San Francisco's Response to Sexual Assault: Pathways to Creating a Survivor-Centered Criminal Justice System

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ANALYTICAL PAPER

An Analytical Paper Presented to the Faculty of the College Arts and Sciences
University of San Francisco

In Partial Fulfillment of the Requirements of the Degree of
MASTER OF PUBLIC AFFAIRS

by

Bianca Rosen

May 2017
“San Francisco’s Response to Sexual Assault: Pathways to Creating a Survivor-Centered Criminal Justice System”

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COLLEGE OF ARTS AND SCIENCES
UNIVERSITY OF SAN FRANCISCO

May 2017

Under the guidance and approval of the committee, and approval by all the members, this Analytical Paper has been accepted in partial fulfillment of the requirements for the degree.
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Executive Summary

This research examines the process for adult sexual assault survivors in San Francisco when they decide to pursue legal justice, and how they experience the local criminal justice system. By analyzing this process through a survivor-centered lens, which understands the experience of survivors as more important than holding perpetrators accountable, several major issues with law enforcement’s response to sexual assault become apparent.

First, the length of the reporting process at police stations and at San Francisco General Hospital can take hours and interactions between survivors and law enforcement have been shown to be re-traumatizing. In addition, procedures at San Francisco General Hospital present serious barriers to survivors accessing free medical services available to them, including time spent waiting in the ER, the need to publicly disclose the assault to be admitted to the Rape Treatment Center (RTC) where more time is spent waiting, and the mandate that RTC nurses report to law enforcement. The investigation and prosecution process also causes undue pain. The length of investigation and prosecution together can extend to years, during which communication between survivors, their advocates, and law enforcement officials is frequently strained or completely absent. Moreover, during the investigation survivors are asked to call their perpetrator in a “pretext call.” My research also reveals that advocates from community organizations have difficulty in pressing the system to change, despite the monthly Sexual Assault Response Team (SART) meetings. These issues with the response of San Francisco’s law enforcement are further compounded by other problems survivors can face, such as mental health, job and housing instability.
The primary aim of this research is to improve the experience of survivors who decide to report and pursue legal action in San Francisco. Yet this research also reveals that if survivor-centered practices were adopted, local law enforcement could better hold perpetrators accountable. In line with national trends, the San Francisco criminal justice system only moves a small number of reported adult sexual assaults all the way through the system to trial. While my recommendations can serve to better the treatment of survivors who choose to enter the criminal justice system, they can in turn support survivors in continuing their pursuit for legal justice. My prescriptions are to:

1. Hire a SART coordinator and open the monthly SART meetings to the public;
2. Remove Rape Treatment Center nurses’ mandate to report to law enforcement;
3. Expedite the reporting process at SFGH specifically through increasing resources; and staff as well as the creation of concrete goals;
4. Expedite the investigation and prosecution process;
5. Eliminate the pretext call;
6. Implement ongoing sexual assault training and lengthen the current training for law enforcement officials;
7. Appoint internal champions in San Francisco law enforcement; and
8. Increase collaboration between advocates of survivors and homeless by appointing a representative that provides homeless services to the Sexual Assault Response Team.

This research concludes that in the movement to end sexual assault, supporting survivors’ self-determination and welfare is more important than arrest, investigation and prosecution rates. San Francisco law enforcement officials cannot guarantee survivors who choose to pursue legal action the justice they seek, but they can guarantee they will be treated with respect and dignity.
Introduction

Sexual assault\(^1\) presents a public health crisis that affects women, men, and children. The pervasiveness of this issue is astounding, with one in six women and one in 33 men having experienced an attempted or completed rape in the course of their lives.\(^2\) The trauma brought on by such violence informs the everyday lives of countless survivors, impacting their ability to learn, work, and live peaceful lives. I use the term survivor because those who live through a sexual assault are not victims; they have overcome horrifying violence. Sexual assault is born out of inequality and lives on past the act of violence itself in the hearts and minds of those who have survived. The unbearable trauma that sexual assault leaves behind erodes the fabric of our collective, as sexual assault is a tool of oppression and trauma is the lasting stain of this inequality.

“Countless survivors” is the correct term, as the real estimate of sexual assaults that occur is unknown and therefore unacknowledged by formal political, social, and legal institutions that provide critical services for survivors. In fact, 80 percent of rapes are never reported to the police.\(^3\) What’s even more upsetting, however, is how the survivors who do come forward are treated by the criminal justice system.\(^4\) This is not only true nationwide, but also in San Francisco despite the City’s liberal reputation, for our criminal justice system is born out of the system at large and has inherited its flaws. The primary aim of my research examining San

\(^1\)Sexual assault is a spectrum of non-consensual sexual advances ranging from verbal harassment to attempted and completed rape; sexual assault is form of sexual violence, which is a broader definition that includes domestic violence and child sexual abuse.


\(^4\) In my research, when referring to the criminal justice system, I am referring specifically to the law enforcement side of the system unless otherwise stated.
Francisco law enforcement’s response to sexual assault seeks to improve the treatment and experience of survivors who choose to participate with the criminal justice system.

As a rape crisis counselor with San Francisco Women Against Rape (SFWAR), I have provided emotional and confidential support to survivors for two years. Because California rape crisis counselors have a legal right to protect confidentiality, they are not required to report sexual assault to law enforcement when a survivor discloses an assault and they cannot be subpoenaed. The support I provide to survivors also includes informing them of their legal rights as well as referring them to other needed services. I speak to the survivors who decide to report and those who don’t, validating the decision each survivor makes as the right choice for them in order to be survivor-centered.

Being “survivor-centered” refers to an approach to crisis intervention and anti-rape work used by SFWAR that prioritizes survivors’ needs and wellbeing, as communicated by survivors. This approach can feel counter-intuitive to the loved ones of survivors, and to police, or medical professionals, who believe that survivors need to go to the hospital or report the incident immediately following an assault. This is despite the re-traumatizing nature of these experiences, which can end up harming survivors more than helping them. Within a survivor-centered approach to law enforcement practices, a survivor should never be told what they must do or should do following an assault; they are respected as an expert in their own healing and as counselors we follow their lead.

Sexual assault diminishes a person’s humanity and self-determination; the survivor-centered approach attempts to give back that stolen humanity to the survivor by respecting their individual choices above all else. In the movement to end sexual assault, the first and fundamental step we must take is respecting survivors as the leaders of their journey back to
peace; this needs to be done in order to build a survivor-led movement. As a rape crisis
counselor, I support survivors in their journey as they indicate how they need to be supported.
Law enforcement officials are limited to the kind of support they can offer as they are charged to
protect public safety, which means moving reports through the criminal justice system. Because
supporting survivors – validating their experiences, their strength, and their methods of healing -
is so crucial in the eradication of sexual assault, higher reporting and conviction rates should not
be the sole measure of success for reform.

Legal scholar Wendy Lacrombe holds that higher conviction rates, in particular, are not
an appropriate objective for rape reform from a feminist perspective; a perspective I will bring to
this research. Instead, she contends that successful rape reform laws are survivor-centered, and
emphasis should be directed towards “...the ‘story of rape’ that law tells, the ‘habitability’ of the
position ascribed to the victim/survivor in the prosecution process, and the outcomes of
reporting.”\(^5\) In accordance with Lacrombe, I do not simply accept higher rape reporting and
conviction rates as a success. Within a survivor-centered, feminist analysis, the ultimate purpose
of this research is to identify pathways towards bettering the experience of survivors who have
chosen to pursue justice in the San Francisco criminal justice system.

However, if survivors who report their assault to law enforcement are treated with more
respect, higher reporting and conviction rates are more likely because of the improved
“habitability” of the “position ascribed to the survivor.” If the criminal justice is understood as
survivor-centered, it could make survivors more willing to report and enter the criminal justice
process, which in turn could lead to more accountability of perpetrators. While taking on such a

\(^5\) Wendy Larcombe, “Falling Rape Conviction Rates: (some) Feminist Aims and Measures for
Rape Law,” *Feminist Legal Studies* 19, no. 1 (March 10, 2011): 42, accessed November 2016,
shift towards a survivor-centered culture on a national scale is impractical, local law enforcement holds the power to ignite such a change in San Francisco. This lends itself to the secondary aim of my research, which is to illustrate the role of survivor-centered local law enforcement practices in more effectively holding systems and perpetrators accountable to survivors. By not being survivor-centered, the criminal justice system inhibits its own ability to successfully investigate and prosecute sexual assault. According to the Rape, Abuse, and Incest National Network (RAINN), the majority of sexual assaults are not reported to the police and the majority of perpetrators will not go to jail or prison. What is true on a national scale is also true for San Francisco, as the majority of adult sexual assaults that were reported in 2016 specifically went uninvestigated or prosecuted. The number of assaults that were unreported is more difficult to capture. From January 1, 2016 to December 31, 2016, 40 percent of adult sexual assaults were investigated, and only 12 percent were referred to the D.A.’s office for prosecution. Inevitably some sexual assault cases did not move forward at the wish of the survivor, yet this percentage of unsolved sexual assaults is staggering, yet “normal” in terms of historical patterns.

The percentages shown above do not necessarily show a failure on the part of San Francisco law enforcement in particular, but rather, a failure of the criminal justice system in general to support survivors who have reported. Yet, to prove my secondary argument that

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7 “SFPD Incidents – Previous Year (2016),” SF OpenData, accessed April 5, 2017, https://data.sfgov.org/Public-Safety/SFPD-Incidents-Previous-Year-2016-ritf-b9ki. To determine the number of adult sexual assaults reported in 2016, I generated a search on SF OpenData using the “Category” filter to create a list of forcible sex offenses. Any sex crime that included the word “child,” “minor,” or “youth,” I did not include in the total number of adult sexual assaults reported, which totaled 757. The total number of adult sexual assaults reported that I calculated differed from the information the San Francisco Police Department released to me because of the different ways we defined sexual assault.
improving the experiences of survivors who report could also improve law enforcement’s
capacity to successfully investigate and prosecute sexual assault, I will continue to analyze local
law enforcement’s data from 2016 to further illustrate this relationship.

The spectrum of accountability is not exclusive to conventional conceptions of justice as
a conviction or imprisonment. But in my research I will be focusing on the survivors who have
chosen to pursue accountability through the criminal justice system. Although higher conviction
rates alone are not the primary measure of success, as mentioned earlier, this is not to dismiss the
part of accountability in destabilizing rape culture. Our rape culture is one in which violence
against women is sexualized and normalized by peers, family, communities, the media,
educational institutions, and political bodies, while sexuality is portrayed as violent. We need to
break down rape culture and in its place build a consent culture, a culture in which consensual
sex is clearly defined, encouraged, and normalized, while sexual assault becomes abnormal.
Doing this broadly requires two components: teaching the next generation non-violence, and
conditioning people to unlearn what they have been taught about the supposed relationship
between sex, violence, and domination. This can be done through prevention, intervention, and
accountability. My research reveals that by creating a more survivor-friendly criminal justice
system to support those who want legal justice, holding perpetrators legally accountable for their
actions is more likely. The accountability of perpetrators of sexual assault plays a part in de-
normalizing what durable cultural messages have taught is acceptable, as it serves to crystalize
what is and is not consent. It communicates what is and is not condemnable.

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8 San Francisco Women Against Rape, “Rape Crisis Counselor Training” (presentation,
California Certified Rape Crisis Counselor Training, San Francisco, CA, March to April 18,
2015).
Broadly, this research attempts to identify how the criminal justice system in San Francisco fails to be survivor-centered, as a part of the national system and in particular as a city. My research will illustrate how not being survivor-centered inhibits local law enforcement’s ability to hold perpetrators accountable, although supporting survivors who have chosen to participate with the system is the ultimate goal. San Francisco can lead the charge on remedying a federal system that is not survivor-friendly by altering our own practices to show this can be done.

Keeping in mind the aims of a survivor-centered analysis of the city’s response to sexual assault, and specifically local law enforcement practices, I will analyze the desired outcomes of survivors choosing to participate in the San Francisco criminal justice system in juxtaposition to the objectives of law enforcement. By doing so, I will reveal the systematic barriers to creating a survivor-centered system. A survivor-centered legal system cannot be built without survivors’ desired outcomes and wellbeing as the pillar of this reform. After I examine survivors’ desired outcome, I will look closely at the current law enforcement policies in place to respond to sexual assault. This research will uncover the inconsistency in communication between survivors, their advocates, and law enforcement, a lack of trauma sensitivity, and understanding of sexual assault in these agencies. This evaluation will reveal several challenges in creating a survivor-centered criminal justice system, including effective collaboration between local community organizations and law enforcement. Finally, I will make recommendations on how San Francisco can become a leader in survivor-centered law enforcement policies that prioritize survivors’ needs and wellbeing, their pursuit for justice as they define it, their personal security, and access to necessary social services.
Background
Even though an American is sexually assaulted every 98 seconds,9 sexual assault remains one of the least reported crimes. In actuality, the government estimates that there are 3 to 10 times more rapes that occur than are reported to law enforcement.10 This finding is substantiated by Steketee and Austin, who assert that actual rape rates are at least ten times higher than the available statistics, while Belknap argues that 90% of rape cases are never reported.11 12 13 Not only does the underreporting of sexual assault persist as a significant issue, but so does the limited investigation and prosecution of sexual assault.

On a national scale, RAINN outlines that out of 1000 rapes, 310 are reported, 57 reports lead to arrest, 11 cases get referred to prosecutors, 7 cases lead to a felony conviction, and 6 rapists will be incarcerated (see table above). Historic patterns show that survivors not only struggle with reporting their sexual assault, but also with pressing charges against their perpetrator to the full extent of the law.

_Sexual Assault Reporting and Feminist Advocacy in the 1970s_

It is widely accepted that rape reporting rates began to rise after rape reform laws were enacted in the 1970s. These laws varied across states, but there were four common themes to this reform: changing the single crime code to a series of offenses assigned to varying levels of punishment, eliminating the mandate that survivors had to resist the assault, eliminating the requirement for corroboration, and the implementation of rape shield laws. These laws stipulate that a survivor’s prior sexual history cannot be used as evidence. During this time, feminist activists engaged in “radical grassroots politics” and its decentralized, widespread appeal lent itself to a successful era of rape law reform.

Wolistzy et al. assert that rapes occurring after the year 1980 were more likely to be reported than rapes occurring before 1980. The Uniform Crime Reporting Program (UCR), a

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16 By successful, I am referring to rape reform laws that improved the status and experiences of survivors in the criminal justice system.
project intended to capture reliable crime statistics across the country,\textsuperscript{19} also showed an increase in reporting from the 1960s to 1990s. However, the UCR also noted a recent dip in reporting in 2008. They claimed this was the lowest rape reporting rate in 20 years and concluded that current reporting rates are comparable to the 1970s.\textsuperscript{20} While there is contention around the rate by which reporting has increased, and if that increase is significant, the 1970s were in an integral time in rape reform law that did lead to increased rates of rape reporting.

\textit{Sexual Assault Reporting and Feminist Advocacy in the 1990s}

The 1990s marked a revitalization of feminist policies on the national and global agenda. It was during this decade that the Clinton Administration opened up policy windows for feminist advocacy, as Garner argues President Clinton paid more attention to gender politics than previous presidents had since the 1970s.\textsuperscript{21} Specifically, Garner contends that, “media coverage raised global consciousness regarding escalating violence against women…,” and recounts one historian who argued that, “…‘it was a crucial moment for feminists to try to make critical interventions into these discourses and to struggle for a feminist reconceptualization of violence against women’…”\textsuperscript{22} With the 1994 passage of the Violence Against Women Act, there seemed to be tangible progress in the feminist call for a national and global response to violence against women. During the 1990s, the National Women’s Study found that 16 percent of sexual assaults were reported in 1991 and the National Violence Against Women Survey found that 19 percent


\textsuperscript{22} Ibid, 128.
of assaults were reported in 1995. While there is some debate, it is generally agreed upon that reporting increased in the 1990s, but there has not been much increase since then.

