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have understated the rate of false sexual assault allegations**

DRAFT Exposé

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Rape, molestation, and other forms of sexual assault ruin lives. Most perpetrators are male; the victims are mainly female.² There is little doubt that the majority of sexual assault allegations are true. Despite this, many complainants do not make it to court let alone see a conviction. The high rate of "complaint attrition" has triggered well-justified calls to improve how the criminal justice system treats victims.

Many women's safety advocates, academics and media go beyond this, however, to contend that almost all sexual assault allegations are true. They cite some (very low) empirical estimates of the share of allegations that are false — termed the "prevalence rate" — to support their contention.

But the actual prevalence rate is not known, nor can it be. Many alleged sexual assaults have no witnesses, and evidence is often scant or ambiguous (ejaculate, genital or anal injuries, or other signs of sex do not answer questions of consent, for example). This can leave a largely "her word against his" dilemma. While several empirical studies have adopted reasonably rigorous methods to try to pin down a prevalence rate, there remains no reliable way to tell whether many allegations of sexual assault are true or false.

What can be said with some certainty is that false allegations are not "extremely rare". Nor is there reliable evidence that the prevalence rate is 5% or less, as the ABC and some women's safety advocates and academics have maintained.

In this exposé, I explain why the prevalence rate matters, how the ABC has reported on it, the tricks or traps that bodies concerned with women's safety have fallen into when describing prevalence estimates, and what the underlying empirical research really shows. The exposé also discusses the ABC's tardy and inadequate response when I confronted it with the misleading aspects of its reporting. We end with what a more balanced narrative on false sexual assault allegations might convey.



Why perceptions about the prevalence rate matter

Without corroborating evidence, complainants and alleged perpetrators' credibility can significantly influence the course and success of a sexual assault case. Each case has its particular actors and circumstances. Ideally, their credibility would be judged predominantly on their character, demeanour, actions, accounts, and the other evidence available. However, people often use rules of thumb to help assess credibility. For instance, we put more store in a doctor's word than a drug dealer's, at least without other, better information about them as individuals.

What does this mean for sexual assault cases?

- If lawyers, police, prosecutors, judges and juries believed that complainants in sexual assault cases routinely make false allegations, that would be a daunting hurdle for a particular complainant to overcome.
- If, at the other extreme, those in the criminal justice system believed that almost all sexual assault allegations are true, that would be a formidable challenge for the accused.
- If, however, they thought the truth lay somewhat away from either of these extremes or recognised that they just could not know, that would reduce or neutralise the role of such rules of thumb in their assessments of complainants' and alleged perpetrators' credibility.

The broader community's perceptions about the prevalence rate also matter. If people in general doubt complainants, that will make sexual assault victims more hesitant to talk about their assault, seek help, or report an allegation to police. It will also embolden potential perpetrators. Conversely, if people believe that almost all sexual assault allegations are true, that will affect alleged perpetrators' "good standing" and potentially their relationships, career prospects, and mental health. This can happen whether they are charged or not, and potentially even if they are charged but acquitted. "That low-life scumbag got away with it" can be the thought. Further, a general belief that almost all sexual assault allegations are true could, of itself, induce some women to fabricate allegations, safe knowing that their story probably would be believed.

How the prevalence rate can become political

It follows that some groups may want to try to shape how people in the criminal justice system and the broader community perceive the prevalence of false allegations. Groups concerned with shielding men from the risks that even very innocuous sexual conduct may expose them to an allegation of assault would have an incentive to play up the prevalence rate. Those groups focused on furthering the interests and credibility of women, particularly sexual assault victims, may want to convince people that the prevalence rate is low.



Of course, a desire to downplay the prevalence rate could spring purely from a legitimate concern to correct existing misperceptions about the rate. The academic literature on sexual assault displays a strong concern to quash various widely-believed “rape myths”, including that women regularly fabricate allegations.³

However, it is also conceivable that some women’s advocates might be tempted to overshoot, by promoting the view that the prevalence rate is lower and more certain than it really is.

This possibility matters because, as we shall see, there are in fact a wide range of prevalence rate estimates which, as a key recent study cautioned:

... has allowed proponents to argue, ostensibly, for any conclusion desired. Depending on their specific agenda, some commentators report that false allegations of rape are basically non-existent ... Others maintain that large portions of sexual assault reports are false.⁴

The ABC’s reporting on the prevalence of false allegations

Commencing early last year, several high-profile developments involving allegations or discussion of sexual assault (think Christian Porter, Brittany Higgins, Grace Tame, and Chanel Contis) stoked a political outcry.

ABC’s Four Corners broke the first of these stories, and during the year ABC Online published several articles about sexual assault, its prevalence, community attitudes to it, its impact on victims, and how police deal with it.

Amongst the ABC’s many stories and articles were several that made a surprising claim about the prevalence of false sexual assault allegations. They asserted that there is extensive research that shows that such allegations are “almost always” or “overwhelmingly” true and that false allegations are “extremely rare”.⁵

The estimated prevalence rate was reported to be 5%, although remarks attributed to a University of Melbourne expert on harassment and sexual violence, Dr Bianca Fileborn, suggested that even that figure might overstate the actual rate. The ABC also quoted the executive officer from Rape and Domestic Violence Services Australia, Karen Willis OAM, who said “Research tells us that between 2 and 5% of reports are of a crime that did not occur”.⁶ The message was that the actual prevalence rate is probably south of 5%.

The ABC also said that the low prevalence rate means that males – who it noted are 97% of perpetrators of reported sexual violence cases — need not worry about false rape allegations.

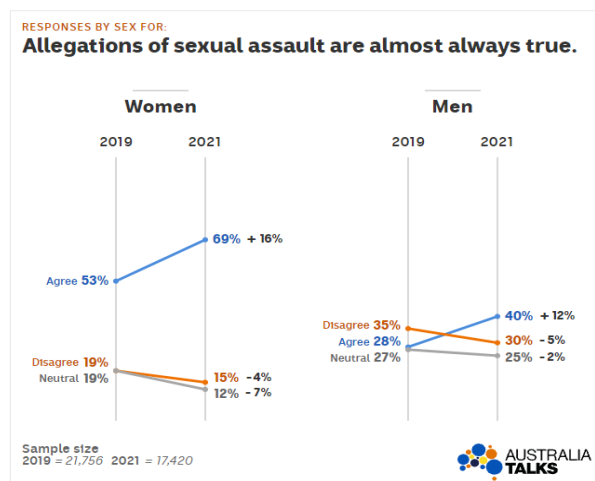
And the ABC contrasted its finding that “allegations of sexual assault are almost always true” with the results of a question from its “Australia Talks” survey that asked respondents whether they agreed with the proposition. The survey found that “just” 40% of men did agree, compared to 70% of women (many of whom agreed “strongly”).

