



Improving Police Response to Sexual Assault

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As a part of our investigation published in *Capitol Offense*, Human Rights Watch interviewed sex crimes detectives, Sexual Assault Nurse Examiners (SANE nurses), prosecutors, forensic lab chiefs, and/or rape crisis advocates in four cities that undertook reforms to improve their investigations of sexual assault crimes: Austin, Texas; Philadelphia, Pennsylvania; Kansas City, Missouri; and Grand Rapids, Michigan.¹

We also consulted 14 national experts on sex crime investigation and prosecution and reviewed International Association of Chiefs of Police model procedures and training material, and the Sex Crimes Unit's Operations Manual for San Diego's Police Department, which has a well-regarded sexual assault unit.

These cities were selected because they re-examined their approach to sexual assault investigations. They were not chosen on the basis of low numbers of reported rapes or a particularly high percentage of clearing (or closing) cases. On the contrary, low numbers or very high clearance rates can indicate selective documentation of cases. On the other hand, high numbers of reported rapes can signal increased confidence in police and more accurate data collection and reporting by police departments.

For example, the number of reported rapes actually rose significantly in Philadelphia when city police instituted reforms ensuring all sexual assaults were investigated after the *Philadelphia Inquirer* reported in the fall of 1999 that the department had not investigated large numbers of sex crimes in previous years.² Similarly, reported rapes rose 30 percent in Baltimore after police officers were required to refer all sexual assault cases to detectives for review.³ And in New Orleans, the number of reported sexual assaults jumped 49 percent following changes requiring the commander of the Sex Crimes section to sign off on the classifications for all sexual assault cases. "We're actually proud of this increase

¹ Grand Rapids, Austin, Kansas City and Washington, D.C., were among eight U.S. cities involved in the Making a Difference (MAD) Project, an initiative in which multidisciplinary teams from each city worked together to establish new national standards for effectively investigating and prosecuting sexual assault. The project was implemented and supported by End Violence Against Women, International.

² Women's Law Project, "Improving Police Response to Sexual Assault Victims," (undated), http://www.womenslawproject.org/resources/police_response_sexassault_web.pdf (accessed June 12, 2012); Mark Fazlollah, Michael Matza, Craig R. McCoy, and Clea Benson, "How police use a new code when sex cases are 'unclear,'" *Philadelphia Inquirer*, October 18, 1999, <http://inquirer.philly.com/packages/crime/html/sch101899.asp> (accessed May 16, 2012).

³ Justin Fenton, "Coordinator will oversee Baltimore sex assault investigation reforms," *Baltimore Sun*, March 14, 2011, http://articles.baltimoresun.com/2011-03-14/news/bs-md-ci-sart-coordinator-hired-20110314_1_offense-unit-sexual-assaults-sun-investigation (accessed May 15, 2012).

because we know that a certain number of sexual assaults are occurring in our city, and a large number of them go unreported,” said New Orleans Commander Paul Noel.⁴ According to Denise Snyder, head of the District of Columbia Rape Crisis Center:

The pressure on law enforcement is to always get their numbers down. But with sexual assault, seeing higher numbers should often be interpreted as a positive sign, if it means that more women are feeling comfortable to step up and say ‘I was raped, and I demand justice.’⁵

Experts agree that in addition to a victim-centered approach and sensitivity during interviews, improved response to sexual assault cases by police can be linked to increased transparency, meaningful accountability for investigations, leadership, training, and public outreach to encourage reporting. The changes require a change in culture and a commitment by leadership and should not be affected by budgetary considerations. The factors involved in improving police practices are discussed in more detail below.

⁴ Police Executive Research Forum, “Improving the Police Response to Sexual Assault,” Critical Issues in Policing Series, March 2012, http://policeforum.org/library/critical-issues-in-policing-series/SexualAssaulttext_web.pdf (accessed August 3, 2012), p. 10.

⁵ Amanda Hess, “Test Case: You’re Not a Rape Victim Unless Police Say So: This is the story of the night Hannah was not officially raped,” *Washington City Paper*, April 9, 2010, <http://www.washingtoncitypaper.com/articles/38671/test-case-youre-not-a-rape-victim-unless-police-say/full> (accessed January 9, 2012).

Promoting a Victim-Centered Approach

If you want justice, it is helpful to care for the victim.

—Captain Mark Folsom, Kansas City Police Department, July 22, 2011⁶

Experts and detectives in each of the cities we researched repeatedly stressed the importance of a victim-centered approach, as opposed to one that emphasizes quickly closing cases.⁷

If the victim is treated well, they are more likely to cooperate with the detective, increasing the likelihood of justice for the perpetrator, according to Captain John Darby of the Philadelphia Police Department Special Victims Unit (SVU).⁸ In other words, better relations with victims lead to better results.

The attitude conveyed by law enforcement is “the single most important factor in determining the success of the victim interview, and therefore the entire investigation,” according to many experts in investigating sexual assaults.⁹

A Model Policy published in 2005 by the International Association of Chiefs of Police (IACP) stresses the importance of officers’ and investigators’ attitudes towards victims in ensuring victims’ cooperation and ability to cope with the emotional effects of the crime.¹⁰ Indeed, the IACP guidelines suggest that validation from authorities may be a more critical element of a successful response and investigation than a criminal prosecution or

⁶ Human Rights Watch group interview with Kansas City Sexual Assault Response Team (SART), Kansas City, Missouri, July 22, 2011.

⁷ See, e.g., International Association of Chiefs of Police (IACP) National Law Enforcement Policy Center, “Investigating Sexual Assaults,” published November 1999, revised July 2005, <http://www.theiacp.org/LinkClick.aspx?fileticket=z5xGuyoksGo%3d&tabid=87> (accessed May 22, 2012), pp. 2, 6; and Human Rights Watch interview with John Darby, Captain, Philadelphia Police Department and Charles Ramsey, Commissioner, Philadelphia Police Department, Philadelphia, Pennsylvania, November 1, 2011.

⁸ Human Rights Watch interview with Captain John Darby, November 1, 2011.

⁹ Sergeant Joanne Archambault, Dr. Kimberly Lonsway, and End Violence Against Women International (EVAWI), “Interviewing the Victim,” OnLine Training Institute, May 2007, p. 6.

¹⁰ International Association of Chiefs of Police (IACP), “Investigating Sexual Assaults Model Policy,” May 2005, <http://www.theiacp.org/LinkClick.aspx?fileticket=iGMHINOfZzo%3d&tabid=87> (accessed May 22, 2012).

conviction because “regardless of the investigative results, responding officers and investigators have the power to help a person heal from sexual assault.”¹¹

One prosecutor indicated the importance of detectives understanding the impact they have on victims. Since these cases are so challenging, she believes detectives should not be evaluated solely on their “clearance rates”—i.e., how many cases they close—but also on how thoroughly they investigate reported assaults and how well they interact with victims.

Yet there are fundamental challenges in conducting an interview with a sexual assault survivor. In the aftermath of trauma, victims often make statements that are inconsistent or incomplete. They may also seek to hide or minimize unflattering behavior out of fear that they will not be believed or that they will be blamed for their assault.

Police may treat victims with suspicion and interrogate them when confronted with gaps in their story, thus sabotaging the investigation. Despite these challenges, constructive approaches can be drawn from training materials and the experience of sexual assault units in the cities that Human Rights Watch visited.

Brief but Compassionate Initial Contact

Just acknowledging that this happened and not minimizing it can make all the difference.

—Carolyn Cordle, program director, COVERSA (Collection of Victim Evidence Regarding Sexual Assault), July 22, 2011¹²

Due to the impact of trauma and a victim’s possible reactions, the first responding officer (generally a patrol or uniformed officer) should limit the amount of information gathered from a sexual assault victim immediately after the assault. He or she should address any safety or medical concerns, collect just enough information to establish the elements of the crime, identify potential witnesses and suspect(s), and identify and secure evidence.¹³

¹¹ IACP, “Investigating Sexual Assaults,” <http://www.theiacp.org/LinkClick.aspx?fileticket=z5xGuyoksGo%3d&tabid=87>, pp. 2, 6.

¹² Human Rights Watch interview with Carolyn Cordle, program director, COVERSA (Collection of Victim Evidence Regarding Sexual Assault), Kansas City, Missouri, July 22, 2011.

¹³ IACP, “Investigating Sexual Assaults,” <http://www.theiacp.org/LinkClick.aspx?fileticket=z5xGuyoksGo%3d&tabid=87>, pp. 2, 6.

In Austin, responding officers gather basic facts and determine whether a detective should respond to the scene—for example, if there is a suspect at large.¹⁴ A detective conducts a detailed interview later.

It is extremely important that the preliminary interview is conducted in a compassionate manner. A key responsibility of the responding officer is to reassure the victim he or she will not be judged and that his or her case will be taken seriously. The officer should express interest in the victim’s well-being, explain that the case will be assigned to a detective for investigation,¹⁵ and provide transportation for the victim following the preliminary investigation or exam.¹⁶ “It is very important for victims to hear ‘I believe you,’” said Sergeant Liz Donegan, former head of the Sex Crimes Unit at the Austin Police Department.¹⁷ A poor interaction with a first responder can result in the victim deciding not to move forward with the investigation, since it is “easy to convince victims not to cooperate.”¹⁸

Repeated contacts with different detectives are also not helpful because it forces the victim to recount their story a number of times, which may be traumatizing. Cases should not be reassigned to avoid overtime. The victim should not have to deal with more than one detective, and efforts should be made to ensure the victim does not have to answer the same questions repeatedly.¹⁹ Some jurisdictions have the forensic nurse and police conduct a joint interview in order to reduce the number of redundant questions asked of the victim.²⁰ In Philadelphia, the detectives share information with the nurse so the interview is shorter.²¹

¹⁴ Human Rights Watch interview with Liz Donegan, Sergeant, Austin Police Department, Austin, Texas, December 13, 2011.

¹⁵ IACP, “Investigating Sexual Assaults,” <http://www.theiacp.org/LinkClick.aspx?fileticket=25xGuyoksGo%3d&tabid=87>, p8.

¹⁶ The San Diego manual for the sex crimes unit says “VICTIMS ARE NOT TO BE STRANDED AT THE HOSPITAL” (original emphasis) and whenever possible should be transported in the front passenger seat of the patrol unit. San Diego Police Department, “Sex Crimes Unit Standard Operating Procedures (“SOP”),” April 10, 2002, pp. 3-19, on file with Human Rights Watch. In Austin, too, the practice is to provide victims with a ride home. Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011. Leaving the victim with a positive impression will increase the likelihood that the victim will continue to participate in the investigation process. EVAWI, “Interviewing the Victim,” p. 100.