Recent Trends in Sexual Assault Reporting, Arrests, and Prosecution

According to the most recent National Crime Victimization Survey published by the Bureau of Justice Statistics (BJS) in 2015, 32 percent of rape or sexual assaults\(^\text{23}\) were reported to law enforcement. This is the lowest percentage of violent crime type reported compared to robberies, aggravated assaults, and simple assaults.\(^\text{24}\) Some scholars focus on the influence of broader societal factors on reporting behavior, like Menard, who underscores the impact of gender and economic inequality. Other scholars take a more micro perspective, as a significant portion of research concerning reporting behavior focuses on incident level factors. These incident level factors include the victim/offender relationship, the location of the assault, the “seriousness” of the assault, the use of a weapon and the infliction of injury, or if the assault was drug or alcohol facilitated.

The current body of research suggests the importance of the victim/offender relationship. When a victim knows the offender the chance decreases that they will label the incident as an assault and then subsequently report it.\(^\text{25}\) Yet, most sexual assaults are committed by someone

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\(^{23}\) “Rape and Sexual Assault,” Bureau of Justice Statistics, accessed March 2017, [https://www.bjs.gov/index.cfm?ty=tp&tid=317](https://www.bjs.gov/index.cfm?ty=tp&tid=317). The Bureau of Justice Statistics published the NCVS. They define rape as: “Forced sexual intercourse including both psychological coercion as well as physical force. Forced sexual intercourse means penetration by the offender(s). Includes attempted rapes, male as well as female victims, and both heterosexual and same sex rape. Attempted rape includes verbal threats of rape.” They define sexual assault as: “A wide range of victimizations, separate from rape or attempted rape. These crimes include attacks or attempted attacks generally involving unwanted sexual contact between victim and offender. Sexual assaults may or may not involve force and include such things as grabbing or fondling. It also includes verbal threats.”


\(^{25}\) Menard, *Reporting Sexual Assault*, 11.
who the survivor knows.26 On that same note, it has been found that rapes committed by strangers are more likely to be reported.27 28 29 Chon situates the higher rate of reporting of stranger rapes within the “classic rape” versus “non-classic” rape dichotomy, asserting that stranger rape fits into the mold of a “traditional” and “stereotypical” perception of sexual assault.30 “Classic rape,” is defined as, “…a stereotype of sexual assault: committed by strangers, in a public place, and with the use of strong force and/or weapons,”31 32 33 which is a cultural myth deeply embedded in the Patriarchy. This myth is silencing as it keeps women from reporting assaults that reflect a narrative disconnected from the reality of sexual assault. Additionally, the consumption of drugs and/or alcohol (voluntarily or involuntarily) decreases the chance of reporting.34

In terms of the individual level characteristics that affect reporting behavior, there is notable disagreement among researchers. In particular, there are inconsistent findings concerning the role of age, gender, race, marital status, economic status, and individual decision-making on reporting behavior. However, Wolitzky et al. found that educational attainment and race play a significant part in reporting behavior, which Bachman agrees with. In particular, Bachman asserts that the race of the assailant matters. He cites that instances when a survivor is assaulted

26 “Facts and Information.”
27 Menard, Reporting Sexual Assault, 91.
28 Don Soo Chon, “Police Reporting,” 861.
30 Don Soo Chon, “Police Reporting,” 861.
31 Don Soo Chon, “Police Reporting,” 861.
by an African American person they do not know they are more likely to report, underlining the
part of racial inequity in the cycle of sexual assault. Focusing on the individual decision-making
process, survivors may not report for a number of reasons including feelings of embarrassment
and responsibility for the assault, not wanting others to know, or apprehension about engaging
with the criminal justice system; this can be due to lack of proof or fear of being treated poorly.\(^{35}\)
\(^{36}\) \(^{37}\) In fact, Cohn et al. found that, “…43% of rape victims…did not report to the police because
of their distrust of the criminal justice system, including their concern about being badly treated
during the police investigations.”\(^{38}\) \(^{39}\) One of the reasons a survivor doesn’t report their assault is
that they do not perceive the assault as a crime.\(^{40}\) Again, this speaks to the power of the “classic
rape” myth and other cultural attitudes in perpetuating the idea that sexual assault is only an
attack in a public space committed by strangers. This discourages survivors from reporting if
their assault does not fit into this mold, bolstering the perceived legitimacy of “classic rapes”
while delegitimizing other forms of sexual assault that are more often the reality.

Regarding recent arrest and prosecution rates of sexual assault, Lonsway and
Archambault compiled data from the UCR to find that there is a, “…consistently widening gap
between the number of reports versus arrests for forcible rape, which differs markedly from the
pattern seen with other violent crimes…”\(^{41}\) Through their computations, they concluded that 1 in
4 rapes reported to law enforcement in 2008 led to an arrest compared to 1 in 2 rapes that led to

\(^{35}\) Ibid., 821.
\(^{36}\) Cohn et al., “Correlates of Reasons,” 463.
\(^{37}\) Don Soo Chon, “Police Reporting,”866.
\(^{38}\) Ibid., 866.
\(^{39}\) Cohn et al., “Correlates of Reasons,” 463.
\(^{40}\) Ibid., 462.
an arrest in the 1970s. However, Lonsway and Archambault do suggest taking caution when drawing strong conclusions from UCR data. Still, the Bureau of Justice Statistics outlines in a 2012 report that rape arrest rates fell 59% between 1990 and 2010. Drawing a parallel to Chon’s claims about the impact of the “classic rape” myth on reporting, Lonsway and Archambault argue that the declining arrest rates are because, “…fewer sexual assault reports now resemble the cultural stereotype of the ‘real rape.’” In terms of prosecution rates, a Bureau of Justice Statistics report from December 2013 looking at the 75 largest counties examines the probability that a defendant would be convicted of the original felony charge and found that, “…the lowest probability was for those charged with rape (35%).” Moreover, they found that less than 40 percent of defendants charged with rape as their most serious charge were convicted, constituting one of the lowest conviction percentages compared to other violent crimes. Lonsway and Archambault summarize that, “official data suggests that approximately half of those arrested and prosecuted for rape will be convicted on a felony charge…,” and that, “…once an individual is convicted of rape, incarceration is almost inevitable,” which is consistent with RAINN’s findings.

Law Enforcement’s Response to Sexual Assault

In looking at law enforcement’s response to sexual assault, it is necessary to bring up secondary victimization, which is defined as victim-blaming attitudes, behavior, and practices.

42 Ibid., 150.
46 Ibid., 24.
that further the trauma of the assault.\textsuperscript{48} This secondary victimization is likely to occur in survivors’ experiences with the criminal justice system and specifically in interactions with law enforcement officials. Conversely, trauma sensitivity and trauma-informed practices used by law enforcement not only acknowledge the way trauma impacts a survivor after an assault, but also the dynamics typically involved in sexual assault.\textsuperscript{49} As specified by Wolistzy et al., only 41 percent of survivors in their study were very satisfied with the way they were treated by the police.\textsuperscript{50}

Recently, more research has been done examining police officers’ attitudes towards sexual assault. Since police officers are the first line of response and dictate how the survivor will experience the criminal justice system, their role is significant and their attitudes towards sexual assault have real consequences.\textsuperscript{51} Their attitudes impact the secondary trauma a survivor may endure, as well as the progression of the case. Just as survivors subscribe to the “classic rape” myth and come to define their assault through this lens, police officers also subscribe to rape myths\textsuperscript{52} that influence how they come to define legitimate or false sexual assault cases. Moreover, Jordan emphasizes that within a patriarchal society, there is a tendency to not believe women, for their word “lacks credibility.”\textsuperscript{53} Black found that the credibility of survivors is undermined in the eyes of police officers when the survivor had a previous relationship with the

\textsuperscript{49} This is my definition of trauma-informed law enforcement practices.
\textsuperscript{50} K.B. Wolitzky-Taylor et al., “Is Reporting of Rape on the Rise,” 816.
\textsuperscript{51} Ibid., 873.
\textsuperscript{52} Ibid.
offender and if drugs or alcohol were involved.\textsuperscript{54} Jordan argues that, “rape complainants must still battle to gain credibility in the eyes of some police investigators, and that stereotypical based judgments continue to impact negatively on police perceptions and decision making.”\textsuperscript{55} Jordan adds that this underlying suspicion and disbelief held by police officers working on sexual assault cases still remains, which they situate within the historical and social construct of distrust towards women. This is further complicated by the highly masculine ethos of police departments.\textsuperscript{56}

The individual determination by police officers of the credibility of a survivor and the legitimacy of the case impacts the report writing, which then impacts the detective’s work, and ultimately impacts the prosecutor’s decision to pursue the case or not.\textsuperscript{57} Frohmann and Venema link police officers’ response and categorization of sexual assault cases to the legal processes “downstream,” meaning that police officers consider the detective and the prosecutor’s reaction to the case when working on an initial report of sexual assault.\textsuperscript{58,59} This consideration suggests that they are consciously and/or subconsciously evaluating the credibility of the survivor and their assault which informs how the detective and the prosecutor perceives them also. Moving “downstream,” the prosecutor then considers the jury and the judge’s reaction to the survivor and their case. If the sexual assault does not fit a “classic rape” narrative that the jury can understand or that can be proved as most “she said, he said” cases cannot be, this can inform the

\textsuperscript{54} Donald Black, \textit{The Manners and Customs of the Police} (New York: Academic Press, 1980).
\textsuperscript{55} Jordan, “Beyond Belief?” 30.
\textsuperscript{56} Ibid.
\textsuperscript{57} R.M. Venema, “Police Officer Schema.”
\textsuperscript{58} R.M. Venema, “Police Officer Schema.”
unwillingness to prosecute. This then transforms ideas of credibility that are embedded in patriarchal, “classic rape” myths into a tangible consequence for the case.

Conroy and Scassa offer solutions specific to the misclassification of sexual assault cases, but they can be applied to broader reform. They advocate for transparency, as do Spohn and White, who stress transparency with survivors throughout the legal progress, such as keeping them informed about the progress of their case. Furthermore, Spohn and White call for transparency of data concerning the incidence of sexual assault, including unfounded cases, as well as police procedures. This reform also calls for accountability to survivors by training police officers to be sensitive to the trauma they can experience. Conroy and Scassa also encourage the collaboration of law enforcement agencies with other organizations that work directly with survivors in order for police officers to better understand the lived experiences of survivors.60

My research of San Francisco law enforcement’s response to sexual assault reveals the need for the accountability Spohn and White call for, to improve the experiences and wellbeing of survivors pursuing legal action. While pursuing legal action is not the sole measure for achieving justice, justice cannot be served without attention to the formal systems that are supposed to serve survivors, including the criminal justice system.

Background on San Francisco’s Response to Sexual Assault
In the 1980s, San Francisco became one of the first cities in California to create a Sexual Assault Response Team, also known as SART.61 From the time SART was first created to today, the team has been, “…composed of all San Francisco agencies who serve acute sexual assault

survivors." Specifically, SART is made up of the Special Victims Unit (an investigative unit within SFPD), the Victim Services Division, the charging D.A. of sexual assault, personnel from the Rape Treatment Center and Trauma Recovery Center, and San Francisco Women Against Rape (SFWAR). Although SFWAR is not a City agency, it is San Francisco’s only rape crisis center. Every month, these organizations send members of their staff to the SART meeting at which they discuss how the systems are working and how they can be improved to better serve survivors. As the Lieutenant of the Special Victims Unit, Jennifer Jackson attends these meeting as the law enforcement representative to talk about systems’ issues within her agency specifically. She describes SART as a, “…collaborative effort, you would call it in Gavin Newsom’s terms, ‘wrap around services’ for the survivor…” Lt. Jackson goes on to explain that organizations a part of SART offer a range of services, such as, “…counseling, advocacy,” and, “…if they are going through the prosecution path they have someone to walk them through that.” Survivors can receive clinical case management from the Trauma Recovery Center and more general case management from SFWAR. Also, the Victims Services Division of the District Attorney’s office offers victim witness advocates who support survivors both participating with the criminal justice system and those who are not.

Out of the work of the Sexual Assault Response Team, progressive policy that supports survivors has emerged according to one social worker who is familiar with the work of this team. One such policy includes offering survivors the option to collect and hold forensic evidence while they decide if they want to report, which was enacted before it was a deemed a national

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62 Social worker in San Francisco, e-mail message to author, April 13, 2017.
64 Social worker in San Francisco in discussion with the author, February 2017.
66 Ibid.
best practice. This social worker further illustrates the commitment of the City’s Sexual Assault Response Team as she describes that there is, “…a lot of investment in the part of the members to have collaborative working relationships and to be able to better address systems issues as they come up in the interest of trying to make things better for survivors.” Still, there are some glaring problems with San Francisco’s Sexual Assault Response Team. One person who explained these problems to me asked to be anonymous, so I will refer to her as Ann. Ann holds that, “what is missing...is that everything SART does needs to come out of the participating agencies’ current staffing and resources. There are no dedicated SART resources.” If these dedicated resources were available, she says, San Francisco could expand upon what they are already doing well.

Despite the work of SART, San Francisco, and specifically San Francisco law enforcement, has faced major criticism in the way it has responded to sexual assault. Specifically, local law enforcement has been faulted for how it has dealt with rape kit examinations and forensic evidence testing. A young woman by the name of Heather Marlowe experienced a horrifying drug facilitated sexual assault following Bay to Breakers in 2010, in which she woke up in a stranger’s home. After spending four hours at San Francisco General Hospital for a rape kit examination, Marlowe did not hear back from SFPD about the results of her rape kit examination for two years. In fact, in 2013 SFPD initiated a ten-year review of rape kit collection and

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68 Ibid.
69 Several people I spoke to asked to be anonymous so I will refer to them with a first name alias.
70 Social worker in San Francisco in discussion with the author, February 2017.
72 Ibid.
testing and concluded that there was a backlog of 753 rape kits,\textsuperscript{73} which incited the adoption of protocol that required the testing of all rape kits.\textsuperscript{74} On January 6, 2016, Marlowe filed a federal civil rights lawsuit against the San Francisco Police Department, citing that they, “…denied her equal protection by not adequately investigating her case and failing to test her rape kit taken at the hospital.”\textsuperscript{75} On April 20, 2016, the Police Commission, in collaboration with the Office of Citizens Complaints, and SFPD passed a resolution requiring:

…semianual and annual reporting to the San Francisco Police Commission about the San Francisco Police Department’s collection and analysis of sexual assault kit evidence and reporting of results to sexual assault victims.\textsuperscript{76}

Thanks to the courage of Marlowe,\textsuperscript{77} who came forward to the Office of Citizens Complaints about the mishandling of her sexual assault case by SFPD, local law enforcement is now required to test rape kits in a timely fashion and follow up with survivors about, “…the progress of forensic testing and the investigation of their cases…”\textsuperscript{78} Specifically, law enforcement agencies are mandated to submit forensic evidence to the crime lab five days after being collected from the survivor and the lab must process this evidence no later than 120 days after receiving said evidence. A July 2016 report by the Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement\textsuperscript{79} also details their recommended reform in communication

\textsuperscript{74} Ibid.
\textsuperscript{77} Noyes, “I-Team: Rape Survivor Sues.”
\textsuperscript{78} “Resolution 16-28.”
\textsuperscript{79} “Report of the Blue Ribbon Panel of Transparency, Accountability, and Fairness in Law Enforcement,” July 2016, accessed April 2017,
between survivors and law enforcement about the status of the survivor’s case. However, it was because of Marlowe’s fearless advocacy that local law enforcement is being held accountable to timely forensic evidence testing. Still, Marlowe never saw the justice she deserved; as of January 2017, her case was dismissed on technical grounds although she can still refile in state court.

