

## Frequently Asked Questions about the Change in the UCR Definition of Rape

May 20, 2013

*The FBI is implementing an important change in the definition of rape that is used in the collection of national crime statistics. PERF has been working to keep its members apprised of how this change will affect local police agencies.*

*Following is a set of questions asked by jurisdictions and answers the FBI provided to PERF:*

Q: In 2012, the Department of Justice announced a change to the definition of Rape for the Uniform Crime Reporting Program's (UCR) Summary Reporting System (Summary). How does the new definition differ from the old one?

A: The old definition was "The carnal knowledge of a female forcibly and against her will." Many agencies interpreted this definition as excluding a long list of sex offenses that are criminal in most jurisdictions, such as offenses involving oral or anal penetration, penetration with objects, and rapes of males.

The new Summary definition of Rape is: "Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim."

Q: When will the new definition of Rape become effective?

A: The new definition of Rape went into effect on January 1, 2013.

Q: Should my agency submit data directly to the FBI?

A: In all but four states, agencies are required to submit UCR data to their state UCR Program. The state UCR Program will compile information from all law enforcement agencies (LEAs) and submit this information to the FBI UCR Program. In Indiana, Mississippi, New Mexico, and for Summary-reporting agencies in Ohio, individual LEAs can submit UCR data directly to the FBI UCR Program.

Q: Why does the FBI refer to the UCR Summary and the National Incident-Based Reporting System (NIBRS) when discussing the new Rape definition?

A: The FBI UCR Program is comprised of both the Summary and the NIBRS. Both of these data collections make up what is traditionally referred to as "UCR." More detailed information about crimes is collected from agencies that participate in NIBRS. However, since the FBI UCR Program continues to receive the preponderance of UCR data from agencies who report via the Summary, the FBI converts the NIBRS data to Summary data to report the crime statistics to the nation.

Q: Has the definition of Rape changed for the NIBRS?

A: The definition of Rape for agencies reporting via the NIBRS has changed only slightly, since the NIBRS already allows for all factors relevant to the collection of data under the new definition of Rape.

Under the new rape definition, the FBI UCR Program will aggregate three sex offenses in the NIBRS into Rape in Summary for publication in *Crime in the United States*. The definitions of the offenses are:

11A Rape (except Statutory Rape)

*The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity*

11B Sodomy

*Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity*

11C Sexual Assault With An Object

*To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity*

Q: Which states report data to the federal government using the NIBRS?

A: Currently, 14 states submit all statewide data to the FBI via the NIBRS. The states are Arkansas, Delaware, Idaho, Iowa, Michigan, Montana, New Hampshire, North Dakota, South Carolina, South Dakota, Tennessee, Vermont, Virginia, and West Virginia. In addition to these states, there are individual LEAs in 21 more states, and an agency located within the District of Columbia, which submit data via the NIBRS. LEAs in these states will not change the way in which they report Rape to the FBI, since NIBRS already allows for all factors relevant to the new expanded definition of Rape.

Q: My state is not one of the 14 statewide NIBRS states. How do I know if my state has decided to report data using the new definition of Rape for 2013?

A: Several states that have a state UCR Program and submit Summary data have indicated to the FBI that they will be reporting data compliant with the definition of Rape implemented on January 1, 2013. Please check with your state UCR Program to determine how your state will report.

Q: My agency would like to begin submitting data using the definition of Rape that was implemented on January 1, but I do not see my state listed above. What options do I have?

A: If you are in a state with a centralized UCR Program (your police department submits monthly crime statistics to a state agency), please reach out to your state UCR Program. If you do not know who your point of contact is, please contact the FBI UCR Program at (304) 625-4830.

For law enforcement agencies in Indiana, Mississippi, New Mexico, and Ohio, where individual LEAs can submit UCR data directly to the FBI UCR Program, if you are reporting UCR Summary data but are not currently reporting data on the Excel Workbook, please contact the FBI UCR Program at (304) 625-4830.

Q: My state does not plan to collect data reflecting the new rape definition, what do I do?

A: Contact your state UCR program coordinator to develop a timeline and strategy for transitioning to the current definition of Rape.

**Q: I still have questions regarding the definition change. Whom should I contact?**

**A: The FBI UCR Program has designated Ms. Mary Pat Reese from the FBI's Criminal Justice Information Services (CJIS) Division's Crime Statistics Management Unit as the point of contact for any reporting questions your agency may have. Please contact Ms. Reese at (304) 625-3528 or via e-mail at <mary.reese@leo.gov>.**

Q: Do I count Statutory Rape under the revised UCR definition of Rape?

A: No. The FBI UCR Program collects Statutory Rape only in the NIBRS. The NIBRS defines Statutory Rape as "Nonforcible sexual intercourse with a person who is under the statutory age of consent," and further explains that "If the victim was incapable of giving consent because of his/her youth or mental impairment, either temporary or permanent, law enforcement should classify the offense as Rape, not Statutory Rape."

