

THE INCIDENT

She said she was raped, and police agreed —
but her assailant was never charged.
In Springfield, that's not unusual.

By Dusty Rhodes



Jane Ross Galliher doesn't like using the R-word. She refers to what happened that night as "the incident." She keeps the police reports and hospital records in a manila folder labeled "The File." It comes in handy when she has to describe "the incident," because she can just hand over documents from "The File" instead of retelling — reliving — the nightmare.

But even though she doesn't like saying it, Jane believes with all her heart that no other word wholly describes what happened the night she agreed to meet her former boss for dinner. What else can you call it when you're having a friendly chat and next thing you know you're thrown on the bed, pants yanked down, rolling sideways desperate to escape, locked legs pried apart, ankles captured and flung high, there he is, all inside, stubbornly immune to your pleas to stop and your frantic cries of *no no no*?

As much as she avoids pronouncing the word,

Jane knows she was raped.

If it were really rape, though, wouldn't that be some sort of crime? Wouldn't the man be arrested? Wouldn't he be charged?

Probably not. Despite a few headline-grabbing cases, sexual assault remains one of the least-prosecuted crimes. Actual statistics are hard to come by because prosecutors generally don't track the number of cases they dismiss uncharged. But other professionals who deal with sexual-assault cases say the system is fundamentally flawed.

As Jane discovered, an assault that seemed clearly criminal to her was not interpreted the same way by prosecutors. Even though she could readily identify her assailant, even though she could provide physical evidence and even though the investigating detective sought criminal charges, the man who raped Jane was never arrested and never punished.

continued on page 10



Jane says she was afraid police wouldn't believe her because of her attacker's reputation

The Incident

continued from page 9

Jane's case is somewhat unusual: As a budget analyst in her mid-40s, Jane has more education and maturity than the typical target of a sexual assault. She was stone-cold sober at the time of the attack and, unlike 90 percent of rape victims, she reported the crime to police within 24 hours. Perhaps most remarkable, she is willing to discuss her ordeal publicly.

Otherwise, though, her story is all too common, from the "the incident" and its aftermath to her fruitless pilgrimage through the legal system.

The following account is taken mainly from police reports, augmented by Jane's handwritten notes made shortly after the rape and recent interviews with Jane and her best friend, Barb.

The rape itself took place on Sept. 30, 2002, but, looking back, Jane believes her attacker, whom we'll call Wendell (not his real name), began planning the assault more than two weeks earlier. That's when she got a call from a friend at her old job in the credit union of a state business association where Wendell had been president of the board of directors. Jane hadn't seen Wendell, who lives in a small town in southern Illinois, since July 2000, when she left the credit union to take a job with a state agency. Her friend said Wendell was planning a trip to Springfield on Sept. 15 and he wanted to take Jane to dinner.

"Everyone respected and admired him," Jane says. "If you were around him, he was just the grandfather type. Everybody loved him. He was real soft-spoken, pleasant all the time, just laid-back, easygoing. There's not one person I know that ever said anything negative about him."

Jane felt the same way about Wendell's wife: "an attorney, very attractive, very intelligent, very kindhearted, just a beautiful woman."

She was flattered that such an important man wanted to see her, and the friend

who called to convey Wendell's dinner invitation was jealous. "You should come, too," Jane told her. But Wendell ended up canceling his trip at the last minute.

He later called to reschedule, saying he would be back in Springfield on Sept. 30 for a business-related conference. Instead of settling on a restaurant in advance, they agreed to meet at 5 p.m. in the lobby of his downtown hotel, just across the street from Jane's office, and decide where to go from there. Wendell said he might need to take a quick shower because he would be in meetings all day, and he told Jane she should bring a change of clothes in case she wanted to get out of her business suit.

On Sept. 26, he left a message on her answering machine, confirming their plans and again mentioning that she should bring a change of clothes.

They met as planned in the hotel lobby and began chatting about family as they rode the elevator up to Wendell's room so he could freshen up for dinner. In the room, they sat at a table and talked about Jane's new job; her new home; her 16-year-old son, Carl; and her then-boyfriend, as well as where they might go for dinner.

When Wendell began emptying his pockets to get ready for his shower, Jane moved toward the room's entryway, where she had left her purse. As she walked past Wendell, he suddenly swung around, grabbed her shoulders and pushed her down onto the bed. He unbuttoned her suit and began fondling her breasts.

