



Law Enforcement Sexual Assault Reporting

2011-2015

Wisconsin Department of Justice
Bureau of Justice Information and Analysis

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FUNDING AND CONTACT

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Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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HIGHLIGHTS

For this project, 724 incidents involving a sexual assault kit were sampled to review whether the incident was accurately reported to the Wisconsin Uniform Crime Reporting (UCR) program. Major findings include:

- About two-thirds (67%) of incidents that were not reported to the Uniform Crime Reporting program should have been reported as a sex offense.
- The most common reasons reportable incidents were not submitted to UCR were due to the incidents being unsubstantiated and incidents being incorrectly labeled in agencies' records management systems.
- About two-thirds (67%) of incidents that were reported to UCR had the correct offense classification; the offenses colloquially known as “rape” were the most accurate, while fondling, incest, and statutory rape had a higher percentage of inaccurate offense classifications.
- Most incidents (84%) submitted to UCR included the correct clearance information; the incidents with incorrect clearance information were mostly from Summary-Based Reporting agencies who had not yet transitioned to the Wisconsin Incident-Based Reporting System (WIBRS) during the timeframe these incidents were collected.
- Most incidents that were reported to UCR in this sample were not submitted as unfounded; however many incidents that were not submitted to UCR should have been submitted as unfounded incidents, indicating that many agencies and records management system vendors are likely not aware that the Wisconsin UCR Program requirements differ from the FBI program.
- The result for about 11% of incidents reviewed that were not submitted to UCR remains unclear.

1 INTRODUCTION

Within the Wisconsin Department of Justice, the Bureau of Justice Information and Analysis (BJIA) serves as both the Uniform Crime Reporting (UCR) Program for the state and as the Statistical Analysis Center (SAC). The bureau's mission is "To inform criminal justice policy and practice by conducting objective research, analysis, and evaluation and disseminating relevant information that is useful and understandable." As the Wisconsin UCR Program, BJIA collects and publishes crime data that is submitted by law enforcement agencies monthly. As the SAC, BJIA research analysts are involved in other projects supported by federal agencies and associations including the Bureau of Justice Statistics (BJS) and the Justice Research and Statistics Association (JRSA), with a goal to conduct research with criminal justice data and further evidence-based practices and decision-making.

Uniform Crime Reporting is an FBI data collection program that serves as the official crime data for the United States. All states have a UCR program that collects data from local law enforcement agencies and submits the data to the FBI. UCR data contains information on crimes known to law enforcement, and in Wisconsin, is submitted by agencies to the state program using two separate systems: the Summary-Based Reporting (SBR) system and the Wisconsin Incident-Based Reporting System (WIBRS). Data collected through WIBRS contains incident-level detail including all required data elements for the National Incident-Based Reporting System (NIBRS) published by the FBI, along with five Wisconsin-specific data elements including the designation of "unfounded"ⁱ incidents. Data collected through SBR is primarily received in aggregate format; however, specifically for sex offenses, Wisconsin requires that all law enforcement agencies submit incident-level details through a custom Wisconsin-specific sex offense incident form available online for agencies reporting through the SBR system (see [Appendix A](#)). In sum, the Wisconsin UCR Program should receive incident-level details, including the incident number, for all sex offensesⁱⁱ known by law enforcement statewide regardless of how the agency reports their data. These details are displayed on [BJIA's UCR Sex Offense Data Dashboard](#).

As the Wisconsin SAC, BJIA is responsible for all data and analysis related to the Wisconsin Sexual Assault Kit Initiative (WiSAKI), a "Statewide effort to address the accumulation of unsubmitted sexual assault kits in the possession of local law enforcement agencies and hospitals." The WiSAKI project began with a detailed inventory of sexual assault kits (SAKs) in the possession of local law enforcement agencies and hospitals that had not been submitted to the Wisconsin State Crime Laboratories (WSCL) for DNA testing. Concurrent to the inventory, researchers collected incident numbers from SAKs that were not part of WiSAKI to form a comparison group. This resulted in a list of local law enforcement agency incident numbers associated with a SAK, including SAKs submitted for testing at the time of the incident and SAKs that were inventoried as part of WiSAKI. Those incident numbers were then used to connect the SAKs to sex offense incidents received by the Wisconsin UCR Program in hopes of obtaining further detailed information about the incidents for the WiSAKI inventory.

Keeping in mind the limitation that UCR data only includes crimes known to law enforcement, it was assumed that the Wisconsin UCR Program would have a record of all sex offenses that were known to law enforcement based on Wisconsin's state-specific

requirements and due to UCR reporting being mandated for agencies in Wisconsin under Wis. Stat. § 165.845 (2). However, while inventorying SAKs for WiSAKI, many incidents involving a SAK in the possession of law enforcement were not found in the Wisconsin UCR database of sex offense incidents. Due to BJIA's unique position as both the SAC and UCR Program for the state, research analysts assigned to each program collaborated and utilized information from WiSAKI to investigate the completeness and accuracy of data received for sex offense incidents through the Wisconsin UCR Program.

2 METHODOLOGY

2.1 INCIDENT SAMPLING

First, a primary list of incidents involving SAKs that were in the possession of law enforcement was compiled as part of WiSAKI, including incidents with a SAK submitted to the lab for testing at the time of the incident and unsubmitted SAKs that were discovered as part of WiSAKI. The primary list of SAKs was combined with a primary list of all UCR sex offense incidents over the same time period (including unfounded incidents), using a combination of an agency identification number and incident number to match incidents. Researchers also attempted to match by similar (but not exact) incident numbers in combination with incident dates and victim ages. SAKs that were found stored in hospitals that were not in the possession of law enforcement were removed from the list. Since more than one SAK could be associated with the same UCR incident, the list was then deduplicated such that each incident was only on the list once, regardless of how many SAKs may have been associated with the incident. The final combined list was then narrowed to incidents between 2011-2015 and broken into two categories: Unreported Kits (Group 1) and Reported Kits (Group 2). The years selected provided a five-year timeframe of incidents that were included as part of the original WiSAKI inventory.

Incidents in Group 1 (Unreported Kits) were those in which a SAK existed that was in the possession of law enforcement but there was no match found in the state's UCR database of a sex offense incident submitted by the law enforcement agency in possession of the SAK. This group contained 2,509 total incidents from 2011-2015. The list was divided into twelve subgroups based on the population size covered by the agency, the UCR reporter type of the agency that had the SAK (SBR or WIBRS) and SAK submission status (submitted at time of incident or part of WiSAKI). A random 10% of each subgroup was sampled for review, for a total of 256 incidents. Table 1 includes the sample subgroups.

Incidents in Group 2 (Reported Kits) were those in which a SAK was in the possession of law enforcement at some point and a matching sex offense incident was found in the UCR database from the agency that had the SAK. For UCR reporting, there are six different sex offense categories with corresponding codes agencies choose from to describe an incident: rape (11A), sodomy/oral sex (11B), sexual assault with an object (11C), fondling (11D), incest (36A), and statutory rape (36B); definitions for each can be found in [Appendix B](#).

Table 1 Unreported Kits Incident Sample

Total	Small Population (<25,000)	Medium Population (25,000-75,000)	Large Population (75,000+)
Incident-Based Reporting Agencies (WIBRS)	Group 1A: SAKI Kit Sampled: 6	Group 2A: SAKI Kit Sampled: 13	Group 3A: SAKI Kit Sampled: 51
	Group 1B: Non-SAKI Sampled: 10	Group 2B: Non-SAKI Sampled: 6	Group 3B: Non-SAKI Sampled: 23
Summary-Based Reporting (SBR) Agencies	Group 4A: SAKI Kit Sampled: 41	Group 5A: SAKI Kit Sampled: 25	Group 6A: SAKI Kit Sampled: 19
	Group 4B: Non-SAKI Sampled: 33	Group 5B: Non-SAKI Sampled: 23	Group 6B: Non-SAKI Sampled: 6

Table 2 Reported Kits Incident Sample

Total	Small Population (<25,000)	Medium Population (25,000-75,000)	Large Population (75,000+)
Summary-Based Reporting Agencies (SBR)	Group 13A: UCR 11A-C Forcible Sex Offense Sampled: 17	Group 14A: UCR 11A-C Forcible Sex Offense Sampled: 28	Group 15A: UCR 11A-C Forcible Sex Offense Sampled: 8
	Group 13B: UCR 11D (From SAKI) Sampled: 10	Group 14B: UCR 11D (From SAKI) Sampled: 2	Group 15B: UCR 11D (From SAKI) Sampled: 1
	Group 13C: UCR 11D (From Non-SAKI) Sampled: 4	Group 14C: UCR 11D (From Non-SAKI) Sampled: 5	Group 15C: UCR 11D (From Non-SAKI) Sampled: 0
	Group 13D: UCR Non-Forcible Sex Offense Sampled: 48	Group 14D: UCR Non-Forcible Sex Offense Sampled: 57	Group 15D: UCR Non-Forcible Sex Offense Sampled: 7
Incident-Based Reporting Agencies (WIBRS)	Group 16A: UCR 11A-C Forcible Sex Offense Sampled: 8	Group 17A: UCR 11A-C Forcible Sex Offense Sampled: 8	Group 18A: UCR 11A-C Forcible Sex Offense Sampled: 68
	Group 16B: UCR 11D (From SAKI) Sampled: 0	Group 17B: UCR 11D (From SAKI) Sampled: 1	Group 18B: UCR 11D (From SAKI) Sampled: 4
	Group 16C: UCR 11D (From Non-SAKI) Sampled: 4	Group 17C: UCR 11D (From Non-SAKI) Sampled: 3	Group 18C: UCR 11D (From Non-SAKI) Sampled: 21
	Group 16D: UCR Non-Forcible Sex Offense Sampled: 26	Group 17D: UCR Non-Forcible Sex Offense Sampled: 27	Group 18D: UCR Non-Forcible Sex Offense Sampled: 111

In Wisconsin, regardless of UCR reporter type (SBR or WIBRS), each of the six offenses are reported separately. Due to the similarity of the definition of rape, sodomy/oral sex, and sexual assault with an object (all being colloquially known as “rape”), incidents that were classified as one of these three offenses were put in the same sample group. Incidents classified as fondling were put into two different subgroups separate from other offenses based on whether the associated SAK was submitted to the lab for testing at the time of

the incident or notⁱⁱⁱ, while incidents classified as incest or statutory rape were placed into the same sample subgroups due to both being consensual/nonforcible offenses as described by the FBI's UCR definitions.