¹⁷ Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011.

¹⁸ Ibid.

¹⁹ IACP, “Investigating Sexual Assaults Model Policy,” <http://www.theiacp.org/LinkClick.aspx?fileticket=iGMHINOfZzo%3d&tabid=87>.

²⁰ EVAWI, “Interviewing the Victim,” p. 32.

²¹ Human Rights Watch group interview with Sexual Assault Advisory Committee, Philadelphia, Pennsylvania, November 1, 2011.

Delayed Follow-Up Interview

The follow-up interview should be delayed, barring urgent circumstances that require the immediate identification and arrest of the accused.²² The possible impact of trauma on short-term memory means that it is preferable to give the victim one or even two sleep cycles before conducting the interview.²³ Delay may be advisable for other reasons too: the victim may be under the influence of drugs or alcohol at the time of the initial report; they may need a chance to rest, change clothes, or bathe after a forensic exam; and they may require some time to process what has happened and make arrangements for childcare or transportation.²⁴

For these reasons, Austin detectives try to give rape victims 48 hours before questioning. Kansas City detectives do one interview at the hospital and a longer interview later. If the defendant is not in custody, necessitating a rapid response to establish probable cause, they give the victim some time to recover before conducting a longer interview.²⁵ In Grand Rapids, Michigan, detectives contact the victim to schedule a follow-up interview the next workday and do not conduct a full interview at the time of the report except in limited circumstances (such as stranger cases or cases with serious injuries).²⁶

Interview Techniques

Departments that have instituted constructive reforms focus on interviewing the victim in a place he or she will be comfortable (which may be the victim's home), assisting the victim with transportation, ensuring any childcare issues are resolved before beginning the interview, and providing small comforts such as a beverage or tissues when possible.²⁷ If interviews take place in the police department, successful sex crimes units have tried to ensure the environment is comfortable and that the interview is conducted privately, in an interview room rather than in a cubicle where others can overhear the victim's statement.²⁸

²² IACP, "Investigating Sexual Assaults Model Policy,"

<http://www.theiacp.org/LinkClick.aspx?fileticket=iGMHINOfZzo%3d&tabid=87>, p. 6.

²³ EVAWI, "Interviewing the Victim," p. 52; Louise Ellison, "Closing the credibility gap: The prosecutorial use of expert testimony in sexual assault cases," *The International Journal of Evidence & Proof*, vol. 9, no. 4 (2005), pp. 243-44.

²⁴ *Ibid.*

²⁵ Human Rights Watch group interview with Kansas City SART, July 22, 2011. If the defendant is in custody, the interview must be done within 24 hours.

²⁶ Human Rights Watch interview with Kristen Rogers, Sergeant, Grand Rapids Police Department, Grand Rapids, Michigan, July 26, 2012.

²⁷ EVAWI, "Interviewing the Victim," pp. 54-55; San Diego Police Department, Sex Crimes Unit SOP, pp. 3-9.

²⁸ A detective in the Kansas City sex crimes unit painted the waiting room at her office and added a sofa table (holding magazines, coloring books, and community resource brochures), soothing paintings, a lamp, a trunk which holds stuffed

Beginning the interview by acknowledging the victim’s trauma can contribute to the victim’s immediate and long-term emotional health and lay a solid foundation for a successful interview.²⁹ The guiding principle for detectives in Philadelphia, according to the former lieutenant in the Special Victims Unit, is “How do you want someone in your family to be treated?”³⁰ In Kansas City, police start the interview by saying, “We are really glad you are here because you are safe,” or “Thank you for being here.”³¹ They also explain the effects of trauma to victims who may be upset about being unable to remember events chronologically.³² In Grand Rapids, the sergeant responsible for sex crimes makes a point of regularly reminding her detectives that victims will remember their first contact, and that if officers are accusatory, blame the victims, or convey disbelief, “it is all downhill from there.”³³ In San Diego, guidelines require detectives to validate and normalize a victim’s responses by understanding and explaining Post Traumatic Stress Disorder (PTSD) and the impact trauma has on victims. They are also instructed to “be responsive to a sexual assault victims’ needs, including those not necessarily a direct result of the assault, i.e., mental illness, drug addiction, and homelessness.”³⁴

Since victims of sexual assault experience a profound loss of control, it can be useful to begin an interview with questions that allow the victim to gain some sense of control—such as asking where they would like to sit and whom they would like to be present for the interview.³⁵ The San Diego handbook for detectives requires “giving victims choices and options whenever possible and providing victims with time to process the information and make a well informed

animals, posters with helpful information about surviving sexual assault, and artificial plants to make the room more comfortable. Human Rights Watch group interview with Kansas City SART, July 22, 2011. In Philadelphia, local advocacy groups successfully lobbied to move the unit into a more comfortable location where victims could have some privacy and not risk crossing paths with offenders. Private interview rooms in Austin are furnished with a couch for victims. Each victim is also offered a handmade blanket provided by a local group that they can take home. The blanket is provided by Project Linus and comes with a note and poem that says, in part “I can’t be there to hold your hand, I can’t be there to hug you, I can’t be there to dry a tear, but there is one thing I can do. I can sit here in my room at night, And dream of you out there, And make a blanket just for you, With tender loving care....” In Grand Rapids, detectives created a “soft room” for victims with comfortable arm chairs and paintings donated by a detective. Human Rights Watch interview with Sergeant Kristen Rogers, July 26, 2012.

²⁹ EVAWI, “Interviewing the Victim,” pp. 49, 60.

³⁰ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

³¹ Human Rights Watch group interview with Kansas City SART, July 22, 2011. The SANE nurse in Austin similarly emphasized that she makes a point of thanking victims who come in and telling them how courageous they are. Human Rights Watch interview with Jenny Black, Coordinator, Austin/Travis County Sexual Assault Nurse Examiners, Austin, Texas, December 14, 2011.

³² Human Rights Watch group interview with Kansas City SART, July 22, 2011.

³³ Human Rights Watch interview with Sergeant Kristen Rogers, July 26, 2012.

³⁴ San Diego Police Department, Sex Crimes Unit SOP, pp. 1-13.

³⁵ EVAWI, “Interviewing the Victim,” p. 62.

decision.”³⁶ In Kansas City, detectives ask questions to empower victims, such as, “Can I call you by your first name or do you prefer...?”³⁷ In Kansas City, detectives sit at eye-level with the victim during the interview.³⁸ For hospital interviews, the detective allows the patient to decide, when possible, whether to do the interview or the SANE exam first.³⁹

Non-Judgmental Environment

They need to understand that we get it.

—Detective Catherine Johnson, Kansas City Police Department, July 22, 2011⁴⁰

Investigators should be trained to create a non-judgmental environment by reassuring the victim that they are not there to judge the victim’s behavior and that nothing the victim did could have given the suspect permission to sexually assault them.⁴¹

Detectives should explain to victims the importance of not withholding information (a not uncommon response from victims who blame themselves for their assault because of risky behavior or who were assaulted in circumstances that they otherwise find embarrassing) so that their credibility is not questioned later. In Austin, Grand Rapids, and Kansas City, the detective or advocate makes a point of explaining to the victim that people often leave things out and it is better to know everything—even unflattering or illegal behavior—upfront, while also reassuring the victim that he or she is not at fault and will not be judged.⁴²

Philadelphia, Kansas City, and Austin all have policies not to bring charges for illegal behavior by the victim that happened around the assault, and to make clear the victim will not be arrested for less serious offenses, such as using illicit drugs or underage drinking.⁴³

³⁶ San Diego Police Department, Sex Crimes Unit SOP, pp. 1-13.

³⁷ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

³⁸ Ibid.; See also EVAWI, “Interviewing the Victim,” p. 74, recommending victims sit in a higher position than detectives whenever possible.

³⁹ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

⁴⁰ Ibid.

⁴¹ EVAWI, “Interviewing the Victim,” pp. 25-26; see also San Diego Police Department, Sex Crimes Unit SOP, pp. 1-13.

⁴² Human Rights Watch group interview with Kansas City SART, July 22, 2011; Human Rights Watch interview with Dolores Lapart-Litton, Victim Services Supervisor, Adriana Duarte, Victim Services Counselor, and Sergeant Liz Donegan, , Austin Police Department, Austin, Texas, December 14, 2011 ; Human Rights Watch interview with Sergeant Kristen Rogers, Family Services Unit, Grand Rapids Police Department , Grand Rapids, Michigan, July 26, 2012.

⁴³ Human Rights Watch group interview with Kansas City SART, July 22, 2011; Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

Experts suggest the investigator should be sensitive about asking direct questions such as, “Did you scream for help?”, “Did you resist?”, or “Was there a weapon?”, because it may communicate to the victim that the assault was not serious if they did not resist or if there was no weapon.⁴⁴ These types of questions may also make the victim feel judged.

Detectives should explain why they need to ask difficult questions. For example, questions about high-risk behavior such as drug use or prostitution can be seen as an indication that the detective blames or doubts the victim. Explaining why it is important for victims to provide this information makes it more likely the victim will cooperate.⁴⁵

What Not To Ask

Experts recommend not asking victims during the first interview if they want to pursue a prosecution, unless an immediate arrest is possible.⁴⁶ Instead, they suggest waiting until after a more thorough, evidence-based investigation into the crime.⁴⁷ Experts also strenuously object to threatening victims implicitly or explicitly with charges for false reporting.⁴⁸

In Austin, Sergeant Liz Donegan, former head of the Sex Crimes Unit, noticed that even asking victims to sign a perjury statement before beginning an interview caused victims to become uncomfortable and less likely to cooperate. This form was subsequently eliminated.⁴⁹

Victim investigation waivers (forms that police give victims to document their request to suspend or terminate the investigation) should be used only when victims affirmatively request to have their cases suspended or decline prosecution. Such waivers should not be used when the officer has decided not to conduct an investigation because he or she does not believe the victim.⁵⁰ In Kansas City, detectives ensure that victims who ask to close their investigations have police department contact information in case they change their minds.⁵¹

⁴⁴ EVAWI, “Interviewing the Victim,” p. 91.

⁴⁵ Ibid., p. 73.

⁴⁶ IACP, “Investigating Sexual Assaults Model Policy,”

<http://www.theiacp.org/LinkClick.aspx?fileticket=iGMHINOfZzo%3d&tabid=87>, p.4; Human Rights Watch group interview with Kansas City SART, July 22, 2011; Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011.

⁴⁷ EVAWI, “Interviewing the Victim,” p. 50.

