

## **Revising the classification of founded and unfounded criminal incidents in the Uniform Crime Reporting Survey**

by The Canadian Centre for Justice Statistics

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# Revising the classification of founded and unfounded criminal incidents in the Uniform Crime Reporting Survey

by The Canadian Centre for Justice Statistics

In 1962, as part of Canada's national crime statistics program, Statistics Canada launched the Uniform Crime Reporting (UCR) Survey. The UCR Survey collected information on both 'founded' and 'unfounded' criminal incidents. Over time, however, the use of unfounded data declined due to data quality issues. Following national media attention in 2017 regarding the use of 'unfounded' by police to classify sexual assaults, several police services across Canada announced that they would review sexual assault cases that were classified as unfounded in recent years (Doolittle 2017a; Doolittle 2017b). As part of this process, representatives of the policing community have worked with Statistics Canada to make recommendations to address data quality issues, to ensure standardized reporting and to reinstate the collection of information on unfounded criminal incidents through the UCR Survey.

The objective of this *Juristat* article is to provide information on the collection, through the UCR Survey, of unfounded criminal incidents in Canada, including sexual assaults. It will provide background on the collection of these data and an overview of the actions taken by the Canadian Centre for Justice Statistics (CCJS)—a division at Statistics Canada—and the Police Information and Statistics (POLIS) Committee of the Canadian Association of Chiefs of Police (CACCP) to revise the UCR Survey to address data quality and reporting issues, and to reinstate collection of information on unfounded criminal incidents.

## Background

The Uniform Crime Reporting (UCR) Survey—managed by the Canadian Centre for Justice Statistics (CCJS)—is a national, standardized survey of official police-reported crimes in Canada. Details on criminal incidents, victims and persons accused of crime are submitted by police services across the country to CCJS for consolidation and dissemination.

When the UCR Survey was launched in 1962, counts of unfounded incidents were collected to measure the proportion of all incidents reported to the police where it was "determined through police investigation that the offence reported did not occur, nor was it attempted" (Statistics Canada 2016). Over time, however, inconsistent reporting of unfounded incidents led to poor data quality. Statistics on unfounded incidents overall were last published by CCJS as part of the annual crime statistics publication in 1994. Rates of unfounded sexual assaults were last published in 2003 as part of a special report on sexual offences (Kong et al. 2003).

In 2006, CCJS and the Police Information and Statistics Committee examined police-reported data on unfounded incidents. It was determined that not all police services were reporting information on unfounded incidents and, of those that were, not all unfounded records were being submitted to CCJS through the UCR Survey. It was suggested that variations in rates of unfounded incidents may have been attributable to inconsistent classification of calls for service that were deemed non-criminal. It was therefore recommended that data on all unfounded incidents, not only sexual assaults, no longer be disseminated by CCJS.

National media attention in 2017 regarding rates of unfounded sexual assault incidents focused concern on the police response to victims and the quality of investigations for this type of crime. These data were obtained by the media directly from police services. Self-reported data indicate that sexual assault is one of the most under-reported crimes. According to the General Social Survey (GSS) on Canadians' Safety (Victimization), in 2014, 5% (use with caution) of sexual assaults against individuals aged 15 and older were reported to the police, a proportion that remained unchanged since 2004. In comparison, over one in three (38%) physical assaults were reported to the police (Conroy and Cotter 2017; Perreault 2015). The most common reasons for not reporting sexual assault to the police were that the victim felt the crime was minor and not worth taking the time to report (71%), that the incident was a private or personal matter and it was handled informally (67%), and that no one was harmed during the incident (63%) (Conroy and Cotter 2017). Some victims expressed concerns regarding the justice system itself, including not wanting the hassle of dealing with police (45%), the perception that police would have not considered the incident important enough (43%), and that the offender would not be convicted or adequately punished (40%).