The Reported Kits group contained a total of 3,719 incidents, which were divided into 24 subgroups, based on population size of the agency, UCR reporter type, type of sex offense listed on the UCR report, and whether the SAK was submitted for testing at the time of the incident or as part of WiSAKI (for fondling offenses only). A random 5% of incidents were sampled from each subgroup with a UCR offense of rape, sodomy/oral sex, sexual assault with an object, or fondling (specifically fondling offenses with SAKs that were unsubmitted for testing at the time of the incident and part of WiSAKI^{iv}). A random 10% of incidents were sampled from each subgroup with a UCR offense of fondling (specifically fondling incidents with SAKs that were submitted for testing at the time of the incident and were not part of WiSAKI), incest, and statutory rape. A total of 468 incidents were reviewed from this group. Table 2 includes the subgroup categories for the Reported Kits group.

2.2 INCIDENT REVIEW

Due to the collection of detailed incident reports containing personally identifiable information, institutional review board approval was obtained from the University of Southern Maine (see [Appendix C](#)). A total of 724 incidents were reviewed from 174 different law enforcement agencies in Wisconsin for this project. Agencies were sent information about the project, including a list of incidents researchers would be asking for. Agencies were then asked to fill out a survey with basic information about the incident (ensuring the match was correct, any alternative incident numbers, incident dates, the agency's records management system at the time of the incident, etc.) and asked to upload the full incident report. All data collection instruments, including the agency survey, incident upload, and BJIA analyst forms were collected in a Research Electronic Data Capture (REDCap)^v database hosted at the Wisconsin Department of Justice before the final result information was transferred to a secure SQL Server database.

Unreported Kits (Group 1) Incidents: One analyst (Coder 1) reviewed all Group 1 incidents and made final decisions on whether the incident should have been reported to UCR, the main reason it likely was not reported (if it was Reportable to UCR), or the main reason it did not need to be reported to UCR (if it was Non-Reportable for UCR). Coder 1 consulted with other team members for incidents needing discussion.

Reported Kits (Group 2) Incidents: Coder 1 and Coder 2 reviewed Group 2 incidents independently to decide whether the offense classification, clearance information, and the use of “unfounded” on the UCR version of the incident was accurate^{vi}. The responses from the two coders were compared to ensure agreement and calculate inter-rater reliability; for any incidents with non-agreement on the offense classification, clearance information, or the use of “unfounded” Coder 3 was consulted for a final decision. Kappa was used to calculate inter-rater reliability; the two primary coders had “strong,” “almost perfect”, or “perfect” agreement for most categories^{vii}. All kappa values between Coder 1 and Coder 2 are displayed on Table 3.

For UCR purposes, a “cleared” incident is one in which a suspect has been arrested for the offense(s) that were alleged in the incident (regardless of charging decisions or case

outcomes), or an incident in which an “exceptional clearance” applies. Exceptional clearances occur when law enforcement has clearly identified a suspect, has enough probable cause to arrest the suspect for the offense, and knows the location of the suspect, but something beyond law enforcement’s control is preventing the arrest. These reasons include: death of the suspect, district attorney declined to prosecute but not for lack of probable cause to arrest, victim does not want to be involved with the prosecution of the suspect, suspect is already incarcerated in another jurisdiction, or the suspect is a juvenile and the crime is not severe, resulting in parent notification but no arrest or further action.

Finally, although no incidents that were labeled as “unfounded” in UCR were specifically targeted for the sample, 18 incidents in Group 2 were originally sent to UCR as unfounded. Reviewers coded whether the incident should be “unfounded” in UCR for all incidents. The unfounded data element should be designated for incidents in which a crime was alleged and law enforcement has enough evidence to determine the crime did not occur.

Historically (and currently), the FBI does not collect unfounded incidents in the National Incident-Based Reporting system (NIBRS), and only collects the number of unfounded rape offenses in aggregate from SBR agencies. The Wisconsin UCR Program has more specific requirements; if an agency receives a complaint of a sexual assault and determined through investigation a crime did not occur, the agency should submit it to the Wisconsin UCR Program as unfounded. The Wisconsin UCR Program will not count the unfounded incident as part of the agency’s crime data (since the agency indicated no crime occurred), but instead keeps these incidents for internal analysis purposes and in preparation for the FBI possibly adding unfounded to the national system in the future.

Table 3 Interrater Reliability for Reported Incident Review

Description	Kappa (α)	N Cases
All Offenses Combined ^{viii}	.927	428
Rape	1.0	81
Sodomy/Oral Sex	1.0	14
Sexual Assault with an Object	1.0	8
Fondling	.975	54
Incest	.788	7
Statutory Rape	.863	264
Clearance (cleared or not)	.973	428
Clearance (type) ^{ix}	1.00	424
Unfounded	.774	428

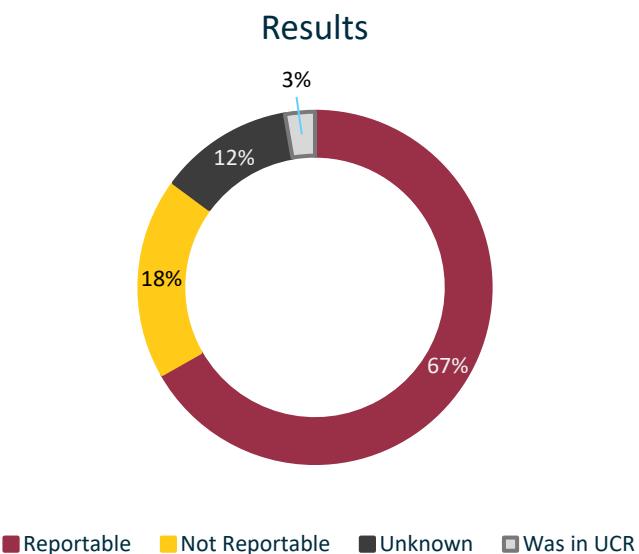
3 RESULTS

3.1 UNREPORTED SAKs (GROUP 1)

Out of all incidents in Group 1 that were reviewed ($N = 256$), 67% ($N = 171$) were reportable to the Wisconsin UCR program as a sex offense (Figure 1); for 26% of those determined to be reportable ($N = 45$), the decision needed group discussion. Figure 2 shows the reasons the reportable incidents were likely not reported to UCR. Forty-seven (18%) incidents were

non-reportable to UCR given the information available, 12% (N = 31) were unknown, and seven incidents (3%) were found in UCR under a different incident number and/or different agency after review.

Figure 1 Reportable Decision for Incidents Not Reported to UCR



3.1.1 Reasons Why Reportable Incidents Were Not Reported to UCR

- A. **Alleged offense but no corroborating evidence/Unsubstantiated:** 32 reportable incidents involved a clear allegation of a sex offense, but lack of evidence prevented law enforcement from pursuing any charges or investigating any further. In some cases, the agency may have believed the case to be “unsubstantiated” (i.e. there is no proof a crime occurred), but the incident is not “unfounded” (i.e. there is proof the crime did not happen). For example, some incidents in this category involved children alleging a crime that someone else says did not happen; others included an allegation of a sex offense of a child but in which the child is too young to make any detailed statements; incidents in this category also included intoxicated victims and/or cognitively disabled individuals who clearly alleged a sex offense but there were no known suspects or conclusive evidence of a sex offense occurring, nor was there any conclusive evidence that a sex offense did not occur.
- B. **Possible coding and/or Records Management System (RMS) issue:** For 26 reportable incidents, the way the incident was coded within the agency’s records management system was the likely reason it was not reported to UCR. All incidents in this category were clearly investigated as sex offenses, but there may be either a training issue or a technical issue within the RMS itself preventing the incident from being sent to the Wisconsin UCR Program with the correct classification. Some incidents in this category appeared to be mapped incorrectly by the RMS, in which statutes that are clearly sex offenses were mapped by the agency’s RMS to WIBRS Group B arrest codes (such as code 90Z “All Other” arrests, usually used for municipal citations) rather than the correct sex offense code. Other incidents in this category that did not rely on statutes mapping to UCR codes were labeled as sex

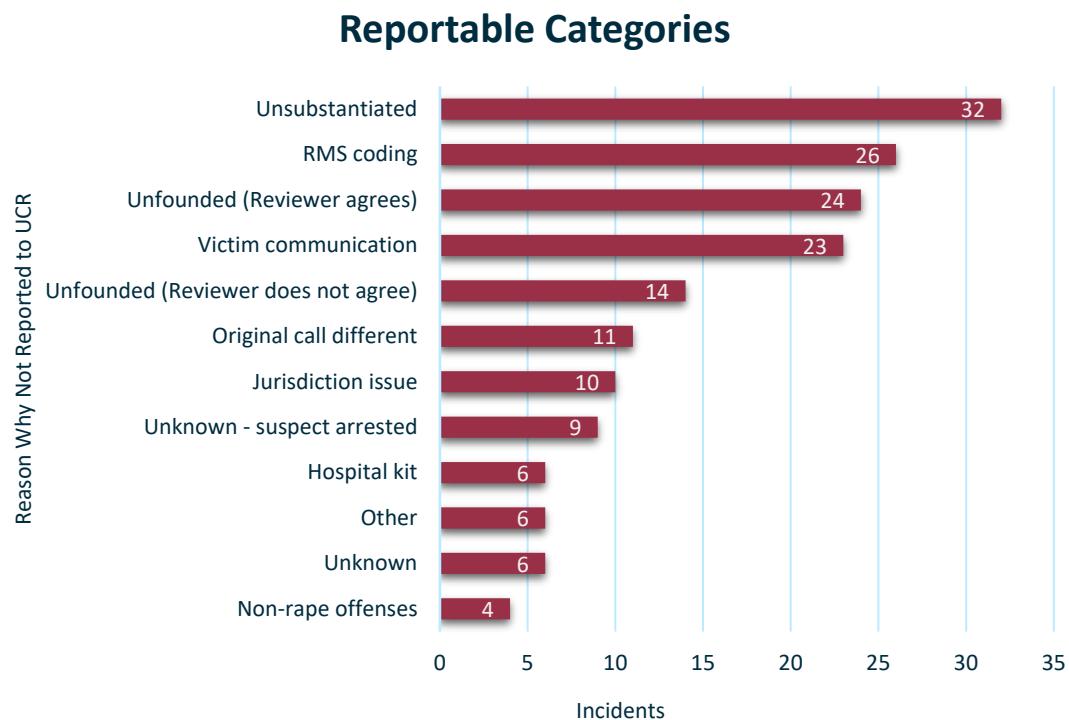
offenses but the codes that would have sent it to UCR as a sex offense were not visible on the report. For example, one was listed as “Sex Offenses – Other” with code 90C (the code for disorderly conduct) visible on the report. Although there was not a sex offense incident reported by the agency to UCR (with incident number), it is possible the Wisconsin UCR Program does have some of these incidents counted in aggregate in an arrest category that are not trackable due to the SBR system not collecting incident numbers for any offenses other than homicide and sex offenses.

