



# Ramsey County Sexual Assault Systems Review

April 27, 2018

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## OFFICE OF THE RAMSEY COUNTY ATTORNEY

John J. Choi

April 27, 2018

Dear All:

In our community, not unlike many others, far too few incidents of sexual assault have been reported to law enforcement, with only a small fraction of those resulting in perpetrators being charged and brought to justice. Recognizing this, we launched a Sexual Assault Justice Initiative in 2016, the goal of which was twofold: to change our culture so victims feel empowered to report their abuse and to develop an infrastructure of response, which improves outcomes for victims – one response at a time.

In April of 2016, Ramsey County took a public stand, committing to improve our community's response to sexual assaults by launching a *Start by Believing* campaign through our office, public health, and law enforcement. Since then, the campaign has celebrated multiple important milestones to help advance culture change:

- developed a public education and engagement campaign;
- partnered with college campuses to provide trainings, including Hamline University, Concordia College, University of St. Thomas, Mitchell Hamline School of Law, Northwestern University in Roseville, and Metropolitan State University;
- engaged every city council in Ramsey County to have this conversation and pass a supporting resolution; and
- convened an investigator training for Ramsey County law enforcement in November of 2017.

Also in April of 2016, we dedicated an experienced sexual assault prosecutor to examine the entire pipeline of response – from the time an assault occurs, to when a victim presents at a hospital to the response of advocacy services, police investigators, prosecutors, and the results of cases that make it to court. We now have the results of a groundbreaking, two-year study of hundreds of sexual assault incidents in our community: The Ramsey County Sexual Assault Systems Review. This report will help us better understand how sexual assault incidents, investigations and cases in Ramsey County are handled and ultimately provide a blueprint for systems change in our community.

Now we turn our attention to laying the important groundwork of systems change. To date, the Ramsey County Sexual Assault Justice Initiative has generated important conversations, training and community action throughout Ramsey County. Each partner has committed to engage in our ongoing work to build a more robust response in our public systems. We know nothing will substantially change unless we, as a community, invest in better outcomes.

I want to thank Kaarin Long and Brielle Bernardy in our office for all of their hard work over the past two years, along with all the agencies and individuals who partnered with us in this critical effort. We have been heartened by their enthusiastic support and commitment to do better for the victims of sexual assault.

Thank you,

John Choi

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# Executive Summary

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Traditionally, sexual offending within communities has only been reported to criminal justice authorities by small percentages of victims/survivors. Sexual assault cases present unique challenges to police and prosecutors seeking to hold offenders accountable. Therefore, it is imperative that our systems perform at their best in addressing these serious crimes.

In April 2016, Ramsey County took a public stand, committing to improve our community's response to sexual assaults by launching a *Start by Believing* campaign to change our culture so victims/survivors feel empowered to report their abuse. Also, in order to examine how the system currently responds to sexual assault cases, Ramsey County Attorney John Choi dedicated an experienced prosecutor to review the practices of criminal justice professionals. For two years, she reviewed police reports, prosecutor cases and interviewed professionals and victims/survivors to understand the current response. This report details the findings from that review and recommends key investments to make and practices to change to improve the system for victims of sexual assault and bring offenders to justice.

## **Highlights of the review:**

- A significant number of victims/survivors who report to law enforcement have difficulty staying connected with the investigation and eventually drop out.
- Victims/survivors experience long waiting periods with little information about the status of the investigation or prosecution.
- Sexual assault advocacy organizations can help victims/survivors stay connected to the investigation and prosecution, but criminal justice professionals often need to reach out to facilitate that connection.
- These cases are complex to investigate and prosecute, and some law enforcement agencies have difficulty meeting staffing needs to assure thorough, robust investigations.
- Although offenders may commit sex offenses in various communities, law enforcement agencies operate with separate data management systems and do not have a simple method of sharing information on offenders.
- Prosecuting sexual assault cases requires specific experience and training.

## **Highlights of the recommendations:**

- Implement best practices that ensure victims/survivors a compassionate and thorough response to their reports of sexual violence, focusing on measuring the work of the professionals rather than on conviction outcomes.
- Assure law enforcement, prosecution, and advocacy agencies are adequately staffed to address these cases.
- Facilitate communication among law enforcement agencies about trends and case investigations to assure repeat offenders are held accountable.
- Implement formalized training and experience expectations for both law enforcement and prosecutors on sexual violence, trauma, and current best practices.
- With the established baseline from the review, continue to monitor and measure progress in best practices across disciplines.

# Introduction

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*“To move the world, we must first move ourselves.”*

- Socrates

The American criminal justice system can be boiled down to the simplest of terms: the legislative branch passes laws and the executive branch enforces the laws through a process directed by the judicial branch. The police investigator collects evidence of a criminal offense and the prosecutor presents the evidence in court. For hundreds of years in this country, criminal offenders have been held accountable in this way.

This general rule does not hold for sexual assault offenses, however. Nationally, this crime defies the conventions that hold true for most criminal offenses. Historically, if a victim of sexual assault reports the event to police (a big *if*), the police investigation has often been colored by a skepticism of sexual assault allegations. Prosecutors, too, have identified these offenses as some of the hardest to prove to a jury, which has affected the prosecution approach. Sexual assault – especially involving teen and adult victims – is characterized not by widespread criminal accountability, but by widespread attrition in the criminal justice system.<sup>2</sup> Picture a funnel – wide at the top and dripping a drop in the bucket at the bottom.<sup>3</sup> This is nothing new and not specific to any one jurisdiction; it is recognized by professionals as a nationwide problem that persists today.<sup>4</sup>

In Ramsey County, Minnesota, the County Attorney decided to take a close look at whether these concerns were present in the local response to sexual assault. County Attorney John Choi dedicated an experienced sexual assault prosecutor in his office to examine the entire pipeline of response – from the time an assault occurs, to when a victim presents at a hospital to the response of advocacy services, police investigators, prosecutors, and the results of cases that make it to court. This report discusses the findings from anecdotal conversations with the partners listed below and the review of hundreds of police reports and cases that were referred to and charged by the Ramsey County Attorney’s Office and makes recommendations about what is working well and what should be improved.

With the support of the Ramsey County Board of Commissioners, County Attorney Choi appointed Assistant County Attorney Kaarin Long to conduct a thorough review of responses in Ramsey County to cases involving teen or adult victims reporting a sexual offense by someone who was not a family member (although intimate-partner sexual assault was included).<sup>5</sup> Child sexual-abuse investigations were not part of this review. The cases involved physical contact – not, for example, indecent exposure. The review began in the summer of 2016.

Six law enforcement agencies that investigate criminal offenses within Ramsey County: Maplewood Police Department, Metro Transit Police Authority, New Brighton Public Safety Department, Ramsey County Sheriff's Office, Roseville Police Department, and Saint Paul Police Department, each appointed a staff person to join this effort.

In order to gain insight about those who chose not to report sexual assaults to police, we met with staff from victim services agencies that serve Ramsey County, including SOS Sexual Violence Services, Hmong American Partnership, and OutFront Minnesota.<sup>6</sup> Each of these agencies provides support and resources to survivors of sexual violence. In addition, we consulted with staff at the Minnesota Coalition Against Sexual Assault (MNCASA)<sup>7</sup> and staff at the University of St. Thomas, the University of Minnesota, and Hamline University.

After a brief planning period and consultation from experienced researchers, we began documenting police reports. With the indispensable contributions of Data Analyst Brielle Bernardy, we created a spreadsheet to code up to 180 pieces of information about each case we reviewed, including data such as: birthdates of victim and suspect, location of alleged assault, manner of acquaintance with each other, number of witnesses interviewed, timelines for various actions, electronic evidence collected, mental health or substance use, injury to the victim, provision of victim support information, and investigative steps taken.

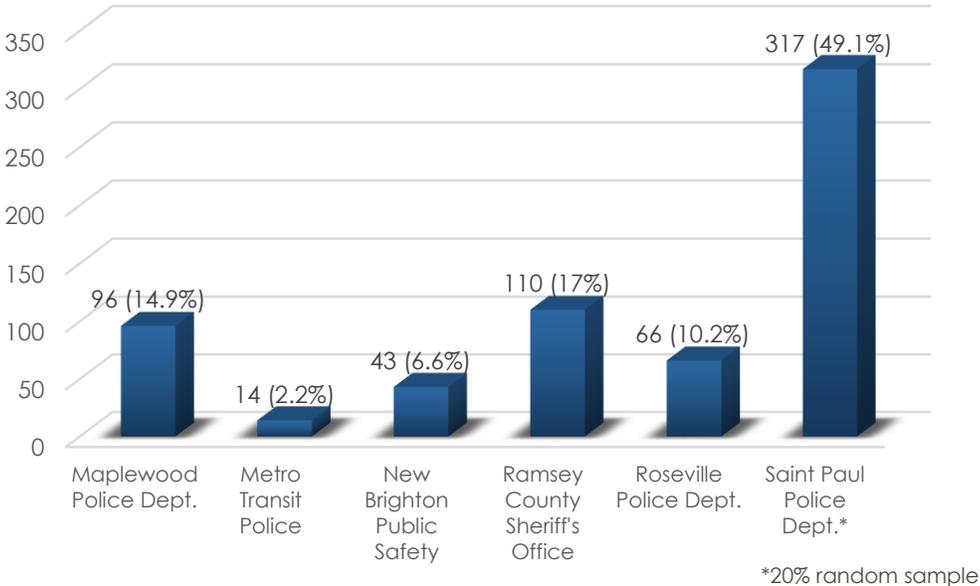
With the gracious assistance of law enforcement partners, we reviewed police reports from 2013 – 2016. The cases selected involved victims aged 13 years or older, in which the suspect was not a family member (although domestic partners and spouses were included). For the smaller agencies, this might involve less than 20 reports per year. In those cases, the review did include teenagers reporting sexual abuse by a family member – cases that would have otherwise been excluded. The reason for this was to obtain a sample large enough to be instructive.

Reviewing cases that were reported to law enforcement is only part of the story of sexual offenses occurring in our jurisdiction, however. Most victims/survivors of sexual assault do not report the incident to law enforcement.<sup>8</sup> Because of this, we attempted to include the voices of those who have remained silent (to the system) as to their victimization: those who did not report. Unfortunately, we were not able to directly speak with many of these victims/survivors, but we can take away some lessons from the few who were willing to talk about their decisions not to report to law enforcement.

