



Systemic Review of the
City of Kawartha Lakes Police Service's
Unfounded Rate of Sexual Assault Investigations

Prepared by Inspector Will Herbert

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Executive Summary

In February 2017, the Globe and Mail released their findings of a 20-month long investigation entitled, “*Unfounded - Why Police Dismiss 1 in 5 Sexual Assault Claims as Baseless*”, by reporter Robyn Doolittle. Data from more than 870 police services was examined and the report opined that deep flaws were exposed at every step of the process in a sexual assault complaint to police. The years of 2010 to 2014 were examined and found that the national unfounded rate of sexual assault complaints was 19.39%, while the Ontario average was 25%. The City of Kawartha Lakes Police Service’s unfounded sexual assault rate was 26% with 61 of 232 allegations, concluded as unfounded. In response to this, Chief Hagarty ordered a systemic review of our police service’s investigation of unfounded sexual assault complaints.

See Appendix A for the full Globe and Mail investigative report.

The review committee examined the investigations which were cleared unfounded, along with training, policy and proactive and educational initiatives delivered by our police service.

It is the opinion of this systemic review that the Globe and Mail report highlighted overall statistics, and then relayed stories about a narrow slice of actual cases, resulting in an unfair characterization of all police services. The City of Kawartha Lakes Police Service’s 26% unfounded clearance rate, when read in the context of the Globe and Mail report, suggests that the police have mistreated complainants of sexual assault. The committee found that there are three significant factors influencing the City of Kawartha Lakes Police Service’s unfounded clearance rate. The first factor is the allegations stemming from the Central East Correctional Centre (CECC). This systemic review does not believe that the Globe and Mail report was meant

to address the unique issues of sexual assault allegations stemming from inmates of the Central East Correctional Centre. The second factor is the inclusion of sexual assaults which stem from cases of suspected child abuse. This systemic review does not believe that these types of cases relate to the Globe and Mail report either. The third factor is a deficiency in the clearance codes provided to police services by StatsCan (See Appendix B). StatsCan lacks a clearance code for situations where a police officer has not determined if they believe the complainant, but believes there is a lack of evidence to support a criminal charge. The review committee believes that when the CECC and child abuse case statistics are removed, along with factoring in the possibility of re-designating certain investigations from Unfounded to Cleared Otherwise – Insufficient Evidence to Proceed, the City of Kawartha Lakes Police Service’s unfounded clearance rate for the years examined to be more accurately calculated at approximately 11%, not the 26% as focused upon in the Globe and Mail report.

Regardless of this systemic review’s perception of some aspects of the Globe and Mail report, the work of the Globe and Mail is appreciated. As a result of their report, a national dialogue of how police can better serve complainants of sexual assault has occurred. Locally, their report has caused stronger working relations between the City of Kawartha Lakes Police Service and the review committee partners. A better understanding of each other’s organizations has resulted, and many lessons learned and recommendations are being made. This systemic review is appreciative of the committee’s point of view of other issues, not directly related to the unfounded rate, but are related to the general management of sexual assault investigations. (See Appendix C).

The Review Committee's Opinion - Investigations

The committee believes that the City of Kawartha Lakes Police's unfounded rate quoted in the Globe and Mail report is, in part, misleading as a result of the restrictive categories provided by StatsCan Uniformed Crime Reporting (UCR) clearance codes. The committee believes that StatsCan should have an additional subheading within the "Cleared Otherwise" category. This additional column should be titled, "Insufficient Evidence to Proceed", or words to that effect. If this category existed, the committee believes that the unfounded rate would drop dramatically.

It is also noteworthy that the committee believes that the City of Kawartha Lakes Police Service's statistics on unfounded sexual assault cases is influenced by inclusion of the Central East Correctional Centre (CECC). The spirit of the Globe and Mail article was not meant to address the unique issues of sexual assault allegations stemming from inside a correctional facility. The CECC is responsible of 13% of all the sexual assault cases.

Overall, the committee did not believe that any of the unfounded investigations could have reasonably resulted in successful prosecutions but some of the investigations were lacking in thoroughness, leaving the committee unable to form an opinion on the prosecutorial probability of some cases. The cases which the committee believed were lacking, have been referred back to our Criminal Investigations Unit for a review.

The committee did find many instances in which they did not agree with the "Unfounded" classification. Some of the investigations in dispute would have been more appropriately cleared in the aforementioned, currently non-existent, "Insufficient Evidence to Proceed" classification. Also, some of the investigative conclusions were disputed by the

committee, of which the committee believes that the suspect acted poorly, and while may not have met the threshold to warrant a criminal charge, the option for some form of restorative justice or further education on the impact of their actions, would have been beneficial.

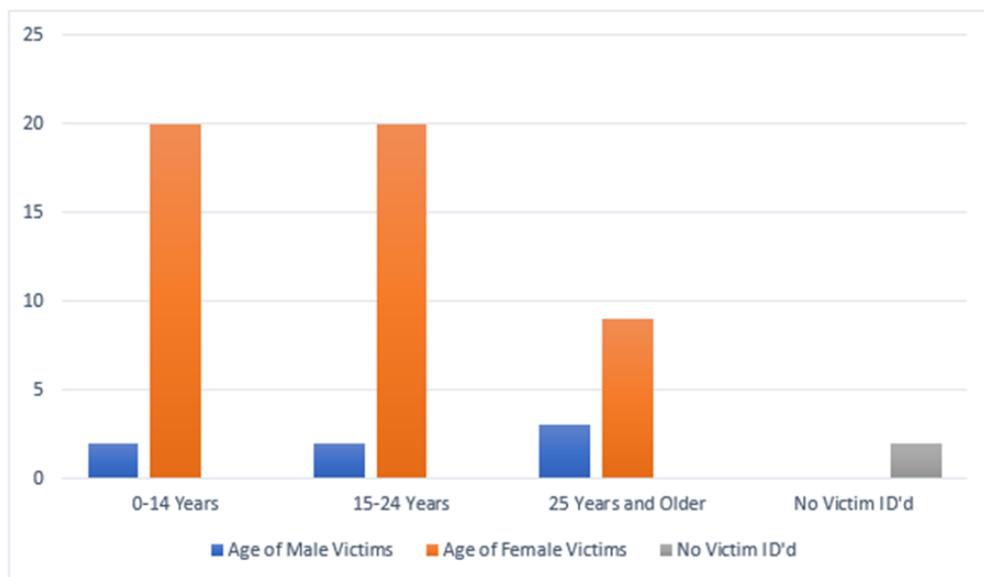
The committee found that there were some investigations which were conducted in a bias free and non-judgmental manner, although the committee did find some areas in which officers could improve. The committee found incidents of some officers displaying a bias against complainants who had been consuming alcohol / drugs or suffered from mental health issues. It is interesting to note that the displays of bias were more prevalent in the older cases. The committee is confident that with the delivery of some enhanced training in understanding victim trauma, along with careful selection of sexual assault investigators instances of bias could be reduced.

The committee also found that a significant percentage of the unfounded occurrences stemmed from a situation where a caregiver or parent reported sexual activity for females in their teen years. The sexual activity occurred consensually, but once the activity became known, a sexual assault allegation was reported. The committee believes that this is an opportunity for the police to educate the family on safety planning, and also to educate the caregiver that their children are maturing and may be naturally exploring their sexuality. The committee does not endorse the cautioning of complainants for public mischief in these types of situations.

The review committee found that the Globe and Mail report was not applicable to the City of Kawartha Lakes Police Service in three significant areas of concerns; gender of the investigating officer, the age of the victim, and the involvement of the criminal investigations unit.

Gender and Age

The Globe and Mail report found that females between the ages of 15 and 24 represent the highest rate of alleged victims with cases that are deemed to be unfounded. In the City of Kawartha Lakes, this is not exactly accurate. The age of the alleged victims is relatively even across all age groups.



Gender of Primary Officer

The Globe and Mail report suggested that there was a correlation between the gender of the primary police officer and allegations concluded as unfounded. It was determined that this was not accurate in the City of Kawartha Lakes, with 54% of the time, female officers being the primary officer in sexual assault cases which were cleared as unfounded. The committee found no evidence that male officers were more likely to clear a sexual assault complaint as unfounded.

Criminal Investigation Involved

The Globe and Mail report suggested that often times, uniformed officers conduct the entire sexual assault investigation, while attempting to manage all other uniform duties. This is particularly problematic in smaller police services, where criminal investigation units are not always assigned to conduct sexual assault investigations. This systemic review determined that in 62% of the cases, the City of Kawartha Lakes Police Service's criminal investigations unit was involved in the investigation, and every sexual assault case is reviewed by our ViCLAS coordinator.

Other observations of the review committee

The review committee made two other interesting observations:

72% of the investigations cleared unfounded were investigations which were commenced from other sources such as the Children's Aids Society and school officials. In those cases, the victim did not initiate the complaint to police.

The other interesting observation made by the review committee was that in almost half of the unfounded sexual assault allegations, mental health played a factor. This suggests that the City of Kawartha Lakes Police Service's investment in the Community Response Unit, a partnership between the police and the mental health unit at the Ross Memorial Hospital, along with the work on the Situation Table, is a much-needed resource.

The Review Committee's Opinion - Policy

The review committee also examined the City of Kawartha Lakes Police Service's policy on how officers conduct sexual assault investigations. The review committee's opinion on the

City of Kawartha Lakes Police Service policy was that some adjustments could be made to better serve the needs of the victim. See Recommendation #12.

The Review Committee's Opinion - Training

The review committee examined the City of Kawartha Lakes Police Service's training of sexual assault investigators. It was noted that the police service has invested in having 13 police officers (32% of all officers) having completed the Ontario Police College's Sexual Assault Investigations Course. This course is designed to assist experienced investigators in developing the skills and knowledge as they relate to the investigation of sexual assault incidents. This training provides officers with the necessary knowledge, skills and abilities to adequately handle the complexities and demands of sexual assault investigations. These officers have received enhanced training in:

Ontario Sex Offender Registry	S. 810.1 and 810.2 Criminal Code recognizance
Legal issues	DNA warrants
Dangerous/long-term offenders	Admissibility of evidence
Interviewing	CFS – Biology and Toxicology sections
VICLAS	Major Case Management/PowerCase Behavioral Science
Victim issues	Sexual assault evidence kit
Case study application	Historical sexual assault investigation
Human trafficking	Internet child exploitation
HIV investigations	Resiliency in challenging times

The review committee interviewed police staff members in order to develop an understanding of the specialized sexual assault investigations training. The review committee was also provided with training material, along with additional information from the Ontario Police College.

The review committee's opinion that the City of Kawartha Lakes Police Service's amount of sexual assault investigators is sufficient, although the committee believes that the investigators should have completed the Ontario Police College's sexual assault investigator's course within the past five years. This will result in investigators being trained on the most current "victim based" investigative best practices. For example, the sexual assault investigator's course was updated with the Neurobiology of Trauma being added in the fall of 2014 along with the Canadian Victim's Bill of Rights when it was enacted in 2015. This may explain the review committee's observations that the officers' bias was more prevalently displayed in the older cases.