As discussed below, there is no credible evidence for the proposition, and it is most probably wrong.

Men are less inclined to agree sexual assault allegations are almost always true

The Australia Talks data showed a considerable divide in how women and men perceived allegations of assault.

While nearly 70 per cent of women agreed that allegations of sexual assault were almost always true, just 40 per cent of men did.



What have women's safety research bodies said?

Two high-profile bodies that have disseminated research and advocated policies on matters that affect women, including domestic violence and sexual assault, are Australia's National Research Organisation for Women's Safety (ANROWS) and the Australian Institute of Family Studies (AIFS).⁷

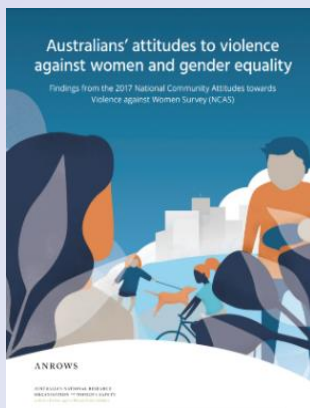
The ABC sourced its 5% prevalence rate estimate from an AIFS publication (box 1). The AIFS had drawn on a meta-analysis of a selection of prevalence studies to conclude that "the overwhelming majority of sexual assault allegations are true". The meta-analysis was performed by two Australian academics, Dr Claire Ferguson & Prof John Malouff. As well shall see shortly, however, the AIFS misinterpreted their results.⁸

ANROWS has similarly argued that false sexual assault allegations are rare (box 1). In doing so, it too has misinterpreted the meaning of the estimates from the Ferguson & Malouff meta-analysis and the selected prevalence studies.

(The Australian Institute of Criminology has also cited estimates from the selected prevalence studies, but in more cautious terms than either the AIFS or ANROWS.)⁹

Australian institutions are not alone in promulgating the message that few sexual assault allegations are false. In the United States, for example, the National Sexual Violence Resource Center states that just 2 to 10% of reports are false, citing a 2010 study led by Dr David Lisak. That study drew on the results of a similar selection of prevalence studies to those covered in the Ferguson & Malouff meta-analysis.

What did the AIFS and ANROWS say?



In 2017, ANROWS published the results of a survey of attitudes towards violence against women. Drawing on an ostensibly large number of studies of the prevalence of false allegations,¹⁰ the report said:

Different rates for false allegations are cited in existing studies and these range from 1.2% to 10% of all reports to police. ... This clearly indicates that false allegations are not made 'often'.

... It is difficult to determine the actual rate of false allegations of sexual assault and it is possible that the actual rate is at the lower end of the range cited.

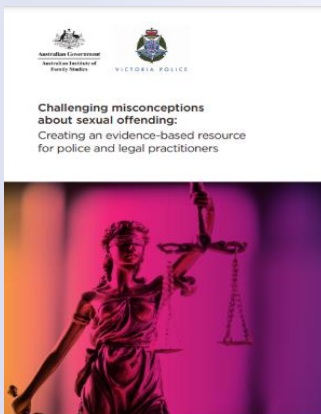
In a 2021 follow-up study on why people often mistrust women's reports of sexual assault, ANROWS presented a more definitive picture:

... empirical evidence tells us that false allegations of sexual assault are extremely rare (e.g. Ferguson & Malouff, 2016; Kelly, 2010; Wall & Tarczon, 2013)¹¹



The ANROWS study went on to state:

Given the rarity of false allegations of sexual assault, the default position should be to believe women who report sexual assault. Education strategies should address myths that false allegations are a prevalent problem by highlighting the established facts about the prevalence of sexual assault.¹²



The AIFS presented a similarly definitive message in its 2017 publication called "Challenging misconceptions about sexual offending". It said:

The rate of false allegations of sexual assault is **very low**.

Studies estimate 5% of rape allegations are false (meta-analysis of seven studies in Western countries: Ferguson & Malouff, 2016). Therefore, the overwhelming majority of sexual offence reports are true.¹³

The AIFS developed the report in conjunction with Victoria Police, and it was intended to be used partly to help educate police officers, presumably including those tasked with investigating sexual assault reports.

It was the AIFS report, together with advice from Dr Fileborn, that the ABC seems to have relied on most for its stories.

As discussed later, the AIFS has now corrected this aspect of its publication.

What does the underlying empirical research actually show?

Many researchers have investigated the prevalence rate but with wildly divergent results. Published estimates range from under 2% to upwards of 40% (with the odd outlier much higher again).¹⁴ This vast range stems from differences in how the studies define false allegations (if they do), their methodologies and samples, and the inherent challenges in separating fact from fiction in many sexual assault cases.

Many studies lack rigour and detail (box 2).

However, some use what many scholars see as a more rigorous and reliable methodology. These studies typically involve teams of researchers reviewing a large sample of police case files and determining which cases should, in their view, be coded as false. The studies use a clear and consistent definition of what constitutes a false report, explain the sources of data used, and most do more than accept police views and classifications at face value. For example, as well as reviewing police files, the researchers may question the police involved and independently review statements by alleged perpetrators and victims and other evidence. The 2014 study of sexual assault cases in Los Angeles (box 3) is the most recent example of these studies.

Studies using these approaches have typically yielded relatively lower estimates of the prevalence rate than studies using different methodologies. This has led some proponents of these studies to argue that, rather than prevalence estimates being all over the map, the more credible ones are now all in a tight corner.¹⁵ The ANROWS, AIFS and AIC prevalence estimates are based on such studies.

However, there remains scope for differences between the high-quality studies. For example, some researchers may require a higher degree of proof that an allegation was false before classifying it. Researchers rarely state what level of certainty they applied in deciding that a report was confirmed to be false.¹⁶ This may leave the door slightly ajar for researchers' proclivities to influence the results.

Some questionable studies

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In her 1975 book, *Against Our Will: Men, Women and Rape*, Brownmiller referred to work done by a special female-led Rape Analysis Squad in New York City that found a prevalence rate of 2%. However, there is scant information available on the methodology underlying this estimate, with the only citation to it apparently being a remark by a judge at a bar association meeting.

Drawing on police investigators' accounts, a 2003 study by Lea and colleagues found a prevalence rate of 10 to 20%. However, the authors dropped almost two-thirds of the original 471 cases from the study with little explanation.

