

False rape allegations. *Eugene J. Kanin.*

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With the cooperation of the police agency of a small metropolitan community, 45 consecutive, disposed, false rape allegations covering a 9 year period were studied. These false rape allegations constitute 41% the total forcible rape cases (n = 109) reported during this period. These false allegations appear to serve three major functions for the complainants: providing an alibi, seeking revenge, and obtaining sympathy and attention. False rape allegations are not the consequence of a gender-linked aberration, as frequently claimed, but reflect impulsive and desperate efforts to cope with personal and social stress situations.

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INTRODUCTION

Of the many controversies surrounding the crime of rape, no more thorny issue arises than that dealing with false allegations. Generally, this issue is couched in terms of unfounded rape. However, we are not addressing that concept here since unfounded rape is not usually the equivalent of false allegation, in spite of widespread usage to that effect. There is ample evidence, frequently ignored (see MacDonald, 1971; Brownmiller, 1975), that in practice, unfounded rape can and does mean many things, with false allegation being only one of them, and sometimes the least of them. Other factors that are typically responsible for unfounded declarations are victim's late reporting to the police, lack of corroborating evidence, lack of cooperation by the victim and/or witnesses, reporting in the wrong jurisdiction, discrepancies in the victim's story, wrong address given by the victim, victim's drunkenness, victim's drug usage, victim's being thought a prostitute, victim's uncertainty of events, victim's belligerence (Clark and Lewis, 1977; Hursch, 1977; Katz and Mazur, 1979; Kanin, 1985; LaFree, 1989). In sum, the foregoing largely represent those conditions that could seriously frustrate efforts to arrest and/or convict the offender. This paper deals exclusively with false rape allegations: the intentional reporting of a forcible rape by an alleged victim when no rape had occurred.

False rape charges have probably been in existence as long as the concept of rape. However, in the 20th century, medical jurisprudence saw a new development that enabled false allegations to be viewed as a singular instance of gender-related lying, something quite different in nature from the false accusations of robbery or burglary that were made by men. In short, false rape accusations became a reflection of a unique condition of women, not unlike that of kleptomania (Abelson, 1989). This new development was the masochistic nature of woman doctrine, a perspective that assumed women had a subconscious desire for rape, as evidenced by their rape fantasies (Freud, 1933; Deutsch, 1944; Horney, 1933), and that neurotic individuals would convert their fantasies into actual beliefs and memory falsification (for an extensive and critical treatment of this

perspective, see Edwards, 1981, 1983; Kanin, 1982; Bessmer, 1984). In addition, some influential medical figures adopted the position that false rape allegations were widespread (Menninger, 1933; Guttmacher and Weihofen, 1952). Many legal scholars enthusiastically endorsed this medical position (Wigmore, 1940; Juliver, 1960; Comment, 1973; Hibey, 1973) and commonly recommended that rape complainants be routinely subjected to psychiatric examination in order to determine their truthfulness (Guttmacher and Weihofen, 1952; Sherwin, 1973; Comment, 1973). An American Bar Association committee offered a similar recommendation to this effect as early as 1937-1938 (Weihofen, 1959).

In the legal literature, *pseudologia phantastica* became the authoritative scientific label for the condition responsible for false rape reporting (Gablewski, 1958; Juliver, 1960). *Pseudologia phantastica* was described as a "Delusional state in which the complainant truly believes that she had been raped although no rape, and perhaps no sexual contact of any kind, had taken place. Since she firmly believes this non-fact, her story is unshakable" (Bessmer, 1984). Less pretentious legal scholars made the same point by merely making references to delusional and hysterical states (Smith, 1953-1954; Comment, 1970). In recent years, however, possibly as a response to the women's movement, members of the mental health and legal community have become markedly less likely to express such a position on false rape allegations. In England, judges still rather freely comment on the mendacious nature of women (Lowe, 1984).

Currently, the two main identifiable adversaries involved in the false rape allegations controversy are the feminists and the police. The feminists are by far the most expressive and prominent on this issue. Some feminists take the position that the declaration of rape as false or unfounded largely means that the police do not believe the complainant; that is, the rape charges are real reflections of criminal assault, but the agents of the criminal justice system do not believe them (Brownmiller, 1975; Russell, 1984). Some feminists virtually deny the existence of false rape accusations and believe the concept itself constitutes discriminatory harassment toward women (see Grano, 1990). On the other hand, police are prone to say the reason for not believing some rape complainants resides in the fact that the rapes never occurred (Payton, 1967; Wilson, 1978; Jay, 1991). Medical Examiners lend support to this police position by emphasizing the ever-present possibility that rape complainants may be lying (Shill, 1969, 1971).