Although San Francisco was progressive in forming a Sexual Assault Response Team over 30 years ago, there is still much improvement to be made in the way local law enforcement responds to sexual assault, as I will detail below.

The Decision to Report in San Francisco: Micro and Macro Level Factors

Across the United States, survivors face a multitude of barriers that inhibit them from reporting their assault and pursuing legal action against their assailant. Survivors in San Francisco are not exempt from these challenges, which exist on a macro and micro level. While not all of these obstacles necessarily implicate San Francisco law enforcement as the sole source of said challenges, they also do not dismiss its role. To better understand survivors’ decision to report their assault and participate with law enforcement, I spoke with Director of Training and Recruitment Kristina Lee and Survivor Advocate Martina Roland, from San Francisco Women Against Rape (SFWAR).

SFWAR has been supporting survivors and their significant others in law enforcement's Current Response to Sexual Assault,” starting on page 32.

Despite reaching out through multiple avenues to hear survivors’ experiences in the San Francisco criminal justice system first hand, I was unable to connect with any survivors willing to share their story.
San Francisco for more than 40 years. Both Lee and Roland have extensive experience as advocates for survivors in San Francisco’s public health and law enforcement system. I spoke with another survivor advocate who has been supporting survivors in San Francisco for ten years; I will refer to her as Mary as she has asked to be anonymous. All three advocates highlight several prominent factors that influence a survivor’s decision to report. These factors include the survivor’s previous interactions with police, the level of their desire for legal justice, their perception and/or knowledge of the challenges in prosecuting sexual assault cases, the type of sexual assault, feelings of shame, and other issues the survivor is facing, such as homelessness.

Looking more closely at the influence of these factors, Lee and Roland quickly brought up the role of a survivor’s previous interactions with law enforcement in their decision to report. Specifically, Lee stated that survivors’ experiences and willingness to engage with law enforcement, “…depends on the survivor’s disposition towards law enforcement initially.”

This disposition not only informs the survivor’s decision to report, but their interactions with law enforcement officials throughout the progression of their case. In her work, Lee has observed that survivors who are enthusiastic about the legal method of justice are more inclined to cooperate with San Francisco law enforcement and therefore have a more positive experience with the system. This could also be due to the fact, as Lee explains, that when survivors are ardent about legal justice, their goals are more in line with law enforcement officials who want survivors to collaborate for the benefit of the investigation. Some survivors are simply not able to engage with law enforcement, as Roland notes a number of her clients are homeless and do not have consistent means of being contacted.

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84 Kristina Lee in discussion with the Author, February 6, 2017.
The impact of a survivor’s personal history with law enforcement demonstrates an inherent inequity in the likelihood to report and to achieve legal justice, as those who have been treated poorly by law enforcement in the past feel more uncomfortable reporting than those who don’t have this history. The San Francisco Police Department has a history of being at odds with the LGBTQ community as well as communities of color. The long-lasting tension of these relationships can permeate the decision-making of survivors in such communities to participate with law enforcement after an assault. This stresses the power of fostering intersectional police, community relationships in order to better create a survivor-centered criminal justice system for all.

In addition, Roland notes survivors’ previously held ideas and/or knowledge about the low rate in which perpetrators get arrested or convicted as a contributing factor in their decision to not report. Clients have told Roland that they know a lot of cases do not move forward and therefore do not consider reporting to be worth the time and pain. In actuality, Roland describes that most of her clients do not want to deal with San Francisco law enforcement after the initial report or at all. Similarly, Lee maintains that some survivors’ reasons for not reporting include their concern about re-traumatization for an end result that is uncertain. In addition, Roland points to the variance in reporting behavior among survivors she supports as attributable to the type of sexual assault. In particular, a pattern has arisen in Roland’s work in which clients whose sexual assault was drug facilitated are less likely to want to report. Moreover, Roland finds that drug facilitated cases of sexual assault tend to not move forward in the criminal justice system. At the same time, Roland has noticed that recently more of the survivors she has worked with

85 I am defining intersectional relationships as those that cut across class, race, gender, language, and other significant characteristics of identity.
have experienced a drug/alcohol facilitated sexual assault. Ultimately, at the root of the reasons to not report lies deep feelings of shame, especially in cases of a drug facilitated assault.

It is also the case that some survivors in San Francisco, like elsewhere, are coerced into reporting. Naturally, such coercion affects the experience survivors have with law enforcement. Just as Lee noted that survivors with a positive disposition towards law enforcement are more likely to have a positive experience with the system, she mentions that survivors coerced into reporting may not value the process and want to stop participating. There are number of systemic and coercive policies in California and subsequently San Francisco’s public health and law enforcement system, which I will detail later. Within a survivor-centered response to sexual assault, no one should be forced to report. Outside of these systems, survivors can be pressured to report by family, friends, and their community, which lends itself to the significance of cultural level influences on reporting. Mary emphasizes the undue responsibility put on survivors to get their assailant off the streets in order to protect others. Specifically, Mary argues that, “…there is a lot of expectation that if you’re raped, you should report to the police. You should do the right thing.”  

In this way, the coercion to report and the actual act of reporting is, “…essentially, victim-blaming and putting the responsibility on women...,” to stop the violence. Recounting her ten years of service in anti-rape work, Mary underlines a common narrative regarding the coercion to report:

…it’s going be on you, you didn’t make a police report, of course he is going to rape other women, you don’t want that on your conscience. When really, that is on his conscience, he should not be raping people. There is a lot of that, a lot of pressure to report.  

86 Mary in discussion with the author, February 2017.
87 Ibid.
88 Ibid.
Mary’s point emphasizes the tension in the analysis of law enforcement practices and reporting behaviors through a survivor-centered, feminist lens, for survivors should never be forced to participate with law enforcement. My intention is not to convince survivors they should report, but to encourage the creation of a more survivor-centered criminal justice system for those who do choose to report. However, this in turn could rebuild a legal system that survivors are more willing to use. If the criminal justice system were to treat survivors with respect and dignity, there would be fewer negative aspects to reporting. There are many justifiable reasons not to report, including broader societal factors, that San Francisco law enforcement alone is not to blame, yet there is much they could do to whittle down the list.

Desired Outcomes of Survivors Participating with the Criminal Justice System in San Francisco Versus Goals of Local Law Enforcement

In creating a criminal justice system that prioritizes survivors’ wellbeing and improves the “habitability” of the position as a survivor, the first fundamental question we must ask is what are the desired outcomes of survivors participating with local law enforcement? Do they imagine legal justice as a conviction or do they simply desire an acknowledgement of the violence committed against them in some legal form? Although the expectations of survivors vary from case to case, Lee of San Francisco Women Against Rape recounts the common expectations expressed to her by survivors. These expectations include that by reporting, the survivor can warn others and prevent an assault from happening to someone else, drawing a direct parallel to Mary’s assertion about the pressure put on survivors to stop future violence. In some instances, as both Lee and Roland illustrate, survivors’ desired outcomes are justice as defined by a conviction for their perpetrator. However, Mary states that survivors she has worked with simply want some form of accountability, which can either be a conviction or documentation of the assault on file.
Still, she says, accountability can be complicated especially when the perpetrator is the survivor’s partner, or father of the survivor’s children, which is often the case statistically, as 75% of rapes are committed by someone the survivor knows.\(^{89}\) In the short term, Mary argues, a survivor may hope that calling the police will stop the violence. On that note, two advocates, Isabella and Sarah, who support survivors through a local government agency, stress survivors’ hope for safety as a result of reporting. Specifically, Sarah underlines this desire as, “…the idea of knowing that the defendant is in jail or in custody, makes [the survivor] feel safer.” However, Isabella touches on another layer to this expectation as she underscores that punishment isn’t always attainable. Still, survivors she supports:

…expect that once a report is made that [the perpetrator] goes into custody, and then that’s it, there is nothing else to it…Though I think that most of them come in realizing that that is not a realistic expectation, but that is what they would hope for. They make a police report, they’ve come forward, let’s arrest this guy and let it be done…But most of them are aware that we might have to go to a jury trial.\(^{90}\)

Ann, the social worker, substantiates that a desired outcome she hears survivors express is legal justice as a conviction. But this isn’t the most frequent expectation she hears; she estimates that it’s less than the majority. Because several of her clients have experienced a drug/alcohol-facilitated sexual assault, they don’t necessarily want a conviction but answers as to what happened to them. Ann informs her clients that the reality in reporting the assault will most likely not yield any of the clear answers they seek.

The next question we must ask ourselves is: what are the objectives of San Francisco law enforcement? Do these objectives align with the desired outcomes of survivors who come forward – or is there a fundamental disconnection? The official San Francisco Police Department

\(^{89}\)“Facts and Information.”
\(^{90}\)Ann in discussion with the author, February 2017.
website says their stated purpose is, “…to protect life and property, prevent crime and reduce the fear of crime…,” as well as to, “…provide service with understanding, response with compassion, performance with integrity and law enforcement with vision.”91 Under this stated purpose, SFPD lists their values; one being that, “…We Should Vigorously Pursue those who Commit Serious Crimes.”92 For the survivors who desire that their perpetrators be held legally accountable, their objectives appear to be in line with law enforcement’s. Yet as my research will reveal, the path to getting to this seemingly shared objective diverges as survivors are met with numerous hardships in their pursuit for legal justice.

The objectives of the Special Victims Unit within SFPD and the D.A.’s office also warrant individual attention. As Lt. Jackson details, there are 25 people in her unit who investigate a number of sex crimes including adult sexual assault. Within the D.A.’s office, there is a team of five attorneys who prosecute felony adult sexual assault cases. The overlap of two agencies’ objectives is undeniable, yet when asked about her specific objectives as Lieutenant of the Special Victims Unit, Lt. Jennifer Jackson mentioned two overarching objectives. These two objectives include case tracking, or overseeing the cases that come into SVU, and ensuring that her sergeants are interacting with survivors in a trauma-informed manner.93 In this case tracking,

92 Ibid.
93 “The Importance of Understanding Trauma-Informed Care and Self-Care for Victim Service Providers,” The United States Department of Justice Archives, accessed March 2017, https://www.justice.gov/ovw/blog/importance-understanding-trauma-informed-care-and-self-care-victim-service-providers. The Department of Justice states that, “…Trauma-informed care emphasizes creating services and programs that are sensitive and directly responsive to the trauma that many survivors experience after a violent crime. Trauma-informed care programs identify and limit potential triggers to reduce their retraumatization and protect their mental and emotional health. OVW has a long history supporting a number of trauma-informed care programs that provide culturally and linguistically competent services and a space for healing based on empowerment and hope.”
Jackson outlines how she follows all reports of sexual assault that come into SVU, including cases that come in through the hospital even when there is no police contact. Although not explicitly stated, Lt. Jackson alluded to her agency’s larger mission of ensuring public safety when describing its responsibility for the chain of custody of forensic evidence and evidence testing. This objective is in line with the description of SFPD’s stated value of “vigorously” pursuing those who commit serious crimes as they, “…must react with vigorous law enforcement, moving aggressively toward arrest and prosecution of the perpetrator,”94 in order to deter crime. However, there is a disconnect between these values and the data concerning the investigation and prosecution of sexual assault. In 2016, 297 out of 757 adult sexual assault cases were investigated, while 182 cases remain open yet inactive.95 Open and inactive cases sit in a file cabinet in SVU as they wait for more information to come forward. Again, higher reporting, arrest, and conviction rates are not the benchmark for success in my conception of reform, but this data does reveal a gap between law enforcement’s stated objective and the reality of the investigation and prosecution of sexual assault in San Francisco. Why are only 40 percent of adult sexual assaults being investigated? My research highlights one possible reason: the criminal justice system is not survivor-centered and survivors who do want to press charges face an uphill battle in doing so.

Yet, it is when we situate and prioritize law enforcement’s objective as achieving higher rates of arrest, investigation, and prosecution above the experiences of survivors in the criminal justice system that we run into serious trouble. When we do this, incidences such as this happen:

94 “Mission Statement.”
95 “Adult Sexual Assaults Investigated by Special Victims Unit in 2016,” San Francisco Police Department, author requested public records and received document March 29, 2017. See appendix.
one advocate named Linda who supports survivors at San Francisco General Hospital describes
telling the survivor on an accompaniment that, “…she didn’t have to report if she didn’t want
to…” and both officers, “…rolled their eyes and said they had daughters and if this happened to
her they would want her to report and I said okay well if they aren’t ready you shouldn’t be
pushing them.”

Not only does this encounter highlight how increasing reporting rates can be at
odds with being survivor-centered, but how the objectives of survivor advocates and law
enforcement officials diverge. Survivor advocates follow the lead of the survivor, whether that
means entering the criminal justice system or not, while law enforcement officials are charged to
push cases through the system.

Nevertheless, Jackson’s second objective to promote a trauma-informed approach to law
enforcement work is survivor-centered. Jackson describes a trauma-informed approach to
interactions with survivors as the understanding of the ways in which trauma affects the brain
and how one’s brain processes information, including how one recalls events. Within the
parameters of this objective, Jackson reminds her sergeants that because of trauma, a survivor
may not remember their assault sequentially, it’s not, “…then what happened? Then what
happened? It might be fragmented for a while…,” and Lt. Jackson makes sure her sergeants are
understanding of this. By ensuring that her sergeants are aware of this particular impact of
trauma, she seeks to positively affect the interactions between survivors and law enforcement
officials.

Turning to the objectives of the charging D.A. of sexual assault, a former official from
the D.A.’s office explains that this objective is to:

…figure out which cases can be proved beyond a reasonable doubt and that’s the ethical

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96 Linda (medical advocate) in discussion with the author, February 2017.
standard. If there is sufficient evidence beyond reasonable doubt that can be proof to a jury that these events occurred, and then to charge correctly.⁹⁸

In cases of sexual assault, the prosecution needs the highest burden of proof to get a unanimous jury. Within the charging D.A.’s objective to prosecute cases in which there is proof beyond a reasonable doubt, establishing this reasonable doubt is not an easy feat. According to the former D.A. official, several years ago, “the reputation of the sexual assault unit was that they were probably a little tighter in charging…,” meaning they were particularly selective about the sexual assault cases they charged. He goes onto say that being tight in charging, “…is not a bad thing…it means a lot of cases were sent back for further investigation.”⁹⁹ While the 2013 and 2014 annual reports published by the D.A.’s office have less detailed information about the prosecution of sexual assault, the annual report from 2015 shows that the Child Abuse and Sex Assault unit reviewed more cases compared to 2014. Moreover, there was a 24 percent increase in new charges from the previous year and four more successful trial convictions, totaling seven convictions.¹⁰⁰

When asked what survivors are usually looking for when participating with the criminal justice system, Lt. Jackson acknowledges that she has never asked and doesn’t know. While seemingly small-scale, simply asking a survivor what they want, even in an institution that is not “victim-friendly” as one member of the Sexual Assault Response Team put it, helps to better the experience of survivors pressing charges. This in turn constitutes one step towards a survivor-

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⁹⁸ Former D.A. official in discussion with the author, February 2017.
⁹⁹ Ibid.
centered system as San Francisco law enforcement reduces their part in any secondary victimization while improving how survivors who come forward are treated.