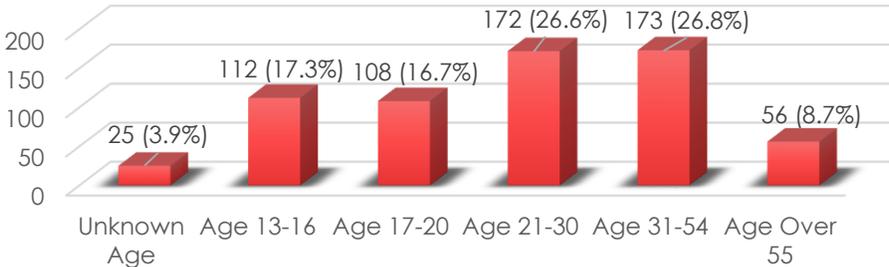
# General Information from the Systems Review

Of the hundreds of police reports reviewed from our law enforcement partners: Maplewood Police Department, Metro Transit Police Authority, New Brighton Department of Public Safety, Ramsey County Sheriff's Office, and Saint Paul Police Department,<sup>9</sup> 646 were within the parameters of this study. The Saint Paul Police cases represent a 20-percent random sample (not a randomized control sample) of their qualifying sexual assault cases. The relative percentages of cases included in the data and ages of victims/survivors on the date of offense are below.

## Case Numbers by Agency



## Total Cases by Victim/Survivor Age at Time of Offense



\*\*"Unknown Age" might occur if there is either no birth date or no date of offense. If the date of offense was a range rather than one date, the age reflects the youngest age within the date range. The vast majority (over 70%) of cases reported involved victims who were over 16, the age of consent for sexual activity.<sup>10</sup>

Below is a table reflecting the characteristics of assaults reported, according to how the victim/survivor described the actions of the offender.

Characteristics of Assault	Number = Percentage
(1) Physical Force	139 = 21.65%
(2) Threat/Coercion	7 = 1.1%
(3) Restraint	75 = 11.6%
(4) Fear Reported	16 = 2.5%
(5) Unconscious/Asleep	108 = 16.7%
(6) Professional Client	36 = 5.6%
(7) Weapon Displayed	13 = 2.0%
(8) Weapon Claimed (by assailant)	0
(9) Unwilling (absent another factor)	174 = 26.9%
More than one type	41 = 6.3%
Blank	37 = 5.7%

After cataloguing some of the characteristics of assaults, we added the “unwilling” category because a significant number of reports involved a person reporting that she or he was sexually touched or penetrated against her or his will, but did not describe any of the other components above. This may be because sexual offenders frequently exploit vulnerable people, making force unnecessary. It may also be attributable to police questioning not capturing the nuances or subtleties of the offender’s behavior.

In 81.6% of cases, the victim/survivor sustained either no injury or reported pain with no demonstrable injury observed. It is common to find minimal or no physical or anogenital injury after sexual assault.<sup>11</sup> Forty-six percent of all reporting victims/survivors got a medical exam. Most frequently (22.8%) this was done at Regions Hospital, but Children’s (5.3%) and United (5.0%) also performed a significant portion of the exams.<sup>12</sup>

We did not include a review of medical records for two reasons. First, the metro area Sexual Assault Nurse Examiners are highly trained and highly experienced.<sup>13</sup> There is no widespread anecdotal notion that there is a need for systemic improvements in the local medical response to sexual assault survivors. And second, medical reports contain highly sensitive and private data. They are not encompassed within the police reports and would have to be pulled separately. We determined that privacy invasion was not warranted given the criminal justice focus of this study.

Overall, the gender of victims was 89.3% female, 10.1% male, and .6% either “other” or unknown. The gender of suspects was 92.7% male, 4.2% female, and 3.1% unknown. In about 0.8% of cases, the victim identified as lesbian, gay, bisexual, transgender, or queer (LGBTQ). In about 4.5%, a language interpreter was used to communicate with the victim.

Victims/survivors resided in a facility of some type, a nursing home, residential home for persons with intellectual disabilities, or a jail, in 14.7% of cases.<sup>14</sup> In 11.8% of cases, reports noted that the victim/survivor had an intellectual disability. Reports noted a physical disability in 3.3% of cases, and a diagnosed mental-health condition in 12.5% of reports.

The following table demonstrates the percentage of cases that were made because of mandated reporting requirements, and the type of mandated report.

Reason for mandated report	Percent of all cases
Child abused by parent/caregiver	6.4%
Vulnerable adult	10.3%
PREA*	2.2%

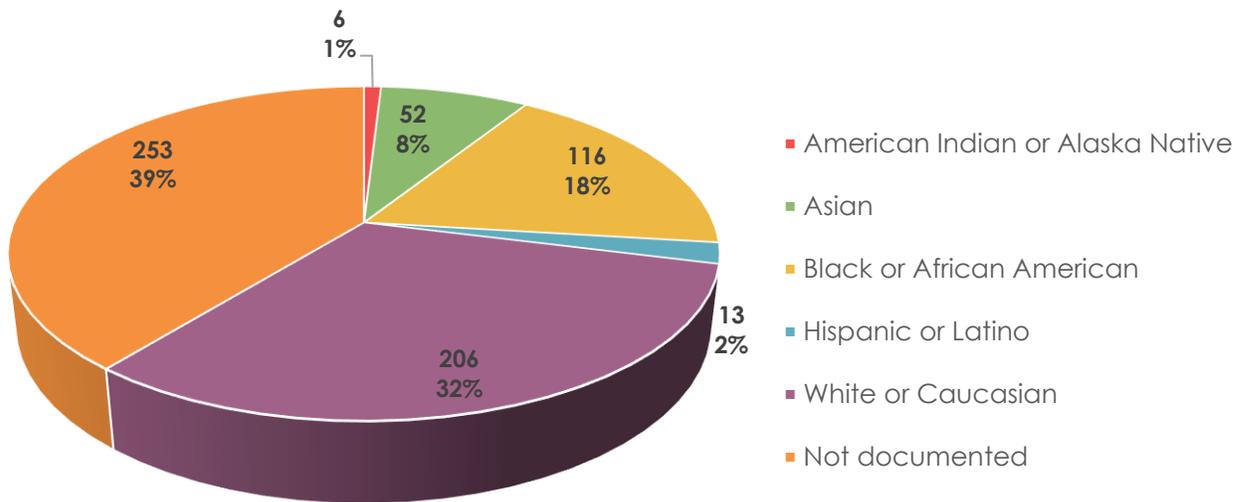
\*The Prison Rape Elimination Act mandates reporting and investigation of sexual assault reported as occurring within jail or prison facilities.

It is well understood that alcohol features prominently in the data about sexual-assault perpetration. For example, some studies show that alcohol use is involved in more than half of college campus sexual assaults.<sup>15</sup> Yet, the police reports we reviewed contain reports of alcohol use by the victim/survivor in only about 20% of cases. This is in line with other studies that demonstrate that victims/survivors who use alcohol are much less likely to report the offense to police, and to both assume blame themselves and be blamed by others for the assault.<sup>16</sup> For those cases reviewed in which the victim/survivor used alcohol, we broke it down into various levels of intoxication on the table below.

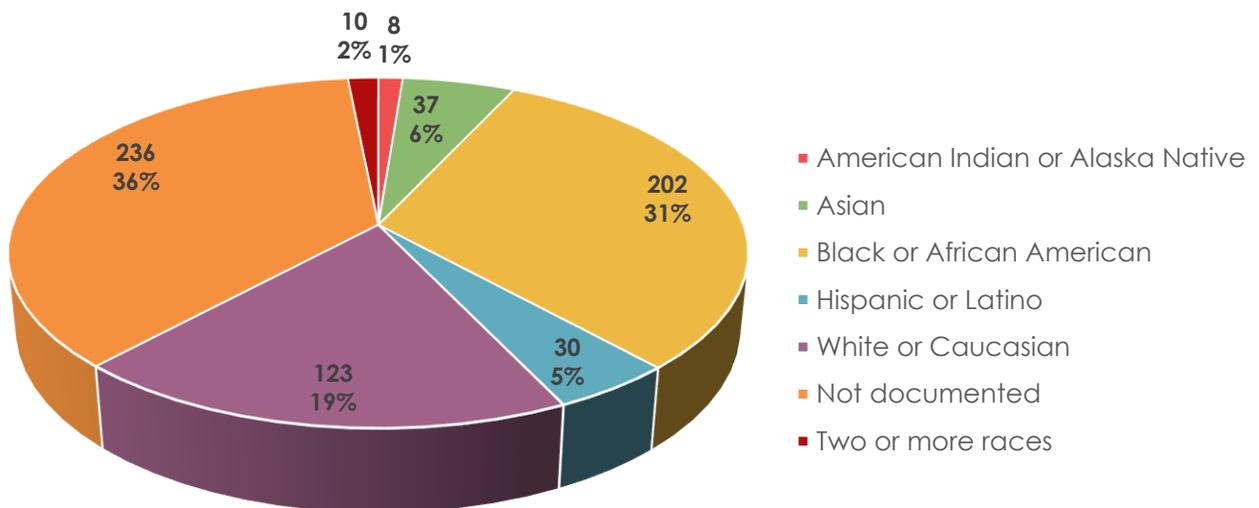
Alcohol noted	Number = Percentage
None documented	511 = 79.1%
1) Not intoxicated	16 = 2.5%
2) Buzzed	27 = 4.2%
3) Very drunk but memory	55 = 8.5%
4) Blacked out	37 = 5.7%

Most of the police departments were inconsistent about whether the race of victims/survivors or suspects were noted in their reports. The victim's/survivor's race was noted in 60.8% of cases. The suspect's race was noted in 63.5% of cases. Therefore, our attempt to quantify data based on race, below, reflects only about 6 of 10 cases we reviewed.<sup>17</sup> We recommend that law-enforcement agencies work to increase the collection of race information to better assess their response in these cases.

### Victim/Survivor Race

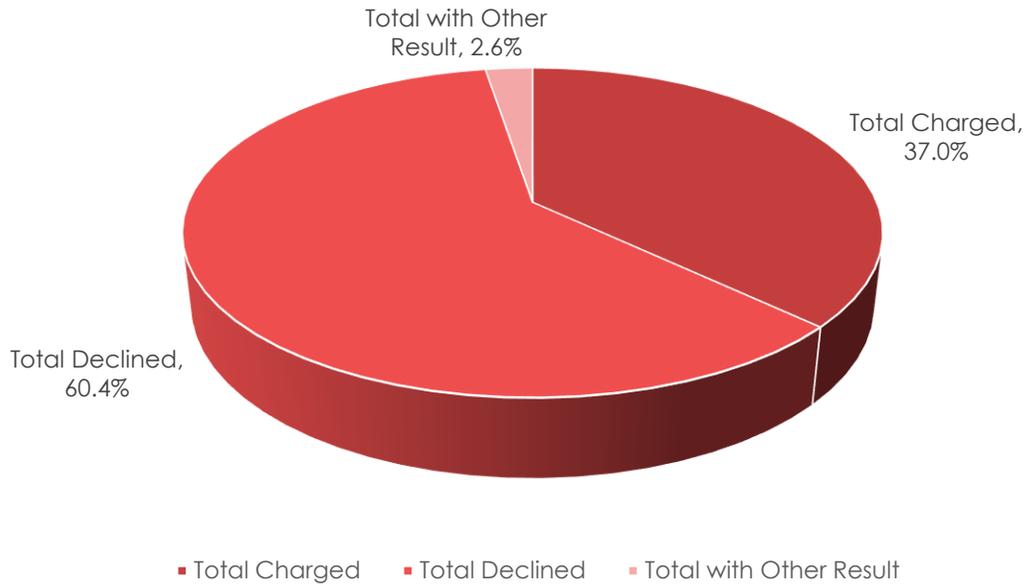


### Suspect Race



Of the 646 police reports reviewed, 29.7% (192) of the cases were referred to the Ramsey County Attorney's Office for a charging decision; 37% of those referred (74) were criminally charged; and 60.4% were declined. About 2.6% of those referred had some other result, such as requesting further investigation.