⁴⁸ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011; Human Rights Watch telephone interview with Joanne Archambault, Sergeant, Addy, Washington, May 14, 2012.

⁴⁹ Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011.

⁵⁰ EVAWI, “Interviewing the Victim,” p. 43.

⁵¹ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

Taping an Interview

Taping an interview can be helpful because it allows the investigator to concentrate on the exchange and avoid inconsistencies in victim testimony resulting from inaccurate notes. It can also protect the investigator if a complaint or misunderstanding arises later and may help document the immediate response of the victim to trauma.⁵²

The Kansas City Police Department prefers videotaping interviews because it reduces the risk that the detective will make mistakes, relieves them of typing while talking to the victim, and captures victims' emotions.⁵³ In Austin, too, videotaping victim statements is the practice.

On the other hand, some argue that the victim's demeanor may not fit the stereotype of a "real rape victim" and the videotape may be used to undermine credibility later. This is also true if the victim makes statements that are inconsistent. Any mistakes by the investigator will also be documented. If interviews are taped, as in Kansas City and Austin, the victim should be informed about the recording and offered services of an advocate to support them throughout the interview process.⁵⁴

Female Detectives

Experts agree that having a compassionate investigator is more important than the investigator's gender, which is why training all officers in sexual assault investigation is essential.⁵⁵ Although it may be thought that female officers are more sensitive to the plight of female victims that is not always the case. For example, female officers may have a heightened motivation to distance themselves from the threat of sexual victimization and therefore focus on reasons to blame the victim.⁵⁶ Also, if the officer has personally experienced sexual assault and compares experiences with her own, she may sometimes perceive "that a case does not represent 'real rape' like her own."⁵⁷ However, a victim who requests a female officer should be accommodated if possible.

⁵² EVAWI, "Interviewing the Victim," p. 28.

⁵³ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

⁵⁴ EVAWI, "Interviewing the Victim," p. 37.

⁵⁵ *Ibid.*, p. 39.

⁵⁶ *Ibid.*, p. 40.

⁵⁷ *Ibid.*

Follow-Up

An online training manual for interviews created by the former head of the San Diego Sex Crimes Unit points out that “one of the most frustrating dynamics that victims describe is a lack of contact from law enforcement and lack of response to their requests for information and updates on their case.”⁵⁸

Keeping a victim informed about their case is not only good for the victim’s emotional recovery, it also helps develop rapport with the investigator and increases the likelihood of the victim continuing to participate in the criminal justice process.⁵⁹ Victims should be informed about the progress of their case, detectives should return phone calls in a timely manner, and any decision not to arrest the suspect or further pursue the case should be carefully explained to the victim.⁶⁰

Advocates and Counselors

Having an advocate or counselor assist victims through the investigative process can be beneficial to both victims and law enforcement.⁶¹ Advocates can explain what to expect during the investigation and provide emotional support for victims that makes it more likely that they will stay engaged in the process. In some cases, they may act as a go-between, explaining why sensitive questions are asked so the victim does not take offense and, conversely, providing the officer with the victim’s perspective.

One victim, Suzy N., spoke of the importance of having an advocate with her when she reported to the police in California in July 2011: “Just having someone who believed me was very important. She was supportive and emotionally helpful. She helped me feel like I could testify [give a statement].”⁶²

Model policies and guidelines recommend contacting a victim advocate as soon as possible to provide assistance for victims throughout the investigative process. This

⁵⁸ Ibid., p. 98.

⁵⁹ EVAWI, “Interviewing the Victim.”

⁶⁰ See, e.g., San Diego Police Department, Sex Crimes Unit SOP, pp. 1-13.

⁶¹ Dr. Kim Lonsway and Sgt. Joanne Archambault, “Advocates and Law Enforcement: Oil and Water?,” *Sexual Assault Report*, vol. 11, no. 6, pp. 81-82, 86-95; Rebecca Campbell, “Rape Survivors’ Experiences With the Legal and Medical Systems: Do Rape Victim Advocates Make a Difference?,” *Violence Against Women*, vol. 12, no. 1 (January 2006).

⁶² Human Rights Watch telephone interview with Suzy N. (pseudonym), Ventura County, California, October 29, 2011.

includes the forensic exam, law enforcement interviews, pretext phone calls (when the victim is asked to call the suspect on a recorded line), and interviews with the prosecutor.⁶³ At least eight states (California, Iowa, Louisiana, Montana, New York, Oregon, Washington, and Wyoming) have laws explicitly giving victims the right to have an advocate present when law enforcement questions them.⁶⁴

Advocates may be community-based (such as advocates at a local rape crisis center) or system-based (a victim advocate employed by law enforcement or the prosecutor's office). They provide emotional support for victims during a law enforcement interview and ensure victims' rights are protected. If an advocate cannot be present for the interview, it is still valuable to have an advocate (or support person) on-site to provide emotional support and information to the victim before and after the interview or procedure.⁶⁵

For example, access to rape crisis center advocates from the Metropolitan Organization to Counter Sexual Assault (MOCSA) is a key component of Kansas City's victim-centered response to sexual assault. Advocates are called to the hospital when a victim is brought in for a forensic exam, and they are present for the victim during the police interview. The Sex Crimes Section leadership welcomes their involvement because they find victims more likely to report and more likely to remain engaged in the investigation if they have an advocate.⁶⁶

One detective noted, "I can do my job more efficiently and ask more difficult questions because I know the advocate can help if the victim falls apart." He described a situation in which a victim experienced a flashback during an interview. The victim was only able to finish her statement because of the advocate's emotional support.⁶⁷ Kansas City Sexual Assault Response Team (SART) members caution that the role of the advocate has to be clearly

⁶³ EVAWI, "Interviewing the Victim," pp. 47-48; IACP, "Investigating Sexual Assaults Model Policy," <http://www.theiacp.org/LinkClick.aspx?fileticket=iGMHINOfZzo%3d&tabid=87>, pp. 2, 3, 7; San Diego Police Department, Sex Crimes Unit SOP, pp. 1-15.

⁶⁴ Victim of Sexual Assault; Right to Advocate and Support Person, California Penal Code § 679.04 (California); Presence of Victim Counselors, Iowa Code Ann. § 915.20 (Iowa); Basic Rights for Victims and Witness, Louisiana Revised Statutes 46:1844 (Louisiana); Crime Victims—Family Members—Right to Attend Proceedings—Exceptions—Right to Receive Documents—Rights During Interviews, Montana Code Ann. § 46-24-106 (Montana); Criteria for Fair Treatment Standards, McKinney's Executive Law § 642 (New York); Victim's Personal Representative, Oregon Code § 147.425 (Oregon); Personal Representative May Accompany Victim During Treatment or Proceedings, Washington Revised Code Ann. § 70.125.060 (Washington); Victim and Witness Bill of Rights, Wyoming Statutes § 1-40-203 (1997 through Reg Sess) (Wyoming).

⁶⁵ EVAWI, "Interviewing the Victim," p. 56.

⁶⁶ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

⁶⁷ Ibid.

explained; they are there for support and are not part of the police investigation. “As long as people know what is expected, it works,” said a Kansas City prosecutor, Trisha Lacey.⁶⁸

In Grand Rapids, an advocate may arrange for the victim to be interviewed by a detective at the Young Women’s Christian Association (the YWCA, which is where the advocates and nurses are based). The advocate is present for the interview to provide emotional support to the victim.⁶⁹

Austin’s Victim Services Division

There are over 20 crisis counselors in Austin Police Department’s Victim Services Division. Officers responding to a sexual assault must call a counselor, who responds to the scene whether or not the victim requests an advocate.⁷⁰ The counselor makes it clear to the victim that he or she is not an officer and is there to provide support.⁷¹ The counselor escorts the victim to the hospital and stays with the victim until the nurse arrives,⁷² and so has more time to explain the investigative process to the victim.⁷³ After the initial response to a crime report, a counselor (after coordinating with the detective) contacts the victim within 24 hours to schedule an interview. While at the unit, Human Rights Watch heard a victim services counselor reassure a particularly frightened victim:

We are going to treat you with respect. I don’t want you to be fearful. The detective will talk to you about next steps in the investigation. I am going to call you to remind you of your appointment because I know you have a lot going on right now.⁷⁴

Counselors meet with the victim privately before the detective interview to provide crisis stabilization counseling, assess the victim’s state of mind, and explain what the interview process will be like. The counselor makes it clear that his or her discussion

⁶⁸ Ibid.

⁶⁹ Human Rights Watch interview with Patti Haist, Director of Clinical Services, and Chris Dunnuck, Nurse Coordinator, YWCA, Grand Rapids, Michigan, July 23, 2012; Human Rights Watch interview with Sergeant Kristen Rogers, July 26, 2012.

⁷⁰ Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011.

⁷¹ Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

⁷² Human Rights Watch interview with Jenny Black, December 14, 2011.

⁷³ Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

⁷⁴ Human Rights Watch visit to Austin Police Department, Austin, Texas, December 14, 2011.

with the victim is confidential, but says that he or she will tell the detective if something significant to the case is revealed (such as the victim had used drugs).⁷⁵ The counselor makes a point of telling the victim it is not his or her fault, even if alcohol and drugs were involved, and explains that the detective may ask tough questions. The counselor may be present during the detective interview to provide emotional support if the victim wants.

After the detective speaks to the victim, the counselor again meets the victim to assess his or her well-being, see if he or she has any safety concerns, and make sure he or she has a support system. They inform victims of their rights and how to access information about their case. The counselor may also meet with the victim's family (with the victim's consent), help with victim compensation forms (applications to receive costs from the state for bills incurred as a result of being a violent crime victim), and provide information about trauma. Since investigative techniques such as photo line-ups, pretext calls, and composite sketches can be emotionally difficult for victims, counselors provide emotional support before, during, and after the process. Counselors go with detectives to home interviews. They also work closely with detectives to support and assist them during the investigative process and act as a liaison, scheduling detectives' appointments with victims and updating them on the investigation's progress.⁷⁶

In addition, counselors provide practical services to address any immediate needs the victim may have. For example, Human Rights Watch observed a counselor help a victim who was short of money get the medications she needed. The counselor may also help with a lost cell phone or assist with childcare, transportation, or finding a secure place to go.⁷⁷ If prosecution is declined on a case, the detective notifies the victim, but a counselor contacts the victim afterwards to help him or her cope and put him or her in touch with proper resources.⁷⁸ If a case is prosecuted, the counselor explains how the victim can get information about the status of the case online or over the phone and gives the victim the name of a counselor from the court who will take over the case.⁷⁹

⁷⁵ Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

⁷⁶ Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011; See also "Austin Police Department Victim Services, Adult Sex Crimes Unit, Counselor Roles and Services Guidelines," on file with Human Rights Watch, explaining the various roles and responsibilities of the Victim Services Division.

