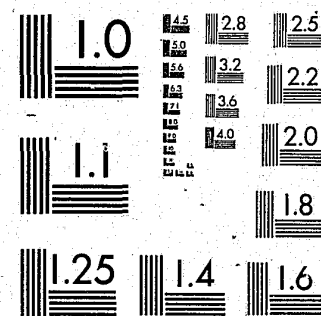


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SURVEY OF PROCEDURES FOR INVESTIGATING  
AND PROSECUTING SEXUAL ASSAULT CRIMES

NCJRS

APR 20 1981

ACQUISITIONS

## PURPOSE OF THE STUDY

Considerable attention has recently focused on the crimes of rape and other sexual assaults and the manner in which the criminal justice system responds to such crimes. This attention has come about in part because of the increased incidence and visibility of these crimes and the trauma this has produced within California communities. Although the criminal justice system has been attempting to strengthen its abilities to deal with the problems created by sexual assault crimes, there is a continuing concern regarding the adequacy of this response. A particular concern relates to procedures and practices used by law enforcement agencies and prosecutors.

Several factors underlie the concerns expressed about the ways in which sexual assault cases are handled. These include: (1) the traumatic effects of the crime on victims and relatives of victims; (2) the nature of the evidence required for prosecution; and (3) the difficulty of prosecuting such crimes. Concerns regarding sexual assault investigations generally involve the degree to which an appropriate balance is maintained between the need to accumulate evidence required for successful prosecution and the need to protect victims from further trauma.

In order to determine how law enforcement agencies and district attorney's offices are responding to these concerns, a survey was conducted to identify current practices and procedures used to investigate and prosecute sexual assault complaints. The survey, involving

telephone interviews with selected police, sheriff and district attorney's offices, was not intended to be an exhaustive review of all types of activities occurring throughout the state. Rather it attempted to obtain information concerning certain of the more typical approaches used in handling these crimes. The following is a report of the survey results.

## LAW ENFORCEMENT AGENCIES

Introduction

The police and sheriff are generally the first agencies of the criminal justice system to come in contact with the accused and the victim of a crime. Whether a case proceeds from the filing of a complaint to arrest and subsequent disposition depends to a large degree on the adequacy of the procedures followed at the initial step of filing the report of a sexual assault.

The intent of our survey of law enforcement agencies was to obtain general information on current practices and procedures used by selected departments in California in responding to the crime of sexual assault (e.g., rape, child molestation, sodomy).

Methodology

A total of 32 police departments were surveyed by telephone to determine the procedures they used to handle sexual assault complaints and investigations involving children and adults. These 32 departments included those of the 22 largest cities (1978 population figures) in the state and a random sample of ten small to medium sized departments from other parts of California.

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A total of 16 sheriffs' departments were surveyed by telephone. Of these 16 departments, ten were from the largest counties in the state. The other six were small to medium sized offices selected randomly from the other counties in California.

#### Responding to Sexual Assault Complaints

There has been some criticism about the way in which initial sexual assault (e.g., rape) complaints are handled by law enforcement agencies. Specifically, it is argued that the police assigned to take complaints lack special training, sensitivity and/or experience to do an adequate job.

Almost all surveyed agencies reported that the most readily available patrol officer or deputy was the one most likely to respond initially to a sexual assault complaint. The responding officer or deputy usually records information given by the victim and/or witnesses on a general crime report form. There are some cases where a detective assists in responding to the initial complaint, especially where a young child is involved or the circumstances are such that a specialist is needed. One respondent from a sheriff's department pointed out that if a victim specifically asks for a female investigator, one will be dispatched to assist in filing the initial report. The agencies which provide the officer or deputy with additional assistance were generally able to do so 24 hours a day, either by phone or in person.

#### Investigating Sexual Assault Complaints

An important element of a law enforcement agency's response to sexual assaults is the nature of investigative techniques applied to

each case. Our survey identified five principal approaches to investigating these cases:

- 1) the patrol officer or deputy who filed the initial report conducts the investigation with the assistance of a detective;
- 2) any available detective handles the investigation;
- 3) a specially designated person(s) handles the investigation;
- 4) a member of a specially designated team handles the investigation; or
- 5) a member of a special unit handles the investigation

Table 1 shows the approaches used by the 32 police agencies and the 16 sheriff's departments surveyed to investigate sexual assault complaints.

