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CRITICAL ISSUES IN POLICING SERIES

Improving the Police Response To Sexual Assault



POLICE EXECUTIVE
RESEARCH FORUM

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Improving the Police Response to Sexual Assault

March 2012



POLICE EXECUTIVE
RESEARCH FORUM

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Acknowledgments

THE PROJECT DESCRIBED IN THIS REPORT WAS initiated by Philadelphia Police Commissioner Charles Ramsey, who serves as President of PERF. In September 2010, Commissioner Ramsey testified before a Senate Judiciary subcommittee at a hearing titled “The Chronic Failure to Report and Investigate Rape Cases.”¹ Also testifying was Carol Tracy, executive director of the Women’s Law Project in Philadelphia.

At that hearing, Commissioner Ramsey and Ms. Tracy described an overhaul of the Philadelphia Police Department’s handling of sexual assault cases that began in 1999 and continues to this day. Today the Philadelphia Police Department is known for having a model program to ensure that sexual assault investigations are thorough and effective. Witnesses at the Senate hearing also called on the FBI to update the antiquated definition of rape used in the Uniform Crime Reporting (UCR) system, which until recently excluded many types of sexual assaults.

Despite the advances that had been made in Philadelphia and the progress that would soon be made on the UCR issue, Ramsey knew that an enormous amount of work remains to be done to improve sexual assault investigations, both in Philadelphia and across the nation. So he announced at the Senate hearing that in his capacity as President of PERF, he would convene a Summit of police executives, medical and mental health professionals, crime victim advocacy groups, and others to explore these issues. “We must all be advocates for anyone who has been impacted by this kind of violence,” Ramsey told the Senate panel.

This report summarizes the results of the Summit that was first envisioned by Commissioner Ramsey. So he is the first person to be thanked for encouraging this project.

Thanks also go to all of the PERF members and other experts who participated in our Summit (and who are listed in an appendix to this report). Many PERF members also helped us to prepare for the Summit by giving us information about their sexual assault policies and procedures, through a survey we conducted as well as a series of phone interviews.

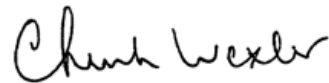
And I’d like to thank the Motorola Solutions Foundation for supporting PERF’s Critical Issues in Policing Series. This report is the 20th in the series. The first 19 reports in this series are listed on the back cover of this report, and if you just take a look at the titles, I believe you will agree that the Motorola Solutions Foundation can take pride in having supported this body of work. The Critical Issues Series has taken on many of the toughest issues in policing over the last two decades—issues like use of force; managing large-scale demonstrations; immigration enforcement; reducing violent crime; gangs, guns, and hot spots; the impact of the economic downturn on policing, and many more.

So once again, thanks go to Greg Brown, Chairman and CEO of Motorola Solutions; Mark Moon, Senior Vice President, Sales and Field Operations; Karen Tandy, Senior Vice President of Public Affairs; Jim Welch, Senior Vice President, North American Sales; Rick Neal, Vice President, Government Strategy and Business Development; and Matt Blakely, Director of the Motorola Solutions Foundation.

1. <http://www.judiciary.senate.gov/hearings/hearing.cfm?id=e655f9e2809e5476862f735da16234b9>

Finally, I'd like to express my gratitude for the solid work of the PERF staff. Chief of Staff Andrea Luna oversaw and managed this project, and Deputy Chief of Staff Shannon Branly took on multiple roles, conducting background research, helping design our survey, and coordinating the Summit. Research Director Heath Grant, Senior Research Associate Bruce Kubu and Research Assistants Nate Ballard and Colleen Berryessa produced and

implemented the survey. Project Assistants Balinda Cockrell and James McGinty, Special Assistant Tam Vieth, and PERF Fellow Molly Bartley conducted research and helped run the Summit. Communications Director Craig Fischer produced this report with assistance from Research Associate Sunny Schnitzer, and our graphic designer, Dave Williams, deserves thanks for his thoroughness and exceptional attention to detail.



Executive Director
Police Executive Research Forum
Washington, D.C.



Executive Summary

“This is a very important meeting. The police response to sexual assault has been an issue for as long as I’ve been in law enforcement, and that’s been more than 40 years. This is an issue that police shouldn’t try to handle on their own. We need to work with courts, victims’ advocates, crime prevention groups, and others to ensure that we treat rape victims with compassion, and to ensure that our processes are transparent. These partnerships strengthen every part of the process, from reporting every case and doing thorough investigations to helping reduce the trauma of victims.”

WITH THOSE OPENING REMARKS, PHILADELPHIA Police Commissioner Charles Ramsey set the tone for PERF’s Summit on “Improving the Police Response to Sexual Assaults,” held on September 23, 2011. This conference brought together approximately 150 police executives, leaders of women’s and crime victim organizations, FBI leaders and other federal officials, and others to explore weaknesses in the investigation of sexual assault crimes.

The Summit received significant attention from the news media because of one of the issues it covered: the inadequacies of the definition of rape used by the FBI in its Uniform Crime Reporting (UCR) program.² That definition, “the carnal knowledge of a female, forcibly and against her will,” had not been changed since 1927. The definition was interpreted to exclude a long list of sex offenses currently considered criminal in most jurisdictions, including offenses involving oral and anal penetration, penetration with objects or body parts other than the penis, rapes of males, incest, rape of victims unable to give consent because of youth, disability, or drugs, and other types of offenses. Thus, the UCR statistics for decades had failed to capture the full extent of sex crimes in the United States.

The UCR issue was discussed in September 2010 at a hearing of the Senate Judiciary Subcommittee on Crime and Drugs. Witnesses included Commissioner Ramsey and Carol Tracy, executive director of the Women’s Law Project in Philadelphia, which had first called for changes in the definition in 2001.

At the time of the PERF Summit, an FBI subcommittee was considering a proposal to rewrite the antiquated definition. An FBI official at the PERF conference told the participants that there was agreement within the FBI that the definition needed to be changed, that the Bureau was working to ensure that the best possible definition was developed, and that a new definition will impact records management systems and will require additional training throughout police agencies. On January 6, 2012, less than four months after the PERF Summit, the Justice Department announced that the UCR definition had been changed to “the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”

2. See, for example, the Sept. 28 New York Times article, “Rape Definition Too Narrow in Federal Statistics, Critics Say,” at <http://www.nytimes.com/2011/09/29/us/federal-rules-on-rape-statistics-criticized.html>

MANY CHALLENGES REMAIN

While the UCR definition was the issue that garnered the most attention, it is by no means the only issue facing police agencies nationwide with regard to their handling of sexual assault investigations. Most of the PERF Summit, and the bulk of this report, are devoted to these other issues, including the following:

The Philadelphia Model: John Timoney, who took office as Police Commissioner in Philadelphia in 1998, made a presentation at the PERF Summit regarding a series of reforms he undertook in 1999 when the *Philadelphia Inquirer* published a series of articles exposing the deliberate downgrading of rape cases in that city. Those reforms included the formation of a partnership between the Police Department and the Women’s Law Project, in which the Women’s Law Project was invited to monitor the Police Department’s handling of sexual assault cases. Villanova Law Professor Michelle Madden Dempsey has said that the Philadelphia program “exemplifies the positive changes that can be realized when advocates and local law enforcement come together to discuss the reasons why some cases are not pursued by law enforcement,” and that it “can serve as a model for the rest of the United States.”³

However, PERF’s survey revealed that most departments have not adopted one of the key elements of Philadelphia’s system: inviting one or more external organizations to review police investigations. Of the departments responding to the survey, 35 percent said their sexual assault investigations are subject to review or auditing by outside entities.

Unwarranted “unfounding” of rape cases:

A number of police executives described efforts that have been taken to ensure that police do not improperly classify reported sexual assaults as “unfounded.”

Because classifying a case as unfounded is essentially a statement that police do not believe a crime occurred, unfounded allegations are not counted in crime statistics. Unwarranted “unfounding” of

cases can result in offenders remaining free—and in victims losing trust in the justice system. Furthermore, improper unfounding of cases contributes to the undercounting of sexual assault crimes, and reduced levels of resources for investigation of sexual assault crimes and less assistance to victims.

Despite the widespread recognition of this problem more than a decade ago in Philadelphia and the resulting reforms there, police chiefs at the PERF conference noted that improper unfounding of sexual assault cases remains a serious issue in many cities. In some cases, officers have “unfounded” cases merely because they could not substantiate evidence of physical trauma or because they made judgments about whether prosecutors would consider the case weak. In 2010, this issue was highlighted in Baltimore when the *Baltimore Sun* revealed that police in that city were classifying sexual assaults as unfounded at a rate five times higher than the national average.

At PERF’s conference, police executives described several initiatives that have been undertaken to prevent improper “unfounding” of cases, including:

- Conducting audits of past cases to identify improperly classified cases;
- Eliminating the authority of patrol officers to determine that a case is unfounded, and requiring approval of superior officers to classify a case as unfounded;
- Working with advocacy groups to improve transparency and oversight of policing handling of sexual assault cases; and
- Improved training of officers regarding the dynamics of rape and how they differ from other crimes. For example, rape victims often feel shame, embarrassment, or stigma that victims of robbery or other serious crimes do not experience.

3. <http://www.judiciary.senate.gov/pdf/10-09-14MaddenDempseyTestimony.pdf>

There was agreement at the PERF conference that there is no single policy change that can resolve all problems with sexual assault investigations. Rather, police departments need a comprehensive approach that produces a deeper understanding of sexual assault crimes by all officers.

For example, one chief said that police should not necessarily classify a sexual assault as unfounded if the victim recants and says the crime never occurred, because such statements may be the result of pressure or coercion by the perpetrator or others.

Another police executive noted that in addressing the issue of unwarranted “unfoundings,” police leaders must be careful that new methods of downgrading sexual assaults do not crop up, such as classifying rapes as “miscellaneous incidents.”

Serial rapists: Police chiefs noted that most sex offenses are committed by a person who is known to the victim, but noted that sexual assaults committed by strangers raise a number of special issues.

For example, “stranger” rapists often are serial offenders, and as police begin to develop information about a serial rapist who remains at large, they sometimes have to make difficult decisions about whether to release details about the offender’s crime pattern to the public. Providing information about when, where, and how a serial rapist is committing crimes can help members of the public to protect themselves, but it also can signal to the offender that the police are getting closer to making an identification or an arrest, which might alert the offender to change his pattern to avoid arrest. A number of chiefs who have experience with serial rapist cases discussed those cases, and generally agreed that it is usually better to release information sooner rather than later.

Sexual assaults on university and college campuses: Police executives with jurisdiction over college or university campuses noted that in cases where victims are intimidated at the prospect of testifying in a criminal prosecution, there is often an internal disciplinary procedure that offers the victim greater privacy, but the sanctions are limited

to non-criminal penalties such as expulsion of the offender. However, university police must be careful to ensure that no one will get the impression that police want to “sweep cases under the rug” by avoiding criminal prosecutions and relying on university discipline systems. Furthermore, some noted that in the past, victims may have been able to avoid the glare of publicity to some extent by using a university disciplinary system rather than criminal charges, but today’s social media such as Facebook and Twitter make it less likely that a victim will be able to avoid unwanted attention.

One university police official noted that gay and lesbian students in his community have not been reporting sexual assaults, and expressed the belief that those students are being victimized but for various reasons are less likely to come forward and report crimes.

In addition, participants at the PERF conference noted that sexual assaults on campuses are governed by several federal laws, such as reporting requirements under the 1990 Clery Act, which requires colleges and universities to file statistics about crimes reported to college officials.⁴

DNA evidence: DNA evidence has proved very useful in investigation of sex crimes because of the likelihood of offenders leaving biological evidence at the crime scene. However, participants at the PERF conference noted that many jurisdictions continue to struggle with backlogs of DNA evidence waiting to be tested. Police generally believe that priority should be given to testing DNA evidence from “stranger rape” cases first, because it is those cases in which identification of the perpetrator via DNA testing is at issue. However, DNA testing can also be productive in cases of sexual assault by a person known to the victim, because getting the DNA profiles of “acquaintance rapists” into federal databases can help to determine if they have committed other crimes, including stranger rapes, or can help to identify them in the future if they commit such crimes.