### Total Cases Reviewed (192)



## Criminal Justice Starts with Law Enforcement

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In addition to finding areas in need of improvement, we also want to highlight areas for professionals to be proud of: one of those is the long-time work of the Sexual Assault Protocol Team.

Since 1998, Ramsey County has had a multi-disciplinary team to address its response to sexual assault. This Ramsey County Sexual Assault Protocol Team (RCSAPT) is comprised of core disciplines – law enforcement agencies, advocacy, medical, and prosecution – and many other disciplines.<sup>18</sup> The team meets regularly to share information and resources, and to develop its Ramsey County Adult Sexual Assault Response Protocol [“Protocol”].<sup>19</sup> The Protocol addresses the role of each agency in the investigation and response to sexual violence, as well as laying out the various resources available to assist victims/survivors. This multi-disciplinary work has likely contributed to the generally good starting point we found for our systems response in Ramsey County. The criminal-justice response always begins with a report to law enforcement, and the investigation that follows is often the key to whether a case can be prosecuted or not. Thus, we start with the law enforcement response.

### **Law Enforcement Response is Good and Can Get Better**

Review of the reports of the six law enforcement agencies revealed generally professional work in their responses to sexual-assault cases. One of the biggest concerns of victims/survivors is that the police will not believe them.<sup>20</sup> In terms of what can be gleaned from police reports, the review turned up very little outright skepticism or disbelief of reporting victims/survivors. The reviewer rated a perception of belief<sup>21</sup> by the investigator of the victim’s account. The rating scale was (1) victim’s intentional false report, (2) strongly questioning, or (3) believes report. The average was 2.71. Generally, patrol officers documented the report, taking it at face value, and investigators followed through.

This may not sound ground-breaking, but one of the common historical difficulties (nationwide) has been simply getting law enforcement and prosecutors to take sexual-violence cases seriously.<sup>22</sup> If the initial reaction by police is disbelief or skepticism that the case will be “provable,” then the chances of completing a thorough investigation are not good. In our review, the police reports do not give an impression of a dismissive or disbelieving attitude overall. But, because police reports may be limited in terms of identifying concerns, we also asked for observations from the sexual assault advocates who work alongside the law enforcement officers during the investigation.

### **Interview with Community Advocates**

The reviewer met with three experienced SOS advocates to get their impression of the law enforcement response. The general report about the six partner agencies was that both patrol and investigations are responsive and are handling the cases appropriately.<sup>23</sup> They described the response as fairly consistent across variables such as victims/survivors who were of various racial or economic-class groups, those who did not speak English, or who were intoxicated or using controlled-substances. SOS advocates had been working more and more with people experiencing homelessness and observed the patrol officers and investigators taking those reports seriously. In past decades, police may have been more dismissive of a person experiencing homelessness.

The advocates did note that victims/survivors who present as mentally-ill sometimes get a less thorough response from law enforcement. They suggested that law enforcement may discredit a report by a mentally-ill person more quickly, compared with other reports. The case review showed some cases in which a mental health issue might result in skepticism by officers. This is a complex issue, because certain mental health diagnoses may affect a person’s ability to know, remember, or relate the facts. More specific training on working with victims/survivors with mental illnesses, designed to increase understanding and decrease skepticism may be helpful.

Cases in which diagnosed mental health (MH) condition was documented	81
Percentage of MH cases in which zero witnesses (other than victim or suspect) were interviewed	45.7%
Average number of witnesses interviewed in MH cases	0.85
Perceived level of disbelief (range of 0 (thinks it's a false report) to 3 (believes the report))	2.4

Generally, patrol officers have less training and work experience with sexual assault and trauma than do the investigators who specialize in the topic. The advocates described the patrol response as “hit and miss, but generally good.” They noted that while some patrol officers conduct professional, courteous interviews, some do not approach victims/survivors in a victim-centered way. One example they gave were two patrol officers who expressed that their shift sergeant said they “had to take a report” and seemed to wish they did not “have” to. With this attitude, they both interviewed a teen victim/survivor at the same time and she was intimidated by their approach. This non-victim-centered approach did not represent the norm. The advocates emphasized that shift sergeants are well-versed in the Protocol and follow it, likely contributing to a generally positive experience with patrol officers.

The advocates reported that most of the sexual assault investigators are “fabulous,” indicating in past years, they might have had just one or two “go to” investigators in a given agency. They indicated that now, most investigators are responsive and informed about sexual violence.<sup>24</sup> In the Saint Paul Police Department, investigators who move from the family violence unit to the sexual violence unit seemed particularly prepared to handle these cases according to advocates. Those investigators seemed more prepared for the nuance and the victim-centered approach as compared to someone without that background. However, the advocates reported that newer investigators were coming in with a very good attitude and genuinely wanted to do good work on these cases. That has not always been true historically, but they report much less “push back” by investigators than they used to experience.

It is important to note how *remarkable* this is. A generally good working relationship between the community’s main sexual assault advocacy program and the enforcement agencies is not the norm.<sup>25</sup> Our sexual assault advocates know the investigators by name and know their individual styles, and vice versa. Nationally, many jurisdictions are just beginning to create this level of cooperation or have yet to begin. Ramsey County has a good history in that regard. There may be areas in need of improvement, but the hardest part has been done: establishing a multi-disciplinary team to coordinate the response and share the responsibility of establishing a victim-centered response in Ramsey County.

## Attrition of Victims/Survivors in the Reporting Process

One of the items measured in the data review was the rate of attrition of reporting victims. Whether by a passive failure to return phone calls or respond to a letter, or whether by actively requesting that the investigator stop the investigation, over 26% of victims/survivors put a stop to the investigation. This is a startling statistic when combined with the historic under-reporting of sexual violence in the first place.<sup>26</sup> Any discussion of the systems response should definitely include ways to reduce the “drop-out” rate for victims/survivors in order to most fully address sexual assault cases in Ramsey County.

One of the provisions of the law enforcement section of the Protocol is that a victim/survivor can have the assistance of an advocate<sup>27</sup> “if [she or he] wishes” and have one present during interviews.<sup>28</sup> In only 3.7% of the cases reviewed was it documented that an advocate was present for any law enforcement interview. The tendency not to invite advocacy involvement did not appear to be based on any overt resistance to having advocates present; there were no instances of the denial by law enforcement of a request to have an advocate present. Indeed, when asked in a survey about their experience with having an advocate present for interviews, twelve of 15 responding investigators said their experience had been either “usually helpful” or “neutral.” There is currently no expectation that investigators will proactively reach out to get advocacy services for victims/survivors, but they may wish to implement such a practice to help stem the attrition of reporting victims/survivors.

Surely, each person has individual reasons for either not reporting in the first place, or for dropping out after reporting. But common reasons reported by those who never reported at all surely could apply to those who dropped out: not understanding the process, not feeling their case was “worthy,” feeling overwhelmed by the prospect of seeing a criminal case through to its conclusion, and so on.<sup>29</sup>

Each person has a right to determine the steps she or he will take after experiencing sexual violence. The goal of advocacy is to help that person make *informed* decisions – based upon reality and with emotional support, not based upon an assumed or “TV-based” belief about how the system works.<sup>30</sup>

SOS Sexual Violence Services already proactively reaches out to many victims/survivors who get medical attention. For those who go to Regions, St. Joseph’s, and St. John’s Hospitals in St. Paul, the hospital contacts SOS and a volunteer will automatically respond at any time, any day of the year.<sup>31</sup> At United Hospital, SOS responds during daytime hours.<sup>32</sup> The hospital staff proactively calls SOS to respond, and the victim/survivor is free to accept or decline advocacy services. Advocacy services should help each person feel she or he is not alone during the process, a benefit that cannot be overestimated. And it should also provide answers to questions, quell unrealistic fears, and assist the victim/survivor in deciding what is right for her or him based on reliable information. The hope is that, if all reporting victims/survivors automatically have an advocate present for their meeting with the police investigator, the rate of attrition will drop<sup>33</sup> and more offenders will be held accountable.

There are also measures involving the investigative interview process that may decrease the attrition of victims/survivors. In a sexual assault investigation within Ramsey County, a patrol officer almost always takes the initial summary report from the victim/survivor and witnesses who are immediately available. That report is filed, and an investigator from that department is then assigned to conduct a full interview and proceed with the investigation of the case.

The Protocol indicates that “[t]he investigator should attempt to contact the victim within 24 hours of receiving the incident report.”<sup>34</sup> Following up quickly after the initial report is one way to keep victims/survivors engaged and assure them of the seriousness with which the report is taken. In the cases reviewed, the average length of time from initial report to second interview was 20 days.<sup>35</sup> (The investigator might contact the victim/survivor within 24 hours, but not document an interview until later. Thus, investigators may be contacting the victim/survivor more quickly than is documented in the reports.)

The Protocol also “strongly” recommends that the second (investigative) interview of the victim/survivor be conducted in person.<sup>36</sup> This provides obvious benefits in many ways – it assures the victim/survivor of the seriousness of the response, provides a personal connection with the investigator, allows the investigator to observe non-verbal cues that might be very informative, and is the most victim-centered manner of asking about intimate and humiliating information. There are many reasons why an “in-person” interview might not occur, such as the victim’s/survivor’s preference or schedule, location, or investigator’s schedule, but “in-person” interviews are generally preferable.

In the cases reviewed, the overall rate of in-person interviews (as opposed to by phone) was 54.5%.<sup>37</sup> The second interview was done by phone 40.4% of the time, and a group of “other” and “unknown” totaled 5.1%.

Agency	In Person + At Hospital	By Phone
Maplewood Police	62.5%	31.3%
Metro Transit Police	50%	50%
New Brighton Police	57.9%	21.1%
Ramsey County Sheriff	69.2%	28.2%
Roseville Police	66.6%	25%
Saint Paul Police	44.4%	53%

No one practice will reduce the attrition of victims/survivors during the investigation,<sup>38</sup> but committing to victim-centered practices such as including advocacy services are best practices that can help assure that victims/survivors feel supported, connected, and informed in their decisions. With those practices in place, criminal justice professionals can be assured that those victims/survivors who truly want to seek justice for their sexual assault will do so rather than feeling intimidated and alone in the process.