The Review Committee's Opinion – Public Education

The review committee examined the City of Kawartha Lakes Police Service investment in a community services' officer, whose main role is public education with the goal of crime prevention through proactive policing. The community services officer delivers the following sexual assault education:

- Primary/junior grades (kindergarten – grade 5) – the CSO talks to the students about personal safety and "hands off", which is a school board term for keeping your hands to yourself. The CSO also covers this in the bullying lessons.

- Grade 6's - would receive education with respect to this in their bullying, peer pressure, internet safety/social media and youth and the law classes that the CSO presents.
- Grade 7 & 8's - would receive this in internet safety/social media as well as new this year, the CSO has partnered with the Health Unit and put together a "health relationships" presentation that covers consent, social media, what is sexual assault, etc
- High school students – During health classes, the teacher invites the CSO in to discuss different topics as the curriculum dictates depending on the grade. The CSO attends and does presentations on consent, sexual assault, social media and the CSO has partnered with the Health Unit again to deliver presentations on addictions.
- The CSO also supported and assisted KSAC (Kawartha Sexual Assault Centre) with the delivery of a "Theatre" production addressing youth dating violence. This took place on October 27, 2016 and was delivered to students at two local TLDSB high schools.
- Seniors – The CSO co-facilitated a "Tea & Talk" with the Health Unit and the theme was "dating as an older adult". The focus was on building healthy relationships. They covered several areas including domestic abuse, sexual assault, etc.

The review committee's opinion on the City of Kawartha Lakes Police Service's public education efforts was that they applaud the CSO's work. The review committee believes that while this public education is currently working well, the program should be expanded to include attempted interventions with families after certain sexual assault investigations. See Recommendation #9

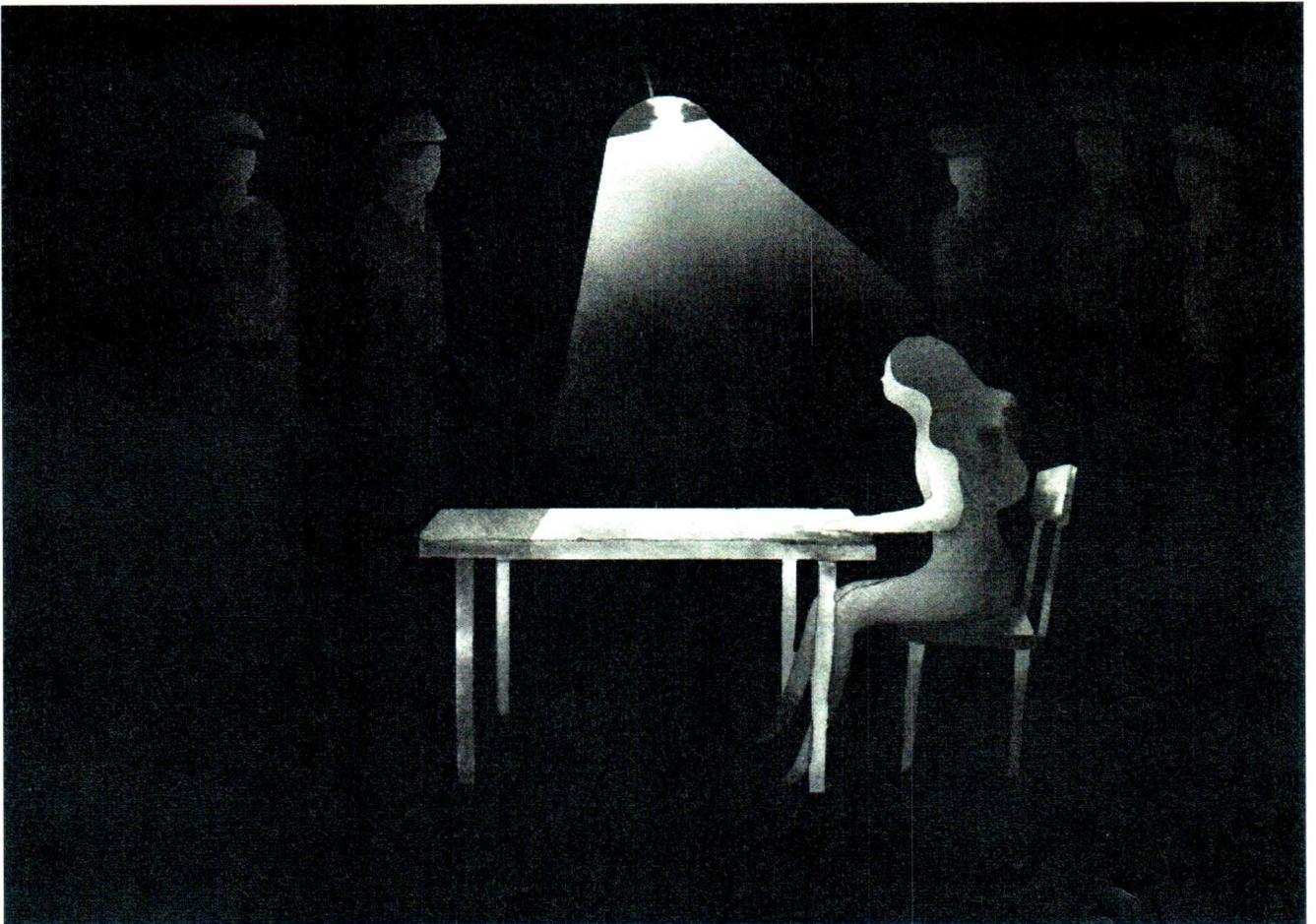
Recommendations

The committee recommends:

1. The City of Kawartha Lakes Police Service endorses the committee's lobbying of StatsCan to add a subheading within the Cleared Otherwise clearance code to include an "Insufficient Evidence to Proceed" clearance option.
2. The City of Kawartha Lakes Police Service provide sexual assault investigators with enhanced victim trauma training for example:
<http://www.peterboroughpolice.com/2017/02/enhancing-police-response-sexual-violence-province-funding-police-pilot-project-peterborough-riding/>
3. The City of Kawartha Lakes Police Service ensure that sexual assault investigators have completed the Ontario Police College training course within the past five years in order to have investigators trained on the most enhanced "victim based" investigative best practices.
4. The City of Kawartha Lakes Police Service ensures that only a trained sexual assault investigator, currently working in a criminal investigative unit, have the authority to caution (or charge) a complainant of a sexual assault with public mischief in cases of suspected false reports.
5. In the event of a complainant recanting their sexual assault allegation, the City of Kawartha Lakes Police Service makes efforts to determine if there was any influence by other people pressuring the complaint to recant.
6. The City of Kawartha Lakes Police Service establish a committee with Women's Resources and the Kawartha Sexual Assault Centre to explore the feasibility of a "restorative justice" program for certain sexual assault complaints.

7. In all cases, complainants of sexual assault be referred by the City of Kawartha Lakes Police Service to an appropriate social support service.
8. On an annual basis, the City of Kawartha Lakes Police Service partners with Women's Resources and the Kawartha Sexual Assault Centre to review all unfounded sexual assault investigations from the preceding year.
9. In cases of caregivers / parents reporting sexual activity of their teenaged children, which results in an unfounded sexual assault allegation, the City of Kawartha Lakes Police Service, within a 30-day period, has the community services officer contact the family from a public education perspective. The committee believes that the teenaged child and the family could benefit from some counseling to prevent assaults, educate parents, and to encourage healthy relationships and open dialogue.
10. That the City of Kawartha Lakes Police Service adds to the annual report, statistics outlining cyber related sexual offences. This would assist parents and caregivers in the understanding of the threat and help families appreciate the need to put safeguards in place for their children's internet usage.
11. That the City of Kawartha Lakes Police Service permits representatives from both Women's Resources and the Kawartha Sexual Assault Centre to attend the police service and present to the officers the mandate and services available from their respective organizations.
12. That the City of Kawartha Lakes Police Service makes the following policy changes:
 - a) Add wording to reflect that all sexual assaults, regardless of the criminal code definition of Levels One through to Three, are to be investigated with the same level of thoroughness.

- b) Add wording to reflect that all sexual assaults, regardless of whether the complainant is a third-party complainant or not, are to be investigated with the same level of thoroughness.
- c) Add wording to require a Victim Impact Statement to be taken at least 30 days after the offence.



UNFOUNDED

WHY POLICE DISMISS 1 IN 5 SEXUAL ASSAULT CLAIMS AS BASELESS

In a 20-month-long investigation into how police handle sexual assault allegations, The Globe and Mail gathered data from more than 870 police forces. The findings expose deep flaws at every step of the process

BY **ROBYN DOOLITTLE** LONDON, ONT.
PUBLISHED FRIDAY, FEBRUARY 3, 2017

The keg party was a 10-minute walk from Ava's new home at Delaware Hall residence, just north of Western University's soaring stone gates. It was the Friday after Thanksgiving and, word had it, the organizers had already sold more than 200 tickets.

She had been looking forward to it all week. Her first big bash as a university student.

Ava left the dorm with her friends around 10:15 p.m., already feeling a bit tipsy from the drinks they had had while getting ready.

She didn't much care for the taste of beer, so the 18-year-old brought her own drink in a large plastic bottle that had a straw fixed to the lid: 10 shots of vodka mixed with diet lemonade.

Like many of the neighbouring properties, the vast, nearly century-old home had been converted into student housing. The party washed over every floor and spilled onto the lawn, which was littered with red plastic cups. Someone handed Ava a beer, which she accepted but then quietly set aside, preferring to sip what she had brought. She and her friends watched drinking games: flip cup, then beer pong. As the night went on, things became more and more fuzzy.

Ava remembers being outside with her friends, then leaving to find the washroom inside. With her near-empty drink in hand, she stumbled off alone. Somewhere along the line, she isn't sure when, she found herself talking to a guy from the party. He looked to be a few years older than her, with dark, messy hair and a slim build. She remembers they were outside and kissing. And then she blacked out.

When things came back into focus, Ava says, she was on the ground near a pine tree, at the north side of the house. She was naked and cold and lying in the dirt. The man was inside of her.

"You're hurting me. Stop," she remembers telling him. She had had sex only once before.

"I don't want to hurt you, baby," he said. But he did not stop.

Ava struggled to concentrate and stay conscious.

"No. Stop," she said, again. Again, he ignored her.

“I blacked out, and then I came to my senses, and then I remember saying no, you’re hurting me, no.”

– AVA TELLS AN OFFICER IN HER TAPED POLICE INTERVIEW.



Galit Rodan/The Globe and Mail

Terror shot through Ava’s body. In that moment, she realized the man hadn’t simply misunderstood her. He wasn’t playing around. He was raping her. No one could hear her call for help. She had no idea what to do. She wondered if he would kill her when it was over. She stopped fighting and went still.

Suddenly, there was a flash. Ava looked over and saw four or five men pointing cellphone cameras in her direction. She became frantic. The man on top of her ran away. He left his wallet behind, police later told Ava. She was left naked and curled on the ground, her back and hair covered in dirt. Two women who heard her sobbing found Ava shortly after.