4. Additional information is available from the U.S. Department of Education at <http://ope.ed.gov/security/>.

Lynn Rosenthal, Advisor on Violence Against Women, Office of Vice President Biden



Participants also discussed the relatively new technology of “familial” DNA testing, in which an unknown DNA profile from a crime scene is run through offender databases, and if no exact match is found, the system searches for imperfect matches, which may result in the identification of a close family member of the perpetrator. That family member can then be questioned to develop leads about a possible suspect. Several police executives agreed that familial DNA testing should not be the first tool to be used, because it raises difficult civil rights issues. However, because of the seriousness of sex offenses and the high potential of familial DNA testing for helping in the investigation of such crimes, some jurisdictions are allowing familial DNA testing in limited circumstances.

SART programs: Several police officials discussed Sexual Assault Response Teams (SART)—programs that coordinate the response of police, prosecutors, sexual assault victim advocates, Sexual Assault Nurse Examiners, and others. SART programs are widely considered to be very effective at improving the response to victims, while increasing the likelihood that offenders will be arrested, charged, and convicted.

The PERF survey of law enforcement agencies found that nearly 90 percent of respondents

reported that they participate in a SART program, but the strength and makeup of the programs vary widely. Police executives at the PERF conference stressed that detectives who handle sexual assault cases must form very close relationships with other SART members, not only on individual cases but in terms of permanent relationships that facilitate discussion of systemic reforms and other issues. Another police official said that interactions between the police and Sexual Assault Nurse Examiners are especially important, because the nurses are trained in forensics and are often excellent interviewers who obtain more information from victims than do police officers.

The remainder of this report provides additional information about these and other issues discussed at the PERF Summit.



John Laub, Director,
National Institute of Justice

Survey of Police Agencies About Their Sexual Assault Policies and Practices

IN AUGUST 2011, PERF SURVEYED POLICE agencies regarding their practices and policies on the reporting and investigation of sexual assaults. The survey also explored police executives' views about the limitations of the definition of rape used by the FBI in the Uniform Crime Reporting program.⁵ The survey captured a cross-section of agencies of various sizes, ranging from 12 sworn officers to more than 9,000 officers.

The survey produced findings on a number of issues:

Initial coding of reported crimes: There has been controversy in a number of police departments about unwarranted “unfounding” of sexual assault crimes (essentially a statement by a police agency that it does not believe that a crime occurred) or downgrading of incidents to non-criminal categories.

In the view of crime victims' organizations, there are various reasons why police agencies sometimes handle sexual assaults less seriously than they should. For example, officers may have had inadequate training, and may cling to outdated ideas about sexual assaults, such as the view that rape victims should physically resist their attackers, and that a lack of evidence of physical injury in a victim makes a case less worthy of police action. Or there may be subtle or overt pressure within a police agency to reduce reported crime rates, so officers may downgrade reports of sexual offenses or classify them as unfounded.

Thus, a key question is who within a police department is authorized to classify an alleged sexual assault incident in official records systems. The PERF survey asked agencies for details about which employees within the agency are authorized to code an incident as a reported sexual assault, and which employees are authorized to change an initial coding of an incident at a later time.

The survey showed that initial codings are usually made at the line officer level. When asked, “Who determines the initial coding of a sexual assault?” 69% of agencies reported that dispatchers or call-takers could make such a determination, and 60% said that responding officers could do so (multiple responses were allowed). Only 30% of agencies reported that investigators determine initial codings of sexual assaults, and 28% reported that supervisors make such determinations.

However, virtually all of the responding agencies said that initial codings can be changed or updated at a later time, and in some agencies, those decisions must be made at a higher level. When asked, “Who can determine the change in coding? (mark all that apply),” 62% of agencies said that the responding officer could change the coding of reported sexual assaults, 87% said that investigators could change the coding, and 91% said that supervisors could make such changes.

Policies and training: The survey indicated that most agencies have policies as well as training curricula regarding the handling of sexual assaults,

5. Of 502 agencies that received surveys, 306 responded, a 61% response rate.

Atlanta Police Lieutenant
Stacie Gibbs



and that the policies and training materials provide specifics for various levels of police employees.

More specifically:

- 75% of agencies have policies or protocols regarding the responsibilities of *dispatchers and call-takers*, and 63% of agencies have training curricula regarding those employees' handling of sexual assault calls.
- 92% of agencies have policies or protocols on the responsibilities of *officers who respond to sexual assault calls*, and 81% have training curricula for those employees.
- 93% of agencies have policies or protocols for *investigators or detectives* who handle sexual assault cases, and 85% have training curricula for those employees regarding sexual assaults.
- 85% of agencies have policies or protocols for *supervisors or internal case reviewers*, and 72% have training curricula for those employees.

Specialized units: Most agencies responding to the PERF survey (61%) report that they have a specialized unit for investigating sexual assault cases. Among those agencies, 85% said the unit also handles child sexual abuse cases, and 75% said the unit also handles child physical abuse cases.

The Sexual Assault units ranged in size, with one large agency reporting that its unit has 88 employees. Most agencies said their Sexual Assault units have between 2 and 10 employees.

Internal and external reviews: 87% of the police agencies responding to the PERF survey said they have internal supervisory review or quality assurance audits to ensure that sexual assault cases are classified and investigated appropriately.

A number of police agencies have followed the lead of the Philadelphia Police Department,

which created a system of external review of its handling of sexual assault cases in the late 1990s, under the leadership of then-Commissioner John Timoney. (See page 6.) Under that system, which continues to this day, the Women's Law Project, along with other organizations in Philadelphia, is authorized to conduct an annual review of "unfounded" rape files and a random sampling of open sexual assault cases and raise questions about any cases they believe may have been handled inadequately.

With that type of program in mind, PERF asked survey respondents, "Are your agency's sexual assault investigations (including unfounded cases) subject to review or auditing by organizations outside of the police department, such as social services, victim advocacy/assistance agencies, etc.?"

The survey found that 35% of responding agencies do have outside reviews of some or all of their sexual assault cases.

Release of information to the public: At the PERF Summit on Improving the Police Response to Sexual Assaults, one of the issues discussed was how quickly police should release information to the public in cases where they have evidence that a serial rapist has committed multiple crimes in the community. Once police begin to develop information indicating that multiple crimes have been committed by a single perpetrator, they may see patterns in how, when, and where the offender is

Major New CDC Survey Shows High Rates of Sexual Assaults

In December 2011, the Centers for Disease Control and Prevention (CDC) announced the release of the first National Intimate Partner and Sexual Violence Survey, conducted in 2010 with support from the National Institute of Justice and the Department of Defense.

The survey is based on interviews of 16,507 adults (9,086 women and 7,421 men). Findings include the following:

- 18% of women and 1.4% of men reported having been raped at some time in their lives.
- Overall, “stranger rapes” are less common than rapes by persons known to the offender. 51% of female rape victims reported being raped by an intimate partner; 41% by an acquaintance; and 13% by a family member. 14% reported being raped by a stranger. (Numbers add to more than 100% because some respondents reported being victimized more than once.) For male victims, 52% reported being raped by an acquaintance, and 15% by a stranger.
- 80% of female victims experienced their first or only rape before the age of 25.
- 28% of male victims experienced their first or only rape at age 10 or younger.

The CDC survey produced estimates of sexual violence that are significantly higher than those produced by the FBI’s Uniform Crime Reporting system. There are many reasons for these differences, beginning with the fact that the UCR collects data only on crimes reported to the police, while the CDC survey also includes reports of sexual violence never reported to police. The limitations of the

old UCR definition of rape (see page 30) also preclude data collection on many types of sex offenses covered by the CDC survey.

Even considering those differences, the contrast between UCR and CDC figures is startling. For the year 2010, the FBI reported a total estimate of 84,767 forcible rapes. The CDC survey asked respondents about sex offenses committed against them during their lifetime as well as in the 12 months previous to the time of the survey. The CDC estimated that 1,270,000 women in the United States were victims of a completed or attempted rape during that 12-month period. That includes 620,000 cases of “completed forced penetration,” and 519,000 incidents of “attempted forced penetration.”

The National Crime Victimization Survey, conducted by the Justice Department’s Bureau of Justice Statistics (BJS), also indicates higher levels of rapes and sexual assaults than are indicated by the UCR. The BJS survey, like the CDC survey but unlike the UCR figures, includes crimes that victims did not report to the police. The most recent BJS survey estimated that there were 188,380 rapes/sexual assaults in 2010.

Additional information about the CDC survey can be found at <http://www.cdc.gov/violenceprevention/nisvs/index.html>, and UCR statistics about rape can be found at <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/violent-crime/rapemain>. The 2010 BJS National Crime Victimization Survey report is available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cv10.pdf>.

committing the crimes. By releasing such information to the public, police may be able to offer residents tips about how to avoid those situations and protect themselves. At the same time, public release of such information may also signal to the offender that police are getting closer to making an identification and an arrest. That may cause the offender to change his patterns or take other steps to avoid arrest.

A number of police chiefs with experience in such cases discussed that issue, and generally agreed that it is usually better to release information sooner rather than later. The PERF survey produced similar findings; when asked about the situation in which they release information about sex crimes to the public, 88% of responding agencies said they make public notifications about sexual assault cases “that pose a risk to the public.”

Sexual Assault Response Teams (SART):

The survey asked police agencies whether they are involved in Sexual Assault Response Teams—programs that coordinate the response of police, prosecutors, sexual assault victim advocates, Sexual Assault Nurse Examiners, and others. SART programs are widely considered to be very effective at improving the response to victims, while also increasing the likelihood that offenders will be arrested, charged, and convicted.

88% of the agencies responding to the PERF survey said that they do “participate in a SART and/or partner with agencies/organizations in an effort

to improve investigative services and support to sexual assault victims.”

However, participants at the PERF Summit noted that definitions of SARTs, and the strength of such programs, vary widely.

Collection of data about sexual assaults:

Nearly all agencies responding to the PERF survey said they collect and keep data on sexual assault cases internally for various purposes. The data usually include information about offenders and arrestees, victims, details of the offenses, and case outcomes. The data is almost always collected automatically through the agency’s records management system (RMS), and one-third of the agencies said the data is sometimes updated by handwritten or typed records.

The purposes of collecting such information include identifying crime trends and “hot spots” (cited by 82% of responding agencies); identifying repeat offenders (79%); internal audits and reviews (84%); and educational or training programs within the department (47%). Slightly over one-third of the agencies said they also collect such data for review by organizations external to the police department.

UCR definition of rape: This report describes how PERF’s Summit played a role in drawing attention to the inadequacies of the definition of rape used by the FBI in the Uniform Crime Reporting program (see page 30). A panel of experts established by the FBI was considering changes to the definition at the time of the PERF meeting, and less

RIGHT: IACP
Program Manager
Aviva Kurash

FAR RIGHT: Frederick,
MD Police Chief
Kim Dine



than four months after the meeting, Attorney General Eric Holder announced that he had approved a new definition.

The PERF survey produced evidence that a large majority of local and state law enforcement agencies recognized that the old UCR definition of rape needed to be changed, and that the new definition approved by the Attorney General will be supported by local police.

Specifically, the PERF survey noted that the old definition of rape used in the UCR, which dated to 1927, was “the carnal knowledge of a female, forcibly and against her will,” and asked, “Do you believe this is an adequate definition of forcible rape?”

More than 79 percent of the survey respondents said they do not believe the old definition was adequate. For those respondents, the survey asked several follow-up questions about the particular inadequacies of the definition, and these were the results:

- 94% of agencies said “the definition needs to include the possibility of males as victims.”
- 88% said “the definition needs to include the possibility of females as offenders.”
- 87% said “the definition needs to include vaginal penetration by any object.”
- 83% said “the definition needs to include anal penetration by any object.”

- 69% said “the definition needs to include anal penetration by the sexual organ of the male only.”
- 67% said “the definition needs to include oral penetration of the victim by the sexual organ of the male only.”
- 58% said “the definition needs to include oral penetration by any object.”

The new definition, developed by the FBI’s Criminal Justice Information Services (CJIS) Advisory Policy Board and approved by the Attorney General, is “the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”

The survey asked whether changing the FBI definition would create “a significant barrier to reporting” sexual assault data to the UCR system, and 96% of responding agencies said no. On average, responding agencies estimated that making the changes would cost approximately \$23,000, to account for work such as modifying computer systems and training personnel in the implications of the new definition.



FAR LEFT: Bea Hanson, Principal Deputy Director, Office on Violence Against Women, USDOJ

LEFT: Nashville Police Chief Michael Anderson

Baltimore and New Orleans Are Among the Cities Facing Issues Similar to Philadelphia's from a Decade Ago

MORE THAN 150 POLICE EXECUTIVES, FEDERAL officials, and crime victims' advocates convened at PERF's Summit in Washington, D.C. on September 23, 2011, to discuss the reporting and investigation of sexual assaults.

