

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

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# 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**

NYC00-0103

NEW YORK STATE  
SEXUAL OFFENSE EVIDENCE COLLECTION KIT

FOR HOSPITAL PERSONNEL

SUBJECT'S NAME Brian Pence

FEMALE ☒ MALE ☐

HOSPITAL NAME NORTH GENERAL HOSPITAL

EVIDENCE SECURED BY DR. DR. ROSS (examiner)

DATE 1-22-95 AND TIME 6:15 ☐ AM ☒ PM

EVIDENCE SECURED BY ABOVE

KIT SEALED BY E. Branson DATE 1-22-95 TIME 6:20 ☐ AM ☒ PM

OTHER EVIDENCE TAKEN: YES ☐ NO ☐ # OF PARCELS \_\_\_\_\_

N.Y.S.P.H.L. REQUIRES THAT EVIDENCE BE COLLECTED AND HELD FOR A MINIMUM OF 30 DAYS OR UNTIL TURNED OVER TO POLICE INVESTIGATOR

PLACE KIT IN SECURED REFRIGERATED AREA AFTER USE

FOR ALL WHO HANDLE KIT

CHAIN OF CUSTODY

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ AM ☐ PM ☐

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ AM ☐ PM ☐

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ AM ☐ PM ☐

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ AM ☐ PM ☐

KEEP REFRIGERATED

DELIVER TO CRIME LABORATORY AS SOON AS POSSIBLE

FOR FORENSIC LAB PERSONNEL ONLY

LAB CASE NUMBER \_\_\_\_\_

POLICE CASE NUMBER \_\_\_\_\_

THIS KIT APPROVED BY  
THE NEW YORK STATE CRIME LABORATORY ADVISORY COMMITTEE

EVIDENCE

1-22-95

6/2/01

# Outsourcing necessary



GeneScreen

- 3 contract labs
- Swabs only
- \$500 per kit
- 1<sup>st</sup> 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 1<sup>st</sup> 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