Jane, stunned, tried saying no — *Stop! I don't want to do this!* — but as Wendell became more forceful, she realized he wasn't going to quit. He pulled at her pants until he found the zipper in back and managed to yank them down. She tried to maintain an upright position and, when that failed, clasped her legs together and attempted to roll away. She tried telling herself that a man of Wendell's age — over

70 — probably couldn't accomplish such an assault. She tried everything she could think of.

Nothing worked.

When he relented, Jane thought he had finally heeded her pleas. But as she sat up, she realized that he had stopped because he was done.

Sobbing, Jane grabbed her clothes and went to the bathroom to clean up and get dressed. She told Wendell she was going home, yet suddenly found herself unable to do anything but sit down and cry. Wendell apologized, saying he had lost control, calling himself an "ass," saying he didn't know what had come over him — he didn't want to ruin a good relationship, he said, and he wouldn't let her leave without talking it out. "Let's go back to the beginning and put this behind us," he said. "Let's go out to dinner!"

"If a victim reports it to the police, then there was a crime. I have to believe that."

Detective Rodney Yoswig

Jane began to sense that Wendell wouldn't allow her to leave unless and until she appeared to have calmed down. When he asked whether she would like a glass of wine, she said yes.

To get the wine, Wendell had to go downstairs, leaving Jane alone in the hotel room. "You won't take off, will you?" he asked.

And to this day, she wonders why she didn't. In her statement to police, she said, "I felt that I couldn't move."

She remembers thinking she should go yet feeling powerless to do so. "I was, like, paralyzed," she says. "Running through my mind was 'You have to go!' But I was thinking he would catch me, because I couldn't move. It was the weirdest feeling, because my brain was saying 'Go' and yet my muscles in my arms and legs were so tight I couldn't move."

As she sat weeping, the evening's conversation replayed in her head: He knew where she lived; he knew that her boyfriend was in another state. And now that she had discovered he was not at all the kindly gentleman he appeared to be all these years, she had no idea what else he might do. "If he could do this, he could do anything," she says. "What would stop him?"

Two glasses of wine later, she agreed to eat dinner with Wendell at a nearby restaurant. As she picked at her food, he kept insisting that she couldn't leave until

continued on page 12

The Incident

continued from page 11

she felt better. She realized he needed her to say that what had happened was no big deal. She assured him she would never tell anyone, and he allowed her to go home.

Before she entered her house, she combed her hair and resolved to keep conversation with her son to a minimum in the hope that he wouldn't notice her red, swollen eyes. "I'm tired — I'm going to bed," she told him.

The next morning, she got up, dressed for work as usual and got Carl off to school. She was sitting at her kitchen table, having her morning coffee, when everything fell apart.

Barb's phone rang about 8 a.m. It was her best friend, Jane, and she was in tears. Barb went straight over to Jane's house.

"She basically took care of me from that point," Jane says. "She was the thinker; I just sat there crying."

Barb called the hotel and told the manager to leave the room untouched until the police could collect evidence. Then she called the Prairie Center Against Sexual Assault. A counselor came to take Jane to the Springfield police station.

Jane was afraid the police wouldn't believe



Jane, with her son, Carl, now 17

her, what with Wendell's being such a fine, upstanding businessman and her having dinner with him afterward. "Who'd expect him in a million years to be capable of doing something like this?" she asks. She could hardly believe it herself.

Detective Rodney Yoswig was assigned to take her statement — to gather the gory details from a woman who could barely choke the words out. "I was almost nauseated, going back over this," Jane recalls. "At times the words wouldn't even come out. I couldn't even. . . ugh, I can't say the words."

Yoswig told her to take as long as she needed, even if that meant the rest of the day. "He was incredibly patient, truly caring and kind," Jane says.

At that time, Yoswig (now assigned to the Crimes Against Persons unit) had been handling most of SPD's adult sexual-assault cases for about three years. Before working sex crimes, he had spent three years in the domestic-violence unit, an experience he calls "an eye-opener into relationships." These two rotations had taught him that a woman who says she's been raped is general-

ly telling the truth.

"If a victim reports it to the police, then there was a crime. I have to believe that," Yoswig says. "I think you have to believe your victim until they prove otherwise."

