

The National Center for Victims of Crime is pleased to provide the slides used in our February 13, 2013 Webinar, "New York City's Sexual Assault Kit Backlog Project: Lessons Learned."

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Thank you!

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How New York City Tackled Its Backlog

Martha Bashford

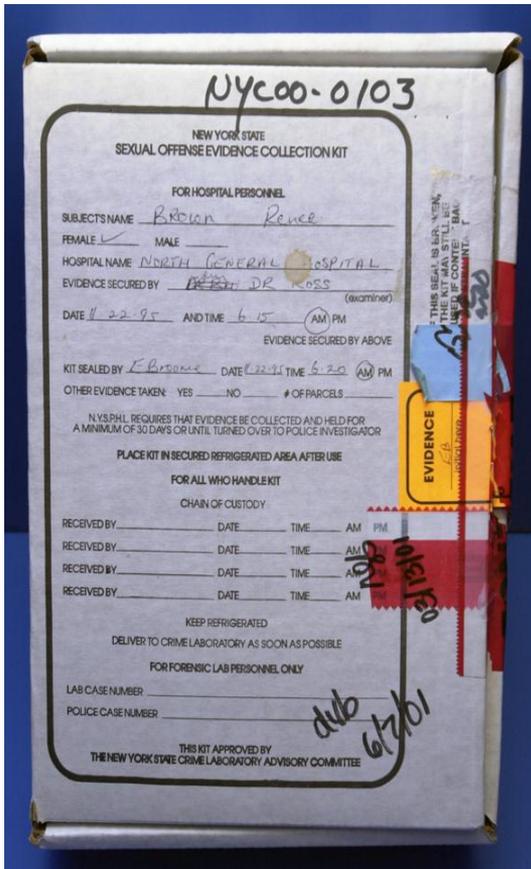
Chief, Sex Crimes Unit

New York County District Attorney's Office

Thanks to



New York City's Backlog Project



17,000 kits citywide: 1989 - 1998

Manhattan:

1989 - 2

1990 - 322

1991 - 500

1992 - 470

1993 - 495

1994 - 500

1995 - 400

1996 - 500

1997 - 350

1998 - 260

Outsourcing necessary



GeneScreen

- 3 contract labs
- Swabs only
- \$500 per kit
- 1st shipment: October 2000
- Last shipment: April 2003

NYC: Forklift Approach



Test Everything!

Why?

For a very practical reason:

It would take too long to triage all the kits.

How come?



NY's Statute of Limitations

- Then, 5 years
- BUT, extended to 10 if “whereabouts unknown”
- Caselaw: ID unknown = whereabouts unknown
- Since 2006, no SOL for 1st degree sexual assaults
- STILL have SOL for crimes that go along with rape: burglary, robbery, assault. Consecutive sentences mean rapists may get longer prison terms than murderers!



Benefits of Forklift Approach

Corroboration

Case Example #1

Victim #1: 56 year old woman, with slurred speech. Police thought she was intoxicated when she reported rape; in fact, she was a stroke victim. Case went nowhere.



- Victim #2: Elderly “pigeon lady” who was attacked in elevator after feeding birds. Reported rape, then moved all the way to Staten Island. Case went nowhere.



Cases matched each other, then CODIS hit
to Carleton Evans.

Convicted after trial = 20 years.

Moral of the story: 2 is better than 1



Benefits of Forklift Approach

Cases with
Compromised Victims

Case Example #2

Victim #1: Prostitute reports john with butcher knife raped her. Case unsolved.

Victim #2: Prostitute reports john with butcher knife raped her. Case unsolved.

Victim #3: Addict reports man with butcher knife raped her during drug transaction. Case unsolved.



All cases match to same individual.
Convicted after trial = 25 to 100 years

Moral of the story: the rape of one prostitute may go unsolved; DNA may not be probative; but three victims makes a serial rapist and a compelling case.



Benefits of Forklift Approach

Impact on current cases

Case Example #3

- Defendant had pleaded guilty to a Manhattan rape, and was begging judge for mercy.
- He argued that this behavior was an aberration.
- Days before sentencing, we received CODIS hit to 5 other Manhattan cases and 2 Queens cases – all barred by SOL.
- Judge used this information to give maximum sentence.

CRIME SCENE DO NOT CROSS

Moral of the Story:

Even cases barred by the statute of limitations can be VERY important!

Benefits of Forklift Approach: Acquaintance Rapists



Not at the top of DNA analysis priority.