The meeting began with a discussion of three cities that have grappled with this issue: Philadelphia, Baltimore, and New Orleans. In Philadelphia, a series of newspaper articles in 1999 revealed significant problems with the police response to sexual assaults. John Timoney, who had recently moved from the New York City Police Department to become Police Commissioner in Philadelphia, undertook a number of reforms that today are considered a model program. Below are his remarks at the PERF Summit, recounting that story.

Carol Tracy, Executive Director of the Women's Law Project in Philadelphia, also played a key role in implementing the reforms—a role that she has

maintained for more than a decade. Ms. Tracy's comments at the PERF meeting follow Chief Timoney's.

Finally, this chapter includes comments by Baltimore Police Commissioner Fred Bealefeld and New Orleans, LA Commander Paul Noel, who have recently faced issues regarding sexual assault crimes, and have implemented reforms similar to those established in Philadelphia.

Former Philadelphia Commissioner John Timoney:

Fixing Policies Was Just the First Step; We Also Had to Restore The Department's Credibility

I went to Philadelphia in March 1998. The *Philadelphia Inquirer* had been doing stories about issues with the city's crime statistics, and that was one of the reasons I was brought in—to reorganize the department, look at the crime statistics and a host of other things.

While we were getting started with our reforms, a young woman named Shannon Schieber, a Wharton student, was raped and killed in her apartment. The case, involving a home invasion and brutal killing in the middle of the night, got a lot of attention.



John Timoney, Senior VP, Andrews International, and former Philadelphia Police Commissioner and Miami Police Chief

One big problem was that the Philadelphia Police Department, like every other police department in America at that time, was just storing a lot of the rape kits it was collecting and was not doing DNA testing on them. There was a backlog and we couldn't test them all, so the reasoning was that we would only do the testing if there was an arrest made and the DNA evidence was going to be used in a prosecution.

But if you think about DNA for a second, DNA is about identification. About 20 percent of rapes are called "stranger rapes." All the rest are "known doers"—the boyfriend, the next-door neighbor, whoever it is. And those cases turn on whether there was consent, not on identifying the suspect. So we implemented a policy requiring all rape kits from stranger rapes to be processed. And as soon as you get DNA matching in multiple cases, you know that you are dealing with a serial rapist.

In the Schieber case, I said to the detectives, "I doubt this is the first time this guy has struck." And sure enough, we tested the DNA from other cases and found that it wasn't the first time this guy had attacked women in Philadelphia. He had hit the summer before in the same neighborhood three different times, three different women, all of them home invasions like the Schieber case.

So we had DNA evidence indicating that Shannon Schieber's killer had committed other attacks. But he wasn't in the known offender database yet, so we didn't know who he was. He wasn't caught until four years later. He joined the Air Force and later moved to Fort Collins, Colorado, where he committed more home invasions and sexual assaults. DNA in those cases was matched to the DNA in the Philadelphia cases, which led to his arrest in Fort Collins in 2002.

Soon after the Schieber murder, we quickly made a new policy requiring DNA testing of the evidence in all stranger rapes, and we set up a system for testing in stranger rape cases going back five

years. And I thought I had the rape issue pretty well fixed.

But then in 1999, the *Inquirer* came out with a whole new investigation where they identified cases of questionable handling of calls that involved allegations of sexual assaults. In some of these cases, the officers would take an initial report and mark it for investigation by detectives, but the detectives never did the followup. If you've been a cop, you'll recognize the situation: You're a young cop; you respond to a call at 2 o'clock in the morning; the caller tells you a story that doesn't seem to make sense, or the caller is drunk and can't remember any details. And the young cop doesn't know how to handle it, so he just marks it for detectives to do follow-up. But the detectives were busy and weren't doing the follow-up, and there was never any pressure to do the follow-up. So rape cases were falling through the cracks.

Thus, the *Inquirer* had uncovered another big problem with our sexual assault investigations. Within the next month or so, I got rid of everybody in the Special Victims Unit, including the captain. I chose the best captain from Internal Affairs, Joe Mooney, and a whole new team of detectives. And they set about the business of going back over 2,000 cases. They found several hundred that should have been classified as rapes and investigated. And I think they did a good job of reforming the entire operation.

But there was also an issue regarding the credibility of the department. Public confidence had taken a huge, huge hit.

I had gotten to know Carol Tracy and some of the other activists and had a lot of respect for them. So I decided to put together an independent committee of people who could review every single sexual assault case, and could bring cases to the attention of the lieutenant or captain if they thought something wasn't done right. And Captain Mooney could then tell people, "You didn't do this

Carol Tracy, Executive Director,
Women's Law Project



properly” or “I want you to reinvestigate this one.” And I told the committee that if they ever didn’t get a satisfactory response from the captain, they could come see me and I’d make sure the case would be reinvestigated.

Chuck Wexler: Was there any problem with letting people from outside the department see case files with victims’ names and other sensitive information?

Chief Timoney: Well, the committee members were serious people and they were sworn to confidentiality, so we never had a problem with that.

**Carol Tracy, Executive Director,
Women’s Law Project:**

*Sexual Predators Are Serial Offenders,
And We Need to Focus
On Offender Behavior*

I’d like to thank Commissioner Ramsey for bringing the issue of police response to sex crimes to PERF. Commissioner Ramsey and I testified in September, 2010 before the U.S. Senate Judiciary Subcommittee on Crime and Drugs, at a hearing on *Rape in the United States: The Chronic Failure to Report and Investigate Rape Cases*.

I also want to thank Motorola for funding this extremely important meeting and the PERF staff for putting it together. I also want to thank former Philadelphia Police Commissioner John Timoney for his leadership in responding to a serious crisis in Philadelphia when public allegations were made that the police were not investigating sex crimes.

The Women’s Law Project became involved in this issue in 1999 when the *Inquirer* did its investigative series alleging that the police were misclassifying thousands of sex crimes into non-criminal categories and thereby was not investigating them.

Because the situation in Philadelphia was nationally publicized, crime reporters from other

cities started contacting the Women’s Law Project. We realized from all these contacts with reporters that we were seeing what looked like a national scandal or something at least that required national attention. We have testified about what we’ve learned about police failing to take reports on sex crimes, misclassifying them into noncriminal categories and not investigating them, or “unfounding” them at shockingly high rates.

We also have learned about the experiences of rape victims. Rape is the most underreported of crimes, because rape victims find it so difficult under the best of circumstances to report it to the police. But it’s made worse when victims say they were interrogated by the police as though they were criminals. Or they are disbelieved and threatened with lie detector tests, or essentially blamed for the conduct of perpetrators.

“WHY DOES THIS KEEP HAPPENING?”

Significantly, last spring the Civil Rights Division of the Justice Department completed its investigation of the New Orleans Police Department. Among the DOJ findings was that NOPD “has systematically misclassified large numbers of possible sexual assaults, resulting in a sweeping failure to properly investigate many potential cases of rape, attempted rape, and other sex crimes.”

The DOJ report is significant because it is the first official finding of gender bias in police investigations of sex crimes and it mirrors what we saw in 1999 in Philadelphia and what has been reported

in numerous other cities. So it raises the question of why this keeps happening. I think we have recognized that sexual stereotypes and bias have a history dating back centuries. And though we've made progress in many areas, bias in the handling of sexual assaults still permeates society, including police practice as well as the entire justice system. We know that prosecutors, judges, and juries are also not immune to this. But because police are first responders, their behavior is critical to victim trust in the police and participation in prosecution.

Public safety requires that we overcome historical bias and improve law enforcement response to sex crimes, especially because a significant body of research tells us that sexual predators are serial predators who commit multiple sex crimes and other violent crimes, including murder.

The most important message that I hope will come out of this today is that rapists are serial predators, and we need to have a paradigm shift, away from focusing on the behavior of the victims and toward focusing on offender behavior—offender behavior that is serial in nature and very dangerous, very violent.

It's also important for us to understand that data drives practice. That's why changing the UCR definition is so important. The public has a right to know about the prevalence of violent crime in our communities. And we know that data drives resources, policies and programs.

We know that change is possible, because we saw it happen in Philadelphia. While we appreciate the praise that the Women's Law Project has received for its advocacy in Philadelphia, it was the leadership of Commissioner Timoney that transformed sex crime investigations. Commissioner Timoney reorganized the department and put in appropriate management and accountability measures. Without them, we wouldn't be having this conversation today; all we would be doing is criticizing, not cooperating. And he did it in a context of great transparency. The public knew what was going on, and he invited us to be community partners. And we are grateful that his successors, including Commissioner Ramsey, have continued our collaboration.

It's also very clear that there are individual police officers and departments that are doing the right thing. We knew that to be true in Philadelphia at the height of the crisis. And we understand that investigating sex crimes, particularly crimes against children, is extremely stressful. The police have higher rates of post-traumatic stress disorder than veterans and get very little support to deal with their secondary trauma.

I want to conclude by saying how grateful I am that there are so many people here today who are willing to talk about best practices, who are willing to talk about flawed practices, and who are willing to move us to the next step. I am absolutely convinced by the extraordinary turnout here today that that's what today is all about. I feel privileged to be a part of it and I thank you so much for making this happen.

Baltimore Commissioner Fred Bealefeld:

Baltimore Was Classifying Sexual Assaults as Unfounded At a Rate 5 Times the National Average

In 2010 the *Baltimore Sun* discovered that the Baltimore Police Department was classifying rape cases as "unfounded" at a rate five times higher than the national average. Many people ask how this could happen after the highly visible incidents in Philadelphia that occurred 10 years ago. What we found was that the culture had eroded so slowly over time, that we hadn't noticed the changes occurring right in front of us. More cases were being classified as unfounded, victims were being interrogated, and detectives started acting like prosecutors by evaluating which victims would make good witnesses in court. There were a lot of contributing factors that led to this grim situation.

After these stories came out, the mayor and I immediately called for an audit. There was an existing Sexual Assault Response Team that met on a regular basis, but they weren't empowered to have much oversight. One of the first things we did was to give them the ability to audit Police Department practices and past cases.

Baltimore Police Commissioner
Fred Bealefeld



When a case is unfounded, a determination has been made that a rape did not occur. Unfounded cases also don't go into a department's UCR statistics. We pulled 150 closed cases from 2009 that had been classified as unfounded, and our audit found that over half of those cases were misclassified and should have been open investigations.

Next, we took away the ability of the patrol officers, who were the first responders, to determine a case was unfounded. We also increased the supervision on detectives when they determine a case is unfounded. The unit commander now has to sign off on any unfounded sexual assault case in the city.

WE'VE MADE SOME PROGRESS,
BUT THE PROBLEM HAS DEEP ROOTS

I think we've made some good changes in Baltimore. We've partnered with advocacy groups like Turn-Around, which provides counseling and support services to victims of sexual assault and domestic violence. And we have tried to make our process transparent.

But I think the culture in our society doesn't encourage these victims to come forward, and that really is the biggest challenge for us. There were 236 rapes reported through the end of August this year, and we had 158 through that point in 2009. We see the increase as encouraging because it means that more victims trust us, but I think that that is still a small number in comparison to what the real problem is in Baltimore.

We police professionals try to develop procedures, training, and practices that will make our departments better. But that doesn't mean we are addressing the societal problems that lead to sexual assault in our cities. We can't analyze sexual assault issues within the department the same way we analyze traffic problems. There is no one policy change that will solve this problem.

I think the Baltimore Police Department has taken a small step forward in effectively dealing with this problem. We've taken procedural steps like increased training for the collection of physical evidence. We've committed ourselves to working through the backlog of open rape kits. But the heart of the issue is getting the first responder to understand what it means to be a victim. We need to enable the victims to feel comfortable coming forward and reporting the crimes.

The credibility with the community is very hard to win back.

Advocacy groups have to be completely honest—critical of what we're doing wrong, and also willing to tell us what they think we're doing right. To achieve transparency, you have to give people a lot of access. And as I've worked on this, I've learned that not all police departments are willing to open themselves up in the manner that's needed to address this problem. Agencies need to be ready for every bit of criticism that this issue brings. The network that the mayor established in Baltimore cast a pretty wide net for including advocacy groups, including community partners that historically have been very critical of the Police Department. We have to give them access to our department and let them honestly report their findings and our progress to the media.