As a result of the commitment by CCJS and the policing community to review and reinstate the collection of information on unfounded incidents, a number of factors related to inconsistent reporting were identified. These factors, in addition to a review of international standards for data collection, were considered when revisions were made to the classification of both founded and unfounded incidents in the UCR Survey.

**Text box 1****Timeline of events related to unfounded criminal incidents**

**1962:** The Uniform Crime Reporting (UCR) Survey launched, and it included the collection of counts of unfounded incidents.

**December 1994:** Statistics on unfounded incidents (all types) were last published by the Canadian Centre for Justice Statistics (CCJS) as part of the annual crime statistics publication.

**July 2003:** Rates of unfounded sexual assaults were last published as part of a special report on sexual offences.

**April 2006:** CCJS and the Police Information and Statistics (POLIS) Committee of the Canadian Association of Chiefs of Police (CACP) examined police-reported data on unfounded incidents. It was determined that not all police services were reporting information on unfounded incidents and, among those that were, not all unfounded records were being submitted to CCJS through the UCR Survey. It was therefore recommended that data on all unfounded incidents, not only sexual assaults, no longer be disseminated by CCJS.

**February 2017:** A report on unfounded sexual assaults—based on data retrieved through access to information requests from individual police services—was published in *The Globe and Mail*. The president of the CACP encouraged all police services to review practices around sexual assault investigations and asked POLIS to review how these data were being collected in order to make recommendations for standardization.

**Spring 2017:** CCJS reviewed literature and led consultations with a number of police services to establish best practices for reporting criminal incidents.

**April 2017:** POLIS recommended resuming the collection, analysis and dissemination of unfounded criminal incidents, including sexual assaults, by CCJS. Recommendations for a common approach to reporting incidents to the UCR Survey were made and endorsed by the CACP Board of Directors. Work continued through 2017 to determine the specific changes to the UCR Survey and scoring standards.

**January 2018:** A new definition of ‘unfounded’ and new standards for reporting incidents by clearance status were established for the UCR Survey and disseminated to all police services.

**January to April 2018:** CCJS delivered regional training workshops across the country and, with the support of Public Safety Canada, developed an online training module.

## **Revising the Uniform Crime Reporting Survey and reinstating collection of unfounded incidents: Actions taken**

In February 2017, the president of the Canadian Association of Chiefs of Police (CACP) encouraged all police services to review practices around sexual assault investigations, as many had already started to do. In addition, Police Information and Statistics (POLIS) Committee was tasked with examining how data are collected and reported to the Canadian Centre for Justice Statistics (CCJS). The POLIS Committee was also directed to make recommendations on best practices for the collection of reliable and consistent statistical information (Canadian Association of Chiefs of Police 2017a).

To arrive at a set of recommended changes to the Uniform Crime Reporting Survey, CCJS and POLIS undertook the following actions:

1. Reviewed in detail what other countries were doing with respect to defining and classifying criminal incidents, including sexual assaults.
2. Consulted with POLIS agencies to learn best practices and their constraints in reporting. Issues raised by other police services during their reviews of unfounded incidents were also considered.
3. Consulted extensively with the police services on POLIS and other police services, including those located in provinces where pre-charge approval by the Crown is required in order for police to lay charges (i.e., New Brunswick, Quebec and British Columbia).
4. Consulted with academics and independent experts outside of policing to seek feedback and endorsement of the proposed changes to the UCR Survey.