## Adequate Staffing, Training, and Resources

The written Protocol and best practices recommendations are meaningful only if the professionals assigned to these cases are not too overwhelmed with cases. In a survey of sexual assault investigators from the six partner agencies, the participants responded to a question as to whether their investigative unit was adequately staffed to perform their best work in response to sexual assault cases. Of 15 respondents, 12 answered simply, “no.” While most (12) estimated they could do their best work with a caseload of up to 15 open sexual assault cases, five respondents said they had 16-25 open CSC investigations. Six said they had 0-7 sexual-assault cases. In one conversation, a sexual-assault investigator described his job as “like drinking from a firehose.”

When asked more directly about the issue of caseloads, several of the partner agencies voiced that they felt distinctly understaffed to perform to “best practices” standards on criminal sexual assault investigations. Because each agency divides labor differently, it can be difficult to make apples-to-apples comparisons between agencies as to sexual assault caseloads.

As a result of 2015 legislative changes<sup>39</sup> that emphasized the dual-reporting requirements between child protection agencies and law enforcement,<sup>40</sup> child protection agencies now refer all or most of their child abuse intake reports to law enforcement.<sup>41</sup> Adult protection cases for vulnerable adults are also referred to law enforcement for review. As laudable as it is to assure that criminal abuse of children and vulnerable adults is not overlooked, that new requirement adds a substantial workload for the recipients of the case referrals. The increased numbers of cases referred (whether a criminal act is obvious or not) increases the workload of those who must sift through those reports to determine whether further investigation is warranted. To respond appropriately to the additional case referrals, our law enforcement agencies must be adequately staffed to both review the child abuse referrals, vulnerable adult referrals, and investigate the sexual assault cases brought to law enforcement by direct report.

Some of the partner agencies responded to a request for caseload information for the years 2016 and 2017. The table below reflects caseload data they provided.

Agency	Number of child abuse referrals from child protection in 2016/2017
Maplewood Police	215/249
Ramsey County Sheriff	217*/309 (*9 months)
Roseville Police	154 total
Saint Paul Police	2529/2460
New Brighton Police	220 total child and vulnerable adult

Agency	Number of vulnerable adult referrals from adult protection 2016/2017
Maplewood Police	372/419
Ramsey County Sheriff	312*/556 (*9 months)
Roseville Police	401 total
New Brighton Police	220 total child and vulnerable adult

Agency	Number of criminal sexual conduct cases investigated in 2016/2017 other than those referred from child protection
Maplewood Police	47/47
Ramsey County Sheriff	51/71
Roseville Police	77 total
Saint Paul Police	1746/1752

Agency	Number of sexual assault investigators	Do sexual assault investigators also handle other criminal investigations?
Maplewood Police	2	Yes (person crimes)
Ramsey County Sheriff	6	Yes (all types of crimes)
Roseville Police	3	Yes
Saint Paul Police	6	No, mostly (all child-abuse referrals; one handles any type of crime against vulnerable adults)

Numbers of investigators are difficult to compare directly because, in some departments, the sexual assault investigator handles those cases in addition to other types of person crimes.<sup>42</sup> Or, the department may have all investigators available to handle sexual assault investigations, but a few people focus on those cases. For that reason, precise comparisons of caseloads are difficult to make. None of the departments reported any increase in staffing during 2016 or 2017 to investigate abuse of vulnerable adults, children, or sexual assault cases.

As part of this review, we sought out information on recommended caseloads for sexual assault investigators, to no avail.<sup>43</sup> However, some of the Ramsey County case review data may illustrate that our investigators are tasked with challenging caseloads. For example, aside from

victim/survivor and suspect, the average number of witnesses interviewed is 1.9 (excluding all “zero” witness cases). As discussed above, the 20-day delay from first report to second (investigative) interview and frequent use of phone interviews might also be attributable to high caseloads.

One key factor we reviewed to assess the depth of investigations was whether a search warrant was requested (for any purpose). In 88.1% of cases, it was not.<sup>44</sup> One important component of a thorough investigation is the collection of digital or electronic evidence. People exchange texts, photos, and post on social media and that information can be very informative as to a person’s thoughts and actions before, during, and after a sexual assault. In 69.7% of cases, no electronic evidence was sought. There was a definite trend in more recent investigations toward collecting more of this type of evidence, and that has strong implications for staffing. As we expect investigators to gather more videos, texts, and photos, draft subpoenas to obtain cell phone records from international companies, check social media postings, and obtain surveillance videos from multiple sources, the need for staffing increases to meet those demands. An important part of implementing best practices and a thorough response to sexual assault must involve adequately staffing the law enforcement response.

Best practices include staffing practices that emphasize experience and reduce turnover. A professional sexual assault investigation involves nuance and intuition that comes from training and years of experience. In the survey of 15 investigators, 7 had only one training on sexual assault before starting investigations.<sup>45</sup> Five of them had zero sexual assault trainings before beginning. Most had 1.5-3 years of experience at the time they were surveyed. During the 18 months of this review, three of the six contact people from the partner agencies were replaced as their assignments changed. Three of the six Saint Paul investigators left its Sexual Violence Unit. The SOS advocates noted that turnover of the assigned investigator can negatively affect the experience that the victim/survivor has, after building rapport with the first investigator.<sup>46</sup> One agency reported that its investigative caseloads made investigations an unappealing assignment, negatively affecting its recruitment of experienced officers for investigations.

Training is another critical factor in providing a “best practices” response. Before a new sexual assault investigator begins working on that type of case, she or he should attend at least one thorough training specific to sexual violence. These cases involve high rates of trauma and humiliation for victims/survivors that require expertise that is different from investigating other cases. For example, for people traumatized by sexual violence, a standard chronological “what happened next” interview format is often not useful because traumatic memory may not be neatly chronological. There is a trauma-informed model of interview that seeks information in a way that more readily captures the snapshot memories often formed through a traumatic event.<sup>47</sup>

Most of the investigators in the review report having received training on this technique. However, the use of trauma-informed interview techniques in investigations was not prevalent. Interview questions are not generally documented in the police report, so the case review sought to document instances of eliciting the victim’s/survivor’s “internal experience.” This referred to the number of times the interview captured the victim’s/survivor’s perception of the suspect – what they perceived that led to unwilling sexual contact.<sup>48</sup> We calculated the number of times the police report captured the victim’s/survivor’s internal description of her or his experience. On a scale of one to five, the average number was 2.01. With some practice, the implementation of trauma-informed interviews can help capture the event more completely.

Training is important, but even a good seminar can seem counterproductive if the investigator feels too overwhelmed to break away from case investigations. Any discussion of best practices should involve seeking a commitment to attain adequate staffing for investigators, and to staff assignments for a sufficient period of time that the investigator can learn the work and teach it to newer investigators. We have been completely impressed with the highly dedicated professionals in this review and as partners during the actual prosecution of criminal sexual conduct cases. They do challenging work well, especially given their large caseloads. This case work requires appropriate staffing levels and dedication to maintaining experience levels so these professionals can implement all best practices recommendations.

## **Identifying Offenders in Multiple Jurisdictions**

Sexual assault is committed by a small percentage of offenders (mostly men),<sup>49</sup> but some of those men tend to offend repeatedly, leaving multiple victims/survivors in their wake.<sup>50</sup> Best practices in investigating these offenses should recognize that this may not be the first victim/survivor who has brought this offender to the attention of authorities. If an investigator learns that another person reported this same offender to law enforcement or to campus security, or took out a harassment restraining order, the strength of the new report may become exponentially greater. It goes without saying that two or more victims/survivors of sexual assault by the same offender tend to corroborate each other's reports in a way that strongly supports the credibility of each. This information becomes highly valuable when it is available. It would be truly unfortunate for one agency to investigate a certain suspect, never knowing that one of their neighboring agencies has had similar reports about the same individual.

The current police case management systems do little to aid investigators in this regard. Each agency has its own case management system that is not searchable by outside agencies. If an investigator wants to find out whether the suspect has been reported to other agencies, she or he must literally call separate law enforcement agencies and ask whether they have had any contact.<sup>51</sup> This requires a significant expenditure of time, as an offender might have lived in various communities, attended various schools, or have contact with many cities bordering the city where she or he lives. If Ramsey County wants to address its repeat offenders, it will dedicate resources to discerning a way of quickly sharing information so investigators can discover previous reports without having to call each separate agency. This presents complex issues involving data practices, technology, and funding that will likely require review by a multi-disciplinary task force.

One recommendation that could be immediately implemented is to create an email listserv among Ramsey County agencies. This listserv should be managed by a law enforcement agency (not the County Attorney's Office) and could permit sexual assault investigators to quickly check with each other to see whether they have had a report about a given suspect. This could provide some measure of due diligence in checking for other sexual assault reports.

## Lack of Case Tracking

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One of the factors in doing this review was the enormous amount of data stored and transmitted by law enforcement and prosecution agencies. None of the agencies had a simple method for digitally sorting and selecting cases for this review based on given criteria. It was heavily dependent upon person hours to manually pull, sort, and categorize the cases.

The systems review revealed several areas in need of better digital tracking. The Ramsey County Attorney's Office had records of at least 28 law enforcement cases that should have been included in the cases provided for our review, but were overlooked. There were also 33 police reports (5.1% of the total) designated as "incomplete." That meant there was no final decision noted – was the case "pending," "closed," "referred to the county attorney," or something else? It was unclear whether a final decision had been made as to what to do with the case. Further, there is no continuous system that tracks the "hand off" from investigator to prosecutor for review.

Any effort to track success on implementing system changes should involve the development of case management systems that are more capable of sorting and comparing cases based on the factors that may affect the investigation and charging process. It should include an automated method of tracking cases once they are assigned for investigations.<sup>52</sup> The police agencies did not have a digital tracking method for open investigations as to steps completed or timeframes. When the investigator is transferred to another departmental unit, the case is assigned on a case-by-case basis – does the investigation remain assigned to him or her, or is it transferred to another person? What follow-up measures are done to assure nothing falls through the cracks?

The same is true for the Ramsey County Attorney's Office – there is no systematic tracking of open cases. Once a case file is opened, it is handed to one of four charging attorneys. It is up to that person to decide when to review the case and whether to request further investigation. While it is important to give wide discretion to the charging attorneys for determining when it is appropriate to charge, decline, or request more information, it would be a good idea to implement a digital tracking system to help prevent human error. Within the cases referred to the Ramsey County Attorney's Office, there was an "unknown" result rate of 5.4% because computer case management systems did not include the information.