For one thing, pursuing a sexual-assault complaint usually requires the victim to endure a series of debasing experiences — the long, graphic talk with a detective, plus whatever it takes to provide physical evidence. Most women must undergo a hospital exam Yoswig calls "majorly invasive." And many rape victims must also allow crime-scene technicians to comb their homes for evidence.

For Jane, the adventures in humiliation included the hospital exam as well as a search through her trash for the mini-pad she had worn during her dinner with Wendell. She placed it, along with her undies, in a brown paper bag, which she then delivered to the officer staffing the front desk at the police station the next night.

Jane spent the rest of the week in a severe depression. A counselor who had helped her mourn her mother's death and survive a nasty divorce in 1999 found a place in his schedule for her to come in every day. Those appointments forced her to get out of bed

and get dressed. Otherwise, her body had only two gears — slumber and sobs.

After a few days, her son, Carl, confronted her. “He got worried because it was, you know, getting to be Thursday, and I was still in my pajamas, staring out the window,” Jane says.

In the weeks that followed, depression gave way to a near-obsession with understanding how “the incident” happened. There was that odd message Wendell had left on her answering machine three days before their dinner appointment about how she should bring a change of clothes and maybe plan to take a shower. In hindsight, she could see he was hoping to get her to disrobe — so much easier than having to fumble for that zipper.

Then there was Wendell’s story that he was in town for a conference, that he had been in meetings all day. Jane called every local conference facility and couldn’t find any conference related to his field.

In fact, she discovered that he had not been in meetings at all. He had checked into his hotel at 3:30 that afternoon — an hour and a half before their scheduled rendezvous in the lobby.

Jane was astonished: Wendell had apparently made a special trip to town just to rape her.

“You don’t just throw something up on the wall to see if it sticks.”

State’s Attorney John Schmidt

Sexual assault has never had as clear a path through the legal system as other charges. For starters, it can be tough just to get authorities to agree that a crime has actually occurred. Unlike retail theft (where goods are plainly gone) or homicide (where there’s a dead body), sexual assault is often subject to speculation that the victim consented to or somehow invited the attack. Rarely does a theft suspect claim the merchant gave goods away for free; rarely does a murder suspect claim the deceased really wanted to be shot. In a sexual assault case, though, consent is the most common defense.

In her book *Real Rape*, law professor Susan Estrich cites a variety of studies showing that, while more than 80 percent of rapes are committed by non-strangers, juries are reluctant to convict unless the crime included one or more of the following elements: multiple assailants, physical violence, or a victim who has never met her attackers before.

Mary Ratliff, a medical and legal advocate at Prairie Center Against Sexual Assault, says this attitude can be found

throughout the legal system, from judges and juries all the way down to cops.

“We just did a training session with some crime scene investigators and asked how many assaults they had been on, and they were like, ‘We’ve not seen any that were valid.’ They were into that stereotype of ‘well, she wasn’t beat up,’ ” Ratliff says. “The criminal justice system paints this picture that a real rape is home invasion by a stranger, the woman is beat up and she reports right away. That is what they consider to be a ‘valid rape.’

“And what I see is that [scenario] rarely happens. Valid rapes are people that know each other, they don’t have an obvious injury, they don’t report right away or they don’t report [to the police] at all. That’s real rape,” Ratliff says. “That’s what reality is.”

Prosecutors, though, rarely charge such cases. Ratliff says that during the two years she has worked at PCASA, she has seen only about a dozen cases charged: five were statutory rape (“Slam-dunks,” she says), three involved a home-invading serial rapist with elderly victims, and one involved multiple assailants.

SPD Detective Yoswig has a more detailed database created over the years, as a means of keeping track of his cases. By the time he transferred to Crimes Against Persons in January, his database listed about 210 cases. At the request of *Illinois Times*, he produced a spreadsheet of the final status of these cases.

Still reliant on the state’s attorney’s office to charge suspects he arrests in his new assignment, Yoswig is reluctant to criticize prosecutors. All he says is that he wishes his batting average were higher: “I would’ve liked to see more positive results come out of the work that I’ve put in.”

According to his list, Yoswig closed almost a quarter of the cases without seeking charges — sometimes at the request of the victim, sometimes because of lack of evidence, sometimes for other reasons. Another 22 cases appear to be permanently on hold as a result of the victim’s decision not to cooperate with the investigation.

The Sangamon County State’s Attorney’s office filed charges in 27 of the cases. Most of these charges resulted in plea bargains for time ranging from 121 days in the county jail to 22 years in a state prison (for a home invasion that included theft). Four went to trial, resulting in three guilty verdicts.

