



**Office of Inspector General
City of New Orleans**

**A Performance Audit of the New Orleans Police Department's
Uniform Crime Reporting of Forcible Rapes
A&R13PAU002**

**E. R. Quatrevaux
Inspector General**

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A Performance Audit of the New Orleans Police Department's (NOPD) Uniform Crime Reporting (UCR) of Forcible Rapes
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EXECUTIVE SUMMARY

The Federal Bureau of Investigation's (FBI) Uniform Crime Reporting Program (UCR Program) is a *voluntary* nationwide, cooperative statistical effort of city, county, state, tribal, and federal law enforcement agencies reporting data on crimes brought to their attention. The FBI administers the UCR Program and continues to assess and monitor the nature and type of crime committed in the United States. The UCR Program's objective is to generate reliable information for use in law enforcement administration, operation, and management.¹

The Office of Inspector General (OIG) conducted a performance audit of the New Orleans Police Department's (NOPD) Uniform Crime Reporting process for the period June 1, 2010 through May 31, 2013. Forcible Rape was selected for testing based on the FBI's 2012 published crime statistics. The data revealed that forcible rape in New Orleans was 43% lower than 24 other cities with the highest crime rates. This report is issued to offer recommendations and observations concerning the NOPD's internal policies and procedures and the accuracy of its data reported to the UCR Program. Similar conditions to those cited in this report were also identified by the United States Department of Justice².

UCR data quality guidelines, published by the FBI, provided policy and procedural guidance to law enforcement agencies to maximize the quality, objectivity, utility, and integrity of the information. The NOPD violated these guidelines.

The following conditions were noted:

- ❖ The NOPD misclassified 46% of the offenses tested to sexual battery, miscellaneous offense or Unfounded (UNF) rather than forcible rape.
- ❖ The NOPD misclassified forcible rape offenses to miscellaneous offense instead of assigning a disposition of Unfounded (UNF).
- ❖ The NOPD UCR Specialist did not report the highest offense on the hierarchy list to the UCR Program for multiple-offense situations.
- ❖ The NOPD violated the Louisiana Public Records Law.
- ❖ The NOPD did not report all forcible rapes with a disposition of "Report to Follow" (RTF) and UNF to the UCR Program.
- ❖ The NOPD did not corroborate signal and/or disposition changes with supporting documentation.
- ❖ The NOPD did not complete incident reports prior to ending their tour of duty.
- ❖ The NOPD backdated police reports to a date prior to the date the reports were written.
- ❖ NOPD supervisors did not review incident and/or supplemental reports timely.
- ❖ The NOPD did not remit evidence to Central Evidence & Property.

¹"Crime in the United States, 2009" U.S. Department of Justice- Federal Bureau of Investigation; September 2010. www.fbi.gov.

² "Investigation of the New Orleans Police Department" U.S. Department of Justice- Civil Rights Division; March 2011. www.justice.gov. and "United States of America vs. City of New Orleans (Case 2:12-cv-01924-SM-JCW)" Consent Decree Regarding the New Orleans Police Department; July 2012.

In addition, the NOPD discontinued its practice of posting its quarterly UCR data on its website and the reporting of Part II arrest data to the UCR Program.

The recommendations in this report, if adopted, should improve the NOPD's internal controls over crime reporting as well as the reliability of its data reported to the UCR Program.

Note: All responses from the NOPD in the body of this report are direct statements.

I. BACKGROUND

The Uniform Crime Report (UCR) is the official data on crime in the United States, published by the FBI. Law enforcement agencies across the United States voluntarily provide the data to the FBI who then compile the crime statistics from the UCR data and publish the information annually. The purpose of UCR is to provide a common language which transcends local and state laws.

For reporting purposes, criminal offenses are divided into two major groups: Part I offenses and Part II offenses. Participating law enforcement agencies submit information on the number of Part I offenses in order to measure the level and scope of crime occurring throughout the nation on an annual basis. Part I offenses are serious offenses that occur with regularity and are more likely to be reported to police. There are eight Part I UCR offenses: murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson (Appendix B). For Part II offenses, participating law enforcement agencies only provide arrest data.

The UCR Program relies upon the voluntary participation of the nation's law enforcement agencies. The integrity and accuracy of UCR data rests upon the efforts of individual law enforcement agencies. The New Orleans Police Department (NOPD), the primary law enforcement agency in Orleans Parish, *voluntarily* participates in the UCR Program.

The NOPD compiles offense data for all Part I offenses³ from its Electronic Police Records (EPR) and reports the information to the Louisiana Commission on Law Enforcement (LCLE) on a quarterly basis. UCR offense data does not include who reports or who investigates the offense. The data depicts what crimes have been reported and the location of the offense.

Data reported to the LCLE should include *all* offenses reported or known to police. Actual offenses and false or baseless complaints for each crime are required to be included in UCR. The LCLE reviews the reported UCR data and provides the data to the FBI for its annual publication.

³ This compilation excludes arson, a Part I UCR crime.

II. OBJECTIVES, SCOPE AND METHODOLOGY

The objective of the audit was to determine whether Part I forcible rape offenses were properly classified and reported to the UCR Program.

The performance audit was conducted for the three-year period June 1, 2010 through May 31, 2013 in accordance with the *Principles and Standards for Offices of Inspector General*⁴ (the Green Book) and *Generally Accepted Governmental Auditing Standards*⁵ (GAGAS or the “Yellow Book”).

To accomplish the objectives, sample selections were chosen for testing. *A risk-based sampling methodology was used. The sampling population was composed of aggravated rape, simple rape, sexual battery, unfounded (UNF) and miscellaneous signals in which the rape squad was dispatched because the CAD system could not produce a population of calls for service by initial signal. The tested signals were selected from the computer aided dispatch system (CAD) located at the NOPD Communications District. The exceptions identified in the testing are not projectable into the entire population of reported forcible rapes.*

The following procedures were performed on the sampled items:

- 1) Obtained all incident and supplemental reports;
- 2) Obtained the 911 audio and any evidence and/or related documentation;
- 3) Determined whether the items were properly classified and reported based on the evidence obtained;
- 4) Determined whether the NOPD complied with its internal policies related to classifying and reporting offenses; and
- 5) Determined whether Part I offense data was accurately reported to the UCR Program.

A finding indicated a material or significant⁶ weakness in controls or compliance that was not detected or corrected by the NOPD in the normal course of performing its duties.

Findings in a performance audit can be any one or a combination of the following:

- 1) Significant deficiencies in internal control;
- 2) Fraud and illegal acts;
- 3) Violations of contracts and grant agreements and/or
- 4) Abuse.

The audit included findings, observations, and recommendations related to the accuracy of the NOPD’s UCR Reporting.

Computer-processed data was provided and relied on during testing, which provided information on NOPD calls for service and police records for the period tested.

⁴ Published by the Association of Inspectors General, May 2004 Revision.

⁵ Published by the General Accounting Office (GAO), July 2007 Revision.

⁶ Significance is a “judgment call” by the auditor and is usually based upon the frequency and magnitude of the deficiency.

Although a formal reliability assessment of the computer-processed data was not performed, the auditors determined that hard copy documents were reasonable and generally agreed with the information contained in the computer-processed data.

No errors were found that would preclude the use of the computer-processed data to meet the audit's objectives or that would change the findings in this report.

III. NOPD UCR REPORTING FINDINGS

A. UCR Findings Related to NOPD Practices and Policy Violations

Finding # 1:

Background: The NOPD was required to categorize and record offenses in the NOPD’s Electronic Police Report System (EPR) based on the most serious statutes of the state.⁷ The accuracy of the NOPD’s UCR data was dependent on the accuracy of the information input into its EPR by its officers. UCR requires its participants to record all known and Part I offense counts, not the findings of a court, coroner, or jury or the decision of a prosecutor.

Each quarter the NOPD generated a report in EPR to determine the Part I forcible rape offenses with a disposition of “Report to Follow” (RTF). Offenses included on the list generated in EPR were reviewed in accordance with the FBI’s definition of forcible rape to determine if they should be reported to the UCR Program. When officers misclassified the signal and/or disposition within 24 hours after the initial call for service, the EPR system was unable to determine that a forcible rape occurred and these misclassifications were not captured in the NOPD’s crime data reported to the UCR Program.

Condition: Forty-one of the 90 (46%) offenses tested were misclassified. Miscellaneous (signal 21) and unfounded misclassifications were not captured by the NOPD in its reporting to the UCR Program. See Table 1 below.

