrontation transforms the the key witness into a target**
- **Justice system is designed to protect a defendant's rights**
- **The justice system is heavily congested**
- **Communication with victims of abuse throughout the entire prosecution is daunting for the community and simple for defendant's**

Christopher Mallios, AEquitas

KEY QUESTIONS

- WAS THE INITIAL DISCLOSURE **TRUE** OR **FALSE**?
- IS THERE ENOUGH **EVIDENCE** TO PROCEED?
- HOW DO YOU **INVESTIGATE** THE **RECONTATION**?

INITIAL DISCLOSURE

- **To whom? Circumstances?**
- **Motive**
 - **Consequence of making disclosure**
 - **Intimidation**
 - **Retaliation**
 - **Social media bullying**
- **What preceded the disclosure?**

- **Why do so many victims choose not to continue in the criminal justice system after reporting?**
 - **Barriers to continuing**
 - **Mental health process**
 - **Feeling like they are on trial**
 - **Loss of credibility**
 - **Loss of friends, family, co-worker support**
 - **Self-blame**
 - **Intimidated**
 - **Feelings of betrayal and mistrust**

**A POORLY TRAINED
INVESTIGATOR WHO
INITIALLY BELIEVES THE
VICTIM, TAKES THE
CASE SERIOUSLY, AND
KEEPS AN OPEN MIND IS
EMINENTLY
PREFERABLE TO A WELL-
TRAINED
INVESTIGATOR WHO
NONETHELESS THINKS
THAT MOST SEXUAL
ASSAULT REPORTS ARE
FALSE**



FALSE



- **How improper case determinations fuels the myth of false allegations**
- **Can investigators "create" an unfounded case?**
- **How can officers counter the "cycle of distrust" that harms both police and victims?**
- **What are appropriate procedures for determining if a report is false?**
- **How to handle the frustrating reality of false reports**

A



FALSE REPORT


- **Requires that the motive for a false report must be deliberate deception**
- **The deception must be sufficient enough to invalidate the report on the merits of the elements of proof**
- **Deception however is not required for a charge to be baseless**

- **False information is not always intentional**
- **Name some ways that providing false information may be inadvertently provided?**

Scenario 1





Three babies are sitting on a wooden floor, looking at a laptop screen. The baby on the left is wearing a white headband and a white diaper. The baby in the middle is wearing a white diaper. The baby on the right is wearing a pink headband and a white diaper. They are all looking at the laptop screen with interest.

That doesn't
look too
realistic.

Maybe we can
add another
challenge here?

- **For many reasons – victims will provide inconsistent or untrue statements either by omission or commission**
- **Investigators and others have incorrectly misinterpreted false information to mean that the entire allegation is false**
- **False information **does not** by itself negate that a crime occurred**

FALSE INFORMATION

- **Does this mean that reported victims of sex crimes are liars?**
- **Of course not**
- **Besides being a victim of a crime such as robbery or burglary these victims perceive an additional stigma because their crime was sexual in nature and because in some cases they are apprehensive about their own conduct**

