



NYPD
New York City Police Department

NYPD Response to Office of the Inspector General (OIG) Report on Special Victims Division

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INTRODUCTION

In recent years, the issue of society's response to sexual assault has entered the national spotlight, prompting more survivors to come forward and report the crimes committed against them. In late March 2018, the Office of the Inspector General for the NYPD ("OIG") issued a report on the staffing, resource allocation, training, promotional opportunities and oversight of the Department's Special Victim Division ("SVD"). The Department and the OIG have the shared goal of ensuring that sex crimes are thoroughly investigated and that survivors receive the best possible service the Department can provide. Although the Department disagrees with some of the findings of the OIG, the NYPD is committed to continual improvement and innovation in fighting crime and serving New Yorkers. As a result of the Department's commitment, the Police Commissioner announced in April 2018, that the newly appointed Chief of Detectives would undertake a top to bottom review of SVD. That review is ongoing and will serve to further the NYPD's mission to continue to drive down crime, and specifically to enhance the Department's response to sex crimes. Where agreement with the OIG already exists, the NYPD is moving forward with the implementation of those recommendations.

The NYPD is an established leader in the law enforcement community in its progressive approach to investigating sex crimes. In its report, the OIG recognize the Department as "a leader" in sex crimes investigations.¹ Well in advance of current events, the NYPD recognized the complexities and challenges of these investigations, and in 2003, created the Special Victims Division ("SVD"), a specialized, dedicated city-wide division within the Detective Bureau. The SVD is tasked with investigating allegations of sexual assault of adult and child victims. Given the Division's performance and accomplishments to date, the NYPD is confident that the formation of SVD has ensured that highly trained, motivated and compassionate investigators skillfully interact with sexual assault survivors while conducting effective investigations that ultimately hold offenders accountable and enhance overall public safety.

No other large municipal police department's sex crimes unit compares with SVD in terms of size, investigative scope, and, most importantly, expertise across multiple specialized fields. On the one hand, this is due in no small part to the NYPD's dedication of considerable resources to the Division. Since 2010, the NYPD has increased the uniformed headcount of the SVD by approximately 60% from 149 to 238 investigators. Notably, three-quarters of that increase occurred over the last four years. Each of the new investigators was carefully chosen for SVD to ensure that only the right individuals are assigned to this complex and sensitive work. After a rigorous screening process, only 20% of those who apply for a position in SVD are selected. Investigative experience matters – presently supervisors and investigators assigned to the Adult Squads in SVD have an average of 8.1 and 6.6 years of investigative experience, respectively. It is the combination of this highly selective process and the ability to leverage their collective experience that makes SVD's investigators so effective. The NYPD receives over 7500 sex crime complaints annually and in 2016, SVD's clearance rate of 36.7% of rape cases was closely aligned with the national rate of 36.5%.²

Present staffing levels in SVD translate into manageable caseloads for each investigator. Recent data indicates that in 2017, SVD investigators assigned to the Division's Adult Squads managed an average caseload of approximately six to eight open cases at any given time. With a recent addition of 20 investigators to the Adult Squads, caseloads are expected to fall to as low as an average of four to five cases per investigator at any given time, further ensuring that each case and each survivor receives the appropriate and necessary level of attention. Once assigned to the Division, SVD investigators are routinely rewarded for their hard work, averaging promotions at the same or a slightly better rate as their counterparts in comparable units and divisions in the Detective Bureau.

¹ OIG Report at P. 6.

² See <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/figures/clearance-figure>. To date, the FBI has not yet released national crime clearance rates for 2017.

More importantly, SVD investigators maintain their high level of performance while simultaneously prioritizing and focusing on the needs and vulnerabilities of sexual assault survivors. Understanding that perpetrators of sex crimes deprive their victims of the most basic sense of control over their lives, SVD investigators and supervisors actively seek to return that sense of control to sexual assault survivors through the NYPD's survivor-centered investigative model. This model empowers and respects survivors by putting the pace of an investigation in their hands.

In its ongoing effort to serve sexual assault survivors better, the NYPD partners with the advocacy community and other expert stakeholders to further our understanding of these complex investigations, the needs of survivors and how the Department can continually improve in this area. For the past four years, the Police Commissioner and his Executive Staff have met on a regular basis with these experts, resulting in highly productive discussions and valuable suggestions for improving the NYPD's performance. Moving forward, the NYPD will continue to seek the input of advocates with the goal of enhancing the Department's investigations and strengthening the trust of sexual assault survivors.

Another factor that contributes to SVD's level of proficiency is their extensive training. Simply put, SVD investigators are the best trained sex crimes investigators in the country. NYPD recognizes that forensic science, technology and innovative investigative techniques are constantly evolving in sexual assault investigations. The NYPD has, therefore, designed an ever expanding portfolio of specialized training for SVD investigators and their supervisors. Investigators also benefit from formal college-accredited training on general investigative techniques as well as those specific to sex crimes investigations. In addition, SVD investigators attend a host of specialized courses, offered both on and off-site, by subject matter experts in the fields of law, forensic science, technology, psychology, medicine, toxicology and other critical disciplines. Finally, close direction by experienced supervisors and informal on-the-job instruction from accomplished senior investigators provide SVD investigators with hundreds of additional hours of ongoing invaluable training. Recently NYPD identified and adopted a new approach to interviewing survivors known as Forensic Experiential Trauma Interview (FETI). All SVD Adult Squad investigators and supervisors are trained in this technique.

OIG also applied a staffing model, which has not been validated, from a relatively small sheriff's office in Charlotte County, Florida to arrive at what they deemed an appropriate staffing recommendation for the NYPD. In their application of Florida's Charlotte County Sheriff's Office's staffing model, OIG utilized metrics derived from a three-month case study by Charlotte County Sheriff William Prummell of his personnel and their cases. This staffing analysis is largely inapplicable to a department as large and complex as the NYPD.

In the pages that follow we address more fully the OIG report. Given the Department's concerns with some of the analysis employed by the OIG's investigation, the Department seeks to provide additional information to assist in the understanding of the Department's unwavering commitment to serve survivors and combat sex crimes. The NYPD is proud of the hard and often dangerous work performed by its uniformed and civilian members on a daily basis, including the difficult work of the SVD. At the same time, the NYPD is constantly striving to improve its performance, including in areas in which it has already demonstrated proficiency. As Police Commissioner James P. O'Neill said, "In most areas of policing the NYPD is very good, in some areas we are the best, but in all areas we can get better. We have been working, and will continue to work, with sexual assault victim advocates, academics, and national experts to improve our practices to enable us to better respond to victims of sexual assault, make every victim feel safe to come forward, and reduce the overall instances of these assaults over time."

I. NYPD's Strong Commitment to Sexual Assault Survivors

In early 2018, the Police Commissioner created the SVD's Stranger Cold Case Unit. The Unit reviews unsolved sex crimes cases that date back years and, in some cases decades, and resurrects investigations with the goal of providing a sense of justice to survivors and, where possible, of holding offenders accountable.³ The Unit's creation was prompted by the exceptional work of SVD investigators who, earlier this year, relentlessly investigated a 1994 rape that had occurred in Prospect Park and identified the serial rapist who was responsible for the attack.

At the core of the Department's Neighborhood Policing strategy is the principle that the NYPD will do everything it can to help victims of crime rebuild their lives. In 2016, the Department launched the Crime Victim Assistance Program (CVAP). Working with Safe Horizon, the Department has placed two advocates in its patrol precincts to assist crime victims. The advocates help to mitigate trauma in the aftermath of a crime, provide information to victims about the criminal justice process, and help victims develop safety plans to prevent repeat victimization. They also advocate for needed services, such as safe affordable housing, emergency NYCHA transfers, victim compensation, medical care, and public benefits, and link victims to other local service providers for additional and more specialized assistance. CVAP is currently operating in more than two-thirds of the NYPD's patrol precincts and will be in every patrol precinct and police service area by the end of this summer.

Over the last several years, the Department has gone to great lengths to encourage the survivors of sexual assault to come forward and report. The Department has collaborated with victim advocates and prosecutors in all five boroughs to create outreach material which explains what sexual assault is, how to report it, and where to get assistance. The Department has distributed 36,000 copies in eight languages to hospitals, Family Justice Centers, Borough Presidents' Offices, and colleges throughout the city. Members of the Department have also leafleted 6,000 subway riders with subway-specific information explaining how victims can report any level of sexual misconduct. Additionally, auxiliary officers distributed another handout at 20 major subway hubs around the city emphasizing resources for victims of crime. A total of 76,000 of these flyers were distributed to the public in English and Spanish.

Moreover, in 2017, the Department, for the first time, launched a Victims of Crime Section on the Department website. It helps the public become more familiar with reporting a crime and the criminal justice process, provides information about various types of courts, resources and services available to victims, describes the U Visa certification process, and includes a list of frequently asked questions, as well as a glossary of terms. This webpage was developed in conjunction with the victim advocacy community.

Given the national research about persistent under-reporting, the Department recently launched a multimedia campaign, entitled "The Call is Yours," emphasizing that reporting a sexual assault is the victim's choice to make, and that doing so can stop a perpetrator and connect the victim to important resources and services. In early April, the Department launched the social media portion of this campaign, disseminated posters about it on subways and buses, and aired a motion graphic in NYC taxis.

To reach college students, the Department conducted focus groups with students to understand their perspectives on the issue. For the last three years, the Department has partnered with the New York City

³ Unfortunately, some cases are barred from prosecution due to the statute of limitations. In the past, the statute limited the time by which the District Attorneys' Offices could initiate a prosecution for a sex crime felony to five years from the date of the offense. In 2006, the statute was amended to remove the five-year limit for certain sex crimes, including Rape in the First Degree, Criminal Sexual Act in First Degree, and Aggravated Sexual Abuse in First Degree. See Criminal Procedure Law 30.10(2)(a)

Police Foundation to sponsor annual poster contests for students to encourage their peers to report sexual assault to the NYPD. Each of the winning posters has been distributed to more than 100 colleges and universities in the city. To encourage more reporting from college campuses, the NYPD negotiated new agreements with local colleges to reinforce their legal obligation to report a campus rape to the police within 24 hours, unless the victim chooses not to report to the police. To make reporting less burdensome, school officials are encouraged to call the NYPD rape hotline so that victims of rape or sexual assault can speak directly to the Special Victims Division.

In order to improve outcomes and hold offenders accountable, the NYPD Transit Bureau, in conjunction with the Manhattan District Attorney's Office, developed a supporting deposition form for victims of sex crimes committed in the subways. It captures an accurate description of events, as well as a contemporaneous victim statement. Victims can now report the exact details of the crime in their own words and native language. Previously, victims were directed to report to a stationhouse for a further interview, which could take place days or weeks later. This frequently led to victims declining to participate. Now, this corroborating statement can be completed by a victim at the scene of the incident, providing a more convenient way for victims to quickly and accurately report crimes and move the case to the next stage in the criminal justice process much faster.

In addition to continuous improvement, the Department is also committed to greater understanding regarding its investigation of sexual assaults. The Department instituted a semi-annual sex crimes case review in which victim service agencies review closed SVD cases. The goal of this review is two-fold – to receive constructive feedback in order to improve the Department's handling of sexual assault cases and to provide participating organizations with a greater understanding of how the NYPD conducts sexual assault investigations. To date, more than 500 cases have been reviewed, and the advocates, as well as the investigators, have benefitted from this process.