Everyone in the Ramsey County criminal justice system handles many cases. If a case has "fallen through the cracks," there is no automated system for determining that a case file is open but awaiting action. A more thorough digital tracking system is a good idea, and could obviously be implemented for all types of criminal offenses.

## The Ramsey County Attorney's Office

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It is a core responsibility of the prosecutor to use judgment and sound reason in deciding when to bring criminal charges and when not to. “A prosecutor’s duty is not simply to convict, but to do justice.”<sup>53</sup> The decision to prosecute is exclusively the prosecutor’s; she or he has “complete discretion in deciding whether and how to [proceed].”<sup>54</sup> Often, these sentiments are expressed to emphasize the duty of the prosecutor not to be overly or unfairly zealous by pursuing convictions at any price. The prosecutor “may strike hard blows, [but] he is not at liberty to strike foul ones . . . calculated to produce a wrongful conviction.”<sup>55</sup>

True enough. But it may be incumbent upon today’s prosecutors to include in their definition of “doing justice” the pursuit of the cases toughest to prove, involving the sexual exploitation that currently goes almost unaddressed by the criminal justice system. Doing justice is a broader concept than merely reaching a criminal conviction. It may involve measuring success in other ways – setting best-practice goals, measuring them, and meeting them. Conviction rates may then follow suit.

The Ramsey County Attorney’s Office has about 37 “line staff” prosecutors assigned to the adult criminal prosecution unit. Another 9 are assigned to prosecute offenses committed by youth under the age of 18.<sup>56</sup> In the adult division, four attorneys are assigned to review cases and decide whether to charge, decline, or request further investigation. Those attorneys review cases involving everything from homicide or sexual assault to drug possession or felony theft.

Of the 646 cases we reviewed, 192 (29.7%) were referred by investigators to the Ramsey County Attorney’s Office for prosecutorial review. Prosecutors charged 37% of those cases,<sup>57</sup> meaning only 11.4% of the 646 cases in this systems review were eventually charged. Of those cases that were charged, the total conviction rate was 70.3%.

There is no way to objectively quantify whether some of the cases this office declined “should have” been charged. We observed some cases in which the victim/survivor described facts meeting the definition of criminal sexual conduct, reported it soon after the event, and investigators pursued witness statements and other evidence in the investigation, yet, the prosecutor declined the case. While a prosecutor has an ethical obligation to only charge cases she or he believes can be proven in court, there is no hard science for determining which of two similar cases will prove successful and which may not. This data, however, provides a baseline for charging and conviction rates that can be compared to future data.

For any of the criminal justice agencies, the goal should be to focus on developing and implementing best practices. The historic temptation in addressing criminal sexual conduct cases is to try to predict what the next decision maker will do with the case. Prosecutors may personally believe that a rape was committed but decline to bring criminal charges if it appears a jury may question the victim’s/survivor’s report.<sup>58</sup> Investigators may learn from the patterns of case charging which cases to fully investigate and which may not result in charges. Victims/survivors may decide not to come forward because they do not believe law enforcement will take the case seriously.

Best practices, then, include an even greater commitment to take on the “tough” cases. This might involve developing an inclusive charging practice in cases in which the report of the victim/survivor meets the elements (or, definition) of criminal sexual conduct, the investigation turned up robust witness and evidentiary corroboration of the report,<sup>59</sup> and a suspect was identified. Working

in tandem with experienced, trained, and sufficiently-staffed law enforcement investigators, and supporting victims/survivors to help them stay involved, we may find that we are able to hold a wider array of sexual offenders accountable.

In the cases reviewed, the rates of occurrence, referral, and charging are represented below for a number of different variables:

Topic (describing victim/survivor)	% of Total Cases	% of Cases Referred by LE to RCAO	% of Cases Referred that were Charged by RCAO
All	100	29.7%	37%
Physical disability	3.3%	1.1%	2.1%
Cognitive disability*	11.8%	2.8%	2.1%
Mental health diagnosis*	12.5%	3.7%	2.6%
Lives in a facility	14.7%	2.9%	1.6%
Intoxication "buzzed"	4.2%	1.1%	5.7%
Intoxication "drunk with memory"	8.5%	2.3%	2.1%
Intoxication "blacked out"	5.7%	1.5%	1.0%
Medical examination completed	46.6%	16.6%	21.9%
Injury: none or pain only (not observable)	81.6%	23.1%	28.1%
Injury: minor observable	12.1%	5.7%	8.9%
Injury: substantial or great-bodily harm	0.6%	0	0

\*A mental health diagnosis or cognitive disability means a reliable source clearly indicated that the victim/survivor had this type of diagnosis or the person lived in a facility reserved for people with those concerns. It was not presumed absent direct information.

Of the total cases reviewed, persons with either a cognitive disability or a mental health disability made up over 24% of reports, but only 4.7% of cases charged. Ramsey County does not have a response team or process developed especially for these cases. We do have expert staff members at Midwest Children’s Resource Center<sup>60</sup> who perform specialized interviews and medical examinations on adults who are lower functioning (and children). The Saint Paul Police Department has one investigator assigned to pursue criminal reports of all types involving vulnerable adults. Generally, however, this vulnerable set of our population does not currently have a dedicated law enforcement or prosecution response within Ramsey County. We recommend targeting this type of case more directly with training, staffing, and resources.

The results of the cases charged are represented in the table below. One result of this study (discussed more fully in Section IV above) is that current case-tracking software programs do not provide a quick means to track case results. Between the police and the prosecutor’s office, the process of sorting and following the cases in this review was imperfect. Contributing to the difficulty in obtaining clear case-result information is the fact that the County Attorney’s Office switched to a new case management system in mid-2016. This may have resulted in some information not transferring completely between systems.

Outcome*	Percentage of Cases Charged
Guilty plea	60.8%
Trial (all resulting in conviction)	9.5%
Dismissed (by court or prosecutor)	17.6%
Unknown result	5.4%
Still pending as of March, 2018	4.1%
Warrant out	1.4%

**Overall conviction rate 70.3%**

\*This table excludes the results for one individual – a massage therapist – who was charged with numerous cases involving separate victims/survivors. He had a trial, several guilty pleas and – in return – several dismissals. Because his data would skew the results, his cases were not included.

### Community Advocates Interview

In the review process, we interviewed advocates from SOS Sexual Violence Services to give input on the work of the prosecutors. They indicated that they had “really good” experiences working with the staff at the County Attorney’s Office.<sup>61</sup> They found the prosecutors and staff very willing to communicate and involve SOS, and SOS would like to be even more involved when cases proceed through the criminal justice process.<sup>62</sup> These community-based advocates noted that victims/survivors do not get much information during the investigation, or during the time while the prosecutor is reviewing the case for charging. They commented that the reviewing time can seem like a long process, and when it culminates in a “decline letter,” that can be difficult for victims/survivors to handle.<sup>63</sup>

## Ramsey County Attorney's Office Advocates

The victim witness advocates within the Ramsey County Attorney's Office [hereinafter RCAO advocates] also had an opportunity to give input.<sup>64</sup> These employees coordinate and assist crime victims throughout the prosecution process, including requesting no-contact orders, informing them about the judicial process, arranging meetings with prosecutors, assisting with victim-impact statements at sentencing, and applying for restitution, among many other tasks. They usually are present when the prosecutor meets with victims/survivors.

The RCAO advocates also noted that victims/survivors struggle with the amount of time they have to wait for their case to be reviewed.<sup>65</sup> They conveyed a sense that, in general, "problematic" cases from a charging perspective go a little lower in the pile and stronger cases get charged more quickly. They field calls from victims/survivors who are disappointed when their case has not been charged, and sometimes the prosecutor is willing to meet with the victim/survivor to help them understand why. In their experience, people really appreciate the chance to meet with the attorney for this reason.

The RCAO advocates noted that there is not full consistency about requesting no-contact orders when criminal sexual conduct charges are being filed. We recommend reviewing the non-contact procedure to provide consistency as to when those orders are requested.

When it comes to the prosecutors assigned to try the cases, the RCAO advocates have found them generally willing to meet with victims/survivors when they have time. Prosecutors are so often in court that it can be difficult to find time to do that. Some meet with victims/survivors before the pre-trial conference, and some do not.<sup>66</sup> Some prosecutors meet with the victim/survivor to discuss any plea offer that is going to be made, and some do not. To establish a trusting rapport, the RCAO advocates find it works best for prosecutors to meet victims/survivors early in the process and discuss the plea offer with them before extending the offer to the defendant. We recommend including early victim/survivor meetings as a best-practices response from this office.

The RCAO advocates noted that there are many prosecutors in the office who are new to handling criminal sexual conduct cases. They recommend in-house trainings for prosecutors on topics such as their demeanor with victims, avoiding *Alford*<sup>67</sup> pleas, working with teen or mentally-ill victims/survivors, cultural differences, and immigration issues. They noted that not all prosecutors are right for criminal sexual conduct cases. Should an advocate wish to give feedback about a prosecutor's interaction with a victim/survivor, the advocate can address it personally with the prosecutor or with the advocate's supervisor. The manner in which a prosecutor interacts with the victim/survivor is an important skill that should be included among the many skills prosecutors are expected to develop.

## Formalize the Process of Becoming a Sexual Assault Prosecutor

At the County Attorney's Office, it is important that special care and consideration go into assigning prosecutors to handle sexual assault cases. It is also important to provide sufficient personnel so that those assigned are not too overwhelmed to do a good job. The office has experienced a large attrition in experienced prosecutors over the last two years, at least six of whom were prosecutors who focused on sexual assault and child abuse cases.<sup>68</sup> There is a general sense currently among the prosecutors that, with high numbers of recent homicides and other serious crimes, the criminal division needs more capacity for handling cases.<sup>69</sup> Adding additional sexual-assault cases to current caseloads will create a need for additional personnel.<sup>70</sup> Any opportunities for hiring in the near future should include a strong emphasis on people with criminal sexual conduct prosecution experience.

Prosecutors experience some of the same time and caseload pressures as do police. If prosecutors increase the number of cases they charge, they need increased prosecution resources to handle those cases. If the police investigators are producing increased amounts of data through cell phone records, surveillance cameras, body-worn cameras, and squad videos, the prosecutor's office must also manage that increased level of digital and electronic data. Yet the number of paralegals assigned to the adult criminal trials division, for example, has not changed since at least 2005.<sup>71</sup>

At the County Attorney's Office, there is currently no systematic set of prerequisites for determining when prosecutors are prepared to handle sexual assault cases. Informally, the manager assigning cases assesses a prosecutor's readiness for such complex cases. Based on the prosecutor's training and experience, the manager determines when the prosecutor is ready to pursue more serious person-crimes cases, but that process is not formalized as a policy.

