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UNITING TO SOLVE

SEXUAL ASSAULT CRIMES



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UNITING TO SOLVE SEXUAL ASSAULT CRIMES

BY: HEATHER WALTKE AND BLAIR AMES

With support from the National Institute of Justice, the Las Vegas Metropolitan Police Department and the state of Nevada teamed up to reduce the backlog of untested sexual assault kits.

In the early 1990s, a University of Nevada Las Vegas (UNLV) law student was asleep in her apartment when she was attacked by an unknown man. She was held at knifepoint and sexually assaulted before her attacker fled.

Police investigated the crime, but were unable to identify a suspect. During the investigation, detectives collected a sexual assault kit (SAK), but that SAK was never tested for DNA evidence. Unfortunately, in the early 1990s, it was necessary to have a sample of DNA from a suspect to compare with the DNA recovered from the victim because no national database existed. Therefore, the untested kit continued to sit in police custody for nearly 25 years, leaving police without a suspect and the victim without any closure.

A sexual assault kit is the cornerstone of any sexual assault investigation, potentially holding critical DNA evidence for law enforcement. Unfortunately, jurisdictions around the country are grappling with how to address mounting backlogs of untested kits, some dating back to the mid-1980s.

The Las Vegas Metropolitan Police Department (LVMPD) is one of these jurisdictions. Sitting inside the police department's evidence laboratory were 5,600 untested sexual assault kits, the oldest stemming from a case in 1985. Recently, with support from the National Institute of Justice (NIJ), the department has pledged to test each one of those kits.

One year into the process, officials are already seeing the impact this effort can have. One of the first kits tested was that of the UNLV student who was assaulted in her apartment. Using DNA evidence uncovered from the kit, detectives were able to match a sample to a known criminal through the FBI's Combined DNA Index System (CODIS) — a database that blends forensic science and computer technology into a tool for linking violent crimes.

Law enforcement arrested their suspect 25 years after the crime took place, and the victim, who had since moved to Louisiana, returned to Las Vegas to attend the preliminary hearing.

Las Vegas Detective Lora Cody handled the case. After speaking with the victim many times over the phone throughout the investigation, Cody met her in person for the first time at the hearing. "I got the biggest hug from her," Cody recalled. "She was just so grateful and thankful that we were able to do this for her. It was just amazing."

This case was scheduled for a jury trial in April 2017, with the suspect facing a minimum of a life sentence with the possibility of parole after 10 years.

As Las Vegas moves through the remaining thousands of untested sexual assault kits, officials are expecting to bring justice to more victims and hold accountable the offenders who have thus far eluded law enforcement.

A “Huge Resource Challenge”

In addition to Las Vegas’ efforts to test its 5,600 sexual assault kits, the state of Nevada has committed to test 1,900 kits from other law enforcement agencies around the state. By 2018, law enforcement officials in Nevada believe they can test all of these kits.

At the heart of this undertaking is Kim Murga, Director of Laboratory Services for LVMPD. For Murga, it has been a personal interest to address this issue since 2009, but finding the necessary resources has always been difficult.

She describes the process of working through this backlog as daunting, adding that it’s a “huge resource challenge” considering the resources needed to analyze the evidence in the kits, investigate and prosecute each case, and provide support to victims through victim advocates.

As Murga began developing a plan to address the backlog of untested kits in Las Vegas, she said the resources and support from NIJ have been invaluable. NIJ has long been a supporter of Las Vegas’ efforts to improve their DNA testing process through the DNA Capacity Enhancement and Backlog Reduction Program.

Since 2010, LVMPD has received nearly \$5 million through this program to enhance their DNA testing capabilities, through improvements such as purchasing equipment and supplies, and funding employee overtime. More recently, officials utilized the NIJ-FBI Sexual Assault Kit Partnership, which helped in their push to alleviate the backlog of untested kits. Launched in 2014, the partnership utilizes the FBI laboratory to process and test a limited number of previously untested kits from across the nation.

On the day the program was announced, Murga began filling out the application paperwork, and, just a few weeks after, the first set of kits to be tested was sent out. Las Vegas sent 30 kits to the FBI Lab to be tested, which allowed an additional 30 kits to be tested by LVMPD at the same time, increasing the number of sexual assault kits that could get tested at once. “That program has been instrumental in testing 150 kits of ours so far,” Murga said of the NIJ-FBI Partnership.