The purpose of this paper is to report our findings on the incidence and dynamics of false rape allegations from a long-term study of one city's police agency.

METHOD

This investigation is essentially a case study of one police agency in a small metropolitan area (population = 70,000) in the Midwestern United States. This city was targeted for study because it offered an almost model laboratory for studying false rape allegations. First, its police agency is not inundated with serious felony cases and, therefore, has the freedom and the motivation to record and thoroughly pursue all rape complaints. In fact, agency policy forbids police officers to use their discretion in deciding whether to

officially acknowledge a rape complaint, regardless how suspect that complaint may be. Second, the declaration of a false allegation follows a highly institutionalized procedure. The investigation of all rape complaints always involves a serious offer to polygraph the complainants and the suspects. Additionally, for a declaration of false charge to be made, the complainant must admit that no rape had occurred. She is the sole agent who can say that the rape charge is false. The police department will not declare a rape charge as false when the complainant, for whatever reason, fails to pursue the charge or cooperate on the case, regardless how much doubt the police may have regarding the validity of the charge. In short, these cases are declared false only because the complainant admitted they are false. Furthermore, only one person is then empowered to enter into the records a formal declaration that the charge is false, the officer in charge of records. Last, it should be noted that this department does not confuse reported rape attempts with completed rapes. Thus, the rape complainants referred to in this paper are for completed forcible rapes only. The foregoing leaves us with a certain confidence that cases declared false by this police agency are indeed a reasonable -- if not a minimal -- reflection of false rape allegations made to this agency, especially when one considers that a finding of false allegation is totally dependent upon the recantation of the rape charge. We followed and investigated all false rape allegations from 1978 to 1987. A ranking police official notified us whenever a rape charge was declared false and provided us with the records of the case. In addition, the investigating officers provided any requested supplementary information so that we could be confident of the validity of the false rape allegation declarations.

FINDINGS

Incidence of False Allegations

Widely divergent viewpoints are held regarding the incidence of false rape reporting (Katz and Mazur, 1979). For example, reports set the figure from lows of 0.25% (O'Reilly, 1984) and 1% (Krasner et al., 1976) to highs of 80-90% (Bronson, 1918; Comment, 1968) and even 100% (see Kanin, 1985). All of these figures represent releases from some criminal justice agency or are estimates from clinical practitioners. The extraordinary range of these estimates makes a researcher suspect that inordinate biases are at work.

Regarding this study, 41% (n = 45) of the total disposed rape cases (n = 109) were officially declared false during this 9-year period, that is, by the complainant's admission that no rape had occurred and the charge, therefore, was false. The incidence figure was variable from year to year and ranged from a low of 27% (3 out of 11 cases) to a high of 70% (7 out of 10 cases). The 9-year period suggests no trends, and no explanation has been made for the year-to-year fluctuation.

Although very little information exists regarding the characteristics of the complainant, some data can be offered. These false complainants are all white, largely of lower socioeconomic background, and the majority were modestly educated. Only three complainants had any education beyond high school. The mean age of these women was

22. On the basis of the limited information available, these women could not be distinguished from those whose complaints were recorded as valid.

The study of these 45 cases of false rape allegations inexorably led to the conclusion that these false charges were able to serve three major functions for the complainants: providing an alibi, a means of gaining revenge, and a platform for seeking attention/sympathy. This tripartite model resulted from the complainants' own verbalizations during recantation and does not constitute conjecture. Of course, we are not asserting that these functions are mutually exclusive or exhaustive; rather, these rape recantations focused on a single factor explanation. A possible objection to these recantations concerns their validity. Rape recantations could be the result of the complainants' desire to avoid a "second assault" at the hands of the police. Rather than proceed with the real charge of rape, the argument goes, these women withdrew their accusations to avoid the trauma of police investigation.