The Department also established a new level of transparency regarding incidents of sexual assault in New York City. In 2016, the Department launched CompStat 2.0. For the first time, the public can conveniently access an interactive portal with information about major crimes, including rape, on the Department's website. The public can query information about sexual assaults including approximate location as complaints are made.

Unfortunately, the OIG did not report on the NYPD's focused and concerted efforts to increase the reporting of sexual assaults, promote transparency about its work, build stronger cases, and improve the experience of survivors when they decide to report a sexual assault.

II. NYPD's Special Victims Division

SVD comprises, in part, five borough-based squads, known as the Adult Squads. These five squads are devoted solely to the investigation of sex crimes against adult victims. In addition, the Division comprises various other specialized sub-units, including but not limited to, investigative units to address DNA cold cases, transit system cases, child abuse, the monitoring of registered sex offenders, and stranger cold cases.⁴ For example, in 2012, the Night Watch Squad was created to respond to hospitals during the night shift and interview survivors who reported having been sexually assaulted. In 2015, a dedicated Bronx Child Abuse Squad was established,⁵ as well as the DNA Cold Case Squad. In 2016, the Transit Special

⁴ One sub-unit within SVD is the Hate Crimes Task Force, which investigates crimes determined to have been motivated by bias against the alleged victim's race, religion, sexual orientation, or other determinative factor. The work of the Hate Crimes Task Force was not a subject of OIG's review and is therefore not explored in detail herein.

⁵ Presently, Child Abuse Squads exist in the Bronx, Queens, Manhattan and Brooklyn. Child abuse cases that occur in Staten Island are handled by the Adult Squad in that borough.

Victims Squad was established to focus on sex crimes in the transit system. In 2018, the Stranger Rape Cold Case Squad was established to address complaints of sex assaults that fall outside of the present reporting year. In pursuing its mission, SVD also partners with victim advocates, academics, other law enforcement agencies and other city agencies and government partners, such as the Administration for Children’s Services (“ACS”). In NYPD’s internal structure, SVD is under the command of the Detective Bureau.

Prior to 2003, sex crimes and child abuse allegations were investigated by borough-based Special Victims Squads who reported to that particular borough’s Detective Bureau supervisor. This supervisor, however, was also responsible for overseeing all other detectives in that borough. In 2003, the Department centralized each borough’s Special Victims Squad into one citywide division. Under this reorganization, each borough squad reports to the Commanding Officer of SVD, who in turn directly reports to the Chief of Detectives. This restructuring ensures that the sole focus in the Division is on the effective investigation of these sensitive cases. It also enables investigators to hone their skills and remain current with best practices in sexual assault investigations.

SVD investigators are responsible for investigating felony and misdemeanor sex crimes⁶ committed against adult victims,⁷ all misdemeanor and felony sex crimes committed against victims less than 13 years old, and allegations of child abuse when the victim is less than 11 years old. Since the creation of SVD, precinct squad detectives, in limited circumstances, have been utilized to investigate some sex crimes cases. This has occurred only when a patrol officer responds to a call for service and is able to immediately arrest the perpetrator at or near the scene. In these cases, precinct detective squad investigators perform the basic investigative steps necessary to develop additional evidence, such as conducting an interview with the complainant, locating other witnesses and physical evidence, and questioning the suspect. This process is known as “case enhancement.” In all other circumstances, when a sex crime complaint is taken at a precinct, hospital, or other location and a summary arrest is not possible, the case is assigned to and investigated by SVD. Based on a recent assessment of SVD by the newly appointed Chief of Detectives, the NYPD has decided to eliminate case enhancements by precinct squad investigators in felony sex crimes cases, which will be enhanced by SVD investigators going forward.

A. The Special Victims Division Investigators Have Manageable Caseloads Consistent with National Standards and Are Vigilant in Ensuring Crimes Are Thoroughly Investigated.

NYPD’s staffing analysis and process, which determines manageable caseloads and appropriate staffing levels in SVD, is thorough, well-founded, and appropriate. The Chief of Detectives evaluates staffing on a quarterly basis, taking into account the types and demands of cases in an investigator’s typical caseload, as well as the types and demands of cases that come into the Division as a whole. In general, an SVD investigator in an Adult Squad carries a caseload that includes a majority of misdemeanor cases along with a number of felonies. Approximately 85% percent of SVD’s Adult Squad cases involve a named or known perpetrator, eliminating the investigative time necessary to identify a suspect. Based on the NYPD’s analysis, in 2017, the average annual caseload per investigator in SVD’s Adult Squads was 93 cases, considerably lower than the 150 to 175 caseload of precinct detective squads. To be clear, SVD investigators did not manage 93 open cases at any given time as OIG’s Report implies. Rather, when divided by the twelve months of the year, this data reveals that SVD Adult Squad investigators managed an average of six to eight open cases at any given time. With the recent addition of 20 investigators to these squads, caseloads are expected to fall to approximately four to five cases per investigator at any given time. Significantly, this is below the caseload of six to eight prescribed by the staffing model on which OIG relies.

⁶ These crimes are detailed in Article 130 of the New York State Penal Law.

⁷ For these purposes, an adult victim is defined as anyone who is at least 14 years old.

NYPD's staffing assessments also take account of the vast network of Department resources that are routinely utilized in sex crimes investigations. These resources include: the Technical Assistance Response Unit which assists in the collection of video and other technological evidence; the Crime Scene Unit; the Computer Crimes Unit; the Real Time Crime Center, which conducts facial recognition analyses and provides other useful information from department databases; Neighborhood Coordination Officers who also assist in the canvassing and collection of video evidence; and the Warrant Section which assists in apprehending identified suspects. Leveraging these resources relieves SVD detectives of various investigative steps and allows them to focus on building a prosecutable case.

Staffing decisions also take into account that the Chief of Detectives and SVD's Commanding Officer have the ability to reallocate staff and authorize overtime as circumstances dictate. For example, the Detective Bureau establishes task forces to solve pattern crimes, pairing investigators from various units and thereby increasing the amount and diversity of resources available to resolve a case. Similarly, within SVD, resources are reallocated to address specific cases as needed.

The newly appointed Chief of Detectives recently examined SVD through the lens of civilianization, a staffing analysis by which positions in the Division that are currently performed by a uniformed member of the service can be performed by a civilian member of the service. It was determined that as many as 33 additional investigators who had previously been assigned to administrative tasks and special projects by SVD's Commanding Officer may be available to resume investigative work once those tasks are either streamlined or reallocated to civilian personnel. Significantly, among these 33 investigators are detectives in the rank of second and first grade.

In sum, the OIG report did not fully assess and consider NYPD's operational capabilities and flexibility to allocate assets in sex crimes investigations. Consequently, from an outcome perspective, corresponding staffing assessments are flawed. SVD's case closure rate demonstrates the Division's ability to effectively investigate and resolve sex crimes investigations at a rate closely aligned with the national average.⁸ From 2010 to 2017, SVD investigated over 120,000 cases, solved over 600 stranger rapes, resolved over 1,800 Cold Case DNA Hits/Matches, and assessed over 64,000 Instant Response Tracking cases and Law Enforcement Referrals.⁹ In 2017 alone, the SVD investigated more than 15,000 cases including 1,800 rape allegations, managed thousands of Registered Sex Offenders, reviewed more than 6,500 complaint reports for proper classification, and conducted more than 2,000 controlled phone calls.

NYPD commanders in investigative units routinely request more staffing. The Department's executive leadership must balance competing staffing needs within the finite resources the Department has overall. With respect to SVD, NYPD leadership responded to requests for additional staffing from SVD's Commanding Officer. In fact, since 2015, the headcount of the SVD has increased each year, by 37 in 2015, 11 in 2016, 43 in 2017, and 34 in 2018 to date, for a net increase of 125 investigators. These investigators were used to supplement and assist with much of the work that SVD adult squads were doing.

It should also be noted that a staffing request from a Commanding Officer of a discrete unit or division within the NYPD is not the definitive statement of what is required for that unit to operate effectively. As in every major government agency, the agency managers – the Police Commissioner and his Executive Staff – must balance competing staffing needs, examining each Department subdivision as a part of the whole, while allocating a finite amount of resources to a wide array of needs.

⁸ See FBI statistics at <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/offenses-known-to-law-enforcement/clearances/clearances>.

⁹ Instant Response Tracking cases and Law Enforcement referrals are generated when SVD receives cases from New York City's Administration for Child Services through the Child Abuse Hotline.

B. The Unsuitability of “The Prummell Model” to the NYPD

In its report, OIG refers to “the Prummel [sic] Model,” as “the most advanced evidence-based staffing analysis model”¹⁰ in policing for investigative squads. Although the Department is aware of this model, it does not utilize it due to concerns with its accuracy and applicability to a department that is as large and complex as the NYPD. Charlotte County, with a population that is 2% of the population of New York City, receives a small fraction of the amount of sexual assault complaints compared to New York City. Both the differences in population and in the types of crime reported between the two jurisdictions produce a different set of needs and a different set of capabilities. For example, the Charlotte County Sheriff’s Office does not have a homicide investigation unit because they have had no reported homicides in some years. Similarly, they do not have a dedicated sex crimes unit. It is reasonable to believe that they may not have the resources, focused expertise and efficiencies that SVD investigators have as a result of exclusively investigating a higher volume of cases and having at their disposal the extensive resources of the NYPD.

Moreover, the NYPD was unable to identify any peer-reviewed evaluations of the accuracy of the model nor did it identify any police departments or a similar size and complexity as the NYPD that had fully operationalized the model. Sheriff William Prummell of Charlotte County, Florida, the author of the study, candidly admitted that the model’s accuracy was “up for interpretation.”¹¹ Any reliance on this unvalidated study in making staffing recommendations for the NYPD is questionable at best. The Department’s concerns with the evidence relied on to support adoption of this staffing model is detailed in Appendix A.

The NYPD will continue to carefully assess the needs of SVD, mindful of the number and different types of cases that require investigation, their relative complexities, the manageability of caseloads, the availability of NYPD resources both within and outside the Division, the concerns of advocates and survivors, and all other relevant factors, to arrive at appropriate staffing levels for the Adult Squads and SVD’s other specialized units. As always, the NYPD will also carefully assess and evaluate any validated peer-reviewed investigative staffing model that may be developed in order to determine its suitability to the Detective Bureau and, more specifically, to SVD.

C. SVD Investigators in the Adult Squads Are Sufficiently Experienced to Effectively Investigate Sex Crimes Cases.

The OIG’s report focuses on the experience of the members of the SVD, arguing that many of the members are “white shields,” and therefore lack the appropriate experience necessary to investigate some of the most serious and complex crimes. Nothing could be further from the truth. Indeed, investigators and supervisors assigned to SVD have an average of 6.6 and 8.1 years of investigative experience, respectively. Of the 103 investigators presently assigned to the Adult Squads, 72 have ten or more years of service in the Department. In addition, 20 of the detectives assigned to the Adult Squads have 10 or more years of service in the rank of detective.

SVD employs both detectives and police officers as investigators. Detectives are colloquially known as “gold shields,” while police officers are “white shields.” OIG asserts that police officers assigned to SVD are inferior and ineffective investigators without an individualized analysis of the actual personnel that are chosen for the Division. Discounting the skills, dedication and effectiveness of an investigator solely because he is a police officer and not a detective is the result of an unsupported generalization. As outlined in detail below, the police officers who are carefully chosen to become SVD investigators are

¹⁰ OIG Report at P. 20.