**San Francisco Law Enforcement’s Current Response to Sexual Assault**

*The Sexual Assault Training for San Francisco Police Officers*

According to an official from SFPD, all officers receive training in sexual assault investigative procedures.\(^{101}\) This is done through “Legislative Mandated Basic Course Training Requirements,” referred to as Learning Domains, which are identified by the state as necessary for “peace officer” training to be effective.\(^{102}\) One former SFPD officer provided me with three booklets containing all the information that the state requires to be presented to incoming officers about sexual assault. In addition to providing incoming officers with these three booklets, which include written exercises, the information was presented in a PowerPoint by the sergeant in charge of Sex Crimes. The booklets contain accurate language around the dynamics of sexual assault, consent, and crisis intervention. These booklets also include descriptions of how survivors may be feeling and reacting to their assault and how officers’ response can escalate the situation unless they check their implicit biases, actively listen, and validate the survivor’s experience of trauma.

Despite the effective content of these booklets, there is no ongoing training required and the initial training covers a short period of time.\(^{103}\) Moreover, Lt. Jackson says there is no specific training in trauma sensitivity outside of the state mandated classes for SVU investigators, while noting that she tries to meet with her people every couple of months.

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\(^{101}\) Public Information Officer for SFPD, e-mail communication to author, February 10, 2017.


\(^{103}\) Ibid.
However, they don’t necessarily do a lot of in-house training unless she is talking about specific issues she has seen.

The Initial Report of Adult Sexual Assault

The protocol for responding to an incident of sexual assault differs based on where the survivor reports. Survivors have four options: they can report at a police station, through a 911 call, at San Francisco General Hospital, or a uniformed officer can be called to San Francisco Women Against Rape (SFWAR) where a survivor reports with an advocate present.

1. Reporting at a Police Station or Calling 911

Following a report of sexual assault through either of these means, the initial person who has contact with the survivor is a uniformed SFPD officer. When reporting at a police station, however, it can be either a uniformed officer or a volunteer with the authority to take police reports depending on who is sitting in the window. After calling 911, usually two uniformed officers will arrive at the scene and make the initial police or investigative report. An investigative report, “…records in detail the officer’s observations and actions as they relate to a specific event or incident.”104 This constitutes the beginning of the preliminary investigation which is initiated by the 911 call.105

In addition to conducting a preliminary interview, the responding officers must collect any evidence.106 If it is within five days of the assault, the survivor will most likely be directed to go to San Francisco General Hospital for a rape kit examination, which I will explain in more depth.

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105 Ibid.

106 General Orders: Sexual Assault, San Francisco Police Department, retrieved from email communication with Public Information Officer, February 2017. See appendix.
The responding officers also must provide the survivor with their incident case number as well as inform them that their name will become public record unless they request otherwise. Once they have done so, the responding officers notify the Special Victims Unit (SVU). SVU will then take over the investigation from the initial officers responding. After the initial report is passed to SVU, they will then review the report and do a clarifying interview with the survivor as will be explained in more detail in a later section.

**Issues with This Process**

Survivor advocates illustrate that in this process there is little consideration for the time and welfare of survivors. Kristina Lee of SFWAR notes an obstacle one survivor faced when she reported at a police station, which reflects how survivors who come forward to report are treated poorly. Lee describes:

…there was nobody there to take a report for a really long time and then when she made the report – the area where she was making the report was not a very friendly type of space…The area where she was sitting was somewhere where they actually could have had the perpetrator. They took her to a place near to where they talk to and restrain suspects.

The space where a survivor reports matters. Recounting one of the worst days of your life in a space that does not protect your privacy and confidentiality is disrespectful. Not only is it disrespectful, but it discourages people from telling their story and feeling positively about participating with law enforcement in their quest to hold their perpetrator accountable. The space that the survivor was asked to report demonstrates the trauma insensitivity that characterizes the local criminal justice system’s response to sexual assault. What Lee also touches upon here is a recurring theme in my findings: the problems that arise for survivors because of the length of the

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107 This is up to the nurse’s discretion.
109 Kristina Lee in discussion with the author, February 2017.
criminal justice process. The initial report, the investigation, and the prosecution of sexual assault takes a long time and is anxiety-inducing for survivors. Even when survivors come to SFWAR to report with an advocate present, Lee notes that the police can take a long time to show up. The length of this process presents a serious barrier when reporting is already frightening for many. Taking a long time to simply show up to take the report implicitly communicates to the survivor that what they have gone through is not important. It suggests a lack of urgency and respect for the survivor’s time and their willingness to come forward.

Lee notes that uniformed officers tend to be less trauma sensitive than SVU investigators, although there is a variance in the trauma sensitivity of SVU investigators as well. In her experience, Roland has found that uniformed officers at the Mission Police Station are not sensitive to survivors who are male or have a mental illness. Roland highlights the range in how trauma sensitive law enforcement officials are. The inconsistency in SVU investigator’s trauma sensitivity can be an obstacle for survivors and their advocate, as they never know what to expect from the law enforcement officials they are working with and how to prepare the survivor for what the interactions will be like.

Lee and Roland contend that, in general, clear and consistent communication between uniformed officers, SVU investigators, and survivors is absent. Roland stresses that investigators don’t explain the process clearly, while adding that their disposition towards survivors can be nonchalant and unsympathetic. In fact, some survivors who contact investigators to inquire about information regarding their case are met with an air of annoyance. However, it should be noted that advocates from the Victim Services Division of the D.A.’s office are available to survivors who are pressing charges in order to describe the process, where they are in the process, what services are available to them, and any other legal questions they may have. This meeting can
also include the prosecutors assigned to the case. However, victim witness advocates with the D.A.’s office don’t have the legal right to protect confidentiality, which means they can be called to be a witness in the trial, undermining the value of these services. This inhibits the extent to which victim witness advocates can support survivors working with criminal justice system, as well as those advocates ability to be truly survivor-centered.

Mary adds that even when officials in law enforcement follow protocol, bias still imbues their interactions with survivors. In particular, she indicates the tendency of some officers and investigators to use victim-blaming\textsuperscript{110} type language. In this way, Mary emphasizes the difference between knowing the protocol and the preconceived notions or biases that come out in this work, consciously or not. This bias can manifest into disrespect, as Mary describes that survivors in the San Francisco criminal justice system are not being treated respectfully.

2. Reporting at San Francisco General Hospital

Survivors can also report at San Francisco General Hospital, where SVU investigators will usually respond rather than uniformed officers as it is a “fresher case.”\textsuperscript{111} Among the other first responders at SFGH are a medical team of mid-level practitioners at the Rape Treatment Center (RTC).\textsuperscript{112} The Rape Treatment Center is housed in San Francisco General Hospital, as it is the only hospital in the city that offers free medical services and rape kit examinations for survivors of sexual assault.\textsuperscript{113} Other medical facilities in San Francisco cannot do rape kit examinations, as, “…Sexual Assault Response Team (SART) nurses are trained to do evidence collection, other

\textsuperscript{110} Victim-blaming is when survivors of sexual assault are blamed for their assault, because of what they were wearing, doing, or how they were acting.
\textsuperscript{111} Lt Jennifer Jackson in discussion with the author, February 2017.
\textsuperscript{112} A social worker in San Francisco in discussion with the author, February 2017.
\textsuperscript{113} The RTC medical team also sees survivors for follow up medical services at the Trauma Recovery Center (TRC) on Mariposa.
medical practitioners are not; plus SFGH is the only hospital that currently has the facilities to do these exams in San Francisco.\textsuperscript{114} If a survivor goes to a hospital other than SFGH after their assault, they are supposed to be transported, sometimes by police, to SFGH. However, Lee notes that although medical providers in San Francisco should know SFGH is the only medical facility set up for rape kits examinations, some don’t send survivors there which in turn interferes with evidence collection.\textsuperscript{115}

Survivors can access services at San Francisco General Hospital if they are a resident of San Francisco or if they were sexually assaulted in San Francisco. Unlike many hospitals that do rape kit examinations up to 72 hours after the assault, SFGH allows for up to five days after the assault. If it has been longer than five days since the assault, it is up to the RTC nurse’s discretion to admit the survivor to the Rape Treatment Center. When survivors access these services at San Francisco General Hospital, their assault will be reported to law enforcement in some form whether or not the survivor wishes to do so. If a survivor calls SFWAR first, on the hotline or the office line, a counselor can explain to them the steps they must take in order to receive services at SFGH, what to expect there, and that the assault will be reported to law enforcement. Counselors, like myself, explain to survivors that if they want to receive these free services, they need to go to the Emergency Department and disclose at the Triage desk that they have been assaulted or that they want to be seen by the Rape Treatment Center.

Once a survivor is admitted to the RTC, the nurse asks the survivor if they want an advocate from the Trauma Recovery Center or San Francisco Women Against Rape. In addition to the medical team that supports survivors at the hospital, the Trauma Recovery Center sends

\textsuperscript{114} Kristina Lee, e-mail message to author, April 18, 2017.
\textsuperscript{115} Ibid.
medical advocates during business hours to San Francisco General Hospital to provide emotional support to survivors throughout their examinations. All other times, San Francisco Women Against Rape (SFWAR) sends medical advocates to the hospital. Advocates inform survivors of their rights, ensure their rights are respected, provide emotional support during the medical examination and interview with the police if the survivor chooses to talk to law enforcement. Moreover, the advocate ensures the survivor is being treated with respect, while offering them follow-up services from SFWAR or the TRC.

At the beginning of the process at the hospital, RTC nurses also go through a form with the survivor that details their options around reporting and evidence collection. This form describes that if survivors choose to report to law enforcement, they are willing to talk to law enforcement that same day and that law enforcement can begin an immediate investigation. If a survivor chooses to not make a report to law enforcement, they still retain the right to contact law enforcement and participate in an investigation later. Even if a survivor indicates that they do not want to report, the form explains:

…the Rape Treatment Center (RTC) is still required by law to report this incident to law enforcement. This report will include my name and contact information. Law enforcement may contact me but I understand that I retain the right to decline from participating in the criminal justice process.¹¹⁶

Lt. Jackson clarifies that when a survivor comes to SFGH for Rape Treatment Center services and they do not want to have police contact, there is a procedure that nurses can follow in order to avoid police contact while fulfilling their duties as a mandated reporter. This alternate procedure involves evidence collection, in which survivors are also given options: to have a

¹¹⁶ “Choosing Your Options: Reporting to Law Enforcement & Forensic Examinations,” San Francisco General Hospital and Trauma Center Division of Psychosocial Medicine, Rape Treatment Center/Trauma Recovery Center, see appendix.
forensic examination with evidence collection or to not have any evidence collected. If a survivor wants evidence collected and no contact with the police, RTC nurses can call dispatch, or a non-emergency line, for a computer-generated dispatch number which they then place on the kit and turn over to SVU as the caretakers of forensic evidence.\textsuperscript{117} \textsuperscript{118} The RTC will notify SVU that they have rape kits to be picked up. SVU maintains this chain of custody in case the evidence becomes relevant to the prosecution for that survivor’s case or another case in the future.\textsuperscript{119}

Survivors have a right at any time to stop the medical examination and evidence collection. The form detailing the options available to survivors at SFGH further outlines that the, “custody of the physical evidence collected by the Rape Treatment Center will be transferred to law enforcement…This includes the release of my name and contact information,”\textsuperscript{120} and that, “…generally law enforcement will not further pursue an investigation without my cooperation and participation in the process.”\textsuperscript{121} Generally law enforcement does not pursue a sexual assault cases that the survivor is not participating with as the form reads - but Lt. Jackson illuminates how “generally” is defined. She explains that if a survivor does a forensic examination, the evidence will be tested by their crime lab. If the crime lab gets a hit on a DNA profile, it might become relevant to SVU, “…not to say that we will force the survivor to do anything at that point, he or she is still not obligated to be involved with us, but we do it because, to us, it’s a public safety issue. If we have evidence, we want to test that evidence in case the perpetrator is

\textsuperscript{117} Lt. Jennifer Jackson in discussion with the author, February 2017.
\textsuperscript{118} According to a SVU report (see appendix) it appears that even if a survivor doesn’t want evidence collected, the nurse can still get a computer-generated number from dispatch to avoid police contact.
\textsuperscript{119} Lt. Jennifer Jackson in discussion with the author, February 2017.
\textsuperscript{120} “Choosing Your Options.”
\textsuperscript{121} Ibid.
If a survivor had forensic evidence collected, they are notified of their DNA Bill of Rights under 680 of the penal code. The DNA Bill of Rights outlines survivors’ specific rights around receiving notification of any DNA profile that’s developed, whether or not that DNA profile is uploaded into the Department of Justice database, and if there is an offender hit on that DNA profile. Lt. Jackson notes that within these rights, survivors also have a right to choose to not be informed about anything related to DNA in their case.

**Issues with This Process**

To begin with, the seemingly small detail of disclosing an assault at the triage desk can present a large obstacle for survivors, as it requires them to disclose their assault in public. Ann, the social worker, is familiar with the process at SFGH and notes the necessity of this disclosure, while adding that survivors can ask to be seen by the “RTC” without verbalizing that they have been sexually assaulted. Of course, this is the case if a survivor has reached out to SFWAR or the RTC/TRC before coming to SFGH and is informed of this option. Still, Ann maintains this is the only way triage would know to alert the Rape Treatment Center that a survivor is seeking services. Imagine, however, that you have just experienced what you believe to be a sexual assault – but you have never been taught what sexual assault is or what it can look like. Now, you feel as though you have been sexually assaulted and to receive medical attention, you must confidently declare at a hospital that what happened to you was sexual assault. A number of calls I’ve received on the hotline have been survivors asking about medical services available to them, while also noting that they weren’t sure if they were assaulted, either because the assault was

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123 Ibid.
drug/alcohol facilitated or they weren’t sure if what happened to them was sexual assault among other reasons. Their uncertainty about the assault means they are not only unclear about what happened to them, but about their right to be seen by RTC and receive their free services.

Whenever I’m speaking to survivors, I acknowledge this challenge and the difficulty in making such a disclosure. How a survivor perceives their assault impacts their likeliness to seek formal systems of support from law enforcement and medical professionals; if their assault does not fit the “classic rape” myth or has been obscured by drugs or alcohol, they face an uphill battle in getting the medical attention they deserve if they want it.

One medical advocate named Katie, who has completed close to two dozen medical accompaniments in three years, touches upon the amount of time survivors have to wait in the ER to be seen by the Rape Treatment Center. Especially if a survivor does not have extensive injuries and the RTC nurses are busy, survivors could be waiting for hours. The hours the survivor spends in the noisy, crowded emergency waiting room is done alone, unless they have brought a significant other along; it is only when they are admitted to the Rape Treatment Center that they are able to request an advocate. This is an insensitive way to treat someone who has just dealt with tremendous trauma and discourages survivors from relying on support from medical personnel. In more uncommon situations, survivors who are either assaulted in San Francisco or reside in San Francisco can be turned away from the RTC per the nurse’s discretion or other reasons that are unclear to survivor advocates. One survivor I directed to SFGH for RTC

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124 Katie (medical advocate) in discussion with the author, March 2017.
125 A medical accompaniment refers to the advocate responding to a call from the RTC nurse relaying a request from the survivor for an advocate.
126 Katie (medical advocate) in discussion with the author, March 2017.
services, as their assault took place in San Francisco, was turned away and sent back to the city where she lives.