Several responses are possible to this type of criticism. First, with very few exceptions, these complainants were suspect at the time of the complaint or within a day or two after charging. These recantations did not follow prolonged periods of investigation and interrogation that would constitute anything approximating a second assault. Second, not one of the detectives believed that an incident of false recantation had occurred. They argued, rather convincingly, that in those cases where a suspect was identified and interrogated, the facts of the recantation dovetailed with the suspect's own defense. Last, the policy of this police agency is to apply a statute regarding the false reporting of a felony. After the recant, the complainant is informed that she will be charged with filing a false complaint, punishable by a substantial fine and a jail sentence. In no case, has an effort been made on the part of the complainant to retract the recantation. Although we certainly do not deny the possibility of false recantations, no evidence supports such an interpretation for these cases. Alibi Function

Of the 45 cases of false charges, over one-half (56%, $n = 27$) served the complainants' need to provide a plausible explanation for some suddenly foreseen, unfortunate consequence of a consensual encounter, usually sexual, with a male acquaintance. An assailant is identified in approximately one half of these cases. Representative cases include the following:

An unmarried 16-year-old female had sex with her boyfriend and later became concerned that she might be pregnant. She said she had been raped by an unknown assailant in the hopes that the hospital would give her something to abort the possible pregnancy.

A married 30-year-old female reported that she had been raped in her apartment complex. During the polygraph examination, she admitted that she was a willing partner. She reported that she had been raped because her partner did not stop before ejaculation, as he had agreed, and she was afraid she was pregnant. Her husband is overseas.

The above cases are prototypical cases where the fear of pregnancy is paramount in motivating the rape charge. This theme is constant, only the scenario changes in that the

lover is black, the husband is out of state on a job, the husband had a vasectomy, the condom broke. Only three cases deviated from this tradition:

A divorced female, 25 years of age, whose parents have custody of her 4-year-old child. She lost custody at the time of her divorce when she was declared an unfit mother. She was out with a male friend and got into a fight. He blackened her eye and cut her lip. She claimed she was raped and beaten by him so that she could explain her injuries. She did not want to admit she was in a drunken brawl, as this admission would have jeopardized her upcoming custody hearing. A 16-year-old complainant, her girlfriend, and two male companions were having a drinking party at her home. She openly invited one of the males, a casual friend, to have sex with her. Later in the evening, two other male acquaintances dropped in and, in the presence of all, her sex partner "bragged" that he had just had sex with her. She quickly ran out to another girlfriend's house and told her she had been raped. Soon, her mother was called and the police were notified. Two days later, when confronted with the contradictory stories of her companions, she admitted that she had not been raped. Her charge of rape was primarily motivated by an urgent desire to defuse what surely would be public information among her friends at school the next day, her promiscuity. A 37-year-old woman reported having been raped "by some nigger." She gave conflicting reports of the incident on two occasions and, when confronted with these, she admitted that the entire story was a fabrication. She feared her boyfriend had given her "some sexual disease," and she wanted to be sent to the hospital to "get checked out." She wanted a respectable reason, i.e., as an innocent victim of rape, to explain the acquisition of her infection.

Revenge

Essentially, this category involved a false rape report as a means of retaliating against a rejecting male. Twenty-seven percent (n = 12) of the cases clearly seemed to serve this function. These rejections, however, ranged from the very evident cases of women who were sexually and emotionally involved with a reciprocating male to those women who saw themselves spurned from what was in reality the females' unilateral involvement. Regardless, these women responded with a false rape charge to perceived rejections. Because the suspect is always identified, the false allegations potentially pose the greatest danger for a miscarriage of justice. Examples of these types of cases are as follows: An 18-year-old woman was having sex with a boarder in her mother's house for a period of 3 months. When the mother learned of her behavior from other boarders, the mother ordered the man to leave. The complainant learned that her lover was packing and she went to his room and told him she would be ready to leave with him in an hour. He responded with "who the hell wants you." She briefly argued with him and then proceeded to the police station to report that he had raped her. She admitted the false charge during the polygraph examination. A 17-year-old female came to headquarters and said that she had been raped by a house parent in the group home in which she lived. A female house parent accompanied her to the station and told the police she did not believe that a rape had occurred. The complainant failed the polygraph examination and then admitted that she liked the house parent, and when he refused her advances, she reported the rape to "get even with him."