New Orleans Police Commander
Paul Noel

New Orleans Commander Paul Noel:

*We See the Increase in
Reported Sexual Assaults As a Sign of
Increased Trust in our Department*

We started making changes internally in July 2010, before the U.S. Department of Justice began reviewing the way we handled sexual assaults.

We realized that there were major flaws in the way we were handling our sexual assault cases. The first problem was classification. Rather than marking cases as “unfounded,” our officers were classifying complaints that they didn’t think were true as “miscellaneous incidents.” Our number of unfounded sexual assault complaints was actually zero. However, there were twice as many “miscellaneous incidents” as sexual assaults.

After discovering this, we collaborated with the Louisiana Commission on Law Enforcement to audit our cases from 2009 and 2010. We found huge problems and reopened a number of cases from the previous two years.

We also implemented new procedures requiring the commander of the Sex Crimes section to sign off on the classifications for all sexual assault cases.

As a result of these changes, we’ve seen a huge jump in the number of reported sexual assaults. In the last five months of 2010, we saw a 49% increase in sexual assaults. So far in 2011 we’ve seen a 35% increase. We’re actually proud of this increase, because we know that a certain number of sexual assaults are occurring in our city, and a large number of them go unreported. We’re trying to decrease the number of incidents that occur but are not reported, and these increases in reported sexual assaults tells us that we’re starting to accomplish that. We know as we regain the public’s trust, victims will feel comfortable reporting sexual assaults to the NOPD.

**TRAINING DETECTIVES TO
UNDERSTAND HOW VICTIMS THINK**

We also spoke with the advocacy groups in the city, with whom we had never worked before, and told them that we knew we had a problem and needed their help to fix it. Some of our detectives really didn’t understand how sexual assault victims think, and that led to many of our misclassification problems. We asked these advocates and experts at Tulane University to design a training program that would teach our detectives how to better relate to sexual assault victims. The training went so well that we’re going to do it with our detectives once a quarter, and next year all our patrol officers will be doing a smaller version of the training program.

Taking on the Issue of “Unfounded” Allegations

IT IS CLEAR THAT ONE OF THE BIGGEST ISSUES in sexual assault investigations is the overuse of the classification “unfounded” or other ways of downgrading sexual assault allegations. Following are comments by participants at the PERF Summit regarding this issue:

Howard County, MD Chief William McMahon:

The Few Who File False Claims Tend to Have Problems that Need Addressing

In our county we’re able to work with community partners. We use the classification of “inactive” instead of “unfounded” for most rape cases that we can’t move forward with. Over the last two years, I would estimate that we have classified fewer than a half-dozen cases as unfounded. The only time we would use unfounded is when we have an admission from the victim or overwhelming evidence that it’s a false report.

We do this for a couple reasons. Primarily, we want to serve as a victim center. Even the few people who file false claims often have some problems going on in their lives and need some kind of services. We try not to punish people for coming forward with allegations, and we investigate all reports to the extent that we can.

We have a SART team, and we screen cases with them on a monthly basis at a minimum. The police

retain the authority to classify cases as we see fit, but we work with the SART team during the entire process. That way, there are no surprises, from the initial police report right through the decision to prosecute.

Fort Wayne, IN Deputy Chief Paul Shrawder:

We Are Strict About Using the “Unfounded” Classification

The only time we would use the term “unfounded” to classify a sexual assault case is if the evidence and facts obtained during the investigation had significant irregularities with the reported information on the original complaint and, in the course of the investigation, it was determined that the incident could not have happened the way it was reported. We would then meet with the victim to discuss our concerns about the investigation. If the victim indicated the information provided on the original

Howard County, MD Police Chief
William McMahon



complaint was not accurate and some type of sexual assault had not occurred, only then would we consider classifying the case as “unfounded.” Our policy is that if a victim maintains a sexual assault has occurred, the case will not be classified as unfounded, no matter what information is brought to light over the course of the investigation.

Minneapolis Lieutenant Nancy Dunlap:

Internal Reviews Serve as Educational Opportunities for Investigators

In Minneapolis, the Case Investigator makes a classification recommendation at the end of their supplementary report. This report is then reviewed by me for the final classification determination. I review every case closure, and it’s not uncommon for me to change the investigator’s recommendation.

We also try to use the “unfounded” classification only in cases where the evidence does not support the allegation, the victim recants and there is evidence which supports this version, or if it is determined that the statutory requirements were not met. Often the initial recommendation may have been made by a less-experienced investigator who doesn’t fully understand what the “unfounded” classification really means. I try to use the cases I have to change as educational opportunities to teach the investigators which cases should or should not go into the “unfounded” category.

Philadelphia Captain John Darby:

We Are Vigilant for Any Sign of Coercion to Recant

We reserve “inactive” investigation status, in Philadelphia, to third-party, non-crime classified reports; where someone has suspicion about an incident or activity, such as child abuse. However, the initial report cannot be independently supported, by either the victim, witnesses or other evidence. These investigations remain on our radar screen, however. When we do our case reviews with the Women’s Law Project and other advocacy group representatives, this is definitely a category that we include in the process.



TOP: Fort Wayne, IN Deputy Chief Paul Shrawder. MIDDLE: Minneapolis Police Lieutenant Nancy Dunlap. BOTTOM: Philadelphia Police Captain John Darby

Sexual Assault Response Teams Can Help Make Systemwide Improvements

Police officials and victim advocates at the PERF Summit described the benefits of Sexual Assault Response Teams (SART)—programs that coordinate the response of police, prosecutors, sexual assault victim advocates, Sexual Assault Nurse Examiners, and others. SART programs are very effective at improving the response to victims, while also increasing the likelihood that offenders will be arrested, charged, and convicted.

PERF's survey of law enforcement agencies found that nearly 90% of respondents reported that they participate in a SART program, but the strength and makeup of the programs vary widely.

Los Angeles Detective Jesse Alvarado:

Nurses Make Valuable Additions to SARTs, And Often Can Obtain More Information from Victims

I think the interaction between law enforcement, medical personnel, and advocacy groups is vital for the SART team to function properly. The interactions between the nurses and law enforcement are particularly important. The nurses are trained in forensics, and they are generally very good interviewers. Sometimes they are able to get more information from victims than our officers can obtain. It is critical that these nurses are able to relate this information to officers and still be able to provide support to the victim. It's a challenging job, but these interactions are what make the SART team work.



LEFT: Los Angeles Police Detective Jesse Alvarado. RIGHT: Los Angeles County Sheriff's Captain Tom Zuniga.

Los Angeles County Captain Tom Zuniga:

Detectives Need to Have Ongoing Relationships With All the SART Members

To ensure investigative excellence, our detectives need to develop and maintain a close partnership with all the different entities involved in this investigative process. It goes beyond working together on one specific case. Our detectives need to have a permanent partnership with advocacy groups, district attorneys, and hospitals so that when a case does come in, everyone is working together as a team. From start to finish, this gives us much better results on the cases.

Lafayette Parish, LA Sergeant Larry Brown:

Monthly Audits by a SART Provide Oversight

Our Victims Advocate Director selects cases every month for our SART team to review.

Then the entire SART team, including nurses, victims' advocates, and our investigators go through the case from start to finish. It keeps everyone on the same page and provides oversight from several different perspectives.

Indianapolis Deputy Chief William Lorah:

An Essential Element of SART Work Is Identifying What Isn't Working

Our SART team includes the crime lab, nurse coordinators, police, the prosecutor's office, and supervisors from our sex crimes office. They meet every two months to discuss things that haven't been going well and what we could be doing better. The captain of our sex crimes office also meets twice a year with all the new nurse specialists to go over procedures and build a better partnership with our nursing staff.



LEFT: Lafayette Parish, LA Sergeant Larry Brown. RIGHT: Indianapolis Deputy Chief William Lorah.

Heather Brantner, SART Coordinator,
Baltimore Mayor's Office on Criminal Justice



> *Philadelphia Capt. John Darby, continued from p. 13*

In Philadelphia, all unfounded “stranger” or “unknown offender” rape cases are submitted by the assigned investigator, through the chain of command, to my office. They are reviewed at multiple levels and labeled unfounded only if there is a credible recant from the victim, or where the allegation is proven via investigation to be totally false or baseless, i.e. that it did not occur.

Statistically, two-thirds of our victims are juveniles. My Victim Assistance Officer sends a follow-up letter to the victim or family residence, inquiring as to how they feel that were treated by the Police Department. This offers an opportunity to respond if it is felt that their report wasn't handled properly, or if they felt pressure towards recanting. We are vigilant to avoid any investigator coercion; this is just one of the measures in place to address it. Approximately 9 to 10 percent of all reported rape cases are classified as unfounded.

Baltimore Commissioner Fred Bealefeld:

*Victim Recants Are Not Always Reliable
As a Reason to Classify a Case Unfounded*

It sounds like Philadelphia has some good measures in place, and I'd also like to caution everyone to be careful about recants. We should not underestimate the way most of these victims have been disenfranchised in their lives. It's very dangerous to classify these cases as unfounded without stopping to dig a little deeper.

Even with these procedural changes, I think the real issue for us is to understand the way that police communicate with victims. We found that it went beyond the issue of officers interrogating victims and being skeptical about whether or not a crime had occurred. Cops didn't even understand what it meant to be a victim. They didn't understand the shame and the physical trauma. Without this understanding, detectives and officers were unfounding

rape cases for a variety of reasons. They unfounded some cases because they couldn't substantiate physical trauma. Others were unfounded because there weren't any independent witnesses. Often they wouldn't believe victims who had placed themselves in compromising situations. Many police officers just can't identify with this issue.

Police all across America—even officers who have themselves been shot or stabbed or otherwise have been victims of crime—often just don't understand being a victim of rape. I don't think that there is a simple policy solution that will solve this in Baltimore or any other city. We need to change our entire approach to handling victims of sexual assault.

Baltimore SART Coordinator Heather Brantner:

*Oversight by Advocacy Groups
Can Help Detect Shifting of Problems*

Two years ago, Baltimore had an unfounded rate for rape cases that was five times the national average. As of this month, their unfounded rate is down 92 percent, which, on the face of it, seems outstanding. While this is one statistic we can use to measure progress, it can't be our only indicator. If we simply discourage officers from classifying cases as “unfounded” without making real change, we risk these cases simply being shifted to some other classification where they continue to go uninvestigated.

The oversight of external partners like state coalitions and advocacy groups can help prevent this from happening.

Special Considerations Regarding Rapes Committed by Strangers

A NUMBER OF POLICE CHIEFS AND OTHER officials discussed the differences between sexual assaults committed by strangers and those committed by someone who is known to the victim:

Detroit Chief Ralph Godbee:

By Keeping the Public Informed, We Empower People to Protect Themselves

Chief Godbee discussed the case of Raynard Coleman, who was arrested in January 2011 and was later convicted and sentenced to 30 to 60 years in prison for the rape of six women and the attempted rape of a seventh victim. The victims generally were walking alone, waiting at bus stops, or otherwise in vulnerable situations when Coleman forced them into vacant houses, robbed them, and sexually assaulted them.

“When to go public” with information we have about a suspect can be a tough decision. We had



Detroit Police Chief Ralph Godbee

quite a bit of internal debate about whether or not to go public when our investigators identified this rapist’s MO. Some in the department were afraid that if we exposed too much about his MO, we would lose the opportunity to catch him. But ultimately we decided that it was more important to warn the public.

If we really want to engage in community policing, we need to give the community information to assist in the investigation. It’s also better that this news come from the police department rather than an investigation by the media. In retrospect, I think we made the right decision. The perpetrator was caught in about two weeks and we got a conviction in all seven cases he was responsible for.

One local group was particularly instrumental in rallying the community. They passed out flyers and tip sheets and solicited information. We received a number of tips through our anonymous crime reporting system.

We ended up solving the case through DNA, not from tips from the public. But involving the community helped to ensure that citizens would not feel helpless while he was at large. And I think having the public visibly involved did deter the rapist from committing another crime. During the four days before we caught him, we had good information that let us put community groups on the streets in the critical locations where we thought he might strike, and once we did that, he didn’t strike.

Prince William County, VA Chief Charlie Deane:
*In Some Cases, Release of Information
Also Serves Investigative Purposes*

Chief Deane discussed the case of Aaron Thomas, who is believed to be the so-called “East Coast Rapist” responsible for rapes and other attacks on 17 women in Virginia, Maryland, Connecticut, and Rhode Island over more than a decade. Thomas was arrested in Connecticut in March 2011, and currently is awaiting trial on multiple charges in Virginia.