¹¹ William Prummell, Florida Department Of Law Enforcement, Allocation Of Personnel: Investigations (2014), Pg. 7 <https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=604>

talented and highly motivated individuals who are often plucked from choice assignments in the Patrol Services Bureau. Conversely, assuming that a detective experienced in investigating robberies, burglaries or other crimes unrelated to sexual assault is obviously superior to these exceptional police officers is similarly unfounded. OIG, however, did not conduct an in-depth exploration of the individual strengths and weaknesses of the personnel who presently comprise the Adult Squads in SVD.

In fact, patrol officers are the backbone of the NYPD. Because they respond to approximately five million calls for service¹² that the NYPD receives each year, they regularly interact with the community and with crime victims more than any other members of the service. They investigate reports of crime in most of the instances in which they are summoned. Accordingly, patrol officers must develop the interpersonal skills and compassion necessary to sustain these constant interactions, as well as basic investigative skills. In this sense, “white shields” are an entirely appropriate population from which to select some of the SVD investigators. OIG’s reliance on general anecdotal statements about inadequate performance of an unspecified number of unidentified SVD officers does not refute this premise and should not be represented as empirical evidence of systemic failure.¹³

Police officers or detectives who apply for a position in SVD must be of the highest caliber and aptitude. All applicants are assessed on their individual qualifications and resumes, the very type of assessment that OIG neglected to do before reaching its conclusions. Those ultimately selected are the most highly motivated and qualified candidates, possessing attributes such as strong interpersonal skills, compassion, discipline, analytical thinking, attention to detail, and the capacity for relentless pursuit of a just outcome.

The Commanding Officer of SVD conducts an initial screening of the applicants by examining their written applications and resumes, focusing on the characteristics noted above and a number of other factors. An applicant’s prior employment history within the Department is reviewed, including the units to which he or she has been assigned, the quality of enforcement actions taken by the applicant, and any relevant or specialized training the applicant has completed. Prior assignments are also important to the selection process. Applicants who served as a Domestic Violence Officer (DVO), Neighborhood Coordinating Officer (NCO), Field Intelligence Officer (FIO), Crime Analysis Officer, Anti-Crime Officer, or a Warrants Officer have proven to be exceptional candidates.¹⁴ Evaluations by supervisors, the applicant’s history of sick absences, and any disciplinary findings are also taken into account. Consideration is also given to an applicant’s educational history and past employment history before joining the Department. Applicants with past experience as social workers, counselors, case workers for the Administration for Children’s Services (“ACS”), or former employees of a District Attorney’s Office are identified and often prioritized.

Once selected, new investigators in the Adult Squads are not simply left to their own devices. All investigators are closely overseen by their respective SVD supervisors, who often work with them investigating cases. Generally, when a victim first makes a complaint, an SVD supervisor assesses the case with the assigned investigator to jointly develop an investigative plan. This consultation process is repeated as necessary throughout the duration of the case and ensures that the plan is fluid and effective. Supervisors also review all paperwork completed by their investigators. At the conclusion of an investigation, the supervisor again confers with the assigned investigator to confirm that the case should be closed. This careful supervision continues throughout the investigator’s career in SVD. In addition, new investigators have ongoing access to more experienced members of the squad and discuss their investigations with these

¹² In 2016, the NYPD responded to 4,858,911 calls; in 2017, the NYPD responded to 5,437,854 calls.

¹³ SVD’s case clearance rate, noted above, also speaks to the level of professionalism and experience of SVD investigators.

¹⁴ During March 2018, 20 new investigators were assigned to SVD. Six of these were current or former NCOs.

more senior colleagues. Considering the close supervision and peer consultation, investigators receive hundreds of hours of additional informal training during their careers in SVD.

Despite this careful selection of talented personnel, their extensive training and the close oversight they receive from experienced supervisors, OIG concludes that “inexperienced personnel continue to degrade the quality of investigations.”¹⁵ OIG reached this conclusion without having closely examined the body of work produced by the police officers and detectives assigned to the Adult Squads or their individual qualifications. OIG did not conduct any type of case review of SVD cases to assess the quality of the investigations. Rather, it seems that OIG based this finding on anecdotal interviews.¹⁶ To be clear, the NYPD invites survivors, victim’s advocates, prosecutors or any other interested party to provide such information to the Department so that it may be thoroughly investigated and, if necessary, result in adjustments to personnel, policy and the implementation of immediate remedial training. Such limited information does not support a broad and sweeping condemnation of SVD’s investigators or OIG’s recommendations for systemic change.

Finally, to the extent that OIG concludes that victims are “disengag[ing] from the investigative process”¹⁷ due to SVD’s utilization of “white shields,” OIG overlooked two important points. First, the survivor-centric model employed by the NYPD encourages survivors to control the timing and course of investigations, including withdrawing their participation at any time. The Department stresses this approach with investigators of all ranks. Second, if the implication is that survivors are not choosing to come forward, the reporting of sex crimes in New York City has in fact significantly increased in the past year.¹⁸ This increase, at least in part, can be attributed to NYPD’s sustained efforts to encourage victims to engage the system, such as the Department’s “The Call is Yours” campaign and other efforts described more fully in Section I above.

D. SVD Has Little Difficulty Recruiting and Retaining Qualified Members of the Service

In its report, OIG argues that SVD is “unable to recruit or retain sufficiently experienced investigators,” attributing this inability to a lack of promotional opportunities within SVD. Again, data that OIG did not reference establishes otherwise.

Contrary to this assertion, promotional opportunities exist for SVD personnel, and the Division’s investigators and detectives have historically received discretionary promotions at the same or faster rate than detectives in comparable units. As a result, SVD has little difficulty attracting talented and qualified individuals. Indeed, one of the primary reasons that SVD is so attractive to exceptional police officers who seek assignment to the Division is because of the opportunity for promotion to the rank of detective. Once assigned to SVD, these officers are “on an investigative track” and are promoted to Detective 3rd Grade once they satisfactorily fulfill their responsibilities in the assignment for 18 months. From 2010 through 2018, 115 police officers who were assigned to SVD were promoted to Detective 3rd Grade.¹⁹

From 2010 to 2018, 41 SVD detectives were promoted to the rank of Detective 2nd Grade and 20 more were promoted to Detective 1st Grade. Indeed, when compared with other similar units within the Detective Bureau during the same time, promotional rates for SVD detectives were the same or better. This is also true when examining each of those years in isolation. The table below provides a comparison of

¹⁵ OIG Report at P. 12.

¹⁶ OIG Report at P. 19-20.

¹⁷ OIG Report at P. 28.

¹⁸ In 2017, 6447 sex crimes were reported to the NYPD, a 5.3% increase over 2016. From January 1 to May 31, 2018, the NYPD has seen a 36.8% increase in reported rapes, as compared to the same period in 2017.

¹⁹ Statistics as of April 25, 2018.

promotions within the SVD with those in the Central Robbery Division (“CRD”), the Special Investigations Division (“SID”), and the Grand Larceny Division (“GLD”). These units were selected for comparison because they are of comparable size and have similar operational structures. Like investigators in SVD, the investigators in these units are assigned their own cases as incidents occur. The investigator who “catches” a case, along with his or her partner, is responsible for conducting the investigation – interviewing the witnesses, gathering physical and identification evidence, consulting with the prosecutor when necessary, locating and, if possible, interviewing an identified suspect, and making an arrest when warranted.

YEARS IN SPECIAL VICTIMS PRIOR TO PROMOTION

<u>YEAR</u>	<u>PROMOTION TO</u>	<u>SVD</u> <u># of Det</u> <u>(Average</u> <u>Time in</u> <u>SVD)</u>	<u>CRD</u> <u># of Det</u> <u>(Average</u> <u>Time in</u> <u>CRD)</u>	<u>SID</u> <u># of Det</u> <u>(Average</u> <u>Time in SID)</u>	<u>GLD²⁰</u> <u># of Det</u> <u>(Average</u> <u>Time in</u> <u>GLD)</u>
2010	1ST GRADE	3(5)	0	0	*
	2ND GRADE	8(5.5)	0	3(5.8)	*
2011	1ST GRADE	3(4.7)	0	0	*
	2ND GRADE	5(4.7)	2(10.7)	4(7.7)	*
2012	1ST GRADE	2(5)	2(5.7)	3(5.8)	*
	2ND GRADE	5(6.7)	5(7.6)	6(5.5)	*
2013	1ST GRADE	3(8)	1(7.2)	2(8.9)	*
	2ND GRADE	8(7)	7(7.8)	6(9.2)	*
2014	1ST GRADE	2(4.7)	0	1(7.3)	0
	2ND GRADE	4(8)	3(11)	1(7)	0
2015	1ST GRADE	1(3.4)	1(7)	1(3)	0
	2ND GRADE	3(9.1)	2(9.5)	4(7.1)	1(4.4)
2016	1ST GRADE	4(6.3)	2(8.4)	3(5.1)	1(4.1)
	2ND GRADE	4(9)	3(9.3)	6(3.7)	3(6.8)
2017	1ST GRADE	2(5.7)	0	2(3.7)	0
	2ND GRADE	4(7.5)	2(8.1)	5(2.1)	4(3.1)
TOTAL	1ST GRADE	20(5.3)	6(4.7)	12(5.6)	1(4.1)
	2ND GRADE	41(7.1)	24(8)	35(6.0)	8(4.7)

As the chart demonstrates, SVD promotions track those in other similar units. One of the reasons that OIG reaches a different and incorrect conclusion about promotional opportunities within SVD is because OIG incorrectly assumes that SVD and the NYPD’s Homicide Squads are comparable entities.

²⁰ The Grand Larceny Division was not created until 2015. Thus, comparable data for calendar years 2010-2013 is not available.

Detectives in the Homicide Squads do not “catch” cases. Homicide cases are assigned to detectives in the precinct detective squads. Investigators in the Homicide Squads assist and support the precinct squad detectives and are expected to serve as expert advisors and consultants to these squads, as well as to provide them with additional manpower.²¹ By definition, therefore, the personnel in the Homicide Squad are some of the more experienced detectives in the Detective Bureau and thus may receive grade promotions at a different rate, or may have attained a higher grade prior to being transferred into the Homicide Squad. Additionally, given the historic reduction in homicides in the city, homicide detectives now also assist precinct detective squads in a variety of other cases, including shootings and other major cases. In contrast, SVD detectives handle their own cases and do not serve precinct squads in this capacity. In sum, OIG is comparing apples and oranges.²²

In addition, OIG repeatedly criticizes the NYPD for its failure to implement the NYPD’s 2010 Working Group recommendation “that SVD investigators should be given greater consideration for grade and Special Assignment promotions.”²³ That staffing recommendation, however, is based on information from eight years ago, and lacks a fully informed and sophisticated analysis of presently available information and competing needs.²⁴

With respect to the retention of detectives within SVD, OIG evinces another misperception about “career paths” in the Detective Bureau. Under OIG’s vision, if more detectives in SVD’s Adult Squads were given promotions more regularly and at faster rates, those detectives would devote their entire careers, or a major portion of them, to working in SVD. This proposition ignores the reality of this difficult work, as well as the data regarding the departure of detectives from SVD. From 2010 through 2017, the vast majority of detectives who left SVD did not do so because limited promotional opportunities caused them to seek out other more promising positions. Of the 189 detectives who departed SVD during this time, 132 of them simply retired. Seven additional detectives left SVD because they were promoted to the rank of sergeant. By taking and passing the qualifying examination to become a sergeant, these individuals clearly made a conscious decision to become a uniformed supervisor within the Department and to climb an entirely different promotional ladder than that of a detective. Their departure from SVD was not unusual in that nearly every member of the service who is promoted to sergeant is automatically transferred to a different

²¹ When necessary, detectives from other units within SVD are deployed to work on a particularly challenging case within the Adult Squads that may require assistance. In addition, the Chief of Detectives also utilizes investigators from units outside of SVD when they are necessary to bring an ongoing investigation to a successful conclusion.