It was Oct. 16, 2010, more than five years before an eerily similar attack at Stanford University would make international headlines. Ava's story, however, never made the news. Her case did not go to court. Her assailant was never arrested, never charged.

In fact, the London Police Service detective concluded that what happened to Ava that night was not a crime.

There are many ways to shut a case without laying a charge. Not enough evidence? There's a closure code for that. Complainant doesn't want to proceed with charges? There's a code for that, too.

On Nov. 13, 2010, the detective closed Ava's file as "unfounded," another formal police classification that rendered her allegations baseless.

It meant a crime was neither attempted, nor occurred. It did not immediately brand Ava a liar, necessarily. But it meant she was not raped.

According to police records, the suspect was given a warning.

Ava recounts her sexual assault allegation



Reporting and production by Robyn Doolittle; Video and editing by Melissa Tait; Additional production by Laura Blenkinsop and Timothy Moore

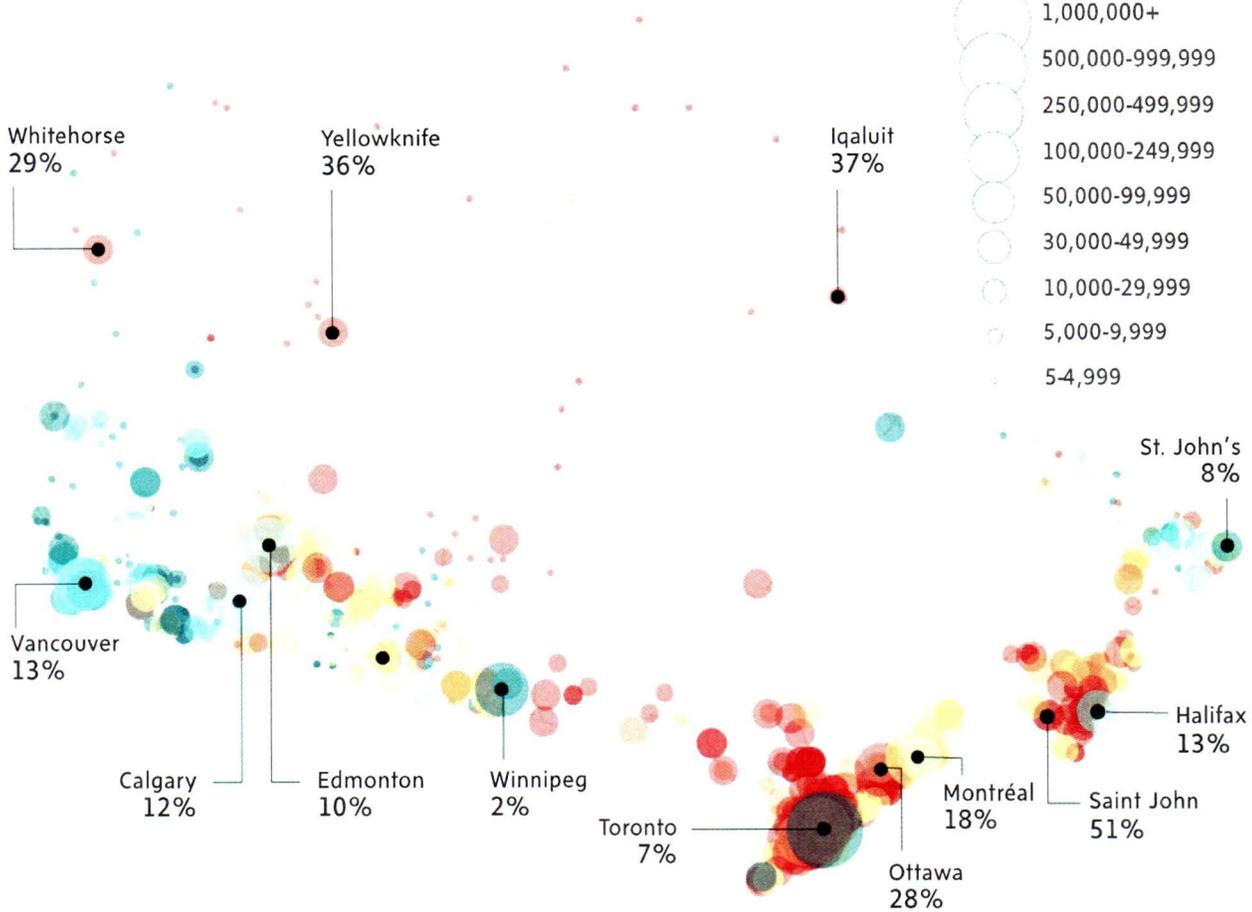
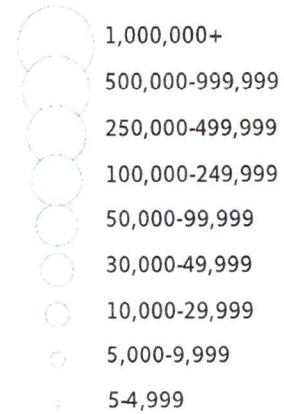
Ava's case is not an outlier. Her complaint is among the more than 5,000 allegations of sexual assault closed as unfounded by Canadian law enforcement every year, according to a Globe and Mail investigation into the authorities' handling of sexual-assault cases. Rape, the most serious of those, is a crime so injurious to victims that the judiciary considers it second only to murder in severity.

National policing data, compiled and reviewed by The Globe as part of its 20-month investigation, reveal that one of every five sexual-assault allegations in Canada is dismissed as baseless and thus unfounded. The result is a national unfounded rate of 19.39 per cent – nearly twice as high as it is for physical assault (10.84 per cent), and dramatically higher than that of other types of crime.

Unfounded Sexual Assault Rate



Population Groups



WILL THEY BELIEVE YOU?

Look up the rates for the police service in your area

FIND YOUR POLICE JURISDICTION

True unfounded cases, which arise from malicious or mistaken reports, are rare. Between 2 per cent and 8 per cent of complaints are false reports, according to research from North America, the United Kingdom and Australia. The Globe's findings suggest that police in Canada are closing a disproportionate number of

rape cases as unfounded, a phenomenon that distorts the country's crime statistics.

Inflated unfounded rates create the impression that police receive fewer complaints of sexual assault than they actually do. In turn, that gives the appearance that more complaints lead to an arrest.

According to The Globe's data, 42 per cent of sex-assault complaints lead to a charge (Statistics Canada, which has data from all jurisdictions, reports 44 per cent). When unfounded cases are factored in as complaints, however, the charge rate drops to 34 per cent.

In addition, The Globe's data show vast discrepancies in unfounded rates between jurisdictions across Canada – inexplicable swings from city to city, province to province, regardless of size and demographics – which suggest that complainants of sex assault in some parts of the country are far less likely to be believed than in other parts.

While some cities, such as Toronto, Winnipeg, Surrey and Windsor, have single-digit unfounded rates, The Globe found that police in 115 communities dismiss at least one-third of sex-assault complaints as unfounded.



But the significance of inaccurate unfounded rates is more than statistical, according to advocates, complainants and scholars who reviewed The Globe's data, which is the most comprehensive review of sexual-assault unfounded rates ever conducted in Canada.

When complaints of sexual assault are dismissed with such frequency, it is a sign of deeper flaws in the investigative process: inadequate training for police; dated interviewing techniques that do not take into account the effect that trauma can have on memory; and the persistence of rape myths among law-enforcement officials.

“What does unfounded mean to you? What does unfounded mean to anybody? It means ‘You’re lying.’” says Ottawa criminologist Holly Johnson, who has extensively studied that city’s unfounded cases. She believes that high rates send a message that police don’t believe large numbers of complainants, “which reinforces damaging myths that women lie about sexual victimization, and could act as a deterrent to already low reporting.”

To conduct its review, The Globe and Mail requested unfounded data from every police service in the country, which covers more than 1,100 jurisdictions. Though not all forces complied with the request, The Globe received data from 873 police jurisdictions, which represent 92 per cent of the population.

(How police and politicians have responded to The Globe’s investigation so far)

In addition to the unfounded data, The Globe interviewed 54 complainants from across the country about their experience reporting a sexual assault to police, in order to understand how their cases were handled. For the majority of cases, The Globe was able to obtain documentation, such as police notes and e-mails, medical records, court documents, video and audio interviews, and internal police professional-standards reports. In cases where no documents were available, The Globe interviewed police, parents, friends and witnesses to verify the complainants’ accounts.

In all but 15 cases, those files were dismissed without charges. While complainants are rarely, if ever, told whether their allegation has been deemed unfounded, The Globe obtained documents that showed that seven of the 54 cases had been closed as unfounded. At least four other cases were likely closed in that way: Two complainants were charged with public mischief for filing a false report (in both instances, the charges were dropped before going to court); another two women said they were threatened with public mischief after making allegations of sexual assault.

Because unfounded statistics are kept secret – except through individual and often costly freedom-of-information requests – there is no imperative for police to analyze or account for them.

It wasn't always this way. Until 2003, Statistics Canada released unfounded numbers. The last year for which numbers are available is 2002, when the national unfounded rate for sexual offences was 16 per cent. The agency collects data through the Uniform Crime Reporting Survey, a national set of standards that every police service is supposed to follow. The definition of unfounded, along with all other clearance codes, is laid out explicitly in the UCRS protocols.

But after Statistics Canada raised concerns that police services weren't using the category consistently – for instance, misclassifying as unfounded cases that simply did not have enough evidence to lay a charge; or, more seriously, not recording unfounded cases at all – Statistics Canada decided to stop collecting the data altogether, rather than force police to follow the rules.

The 1980s and 1990s were watershed decades for sexual-assault legislation and jurisprudence in Canada. The crimes of rape and indecent assault were replaced with three tiers of sexual-assault offences, encompassing a fuller spectrum of sexual violence. Restrictions were put on the circumstances in which a victim's sexual history could be introduced in court. The corroboration requirement was removed, meaning that a complainant's word, even without third-party testimony or physical evidence, became enough to secure a conviction. And restrictions were put on a suspect's ability to claim that he had “mistakenly believed” a complainant had consented to sexual activity. Alongside other changes, these decades gave Canada some of the most progressive sexual-assault laws in the world, in theory.

The handling of sexual assault has again become the subject of a vigorous public debate: The spectacle of Jian Ghomeshi's sex-assault trial; the unprecedented public disciplining of an Alberta judge who questioned why a woman didn't “keep your knees together” to prevent an attack; the cases of Bill Cosby and of Brock Turner, the Stanford student who was convicted of sexually assaulting a 23-year-old woman who lay unconscious on the ground.

And although discussion is often focused on the fact that fewer than one in 10 victims report their assault to police, and that fewer than half of the cases that do go to court end with a conviction – among the lowest conviction rates of any

type of violent crime – The Globe’s reporting has shown there is an equally pressing statistic that has yet to enter the debate in Canada.

Every year, an average of 5,500 people are reporting sexual violence to Canadian police, but their cases are dropping out of the system as unfounded long before a Crown prosecutor, judge or jury has a chance to weigh in.