On Halloween night 2009, three teenage girls were walking home from a nearby shopping center when they were accosted by a man and forced into a wooded ravine at gunpoint. Two were raped, but one of the girls was able to text her mother, who initiated the police response. We had no leads but were able to collect the suspect’s DNA.

We have very few stranger rapes in our county, but this one was particularly troubling. Fortunately, detectives obtained a DNA hit that connected our case to 11 other cases that had occurred from 1997 to 2009, from Maryland to Connecticut. These cases were all linked to each other by DNA, but had not yet been linked to any suspect.

After it was determined that the cases were associated by DNA, detectives from all the jurisdictions involved met to compare notes and discuss a strategy. We held a press conference the next day to release this information for investigative reasons. We knew that the same person committed all these crimes, in different cities, in different years, since the 1990s. By releasing that information, we thought there must be somebody who would know of someone who had lived in all those particular locations during the times when women were being attacked in those cities, or who would have other information that could help us.

Before the media release, there was some debate among the involved agencies about whether we should release information about the cases being linked. But the consensus was that the information needed to be released in order to inform the community, and in order to attempt to obtain information that would be helpful in identifying a suspect.

Unfortunately, our initial publicity push didn’t produce any leads. However, as the investigation continued, crime analysis through the use of shared databases and sophisticated analytical tools developed a list of over 100 possible suspects, based on potential suspects who had lived in these areas at certain times. Investigators and agents were subsequently able to narrow down the list to 14 individuals by eliminating people from suspicion due to various factors.

A few months later, the Task Force implemented a major media campaign that included a website and digital billboards along Interstate 95 from Maine to North Carolina. As a result, detectives finally received a tip regarding someone in New Haven. As it turned out, the identified suspect was one of the 14 people of interest on the short list. With that information, a team of detectives was sent to New Haven to try to surreptitiously obtain the suspect’s DNA. As a result of the intense publicity, the suspect was very careful about being seen in public. However, detectives learned he had a scheduled court appearance for a minor charge in New Haven. They monitored that appearance and collected a cigarette butt that they watched him discard



Prince William County, VA Chief
Charlie Deane



Prince William County, VA
Commonwealth's Attorney Paul Ebert

after smoking during a break from court. The Connecticut forensic lab ran a DNA test on the cigarette that evening, and informed the investigative team of the hit. The suspect was arrested the following day. This ended a crime wave that spanned over 14 years and ranged from Connecticut to Virginia.

This case was made through the outstanding cooperative efforts of the members of a multijurisdictional task force that included the police departments in Fairfax County, Virginia; Prince William County, Virginia; Prince George's County, Maryland; Leesburg, Virginia; New Haven, Connecticut; and Cranston, Rhode Island, as well as the Federal Bureau of Investigation and the U.S. Marshals Service.

**Paul Ebert, Prince William County
Commonwealth Attorney:**

*I Believe Familial DNA
Would Have Been Helpful
In the East Coast Rapist Case*

I work very closely with the police, and it's very troubling to me when one guy commits this many crimes and isn't in any DNA database. As a result of this case, I started pushing for the use of familial DNA, which lets us search for the DNA of close family members. In this case, I think he might have been identified and arrested much sooner. This practice is opposed by civil liberties advocates, but as a result of this case, we've been able to get it approved for use in certain cases.

**Philadelphia Police Commissioner
Charles Ramsey:**

*Keeping the Public Informed
With the Most Current Information
About a Serial Rapist*

In Philadelphia, we notify the media and the public every time there is a stranger rape with an unknown offender. We think that waiting to notify the public could result in more victims.

Last year we had a serial offender known as the Kensington Strangler. It started with two homicides about 10 days apart, which we were able to link to each other through DNA. There was a news release, as there would be with any homicide. Two women came forward to say they had been sexually assaulted by the same man, and then we linked all these crimes to another homicide and another strangulation case. This was a total of six cases linked to one individual.

Waiting to put this information out really doesn't help you in the long run. First, the public won't be pleased if you had information about a serial offender that you didn't share with them. Second, each case is different, even when they are committed by the same criminal. The offender might change something about the way he operates, but to remain vigilant, the public needs to be aware of the most current information.

Former Miami Chief John Timoney:

*It Is Important to Analyze DNA
From All Stranger Rapes Immediately*

A couple months after I became chief in Miami, three young girls were raped in separate incidents in the same neighborhood. I immediately publicized the information. People have the right to take steps to protect themselves against the risk of another attack in their neighborhood, and putting

Philadelphia Police Commissioner
and PERF President Chuck Ramsey



information out can help the Police Department get information from the public.

At the time, Miami would collect DNA from rape cases and then just store the evidence until an arrest was made. But my gut reaction was that these rapes probably were not the first time this guy had committed this type of crime. So I had my detectives go over stranger rapes from the prior year, and the DNA told us that the same person had committed similar crimes in December and September of the year before. We also uncovered two other attempts he made before that.

The victims had identified the rapist's accent as being that of a Honduran national. We knew we had to be concerned about the possibility of immigrants hesitating to call us when they're victimized out of fear of deportation. So we held press conferences to reassure them that we were not interested in deporting victims or witnesses.

We publicized a description of the attacker and set up a task force to patrol the area. I even went out there on my bike. With all the publicity, the rapist laid low for a few months, but then he attempted another sexual assault. Fortunately, someone chased him away and was able to identify his car as a black Honda. A short time later, an officer pulled over a suspicious car matching that description, was able

to get the driver on traffic violations, and when we ran his DNA, we found he was the rapist.

This was another situation that demonstrated why DNA from all stranger rapes needs to be processed immediately. If you ask a detective in Miami now, they'll tell you they are required to hand-deliver the rape kit and get a receipt for it from the lab within a couple hours of it being collected.

Newport News, VA Chief James D. Fox:

*The News Media Can Help Us
To Solve Crimes
And Build Trust with the Public*

The news media can help us be more effective at policing. We aren't helping anyone if we play games with not reporting everything to the media, and the public trust has to be built through an open relationship with the media.



Newport News, VA Police Chief
James Fox

Sexual Assaults On College and University Campuses

SEXUAL ASSAULTS ON COLLEGE OR UNIVERSITY campuses are often handled differently from those committed in non-campus areas, largely because of a federal law called the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

The Clery Act was named in memory of Jeanne Ann Clery, a 19-year-old Lehigh University freshman who was raped and murdered at her residence hall in 1986. Ms. Clery's parents discovered that students and their parents hadn't been told about many violent crimes committed on the Lehigh campus in the years before her murder, and they became advocates of reform legislation. In 1990 Congress approved the Clery Act to provide students and parents with detailed information about crime on campuses, and the initial law has been strengthened several times since then.

Participants at the PERF Summit described the Clery Act and other aspects of sexual assault prevention and investigations in the campus environment:

**University of Wisconsin-Madison Police Chief
Susan Riseling:**

*Clery Act Crime Statistics
Are Far More Inclusive than UCR Data*

The Clery Act requires universities to report annual crime statistics to the Department of Education. It is interesting that while UCR reporting is still voluntary, Clery Act reporting is not voluntary. And the Clery Act has a much more inclusive definition of sexual assault than the [old] UCR definition; for

example, it includes crimes with male victims, and crimes in which the victim was incapable of giving consent.

In addition, to comply with the Clery Act, we must count sexual assaults that were reported to any responsible person affiliated with the university, not just the cases that were reported to the police. At the University of Wisconsin at Madison last year, my Police Department received seven reports of sexual assaults, which is the number that we reported to UCR. But the university reported 42 cases to the Department of Education through the Clery Act, because so many of these crimes are reported to doctors, counselors, or faculty members but are never reported to the police.

Students may file anonymous sexual assault reports in which neither the victim nor the perpetrator is identified. We receive rape kits from the hospital through anonymous reports, and we hold onto the kits in case the victim later decides that he or she wants to come forward and report the crime to the police. Many of our referrals come from the counseling center, which often calls on behalf of a victim who has decided, after some time has passed, to report the crime to the police.

Because the Clery Act statistics can include anonymous reports, we have heard some concerns about whether our Clery Act numbers could include duplicate reports—for example, in cases where a victim spoke to more than one university employee. I am not very concerned about this. So few victims actually come forward that duplicate reports are the least of my worries. We know



University of Wisconsin-Madison
Police Chief Susan Riseling

these figures represent only a small percentage of the people who are victims.

Coordinating with local municipal police departments can be an issue for universities located within cities. For us, it's important for the City of Madison and the University of Wisconsin to have a close working relationship. A rapist may not know the jurisdictional boundary between the two agencies, and someone committing a crime on campus may be committing crimes nearby as well. The two agencies need to cooperate to properly handle investigations.

Yale University Police Chief Ronnell Higgins:

***Students at Yale Are Concerned
About Sexual Assault Crimes***

I became the Chief at Yale this past February 2011, and by early spring Yale was in the national news after students brought a complaint to the Education Department's Office for Civil Rights alleging that the university, overall, was underreporting sexual assaults.

Yale University Police Chief
Ronnell Higgins

My initial reaction was to defend the police department's commitment to the safety and security of the campus by pointing to the crime statistics. While crime on campus was the lowest it has been in 20 years, upon reflection I realized that addressing crimes of sexual and gender violence requires a sensitivity beyond reported crime stats; it requires a culture change. According to the research, gender and sexual violence is the most underreported violent crime on our nation's campuses. If our students are concerned about this problem, then we need to do something more about it.

I was already in the beginning stages of reorganizing the department, so I conducted the reorganization with these additional concerns in mind. I added a second Assistant Chief to oversee investigations, and the position of Sensitive Crimes Coordinator, which supports and works with victims, the courts, campus organizations, and local community partners.

We also took steps to improve our training. We have been conducting ongoing first-contact training with our officers, including a full week of special training on Gender and Sexual Violence Investigations to which we also invited other relevant university offices and services. This has had significant benefits to include improved skills of our officers;



Diane Moyer, Legal Director,
Pennsylvania Coalition Against Rape



service to victims and survivors; and improved collaboration with our institutional partners. Through these efforts, we believe that we continue to demonstrate to our campus community our ongoing commitment to the safety of the Yale community.

**University of Wisconsin-Madison Police Chief
Susan Riseling:**

*Some Universities Have Tried
To Sweep Crimes Under the Rug,
But Social Media Are Helping to Prevent That*

We often hear from victims that the prospect of going through the criminal justice system is too daunting. It makes them feel publicly exposed and their identities become known. For young women who are attempting to go to college and be successful, that's a lot to bear. It's a lot of additional pressure on someone who has been the victim of a sexual assault.

For victims on college campuses who don't want to go through the criminal justice system, the university disciplinary process can be an alternative path for them to hold the perpetrator somewhat accountable, if the perpetrator is a student. The most severe punishment is limited to expulsion, rather than a criminal conviction. But victims can retain their anonymity, and the burden of proof is generally only a preponderance of evidence, rather than guilt beyond a reasonable doubt.

At the University of Wisconsin, we're willing and able to bring these cases through the criminal justice system if the prosecutor will allow us to do so. But if the prosecutor sees it as a "he said/she said" situation, often they don't want to touch the case. In these situations, going through the university's disciplinary process can be another way to see some sort of justice served. I recognize that some schools have used this as an avenue to sweep these cases under the rug, but cases also sometimes go in

this direction for the right reasons, and often at the request of the victim.

Some universities have tried to keep sexual assault crimes out of the public realm, but most of those universities are beginning to understand that this doesn't work. Today there are so many ways that students share information, through social media and other ways in which they communicate. So it's going to come to light. And then you've got two problems as an institution: that you covered it up, and that it happened in the first place. So it seems to me our colleagues are now becoming much more open and revealing than they were in previous decades.

**Diane Moyer, Legal Director,
Pennsylvania Coalition Against Rape:**

*Sexual Assault Cases Should Not Be Handled
In the Same Disciplinary System
As Minor Offenses*

I'd like to thank Vice President Biden for writing a "Dear Colleague" letter telling universities that sexual assault cases should not go through the same discipline process as relatively minor offenses like plagiarism. Many victims have had to file their complaints through the same entities that deal with academic issues, and this isn't an appropriate way to handle these cases.