A 16-year-old reported she was raped, and her boyfriend was charged. She later admitted that she was "mad at him" because he was seeing another girl, and she "wanted to get him into trouble."

Attention/Sympathy-Getting Device

Although this device seems to be the most extravagant use for which a false rape charge is made, it is also the most socially harmless in that no one was identified as the rapist. Approximately 18% (n = 8) of the false charges clearly served this function. The entire verbalization of the charge is, by and large, a fabrication without base. The following are typical examples:

An unmarried female, age 17, abruptly left her girlfriends in the park one afternoon allegedly to go riding with a young man, a stranger she met earlier that morning who wanted her to smoke marijuana with him. Later that day, she told her friends she was raped by this man. Her friends reported the incident to the police, and the alleged victim went along with the rape charge because "I didn't want them to know that I lied to them." She explained that she manufactured this story because she wanted the attention.

An unmarried female, age 17, had been having violent quarrels with her mother who was critical of her laziness and style of life. She reported that she was raped so that her mother would "get off my back and give me a little sympathy." An unmarried female, age 41, was in postdivorce counseling, and she wanted more attention and sympathy from her counselor because she "liked him." She fabricated a rape episode, and he took her to the police station and assisted her in making the charge. She could not back out since she would have to admit lying to him. She admitted the false allegation when she was offered to be polygraphed.

RELATED FINDINGS

In addition to the foregoing, certain other findings and observations relevant to false allegations warrant comment. First, false allegations failed to include accusations of forced sexual acts other than penile-vaginal intercourse. Not one complainant mentions forced oral or anal sex. In contrast, these acts were included in approximately 25% of the founded forcible rape complaints. Perhaps it was simply psychologically and socially more prudent for these women to minimize the humiliation of sexual victimization by not embroidering the event any more than necessary. This phenomenon has been observed previously (McDowell and Hibler, 1987).

Second, although the literature liberally refers to various extortion scams as responsible for false rape charging (Comment, 1968; MacDonald, 1973), no such cases were encountered or could even be recalled by members of the police agency. This type of case may very well be a period piece, or perhaps it was even then the exceptional case. Extraordinary attention would readily have been forthcoming since this theory nicely meshed with the position of prevailing authorities who stressed the omnipresent threat of female cunning and stealth. One authority, (MacDonald, 1973), for example, cited a 1918

article (Bronson) to illustrate a blackmail case since he never encountered one himself. In a similar vein, no apparent case of pseudologia phantastica surfaced. The earlier view of a deluded complainant, tenaciously affirming her victimization, just does not appear here. These women were not inclined to put up a steadfast defense of their victimization, let alone pursue it into the courtroom. Recantation overwhelmingly came early and relatively easily. Certainly, false rape allegations can arise from a deluded condition but we failed to find indicators for what was once offered as the most common explanation for false rape allegation.

One of the most haunting and serious implications of false rape allegations concerns the possibility of miscarried justice. We know that false convictions occur, but this study only tells us that these false accusers were weeded out during the very early stages of investigation. However encouraging this result may be, we cannot claim that false charging does not incur suffering for the accused. Merely to be a rape suspect, even for a day or two, translates into psychological and social trauma.

CONCLUSIONS

We feel that these false accusations can be viewed as the impulsive and desperate gestures of women simply attempting to alleviate understandable conditions of personal and social distress and that, as an aggregate, labels connoting pathology, e.g., delusional states, are uncalled for. One can be tempted to pigeonhole this type of conduct since we view it as extreme, as deviant, as criminally reckless. At first glance, false rape allegation seems to be a rather extreme gesture to satisfy alibi, revenge, or attention needs. Practitioners in the mental health and legal professions, however, will readily recognize that these false rape reports are not really exceptional exaggerations in light of what people rather commonly do in order to satisfy these same needs in other contexts. Consider the extravagant and perjurious accusations that routinely pepper divorce and child custody proceedings, and the inordinate departures from the truth that have accompanied credentialed and respected political and corporate figures in their quest for recognition and office. And think of the petty and commonplace transgressions that people frequently verbalize as reasons for having committed homicide.

No evidence exists to suggest that something unique or defective is in the female condition that prompts such behavior. Rather, something biological, legal, and cultural would seem to make false rape allegations inevitable. If rape were a commonplace victimization experience of men, if men could experience the anxiety of possible pregnancy from illicit affairs, if men had a cultural base that would support their confidence in using rape accusations punitively, and if men could feel secure that victimization could elicit attention and sympathy, then men also would be making false rape accusations.