But often undetected pattern rapists/predators.

Benefits of Forklift Approach: Acquaintance Rape Solves Stranger Rape



Victim #1 reports rape by husband, then drops charges.

Victim #2 reports stranger rape; case unsolved.
Case to case CODIS match; we know ID of assailant in the intimate partner case; stranger case is solved because the intimate partner kit was tested.

Moral of the story:

Testing kits with known assailants can solve other cases!

**Benefits of Forklift Approach:
Victims in time-barred cases write
parole letters. Their voices are heard.**

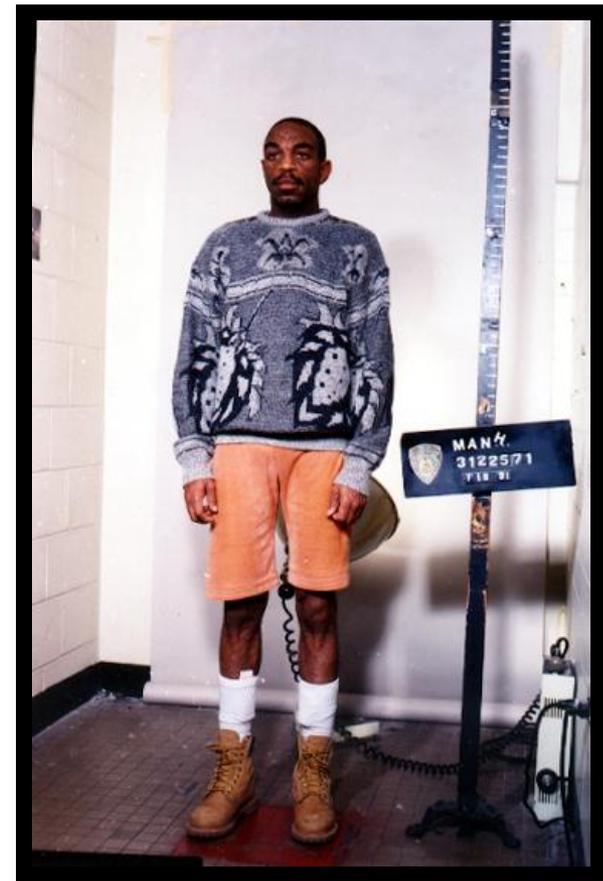
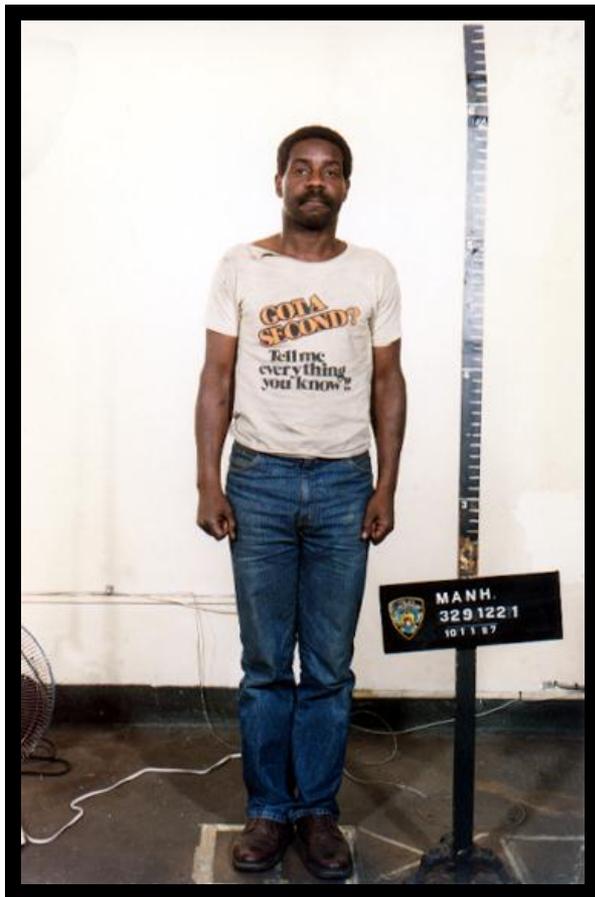


Benefits of Forklift Approach

- SOL outrage led to change in law in 2006.
- Populated forensic database.
- Success stories led legislature to expand convicted offender database.
- NY now takes DNA from all convicted felons and all persons convicted of Penal Law misdemeanors.

Benefits of Forklift Approach: EXONERATION

Michael Mercer was freed after 12 years when backlog testing using new technology identified Arthur Brown as the true rapist.