In a 1994 study of 109 rape cases investigated by a midwest US police department, Kanin reported a prevalence rate of 41%. Rape allegations were classed as false if the complainant recanted or admitted fabricating their allegation. However, the study has been criticised for use of polygraphs and for lacking methodological transparency.

In 1981, Stewart, a police surgeon, reported that, for 18 rape allegations examined, the victim had admitted that the complaint was false in 16 (or 90%) of the cases. Stewart provided little information on these retractions although, in one case, he gave an improbable account that the lady's tight underwear would have thwarted anything other than consensual sex.

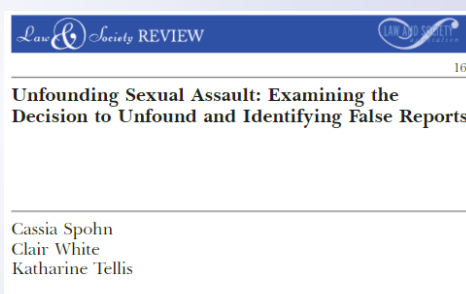
The 2014 American study

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Spohn, White & Tellis sampled 401 sexual assault cases in Los Angeles from 2008 involving female complainants over the age of 12. From this, the study team scrutinised the case files of 81 complaints the LAPD had classed as "unfounded", to determine how many were "false". The study defined false cases in line with police classifications (see later).

The three co-authors reviewed each of the cases and cross-checked their judgments. The case files were detailed and included crime reports by the relevant patrol officers and detectives; accounts of statements made by complainants and, where taken or available, by alleged perpetrators and any witnesses; and descriptions of crime scene evidence and results of medical exams. The study team also interviewed LAPD detectives experienced in sexual assault cases.

The study is widely cited, and its prevalence rate of 4.5% was included in the Ferguson & Malouff meta-analysis (see later). However, as discussed below, the study's prevalence estimate understates the actual prevalence rate for the study's sample.





Assessing police classifications of sexual assault reports: A meta-analysis of false reporting rates

Archives of Sexual Behavior, 45 (5), pp. 1185-1193.

Queensland University of Technology (QUT) – Law & Justice Legal Studies
Research Paper No. 17-02

Claire Ferguson
QUT, Faculty of Law, School of Justice

John Malouff
University of New England

More problematic is how the studies define and classify a false report — which we will explore in detail below — which artificially constrains what is counted. The upshot is that the prevalence rate estimates in these studies are better thought of as “lower bound” estimates; they do not provide reliable estimates of the actual prevalence rate.

This is acknowledged by the key study drawn on by the AIFS and ANROWS and also referenced by the Institute of Criminology — the 2016 meta-analysis of prevalence studies conducted by Dr Claire Ferguson and Pr John Malouff. They explicitly cautioned that the 5% estimate calculated from the high-quality studies did not capture all false allegations. Indeed, the authors emphasised that “many of the reported false report rates, both high and low, cannot be relied upon for an accurate assessment of how often false allegations occur.”¹⁷

Another paper mentioned in the 2017 AIFS publication, by Liz Wall and Cindy Tarczon, two researchers from the Australian Centre for the Study of Sexual Assault, also points to some of the difficulties that bedevil research in this area and the resultant uncertainty around the prevalence rate:

There is ongoing speculation about the prevalence of false allegations of sexual assault, however, without consistency in definition and classification of what actually is a false allegation, accurate measurement of prevalence is difficult.¹⁸



Some prominent international scholars in the sexual violence field have also recognised that there is measurement challenge, such as Dr Kimberly Lonsway and Dr David Lisak who have acknowledged that “in reality, no one knows — and in fact no one can possibly know — exactly how many sexual assault reports are false”.¹⁹

The misleading way researchers classify allegations as false

Although ideas on exactly what constitutes a “false allegation” (or false report) will vary, ordinary folk would generally understand it to be “a report of a sexual assault that did not happen”.²⁰ This definition has also been recognised as the most reasonable definition by Drs Lonsway and Lisak.²¹ If adhered to, this conception would cover all false reports. And it would include false reports made by family or friends of the alleged victim, and would not ignore fabricated or mistaken reports made by complainants affected by mental impairment and/or without intent or malice. Even if more excusable, wrongful reports of this type would still be considered “false” under the definition.

However, in the high-quality studies on sexual assault, the term has taken on a much more restricted meaning.

To understand why, one first needs to delve into how police forces officially classify sexual assault allegations. Depending on where their investigations lead and which jurisdiction they are in, police will use labels such as “false”, “baseless”, “unfounded”, “no crime”, “withdrawn”, “undetected”, “detected” and “founded”. These terms have technical meanings which can confuse laypeople if not adequately explained.

Because most academic studies on sexual assault allegations start with police datasets, researchers typically begin by segmenting cases using the technical classifications — and nomenclature — that come with that data.



So, what makes a “false report” in formal police parlance and in the prevalence studies that mimic it? According to the International Association of Chiefs of Police:²²

The determination that a report of sexual assault is false can be made only if the evidence establishes that no crime was committed or attempted. This determination can be made only after a thorough investigation. This should not be confused with an investigation that fails to prove a sexual assault occurred. In that case, the investigation would be labeled unsubstantiated.

This approach is reasonable for police purposes because, among other things, making a false statement can be a chargeable offence — a relevant consideration for police forces.

However, by adopting this approach to classifying allegations for prevalence studies, researchers fail to count potentially numerous false allegations — all those for which the offence cannot be disproved. As with disproving the existence of God, one can see the difficulty.

There are other reasons why the prevalence estimates in some “high-quality” studies should not be taken at face value. For example, researchers might not classify an incorrect allegation of sexual assault as false if the complainant was affected by alcohol, drugs, or poor mental health; lacked awareness of the law (so alleged an offence when the actions complained of were legal), or named a different (innocent) person and not the real culprit.

Also, the studies typically consider only those allegations made to police. This focus is practical for researchers and yields potentially useful results (provided their meaning is communicated correctly). Even so, the studies omit false allegations made to others (such as employers, colleagues, friends, doctors, counsellors, and on social media), which may be more likely to be false than those made to police.²³

Together, these definitional constraints mean that the high-quality studies fail to count many false allegations. Ferguson & Malouff explain the reasons for, and ramifications of, classifying allegations in this way:

Although limiting the sample, [adopting these constraints is] a necessary step as it prevents opening the floodgates to many equivocal cases that are suspected but not demonstrably false. It errs on the side of caution by not including cases in doubt, mistaken cases, or those claims made to anyone other than police. Use of such a conservative definition is not meant to imply that all other cases are true reports, but just that they cannot responsibly be deemed confirmed false.²⁴

This approach need not be a problem in itself. It is common for researchers across many academic disciplines to seek to inject some certainty where there is ambiguity. They typically do this by counting only those cases about which there is reasonable proof one way or the other, and acknowledging that the actual number generally lies between their lower-bound (“floor”) and an upper-bound (“ceiling”) estimate.