The result is a game of chance for Canadian sex-assault complainants, whose odds of justice are determined not only by the facts of their case, but by where the crime took place, which police force picks up their file, and what officer shows up at their door.

“Going into it, I felt like I trusted the police,” says Ava, who is now studying law and told her story on the condition she is only identified by her first name. “I had no reason not to trust the process.”

Looking back, she describes an abrupt loss of faith.

“I started to put it together that I wasn’t necessarily being believed,” she says. “It was like the floor opened up underneath me. I felt like I was sinking.”

‘A COMPLETE LOTTERY’

London is a university and college town of about 390,000 people in Southwestern Ontario. Split between Western University and Fanshawe College, roughly 43,000 full-time students call the city home, giving it a hard-partying reputation.

For the London Police Service, that reputation is more than a headache. The force has publicly complained about the rowdy parties, incidents of vandalism, and nuisance infractions in student neighbourhoods.

But the demographics and heavy drinking have another consequence for the city.

Victimization studies have shown that, across Canada, specific groups of young women have the highest rates of sexual assault – including students, single women, those who live in urban areas, and females between the ages of 15 and 24. When Ava moved to London, she ticked every one of those boxes. And while no one knows exactly how many sexual assaults involve alcohol (more than 90 per cent of incidents are never reported) research has suggested that half of all victims and perpetrators had been drinking beforehand.

With its large student population and party culture, London has all the hallmarks of a community where young women are at risk of sexual violence.

And yet, the extent of that problem has been obscured, because the London Police Service has one of the highest unfounded rates among Canadian cities. In 2014, the service dismissed about a third of all sexual-assault allegations in this way, meaning that on the books, there were 259 complaints in the city that year; in fact, there were 390.

Over the five-year period reviewed, London presented one of the highest unfounded rates of the 25 largest police communities in the country. The Globe found that the service dropped 30 per cent of sexual-assault allegations as unfounded between 2010 and 2014. (Unless stated otherwise, all unfounded percentages in this story refer to a community's five-year rate.)

London, ON
LONDON POLICE SERVICE
Policed Population: 388,883

Unfounded sexual assault 5-year rate

30%

690 of 2,278 allegations

Among Canada's largest cities, there were drastic variations in unfounded rates. Five Southern Ontario cities, including London, posted the highest figures, with unfounded rates ranging from 28 per cent to 31 per cent. The numbers might have suggested a pattern – that Ontario police services are more likely than others to rule cases as unfounded – except that some of the lowest unfounded rates were also in that province: Windsor, with 3 per cent; and Toronto, with 7 per cent.

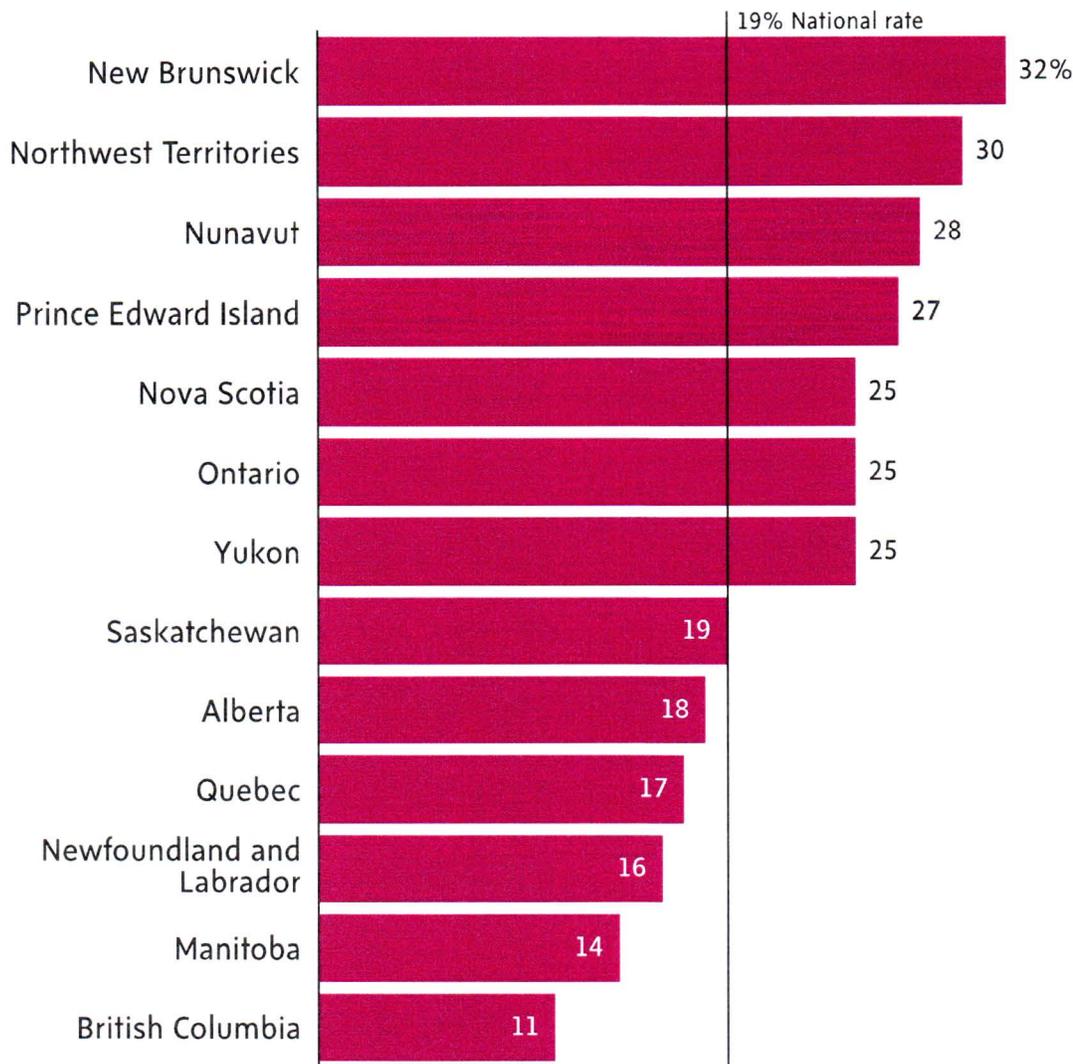
“I think in general you’re going to be much better off with a large city, with a large police agency, but it is a complete lottery. I think that that’s very clear,” says Lise Gotell, a professor at the University of Alberta who specializes in feminist legal theory. “If you’re seeing judges misapplying the consent standard, I think there are a great many police officers as first responders who simply don’t know the first thing about what the consent laws are.”

Western provinces fared better than the rest of the country. British Columbia (11 per cent) posted the lowest rate. Manitoba came in at 14 per cent, Alberta at 18 per cent, and Saskatchewan at 19 per cent. (Newfoundland and Labrador, with 16 per cent, and Quebec, at 17 per cent, were also below the national rate.)

The Globe found that every other province and territory is dismissing at least a quarter of all sexual-assault complaints as unfounded: New Brunswick (32 per cent), the Northwest Territories (30 per cent), Nunavut (28 per cent), Prince Edward Island (27 per cent), Yukon (25 per cent), and Nova Scotia and Ontario (both 25 per cent).

Unfounded sexual assault rate by province and territory

Percentage of sexual assault allegations cleared as unfounded (2010-2014)



THE GLOBE AND MAIL

The national rate covers 89 per cent of Canada's population. The percentage of the population covered in each province is as follows. N.B. 95%, N.W.T 100%, Nunavut 100%, P.E.I 73%, N.S. 99%, Ont. 99%, Yukon 100%, Sask. 97%, Alta. 66%, Que. 73%, Nfld. 100%, Man.

But regardless of whether a province happened to post a high or low rate, each showed wide swings on the ground.

Manitoba had the second-lowest provincial rate, and Winnipeg police unfounded only 2 per cent of allegations. (Police and other experts who deal with the issue routinely use “unfounded” as a verb.) But two hours west of the capital, in Brandon, the rate

Winnipeg, MB
WINNIPEG POLICE SERVICE
 Policed Population: 709,171

Unfounded sexual assault 5-year rate

2%

66 of 3,483 allegations

stood at 18 per cent. These types of discrepancies were visible again and again across the country in small towns and in cities.

In Vermilion, the RCMP's unfounded rate was 17 per cent. Two and a half hours away, in Westlock, the RCMP's numbers stood at 29 per cent. Both police jurisdictions are of comparable size, 10,000 and 13,900, respectively.

In New Brunswick, the Saint John Police Force recorded an unfounded rate of 51 per cent; but in Fredericton, the rate was just 16 per cent. The cities are about the same size: 70,000 in Saint John, 59,000 in Fredericton.

Blair Crew, a lawyer and part-time University of Ottawa law professor who has studied the unfounded issue, reviewed The Globe's findings. He says that, when viewed nationally, such fluctuations point to the conclusion that victims are more likely to be believed in some areas of the country than in others.

"In some of the smaller jurisdictions, one or two more cases going one way or the other may make a very radical difference," he says.

But there is "no reason in principle" for sizeable discrepancies between large urban jurisdictions, such as Toronto and York Region. The two jurisdictions border each other and both have more than a million residents. Yet York's unfounded rate was 31 per cent, which is more than four times higher than Toronto's.

Vermilion, AB
ROYAL CANADIAN MOUNTED POLICE
Policed Population: 9,972

Unfounded sexual assault 5-year rate

17%

12 of 72 allegations

Saint John, NB
SAINT JOHN POLICE FORCE
Policed Population: 69,780

Unfounded sexual assault 5-year rate

51%

312 of 617 allegations

York Region (Markham /
Vaughan), ON
YORK REGIONAL POLICE
Policed Population: 1,122,803

Unfounded sexual assault 5-year rate

31%

646 of 2,058 allegations

The only explanation, Mr. Crew contends, is different police practices.

Mr. Crew is one of only a few Canadian researchers to collect unfounded rates since police stopped making them public. Through freedom-of-information requests, he and researcher Teresa DuBois obtained statistics from seven Ontario police services spanning the period 2003 to 2007. Their research, like that of *The Globe's*, found large disparities between the lowest (Windsor, at 2 per cent) and the highest (London, at 34 per cent). Put another way: The Windsor Police Service dismissed one of every 50 sexual-assault allegations as unfounded. London dropped one in three.

How to explain those variations, and the high rates within some police services? We put that question to more than a dozen police officers involved in sexual-assault investigations across the country. They told *The Globe* that it is likely that some cases are being improperly coded as unfounded. (Several police departments – including London's – have said that, as a result of *The Globe's* inquiries, they have launched reviews into how their officers are using the classification.) In 2002, Statistics Canada also heard concerns that police were misclassifying cases, as did criminologist Julian Roberts in the late 1980s when he was hired by the federal Department of Justice to look into high rates of unfounded sexual assault.

“It doesn't make any sense,” says Mr. Roberts, a criminology professor at the University of Oxford. “Why are we getting [coding] errors at a differential rate for sexual assault compared to other offences?”