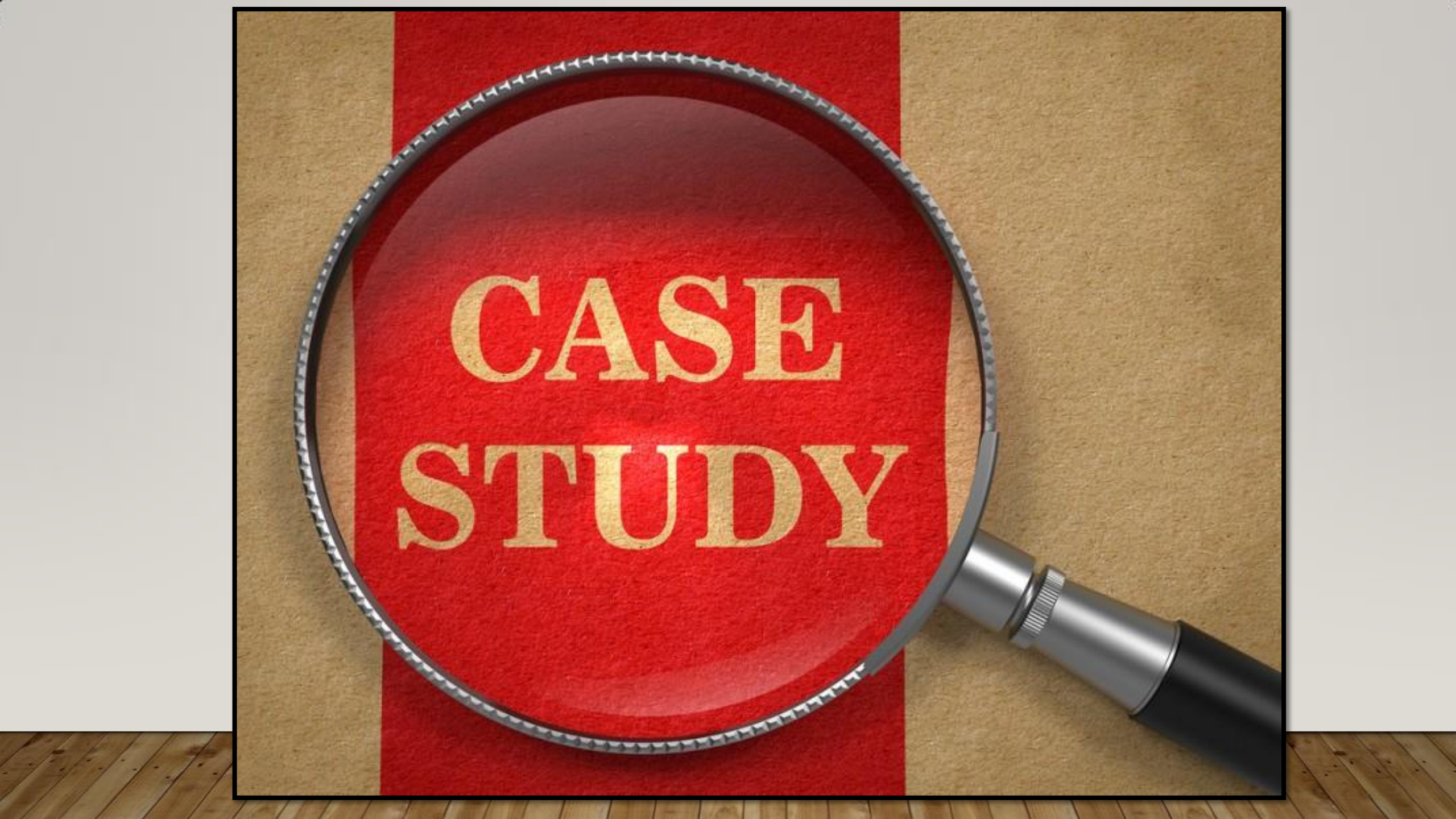
- **“How false” does a report need to be to be considered a “false report”?**
- **Must the entire report be false to be considered a false allegation?**

- **Is it more serious to make false accusations against a person than to falsify other aspects of a crime?**

HOW TO ADDRESS INCONSISTENT OR UNTRUE STATEMENTS

- **Exploring the issue gently and non-judgmentally**
- **Address underlying fear of being doubted or blamed**
- **Create a safe, nonjudgmental environment that encourages honesty even for unflattering or illegal behavior**

Use a Trauma-Informed Approach

A magnifying glass with a silver rim and a black handle is positioned over a red circular area. The red area contains the text "CASE STUDY" in a bold, gold, serif font. The background is a light brown, textured surface resembling cardboard. The entire image is framed by a black border.

CASE STUDY

HOW FALSE DOES A FALSE REPORT NEED TO BE???

- **It is understandable and even inevitable that victims – as well as others will make inconsistent or provide untrue information**
- **Many victims will omit or distort information about the assault, but that should not, in and of itself, negate the reality that the assault happened**
- **Cases should be considered false only if there is evidence to prove that the assault simply did not occur**

HOW CAN WE “CREATE” AN UNFOUNDED CASE?