But this approach becomes a problem if people interpret the floor estimates from those studies as *if* they were estimates of the actual number of false cases, as appears to have happened. The AIFS, for instance, used the prevalence estimate of confirmed false cases from the Ferguson & Malouff meta-analysis — of 5% — to conclude that the prevalence of false allegations is very low, and “therefore, the overwhelming majority of sexual offence reports are true”. The 2017 ANROWS study, while not commenting on what share of allegations might be true, still appears to have interpreted estimates of the allegations that could be confirmed false as estimates of the actual number of false allegations. ANROWS more recent 2021 report more clearly fell into the same trap as the AIFS. The ABC has followed suit.

If 5% is the floor, how high is the ceiling?

While the actual prevalence rate is inevitably uncertain, is it possible to devise a robust upper bound to inject some (real) certainty back into the issue, at least for the subset of allegations made to police? The short answer is probably no, or not without much more extensive and rigorous research.

Ferguson & Malouff signalled that ceiling estimates might be derived by adding, to studies’ floor estimates, those cases that researchers thought suspicious but could not prove to be false to the necessary level of confidence, and cases that were just “equivocal”. Alas, few researchers discuss the cases in doubt but not proven or confirmed to be false. And among those who do, there is little discussion on how they decided a case was false (or substantiated) rather than equivocal or suspicious.

Of the studies covered in Ferguson & Malouff’s meta-analysis, four provide data on some potentially false but unconfirmed allegations of sexual assault, in addition to the data on the confirmed false cases. Using that data, I calculated experimental ceiling estimates for each of the studies. The unweighted average was 24%, but the considerable variation in the individual ceiling estimates (from 7% to over 60%) and other shortcomings of the studies (discussed below) suggest that something is awry.²⁵

Closer inspection of the individual studies that yielded the lowest ceiling estimates shows that the cases identified as “suspicious” or “equivocal” do not cover the full gamut of additional, potentially false cases. For example, in the 2014 study of sexual assault allegations in Los Angeles described earlier (box 3), the authors accepted that their focus on finding false cases among “unfounded” cases means that their prevalence estimate:

... may underestimate the prevalence of false reports among all cases reported to the LAPD in 2008. This is because our interviews with LAPD detectives revealed that some of them were reluctant to categorize a case as “unfounded”, even if they believed that it was false or baseless; these detectives reported that they would clear the case by exceptional means or keep the case open. In addition, we have no way of knowing if there were false allegations that were not recognized as such and that were cleared by arrest or exceptional means.²⁶

Box 4 (overleaf) summarises some other “high-quality” studies that also failed to account for all possible false allegations. In the case of a major and influential British study, some arithmetical errors caused the authors to also underestimate their own floor prevalence rate. (My colleague, John Papadimitrio, and I have undertaken a more detailed review of all of the high-quality studies. That research paper is available at ganderresearch.org.)

At the other extreme, there were no such gaps in the Clark & Lewis study of rapes reported to the Toronto Metropolitan Police Department in 1970 — from which the experimental ceiling estimate of over 60% was derived — but its large number of equivocal cases seems too high to provide a meaningful ceiling estimate for the prevalence rate. This category included cases where police prejudice appeared to stymie investigation of an otherwise-plausible complaint, and cases where, despite clear physical evidence of forced sex and no counter-evidence, the victim’s circumstances meant police saw her as unlikely to impress a jury. The authors felt that all such cases were probably real rapes but classified them conservatively as just “unfounded/possibly founded”.²⁷

The 2005 British study

As part of an initiative to reduce violence against women, the British Home Office commissioned a major “attrition study” by Kelly, Lovett & Regan, published in 2005. The authors tracked the progress of several thousand rape cases over many years and, for 228 of those cases, questioned victims/complainants and examined police statements and forensics reports, and, in some cases, interviewed other experts and police officers. The study also circulated a series of questionnaires for police involved in investigating possible rapes, although the study’s authors acknowledged that, among other methodological challenges they encountered, “the data on the proformas limit the extent to which one can assess the police designations”.

The study has been widely cited, and its prevalence rate estimate of 2.5–3% fed into the Ferguson & Malouff meta-analysis, as one of the lower-end estimates.

As detailed in a separate paper (Nankivell 2022), there are several reasons why the study’s prevalence estimate understates the actual prevalence rate.

First, the study contains some mathematical shortcomings. Fixing them lifts the study’s rate towards 5%.

Second, the authors excluded 77 reports that police had classified as false based on complainant characteristics (that might, for example, reflect adversely on their reliability), which were not allowable reasons under official police guidelines. However, it does not follow that some or even most of these cases were not false. The study labelled them “uncertain”. The authors also omitted another 11 allegations reported to police by a family member or someone other than the victim for which the police determined that no crime occurred.

Third, the authors did not account for any false allegations among the bulk of cases that did not proceed because, for example, there was insufficient evidence or the complainant withdrew, or where trials ended in acquittal. While it is plausible that the bulk of these cases were not false, there is no definitive way to know what share was.

Even with reasonably modest assumptions about the level of false allegations in these other categories, the prevalence rate for the study’s sample could easily approach 15%. Less conservative assumptions could generate prevalence estimates above that level.

The 2006 Australian study

In a 2006 study ordered by the Victorian Office of Women’s Policy, Heenan & Murray looked at 850 rape allegations reported to Victoria Police between 2000-2003.

As well as describing the characteristics of the cases, the study sought to examine influences on the outcomes of rape investigations. However, data quality and availability constrained the study’s ability to review police attitudes and perceptions.

The study found that police classed just 17 of the 812 cases for which records were available as “false reports”. The resultant prevalence rate of 2% made its way into the Ferguson & Malouff meta-analysis, as one of the lower prevalence estimates.

However, the Heenan & Murray (2006, 20) acknowledged that there was a much larger proportion of cases where police were confident, or reasonably confident, that the allegations were false. The authors specifically identified 77 cases put in the “no further police action” category where police were sure or suspected that the allegations were false. (The study was unable to form its own view on how many of these were indeed false, but adding 77 cases would lift the overall prevalence rate to more than 11%.)