Table 1: Number of Forcible Rape Offenses Misclassified and Not Reported to the UCR Program

<i>Items Misclassified</i>	<i>No. of Items Misclassified and Not Reported</i>	<i>% of Total Tested (90)</i>
(A): Items misclassified to sexual battery instead of a Part I offense.	7	8%
(B): Items misclassified to miscellaneous offense instead of a Part I or Part II offense.	20	22%
(C): Items misclassified to UNF	14	16%
<i>Total number of items improperly reclassified (sum of A - C)</i>	41	46%

Criteria: “Forcible rape⁸, as defined in the FBI’s Uniform Crime Reporting (UCR) Program, is the carnal knowledge of a female forcibly and against her will. Attempts or assaults to commit rape by force or threat or force are also included; however, statutory rape (without force) and other sex offenses are excluded.”

“The refusal of the victim to cooperate with prosecution, or the failure to make an arrest does not unfound a legitimate offense.

⁷ “Classifying Crimes” New Orleans Police Department Information Technology Division, Data System Section.

⁸ *Crime in the United States, 2010*; US Department of Justice-Federal Bureau of Investigation; September 2011.

Also, the findings of a coroner, court, jury, or prosecutor do not unfound offenses or attempts that law enforcement investigations establish to be legitimate.”⁹

Louisiana law defines simple rape as “a rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of a victim because it is committed under any one or more of the following circumstances:

- (1) When the victim is incapable of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of mind produced by an intoxicating agent or any cause and the offender knew or should have known of the victim’s incapacity.
- (2) When the victim, through unsoundness of mind, is temporarily or permanently incapable of understanding the nature of the act and the offender knew or should have known of the victim’s incapacity.
- (3) And when the female victim submits under the belief that the person committing the act is her husband and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender.”¹⁰

Aggravated rape is defined as “a rape committed upon a person sixty-five years of age or older or where the anal, oral or vaginal sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances:

- (1) When the victim resists the act to the utmost, but whose resistance is overcome by force.
- (2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm, accompanied by apparent power of execution.
- (3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.
- (4) When the victim is under the age of thirteen years. Lack of knowledge of the victim’s age shall not be a defense.
- (5) When two or more of the offenders participated in the act.
- (6) And when the victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing such resistance.”¹¹

Cause: The NOPD did not classify items properly.

Effect: Forcible rape data submitted to the UCR Program was not accurate.

⁹ “Uniform Crime Reporting Handbook”, United States Department of Justice. 2004.

¹⁰ La. R.S. 14:43.

¹¹ La. R.S. 14:42.

Recommendation: NOPD should require that officers and supervisors receive adequate training on forcible rape incident reporting. Supervisors should also review reports to ensure that items are properly classified and the elements of the offense are met.

NOPD should report all known offenses, regardless of the victim's willingness to cooperate, and ensure that the offense is submitted to the UCR Program.

NOPD Comments and Corrective Action: *“Under certain situations, NOPD would be prohibited from complying with the auditor’s recommendation that “NOPD should report all known offenses, regardless of the victim’s willingness to cooperate...”, as this comes into conflict with State law (refer to: RS 40:2109.1; Procedures for Rape Victims; Emergency Rooms of Licensed Hospitals; Immunity). The approach to handling sexual assaults must be victim-centered... Even though a formal report was not filed with police, the NOPD Sex Crimes Unit does take physical possession of the rape examination kit and logs it into Central Property & Evidence under a ‘21X’ incident number should the victim decide to file a formal report at a later time. This is ‘best practices’ under these circumstances and still provides an opportunity for victims to come forward after receiving needed support services, such as counseling.*

In March of this year, NOPD received additional guidance from LCLE regarding UCR classifications under the category of unfounded. We are in the process of evaluating procedural and data processing requirements associated to this new information, as well as overall FBI UCR Program changes scheduled for later this year. Completion projected for mid-2014 when new UCR guidelines on reporting take effect.”

OIG Comment: Although the NOPD agreed to evaluate the procedural and data processing requirements, the NOPD believes that it should not report all known offenses, regardless of the victim's willingness to cooperate. Reporting a known offense to the LCLE does not violate state law because the LCLE only receives a total count. The LCLE has no knowledge of the victim identity, location of the incident, etc.

Reporting all known offenses is further supported by the following:

1. NOPD's policy;
NOPD Policy 344¹² states, “When an employee responds to a call for service...the employee is required to document the activity as appropriate. The fact that a victim does not desire prosecution is not an exception to documentation.”
2. The FBI's UCR Handbook;
The FBI's UCR Handbook¹³ states, “...the refusal of the victim to cooperate with prosecution or the failure to make an arrest does not unfound a legitimate offense. Also, the findings of a coroner, court, jury, or prosecutor do not unfound offenses or attempts that law enforcement investigations establish to be legitimate.”

¹² “Report Preparation”, New Orleans Police Department Procedure Manual. 2012.

¹³ “Uniform Crime Reporting Handbook”, United States Department of Justice. 2004.

3. The Department of Justice’s Investigation of the New Orleans Police Department¹⁴ (DOJ Report). The DOJ Report states, “Departments must include reports of forcible rape or attempted forcible rape in their UCR data irrespective of whether the victim cooperates or an arrest is made.”

The OIG also disagrees with NOPD’s “best practice” of initially classifying a potential sexual assault as a “21x” (miscellaneous offense). Classifying sexual assaults as a 21x is not a best practice. The DOJ Report also identified this issue. It states, “...the Department likely had diverted many complaints of possible sexual assault from being fully investigated by classifying them as non-criminal “Signal 21s,” the Department’s code for miscellaneous complaints...Our review determined that NOPD has used the Signal 21 code far more expansively, effectively shutting down investigation for a significant proportion of possible sex crimes.”

Finding # 2:

Background: Unfounded (UNF) offenses get reported to the LCLE on a Schedule A. (See Appendix C). *Reporting of unfounded offenses does not affect the number of rapes reported to the UCR Program. This information is used by the FBI to determine if the rapes reported are statistically within norms.*

Condition: Incidents initially classified as forcible rape were misclassified to a miscellaneous offense instead of a forcible rape unfounded. Fourteen of the 90 (16%) incidents were not properly classified in accordance with the rules and guidelines established in the FBI’s UCR Handbook.

Criteria: Per the FBI’s UCR Handbook, "Occasionally, an agency will receive a complaint that is determined through investigation to be false or baseless. In other words, no crime occurred. If the investigation shows that no offense occurred nor was attempted, UCR Program procedures dictate that the reported offense must be unfounded... Agencies must still record all such Part I offenses and then score them as unfounded on the current month's Return A."

“City, county, state, tribal, and federal law enforcement agency participants must classify and score offenses from the records of calls for service, complaints, and/or investigations. Since these crime statistics are intended to assist law enforcement in identifying the crime problem, participants must record offense counts, not the findings of a court, coroner, or jury or the decision of a prosecutor.”¹⁵

Cause: The NOPD did not classify items in accordance with the FBI’s UCR Handbook¹⁶.

Effect: Data submitted by the NOPD to the LCLE was not accurate.

¹⁴ Dated March 16, 2011.

¹⁵ “Uniform Crime Reporting Handbook”, United States Department of Justice. 2004.

¹⁶ Ibid.

Recommendation: The NOPD should terminate use of the signal for “miscellaneous offense” when classifying offenses; and the signal for all offenses should correlate to the type of offense per the call for service. If an offense is determined to be false or baseless, the item’s signal should not be adjusted; however, the disposition of the item should be changed to UNF.

NOPD Comment and Corrective Action: *“The UCR Handbook states “Classifying is determining the proper crime categories in which to report offenses in UCR. The classification of the offense is based on the facts of an agency’s investigation of a crime.”*

... Similarly, when investigating potential sexual offenses, if a detective determines that the incident as described by the complainant does not meet the definition of a rape, that detective cannot classify that incident as a rape. This classification process is in adherence with the requirements of the UCR Handbook, which require that reported classifications be based upon investigations...

These incidents were classified as 21, or Miscellaneous, because the results of the investigation precluded a classification of rape...

In March of this year, NOPD received additional guidance from LCLE regarding UCR classifications under the category of unfounded. We are in the process of evaluating procedural and data processing requirements associated to this new information, as well as overall FBI UCR Program changes scheduled for later this year. Completion projected for mid-2014 when new UCR guidelines on reporting take effect.”