Once a survivor is admitted to the RTC the waiting continues, as Katie recollects the amount of time she has spent with survivors waiting for nurses, doctors, and SVU investigators. During her three years as a medical advocate, Katie has spent a minimum of two hours at SFGH and up to six to seven hours with a survivor on an accompaniment. She describes that, “often times, it gets really hard for the survivor. They start second guessing whether or not they should be there, they get tired, and they are in the midst of processing trauma so they just want to go home.”\textsuperscript{127} After a sexual assault, waiting for hours in a cold and dehumanizing environment such as the hospital is draining and painful. Allowing the survivor’s stay at the hospital to last for hours places an undue burden on their shoulders for deciding to access medical services. In this way, deciding to report and using SFGH’s services is at the expense of a survivor’s healing immediately after their trauma; it becomes an encumbrance not a benefit. Survivors who decide to take this avenue are putting up with many difficulties, when they could easily stay at home and deal with their trauma there. We want survivors to be asking themselves, “why not access these services.” Right now, there are a number of “why nots.”

As several medical advocates recounted their experiences at SFGH, it became clear that the protocol is not completely standardized. One advocate emphasizes that every medical accompaniment is different. She attributes this to the issues the survivor is dealing with, such as medical injuries that require care beyond the services of RTC, which changes how the process looks. It also changes the people you deal with, some of whom may not be trained to use trauma-informed medical practices with survivors of sexual assault. In one accompaniment this advocate

\textsuperscript{127} Ibid.
did, she states that when the survivor needed extensive medical attention, the medical professionals outside of RTC were dismissive, “…partly rude and partly not empathetic.” In this instance however, the police pointed out their insensitivity and disrespect to this survivor who happened to be dealing with mental health issues and was under the influence. These police officers asserted that, “you shouldn’t treat someone like this,” demonstrating how law enforcement officials can be trauma sensitive and respectful of survivors. In one extreme case outside of protocol that another medical advocate describes, the Rape Treatment Center was closed in the middle of the night, which neither the advocate nor SVU investigators had ever experienced before. This changed the location of the accompaniment and was out of the realm of experience of the advocate, necessitating her to text higher level staff at her agency about what to do and what rights the survivor had in these new circumstances. Once the survivor dismissed the advocate, the advocate recognized a palpable change in the demeanor of law enforcement as they stopped being accommodating towards her in her role and asked, “what are you still doing here?”

Interactions with law enforcement officials vary, as some are more sensitive, respectful, and trauma-informed than others. Another social worker I spoke to who supports survivors of trauma has witnessed interactions between survivors and law enforcement at SFGH and explains that there is a wide range of skills in the trauma-informed approach to interactions with survivors. She explains that the trauma sensitivity of law enforcement officials:

…runs the gamut from officers that are more sensitive and are able to use trauma-informed approaches when interviewing survivors and officers who don’t - who are either suffering from burn out or it turns out to be a lack of empathy or understanding of the dynamics involved in sexual assault.

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129 Ibid.
This highlights that the system’s issues at San Francisco General Hospital are not limited to the structure, but the people within it.

3. **The Number of Adult Sexual Assault Reports Made to Law Enforcement**

To better understand how many sexual assaults are *not* reported as well as how sexual assault cases flow through the criminal justice system from its initial entry, it is necessary to first detail the scope of reported sexual assaults. Not only must we look at the data collected by SFPD, but the number of survivors served by the Rape Treatment Center, the Trauma Recovery Center, and San Francisco Women Against Rape. By juxtaposing these data sets, we can get a better sense of who the first responders to sexual assault in San Francisco really are and how many survivors prefer support from systems outside of law enforcement. In 2016, there was a total of 967 reports of forcible sex offenses in San Francisco. Forcible sex offenses include, but are not limited to, sexual battery, forcible rape with bodily force, sodomy, oral copulation, forced penetration with an object, attempted forcible rape, and spousal rape. Breaking down the total number of reported sexual assaults to adult and child sexual assaults, there were 757 reports of adult sexual assaults and 210 child sexual assaults.

In comparison, the sexual assault evidence tracking mandated by the Police Commission in 2016 reveals that the Rape Treatment Center collected evidence from 240 survivors from January 2016 to December 2016. This data does not include survivors who were admitted to the RTC and did not get a rape kit examination done. The Trauma Recovery Center served 778 clients from July 1, 2015 to June 30, 2016. However, in addition to serving survivors of sexual assault, the TRC also “…provide[s] mental health and case management services to survivors…[of] other physical assaults, gang-related violence, survivors of political torture and
more.” The TRC details that of the 778 clients they served, 53 percent were survivors of sexual assault, 7 percent were survivors of domestic violence, and 63 percent were female. In addition, 733 of the clients served were new clients of the TRC, constituting a 7 percent increase in new clients from the previous fiscal year. Looking at the total number of clients they supported 31 percent were Latino, 25 percent were white and 16 percent African American. It should be noted that some survivors go to the Rape Treatment Center at SFGH for emergency services and do not receive services from the Trauma Recovery Center, and vice versa.

During the fourth quarter of FY 2015-2016, SFWAR received 719 crisis line calls as detailed by a Quarterly Service Report for the Department on the Status of Women (DOSW). In fact, SFWAR received 1,559 crisis calls in FY 2015-2016 in which 503 were new clients; in FY 2014-2015 they supported 2,810 people on the hotline. The totality of this data draws a clear picture: survivors in San Francisco would rather call a hotline after their assault, or in healing from their assault, than law enforcement. We need to create a criminal justice system survivors are willing to call if we are going to hold perpetrators legally accountable for the violence they commit.

*After the Initial Report: The Investigation of Adult Sexual Assault*

After an initial report is made, as Lt. Jackson puts it, the survivor will be placed in a team of support: the Sexual Assault Response Team. If a SFWAR medical advocate did in fact

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130 “Trauma Recover Center,” Department of Public Health, author requested public records and received document February 14, 2017. See appendix.
131 Sexual assault does not include domestic violence. Sexual assault and domestic violence are both defined as forms of sexual violence.
132 “Trauma Recovery Center.”
133 Ibid.
134 Department of Public Health Communications official, e-mail message to author, April 20, 2017.
accompany a survivor at SFGH, they will offer the survivor follow up case management and free peer counseling. Additionally, Trauma Recovery Center offers survivors a medical follow-up within five days of being seen at the Rape Treatment Center in San Francisco General Hospital. These organizations also offer continuous support to those who have chosen to press charges and those who haven’t.

1. The Procedure When a Suspect Has Been Apprehended After the Assault

If a suspect was arrested at the scene or shortly after the assault, SVU has 48 hours to investigate and present a case to the D.A.’s office. One former official from the D.A.’s office underlines that because of this 48-hour timeline, “...a lot of these investigations aren’t as thorough as they could be because they are rushed…”136 They further explain that this necessitates the D.A. to make a decision in a very short window, which explains why a number of cases are discharged for further investigation in order for SVU officials to go back and do more work.137 Lt Jackson explains that:

We may not have everything together in 48 hours, but we will have enough for arraignment. The arraignment has to happen in 48 hours. We need to get a certain amount of information to the D.A. to either hold onto this person…or we need some other things, like forensics…[otherwise] the D.A. will discharge the case until there is further information.138

This 48-hour window is a standard practice for California.

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137 Ibid.
2. The Procedure When a Suspect Has Not Been Apprehended

In the cases where an arrest is not made, SVU can investigate as long as needed. Because of legislation passed in September of 2016, there is no longer a ten-year statute of limitations on sexual assault in California. This applies to sexual assaults occurring after January 1, 2017. According to Lt. Jackson, the investigation can take six months to a year. After the initial report, law enforcement officials tell the survivor it will take six to ten days for them to get a copy of the police report. In some instances, law enforcement will call the survivor after the initial report for a follow up interview at 850 Bryant where most of the City’s law enforcement agencies are housed. Other times, Roland explains, survivors must take the initiative and call the investigators or simply walk into 850 Bryant for follow up. Once a survivor has done this follow up interview, Roland of SFWAR explains that the process takes a long time, echoing Lt. Jackson’s estimate that it takes six months to a year typically.

3. Follow Up with the Survivor After the Initial Report

For survivors who had a rape kit examination done at SFGH, there is a period of waiting to get these results after the initial report at San Francisco General Hospital. According to the sexual assault kit evidence tracking mandated by the Police Commission in 2016, SFPD is picking up rape kits from the Rape Treatment Center in a timely manner, but the analysis of these rape kits can take one to three months. Although in several cases analysis was completed

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by the crime lab within days. A survivor will be notified of the results if: there is no biological evidence found, there is a known offender hit, or an unknown offender who has committed a prior crime in which SVU is notified and investigates. A newer initiative requires that if law enforcement gets a hit on DNA and wants to contact a survivor, and:

…the survivor has requested no police follow up the Investigator contacts the Trauma Recovery Center notifying them of the offender hit and the Trauma Recovery Center notifies the Survivor who determines the follow up.

This is because of the TRC’s expertise in trauma sensitivity and training in how to lessen the impact of this news on the survivor. Lt. Jackson elaborates on how this notification can affect survivors, as, “some are happy to hear from us, for some it’s opening up old trauma. Some want to go forward and see their cases adjudicated, some…[feel], ‘I’ve dealt with this, I’m done.’ We leave it up to them.” In many cases, Jackson acknowledges that there is a time lag between the initial report and follow up with the survivor. She states this lag is due to the time it takes to get the toxicology report from the survivor, crime lab results for DNA, or, “…there just might not be a reason to keep contacting the survivor until they have information.” It should be noted, as Deputy Public Defender Sandy Feinland argues, there are questions of the lab technician’s competence; as well as other concerns raised by the rape kit backlog in recent

142 “San Francisco Police Commission Resolution No. 16-28.”
144 Ibid.
145 Ibid.
146 Deputy Public Defender Sandy Feinland in discussion with the author, February 2017.
years. Moreover, Lt. Jackson states that SVU does, “keep [survivors] informed as to progress in the investigation, if we get an offender hit on the DNA we will be contacting them and wanting them to ID a suspect – [to] do a photo lineup to see if they can identify who the suspect is…and we move from there.”147

4. The Pretext Call

In the beginning of the investigation, survivors are often asked to do a pretext call. The pretext call entails the survivor calling the perpetrator in the presence of SVU investigators and asking them certain questions drafted by said investigators in order to get the perpetrator to admit what they did. Most of Roland’s clients have been asked to do the pretext call, while some have refused to speak to the perpetrator for safety reasons. For survivors who did not want to do the pretext call, they were told by investigators that if they don’t do it, the case can’t move forward because there is not enough evidence. Roland illustrates that in some instances when a survivor declines to do the pretext call, the investigator will call the perpetrator themselves to see if they will talk about what happened. She says that some perpetrators then get a lawyer, or tell the investigator it was sex, not rape. Lt. Jackson simply explains the pretext call as an investigative tool.

Issues with This Process

As Roland explains the length of the investigative process, she emphasizes the pain and anxiety it causes survivors, especially for those whose healing includes feelings of safety and seeking justice through a conviction. During this time, she recommends to survivors, that, “…they get into counseling – to continue their life – because it is a long process.”148 In fact, when I

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asked Kristina Lee of SFWAR what the most difficult part of the criminal justice process is for survivors, she replied, “the overall length and ambiguity of the process is hard for people.” The length of the process is a major piece of negative feedback that survivors have continually brought up to advocates, along with criticism around the lack of sensitivity and clear communication.149

During the extended period of time in which the investigation spans, protocol is either ignored or blurred. Lee explains that what she finds personally ineffective about the current system is communication within SFPD. She says that communication, “…is not the best, as far as everyone having an understanding of what SFWAR’s goals are and what survivors’ rights are.”150 Specifically, Lee is referring to survivors’ right to an advocate during police interviews not only at San Francisco General Hospital, but at 850 Bryant. Even though, “everyone should know survivors have a right to an advocate,”151 Roland has been told by law enforcement officials that she can’t be in the room with the survivor during follow up interviews. In these instances, she was told by investigators that this was because of the sensitivity of the case; yet, “with some detectives, whether it’s protocol or not, they won’t let us in the room.”152 In one example of this, Lee describes not initially being allowed in the interview room with the survivor, despite the survivor wanting her to be. Lee had to go over the investigators heads to talk to the Lieutenant at the time. Yet, by the time Lee made it into the room, the survivor was in tears and clearly in crisis.153 It is SFWAR’s practice to not push back when these conflicts arise. They adopt this practice in order to not escalate the situation or create any negative consequences

149 Kristina Lee in discussion with the author, February 2017.
150 Ibid.
151 Ibid.
152 Martina Roland in discussion with the author, February 2017.
153 Kristina Lee in discussion with the author, February 2017.
for the survivor, their client. This is especially the case if the survivor consents to being interviewed without the advocate present. Roland confirms Lee’s experience of the system, maintaining that everyone is not on the same page about protocol or survivors’ rights. Clear communication is not only needed between law enforcement officials and survivors, but between the organizations that make up the backbone of the city’s response to sexual assault, and the SART meetings are proving not enough to improve this communication.

In looking closely at the investigative practice of the pretext call, survivors are expected to prove their assault happened by contacting their perpetrator. In our rape culture, survivors are not believed and must deal with investigative practices like calling their perpetrator to prove to a jury that they were assaulted. Since Roland started at SFWAR in June of 2016, she has had ten clients who were pressing charges and none of them wanted to continue after the pretext call. They found the experience to be too traumatizing. In fact, Roland cites the pretext call as the moment in the process when survivors feel the most disempowered. Moreover, this practice seems to violate the rights of survivors according to Marsy’s Law, which states that “victims” have a right to, “…to be reasonably protected from the defendant and the persons acting on behalf of the defendant.” Putting survivors on the phone with their perpetrator does not usually make survivors feel protected, as Roland has observed. Moreover, Roland asserts that most of the pretext calls don’t work, as she mentions that perpetrators, “…know what they are calling for.” Creating incentives to not report and participate with the criminal justice system, such as having to speak to the perpetrator shortly after the assault, constitutes discouragement. The pre-

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154 Roland had worked with ten clients pressing charges as of February 13, 2017.  
text call is not worth any potential gains because of the tremendous harm it incurs for survivors.

As Roland stresses that this “tool” actually discourages survivors from continuing in the process, which goes against the aims of SVU to encourage survivors to participate in a successful investigation. Not only do survivors have to put up with these obstacles, but there is no guarantee their desired outcomes will come to fruition. In fact, as the data shows and as many survivors already know, a majority of perpetrators walk free in San Francisco, like the rest of the country.

5. The Number of Adult Sexual Assault Investigations in 2016

As mentioned above, 967 forcible sex offenses were reported in 2016, including 757 adult sexual assaults. According to a SVU report made in response to my public records request, 297 cases of adult sexual assault cases were investigated by the SVU in 2016.158 91 cases were referred to the D.A.’s office, 182 remain open and inactive,159 and 24 were cleared as unfounded.160 Pulling from SVU’s database, the report details that of the adult sexual assault cases investigated, 247 were female survivors and 50 were male. The 247 female survivors were 36 percent White, 17 percent Black and 17 percent Asian, 14 percent Hispanic, and 16 percent unknown. The 50 male survivors were 42 percent white. It is unclear whether these numbers suggest that white people are more likely to report and press charges or if their cases are more likely to be investigated; either way, this shows a major gap in legal justice for survivors of

158 “Adult Sexual Assaults Investigated by Special Victims Unit in 2016,” San Francisco Police Department, author requested public records and received document March 29, 2017. See appendix. It should be noted that, “the number 297 does not reflect the total number of adult sexual assault cases that SVU investigated in 2016 i.e. it does not include sexual assault cases that were reported late and did not occur in 2016 nor does it reflect the number of cold case follow ups.”
159 Lt. Jennifer Jackson in discussion with the author, February 2017. This means that, “there was not enough information to move the case up to the D.A.’s level and it’s still in the SVU office in a file cabinet waiting for more information to come forward.”
160 An unfounded case means it was determined to not have occurred.
color. Last, the largest age group of the 297 survivors was 24 to 28 years old, constituting 25 percent. Moving from the number of assaults that don’t even get reported to those that do, and then to see these cases fall off as the criminal justice process progresses demonstrates the ineffectiveness of San Francisco law enforcement in holding perpetrators accountable.