TABLE 1  
APPROACHES USED BY 32 SELECTED POLICE DEPARTMENTS  
AND 16 SELECTED SHERIFF'S DEPARTMENTS IN CALIFORNIA  
TO INVESTIGATE SEXUAL ASSAULT CASES

| Investigative Approach                                | Police    |           | Sheriff  |                  | Total     |           |
|---|-----------|-----------|----------|------------------|-----------|-----------|
|   | Number    | Percent   | Number   | Percent          | Number    | Percent   |
| Patrol Officer or Deputy With Assistance of Detective | 4         | 13%       | 1        | 6%               | 5         | 11%       |
| Assigned Detective                                    | 6         | 19        | 5        | 31               | 11        | 23        |
| Specially Designated Person(s)                        | 11        | 34        | 4        | 25               | 15        | 31        |
| Member of a Specially Designated Team                 | 0         | 0         | 1        | 6                | 1         | 2         |
| Member of a Special Unit                              | <u>11</u> | <u>34</u> | <u>5</u> | <u>31</u>        | <u>16</u> | <u>33</u> |
| Total   | 32        | 100       | 16       | 100 <sup>a</sup> | 48        | 100       |

<sup>a</sup>Does not add due to rounding.

The two most frequent approaches to investigate sexual assaults are assignment of a specially designated person(s) or a member of a special unit. Thirty-two departments, or 67 percent of the surveyed agencies, use these two approaches.

The investigative approach employed by the police and sheriff's departments (e.g., special unit, assigned detective) depends to some degree on the size of the agency and the extent of the problem of sexual assaults in that jurisdiction. Findings from this survey indicate that a large agency is more likely to have a special unit than a smaller agency.

While some departments have established special investigative units to handle only sexual assault cases, others randomly assign sexual assault cases to investigators. The variety of organizational responses to the problem of sexual assaults indicates the need to examine closely the unique features of these approaches and their relative effectiveness.

Previous research has indicated that although many victims express no preference with respect to the sex of the investigator, it is clearly desirable to have a female investigator available because most victims of sexual assault are female. Most of the departments with special investigative units employ at least one female officer. Several respondents indicated that they would like to place more female investigators in the units but, at this time, few meet the necessary qualifications.

The following section presents, for each investigative approach, a discussion of the responses by the surveyed agencies.

#### Patrol Officer or Deputy with Assistance of Detective. In

situations where a patrol officer or deputy conducts the investigation after the initial report is taken, investigators may provide assistance where specialization is necessary or the patrol officer or deputy does not have the time to complete the investigation. In one police department, the investigators are members of a sex crime detail composed of one female and two male officers. They assist in investigating all sexual assault cases, with the exception of child molestation. Officers are selected and assigned to this detail on the basis of merit, experience and interest. As members of the detail, the officers are provided training in sex crimes, investigations, victim sensitivity and interview techniques.

Assigned Detective. Six of the police respondents and five of the sheriff's respondents reported that a detective is assigned to investigate sexual assault cases. These detectives, however, are no more likely to be assigned sexual assault cases than any other type of criminal investigation. It was mentioned several times that if a female investigator was available, she would be assigned to the case.

Specially Designated Person(s). In 11 of the 32 responding police departments, a specially designated person(s) is responsible for investigating sexual assault cases after the initial report is taken. In several of these departments, the investigator almost exclusively handles sexual assault cases. For example, a detective from one department who is designated a sex crime investigator, handles rape, child molestation, other sexual assaults, kidnap and juvenile diversion cases. Detectives are selected and assigned to this position on the basis of

experience, interest and other special skills including interview techniques and sensitivity.

Four of the responding sheriff's departments have a person specially designated to investigate sexual assault cases involving children. Two of these departments also have a specialist to investigate sexual assaults involving adults.

Member of a Specially Designated Team. One of the responding sheriff's departments has a special team which is responsible for handling sexual assault investigations involving children and adults. The team is composed of two officers: one male and one female. In operation for five years, this team spends about 50 percent of its time on cases other than sexual assault. The detectives on the team have received specialized training.