OIG Comment: Although the NOPD agreed to evaluate the procedural and data processing requirements, the NOPD still believes the classification of the offense is based on the facts of an agency’s *investigation of a crime which contradicts UCR guidelines.*

The FBI’s UCR Handbook¹⁷ states that “If the investigation shows that no offense occurred nor was attempted, UCR Program procedures dictate that the reported offense must be unfounded... Agencies must still record all such Part I offenses and then score them as unfounded on the current month's Return A.” The LCLE agreed with the OIG on this matter and advised the NOPD that corrective action is needed to remedy the discrepancies in reporting related to unfounded offenses.

The NOPD should have been aware of this condition prior to March of 2014 because the DOJ Report and the 2012 Consent Decree Regarding the New Orleans Police Department (2012 Consent Decree) documented similar conditions.

¹⁷ “Uniform Crime Reporting Handbook”, United States Department of Justice. 2004.

The DOJ Report states, “In situations where investigators determine that a report is false or baseless – meaning that the evidence shows no crime occurred or was attempted – the department may designate a report as “unfounded”....

Departments must still include these reports in their UCR statistics for Index Crimes, under the category of unfounded crimes...we concluded that the Department likely had diverted many complaints of possible sexual assault from being fully investigated by classifying them as non-criminal “signal 21s,”...Our review determined that NOPD has used the Signal 21 code far more expansively, effectively shutting down investigation for a significant proportion of possible sex crimes.”¹⁸

The 2012 Consent Decree states “During the first year of this Agreement, neither patrol officers nor detectives shall code reported sexual assaults in a miscellaneous or non-criminal category without the express written approval of the ISB Special Victim Section Commander and the ISB Criminal Investigations Division Commander. Following this period, patrol officers shall not code reported sexual assaults in a miscellaneous or non-criminal category....”¹⁹

Finding # 3:

Background: The NOPD Policy Manual permitted platoon supervisors to “change the dispositions, locations, etc., of any item numbers within 24 hours of the item being closed (marked up²⁰). After 24 hours, a Change of Signal or Disposition Form (Form 226) must be completed...”²¹ NOPD’s Policy Manual required that an incident or supplemental report was completed to support the Form 226.

Condition: NOPD did not articulate the reason for the signal and/or disposition change properly. Nine item numbers of the 90 selected for testing had a change in signal or disposition after 24 hours. Six of the nine (67%) item numbers either did not have an incident report or a supplemental report to support the signal or disposition change. See Table 2 below.

Table 2: Change of Signal and/or Disposition Form

<i>Description of Finding</i>	<i>No. of Items</i>	<i>% of Total Tested (9)</i>
Signal/Disposition change via Form 226 but no associated incident report	4	45%
Signal/Disposition change via Form 226 but no associated supplemental report	2	22%
<i>Total Number of Items</i>	6	67%

¹⁸“Crime in the United States, 2009” U.S. Department of Justice-Federal Bureau of Investigation; September 2010. www.fbi.gov.

¹⁹ “United States of America vs. City of New Orleans (Case 2:12-cv-01924-SM-JCW)” Consent Decree Regarding the New Orleans Police Department; July 2012.

²⁰ An incident is considered “marked-up” once a disposition has been assigned to the item.

²¹ “Complaint Signals-Changing of Item Signals or Dispositions (Policy 345)”, New Orleans Police Department Policy Manual, 2013.

Criteria: Per Policy 345²² of the NOPD’s Policy Manual, “Form 226 shall be completed in its entirety with a complete explanation of the reason for the change. If the item number (incident) has an associated police report (R.T.F.) then a supplemental report shall be created containing details documenting the circumstances associated with the need for a signal/disposition change.”

Cause: NOPD officers did not comply with Policy 345 of the New Orleans Police Department Policy Manual.

Effect: Signal and/or disposition changes were not corroborated with supporting documentation.

Recommendation: The NOPD should enforce compliance with Policy 345.

NOPD Corrective Action: “...For the three known incidents referenced above, immediate steps will be taken to amend associated change forms and/or report documentation.”

OIG Comment: Although the NOPD offered a corrective action for the known incidents, no corrective action was offered to prevent the problem from recurring.

Finding # 4:

Condition: The NOPD incident reports were not completed by officers prior to ending their tour of duty. Sixty-nine of the 90 items tested contained an incident report²³. Three of the 69 (4%) incident reports were not completed until 52 to 414 days after the offense date. See Table 3 below.

Table 3: Days between Offense Date and Report Date

Offense Date	Report Date	Days Between Offense Date and Report Date
7/10/2012	8/28/2013	414
4/15/2013	9/1/2013	139
5/29/2013	7/20/2013	52

Criteria: Per Policy 344²⁴ of the NOPD’s Procedure Manual, “...incident reports shall be completed and submitted by reporting officers prior to ending their tour of duty. Whenever possible, reports shall be completed while the reporting officer is still assigned to the call, so accurate reporting times can be calculated. Failure or delay in submitting reports will result in disciplinary action against the employee, unless the delay is authorized.”

Cause: NOPD officers violated Policy 344 of the New Orleans Police Department Policy Manual by not completing incident reports prior to ending their tour of duty.

²² Ibid.

²³ Items found to be false or baseless do not require an incident report.

²⁴ “Report Preparation”, New Orleans Police Department Procedure Manual, 2012.

Effect: NOPD increased its risk for inaccurate reporting by allowing officers to complete reports after their tour of duty.

Recommendation: Officers should complete all reports prior to finishing their tour of duty in accordance with NOPD Policy 344.

NOPD Corrective Action: *“As noted above, on February 17, 2014, Investigations & Support Bureau Policy #21 was placed into effect mandating use of NOPD’s Electronic Policy Report (EPR) process to record all cases. Paragraph 15 of this policy now reads: “The SVS Commander and supervisors shall ensure that all incident reports are entered into the EPR system.” This automated system greatly enhances our ability to regulate our overall case management system.”*

Finding # 5:

Condition: NOPD supervisors did not approve incident and/or supplemental reports in a timely manner. Sixty-nine of the 90 items tested contained an incident report²⁵. Five of the 69 (7%) items tested were not approved until 236 to 1,085 days after the initial report was completed. See Table 4 below.

Table 4: Days between Report Date and Supervisor Approval Date

Report Date	Approval Date	Days Between Report Date and Approval Date
9/14/2010	9/3/2013	1,085
9/23/2010	8/29/2013	1,071
3/8/2011	9/3/2013	910
11/27/2011	9/4/2013	647
1/16/2013	9/9/2013	236

Criteria: Per Policy 344²⁶ of the NOPD’s Policy Manual, “Supervisors shall ensure all reports are completed and reviewed in a timely manner. Failure or delay in reviewing reports will result in disciplinary action against the Supervisor.”

Cause: NOPD officers violated Policy 344 of the New Orleans Police Department Policy Manual by not reviewing incident and/or supplemental reports timely.

Effect: NOPD supervisors created an opportunity for inaccurate reporting by not reviewing reports timely.

Recommendation: NOPD supervisors should review all incident and/or supplemental reports in a timely manner in accordance with NOPD Policy 344.

²⁵ Items found to be false or baseless do not require an incident report.

²⁶“Report Preparation”, New Orleans Police Department Procedure Manual, 2012.

NOPD Corrective Action: *“We have reviewed all five incidents listed under this finding and concur...Use of the Electronic Police Report (EPR) has now gone live department-wide. This automated system has greatly enhanced this agency’s ability to closely monitor procedural requirements related to managerial performance.”*

Finding # 6:

Background: “The Central Evidence and Property Section is responsible for the intake, storage, and disposition of the evidence and property entrusted into the care of the New Orleans Police Department...Evidence is stored in a variety of manners utilizing best practices with the latest technology and equipment, and may subsequently be tested by the Crime Lab and/or brought to Court for trial.”²⁷

For all items submitted to Central Evidence and Property (CE&P), officers received a CE&P receipt with a corresponding reference number. Any evidence submitted to CE&P was listed on the “Attachments” page of the police report with the corresponding reference number.

Condition: Sixty-nine of the 90 items tested contained an incident report²⁸. Five of the 69 (7%) items cited evidence in the incident report that was not submitted to CE&P. Three of the five items were maintained by NOPD but never submitted to CE&P. The NOPD could not produce evidence for the remaining two items. See Table 5 below.