*The Prosecution of Adult Sexual Assault*

Once a sexual assault case is investigated and SVU investigators determine there is enough information to present the case to the D.A, the charging D.A. of adult sexual assault (among other sex crime) decides whether to prosecute. According to an attorney familiar with the prosecution of sexual assault in San Francisco, the D.A. charges cases in which, “…an actual crime has occurred…” which is determined by, “…looking at interviews or statements from victims…” for, “…each element of a crime has to be spoken to.”\(^{161}\) Additionally, there needs to be corroboration, which can come in the form of a witness, a video, 911 call, or DNA. This attorney describes why and in which instances sexual assault cases do not get charged. She explains:

…Let’s say that all we have is one person’s statement of what happened…and it may be something where it’s possibly delayed reporting - when I say delayed reporting [that’s] not just to police but to anywhere else – it’s not that it didn’t happen, but, it becomes then a credibility fight in court when the level of proof is proof beyond a reasonable doubt and the jury is instructed, as they always are, that you have to look at the witness and judge their credibility. Then, they [the jury] are told that if there is a statement by the defendant that hasn’t been reported or written down in any way that you have to look at them with caution. There is a lot of legal hurdles that really scrutinize - that tell the jury to scrutinize - a person’s statement.\(^{162}\)

In this explanation, Amy highlights the importance of credibility in sexual assault cases, speaking to the battle survivors face in gaining such credibility in a rape culture that puts survivors on trial. Sandy Feinland, a Deputy Public Defender in San Francisco, weighs in on

\(^{161}\) Amy in discussion with the author, February 2017.

\(^{162}\) Ibid.
issues around “credibility” from the other side of the aisle. Feinland underlines the challenges that come up for him as a defense attorney because of rape shield laws in California that don’t allow him to:

…get information about complaining witnesses which would show they aren’t credible or have committed crimes themselves or engaged in some other conduct that reflects on their credibility. They are shielded in court and it makes it very difficult for us to get information about them, which could be vital to our client’s defense. It goes all the way from law enforcement to prosecutors to judges, making it very difficult to get information about people who bring charges.\textsuperscript{163}

In 2016, Feinland defended five clients in sexual assault cases. One of these went to trial and was acquitted of the “overcharged” count, and one was settled for a resolution where the defendant wouldn’t have to register as a sex offender. The other three are still active. On the flip side, an official from the D.A.’s office estimates that over 300 total cases of child abuse, child sexual assault, internet crimes against children, human trafficking, and adult sexual assault cases are presented to the D.A. within a span of a year. Specifically, 91 cases of adult sexual assault were presented to the D.A. ’s office in 2016, while the D.A.’s office filed 95 felony cases. Of the cases from the unit that prosecutes child and adult sexual assault, there were 11 trials with nine of them resulting in a guilty verdict.\textsuperscript{164} As specified by Amy, “…it usually takes anywhere from one year to several years for a case to result in either a plea, conviction, dismissal, or acquittal. Thus, measuring outcome in any category is difficult, at best; the rate will give you a snapshot in time.”\textsuperscript{165} This brings us back to the problems that the length of the criminal justice process

\textsuperscript{163} Deputy Public Defender Sandy Feinland in discussion with the author, February 2017.
\textsuperscript{164} There are other possible outcomes in the prosecution of sexual assault, such as plea deals, but for the purpose of this research I focused on the cases that went to trial. Moreover, when I requested information regarding the range of outcomes of adult sexual assault cases prosecuted in 2016, officials from the D.A.’s Office detailed the rate of action taken on arrests presented but did not break down the outcomes into categories.
\textsuperscript{165} Amy in discussion with the author, February 2017.
creates for survivors, as well as the problem with solely focusing on conviction rates as success for it ignores the hardship caused by the process itself.

Amy and her colleague, Greg, who is also versed in the prosecution of sexual assault, describe why cases can span a number of years. In his explanation, Greg highlights two factors that influence the length of court proceedings: the Sixth Amendment of the Constitution, which posits the right to a competent attorney, and a related legal doctrine called “the ineffective assistance of counsel.” He outlines that if a defendant is looking at life, because it was a violent rape or someone was kidnapped, defense attorneys can come forward and say, “hey look I’m in trial or I’ll be on vacation, I will be an ineffective assistance of counsel” – for whatever reason.” In this instance, Greg explains, the Judge is going to err on the side of caution and, “…put over that case,” in order to avoid appellate issues, meaning, issues around the right of the defendant to a competent attorney. Amy emphasizes that although it’s understandable that defense attorneys want to put the most time they can into their case to get the best result for their client it is also frustrating for the prosecution. She argues that, “…it’s a catch-22, just in the sense that, if the attorney is able to establish that they would be ineffective and let’s say that after five years they still say they will be ineffective, we get sent out to trial - the victim has to testify, has to be cross-examined, if the case gets overturned, the victim - the survivor - has to do it again and relive the whole process all over again.”

There is one more piece to the puzzle in the prosecution of sexual assault: the impact of judges’ attitudes towards survivors of sexual assault. As seen in recent, high profile sexual assault cases, such as the Brock Turner case, judges can pass down lenient sentences despite

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166 Greg in discussion with the author, February 2017.
167 Ibid.
168 Amy in discussion with the author, February 2017.
everything the survivor has put up with in the criminal justice system. Inevitably, judges’ understanding of the dynamics involved in sexual assault directly impacts how perpetrators are held accountable - or how they are not. The presiding judge in Brock Turner’s case didn’t want his violent raping of another human being to ruin his life, a Utah county judge recently referred to the perpetrator in court as “…an extraordinarily good man,”¹⁶⁹ and in April of 2016, a New York Judge told Kesha, a famous singer, that she could not leave the sexually abusive business partnership with her producer.¹⁷⁰ These cases may seem anecdotal, yet they have real consequences for survivors deciding whether or not to come forward after witnessing via the media how these court proceedings can unfold.

**Issues with This Process**

There is no denying that defendants’ rights are important. The United States has locked up 2.3 million people,¹⁷¹ particularly people of color, through eras of “law and order”¹⁷² and the “war on drugs.”¹⁷³ But – where is the war on rape? Defendants have a presumption of innocence, as they should, yet the rate of false allegations range from two to ten percent¹⁷⁴ and there is no

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¹⁷² This term was used by President Richard Nixon in the 1960s and President Ronald Reagan, which alluded to a racially charged crusade against crime and chaos.

¹⁷³ In the early 1970s, President Nixon declared a “War on Drugs,” which disproportionately impacted communities of color.

rational reason why a survivor would deal with the hardships of the criminal justice system for a “lie.” When you look at the data of sexual assault prosecution rates, it is clear the issue is not simply aggressive defense lawyers, but a criminal justice system that is not set up to hold perpetrators of sexual assault accountable.

Supposedly, the system is structured to protect the rights of the defendant, even if it means extending the time span of the case to the detriment of the survivor’s healing process. As specified by Marsy’s Law, legislation in California’s Constitution that outlines “victims’ rights”, survivors have a right, “…to a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.” It is unclear how a “speedy” trial is defined by Marsy’s Law, but if the length of the trial process is difficult for many survivors, it’s not fast enough. The right of defendants to a “competent attorney” outlined by the Sixth amendment and the right of survivors to a “speedy trial” can be in direct opposition. This reflects a historical pattern in which the rights of survivors of sexual assault have taken a back seat to the rights of defendants. Of course, defense attorneys are charged with prioritizing the right of their client over the survivor; as a City with a reputation of being progressive, we need to prioritize not only believing survivors who report, but treating them with more respect.

When talking with Mary about the prosecution of sexual assault in San Francisco, she asked, “…for survivors who want their perpetrator to be locked away, I am really curious - why doesn’t the D.A. charge cases? Historically, what is the hesitation there?” In her ten years of working with survivors, Mary asserts she has observed zero accountability of perpetrators. Part of the answer to the question she poses is issues with the lack of evidence in situations of “she

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175 The language of this legislation uses the word “victim,” but I will use the word survivor.
176 “Marsy’s Card.”
177 Mary in discussion with the author, February 2017.
said, he said.” In our rape culture and The Patriarchy at large, women, especially women accusing someone of rape, are not seen as credible. Instead, they are more likely to be perceived as seeking fame, money, or revenge, while perpetrators become “victims” of defamation.

Moreover, other identity characteristics, like race, age, sexual orientation - even how a survivor dresses and speaks - influences how they are perceived. While the attorneys themselves may not be victim-blaming in its conventional conception, Mary points out that it’s still victim-blaming when, “…the D.A. says I believe you, but I don’t think the jury will believe you, so I’m not going to charge this case.”

The prosecution of sexual assault in San Francisco must also be understood within a larger context, as credibility is deeply rooted in the patriarchal, white supremacist structure of our society. “Access” to credibility is unequal and this inequality manifests in the court system. By perpetuating what is typically understood as a “credible” survivor, such as a white, educated survivor who reported right away, we disregard the reality of sexual assault and the trauma survivors experience. The cycle of establishing and breaking down credibility is self-perpetuating, as prosecutors not only in San Francisco avoid cases with survivors who aren’t “credible” and defense attorneys seek to establish a lack of credibility. In a rape culture as widespread as ours, reporting a sexual assault makes your credibility questionable; in fact, it’s only an “alleged” assault, an “accusation.” As survivor advocates and rape crisis counselors in San Francisco, we do our individual part to dismantle the larger rape culture by never taking an assault as an allegation; it is our job to take survivors by their word.
Connecting Survivors to Needed Services After the Assault: The Intersection of Sexual Assault, Housing, and Mental Health

Almost every survivor advocate I spoke to stressed the need for more housing services for sexual assault survivors. In particular, Ann explains that:

…absolutely housing is an issue. Not just for sexual assault survivors but for all survivors that we see...whether that’s more permanent housing or even more temporary shelter, it’s often a real struggle...and safe shelter. A lot of the clients that we are working with are coming to us because of the most recent assault but many people that we work with also have a longer history of trauma and violence. Some of the issues that are correlated with that – the psychological ramifications – [are] struggling with depression or anxiety or things that can make it hard in interpersonal relationships or to hold down a job. We know that substance abuse goes hand in hand with trauma. It’s a coping strategy but it also increases vulnerability to future trauma. That’s another big one that our clients are struggling with.178

Isabella notes that the survivors she works with also need services related to mental health, as well as income. She adds that survivors need financial help because the impacts of trauma can affect their ability to work. However, there is a Victim Compensation Program within the Victim Services Division which helps victims of all crimes with medical expenses, income loss, and house relocation.179 Still, Isabella concludes the biggest issue is mental health, meaning therapy, and while San Francisco community-based organizations offer great services there are not enough; there are often waitlists.180 Isabella and Sarah, who work with survivors together, emphasize the need for more service, as they get new clients every day. In fact, Sarah wants more collaboration between organizations that support survivors and those that help with housing in order to make it a priority to get survivors of sexual assault into a shelter.

Jennifer Friedenbach, the executive director of the Coalition on Homelessness, points out that there are no reserved beds or resources in homeless shelters for survivors of sexual

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180 Isabella (survivor advocate) in discussion with author, February 2017.
While change in the criminal justice system can be slow, as Isabella and Sarah argue, an immediate improvement that can be made in the City’s response to sexual assault would be to increase the amount of services available to survivors. The trauma of sexual assault can last a lifetime, imbuing every aspect of a person’s everyday life. If we are going to treat survivors in San Francisco and in the criminal justice system with more respect, this begins with making sure their basic needs are met and that we address how the trauma they endured has affected their livelihood.

**Recommendations**

If San Francisco is to build a survivor-centered criminal justice system, there a several steps we must take. Most of the recommendations described below will take time to implement, while others offer a more immediate solution. Although these recommendations are not without complications, they offer the City pathways towards improving the experiences of survivors who have decided to report and press charges. Following these pathways could in fact serve to more effectively hold perpetrators accountable. If we can create a system that doesn’t disregard survivors’ trauma or pressures them to call their perpetrator, it is more likely they will continue seeking the justice they first sought by entering the criminal justice system. Moreover, these solutions detail how we can get the community more involved in the City’s response to sexual assault.

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181 Jennifer Friedenbach (Executive Director of the Coalition on Homelessness), e-mail message to author, April 11, 2017.

182 There are of course circumstances in which survivor-centered practices won’t be in line with law enforcement’s objectives, for example the elimination of the pretext call. Yet, this does not diminish the importance of implementing such practices. Especially as law enforcement’s current practices have shown to not substantially increase the likeliness that a perpetrator will be held legally accountable.
1. **Create a SART Coordinator Position and Open SART Meetings to the Public**

Who will lead the charge in rebuilding a more survivor-centered system? Survivor advocates face a conundrum, in that being survivor-centered means supporting survivors choosing to work with law enforcement despite the advocates’ critique of law enforcement. Part of this support includes fostering positive working relationships with law enforcement to make the experience for survivors more positive. Because of this, there is a limit to how much advocates can push back on the system their clients are working with; there is also organizational and resource limitations to how much advocates can change the San Francisco criminal justice system. One way to address these limitations is to create a position outside of the organizations of the Sexual Assault Response Team – a SART coordinator. The SART coordinator would be independent of local law enforcement agencies and report to the Department of Public Health. By creating a position that remains outside of organizations involved in the sexual assault response team, the SART coordinator can advocate for change that other SART members don’t feel they can do effectively without infecting relationships they need to be positive for the sake of survivors. A SART coordinator could help to relieve the strain on participating organizations’ resources, as well as, “…do more strategic planning…taking more of a global overview of the situation and could also help more with data collection and analysis and reports that would help decide where resource could go and what services could look like.”\(^{183}\) The SART coordinator could also engage in advocacy at the state level, demanding policy reform that will not only help survivors in San Francisco, but survivors across the state.

In addition, we need more community involvement in the Sexual Assault Response Team. Even though the victim witness advocates from the D.A.’s office have satellite offices in

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\(^{183}\) A social worker in San Francisco in discussion with the author, February 2017.
the community and SFWAR has a community educator, we can still do more to involve the community in the City’s response to sexual assault. In fact, there is no publicly released information about the Sexual Assault Response Team; there is no website to find information or resources, it remains completely opaque to the public.\textsuperscript{184} Important decisions and issues are discussed at SART meetings and yet the public is not informed of these meetings. While SFWAR works with law enforcement most often as San Francisco’s rape crisis center, other organizations that support survivors of sexual assault and domestic violence need to be involved in these conversations. This could also give space community members space to share their perspective on how things are working for survivors as a survivor themselves, a significant other of a survivor, or an activist. In instances when SART is discussing confidential information about a specific survivor, meetings should remain closed but general policy discussions should be open to the community. Making the SART meetings public and their information accessible can help to root solutions to the current problems in the community – while also calling on the community to respond to sexual assault as a collective. By making SART more transparent and hiring a SART coordinator, we can make changing the system easier.

2. Reform at San Francisco General Hospital

   A. Revisit the Role of Nurses as Mandated Reporters

   There are a number of practices at San Francisco General Hospital that can be improved to be more survivor-centered. As explained in the section, “the Initial Report”, Rape Treatment Center nurses at SFGH are mandated reporters, requiring them to report incidences of sexual assault to the police. Roland describes that, “…since they are mandated reporters, [survivors] are scared to tell them certain things. So, in the middle of an exam, they are not telling [the nurses]...