Thus far, the kits tested through the partnership have resulted in 22 investigative leads (CODIS hits).

NIJ Supporting the Field

Las Vegas isn’t alone in this challenge of addressing a backlog of untested sexual assault kits. A number of jurisdictions across the country have kits that have never been submitted to a laboratory for testing.

NIJ has supported efforts nationwide to alleviate laboratory backlogs through a number of mechanisms, including funding opportunities, research, and training and technical assistance. NIJ resources support jurisdictions in the short term through grant funding and in the long term by supporting scientific research and providing additional technical assistance.

NIJ’s special report, *Down the Road: Testing Evidence in Sexual Assaults*, explores the issue in depth, discussing results of recent studies supported by NIJ. Included in that research are two NIJ action research grants awarded to the Houston, Texas, Police Department and the Wayne County (Detroit), Michigan, Prosecutor’s Office in 2011 to examine the issue of untested evidence in sexual assaults. (Learn more in the NIJ Journal article, “NIJ’s Action-Research Project in Houston and Detroit.”)

The overarching goal in the Detroit and Houston projects was to understand the scope of the issue: the number of unsubmitted kits, and how and why the problem developed. Then, the teams were charged with identifying effective, sustainable responses.

NIJ’s ultimate goal in these projects was to not only help Houston and Detroit, but to determine if lessons learned in these two cities might help other jurisdictions. Through these two projects, it was discovered that backlogs are caused by a variety of factors, including the evolution of DNA technology.

DNA testing technology has evolved greatly since many of the kits were collected, and modern DNA forensic analysis was not widely used until the late 1990s. CODIS wasn’t created until 1998, and it took years to build up a substantial number of profiles, increasing the likelihood of a DNA match. Prior to CODIS, there was no database of

known samples, so laboratories required a DNA sample from a suspect for comparison. If a suspect was not developed immediately, then a case may have proceeded without DNA evidence or turned into a cold case.

Additionally, increased demand for forensic DNA casework has outpaced laboratories' ability to test this evidence. With new technology and innovative methods, laboratories become more efficient and process results more quickly, but as technology becomes more helpful to law enforcement agencies, more and more DNA evidence is sent for analysis.

Teaming Up to Address the Challenge

In addition to support from NIJ, Las Vegas officials say that collaboration between local and state officials has been a key component to their success.

As officials began to tackle the backlog of sexual assault kits in Nevada, its Attorney General's Office assembled the Sexual Assault Kit Backlog Working Group to guide their efforts. The working group includes state officials, law enforcement, detectives, prosecutors, victim advocates, and others.

"Without that task force, or all of those resources together, and all speaking with the same voice, I think it would fail. You would have a single point of failure associated with that," said Clark County Sheriff Joe Lombardo, a member of the working group.

The partnership began to take shape in 2014 when Murga noticed an opportunity to address the mounting number of untested sexual assault kits. During his campaign for attorney general of Nevada, Adam Laxalt pledged to address the sexual assault kit backlog.¹ Once he took office in January 2015, Murga wasted little time in reaching out to him to discuss how the two could work together in this effort.

The pair first met to discuss the issue just two months after Laxalt took office, and by May 2015, they had developed a proposal to secure the additional grant funding that would get this initiative off the ground.

Just a few months later, the agencies had secured sufficient funding, including existing grant funding from NIJ's DNA Capacity Enhancement and Backlog Reduction Program, a \$1.98 million Sexual Assault Kit Initiative grant from the Bureau of Justice Assistance, and a \$2 million grant from the Manhattan District Attorney's Office. Additionally, the Nevada Attorney General's Office had secured \$1.7 million in state settlement funding from unrelated litigation to put toward this initiative.

"We were excited because, in a matter of months prior to A.G. Laxalt taking office, we went from having zero dollars [for this initiative to test sexual assault kits], scratching our heads, looking around, [asking] 'how are we going to tackle this problem?' to having \$5.68 million," said First Assistant Attorney General Wesley Duncan. Duncan added, "It is a testament to the working group's hard work and collaborative efforts."

NIJ continues to support the efforts in Nevada. In 2016, the Nevada Attorney General's Office was awarded a \$523,268 grant from NIJ's Sexual Assault Forensic Evidence-Inventory, Tracking, and Reporting Program. While this program does not provide funding for the actual testing of kits, it provides jurisdictions the opportunity to implement an evidence management program to improve coordination and communication between the medical community, law enforcement, laboratories, and the legal community through the inventory, tracking, and reporting of untested sexual assault evidence.