Table 5: Evidence not Submitted to CE&P

<i>Explanation</i>	<i>No. of Items Not Submitted to CE&P</i>	<i>% of Total Tested (69)</i>
Evidence was maintained by NOPD but never submitted to CE&P	3	4%
Evidence was neither maintained by NOPD nor submitted to CE&P	2	3%
<i>Total Number of Items w/ Evidence not Submitted to CE&P</i>	5	7%

Criteria: Per the NOPD’s Operations Manual, “property or evidence²⁹ received by any employee of the New Orleans Police Department shall be delivered to the Evidence and Property Division as soon as possible, however, no later than the end of the employee’s tour of duty.

If property is delivered to the Evidence and Property Division after the employee’s tour of duty ends, it shall be accompanied by an interoffice correspondence specifying the reasons for the delay in processing. The correspondence shall be approved by the employee’s Commanding Officer or in their absence the employee’s immediate supervisor.”³⁰

²⁷“Central Evidence and Property Section”, www.nola.gov

²⁸ Items found to be false or baseless did not require an incident report.

²⁹ Evidence is the documentary or oral statements and the material objects admissible as testimony in a court of law.

³⁰“Property and Evidence Control”, Ch. 84.1, New Orleans Police Department Operations Manual, 2004.

Cause: NOPD was not in compliance with the NOPD Operations Manual.

Effect: NOPD reclassified incidents based on evidence that was not properly submitted to CP&E. NOPD could not support the misclassifications of certain forcible rapes by not securing evidence.

Recommendation: No incident or supplemental report should be approved until the evidence noted in the report has been submitted to CE&P. Supervisors should not approve any incident or supplemental reports that do not include the CE&P receipt for the supporting documentation cited in the officer's report.

NOPD Corrective Action: *“Four of the five incidents cited under this finding have been determined to be in violation of NOPD policy regarding the processing and handling of evidence...As to these specific cases, the incident that did not violate policy was in relation to cell phone records. This documentation is considered much like any other paper document, in that it is made a part of the report which is considered an acceptable practice. In two of the remaining cases, audio/video evidence was located within the case file associated to the incident. These items have now been logged into CE&P with the involved members counseled.*

As to the remaining two cases, the investigator was unable to locate CD's containing audio/video evidence and/or statements taken and formal disciplinary action has already been initiated. However, these cases have since been reviewed by veteran supervisors specializing in sexual assault investigations and we would respectfully disagree that cases were reclassified based in the OIG's 'effect' statement. The factual content of all evidence was documented in these reports.”

OIG Comment: The OIG disagrees. The cell phone record was not made part of the report or submitted to CE&P for storage. The authentic copy of the record was not safely stored as evidence. The type of evidence obtained impacted UCR reporting and helped determine whether a complaint was substantiated or deemed to be false or baseless.

Although the NOPD offered a corrective action for the known incidents, no long term solution was offered to prevent the condition from recurring.

B. Findings Related to the NOPD's Compilation of its UCR Data

Finding # 7:

Background: A multiple-offense situation occurred when several offenses were committed at the same call for service. The FBI's Hierarchy Rule required law enforcement agencies to report the highest offense per the UCR hierarchy list to the UCR Program. See Appendix B.

Condition: The NOPD UCR Specialist³¹ did not report the highest offense on the hierarchy list to the UCR Program.

Four of the seven (57%) multiple-offense situations tested were assigned the lower signal which corresponded to a lesser offense in the UCR hierarchy.

Criteria: Per the FBI's UCR Handbook, "The Hierarchy Rule requires that when more than one Part I offense is classified, the law enforcement agency must locate the offense that is highest on the hierarchy list and score that offense involved and not the other offense(s) in the multi-offense situation."

Cause: NOPD officers did not use the highest offense when classifying police reports; therefore, the UCR Specialist could not locate the highest offense in the EPR system.

Effect: The UCR crime data for multiple offense situations was not accurately reported to the UCR Program.

Recommendation: NOPD's UCR specialist should report the highest offense on the hierarchy list to the UCR Program.

NOPD Corrective Action: *"None required."*

OIG Comment: The NOPD did not offer a corrective action to prevent the condition from reoccurring.

The FBI's Hierarchy Rule required law enforcement agencies to report the highest offense per the UCR hierarchy list to the UCR Program. The OIG notes that a corrective action is needed to ensure that the UCR Specialist reports all UCR data to the UCR Program, regardless of how the officers assign a signal and disposition to the report.³²

Finding # 8:

Condition: Offense data reported by the NOPD in 2010 and 2011 did not support the information provided to the UCR program. The NOPD did not maintain supporting documentation for 2010 and 2011 Part I offenses; therefore, the data was un-auditable.

Criteria: The Louisiana Public Records Law³³ required all records to be maintained for a minimum of three years.

Cause: The NOPD was in violation of the Louisiana Public Records Law.

Effect: The NOPD's UCR data reported to the UCR Program was unable to be verified.

³¹ The NOPD contracted retired NOPD officer compiled its UCR data.

³² Officers classify crimes based on the La Revised Statutes, but the NOPD UCR Specialist should report crime based on the FBI's UCR Handbook. The two criteria often differ.

³³ La. R.S. 44:36.

Recommendation: NOPD should follow Louisiana Public Records Law.

NOPD Corrective Action: *"None required."*

OIG Comment: The OIG agrees that no corrective action is necessary because the NOPD maintained supporting documentation for its UCR data in 2012 and 2013.

Finding # 9:

Background: NOPD was required to report UCR information such as offenses known to police, baseless complaints, and the number of actual offenses for each Part I offense. This information was reported on a Return A (see Appendix C) to the LCLE quarterly. The LCLE reports information for the entire state of Louisiana to the FBI on an annual basis.

The Return A instructions indicated that "Reporting agencies must indicate in Column 2 all actual and attempted offenses reported in their jurisdictions for the month. Agencies must also include in this column any crimes committed in previous months but not reported until the current month. It is important that agencies enter into this column all known offenses, including those subsequently determined to be unfounded. Each entry made on the Return A and tally book must be classified according to the standard UCR definition."

Condition: The NOPD excluded four of the 46³⁴ (9%) forcible rape offenses from the actual offense column on the Return A of its UCR data.

Criteria: Per the FBI's UCR Handbook, reporting agencies must subtract the number of unfounded offenses from the total number of calls for service. "The difference is the number of actual offenses that occurred in the jurisdiction for the month in question."

Cause: The NOPD inadvertently excluded forcible rape offenses from the actual offense column on the Return A.

Effect: The forcible rape offense data was not accurately reported to the UCR Program.

Recommendation: All Part I offenses with a disposition of RTF should be included in the offense data reported to the UCR Program in the correct column and row on the Return A.

NOPD Corrective Action: *"We will work with the OIG in obtaining the specifics on the remaining cases referenced in this finding and, if errors are found, will submit the necessary adjustment as provided for under the UCR program."*

OIG Comment: The item numbers for this finding were provided to the NOPD.

³⁴ The sample size of 90 items included forty-six 2012 and 2013 item numbers. This finding related to the forty-six 2012/2013 item numbers. 2010 and 2011 support was not auditable because it was not maintained by NOPD.

Finding # 10:

Background: Local law enforcement agencies report all Part I offenses with a disposition of unfounded (UNF) in order to assist law enforcement in identifying the crime problem. Reporting agencies must subtract the number of unfounded offenses from calls for service in order to determine the number of actual offenses that occurred for the month.

Note: Reporting of unfounded offenses does not affect the number of rapes reported to the UCR program. This information is used by the FBI to determine if the rapes reported are statistically within norms.

NOPD completed a UCR worksheet by generating a list from its EPR of all Part I offenses with a disposition of "Report to Follow" (RTF). The NOPD then completed the monthly Return A with the information from the NOPD's UCR worksheet.

Condition: The NOPD excluded six of the 46³⁵ (13%) forcible rape offenses tested with a disposition of UNF from the Return A of its UCR data.

Criteria: Per the FBI's UCR Handbook, "Occasionally, an agency will receive a complaint that is determined through investigation to be false or baseless. In other words, no crime occurred. If the investigation shows that no offense occurred nor was attempted, UCR Program procedures dictate that the reported offense must be unfounded... Agencies must still record all such Part I offenses and then score them as unfounded on the current month's Return A."

"City, county, state, tribal, and federal law enforcement agency participants must classify and score offenses from the records of calls for service, complaints, and/or investigations. Since these crime statistics are intended to assist law enforcement in identifying the crime problem, participants must record offense counts, not the findings of a court, coroner, or jury or the decision of a prosecutor."³⁶

Cause: The list generated in the EPR system did not include all Part I offenses with a disposition of UNF for the items tested.