This will sound counter-intuitive, but I actually tell parents to send their kids to the college or university with the *highest* number of sexual assaults

RIGHT: College of Charleston Public Safety Chief Paul Verrecchia

FAR RIGHT:
Boston PD Deputy Superintendent Kelly Nee



reported through the Clery Act, because these schools are probably the most aware of campus sexual assault problems.

I think there should be mandatory orientation on sexual assault for all freshmen and more training for campus police officers. This issue is important and needs to be handled better, because these offenders often are not punished for their crimes. It's almost always the victim who leaves campus after a rape occurs, and the perpetrator almost never has to leave.

College of Charleston Public Safety Chief Paul Verrecchia:

Sexual Violence Against Gay Students Is Underreported

One thing that concerns me is that I don't know how much sexual violence there is in the LGBTQ [Lesbian, Gay, Bisexual, Transgender, and Questioning] community because these students haven't been coming forward to report these crimes. I'm not naïve enough to think that there's no violence in the LGBTQ community, so it's a concern that it must be occurring without consequences. I think that members of the LGBTQ community are less likely to come forward to report these crimes, and I would guess that this is true not just on college campuses, but among the general population as well.

Boston PD Deputy Superintendent Kelly Nee:

Colleges and City Police Agencies Must Do a Better Job of Sharing Information

There are many colleges and universities in Boston. They have their own police agencies which are authorized by the state. And, like us, the campus police receive the same 40 hours of required training for sexual assault investigators as we do.

However, universities aren't required to share any information about sexual assaults with us. We meet with some schools annually and they share information, but we don't have as close a relationship with others. They all report their own UCR data and collect and store their own rape kits. It would be a difficult situation if we had a sexual predator within the city moving between several college campuses.

Our City Council has held hearings to try to break down what they see as a perceived lack of forthrightness about this problem from some colleges and universities. We also recently established a relationship with an organization called Security on Campus, which was established by the Clery family. They work to reduce crime on college campuses. We hope to be able to work with them to improve our coordination with the universities in Boston.

Richmond, CA Chief Chris Magnus:

*Sexual Assaults at the High School Level
Are a Bigger Problem than
Police Departments Realize*

Sexual violence is a huge issue at colleges and universities, but we also need to recognize that sexual assaults are becoming more common even before college, at the high school level. My suspicion is that this is a much bigger problem than police departments are currently aware of. A couple years ago in Richmond, we gained international notoriety due to a gang rape that occurred at a homecoming dance. Six defendants are facing trial in that case, and as many as 20 witnesses reportedly knew about the attack but did not call the police for more than two hours.

Since this incident, our department has had a much closer relationship with advocacy groups. We've worked with them to start discussions in high schools about what constitutes sexual assault, and I think those discussions would shock most adults. When most sexual assaults occur between high school students, the perpetrator doesn't even think of it as sexual assault. I think there's much more of this going on at a high school level than is being documented. We need our school resource officers to work closely with advocacy groups to give high school students more information about sexual assaults.



Richmond, CA Chief
Chris Magnus

**College of Charleston Public Safety Chief
Paul Verrecchia:**

*The Complexities of These Investigations
Are Significantly Greater on College Campuses*

Having worked in municipal law enforcement for more than half my career and now in a college environment, I think managing sexual assault cases on a college campus is much more complex. As soon as a victim comes forward, whether they want to make a criminal complaint or not, two federal statutes kick in, and if they're a work-study student or employee, a third statute might be involved as well.

First, under the Clery Act, a determination has to be made at the time of the report about whether the crime constitutes an ongoing threat to the campus. If it does, we are required to send out a timely warning. The Clery Act also requires us to report any off-campus assaults if they occur on public property. This can require coordination with the local police to determine which cases we are required to report.

Secondly, Title IX of the 1964 Civil Rights Act deals with equal opportunity on college campuses. It's probably most well known for its impact on college athletics, but the Department of Education has also used it in connection with sexual harassment and sexual violence cases.

Finally, if a survivor is employed by the college/university in a work-study program, or as a faculty or staff member, Title VII of the Civil Rights Act of 1964 impacts because of the possibility of a hostile work environment. Thus allegations of sexual harassment or discrimination in the workplace also come into play.

Today's Challenges Regarding The Use of DNA in Rape Cases

SINCE THE FIRST CRIMINAL CONVICTION BASED on DNA evidence was obtained in Florida in 1987, DNA has proved to be a powerful forensic tool that helps police to link evidence from crime scenes with a suspect, or remove persons from suspicion. A number of police officials described some of the key issues facing law enforcement today regarding DNA evidence in sexual assault investigations:

Daytona Beach, FL Chief Michael Chitwood:

Familial DNA Can Help Identify Serial Offenders

I think familial DNA needs to be discussed for cases involving serial rapists. If you're not familiar with this technology, it runs unknown DNA from a crime scene in the CODIS database, and if there is no exact match, it looks for imperfect but close matches, which could indicate the perpetrator is a *relative* of a person in the offender DNA database. So even if the perpetrator's DNA isn't in CODIS, we can still get a possible lead on the perpetrator if he has a close relative who was convicted of a crime or otherwise got his DNA put into the system.

We have a sexual serial killer in Daytona Beach. Four prostitutes have been murdered and three of those cases have been linked to each other through ballistics and DNA. The offender's DNA isn't in the system, but if we did a familial DNA search we

might be able to find a relative who is in the system. We brought this up at the Florida State Attorneys' conference this summer, and the State Attorneys voted 97 to 0 to petition the Governor and Attorney General to begin using familial testing in Florida.

If we can use this technology early in the investigation of a serial perpetrator, it's more likely we'll be able to identify and locate the suspect before any more crimes are committed. I know there are privacy concerns, but we are not proposing to use this technology to investigate crimes like fraud or burglary. We want to use it for our unsolved murders and stranger rapes. And law enforcement will not be granted access to any names unless there is a match for a relative.

There are a few states using familial DNA testing and it's currently used in the United Kingdom. I think we need to take full advantage of the science that we have at our disposal. If familial DNA can help us solve a rape or murder case promptly,



Daytona Beach Police Chief
Michael Chitwood

Kim Gandy, VP and General Counsel,
Feminist Majority Foundation



take the perpetrator off the streets, and prevent him from committing additional rapes or murders, I think it's a very worthwhile thing for us to explore.

Los Angeles Detective Jesse Alvarado:

We have used familial DNA, including in the Grim Sleeper case. But to do so we had to get approval from the Governor. Right now, it's only used on a case-by-case basis and there have to be pretty extraordinary circumstances for us to get permission.

Prince William County, VA Chief Charlie Deane:

In Virginia we have advocated to get permission to use familial DNA. The state standard for the use of familial DNA is currently only if there is clear and present danger, but there are still privacy advocates pushing back against that.

**Carol Tracy, Executive Director,
Women's Law Project:**

*With Proper Safeguards,
Familial DNA Could Be Important*

Just as DNA has vastly improved our investigations, familial DNA sounds like a tool that could be a big step forward. In pursuing this, however, we have to be very careful about not abusing the civil rights of individuals. But with the proper safeguards, this technology could be extremely useful. We need to put as many resources as we can into apprehending serial rapists.

Philadelphia Captain John Darby:

Familial DNA Should Be a Last Resort

What we have to stress here is that familial DNA is not the first tool that we would use. This technology is reserved for situations where there is a danger to the public and where all other investigative tools have been exhausted and are unproductive. In serial

offender situations, there's never any doubt in our minds that these perpetrators will continue to commit crimes until they're caught. If this is the only way that a potential identification can be achieved, then a familial DNA analysis has to be considered to prevent future crimes.

**Feminist Majority Foundation Vice President
and General Counsel Kim Gandy:**

*Here's Why We Must Test DNA
In Acquaintance Rape Cases
As Well as Stranger Rapes*

We need to realize that serial rapists are not just sexual predators, they are serial criminals. Many of them commit all kinds of crimes, and when rape DNA kits are tested, they are often matches for a variety of *other* crimes.

There's another aspect to consider with regard to backlogs in the DNA testing of rape kits. We need to make a priority of testing the DNA in acquaintance rape cases as well as stranger rapes. There's sometimes a feeling in acquaintance rape cases that "We know who the person is, so there's no need to test his DNA." But I think there has long been a false dichotomy drawn between stranger rapists and acquaintance rapists. We now know that many stranger rapists commit acquaintance rapes, and vice-versa. By not testing DNA of acquaintance rapists, we may miss the chance to find out if they have also raped strangers, or to identify them if they rape a stranger in the future.



TOP: Los Angeles County Sheriff's Sergeant Daniel Scott. BOTTOM: Corpus Christi, TX Commander Mike Markle.

Former Miami Chief John Timoney:

Stranger Rape Kits Should Take Priority

The reason we're pushing for all stranger rape kits to be tested is that many agencies across the country have had huge backlogs. In departments that can't do them all, somehow we have to prioritize, so our first goal is to get all the stranger rape kits tested. Of course it would be great if all rape kits were tested promptly everywhere, but we need to prioritize until that happens.

Los Angeles County Sergeant Dan Scott:

We are now testing every kit and LAPD is doing it too. It can be tough to change your procedures and test every kit, but it is possible.

Chicago Chief of Detectives Tom Byrne:

Chicago also submits all rape kits for testing.

Corpus Christi, TX Commander Mike Markle:

Texas Now Tests All DNA Samples From the Past 10 Years

In Texas new legislation just went into effect in September requiring all DNA samples to be tested now. We also have a limited amount of time to give the state a list of results from all DNA samples from sexual assault cases going back 10 years. It's going to be a huge workload for our labs, but from now on all DNA collected in the state of Texas will be tested.

National Institute of Justice Deputy Director Kristina Rose:

We Are Researching These Issues In Detroit and Houston

It's interesting to listen to this discussion about prioritizing sexual assault kits, because right now we don't have enough evidence to be able to firmly say that one way is better than another when it comes to dealing with the issue of untested sexual assault kits in police custody. NIJ has undertaken an action research project in Detroit and Houston, where they have huge numbers of untested sexual assault kits. We hope that when this research is completed we will have some proven solutions we can share with law enforcement and advocates about the best way to approach this issue, because right now we just don't have the answers.

NYPD Deputy Chief Michael Osgood:

The Focus Has To Be on the Offender Pool

The focus has to be on the offender pool. Sexual assaults, in particular severe trauma sexual assaults, are perpetrated by a very small segment of the population. Sexual assault offenders are repeat offenders. Thus, when one factors in the viciousness of crimes they commit, with a majority of them being recidivist, it makes them an unique group of offenders. They are an offender pool.

Because of the execution complexity of severe trauma sexual assaults, logic dictates that most cases of severe trauma sexual assaults are not completed. (My analytical work in New York City proves that out.) They are attempted sexual criminal acts. So focusing on the attempted acts is just as important as focusing of the completed acts. And since the offenders are unique and will repeat, the investigative operational effort should be on the offender pool. In simple terms, if one can remove someone from the offender pool, (that is, by arrest and conviction), you decrease the number of future victims and of course bring justice to current victims.

To do this requires the following: First, you do not unfound cases, because when you unfound them, you take the offender off the radar. Two, all kits gets tested. Three, you must audit your cases to see if there are any defects, because if there are defects and you remove those defects, you now are zeroing in on the offender. Four, there must be a focus on improving the investigative process, as Terry Fromson from Philadelphia spoke about (see page 37). With good-faith outside collaboration as there is in Philadelphia, this improves the level of correctness that sexual assault investigations require.

Los Angeles Detective Jesse Alvarado:

*We Cannot Expect DNA
To Solve Every Sexual Assault*

What I see as a trend is that we're relying a lot on DNA, but we also have to understand that a lot of our cases don't have DNA evidence. Everyone seems to be relying on getting DNA, and they are almost starting to lose the ability to do an investigation the old way—finding witnesses, going out there and doing the follow-on that needs to be done, and so on. So I think we have to continue to monitor our investigators' ability to do the basics. When you're looking for offenders, you can't always expect that you're going to find your offender pool in the DNA.

In California when a child is a victim of abuse, you have to report it to the state, and there is a database. But police agencies are not all tied in like that.



TOP: Kristina Rose, Deputy Director, National Institute of Justice. BOTTOM: NYPD Deputy Chief Michael Osgood.

So if I'm investigating a sexual assault, I won't know if a detective in another county is investigating the same person I'm investigating. It would help if we had a database in the state, so if someone has been named as a suspect in a sexual assault case, you could access it. And you might find out that this individual doesn't have his DNA in CODIS, but he is a match to a case in another county. We know that offenders travel. For example, you may have an offender who you know is a school teacher, and he may go to another city and get a job as a teacher there. So it would be helpful to have a database of people who have been looked at as a suspect in the past.