⁷⁷ Human Rights Watch interview with Dolores Lapart-Litton, December 14, 2011.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

By taking care of victims and explaining the process, counselors save detectives time and enable them to focus on investigations.⁸⁰ By helping with victims' needs in the early stages of the investigation—such as childcare, medication, or transportation—counselors prevent problems that may lead to a victim no longer cooperating. Detectives and counselors have come to respect each other's roles, and there is recognition that without this kind of support, victims all too often fall out of the system.⁸¹ According to Sergeant Donegan, counselors “are a huge piece for us.”⁸²

Referrals to Community Resources

Cities with constructive practices for victims inform them orally and in writing of their rights, and of community resources available to them.⁸³

For example, the Victim Services Division in Austin gives each victim a packet of information including a case information sheet (with a case number and contact information for the detective, Victim Services Counselor, and District Attorney's Victim Witness Assistance), an explanation of the criminal justice process, a sheet explaining the rights of victims, an explanation of access to court information, an application for financial compensation from the state for victims of violent crimes, health care information, information on emotional care for sexual assault survivors, information for family and friends on how to help and support a sexual assault survivor, referrals for counseling programs, a pseudonym form, and information about the Victim Services Division and the Austin Police Department.⁸⁴ Detectives in Austin also verbally refer victims to the rape crisis center.⁸⁵

Kansas City police detectives send victims who miss an interview a follow-up letter containing information about counseling services, and detectives also regularly refer

⁸⁰ Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

⁸¹ Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

⁸² Human Rights Watch interview with Sergeant Liz Donegan, December 14, 2011.

⁸³ EVAWI, “Interviewing the Victim,” pp. 96, 99; San Diego Police Department, Sex Crimes Unit SOP, pp. 2, 3; Human Rights Watch interview with Sergeant Kristen Rogers, July 26, 2012.

⁸⁴ Folder of information provided by Austin Police Department, on file with Human Rights Watch.

⁸⁵ Human Rights Watch interview with Gail Rice, Community Advocacy Director, SafePlace, Austin, Texas, December 14, 2011.

victims to the rape crisis center.⁸⁶ Victims in Philadelphia are routinely referred to the rape crisis center by police and hospital personnel.⁸⁷ A victim assistance officer also sends a follow-up letter to victims that includes a survey asking victims how they were treated by police and encouraging them to contact the assistance officer if they have any issues or concerns.⁸⁸ In Grand Rapids, all officers are required to provide victims with a “2-1-1” card which is a pocket guide to programs and services in the area, including resources for sexual assault victims. In addition, the detectives in the family service team have a wide array of pamphlets (in English and Spanish) on site that they are able to provide victims when they are interviewed.⁸⁹

Effective Cross-Disciplinary Collaboration

In the four cities visited by Human Rights Watch—Philadelphia, Austin, Kansas City, and Grand Rapids—effective collaboration between police and the various agencies and community groups that work with sexual assault survivors was viewed as an essential component of a victim-centered approach. As Sergeant Rogers of Grand Rapids said, “We couldn’t survive without a good working relationship with them [nurses and advocates].”⁹⁰

This collaboration often took the form of a formal Sexual Assault Response and Resource Team (SARRT, or SART), which may include forensic examiners, detectives, advocates, prosecutors, and others.⁹¹ Philadelphia’s Sexual Assault Advisory Committee, which has been operating for over 20 years, is less formal and open to anyone who wants to participate.

In each city, medical staff, advocates, and police recognized that the victim’s well-being is important to everyone.⁹² Collaboration across disciplines yields a number of benefits. Communication between law enforcement and medical personnel, for example, can assist the investigation by helping the nurse document and collect evidence. The victim may also

⁸⁶ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

⁸⁷ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

⁸⁸ Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

⁸⁹ Human Rights Watch interview with Sergeant Kristen Rogers, July 26, 2012. Pamphlets and leaflets on file with Human Rights Watch.

⁹⁰ *Ibid.*

⁹¹ Sgt. Joanne Archambault, Dr. Kimberly Lonsway, EVAWI, “Clearance Methods for Sexual Assault Cases,” OnLine Training Institute, July 2007, updated May 2012, p. 30.

⁹² Human Rights Watch group interview with Kansas City SART, July 22, 2011; Human Rights Watch interview with Tess Sherman, Analyst, Sex Crimes Unit, Austin Police Department, Austin, Texas, December 14, 2011; Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

be more comfortable speaking to a nurse in his or her medical capacity and therefore might disclose information that he or she is hesitant to share with law enforcement.⁹³ In Philadelphia, one acknowledged benefit of improved communication between nurses and police is that the nurses share relevant information with the detective that the victim may not have mentioned, such as the possible location of a condom.⁹⁴ In Grand Rapids, the sergeant also stressed the importance of communication between nurses, advocates, and detectives as nurses and advocates often provide useful information to detectives.⁹⁵ The detectives in Kansas City call nurses to help decipher technical medical reports.⁹⁶

In each city, team members noted that their relationships and mutual respect allow them to raise concerns about insensitive or inappropriate behavior by anyone interacting with victims (nurses, police officers, or advocates) and feel confident they will be addressed.⁹⁷ The Sexual Assault Advisory Committee in Philadelphia has brought about improvements in medical care for victims. For a long time, hospitals in Philadelphia did not have a protocol for handling sexual assault cases, and exams were not conducted in a consistent way. The committee helped develop a standard rape kit that was implemented statewide in 2007,⁹⁸ and then worked for three-and-a-half years to establish, in 2011, a new hospital-based center devoted exclusively to the care of sexual assault victims.⁹⁹ Victims used to be subjected to long waits in the emergency room but now “feel like they count,” according to a former Special Victims Unit detective.¹⁰⁰ Police see the new center as helpful because victims often used to leave if they had to wait too long in an emergency room, and acknowledge it would not exist without improved relations between themselves and community groups.¹⁰¹

⁹³ EVAWI, “Interviewing the Victim,” p. 53.

⁹⁴ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

⁹⁵ Human Rights Watch interview with Sergeant Kristen Rogers, July 26, 2012.

⁹⁶ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

⁹⁷ Ibid.; Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011; Human Rights Watch interview with Gail Rice, December 14, 2011; Human Rights Watch interview with Sergeant Kristin Rogers, July 26, 2012; Human Rights Watch interview with Patti Haist and Chris Dunnuck, July 23, 2012.

⁹⁸ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

⁹⁹ The new unit, which opened in May 2011, is located in the same complex as Philadelphia’s Special Victims Unit. Rather than long waits in a noisy emergency room, victims are now taken straight to a treatment room that is stocked with snacks, juice, replacement clothing, and flyers for the rape crisis center. The exam process is now much shorter.

¹⁰⁰ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

¹⁰¹ Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

In Austin, victims also benefit from a collaborative approach to problem-solving. A SART team meets monthly to discuss how to provide better services for victims.¹⁰² Open communication and mutual respect make it easier to implement police changes. For example, in Austin the nurses realized that national guidelines had changed to allow forensic evidence kits to be collected up to 120 hours, rather than 96 hours, after an assault. The nurses suggested expanding their policy to be consistent with updated national protocol. The police agreed to the change immediately.¹⁰³ The SART is also trying to create a database that tracks cases, in order to understand better how to service victims and ensure cases do not fall through the cracks.¹⁰⁴

In Kansas City, increased collaboration between nurses, advocates, the crime lab, prosecutors, and police has resulted in better treatment of victims. The lab initially saw inconsistent quality among forensic evidence kits and moved to improve evidence collection. Police behavior also improved; old policies of inactivating cases in which the victim had alcohol were abandoned.¹⁰⁵ According to members of the team, if an officer, nurse, or advocate steps out of line, they are comfortable raising the problem and confident it will be addressed.¹⁰⁶ Having the same captain running the Special Victims Unit for five years (since 2006) was also viewed as helpful and one reason for the strength of the local SART team.¹⁰⁷

In most cities that Human Rights Watch visited, though the team members clearly appreciated one another and worked well together, they acknowledged tension had once existed between different agencies and it took time to develop trust.¹⁰⁸ For example, some detectives initially resisted working with social service agencies and advocacy groups, but have come to regard such groups as helpful to their work.¹⁰⁹ Similarly, advocates noted no longer being suspicious of police.¹¹⁰

¹⁰² Human Rights Watch interview with Tess Sherman, December 14, 2011.

¹⁰³ Human Rights Watch interview with Jenny Black, December 14, 2011.

¹⁰⁴ Ibid.

¹⁰⁵ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid; Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011; Human Rights Watch interview with Gail Rice, December 14, 2011.

¹⁰⁹ Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

¹¹⁰ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

Training

Training officers in the dynamics of sexual assault and the effects of trauma is important to counteract inherent assumptions police—like many people—may have about sexual assault and how “real” sexual assault victims behave. Training patrol officers to respond to sexual assault is often neglected; detectives, too, may have insufficient information about how to conduct interviews of traumatized victims. As noted above, an improper initial response may sabotage the entire investigation.

Many police remain highly skeptical of victims. A retired police chief in Ohio recollected how, when he returned from a course on investigating sexual assault decades ago, he reported back to a veteran detective who told him “half those cases are false.” Twenty-five years later, as a trainer, he was struck by how many police officers *still* believe half of sexual assault victims are lying.¹¹¹ A survey of 891 officers showed that 53 percent of respondents believed 10-50 percent of victims were lying about being raped, and another 10 percent thought 51-100 percent of women give false reports of rape.¹¹² In fact, studies show only 2-10 percent of rape cases are false.¹¹³

A number of factors may cause people, including law enforcement, to doubt a victim’s account of a sexual assault incident—for example: the victim and suspect know each other or have had consensual sex before; there is no sign of physical injury; the victim is calm or young or engaged in sex work; no weapon was used; the victim changes his or her account of what happened; the victim can’t remember details initially, but remembers them later; the victim used alcohol or drugs; or the suspect seems respectable. Police training should address these assumptions and biases.¹¹⁴ Police also need enough training in the

¹¹¹ Human Rights Watch telephone interview with Dan Clark, former police chief, Lakewood (Ohio) Police Department, Cleveland, Ohio, February 3, 2011.