CCJS and POLIS found that the varying application of unfounded was partly attributable to differences in the way police were classifying incidents, and not only associated with the depth of investigation. These included:

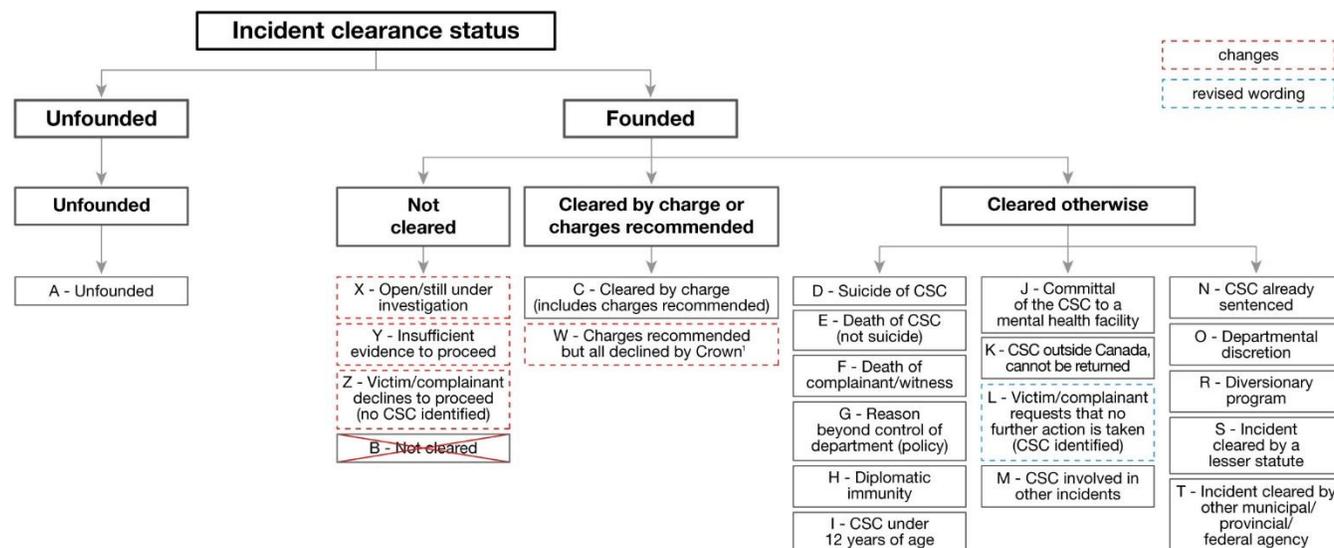
- The classification of incidents reported to the police by a third party (i.e., by someone other than the victim) as unfounded where it could not be determined whether or not the incidents occurred. It was also found that some police services were classifying these to a code internal to police service record systems (and therefore not reported to CCJS).

- The erroneous classification of incidents as unfounded by some police services where the Crown decided not to pursue charges even when, based on police investigation, there was enough evidence to classify them as founded.
- The erroneous classification of incidents as unfounded by some police services where the victim did not want to pursue charges or go to court even when, based on police investigation, there was enough evidence to classify them as founded.
- The erroneous classification of incidents as unfounded by some police services where police decided not to lay charges because they did not feel they would stand up in court. This was done even when, based on police investigation, there was enough evidence to classify them as founded.
- The erroneous classification of incidents as unfounded by some police services where accused persons were under 12 years of age. This was done even when, based on police investigation, there was enough evidence to classify them as founded.
- Variations in the application of a ‘victim-centred’ approach across police services.<sup>1</sup>

CCJS and POLIS made a number of recommendations related to statistical classifications and standard definitions that would address inconsistencies in reporting crime statistics. In addition to updating the definition of a founded incident, several of these revisions related to increasing the options for police to categorize an incident as “not cleared”, “cleared by the laying of a charge or recommending the laying of a charge” or “cleared otherwise” (Figure 1). It is expected that with these revisions, the use of ‘unfounded’ as a classification will decline as it will be clearer to police how to classify incidents based on the information from investigations.

The recommendations were endorsed by the CACP Board of Directors (Canadian Association of Chiefs of Police 2017b). In addition, the recommendations were supported by experts who responded to the CCJS consultation on the matter.