For those prosecutors who have mid-level experience, the County Attorney's Office should implement a more formalized program to develop their knowledge base in preparation for prosecuting sexual assault cases. This should include setting a minimum number of years' trial experience before assigning them as the solo attorney on sexual assault cases. It should include requiring training specific to the prosecution of sexual assault, both with child and adult victims/survivors. This training should include information about trauma and victim-centered practices.

A formal program should also involve drafting some measurable best practices measures deemed important. Measures might include how early the prosecutor meets with the victim, the use of victim-centered language and demeanor, inclusion of outside advocacy services, willingness to pursue cases (including to trial) despite complicated case facts,<sup>72</sup> filing motions to protect victim privacy, and avoiding the use of conviction rates as a measure of a prosecutor's competence.<sup>73</sup> This program should also require a term of mentoring with a more senior prosecutor on sexual assault cases as mid-level prosecutors move into handling these cases.

## Timelines are a Measurable Way of Assessing “Customer Service” in the Justice Response

Law enforcement investigators are not the only professionals whose work is impacted by staffing levels. Staffing levels impact overall timelines in the prosecution of cases, too, including court timelines. Therefore, we reviewed the County Attorney’s Office’s processing time for cases referred by law enforcement. Because of the switch to the new case management system mentioned above, the review pulled data only on police reports that were initiated in 2016. This provided the best apples-to-apples comparison of case processing times.

Of the 63 qualifying cases reported in 2016, the average time period from opening a file in the County Attorney’s Office’s case management system to the date a charge/decline decision was made was 41.87 days. When cases were charged, the decision was made fairly quickly: in an average of 9.18 days. For those declined, the decision took an average of 59.41 days. In 23.8% of all these cases, the decision took more than two months.<sup>74</sup>

These are not outlandish timelines, but they are part of the overall waiting period experienced by victims/survivors after reporting their case. Overall, the average length of time from the date of the report to law enforcement to the decision to charge or decline the case was 104 days (3.5 months). Usually, this waiting period is experienced as silence from the point of view of the victim/survivor.<sup>75</sup> For good reasons, the investigator cannot tell the victim/survivor all that is going on in the investigation, and neither can the prosecutor.<sup>76</sup> But with the proactive inclusion of advocacy services, an investigator or prosecutor’s office could communicate periodically through an advocate to let the victim/survivor know that the work is ongoing. It may not answer all her or his questions, but hearing from systems professionals can reassure the victim/survivor that the case is not simply stalled. These would be small measures that could help improve the experience of those reporting to the criminal justice system.

Another waiting period for some victims/survivors of sexual assault is for processing the sexual assault kit. If a victim/survivor underwent a medical exam, there may be swabs and a urine sample sent to the Bureau of Criminal Apprehension (BCA) for testing. If the initial examination leads to DNA testing, it will take four to six months to get the results.<sup>77</sup> Depending on the facts of the case, the prosecutor may await DNA results before making a decision on whether to charge the case. Often the victim/survivor is unaware of the reason for the delay, as there may be no one communicating with her or him during the process.

Adding to the overall experience of delays by victims/survivors is the length of time it takes for cases to proceed through the court system. The Second Judicial District criminal court calendars are full.<sup>78</sup> Once a case is charged, it can take easily six months or more to get the case to trial for suspects who are not held in custody.<sup>79</sup> The bottom line for all these agencies is that personnel cannot do best practice work unless they are fully staffed to give these cases the priority they deserve.

## Individuals Under the Age of 18 Require Tailored Approach

Much of the focus of this review is on adult offenders, but the review did include some cases involving suspects under the age of 18. Naturally, the victim/survivor in those cases is often also under 18. Prosecuting cases involving young offenders requires a careful balance of assuring community safety without unnecessarily burdening young, immature people with serious adjudications<sup>80</sup> that can affect the rest of their lives.

One of the factors in deciding how to justly handle criminal sexual conduct cases against young offenders is that they are required to register as predatory offenders for the same list of offenses as are adult offenders.<sup>81</sup> This puts the prosecutor in the position of trying to appropriately respond to a teenager who committed a relatively low-level sexual offense that may not involve the use of force or coercion and may have occurred with no forethought. Yet no one wants the behavior repeated. Is it always just to saddle that young person with an offense requiring ten years or more of registration as a predatory offender? Or, in some cases, would a course of education and alternative consequences work to prevent the teen from offending again absent predatory offender registration?

There are no easy answers, but we met with another metro area prosecutor's office that has developed a program for targeting harmful sexual behavior by youth short of imposing adult-like consequences.<sup>82</sup> This program involves coordination between the prosecutor's office, corrections, and social services. The offenses qualifying for the program are clearly defined to include only non-physically-violent offenses. The qualifying young sexual offender is offered a range of intervention from social services (especially if the victim/survivor was a family member) and corrections. There has been almost no recidivism by young offenders in that program. The Ramsey County Attorney's Office could consider a similar model in hopes of intervening early to prevent future victimization without imposing life-altering consequences to the young person.<sup>83</sup>

There is no magic pill that makes these tough cases easy. There are some steps, however, that our systems professionals can take to be sure we are doing our best work. Rather than focusing solely on the likelihood of conviction, our various agencies can implement best practices that focus more on fully supporting victims/survivors, creating the capacity for professionals to do their best work, and measuring whether we are increasing our implementation of best practices.<sup>84</sup>

## Learning from Those Who Did Not Report

Most victims/survivors of sexual violence do not report their experience to police.<sup>85</sup> The reasons for this are as individual as the survivors themselves. Some common factors are:

- a fear that authorities will not believe the report;
- fears that police or prosecutors may not do anything about the report;
- embarrassment and humiliation about a highly personal offense;
- self-blame for factors that may have made the victim vulnerable;
- fear of legal consequences for under-age drinking, sex trafficking, or drug use;
- concern for potential consequences to the offender;
- concerns about social repercussions of reporting someone within the victim's social group; and
- fear of retaliation by the offender or his or her friends.<sup>86</sup>

This list does not include the many barriers faced by survivors from non-majority backgrounds – those who do not speak English, are undocumented immigrants, have fears or distrust about interacting with police, identify as LGBTQ, or have cultural pressures to involve local leaders rather than legal authorities.<sup>87</sup> Male victims made up only 10.1%, yet studies show that male victimization rates are around 30%-50% that of female victimization.<sup>88</sup> Any one of the factors on this list might dissuade a report, and survivors may have many other concerns of their own.

In this review, we tried to connect with non-reporting victims/survivors to get their perspectives by working through several cultural or group-based advocacy programs. We worked with SOS Sexual Violence Services, Hmong American Partnership, and three local colleges to convene small focus groups and ask people how they decided whether or not to report to law enforcement.

However, the very helpful staff at OutFront Minnesota was unable to gather a focus group of its clients. We had difficulty connecting with advocates at either of the programs that provide advocacy within the Latino community and could not develop focus groups through them either. Our inability to connect with these groups is probably as instructive as anything: their silence sends a clear message about their lack of engagement with the criminal justice system.

Those we did meet with, however, gave us some instructive information. One recurring theme was that victims/survivors would decide for themselves whether the offense against them could be proven.<sup>89</sup> Victims/survivors felt that police would only take the case seriously if the victim/survivor could “prove it.”<sup>90</sup> Perhaps relying on historical skepticism expected of police and prosecutors, these women decided their case was not serious enough nor provable enough to bring it to police. This was especially true if friends or family also convinced the women that police could not do anything about their case.

Connected to this was the finding that some victims/survivors did not identify certain forms of sexual violence as criminal. If the assault did not match the TV notion of vaginal/penile penetration, women might not realize the offense was a crime until speaking to a professional advocate. This obviously resulted in a delay in any decision to report the matter to police.

Another strong theme that informed the decision not to report to law enforcement was the barrier of worrying about what would happen within their social circles or family if they reported. These women all knew the men who assaulted them and knew the men’s friends and family. The victims/survivors worried about the possibility of a negative reaction from the community against the women if they went to the authorities. This was particularly strong among the college women we met. Their fear was not as much of violence as it was of rejection or pressure not to get the offender in trouble.

There was a general sense of shame among these participants. They blamed themselves for being vulnerable to the sexual assault and were ashamed to “air their dirty laundry” by involving the police.<sup>91</sup> This sense may have lessened after they got support from friends, family, and professional advocates, but early in the process it was a strong barrier to reporting the offense.

The victims/survivors experienced a range of reactions from their friends and family when they disclosed the sexual violence. Some confided in their sisters or close friends and received a supportive response. Others were met with overly strong reactions, focusing on the listener’s anger at the offender rather than on the victims’/survivors’ need for support. Others, yet, were met with

blaming condemnation that resulted in their not getting help for a long time. All agreed that the reaction of those who receive the disclosure of a victim/survivor was critically important to helping a victim/survivor decide what to do next.

Authorities such as police and prosecutors face a difficult challenge in overcoming these barriers. Clearly, the factors keeping survivors from reporting these offenses are both societal and based on the way such matters have historically been handled.

Regarding the police response, there is a history of police and prosecutors approaching sexual-assault cases with suspicion, as though there were a significant chance that the reports were untrue. This “start with suspicion” approach has not been routinely taken with other types of offenses, but our culture has a myth that women falsely “cry rape” and high numbers of rape reports are false.<sup>92</sup> Credible studies do not bear this out. Using techniques that separate “insufficient evidence” reports from affirmatively false reports, studies find rates of 2.1% to 6.8% false reporting of sex crimes.<sup>93</sup> Those rates are consistent with false reporting rates for other types of criminal offenses, but disproportionate concern about a “false cry of rape” can play a role in the perception of how police are likely to respond.

The culture-based barriers to reporting are tougher for criminal justice professionals to address. One thing criminal justice professionals can do is genuinely put their best foot forward and provide a better response than what survivors expect. Providing a “soft” place for these reports to land is the most crucial step. And, of course, we can fully investigate and prosecute where the evidence warrants it. We can take the lead in providing a complete and compassionate response. Using social and other media, we can inform the community of the work we are doing and ask survivors to bring their accounts to us so we can identify sexual offenders in our community.

Given the reluctance of survivors to come forward to police, it is not surprising that another finding in this review was a high attrition rate: 26% of people who made a statement to police dropped out. The reasons for this are likely as individual and varied as the reasons people have for not coming forward in the first place. Add to this the emotional ups and downs caused by trauma – and it is understandable that some change their minds.

The criminal justice professionals who investigate and prosecute these cases should actively work to connect victims with advocacy support.<sup>94</sup> Some people will change their minds and decline to participate in the investigation. That is their choice. But we hope those decisions are informed and supported, rather than made because the victim feels alone and confused. Even if she or he does not participate in a law enforcement investigation, advocacy can be a safety net for people who are experiencing trauma from a sexual assault.