CRIME SCENE DO NOT CROSS

CRIME SCENE DO NOT CROSS

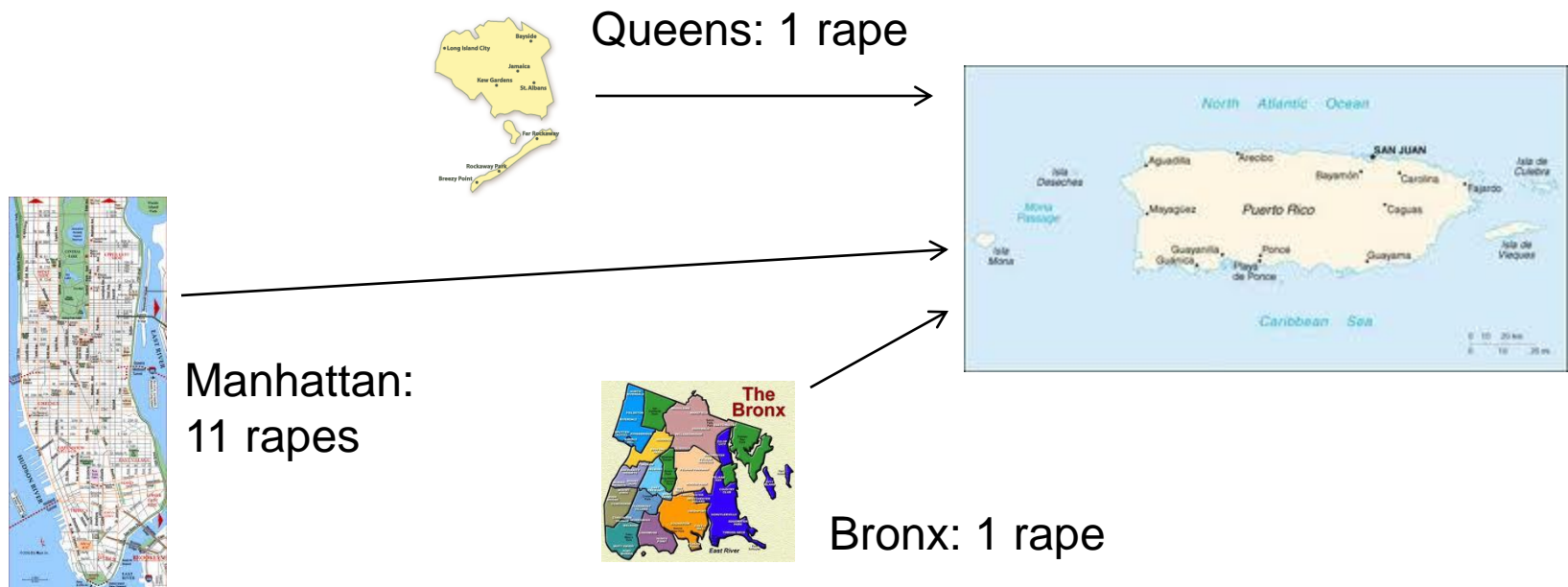
CRIME SCENE DO NOT CROSS

CRIME SCENE DO NOT CROSS

CRIME SCENE DO NOT CROSS

# Benefits of Forklift Approach: New Pattern

- Pattern rapists often go undetected.
- Recent NDIS hit from offender in Puerto Rico to 13 unsolved NYC home invasion/rapes: all barred by SOL.
- Can provide the information to parole.



# 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.

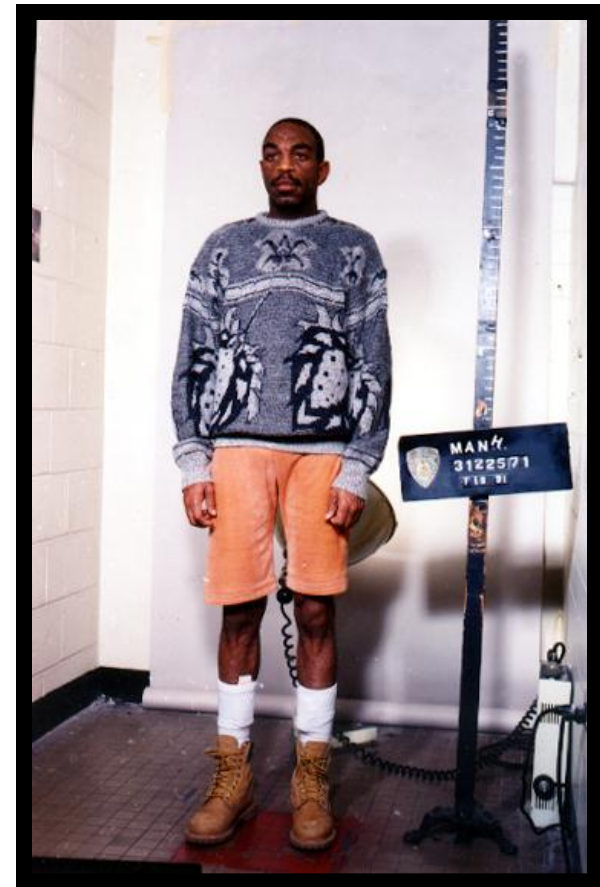
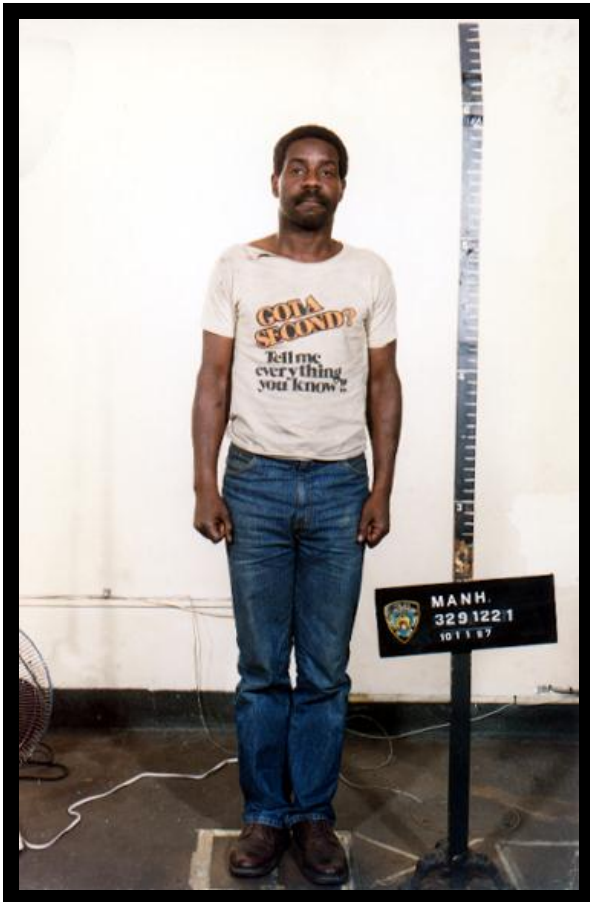