²² OIG also makes this incorrect comparison when comparing caseloads in SVD and the Homicide Squads.

²³ OIG Report at Pgs. 7, 17.

²⁴ OIG devotes a great deal of its report to finding fault with the NYPD for not immediately implementing and strictly adhering to the 2010 Working Group’s recommendations. In fact, as reflected in this response, the NYPD implemented all of the Group’s recommendations with the exception of this staffing recommendation. The additional recommendations included assigning all sex crimes investigations where no summary arrest was made to SVD, requiring that SVD respond to hospitals to interview victims, increasing cooperation with prosecutors, enhancing training, and meeting with stakeholders. Under current protocols, the NYPD satisfies or exceeds these additional recommendations. SVD investigates all cases unless a summary arrest is made for a misdemeanor sex crime. In that event, a precinct detective enhances the case. With respect to summary arrests for sex crime felonies, the NYPD now requires that these cases be enhanced by SVD. As previously noted, over 500 members of the Detective Bureau who are not assigned to SVD have been FETI trained and that training is ongoing. SVD responds to interview victims who are located in a hospital unless an SVD detective is not available. In isolated incidences when SVD is not available, the NYPD strongly believes that a sexual assault survivor should not have to delay their report until SVD becomes available. A precinct squad detective or a Nightwatch Squad detective therefore responds and does a preliminary interview with the victim to gather simple factual information such as the crime’s location, a description of the perpetrator and a brief account of the crime. As noted above, Nightwatch Squad detectives are presently prioritized for ongoing FETI training. SVD, however, further investigates the case and does a more in-depth interview with the survivor at a later time. SVD’s close cooperation with prosecutors, enhanced training and constant engagement with advocacy groups and service providers are outlined above in the body of this response.

command. Under these circumstances, none of these departures from the Division definitively prove that these individuals perceived a lack of promotional opportunities within SVD.

The remaining 48 detectives²⁵ transferred to other units. Without debriefing each of them individually, however, OIG cannot reliably assume that their departure is attributable to a determination on their part that they had no promotional opportunities. Although detective work is one of the most rewarding professions, it can also be stressful and draining for those who work full-time to solve such heinous crimes as sexual assault or child abuse. Undoubtedly, detectives in SVD do some of the most difficult and important work in the Department. In the course of their work, they regularly encounter survivors who are experiencing significant physical and emotional pain, grief, anxiety and fear. Closely witnessing the trauma wrought by an offender on victims can have an emotional effect on compassionate officers.²⁶ Some detectives who served in SVD may simply have sought an assignment elsewhere to alleviate these psychological burdens. Others may experience burnout from investigating the same types of cases for a sustained period of time. Yet others may have had a change in family or personal circumstances that causes them to pursue different work in the Department. Given these complexities, the occurrence of transfers of some personnel from a specific Division over the course of time, without far more facts, is not tantamount to a Departmental failure to afford promotional opportunities.

E. SVD Investigators Are the Most Highly Trained Sex Crimes Investigators in the United States.

The NYPD wholeheartedly agrees with OIG's observation that "training of dedicated sex crimes detectives is essential."²⁷ The Department has ensured that SVD investigators are the best trained sex crimes investigators in the country. All SVD investigators, including those assigned to the Adult Squads, receive a progression of training that ensures that they are skilled, sensitive, resourceful and effective. This progression begins with a solid foundation in the basics of criminal investigation. It then proceeds to more focused and specialized instruction in the handling of sex crimes cases, including the most effective and appropriate manner in which to interview victims of sexual assault. Training continues throughout an SVD investigator's career in the Division through additional courses, both in-house and off-site, that are chosen to further enhance particular skills and knowledge in this discrete and specialized area. As with any division in the Detective Bureau, this solid basis of formal training is continually supplemented by daily and invaluable input and guidance from experienced supervisors and senior investigators, who assist and collaborate with other members of the Division as they conduct investigations. Finally, because it is SVD's practice to work closely with prosecutors in developing the quantity and quality of evidence that will ultimately secure a conviction in court, investigators gain ongoing and valuable legal knowledge through this process as well. In reaching its conclusion that SVD investigators are inadequately trained, OIG did not take into account the considerable amount of the training in this area that the Department provides.

a. SVD Investigator Training

The foundation of an SVD investigator's training is the Detective Bureau's two-week long Criminal Investigation Course ("CIC") at the Police Academy. The course requires full day attendance and has a faculty comprising more than 40 instructors, including experienced subject matter experts from the Department, as well as from the Office of the Chief Medical Examiner, the New York State Division of Parole, New York City Law Department, the New York City Human Resources Administration, the New

²⁵ One detective resigned from the Department while another passed away, leaving 48 remaining detectives who transferred to other units.

²⁶ As the NYPD's 2010 Working Group observed, "the heavy emotional toll of SVD sometimes causes even the most talented investigators to burn out, and procedures should be in place to allow transfer to other assignments when warranted." See Sex Crimes Working Group Final Report at P. 17.

²⁷ OIG Report at P. 31.

York State courts, the federal Bureau of Alcohol, Tobacco and Firearms, and the United States Postal Inspectors. The program is college-accredited²⁸ and includes, among other topics, instruction on basic criminal investigation methods; the forensic science of DNA; case management, including the capabilities and functioning of the Detective Bureau's computerized case tracking system known as the Enterprise Case Management System ("ECMS"); utilization of the internet in investigations; pattern recognition and identification; practical and legal considerations regarding lawful searches, witness identification and custodial interviews of suspects; crime scene preservation and response; fingerprints; forensic evidence processing; and courtroom testimony. All SVD investigators, whether in the rank of detective or police officer, complete the Criminal Investigation Course. Their training is then supplemented with a five-day Special Victims Investigator Course ("SVIC") which is held at the Office of the Chief Medical Examiner. Again, the students attend full-day sessions. The faculty consists of over 20 subject matter experts in fields that are particularly germane to sex crimes investigations, including but not limited to, members of Sexual Assault Response Teams ("SART"), sexual assault and child abuse advocates, medical professionals and hospital staff, Sex Crime Unit and Child Abuse Unit supervisors from District Attorneys' Offices, officials from the city's Administration for Children's Services and Child Advocacy Centers, a psychologist and a member of an Autism Response Team as well as seasoned investigators and supervisors from SVD. Among the many different sessions included in the training are lectures focused on the investigation of adult sex crimes, including stranger and non-stranger sexual assaults. A case study of a robbery and sexual assault of an elderly woman is also included. Similar to the CIC, a final examination is administered and college credit is available to participants.²⁹

In addition to the CIC and SVIC courses, all Special Victims investigators handling adult sex crimes receive Forensic Experiential Trauma Interview ("FETI") training, a multi-day, comprehensive training specifically tailored to the NYPD's needs and taught by nationally recognized experts. It covers a range of topics including the neurobiology of trauma, common misperceptions about sexual assault and survivor behaviors, key principles of memory encoding, storage, and retrieval, and how to more effectively communicate with sexual assault survivors. Essentially, the NYPD is training SVD investigators to recognize the limitations of the traditional "who, what, when and where, just-the-facts" questions and instead ask more open-ended questions about what victims experienced. This training emphasizes survivor control of the interview and gives investigators the skills to help victims recall and retrieve more details about the assault. According to FETI training experts, the NYPD is the only police department in the country that has trained all of its investigators who handle cases involving adult sex crimes victims.

An SVD investigator's education does not end with these fundamental trainings. Once assigned to SVD, investigators receive a host of specialized training unique to the Division as shown in Appendix B.³⁰

²⁸ John Jay College of Criminal Justice awards 3 undergraduate credits to students who successfully complete the course and achieve a passing grade of 70% or above on the final examination.

²⁹ John Jay College of Criminal Justice awards 2 undergraduate credits to students who successfully complete the course and achieve a passing grade of 70% or above on the final examination.

³⁰ This extensive catalogue of training for SVD investigators – both old and new -- directly refutes OIG's conclusions that "[c]learly, NYPD needs to devote more time and resources to the formal training of investigators and must create the conditions for informal training to flourish."³⁰ In fact, all SVD investigators get extensive training. Conditions for informal training are flourishing in the form of the peer-based, cohort learning and rotation of assignments as described above. Indeed, when OIG interviewed the Commanding Officer of the SVD, he provided them with a list of these training courses to demonstrate the comprehensive nature of SVD personnel's education. Yet OIG did not include this information in their report and arrived at the unsupported conclusion that training for SVD investigators is "insufficient." It is also doubtful that many of the OIG's interviewees were fully aware of the extent and scope of the SVD's current training regimen when, according to OIG, they opined about the insufficiency of training. Given OIG's decision to omit mention of all of SVD's training courses in their Report, the Department assumes that they did not share this information with these individuals prior to eliciting their input in this regard.

In sum, given the information provided to OIG, they should have come to the inescapable conclusion that SVD investigators are the best and most extensively trained sex crimes investigators in the country.

b. Training of Patrol Officers

Although OIG never interviewed NYPD's Chief of Training or observed relevant courses provided to recruits at the Police Academy, they also concluded that training for patrol officers must be enhanced to include "trauma-informed care and best practices regarding sexual assault."³¹ In fact, the NYPD has provided such training in a variety of formats.

At the Academy, recruits are taught best practices when responding to a sexual assault. As an initial matter, recruits learn that all allegations of sex crimes or child abuse must be reported to the SVD. In a module entitled *Crisis Management*, they are taught that sex crimes involve violations of a survivor's body, self, identity, and sense of safety. All or some of these factors can possibly cause reluctance on the part of a survivor to report the crime because of feelings of embarrassment and shame, and fear of reliving trauma, social ostracism, repercussions, and being discredited or blamed. Recruits are also taught to demonstrate empathy and sensitivity to assist survivors in regaining a sense of control and safety. Proper verbal and physical cues in interacting with survivors are taught including, but not limited to, the use of appropriate language, tone of voice, eye contact, and body language. Recruits learn to be patient and to convey to the survivor that they are physically and emotionally safe and have permission to say what they want or express emotions. They are instructed that these techniques assist survivors in overcoming a sense of helplessness, rebuilding confidence, and restoring dignity, power and authority. Finally, recruits are taught to refer survivors to the Crime Victims Assistance Program and organizations such as Safe Horizon's Rape Hotline for further assistance.