Most problematic is the question of the generalizability of these findings from a single police agency handling a relatively small number of cases. Certainly, our intent is not to suggest that the 41% incidence found here be extrapolated to other populations, particularly in light of our ignorance regarding the structural variables that might be

influencing such behavior and which could be responsible for wide variations among cities. But a far greater obstacle to obtaining "true" incidence figures, especially for larger cities, would be the extraordinary variations in police agency policies (see Comment, 1968; Newsweek, 1983; Pepinsky and Jesilow, 1984); variations so diverse, in fact, that some police agencies cannot find a single rape complaint with merit, while others cannot find a single rape complaint without merit. Similarly, some police agencies report all of their unfounded rape cases to be due to false allegation, while other agencies report none of their unfounded declarations to be based on false allegation (Kanin, 1985). Some of these policies are really nothing more than statistical and procedural legerdemain. On the other hand, a degree of confidence exists that the findings reported here are not exaggerations produced by some sort of atypical population, that is, nothing peculiar exists about this city's population composition to suggest that an unusual incidence or patterning of false rape allegations would occur. This city is not a resort/reveling area or a center attracting a transient population of any kind, attributes that have been associated with false rape reporting (Wilson, 1978). The major culprit in this city may well be a police agency that seriously records and pursues to closure all rape complaints, regardless of their merits. We may well be faced with the fact that the most efficient police departments report the higher incidence of false rape allegations. In view of these factors, perhaps the most prudent summary statement that is appropriate from these data is that false rape accusations are not uncommon. Since this effort is the first at a systematic, long-term, on-site investigation of false rape allegations from a single city, future studies in other cities, with comparable policies, must assess the representativeness of these findings.

ADDENDA

In 1988, we gained access to the police records of two large Midwestern state universities. With the assistance of the chief investigating officers for rape offenses, all forcible rape complaints during the past 3 years were examined. Since the two schools produced a roughly comparable number of rape complaints and false rape allegations, the false allegation cases were combined, $n = 32$. This represents exactly 50% of all forcible rape complaints reported on both campuses. Quite unexpectedly then, we find that these university women, when filing a rape complaint, were as likely to file a false as a valid charge. Other reports from university police agencies support these findings (Jay, 1991). In both police agencies, the taking of the complaint and the follow-up investigation was the exclusive responsibility of a ranking female officer. Neither agency employed the polygraph and neither declared the complaint false without a recantation of the charge. Most striking is the patterning of the reasons for the false allegations given by the complainants, a patterning similar to that found for the nonstudent city complainants. Approximately one half (53%) of the false charges were verbalized as serving an alibi function. In every case, consensual sexual involvement led to problems whose solution seemed to be found in the filing of a rape charge. The complaints motivated by revenge, about 44%, were of the same seemingly trivial and spiteful nature as those encountered by the city police agency. Only one complainant fell into the attention/sympathy category. These unanticipated but supportive parallel findings on university populations suggest that the complications and conflicts of heterosexual involvements are

independent of educational level. In fact, we found nothing substantially different here from those cases encountered by our city police agency.

REFERENCES

Abelson, E. S. (1989). The invention of kleptomania. *Signs* 15: 123-143.

Bessmer, S. (1984). *The Laws of Rape*, Praeger, New York.

Bronson, F. R. (1918). False accusations of rape. *Am. J. Urol. Sex.* 14: 509-510.

Brownmiller, S. (1975). *Against Our Will*, Simon and Schuster, New York.

Clark, L., and Lewis, D. (1977). *The Price of Coercive Sexuality*, Woman's Press, Toronto.

Comment. (1968). Police discretion and the judgement that a crime has been committed. *Univ. Penn. Law Rev.* 117: 227-322.

Comment. (1970). The corroboration rule and crimes accompanying a rape. *Univ. Penn. Law Rev.* 118: 458-472.

Comment. (1973). Complainant credibility in sexual offense cases: A survey of character testimony and psychiatric experts. *J. Crim. Law and Crim.* 64: 67-75.

Deutsch, H. (1944). *The Psychology of Women*, Vol. 1, Grune and Stratton, New York.