¹¹² Amy Dellinger Page, “Gateway to Reform? Policy Implications of Police Officers’ Attitudes toward Rape,” *American Journal of Criminal Justice*, vol. 33, no. 1 (May 2008), p. 55; Another study showed over half of detectives interviewed with less than seven years experience believed 40-80 percent of sexual assault complaints are false. Martin D. Schwartz, “National Institute of Justice Visiting Fellowship: Police Investigation of Rape—Roadblocks and Solutions,” Doc. No. 232667, U.S. Department of Justice Award No. 2003-IJ-CX-1027, December 2010.

¹¹³ David Lisak, Lori Gardinier, Sarah C. Nicksa, and Ashley M. Cote, “False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases,” *Violence Against Women*, vol.16 (December 2010), pp. 1318-1334 (finding a false report rate of 5.9 percent over a 10 year study of reported sexual assaults at a major northeastern university).

¹¹⁴ EVAWI, “False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assault,” OnLine Training Institute, February 2009.

dynamics of sexual violence to understand counterintuitive behavior, such as a victim returning to a party after an assault or “freezing” and not fighting back.¹¹⁵

The training police normally receive with respect to investigation of other crimes can be counterproductive if applied to sexual assault survivors. Police are often trained in interrogation of witnesses and suspects rather than interviewing victims. Furthermore, trauma survivors often send out clues that seem deceptive. Police are often suspicious when information is presented in a disorganized or inconsistent manner or when victims recall information days, weeks, or even months after the assault.¹¹⁶ One study showed that if victims do not tell the whole story up front, the cases are less likely to progress.¹¹⁷

Training in the effects of trauma on memory can help officers understand that these are not causes for suspicion and that inconsistencies should not be confused with a false report.¹¹⁸ Furthermore, victims may provide information in their interview that is incomplete or even untrue because they do not want to be blamed for their sexual assault.¹¹⁹ However, when police feel they are being lied to, they may switch to an interrogation mode because “they don’t want to be seen as being fooled.”¹²⁰ Some detectives also think they should grill victims to see how they would hold up on cross-examination.¹²¹ Once the investigator moves into an interrogation mode, the victim is more likely to shut down.¹²²

Experts also recommend training officers in the elements of sexual assault offenses so they can better identify incidents that meet the criteria even if they lack the element of force or fear. In many places, including the District of Columbia, it is unlawful to engage in sexual activity with someone who is extremely intoxicated, incapacitated, severely disabled, unconscious, or otherwise physically helpless, even if the suspect did not

¹¹⁵ Human Rights Watch telephone interview with Chris Mallios, Northeast regional attorney advisor, AEquitas: The Prosecutor’s Resource on Violence Against Women, Washington, DC, November 10, 2011.

¹¹⁶ EVAWI, “Interviewing the Victim,” p. 22.

¹¹⁷ See Debra Patterson, “The Impact of Detectives’ Manner of Questioning on Rape Victims’ Disclosure,” *Violence Against Women*, vol. 17, no. 11 (November 2011).

¹¹⁸ Sgt. Joanne Archambault and Dr. Kim Lonsway, EVAWI, “Incomplete, Inconsistent and Untrue Statement Made by Victims: Understanding the causes and overcoming the challenges,” revised August 26, 2008, pp. 2-3; see also Ellison, “Closing the credibility gap: The prosecutorial use of expert witness testimony in sexual assault cases,” *The International Journal of Evidence & Proof*.

¹¹⁹ EVAWI, “Interviewing the Victim,” p. 25-26.

¹²⁰ Human Rights Watch telephone interview with Dan Clark, February 3, 2011.

¹²¹ *Ibid.*

¹²² *Ibid.*

administer the intoxicating substance covertly.¹²³ Yet patrol officers may not realize that the victim's inability to communicate an unwillingness to engage in a sexual act (or appraise the nature of the conduct) may mean that force is not necessary to establish sexual abuse.¹²⁴

Officers should also be aware that specific recollection of penetration is not necessary to report a sexual assault. According to FBI sources:

There is in fact no requirement that a victim specifically recall the act of penetration—especially in cases where a woman might have blacked out. If a woman says she has reason to believe she was raped but cannot recall details because she was under the influence of alcohol or drugs, the incident should be counted as a rape. If subsequent investigation proves that no rape took place, police can subtract it from their crime total.¹²⁵ The Austin Sex Crimes Unit performs a six-and-a-half hour training for cadets, including training on the impact of trauma and possible victim behaviors during interviews.¹²⁶ Officers are trained primarily on non-stranger assaults to better reflect the reality on the ground. Austin SANE nurses also train the police on forensic evidence gathering, and outside speakers have been brought in to explain drug-facilitated sexual assaults.¹²⁷

In San Diego, detectives assigned to the sexual assault unit are specially trained in interviewing traumatized victims. Detectives must undergo 32 hours of training in topics related to sexual assault investigations.¹²⁸ A checklist of 13 procedures with multiple sub-parts, including a two-week training period with two detectives and observation of at least three victim interviews, is part of the orientation and training for new members of the Sex Crimes Unit.¹²⁹ To become a detective in the Kansas City Special Victims Unit, police have a strenuous testing process and train with a senior detective for three months under close supervision.¹³⁰ In Manhattan, the Special Victims Unit has at least two weeks of training

¹²³ Sgt. Joanne Archambault and Dr. Kimberly Lonsway, EVAWI, "Reporting Methods for Sexual Assault Cases," OnLine Training Institute, July 2007, p. 32; Second Degree Sexual Abuse, D.C. Official Code § 22-3003.

¹²⁴ EVAWI, "Reporting Methods for Sexual Assault Cases," p. 11.

¹²⁵ Fazlollah et al., "How police use a new code when sex cases are unclear," *Philadelphia Inquirer*, quoting Mary Victoria Pyne, spokeswoman for the FBI Uniform Crime Reports program.

¹²⁶ Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011.

¹²⁷ Human Rights Watch interview with Jenny Black, December 14, 2011.

¹²⁸ San Diego Police Department, Sex Crimes Unit SOP, pp. 1-21.

¹²⁹ *Ibid.*, pp. A-3 to A-6.

¹³⁰ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

per year.¹³¹ In every city visited, the need for training is constant because of high turnover.¹³² In Austin, Sergeant Donegan described a constant fight to educate first responders and detectives.¹³³

Sexual assault education is part of mandatory training for new recruits in Kansas City and Philadelphia. In both places, the local rape crisis centers also train officers. In Kansas City, the rape crisis center conducts a two-hour training and role play with all new recruits and does on-going training for patrol officers periodically at roll call.¹³⁴

In New Orleans, after realizing that detectives' lack of understanding of how sexual assault victims think led to misclassification of cases, police leadership asked advocates and experts at Tulane University to design a training program to teach detectives how to better relate to sexual assault victims. Detectives will undergo training quarterly and all patrol officers will do a smaller version of the training program starting in 2012.¹³⁵

Training itself is often offered by victim advocacy organizations gratis. End Violence Against Women International (which was a source for much of the information in this report) also offers on-line training for law enforcement without cost. Budget constraints should not be a barrier to proper training of detectives and officers.

¹³¹ Human Rights Watch interview with Melissa Mourges, chief of Cold Cases Unit, and Martha Bashford, chief of Sex Crimes Unit, Manhattan District Attorney's Office, New York, New York, January 31, 2012.

¹³² Human Rights Watch telephone interview with Chris Mallios, November 10, 2011.

¹³³ Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011.

¹³⁴ Human Rights Watch interview with Catherine Johnson, Detective, Sex Crimes Section, Kansas City Police Department, Kansas City, Missouri, July 22, 2011; Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

¹³⁵ Police Executive Research Forum, "Improving the Police Response to Sexual Assault," Critical Issues in Policing Series, March 2012, p. 11.

Accountability

In Austin, Philadelphia, and Kansas City, a number of safeguards have been put in place to ensure that sexual assault cases are investigated. Each department has incorporated most, if not all, of the following practices:

- Requiring that all sexual assault incidents are put in writing and assigned a number for tracking purposes and secondary review;
- Clearly instructing all officers to assume that all sexual assault cases are valid unless established otherwise by investigative findings;
- Reviewing call logs to ensure cases are not slipping through the cracks;
- Checking each case to see that the investigation is handled appropriately;
- Reviewing investigators' caseloads to ensure there is not a disproportionate number of unfounded cases or cases in which the victim no longer cooperates;¹³⁶
- Seriously and promptly responding to complaints by victims about improper treatment;¹³⁷ and
- Removing from the units detectives who do not meet the unit's expectations.¹³⁸

Experts agree that investigators should not have the discretion to declare a case “unfounded” or to not write a report after taking only an initial statement from the victim. All incidents (including those where it is unclear if the legal elements of a sexual assault are met) should be documented, reviewed by a supervisor, and followed up.¹³⁹ A written record is necessary so that officers and investigators can be held responsible for every sexual assault call they receive. Also, a written report may be necessary for the victim to pursue other needs such as protection orders, civil legal remedies, victim compensation

¹³⁶ EVAWI, “Clearance Methods for Sexual Assault Cases,” pp. 32-33.

¹³⁷ *Ibid.*, p. 37.

¹³⁸ Human Rights Watch interview with Kansas City SART, July 22, 2011; Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011; Human Rights Watch Interview with Sergeant Liz Donegan, December 13, 2011; Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

¹³⁹ EVAWI, “Clearance Methods for Sexual Assault Cases,” p. 18; EVAWI, “Reporting Methods for Sexual Assault Cases,” pp. 6-7. Incident reports (or allegations) may be appropriate where the victim makes a report that does not meet the elements of a sexual offense—for example, if a person felt pressured into having sexual contact with another person but the coercion did not rise to the level of a forcible sexual assault. However, some form of report must be created and reviewed. There must also be the ability to re-categorize the case if more information becomes available or if the victim decides to cooperate after initially not being able to participate in the investigation. EVAWI, “Reporting Methods for Sexual Assault Cases,” pp. 18-19.

claims, or insurance.¹⁴⁰ Finally, investigators should not be pressured to “clear” (or remove from an active investigative caseload) a high percentage of their cases.¹⁴¹

In Kansas City, there are a number of checks at different stages to ensure cases do not disappear. Responding officers are required to call the Special Victims Unit (SVU) when a sexual assault is reported. During training it is emphasized that it is in the responding officer’s interest to do so because the SVU then shares responsibility (or the blame, if there is a problem) for the preliminary investigation. If a crime occurred, a report must be written. If it is not clear whether a crime occurred (i.e., if the victim has no memory), the report is written up as a “miscellaneous sex crime.” Each day the sergeant in Kansas City accesses all sex crime reports that have come in over the past 24 hours and reviews the narratives. Inadequate reports are sent back to be re-written.