Effect: The forcible rape data for UNF offenses was not accurately reported to the UCR Program.

Recommendation: The NOPD should generate a list of all Part I offenses with a disposition of UNF in CAD. NOPD should also report all calls for service, including those determined to be false or baseless, to the UCR Program on the Schedule A.

³⁵ The sample size of 90 items included forty-six 2012 and 2013 items. This finding related to the forty-six 2012/2013 item numbers. 2010 and 2011 support was not auditable because it was not maintained by NOPD.

³⁶ "Uniform Crime Reporting Handbook", United States Department of Justice. 2004.

NOPD Comment and Corrective Action: *“The OIG’s findings list 6 out the 90 incidents reviewed, stating the NOPD failed to list a call for service incident determined to be unfounded by the responding officer... It has always been the practice of the NOPD to classify crimes “based on the facts of the agency’s investigation of a crime” as stated in the Uniform Crime reporting Handbook...”*

“In March of this year, NOPD received additional guidance from LCLE regarding UCR classifications under the category of unfounded. We are in the process of evaluating procedural and data processing requirements associated to this new information, as well as overall FBI UCR Program changes scheduled for later this year. Completion projected for mid-2014 when new UCR guidelines on reporting take effect.”

OIG Comment: The FBI’s UCR Handbook³⁷ states that “If the investigation shows that no offense occurred nor was attempted, UCR Program procedures dictate that the reported offense must be unfounded... Agencies must still record all such Part I offenses and then score them as unfounded on the current month's Return A." The LCLE agreed with the OIG on this matter and advised the NOPD that corrective action is needed to remedy the discrepancies in reporting related to unfounded offenses. Also refer to OIG Comment in Finding 2.

³⁷ “Uniform Crime Reporting Handbook”, United States Department of Justice. 2004.

IV. NOPD UCR REPORTING OBSERVATIONS³⁸

Observation #1:

Per UCR guidelines, law enforcement agencies were to report the arrest data involving Part II offenses to the UCR Program on a quarterly basis. However, the NOPD no longer has the ability to report the arrest data for Part II offenses to the UCR Program.

NOPD Comment: *“NOPD relies on several other Criminal Justice agencies to input data to calculate UCR Part II arrest information. Prior to 2005 this data was collected on the City’s Mainframe Computer System. Since that time several agencies have created their own systems that are not accessible to the NOPD for this specific purpose. Currently NOPD is working with these agencies to gather that data and will once again be able to report UCR Part II information.”*

Observation #2:

Prior to 2009, the NOPD posted its quarterly UCR data on its website; however, the NOPD discontinued this practice after the consolidation of its information into a City wide website.

NOPD Comment: *“...in January 2013 the website also began making calls for service data available at data [“nola.gov”](http://nola.gov). This raw data is continually updated on a 48-hour delay and provides the public with previously unavailable tools for tracking and monitoring criminal activity in New Orleans. Since it was launched 15 months ago, this dataset has been accessed more than 25,000 times. In addition, the NOPD still releases the quarterly reports as before and this data is publically available...We would acknowledge that NOPD discontinued this practice, however, it was done in support of the City’s effort to improve services to citizens by providing a so called ‘one-stop shop’ access to information across a broader range of agencies. ”*

OIG Comment: The quarterly information provided on “nola.gov” is a summary of the UCR information and does not include detailed information regarding the actual number of each Part 1 offense. The continuously updated raw data refers to 911 calls, not specific Part 1 UCR data counts.

Observation #3:

The NOPD backdated two supplemental reports prior to the date the report was actually written.

Table 6: Supplemental Reports Dated Prior to the Date the Report was Created

Occurrence Date	Date per the Supplemental Report	Date the Report was Created	Days b/w the Supplemental Report Date and the Date the Report was Created
2/21/2013	2/21/2013	9/3/2013	194
5/18/2013	5/29/2013	9/3/2013	97

³⁸ Comments and/or corrective actions are not required for Observations.

NOPD Comment: *“The first item cited was from February 2013. Records indicate that the incident report was written in EPR and scanned in 9 days later. A supplemental report was scanned in September 2013. On the supplemental report, it appears the detective mistakenly listed the report date as the incident date. This is further evidenced by the fact that the detective documents efforts of the investigation during the days following the incident date. Our review indicates this appears to be a type-o.*

The second item cited was from May 2013. Records indicate that the incident report was written in EPR and scanned in 2 days later. A non-EPR supplemental report was dated May 29th and scanned in August 2013. Another non-EPR supplemental report was dated March 18, 2014, and scanned in on March 25, 2014. At this time, we are unable to substantiate the allegation that the report was ‘backdated’.”

OIG Comment: A list was generated by the City’s IT Department which indicated the date the report was actually created, not the date that the officer documented on the supplemental report. The dates the officer indicated on the report were prior to the date the report was actually created as revealed by the list obtained from the City’s IT Department.

V. CONCLUSION

The report resulted in ten findings and three observations. The ten recommendations to the findings are intended to improve and clarify the NOPD's internal controls and reporting practices to the UCR Program.

Forcible rape data was misclassified by the NOPD. Forty-six percent (46%) of offenses tested were not captured in the crime data reported to the UCR Program. By misclassifying the UCR data, the actual crimes that occurred were unknown to the public and law enforcement.

NOPD should ensure that officers are in compliance with its policies and procedures. NOPD should also comply with the procedural guidance provided by the FBI to ensure the quality, objectivity, utility, and integrity of its UCR data. To increase its reporting accuracy, NOPD should verify that:

- ❖ Officers substantiate their signal and/or disposition changes by documenting the change in the report.
- ❖ Officers complete the incident report prior to ending their tour of duty.
- ❖ Supervisors review reports in a timely manner.
- ❖ Officers submit all evidence to Central Evidence and Property (CE&P) for secure processing, storage and disposition.
- ❖ All electronic documents are maintained for a minimum of three years.
- ❖ All known offenses, including those found to be false or baseless, are reported to the UCR Program.

A follow-up review to determine the status of the NOPD's comments in this report will be conducted in 2016.

VI. APPENDICES

Appendix A. Glossary of Terms

1. **Calls for Service:** All actual and attempted offenses reported within a law enforcement agency's jurisdiction. Calls for service included all known offenses and unfounded offenses.
2. **Change of Signal or Disposition Form (Form 226):** If it becomes necessary to change either the signal or disposition of the item after 24 hours, a Change of Signal or Disposition Form should be completed.
3. **Communications Division:** This division provided citizens with 24 hour access to the police department by answering calls for service and dispatching field units.
4. **Computer Aided Dispatch System (CAD):** The NOPD dispatch system was operated and maintained by the NOPD Communications Division.
5. **Disposition:** "A valid identifier which was added to the item at the time it was closed"^{39,40}
6. **Electronic Police Report System (EPR):** The NOPD's electronic records system used to complete police reports and track offenses.⁴¹
7. **Hierarchy Rule:** The FBI's guidelines that determined how Part I offenses were classified, scored and reported.⁴² The Hierarchy Rule required that the most serious offense (signal) be used on the police report regardless of the number of offenses noted.
8. **Item Number:** A unique alpha numeric identifier assigned to all calls for service generated through CAD.
9. **Louisiana Commission on Law Enforcement (LCLE):** The mission of the LCLE was to improve the operations of the criminal justice system and promote public safety by providing progressive leadership and coordination within the criminal justice community. Local law enforcement agencies throughout the State of Louisiana reported offense data to the LCLE on a quarterly basis. The LCLE reported the data to the FBI annually for compilation in its UCR.

³⁹ An incident is considered "closed" when a signal and disposition has been assigned to it.

⁴⁰ "Complaint Signals- Changing of Item Signals or Dispositions (PR345)", Policy 345, New Orleans Police Department Policy Manual, 2013.

⁴¹ Ibid.

⁴² Refer to Appendix B for the hierarchy.