\textsuperscript{184} Although, I have been told this website is in the making as of April 2017.
everything that happened,” impeding their ability to conduct a comprehensive medical exam. On the hotline, I describe to survivors the nurses’ role and their obligation to report the assault, while also highlighting another option open to survivors. This alternative option includes going to a community clinic, such as the Women’s Community Clinic. Even though they are also mandated reporters, if survivors tell them they had “rough sex” they can receive services for free while avoiding police contact. Obviously, this can be upsetting for a survivor to describe their sexual assault as consensual when it was not. Moreover, the mandate to report can impede nurses’ capacity to be survivor-centered. Feinland has a problem with nurses as mandated reporters for a different reason: he says they are more interested in being on the prosecution team rather than objectively evaluating the “complaining witness” or the survivor. He argues that we need a more objective approach. If nurses’ aims are, as he says, to help carry a conviction, there is no way they can truly be survivor-centered.

In California, all health care providers are required to report sexual assault. We do not want to eliminate the mandate for all health care providers, but specifically for those who provide rape kit examinations and other medical services to survivors after an assault. The mandate on other health care providers can still be useful at times and coercive in others; but legally linking those who provide medical services specifically to survivors of sexual assault with law enforcement is impeding these services. It affects who accesses these services as well as the quality. By changing state law and removing this mandate, survivors who don’t want to report to law enforcement but want medical attention would be able to access the free services offered to them without the fear of police contact. Eliminating this requirement can move RTC nurses’ objective away from helping law enforcement and more towards supporting survivors’ health. Survivors

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185 Martina Roland in discussion with the author, February 2017.
need more objective, confidential support focused solely on their needs, and removing Rape Treatment Center nurses’ mandate to report could help achieve this.

B. Expedite the Medical Examination Process

As highlighted in my findings, the length of time of the medical examination process at SFGH is a recurring issue for survivors. In order to shorten this process for survivors, to support survivors in their decision to come to the hospital, and to use resources more efficiently, it is necessary to have concrete goals around the length of time a survivor spends in the hospital. We must ensure that survivors are admitted to the Rape Treatment Center within 30 minutes of arriving at SFGH and spend no longer than two hours at the hospital once they have been admitted. In order to adhere to a shorter time frame, there needs to be more dedicated resources and staff trained to serve sexual assault survivors at SFGH. Currently, there are, “seven 0.5 permanent FTE,” or seven half-time employees, for both the Rape Treatment Center and the Child and Adolescent Support Advocacy and Resource Center (CASARC). There is one clinical forensic manager for the RTC and 14 standby physician’s assistants and nurse practitioners for both the RTC and CASARC. This means that seven half-time nurses serve the entire population of adult sexual assault survivors in San Francisco. Additionally, there is:

almost always a staffing shortage due to the amount of time that it takes to hire, orient and proctor new medical examiners. Every time there is staff turnover, there is usually a gap during which there’s an open position for a while. So, there is some variance in the staffing at any given time.  

If there were more RTC nurses then more nurses would be available to see survivors at SFGH in a timely manner, specifically within the 30-minute window. However, this also requires measuring the impact of these added resources. By setting clear goals, we can assess how these

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additional resources are improving survivors’ experience at SFGH. Of course, there will be extenuating circumstances in which a survivor has severe physical injuries and needs to be seen by medical professionals outside of RTC which lengthens the process. However, by setting a clear goal for how long a survivor stays in the hospital, we can be more aware of how survivors are experiencing the services available to them at SFGH.

3. Reform Within San Francisco Law Enforcement

A. Expedite the Investigation and Prosecution Process

The investigation and prosecution of sexual assault needs to be expedited, as it is an affront to survivors’ right to a speedy trial as posited by Marsy’s Law. As mentioned earlier, there is a demand for more SVU investigators specifically assigned to sexual assault in order to expedite the process at SFGH, but this is also necessary to expedite the investigative process after the initial report. Investigators are stretched thin because they are working on a range of sex crimes cases. Improvement would require hiring more investigators or separating out the investigators that work on adult sexual assault, child sexual assault, and domestic violence.

As my research shows, a year of investigation and the years before the case may go to trial is distressing for survivors. Shortening the investigation and prosecution process would be beneficial for survivors, investigators, and prosecutors alike, who sometimes lose contact with the survivor due to the length of time. What law enforcement officials can do in the short term however is be clearer with survivors about the process and the length, while also being transparent about the information they have uncovered.

B. Eliminate the Pretext Call

The pretext call is traumatizing for survivors and its effectiveness is unknown to those outside of SVU. The use of this tool needs to be well-documented and tracked and eventually
phased out, or at least used as sparingly as possible. How are investigators measuring its effectiveness? Does this investigative tool work? When asked these questions, Lt. Jackson responded that she could not disclose information about investigative practices, but we need transparency around practices that greatly impact survivors such as this one.187

C. Implement Ongoing Sexual Assault Training and Lengthen the Current Training

As rape crisis counselors, we are required to complete ongoing education around sexual assault. The same must be mandated for law enforcement officials. Law enforcement’s flawed response to sexual assault is not only a structural issue which plagues most cities, but also the secondary victimization that occurs in interactions with survivors. Implicit bias that fuels victim-blaming, disrespect, and trauma insensitivity cannot be done away with in a two-week training.188

D. Appoint Internal Champions in San Francisco Law Enforcement

It is not new protocol that will get law enforcement officials to treat survivors with respect, but a culture of respect for survivors rooted in a survivor-centered approach to sexual assault. As the sexual assault training booklets showed, the right content is there, but the right execution is not. This requires the appointment of internal champions within law enforcement to lead the charge on shifting the organizational culture to a survivor-centered environment. This should be done in a SART meeting, with input from SFWAR and other SART members who witness the interactions of survivors and law enforcement first hand. We need to adopt these protocols but first we need to initiate organizational change in order to build a durable survivor-centered system. There are investigators who have been working with survivors for a long time

187 It should be noted that this recommendation will not always lead to more success by law enforcement’s standards.
188 Former SFPD officer, Facebook message to author, April 2017.
and are committed to serving survivors. It is these people we need to appoint to train and model for the next generation of investigators, and for existing investigators, that being survivor-centered is a priority. While law enforcement officials cannot promise that survivors will get legal justice, they can guarantee they will be treated well. In order for law enforcement officials to be survivor-centered and effectively carry out survivor-centered practices, the core of the institution needs to be survivor-centered and only law enforcement officials can incite such a change.

4. Increase Collaboration Between Advocates for Survivors and Homeless: Appoint a Representative from an Organization that Provides Homeless Services to the Sexual Assault Response Team

The intersection of sexual assault, homelessness, and mental health are undeniable. I have received numerous hotline calls in which a survivor is having a crisis at work, before work and can’t go, or their perpetrator is someone at work; threatening their job stability and ultimately their home. Survivors need safe shelter. Representatives from organizations that support the homeless population in San Francisco must be a part of the Sexual Assault Response Team in order to comprehensively coordinate the housing services that survivors need. With a representative from these organizations present, the Sexual Assault Response Team can begin discussions around requiring a certain number of beds in shelters for sexual assault survivors in the City. Sexual assault affects a survivor’s ability to get up in the morning and go to work, which is further compounded by the use of drugs/alcohol to cope. Housing needs to be a part of the conversation at the SART meetings.
5. Transformative Justice: Creating Other Means of Accountability and Ensuring Survivors’ Safety

Accountability is a broad spectrum that ranges from transformative justice to traditional legal accountability through imprisonment. Although my research focused on survivors who want legal justice, not all survivors do. Those who don’t may simply want some form of accountability, requiring us to explore other means of achieving perpetrator accountable. As a community, we all contribute to the creation of rapists; we are all messengers and recipients of social norms and behaviors that promote violence as sexy and consent as gray. In reality, consent is black and white. How then, as a community, can we accept responsibility for the role we have played in perpetuating sexual assault? One possible avenue is through transformative justice.

Transformative justice, as defined by Anthony J. Nocella, is a form of justice that addresses the social, political, and economic inequalities that led to the crime being committed. In fact, it:

…is explicitly opposed to helping someone get arrested, imprisoned, fired from their job, repressed, or oppressed. It is about looking for the good within others, while also being aware of complex systems of domination. If the world is to transform, we need everyone to transform and everyone to be voluntarily involved in critical dialogue together.¹⁸⁹

Moving away from a culture that condones sexual assault and then throws away only a few rapists as “bad apples” requires us to move towards justice that holds us all accountable in the movement to end sexual assault. While transformative justice acknowledges these intertwined systems of oppression that fuels sexual violence, as a rape crisis counselor, I would never remind a survivor that their perpetrator is a person with goodness inside them somewhere.

That is not my job. It is also not the survivor’s job to risk their safety, in some cases, in order to explain to their perpetrator why what they did was wrong.

This research focuses on survivors who have chosen to enter the criminal justice system; however, if a survivor takes the lead on pursuing transformative justice, I will follow. One example of survivors communicating and carrying out transformative justice was witnessed by one survivor advocate at San Francisco General Hospital. This advocate recounts two survivors who chose not to press charges because they felt they had already addressed the issue with the perpetrators and had made clear to them what they did wrong. The two young men who assaulted them apologized after they were confronted and the two survivors believed they were sorry and it was a mistake. In instances where survivors communicate that they want to see their sexual assault addressed through transformative justice, the people who support that survivor should respect this choice and facilitate this becoming a reality by whatever means the survivor asks for. The question remains and could be addressed in further research: who ought to be these facilitators?

In terms of safety, we can create teams of support. When a survivor is in crisis, rape crisis counselors will do short term and long term safety planning with them. We ask them if they are in a safe place and to identify if they have a reliable support system, who they are, and if they can call them for help when they are no longer feeling safe in their home or elsewhere. In my experience, survivors on the hotline find this safety planning beneficial, but I don’t know how much it reduces their fear for their safety in actuality. What makes a survivor feels safe is the fundamental question we must ask ourselves in achieving any form of accountability.

Conclusion
Most likely, there is someone reading this who has survived sexual assault. They have woken up with night terrors, they have smelled the cologne their perpetrator wore walking home.
one day and was plagued with flashbacks for the rest of the night. Maybe, they have even dealt with years of anxiety, fear, and self-blame, which sometimes feeds into their desire to kill themselves. I say this because these feelings after an assault are the norm.

The movement to end sexual assault begins with supporting survivors. It starts with helping them in their journey of healing, which is a life long journey. To bring about non-violence, we must help to heal those afflicted with the long-term impacts of violence. Many survivors choose not to pursue legal action to heal and we must support them in that choice. But for those that do choose to pursue legal justice, we can make things better for them. We can respect their decision to report by making a system that is historically and systemically unfriendly to survivors, as survivor-friendly as possible.

Survivors are not being treated with respect and dignity when they report and press charges against their assailant in San Francisco. They are made to wait for hours at the hospital or a police station to simply notify law enforcement of what happened to them. Once an initial police report is made, survivors must wait even longer for information about their case, to see their case move forward, and consequently suffer for years knowing this ordeal isn’t over. Like the rest of the country, the San Francisco criminal justice system pushes the wellbeing of survivors to the side and the accountability of perpetrators to the forefront. There is no denying that holding perpetrators accountable is also crucial in ending sexual assault, especially since most perpetrators of sexual assault will not spend one day in jail. But as my research shows, survivor-centered law enforcement practices can forward the aims of legal accountability as they improve the experience of survivors pursuing legal justice. These practices can encourage those that started this pursuit, to continue.
As a leader in progressive policy and social justice, San Francisco can construct a criminal justice system that prioritizes survivors’ healing and self-determination. By creating a position charged specifically with the advocacy of a survivor-centered system, by shortening the length of the criminal justice process, and by eliminating investigative procedures like the pretext call among other changes, San Francisco can become part of the solution and no longer be part of the problem. Survivors deserve a criminal justice system that acknowledges the trauma that can threaten their well-being for a lifetime. They deserve a peaceful pursuit of justice and adopting survivor-centered law enforcement practices can serve that end.
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Appendix
SAexual Assaults

This order establishes policies regarding investigations of sexual assault cases involving both adults and juveniles, and includes procedures for investigating, gathering evidence, obtaining medical treatment, and preparing incident reports.

I. Policy

A. Investigative Responsibilities.

1. The Special Victims/Child Abuse Section of the Juvenile Division is responsible for the investigation of any type of sexual abuse, sexual assault or sexual molestation involving a victim under 14 years of age. The Child Abuse Section is also responsible for the investigation of any type of sexual assault, sexual battery or unlawful intercourse involving a victim between the ages of 14 and 17 when the perpetrator is a family member or in a position of trust with respect to the victim, i.e., coach, teacher, care-provider, trusted family friend. Special Victims/Child Abuse Section also handles incest cases involving a victim under 18.

2. The Sexual Assault Section of the Investigations Bureau- Bureau of Inspectors is responsible for the investigation of any type of sexual assault, sexual battery or incest involving a victim 18 years of age or older. The Sexual Assault Section is also responsible for the investigation of any type of sexual assault, sexual battery, or unlawful intercourse involving a victim between the ages of 14 to 17 when the perpetrator is not a family member or adult in a position of trust with respect to the victim, i.e., stranger, boyfriend, acquaintance, etc. In rape cases with more than one victim, if victims are both under and over 14 years of age, assignment will be made on a case-by-case basis.

3. The Domestic Violence Response Unit and the Sex Crimes Detail may be assigned the investigation of cases when an individual alleges being the victim of both sexual assault and domestic violence. In all cases the Commanding Officer of the Sex Crimes Detail and the Commanding Officer of the Domestic Violence Response Unit shall meet and confer. The Commanding Officers may assign the investigation to the detail best suited for a successful investigation and prosecution. The protocol for Investigative Detail assignment is, as follows:

   a. If the crime(s) occurred within 72 hours of being reported the case will be assigned to the Sex Crimes Detail.

   b. In cases of domestic violence involving life threatening injury or great bodily injury, the case will be assigned to the Domestic Violence Response Unit.
c. In cases when the subject alleges a sexual assault which occurred four or more days prior and a more recent allegation of domestic violence is alleged, the case will be assigned to the Domestic Violence Response Unit.

d. In cases of an allegation of both sexual assault and domestic violence, an Inspector from Sex Crimes and Domestic Violence Response Unit may be assigned to work together on the investigation.

II. PROCEDURES

A. FORENSIC EXAMINATION AND MEDICAL TREATMENT

1. JUVENILES. Sexual assault victims under 18 years of age will be taken to San Francisco General Hospital as follows:

   a. To the Pediatrics Outpatient Clinic, 6th floor, Main Building, during business hours, or

   b. The Emergency Department at all other times.

2. ADULTS. Sexual assault victims 18 years of age or older will be taken to San Francisco General Hospital Emergency Department.

B. PRELIMINARY INVESTIGATION AND COLLECTION OF EVIDENCE/RESPONSIBILITIES OF REPORTING OFFICER

1. EVIDENCE COLLECTION. In addition to conducting a preliminary investigation, respond to the crime scene and collect evidence (see DGO 6.02, Physical Evidence). Each item of evidence must be placed in a separate property envelope (one item per envelope), including evidence taken from the suspect. Do not leave any evidence with the nurse or doctor examining the victim; however, slides and swabs used for semen testing and sperm detection collected by the medical staff will be preserved and retained at SFGH.

2. NOTIFICATIONS

   a. Notify the Crime Scene Investigations Unit when specialized techniques are required to collect and preserve evidence, e.g., blood, semen, fingerprints, or evidence that cannot be practically packaged.

   b. Notify the Child Abuse Section or the Sexual Assault Section as appropriate. Notify Operations Center after business hours. Notifications to the Investigative Details or Operations Center should be made as soon as practical to ensure an expeditious response by the on-call inspector(s).
3. OTHER DUTIES/SERVICES

   a. If requested, provide the victim with transportation to his/her residence or another appropriate location within San Francisco.

   b. Give the victim the incident case number along with a Victim of Violent Crime Notification form (see DGO 6.19, Victim of Violent Crime Notification).