- C. **Agency thought 'unfounded' (Reviewer agrees with unfounded):** 24 reportable incidents involved an allegation of a sexual assault that the agency investigated and uncovered evidence to determine the specific crime that was alleged did not happen, making it “unfounded” and DOJ reviewers agreed with the designation of “unfounded.” A few example scenarios in this category include a parent alleging the other parent sexually assaulted their child during an ongoing custody dispute, with the child on video telling the suspected parent the alleging parent told the child to lie; a person with a mental illness alleging they were sexually assaulted in a motel room, but key card logs, surveillance, and other evidence show no one else could have possibly been in the room; and a child describing vaguely that someone hurt her at school but upon further interviewing, the child’s description of what happened was not a sex offense.
- D. **Victim gave initial statement and then stopped responding/did not wish to pursue:** For 23 reportable incidents, the victim in the case gave an initial statement to law enforcement and then either decided they did not want to pursue the matter or was unresponsive to calls and messages left by the agency for further information. On some incidents in this category, the agency reported on the survey that the incident was marked as “unfounded,” but reviewers felt the main reason it was not reported was the lack of communication from the victim or the victim’s specific request to not pursue the case any further. With more information from the victims on these cases, these incidents may have been classified in a different group or category.
- E. **Agency thought 'unfounded' (Reviewer does not agree with unfounded):** For 14 reportable incidents it appeared the agency thought the allegation was baseless and the crime did not happen, but DOJ reviewers did not believe there was enough evidence to label the incident as “unfounded.” Some of these incidents included adult he said/she said scenarios in which the agency appeared to believe the sexual encounter was consensual, but there was no evidence to disprove the allegation of nonconsensual activity; another example involved a homeless woman brought to the hospital appearing confused and alleging a sexual assault, with law enforcement and hospital staff suspecting she was faking the confusion and allegations in order to stay at the hospital. For all incidents in this category, it was possible that the allegations could result in being classified as unfounded with more evidence, but reviewers did not believe there was enough information in the report made available to conclusively report it as unfounded.
- F. **Original call was for something else:** 11 reportable incidents involved reports to law enforcement that were originally classified as a different type of call and during the investigation, an allegation of a sex offense was made. For example, one incident involved the victims of a vandalism contacting law enforcement to report the vandalism, and upon arrival on scene law enforcement found the vandalism suspect

to be a probable victim of sexual assault (who was likely drugged) for which she was taken to the hospital. Other incidents in this category were called in as welfare checks or other crimes.

- G. **Probable jurisdiction issue:** 10 reportable incidents involved a clear allegation of a sex offense that was investigated as such, with multiple jurisdictions involved. For example, one incident involved a sexual assault investigated by the jurisdiction where it occurred, but the suspect was arrested and turned over to another neighboring jurisdiction for which the suspect was involved in other incidents. Another incident occurred in a vehicle that was traveling from one jurisdiction to another; the agency that received the call referred it to another agency where the offense likely occurred. The second agency handled the investigation and had possession of the associated sexual assault kit. For some of these incidents, the agency that had possession of the kit should have reported it. For others, the agency that had possession of the kit is not the jurisdiction that should have reported it; for these, the UCR database was searched again and no corresponding incident could be found from the agency that should have reported it.
- H. **Unknown - suspect arrested for sex offense:** For nine reportable incidents, nothing was found as a possible reason why the incident was not reported to UCR, and the suspect in the case appeared to be arrested by the agency for the alleged sexual assault.
- I. **Hospital kit - enough to report:** Six reportable incidents involved victims going to hospitals for sexual assault nurse examiner (SANE) exams and had a SAK collected, but the victim did not want to involve law enforcement and either never spoke to law enforcement directly or would not provide enough information for law enforcement to conduct a full investigation. However, a description of what was alleged and where it occurred was made available to law enforcement by either the hospital or the victim, which is enough to make the incident reportable to UCR.
- J. **Other:** For six reportable incidents, the suspected reason the incident was not reported to UCR does not fit with the other categories. One case was referred to human services, one was “closed” due to the victim’s death from an overdose on a later date, one involved an unusual exception to the FBI’s SBR hierarchy rule and was reportable under Wisconsin’s specific guidelines but would not have been reportable under federal guidelines, and for three cases, it appeared the agency may not have thought offenses were reportable unless someone was charged with a crime.
- K. **Unknown - agency thought it was reportable:** For six reportable incidents, nothing was found as the possible reason why the incident was not reported to UCR; a sex offense was alleged and the person at the agency who filled out the survey for the incident also believed it was reportable for UCR.
- L. **Agency did not know non-rape offenses were reportable:** Four reportable incidents involved what the agency believed to be consensual sexual activity between teenagers under the age of consent (18) in Wisconsin and it appeared the agency did not know those incidents would still be reportable as statutory rape for UCR purposes.

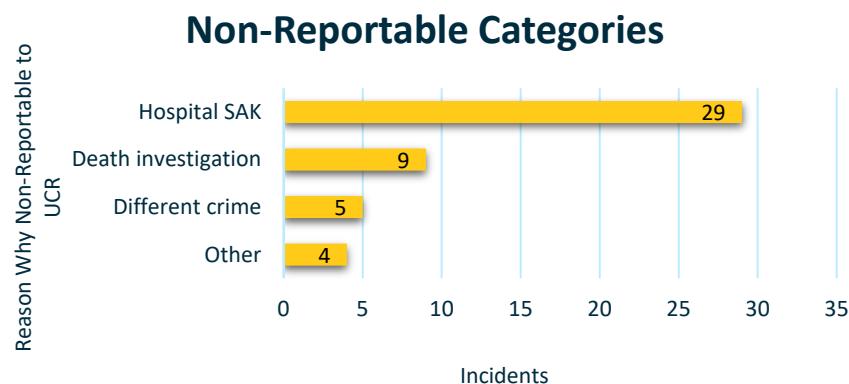
Figure 2 Reportable Categories for Unreported Incidents



3.1.2 Reasons Why Incident Was Non-Reportable for UCR

About 18% ($N = 47$) of all reviewed incidents were determined to be Non-Reportable to UCR with the information available. For approximately 19% ($N = 9$) of them, the decision was made as a group. Four categories were created that describe why these incidents were Non-Reportable for UCR shown in Figure 3.

Figure 3 Non-Reportable Categories for Unreported Incidents



- A. **Hospital SAK - not enough information:** 29 incidents involved SAKs collected from the hospital and not enough information was provided to law enforcement to report the incident as a sex offense to UCR. For most of these incidents, the victim did not wish to speak to law enforcement at all, but in some, the victim did speak briefly to law enforcement without giving any specific information. The hospital called law enforcement to take possession of the SAK and, although the SAK was in the possession of law enforcement, there was not enough information available (what was alleged to have occurred, jurisdiction, etc.) to make these reportable for UCR.
- B. **Death investigation:** Nine incidents involved SAKs that were collected as part of death investigations. There were no allegations made by anyone that the deceased was sexually assaulted immediately before death, but something about the scene may have led investigators to ask for a SAK as a precaution or for the coroner to collect forensic evidence as part of an autopsy.
- C. **Another crime was reported:** Five incidents involved a call to law enforcement for a crime that was not a sexual assault; three of these involved an aggravated assault (specifically strangulation) for which evidence was collected on the neck area but no allegation of a sex offense was ever made; one incident involved animal cruelty of a sexual nature in which evidence was collected from the animal's collar and other items; one involved a child being assaulted (kicked) in the genital area and a kit being collected due to the nature of injuries, but no disclosure or allegation of sexual abuse.
- D. **Other:** Four incidents were determined to be not reportable to UCR for other reasons not described above; three incidents involved two young children with external touching as the only activity and were determined to be family and/or social service issues, as the activity was neither done with any clear aggression nor for sexual gratification. The remaining incident involved an adult registered sex offender contacting and communicating with a juvenile. The juvenile's parent found her meeting with the suspect at a park; all who were questioned stated nothing physical happened nor was it attempted. The suspect was arrested for violating his parole, and a kit was collected (presumably at the request of the parent), but no allegation of a sexual assault was made to law enforcement.

3.1.3 Reasons Why Reportable Status is Unknown

- A. **Kit collected but no clear allegation of a sex offense to law enforcement:** 28 incidents involved possible victims who could not speak for themselves. For these incidents, there was not a clear allegation of a sexual assault made to law enforcement, and there was no clear evidence of a sexual assault. However, the victim went to the hospital (either on their own or was brought there by someone else) and a sexual assault nurse examiner (SANE) collected a SAK for evidence. Due to the presence of a SAK, it was thought that someone (either a family member, caregiver, witness, etc.) alleged a sex offense to hospital staff, or that the nurse suspected a sex offense, hence the reason for evidence collection. However once law enforcement arrived to take the report (as many of these were mandatory reports from the hospital to law enforcement based on the victims' age or

circumstances), there was not a clear allegation of a sex offense made directly to law enforcement (as written in the law enforcement report). It is possible that what was told to hospital staff differed from what was told to law enforcement. In all cases, there was not a clear enough allegation of a crime occurring included within the incident report to definitively make it reportable to UCR. However, these are not “unfounded” either (e.g. there was no evidence to determine that no crime occurred), and due to the presence of the SAK (not just an examination), it appeared someone alleged a crime or suspected a crime. There are three subsets of victim types involved with these incidents:

- Young: For 17 incidents, the possible victims were too young to communicate clearly, including infants taken by their parent to the hospital for an exam, oftentimes after a rash or mark was found in the diaper area.
- Intoxicated: For eight incidents, the possible victims were intoxicated with drugs and/or alcohol to the extent that they had no memory of what may have occurred.
- Cognitive: For three incidents, the possible victims were cognitively impaired/disabled and did not have the ability to describe to law enforcement what may have occurred.