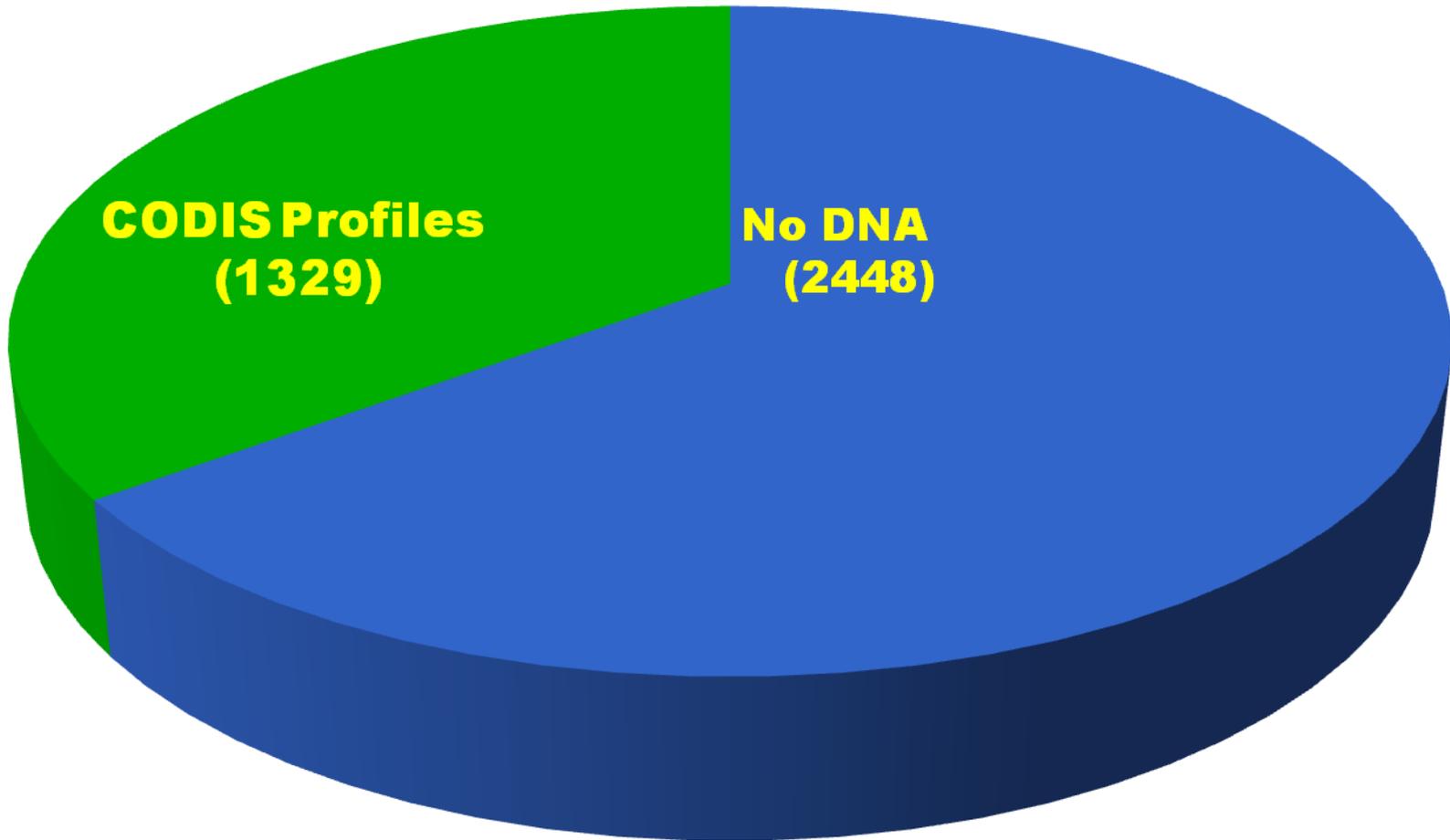
Moral of the story:

Testing kits in finished cases can serve justice.