Q: How will the FBI UCR Program interpret NIBRS data related to sexual offenses for the revised definition of Rape for the annual UCR publication?

A: NIBRS already allows for collection of data on all types of Rape included in the new definition. Therefore, the CJIS Advisory Policy Board (APB) requested that the FBI UCR Program make only minor changes to the sex offense definitions in NIBRS (i.e., the phrase "forcibly or against the victim's will" would be changed to "without the consent of the victim"). And no changes were made to the reporting requirements in the NIBRS. The FBI UCR Program will convert the NIBRS offenses of Forcible Rape, Forcible Sodomy, and Sexual Assault with an Object, to the Summary offense of Rape for publication in *Crime in the United States*.

Changes to any of the FBI CJIS Division's criminal justice information systems must go through the CJIS Advisory Process. The FBI established the Advisory Process to ensure a "shared management" concept with the nation's law enforcement community for all criminal justice information systems managed by the CJIS Division. The CJIS APB process ensures that law enforcement has the opportunity to discuss and vote on any policy or procedural changes to

CJIS systems affecting law enforcement's ability to provide information to the nation. The other avenue for change to any of the CJIS Division's criminal justice systems is through Congressional mandate.

Q: If an incident occurred in a previous year but was reported in 2013, should we apply the historical or the revised definition of Rape?

A: You should use the definition in effect in the year law enforcement became aware of the crime and reported the crime to UCR. Even if an offense occurred in a prior year, if law enforcement became aware of it and reported it in 2013, it should be consistent with the new 2013 definition of Rape.

Q: Is my agency *required* to report using the revised definition this year?

A: Although the FBI is encouraging UCR contributors to report Rape according to the new definition, individual agencies who report through a state UCR Program should still report following the instructions given by their state UCR Program. If a state UCR Program has not yet implemented the new definition of Rape, then an agency reporting to the state cannot report under the new definition of Rape.

Q: How do I report if I use a hard copy reporting form?

A: The FBI UCR Program has been transitioning to a paperless environment since 2010. The program's deadline for contributors to complete the paperless transition process is July 1, 2013. The FBI UCR Program encourages all LEAs reporting UCR Summary data and not currently reporting data using either the Excel Workbook or the flat file format to please contact the FBI UCR Program at (304) 625-4830 for more information about paperless reporting.

**The FBI UCR Program is in the process of updating the Monthly Return of Offenses Known to the Police form for those states that use the form internally, but submit data electronically to the FBI. The FBI UCR Program will release the new form on the FBI web site in June 2013.**

Q: How do I report if I submit data using a flat file?

A: Summary agencies will report Rape via the flat file specification (i.e., a sequence of numbers and letters in a specific format which allows LEAs to directly upload data from their database into the FBI's UCR database) in record positions 31 – 680 on the Return A layout and by the presence of the letter R of the record in position 18, which indicates the agency is reporting the crime according to the new definition of Rape.

Q: How do I report if I submit data using the Excel workbook?

A: Summary agencies will report Rape via the Excel Workbook (i.e., an electronic representation of the UCR forms which allows LEAs to directly upload data from their database into the FBI's UCR database) on line 2A, Rape.

Q: Can individual agencies report using the new definition of Rape if their state is reporting under the historical definition?

A: No. The FBI UCR Program does not intend to change the way in which local agencies report to their established state UCR Programs. Currently, 47 states in the nation have their own state UCR Programs (Ohio's NIBRS agencies report via a state UCR Program; Ohio's Summary agencies report as direct contributors), in addition to the programs run by tribal and federal law enforcement.

The FBI UCR Program encourages groups of LEAs (i.e., representing a state, tribe, or federal jurisdiction) to form a UCR Program which manages the collection of UCR data for the local agencies and reports the accumulated data to the FBI. The UCR Programs streamline the collection of UCR data from the local agencies, ensure consistency and comparability of crime statistics data, and provide a higher quality of service to the law enforcement community by often publishing the collected statistics, providing audits of the collected data, and offering training initiatives to keep the local agencies apprised of current trends in crime management.

Local agencies in a state without a UCR Program report directly to the FBI UCR Program. Currently, there are 586 direct-contributing LEAs, with 143, or 24 percent, reporting Rape (as newly defined) via the Excel Workbook.

Q: How will UCR address the difference in the NIBRS and Summary definitions of Rape?

A: For publication purposes, the FBI UCR Program will combine the Summary Rape data (as newly defined) with the NIBRS Rape, Sodomy, and Sexual Assault with an Object data and publish it as Rape.

Although many perceive the data reported to the FBI UCR Program to be only the Summary data, as published in *Crime in the United States*, in reality, some LEAs report the data via the Summary and others via NIBRS. Since the program continues to receive the preponderance of UCR data from agencies who report via the Summary, the FBI converts the NIBRS data to Summary data to report the crime statistics to the nation.

