

65. (Services) If a sexual assault report is deemed unfounded, is there any ramification for the service member(s) who made the report (e.g., investigation for false report or transfer)? If yes, what ramifications occur and under what circumstances?

USA	<p>Generally, there is no ramification to a service member who made a report of sexual assault that is later unfounded. The only exception is a situation is when Soldiers and/or civilians who are found to have knowingly and willfully provided a false report to CID are indexed as subjects for False Swearing, False Official Statement or Title 18 US Code Section 1001 (False Statements). Any disciplinary action or lack thereof is decided by the commander once the investigation is closed. If the false statement was used to obtain a transfer from one installation to another, then additional offenses, such as larceny or fraud could also be reported. There are occasions where investigations are unfounded and CID does not list the victim as a subject for False Swearing. This occurs when victims report an incident in which they believe they were sexually assaulted, but the investigation, and supported prosecutor review, finds the act did not meet the elements of proof for a sexual assault offense.</p>
USAF	<p>“Unfounded” is defined by DoDI 6495.02 as “cases that are either false or baseless.” “Baseless” means that “evidence obtained through an investigation shows that alleged offense did not meet at least one of the required elements of a UCMJ offense constituting the SAPR definition or sexual assault or was improperly reported as a sexual assault.” “False” means that “evidence obtained through an MCIO investigation shows that an offense was not committed nor attempted by the subject of the investigation.”</p> <p>An important note is that AFOSI does not determine whether a case is “unfounded.” In every investigation that AFOSI opens, a Report of Investigation is provided to the Commander for action. The Initial Disposition Authority Commander is the one who would make a determination that a report is unfounded.</p> <p>If the Initial Disposition Authority Commander determined that a case was “baseless,” there would be no ramification for the victim who made the report because the victim did not do anything wrong (i.e. this is not a false report) in reporting conduct that after thorough investigation was found not to be a crime.</p> <p>If the Commander determined that a case was “false” and the Air Force had jurisdiction over the victim who made the false report, the Commander would have the full range of administrative, nonjudicial, and judicial remedies at his/her disposal to take action in the case. Not every case that is determined to be “false” by a Commander includes misconduct on the part of the victim. Upon the advice of the Staff Judge Advocate, the Commander would make a decision on a case-by-case basis how to handle the false report.</p>
USN	<p>A report of a crime, made in good faith, is never the subject of negative ramifications for a service member. However, under circumstances in which an allegation was apparently made with malicious intent so as to raise suspicion of a violation of the UCMJ, those allegations would be investigated in the same manner as any other similar, suspected offense. Offenses could include violations of Article 107, false</p>

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	official statement, Article 131, perjury, Article 127, extortion, or Article 134, obstructing justice. In cases involving an allegation of sexual assault, due consideration is always given to the neuro-biological effects of trauma which may make memory formation and recovery complex and lead to honest yet inconsistent statements.
USMC	The Marine Corps does not have a policy for determining if an allegation is “unfounded” or what the Marine Corps does to a person who made the unfounded report. The commander has discretion to prosecute someone who makes a false report if the false official statement charge is supported by the evidence.
USCG	CGIS does not currently classify cases as “unfounded” <sup>1</sup> . If, for example, through the investigation it is learned that someone knowingly filed a false report, that case would be carefully evaluated to ensure the facts specifically indicated the report was false. That information would be documented and provided to the Command and servicing Legal office for appropriate adjudication. The fact that a victim no longer wishes to participate with an investigation does not equate to a false report. When a victim makes this choice, investigators will attempt to learn the reason(s) for the choice, particularly to ensure the victim is not being intimidated, harassed or threatened to no longer participate with the investigation. Any and all information that was learned during an investigation is documented in a Report of Investigation (ROI). By policy outlined in the Sexual Assault Prevention and Response Manual (COMDTINST 5520.5F), CGIS does not offer opinions/conclusions in the ROIs; only the facts learned pursuant to the investigation are documented. ROIs memorializing investigation findings are provided to the Command and servicing Legal office to assist with prosecutorial evaluation and/or appropriate adjudication. CGIS is, in short, a neutral fact finder and the facts collected are then presented to the Command for appropriate adjudication. As of 28 June 2012, the decision as to what action to take against the individual who allegedly filed a false report would be made by a flag officer or, in limited circumstances a senior O-6, as outlined in the Commandant’s withholding policy. The commander could consider a wide range of options, including administrative or criminal proceedings under the UCMJ.

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