Member of a Special Unit. Several law enforcement agencies have created a separate unit to handle the investigations of sexual assault cases involving children and/or adults.

Eleven police agencies were identified which had special units primarily responsible for investigating sexual assault cases: Anaheim, Garden Grove, Huntington Beach, Long Beach, Los Angeles, Riverside, Sacramento, San Diego, San Francisco, San Jose and Torrance.

Following is a detailed description of these units:

Anaheim: The Sex Crimes Detail has four officers, two of which are female. Officers are selected by department supervisors and training for staff involves participation in Peace Officer Standards and Training Commission (POST) courses, and other seminars. The detail handles all sexual assault cases and other cases involving crimes against persons.

Garden Grove: The Sex Crimes Unit has one male officer assigned to it. The officer is selected based in part on merit, experience, and interest. Training involves participation in POST courses and other seminars. The unit handles only sexual assault cases.

Huntington Beach: The Sex Crimes Unit is composed of two male officers. Assignment to the unit is based in part on merit, experience, and sensitivity; training for staff involves participation in POST courses and other seminars. The officers handle all sexual assault cases and spend less than 25 percent of their time on other cases.

Long Beach: The Sex Crimes Detail is composed of one female and two male officers. Selection is based in part on experience, interest and sensitivity; training for staff involves participation in in-house courses. The officers handle all sexual assault cases except where the defendant is a minor or it is a case of child abuse.

Los Angeles: The Sex Investigation Team Detail has 53 officers, 10 of which are female. Selection is based in part on appointment and request by the officer; training for staff involves participation in various schools, in-house training, seminars and detective school. The team handles only sexual assault cases.

Riverside: The Sex Crime Detail has three officers, one of which is female. Selection is based in part on experience, and interest; training for staff involves participation in seminars, conferences, and POST schools. The detail handles only sexual assault cases.

Sacramento: The Sexual Assault Section is composed of four officers, one of which is female. The officers are selected based in part on investigative ability, personality, compassion and assignment by division commander. Training for the section staff involves participation in POST courses. The section handles only sexual assault cases.

San Diego: The Sex Crimes Unit is composed of eight officers, two of which are female. Selection is based in part on experience, merit and interest; training for staff is primarily on-the-job. The unit handles all sexual assault cases except in-house child molestation.

San Francisco: The Sex Crimes Unit has 12 officers, two of which are female. Assignment to the unit is based in part on experience and interest; training for staff involves participation in seminars, institutes, and state meetings. The officers handle only sexual assault cases.

San Jose: The Sexual Assault Investigations Unit, which has been in operation since July 1976, has ten officers, two of which are female. The officers are selected based in part on experience, sensitivity, interest and background; training for staff involves participation in seminars on child sexual abuse and sensitivity, criminalistics, interview techniques and rape crisis. The unit handles only sexual assault cases.



Torrance: The Sex Detail has one female officer assigned to it. The officer is selected by a department supervisor; training for the detail involves participation in POST courses. The officer handles all sexual assault cases where the defendant is an adult.

Five sheriff's offices were identified which had established special units to handle sexual assault investigations: Los Angeles, Orange, Sacramento, San Bernardino, and Santa Clara. Following is a detailed description of these units:

Los Angeles: The Special Units Detail: Sex Crimes, which has been in operation for six years, has four deputies, one of which is female. Selection of the deputies is based in part on their experience, desire to specialize, ability to work with all agencies and special training. Training for staff involves participation in advanced detective school, forensic chemistry, medical staff training, investigative techniques and a seminar on the laws applicable to sexual assault cases. The deputies coordinate investigations of multi-jurisdictional offenses and assist station detectives in conducting the investigation.

Orange: The Sex Crime Bureau, which has been in operation for three years, is composed of four deputies, one of which is female. Deputies are assigned to the bureau based in part on interest, experience, and personality. Training for bureau staff involves participation in seminars and other meetings. The deputies handle only sexual assault cases.