10. **Multiple-offense:** A situation in which numerous offenses were committed simultaneously.
11. **Offense:** An act that was punishable by law.
12. **Part I offenses:** The UCR Part I offenses included the following:
- Criminal Homicide
 - Forcible Rape
 - Robbery
 - Aggravated assault
 - Burglary
 - Larceny- theft
 - Motor vehicle theft
 - Arson
13. **Part II offenses:** Offenses which were not categorized as a Part I offense.
14. **“Report to Follow” (RTF):** The disposition category used when an officer determined a police report must be written for the incident.⁴³
15. **Return A:** The reporting form required by the LCLE to submit the following:
- Offenses reported or known to police
 - Number of actual offenses reported or known to police;
 - Number of unfounded complaints;
 - Total offenses cleared by arrest or exceptional means; and
 - Number of clearances involving only persons under 18 years of age.
16. **Signal:** The alpha numeric identifier assigned to an item number that identified the particular type of incident.
17. **Unfounded (UNF):** The disposition category used when an officer arrived on a scene and the reported incident does not appear to have occurred.⁴⁴
18. **Uniform Crime Report (UCR):** Official data on crime in the United States published by the FBI.

⁴³“Crime Data of the City of New Orleans” Louisiana Legislative Auditor; October 23, 2013. www.la.state.la.us/

⁴⁴Ibid.

Appendix B. Part I Offense Hierarchy⁴⁵

Rank	Part I Offenses
1	Criminal Homicide
1a.	Murder and Non-negligent Manslaughter
1b.	Manslaughter by Negligence
2	Forcible Rape
2a.	Rape by Force
2b.	Attempts to Commit Forcible Rape
3	Robbery
3a.	Firearm
3b.	Knife or Cutting Instrument
3c.	Other Dangerous Weapon
3d.	Strong-arm (Hands, Fists, Feet, etc.)
4	Aggravated Assault
4a.	Firearm
4b.	Knife or Cutting Instrument
4c.	Other Dangerous Weapon
4d.	Hands, Fists, Feet, etc. (Aggravated Injury)
5	Burglary
5a.	Forcible Entry
5b.	Unlawful Entry- No Force
5c.	Attempted Forcible Entry
6	Theft
6a.	Larceny- theft (except motor vehicle theft)
7	Motor Vehicle Theft
7a.	Autos
7b.	Trucks and Buses
7c.	Other Vehicles
8	Arson⁴⁶
8a-g.	Structural
8h-i.	Mobile
8j.	Other

⁴⁵“Uniform Crime Reporting Handbook”, United States Department of Justice. 2004.

⁴⁶ Arson is not reported by NOPD.

Appendix C. Return A – Monthly Return of Offenses Known to Police

Classification of Offenses	2 <u>Offenses</u> Reported or Known to Police (Include “Unfounded” and Attempts)	3 Unfounded, I.E., False or Baseless Complaints	4 Number of Actual <u>Offenses</u> (Column 2 minus Column 3) (Include Attempts)
Criminal Homicide			
1a. Murder and Non-negligent Manslaughter			
1b. Manslaughter by Negligence			
Forcible Rape			
2a. Rape by Force			
2b. Attempts to Commit Forcible Rape			
Robbery			
3a. Firearm			
3b. Knife or Cutting Instrument			
3c. Other Dangerous Weapon			
3d. Strong-arm (Hands, Fists, Feet, etc.)			
Aggravated Assault			
4a. Firearm			
4b. Knife or Cutting Instrument			
4c. Other Dangerous Weapon			
4d. Hands, Fists, Feet, etc. (Aggravated Injury)			
4e. Other Assaults– Simple, Not Aggravated			
Burglary			
5a. Forcible Entry			
5b. Unlawful Entry- No Force			
5c. Attempted Forcible Entry			
Theft			
6a. Larceny- theft (except motor vehicle theft)			
Motor Vehicle Theft			
7a. Autos			
7b. Trucks and Buses			
7c. Other Vehicles			

VII. OFFICIAL NOPD COMMENTS

City Code Ordinance 2-1120 section (8)(b) “Prior to concluding an audit or evaluation report, which contains findings as to the person or entity which is the subject of the audit or evaluation, the Office of Inspector General shall provide the affected person or entity with an Internal Review Copy of the report. Such person or entity shall have 30 days from the transmittal date of the report to submit a written explanation or rebuttal of the findings before the report is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report.”

An Internal Review Copy of this report was distributed to the NOPD on March 10, 2014 to provide an opportunity to comment on the report prior to the public release. The comments were initially due on April 9, 2014. Several additional discussions were requested by the NOPD and a new due date of May 7, 2014 was given. NOPD comments were received on May 7, 2014 and are included in the body of this report below each finding and appended in its entirety behind this Section.

CITY OF NEW ORLEANS



Mitchell J. Landrieu
MAYOR

DEPARTMENT OF POLICE

P.O BOX 51480
New Orleans, Louisiana 70151

"to protect and to serve"



Ronal W. Serpas, Ph.D.
SUPERINTENDENT

May 7, 2014

Ed Quatrevaux, Inspector General
Office of the Inspector General
City of New Orleans
525 St. Charles Avenue
New Orleans, LA 70130-3049

RE: **Uniform Crime Reporting of Forcible Rapes**

Dear Inspector General Quatrevaux:

Thank you for giving the New Orleans Police Department the opportunity to review and comment on your report titled "*Uniform Crime Reporting of Forcible Rapes.*" We wish to extend our appreciation to your auditors for their patience and cooperation in our joint discussions involving police policy requirements, investigative procedures and longstanding UCR reporting practices.

We would also like to recognize and thank the Louisiana Commission on Law Enforcement (LCLE) for their assistance in reviewing a random sampling of twenty (20) cases provided to them by NOPD that were subject to concerns by OIG auditors. As we believe your staff would acknowledge, LCLE auditors are the recognized experts and authority on UCR reporting by law enforcement agencies across the State and supported NOPD's handling of these incidents in the vast majority of cases reviewed. We have attached a copy of LCLE's letter dated April 28, 2014, from Deputy Director Robert Mehrrens citing that any discrepancies found in UCR reporting were "***not intentional misclassifications***" on the part of NOPD. Additionally, we agree with OIG's auditors in acknowledging the fact that the reporting of unfounded offenses does not affect the number of actual rapes reported to the UCR program. Furthermore, we note and agree as found on page five of the report that, "*the exceptions identified in the testing are not projectable into the entire population of reported forcible rapes.*"

We believe it is also important to note that during our administration, NOPD sex crimes detectives have been working more closely than ever with victim advocacy groups, hospital professionals, social workers and the Orleans Parish District Attorney's Office on improving services to victims traumatized by sexual assault. This collaborative effort has resulted in a significant increase in the number of reportable sexual assaults, which reflects a 70% upsurge in reporting over a forty-four month period 'pre' and 'post' administration change; September 2006 to April 2010 – 342 rape cases reported compared to May 2010 to December 2013 – 582 rape cases reported. Earlier this year in an [article](#) published in the Times Picayune, Ginesse Barrett, director of the Sexual Assault Nurse Examiner (SANE) program at the Interim LSU Hospital, characterized the most recent 2013 increase in reporting as "encouraging" under the first full year of consultations involving the New Orleans Sexual Assault Response Team.

Following are our detailed responses to the OIG's findings, observations, recommendations and corrective action offered by this agency, as warranted:

Finding #1: NOPD should require that officers and supervisors receive adequate training on forcible rape incident reporting.

Recommendation: NOPD should require that officers and supervisors receive adequate training on forcible rape incident reporting. Supervisors should also review reports to ensure that items are properly classified and the elements of the offense are met.

NOPD should report all known offenses, regardless of the victim's willingness to cooperate, and ensure that the offense is submitted to the UCR Program.

Department's Response:

Training is one of the key components under the totally revamped Sexual Assault Response Team (SART) program. Detectives and supervisors assigned to the Special Victim Section (SVS) have now received in combination over 2,700 hours in specialized training related to sexual assault investigations. In 2013 alone, detectives and supervisors in SVS underwent professional instruction related to:

- Clearance Methods for Sexual Assault Cases
- Effective Report Writing: Using the Language of Non-Consensual Sex
- Dynamics: What Does Sexual Assault Really Look Like?
- Victim Impact: How do Sexual Assault Victims Respond?
- Interviewing the Victim: Techniques Based on the Realistic Dynamics of Sexual Assault
- False Reports: Moving Beyond the Issue to Successfully Investigate Sexual Assault

As to classification, we strongly feel that NOPD maintains precedence in this area. Expert analysis of the Louisiana Revised Statutes and informed interpretation of complicated FBI UCR guidelines requires years of experience and training. An outsider's view should not and cannot supplant the understanding of those with decades of experience, training and knowledge of rape investigations and UCR classification. We believe this is evidenced by the random review of just twenty (20) cases where LCLE supported NOPD's assessment in an overwhelming majority of investigations being examined by OIG auditors.

