

**“Improving the Police Response to Sexual Assaults”:**

**Summary of a Conference**

**Held by the Police Executive Research Forum**

**January 2012**

## Introduction

On September 23, 2011, the Police Executive Research Forum (PERF) held a conference in Washington, D.C. titled “Improving the Police Response to Sexual Assaults.” This conference brought together approximately 150 police executives, leaders of women’s and crime victim organizations, FBI leaders and other federal officials, and others to explore weaknesses in the investigation of sexual assault crimes.

One of the key issues discussed at the conference was the inadequacies of the definition of rape used by the FBI in its Uniform Crime Reporting (UCR) program. That definition, “the carnal knowledge of a female, forcibly and against her will,” had not been changed since 1927. The definition was interpreted to exclude a long list of sex offenses currently considered criminal in most jurisdictions, including offenses involving oral and anal penetration, penetration with objects or body parts other than the penis, rapes of males, incest, rape of victims unable to give consent because of youth, disability, or drugs, and other types of offenses.

Thus, the UCR statistics for decades have failed to capture the full extent of sex crimes in the United States.

The PERF conference was spearheaded by Philadelphia Police Commissioner Charles Ramsey, who serves as President of PERF. A year earlier, in September 2010, Commissioner Ramsey had testified before the Senate Judiciary Subcommittee on Crime and Drugs, along with Women’s Law Project Executive Director Carol E. Tracy, OVC Director Susan B. Carbon, and other witnesses at a hearing titled “The Chronic Failure to Report and Investigate Rape Cases.”<sup>1</sup> At that hearing, Commissioner Ramsey announced that as President of PERF he would convene a conference to discuss the current state of sexual assault reporting and investigations.

To prepare for the conference, PERF conducted a survey of more than 300 local law enforcement officials regarding issues in sexual assault investigations, and one of the findings was that 84 percent of respondents expressed the view that the UCR definition was inadequate. And 96 percent said they anticipated no significant barriers to continuing to report crime statistics to the FBI if the definition were updated. (A few agencies said there would be some financial costs to changing the reporting requirements.)

The conference, which was moderated by PERF Executive Director Chuck Wexler, brought police officials together with other experts on sex offenses and federal officials from the FBI and other agencies. The meeting produced a strong consensus that the UCR definition of rape badly needed to be expanded. One police official noted that the UCR definition has undermined the credibility of police, particularly in small jurisdictions where discrepancies are more obvious. “When we have a sexual assault in a small town, people know about it and talk about it, but when the UCR report comes out at the end of the year and we report zero rapes, we lose credibility,” the official said.

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

One official of a coalition against rape group noted that when the definition is changed, it will undoubtedly result in significant increases in sexual assault rates, but that police and victims' advocacy groups can work together to educate the public that "this increase is actually a good thing," because the new statistics will more accurately represent the reality of sex offenses. Commissioner Ramsey agreed that the new definition will create "a whole new baseline" for UCR statistics on sexual assaults, which will require that police explain the changes to the news media and the public.

At the time of the conference, an FBI subcommittee was considering a proposal to rewrite that antiquated definition. An FBI official at the PERF conference told the participants that there was agreement within the FBI that the definition needed to be changed, that the Bureau was working to ensure that the best possible definition was developed, and that a new definition will impact records management systems and will require additional training throughout police agencies.

In October 2011, the FBI panel approved a recommendation to expand the definition. In December, FBI Director Robert Mueller told the Senate Judiciary Committee that he had approved a new definition; and on January 6, the Justice Department officially announced the change.

### **The PERF Conference on Improving the Police Response to Sexual Assaults**

The inadequacies of the UCR definition of rape was one of many issues discussed at the PERF conference. John Timoney, who took office as Police Commissioner in Philadelphia in 1998, shortly before the *Philadelphia Inquirer* published a series of articles exposing the deliberate downgrading of rape cases in that city, described a series of reforms he undertook. Those reforms included the formation of a partnership between the Police Department and the Women's Law Project, which continues to this day, in which the Women's Law Project was invited to monitor the Police Department's handling of sexual assault cases. Villanova Law Professor Michelle Madden Dempsey has said that the Philadelphia program "exemplifies the positive changes that can be realized when advocates and local law enforcement come together to discuss the reasons why some cases are not pursued by law enforcement," and that it "can serve as a model for the rest of the United States."<sup>2</sup>

Following are discussions of several other issues discussed at the PERF conference:<sup>3</sup>

**--Unwarranted "unfounding" of rape cases:** A number of police executives described efforts that have been taken to ensure that police do not improperly classify reported sexual assaults as "unfounded."