- B. **No records found:** For three incidents, the law enforcement agency could not find the incident in their records management system under the incident number given or any other ways they searched (dates, similar incident numbers, etc.).

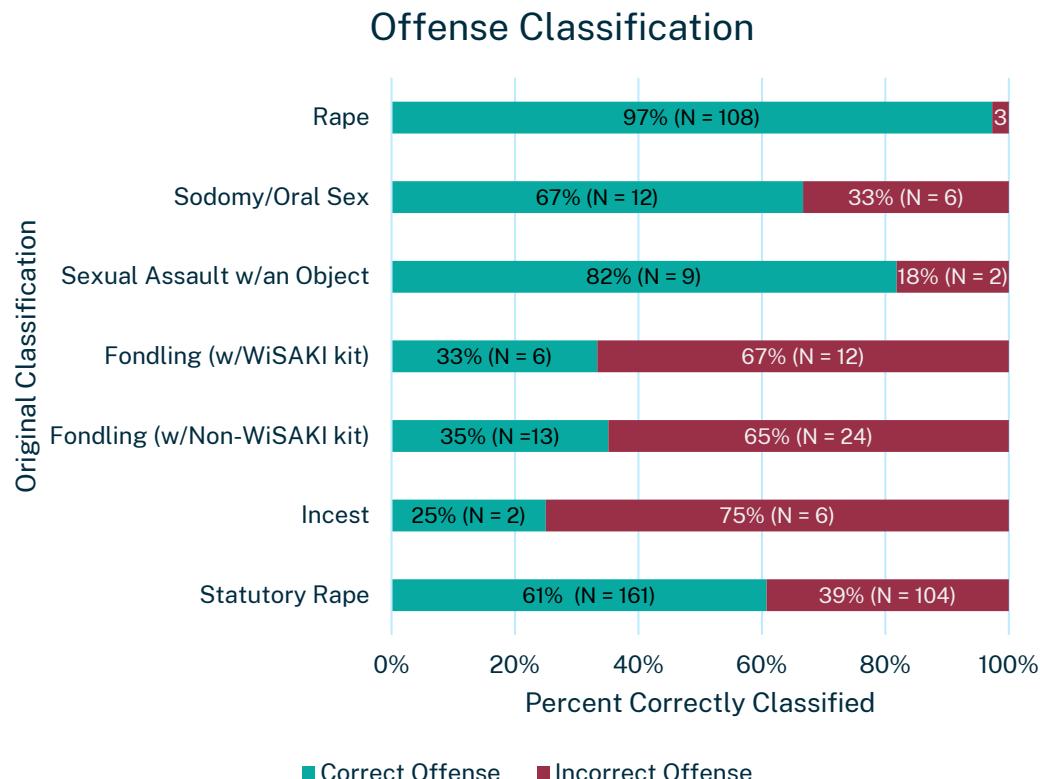
3.2 REPORTED KITS (GROUP 2)

The 468 incidents in Group 2 that were reported to the Wisconsin UCR Program were reviewed for the accuracy of the offense classification, designation of unfounded, and clearance information. Overall, 67% (N = 311) of incidents had the correct offense classification; Figures 4 and 5 show the number of incidents with the correct offense, and what the correct offense classification was for the incidents that were incorrectly classified.

3.2.1 Rape, Sodomy/Oral Sex, Sexual Assault with an Object

Overall, 129 incidents in this group (92%) were classified with the correct offense (see Figure 4). All of the incorrect offenses (N = 11) should have been classified as a different forcible sex offense (e.g. rape should have been sodomy, sodomy should have been rape, etc.). Figure 5 shows what the UCR offense was originally compared to the correct offense classification decided by reviewers. Coder 1 and Coder 2 agreed on the correct offense classification for every incident both coders reviewed.^x

Figure 4 Accuracy of Offense Classification



3.2.2 Fondling

Six out of 18 (33%) Fondling incidents with WiSAKI SAKs were classified correctly, and 35% (N = 13) of Fondling incidents with non-WiSAKI SAKs were classified correctly. All but one of the incorrectly classified Fondling incidents should have been classified as a forcible sex offense involving penetration (rape, sodomy/oral sex, or sexual assault with an object) rather than touching only.

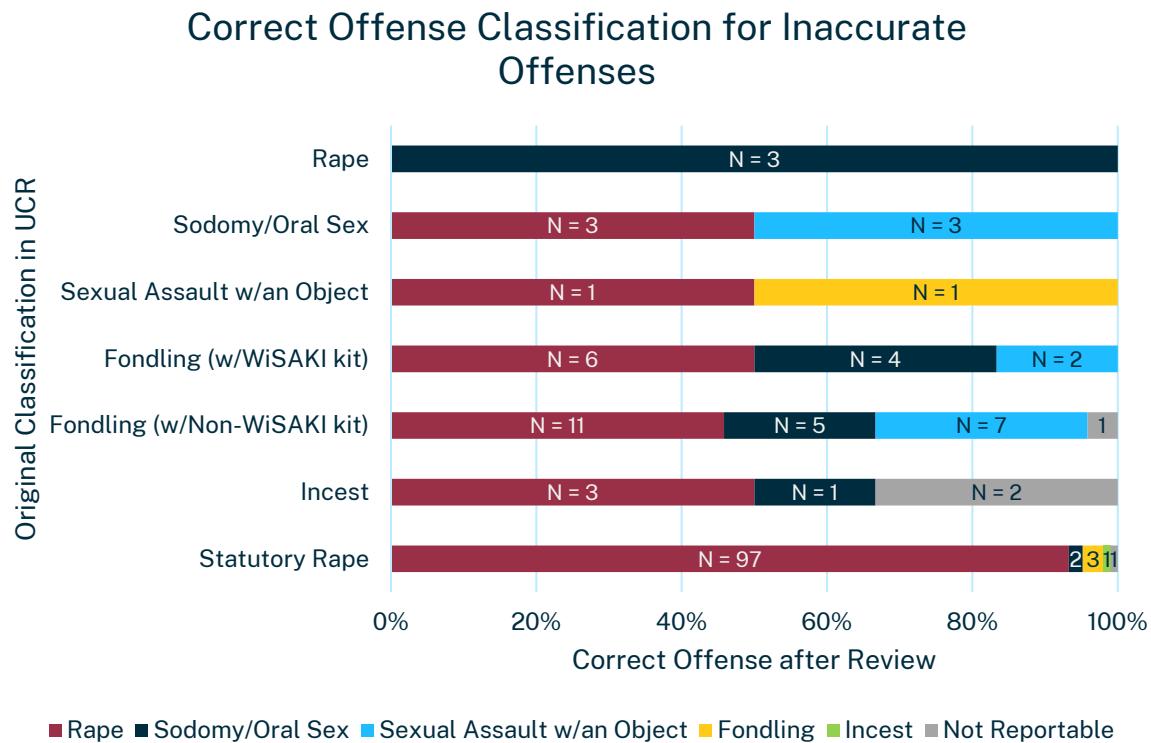
3.2.3 Incest

Two (25%) incidents classified by agencies as Incest were correct. Four of the incorrect incidents should have been either rape or sodomy, and reviewers felt two should not have been reported to UCR as a sex offense.

3.2.4 Statutory Rape

More than half of the statutory rape incidents reviewed were correctly classified by the agency (61%, N = 161). Most often if the offense was not correct, it should have been classified as rape instead of statutory rape. This subset of Group 2 incidents needed the most (18 incidents out of 265) consultation with Coder 3.

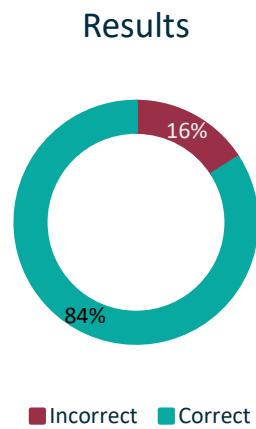
Figure 5 Correct Offense Classification for Inaccurate Offenses



3.2.5 Clearances

For clearance information reviewed, 84% of incidents (N = 393) had the correct clearance information (either correctly cleared or correctly not cleared), see Figure 6.

Figure 6 Clearance Accuracy

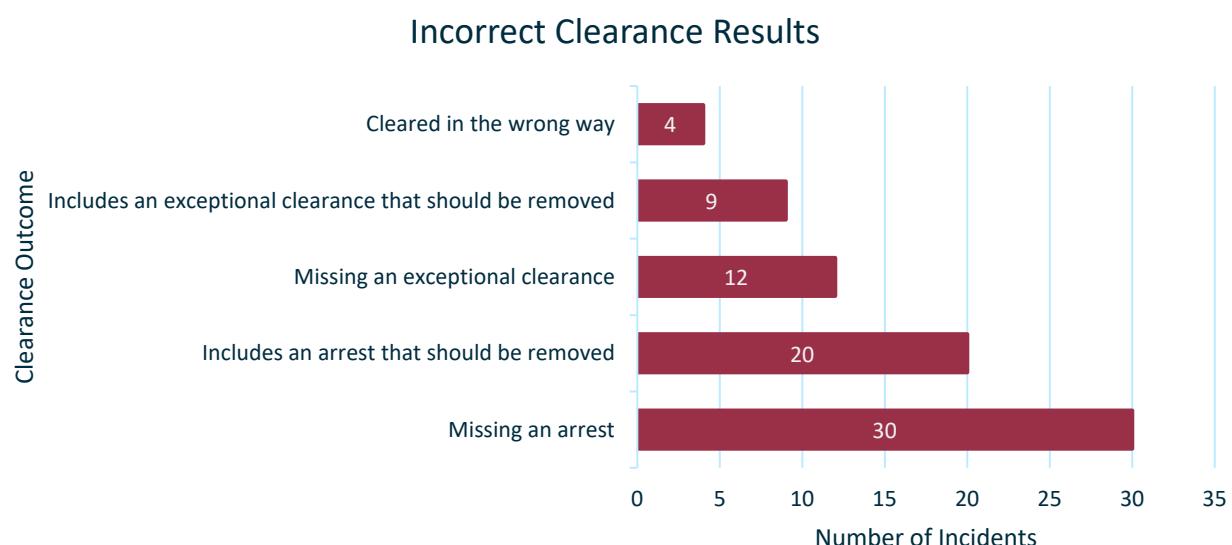


Of the 75 incidents (16%) with incorrect clearance information, 4 were cleared in the wrong way (either there was an arrest when it should have been an exceptional clearance or vice versa). The remaining 71 incidents with incorrect clearance information were either cleared

on the UCR report but should not be cleared based on the incident report review (N = 29), or should have been cleared on the UCR report based on the incident review but were not cleared (N = 42). See Figure 7 for the correct clearance classifications.