In the late 1980s, when he was conducting research, the national unfounded rate for sexual assault in Canada stood at 15 per cent – compared to 7 per cent for physical assault. (In *The Globe's* findings, the rate for each has since gone up, but the ratio between the two remains the same.)

“If anything, you'd expect the sexual-assault unfounded rate to be lower than physical assault [because] ... coming forward to police to report a sexual assault is not an easy thing,” he says. “Generally what you find with criminal offences is the more serious offences have a lower unfounded rate.”

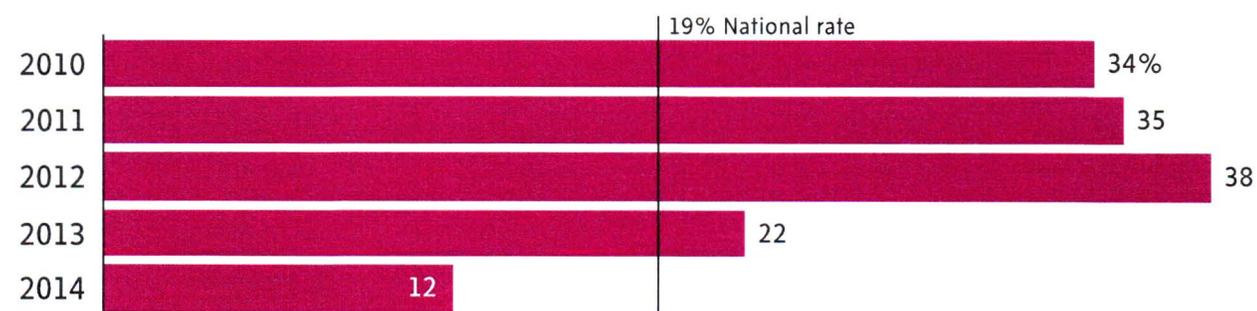
One interesting trend in the data reviewed by The Globe: Those police services that have had to deal with negative media coverage or increased scrutiny of the issue in the past happen to have lower rates.

Of particular note is the City of Ottawa, which has been ground zero in the battle over high unfounded rates in recent years, owing to the fact that the leading voices on the issue – including Mr. Crew and criminologist Holly Johnson – live there.

In 2012, 38 per cent of sexual assault cases in Ottawa were closed as unfounded. Two years of criticism later, that number plummeted to 12 per cent, The Globe's analysis showed.

Unfounded sexual assault rate for Ottawa police service

Percentage of sexual assault allegations cleared as unfounded (2010-2014)



THE GLOBE AND MAIL

Staff Sgt. Angela McDade, who this week retired as head of the service's sexual assault and child abuse section, told The Globe that there was not previously a clear understanding of when to classify a case as unfounded. If a complainant decided that she didn't want to proceed with an investigation, or if she refused to co-operate, the allegation was typically classified as unfounded.

She says that, about four years ago, advocates in the Ottawa community brought the issue to their attention. In response, the Ottawa Police Service implemented new training around the use of the unfounded designation, along with better

oversight to catch mistakes. The numbers have been dropping ever since, she says. “The supervisors are reviewing the cases as they’re submitted. Plus, there’s the education to the officers saying, ‘You know what, you cannot clear as unfounded unless you’re certain that no violation of the law took place.’ That’s why you have such a drastic change in our statistics. ... We’ve come a long way over the last few years.”

The most noteworthy example of how public scrutiny can reshape a department’s approach to sexual-assault complaints is the Toronto Police Service.

In 1998, a woman known only as Jane Doe won a landmark court decision against the service, more than a decade after she had been raped in the middle of the night by a serial predator. Justice Jean MacFarland concluded that police had failed to warn her about the “Balcony Rapist” – who had attacked four other women in her neighbourhood over the previous year – and that the service’s sexual-assault practices discriminated against women. (When Jane Doe asked the police why she hadn’t been alerted to the threat, she was told that women would become “hysterical” and the rapist would flee the area.)

“Although the [police] say they took the crime of sexual assault seriously in 1985-86, I must conclude, on the evidence before me, that they did not,” Justice MacFarland said in her ruling.

Immediately after, Toronto city council ordered a review of how its police service handled sexual-assault cases. City auditor Jeffrey Griffiths’s 137-page report included 57 recommendations. Among them: better training, investigative protocols and supervisory oversight; and a new rule that “Under no circumstances should a first-response officer make a determination as to whether a sexual-assault incident is classified as unfounded.”

A follow-up report published in 2004 found that, while not all the recommendations had been implemented, meaningful progress had been made.

The nearly two-decade saga made national headlines and put a spotlight on shoddy sexual-assault police policies in a way that no story had before. But even

at the peak of the scandal, outside of Toronto, it seemed to be business as usual.

THE INTERVIEW

It is 10:18 a.m. on March 30, 1999, at the Ottawa Police headquarters – the year after the Jane Doe judgment.

L is slouched over on a couch, staring sheepishly at the floor with her arms tightly crossed as the sergeant introduces himself.

A screen grab from L's police interview video.

"I'd like to sit down and talk to you about certain allegations you made," the officer says. "Why are you here?"

"Because I. Just ..." – the 14-year-old giggles – "I'm sorry. I'm nervous."

"Take your time."

"Okay, I'm here because, um, I don't know how to put it."

"Put it the best way you can, okay?" the officer says.

“Because, I, arghhhh! Okay, I’m here because I was, um” – she laughs again – “can you help me?” L says to a support worker from the Children’s Aid Society who had been assigned to sit in on the questioning. The support worker shrugs and tells L to say what is on her mind.

L takes a breath: “I had sex with [B]. That’s what comes to my mind right now.” (Both B and L are initials.)

B was a family friend in his late 20s, she continues. When L was 13, her mother had asked B to look after L while the mother was out of town. That’s when the “stuff” happened, L tells the sergeant.

“I want you to tell me exactly where he touched you,” he says. “What ‘stuff’ was involved?”

L shifts uncomfortably in her seat. He reeked of beer, she says. He started by telling her she was sexy. He stroked her leg, told her it would be okay, then took off her pyjama bottoms.

When it was over, B warned L to “shut up about this,” she says.

Nine months later, L says, she gave birth to a baby. The child was put up for adoption. She explains that she didn’t realize she was pregnant until “it started to kick.” L had noticed her stomach getting bigger, but “thought it would go away,” she tells the sergeant.

The sergeant ends the interview 21 minutes and 40 seconds after it began.

Months later, L recently told The Globe (she didn’t want her named published), police told her mother that the case had been unfounded, a word that was foreign to L. The officer told her mother that it was suspicious that L had giggled during their interview, and that B, in any case, told police he was sterile. (L’s mother, who was going through personal struggles at the time, says she does not remember the specifics of the conversation – only that the officer told her that B had “lawyered up” and there was “nothing he could do.”)

Years later, L requested a copy of the case records.

The only things in the file were a general occurrence report, a copy of the support worker's memo – which stated simply that L “disclosed that she was having sexual relations with the suspect who is 27 years old” – and L's video statement. There was no evidence that investigators had asked B to prove he was sterile; no evidence that attempts had been made to test the baby's DNA; and, in fact, no evidence that anyone at the Ottawa Police Service had done any work to try to figure out how a Grade 8 student had become pregnant, beyond interviewing L herself.

Jamie Dunlop, an Ottawa police inspector who oversees major investigations such as sex crimes and homicides, said cases are handled differently now.

“You're using today's knowledge of what we do and how we do business, and you want to apply it back 20 years. You're going to find mistakes,” Insp. Dunlop said, referring to techniques in general and not specifically about L's case.

“There's a lot of changes that have happened ... in sexual assaults and understanding trauma-based interviews,” he said. “Laughter is common. Absolutely right. Was that as well known 20 years ago? I don't know. We're doing a much better job now of preparing investigators.”

In November, 2015, L – now 32 and a recent university graduate – won a decision with Ontario's Criminal Injuries Compensation Board, which can give financial awards to victims of violent crime. The board applies the same legal test that civil proceedings do: Adjudicators make decisions based on a “balance of probabilities,” rather than the higher “beyond a reasonable doubt” test used in criminal courts.

Both B and L were interviewed by the board. Each was encouraged to bring any documents that would support their case. The evidence presented during L's hearing is protected under a publication ban. But in issuing its decision, the board stated that it had found her to be “clear, forthright and credible,” while B came off as “vague and inconsistent.” L was awarded \$28,000, a little more than the typical maximum.

L's experience is evidence of many of the problems that advocates and experts have identified with how sexual-assault investigations are handled. Those include: the short interview by police; the confusion around victim behaviour – trauma specialists note that laughter, for example, is not an uncommon symptom of nervousness, especially in the case of a young girl talking to a male officer about sexual acts, and the lack of documentation in the investigative file.

“If there isn't a proper investigation, then it's easy to unfound. And it's really hard for a woman to go further with it, because no one has done the investigative work,” says Elizabeth Sheehy, a legal scholar at the University of Ottawa.

Trying to prove definitively if – and why – allegations are improperly dropping out of the system is impossible. In contrast to the situation in the United States, police files in Canada are not publicly available, even under freedom-of-information laws. South of the border, unfounded statistics are available through the FBI without an access-to-information request.

Last August, the U.S. Department of Justice released an incendiary report into the Baltimore Police Department, criticizing, among other things, the service's approach to sexual assault and its handling of unfounded cases.

News outlets followed up the DOJ report with investigative stories about other communities' high unfounded rates, using the publicly available statistics. Journalists from BuzzFeed were able to obtain individual police files connected to unfounded cases – files far more detailed than those that actual sex-assault victims in Canada have access to – to take the story beyond the numbers, and show what was going wrong on the ground.

In Canada, that's not possible. Only complainants are able to access some documents connected to an allegation through freedom-of-information requests, with a fee; although, in the cases reviewed by The Globe, anything not directly related to the victim – such as witness statements, information provided by the suspect, and notes about investigative steps – was typically redacted. One B.C. woman was denied a copy of her video statement due to privacy concerns. She and the investigating officer had been the only people in the room.

"I couldn't believe it," says Christine Sandhu, who reported a rape to the Vancouver Police Department in 2015. "It's not like I forgot who raped me and wanted a refresher."

Ms. Sandhu is one of the 54 people from across the country whom The Globe interviewed about their experience reporting sexual violence to police. Only one of those individuals – L – was actually informed that their case had been closed as unfounded. Others learned this after the fact, either by obtaining copies of

their file or through inquiries by The Globe. Of the 54 cases, 39 were closed before making it to court.

One involves a second-year Laurentian University student named Emilie, who asked to be identified only by her first name. In January, 2015, Emilie told the Greater Sudbury Police Service that she had been raped at a campus residence on Halloween night while she was heavily intoxicated. After a four-week investigation, the sergeant handling the case closed the file as unfounded after the two men said the sex was consensual.

Emilie was not told that police had unfounded her allegation; rather, she learned it from The Globe.

“The last two years of my life have been hell. To have a whole two years of hating to wake up in the morning and go to class, and to have them say that my complaint isn’t valid? It’s wrong,” she says. “It’s bullshit. It’s not right.”