- The process begins with the suspicion held by many that a large percentage of victims are lying
- If the detective does not believe the victim, we may directly or indirectly make this known by excessive questioning that focuses on the absence of obvious injury, delayed reporting, or lack of force used to thwart the alleged attack

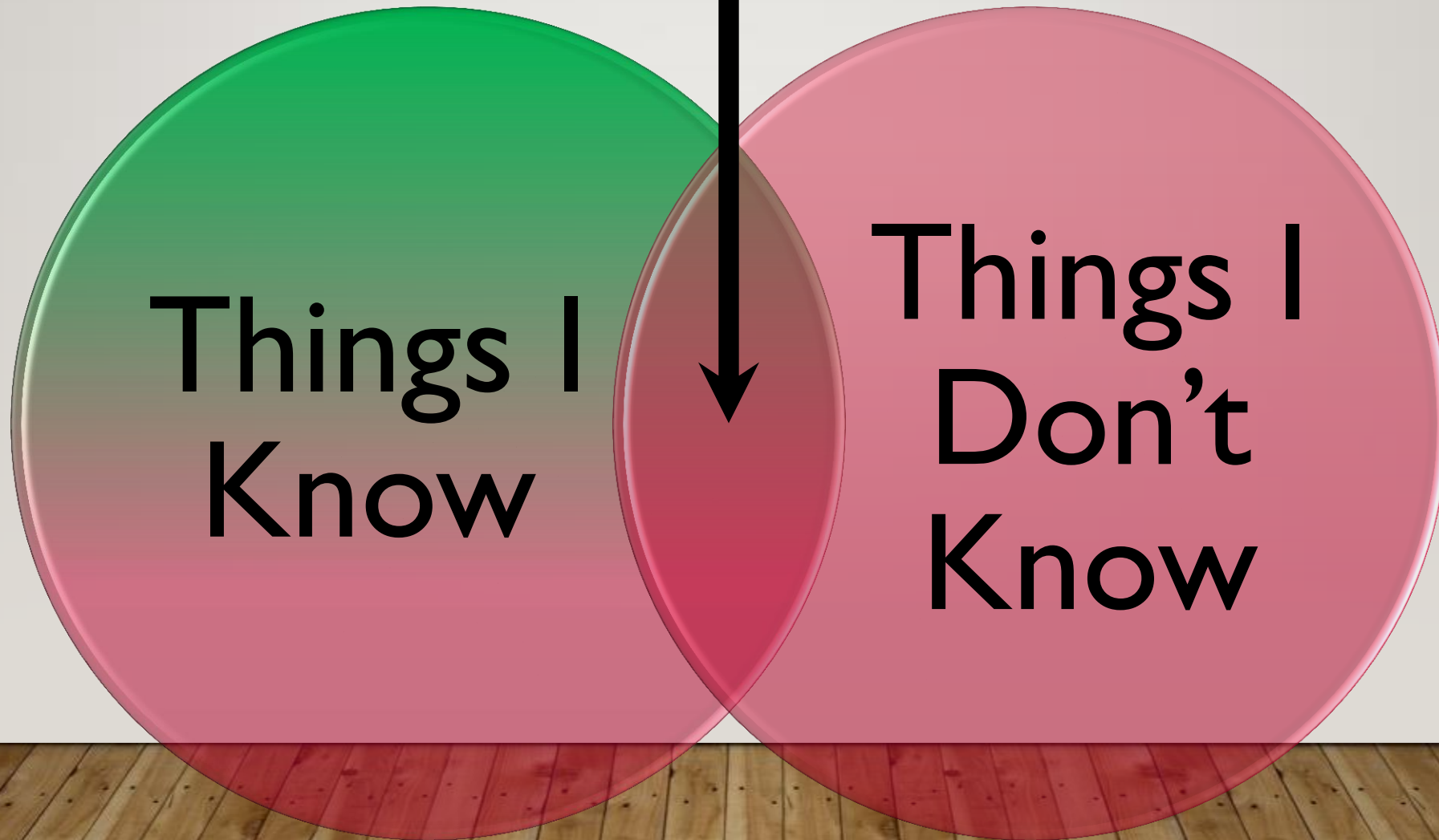
I'M TELLING ON MYSELF...