For the 29 incidents that had a clearance that should not have been included, 20 of them were arrests added to the UCR report, but reviewers did not see an arrest indicated in the report. The other nine indicated the incident qualified for an exceptional clearance on the UCR report but reviewers did not feel the incident qualified for an exceptional clearance. For the 42 incidents that should have been cleared but were not cleared in the UCR report, 30 of them should have included arrests, and reviewers felt 12 incidents qualified for an exceptional clearance.

Figure 7 Correct Clearance Classification for Inaccurate Clearances



3.2.6 Unfounded

Eighteen incidents in Group 2 were originally sent by law enforcement as unfounded; after review, 83% of these (N = 15) should not have been unfounded. Another four incidents that were not submitted to UCR as unfounded should have been unfounded. In total, reviewers felt approximately 1.5% of the 468 Reported incidents reviewed (N = 7) met the guidelines for being unfounded.

4 DISCUSSION

4.1 UNREPORTED FINDINGS

4.1.1 Unfounded and Unsubstantiated Incidents

The misuse or misunderstanding surrounding “unfounded” incidents was a main barrier to correct reporting for incidents in both groups. Agencies correctly identified incidents as unfounded in the “Unfounded – Reviewer agrees” category, but the incident was not

reported to UCR as it should have been. Most incidents that were submitted to UCR as “unfounded” did not meet the unfounded guidelines.

Agencies throughout the state may use whichever records management system they choose, many of which are national companies with customers in many different states. If a Wisconsin incident is determined “unfounded” and marked as such in the RMS before it is transmitted to the state, it is possible the RMS may intentionally withhold it from submission to the state, unaware of Wisconsin’s unfounded reporting policies that differ from national policies. It is also possible that some agencies are unaware of the unfounded reporting requirements in Wisconsin regardless of how their RMS works.

Agencies using various case statuses such as “unfounded” and “unsubstantiated” interchangeably was also a barrier. These are two separate statuses and both are reportable for UCR; however, the unfounded designation is specifically collected as a data element in Wisconsin for the purpose of removing them from crime counts, whereas the unsubstantiated designation is not collected as a data element. Unfounded indicates that a crime was reported but there is evidence confirming no crime occurred (thus it is removed from the agency’s crime data during data publication). Unsubstantiated indicates a crime was reported but there is no evidence proving a crime did occur (in which the incident will be left in the agency’s crime data). Some agencies were under the impression that sex offense allegations that cannot be “proven” (i.e. they are unsubstantiated) or incidents in which the District Attorney chooses not to pursue charges are not reportable for UCR. This is emphasized by Category A (**Alleged offense but no corroborating evidence/Unsubstantiated**) in the Reportable SAKs group having more incidents in it than any other category. However, for reporting purposes in Wisconsin, incidents that agencies believe are unsubstantiated should be reported the same way incidents that are fully substantiated are.

The results of the Reported Incident reviews mirror this finding – most incidents reviewed that were classified as unfounded with the UCR submission should not have been unfounded but instead could be described as unsubstantiated and therefore reportable in the same way substantiated incidents are reported. For all sex offense incidents submitted to the Wisconsin UCR Program between 2011-2015, approximately 8% were submitted as unfounded, but only 1.5% of the sampled incidents should have been unfounded. The National Sexual Violence Resource Center estimates the percentage of unfounded (false) sexual assault reports to be anywhere from 2-10%^{xi}. It is likely many of the unfounded incidents currently in the Wisconsin UCR sex offense database should not be classified as unfounded; however based on the results of the Unreported Incidents review, many more incidents that are not in UCR at all should be in UCR classified as unfounded, making it difficult to currently estimate the true number of unfounded (false) sexual assault allegations made to law enforcement. This highlights the need for more training available to agencies with specific emphasis towards officers on the importance of the distinction between unfounded and unsubstantiated, and how the status in their RMS may affect whether an incident is ultimately submitted to the Wisconsin UCR Program correctly.

4.1.2 Possible Crimes and the FBI's Reporting Guidelines

The final decision on the reportable status specifically for incidents in the “**Unknown-Kit collected but no clear allegation of a sex offense to law enforcement**” category involved much group discussion and illustrates the difficulty in classifying sexual assaults for

Uniform Crime Reporting specifically for possible victims who cannot speak for themselves. What was described to law enforcement for these incidents was not a clear allegation of a sexual assault, but rather the possibility that a sexual assault occurred (along with the possibility that no sexual assault occurred). For some incidents in this category, the reporting person specifically told law enforcement they did not believe a sexual assault occurred, which would seem to contradict the presence of a SAK being collected at their request and/or by their permission by the SANE. National best practice guidelines^{xii} and Wisconsin SANE training materials^{xiii} specify that a SAK (evidence) will only be collected if someone alleges a crime (or if the SANE suspects a crime and obtains patient permission). Law enforcement then must decide if the incident is an “offense known to law enforcement” as described by FBI.

The general FBI definition of what UCR should include (“offenses known to law enforcement”) was discussed in-depth by the group. The 1992 version of the FBI’s National Incident-Based Reporting System (NIBRS) Manual states: “Law enforcement should classify and report offenses after preliminary confirmation of a call for service or a complaint establishes that a crime was, in fact, committed.”^{xiv} However, this phrasing has been modified in newer versions of UCR manuals from the FBI; the NIBRS manual currently available online states: “Law enforcement should classify and report offenses after they complete the preliminary investigation of a call for service or a complaint”^{xv} but specifically does not include the phrasing of a “preliminary confirmation” “establishes that a crime was, in fact, committed.” The incidents in the Unknown category have no corroborating evidence confirming “a crime was, in fact, committed”, but there is evidence (the SAK) that a crime was likely alleged, at least to hospital staff; law enforcement was also aware of the evidence collection because the SAK was in the agency’s possession. Furthermore, some of the SAKs in this category were not submitted for testing at the time of the incident, leaving law enforcement unaware if there was really any corroborating evidence (from the SAK) or not. Agencies are then left to determine if these investigations are in fact an “offense known to law enforcement” and thus reportable.

Leaving it solely on the agency to determine what is reportable without clear guidelines has led to data inconsistencies and inaccuracies, as the results of this report have shown. For example, does “offenses known to law enforcement” only include allegations that have been substantiated (leaving out the many incidents that are unsubstantiated yet not unfounded)? Does it include only incidents with a complainant making a clear report of a crime directly to law enforcement (leaving out the incidents with possible victims who cannot advocate for themselves)? These questions raise other concerns about whether cases in which the only evidence is a person’s complaint/allegation are handled differently by different agencies and/or based on the offense(s) that is being alleged. For example, if a complainant reports a theft from their unlocked vehicle and there is no physical evidence of anything being stolen other than the victim’s word, do all agencies always report those to UCR as thefts despite no actual evidence of a crime other than the complaint? Realistically, some crimes will not have corroborating evidence or “confirmation” of a crime and will always rely on a victim’s account of what happened. If agencies are expected to follow the FBI’s earlier guidelines and only report incidents “after preliminary confirmation of a call for service or a complaint establishes that a crime was, in fact, committed” the decision to report the incident or not could become subjective, leading to more inconsistencies.

The Wisconsin UCR Program has always been of the opinion that incidents with clear allegations known to law enforcement, whether unsubstantiated or not, and regardless of

how law enforcement became aware, were reportable to UCR (assuming jurisdiction is established and the allegation fits a WIBRS offense) because an “offense” (the clear complaint) was “known to law enforcement.” If the allegation is proven false, it should be reported as unfounded, and if investigation uncovers a different crime than the one that was alleged, the Wisconsin UCR Program would expect the agency to correct the offense after the initial incident is reported to UCR. Specifically for sex offenses, law enforcement may know very little, especially for the cases with victims who cannot speak for themselves, and find no evidence of sexual assault initially but may need to update the incident classification upon receiving lab results from the testing of the SAK. For those cases, the Wisconsin UCR Program would expect the agency to report whatever was alleged to UCR and then adjust as needed if more information becomes available. Based on recent communications with the FBI UCR Program and an informal poll of other state programs about the types of incidents in this unknown category, it appears further discussion is necessary to ensure sex offenses are being reported appropriately and consistently across the nation.

4.1.3 Victim Choice to Involve Law Enforcement

During the timeframe of these incidents (2011-2015), hospitals had different policies regarding how they handled SAKs for which the victim did not want to speak with law enforcement. Some hospitals contacted law enforcement to collect and store the SAK without giving any information about the victim or what was alleged to have occurred; sometimes the agency who possessed the SAK was simply the closest to the hospital where the SAK was collected. Other SAKs were collected by law enforcement with minimal (but enough) information including jurisdiction from hospital staff to be reportable (in reviewers’ opinion) for UCR despite having no contact with the victim. Some hospitals also kept the SAKs in their own storage and had no involvement or contact with law enforcement (those SAKs were removed from the sample for this project). It was clear based on the category of **Victim gave initial statement and then stopped responding/did not wish to pursue** and **Hospital kit - enough to report** that some agencies may have believed that incidents are only reportable to UCR if a victim themselves files a formal complaint with law enforcement and wishes to pursue the investigation.