Justice Department Changes The UCR Definition of Rape

FOLLOWING ARE SOME OF THE COMMENTS made at the PERF Summit regarding the issue of the definition of rape used in the FBI's Uniform Crime Reporting (UCR) system. At the time of the Summit, the UCR definition, "the carnal knowledge of a female, forcibly and against her will," had not been changed since 1927. The definition was interpreted to exclude a long list of sex offenses currently considered criminal in most jurisdictions, including offenses involving oral and anal penetration, penetration with objects or body parts other than the penis, rapes of males, incest, and rape of victims unable to give consent because of youth, disability, or drugs. Thus, the UCR statistics for decades failed to capture the full extent of sex crimes in the United States.

In January 2012, the Justice Department announced that the UCR definition has been changed to "the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim."

FBI UCR Program Unit Chief Greg Scarbro:

The FBI Is Committed to Changing the Definition of Rape, And Doing So In a Way that Local Police Can Support

We've been in discussion with the Department of Justice for a little over a year about updating the antiquated definition of forcible rape within the UCR summary reporting system. I want to emphasize

that at every level of the FBI there is complete agreement that the definition needs to be changed. At the same time, we want to make sure that we minimize the impact that any change we make has on the law enforcement community, whose resources are already stretched thin.

The UCR program is an aggregate counting of crime. There are specifications about what agencies can report, and this system doesn't allow for a lot of flexibility. There are 46 state-level UCR programs that send in 99 percent of the data the FBI receives.

There will certainly be challenges in implementing this definition change, but we are fortunate to have the right people involved in the discussion through our UCR subcommittee. The Criminal Justice Information Services (CJIS) Advisory Policy Board has been in place since around 1992 and has been effective in bringing about every change that has been made to UCR since that time.

In 2001, the Women's Law Project sent a letter to the CJIS Division asking that the definition of forcible rape be changed. In 2002 the proposed definition change went through some of this process. But at the time, it was decided that the National Incident-Based Reporting System (NIBRS) would be a replacement to UCR, and NIBRS already had a greatly expanded definition of rape, so the UCR definition change wasn't necessary.

Unfortunately, law enforcement agencies have been slower to adopt NIBRS than we would have liked. NIBRS produces better data, but it can be expensive for agencies to make the necessary changes to their records management systems.



In 2010, the Women's Law Project again asked us to take a look at the definition, and that has brought us to where we are today in the CJIS Advisory Policy Board process.

Once a new definition is in place, the FBI will move to make the necessary technical changes at the federal level, which will take a little work and time. We will then bring those changes to state, local, tribal, and college and university police officials, which will also take some time. Historically, with a definition change like this, it has taken state and local agencies about 18 months to make the necessary technical changes and implement proper training, although this varies by state and by agency.

We know this change will impact records management systems and require more training at all levels. The FBI is going to do everything it can to help with that. We need to make sure that there is buy-in from state and local law enforcement, because we don't want to make a definitional change that leads to less data being reported. Some agencies already struggle to get us data, and definitional changes like this will make their job a little harder. The FBI is committed to not only making this definition change, but also making sure it goes through in a way that will have the least impact on law enforcement.

Detroit Chief Ralph Godbee:

A Definition Change Will Be a Step in the Direction of More Accurate Data Collection

The first step will be changing the definition, and then a data collection process can be worked on and phased in, even if it's an unfunded mandate. The UCR is about collecting data appropriately, and currently we're not collecting data appropriately about rape. So cost issues should not prevent us from moving forward to change the definition.

Diane Moyer, Legal Director, Pennsylvania Coalition Against Rape:

A More Complete Definition Will Cause a Big Increase in Reported Rapes

I anticipate that when this definition is changed, it will result in a huge increase in reported rapes. I would suggest that all the police departments represented here work with victims' advocacy groups to spread the message that this increase is actually a good thing. These statistics will now more accurately represent the work that we do and the challenges we face. The new figures will also better demonstrate that law enforcement and victims' services are underfunded.

Elizabeth Township, PA Chief Robert McNeilly:

A More Complete Definition Will Help Us Build Credibility

I moved from the large Police Department in Pittsburgh to a small department, and I've seen how personal rape statistics are in smaller departments. When I was in Pittsburgh, there were significant numbers of rapes, and people didn't really notice whether the numbers added up. In a smaller suburb like Elizabeth Township, when we have a sexual assault, people know about it and talk about it. So when the UCR report comes out at the end of the year and we report zero rapes, I think we lose credibility. The public may think that we've been

Elizabeth Township, PA
Police Chief Robert McNeilly



deceptive or have reported inaccurately. So I expect that the new definition will help us build the transparency and credibility we need to provide the proper service for our communities.

Detroit Chief Ralph Godbee:

*A New Definition Will Result
In Larger Numbers of Sexual Assaults*

I think we're heading in the right direction here. If we change the definition, it's not going to change how I collect or distribute the data. All it's going to change is how I count the data, and it will show an increase in these types of crimes. I think the proposed new definition covers many of the concerns people have about the old definition, and using it will provide me with statistics to report to my community that more accurately reflect what is actually happening.

**Philadelphia Police Commissioner
Charles Ramsey:**

*A Definition Change
Will Require an Educational Campaign*

We need to have a strong educational component with this definition change, because we can't ignore the politics of crime. Elected officials and police chiefs want to be able to report this number at the end of the year. This new definition is certainly the right thing to do, but we should prepare for a dramatic increase in the numbers.

We tend to look at homicide numbers as a key indicator of our safety. And sexual assault is another crime that can upset the public very quickly if the numbers are increasing. As we roll out these changes, we need to make sure that the media and the community are informed. When we change this, we will have a whole new baseline, and everyone needs to understand that when they look at the numbers.

Chicago Chief of Detectives Tom Byrne:

*Chicago Already Uses a
More Accurate Definition*

The data we report on sexual assault already includes many of the crimes that currently aren't included in the UCR definition, so the FBI's UCR reports have a footnote saying that our data isn't included because we don't report according to their definition. Because of this, a new definition won't really affect Chicago. We already use what we feel is a more accurate definition, in order to be as transparent as possible.

New Orleans Commander Paul Noel:

*New Orleans Successfully
Informed the Public
About Changes in Sexual Assault Statistics*

When we had our overhaul in New Orleans and started properly classifying cases in 2010, we knew our crime statistics would show a major increase in sexual assault. Before these statistics were announced, Chief Ronal Serpas held press events with the police department and advocate teams standing behind him to explain why the number of sexual assaults was increasing. This helped educate the public. When the statistics were released, they were accepted very positively by the community. These advocates were happy to stand behind



FAR LEFT: James Lynch, Director, Bureau of Justice Statistics

LEFT: Chicago Chief of Detectives Thomas Byrne

us because they knew we identified the problem and asked for their help in solving it. Operating with complete transparency helped secure their trust. Anyone whose agency has the same problem should replicate the same model we used. This could help avoid the potentially negative aspects of this problem.

Bureau of Justice Statistics Director Jim Lynch:
We Should Also Note that NIBRS Data on Sexual Assaults Is Very Useful

I sympathize with Greg Scarbro, because it's challenging to implement a change in a massive system like UCR. You can't turn an aircraft carrier on a dime. He's portraying the difficulties very accurately.

This is also a good opportunity to revisit the way we think about collecting crime statistics. In the mid-1980s I was an observer to the board that eventually recommended NIBRS. At that time, the FBI realized that the aggregate UCR system had some drawbacks. Unfortunately, the implementation of NIBRS has slowed since then, and the system currently only covers about 28% of the population.

Many people don't realize how useful the NIBRS data is. Promoting it can't be a replacement for changes in the UCR system, but we can use this opportunity to also reinvigorate the push for departments to shift to NIBRS.

I think both law enforcement professionals and the public want a system that can both aggregate and disaggregate data to keep people as informed as possible. In addition to wanting the total number of rapes, people want to be able to sort it out by type of victim, specific type of crime, and so forth. For this to happen, we need the incident-based system.

Carol Tracy, Executive Director, Women's Law Project:
NIBRS Still Has Not Caught On

NIBRS is now almost 25 years old, but it still only covers 28 percent of the population. The largest U.S. cities don't currently participate in NIBRS. There's no question that it's a good system and is superior to UCR, but it has been too slow to catch on. That is why the UCR definition of rape needs to be expanded.

FBI UCR Program Unit Chief Greg Scarbro:
A Switch from UCR Reporting to NIBRS Requires Big Changes

Yes, NIBRS was implemented in 1988 and it still has a long way to go. Much of it is a resource issue, because switching to NIBRS involves a wholesale change in an agency's records management system. An agency has to shift from an aggregate count to an incident-based count.



Susan Carbon, Director, Office on Violence Against Women, USDOJ

Susan Carbon, Director, DOJ Office on Violence Against Women:

Every Rape Must Be Counted

We need to make sure that we count every rape that is committed. It is important to the public and even more so to the survivors of sexual assault. When our statistics leave out so many forms of rape, we send an appalling message to these victims that their crimes don't count. Rape with an object or rape while incapacitated or anal rape can be just as traumatic and destructive as penile/vaginal rape, and we need to recognize this, validate it, and support those who have suffered from these crimes and the indignities they invoke.

The public uses the UCR as a federal report card. That's what people use to determine the status of rape in America, and as long as UCR is our benchmark, every victim deserves to be counted.

We understand that NIBRS data can be much more useful for a variety of tasks, and we wholeheartedly support expanding our understanding of crime in America. But changing the UCR definition is a separate issue. Rape is rape, no matter who the perpetrator is and how the crime is committed. Our

In terms of the rape definition, NIBRS provides all the data we're talking about here and much more. You can sort it out by victim/offender relationship, whether drugs were used in the crime, whether the incident was initiated over the computer, and a variety of other aspects of criminal behavior. The UCR summary system cannot do that and even with the changes we are making will not be able to do that. A shift to NIBRS is the only way to get that data.

A common misconception about NIBRS is that no large agencies participate in it. Currently Detroit, Denver, Nashville, and Fairfax County, VA are among the reporting agencies, and 16 entire states report to NIBRS. Ohio is adding agencies every month. We know that there are fewer agencies reporting than we would like as it approaches its 25th year. But NIBRS really has some good data elements and is a robust database.



Bureau of Indian Affairs Deputy Director Darren Cruzan

crime reporting needs to reflect the breadth of the offense and give the public an understanding of the realities faced by survivors of all ages, in all corners of the country, through a definition that is in line with our current cultural norms.

**Bureau of Indian Affairs Deputy Director
Darren Cruzan:**

*Indian Country Faces Unique Challenges
With Sexual Assaults*

We have some unique challenges with sexual assaults in Indian Country. Statistically, one in three Native American women living on the reservation can expect to be a victim of sexual assault in their

lifetime. There are many contributing factors to that, not the least of which is the high rate of alcoholism by both offenders and victims.

A unique challenge we face is that most people living on the reservation are related either by tradition or by blood. As we know, victims are less likely to report crimes perpetrated by known offenders.

This past year, we have been fortunate to work with the Office for Victims of Crime and the Office on Violence Against Women to help us improve our handling of investigations. We know that many victims on Indian reservations don't know where they can turn to discuss their crimes, particularly when they have been committed by a known offender. We know we still have a lot of work to do.



Police and Victims' Advocates Explain How External Review Can Improve Investigations

PERHAPS THE SINGLE MOST IMPORTANT element of the “Philadelphia Model” described earlier in this report is the Philadelphia Police Department’s willingness to invite organizations from outside the department to review sexual assault case files and raise concerns they may have about weaknesses in the investigations of particular cases.

This aspect of the reforms, originally instituted by then-Commissioner John Timoney and continued today by Commissioner Charles Ramsey, is seen not only as a way to identify areas for improvement in the investigations, but also as a way to provide accountability and transparency in how the department operates.

Following are comments made at the PERF Summit regarding the value of partnerships between police and other organizations, including victim advocacy groups:

**People Against Rape Executive Director
Melonea Marek:**

*Victim Advocacy Groups
Can Help the Police*

I think that law enforcement could benefit from working more closely with advocates. Victims just want to know what’s going on. If the law enforcement

officer treats the victim kindly and with respect, the victim is much more likely to be upfront and honest. They will be much more comfortable and cooperative, and the end result will be better for everyone. Advocates have experience with this and can help.