To reinforce these concepts and skills, recruits are provided with scenario-based training in their *Investigation and Report Writing* module. The scenario presented is one in which the recruit responds to the scene where a complainant alleges that he or she was the victim of a sexual assault. The scenario focuses on the utilization of proper interviewing techniques, identifying and preserving evidence, and accurately completing the report of the crime. Again, the need for sensitivity, patience, compassion, and understanding is reinforced. Recruits are alerted that survivors may exhibit a variety of responses due to trauma. They also learn to permit survivors to choose, where practical, the gender of their interviewer, to conduct the interview in a private setting, and that the interviewer must refrain from using judgmental language. The experience of being sexually assaulted is described from the viewpoint of the victim as "the most traumatic experience of their life," and "a catastrophe." The training in these two modules, in both the classroom and scenario formats, is trauma-informed and incorporates best practices regarding sexual assault."

Finally, in the *Collecting and Processing Evidence* module, recruits are instructed about the importance of accurate and timely collection of evidence, including the importance of identifying and facilitating the collection of physical evidence that may yield critical DNA evidence.³² They are also introduced to the need for the collection of other forensic evidence such as Sexual Offense Evidence Collection Kits and Drug Facilitated Sexual Assault Blood and Urine Specimen Collection Kits, which can become crucial evidence in investigating and prosecuting sexual assaults. The memorialization of the victim's description of the attacker, the victim's visible injuries, witness statements, and other relevant physical evidence is also stressed. Finally, officers are taught to protect the confidentiality of the survivor's identity. This curriculum was recently reviewed by local advocates and is being updated to reflect their comments and as well as those of national experts.

In addition to training new recruits, NYPD has consistently provided supplemental education to patrol officers through in-service and supervisor training. Indeed, in 2017, the Police Commissioner

³¹ OIG Report at P. 36.

³² The NYPD only allows properly trained personnel to collect DNA evidence.

narrated a video, the viewing of which was mandatory for all uniformed personnel. The Commissioner's message emphasized that sex crimes are among the most serious crimes to which police officers respond because of their threat to public safety and their devastating effects on survivors. In reiterating NYPD's commitment to do everything in its power to reduce rapes and other sexual assaults, the Commissioner highlighted the need for survivors to be treated with compassion and respect throughout an investigation, emphasized the urgency in apprehending repeat offenders, and reminded officers that most rapes are perpetrated by someone known to the survivor. Finally, the Commissioner acknowledged the difficulty and courage required for survivors to come forward and report a sex crime. The video sent a powerful message to patrol officers that the appropriate and effective handling of sexual assault complaints was encompassed in their sworn duty to protect New York City residents.

Earlier, in 2012, the NYPD released a Command Level Training³³ video emphasizing the importance of first responders to a sex crime incident. Featuring a survivor, a Sexual Assault Response Team Medical Coordinator, and a SVD detective, the video highlighted the need for responding officers to be sensitive, compassionate, professional, and non-judgmental in their interactions. Officers were also instructed to encourage survivors to speak with an advocate, mental health professional, or someone they trust. The training video reinforced the concepts that are taught to recruits, including that a survivor may experience feelings of embarrassment, shame, and self-blame. In addition, a prior Command Level Training Memo,³⁴ released in 2010, was entitled "Proper Interaction with the Victim of Sexual Assault." It also reinforced these concepts.

To improve response to sex crimes committed in the city's subways, the Department partnered with Hollaback! an anti-sexual harassment organization, to train transit officers, twice a year, on sexual harassment in the subway system. Since 2014, Hollaback! has trained 320 uniformed officers whose duty it is to patrol and keep our transit system safe. Additionally, the NYPD Transit Bureau has created a curriculum to train officers in identifying and reducing the incidence of sex crimes in the subway.

Likewise, recognizing the relatively low percentage of high school youth that make reports about being the victims of sexual and/or physical dating violence, the Department partnered with Day One to provide training to its School Safety Division personnel. These members of the service have daily contact with our student population. Between January 2015 and May 2016, Day One trained 3,778 individuals assigned to the School Safety Division. This training includes tips and insights into working more effectively with young survivors, factors that influence dating abuse among youth, implicit biases that may arise when working with youth, risk factors for experiencing dating abuse, barriers preventing young survivors from seeking help, strategies for better working relationships with young survivors, and prevention of abuse.

Promotional training through the Sergeants, Lieutenants, and Captains Development Courses also educates supervisors on proper procedures for handling sex crimes, as well as evidence collection and applicable laws. In providing this training, the Department recognizes the integral role of patrol supervisors in responding to the investigations of possible sex crimes to ensure that all relevant procedures and protocols are followed.

³³ The NYPD holds monthly Command Level Training Conferences whereby training sergeants or representatives from each command receive training materials and are then responsible for educating all the officers in their commands about their content.

³⁴ A Department Training Memo is a vehicle by which important information is disseminated and emphasized to personnel through in-service training. Training Memos are commonly issued and are created by the Training Bureau after consultation with the Bureau requesting its issuance.

In sum, patrol officers receive sufficient training at several levels, utilizing a variety of teaching methods. Yet in their Report, OIG dismissed this training without description, deeming it “subpar” and “insufficient.”³⁵ Indeed, OIG had previously received training materials for both recruit and promotional training and could have simply referred to them to provide a more complete account of NYPD’s training and a better informed recommendation.

III. ECMS is a Secure System with the Capability of Providing Search Results and Managerial Reports

Prior to October 2006, all cases investigated by members of the Detective Bureau were documented in a paper-based case file. In October 2006, the Department implemented the computer application that is now known as the Enterprise Case Management System (ECMS). OIG criticizes the system, claiming that ECMS is not searchable, is insecure, and does not allow for appropriate managerial reporting. However, there is no question that the data in ECMS is regularly searched and used for reporting purposes throughout the Department, including in the Detective Bureau. Had OIG met with high ranking members of the Detective Bureau and the Information Technology Bureau, they would have been provided with a more complete understanding of the Department’s information technology systems.

ECMS is currently used by various bureaus and units in the Department, with the heaviest usage among investigators assigned to the Detective Bureau. It was built to allow investigators to securely document investigator work product. In ECMS, investigators complete electronic DD5s, also known as Complaint Follow-up Reports, to record basic investigative steps and results as the investigation unfolds. In essence, ECMS is a searchable database comprising an extensive collection of electronic DD5s.

A. NYPD Investigators Can Easily Perform Searches for Relevant Case-Related Information

Users can perform Google-like searches of the DD5s in ECMS across both structured and unstructured fields. Search parameters include, but are not limited to, keyword, name, location, date, time, vehicle information. ECMS’s search tool allows users to retrieve all DD5s (with their associated cases) that the user has rights to view and that match a particular query. This search capability is readily available from the application’s main menu. Again, a consultation by OIG with the Deputy Commissioner of Information Technology would have informed their conclusions and recommendations in this regard. The Detective Bureau is presently considering the creation of a specialized DD5 for SVD that would facilitate additional searches.

B. Managerial Reporting in ECMS

ECMS also offers a number of managerial reports designed to assist a supervisor in assessing and monitoring a unit’s or individual investigator’s case load, clearance rate (including the number of open and closed cases), and activity, as well as comparing such metrics between different periods. These reports include: the Command Profile Report, Operational Statistics Report, and Detective Score Card.

One of OIG’s concern is that SVD supervisors cannot “determine how long an individual detective or squad is taking to close their cases.” This particular concern does not take into account the NYPD’s adoption of a survivor-centered model which allows sexual assault survivors to control the progress and pace of the investigation. SVD supervisors, therefore, impose no time limit on their investigators to close cases. Monitoring SVD investigators based on this metric would be counterproductive. At the same time,

³⁵ OIG Report at P. 33.

as fully addressed in Section IV below, OIG incorrectly criticizes the use of CompStat as an oversight mechanism in sex crimes cases, citing experts that posit “investigations that are intensely focused on victims cannot be rushed to meet artificial timelines.” Given this position, OIG’s concern about a supervisor’s inability to use ECMS to monitor how long investigators are taking to close cases seems odd.

C. ECMS is a Secure System

With respect to ECMS security, users of ECMS must log into the system using their own unique credentials. Each case in ECMS has its own “Case Log.” When an investigator opens a case, she or he must, as a preliminary matter, enter information into certain appropriate fields in the Case Log. One of these fields is labeled “Security Level.” Cases investigating property crimes generally have an “open” Security Level. The Security Level for all homicide and sex crimes cases is, however, always designated as “restricted.” This allows for access to the case file only by the assigned case investigator, investigative team members who are specifically granted access by the investigator, the assigned supervisor and a strictly limited number of other Department personnel. Anyone who accesses a “restricted” case file in ECMS automatically leaves a unique, auditable “footprint” in the system that allows for identification of the accessing individual.

Both Department policy and state law prohibit the release of the “identity of the victim of a sex crime” or the “location of occurrence where a sexual assault occurred if that location is the victim’s residence or the residence of the perpetrator, if not apprehended.”³⁶ Moreover, members of the Department are also prohibited from releasing the “[a]ddress or telephone number of a complainant” or “[i]nformation that may hinder the prosecution of the crime, or jeopardize the safety of a member of the service, complainant, or witness.”³⁷ Thus, the structure and security features embedded in ECMS and the Department’s strict policies confirm that the Department has taken careful measures to prevent breaches of the security of ECMS and of crime victim’s identifying information. Furthermore, the Department takes very seriously any such breach. Indeed, in the one instance during the life of ECMS in which the NYPD identified a Crime Scene Unit investigator who accessed two SVD cases using another member of the service’s ECMS log-in information and revealed information to the news media, the detective was forced to leave the Department.

IV. CompStat is a Useful and Appropriate Oversight Mechanism for Sex Crime Investigations

The NYPD developed CompStat in 1994 to refocus the Department on its central missions of controlling crime and disorder. The heart of the system is the CompStat meeting that convenes precinct commanders, detective squad leaders and special unit commanders from one of the eight patrol borough commands each week for intensive crime strategy sessions. Supported by the most recent crime data and by crime mapping that helps identify patterns, the CompStat meetings assess crime control tactics and investigative methods, hold precinct commanders and other commanders accountable for their performance and lend a pressing sense of urgency to the core business of policing.

CompStat is governed by four central principles:

1. Timely, Accurate Intelligence
2. Rapid Deployment (or the case of investigations, rapid response)
3. Effective tactics (or in the case of investigations, thorough and complete casework)
4. Relentless follow-up and assessment

The use of timely information to identify problems, devise possible solutions and evaluate the impact of those solutions – in a rigorous forum – has been a significant policing innovation that helped

³⁶ See NY CRL 50-b(a) and Patrol Guide procedure 212-77, “Release of Information to the Media.”

³⁷ Id.

focus the enforcement and investigative assets of the NYPD as never before. CompStat is now a critical component in the NYPD's precision policing approach, helping the department target its resources and its investigative efforts on the criminals, the crimes and the crime patterns that matter most. CompStat had unparalleled success in driving down crime in New York City and has been adopted in many other policing jurisdictions throughout the United States and abroad.

A central purpose of CompStat is to ensure high-quality and timely investigations, including identifying crime patterns and building the strongest possible cases against perpetrators. In this respect, it is an entirely appropriate oversight regime for SVD. In cases of stranger rape and misdemeanor sex crimes committed by strangers, the CompStat forum may help to identify any emerging patterns more swiftly, prompting an equally swift police response. In the cases of non-stranger and domestic offenses, the CompStat principles help to ensure that investigators are exercising both the thorough attention to detail and the high degree of sensitivity that are required in these cases.

