

Improving Police Response to Sex Crimes: The Philadelphia Model

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**WOMEN'S
LAW PROJECT**
Safeguarding Rights, Creating Opportunities

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Women's Law Project

- High Impact Litigation & Legal Advocacy
- Public Policy
- Community Education

Reproductive Rights and Justice, Sexual and Domestic Violence, Family Law Reform, Discrimination in Athletics, Employment, Education, and Insurance

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Legal Work Challenging Institutional Bias

Amicus Briefs:

- *Schanne v. Addis*, (Pa. 2015)
- *Hill v. Madison County School Board, et al.*, (11th Cir. 2014)
- *Commonwealth v. Claybrook et al.* (Pa. 2012)
- *Reedy v. Evanson*, (3rd Cir. 2010)
- *C.C.H. v. Phila. Phillies, Inc.* (Pa. 2008)
- *Schieber v. City of Philadelphia* (3rd Cir. 2003)
- *Commonwealth v. Fischer* (Pa. 2000)

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WLP VAWA Systems Advocacy

- Improving Police Response to Sexual & Domestic Violence in Philadelphia
- Changing UCR Definition of Rape
- Consultant to Police Executive Research Forum
- Advisor to Committee on National Statistics of the National Academies Panel on Measuring Rape and Sexual Assault in BJS Surveys
- Adviser to ALI Model Penal Code
- Consultant to Department of Justice
- Responding to Campus Sexual Assault

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Today's Goals

We will discuss:

- The Philadelphia Crisis
- The Response: Development of the Philadelphia Model
- The Results: Local to National
- Recommendations for Systemic Reform

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Philadelphia: The Historical Perspective

1972 - Women Organized Against Rape: one of the first rape crisis centers in the nation

1978 - Creation of Rape Prosecution Unit
District Attorney's Office

1981 - Creation of Special Victims Unit (SVU) in
Philadelphia Police Department

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Philadelphia: The Crisis

Fall 1999 *Philadelphia Inquirer* reported:

- PPD dismissed one-third of reports of rape and other sex crimes as “Investigation of Person” – a non-UCR (non-criminal) code.
- Over at least two decades thousands of cases were not investigated.
- No crime code – no investigation.

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Unknown History

- Early 1970's: high unfounded rate and use of non-offense “throw-away” codes in 11% of sex crimes (“The Aftermath of Rape” 1979)
- 1983: 43% unfounded rate for rape (FBI audit)
- 1977-97: 30 % of rapes and other sex crimes coded as **non-crimes** under code 2701 “investigation of person”

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Putting Faces on the Numbers

Inquirer reported

- Three women in same neighborhood not believed, strangle marks ignored, cases classified as "Investigation of Person," Shannon Schieber murdered by serial rapist.
- Child kidnapped, raped, identified rapist. SVU officer left card at rapist house. No further follow-up.
- Teenage girls raped by babysitter's boyfriend, strong evidence, good forensics, no action.

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Biased Treatment Revealed

Are you sure you didn't initiate it?

Are you sure you didn't have too much to drink?

One of you is lying. I'm giving you a polygraph. One of you is going to jail.

If I find out you're lying, you're going to jail. Long road ahead of you.

Do you ever fantasize? Exaggerate?

Sometimes women just make up stuff to get back at men.

To boyfriend: Is she known to be a liar?

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WLP's Initial Response

- Collaborated with Women Organized Against Rape
- Met with PPD Leadership
- Demanded reinvestigation of cases misclassified
- Requested & Testified at City Council hearings
- Responded to and encouraged ongoing news coverage
- Responded to calls from victims

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Systemic Bias

- Victim interrogation instead of interview
- Presume victim not credible
- Focus on victim behavior, not accused
- Threats of & polygraphing victim
- Threats of & charging victims with crimes
- More concern for the reputation of the accused than the victim
- Discourage reporting

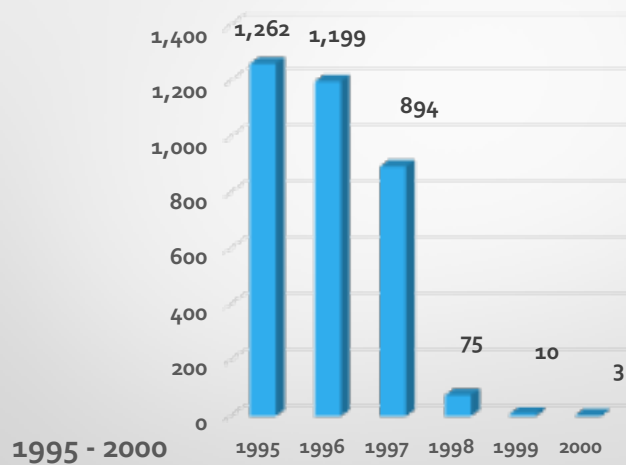
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Why?