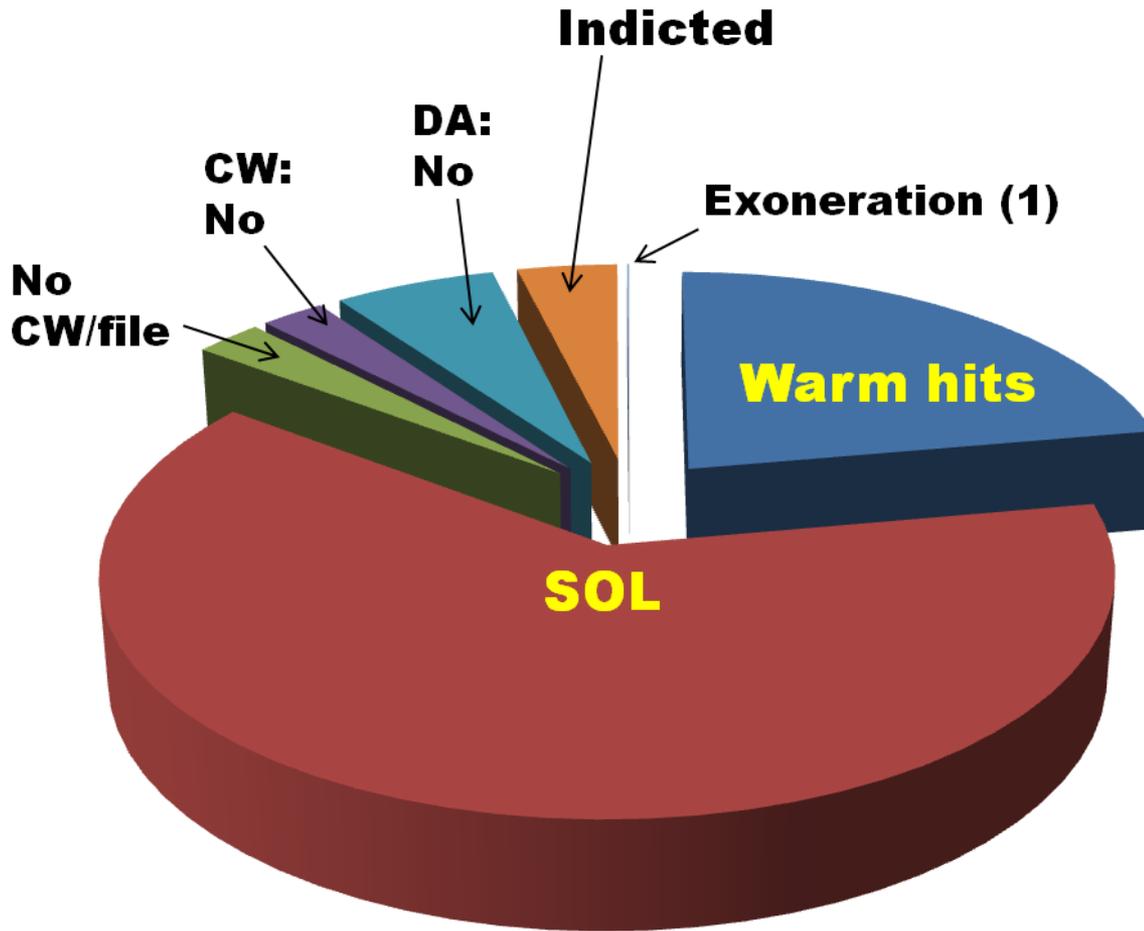
Disadvantages of Forklift Approach



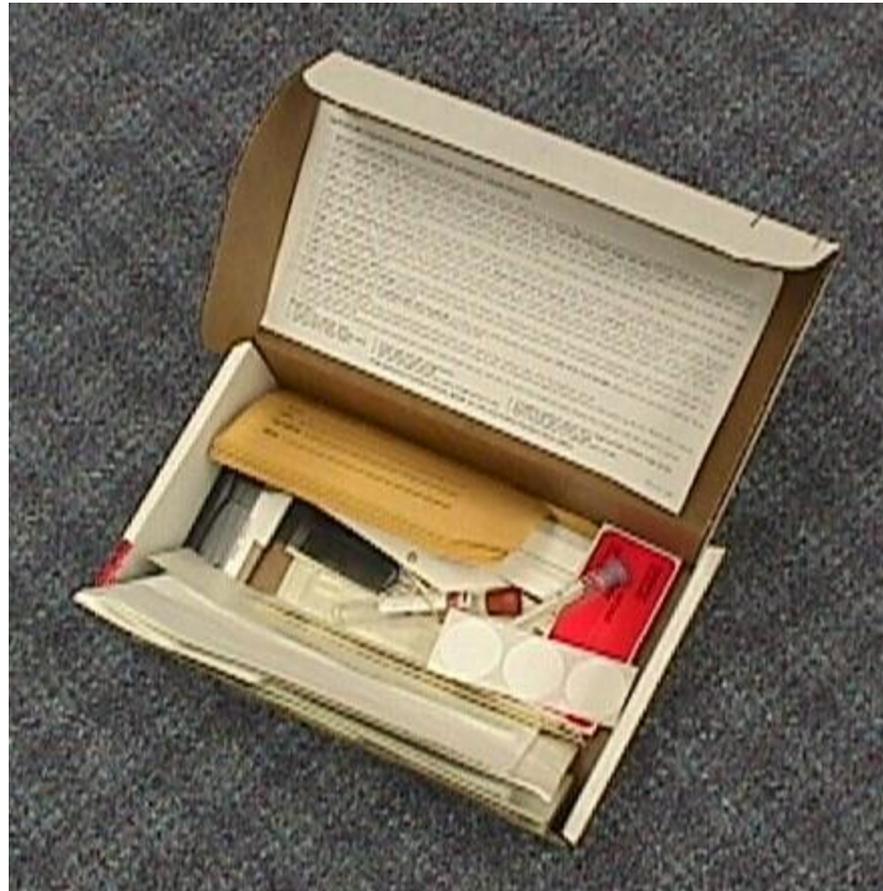
Manhattan SAKs



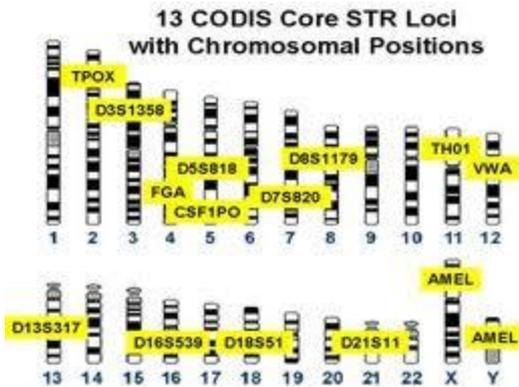
Manhattan SAKs



3777 SAKs sent from Manhattan
(287 were dummy kits)



Total CODIS Profiles: 1329



Of those, 279 were cases where
the identified perp was already
arrested



Leaving 1050

Of those, 128 people ID'd by DNA had already been named as suspects but never arrested. The Statute of Limitations had run, so we could not go forward. That left 922.



The Statute of Limitations had run on 664 cases where we ID'd the previously unknown assailant through DNA.

That left 258.

JAN	MON	TUE	WED	THU	FRI	SAT	SUN
FEB	THU	FRI	SAT	SUN	MON	TUE	WED
MAR	THU	FRI	SAT	SUN	MON	TUE	WED
APR	SUN	MON	TUE	WED	THU	FRI	SAT
MAY	TUE	WED	THU	FRI	SAT	SUN	MON
JUN	FRI	SAT	SUN	MON	TUE	WED	THU
JUL	SUN	MON	TUE	WED	THU	FRI	SAT
AUG	WED	THU	FRI	SAT	SUN	MON	TUE
SEP	SAT	SUN	MON	TUE	WED	THU	FRI
DICT	MON	TUE	WED	THU	FRI	SAT	SUN
NOV	THU	FRI	SAT	SUN	MON	TUE	WED
DEC	SAT	SUN	MON	TUE	WED	THU	FRI
	1	2	3	4	5	6	7
	8	9	10	11	12	13	14
	15	16	17	18	19	20	21
	22	23	24	25	26	27	28
	29	30	31	2	3	4	5



1n 32 cases, the victim was missing, or
the police file was completely AWOL.
That left 226.



In 30 cases, the victim refused to go forward. That left 196.

WHAT PART OF
NO
DON'T YOU UNDERSTAND?