There may also have been other false cases in the “complaint withdrawn” and “case still ongoing” classifications used in the Victorian Police (LEAP) database (and, indeed, even among the cases where charges were laid). The study did not examine this matter.²⁸

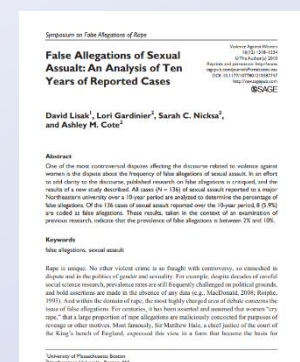
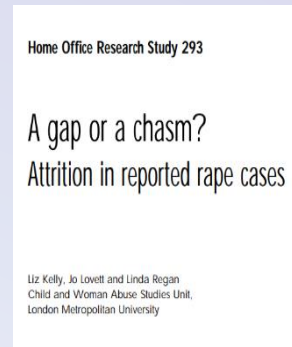
The 2010 American study

A 2010 study by Lisak, Gardinier, Nicksa & Cotely examined 136 sexual assault allegations made to a US university police department between 1998 and 2007. The authors were granted access to the case summaries which included information on the alleged perpetrators and victims, witnesses and other evidence collected. They also interviewed police involved.

The researchers assigned allegations into the following categories: “false”, “did not proceed to prosecution or disciplinary action” (because of insufficient evidence or withdrawal by the victim), “proceeded to prosecution, disciplinary action or other administrative action” and “insufficient information to assign”. Just 8 allegations were confirmed to be false, and the resultant 6% prevalence rate estimate fed into the meta-analysis by Ferguson & Malouff.

What is not clear from the study is what proportion of cases in the other three categories might be suspicious or equivocal. I wrote to the authors to ascertain whether they had collected information that could help estimate this. The responding author said that she did not have this information.

Source: Nankivell (2022), which contains our more detailed analysis of all of the “high quality” prevalence studies.



Ferguson & Malouff hinted at another, pragmatic way of arriving at a ceiling estimate: use the 41% estimate from the widely-cited 1994 prevalence study by Kanin (outlined in box 2). While it seems more plausible than the ceiling estimate derived from the Clark & Lewis study, Ferguson & Malouff cautioned that:

Kanin's definition of falsity required only that a complainant state that the sexual assault did not happen after being asked to take a polygraph test. This procedure has been highly criticized and has even been legally prohibited in some states due to its potential to intimidate already hesitant complainants (IACP, 2005; Lisak et al., 2010; Rumney, 2006). Whether these reports were confirmed as false based on the evidence was also not assessed by Kanin directly and remains unknown. In our view, Kanin's result may be more aptly called a rate of "possible" false allegations.

In my view, it is not possible to arrive at a robust and meaningful ceiling estimate for false allegations. Ceiling estimates derived from studies such as Clark & Lewis and Kanin seem too high and contentious to help focus in on the actual prevalence rate. Meanwhile, the limitations of some of the lower-end studies render ceiling estimates derived from them unreasonably low. The "high-quality" studies have other weaknesses too: several are rather dated, and the studies are from different countries (albeit all advanced English-speaking nations), which have slightly different social norms, sexual assault laws, and policing and legal systems. One study focuses on complaints to a university campus police department. None of these attributes necessarily invalidate their use for helping to gauge the general prevalence rate in Australia today. However, they add to the reasons why researchers, commentators and reporters should exercise significant caution — and humility — when making claims to knowledge of the prevalence rate.

Why are some women's safety advocates and the ABC misreporting the data?

What can be said with some certainty is that false sexual assault allegations are not "extremely rare", and that the statistical prevalence rate is not 5% or less, as some have maintained.

I first alerted Australia's national broadcaster to problems in its reporting in early June 2021. Aunty has not raced to correct the record (box 5). While the ABC issued some subtle edits and low-key clarifications, it is yet to address and rectify the fundamental distortion its articles promulgated. Indeed, in mid-2022 the ABC it published a new article (in the context of the Johnny Depp–Amber Heard trial) that, although using a different set of (flawed) estimates, sent a similar message to its earlier articles.²⁹ And a recent speech by the ABC's Louise Milligan seems to have reprised Aunty's message that false sexual assault allegations as not a very real and serious problem.³⁰

How the ABC responded when its misinformation was pointed out

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I alerted the ABC to problems with its reporting on prevalence rate research in early June 2021. When webmail to the staff author of one of the problematic articles went unanswered, I lodged a formal complaint with the ABC's independent complaints unit — ABC Audience and Consumer Affairs. The six-page complaint, which was carefully argued and referenced, alleged several breaches of ABC's editorial guidelines for accuracy. The ABC said it would consider the complaint, but then: radio silence!

After a gentle reminder in late August, the ABC sent a one-page response in mid-September. It said that ABC had investigated some aspects of the complaint, made some edits, and issued editorial notes for two of the three offending articles and on its corrections and clarifications page. That item (posted on the ABC website on 9 September) said:

Australia Talks: Two related stories concerning community perceptions of the frequency of false allegations of sexual assault have been edited to clarify that academic research into sexual assault allegations referred to false allegations made to police and was not a conclusion about the overall truthfulness of sexual assault allegations.

However, the edits and clarifications will have left any reader who may have stumbled upon them not much the wiser, and certainly would do little to correct the misinformation Aunty's articles had spread. The ABC's response itself did not directly or rigorously address or refute the evidence and arguments in my original complaint. Instead, it gave a range of "excuses" for not investigating those matters and making further corrections. In my view, the response seemed more an attempted fob-off than a genuine response to the substantive issues the complaint had raised.

Thus, at the end of September, I lodged a detailed rejoinder with ABC Audience and Consumer Affairs, pointing out why the various points the ABC had made were invalid or inadequate as responses to the complaint. The rejoinder again called on the ABC to take substantive action to correct the misperceptions its articles had helped create.

The ABC responded 11 days later to say that it would not be making further changes. Its only "argument" was to reference a finding from one of the empirical studies that I had already explained was invalid.

In May 2022, following a further ABC Online article that cited misleading prevalence estimates, I wrote to the relevant reporters, setting out the problems with the estimates. No response was ever received, and the article was not corrected.

(The complaints and rejoinder and the ABC's responses are available at ganderresearch.org).

In June 2021, I also alerted the AIFS to the errors in its 2017 report. While the Victoria Police removed the report from its website, it has remained uncorrected on the Analysis & Policy Observatory website until very recently, when the AIFS quietly withdrew the document in response to my persistent representations.³¹

What might explain the initial misreporting on this matter and the reluctance or lack of urgency to correct it? One cannot be sure of the motivations of the bodies involved, but it does not seem too far-fetched to speculate that some politics, or subconscious bias, may at times be at play.