**Figure 1**  
**Modifications to the Uniform Crime Reporting Survey Incident clearance status options**



A to Z—Police service clearance status code

1. To be used in circumstances when all charges are declined by the Crown:

- In provinces which require Crown charge approval, or
- For violations which require Crown charge approval, or
- For any other violations recommended to the Crown

**Note:** CSC—charged/suspect chargeable. For the Uniform Crime Reporting Survey, the concept of a CSC refers to a person against whom there is enough evidence for police to either lay a charge or recommend to the Crown that a charge be laid.

## Updating the definition of ‘founded’

Until recently, an incident was deemed founded according to the UCR Survey if, “after police investigation it has been determined that a *Criminal Code* or other federal statute violation has occurred even if the charged/suspect chargeable (CSC) is unknown” (Statistics Canada 2016). For the UCR Survey, the concept of a CSC refers to a person against whom there is enough evidence for police to either lay a charge or recommend to the Crown that a charge be laid.

More recently, however, definitions of founded incidents have evolved to account for the complexities of certain offences such as sexual assault, family violence and intimate partner violence. A victim-centred approach to recording crimes is

emerging and puts forth that, unless there is concrete evidence to prove the crime did not happen, it is to be believed that the crime occurred (Her Majesty's Inspectorate of Constabulary 2014; Government of United Kingdom 2016; Human Rights Watch 2013). For instance, the International Association of Chiefs of Police recommends the following standard:

*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. The determination that a report is false must be supported by evidence that the assault did not happen* (International Association of Chiefs of Police 2005).

Recognition of third party reporting of criminal incidents is emerging. Third party reporting occurs when someone other than the victim reports the crime to the police, and it can be done officially or unofficially. Third party reporting also allows victims who do not want to personally report the incident to ensure that police are notified about the crime. Third party reporting allows official agencies to report suspected incidents to the police. Official third parties could include community-based victim service programs, child protective services and other municipal, provincial/territorial and federal agencies who report an incident to the police on behalf of the victim. Officials may collaborate with police without giving them the personal information of victims. Non-official third parties could include family members, teachers and witnesses. Some jurisdictions are exploring ways to expand programs which allow victims to report incidents of sexual assault and to get the assistance they need without having to approach the police (Government of British Columbia 2018; Canadian Association of Police Governance 2014).

Accounting for developments in definitions and reporting options for victims, the definition of 'founded' incidents was updated in January 2018 to read: "An incident is founded if, after police investigation, it has been determined that the reported offence did occur or was attempted (even if the charged/suspect chargeable (CSC) is unknown) or there is no credible evidence to confirm that the reported incident did not take place. This includes third party reports that fit these criteria."

## Discontinuing the classification of incidents as 'unsubstantiated'

Due to previously strict definitions of 'founded' and 'unfounded' incidents, police services had been using different methods to categorize incidents when they were unable to determine if a crime occurred. One such method was the classification to an internal category of 'unsubstantiated' (or equivalent internal code), which was not reported to CCJS. For two main reasons, POLIS recommended that police services no longer categorize incidents as such. First, there was little international evidence to support the collection and reporting of 'unsubstantiated' incidents (or equivalent). Second, the emergence of the victim-centred approach to recording incidents means that it is to be believed that the crime occurred unless there is concrete evidence that proves the incident did not take place. The elimination of the use of 'unsubstantiated', with the addition of appropriate clearance categories below, supports standardized reporting by police services.

## New detailed options to classify founded incidents that are not cleared

Historically, the UCR Survey only allowed police to classify a founded incident that was not cleared (or solved) as just that—not cleared. As a result of consultations led by CCJS in 2017 with POLIS and other police services, it was determined that the lack of specificity in reasons for not clearing an incident may have contributed to varying rates of unfounded. It became evident that more options were needed in order for police to report more accurately and to produce a better statistical understanding of the reason why founded incidents may not be cleared (see Figure 1). Based on consultations, it was recommended that the classification of 'not cleared' be separated into three new types of categories. These are:

- Clearance status code X – **Open/still under investigation:** This clearance option is to be used for all open investigations and for those where action has yet to be taken on the reported incident. It includes incidents that cannot be classified as "Insufficient evidence to proceed" or "Victim/complainant declines to proceed (no charged/suspect chargeable (CSC) identified)."
- Clearance status code Y – **Insufficient evidence to proceed:** This clearance option is to be used for incidents where there is insufficient or conflicting evidence for the police service to substantiate laying a charge or recommending a charge to the Crown. This clearance category not only responds to the challenges in some investigations but also complements the new definition of founded incidents.
- Clearance status code Z – **Victim/complainant declines to proceed (no charged/suspect chargeable (CSC) identified):** This clearance option is to be used for incidents where an accused cannot be identified either because the victim/complainant or other witnesses do not want to identify the CSC or they do not want to actively participate in the investigation. This category addresses some of the challenges in investigations where a victim wants the incident to be reported, but may not be ready to identify the accused. It also responds to the need for police to at times explain relatively low clearance rates for incidents related to gangs and organized crime groups where victims and witnesses can be reluctant to cooperate.

## Added option to classify founded incidents as “cleared by charge” or “charges recommended by police”

Previously, for the UCR Survey, there was only one category for incidents where police either laid charges or recommended charges to the Crown. Through consultations in 2017 by the CCJS with POLIS and other police services, it was determined that there were variations in the use of this category and ‘unfounded’ as a result of views of the role of the Crown in crime statistics, particularly in provinces that require the Crown to approve charges.

While some police services consulted were correctly using this category when charges were recommended to the Crown, others were coding as “cleared otherwise” or “unfounded” when the Crown would decline the charges. It was clear that another category was needed in order to address the varied way that incidents that should be founded were being classified as a result of the relationship between the police and the Crown. The scope of the UCR Survey is to capture police-level information and decisions. For a variety of reasons, some incidents cleared by police may not be pursued by the Crown. Therefore, to render data more comparable across jurisdictions, a new clearance option was added to the UCR Survey that will allow police to classify incidents where they recommend the laying of a charge, but the Crown declines to proceed.

The new category of “Charges recommended but all declined by Crown” (clearance status code W) is to be used when police have recommended to the Crown that charges be laid, but the Crown declines to proceed with **all** of the charges.<sup>2</sup> It is to be used in the following circumstances when all charges are declined by the Crown: 1) in provinces which require Crown charge approval, 2) for violations which require Crown charge approval according to legislation, or 3) for any other violations recommended to the Crown (see Figure 1).

The following is an example to illustrate where this would be used. Police in British Columbia recommend a charge of motor vehicle theft to the Crown. Because the Crown does not believe they will be likely to obtain a conviction in court, they decline to lay charges. From a policing perspective, an accused is identified and there is credible evidence to support the laying of a charge. As such, the final coding for this incident should be “Founded—Charges recommended but all declined by Crown.”

## Key update to classifications for incidents that are “cleared otherwise”

There are instances where police may clear (or solve) an incident, but do not lay criminal charges or recommend such charges to the Crown. For an incident to be “cleared otherwise,” the incident must meet two criteria: 1) there must be at least one charged/suspect chargeable (CSC) identified, and 2) there must be sufficient evidence to lay a charge in connection with the incident<sup>3</sup> but the person identified is processed by other means.

In the UCR Survey, there are 15 options for police to report why a CSC is not charged with a criminal offence (see Figure 1). As a result of consultations in 2017, one key update was made: the wording for the option category “Victim/complainant declines to lay charges” was revised to “Victim/complainant request that no further action is taken by police.” The previous option label did not accurately reflect the role of the victim/complainant in the process.

This revised category is to be used in incidents where the CSC is known and sufficient evidence has been obtained to support the laying of an information, but the victim/complainant requests that no further action is taken by police and as a result police decide not to lay or recommend a charge.