WARNINGS IGNORED

To better understand why a case may end up being unfounded, The Globe and Mail requested copies of detailed unfounded files, excluding any identifying information, from Canada’s 25 largest police jurisdictions over a four-month period in 2013 (long enough ago that the investigations would be closed).

Five police services – the RCMP’s Surrey and Burnaby detachments in B.C.; and London, Windsor and Waterloo, Ont. – responded with redacted synopses, in some instances leaving only a few words visible in a given report (and citing reasons of privacy for doing so). Only Windsor’s and Waterloo’s documents were left in a readable form.

Parts of the responses from Waterloo, London and Windsor, Ont. to The Globe's request for unfounded files.

Without access to investigative files, those who challenge the police community's insistence that sex-assault investigations are being done properly are left relying on anecdotal evidence and statistics that tell only part of the story.

Linda Light, a former senior policy analyst in B.C.'s justice department, is one of the only civilian researchers to gain full access to Canadian sexual-assault police files.

Funded in part by the federal Department of Justice and the B.C. ministries of community services and public safety, Ms. Light and Gisela Ruebsaat, a legal analyst, were tasked with investigating the phenomenon of disparate unfounded rates among police services within driving distance of one another. They settled on four departments in the province's Lower Mainland. Three of those were RCMP detachments – Chilliwack (with an unfounded rate of 19 per cent), Langley (28 per cent), and Richmond (12 per cent); the fourth was the Vancouver Police Department (7 per cent).

After being subjected to rigorous security checks, both researchers were given access to a total of 148 police files from 2002 and 2003.

Ms. Light and Ms. Ruebsaat concluded that a case was more likely to be classified as a real, “founded” allegation – meaning police believe a crime occurred – if the file noted that: the victim had said “No”; if the victim appeared upset; if force was used; if the victim physically resisted; if the suspect was a stranger; if the victim did not present mental-health issues, which the study said included drug and alcohol abuse. In other words, complainants who do not conform to stereotypes about the perfect victim were winding up with cases deemed unfounded at a disproportionate rate.

The researchers also noticed that the allegations that had been classified as unfounded were less likely to show evidence of a robust investigation – such as formal interviews with the victim and statements from witnesses.

Ms. Light says they were “very surprised” at how many cases police classified as unfounded without making formal contact with a suspect.

The trend lines were fairly consistent across the four B.C. police services – except in Vancouver, where the completeness of an investigation did not always seem to affect whether a case was founded or not.

The Light and Ruebsaat study was unprecedented, and remains one of the most commonly cited Canadian reports on the quality of sex-assault investigations and unfounded cases – but it was never actually published. “We were funded through the feds, and just around the time we were going to publish, there was a

change of government. [Prime Minister Stephen] Harper had just gotten into power ... they wouldn't publish it," Ms. Light says, adding that she never learned exactly why.

"We were very disappointed, obviously. ... I didn't feel like I could go ahead and speak about it publicly. I'm sorry, now, that I didn't." (A four-and-a-half page summary of their findings, however, did make it into a [justice-department article](#) in 2007.)

Toward the end of their research, Ms. Light says, she and Ms. Ruebsaat learned that unfounded stats would no longer be made public.

An internal memo from the Canadian Centre for Justice Statistics, obtained by The Globe and Mail through access-to-information, shows that concerns over the accuracy of data arose after officials realized that some cases were being improperly classified as unfounded, while in other cases, police services were simply not recording unfounded cases at all.

"Without national data on unfounded rates, there will be no way of monitoring founded-unfounded case classification trends and no way of assessing the impact of any corrective measures that may be taken to ensure accuracy in decision-making regarding founded and unfounded determinations," Ms. Light and Ms. Ruebsaat warned in their unpublished, 78-page draft.

But one of the most prominent Canadian voices on sexual assault warns that the statistics themselves need to be treated with caution.

"Toronto's official number is seven per cent – according to the police ... I do not trust police statistics," Jane Doe says in an interview. "I don't believe that statistic. I don't believe that reflects what's really going on and what women are experiencing. And I base that on experience dealing with women who have reported and who have been turned away."

After winning her case against the Toronto police, Jane Doe continued with her activism: writing, speaking and providing guidance to police services across Canada on how to improve the system.

But after three decades on the front lines, she says, nothing has changed. “In fact, I think things are worse than they ever were before. Because we know more and we know better, and yet we continue in the same way,” she says.

“Nine out of 10 women don’t report, citing fear of the police investigation and the court process. The conviction rate is 1 per cent [when you factor in how few cases are reported]. Why aren’t we out on the street with torches?”

Around 10 years ago, Jane Doe says she was permitted to audit a police-training course on sexual assault. “The first two modules were about how to spot a false allegation. They said, ‘You really have to be watching for body language. Is she too upset? Is she upset enough? Is she angry? Is she trying to get even with a boyfriend? Is she looking for attention?’” Jane Doe says. (False reports are not synonymous with the unfounded designation, although they are typically classified as unfounded.)

Almost every session was taught by a police officer, rather than by outside professionals with specific specialties, such as experts who study trauma, sex-assault law and victim behaviour. Advocates and counsellors who work with survivors on a daily basis were not represented at all, she says.

“If you want to fix the system ... a good place to start is with police training,” she says.

MORE SCIENCE, LESS GUT

Be warned, clinical psychologist Lori Haskell told the room of police officers: The material is going to be dense.

On this day early last October, Dr. Haskell is speaking to about 160 officers at the Toronto Police College. Over the course of the previous year, she had given the same presentation about 50 times to Crown attorneys and police services from

all over the country, about double the number she gave the year before. “But it’s very inconsistent. I get called in because some officer will see my presentation and say, ‘You’ve got to come do this for us,’.” Dr. Haskell says. “I think the fact that I’m getting 50 trainings this year means there’s not enough people doing the work.”

Dr. Haskell is one of Canada’s leading specialists in how the neurobiology of trauma factors into sexual-assault cases. In addition to her private practice and research, she is also a sought-after expert witness and consultant. (She was hired to try to re-educate Alberta Federal Court Justice Robin Camp after he was called before a judicial-review committee for asking a 19-year-old sexual-assault complainant: “Why couldn’t you just keep your knees together?”)

But much of her work in the last few years has been teaching what’s known as a trauma-informed approach to investigating sexual assaults. It takes the gut-instinct subjectivity of an officer out of the equation, and instead roots an investigation in non-negotiable science.

Officers have traditionally been taught to establish credibility by getting as much detail as possible, as soon as possible, and then checking back with anyone interviewed to see if those details change in subsequent interviews. Standard technique has also been to go through the story chronologically. Sometimes complainants would even be asked to tell the story backward.

This way, the old way, the way that most officers continue to investigate sexual assault, is actually the exact opposite of what should happen, Dr. Haskell says, and it’s causing even the most well-intentioned officers to disbelieve real victims.

It all starts with the brain.

Trish McAlaster/The Globe and Mail

When a person fears for their life, the brain's built-in danger alarm, the amygdala, starts to go off, flooding the body with adrenalin. Blood and oxygen divert to the muscles, and non-essential systems take a back seat. The hippocampus is responsible for filing long-term memories, but in times of intense fear, when the brain is flooded with stress hormones, its functioning is altered. Certain parts of the experience can be totally burned into memory while others are stored poorly or not at all.

What this means for a sexual-assault victim is that their ability to retain memories, especially certain kinds of memories, is impaired. And this is even without the complicating effects of alcohol or drugs.

“So what’s this mean?” Dr. Haskell asks the group of officers she’s training. “If I pulled out a gun right now ... what would you be focusing on? You’d be looking at the weapon.

“If I said to you, ‘How many people are in the room? Can you describe the colour of the tie of the guy next to you?’ ... You are not encoding the colour of the walls. You are not encoding the clothing. You wouldn’t know how many people were in this room. That’s not how the brain works.”

This is why victims can’t always give a linear account of an attack. Instead, they’ll remember a smell or an image. These are called sensory fragments, and the best way for an officer to gather information is to find these pieces, then work forward and backward from them, without getting caught up in whether a victim can remember peripheral details.

“Credibility for police is established right away,” Dr. Haskell told *The Globe*. “If police think, ‘This person can’t talk about this coherently. This story doesn’t make sense – it’s all over the place. I can’t understand this. This is not believable,’ I don’t think a lot of cases even get past this point.” (Such training can be valuable for other kinds of police interviews as well, she notes.)

David Lisak, a psychologist who runs the same type of trauma training sessions with police services and military personnel in the United States, says the demand for those courses took off five or six years ago.

Dr. Lisak says that the other big change involves a rethinking of the best time to interview victims. It can take up to 72 hours for stress hormones to leave the brain – meaning a victim who is questioned immediately after an attack will not have access to their full memories. They’re also often tired, haven’t eaten, and perhaps feel ill from the effects of alcohol.

Those who study trauma recommend that police officers wait at least 24 hours, or even 48, to conduct an in-depth interview with a victim. Officers would still be able to take down basic facts about an allegation right away, in order to start the investigation – and exceptions would be made in instances where there is an ongoing public threat, which is almost never the case in sexual assaults. But a full statement should wait.

“That’s actually become the policy for officers involved in incidents in many, many police departments. They’ll wait approximately 24 to 48 hours [to interview] an officer [under investigation]. That certainly has not become any general policy around interviewing sexual-assault victims,” Dr. Lisak says. “We obviously make the point: If that’s a wise policy for officers involved in incidents, surely it’s wise to follow for interviewing other people.”

Other aspects of the new training try to debunk myths about how victims behave.

Although the Light and Ruebsaat study found that police were more likely to dismiss an allegation as unfounded in instances when a victim didn’t fight back or say no, one of the body’s survival instincts – alongside fight or flight – is freeze. If a victim reported feeling like they were having an out-of-body experience, or that they couldn’t talk, this could be evidence of what’s called disassociation, a response to trauma. Yet, police almost never ask questions that will pull out this useful evidence, says Dr. Haskell.

One way to lower unfounded rates might simply be to introduce officers to better interviewing techniques. “I think a lot of people who wanted to be police officers wanted to stop crime and help victims. ... So there is a willingness,” she says. “At first, people can be defensive. They don’t want to believe that they’ve been doing this wrong. They’ve been trained to do something completely counterproductive or harmful.”

CASE LOADS AND COMPLEXITY

No province mandates specialized sexual-assault training as a prerequisite to handling such investigations. The topic is covered during the basic training that every officer receives, but advocates and experts say that the lessons are outdated and inadequate, given the unique challenges associated with investigating sexual assault.

And while more and more forces are choosing to host experts such as Dr. Haskell, the sessions are typically one-off initiatives, targeting select groups of officers. Individual police services with dedicated sex-crimes units do typically require that any new members attend specialized training. These sessions usually run between one and two weeks.

“The sex-crimes unit is part of the criminal-investigators bureau in Winnipeg. You apply to come here,” says Insp. Kelly Dennison of the Winnipeg Police Service.

“When you come to a specialty division, usually you have taken a number of courses to lead you to this division. Once you’re here, we invest in those officers’ training in things like forensic interviewing. ... We continually train our officers.”

Winnipeg police had one of the lowest unfounded rates in the country, 2 per cent.