- Gender Bias: Myths & Stereotypes
- Lack of leadership and poor supervision
- Pressure to keep crime data low
- Narrow definition of Rape in UCR Crime Reporting System
- Vicarious Trauma

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Police Reform: Elimination of Code 2701 "Investigation of Person"



Source: *Philadelphia Inquirer*; Philadelphia Police Department

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Police Reform: Reinvestigation

Results:

3,119 complaints reviewed (1995-1997)*

- 681 first degree felony rapes
- 1,141 other sex crimes

**(1998-1999 already audited by new police commissioner)*

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Police Reform:

- Reorganization of SVU
- Increased Supervision & Accountability
- Revision of Classification Manual
- Invitation to advocates to audit sex crime files
- Relocation of SVU
- Crime alerts potential repeat offender

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Police Reform: Advocate Audit

Annual audit:

Sustained and embraced by
four Police Commissioners and
three SVU Captains since 2000.

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Advocate Audit

Advocates

- Women's Law Project
- Women Organized Against Rape
- Support Center for Child Advocates
- Philadelphia Children's Alliance

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Audit Process

- Review files
 - Unfounded rape (including attempted)
 - Random sample of all open sex crimes
 - Approximately 400 cases each year
 - Non-UCR: e.g., third party child abuse & medical reports
- Communicate Findings & Questions
- Confidentiality
- Leadership Follow-Up

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Audit Goal:

Systems Improvement

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Audit Objectives

- Was investigation thorough?
 - Were all witnesses interviewed?
 - Was all evidence collected and tested?
 - Were rape kit & other test results returned to investigator?

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Audit Objectives

- Was there bias?
 - Were questions blaming, elevating interests of accused over victim? Was victim accused of lying?
 - Were interviews proper, i.e., not interrogation?
 - If victim recanted, was it coerced?

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Audit Objectives

- Was case classified correctly ?
- Was case properly cleared?
 - Arrest
 - Exceptional Clearance
- Was case properly unfounded?
- Did supervisor review and approve?

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What Advocates Had to Learn

State Sex Crime Laws

Classification Systems

- F.B.I. Uniform Crime Summary Reporting System and National Incident Reporting System (NIBRS)
 - Founding/Unfounding
 - Clearance: Arrest, Exceptional Means

Local Classification System

- Investigation of Person (non-crime codes)

Police Policies, Procedures, Training

Academic Research

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Lessons Learned in Philadelphia

Leadership, Management, & Accountability

- Clear message top down: victim centered, no downgrading
- Supervision
- External audit and feedback
- Community Engagement
- Transparency
- Vicarious trauma
- Importance of data

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Current Needs in Philadelphia

- More advocate presence at SVU
- Better training
- Internal Quality Assurance Review
- Improved technology
- Standard Operating Procedure
- Protocol Response Police Sexual Assault

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Philly Not Alone

Journalists from Cleveland, Baltimore St. Louis, New Orleans, New York City, Milwaukee, and Nashville have reported police:

- refusing to accept cases for investigation
- misclassifying cases in non-criminal categories resulting in no investigation
- high unfounding rates
- downgrading charges

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Local to National: UCR Rape

- Sept. 2001: Letter to FBI requesting change in FBI UCR definition of rape signed by 93 state-based and national organizations
- 1929 Legacy Definition: "The carnal knowledge of a female forcibly and against her will."
- 2012 New Definition: "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."