Post-WiSAKI, a change in state policy now requires hospitals to send SAKs directly to the Wisconsin State Crime Lab to store for up to 10 years for victims who wanted time to decide whether to report their assault to law enforcement and have their SAKs tested. Due to this change, more recent years should not have any incidents in either of the “hospital kit” categories, as those kits would not be in the possession of law enforcement nor would law enforcement have any information or knowledge of the case, unless the victim made the choice to have law enforcement pursue the investigation at a later time.

4.1.4 Uses of Sexual Assault Kits

Importantly, although the majority of incidents reviewed should have been reported to UCR, there were more than expected determined to be not reportable for various reasons. The presence of a SAK in the possession of law enforcement does not indicate for certain that a law enforcement agency was aware of an alleged sexual assault. During the timeframe of these incidents, Wisconsin did not have a standard “sexual assault kit” used exclusively in

the case of a sexual assault allegation, but instead each agency and hospital collected forensic evidence with whatever collection mechanism was in place at the time at their location. Through the work of Wisconsin Attorney General's Sexual Assault Response Team (AG SART), just prior to the start of the WiSAKI project, a standard collection box was created that all hospitals and SANEs now use. Although a minimal number of incidents from this review fit into the **Another crime was reported** category, it is important for readers to understand that the new standard box, informally known as a "sexual assault kit" is actually a "forensic evidence kit" that are *usually* used to collect evidence for alleged sexual assaults, but are also used for other types of crimes in which forensic evidence, such as bodily fluid, may be present.

4.2 REPORTED FINDINGS

4.2.1 Forcible Offenses

Most incidents reviewed that were sent to UCR as a forcible sex offense involving penetration (rape, sodomy/oral sex, sexual assault with an object) were correctly classified; more often than not, when the offense was incorrect, it should have been one of the others within this same category (e.g. sodomy instead of rape, etc.). This could be a result of the FBI changing the definition of "rape" in 2013 midway through this timeframe (although Wisconsin did not adopt the change until 2017). Prior to the change, "rape" was specifically opposite-sex forced vaginal penetration; after the change, "rape" reported to the FBI in aggregate format from SBR agencies is the combination of rape, sodomy/oral sex, and sexual assault with an object, likely what most would colloquially think of as "rape." However, due to Wisconsin's specific SBR sex offense incident form, these three offenses are still reported as separate offenses in both SBR and WIBRS.

4.2.2 Nonforcible Offenses

Incest and statutory rape incidents were intentionally sampled at a higher percentage due to historical knowledge of the difficulty agencies have classifying these correctly, either due to training or RMS functionality. As defined by the FBI, these offenses are considered "consensual" and nonforcible, indicating although illegal, all parties involved fully consented to the sexual activities. If an agency's RMS functions by selecting a statute to classify an offense (regardless of charge), the agency needs the ability to select the correct UCR offense code to accurately describe what happened; for sex offenses in particular, most statutes for sexual assaults could be any of the UCR sex offenses, depending on what exactly was alleged. For example, the statute for Incest with a Child (Wis. Stat. § 948.06(1)) might automatically send the incest offense code for UCR, even though most offenders who commit a sex offense charged under that statute have actually committed a forcible UCR sex offense (rape, sodomy/oral sex, or sexual assault with an object) rather than incest as defined by UCR. The same occurs for statutes used to charge statutory rape; an offense might be classified as Sex with a Child 16 Years or Over (Wis. Stat. § 948.09) despite the allegation not appearing to be fully consensual. It remains unclear how many incidents are misclassified due to agency staff not knowing how to

select the correct code (or that they might need to select something different than what the RMS defaults to), or the RMS not allowing users to select different codes. The Wisconsin UCR Program offers a statute table for RMS vendors indicating which UCR offenses an agency should be able to choose from if an incident is classified based on statute.

Although RMS mapping is a factor in the misclassification of sex offenses, incest and statutory rape UCR definitions are often misunderstood regardless of how the RMS functions. If at any point during a victim's description of what happened they indicate any degree of nonconsensual activity, the offense should be classified as a nonconsensual/forcible offense. In other words, if any elements such as deception, intoxication, coercion, threats, diminished mental capacity, or other factors indicate the victim may not have been fully aware or consenting to everything that occurred, the offense should not be statutory rape or incest unless evidence "proves" the activity was consensual. For example, he said/she said scenarios in which both agree sexual activity took place and the discrepancy is whether it was consensual or not should be classified for UCR as a forcible sex offense regardless of whether any charges and what charges may be issued, unless through investigation there is clear evidence proving the activity was fully consensual. Given that forcible/nonconsensual sex offenses frequently occur without physical violence or injury^{xvi}, a lack of injury, negative toxicology results, and lack of forensic evidence would generally not be enough to prove activity was consensual for UCR reporting purposes.

The misclassification of statutory rape could also be a result of offenders being charged with a more "attainable" misdemeanor in court as opposed to felony sex offenses under different statutes, despite UCR offenses not being based on charges filed. Ages of victims and offenders may also lead to confusion over what is reportable to UCR. For example, a 17-year-old is a juvenile for UCR purposes but treated as an adult for Wisconsin criminal court. Additionally, there are multiple statutes to select from for charging purposes depending on the exact age of the offender(s) and victim(s) at the time of the incident. Oftentimes, both victim and offender are under 18 but only one will be charged; however, based on the combination of relevant statutes, both have committed statutory rape and both are victims of statutory rape.

4.2.3 Clearances

Most incidents had the correct clearance information (an arrest, an exceptional clearance, or neither) attached to the incident. About two thirds of those that were either missing a clearance that should have been included (42 incidents) or included a clearance that should not have been included (29 incidents) were from incidents that were reported on SBR incident forms rather than through WIBRS. This is likely a training issue, as with the SBR incident forms, the clearance information is manually typed into a form on the Wisconsin UCR website. The arrest data element is a checkbox next to the suspect demographics on the form without any tracking information sent, so it is possible to check the box before the person was actually arrested, or forget to go back to an already-submitted incident form to check the arrest box if the person was arrested later. For WIBRS incidents, arrests are tied to an incident with specific arrest records (with arrest transaction numbers) in the RMS. Arrests made at any point after the initial WIBRS submission and linked to the incident number should trigger the incident to be re-sent to

the Wisconsin UCR Program to update the incident with an arrest. For this reason, the WIBRS clearance data is likely more accurate due to the way arrest records are attached to incidents and sent as incident updates rather than relying on the manual checkboxes on the SBR incident form. For the small number of incidents with an arrest in WIBRS that reviewers thought should not be cleared by arrest, it is possible the incident report itself reviewed by coders was outdated and did not include information from arrests made later, making the WIBRS version with the arrest correct.

4.3 LIMITATIONS

When making comparisons across data systems, one important limitation to note is how each incident is being counted; one incident could involve multiple victims, multiple SAKs, multiple sex offenses, multiple suspects, etc. For example, one victim of two different sex offenses in the same incident is one incident, one victim, but two sex offenses for WIBRS UCR. For WiSAKI, each incident on the primary SAK list was originally counted at the SAK level before being deduplicated for sampling purposes, and multiple SAKs could be involved in the same case. For simplicity, and due to the nuances between the SBR system and WIBRS, the results for this report are based on incident counts (i.e. how many incidents were reportable to UCR and how many incidents were not reportable to UCR). It is possible that an incident found to be reportable for UCR in the findings of this report could have involved multiple sex offenses and/or multiple victims; a WIBRS agency would be expected to report all victims and offenses described as occurring at the same time and place (e.g. if a victim was raped and sexually assaulted with an object by a suspect, the WIBRS incident should have both sex offenses listed on the incident). Additional limitations to note include the differences between what the federal versus state UCR program requires, the change in the definition of “rape” for SBR agencies, and the timing of the change in definition (2013 nationwide, 2017 in Wisconsin).

Furthermore, the incident reports that were reviewed for this project were sometimes not detailed enough for reviewers to know for certain what the exact allegation was, what was communicated to law enforcement and/or hospital staff, and what the outcome of the case was (arrest and clearance information). Many agencies were contacted to request follow-up information and if none was available, reviewers made the best classification decisions with the information available, which may have been incomplete. For example, most of the incidents in the **“Unknown-Kit collected but no clear allegation of a sex offense to law enforcement”** were investigated as possible sex offenses and labeled as such, but there was no clear allegation in the report, leading to uncertainty about when and to whom a complainant made an allegation of a sex offense; presumably someone notified the SANE who then notified law enforcement for many of these incidents, but it is unknown what the victim communicated to the SANE. With clearance data, reviewers were uncertain for several incidents regarding whether a suspect was ever arrested for the sex offense and/or whether the incident met the guidelines to be exceptionally cleared.

The main goal of this project was to use one data source (WiSAKI) to audit the completeness and accuracy of data submitted to another (UCR) data collection program. The access to specific incident numbers from WiSAKI and enough details about a SAK to match to UCR incidents provided insight into the “missingness” of UCR sex offense data. However, there are still challenges to measuring “missingness” due to other gaps in sexual

assault reporting that cannot be accounted for. For example, the Bureau of Justice Statistics estimates that about 34% of rapes and sexual assault victimizations are reported to law enforcement^{xvii}, a much lower percentage than for other violent crimes such as aggravated assault (58%) and robbery (61%). It is unknown how many of the 66% who do not report to law enforcement seek medical attention including a sexual assault kit, and how many of those kits may be “known to law enforcement” at the national level despite the victim not filing a police report. Those survivors who do seek SAKs but do not want law enforcement involved would have been accounted for in the sample for this project if the agency had the SAK at any point; however survivors who do report to law enforcement and chose not to have a kit collected would not be included in the sample. It is unknown how many incidents *without* a SAK may be known to law enforcement, not reported to UCR, but *should have been* reported for UCR for the same reasons found for the sampled incidents.