Sacramento: The Sex-Assault Detail, which has been in operation since 1977, has five deputies, one of which is female. Selection of deputies is based in part on experience, interest and capabilities; training for staff involves participation in seminars and courses offered by colleges or other departments, including the Federal Bureau of Investigation. The detail handles other than sexual assault cases 50 percent of the time; incest and child molestation are handled by the youth division.

San Bernardino: The Sex Crimes Detail is composed of six male deputies. Selection of the deputies is based in part on experience, interest and placement by division commander. Training involves participation in seminars and statewide meetings. The detail primarily handles child sexual abuse cases; it also handles some rape and other sexual assault cases.

Santa Clara: The Sexual Assault Investigations Unit is composed of two deputies, one of which is female. They are assigned to the unit based in part on experience, interest, understanding and good position within office. Training for the staff involves participation in periodic child sexual abuse and rape seminars. The unit handles only sexual assault cases.

One measure of specialization within these units is the degree to which the investigators spend time on sexual assault cases. Respondents were asked to state the kinds of cases they handled and the percentage of time they spent on cases other than sexual assault. The majority of the investigative staff handle primarily sexual assaults. Only two of the police respondents indicated that their staff spent investigative time on other than sexual assault cases.

#### Training

The survey also asked whether those persons who were specially designated to handle sexual assault investigations but were not members of a special unit received any special training. Most of the respondents indicated that such persons received some training which ranged from participation in POST courses to special seminars on crime prevention, rape crisis and child sexual abuse. The training for most of these investigators, however, did not appear to be provided in a systematic fashion such as part of a formal in-service training program.

Several of the respondents noted that recent budgetary cuts and the continuing impact of Proposition 13 have depleted the resources available for staff training.

#### Written Procedures for Handling Sexual Assault Cases

The survey attempted to identify those departments which have written procedures dealing specifically with sexual assault complaints and investigations. Most respondents stated that although their office had general department policies and procedural manuals relating to the

handling of all complaints and investigations, there were generally no special guidelines or procedures for the handling of sexual assault complaints.

One police department, however, has developed a comprehensive training package which deals specifically with the preliminary investigation of sexual assault cases. Included in this package is information on the role of the assigned officer, guidelines for initial contact, and information on necessary sensitivity, evidence collection and reporting. This department has a special investigative unit which deals exclusively with sexual assault cases.

One of the sheriff's departments respondents indicated that their office had developed a sexual assaults investigations training manual for the officers. Another respondent stated that their office had available the State Department of Health's Guideline for Treatment of Sexual Assault.

#### Proposed Changes in Procedures and Policies

Those agencies with no special investigative units were asked whether they contemplated establishing a special unit or changing any of their procedures for dealing with sexual assault cases. Some respondents indicated that their office would make various changes if money were available. Others felt there was no need for a separate investigative unit. Respondents expressing no need for special units tended to be from smaller agencies. Some respondents expressed the need for more training in dealing with sexual assaults, including the need for the Commission on Peace Officers Standards and Training to offer more

specialized courses. Others expressed the need for well-rounded investigators, whether male or female.

#### Victim Services

The agencies were asked whether they had procedures for referring victims to an appropriate social service agency for assistance. Very few respondents reported the existence of written procedures for referring victims for services. Most noted that, absent any written procedures, they routinely referred the victim to an available victim assistance program or rape/sexual assault crisis center.

It appears that in most cases, agencies are aware of available community services for victims and will refer them to those agencies for help. It was difficult, however, to determine from the survey whether the agencies merely mention the existence of a service to a victim or make a concerted effort to emphasize the victim's need for these services, to the point of directly assisting the victim in contacting the community agency.

One respondent indicated that he does not refer the victim to a specific nongovernment program because of the potential problem of civil liability. He does, however, hand out any available brochures on such programs.

Another respondent indicated that pursuant to a department order, investigators must advise victims of the existence of the district attorney's victim assistance program.

There is some indication from prior research that potential victim loss (e.g., victim withdrawing cooperation during the investigation) may



result from the absence of guidelines for assisting victims and poor follow-up procedures. This problem could be examined further by asking victims to give their perceptions of assistance and cooperation of law enforcement agencies.