Insp. Dennison says he doesn’t want to speculate about what might lie behind the comparatively high rate of sexual-assault unfounded cases at some other police services, but he notes that the Winnipeg service has a number of policies in place that might be contributing to its low unfounded numbers.

Chief among them is a governing philosophy that false reporting doesn’t happen that often. “If a report of sexual assault is received by the police service, the only way that it would be categorized as unfounded is if we could prove that it probably didn’t happen. Which is rare, right? You don’t get a lot of people reporting this type of serious offence if there’s not some sort of basis to it,” he says.

Second, an investigator with the sex-crimes unit follows up with every complainant. In police services across the country, the usual process is that a call comes in and front-line officers make initial contact with a potential victim. They'll usually take an initial statement and file a report, secure the scene, and identify any witnesses. Then the file is passed on to the specialized team.

Insp. Dennison says that, regardless of what the constables report back – even if the complainant changes their story during the course of the initial interview, or evidence suggests that the crime didn't actually happen – sex crimes investigators will always follow up directly with the alleged victim.

Even in cities that do have sex-crimes units, the specialized officers aren't always involved in sexual-assault investigations. In Ottawa and Peterborough, Ont., for example, the specialized unit handles most – about 90 per cent – but not all cases. In Calgary, allegations involving intercourse, repeat offenders, weapons or bodily harm are dealt with by the sex crimes unit. In Roussillon, Que., the sex-assault unit has just two investigators, but four other officers have taken a month-long specialized course, so they assist when needed. And in Toronto, the unit focuses on cases in which the perpetrator is a stranger to the victim, and thus investigates only about 10 per cent of all sexual-assault allegations. Police spokesperson Mark Pugash, however, notes that the service also has a policy that any officer investigating sexual assault must have attended a two-week Sexual Assault Investigators course. To date, 2,076 uniform officers – about 40 per cent of the service – has had the training.

Nicole Xu/The Globe and Mail

Of course, the vast majority of police services don't have dedicated sex-assault units. In many areas of the country, especially in rural and Northern communities, front-line officers are required to handle every type of call. At the end of a shift, there's no one to pass a complex case off to, so officers are left juggling those investigations with regular patrol duties.

Rob Creasser, a spokesperson with the Mounted Police Professional Association of Canada, one of two groups hoping to represent the RCMP at the bargaining table (the Senate sent Bill C-7, which will allow the Mounties to unionize, back

to the House of Commons last summer) says that resources are a huge issue when it comes to sexual-assault cases.

“They’re not simple cases. They’re very time-consuming,” says Mr. Creasser, who was an RCMP officer for 28 years in B.C. before retiring in 2010. “Especially in smaller areas, they have to do everything ... they go to anything from a barking dog to a break-and-enter to a sexual assault. And those case loads are huge.”

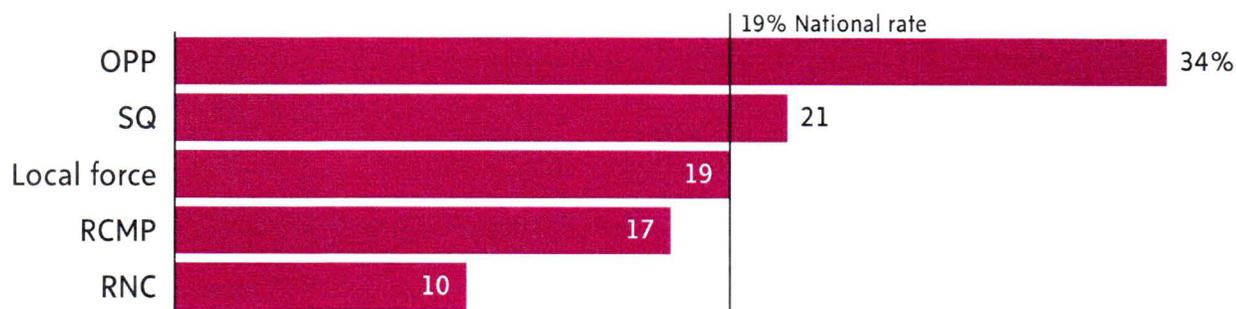
As Canada’s largest police service, the RCMP and its approximately 18,500 police officers fill the role of provincial police in every province but Ontario, Quebec and Newfoundland. In The Globe’s analysis, the force had an overall unfounded rate of 17 per cent. Also below the national rate was the Royal Newfoundland Constabulary, at 11 per cent.

Interestingly, the data showed that both the RCMP and RNC were just as likely to classify a physical assault as unfounded as they were a sexual assault. In fact, the RNC was more likely to unfound a physical assault – that rate was 14 per cent.

Meanwhile, the Sûreté du Québec came in at 21 per cent. The Ontario Provincial Police, however, was a clear outlier: 34 per cent of the sexual-assault cases handled by the OPP were classified as unfounded.

Unfounded sexual assault rate by police service

Percentage of sexual assault allegations cleared as unfounded (2010-2014)



The OPP, which is the second-largest police service in Canada, with more than 6,200 uniformed officers, declined to comment for this story, but former commissioner Chris Lewis defended his former charges. “My gut feeling is 99 per cent of cops out there, if they’re investigating a crime, they want to catch the guy who did it. I think they want to believe the victim and want to prevent the victimization of others,” he says.

“The vast majority of officers are parents, they’re brothers, they’re fathers, they’re mothers and sisters. And if someone has committed a crime, they want to get them. That’s a general statement. Now are some officers better at it? ... Are all the boxes always being checked? Do sometimes things fall through the cracks? We’re humans, not robots.”

The Globe interviewed dozens of individuals who deal with victims of sexual assault, including activists, crisis-centre staff members, criminologists, trauma specialists, lawyers, Crown attorneys and sexual-assault nurse examiners, about how the investigative process can be improved. The two most common suggestions: Increase training and introduce some form of standardization.

“I think what would really help is to have a set of national standards or guidelines for police responding at the scene and particularly around their behaviour – how they present themselves to the victim and also how they ask the questions of the victim,” says Deb Tomlinson, the CEO of the Association of Alberta Sexual Assault Services. “That initial interview is so important. It can set the stage for how police found or unfound the case, but also set the stage for whether you have a willing victim – a victim willing to go forward.”

Many provinces already have something similar in cases of domestic violence; in fact, in Alberta and B.C., any officer investigating a domestic incident must have had mandatory specialized training. In Prince Edward Island, every municipal police officer is required to go through domestic-intervention training every three years. In New Brunswick, a ministry spokesperson said it “is likely” that at least 90 per cent of the service has received additional training on domestic incidents.

Some provinces, including B.C., Ontario, Alberta and Prince Edward Island, have developed domestic-violence checklists or handbook guides for police. Officers use these resources to “ensure comprehensive police investigations of domestic-violence incidents,” the federal Department of Justice website reads, describing PEI’s program.

The Globe questioned every province and territory about its policies and resources surrounding domestic violence, as well as sexual assault. In general, most had in place detailed strategies and partnerships with social agencies to address the former, but few reported similar measures when it came to sexual violence specifically.

The exception is Ontario, which in March, 2015, launched the “It’s Never Okay” campaign, at a cost of \$41-million. The initiative has meant increased funding to sexual-assault centres, and a pilot program that gives up to four free hours of legal advice to sexual-assault complainants in some areas. It has also created a designated unit of Crown prosecutors with expertise in handling sexual-assault cases, who not only take on cases themselves, but offer mentoring.

Where police are concerned, the campaign has promised to “develop tools and identify best practices” that will “support a compassionate and sensitive response” from law enforcement, although what those might be at the moment isn’t clear.

Most provinces advised The Globe to contact individual police services for more information about how they are approaching sexual-assault investigations, since the bulk of those policies and procedures are handled at that level. The Globe sent a survey of 15 questions to more than 100 police services about training, policy, oversight and resources.

Only 18 replied with detailed answers. One Quebec municipal service said the questions must be submitted as a freedom-of-information request. One small Ontario force said the Globe would need to hire a paid duty officer for \$68.44 an hour to reply. Additionally, 10 municipal forces – even large police services in Ontario with media-relations units, including Niagara, York, Halton and Guelph – replied with the same 200-word e-mail refusing to comment.

“As a collective, the policing community works together to identify trends, gaps or challenges, while also sharing best practices in areas that assist in reducing the victims of crime,” it read in part. “We do not believe it is in the public interest to pull staff from their core duties to respond to your request.”

FOUNDED

The two women found Ava lying naked, sobbing uncontrollably and covered in dirt near the pine tree at the north corner of the house where the keg party was unfolding.

“Were you raped?” one of them asked.

Overwhelmed and embarrassed, Ava told them she just wanted to get home. The women – Ava has no idea who they were – found her something to wear, gave her some money, and put her into a cab.

The police and Ava’s parents were phoned once she arrived back at Delaware Hall. Ava was taken to the hospital for a sexual-assault examination. Nurses swabbed her genitals and her mouth, took hair samples and scrapings from under her nails, drew blood, and documented every scratch and bruise on her body. The process took several hours, she recalls. Around 4:15 a.m., a constable took an initial statement. Then, once she was finished at the hospital, Ava was summoned to police headquarters for her full video interview.

When that interview began at 12:38 p.m., roughly 12 hours after the incident, Ava had not slept or eaten, and was feeling nauseated from the night before.

Ava’s mother and father say that when their daughter went into the interview room, she was adamant that she wanted to proceed with charges. But when she emerged 35 minutes later, everything had changed.

The Globe obtained a copy of the footage, as well as the case file.

The video begins with Ava sitting in the corner of a small room, maybe six by 10 feet, facing the detective. He introduces himself as Det. Paul Gambriel. She is crying, and apologizes for it.

A screen grab from Ava's police interview video.

The detective explains that he's aware she has given a previous statement to a constable. This current, videotaped interview is the important one, he says,

where they will go through everything in detail, so nothing gets missed. He asks her to start at the beginning.

It takes about eight minutes for Ava to skim through what she remembers chronologically.

“You consumed quite a bit of alcohol,” Det. Gambriel says, “and despite the consumption, you’re still remembering things that are going on at this point.”

She agrees.

So, she remembers watching drinking games?

Yes.

And then it just drops off?

Yes.

“While you were downstairs, though, you were making out with this guy before you went outside,” Det. Gambriel tells her.

“Was I?” she asks.

“Yeah. Was there any reason you didn’t tell the police officers that?”

“I don’t remember that,” she says.

“Because there are some people at the party that saw that happen.”

The detective spends the rest of the interview pointing out problems with her story, mostly about the fact that she had blank periods in her memory. He never returns to her brief summary of the night, to pull out more detail; in fact, he doesn’t ask her any questions about the actual alleged rape.

“I blacked out, and then I came to my senses, and then I remember saying no, like, ‘You’re hurting me, no,.’” Ava answers calmly.

“So, you black out and you don’t remember anything. But then you suddenly come to and you’re able to tell him to stop – that, no, you don’t want this to occur?” he asks.