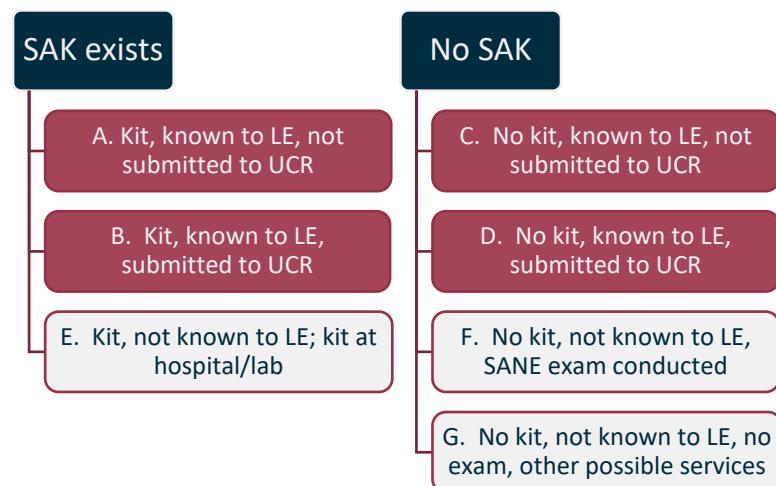
4.4 FUTURE DIRECTIONS

4.4.1 Further Analyses

More advanced statistical methods should be utilized to determine if specific subcategories are overrepresented in the original list and each result group and if so, what may be driving those differences. For example, there may be significant relationships between how many incidents were in the Unreported Kit group based on factors used to split the groups (UCR reporter type, size of agency, or kit status) or how many of the sampled incidents were found to be reportable or accurately reported based on the same factors. Further analyses could be conducted to determine if RMS is a factor and if so, whether the RMS itself needs to function differently or whether agency staff need more training to ensure correct usage of the RMS functions that will send incidents to the Wisconsin UCR Program correctly.

Figure 8 below shows the various incident categories based on the survivor’s choices whether to report the assault and/or seek services.

Figure 8 Sexual Assault Incident Categories based on Survivor Choices



Boxes A, B, and D are known by BJIA through WiSAKI and UCR data; estimating how many incidents in UCR involve a kit (Box B compared to Box D) would allow a possible estimate for Box C. The results from this project could then be applied to the estimate for Box A and C to further estimate what percentage of those incidents should have been reported to UCR, allowing a more comprehensive estimate of what UCR data *should* show compared to what it *does* show regardless of whether a kit was involved. Other criminal justice data, such as criminal history records kept by the Wisconsin Department of Justice Crime Information Bureau and court records at the State Courts Office could also help identify cases in which arrests were made and/or suspects were convicted under sex offense statutes. Comparing those records to UCR incidents from the same county and year may help identify incidents that may not have involved a SAK but were known to law enforcement (hence the arrest record). Other state UCR programs, SACs, and the FBI could use this strategy as a model for estimating the completeness of their own UCR data.

Boxes E, F, and G in Figure 8 would not be part of those estimates, as the incidents in these categories would include survivors who chose not to involve law enforcement but may have had a kit collected, an exam done, or sought other services; with the change post-WiSAKI in how hospitals handle those kits, law enforcement would never be aware of those incidents unless a victim wanted it reported (or for incidents that meet mandatory reporting guidelines). However, data may be available from additional sources to help estimate the number of victims within Wisconsin that do not report to law enforcement but do seek other services. Other sources of data include the Wisconsin State Crime Labs, which would know how many kits are in Box E and the Wisconsin Department of Justice Office of Crime Victim Services (OCVS), which administers the Sexual Assault Victim Services (SAVS) Grant for which data is collected from grantees including the number of services sought under various service categories. The Wisconsin Department of Health Services Office of Health Informatics collects data on emergency department visits for suspected sexual abuse as categorized by ICD-10-CM codes that could help fill in gaps as well. Due to the anonymity and aggregation required for data sharing, it is likely not possible to know for sure how many services sought were for the same victims and same incidents known to law enforcement, but having a general idea of how many services were sought in a given geographic area and timeframe compared to data reported through UCR might be a starting point for estimation.

4.4.2 Training and Recommendations

Reviewing whether there are any significant differences in sampling or results based on RMS vendor would allow the Wisconsin UCR Program staff to organize communications and trainings with vendors to ensure each company in operation in Wisconsin is aware of the state's more specific UCR requirements compared to federal requirements, including the inclusion of unfounded incidents. Trainings are currently available online for sex offense reporting in general for law enforcement agencies to access on their own, but previously administered trainings have mostly been targeted towards one type of reporting or another (SBR vs WIBRS) due to the differences in how the data is entered. Since 2015, many agencies have transitioned from SBR to WIBRS for their UCR reporting, and as of 2021 all agencies should be either fully transitioned to WIBRS or in the process of transitioning.

Moving forward, the trainings for law enforcement should focus not only on the offense definitions, but the common reasons why sex offenses are not being reported as required, as found in the results of this project. The Wisconsin UCR Program does not currently have an audit program to complete this type of work on a regular basis; however with more staffing, one could be implemented in which other data sources (such as criminal history) could be utilized to audit the completeness of UCR sex offenses rather than focusing only on the accuracy of what was transmitted to the state UCR program. Additional recommendations include:

- The Wisconsin UCR program should create additional training materials targeted to records management system providers and agency command staff with an explanation and expectation of how statuses such as unfounded and unsubstantiated should be used by the agency and treated by the system in Wisconsin.
- RMS providers should be expected to verify and demonstrate their system complies with the Wisconsin requirements. Specifically, the “unfounded” data element is already verified as part of agencies’ WIBRS transition process (i.e. the data element is verified to exist within the system), but whether incidents that are labeled as unfounded before it is submitted to the Wisconsin UCR program are sent or excluded from transmission is unclear.
- Agency records staff should be expected to complete either an in-person WIBRS training or the e-Learning WIBRS course before they can access the WIBRS data submission website.
- Agency records staff should be required to complete shorter topic-focused trainings on an annual basis to retain their personal data submission permissions.
- Agency command staff should be required to attend/view trainings related to case statuses and disseminate information to their officers.
- Agencies whose staff do not attend the required trainings should not be permitted to submit data until training compliance is met.
- The FBI should provide more clear guidance on its expectations of what is reportable for UCR and its expectations of how unfounded incidents will be collected once the unfounded data element is added to the NIBRS system.
- RMS providers should consider using a standardized incident number such that the state UCR program would receive the incident number in the same format regardless of which system it came from in order to help with future incident matching during auditing across systems.
- The WIBRS system should consider adding a data element to collect crime lab case numbers associated with the WIBRS incident number to aid in future matching.

4.5 CONCLUSION

The overall goal of this project was to investigate the completeness and accuracy of Wisconsin’s Uniform Crime Reporting sex offense data. The FBI describes UCR data as including “Offenses that come to the attention of law enforcement” that law enforcement, service providers, analysts, grant funders, and others utilize as the most official source of crime data available at the local, state, and national level. The data, including violent crime

rates, are used by policymakers for decision-making on legislation, staffing, funding, and much more. An understanding of how complete and accurate UCR data is and the reasons incidents are known to law enforcement but either not submitted to UCR or submitted with an incorrect classification is critical for anyone using UCR data, especially information about violent crimes.

The distinction between forcible sex offenses and nonforcible sex offenses is imperative to understanding nationwide crime data. Currently, any incident classified in Wisconsin as rape, sodomy/oral sex, or sexual assault with an object from an SBR agency will be sent to the FBI under the “rape” category as part of the agency’s monthly crime data. Rape is a violent crime in the nationwide SBR system and used to calculate violent crime rates at the local, statewide, and national level. Within the National Incident-Based Reporting System, many more offenses are collected under the categories of Person Crimes, Property Crimes, and Society Crimes. Although the FBI has not indicated which NIBRS offenses will be considered “violent” moving forward as of the writing of this report, it is possible the four forcible sex offenses will be counted as violent and the two nonforcible offenses (statutory rape and incest) will not be considered violent. Notably, none of the incorrectly classified forcible sex offenses should have been classified as a nonforcible sex offense, but most of the incorrectly classified nonforcible sex offenses should have been classified as a “violent” forcible sex offense. Thus, if agencies are classifying offenses as statutory rape and incest that should be classified under a different sex offense category such as rape, the agency’s violent crime rate will appear lower than it is. Furthermore, if agencies are improperly reporting sex offenses as unfounded (false) or not at all, the incidents are not included with the agencies’ and the state’s crime data, also making the violent crime rates appear lower (and less accurate) than they are. It is crucial that Uniform Crime Reporting data be as complete and accurate as possible and collected in a uniform way throughout the country due to it being the official crime data used by a myriad of decision-makers.

Through this collaboration between the WiSAKI program and the Wisconsin UCR Program, BJIA gained a better understanding of possible training needs, scenarios in which a sexual assault kit exists but is not reportable for UCR and the unique challenges agencies may face when deciding if and what to report for UCR. The Wisconsin SAC and UCR Program also discovered areas where further discussion is needed and identified future opportunities for further analyses. We encourage all law enforcement agencies to contact the Wisconsin UCR Program with any questions about sexual assault reporting in Wisconsin.

APPENDIX A

Sex Offense Incident Form - Test Agency 1, WI013015Y, 2021

Help

Paper Form

[Submit Form](#)

[Done »](#)

Incident Details

Incident Number:	<input type="text"/>
Attempted/Completed:	<input type="button" value="Select Option or Type Code"/>
Offense Code:	<input type="button" value="Select Option or Type Code"/>
Date of Incident (mm/dd/yyyy): (?)	<input type="text"/> MM / <input type="text"/> DD / <input type="text"/> YYYY (Partial dates accepted)
Time of Incident (00-23): (?)	<input type="button" value="Select Option or Type Code"/>
Date of Report (mm/dd/yyyy): (?)	<input type="text"/> MM / <input type="text"/> DD / <input type="text"/> YYYY (Partial dates not accepted)
Clearance Date (if Cleared): (?)	<input type="text"/> MM / <input type="text"/> DD / <input type="text"/> YYYY (Partial dates not accepted)
Weapon: (?)	<input type="button" value="Select Option or Type Code"/>
Location:	<input type="button" value="Select Option or Type Code"/>
Unfounded: (?)	<input type="checkbox"/> Unfounded
Exceptional Clearance:	<input type="button" value="Select Option or Type Code"/>

Victim & Offender Details

How many victims were there?	<input type="button" value="1"/>
How many offenders were there?	<input type="button" value="1"/>
Victim #1:	Age <input type="button" value="?"/> Sex <input type="button" value="Sel..."/> Race <input type="button" value="Sel..."/> Injury 1 <input type="button" value="Sel..."/>
Offender #1:	Age <input type="button" value="?"/> Sex <input type="button" value="Sel..."/> Race <input type="button" value="Sel..."/> Arrested <input type="checkbox"/> Arrested
Victim to Offender Relationship	
Victim #1 to Offender #1 Relationship:	<input type="button" value="Select Option or Type Code"/>

[Submit Form](#)

[Done »](#)

APPENDIX B

Sex Offenses - Forcible^{xviii}

Rape (11A): the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sodomy/Oral Sex (11B): oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with an Object (11C): to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Fondling (11D): the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sex Offenses - Nonforcible

Incest (36A): nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage of prohibited by law.