# Benefits of Forklift Approach

- 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.



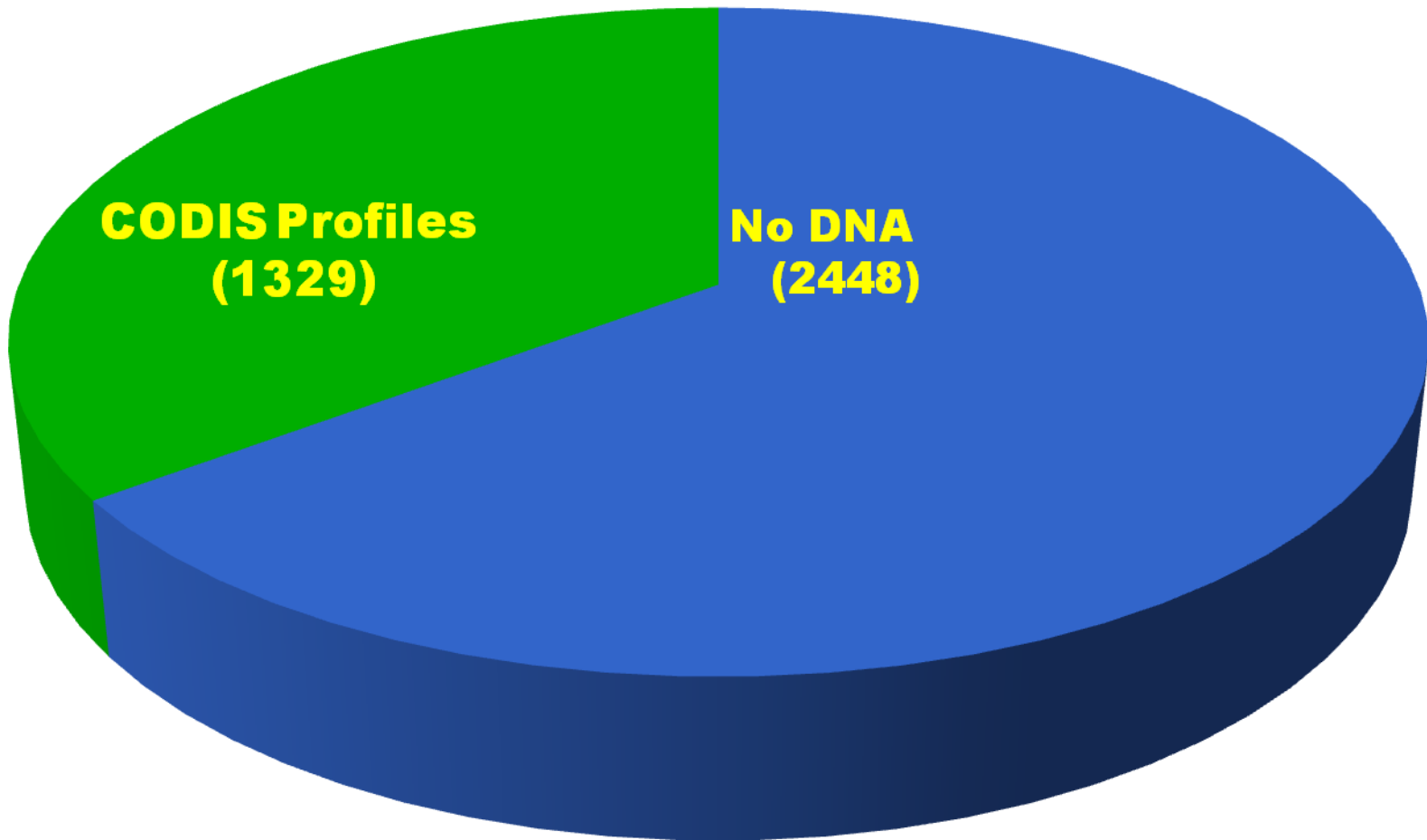
# Moral of the story:

Testing kits in finished cases can serve justice.