- Responded to report of rape
- Things didn't make sense
- Created a recantation
- Victim punished
- Truth discovered
- Damage control



• **Justice almost denied...by Me**

Things I Know I Don't Know



HOW CAN WE “CREATE” AN UNFOUNDED CASE?

- **The victim, in turn, may become upset and withdraw cooperation**
- **The victim’s lack of cooperation is itself seen by many as sufficient grounds for unfounding the case**
- **By not taking the victim serious and communicating lack of sincerity can cause a victim to become non-cooperative when the victim would have otherwise been**

HOW CAN WE “CREATE” AN UNFOUNDED CASE?

- **By “creating” non-cooperative victims in this way, the agent may fuel a misperception that most victims will not cooperate with agents and that most sexual assault claims are without merit**
- **This mistrust is heightened and carried over to the next case**
- **The result is a never-ending spiral of suspicion and anxiety for both the agent and the victim**

HOW CAN OFFICERS COUNTER THE “CYCLE OF DISTRUST” THAT HARMS BOTH POLICE AND VICTIMS?

- **Investigate sexual assault cases thoroughly**
- **Develop at least three hypothesis**
- **Don't jump to conclusions too quickly**
- **Respond to victims with compassion**
- **Approach each and every case with the assumption that they are valid**
- **Conduct victim interviews in accordance with guidelines provided in this training**

WHAT ARE APPROPRIATE PROCEDURES FOR UNFOUNDING AND ADMINISTRATIVE CLOSURE?

- **Every case must be investigated thoroughly based on the assumption the claim is valid**
- **Give sexual assault victims the same consideration as other crime victims**
- **Determine if the allegation – as a result of a thorough and unbiased investigation – to be false and baseless**
- **The refusal of a victim to cooperate does not “unfound” a legitimate offense**

HOW TO HANDLE THE FRUSTRATING REALITY OF FALSE ALLEGATIONS

- False allegations do exist
- Allegations should only be determined false when the investigative facts directly contradict the victim's account of events
- Remember – there is no perfect witness or victim – not all the information will match
- Analyze all the pertinent information, conduct a good solid investigation, do good solid detective work – then if you truly believe a crime did not occur – document your findings and make the appropriate call

INDICATORS AND INVESTIGATION OF FALSE INFORMATION

- The reported victim may fabricate details out of a desperate need for attention
- Denying or shifting responsibility for consensual sexual activity
- Cover other misconduct
- Obtain medical care
- Revenge
- Misperception
- Peer pressure
- Mental illness
- Pregnancy
- What other indicators?

RECANTATIONS

**ADMITTING A FALSE
REPORT OR RISK
MANAGEMENT?**

- **Two men, two separate occasions, same offender, same experiences**
- **Both initially reported incapacitation, anal sodomy**
- **Both recanted for two different reasons**
 - **One – the lab results did not make sense**
 - **One – was told by a member of clergy this could not have happened without his consent**
- **Two recantations – two retractions of recantations, one prosecution, two convictions – one offender**

RECANTATIONS

- **What is a recantation?**
- **Do we ever close out a report simply based on a victim's recantation?**
- **Do we ever believe a crime occurred even though the victim recanted?**
- **Can a case be successfully prosecuted even though a victim recanted?**
- **What would cause a victim to recant?**

WHY SOME VICTIMS RECONT

- The victim has made a false report and wants to confess to avoid any further internal and external conflict
- The victim has intentionally or unintentionally provided false information and is not being believed
- The victim's experience by the very nature of the assault lacks credibility and is not believed
- The victim has been honest and is experiencing secondary trauma during the investigation
- The victim has been assaulted and external pressures has caused the victim to recant
- **FEAR!**

COST – BENEFIT ANALYSIS

- **We all conduct a cost benefit analysis on a daily basis**
 - **Should I go to work on time?**
 - **Should I control my temper?**
 - **Should I shade the truth?**
 - **Should I make this purchase?**
 - **Should I pursue this relationship?**
 - **Should I attend this training?**
- **What's the Cost? What's the Benefit?**