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<sup>2</sup> <http://www.judiciary.senate.gov/pdf/10-09-14MaddenDempseyTestimony.pdf>

<sup>3</sup> See also "PERF Summit Highlights Police Response to Sexual Assaults."  
[http://www.policeforum.org/library/subject-to-debate-archives/2011/Debate\\_Sep-Oct2011\\_web.pdf](http://www.policeforum.org/library/subject-to-debate-archives/2011/Debate_Sep-Oct2011_web.pdf)

Because classifying a case as unfounded is essentially a statement that police do not believe a crime occurred, unfounded allegations are not counted in crime statistics. Thus, improper “unfounding” of cases can result in offenders remaining free and victims losing trust in the justice system. Furthermore, unwarranted unfounding of cases contributes to the undercounting of sexual assault crimes, and a resulting lack of resources being devoted to the investigation of sexual assault crimes and provision of assistance to victims.

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

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

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

There was agreement at the PERF conference that there is no single policy change that can resolve problems with sexual assault investigations. Rather, police departments need to ensure that officers develop a deeper understanding of sexual assault crimes. For example, one chief said that police should not necessarily classify a sexual assault as unfounded if the victim recants and says the crime never occurred, because such statements may be the result of pressure or coercion by the perpetrator or others.

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

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

For example, “stranger” rapists often are serial offenders, and as police begin to develop information about a serial rapist who remains at large, they sometimes have to make difficult decisions about whether to release details about the offender’s pattern of offending to the public. Providing information about when, where, and how a serial rapist is committing crimes can help

members of the public to protect themselves, but it also can signal to the offender that the police are getting closer to making an identification, which might help the offender to avoid arrest. A number of chiefs who have experience with serial rapist cases discussed those cases, and generally agreed that it is usually better to release information sooner rather than later.

**Sexual assaults on university and college campuses:** Police executives with jurisdiction over college or university campuses noted that in cases where victims are intimidated at the prospect of testifying in a criminal prosecution, there is often an internal disciplinary procedure that offers the victim greater privacy, but the sanctions are limited to non-criminal penalties such as expulsion of the offender. However, university police must be careful to ensure that no one will get the impression that police want to “sweep cases under the rug” by avoiding criminal prosecutions and relying on university discipline systems. Furthermore, some noted that in the past, victims may have been able to avoid the glare of publicity to some extent by using a university disciplinary system rather than criminal charges, but today’s social media such as Facebook and Twitter make it less likely that a victim will be able to avoid unwanted attention.

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

In addition, participants at the PERF conference noted that sexual assaults on campuses are governed by several federal laws, such as reporting requirements under the 1990 Clery Act.

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

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

**SART programs:** Several police officials discussed Sexual Assault Response Teams (SART)—programs that coordinate the response of police, prosecutors, sexual assault victim advocates, Sexual Assault Nurse Examiners, and others. SART programs are widely considered

to be very effective at improving the response to victims while increasing the likelihood that offenders will be arrested, charged, and convicted.

The PERF survey of law enforcement agencies found that nearly 90 percent of respondents reported that they participate in a SART program, but the strength and makeup of the programs vary widely. Police executives at the PERF conference stressed that detectives who handle sexual assault cases must form very close relationships with other SART members, not only on individual cases but in terms of permanent relationships that facilitate discussion of systemic reforms and other issues. Another police official said that interactions between the police and Sexual Assault Nurse Examiners are especially important, because the nurses are trained in forensics and are often excellent interviewers who obtain more information from victims than the police officers.

Additional details about the PERF conference will be provided in a forthcoming PERF report as part of its “Critical Issues in Policing” series. For additional information, go to [www.policeforum.org](http://www.policeforum.org).