Investigating the Crime

For Detective Cody, there is no more intrusive, heinous, or violent crime than a sexual assault.

"All of these victims deserve to have their cases taken to the fullest extent. They deserve the best work that any detective can do for them," Cody said. She added, "They absolutely deserve us to put our full attention [into] every detail, to fully allow prosecution of these [cases]."

On average, investigating a case takes between six to nine months, including locating the victim, locating witnesses, recreating the crime scene, and, hopefully,

¹ [http://ag.nv.gov/News/PR/2015/Attorney_General_Laxalt_Secures_\\$3_68_Million_to_Help_Eliminate_the_Sexual_Assault_kit_Backlog_in_Nevada/](http://ag.nv.gov/News/PR/2015/Attorney_General_Laxalt_Secures_$3_68_Million_to_Help_Eliminate_the_Sexual_Assault_kit_Backlog_in_Nevada/)

locating the suspect. “And that’s just gathering the minimal amount of information to present it to a prosecutor or to make a probable cause arrest,” said Cody, adding that there’s additional follow-up on top of that.

A challenge unique to Las Vegas is the fact that it’s a very transient area — about 42 million tourists visit the city annually. Of the cases that Las Vegas is beginning to investigate as of early 2017, Cody estimates that only 10 percent of the victims still live in Las Vegas.

Previously, LVMPD would divvy up these unsolved sexual assault cases among all of its detectives, in addition to the active cases they were working, according to Sheriff Lombardo. Now, LVMPD has two dedicated detectives — one being Cody — assigned full time to investigate these unsolved crimes. Soon, this will increase to four detectives investigating these cases as more sexual assault kits are tested.

At the Clark County District Attorney’s Office, Chief Deputy District Attorney Jim Sweetin said that the office has spoken to detectives specifically about what is needed to prosecute these cases, but the victim is the centerpiece of the prosecution.

Moving to a Victim-Centered Framework

A sexual assault is a personal crime, affecting one’s life, relationships, and the ability to trust again. Often, sexual assault victims feel as though they have no power or control over what happens following their assault. They enter a complicated system and need someone to help guide them, which is where victim advocates are critical.

For Manager of Human Trafficking and Victim Services Elynne Green at LVMPD, it’s both exciting and scary to see these untested sexual assault kits producing CODIS hits.

For Greene, the exciting part is “oh my God, we’re finally getting somewhere and we’re going to tell someone, even if we can’t prosecute, ‘you were believed.’ I think that is so important.”

She added, “The scary part is we’re opening Pandora’s Box for some of these victims and we have to be prepared with the resources, the long-term resources. Many of them have moved on and they accept it in a healthy, positive way, and they’ve got a great support system. Others may have been so dramatically impacted by the crime and we’re just reopening those wounds.”

As law enforcement officials have moved through the process of contacting the victims of these sexual assault cases, some decades old, they’re learning new lessons each time such as how best to speak with victims, according to Greene. In working with victims whose cases may now be 10 to 20 years old, it is first important to realize that each victim is unique and so is their healing process. “For each person, it’s going to be different, [that is] what we say to them,” Greene explained.

According to Executive Director Daniele Dreitzer of the Rape Crisis Center in Las Vegas, the worst case scenario in working with victims is the potential to retraumatize them by bringing up their assault after many years.

In recent months, the Rape Crisis Center has seen an uptick in visits, and staff believe that may be due to this backlog initiative. “We definitely feel like people are more likely to come forward and report [a sexual assault] when they know that an initiative like this, being championed by the attorney general, is out there,” Dreitzer said.

Making Progress

First Assistant Attorney General Duncan is quick to point out that behind each of these sexual assault kits is an individual. There’s a person who deserves to have the evidence in the kit tested, instead of having it sit on a dusty shelf. “That’s an important aspect of this, to remember that there are people affected and there’s a story behind every one of those kits,” he said.

Thus far, as of December 2016, Las Vegas has sent out more than 1,600 sexual assault kits for processing through all of the initiatives they’re participating in, and over 500 have been completed. More than 115 of the tested kits have provided CODIS entries into the DNA Database, which have resulted in 43 investigative leads.