Q: Will the NIBRS definition of Rape be amended?

A: There are no current plans to amend the NIBRS definition of Rape. The CJIS APB requested the FBI UCR Program make only minor changes to the NIBRS sex offense definitions.

The current NIBRS defines Rape as:

*The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.*

Q: What about small children who cannot actually describe what has happened?

A: The FBI UCR Program collects crime data about victims of any age. For example, if a victim is a small child who is unable to describe what happened and a LEA determines a rape occurred, it is within UCR guidelines for the LEA to classify the offense as Rape. The definition of Rape in both the Summary and the NIBRS include instances in which the victim is incapable of giving consent because of age (or because of temporary or permanent mental or physical incapacity, which also includes incapacity due to the influence of drugs or alcohol). Physical resistance is not required on the part of the victim to demonstrate lack of consent.

Q: We're using the new definition for 2013. Does everything that we have already submitted in 2013 need to be revised to reflect these changes?

A: Yes. You should use the definition in effect the year in which the law enforcement agency became aware of the crime and is reporting the crime. Even if the offense occurred in a prior year, if law enforcement became aware of it and reported it in 2013, it should be consistent with the new 2013 definition.

Q: Is the FBI planning to make a public statement in writing that will support law enforcement when they explain these changes to the public, the news media, community groups, and others?

A: Yes. The FBI UCR Program plans to release information about the revised Rape definition on the internet at <<http://www.fbi.gov/about-us/cjis/ucr>>, as well as on the Association of State Uniform Crime Reporting Programs (ASUCRP) web site and in the Law Enforcement Online (LEO) UCR Special Interest Group (SIG).

Q: Where can we read more about the change and how it will affect our agency's UCR reporting? Is it online on the UCR web site?

A: The FBI UCR Program plans to release information about the revised Rape definition on the internet at <<http://www.fbi.gov/about-us/cjis/ucr>>, as well as on the ASUCRP web site and in the LEO UCR SIG.

Q: What is the suggested manner in addressing discrepancies between UCR reporting and the statutory requirements needed to investigate a sexual assault?

A: One of the objectives of the FBI UCR Program is to define offenses broadly enough to encompass statutory definitions of crimes that occur in all 50 states and the U.S. territories. If a LEA notes discrepancies between a state's statutory offense definition and the FBI UCR Program's offense definitions, the LEA should contact the FBI UCR Program at 304-625-4830 to discuss how it should report the data.

Q: The offense code of Criminal Sexual Assault which we have mapped to the NIBRS Offense code of 11A in our records management system only allows a female as a victim. To address rape with a male as a victim, we have added an additional offense that we have mapped to 11B. Will both of these offenses be counted from our NIBRS submission, or will we need to make our application accept Male as a victim of an 11A offense?

A: In the NIBRS, 11A = Rape includes female victims of male offenders, and male victims of female offenders. Rape in NIBRS includes male victims of male offenders as long as there is also at least one female offender. 11B = Sodomy in NIBRS includes male victims of male offenders or female offenders, and female victims of male offenders or female offenders. If your program allows for all of those variations listed, it is compliant with the NIBRS.

The FBI UCR Program will convert both offenses, Rape and Sodomy, in addition to the offense Sexual Assault with an Object, to Rape for publication in *Crime in the United States*. LEAs that report via the NIBRS will not need to change the way in which they report Rape to the FBI, since NIBRS already allows for all factors relevant to the collection of data under the new definition of Rape.

Q: Are there going to be any meetings to discuss the UCR Human Trafficking data?

A: Yes. The FBI UCR Program is planning to schedule conference calls with the state UCR Program managers in the near future. Human Trafficking will be on the agenda.

Q: What if I still have a question about how my agency can report information under the new definition of Rape?

A: The FBI UCR Program has established the UCR Forum on Law Enforcement Online (LEO), which is a discussion thread where participants can post a question and FBI UCR Program staff will answer the question. Participants have the ability to subscribe to the UCR Forum. To access the UCR Forum, LEAs must have a LEO account and should:

- Log into the LEO using Mozilla Firefox at <www.leo.gov>
- Click on the LEO logo
- Click on the Special Interest Group (SIG) link
- Click on the Access Type and select Unrestricted
- Click on the UCR logo
- On the top tabs, select Forums
- Control-F to open search and type "UCR"
- Click Enter (this moves the list to UCR)
- Click on UCR in the list
- You have entered the UCR Forum

Users with questions concerning access to the UCR SIG should contact Ms. Leslie Underwood by telephone at (304) 625-4018 or by e-mail at <leslie.underwood@leo.gov>.

Users with questions concerning access to the LEO or establishing an account should contact the LEO Technical Support by telephone at (888) 334-4536.

**For all other questions, please contact Ms. Mary Pat Reese from the FBI's Criminal Justice Information Services (CJIS) Division's Crime Statistics Management Unit at (304) 625-3528 or via e-mail at <mary.reese@leo.gov>.**