Given the indisputably valuable goals of CompStat – accountability for timely investigations of high quality, identification of crime patterns, careful development of provable cases, and precision targeting of serious offenders – it is difficult to justify exempting SVD from its oversight. In sum, the Department believes that every investigative and enforcement unit in the NYPD should be encouraged and should strive to accomplish these objectives. In part, OIG argues that because many sex crimes are unreported, and many others are reported long after the crime occurs, CompStat's focus on "timely, accurate intelligence"³⁸ is misplaced. This implies, however, that the managers of CompStat do not recognize the distinct nature of sex crime reporting and make accommodations for it. They do. These managers are fully aware that sex crimes are underreported and that current sex crime statistics do not tell the entire story of sex assaults in the city at any given time.

OIG also discerns a conflict between CompStat's focus on driving crime down and the department's efforts to elicit sex assault reports, which will drive reported crime statistics up.³⁹ There is no such conflict. CompStat does focus on driving crime down, but that goal is in no way inconsistent with the goal of encouraging the reporting sex assaults or any other crimes. In fact, the managers of CompStat are always seeking more complete reporting of crimes of all kinds because more complete data informs more effective crime management, which is CompStat's primary goal. Once again, OIG's Report is assuming that the managers of CompStat are unable to make these simple distinctions, in this case, between the overall goal of driving crime down and the need to gather as many reports of sex crimes as possible.

OIG perceives another supposed conflict and contradiction between the "non-linear" and "victim-centered" nature of sex crime investigations and the CompStat principles of "rapid deployment and relentless follow-up and assessment."⁴⁰ Supposedly, CompStat is pressuring investigators to meet "artificial timelines" in their investigations with the net effect of causing the "disengagement of victims." There is no such pressure to meet timelines and no such effect. Rapid deployment in this case refers to a rapid response to victims who report sex assaults and not to any pressure on victims to carry the case any further than they would like.

Relentless follow-up refers to an intense focus on how the SVD is managing its cases, ensuring that each sex crime survivor and each case receives attention that they deserve. The department does not apply "relentlessness" to sex crime survivors but to its own operations and its success or failure in fulfilling its responsibilities to those survivors. Have we interviewed the survivor in a timely fashion? Have we gathered the necessary forensic evidence? Are we investigating all sex assaults in a thorough manner and delivering police service to the survivors of these crimes?

³⁸ OIG Report at P. 34.

³⁹ Id.

⁴⁰ OIG Report at P. 35.

All these issues are matters that the CompStat forum is well suited to evaluate and manage, and none of them would result in any pressure on the survivors. Investigations can still be “conducted at a pace set by the victim, not the law enforcement officer.” The victim’s right “to request that certain investigative steps not be conducted” can still be respected. On the other hand, when survivors wish to proceed and want to see arrests and convictions of perpetrators, CompStat can help drive investigations and prosecution forward by identifying patterns, solving cases, and holding investigators accountable for quality casework.

Lastly, the OIG report is mistaken when it asserts that other complex investigations like homicide and major case investigations are not subject to CompStat.⁴¹ They certainly are. There are frequent discussions of murder and shooting cases and long-term investigations at the CompStat sessions and also at the CrewStat sessions, which focus specifically on criminal groups and their violence. Contrary to the implications in the OIG report, CompStat is entirely capable of handling complex issues, and does so all the time. The OIG report envisions a new oversight system for SVD to “evaluate SVD’s performance by focusing on the quality and timeliness of work, caseload and staffing data, and the thoroughness of case completion.” The NYPD believes that that is precisely what CompStat does.

V. The NYPD is Significantly Improving Its SVD Facilities to Ensure the Comfort and Participation of Sexual Assault Survivors in the Criminal Justice System.

The OIG has raised concerns about SVD facilities. On May 22, 2017, the NYPD presented its Executive Budget to the New York City Council. Included in this budget is NYPD’s “Ten-Year Capital Strategy” which allocated the lion’s share (62%) of a \$1.7 billion capital budget to various facilities projects over the next 10 years. Of that amount, the NYPD has allocated \$361.6 million “for the renovation of police facilities citywide.”⁴² This investment over the ten-year period demonstrates a strong commitment to making improvements to the Department’s physical infrastructure.

The NYPD agrees that some of its facilities, including those housing the SVD’s Adult Squads, are in need of improvement and plans are underway to ensure that these improvements are made. The Department’s facilities management team, which has been actively assessing Department facilities to identify necessary improvements, has prioritized the SVD facilities. The NYPD has projected that repairs to the Brooklyn, Bronx, Queens and Staten Island facilities will be completed by the end of the first quarter of fiscal year 2019. By the end of 2018, the NYPD expects that Manhattan SVD will be relocated to 137 Centre Street, a facility that allows the Department to improve conditions for victims and SVD staff, while satisfying a number of OIG’s concerns. The Department is also working with the Department of Citywide Services and the Office of Management and Budget to identify suitable locations for SVD squads whose current location cannot be upgraded to conform to recognized survivor-centered facility specifications. NYPD’s goal whenever possible is to have its new SVD facilities co-located with our district attorney and advocate partners.

⁴¹ Id.

⁴² “Report to the Committee on Finance and the Committee on Public Safety on the Fiscal 2018 Executive Budget for New York City Police Department,” May 22, 2017.

RESPONSE TO OIG RECOMMENDATIONS

Recommendation #1

NYPD should immediately increase the staffing level in SVD's adult sex crime units to meet the minimum investigative capacity required by an evidence-backed and nationally-accepted staffing analysis model. To appropriately handle a caseload as seen in 2017, that model would require an additional 21 detectives in Manhattan SVS, 11 detectives in Bronx SVS, 16 detectives in Queens SVS, 21 detectives in Brooklyn SVS, and four detectives to in Staten Island SVS.

NYPD Response: Accepted in Part and Rejected in Part

For the reasons stated above at pages 5-7 the NYPD does not agree with the method and results of OIG's staffing analysis. NYPD therefore rejects OIG's proposed staffing recommendations for each of SVD's Adult Squads.

As NYPD has also made clear in this response, the Department will consider any evidence-backed and nationally accepted staffing analysis model for investigation units. Thus far, NYPD has not been able to identify any such nationally accepted model. Nevertheless, as indicated in this response, the NYPD has significantly increased staffing in SVD's Adult Squads since the issuance of OIG's report. To date, 20 additional investigators have been transferred into those squads since OIG's Report.

Recommendation #2

In order to prevent a recurrence of understaffing, NYPD should adopt an evidence-based investigative staffing model that relies on actual investigative hours available and projected caseload (not caseload alone) and continuously monitor SVD caseloads and staffing levels to ensure the appropriate number of staff are available for the assigned caseloads.

NYPD Response: Implemented in Part and Under Consideration in Part

The NYPD continuously monitors SVD caseloads and staffing levels to ensure the appropriate number of staff are available for the assigned caseloads. The Department will consider any evidence-backed and nationally accepted staffing model for investigation units.

Recommendation #3

Since staffing deficiencies are not unique to adult sex crime units alone, NYPD should use the staffing model adopted in Recommendation 2 to appropriately staff the other SVD sub-units.

NYPD Response: Under Consideration

See Response to Recommendation #2 above.

Recommendation #4

NYPD should immediately take steps to improve SVD's ability to recruit and retain experienced detectives by making SVD a "graded" division. Once completed, NYPD should end the practice of transferring officers to SVD without extensive investigative experience.

NYPD Response: Already Implemented Prior to OIG's Report

For the reasons stated above at pages 7-9, the NYPD believes it already employs this recommendation. To be clear, the NYPD does not have a practice of transferring officers without investigative experience to SVD.

Recommendation #5

NYPD should increase in-house training opportunities for SVD staff in order to better prepare them for the rigors and unique nature of SVD work. The depth and rigor of this training should be equivalent to the training provided to other specialized units in NYPD.

NYPD Response: Already Implemented Prior to OIG's Report

See pages 12-14 above. This was implemented prior to the OIG report.

Recommendation #6

To the extent that it is inevitable that patrol officers may be the first to respond to sexual assaults in exigent circumstances, NYPD should expand existing training, both in-service and at the academy, to include trauma-informed care and best practices regarding sexual assault.

NYPD Response: Already Implemented Prior to OIG's Report

See pages 14-16 above. This was implemented prior to the OIG report.

Recommendation #7

NYPD should formally end the “triaging” process for sex crimes—instead, all sex crimes should be investigated and enhanced by SVD detectives, including patrol arrests for “domestic rape” and “acquaintance rape.” The implementation of this recommendation will have staffing implications that are not accounted for in Recommendation 1 above, and NYPD should, therefore, include appropriate staffing increases in implementing this recommendation.

NYPD Response: Accepted

In the past, when a patrol officer responded to a call for service and was able to immediately arrest the perpetrator at or near the scene, precinct detective squad investigators performed the basic investigative steps necessary to develop additional evidence, such as conducting an interview with the complainant, locating other witnesses and physical evidence and questioning the suspect. Such a process is known as “case enhancement.” In all other circumstances, however, when a sex crime complaint is taken at a precinct, hospital, or other location and a summary arrest is not possible, the case is assigned to and investigated by SVD. Based on a recent assessment of SVD by the newly appointed Chief of Detectives, the NYPD has decided to eliminate case enhancements by precinct squad investigators in felony sex crimes cases, including “domestic rape” and “acquaintance rape” cases. Instead, SVD investigators will enhance those cases. Given the current staffing levels in SVD, the NYPD is confident that this change can be implemented.

Recommendation #8

NYPD should find new physical locations and/or completely renovate all five SVD adult sex crime unit locations. These new physical locations should be easily accessible from public transportation and built out in the model of the Children’s Advocacy Centers now operational in New York City.

NYPD Response: Accepted

See page 20 above.

Recommendation #9

NYPD should invest in a new case management system for SVD that would replace ECMS. The new system should have the highest security protocols and limit access to the case detective and their immediate supervisors within SVD. In addition, any new system should have advanced caseload, staff management, and data analysis capabilities.

NYPD Response: Already Implemented in Part Prior to OIG’s Report and Under Consideration in Part.

See pages 16-17 above. The NYPD has a case management system with the highest security protocols, limited access where appropriate, and data analysis capabilities. To further enhance ECMS’ analytical capabilities, the Detective Bureau is considering the adoption of a specialized DD5.

Recommendation #10

NYPD should take steps to safeguard the identifying information of sex crime victims, including conducting a review of the various reports, forms, and memoranda generated during the course of a sex crimes investigation that unnecessarily require the victim’s name, address, or other contact information.

NYPD Response: Already Implemented Prior to OIG’s Report and Rejected in Part.

See pages 16-17 above. The NYPD presently safeguards identifying information of sex crime victims. No review is necessary given the legal and policy requirements presently in place, and implemented prior to the OIG report.

Recommendation #11

NYPD should review the use of CompStat as the oversight mechanism for SVD.

NYPD Response: Rejected

For the reasons stated above at pages 17-19 above, the NYPD rejects this recommendation.

Recommendation #12

NYPD should increase and publicize existing efforts to encourage victims of sex crimes to come forward and report these crimes to law enforcement. At the same time, NYPD should take new steps to advise policy makers and the public that success in this area will result in an apparent rise in the “index crime numbers” for sexual assault, even if the “true” rate of sex crimes remains unchanged.