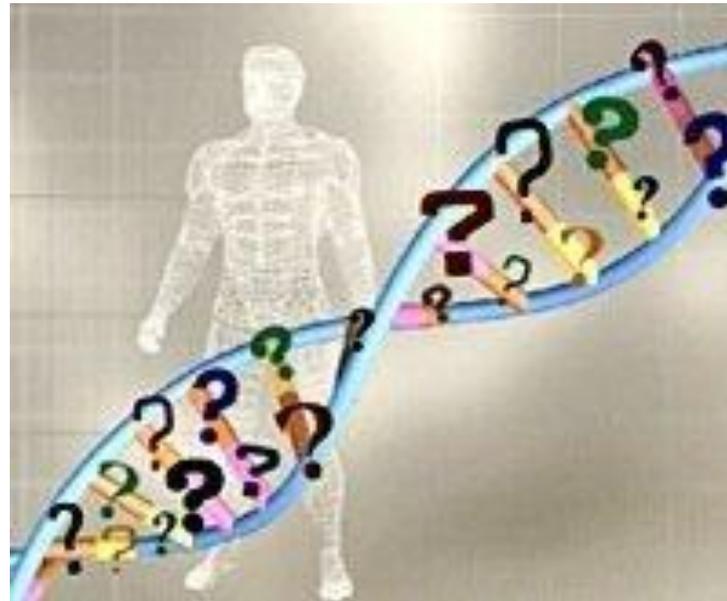
Of those, 76 were cases where the victim recanted, or for other reasons her credibility was unalterably compromised. This left 120.

Cases “open” with DNA profile:

44



Cases where unmatched DNA is not conclusive as to identity of the assailant: 29





Total number of indictments: 49

Total number of assailants identified:
1300 out of
3700 SAKs

So what happened?

- 100% conviction rate!
- Defendants received almost 900 additional years in prison
- 18 John Does still not identified.



What didn't work?

- No tracking mechanism in place.
- Each DA's office invented their own.
- We started with 4 x 6 file cards.





DNA HITS



ADAs receive email notifications on their Blackberries



Offender Hit followed by confirmatory sample

[To Be Assigned](#)
[My Hits](#)
[My Resolved Hits](#)
[Active Hits](#)
[Resolved Hits](#)
[Hit Tracking](#)
[User Admin](#)
[Reports](#)
[Universal Search](#)

Hit#	Type	FB#/Bar Code	Hit Date	Complainant	Full Complaint #	Case Type	Incident Date	Hospital	Voucher #	Storage #	Sample Type	Off/ Sus Name	NYSID/SID #	Incarceration Location	Earliest Release	Disposition
7695	F - NSA	FB04-0370	01/19/2011	[REDACTED]	2004-030-061319	Sexual Assault	03/01/2004		M169854		Other - blood on Metrocard					Pending
		FB10-S1264							R659346			[REDACTED]	[REDACTED]			
6901	F - O	FB04-0370 10544366A	09/13/2010	[REDACTED]	2004-030-061319	Sexual Assault	03/01/2004		M169854		Other - blood on Metrocard			NYS Dept of Correctional Services		Pending

[Match Info](#)
[Incident Info](#)
[Contact Information](#)
[Arrest Info](#)
[Disposition](#)
[Notes \(1\)](#)
[Updates Report](#)
[Print](#)
[Help](#)

INCIDENT DETAILS [EDIT](#) HIDE

Incident Date: 03/01/2004

Case Type: Sexual Assault

Borough: Manhattan

Full Complaint #: 2004-030-061319

NOTES [EDIT](#)

Hit#	Type	FB#/Bar Code	Hit Date	Complainant	Full Complaint #	Case Type	Incident Date
7695	F - NSA	FB04-0370	01/19/2011	[REDACTED]	2004-030-061319	Sexual Assault	03/01/2004
		FB10-S1264					
6901	F - O	FB04-0370 10544366A	09/13/2010	[REDACTED]	2004-030-061319	Sexual Assault	03/01/2004

What didn't work?

- Initial contract was for SAK swabs only.
- Led to Backlog II (underwear in kit) and Backlog III (associated evidence).



What didn't work?

- 1995 and 1996 SAKs were the 1st to go out (on 5 year SOL theory).
- We had 10 years – so the 1990 and 1991 SAKs should have gone 1st.
- We lost all those cases to SOL – those kits didn't go out till 2003.

What didn't work?

- Very hard to match profiles to cases.
- Vouchers often listed “KTD” as victim.
- Vouchers often didn't have case numbers.
- Solution (at our request): have contract lab xerox front of SAK, which would give us victim name and date at hospital.

Where were the police files?

What worked?

- Enormous undertaking.
- Established NYC as leader in field.
- Developed city-wide tracking and notification system – NYPD and DA notified of hit at same time.
- Only good press!

The New York Times

NEW YORK'S HOMETOWN CONNECTION WWW.NYDAILYNEWS.COM
DAILY  NEWS

NEW YORK POST

What worked?

- OCME got new laboratory.
- With new lab and NO backlog, NYC processes 10k DNA cases a year.
- Property crimes, Y-STR testing, mtDNA, low copy (high sensitivity) DNA testing.



Thank You!



Thank you!

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