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UCR

- Purpose: to provide nationwide view of crime
- Method: voluntary collection of crime data from states
- Two Systems:
 - UCR Summary Reporting System: Part I and Part II
 - NIBRS: detailed
- Publication limited
- Importance: assessment of reporting, unfounding and clearing

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Local to National: UCR Rape

- Sept. 2010: U.S. Senate Judiciary Subcommittee on Crime "Chronic and Systemic Failure of Police to Investigate Sex Crimes": leads to congressional request to FBI to revise definition.
- Sept. 2011: Police Executive Research Forum Critical Issues "Improving Police Response to Sex Crimes": large police jurisdiction police chiefs resoundingly support revision of definition

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Local to National: UCR Rape

- Aug., Oct., Dec. 2011: Criminal Justice Information Systems Meetings UCR Rape Definition
- Jan. 2012: Attorney General Holder announces changes in FBI UCR definition of rape

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Local to National: DOJ

- Aug. 2011: Train DOJ on Philadelphia audit model
- DOJ Investigations of New Orleans, Puerto Rico, Missoula, Baltimore Police (2011-2016) result in first DOJ finding of gender-biased policing
- Summer 2012: Advocates deliver proposed guidance to and meet with DOJ Civil Rights Division about request to publish guidance to address gender bias in police response to sexual assault and domestic violence

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Local to National: DOJ Guidance

- Aug. 2015: Roundtable on Gender Bias in Policing sponsored by DOJ COPS and Police Executive Research Forum
- Dec. 2015: Attorney General Lynch announces publication of *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*

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Local to National: Crimes Codes

June 5, 2012: *RAPE AND SEXUAL ASSAULT IN THE LEGAL SYSTEM* by Carol E. Tracy, Terry L. Fromson, Women's Law Project and Jennifer Gentile Long, Charlene Whitman, AEquitas

Presented to the National Research Council of the National Academies Committee on National Statistics Panel on Measuring Rape and Sexual Assault in the Bureau of Justice Statistics Household Surveys

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Local to National: Crime Codes

March 2012 and ongoing: Adviser to American Law Institute Project on Sexual Assault and Related Offenses

This project is re-examining Article 213 of the Model Penal Code, which was ahead of its time when approved by ALI in 1962, but is now outdated and no longer a reliable guide for legislatures and courts.

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Local to National: Other Cities

- Two major cities are seeking WLP assistance in developing an audit.
- DOJ has consulted with us and adapted the audit as a remedy included in consent decrees.
- WLP consulted with DOJ and PERF on investigating police response to sex crimes in 6 cities.

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Recommendations for Advocates

- Review and analyze UCR data for your jurisdiction.
- Request more detailed data and local policies, procedures, and classification systems.
- Understand state crime laws.
- Ally with local government and media regarding any concerns.
- Collaborate with legal advocates.
- Explore development of an external review process.
- Review academic research.

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Resources

U.S. Senate, Subcommittee on Crime and Drugs, *Rape in the United States: The Chronic Failure to Report and Investigate Rape Cases* (September 14, 2010) Testimonies available at:

<http://www.judiciary.senate.gov/meetings/rape-in-the-united-states-the-chronic-failure-to-report-and-investigate-rape-cases>

UCR SRS User Manual (2013) <https://ucr.fbi.gov/nibrs/summary-reporting-system-srs-user-manual>

NIBRS User Manual (2013) <https://ucr.fbi.gov/nibrs/nibrs-user-manual>

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Resources

PERF, *Improving Police Response to Sex Crimes* (March, 2012)
http://www.policeforum.org/assets/docs/Critical_Issues_Series/improving%20the%20police%20response%20to%20sexual%20assault%202012.pdf

WLP and Aequitas, *Rape and Sexual Assault in the Legal System* (June 2012) (reprinted with permission from the National Academy of Sciences, Courtesy of the National Academies Press, Washington, D.C.. See the National Research Council's final report: Candace Kruttschnitt, William D. Kalesbeek & Carol C. House, eds., Nat'l Academy of Sciences, *Estimating the Incidence of Rape and Sexual Assault* (2013) http://www.nap.edu/catalog.php?record_id=18605.

WLP, *Advocacy to Improve Police Response to Sex Crimes* (2013)
http://www.womenslawproject.org/resources/Policy_Brief_Improving_Police_Response_to_Sexual_Assault_Feb2013_FINAL.pdf

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Resources

DOJ, *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence* (2015)

<https://www.justice.gov/opa/file/799366/download>

PERF, *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence: A Roundtable Discussion* (2016) <http://ric-zai-inc.com/Publications/cops-wo796-pub.pdf>

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