Under certain situations, NOPD would be prohibited from complying with the auditor's recommendation that "*NOPD should report all known offenses, regardless of the victim's willingness to cooperate...*", as this comes into conflict with State law (*refer to: RS 40:2109.1; Procedures for Rape Victims; Emergency Rooms of Licensed Hospitals; Immunity*). The approach to handling sexual assaults must be victim-centered. For the 1st Quarter of 2014, the SANE Program operated by Interim LSU Hospital treated a total of fifty (50) victims of sexual assault with forty-three (43) incidents reported to police and seven (7) incidents going unreported at the victim's request. Even though a formal report was not filed with police, the NOPD Sex Crimes Unit does take physical possession of the rape examination kit and logs it into Central Property & Evidence under a '21X' incident number should the victim decide to file a formal report at a later time. This is '*best practices*' under these circumstances and still provides an opportunity for victims to come forward after receiving needed support services, such as counseling.

Corrective Action: In March of this year, NOPD received additional guidance from LCLE regarding UCR classifications under the category of unfounded. We are in the process of evaluating procedural and data processing requirements associated to this new information, as well as overall FBI UCR Program changes scheduled for later this year. Completion projected for mid-2014 when new UCR guidelines on reporting take effect.

Finding #2: Offenses were improperly misclassified to a miscellaneous offense instead of unfounded (UNF).

Recommendation: The NOPD should terminate use of the signal for “miscellaneous offense” when classifying offenses; and the signal for all offenses should correlate to the type of offense per the call for service. If an offense is determined to be false or baseless, the item’s signal should not be adjusted; however, the disposition of the item should be changed to UNF.

Department’s Response:

The UCR Handbook states “Classifying is determining the proper crime categories in which to report offenses in UCR. The classification of the offense is based on the facts of an agency’s investigation of a crime.”

When a complaint operator receives a call, they take steps to determine the need for a police officer. This cursory inquiry by the complaint operator does not constitute a police investigation. Moreover, it would be inappropriate for the department to classify crimes merely based on the wording used by a complainant on this initial phone call. Complainants often report incidents in colloquial terms, and this language may not be an accurate description of the alleged events. For example, complainants occasionally call police and report that they were robbed or that a robbery has occurred. After an investigation, officers may determine that the incident described by the complainant does not meet the legal definition of a robbery, but was in fact a theft or burglary. It cannot be said in such circumstances that the complainant falsely alleged a robbery, and it would not be appropriate to classify such incidents as an unfounded robbery. The complainant reported an incident and simply lacked sufficient legal knowledge to accurately identify the alleged crime.

Similarly, when investigating potential sexual offenses, if a detective determines that the incident as described by the complainant does not meet the definition of a rape, that detective cannot classify that incident as a rape. This classification process is in adherence with the requirements of the UCR Handbook, which require that reported classifications be based upon investigations. The following are several examples taken from the OIG’s sample that demonstrate how officers investigating a potential sexual assault ultimately end up determining that not only no assault occurred but that no assault was even alleged.

December 2010 - The victim called police operators and said she was “violated” in a swingers club. However, she described a consensual sex scenario to the detective. The rape standard was not met; therefore it was marked up a 21 RTF (Miscellaneous – Report To Follow). Since the victim’s description of events did not establish a rape, the incident could not be classified as a rape. This incident was reviewed by LCLE and they concurred with NOPD’s classification of this incident.

January 2011 - This case was referred by a school because a 4 year old had blood in her diaper. The child never alleged sexual abuse and according to medical findings, no sexual assault occurred. No rape allegations were ever made by any party, and therefore it was marked up a 21 RTF. LCLE also concurred with NOPD's classification of this incident.

February 2012 - The victim called police and said the window was open in her hotel and she felt "wet and open". Detectives investigated and determined that no sexual assault occurred. The rape standard was not met; therefore it was marked up a 21 RTF. The LCLE again concurred with NOPD's classification of this incident.

July 2013 - In this case the victim stated she could not remember anything, but if she had sexual intercourse with anyone it was consensual. The rape standard was not met; therefore it was marked up a 21 RTF. In this case, it was determined that no crime occurred. The LCLE concurred with NOPD's classification of this incident.

In the remaining handful of cases, the department believes there is sufficient evidence to determine that rape could not be established. In these cases, notwithstanding the language used by a complainant during the initial call to 911, no rape actually occurred. These incidents were classified as 21, or Miscellaneous, because the results of the investigation precluded a classification of rape. There is no evidence to suggest that these cases were misclassified in an effort to downgrade crime stats or underreport sexual assaults; they were in fact properly reported "*based on the facts of an agency's investigation of a crime.*"

These are only a few examples of the reports that underpin the OIG finding, and yet the LCLE agreed with the NOPD's police investigation AND not a phone conversation with a dispatcher that resulted in a Computer Aided Dispatch Call for Service.

Corrective Action: In March of this year, NOPD received additional guidance from LCLE regarding UCR classifications under the category of unfounded. We are in the process of evaluating procedural and data processing requirements associated to this new information, as well as overall FBI UCR Program changes scheduled for later this year. Completion projected for mid-2014 when new UCR guidelines on reporting take effect.

Finding #3: The NOPD did not provide the reason for the signal and/or disposition change on an incident or supplemental report.

Recommendation: The NOPD should enforce compliance with Policy 345.

Department's Response:

Policy 345 states, in part: "*Form 226 shall be completed in its entirety with a complete explanation of the reason for the change. If the item number (incident) has an associated police report (RTF) then a supplemental report shall be created containing details documenting the circumstances associated with the need for a signal/disposition change.*" While we do agree there are three (3) incidents cited under this recommendation warranting further review by NOPD, it also appears that OIG auditors

have misinterpreted written report requirements under this policy. **If** there is an associated police report to the incident, then a supplemental report shall be executed. In the case where an item was simply marked up inadvertently as an RTF where the disposition should have been Necessary Action Taken (NAT), then there would be **no** police report associated with the incident and the disposition can be changed through explanation provided using Form 226.

Corrective Action: For the three known incidents referenced above, immediate steps will be taken to amend associated change forms and/or report documentation.

Finding #4: The NOPD incident reports were not completed by officers prior to ending their tour of duty.

Recommendation: Officers should complete all reports prior to finishing their tour of duty in accordance with NOPD Policy 344.

Department's Response:

We agree, and with SVS detectives now fully transitioned to our automated Electronic Police Report (EPR) system since February of this year, similar problems associated to the timely submission of incident reports can be quickly recognized and addressed by supervisors.

However, it is important to note that while the policy referenced above does include this prior to 'end tour of duty' (ETOD) requirement, it also provides for exceptions under circumstances that would unavoidably prohibit compliance (i.e. – An officer receiving an report call near the end of a shift would be authorized to submit only a face sheet concerning the incident and would be allowed to complete the full report upon his next return to duty). We believe the excerpt taken from NOPD policy could mislead someone into believing there are no exceptions, which we're certain was not the intention. Additionally, this ETOD requirement does not apply to supplemental reports.

Corrective Action: As noted above, on February 17, 2014, Investigations & Support Bureau Policy #21 was placed into effect mandating use of NOPD's Electronic Policy Report (EPR) process to record all cases. Paragraph 15 of this policy now reads: "*The SVS Commander and supervisors shall ensure that all incident reports are entered into the EPR system.*" This automated system greatly enhances our ability to regulate our overall case management system.

Finding #5: NOPD supervisors did not review incident and/or supplemental reports in a timely manner.

Recommendation: NOPD supervisors should review all incident and/or supplemental reports in a timely manner in accordance with NOPD Policy 344.

Department's Response:

We have reviewed all five incidents listed under this finding and concur. However, we have come a long way since 2010 and 2011, the report dates involving four of these incidents. Over the past several years, the NOPD has dedicated significant resources in transitioning to a fully automated

Electronic Police Report, a system specifically designed to improve quality control management. With this system, EPR updates are provided bi-weekly to NOPD Districts/Divisions to improve our ability in monitoring the supervisory review process. Some might even consider this progress.

Corrective Action: Similar to our previous statement, use of the Electronic Police Report (EPR) has now gone live department-wide. This automated system has greatly enhanced this agency's ability to closely monitor procedural requirements related to managerial performance.

Finding #6: Certain evidence was not remitted to Central Evidence & Property (CE&P).