As mentioned earlier, groups strongly focused on women's safety may well want to downplay the rate of false allegations. A concern that permeates much of the academic literature on sexual violence is that police and the public too often mistrust women who allege sexual assault. There is credible research and reasoning that sexual assault victims sometimes act in ways that might otherwise suggest deception and dishonesty, such as delaying reporting, forgetting or misremembering many of the details of an assault, changing or concealing aspects of their stories, failing to cooperate fully with investigators and even retracting complaints.³² Correcting misperceptions about these matters is an important mission. But if it were possible for women's safety advocates — whether in academia, research institutes, the media or elsewhere — to also convince police and the public that rigorous research shows that false allegations are rare, that would only strengthen their hand.

And indeed, over the last decade or so, it appears that women's safety advocates in academia and elsewhere have met with increasing success in propagating that message.³³ Even where complaints prove wrong, scholars can be quick to emphasise that this is not necessarily intentional or due to women being malicious.

My reading of the research and dealings with sexual violence scholars suggests that some are indeed "on a mission". As I learned when rebuffed after approaching one such researcher, questions, challenges, and critiques of the sort presented in this exposé may not always be warmly welcomed.³⁴ Their view may be that the quest to debunk rape myths and put more offenders behind bars should not cede any ground to what one academic has dismissed as "male-centred overconcern with false sexual assault allegations".³⁵

That said, it cannot be ruled out that at least some sexual violence researchers have just inadvertently communicated their study's estimates with insufficient care and caveats. The high-quality studies typically explain how they classify allegations as "false" clearly, in line with the IACP guidance. It is possible that at least some of their authors may have presumed that their intended readership would understand what this narrow, technical classification covers and omits.

On this more sanguine view, the main cause of the misinformation these studies have created could be in how their results have been translated into documents intended to be read or interpreted by non-experts. This might be the main trap that the some of the authors of the AIFS, ANROWS, and Institute of Criminology documents fell into (box 6).

Are the AIFS, ANROWS and AIC statements defensible?

6

The statements by the AIFS, ANROWS and AIC are set out earlier.

Of the three, the AIFS's statements were by design the most concise and definitive. Its statement "the rate of false allegations is very low" was not constrained to only those allegations made to police, nor did it recognise that the Ferguson & Malouff prevalence estimate is a floor estimate. The AIFS could perhaps invoke the defence that its 2017 report was intended as a resource for police and legal practitioners, and that they may have understood "false allegations" in the term's technical classification sense. However, that would not rescue its further conclusion that "therefore, the overwhelming majority of allegations are true."

The 2017 ANROWS report was more cautious, concluding that false allegations (to police) are "not made often". ANROWS said that estimates ranged from 1.2—10%, although it also implied that the actual rate is probably towards the lower end of that range. The report did not acknowledge that the estimates cited were the floor estimates from a selection of (high quality) studies. However, while the ANROWS report will probably have left most of its readers with the impression that almost all allegations to police are true, the report did not explicitly say that.

The 2021 ANROWS follow-up report was less careful, stating baldly that "empirical evidence tells us that false allegations of sexual assault are extremely rare" (Minter et al. 2021, 9). Moreover, two of the three references cited in support of this statement – Ferguson & Malouff 2017 and Wall & Tarczon 2013 — do not in fact support it.

The AIC paper said that false allegations are "not common", without explicitly limiting the scope of that statement to reports to police. The paper referred to a prevalence rate estimate of 5%, again referencing some high-quality studies. While it was not explicit that those estimates were floor estimates, the paper did at least mention Ferguson & Malouff's observation that there might be more false allegations. However, this was presented more as a minor caveat and excused on the grounds that many false allegations are not made maliciously.

But even if using technical policing language were to provide a partial defence for those bodies, the ABC's failure to properly confront and rectify the misinformation its reporting spread is not defensible. The national broadcaster's charter requires high standards of accuracy and balance. It also knows that its job is to communicate to lay people in terms they will understand correctly.

Indeed, in recent years the ABC has made considerable efforts to ensure that technical classifications of sexual assault reports do not mislead its audience. It published a series of articles explaining that when police classify sexual assault allegations as "unfounded", this does not necessarily mean that the allegations were false or that the complainant lied.³⁶ In making those efforts, the ABC's concern was clearly to ensure that people do not perceive that the number of false allegations is *greater* than the reality.

To be accurate and unbiased, one would expect the ABC to take much the same care to ensure that its reporting does not cause people to perceive that the number of false allegations is *less* than the reality (or that the research on this matter is more certain than it is). Yet it has refused to take the necessary steps to ensure that its audience is not, and does not remain, misled by its representation of the research on the prevalence of false sexual assault allegations.

This failure gives further grist for those who question Aunty's impartiality on gender matters.³⁷



Some true statements about false allegations

A more accurate narrative would start by acknowledging that we do not and cannot know the rate of false sexual assault allegations. Many sexual assaults have no witnesses, there are sometimes delays between an alleged offence and when it is reported, and evidence is often absent, scant or ambiguous. This can leave a largely "her word against his" impasse. Contrary to the certainty with which their estimates are cited, the high-quality research studies have not overcome these intrinsic difficulties in estimating the prevalence rate.

A balanced narrative could still usefully illuminate the many hurdles that face sexual assault victims in making a complaint, and how their behaviour might differ from common expectations in those circumstances. There should be no presumption that women routinely fabricate allegations. These and other genuine rape myths should rightly be rejected, and those who promulgate them called out. It may also be pertinent to convey that some false complaints are made unintentionally, rather than deliberately or out of malice, and that sometimes false complaints are made by friends or people other than the alleged victim. And it is appropriate to shine a light on deficiencies in how the criminal justice system welcomes and handles complaints and to seek appropriate improvements.

But a balanced narrative would also acknowledge that men can have legitimate worries about false allegations. There is no solid evidence to support the view that such allegations are "extremely rare" or that the number made to police is "very low", as the ABC maintains. Where a perpetrator is named³⁸, false allegations can affect his reputation and potentially his relationships, career prospects, and mental health. Harms can arise whether the allegation is made by the alleged victim or not, whether it is made from malice or not, whether it is made to police or not, whether the alleged perpetrator is charged or not, and potentially even if he is charged but acquitted.