With the recommendations in this report, local advocacy groups and public health officials can collaborate on community outreach. Sexual offenses thrive in silence and in the shadows. Perhaps a message that ‘we are here, we are ready and we will listen’ will help a larger group of victims/survivors feel they can step forward. Perhaps people who have experienced marginalization need to be told that our criminal justice system is for them, too, and they will not be marginalized in our community. Bright minds can develop messaging, but the difficulty we had even getting focus groups of non-reporting survivors demonstrates that there is work to be done to earn the trust of people who have experienced sexual violence.

# Conclusion

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This review is a good start to understanding what we are currently doing and where we can go from here. Below is a summary of best practice recommendations to assure the best criminal justice response within Ramsey County.

## Establish and Periodically Evaluate Best Practices

### Law Enforcement

- Train and expect all officers to “start by believing,” taking sexual assault reports at face value and investigating the existence or absence of corroboration of a victim’s/survivor’s account.
- Incorporate sexual assault advocacy early in the investigation process to support and inform victims/survivors.
- Develop adequate capacity for investigative units to assure those investigating these serious cases can meet the challenges inherent in these cases.
- Track cases to assure nothing falls between the cracks, including after the case is referred for prosecution.
- Coordinate with partner law enforcement agencies to ensure repeat offenders are not hiding behind the walls that separate law enforcement agency data.
- Develop investigative milestones denoting a complete investigation and periodically assess whether the agency is meeting those milestones.
- Increase the rate of collection and documentation of race data on victims/survivors and, where possible, on suspects.

### Ramsey County Attorney’s Office

- Train and expect all prosecutors to “start by believing,” taking sexual-assault reports at face value and looking for the existence or absence of corroboration of a victim’s/survivor’s account.
- Incorporate sexual assault advocacy early in the process to support and inform victims/survivors.
- Develop a set of prerequisites for transitioning prosecutors into criminal sexual conduct assignments.
- Develop adequate capacity to assure prosecutors and staff can meet the challenges inherent in these cases.
- Track cases to ensure nothing falls between the cracks.
- Develop measures of success to focus on meeting best-practice goals rather than using convictions as a sole measure of success.
  - These measures might include:
    - Overall timing of case processing,
    - How early and often prosecutors meet with victims/survivors,
    - Victim-centered demeanor of interactions with victims/survivors,
    - Improvements to case tracking systems, and
    - Number of cases charged in comparison with baseline data.

The most important factor in improving our overall response is to focus on continuous improvement. We have measured our current response and can hold ourselves accountable to maintaining valuable practices and making improvements. As our community demands the best of our criminal justice professionals, we must continue to measure up. This report is a baseline and a starting point for our ongoing efforts to do our best for victims/survivors of sexual violence.

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<sup>1</sup> An estimated 16 – 36% of all sexual assaults are reported to police. Debra Patterson, Rebecca Campbell, *Why Rape Survivors Participate in the Criminal Justice System*, Journal of Community Psychology, Vol. 38, No. 2, 191 – 205 (2010); Kimberly A. Lonsway, Joanne Archambault, *The “Justice Gap” for Sexual Assault Cases: Future Directions for Research and Reform*, Violence Against Women, 18(2) 145 – 168 (2012) (noting literature finding about a 5% to 20% report rate).

<sup>2</sup> See Lonsway and Archambault, *supra* note 1.

<sup>3</sup> See Lonsway and Archambault, *supra* note 1.

<sup>4</sup> Cassia Spohn and Katharine Trellis, *The Criminal Justice System’s Response to Sexual Violence*, 18(2) 169 – 192 (2012).

<sup>5</sup> Ms. Long has been a prosecutor since 1996, focusing almost entirely on sexual and domestic violence against women and children. From 2003 to 2007, she served as the staff attorney at the Minnesota Coalition Against Sexual Assault (MNCASA). Ms. Long has worked in the adult criminal division of the Ramsey County Attorney’s Office since 2007. Ms. Long would like to thank and credit the huge contributions of Brielle Bernardy and Joanna Jensen in conducting this project. Ms. Bernardy is a data analyst at the Ramsey County Attorney’s Office. She created the data spreadsheet and pulled the data for this report. She is indispensable. Ms. Jensen is a senior at the University of Minnesota who worked during the summer and fall of 2017 to contribute and compare data for entry into the spreadsheet. Her assistance was invaluable.

<sup>6</sup> Efforts to connect with Latino culturally-specific advocacy services were not successful.

<sup>7</sup> Ms. Long currently serves on the Board of Directors at MNCASA.

<sup>8</sup> See *supra* note 1.

<sup>9</sup> The Metro Transit Police Department is the investigative agency for crimes occurring directly on or at Metro Transit property, such as busses and bus stops, trains and train platforms, etc, even if the crime occurs within the bounds of a city jurisdiction.

<sup>10</sup> The age of consent is 16. See Minn.Stat. §609.344, subd. 1(b).

<sup>11</sup> Malene Hilden, Berit Schei, Katrine Sidenius, *Genitoanal Injury in Adult Female Victims of Sexual Assault*, Forensic Science International 154 200-205 (2005); Carolyn J. Sachs, Lawrence D. Chu, *Predictors of Genitoretal Injury in Female Victims of Suspected Sexual Assault*, Academic Emergency Medicine, Vol. 9, No. 2 146-151 (2002); Mary Carr, M.D., et al, *Debunking Three Rape Myths*, Journal of Forensic Nursing, Vol. 10, No. 4 217-225 (2014).

<sup>12</sup> Regions, Children’s, United, H.C.M.C., St. John’s and St. Joseph’s Hospitals (in declining frequency order) performed all but 9.1% of the medical examinations.

<sup>13</sup> See [forensicnurses.org](http://forensicnurses.org) (the International Association of Forensic Nurses), and [mnforensicnurses.org](http://mnforensicnurses.org) (in Minnesota).

<sup>14</sup> The different types of facilities were separately recorded.

<sup>15</sup> Lindsay M. Orchowski, Amy S. Untied, Christine A. Gidycz, *Factors Associated with College Women’s Labeling of Sexual Victimization*, Violence and Victims, Vol. 28, No. 6 940-958 (2013).

<sup>16</sup> Orchowski, et al. *supra*, note 16.

<sup>17</sup> Additionally, as one investigator pointed out, victim/survivor racial information is almost always based on the perception of the officer rather than on how the individual identifies.

<sup>18</sup> Victim services professionals, legal aid attorneys, counseling professionals, advocates for persons with disabilities, colleges situated in Ramsey County, and others have also been constant members of the SAPT. SAPT meetings are routinely attended by over 25 professionals.

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<sup>19</sup> “Adult” refers to victims over the age of 13; available through the SOS Sexual Violence Services website. It was last updated in 2010, although revisions are currently being discussed.

<sup>20</sup> See Megan R. Greeson, Rebecca Campbell, and Giannina Fehler-Cabral, “*Nobody Deserves This*”: *Adolescent Sexual Assault Victims’ Perceptions of Disbelief and Victim Blame From Police*, *Journal of Community Psychology* 44(1) 90-110 (2016); R. Felson and P. Pare, *The Reporting of Domestic Violence and Sexual Assault By Non-Strangers To The Police*, *Journal of Marriage and Family*, 67, 597-610 (2005); Spohn & Tellis, *supra* note 4.

<sup>21</sup> An admittedly subjective rating, absent any more concrete way to measure it.

<sup>22</sup> See *Introduction*.

<sup>23</sup> May 9, 2017 interview with three full-time advocates employed by SOS Sexual Violence Services. Their job experience ranged from over 20 years to around three years. The information in this section is from this interview.

<sup>24</sup> One advocate reported a negative experience with an investigator from an agency other than the six partner agencies, who handled a report from a child under 13 years old in a less-than-victim-centered way. The age of the child and the law enforcement agency are outside the parameters of this review.

<sup>25</sup> This reviewer was the staff attorney at the Minnesota Coalition Against Sexual Assault for four years and observed a natural tension often between advocates and law enforcement. See Dr. Kim Lonsway, *Advocates and Law Enforcement: Oil and Water?* Civil Research Institute, Sexual Assault Report, 11 (6) 81-82 & 86-95.

<sup>26</sup> This is not a problem unique to Ramsey County. Other studies have found rates of attrition of 25%, 36%, and 42.7%. C. Spohn and K. Tellis, *supra* note 4; K. Lonsway and J. Archambault *supra* note 1.

<sup>27</sup> A person trained to provide support and services to victim/survivors of sexual assault. See Minn. Stat. §595.02, subd. 1(k) (defining a “sexual assault counselor” or advocate).

<sup>28</sup> Protocol, p. 39.

<sup>29</sup> April Pattavina, Melissa Morabito, Linda M. Williams, *Examining Connections between the Police and Prosecution in Sexual Assault Case Processing: Does the Use of Exceptional Clearance Facilitate a Downstream Orientation?*, *Victims and Offenders* 00:1-20 (2015).

<sup>30</sup> See SOS Sexual Violence Services website: Providing “Free and confidential services for victims of sexual violence... support and information when reporting assault or seeking medical care ...”; D. Patterson and R. Campbell, *supra* note 1 (noting that television shows about the criminal justice system give survivors a negative preconceived notion about the prosecutorial process).

<sup>31</sup> February 26, 2018 email from SOS director Emily Huemann.

<sup>32</sup> *Id.*

<sup>33</sup> That advocacy service might be provided by SOS Sexual Violence Services, or by Hmong American Partnership, or by OutFront Minnesota, or any of a number of other culturally-focused sexual assault advocacy agencies.

<sup>34</sup> Protocol, p. 41.

<sup>35</sup> This statistic excludes “outliers” where the timeframe was more than one year. If those cases are included, the average time was 30 days.

<sup>36</sup> Protocol, p. 41.

<sup>37</sup> This combines the separately-listed “in person” (51.1%) and “at hospital” (3.4%) categories because an interview at a hospital was in person.

<sup>38</sup> If an advocate is proactively incorporated into the second interview process, she or he might escort the reporting survivor to the police department, or to the SOS offices in downtown St. Paul for an interview, thereby saving personnel travel time.

<sup>39</sup> Minnesota Session Laws 2015, Chapter 71, Article 1.

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<sup>40</sup> See Implementation of 2015 Child Protection Laws in Minnesota, *Report to the Legislature*, (Feb. 1, 2016). These changes came out of recommendations by task forces convened by the governor and the legislature after a tragic child-abuse related death.

<sup>41</sup> *Id.*

<sup>42</sup> The Ramsey County Sheriff's Office provided a copy of an Investigator Comparison Survey conducted in December, 2017. This survey of all crimes noted the large increase in investigations from 2012 (832) to 2017 (1489), while the number of investigators went from 5 in 2012 to 6 in 2017. In terms of high caseloads and low pay, the RCSO argues that it needs more resources for its growing responsibility in the first-ring suburbs of Ramsey County.