All cases are investigated—including “miscellaneous sex crimes”—unless the victim cannot cooperate at the time, because “not working a case would be irresponsible,” according to the captain of the Special Victims Unit, though he noted that the culture had changed a lot since 2006 when he started in the unit.¹⁴² Nor are cases disposed of quickly when a victim is not easy to reach.

Detectives are required to attempt to contact the victim repeatedly by phone and then do a residence check if calls fail. All attempts to reach the victim are recorded. Shelters are also instructed to contact the police if a victim appears and consents. A sergeant reviews each file quarterly to ensure it is being followed up appropriately and checks for medical records, outcry witnesses (people whom the victim first told about the sexual assault), videos, a suspect interview, and eyewitnesses. If these are not in the file, the detective must explain

¹⁴⁰ EVAWI, “Reporting Methods for Sexual Assault Cases,” p. 5.

¹⁴¹ Under the FBI Uniform Crime Reporting system, cases may be cleared by arrest (where the suspect has been taken into custody, charged, and handed to the court for prosecution), exceptionally cleared (when the case cannot be charged though the offender is identified, at a known location, and there is enough evidence to support the case, but the offender is in another jurisdiction or deceased or the victim is unable to participate in the investigation), or unfounded (if an investigation shows no offense occurred or was attempted). US Department of Justice, Federal Bureau of Investigations, “Uniform Crime Reporting Handbook 2004,” http://www.fbi.gov/about-us/cjis/ucr/additional-ucr-publications/ucr_handbook.pdf (accessed May 11, 2012).

¹⁴² Human Rights Watch group interview with Kansas City SART, July 22, 2011. If a victim is unsure whether or not to report, detectives send the victim a follow up letter.

why not.¹⁴³ Before the file is submitted to the prosecutor or closed, the sergeant checks it again.¹⁴⁴ Prosecutors also review cases and may request additional investigation.

The policy of investigating all cases has paid off. Captain Folsom recalled one rape case in Kansas City in which the detectives doubted a crime had occurred. The perpetrator snuck into the victim's house and approached her from behind. He told her not to look at him and made her take a bath afterwards. The victim never saw the suspect. Despite their doubts, detectives investigated the case and a month later a similar crime occurred. Eventually they were able to link the perpetrator to four cold cases in addition to five cases in 2009 and 2010.¹⁴⁵

In Philadelphia, lack of proper supervision over the Sex Crimes Unit in the 1980s and 1990s resulted in thousands of cases being miscoded and never investigated (see text box). Detectives had complete discretion to close cases without oversight. According to a former Philadelphia sex crimes prosecutor, a now former detective referred to the rape unit as the "lying bitches unit."¹⁴⁶ Many of his files were later found to have been miscoded as non-criminal offenses.¹⁴⁷

Following the *Inquire's* exposé in 1999, a number of checks were put in place to ensure this did not happen again. Advocacy groups now review incident reports and district reports, internally and externally, for proper coding. Officers must pass all information on sexual assaults to a supervisor or a detective who can investigate and decide on case coding.¹⁴⁸ Cases of recantation are reviewed especially closely by Captain Darby, head of the Sex Crimes Unit, to ensure recantations were not coerced. He also checks for insensitive questions.¹⁴⁹

Finally, in Philadelphia, the captain solicits feedback on treatment of victims both from surveys and from victims' advocates. A victim assistance officer sends a follow up letter to

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Human Rights Watch telephone interview with Mark Folsom, Captain, Special Victims Unit, Kansas City Police Department, Kansas City, Missouri, August 24, 2011.

¹⁴⁶ Human Rights Watch telephone interview with Chris Mallios, November 10, 2011.

¹⁴⁷ Ibid.

¹⁴⁸ Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

¹⁴⁹ Ibid.

the victim or family residence inquiring as to how they felt they were treated in order to give victims an opportunity to let the department know if they believe their case was not handled properly or if they felt pressure to recant.¹⁵⁰ If there is a serious problem with a detective, he or she will be removed from the unit.¹⁵¹

In Austin, when Sergeant Donegan took over the Sex Crimes Unit in 2002, she discovered that patrol officers regularly cleared sexual assault cases without documenting the incident in a written report. She issued a directive requiring all calls for sexual assault cases to be documented in a formal report that is forwarded to the Sex Crimes Unit for review, to ensure the cases do not disappear from the system.¹⁵²

A sergeant in the Austin Sex Crimes Unit reviews all preliminary reports. All cases are assigned to detectives, and the detective must attempt to contact the victim within 24 hours. Even if the victim says it might have been consensual or they have little or no memory, detectives conduct an investigation. In those cases, a detective will look for videos, interview witnesses, get cell phone records, and otherwise try to reconstruct events.¹⁵³ A determination as to whether a crime occurred is not made until an investigation is complete.¹⁵⁴ Sex workers, drug users, and homeless victims are now seeing their cases go forward.¹⁵⁵ Misdemeanors (such as peeping or groping) are taken seriously, because they can escalate into more serious offenses.¹⁵⁶

In Austin, many layers of review make it harder for cases to slip through the cracks. In addition to the sergeant, Victim Services and a sex crimes analyst read each case twice at different points for follow up.¹⁵⁷ A prosecutor is also assigned to the sexual assault unit.¹⁵⁸ A detective who wants to close a case as unfounded has to meet personally with their

¹⁵⁰ Police Executive Research Forum, "Improving the Police Response to Sexual Assault," Critical Issues in Policing Series, March 2012, p. 16.

¹⁵¹ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

¹⁵² The Making a Difference Project, EVAWI, "Reform Efforts: Austin, Texas," [http://www.evawintl.org/mad.aspx?subpage=4#Austin, Texas](http://www.evawintl.org/mad.aspx?subpage=4#Austin,Texas), p.1.

¹⁵³ Human Rights Watch interview with Tess Sherman, December 14, 2011.

¹⁵⁴ Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011.

¹⁵⁵ Human Rights Watch interview with Tess Sherman, December 14, 2011.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Human Rights Watch interview with Sergeant Liz Donegan, December 13, 2011

supervisor to justify his or her decision. As a result, they have very few unfounded cases.¹⁵⁹ The unit supervisor also monitors whether detectives close too many cases or have too many victims who are declining to participate in the investigation. If a detective is not investigating all cases or exhibits disinterest in his or her work, a recommendation may be made for the detective to be transferred from the unit.¹⁶⁰

In Baltimore, recent reforms in response to reports of misclassification of cases include requiring the unit commander to sign off on any unfounded sexual assault case in the city. Patrol officers are not able to make that determination.¹⁶¹ The New Orleans Police Department also implemented procedures requiring the commander of the Sex Crimes section to sign off on the classifications for all sexual assault cases after finding that large numbers of sexual assault cases that officers did not think were true were classified as “miscellaneous.”¹⁶²

Reforms in Philadelphia

A crisis is often a catalyst for real and systemic change—such was the case for Philadelphia.

—Charles Ramsey, Philadelphia police commissioner, testimony before the Senate Judiciary Subcommittee on Crime and Drugs, September 14, 2010¹⁶³

In 1999, the *Philadelphia Inquirer* revealed that for nearly two decades, city police had been burying rape and sexual assault cases by marking a high percentage of cases as “unfounded” or by classifying them in non-crime codes. In the early 1980s, the police department rejected over half of all rape complaints as “unfounded”—an FBI category for cases in which investigation shows no crime occurred—at a rate five times the national average. The department stopped classifying cases as “unfounded” in such high

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.; Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

¹⁶¹ Police Executive Research Forum, “Improving the Police Response to Sexual Assault,” Critical Issues in Policing Series, March 2012, p. 10.

¹⁶² Ibid., p. 11.

¹⁶³ Testimony of Police Commissioner Charles H. Ramsey, Philadelphia Police Department, before the US Senate Judiciary Committee, Subcommittee on Crime and Drugs, “Rape in the United States: The Chronic Failure to Report and Investigate Rape Cases,” September 14, 2010.

numbers after the FBI started asking questions in 1983. But rather than investigate the cause of the high unfounded rate, the department began to code cases as “2701,” a code for non-criminal offenses.

A retired rape investigator explained that the category meant, “this is a nothing.”¹⁶⁴ Those cases did not count against the department’s clearance rate and were officially not considered a crime. There was no pressure to follow up on these cases and they fell through the cracks.

From the mid-1980s until 1997, Philadelphia police put about a third of all rape complaints (approximately 500 to 1,000 cases a year) into this category, including at least two cases that were eventually linked through DNA testing to a serial rapist and murderer.

A former supervisor of the sex-crimes unit, George Pennington, explained that classifying cases as 2701 was a convenient way to set aside cases no one wanted to deal with, where the victims “didn’t fit a certain profile” or the cases were difficult to investigate. He also referred to pressure from above to keep the number of rape cases low: “To make your city look good, you would go under with sex-crime cases. Basically, it was public relations.”¹⁶⁵

Other former sexual assault investigators referred to the inadequate staffing, steep workload, and a command structure obsessed with statistics that led to statistical trickery. The doctoring of the numbers resulted in Philadelphia’s having one of the best “clearance” rates in the country in the 1980s and early 1990s. But the reality was that the unit was understaffed and failing to investigate a large percentage of cases.¹⁶⁶ The effort to bury cases meant that the police were blindsided when the investigation of a murder resulted in a finding that a serial rapist had been attacking women in Philadelphia.¹⁶⁷

After the misuse of Code 2701 was brought to police attention, the police found another means to hide the hard cases: Code 2625, a category for “investigation protection and medical examination” that had previously been used for teenage runaways. Police

¹⁶⁴ Mark Fazlollah, Michael Matza, Craig McCoy and Clea Benson, “Women victimized twice in police game of numbers,” *Philadelphia Inquirer*, October 17, 1999.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ Human Rights Watch telephone interview with Mark Fazlollah, reporter, *Philadelphia Inquirer*, February 9, 2012.

classified 400 cases as Code 2625 in 1998 and 1999, typically the difficult cases often involving women with drug habits or mental problems or victims who were unconscious or drunk during the assault and unable to recall what had happened to them.¹⁶⁸

The culture within the department was also one that discouraged reporting. Victims were interrogated and disbelieved, victim polygraphs were ordered or threatened, and more concern was shown for the suspect's reputation than for the victim's safety.¹⁶⁹ As an *Inquirer* reporter put it, "The rape was the first attack. The police treatment of the victim was the second."¹⁷⁰

Philadelphia's new police commissioner, John Timoney, recognized in 1999 that crimes had been inappropriately downgraded. Within a month or so of the *Inquirer's* exposé, he replaced the captain in charge of the Special Victims Unit and ordered 45 new detectives to investigate all cases incorrectly coded for the previous five years—the statute of limitations period for which prosecutions could still occur.¹⁷¹ The City Council's Public Safety Committee held hearings and was responsible for public oversight of police reform efforts. The reinvestigation resulted in 681 cases being classified as rape and another 863 cases re-categorized as other sex crime offenses.¹⁷²

Also, recognizing the "huge, huge" hit taken in public confidence by the revelations about police handling of sexual assault cases, Commissioner Timoney invited advocacy groups to review all sexual assault cases and bring concerns to the attention of the lieutenant or captain.¹⁷³ Initially, the advocacy groups (bound by a confidentiality agreement) reviewed unfounded cases, but over the years their review has expanded to

¹⁶⁸ Mark Fazlollah et al., "How police use a new code when sex cases are unclear," *Philadelphia Inquirer*.