Offenders that have been linked to these crimes are not only from Las Vegas, but from around the country. Preliminary research has shown that some sexual assault criminals are prolific and continue to offend until they're caught. "The initiative is not only to make Southern Nevada a safer place, but also many of the other areas in the United States," Murga said.

"LVMPD has made eight arrests through investigating these cases thus far," Sheriff Lombardo said. While Nevada still has two years of work left to clear its backlog of untested kits, the early results have been overwhelmingly promising.

Moving Forward, Advice for Others

For Cody, the past year has included "a barrage of emotions" as she has handled investigations related to these sexual assault crimes, and she's hopeful that LVMPD will be able to continue making a difference for these victims who have waited years for justice.

"It makes me feel proud to be a part of this department," she said of the effort. "It's great that this department has taken the initiative and accepted responsibility for not analyzing these cases and finishing these investigations."

LVMPD has already established new standards and procedures that it believes will help to ensure a backlog does not form again. For example, Cody has come across sexual assault cases in which the crime scenes were not well documented and interviews were either not conducted or the transcripts of them have been lost. Now, Las Vegas detectives are mandated to do a thorough and immediate interview, which is impounded as evidence, and detectives are required to thoroughly document sexual assault crime scenes.

At the evidence laboratory, the department has streamlined its DNA processes and requires all kits to be funneled to the DNA lab for testing, unless the victim later asserts that she or he was not a victim of a crime, according to Murga.

With the assistance of NIJ funding, LVMPD's laboratory is also able to maintain pace with the newest equipment and technology, including genetic analyzer instrumentation, quantitative instrumentation, and extraction instruments. "Looking back over the years, if we didn't have these [NIJ] grant resources, we would be falling behind the technology," Murga said.

For jurisdictions looking to emulate the progress in Nevada, officials recommend that they first research how other jurisdictions have addressed this issue and incorporate those strategies into their own process.

In preparation for this effort, Murga reached out to officials from Memphis, Tennessee; Michigan state; and Cuyahoga County, Ohio, to learn how they addressed untested sexual assault kit backlogs and to hear any lessons they had learned. "I was definitely not working in a vacuum," she said. "I was using resources that have been out there."

In addition, Murga said she regularly reviewed NIJ reference materials and research reports to guide the process. Even now, she distributes these resources to members of the Nevada working group when they meet. "They [NIJ] have certainly put a lot of effort, resources, and time into producing a number of different platforms to kind of help guide agencies, and I know that they continue to excel in that arena," she said.

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Through the thoughtful management and application of multiple funding streams and the commitment of the working group, Nevada has been able to confront its backlog of untested sexual assault kits and begin to improve justice for victims. Reflecting on the initiative's

progress so far, Murga said, "It's my goal that in a couple of years, once we've really come a long way with this process, that if we have a victim of sexual assault, they'll have a very different experience at that time."

For More Information

Read the article online: <https://nij.gov/topics/law-enforcement/investigations/sexual-assault/Pages/uniting-to-solve-sexual-assault-crimes.aspx>

See an interactive web page on using evidence in sexual assault kits: <http://NIJ.gov/unsubmitted-kits/pages/default.aspx>

Visit NIJ's Sexual Assault Investigations resource page: <https://nij.gov/topics/law-enforcement/investigations/sexual-assault/Pages/welcome.aspx>

Visit NIJ's Action-Research Project in Houston and Detroit web page: <https://www.nij.gov/journals/270/pages/answers-through-research-action.aspx>

Read NIJ's *Down the Road: Testing Evidence in Sexual Assaults*: <https://www.ncjrs.gov/pdffiles1/nij/249805.pdf>

Learn more about NIJ's DNA Capacity Enhancement and Backlog Reduction Program: <https://nij.gov/topics/forensics/lab-operations/evidence-backlogs/pages/backlog-reduction-program.aspx>

Learn more about the NIJ-FBI Sexual Assault Kit Partnership: <https://nij.gov/topics/law-enforcement/investigations/sexual-assault/Pages/nij-fbi-sak-initiative.aspx>

Learn more about BJA's Sexual Assault Kit Initiative: https://www.bja.gov/ProgramDetails.aspx?Program_ID=117

Learn more about the FBI's Combined DNA Index System (CODIS): <https://www.fbi.gov/services/laboratory/biometric-analysis/codis>

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