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Notes

- 1 The author has academic qualifications in public policy and economics and more than three decades of experience as a researcher and policy analyst with the Australian Productivity Commission and other government bodies. Several former colleagues provided helpful comments on the paper, and he also benefited from discussions with some sexual violence researchers.
- 2 The Australian Institute of Health and Welfare (2020, 1-3) reported estimates that 148 000 women (1.6% of the total) and 57 200 men (0.6%) had been sexually assaulted in the year prior to a 2016 Personal Safety Survey. It also reported that, in 2018-19, 97% of perpetrators recorded by police were male.
- 3 The academic literature on sexual violence displays a long-standing concern to quash various widely-believed “rape myths”, including about the prevalence of false allegations. See, for example, Weiser (2017, 47-48) and Lonsway (2010, 1356-1358), and references therein. More recently, measures to address rape myths and mistrust of women reporting sexual assault was a focus of a major ANROWS report (Minter, Carlisle & Coumarelos 2021).
- 4 Ferguson & Malouff (2016, 1186).
- 5 Lucy Sweeney (with added reporting by Sally Sara), ‘Grace Tame says change is a marathon effort. But Australia Talks data shows our perception of sexual assault is changing’, *ABC News Online*, <https://www.abc.net.au/news/2021-06-10/grace-tame-australia-talks-believing-sexual-assault-allegations/100155474> (accessed 11 June 2021); Maddy King, ‘Guys, you can stop worrying about false rape allegations. They’re extremely rare’, *Triple J Hack*, <https://www.abc.net.au/triplej/programs/hack/false-rape-allegations-myths/13281852> (accessed 10 June 2021); ‘More than 1 in 3 men say sexual assault claims are usually believable’, *Australia Talks interactive tool results page*, <https://australiatalks.abc.net.au/results> (accessed 9.20pm, 11 June 2021).
The Sweeney article originally stated that “Extensive research shows allegations of sexual assault are overwhelmingly true”. When the ABC made amendments to these articles on 9 September 2021, it replaced this formulation with one focused on the share of false allegations. It also clarified that the evidence relates to allegations reported to police. So, for example, the Sweeney article then stated that “Extensive research shows that the prevalence of false sexual assault allegations reported to police is very low.” (accessed 14 October 2021). The Australia Talks results page received a similar change. The ABC did not correct the Hack article. The amended statements continue to be misleading as the estimates on which they are based exclude many false and potentially false allegations.
- 6 Karen Willis OAM quoted in Inga Ting, Nathanael Scott & Alex Palmer, ‘Rough Justice: How police are failing survivors of sexual assault’, *ABC News Online*, <https://www.abc.net.au/news/2020-01-28/how-police-are-failing-survivors-of-sexual-assault/11871364?nw=0> (accessed 10 June 2021).
- 7 ANROWS describes itself as “an independent not-for-profit research organisation established to produce evidence to support the reduction of violence against women and their children”. The AIFS has a far broader ambit, but in the past a proportion of its work has pertained to sexual violence issues. I understand that, with the establishment of ANROWS, the AIFS has lessened its involvement in sexual violence matters.
- 8 National Sexual Violence Resources Centre (undated, webpage).
- 9 The Australian Institute of Criminology (Tidmarsh & Hamilton 2020) a released paper on “Misconceptions of sexual crimes against adult victims: Barriers to justice”. On page 4 it said : “Research is clear that false allegations of sexual crime are not common (Kelly 2010; Lonsway 2010). Studies estimate approximately five per cent of sexual crime allegations are false (Kelly, Lovett & Regan 2005; Lisak et al. 2010). ... Even studies that suggest the false report figure may be higher than five per cent (eg Ferguson & Malouff 2016) acknowledge that most false reports are not malicious.”
- 10 Webster et al. (2018, 50). The studies listed by ANROWS when reporting estimates of the prevalence rate are: “Ferguson & Malouff, 2016; Heenan & Murray, 2006; Kelly, 2010; Levitt & The Crown Prosecution Service Equality and Diversity Unit, 2013; Lisak, Gardinier, Nicksa et al. 2010; Lonsway, Cortina & Magley, 2008; Patton & Snyder-Yuly, 2007; Spohn, White, & Tellis, 2014; Weiser, 2017.” The bibliographic information for all these studies can be found in the ANROWS report.
Note that several of the listed studies do not estimate a prevalence rate. For example, the Lonsway, Cortina & Magley journal article explains their development and testing of “a conceptual definition and a measurement instrument for the mythology regarding male sexual harassment of women”. And the Patton & Snyder-Yuly article examines the impact of false rape charges that an Iowa State University student brought against four Black males.
- 11 Minter, Carlisle & Coumarelos (2021, 9). These authors make similar statements in several places in the report. For example, on page 10, they say “Contrary to the facts (Ferguson & Malouff 2016), participants [in their study] perceived false allegations as being commonplace rather than extremely rare.” And on page 13, they say “estimates of false allegations reported to police typically range from 1 to 10 percent (Ferguson & Malouff, 2016; Kelly, 2010; Lisak et al., 2010; Wall & Tarczon, 2013) and researchers estimate the lower end of the range is likely to be the most accurate (Kelly, 2010).”
- 12 Minter, Carlisle & Coumarelos (2021, 7).
- 13 Australian Institute of Family Studies & Victoria Police (2017, 9)
- 14 Rumney (2006, 137).
- 15 Lonsway (2010, 1358).
- 16 Ferguson & Malouff (2016, 1186).