¹⁶⁹ Women's Law Project, "Improving Police Response to Sexual Assault Victims," http://www.womenslawproject.org/resources/police_response_sexassault_web.

¹⁷⁰ Human Rights Watch telephone interview with Mark Fazlollah, February 9, 2012.

¹⁷¹ John Timoney, "Fixing Policies Was Just the First Step; We also Had to Restore the Department's Credibility," Subject to Debate: A Newsletter of the Police Executive Research Forum, vol. 25, no. 5 (September/October 2011), http://www.policeforum.org/library/subject-to-debate-archives/2011/Debate_Sep-Oct2011_web.pdf (accessed May 16, 2012); Women's Law Project, "Improving Police Response to Sexual Assault Victims," http://www.womenslawproject.org/resources/police_response_sexassault_web.

¹⁷² Women's Law Project, "Improving Police Response to Sexual Assault Victims," http://www.womenslawproject.org/resources/police_response_sexassault_web.

¹⁷³ John Timoney, "Fixing Policies Was Just the First Step," Subject to Debate: A Newsletter of the Police Executive Research Forum, http://www.policeforum.org/library/subject-to-debate-archives/2011/Debate_Sep-Oct2011_web.pdf.

include third-party reporting of child abuse, cases categorized as a non-offense pending further investigation, and a random selection of 100 open cases. Once a year, over several days, they review 300 to 400 case files.¹⁷⁴

Although initially painful, as investigators were reluctant to have outsiders critique their work and felt “under siege,” instituting outside review has been a success. The current captain in charge of the Special Victims Unit told Human Rights Watch that the review process resulted in a higher standard of investigations for these crimes, while also sensitizing advocates to the practical difficulties of conducting investigations.¹⁷⁵

Commissioner Ramsey testified before Congress in 2010:

Our partnerships have strengthened every part of the process, from reporting each case of sexual assault, irrespective of the circumstances, to a thorough investigation by well-trained specialized detectives, and finally to working with our medical and mental health providers in minimizing the trauma experienced by victims of the heinous crime.... I cannot overstate the importance of the collaboration in charting a new course of direction in how rape was, and is, reported and investigated by our department.¹⁷⁶

The collaboration has helped to re-establish trust and “promot[e] a culture that treats victims of rape with dignity and respect.”¹⁷⁷ Advocacy groups have noticed vast improvements in investigative files over the years, with far more documentation and oversight from supervisors.¹⁷⁸

Collaboration between advocates and police provided other benefits as well, such as improved police training and protocols. Also, community groups were able to successfully advocate for the move of the unit from its location in an overcrowded former arsenal surrounded by barbed wire to a new location on the Episcopal Hospital campus

¹⁷⁴ Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

¹⁷⁵ Ibid.

¹⁷⁶ Testimony of Police Commissioner Charles H. Ramsey before the Senate Judiciary Committee, Subcommittee on Crime and Drugs, September 14, 2010.

¹⁷⁷ Ibid.

¹⁷⁸ Human Rights Watch interview with Carol Tracy and Terry Fromson, Women’s Law Project, Philadelphia, Pennsylvania, November 1, 2011.

with double the space. The detectives have better interview rooms, and suspects and victims no longer cross paths. The location is also near the new triage room for SANE exams, making access easier for victims and detectives.¹⁷⁹

Philadelphia went from being a model of shoddy sex crimes practices to a source of inspiration for other departments seeking to do better.

¹⁷⁹ Ibid.

Transparency

Linked to accountability is transparency. Transparency can take a number of forms, from encouraging advocates to be present during victim interviews to multidisciplinary or external case review. Other options also exist; following the *Baltimore Sun's* exposé in 2010 that city police led the nation in “unfounding” cases (classifying them as false or baseless), Baltimore Commissioner Fred Bealefeld gave the Sexual Assault Response Team the ability to audit Police Department practice and past cases.¹⁸⁰

Other proposed reforms include case-management software that would allow every agency involved to access the status of a sexual assault case.¹⁸¹ The Baltimore Commissioner stressed that in order to achieve transparency, “you have to give people a lot of access,” including people who have historically been very critical of the Police Department. Advocacy groups, in turn, have to be willing to report on their findings honestly and “agencies need to be ready for every bit of criticism that this issue brings.”¹⁸²

In Philadelphia, to restore public confidence in the police following revelations about its mishandling of sexual assault cases in 1999, Commissioner John Timoney proposed what seemed to be a radical idea at the time: allowing advocacy groups to review investigative files of sex crimes cases. The review process is conducted annually.

Representatives from five advocacy groups (bound by confidentiality agreements) meet in a sex crimes unit conference room for a few days each year and review all “unfounded” cases as well as 100 randomly selected case files, child abuse cases referred to the department by third parties, and a category of cases established for situations where the victim does not recall what happened.¹⁸³ The reviewers examine files to determine if all relevant witnesses were interviewed; all indicated forensic testing was requested and results returned; victim interviews were conducted appropriately and without blame or

¹⁸⁰ Police Executive Research Forum, “Improving the Police Response to Sexual Assault,” Critical Issues in Policing Series, March 2012, p. 9.

¹⁸¹ Justin Fenton, “Coordinator will oversee Baltimore sex assault investigation reforms,” *Baltimore Sun*, March 14, 2011.

¹⁸² Police Executive Research Forum, “Improving the Police Response to Sexual Assault,” Critical Issues in Policing Series, March 2012, p. 10.

¹⁸³ In cases where the victim does not recall if he or she was assaulted, a rape kit is done and if the lab results are positive and the victim says it was non-consensual, the case is reclassified as a rape. Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

interrogation techniques; coding is correct; no victim polygraph tests were threatened or performed; and that the ultimate determination as to whether a crime was committed is consistent with the evidence collected.¹⁸⁴ They also scrutinize victim recantations to ensure they were not influenced by police or others.

A total of 300 to 400 files are reviewed, and concerns or questions are noted and then discussed during periodic meetings with detectives throughout the review. Cases are sometimes re-opened after the review.¹⁸⁵ Though the parties sometimes disagree, those involved welcome the transparency of the process, and advocates feel their concerns are taken seriously.¹⁸⁶ Captain Darby said his investigators adhere to a higher threshold because they know their files will be reviewed:

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.¹⁸⁷

A former Philadelphia prosecutor agreed that the review process inspires police to investigate more thoroughly.¹⁸⁸ Over the years, the advocates describe seeing “a vast improvement in the files,” which contain more documentation and more sign-off from supervisors.¹⁸⁹ Fewer cases are dropped without an investigation.¹⁹⁰ At the same time, the process sensitizes advocates to the practical difficulties of conducting investigations and makes it easier for them to explain the process and police perspective to victims.¹⁹¹

¹⁸⁴ Police Executive Research Forum, “Improving the Police Response to Sexual Assault,” Critical Issues in Policing Series, March 2012, p. 38.

¹⁸⁵ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

¹⁸⁶ Human Rights Watch interview with Carol Tracy and Terry Fromson, Women’s Law Project, November 1, 2011.

¹⁸⁷ Police Executive Research Forum, “Improving the Police Response to Sexual Assault,” Critical Issues in Policing Series, March 2012, p. 39; Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

¹⁸⁸ Human Rights Watch telephone interview with Chris Mallios, November 10, 2011.

¹⁸⁹ Human Rights Watch interview with Carol Tracy and Terry Fromson, November 1, 2011.

¹⁹⁰ Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

¹⁹¹ Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011; Human Rights Watch group interview with Sexual Assault Advisory Committee, November 1, 2011.

Elsewhere, SART team members review cases to see how the handling of a case could be improved. In Grand Rapids, Michigan, the former sergeant in charge of the sex crimes unit established a multi-disciplinary committee in 2006 (including a prosecutor and a forensic nurse) to review closing of sexual assault cases. They meet twice a year to discuss cases closed over a six-month period and use the information to identify training needs and objectives.¹⁹²

The SANE nurses provide forms for police to send back, enabling them to track how cases are closed and report on their findings at quarterly meetings of the Sexual Assault Advisory Committee and Response Team.¹⁹³ In Lafayette Parish, Louisiana, their victims advocate director selects cases every month for the SART team, including nurses, advocates, and investigators, to review from start to finish. This provides oversight from several different perspectives.¹⁹⁴

¹⁹² The Making a Difference Project, EVAWI, “Reform Efforts: Austin, Texas,” [http://www.evawintl.org/mad.aspx?subpage=4#Austin, Texas](http://www.evawintl.org/mad.aspx?subpage=4#Austin,Texas).

¹⁹³ Human Rights Watch interview with Patti Haist and Chris Dunnuck, July 23, 2012.

¹⁹⁴ Police Executive Research Forum, “Improving the Police Response to Sexual Assault,” Critical Issues in Policing Series, March 2012, p. 15.

Leadership

Culture has to change from the top. Clear messages need to be sent about how these cases are handled.

—Dan Clark, retired police chief, Lakewood (Ohio) Police Department, February 3, 2011¹⁹⁵

Committed leadership—both within a sexual assault unit and in the upper reaches of the police department hierarchy—is essential in establishing an effective sexual assault unit.

In Austin, Kansas City, and Philadelphia, community advocates and medical personnel regularly credited the commitment of the head of the sex crimes unit as the reason for improved treatment of victims. These captains and lieutenants in turn felt they had the support they needed from the top management to do what was necessary to handle these cases appropriately.

The captain in Kansas City and his counterparts in Philadelphia and Austin worked hard to change the culture of their departments and reinforce a victim-centered approach. In Philadelphia, drastic changes to the sexual assault unit in the late 1990s (described in the text box above) came only when police leadership recognized there was a problem, were embarrassed by it, and made reform a priority. A Philadelphia advocate credited Commissioner Timoney for the changes there, stating,

[I]t was the leadership of Commissioner Timoney that transformed sex crimes investigations. Commissioner Timoney reorganized the department and put in appropriate management and accountability measures.¹⁹⁶

A veteran prosecutor summed it up: “Attitude is top down.”¹⁹⁷

¹⁹⁵ Human Rights Watch telephone interview with Dan Clark, February 3, 2011.