<sup>43</sup> The organization End Violence Against Women International provided some information from jurisdictions outside Minnesota, but could give only anecdotal information about staffing levels. For example, in Portland, Oregon, a 2007 audit revealed a median annual caseload of 54 per detective. Another report identified a major-crimes (other than homicide) caseload of 72-96 cases per year. *What is the Standard Caseload for Detectives Investigating Sexual Assault Cases?*, available at [www.evawintl.org](http://www.evawintl.org).

<sup>44</sup> For all measures, the *attempt* to collect information or interview a witness was credited to the investigation, even if it was unsuccessful for any reason.

<sup>45</sup> On November 14, 2017, the Ramsey County Attorney's Office hosted a county-wide training for sexual assault investigators. Every single law enforcement agency that sits in Ramsey County sent at least one investigator. It was a great opportunity for the prosecutors and law enforcement to share expectations and information on giving the best coordinated response.

<sup>46</sup> May 9, 2017 interview, *supra* note 23.

<sup>47</sup> See, e.g., "Forensic Experiential Trauma Interview: A Trauma Informed Experience" available at [evawintl.org](http://evawintl.org).

<sup>48</sup> This would include noting what she observed that made her fearful, her perception of the danger she was in, whether she felt "frozen" or unable to move, and why she felt that way. It is a more three-dimensional perspective than merely focusing on what the suspect did.

<sup>49</sup> In surveys of college men, between 18% and 25% answered questions indicating that they had perpetrated some form of sexual assault. Some studies find that 50% or more of men indicate that they have engaged in behavior that includes some form of attempted sexual assault. Tina Zawacki, Antonia Abbey, Philip O. Buck, Pamela McAustan, and A. Monique Clinton-Sherrod, *Perpetrators of Alcohol-Involved Sexual Assaults: How Do They Differ from Other Sexual Assault Perpetrators and Nonperpetrators?*, *Aggressive Behavior* (29) 366-380 (2003); M.P. Koss, C.A. Gidycz, N. Wisniewski, *the Scope of Rape: Incidence and Prevalence of Sexual Aggression and Victimization in a National Sample of Higher Education Students*, *J. Consult. Clin. Psychology*, (55) 162 – 170 (1987).

<sup>50</sup> See David Lisak and Paul M. Miller, *Repeat Rape and Multiple Offending Among Undetected Rapists, Violence and Victims* (17) No. 1 73-84 (2002) (noting studies that show that 63% of college men surveyed indicated not just one but multiple acts of sex offending, and a 20% - 39% reoffending rate among rapists).

<sup>51</sup> Those agencies who use the Zuercher case management system may be able to "see" the suspect's name in another agency's cases, but would be unable to access information on the case without contacting the other agency. Currently, of the 12+ law enforcement agencies within Ramsey County, four (the Ramsey County Sheriff's Office, New Brighton Public Safety, Maplewood Police Department and Mounds View Police Departments) use Zuercher. The Saint Paul Police Department plans to begin using Zuercher in the summer of 2018.

<sup>52</sup> There were even a few police reports taken but – without a rationale given - *not* referred for investigation.

<sup>53</sup> *State v. Sha*, 292 Minn. 182, 193 N.W.2d 829 (1972).

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<sup>54</sup> *Multimedia Holdings Corp. v. Circuit Court of Florida, St. Johns County*, 544 U.S. 1301 (2005) (Circuit justice order).

<sup>55</sup> *Berger v. United States*, 295 U.S. 78, 88 (1935).

<sup>56</sup> The cases reviewed included both adult and youth offenders.

<sup>57</sup> This falls in the range of prosecution rates found in other studies. D. Patterson and R. Campbell, *supra* note 1; K. Lonsway and J. Archambault, *supra* note 1 (noting that 7%-27% of sexual assaults reported to law enforcement result in criminal charges); April Pattavina, Melissa Morabito, Linda M. Williams, *Examining Connections between the Police and Prosecution in Sexual Assault Case Processing: Does the Use of Exceptional Clearance Facilitate a Downstream Orientation?*, Victims and Offenders 00:1-20 (2015) (noting rates of 39% to 82% of reported cases resulting in criminal charges).

<sup>58</sup> When surveyed, prosecutors at the Ramsey County Attorney's Office indicated that they focused on the evidence available, not on predicting future jury-trial outcomes. It is noteworthy that these prosecutors' charging rates for sexual assault cases are mid-range or above compared to some studies. *See supra*, note 57.

<sup>59</sup> Including, perhaps, medical evidence, witnesses to the victim/survivor's and suspect's immediate words or reactions, digital verbal exchanges between victim/survivor or suspect and others, video or photos, an attempt at a suspect interview, and an attempt to find previous incidence of sexual assault by this suspect.

<sup>60</sup> At Children's Hospital.

<sup>61</sup> May 9, 2017 interview, *supra* note 23.

<sup>62</sup> *Id.* (all remarks in this section are from the May 9, 2017 interview).

<sup>63</sup> A "decline letter" is the letter mailed to a victim/survivor when the prosecutor decides not to bring charges in that case.

<sup>64</sup> October 9, 2017 and October 12, 2017 meetings at Ramsey County Attorney's Office.

<sup>65</sup> *Id.* (all remarks in this section are from the two October meetings at the County Attorney's Office.)

<sup>66</sup> In Ramsey County, the Pre Trial Conference hearing is usually the last to occur before jury trial, and it is expected that offers to negotiate a plea deal will have been conveyed before this hearing.

<sup>67</sup> An *Alford* plea involves the defendant pleading guilty by admitting that the State could prove his guilt, but without actually admitting that he committed the alleged conduct. *North Carolina v. Alford*, 400 U.S. 25 (1970). These pleas are disfavored for criminal sexual conduct offenses, especially if the offender will be on probation.

<sup>68</sup> The attrition was due to medical issues, promotion to management, leaving to join a different county attorney's office, and being appointed to the judicial bench.

<sup>69</sup> *See* KSTP "Murder Rate in St. Paul Highest in a Decade," November 8, 2017, available at <http://kstp.com/news/murder-rate-st-paul-highest-decade/4663265/>

<sup>70</sup> A. Pattavina *et al*, *supra* note 57 (noting that prosecution workload demands must be considered in systems reviews because it affects the ability of professionals to shoulder important cases).

<sup>71</sup> Paralegals are responsible for collecting all the police reports and data so that the prosecutor can disclose it to the defense and use it in the case, in addition to many other duties in assisting with preparation for trial.

<sup>72</sup> These complicating facts might include the use of alcohol by victim or suspect, cognitive or mental-health disabilities of victim, lack of physical injury, victim being a sexually-trafficked person.

<sup>73</sup> This office does not currently use conviction rates to measure performance. It does track the number of trials handled by each prosecuting attorney.

<sup>74</sup> Note that, in many cases, this time period includes periods of "further investigation" requested by the prosecutor.

<sup>75</sup> *See* SOS interview, in which advocates noted that there are long periods of "radio silence" for victims/survivors while the case is investigated and reviewed, *supra* note 23.

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<sup>76</sup> For example, the investigator does not want the victim/survivor discussing the case with other witnesses, does not want to divulge all he or she is doing to obtain evidence, or indicate whether the suspect has given a statement – all to keep each witness’s information “siloed” from the others to get the most accurate information.

<sup>77</sup> This is based on anecdotal information as well as the reviewer’s own experience in prosecution.

<sup>78</sup> See Minnesota Lawyer, “*Ramsey County Trial Calendar Creates Tension*,” Nov. 22, 2017 (detailing the increase in serious felony cases in Ramsey County and efforts to address congested court calendars).

<sup>79</sup> Anecdotal information from experience. Suspects who are in custody often make a speedy-trial demand which can put pressure on the BCA to complete DNA testing quickly enough to avoid having the suspect released into the community.

<sup>80</sup> In the juvenile justice system, the term “conviction” is not used. Rather, for those under age 18 and “adjudicated delinquent” the focus is on rehabilitation and prevention and services.

<sup>81</sup> Minn.Stat. §243.166, subd. 1b(a).

<sup>82</sup> May 1, 2017 meeting.

<sup>83</sup> Another model might include referring youth for services if they “almost” got charged with a sex offense. It is unfortunate to simply leave “close call” cases unresolved and youth learning nothing from the experience. The county could consider developing a “near miss” type of education program for youth and offenders whose families want them to learn from their potentially very serious error in judgment.

<sup>84</sup> For an in-depth discussion of methods of measuring success aside from conviction rates, see *Model Response to Sexual Violence for Prosecutors [RSVP]*, An Invitation to Lead, a publication of Aequitas, Justice Management Institute, and the Urban Institute (2017) available at [Aequitasresource.org](http://Aequitasresource.org).

<sup>85</sup> See C. Spohn and K. Tellis, *supra* note 4; D. Patterson and R. Campbell, *supra* note 1.

<sup>86</sup> See D. Patterson and R. Campbell, *supra* note 1; C. Spohn and K. Tellis, *supra* note 4; Jeffrey S. Jones, et al, *Why Women Don’t Report Sexual Assault to the Police: the Influence of Psychosocial Variables and Traumatic Injury*, *The Journal of Emergency Medicine*, Vo. 36, No. 4 417-424 (2009).

<sup>87</sup> Studies demonstrate high rates of sexual violence against lesbian, gay, and transgendered people, but our case review included only 0.8% of folks who identified that way. See Michelle Davies and Paul Rogers, *Perceptions of Male Victims in Depicted Sexual Assaults: A review of the Literature*, *Aggression and Violent Behavior* 11, 367-377 (2006).

<sup>88</sup> See M. Davies and P. Rogers, *supra* note 87.

<sup>89</sup> November 2, 2017 Focus Group at SOS, January 25, 2018 Focus Group at Hmong American Partnership (HAP), April 6, 2018 Focus Group at the University of St. Thomas.

<sup>90</sup> *Id.* (the discussion of focus-group discussions are from these three dates)

<sup>91</sup> Some of the participants were sexually assaulted by intimate partners, adding to the sense of embarrassment about involving outside people.

<sup>92</sup> David Lisak, Lori Gardinier, Sara C. Nicksa, and Ashley M. Cote, *False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases*, *Violence Against Women* 16(12), 1318 – 1334 (2010).

<sup>93</sup> Lisak, et al., *supra* note 92 (noting at 1331 that generally, the greater the scrutiny applied, the lower the rate of false reporting detected).

<sup>94</sup> Minnesota has grant-funded sexual assault victim-advocacy organizations throughout the state. See <http://www.mncasa.org/find-mncasa-members>. These agencies provide resources such as assistance with harassment restraining orders, emergency funds, emotional support, information about the experience of sexual violence, and referrals to other supportive services (among many other things). *Id.*