Edwards, S. (1981). *Female Sexuality and the Law*, Martin Robertson, London.

Edwards, S. (1983). Sexuality, sexual offenses, and conceptions of victims in the criminal justice process. *Victimology* 8: 113-130.

Freud, S. (1933). *New Introductory Lectures on Psychoanalysis*, Norton, New York.

Grablewski, J. T. (1958). Necessity and corroboration of prosecutrix's testimony in prosecution for rape. *Villanova Law Rev.* 3: 220-222.

Grano, J. D. (1990, Spring). Free speech v. The University of Michigan. *Acad. Quest.*, pp. 7-22.

Guttmacher, M., and Weihofen, H. (1952). *Psychiatry and the Law*, Norton, New York.

Hibey, R. A. (1973). The trial of a rape case: An advocate's analysis of corroboration, consent, and character. *Am. Crim. Law Rev.* 11: 309-334.

Horney, K. (1933). *Feminine Psychology*, Norton, New York.

Hursch, C. (1977). *The Trouble with Rape*, Nelson-Hall, Chicago.

- Jay, D. R. (1991). Victimization on the college campus: A look at three high-profile cases. *Campus Law Enforce*, 35-37.
- Juliver, M. (1960). Psychiatric opinions as to credibility of witnesses: A suggested approach. *Cal. Law Rev.* 48: 648-683.
- Kanin, E. J. (1982). Female rape fantasies: A victimization study. *Victimology* 7: 114-121.
- Kanin, E. J. (1985). Unfounded rape. Paper presented at the Academy of Criminal Justice Sciences annual meeting, Las Vegas, NV.
- Katz, S., and Mazur, M. (1979). *Understanding the Rape Victim*, Wiley, New York.
- Krasner, W., Meyer, L., and Carroll, N. (1976). *Victims of Rape*, U. S. Government Printing Office, Washington, DC.
- LaFree, G. (1989). *Rape and Criminal Justice*, Wadsworth, Belmont, CA.
- Lowe, M. (1984). The role of the judiciary in the failure of the sexual offenses (amendment) act to improve the treatment of the rape victim. In Hopkins, J. (ed.), *Perspectives on Rape and Sexual Assault*, Harper and Row, London, pp. 67-88.
- MacDonald, J. (1971). *Rape Offenders and their Victims*, Charles C Thomas, Springfield, IL.
- MacDonald, J. (1973). False accusations of rape. *Med. Aspects Hum. Sex.* 7: 170-193.
- Menninger, K. A. (1933). Cited in Wigmore, J. (1940). *Evidence in Trials at Common Law*, Little Brown, Boston.
- McDowell, C. P., and Hibler, N. S. (1987). False allegations. In Hazelwood, R. R. and Burgess, A. W. (eds.), *Practical Aspects of Rape Investigation*, Elsevier. New York.
- Newsweek. (May 16, 1983). Burying crime in Chicago.
- O'Reilly, H. J. (1984). Crisis intervention with victims of forcible rape: A police perspective. In Hopkins, J. (ed.), *Perspectives on Rape and Sexual Assault*, Harper and Row, London, pp. 89-103.
- Payton, G. T. (1967). *Patrol Procedures*, Legal Book, Los Angeles.
- Pepinsky, H. E., and P. Jesilow (1984). *Myths that Cause Crime*, Seven Locks Press, Cabin John, MD.
- Russell, D. E. H. (1984). *Sexual Exploitation*, Sage, Beverly Hills.

Schiff, A. (1969). Statistical features of rape. *J. Forensic Sci*; 14: 102-110.

Schiff, A. (1971, October). Rape needs a special examination. *Emergency Med.*, pp. 28-29.

Sherwin, R. V. (1973). Commentary. *Med. Aspects Hum. Sex.* 7: 193.

Smith, T. L. (1953-1954). Competency of female child as prosecutrix in case of sexual offenses. *Ala. Law Rev.* 6: 96-99.

Weihofen, H. (1959). Compensation for victims of criminal violence. *J. Public Law* 8: 209-218.

Wigmore, J. (1940). *Evidence in Trials at Common Law*, Little Brown, Boston.

Wilson, P. R. (1978). *The Other Side of Rape*, University of Queensland Press, St. Lucia, Queensland, Australia.