Recommendation: No incident or supplemental report should be approved until the evidence noted in the report has been submitted to CE&P. Supervisors should not approve any incident or supplemental reports that do not include the CE&P receipt for the supporting documentation cited in the officer's report.

Department's Response:

Four of the five incidents cited under this finding have been determined to be in violation of NOPD policy regarding the processing and handling of evidence. However, all five incidents were in fact reported to the UCR program as "unfounded" offenses supported through an investigation with reasons for this determination documented in an official police report based on evidentiary video gathered and/or statements provided. In fact, one of these cases cited was actually a 'dual' reporting scenario, with rape reported as unfounded, however, the incident was determined to be an aggravated assault where an arrest was made and reported as a founded offense under the correct UCR category.

Corrective Action: As to these specific cases, the incident that did not violate policy was in relation to cell phone records. This documentation is considered much like any other paper document, in that it is made a part of the report which is considered an acceptable practice. In two of the remaining cases, audio/video evidence was located within the case file associated to the incident. These items have now been logged into CE&P with the involved members counseled. As to the remaining two cases, the investigator was unable to locate CD's containing audio/video evidence and/or statements taken and formal disciplinary action has already been initiated. However, these cases have since been reviewed by veteran supervisors specializing in sexual assault investigations and we would respectfully disagree that cases were reclassified based in the OIG's 'effect' statement. The factual content of all evidence was documented in these reports.

Finding #7: NOPD's UCR specialist did not report the highest offense on the hierarchy list to the UCR Program.

Recommendation: The NOPD should review all multiple offense situations and verify that the highest offense per the hierarchy list is reported.

Department's Response:

NOPD does not rely on the UCR hierarchy schedule to classify a police report; nor should it. We use the Louisiana Criminal Code of Procedure to determine the most serious offense and report to the UCR program accordingly. We believe the OIG's auditor's earlier statement under Finding # 1: "*Background: The NOPD was required to categorize and record offenses in the NOPD's Electronic Police Report System (EPR) based on the most serious statutes of the state*" – is accurate.

Corrective Action: None required

Finding #8: The NOPD did not maintain supporting documentation for 2010 and 2011 Part I offenses; therefore, the data was unable to be audited.

Recommendation: NOPD should follow Louisiana Public Records Law.

Department's Response:

In 2010 and 2011, NOPD relied on the City of New Orleans' Mainframe Computer System for Uniform Crime Reporting. All UCR reports were manually entered into this system and a UCR return "A" form was generated by the computer. In 2012, NOPD started using their Electronic Police System for UCR reporting. This allowed NOPD to generate an excel spreadsheet that listed every UCR report by item number. The auditors requested the excel spreadsheet for the 2010-2011 data, an item that was never produced for or used by NOPD in UCR calculations during that timeframe. NOPD did offer copies of the computer generated reports from the Mainframe; however, the auditors, to our knowledge, never viewed those reports. Since the item requested by the auditor did not exist, we do not believe NOPD would be in conflict with State law.

Corrective Action: None required

Finding #9: The NOPD excluded forcible rapes with a disposition of "Report to Follow" (RTF) in its UCR.

Recommendation: All Part I offenses with a disposition of RTF should be included in the offense data reported to the UCR Program in the correct column and row on the Return A.

Department's Response:

The OIG's finding cites 4 offenses that were excluded from the actual offense column on Return A. Although there have been several back and forth iterations of this report involving the shifting of items for one finding to another, we believe that at least one incident still being cited under this finding from 2010 was reported correctly to the UCR, not as an unfounded rape, but as an actual rape.

Corrective Action: We will work with the OIG in obtaining the specifics on the remaining cases referenced in this finding and, if errors are found, will submit the necessary adjustment as provided for under the UCR program.

Finding #10: The NOPD excluded forcible rapes with a disposition of UNF from Column 2 in its UCR.

Recommendation: The NOPD should generate a list of all Part I offenses with a disposition of UNF from CAD. NOPD should also report all calls for service, including those determined to be false or baseless, to the UCR Program on Schedule A.

Department's Response:

The OIG's findings list 6 out of the 90 incidents reviewed, stating the NOPD failed to list a call for service incident determined to be unfounded by the responding officer. These would be incidents where the responding officer was unable to locate a victim and/or where there was no evidence an actual incident occurred. It has always been the practice of the NOPD to classify crimes "*based on the facts of the agency's investigation of a crime*" as stated in the Uniform Crime Reporting Handbook. NOPD has never listed unverified calls for service to the UCR program. When compared with other peer cities, NOPD's rate of "unfounded" reported incidents is comparable to those cities.

Corrective Action: In March of this year, NOPD received additional guidance from LCLE regarding UCR classifications under the category of unfounded. We are in the process of evaluating procedural and data processing requirements associated to this new information, as well as overall FBI UCR Program changes scheduled for later this year. Completion projected for mid-2014 when new UCR guidelines on reporting take effect.

Observation #1: The NOPD lost its ability to report arrest data involving Part II offenses to the UCR Program in 2004.

Department's Response:

NOPD relies on several other Criminal Justice agencies to input data to calculate UCR Part II arrest information. Prior to 2005 this data was collected on the City's Mainframe Computer System. Since that time several agencies have created their own systems that are not accessible to the NOPD for this specific purpose. Currently NOPD is working with these agencies to gather that data and will once again be able to report UCR Part II information.

Observation #2: The NOPD abandoned its practice of posting its quarterly UCR data on its website after its website was consolidated into a City wide site.

Department's Response:

In 2010, to streamline the City's online presence, all City information was consolidated on a central City website. In addition to hosting annual NOPD UCR reports, beginning in January 2013 the website also began making calls for service data available at data "nola.gov". This raw data is continually updated on a 48-hour delay and provides the public with previously unavailable tools for tracking and monitoring criminal activity in New Orleans. Since it was launched 15 months ago, this dataset has been accessed more than 25,000 times. In addition, the NOPD still releases the quarterly reports as before and this data is publically available. If anything, there is considerably more information available to the public about crime in New Orleans than ever before in NOPD history. We would acknowledge that NOPD discontinued this practice, however, it was done in support of the City's effort to improve services to citizens by providing a so called 'one-stop shop' access to information across a broader range of agencies.

Observation #3: NOPD backdated two supplemental reports instead of using the date the report was written.

Department's Response:

The first item cited was from February 2013. Records indicate that the incident report was written in EPR and scanned in 9 days later. A supplemental report was scanned in September 2013. On the supplemental report, it appears the detective mistakenly listed the report date as the incident date. This is further evidenced by the fact that *the detective documents efforts of the investigation during the days following the incident date*. Our review indicates this appears to be a type-o.

The second item cited was from May 2013. Records indicate that the incident report was written in EPR and scanned in 2 days later. A non-EPR supplemental report was dated May 29th and scanned in August 2013. Another non-EPR supplemental report was dated March 18, 2014, and scanned in on March 25, 2014. At this time, we are unable to substantiate the allegation that the report was "backdated".

We would like to again extend our appreciation to the Office of the Inspector General for providing this agency an opportunity to comment.

Sincerely,



Ronal W. Serpas
Superintendent of Police

cc: First Deputy Mayor & CAO Andrew Kopplin
Deputy Mayor Jerry Sneed
Deputy Superintendent Kirk Bouyelas
File

BOBBY JINDAL
GOVERNOR



JOEY WATSON
EXECUTIVE DIRECTOR

State of Louisiana
Office of the Governor
Louisiana Commission on Law Enforcement
and Administration of Criminal Justice

April 28, 2014

Ronal W. Serpas
Superintendent of Police
New Orleans Police Department
715 S. Broad Street
New Orleans, LA 70119

RE: UCR Review

Dear Superintendent Serpas:

Please accept this letter as a follow up to the UCR review LCLE conducted on the twenty (20) cases you sent us, and as a follow up to the conference call we participated in with the NOPD and the New Orleans Office of Inspector General. As I stated during the conference call, LCLE's review of the twenty (20) cases revealed that any discrepancies found were the result of a misunderstanding of UCR regulations and not intentional misclassifications by NOPD of any of the cases we reviewed. Therefore, LCLE feels corrective action only is needed to remedy the discrepancies in reporting that were found during our review. I want to also offer additional training to your UCR section as a follow up to what was discussed during the conference call.

Sincerely,

A handwritten signature in blue ink that reads "Robert Mehrtens".

Robert Mehrtens
Deputy Director
Louisiana Commission on Law Enforcement
And Administration of Criminal justice