## PROSECUTORS

### Introduction

The decision to prosecute a sexual assault case rests with the district attorney and depends to a large extent on the quality of the evidence gathered, the willingness of the victim to cooperate and the general strength of the case against the accused. This survey of selected district attorney's offices in California is intended to identify and examine the offices' policies and practices in responding to sexual assault crimes.

### Methodology

Twenty-two district attorney's offices were surveyed by telephone to determine how they handled sexual assault complaints involving children and adults. These 22 offices included those of the 16 largest counties in the state and a random sample of six small to medium sized offices from the other counties in California.

### Review of Sexual Assault Complaints

The first decision to be made by a district attorney after an arrest has been made is whether to file a charge and proceed with a prosecution. This involves a close review of the complaint and the facts supporting it.

The survey sought to determine whether the district attorney's offices employ special complaint prosecutors to review all sexual

assault cases. Fifteen of the offices do not employ such prosecutors. Of the seven jurisdictions which have a person specially designated to review sexual assault complaints, six also have special units established to handle investigations of such complaints. In addition, in five of these offices, which represent the larger counties in the state, the district attorney reviewing the case also prosecutes the case.

There are several plausible explanations for the finding that few offices have special complaint prosecutors to review sexual assault cases including:

- 1) Many offices are too small to justify this type of specialization; and
- 2) Case priority as set by the district attorney varies from one jurisdiction to another.

### Prosecution of Sexual Assault Cases

The survey also sought to determine whether the district attorney's offices have special deputies assigned to prosecute sexual assault cases. A total of 16 or 73 percent of the responding counties do not have deputies specially designated to prosecute sexual assault cases; in these offices, either all prosecutors handled them equally or some handled more than others (see Table 2).

TABLE 2

#### HANDLING OF SEXUAL ASSAULT PROSECUTIONS BY 22 SELECTED COUNTIES IN CALIFORNIA

|   | Number | Percent |
|---|--------|---------|
| All Prosecutors Handle Them Equally                         | 9      | 41%     |
| All Prosecutors Handle Them, But<br>Some More Than Others   | 7      | 32      |
| Prosecutors From Special Unit<br>Handle All Sexual Assaults | 6      | 27      |
| Total   | 22     | 100     |

The six district attorney's offices surveyed which have deputies assigned to special units responsible for the prosecution of sexual assault cases are Fresno, Los Angeles, Sacramento, San Francisco, Santa Clara, and Ventura. A detailed description follows:

Fresno: The Sexual Assault Unit, which has been in operation for three years has, two male prosecutors. Selection is based in part on experience and interest; training for the staff involves participation in seminars on sexual assaults, victim services, incest and other related topics. The cases are handled by one attorney from the initial filing to the final disposition of the case (vertical prosecution). The unit handles sexual assault complaints involving children and adults.

Los Angeles: Two separate central units, the Sexual Assault Program (SAP) and Domestic Violence Program (DV), which also handles child abuse, have been in operation since January 1976 and January 1979, respectively. The central unit of SAP has four deputies, two of which are female; the central unit of DV has two female deputies; many other deputies in field offices are assigned to such cases. There is vertical prosecution in most cases, especially by those persons working in the central unit. Selection of deputies to the units is based in part on personality, experience, interest and sensitivity; training for staff involves participation in seminars offered by the head of the unit. The units handle only sexual assault cases; some of the deputies in the field offices also handle such cases. Law Enforcement Assistance Administration (LEAA) funds will support activities of the DV unit for one year.

Sacramento: The Sexual Assault and Child Abuse Unit has three prosecutors, one of which is female. The unit has been in operation since February 1978. Selection is based in part on experience, especially trial court experience, and interest; training for staff involves participation in formal meetings and contact with treatment program people. Priority is placed on child abuse cases with vertical prosecution of these cases.

San Francisco: The Sexual Assault - Child Abuse Team, is composed of three prosecutors, two of which are female. There is vertical prosecution in most cases. Training for staff involves participation in seminars for medical personnel related to evidence collection and treatment of rape victims, extensive reading and in-house seminars. Selection of prosecutors is based in part on experience, interest and other skills. The team handles only sexual assault cases.