But 90 complaints on Yoswig’s spreadsheet — including Jane’s — were closed only because the state’s attorney’s office declined to press charges. In 18 of those, SPD had a suspect under arrest.

Yoswig believes he knows why prosecutors won’t charge Jane’s case. “The sticking point is that she had an opportunity to leave and she didn’t,” he says. “It’s how other people perceive it. I don’t have a

continued on page 14

The Incident

continued from page 13

problem with it. That's a rape victim being dumbfounded and in a state of shock, not knowing how to react."

Even the dinner afterward, Yoswig says, "didn't stick out to me as unusual." His years as a sexual-assault investigator have taught him that there is no textbook reaction to rape. "I've seen crying, I've seen 'I don't care,' I've seen mad and I've seen people laugh about it," he says.

Yoswig made several attempts to beef up Jane's case. The mini-pad she delivered in the brown paper bag tested positive for semen, but the resulting DNA didn't match anyone in the criminal indexing system. To be useful, it would have to match Wendell. But to compel Wendell to give a buccal sample (a cheek swab) Yoswig would have to get a search warrant through the state's attorney's office.

Last spring, Yoswig set up an official "overhear," in which he and an Illinois State Police officer recorded a phone call from Jane to Wendell. For more than an hour, she tried to get Wendell to admit that he had raped her. He did acknowledge having sex with her against her wishes, but to get him to admit that, she had to resort to badgering.

"We did not get what we really needed," Yoswig says. "He was too careful as to how he responded to things."

Wendell's answers were slightly different when Yoswig phoned him weeks later, asking for his response to Jane's sexual-assault complaint. Wendell admitted meeting Jane in the hotel lobby and taking her to dinner but omitted the part in which he took her to his hotel room. Instead, he implied that Jane might be a tad crazy because she was dating a man she had met through an online dating service.

That man, Mark Galliher, is no longer Jane's boyfriend: As of October 2003, he is her husband. If anybody might have doubted her account of what happened with Wendell, it should have been him. Galliher, an Indianapolis lawyer, was already discussing marriage with Jane when she had her fateful encounter with Wendell. Galliher could have interpreted what happened as infidelity. But he finds that notion preposterous.

"I guess I just don't have the frame of reference to even talk about that," he says. "It never would've crossed my mind to do anything but believe her."

In a last-ditch effort to hold Wendell accountable, Jane requested a meeting with State's Attorney John Schmidt, hoping to convince him to prosecute her attacker. Instead, Jane says, the experience left her feeling re-victimized.

"He tried to be sympathetic, but you could clearly see that he had made his judgment and that he deemed this guy not guilty," she says.

What really angered her was that he considered her case "he said, she said" and told her she had to recognize that her decision to have a glass of wine and go to dinner with Wendell might not play well with a jury.

"He said, 'You have to consider the little old Baptist lady in the corner of the jury box' and what she's going to think about this," Jane recalls. "I was just amazed he could even say anything like that. That

"It made me very angry when I learned that something like that could be taken so lightly."

Jane Ross Galliher

little old lady might have been raped herself."

Schmidt, who is running for re-election unopposed, will not comment on Jane's case, and he neither denies nor confirms the statistics derived from Yoswig's database. He says his office does not keep track of how many cases it dismisses; nor, he says, does he keep a tally of wins and losses.

"Every one of these cases is reviewed by a trained professional prosecutor," he says. Schmidt will not allow those prosecutors to talk to a reporter.

The only facet of Jane's case Schmidt will address directly is her recollection that he mentioned a "little old Baptist" juror. He denies using that phrase. Jane is certain he said it.

As for crime victims in general whose cases aren't resolved, Schmidt says he has nothing but sympathy for them.

"My heart goes out to them. I feel terrible about that. There's nothing I like more than to be able to bring an individual to justice," he says. "But again, as a professional [prosecutor], you don't just throw something up on the wall to see if it sticks."

Jane says Schmidt can keep his sympathy — she doesn't believe it's sincere. She says he doesn't comprehend what a devastating crime rape can be, not just for her but for other women.

"It made me very angry when I learned that something like that could be taken so lightly," Jane says. "This is really a crime. And it's just being blown off. And the men never have to be held accountable.

"I said if this isn't rape, what is it? And John Schmidt didn't say anything." ■