¹⁹⁶ Police Executive Research Forum, “Improving the Police Response to Sexual Assault,” Critical Issues in Policing Series, March 2012, p. 9.

¹⁹⁷ Human Rights Watch telephone interview with Chris Mallios, November 10, 2011.

The current head of the sex crimes unit in Philadelphia stressed the importance of reminding “people of how things can deteriorate if you take your mind off it.”¹⁹⁸ Information about sex crimes cases is raised during daily roll call (when officers present themselves for inspection and a briefing before leaving on assignment) in Philadelphia, and information bulletins about these cases are regularly sent out. Daily communication conference calls also reference sex crimes. In this way, the department, starting with the commissioner himself, reinforces the idea that these cases are important and taken seriously.¹⁹⁹

Commissioner Ramsey also reminds his officers that perpetrators who commit sexual assaults may be repeat offenders who go on to commit other violent offenses. He wants officers to think that, “to the degree I am successful [in pursuing a rape offender], I am taking a violent offender off the street.”²⁰⁰ Furthermore, he said that with a non-victim-blaming attitude, people will trust the police and come forward, which means the numbers of reported rapes in Philadelphia will go up.²⁰¹

Other ways leadership can help ensure the success of sexual assault units is by ensuring that assignment to the unit is recognized as prestigious and a path for departmental advancement.²⁰²

Sergeant Liz Donegan

Sgt. Donegan set the stage by shifting the culture at the police department and everyone else fell in line.

—Jenny Black, coordinator, Austin/Travis County Sexual Assault Nurse Examiners, December 14, 2011²⁰³

Members of Austin’s Sexual Assault Response Team (SART) say a change of leadership in

¹⁹⁸ Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² Human Rights Watch email correspondence with Joanne Archambault, executive director, End Violence Against Women International, May 14, 2012.

²⁰³ Human Rights Watch interview with Jenny Black, December 14, 2011.

the Austin Sex Crimes Unit in 2002 brought about a new approach to handling sex crimes.

When Sgt. Liz Donegan took over the unit in 2002, she found that common pre-conceived notions about sexual assault permeated the unit.²⁰⁴ She quickly changed the unit's focus from stranger assaults to learning to investigate cases with known perpetrators.²⁰⁵ She also trained detectives to understand that various factors—such as trauma, memory, and use of alcohol and drugs—make sexual assault cases complex.²⁰⁶ The new approach of the unit was described by an analyst as “victim-centered,” coupled with the mantra “follow the evidence”—meaning “leave bias at the door and do not bring any preconceived notions to investigating the case.”²⁰⁷

Cases are now worked more “carefully and deeply,” and ones that would have been dismissed years ago now proceed.²⁰⁸ For example, prior to Sgt. Donegan's tenure, the attitude was dismissive of rapes of prostitutes because it was seen as a risk they took.²⁰⁹ Now there is an understanding that prostitutes and drug users might be targeted because of their vulnerability and perceived lack of credibility.²¹⁰

Advocates in Austin welcomed the changes ushered in by Sgt. Donegan's “clear and forceful leadership.”²¹¹ Gail Rice, the community advocacy director for SafePlace, which serves as Austin's rape crisis center, noticed that under new leadership there was a perceptible shift in detectives' behavior. In the late 1990s, she recalled a detective sent to train rape crisis center volunteers who said he estimated false reports to be “59 percent” of cases.²¹² Now, instead of presuming a false report, detectives understand why a victim might lie or change his/her story to minimize his/her culpability and that a lie or omission does not mean she or he has not been assaulted.²¹³ According to Rice, “Victims used to

²⁰⁴ Human Rights Watch interview with Gail Rice, December 14, 2011.

²⁰⁵ *Ibid.*; Human Rights Watch interview with Tess Sherman, December 14, 2011.

²⁰⁶ Human Rights Watch interview with Tess Sherman, December 14, 2011.

²⁰⁷ *Ibid.*

²⁰⁸ *Ibid.*

²⁰⁹ Human Rights Watch Interview with Sergeant Liz Donegan, December 13, 2011.

²¹⁰ Human Rights Watch interview with Tess Sherman, December 14, 2011.

²¹¹ Human Rights Watch interview with Gail Rice, December 14, 2011.

²¹² *Ibid.*

²¹³ *Ibid.*

think if they were questioned about their behavior, Why go forward?”²¹⁴ Now advocates rarely hear complaints about detectives. Even the patrol officers respond more appropriately to the crimes and less frequently make comments upsetting to victims.²¹⁵

Sgt. Donegan made other changes. She ensured that language in police reports does not conflate consensual and non-consensual sex²¹⁶ and recognized the importance of relying upon specialized counselors from the Victim Services Division.²¹⁷ Patrol officers are now trained to investigate non-stranger assaults (previously stranger sexual assault was the only type taught in the police academy). Externally, Sgt. Donegan’s openness to change and a multidisciplinary approach is credited with the smooth functioning of the Austin SART.²¹⁸

Sgt. Donegan says the changes she was able to make were contingent upon the support of Austin Police Department leadership. The chain of command was willing to transfer people out of the unit who did not believe in the work or meet expectations.²¹⁹ They also understood that increased numbers of reported assaults were a sign of confidence-building in the community rather than a cause for alarm.²²⁰

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid. An example of a change of language would be “the suspect repeatedly forced his penis into the victim’s mouth,” as opposed to “the suspect then made the victim perform fellatio.”

²¹⁷ Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

²¹⁸ Human Rights Watch interview with Gail Rice, December 14, 2011; Human Rights Watch interview with Jenny Black, December 14, 2011.

²¹⁹ Human Rights Watch Interview with Sergeant Liz Donegan, December 13, 2011; Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

²²⁰ Human Rights Watch Interview with Sergeant Liz Donegan, December 13, 2011.

Encouraging Reporting and Public Outreach

If we can make it easier for victims to report, we will.

—Captain John Darby, Philadelphia Police Department, November 1, 2011²²¹

John Darby, captain of the Philadelphia Special Victims Unit, stressed that reporting numbers for rape and sexual assault are very low, and getting people to report is something the unit is “battling every day.”²²² Police departments use various methods to encourage reports, including protocols permitting “blind reporting,” using pseudonyms, and public awareness campaigns.

In Austin, victims are permitted to use a pseudonym on all medical and legal documents associated with the case because “it gives the victim a choice about whether she wants people to know she is a survivor.”²²³ “Blind reporting” is a method for providing information to the police about a sexual assault without recording any of the victim’s identifying details. This allows police to have a fuller understanding of crimes committed in the area—and perhaps link multiple assaults by the same perpetrator—while allowing the victim to report without taking on the burden of participating in a full investigation. It also allows the victim to establish a relationship with the investigator that may eventually result in a decision to participate in a full investigation.²²⁴

The Chapel Hill, North Carolina police department, which has implemented blind reporting, said that the benefits of allowing anonymous reporting to law enforcement include providing a way to track suspects’ modes of operations, suspect descriptions, crime locations, and victim demographics.²²⁵

In Grand Rapids, in early 2011, the police department implemented a blind reporting policy allowing victims to report anonymously either indirectly (by filling out a form and writing his or her own statement and sending it to the Grand Rapids Police Department) or directly

²²¹ Human Rights Watch interview with Captain John Darby and Commissioner Charles Ramsey, November 1, 2011.

²²² *Ibid.*

²²³ EVAWI, “Reporting Methods for Sexual Assault Cases,” pp. 13-15.

²²⁴ *Ibid.*, pp. 11-13.

²²⁵ SART Toolkit, Office for Victims of Crime (OVC), “SART Approach for Anonymous Reporting—North Carolina,” ovc.ncjrs.gov/sartkit/practices/law-report-nc.html (accessed June 12, 2012).

(if the victim meets with the detective to explain what happened but does not share identifying information.)²²⁶ Sergeant Rogers of the Grand Rapids Police Department explained the advantage is that they are usually aware of a suspect's characteristics or name so if another related case arises, they may be able to persuade the anonymous victim to come forward.²²⁷ In addition, it gives victims more control by providing those who are unsure about whether to report an option between reporting and not reporting.²²⁸

Kansas City and Austin both participate in the "Start by Believing" public outreach campaign, the goal of which is to improve the response of friends, family members, professionals, and other support people to a victim's first disclosure of sexual assault. This will help victims get the support they need and encourage reporting. Kansas City has posters in every division police station, has a Facebook page, and is working on a public service announcement and roadside billboards.²²⁹ The Austin Sex Crimes Unit website states:

Our motto is "We Believe," because we understand the bias and prejudice victims can experience due to common misperceptions about the realities of sexual assault. We encourage anyone who has been, or thinks they have been, sexually assaulted to report it immediately to the Austin Police Department.²³⁰

The Austin Sex Crimes Unit actively attempts to counter stereotypes about sexual assault by focusing outreach on acquaintance rapes, recognizing that, "Not going into a dark garage or getting a dog is not going to help with non-stranger assault."²³¹

As part of this initiative, the Austin Sex Crimes Unit prepared a public service announcement that ran on local television in April 2009, encouraging women to report and emphasizing that "approximately 90 percent of sexual assaults are committed by persons known to the victims.... If you have been sexually assaulted please call 911, because we believe."²³²

²²⁶ Human Rights Watch interview with Patti Haist and Chris Dunnuck, July 23, 2012.

²²⁷ Human Rights Watch interview with Sergeant Kristen Rogers, July 26, 2012.

²²⁸ Ibid; Human Rights Watch interview with Patti Haist and Chris Dunnuck, July 23, 2012.

²²⁹ Human Rights Watch group interview with Kansas City SART, July 22, 2011.

²³⁰ Austin Police Department, "Sex Crimes," <http://www.austintexas.gov/departments/sex-crimes> (accessed June 12, 2012).

²³¹ Human Rights Watch interview with Sergeant Liz Donegan, December 14, 2011; also Human Rights Watch interview with Tess Sherman, December 14, 2011; and Human Rights Watch interview with Dolores Lapart-Litton, Adriana Duarte, and Sergeant Liz Donegan, December 14, 2011.

²³² Austin Police Department Public Service Announcement, April 2009, http://www.youtube.com/watch?v=FoMr4FZu_hg (accessed June 12, 2012).