Statutory Rape (36B): nonforcible sexual intercourse with a person who is under the statutory age of consent (under 18).

Other UCR Definitions

Exceptional Clearance: A clearance in which some element beyond law enforcement control prevents the filing of formal charges against the offender. Agencies can clear an incident exceptionally if they can answer all of the following in the affirmative: 1) has the investigation definitely established the identity of the offender? 2) is there enough probable cause to arrest the offender? 3) is the exact location of the offender known so that the subject could be taken into custody now? 4) is there some reason outside law enforcement control that precludes arresting the offender?

Unfounded: a complaint is determined through investigation to be false or baseless; no crime occurred.

APPENDIX C



NOTICE OF IRB REVIEW AND APPROVAL

DATE: May 21, 2019
TO: Constance Kostelac, External
FROM: Casey Webster, Human Protections Administrator, USM IRB
PROTOCOL TITLE: Enhancing the Utility and Quality of Incident-Based Data
FUNDING SOURCE: Department Of Justice, US DOJ Office of Justice Programs
PROTOCOL NUMBER: 19-04-1287
APPROVAL PERIOD: Approval Date: May 21, 2019 Expiration Date: May 20, 2020

The project identified above has been reviewed by the University of Southern Maine's Institutional Review Board (IRB) for the Protection of Human Subjects in Research using an expedited review procedure per Title 45 CFR Part 46.110. This approval is based on the assumption that the materials, including changes/clarifications that you submitted to the IRB contain a complete and accurate description of all the ways in which human subjects are involved in your research.

This approval is given with the following terms:

1. You are approved to conduct this research only during the period of approval cited above;
2. You will conduct the research according to the plans and protocol submitted;
3. You will immediately inform the Office of Research Integrity and Outreach (ORIO) of any injuries or adverse research events involving subjects;
4. You will immediately request approval from the IRB of any proposed changes in your research, and you will not initiate any changes until they have been reviewed and approved by the IRB;
5. As applicable, you will comply with the University of Maine Information Security Policy and Standards and/or the Muskie School of Public Service Securing Protected Information Policies and Procedures and any other applicable USM policies or procedures;
6. If your research is anticipated to continue beyond the IRB approval date, you must request continuing review at least 60 days prior to the IRB approval expiration date; and
7. You will close the project upon completion (or discontinued).

This project has been granted a Waiver of the Informed Consent Process for the following reasons:

1. The study involves no more than minimal risk to the subjects;
2. The waiver will not adversely affect the rights and welfare of the subjects;
3. The research could not practicably be carried out without the waiver; and
4. Whenever appropriate, the subjects will be provided with additional pertinent information after participation.

The University appreciates your efforts to conduct research in compliance with the federal regulations that have been established to ensure the protection of human subjects in research.

Sincerely,

A handwritten signature in black ink that appears to read "Casey E. Webster".

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RESOURCES

Wisconsin Department of Justice Bureau of Justice Information and Analysis (BJIA)

<https://www.doj.state.wi.us/dles/bjia/bureau-justice-information-and-analysis>

Wisconsin UCR Program Sex Offense Data Dashboard

<https://www.doj.state.wi.us/dles/bjia/ucr-sex-offense-data>

Wisconsin Sexual Assault Kit Inventory (WiSAKI)

<https://wisaki.doj.wi.gov/>

Wisconsin Department of Justice Office of Crime Victim Services (OCVS)

<https://www.doj.state.wi.us/ocvs>

Wisconsin Department of Health Services Division of Public Health, Office of Health Informatics (OHI)

<https://www.dhs.wisconsin.gov/dph/ohi.htm>

Wisconsin Department of Health Services Sexual Violence Prevention Data and Resources

<https://www.dhs.wisconsin.gov/injury-prevention/sexual-violence/index.htm>

Office of Justice Programs Bureau of Justice Statistics (BJS) Crime Victimization Survey

<https://www.bjs.gov/index.cfm?ty=dcdetail&id=245>

NOTES

Please see notes below for more information where endnotes were indicated within the report.

ⁱ Unfounded incidents are defined as an incident in which a complaint is determined through investigation to be false or baseless. In other words, no crime occurred. Wisconsin's UCR Program collects unfounded incidents in WIBRS and through SBR incident forms, but does not count them as a crime as part of an agency's annual data.

ⁱⁱ Sex offenses in WIBRS include rape, sodomy/oral sex, sexual assault with an object, fondling, incest, and statutory rape. In SBR, all six offenses are required to be reported on the Wisconsin-specific incident form, but only rape offenses are collected on the FBI's monthly Return A form. The FBI changed the definition of "rape" on the Return A in 2013; prior to 2013, "rape" on the Return A was the definition of "rape" on Appendix B. As of 2013 nationally the definition of "rape" on the Return A was the combination of "rape," "sodomy/oral sex," and "sexual assault with an object" despite these remaining three separate offenses in Wisconsin, on the Wisconsin sex offense incident form, and in NIBRS and WIBRS. Wisconsin did not make this change until 2017, and re-named the offense on the Return A to be "rape, sodomy/oral sex, and sexual assault with an object" to make clear offense counts reported prior to this change are not comparable to offense counts after the change. The Wisconsin UCR Program Sex Offense Data Dashboard continues to publish these offenses as separate offenses.

ⁱⁱⁱ This distinction was made due to the numerous scenarios that could be classified as Fondling in UCR (over the clothes vs under the clothes, children vs adult victims, misdemeanor charges vs felony charges) that might have contributed to whether the kit was sent for testing at the time of the incident. During the time period these incidents were reported, oftentimes crime lab staff provided guidance to law enforcement on whether and what to submit to the lab for testing based on exactly what was alleged.

^{iv} If an incident labeled Fondling for UCR had a SAK that was submitted for testing at the time of the incident, the supposition was that those incidents may have been more likely to have been misclassified (and should have been classified as a more serious sex offense) compared to the incidents that were not originally sent to the lab for testing, hence a higher percentage of those were sampled.

^v See more information about REDCap at <https://www.project-redcap.org/>
Harris, P.A., Taylor, R., Minor, B.L., Elliott, V., Fernandez, M., O'Neal, L...Duda, S.N. (2019). The REDCap consortium: Building an international community of software platform partners. *Journal of Biomedical Informatics*, 95, doi: 10.1016/j.jbi.2019.103208

Harris, P.A., Taylor, R., Thielke, R., Payne, J., Gonzalez, N., & Conde, J.G. (2009). Research electronic data capture (REDCap) – A meta-driven methodology and workflow process for providing translational research informatics support. *Journal of Biomedical Informatics*, 42(2), 377-381).

^{vi} Two agencies allowed reviewers physical access to workstations within their departments. Due to Covid-19 precautions and travel restrictions in place during 2020-2021, Coder 2 reviewed 38 incidents without Coder 1 in order to complete all incident reviews within the grant period.

^{vii} McHugh, M.L. (2012). Interrater reliability: The kappa statistic. *Biochem Med (Zagreb)*, 22(3), 276-282.

^{viii} Kappa for all offenses combined and each offense did not include the 38 incidents Coder 2 reviewed alone; there were two additional incidents both coders reviewed but disagreed whether they were reportable that were also excluded from kappa calculations.

^{ix} Kappa for clearance type only included incidents both reviewers read and both thought should have been cleared.

^x Of the 38 incidents Coder 2 reviewed alone, 30 were originally classified as Rape, 4 were originally classified as Sodomy/Oral Sex, 3 were originally classified as Sexual Assault with an Object, and 1 was originally classified in UCR as Statutory Rape.

^{xi} False Reporting (2012). National Sexual Violence Resource Center.

https://www.nsvrc.org/sites/default/files/Publications_NSVRC_Overview_False-Reporting.pdf

^{xii} A National Protocol for Sexual Assault Medical Forensic Examinations - Adults/Adolescents Second Edition (2013). U.S. Department of Justice, Office on Violence Against Women. <https://www.ojp.gov/pdffiles1/ovw/241903.pdf>

^{xiii} Wisconsin Department of Justice, Office of Crime Victim Services (2021) *Wisconsin Forensic Nurse Education: Sexual Assault Nurse Examiner (SANE) Seminar for the Adult/Adolescent Population*. Madison, WI: Wisconsin Department of Justice

^{xiv} Uniform Crime Reporting Handbook NIBRS Edition (1992). U.S. Department of Justice Federal Bureau of Investigation.

^{xv} 2019.2.1 National Incident-Based Reporting System User Manual (2020). Criminal Justice Information Services Division Uniform Crime Reporting Program. U.S. Department of Justice Federal Bureau of Investigation. <https://www.fbi.gov/file-repository/ucr/ucr-2019-1-nibrs-user-manua-093020.pdf/view>

^{xvi} Song, H.S., Fernandes, J.R. (2017). Comparison of injury patterns in consensual and nonconsensual sex: Is it possible to determine if consent was given?. *Academic Forensic Pathology*, 7(4), 619-631.

^{xvii} Criminal Victimization (2015). U.S. Department of Justice Office of Justice Programs, Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/cv15.pdf>

^{xviii} "Forcible" was removed as part of the description of the sex offenses including rape, sodomy/oral sex, sexual assault with an object, and fondling as of 2013, but is kept in this description sheet due it still being used to describe these acts as of 2011, the first year of incidents sampled for this project. Please note that a "forcible" sex offense does not require physical force, weapons, and/or injury.