COST – BENEFIT ANALYSIS

- **Pair up with a partner and discuss a time you gave up on some project, sports event, goal, or other pursuit**
- **Why did you give up?**
- **What was the cost of continuing with your goal?**
- **What was the benefit of giving up?**

RISK ANALYSIS

- **Many victims are under extreme pressure and may feels it is easier to be “labeled” as a liar than continue through the trauma of the investigation**
- **The victim has already suffered and immeasurable trauma and simply cannot take any more**
- **How do I relieve the pressure and get on with my life?**



5 STEPS OF A RECANTATION – INTIMATE PARTNER RELATIONSHIPS



- Strong & Resolved
- Minimize Abuse
- Join to Fight
- Lie for Me

INVESTIGATING A RECANTATION

- **To be fair – and unbiased – consideration should be given to investigating the recantation**
- **Is this statement true or false?**
- **If it's true – why?**
- **If it's false – why not?**
- **What is an unbiased investigation and what considerations should be given to ensure we have discovered the truth?**

INVESTIGATING A RECANTATION

- **Recantations can come at any point in the investigation**
- **They can be full or partial recantations**
- **They can be simple or quite elaborate**
- **What should you do when a victim recants?**
- **What steps should you take to ensure the recantation is valid?**

INVESTIGATE A RECANTATION

- **Ask the victim about the recantation**
- **Ask the victim about the pressures he/she felt during the investigative process**
- **Ask the victim why he/she recanted**
- **Talk with coworkers, friends, relatives about the victims emotional state during the investigative process**
- **Determine any potential pressures, risks, fears, etc. the victim experienced from the time initial disclosure was made**

INVESTIGATE A RECANTATION

- **Ask the victim how he/she feels now that a recantation has been made?**
- **Ask the victim how they feel about the alleged perpetrator and what should happen to the perpetrator now?**
- **Check with mental health expert witnesses to determine if they can provide insights into the recantation**
- **Review the case file to determine if there is enough evidence to proceed in light of the recantation**
- **If you built a case in depth – you may still be able to proceed**

- **As you know – the truth is illusive**
- **There is a significant difference between false information and false reports**
- **Sexual assault crimes can be extremely traumatic – so can the investigative process**
- **Victims and witnesses are far from perfect**
- **We all tend to get things wrong from time to time**
- **There are false reports – there are reports filled with false information – there are true recantations and false recantations**
- **Determining the truth is up to you...**

CHILD AND ADOLESCENT DISCLOSURE



TYPES OF DISCLOSURE

- **Accidental**
- **Purposeful**

ACCIDENTAL:	74%
PURPOSEFUL:	25%
NO DISCLOSURE:	1%



TYPES OF DISCLOSURE AND MOTIVATIONS FOR DISCLOSURE ARE AGE AND DEVELOPMENTALLY RELATED



ACCIDENTAL DISCLOSURE

- **Occurs in all age groups after concern is raised about a child's exposure to an identified perpetrator.**
- **Sexualized behavior and inappropriate statements:**
 - **Mostly pre-school and young school-age children who have less cognitive awareness and impulse control.**

ACCIDENTAL DISCLOSURES

- **Exposure to accused.**
- **Sexualized behavior.**
- **Inappropriate statement.**
- **Behavior sign.**
- **Shared confidence.**
- **Identified as victim.**
- **Confession.**
- **Physical sign.**
- **Observation.**

PURPOSEFUL DISCLOSURE

- Teenagers are more likely than younger children to consciously decide to tell.
- Teenagers:
 - Motivated by anger at perpetrator.
 - Influenced by peers.
- Primary school-age children:
 - Educational awareness programs often influenced to tell: identify inappropriate behaviors, stress assertiveness and personal rights.

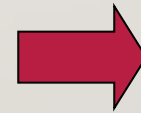
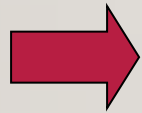
PURPOSEFUL DISCLOSURE

- **Education.**
- **Influence of peers.**
- **Proximity to perpetrator.**
- **Timely disclosure.**
- **Angry.**
- **Concern for others.**
- **Unknown.**

**DISCLOSURE IS A
PROCESS, NOT A ONE
TIME EVENT.**



DISCLOSURE PROGRESSION



RECANT





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