C. INCIDENT REPORTS, INTERVIEWS AND RECORDS

1. STATEMENTS. In cases involving victims under 18 years of age, information may be taken from the doctor or nurse examining the victim if interviewing the victim is impractical and there is an extended delay for the medical examination.

2. INCIDENT REPORT. When a Child Abuse Section Investigator responds on a case to conduct the investigation, he or she is responsible for making the initial report. Child abuse investigators may require the responding officers to submit an initial or supplementary report indicating initial information reported to police, observations, statements, evidence and other related information. If, however, the investigator determines that an immediate interview of the victim is not practical or warranted (due to the child's age, time of night, etc.), he/she may request that the patrol officer complete the initial incident report. In all other cases, the patrol officer shall complete the initial report.

3. CONFIDENTIALITY OF PUBLIC RECORDS. Penal Code Section 293, requires that you inform the victim that her/his name will become public record unless she/he requests that it not. Indicate in the incident report that you have advised the victim and indicate the victim's response. Also see DGO 3.16, Release of Police Reports. All confidential reports shall be stamped in red “CONFIDENTIAL”

4. MEDICAL REPORT. In cases involving victims 18 years of age or older, place the medical examination report in a plain envelope, write the case number on the face, and forward it to the Sexual Assault Section. Medical examination reports of victims under 18 years of age will be retained by the medical staff and forwarded to the Juvenile Division or the Sexual Assault Section.

D. AIRPORT BUREAU OPERATIONS: Airport Bureau members shall follow Airport Bureau General Orders and San Mateo County protocols.
THE FOLLOWING FLOW CHART ASSISTS MEMBERS IN DETERMINING CASE ASSIGNMENT FOR SEXUAL ASSAULT INCIDENTS

VICTIM

UNDER 14 YEARS

SUSPECT

FAMILY MEMBER
TRUSTED FAMILY FRIEND
CARE-PROVIDER
COACH, TEACHER, ETC.

JUVENILE DIVISION

14-17 YEARS

SUSPECT

18 YEARS OLDER

ALL OTHERS

SEXUAL ASSAULT SECTION
Trauma Recovery Center

The Trauma Recovery Center (TRC) provides mental health and case management services to survivors of interpersonal violence, including intimate partner violence, sexual and other physical assaults, gang-related violence, survivors of political torture and more. The specific services provided include patient assessments and intakes, crisis services, case management, evidence-based individual and group mental health treatment, medication monitoring, and other miscellaneous services. The TRC’s comprehensive model also includes pro-active outreach to clients and assistance with practical needs, components of care that are particularly important for urban underserved communities. TRC services are currently offered in 11 different languages. Rigorous evaluation has demonstrated that the TRC comprehensive care model reduces disparities in applications for state-level victim compensation funds for survivors who are young or homeless or have low levels of education. * A detailed description of the rationale and components of the comprehensive TRC model has been published.** Other counties in California including Los Angeles, Long Beach, Stockton, Alameda, and Sacramento County are in the process of replicating the TRC’s comprehensive model of trauma care. The TRC is providing technical assistance to these programs. The recent passage of Proposition 47 in November 2014, will direct savings of several million dollars annually, from reduced prison and jail sentences, to replicate the TRC model in additional counties in California.

During the period of July 1, 2015 to June 30, 2016 (FY2016), the Trauma Recovery Center served 778 clients who received 9,462 units of service. Each encounter with a client is designated as one unit of service. These encounters may occur in person at the Trauma Recovery Center, in the course of a home visit, or in the community. During this same period, the TRC received 733 new referrals. As some referral calls are received after hours, demographic information for gender, race, and type of trauma may not be collected on all referrals. The majority of clients were female (63%) and survivors of sexual assault (53%). These demographics reflect the role of the TRC in responding to all acute sexual assault survivors seen in the Zuckerberg San Francisco General Hospital Emergency Department. All acute sexual assault survivors are offered a medical follow-up at TRC within five days of being seen in the Emergency Department. The TRC also saw 26 clients that were family members of victims. The mean age for all clients was 36. The full client population demographics follow.


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<tr>
<td>Other</td>
<td>63</td>
<td>8.1%</td>
</tr>
<tr>
<td>Mixed Race</td>
<td>21</td>
<td>2.7%</td>
</tr>
<tr>
<td>Native American</td>
<td>10</td>
<td>1.3%</td>
</tr>
<tr>
<td>Decline</td>
<td>13</td>
<td>1.7%</td>
</tr>
<tr>
<td>Total</td>
<td>778</td>
<td></td>
</tr>
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<table>
<thead>
<tr>
<th>Trauma</th>
<th>Count</th>
<th>%</th>
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</thead>
<tbody>
<tr>
<td>Sexual Assault</td>
<td>414</td>
<td>53.2%</td>
</tr>
<tr>
<td>Other Assaults*</td>
<td>284</td>
<td>36.5%</td>
</tr>
<tr>
<td>Domestic Violence</td>
<td>54</td>
<td>6.9%</td>
</tr>
<tr>
<td>Total</td>
<td>752</td>
<td></td>
</tr>
<tr>
<td>Family of Victim</td>
<td>26</td>
<td>3.3%</td>
</tr>
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</table>

| Mean Age                | 36    |     |

*Shootings/Stabbings/Physical Assault/Other

<table>
<thead>
<tr>
<th></th>
<th>FY 2012</th>
<th>FY 2013</th>
<th>FY 2014</th>
<th>FY 2015</th>
<th>FY 2016</th>
<th>% Change from FY 15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clients Served</td>
<td>738</td>
<td>742</td>
<td>715</td>
<td>776</td>
<td>778</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>New Clients</td>
<td>664</td>
<td>637</td>
<td>666</td>
<td>678</td>
<td>733</td>
<td>7%</td>
</tr>
<tr>
<td>Units of Service</td>
<td>7277</td>
<td>7115</td>
<td>7145</td>
<td>8617</td>
<td>9462</td>
<td>9%</td>
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Choosing Your Options:
Reporting To Law Enforcement & Forensic Examinations
San Francisco General Hospital and Trauma Center
Division of Psychosocial Medicine
Rape Treatment Center / Trauma Recovery Center

REPORTING

☐ I Will Make a Report to Law Enforcement

- I am choosing to make a report to law enforcement. This means that I will talk with law enforcement about this incident today.

- By involving law enforcement today, law enforcement will be able to immediately start investigating and collecting all evidence related to my case. This will increase the opportunity for successful investigation and prosecution of my sexual assault case.

OR

☐ I Will Not Make a Report to Law Enforcement

- I am choosing NOT to make a report to law enforcement today. I do not want to speak to law enforcement at this time. I understand that I may contact law enforcement and participate in an investigation at any time.

- By not talking with law enforcement now, I understand that the opportunity to collect evidence from the suspect and other crime scenes may be permanently lost. I understand that this might make it more difficult to prosecute a case if I do decide to report later.

- If I decide not to talk with law enforcement at this time, the Rape Treatment Center (RTC) is still required by law to report this incident to law enforcement. This report will include my name and contact information. Law enforcement may attempt to contact me but I understand that I retain the right to decline from participating in the criminal justice process.

(continued on other side)
EVIDENCE COLLECTION

☐ I Choose to Have a Forensic Examination with Evidence Collection

- I want to have a forensic examination with evidence collection today.

- By having a forensic examination with evidence collection, physical and photographic evidence will be collected. This may increase the opportunity for successful investigation and prosecution of my sexual assault.

- Custody of the physical evidence collected by the Rape Treatment Center will be transferred to law enforcement for storage, processing, and final disposition in accordance with law enforcement policy. This includes the release of my name and contact information. All physical evidence will become the property of law enforcement and will not be returned to me.

- Law enforcement may process the evidence collected and conduct an investigation. Law enforcement may contact me as part of this investigation. I understand that generally law enforcement will not further pursue an investigation without my cooperation and participation in the process.

- I understand that I may be notified if the processing of the evidence collected reveals any information that increases the opportunity for successful investigation and prosecution of my sexual assault case.

OR

☐ I Do Not Want to Have a Forensic Examination or Evidence Collection

- By not collecting physical evidence, I understand that it will likely perish and not be available later. This will make a future investigation and prosecution of my sexual assault more difficult, but not impossible. Other types of evidence may still be available, and people may still be able to provide information in interviews.

I have read and understand "Choosing Your Options: Reporting To Law Enforcement & Forensic Examinations". I understand I will receive a copy of this form after I have signed it.

Patient signature ___________________________ Date ___________________________

Provider signature ___________________________ Date ___________________________
San Francisco Police Department
Crime Analysis Unit
Response to Request for Information

Requestor: Bianca Rosen

Received: March 7, 2017

Request:
- Records concerning the number of adult sexual assault cases that occurred in 2016 in the city and county of San Francisco and investigated by the Special Victims Unit in 2016
- The recorded number of cases presented to the D.A.’s office.
- Demographics of the survivors of adult sexual assault cases investigated.

Results: The number 297 does not reflect the total number of adult sexual assault cases that SVU investigated in 2016 i.e. it does not include sexual assault cases that were reported late and did not occur in 2016 nor does it reflect the number of cold case follow ups. The tables below focus solely on the 297 Sexual Assault incidents that occurred in 2016 described above.

| ADULT SEXUAL ASSAULT CASES INVESTIGATED BY SPECIAL VICTIMS UNIT IN 2016 |
|-----------------------------|------------------|
| TOTAL CASES                 | 297              |
| TOTAL CASES REFERRED TO DA’S OFFICE | 91              |
| TOTAL CASES OPEN/INACTIVE   | 182              |
| TOTAL CASES CLEARED AS UNFOUNDED | 24              |

<table>
<thead>
<tr>
<th>DEMOGRAPHICS: RACE &amp; GENDER</th>
</tr>
</thead>
<tbody>
<tr>
<td>RACE</td>
</tr>
<tr>
<td>ASIAN OR PACIFIC ISLAND</td>
</tr>
<tr>
<td>AMERICAN INDIAN</td>
</tr>
<tr>
<td>HISPANIC</td>
</tr>
<tr>
<td>BLACK</td>
</tr>
<tr>
<td>WHITE</td>
</tr>
<tr>
<td>UNKNOWN</td>
</tr>
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</table>

3/29/2017
<table>
<thead>
<tr>
<th>DEMOGRAPHICS: AGE GROUPS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>18 TO 22 YEARS OLD</td>
<td>39</td>
</tr>
<tr>
<td>24 TO 28 YEARS OLD</td>
<td>73</td>
</tr>
<tr>
<td>29 TO 33 YEARS OLD</td>
<td>54</td>
</tr>
<tr>
<td>34 TO 38 YEARS OLD</td>
<td>37</td>
</tr>
<tr>
<td>39 TO 43 YEARS OLD</td>
<td>23</td>
</tr>
<tr>
<td>44 TO 48 YEARS OLD</td>
<td>15</td>
</tr>
<tr>
<td>49 TO 53 YEARS OLD</td>
<td>16</td>
</tr>
<tr>
<td>54 TO 58 YEARS OLD</td>
<td>21</td>
</tr>
<tr>
<td>59 TO 63 YEARS OLD</td>
<td>4</td>
</tr>
<tr>
<td>64 TO 69 YEARS OLD</td>
<td>5</td>
</tr>
<tr>
<td>70 TO 80 YEARS OLD</td>
<td>3</td>
</tr>
<tr>
<td>OVER 81 YEARS OLD</td>
<td>3</td>
</tr>
<tr>
<td>UNKNOWN AGE</td>
<td>4</td>
</tr>
</tbody>
</table>

**Data Source:** San Francisco Police Department’s Special Victims Unit Database.
April 21, 2016

Dear Chief Suhr:

At the meeting of the Police Commission on Wednesday, April 20, 2016, the following resolution was adopted:

RESOLUTION 16-28

RESOLUTION FOR SEMI-ANNUAL AND ANNUAL REPORTING TO THE SAN FRANCISCO POLICE COMMISSION ABOUT THE SAN FRANCISCO POLICE DEPARTMENT’S COLLECTION AND ANALYSIS OF SEXUAL ASSAULT KIT EVIDENCE AND REPORTING OF RESULTS TO SEXUAL ASSAULT VICTIMS

WHEREAS, the San Francisco Police Commission and the San Francisco Police Department are committed to the thorough investigation of sexual assault crimes, and

WHEREAS, the timely analysis of deoxyribonucleic acid (DNA) and forensic identification evidence enhances the San Francisco Police Department’s ability to investigate and identify sexual assault perpetrators, and

WHEREAS, the San Francisco Police Department is committed to informing sexual assault victims of the progress of forensic testing and the investigation of their cases, and

WHEREAS, the growth of California’s DNA databank and the national databank through the Combined DNA Index System (CODIS) makes it possible to identify sexual assault perpetrators, provided sexual assault forensic evidence is analyzed in a timely manner, and

WHEREAS, through the adoption of California Penal Code §680, the Legislature recommends that law enforcement agencies submit sexual assault forensic evidence to the crime lab within five days after the evidence is obtained from the victim and that the crime lab process this evidence, create a DNA profile when able, and upload qualifying DNA profiles into CODIS no later than 120 days after its receipt, and
WHEREAS, through the adoption of California Penal Code §680, the Legislature recommends that law enforcement agencies inform sexual assault victims whether or not a DNA profile of the assailant was obtained from the testing of the sexual assault forensic evidence or other crime scene evidence, whether or not the DNA profile of the assailant has been entered into CODIS, and whether or not there is a match between the DNA profile of the assailant developed from the sexual assault forensic evidence or other crime scene evidence and a DNA profile contained in CODIS, provided that disclosure would not impede or compromise an ongoing investigation; now, therefore, be it

RESOLVED, that the Chief of Police shall submit semiannual and annual written reports to the Police Commission regarding the information described below. These reports shall be submitted in time to be calendared for the first Police Commission meeting of the first and third quarters of the year. These reports shall not contain any identifying information about a victim or suspect. The SFPD shall post on its website a copy of its semiannual and annual reports as described below within 10 days of its issuance. Each report shall include at a minimum:

1. SFPD Crime Laboratory number
2. Date evidence collected from victim by Trauma Recovery/Rape Treatment Center
3. Date evidence collected from the custody of Trauma Recovery/Rape Treatment Center
4. Date evidence submitted to the Crime Lab
5. Analysis start date
6. Analysis completion date
7. Whether or not a DNA profile of the assailant was developed and if so, the date the DNA profile was developed
8. Whether or not a DNA profile of the assailant was uploaded into CODIS and if so, the date this occurred
9. Whether or not there was a match between the DNA profile of the assailant and a DNA profile contained in CODIS, and if so, the date this match was discovered, and the date this information was provided to the Special Victim’s Unit
10. Any other outcome information such as arrests and convictions, provided that disclosure would not impede or compromise any ongoing investigation
11. Whether or not sexual assault victims were notified of developments of forensic testing and the investigation of their cases as described in sections 3-10, including the date and manner of notification. In cases where notification was not provided to the victim, an explanation as to why notification was not provided

FURTHER RESOLVED, that this Resolution shall take effect at the beginning of the third quarter following adoption, and shall remain in effect until rescinded or changed.
AYES: Commissioners Loftus, Marshall, DeJesus, Mazzucco, Melara
ABSENT: Commissioners Turman, Hwang

Very truly yours,

Sergeant Rachael Kilshaw
Secretary
San Francisco Police Commission

cc: Captain U. Bailey/SVU
    Captain G. Mar/Forensics