- 17 Ferguson & Malouff (2016, 1187).
- 18 Wall & Tarczon (2013, 1)
- 19 Lonsway, Archambault & Lisak (2009, 3)
- 20 Lonsway, Archambault & Lisak (2009, 4) state that this would be “the most reasonable” definition of a false report.
- 21 Under the heading “What is the actual definition of a false report?”, Lonsway, Archambault and Lisak (2009, 4) state: “Although many people have different ideas about exactly what constitutes a false report, the most reasonable definition is that: A false report is a report of a sexual assault that did not happen (ie, it was not completed or attempted).” This is the definition embodied in the IACP (2005) statement. These authors then differentiate between the *definition* and the *classification rule* used by police and prosecutors (and in the high-quality studies) by saying “While we might all agree with this simplistic definition of a false report, people have different ideas about exactly when they can decide that the sexual assault did not actually happen. ... In reality, investigators and prosecutors cannot determine that the sexual assault did not happen, simply because they suspect that the report is false, view it with suspicion, or because the victim changes his or her account of what happened. [or] because the victim lacks credibility. ... Rather, investigators and prosecutors must base all final judgments on the findings from a thorough, evidence-based investigation. The determination that a report is false can then only be made when there is sufficient evidence to establish that the sexual assault did not happen (was not completed or attempted).”
- 22 International Association of Chiefs of Police 2005 (2005, 12-13).
- 23 The literature contains different views on whether the prevalence rate for all allegations is higher or lower than the prevalence rate for allegations made just to police. Ferguson & Malouff (2016, 4) stated “It is arguable that reports made to someone other than police (such as to college or university staff) would involve a higher false allegation rate, since they are easily made, there are fewer consequences, and sometimes greater benefits for the accuser.” Weiser (2017, 53) argued “given that the number of sexual assaults reported to authorities is a fraction of sexual assaults that occur (Cantor et al, 2015; Sinozich & Langton, 2014), the true percentage of false allegations is actually lower”. However, the appropriate denominator for considering the rate of false allegations made to all parties (police and others) is the number of allegations made to all parties, not the total number of sexual assaults.
- 24 Ferguson & Malouff (2016, 1187)
- 25 The four studies’ prevalence rate floor and ceiling percentage estimates are Heenan & Murray 2006, 2.1–11.6; Clark & Lewis 1977, 10.3–63.8; Spohn et al. 2014, 4.5–6.7; and McCahill et al. 1979, 3.3–15.5. The simple unweighted average of these four sets of estimates was 5–24%. However, the wide variation in individual study estimates and other weaknesses in the studies discussed in the text mean that one should not put store in the calculated ceiling estimate.
- 26 Spohn et al. (2014, 186).
- 27 Clark & Lewis (1977, 35-37).
- 28 As with all the authors of all of the (post-2000) high-quality studies, we tried to contact the authors of the Heenan & Murray study to verify our understanding of their work, in this case without success. Some aspects of the study are unclear. (See Nankivell 2022).
- 29 Peter Jones & Joanna Robin, ‘Johnny Depp v Amber Heard is a defamation case. But it could have a chilling effect on domestic violence survivors’, ABC News Online, 29 May on Sunday, (<https://www.abc.net.au/news/2022-05-29/johnny-depp-amber-heard-domestic-violence/101093294> (accessed 31 May 2022)). This article differed from the earlier ABC articles mentioned by using the 2–10% prevalence rate estimates from Lisak et al. 2010, rather than the Ferguson & Malouff estimate, to support the proposition that the fabricated report prevalence rate is known and low. I wrote to the ABC on 31 May 2022 seeking corrections to the Jones & Robin article. That letter is available separately on ganderresearch.org. The article has not been changed.
- 30 On 21 October 2022, ABC reporter Louise Milligan gave a speech to the Women Lawyers Association of the ACT. Accounts of exactly what Ms Milligan said differ. Writing in The Australian newspaper on 1 November 2022, Janet Albrechtsen reported accounts said to have come from some of the women lawyers present that, among other things, Ms Milligan had said words to the effect that “women would never lie about sexual violence”. On Twitter, Ms Milligan denied this specific claim (and others), and has released a copy of her “speech notes”. These notes include a criticism of “men’s protectors” in the legal system and the following statement: “It’s just surprising and, to victims, hurtful, that there are still a significant minority of people who continue to, automatically, assume ... that there are multitudes of false accusers spending years going through police investigations, being subjected to terrible scrutiny, having to discuss their most intimate lives, having their integrity smashed by defence counsel in law courts.” (quoted in James Madden & Sophie Elsworth, ‘Milligan defends her humiliating speech’, The Australian, 11 November 2022). While those who were not present at the speech cannot know exactly what Ms Milligan said in her live delivery, the above statements are at least similar in direction to the ABC’s earlier claims that men need not worry about false sexual assault reports because they are extremely rare.
- 31 Following negotiations with me, on X December 2022 the AIFS replaced the first two dot-points on page 9 of its 2017 publication with “There is no evidence that many women make vexatious reports of sexual offences. A range of studies show approximately 5% of rape allegations are proven false (meta-analysis of seven studies in Western countries: Ferguson & Malouff, 2016).” Compared to the original text, the statement no longer claims that the rate of false allegations is very low, or that the overwhelming majority of sexual offence reports are therefore true.
- 32 Wall & Tarczon (2013, 5-9).
- 33 One indication of this is the results of the ABC “Australia Talks” survey, reported earlier, which found that 40% of male respondents and 70% of female respondents agreed with the statement that “allegations of sexual assault are almost always true”.
- 34 I started exploring the false allegation prevalence issue after the publication of some ABC news articles in 2021. Since then, I have reached out to several institutions and scholars in this field and have benefitted from some fruitful

exchanges. In this respect, some of the authors of the high-quality studies I approached were both open and helpful about the limitations of their studies. However, in other cases, the people contacted indicated that they could not assist or did not respond. There could be some fair reasons for this: scholars are often busy people, and I was/am an (unknown) institutional outsider and operating in an independent capacity. And some scholars indicated that they no longer had relevant files or could not readily recall the details of studies they had done many years prior. However, I also sensed a defensive attitude in some instances.

35 Weiser (2017, 54).

36 See, for example, Inga Ting, Nathanael Scott and Alex Palmer, 'Rough Justice: How police are failing survivors of sexual assault', ABC News Online, <https://www.abc.net.au/news/2020-01-28/how-police-are-failing-survivors-of-sexual-assault/11871364?nw=0> (accessed 10 June 2021); and Inga Ting and Lauren Roberts, 'Unpursued in the Top End', ABC News Online, <https://www.abc.net.au/news/2020-02-20/sexual-assaults-reported-to-nt-police-least-likely-to-be-pursued/11917478?nw=0&r=HtmlFragment> (accessed 27 September 2021).

37 See, for example, Janet Albrechtsen, "In Auntie's playground, the Squad runs riot at our ABC", *The Australian*, 31 August 2021. (Ms Albrechtsen is a former ABC board member and now an opinion columnist with *The Australian*).

38 A strand of the sexual violence literature contends "that cases in which an individual is falsely accused are rare, and that it is exceedingly rare for the falsely accused to be arrested or have charges filed against them" (Weiser 2017, 54). This is partly based on research of cases classified as false which shows that many of these reports involve complainant accounts which, in conforming to a stereotypical stranger assault narrative, do not involve identification of the alleged perpetrator. However, as a colleague and I argue in a companion research paper (Nankivell 2022), because this view is based largely on assessments of only a small share of false cases — often those cases determined to be false in accordance with the IACP approach to classification — it fails to consider the characteristics of the potentially many more false allegations that are not classified as such. We simply do not and cannot know what share of these false cases involved a named suspect or lead to arrest and charges.