The detective then goes on to tell Ava that they found her underwear, which had “discharge” on it. Ava takes this as a suggestion she had somehow biologically consented to the alleged assault. The detective tells her that they found her clothing and “it’s not like it’s torn or anything.”

In the end, he tells Ava that it seems as if she is more upset about the fact someone had photographed the incident.

“I’ve been doing this, Ava, for 22 years,” the detective says. “Whether people are intoxicated or whether it’s drugs or whether it’s a combination of both, it’s not a sudden loss of memory and then a sudden regaining of memory. It’s a gradual and a gradual. So I don’t know how you can block out one specific aspect of the night, but remember the rest.”

(That is exactly how memory works, says Dr. Haskell, who reviewed the footage.)

A trauma expert analyzes Ava's police interview



Reporting and production by Robyn Doolittle; Video and editing by Melissa Tait; Additional production by Laura Blenkinsop and Timothy Moore

Perhaps, Det. Gambriel says, “it’s not so much the sex that’s the issue here, it’s the voyeurism.”

Ava pauses. “I just – so, why are you saying these things? Like, do you not believe me?”

“Maybe the sex was consensual and it wasn’t until everybody shows up and interrupts and has these cameras out that now it’s become a significant issue for you and this other party,” he says.

Ava explains that it was the fact that people weren’t helping: “It worries me that people would see a situation like that, where I was like, ‘No, you’re hurting me,’ and would take pictures. That’s what gets me mad, because that’s not a normal thing to do.”

To this, the detective says he appreciates how honest Ava has been about how drunk she was, which would have impaired her judgment.

Galit Rodan/The Globe and Mail

Melanie Randall, a law professor at Western University who has studied sexual-assault law, and who also reviewed Ava's file, says the interview is a textbook example of what not to do.

"The officer ran interference in so many places, failed to understand the law, failed to understand memory and traumatic events, didn't listen to key things she said, didn't ask her the right questions, arrogantly imposed his own version of what happened, challenged her repeatedly, pretty much suggested that he didn't believe her, and reframed the event as consensual," Ms. Randall says.

After The Globe approached the London Police Service for comment, Ava's file was put under internal investigation by the professional-standards unit. Det. Gambriel declined to comment because of the ongoing investigation.

It has been redesignated as a founded allegation.



With data reporting and analysis by Terra Ciolfe, Laura Blenkinsop, Michael Pereira, Jeremy Agius, Shengqing Wu, Rick Cash, Stephanie Chambers and Tu Thanh Ha.

Robyn Doolittle is a reporter with The Globe and Mail's investigative team.

Have you reported a sexual assault to the police? If you would be willing to share your experience with The Globe and Mail, please email robyndoolittle@globeandmail.com

The Globe's SecureDrop service provides a way to securely share information with our journalists on any topic. You can find it at <https://sec.theglobeandmail.com/securedrop/>

Ava's full police interview





Ava's mother and father say that when their daughter went into the interview room, she was adamant that she wanted to proceed with charges. But when she emerged 35 minutes later, everything had changed.

If you notice an error, please send an email to datafeedback@globeandmail.com.

MORE FROM THIS SERIES

UNFOUNDED: A Globe investigation into how police handle sexual assault allegations

Kawartha Lakes, Ont.

KAWARTHA LAKES POLICE SERVICE

Policed Population: 26,521

5-YEAR UNFOUNDED

27%

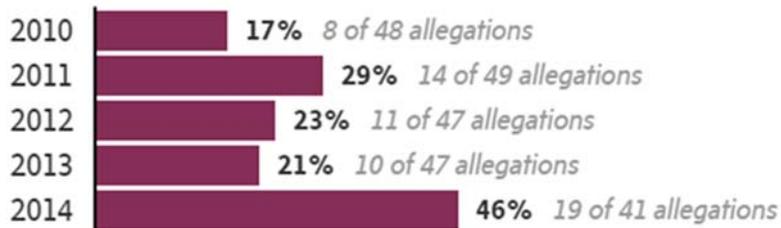
SEXUAL-ASSAULT RATE

62 of 232 allegations

CLEARED AS UNFOUNDED

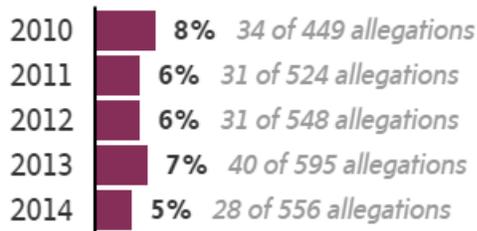
When an allegation made to police is unfounded it means that the investigator does not believe a criminal offence occurred or was attempted. Once a case is dismissed as unfounded it is no longer considered a valid allegation. It is not reported to Statistics Canada. (Sometimes an allegation may occur in one year but not be cleared until the following year which can produce numbers greater than the total number of allegations for a given year.)

SEXUAL-ASSAULT CASES CLEARED AS UNFOUNDED



We decided that in order to provide a benchmark to the sexual-assault data, it would make sense to also collect unfounded statistics for regular assault. But we did not include the assault statistics in our overall analysis because many places did not provide them.

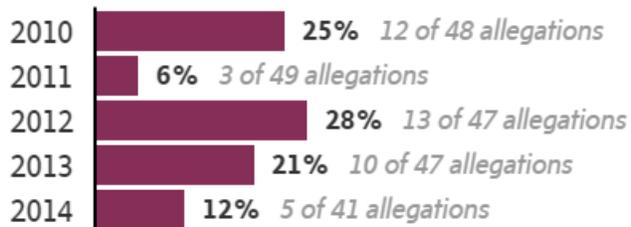
ASSAULT CASES CLEARED AS UNFOUNDED



CLEARED AS CHARGE

When a case is closed in this way it means a criminal charge was laid in connection to the respective offence. "Cleared by charge" is a closure code included in the Uniform Crime Reporting Survey, which police services use to send crime indicators to Statistics Canada each year.

SEXUAL-ASSAULT CASES CLEARED AS CHARGE



METHODOLOGY

Unfounded Statistics are confidential and, in most cases, can only be obtained through freedom of information. The Globe filed 250 requests with police services across the country to obtain data from more than 1100 jurisdictions. We received responses from 873 jurisdictions, which represent 92 per cent of the Canadian population. Read more about our methodology. If you notice an error, please send an email to datafeedback@globeandmail.com

Appendix B

Definitions from Uniform Crime Reporting

The systemic review has confirmed that the City of Kawartha Lakes Police Service uses the StatsCan's definition of all UCR clearance codes. The following five clearance statuses are the only ones to be utilized where a violation is alleged or has occurred:

- (1) Unfounded;
- (2) Not Cleared, Continuing;
- (3) Complete-Unsolved
- (4) Cleared by Charge; or
- (5) Cleared Otherwise.

Definition of Unfounded:

The "unfounded" status is only to be used where after police investigation it is found that a violation of the law did not occur nor was attempted.

Definition of Not Cleared, Continuing:

The "not cleared, continuing" status is to be used when an accused person has not been identified in connection to the violation of the law. This clearance status is to be used when an incident is still under investigation.

Definition of Complete-Unsolved:

The "completed – unsolved" status means that the incident does not have any further investigation required and accused person cannot be identified.

Definition of Cleared by Charge:

The "cleared by charge" status is to be used in an incident where at least one person has been charged in connection with the violation of the law.

Definition of Cleared Otherwise:

The "cleared otherwise" status means that at least one accused person has been identified and there is sufficient evidence to lay a charge in connection with the incident not mere suspicion.

Once both of the above criteria have been satisfied the status of "cleared otherwise" is appropriate in the following circumstances:

- (1) The accused has committed suicide or has lost their life by other circumstances prior to the charges being laid;
- (2) The complainant/victim in the case or an essential witness to the incident loses their life through any circumstance prior to the laying of charges;

- (3) The accused is a Diplomat of a Member State of the United Nations and is exempt from charges for the offence under the Privileges and Immunities Act and U.N. Conventions;
- (4) The accused under the age of twelve and cannot be prosecuted;
- (5) The complainant will not cooperate with proceeding with charges against the accused;
- (6) The accused is involved in other incidents where they have been charged and it is decided not to lay charges in this particular incident;
- (7) The accused is in a correctional facility and there is no useful purpose in laying charges in connection with this particular incident;
- (8) Departmental Discretion. ** This would include a warning or diversionary program, commonly referred to as "Alternative Measures.

Appendix C

The Review Committee's Opinion on Other Related Issues Impacting the Management of Sexual Assault Investigations.

Soft Interview Room

The review committee examined the City of Kawartha Lakes Police Service's investment in a renovation project which included the creation of a "soft" interview room. The intent of this interview room is to provide victims of crimes such as sexual assault, a more welcoming than the traditional suspect interview room.

The review committee's opinion on the "soft" interview room at the City of Kawartha Lakes Police Service was that it is good investment in "customer service", and creates an inviting atmosphere to the beginning of the investigative process. The committee did find some cosmetic areas in which the soft interview room could be improved, and an agreement has been reached on how make these adjustments.

Victim Services Access to Building

The review committee examined the City of Kawartha Lakes Police Service's partnership with Victim Services. It was noted that Victim Services is provided office space and full access to the police facility. The intent of this is to foster a stronger relationship with Victim Services.

The review committee's opinion on Victim Services access at the City of Kawartha Lakes Police Service was that this relationship is a good investment.

ViCLAS Coordinator

The Violent Crime Linkage Analysis System (ViCLAS) was launched in December 1993 at the request from several police agencies across Canada for the creation of a database for "major crimes". The national database would allow investigators to compare cases across Canada. In Ontario, the Provincial ViCLAS Centre, located within the Behavioural Sciences Section of the Ontario Provincial Police, is responsible for the analysis, entry and maintenance of data to the national database.

The review committee examined the City of Kawartha Lakes Police Service's investment in having a trained investigator within the criminal investigations unit, who is in charge reviewing all sexual assault investigations to ensure compliance with the ViCLAS procedure and for submission for national analysis.

The review committee's opinion on the City of Kawartha Lakes Police Service having a ViCLAS coordinator is that it is a good investment.

Support of the ViCLAS Program

The City of Kawartha Lakes Police Service has for the past three years, supported the provincially run ViCLAS unit, with the dedication of a seconded officer. That partnership brings a wealth of knowledge back to the Kawartha Lakes. Recently, our police service has agreed to a further three year partnership of this program.

The review committee's opinion on the City of Kawartha Lakes Police Service having an officer seconded to the ViCLAS unit is that it is a good investment.

Ontario Sex Offender Registry

The Ontario Sex Offender Registry (OSOR) was created as a result of the abduction and murder of 11-year-old Christopher Stephenson by a convicted sex offender on June 18, 1988. Following the Coroner's inquest into Christopher's death, it was recommended that the Solicitor General of Canada, in conjunction with the Ontario Ministry of the Solicitor General, police and other appropriate bodies, establish a registry for convicted, dangerous, high-risk sexual offenders, and require each offender to register with police in the jurisdiction where the offender will reside or is residing.

The review committee's opinion on the City of Kawartha Lakes Police Service having a trained investigator as a single point of contact managing the compliance of the sexual offenders on the OSOR is a good strategy.