NYPD Response: Already Implemented Prior to OIG’s Report

See pages 3-4 above. This was implemented prior to the OIG report.

CONCLUSION

The NYPD's Special Victims Division is staffed with highly trained, motivated, and compassionate investigators who are committed to seeking a just outcome for sexual assault survivors through effective investigations that ultimately hold offenders accountable and enhance overall public safety. The NYPD recognizes the importance of skillful and sensitive interactions with survivors by all members of the service and will continue to undertake all necessary efforts to ensure that all sexual assault victims have positive and productive experiences with investigators and officers. Moreover, the Department will continue to work closely with sexual assault advocates and national experts to improve our practices, strengthen trust with survivors and the public at large, encourage increased reporting of sexual assault and, over time, reduce the overall number of such incidents.

APPENDIX A

A careful review reveals that Sheriff Prummell did not create the staffing model that the OIG relies on. Rather, it was developed by Chief William Liquori of the Altamonte Springs Police Department in Florida. Prummell's study simply adopts Liquori's formula and method. Notably, even Prummell did not endorse the model as a national standard and he plainly expressed uncertainty as to its utility in police departments differing in size and scope from his own, or those in Florida to which it had been applied. In his study, Prummell states "[i]f the formula is true to accurate, then the industry standard identified might need to be looked at a little more closely."⁴³ At another juncture, he remarked that the model might best serve as an aid to others departments: "being unable to validate the mathematical formula, if adopted by an agency, agency heads will have to look upon this formula as a deciding aide."⁴⁴ In sum, Prummell's assessment of his own study concedes that it does not serve as a nationally accepted standard for a staffing analysis.

Nor was Prummell's study adopted by other departments in the manner that OIG suggests. OIG's Report cites three sources from other police departments to support their claim that the study is the national standard. These reports, however, not only reveal that "the Prummell model" is not a national standard, but that departments that do utilize it only refer to it as a general guide in their own staffing analyses. The Police Department for Albuquerque, New Mexico, the 32nd largest city in the country,⁴⁵ conducted a staffing study as a result of a Department of Justice consent decree. Notably, their report explicitly states that the "study did not fully address staffing levels for non-patrol positions,"⁴⁶ that "a unit by unit investigation and evaluation was not conducted"⁴⁷ and "due to a lack of work performance data for detectives and civilians like caseload management or efficiency studies, the department is left with searching for an alternative method to determine appropriate staffing."⁴⁸ Albuquerque then cited reports from Glendale, Arizona and Austin, Texas that utilized an investigative-hours based staffing analyses. Prummell was not named and no independent analysis of his method was done. Moreover, the Albuquerque Police Department did not adopt any particular model and only committed to studying the issue further. This can hardly be considered a rigorous peer review of "the Prummell Model."⁴⁹

OIG also cites the staffing report that the Cleveland Police Department performed as part of their own consent decree as proof that Prummell's study is nationally accepted. The Cleveland Police Department did indeed utilize "the Prummell Model" in its proposal.⁵⁰ The relevance and weight of this is undermined, however, by the Cleveland Independent Monitor, who called it a "useful guide," but also noted that it is "clear that the study and proposal was not the ultimate staffing plan."⁵¹

Finally, OIG cites a report from Austin, Texas, the same Austin Police Department Report ("the Austin Report") that was cited in the Albuquerque Police Department's study. The Austin Report, done in

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See US Census statistics, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

⁴⁶ Albuquerque Police Dep't, Albuquerque Police Department Staffing Plan, Final Draft, Pg. 35 (2016) <https://www.cabq.gov/police/documents/albuquerque-police-department-staffing-plan-final-draft-june-11-2016.pdf>.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ OIG Report at P. 21, footnote 56.

⁵⁰ Cleveland Division of Police, Resource Study and Deployment Proposal, Pg. 20-22 (2016) <https://www.clevelandcitycouncil.org/ClevelandCityCouncil/media/CCCMedia/Documents/Ord-No-182-16-presentation-182-16.pdf>

⁵¹ Cleveland Police Monitoring Team, Second Semiannual Report, Pg. 61 (2017) <https://static1.squarespace.com/static/5651f9b5e4b08f0af890bd13/t/587558bd440243ad6009b295/1484085444118/Second+Semiannual+Report--2017-01-10.pdf>

conjunction with the Police Executive Research Forum (“PERF”), does use a more sophisticated investigative-hours based staffing model, calculating the amount of time an officer should spend on a case by seriousness and solvability of the case. This is a different formula than that of Prummell or OIG. Moreover, Sherriff Prummell’s study is not mentioned in this report, which is not surprising as the Austin Report was issued two years before Prummell released his study. OIG also failed to mention that PERF recommended that the Austin Police Department assigns 15 detectives to investigate 1404 sex crimes, amounting to a caseload of 93 per detective, the precise annual caseload of an SVD Adult Squad investigator at the time of OIG’s Report.⁵² Again, this undermines the claim that “the Prummell Model” has been extensively peer reviewed and accepted.⁵³

Had PERF endorsed the investigative-hours based approach as the national standard, the use of “the Prummell model” might be compelling. In a staffing analysis PERF conducted for the Houston Police Department in 2014 – two years after the Austin Report, PERF stated that “individual caseloads should be calculated as the number of new cases per month.”⁵⁴ Further undermining the notion that PERF has specifically endorsed an investigative-hours based staffing model is a study performed for the Cleveland Police Department in 2013, one year after the Austin Report, where it employed a monthly caseload analysis to determine staffing for the Cleveland Police Department’s sexual assault units.⁵⁵ In that study, PERF also used a caseload analysis to discuss the Philadelphia Police Department’s staffing of its sex crimes unit. PERF recommended that the Cleveland Police Department increase its headcount by 4 detectives so that detectives received 88 new cases a year, or seven to eight per month. This is consistent with an SVD investigator’s intake per month at the time that OIG issued their report.

Based on a review of the available research, it is clear that there is no nation-wide consensus that the investigative-hours based staffing model is the gold standard. An examination of staffing models in the police departments in the other nine cities in the country⁵⁶ with a population of one million or more would reveal a number of different approaches to appropriate staffing models. For example, the Houston Report and the PERF Cleveland Report allow for an understanding of staffing models in Houston and Philadelphia, two of the five largest cities in the country. These departments serve as a better basis for comparison with NYPD, although even they do not have a uniformed staff of 36,000 officers.⁵⁷

There is no way for the Department to evaluate the OIG’s position that 15.6 hours is the “nationally-accepted average.” The only standard cited by Prummell in his study referred to a caseload standard and not an average investigative hour standard. Prummell noted that the “industry standard in Florida for major

⁵² Police Exec. Research Forum, Austin Police Department Patrol Utilization Study, Final Report. Pg. 39 (2012). <http://www.austincrime.org/wp-content/uploads/PERF-Final-Report-Austin-copy.pdf>

⁵³ OIG Report at P. 21, footnote 56.

⁵⁴ See Houston Police Department Operational Staffing Model, Police Executive Research Forum and Justex Systems, Inc. Page 60 (2014) https://www.houstontx.gov/hpd_staffing_report-2014may.pdf

⁵⁵ Sexual Assault Investigation Review and Assessment of the Cleveland Division of Police, Police Executive Research Forum, Pg. 41. <https://assets.documentcloud.org/documents/1153854/cleveland-perf-report-on-sexual-assault.pdf>

⁵⁶ See US Census statistics, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

⁵⁷ OIG also points to a “public interest organization,” End Violence Against Women International, as another endorser of the Prummell Model and its 15.6 investigative hour “nationally accepted average.” OIG references a document that the organization published entitled, “Best Practices FAQS.” See OIG Report at P. 22. However, End Violence Against Women International did not endorse the Prummell Model for staffing investigations. Instead, this document discussed staffing under three different methods, first by looking at a caseload analysis conducted by Portland, Oregon, then by looking at the Prummell’s caseload standard and finally examining a complementary review of two sex crimes detectives in San Diego who were assigned 94 and 86 cases in a year, or 7.8 and 7.1 cases in a month respectively. Notably, the document does not mention the investigative-hours-based staffing analysis conducted by Sherriff Prummell but instead cites Sherriff Prummell’s assertion that major case detectives should intake between 6-8 new cases a month.

crimes is six to eight cases per month or 72 to 96 cases per year per detective.”⁵⁸ Nor did any other report cited by OIG support the 15.6 hour measure. In fact, Prummell arrived at 15.6 average hours by conducting a three-month study of his own staff. During that survey, which included a maximum of 276 cases⁵⁹ of all types investigated by his detectives, he concluded that his detectives expended an average of 15.6 hours on sexual battery cases. These hours included “crime scene investigation, follow-up investigation, interviews, paperwork, travel time, and phone contacts.”⁶⁰ To be clear, Prummell did not sample 276 sexual battery cases; an unspecified number of the 276 cases involved charges of sexual battery. Such a small, undefined sample does not allow for highly reliable results and should certainly not serve as the foundation for any staffing study. Finally, OIG asserts that 15.6 hours is the “bare minimum”⁶¹ of time required to investigate a sexual assault complaint. None of the reports OIG cites, however, supports or corroborates this proposition.

As is true of any equation-based analysis, the accuracy of the output is dependent on the accuracy of the input values and the assumptions justifying them. With regard to “the Prummell Model,” some of the formula’s values are easily calculable and have little room for debate or interpretation. For example, the number of cases assigned in a year or the number of work days per year are easily determinable. Other values necessary for the computation require a careful understanding of the local environment and a thorough analysis of agency-specific practices. These would include, for example, the average time assigned per case in hours, the allocation of time between case work and administrative tasks, and the number of investigators needed to investigate a crime. Without gathering NYPD-specific metrics, the model must rely on values gathered from outside agencies that may not reflect the working realities of a department as unique as the NYPD.

For example, in examining the workload of an SVD investigator in an Adult Squad, OIG did not fully account for SVD’s structure and, specifically, SVD’s specialized units that supplement and alleviate some of the workload of the Adult Squads. To illustrate, the Stranger Rape Cold Case Squad and the DNA Cold Case Squad take responsibility for cold cases without an identified perpetrator. Many of these cases involve an adult victim and inevitably result in time consuming investigations. In addition, as described above, the NYPD’s formidable resources permit SVD investigators to turn to other units within the Department to aid in an investigation. Because of these additional resources both within and outside of the Division, SVD investigators attain greater efficiency in their investigations. In utilizing the average investigative hour measure that Prummell used for Charlotte County detectives, who are without equivalent resources, OIG does not take into account the context specific to NYPD.

Even assuming the Prummell Model was suitable for a staffing analysis for SVD, the report did not adhere to it. Instead, OIG substituted a value in Prummell’s equation that artificially decreased an investigator’s total number of available investigative hours per year by subtracting estimated travel time from the total. Prummell, on the other hand, included travel time in his estimate of available investigative hours. This is significant because by artificially reducing the number of available investigative hours per year for each detective, OIG simultaneously inflated the required staffing level. If detectives have fewer available hours for investigation each year, more detectives are necessary to handle the unit’s overall caseload. Moreover, OIG’s rationale – that there are “vast geographic areas covered by the SVD squad in each borough (and the travel time that implies)”⁶² – is unsupported when one examines the geography of Charlotte County, Florida. Charlotte County has more than twice as much land mass as New York City,

⁵⁸ Prummell Study at P. 4.