Santa Clara: Special Assignment: Forcible Rape/Child Sex Abuse has been in operation since 1974-75. Seven male prosecutors are selected based in part on experience, good trial record, interest and subjective feeling. There is vertical prosecution in a lot of cases; training for staff involves participation in meetings and extensive reading of material. These prosecutors handle all forcible rape and child sexual abuse cases, as well as other felonies.

Ventura: The Career Criminal Prosecution Unit is composed of five male prosecutors. The unit has been in operation for three years, with emphasis on rape cases for one year. There is vertical prosecution of rape cases. Selection is based in part on experience, interest and skills; training for staff involves participation in courses offered by the department. From 10 to 20 percent of the units' time is spent on rape cases; prosecutors handle other than rape cases. LEAA funds support some of the activities of the unit.

Three of the six respondents whose offices have special prosecutorial units also have at least one female assigned to the unit. It was noted that more female deputies would be assigned to the units except that few women have the necessary qualifications (e.g., extensive trial experience) and the pool of women to select from is much smaller than the available pool of men.

Several respondents noted that even though their office did not have a special unit assigned to prosecute sexual assault cases, they would assign sexual assault cases to their most experienced trial attorney or attorneys with a good win/loss record. This is because of the complex nature of sexual assault cases and the difficulty in prosecuting them.

Despite the many advantages associated with vertical prosecution, it is not widely used. This is due in part to lack of resources in terms of personnel, large caseloads and time conflicts. For instance, vertical prosecutions are often difficult because an attorney might have two preliminary hearings and one trial scheduled for the same day and time. Unless the deputy attorney has a small caseload, vertical prosecutions are almost impossible.

### Written Procedures for Prosecuting Sexual Assault Cases

Respondents were asked whether their office had any written procedures for handling sexual assault complaints and prosecutions. While all of the offices have some written procedures or general policy statements on this subject, very few have any detailed procedures related specifically to sexual assault cases. One respondent pointed out that their office had a couple of memoranda dealing with assisting law enforcement and referring victims to needed services. Another respondent indicated that their office had a special policy manual which delineated several procedures to be followed.

Several offices reported that special written procedures were not needed either because: (1) total staff was small; (2) the low incidence of sexual assault cases; or (3) experienced district attorney's handled these cases and did not require such instruction.

### Victim Interviews

We asked the number of times, on the average, the deputy attorney saw a victim of sexual assault prior to trial. Over 95 percent of the respondents indicated that they saw the victim at least three times prior to the trial. Some of the respondents also stated that if the case was serious or required extra attention, the victim would be seen more often.

The respondents who indicated they saw their victims at least five times prior to trial tended to be the district attorney's offices in smaller counties.

### Investigators

Respondents were asked whether their offices employed their own investigators, what the male/female composition of the investigative staff was, whether any of the investigators were assigned primarily to sexual assault cases, and if so, whether they received any special training.

With the exception of two small counties and one large county, all respondents indicated their offices had investigative staff. These investigative staffs were predominantly male.

Only seven of the offices reported that at least one of their investigators was primarily responsible for sexual assault investigations. In two of these seven offices, the specially assigned investigator received the same training as the district attorney assigned to sexual assault cases. The sexual assault investigators in the other five offices did not receive any formal training.

In general, the size of the county determined the investigative resources available within prosecutors' offices. The larger the county, the greater the number of investigators. Of particular interest is the observation made by several of the respondents that in many sexual assault cases, they relied more heavily on the police investigative staff than on their own investigative staff. This is due, in part, to the perception that police investigative staff are already familiar with a particular case and are more experienced in gathering evidence and in working with victims and witnesses for these types of cases.



#### Concluding Comments

The prosecutors offices surveyed expressed concern as to the handling of sexual assault cases but often noted that a conflict arises when one attempts to achieve greater efficiency and effectiveness with scarce resources. Several of the respondents indicated there is a need to establish teams or units to prosecute sexual assault cases. They recognized the problems which are specific to sexual assault cases, i.e., the need for increased sensitivity because of the nature of the crimes and the victims involved, and the fact that these cases are harder to win because the evidence is difficult to work with. While these problems can be off-set by specially trained and experienced attorneys, the cost of creating and maintaining such units has to be weighed against the other competing demands placed on the district attorneys' offices.

**END**