It is important to note that police are expected to update the clearance categories as appropriate. For instance, once a thorough investigation is completed, it is expected that the clearance status will change from, for instance, “Open/still under investigation” to “Insufficient evidence to proceed” or “Victim/complainant declines to proceed (no charged/suspect chargeable (CSC) identified)”. Further, a thorough investigation may mean that the clearance will change from “Open/still under investigation” to “Founded—cleared by charge” or “Founded—Charges recommended but all declined by Crown,” or one of the 15 options under ‘cleared otherwise.’ Over time, new information may come to light that will change the clearance status of the incident. The objective is that the final update to the incident as reported to CCJS reflects the final outcome of the police investigation.

## Moving forward

Throughout 2018, police services are implementing the new standards according to the schedule at which their systems are updated. As such, police services are adopting the new standards at different points in time. It is anticipated that all police services in Canada will have the new reporting requirements in their systems by the end of calendar year 2018. As a result, it is expected that 2019 will be the first year of complete data that follows the new reporting standards. The 2019 data will be released in July 2020.

Given the new definition of founded, the recommendation for police to cease the use of ‘unsubstantiated and the additional clearance categories,’ it is expected that fewer criminal incidents will be classified as ‘unfounded.’ It is also expected that as police services implement these new revisions into their respective records management systems, the number of founded incidents for certain types of crimes, including sexual assaults, will likely increase and clearance (or solve) rates will likely decrease. As police services adopt the new standards, data should become increasingly more comparable. Further, the new standards will generate new information which will allow for a better understanding for why incidents may or may not be cleared (or solved).

To assist police services transition to the new standards for reporting, the Canadian Centre for Justice Statistics (CCJS) delivered a number of in-person regional training workshops from January to April 2018 and has made materials available to police services to incorporate in their own training. Further, with funding from Public Safety Canada, CCJS developed an online training course on the new standards which policing personnel can access free of charge for 2018/2019.

Finally, one of the recommendations adopted in 2018 was for CCJS to publish data on unfounded criminal incidents with the release of the 2017 annual crime statistics publication, scheduled for July 2018.<sup>4</sup> However, it is important to note that these data do not follow the new standards for founded and unfounded criminal incidents, as they have not yet been fully adopted. In light of police services conducting reviews and to establish a starting point for data reporting, the 2017 data on unfounded criminal incidents will be published in July 2018.

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- members of police services not represented on POLIS, and;
- experts in the areas of gender-based violence and justice.

The work was realized under the leadership of the POLIS co-chairs Rebecca Kong, Canadian Centre for Justice Statistics, and Commander Mary Silverthorn, Ontario Provincial Police.

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## Notes

1. A "victim-centred" approach to responding to victims includes having training and standards in place that ensure a systematic focus on the needs and concerns of the victim to ensure the compassionate and sensitive delivery of service or approach to investigation in a manner that is free of judgement or bias (Alvarez and Cañas-Moreira 2015; Human Rights Watch 2013; State of New Jersey 1998). Globally, this approach is most relevant in instances of certain types of crime such as sexual assault, hate crimes and human trafficking.

2. The Uniform Crime Reporting Survey is an incident-based survey. As such, if the Crown proceeds with any charges, the entire incident is cleared by charge; therefore, the use of clearance category W will apply only when all charges are declined by the Crown.

3. The Uniform Crime Reporting Survey establishes that in order to clear an incident 'otherwise,' a charged/suspect chargeable (CSC) must be identified and there must be evidence to link the CSC to the crime. The evidence must pass the reasonable person test, meaning: confirmation from a reliable source, police information, an admission of guilt, physical evidence or other substantiation which would allow for the police service to proceed with a charge. Police may believe an individual is responsible for other incidents, but must have reasonable grounds to proceed and not simply a belief that the CSC is responsible.

4. See Statistics Canada. 2017. "Statistics Canada will collect and publish data on unfounded criminal incidents." *Statistical Announcements*. April 26, 2017.