Los Angeles County Sheriff’s Sergeant Dan Scott:
*Victim Advocates
Can Draw Attention to Problems*

We are fortunate that the head of the Santa Monica Rape Treatment Center is not afraid to pick up the phone, call a Chief or the Sheriff, and let them know that a case is not being investigated properly. She will not hesitate to let our bosses know that things need to change immediately. I think a successful Sexual Assault Response Team needs



Melonea Marek, Executive Director,
People Against Rape

Melissa Schimsek, Senior Grant Program Specialist,
Office on Violence Against Women

advocates who are willing and able to talk to the people who can make serious changes. We're lucky to work with an advocate who can do that with one phone call.

Melissa Schimsek, Senior Grant Program Specialist, Office on Violence Against Women:

OVW Is Sponsoring Training To Help Officers Understand The Impact of Sexual Assault Trauma

I'd like to highlight recent work on the neurobiology of trauma and its impact on survivors. OVW has funded the National Sexual Violence Resource Center to develop online training on the biology of trauma. This training specifically explains the seemingly counterintuitive behavior of survivors in their encounters with law enforcement and in reporting. I think this training can go a long way toward helping law enforcement officers makes sense of what they see on a day-to-day basis, and it will resonate with veteran officers. OVW is a resource and we can provide more information for you.

Diane Moyer, Legal Director, Pennsylvania Coalition Against Rape:

It is Important to Train Law Enforcement On Human Responses to Trauma

I completely agree with Melissa, and we're starting to train now on understanding trauma. When sexual assault victims are traumatized so severely, often they just shut down. She doesn't even want to be alive and face the world, much less go talk to a detective. But the common response from a detective is to call up the victim, and if they don't want to talk, the detective closes the case. They'll make some efforts, but they shut it down because they think you are an uncooperative victim. They're thinking, "I don't know what's wrong with her; she doesn't want to prosecute." The truth of the matter is, just as the



trauma has affected the victim's memory, it's also affecting her willingness to speak out.

So I think that understanding the trauma the victims experience is really important for successful prosecution. We are tying it in with cognitive interviewing, which was developed by doctoral students at UCLA. This strategy will hopefully help us understand and work with traumatized victims to get information. Detectives may not get the information they want 72 hours after the rape. You're going to have to go back and do interviews later on with the cognitive-style interviewing or with experienced investigators.

Terry Fromson, Managing Attorney, The Women's Law Project:

Our Relationship with Philadelphia PD Was Awkward at First, But We Have a Collaborative Rapport

The Philadelphia advocate case review came into being in the wake of the scandal published in 1999 in *The Inquirer*, disclosing that the Special Victims Unit (SVU) had not investigated thousands of sex crimes and instead placed them in non-crime codes. As a result of the allegations, Philadelphia Police Commissioner John Timoney performed an internal quality assurance review of all sex crimes that were placed in the non-crime code 2701

Terry Fromson, Managing Attorney,
Women's Law Project



“investigation of persons” for the previous five years, the statute of limitation for prosecution. In 2000, Commissioner Timoney invited the Women’s Law Project (WLP) to organize an advocate review of unfounded rape cases. Since that time, the WLP and our partners have conducted an annual review of not only unfounded rape cases but also a random sampling of open cases and third party reports of child abuse.

We perform this review as outside advocates to provide feedback to the SVU. What we do is different from the internal audit undertaken by the Department. The review takes place at the Special Victims Unit (SVU). We sign a confidentiality agreement that we will not use any information we learn during the review for any purpose other than the review. We do not remove any files from the SVU. Nor do we retain any notes.

When we review a case file, we examine it to determine whether the file is complete and whether the complaint was fully and properly investigated. We therefore examine the files to determine whether (1) all relevant witnesses were interviewed, (2) all indicated forensic testing was requested and results returned, (3) victim interviews are conducted appropriately and without blame or interrogation techniques, (4) coding is correct, (5) no victim polygraph tests were threatened or performed and (6) ultimate determination as to whether a crime was committed is consistent with the evidence collected. We carefully scrutinize recantations, to make sure they were not influenced by police, family, friends, or someone else.

To the extent we find anything we believe inappropriate or wanting in the files, we discuss it with SVU leadership. Sometimes they can respond to our concerns immediately. Other times they need some time to reevaluate the case or find documentation that is missing from the file. Frequently, our questions are answered to our satisfaction; sometimes

we disagree. Sometimes cases are reopened as a result of our inquiry, and sometimes the outcomes change, even if it’s just a recoding. This is an ongoing process. We have seen significant improvements in the case files over time.

To say that our relationship was awkward at the outset doesn’t begin to capture the dynamic during our first reviews. The SVU had never dealt with people outside the department coming in to look at their cases, particularly feminist lawyers, so it took some adjusting at first. Over time, we have developed a collaborative rapport. We are no longer suspicious of each other and understand that we have the same objective. We have come to appreciate how difficult and complex sex crimes investigations are, and we believe the SVU has come to appreciate our input. As a result, we believe sexual assault investigations are now handled much more professionally and sensitively.

Philadelphia Captain John Darby:

Advocate Case Reviews Help Make Us Better Investigators

I’ve commanded the Special Victims Unit for almost ten years. At first, we weren’t sure what to expect from the review program, but it has proven not to be an adversarial situation. It’s not like going to the dentist to have a tooth extracted.

As Terry said, it really is an ongoing process of case review. There’s a lot of interaction between



Joye Frost, Acting Director,
Office for Victims of Crime, USDOJ

**Office for Victims of Crime Acting Director
Joye Frost:**

*As We Make Advances,
Don't Forget the Basics*

advocacy representatives and my staff. Each of my platoon commanders comes in and goes over their cases, directly with Carol, Terry and the other advocacy partners. It's certainly not a situation where one side or the other is pounding their fists on the table and making demands. And we as a group have cooperatively refined and improved the review process as we have moved ahead. They didn't exactly know what they were looking for at first, but years later, now, both sides have a better idea of how to make this process effective.

Sexual assault investigations are very complex, so it's beneficial for advocacy groups to gain more understanding of the challenges that these cases pose, from the perspective of the police investigator. For many of their concerns, we provide an explanation, leading to a better understanding of why we did what we did.

Our investigators are well aware that they may be asked tough questions about their assigned cases at some point down the road. They pay more attention to detail and are more careful through every step of the investigation. The case review program ultimately makes them better investigators.

I'd like to make a few points. First, I completely support innovation, but I also think it's important not to forget the basics, particularly with sexual assault response teams. If your SART is not meeting regularly, if you don't have evidence-based protocols, if you are not doing case reviews, then you are probably not a SART. We have seen a lot of entities that call themselves SARTs, when they really are not.

Another area of concern is training on drug-facilitated versus alcohol-facilitated sexual assault. The FBI has told us that there is absolutely no way that law enforcement people can tell the difference between someone who is intoxicated by alcohol and someone intoxicated by drugs. That has huge implications, because there seems to be a dichotomy in the way we treat drugged victims versus drunk victims.

I also think it is vital to recognize how our actions can affect victim compensation and access to mental health services. The way that law enforcement characterizes a sexual assault case can make a huge difference in many states as to whether or not the victim will receive access to mental health counseling.

Conclusion

THERE WAS A FEELING AT THE PERF SUMMIT that progress is being made on the sexual assault issue. The Justice Department's decision to expand the definition of rape used by the FBI in the Uniform Crime Reporting program is considered a major advance by police chiefs as well as crime victim advocates. Another major advance is the growing willingness in a number of police departments to open their records on sexual assault investigations to crime victims' organizations. Other signs of progress include the widespread establishment of Sexual Assault Response Teams, and the tightening of rules to prevent the "unfounding" or other downgrading of rape allegations in police records systems. And overall, it was encouraging that there was a feeling of deep mutual respect between the police executives and the leaders of crime victims' groups and women's organizations at the Summit.

At the same time, there was a sense that much more work needs to be done, that many sexual assault victims are still treated carelessly by police departments, and that many police officers still lack a thorough understanding of how rape is fundamentally different from other types of crimes.

Carol Tracy, executive director of the Women's Law Project, and Baltimore Police Commissioner Fred Bealefeld spoke eloquently about some of these unresolved issues:

Carol Tracy:

Rape is the most underreported of crime, because rape victims find it so difficult under the best of circumstances to report it to the police. But it's made

worse when victims say they were interrogated by the police as though they were criminals. Or they are disbelieved and threatened with lie detector tests, or essentially are blamed for the conduct of perpetrators.

I think we have recognized that sexual stereotypes and bias about rape have a history dating back centuries. And though we've made progress in many areas, bias in the handling of sexual assaults still permeates society.... We know that prosecutors, judges, and juries are also not immune to bias. But because police are first responders, their behavior is critical to victim trust in the police and participation in prosecution.

Public safety requires that we overcome historical bias and improve law enforcement response to sex crimes, especially because a significant body of research tells us that sexual predators are serial predators who commit multiple sex crimes and other violent crimes, including murder.

Commissioner Fred Bealefeld:

I think we've made some good changes in Baltimore. We've partnered with advocacy groups, ...and we have tried to make our process transparent.... We've taken procedural steps like increased training for the collection of physical evidence. We've committed ourselves to working through the backlog of open rape kits.

But I think the culture in our society doesn't encourage these victims to come forward, and that really is the biggest challenge for us.... We police professionals try to develop procedures, training, and practices that will make our departments better. But that doesn't mean we are addressing the societal

problems that lead to sexual assault in our cities. The heart of the issue is getting the first responder to understand what it means to be a victim.

Advocacy groups have to be completely honest—critical of what we’re doing wrong, and also willing to tell us what they think we’re doing right. And as I’ve worked on this, I’ve learned that not all police departments are willing to open themselves up in the manner that’s needed to address this problem. Agencies need to be ready for every bit of criticism that this issue brings.

PERF is grateful to Ms. Tracy, to Commissioner Bealefeld, to all of the participants who shared their expertise at our Summit, and to PERF President Charles Ramsey, who made the issue of sexual assault investigations a priority and spearheaded this project.

We will continue to focus our attention on this issue and try to advance the fundamental changes in thinking about sexual assaults that these leaders discussed.

About the Police Executive Research Forum

THE POLICE EXECUTIVE RESEARCH FORUM (PERF) is a professional organization of progressive chief executives of city, county and state law enforcement agencies. In addition, PERF has established formal relationships with international police executives and law enforcement organizations from around the globe. PERF's membership includes police chiefs, superintendents, sheriffs, state police directors, university police chiefs, public safety directors, and other law enforcement professionals. Established in 1976 as a nonprofit organization, PERF is unique in its commitment to the application of research in policing and the importance of higher education for police executives.

PERF has developed and published some of the leading literature in the law enforcement field. The "Critical Issues in Policing" series provides up-to-date information about the most important issues in policing, including several recent reports on the impact of the economic downturn on police agencies. Other Critical Issues reports have explored the role of local police in immigration enforcement, the police response to gun and gang violence, "hot

spots" policing strategies, and use-of-force issues. In its 2009 book *Leadership Matters: Police Chiefs Talk About Their Careers*, PERF interviewed 25 experienced police chiefs about their strategies for succeeding as chiefs and working well with their mayors, their officers, and their communities. PERF also explored police management issues in "Good to Great" *Policing: Application of Business Management Principles in the Public Sector*. Other publications include *Managing a Multijurisdictional Case: Identifying Lessons Learned from the Sniper Investigation* (2004) and *Community Policing: The Past, Present and Future* (2004). Other PERF titles include *Racial Profiling: A Principled Response* (2001); *Recognizing Value in Policing* (2002); *The Police Response to Mental Illness* (2002); *Citizen Review Resource Manual* (1995); *Managing Innovation in Policing* (1995); *Crime Analysis Through Computer Mapping* (1995); *And Justice For All: Understanding and Controlling Police Use of Deadly Force* (1995); and *Why Police Organizations Change: A Study of Community-Oriented Policing* (1996).

To learn more about PERF, visit www.policeforum.org.

We provide progress in policing.



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APPENDIX

Participants at the PERF Summit

“Improving the Police Response to Sexual Assault”

September 23, 2011, Washington, D.C.

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Frederick Bealefeld**
BALTIMORE POLICE DEPARTMENT

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**President/Founder
Scott Berkowitz**
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**Director of Community Services
Angie Blumel**
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ELIZABETH TOWNSHIP, PA
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DAYTONA, FL POLICE DEPARTMENT

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