⁵⁹ According to Prummell, 276 cases were closed during the period in the study. The study, however, does not specify how many of the 276 cases were both opened and closed during the covered period. Thus, Prummell may have examined fewer than the 276 total cited in his study.

⁶⁰ Prummell Study at P. 3.

⁶¹ OIG Report at P. 22.

⁶² OIG Report at P. 21.

and has nearly 7 times the land mass as our largest borough. Additionally, the western portion of Charlotte County is separated from the eastern portion, where the Major Case Unit is located, by the Gasparilla South-Charlotte Harbor. This requires Prummell's detectives to drive around the harbor during their case-related travel. Put another way, New York City as a whole, and each borough individually, cover a much smaller geographic area than does Charlotte County, Florida, requiring SVD investigators to spend significantly less time traveling.⁶³ OIG's rationale for varying from Prummell's model is simply factually incorrect.⁶⁴

Moreover, as noted in OIG's report, SVD routinely investigates misdemeanor sexual assaults, such as forcible touching.⁶⁵ In fact, misdemeanor cases comprise the majority of an SVD investigator's caseload. Yet in conducting his study, Prummell arrived at the 15.6 investigative hours per case by examining investigative hours expended on sexual battery crimes, all of which are felonies in Florida.⁶⁶ Under Florida's penal code, the closest parallel offense to New York's forcible touching crime is the crime of "lewd or lascivious molestation of a person less than 16 years old."⁶⁷ For these cases, Prummell allotted 6.8 hours for each investigation. Yet in their report, OIG adopted Prummell's 15.6 felony investigative standard, failing to take into account the percentage of misdemeanor cases in SVD's caseloads and Prummell's 6.8-hour standard. More importantly, OIG never attempted to calculate an accurate NYPD standard for misdemeanor cases.

A footnote in OIG's Report reads, "Sheriff Prummell notes that the accuracy of the formula relies on decisions made by police department leadership concerning the allocation of non-investigative duties and the accuracy of estimates of the average length of time a case should be worked prior to closure. In other words, as with any mathematical analysis, the result is only as reliable as the data relied upon, and are subject to potential manipulation." OIG does not show their underlying calculations for how they arrived at the values that they used. For example, OIG also arrives at the value for "employee availability factor." This value reflects "how many employees are needed to staff one work unit." OIG uses a value of 2.027 but provides no mathematical justification for this number in their Report and only provides the formula that they utilized in the form of an appendix without showing any of their work in arriving at this and other values. Given this observation, it is important to consider the effect on the staffing deficits that OIG calculated for the NYPD when the values in "the Prummell Model" are changed only slightly.

OIG's analysis indicates that there was a deficit of 76 investigators in 2016 and 73 investigators in 2017. Below is the staffing surplus and deficit calculation found in OIG's Report, using Prummell's 15.6-hour sexual battery average case time:

⁶³ For NYC land area *see* <http://www.baruch.cuny.edu/nycdata/population-geography/pop-landarea.htm>. For Charlotte County land area *see* <https://www.census.gov/quickfacts/fact/table/charlottecountyflorida/PST045217>

⁶⁴ OIG also decreased the amount of time allotted to investigation because of "extensive consultation time with sex crimes prosecutors." OIG Report at P. 21. OIG offers no definition for "extensive time" nor do they provide data or studies demonstrating that SVD investigators devote "extensive" time to such consultations. They also provide no information that permits a comparison to the time that Prummell's detectives consult with prosecutors and how he factored this aspect of his detectives work into the analysis. In addition, consultation with prosecutors can indeed be an investigative step, especially when an SVD detective brings a complainant to the District Attorneys' Office for a follow-up interview.

⁶⁵ See Penal Law Section 130.52.

⁶⁶ Fla. Stat. § 794.011

⁶⁷ Fla. Stat. § 800.04

15.6 hours per case
 40% investigator time spent on casework
 2.027 employee availability factor

Staffing Surplus (+) or Deficit (-)		
Borough	2016	2017
Bronx	-15	-11
Manhattan	-21	-21
Queens	-13	-16
Brooklyn	-23	-21
Staten Island	-4	-4
Citywide	-76	-73

By altering only slightly the values for three critical assumptions in the model – average case time, allocation of time factor and employee availability factor – its acute sensitivity is immediately revealed. Put another way, changing the values, sometimes only slightly, leads to starkly different conclusions. To illustrate, if the assumed average time to close a case is reduced by 10 percent to 14.04 hours, the allocation of time factor is increased 10 percent (still far below Liquori’s assumption), and the employee availability factor is reduced to 1.5, while keeping all other input values exactly as represented in OIG’s Report, there would be no deficit of resources. In fact, with these only slightly different values, there would be a staffing surplus in both years. Note that this model does not account for overtime, an important factor in NYPD staffing.

14.04 hours per case
 44% investigator time spent on casework
 1.5 employee availability factor

Staffing Surplus (+) or Deficit (-)		
Borough	2016	2017
Bronx	0	+3
Manhattan	0	+2
Queens	+2	+1
Brooklyn	+3	0
Staten Island	+2	+3
Citywide	+7	+9

To be clear, the values in the illustration above are not proven NYPD metrics but are utilized here to demonstrate the model’s acute sensitivity. Given this hyper-sensitivity, the importance of basing an analysis on highly accurate values is conclusively demonstrated. Yet OIG did not undertake a study specific to SVD investigators to gather accurate data about average case time. Nor did OIG provide any mathematical justification for its allocation of time factor or employee availability factor. As demonstrated, however, these assumptions must be extremely precise and defensible to support valid findings and recommendations.

APPENDIX B

The following are various trainings that investigators receive while assigned to SVD:

Neurobiology of Sexual Assault/Trauma: Taught by a member of the National Institute of Justice specializing in violence against women and children, this course reviews the emotional and physical manifestations of the trauma suffered by a survivor following a sexual assault, and how this trauma effects the survivor during the subsequent criminal investigation and prosecution.⁶⁸

Hospital-Based Sexual Assault Volunteer Advocate Training: This training is conducted in cooperation with several local hospitals and covers topics such as the role of advocates in sexual assault and violence intervention, counseling survivors, forensic examinations, medical care, and criminal investigations.

Peer-Based Investigative Process Scenario Training: This five-day training course covers investigative scenarios based on real cases, taught by the detectives who were assigned to them. The scenario-based training involves step-by-step accounts of investigative measures that were taken in these cases, with a focus on what efforts were effective and which were less effective. Attendees are challenged to engage with the instructors through group discussion and process analysis in order to improve the investigative process and to increase case solvability. Topics include investigative techniques, effective collaboration with District Attorney's Offices, evidence collection, and the use of data analysis and technology in investigations.

Comprehensive Legal Bureau Sex Offense Training: This course covers the legal aspects of sex crimes, including what types of behavior constitute criminal sexual acts, lack of consent, and other evidentiary issues. It includes a discussion of factual scenarios to ensure a thorough understanding of these concepts.

Science of DNA Training: Conducted by a member of New York City's Office of the Chief Medical Examiner's Forensic Unit, the Chief of the Kings County District Attorney's Office Forensic Unit, and FBI personnel, this training includes topics such as the use of DNA analysis to solve crimes and the relationship between national, state, and local DNA index systems.

Cohort Based Learning - Detective Bureau Guide Training: NYPD's Detective Guide is taught by a supervisor alongside an experienced detective to a cohort of new investigators. Instruction with respect to each section of the guide incorporates examples based on actual scenarios. Topics include investigative techniques, responding to hospitals, using technology in investigations, and collecting evidence.

Abusive Head Trauma Training: This training focuses on recognizing and understanding child abuse cases involving head trauma. Legal, medical, and investigative aspects of these cases are discussed, including developing medical corroboration, collecting evidence, and interviewing techniques.

Cross-Investigative Process Training: SVD detectives from Adult Squads are assigned to Child Abuse Squads and vice versa for ninety-day periods to augment their skills by exposing them to somewhat different investigative processes. This approach also helps to build cohesion among SVD investigators, allowing them to utilize each other as an ongoing resource.

⁶⁸ A version of this course with slides and audio is available at <https://nij.gov/multimedia/presenter/presenter-campbell/Pages/welcome.aspx>.

Complex Investigative Training: New investigators are assigned to tactical investigative teams which are deployed on serious and complex sex crimes cases being handled by experienced investigators. In this manner, new members of SVD learn process discipline, data mining, the utilization of forensic results from rape kits, and other investigative techniques. This approach applies experiential learning that cannot be replicated in the classroom.

Instant Response Tracking (“IRT”) Training: This five-day course addresses the process by which SVD receives cases from New York City’s Administration for Children’s Services through the Child Abuse Hotline.⁶⁹ The Instant Response Tracking Unit (“IRTU”) of SVD handles approximately half of the 8,000 cases that the NYPD annually receives through this process. In addition, IRTU assesses and assigns Law Enforcement Referral (LER) cases throughout the Department to, for example, the Human Trafficking Unit, the Vice Unit, SVD Adult Squads, SVD Child Abuse Squads, IAB, and others. Every new SVD investigator is assigned to IRTU and during the five-day training period interacts with ACS, the Child Abuse Registry, Department Units and other IRT entities. This training ensures that all SVD investigators understand the IRT protocols.

Drug Facilitated Sexual Assault Training: Taught by the head of the Office of the Chief Medical Examiner’s Toxicology Laboratory, this course trains SVD investigators to recognize instances of drug facilitated sexual assault and to understand the methods and means utilized by offenders in these cases. The OCME scientist explains and identifies the main drugs that are commonly used to facilitate a sexual assault, their durational effects, and how to decipher an OCME toxicology report. Investigators are encouraged to call the OCME with questions or concerns in particular cases, providing them with yet another valuable resource in connection their investigations.

District Attorney-Based Instruction: In a full day course, selected assistant district attorneys from one or more of the five local District Attorneys’ Offices’ Sex Crime Bureaus present relevant topics to SVD personnel such as conducting an effective controlled recorded telephone call between a survivor and a suspect, the successful prosecution of a DNA match case,⁷⁰ and the distinction between the legal concepts of probable cause and proof beyond a reasonable doubt, among others.

New York State Child Abuse Course and New York State Sex Crimes Course: These courses, which are held in Albany at the New York State Police Campus, are attended by five SVD investigators at a time. Topics covered include, but are not limited to, best practices in investigative response, crime scene processing, interview techniques, survivor presentation, compassionate enforcement, federal prosecutions and the importance of search warrants, missing and abducted children, forensic odontology, a behavioral perspective of internet crimes against children, and securing digital evidence.

⁶⁹ On January 24, 2006, within weeks after the death of Nixmary Brown, former Mayor Michael R. Bloomberg announced a series of new initiatives to strengthen the city’s response to child abuse and neglect, including the creation of an Interagency Task Force on Child Welfare and Safety. One of the main directives to the task force was to examine the Instant Response Tracking (“IRT”) Protocol to ensure it was operating in the most effective manner possible. The Task Force found that while the IRT Protocol has been effective in directing a joint response for NYPD and ACS staff, revisions and updates would strengthen the protocol, enhance coordination and improve outcomes.

⁷⁰ A DNA match case involves a match between the required DNA sample taken from a convicted offender pursuant to New York State law and the DNA sample taken from a sexual assault investigation.