# Disadvantages of Forklift Approach

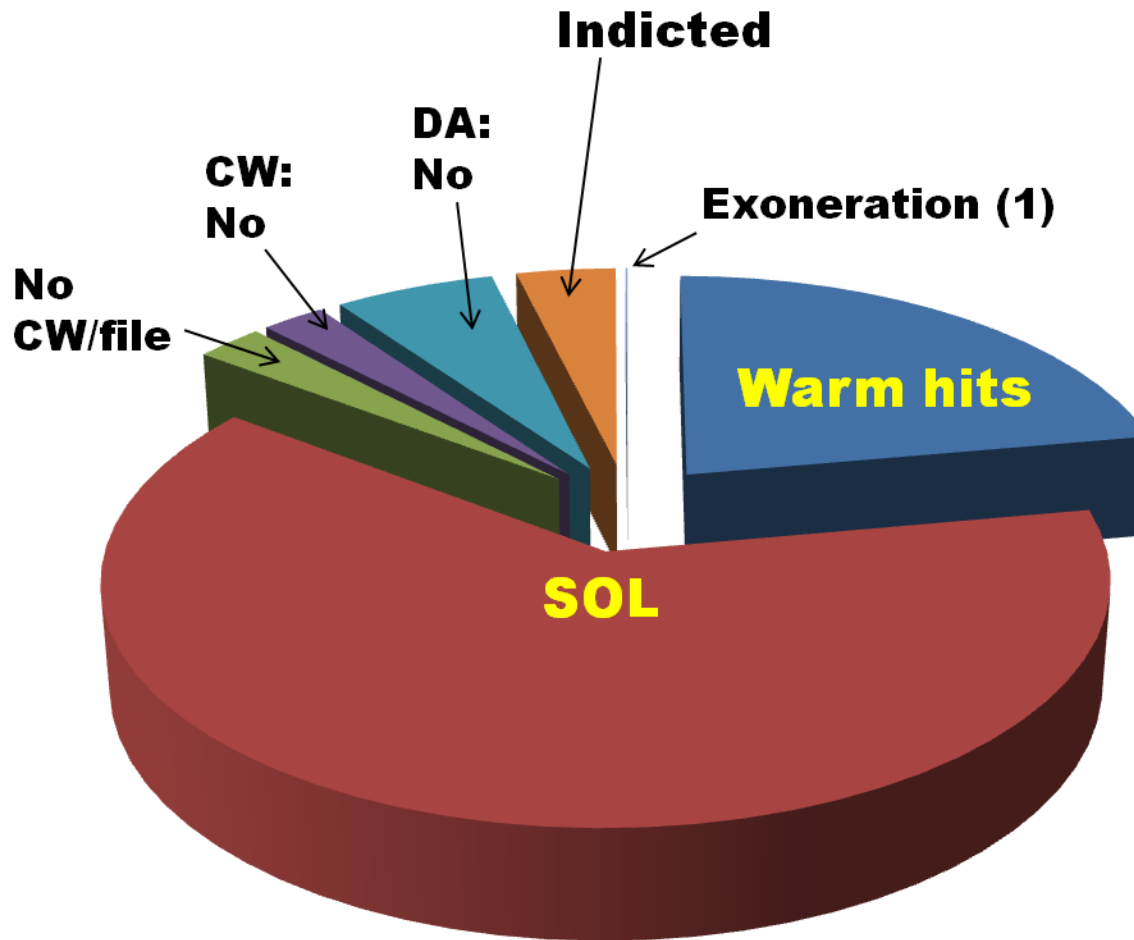


# Manhattan SAKs

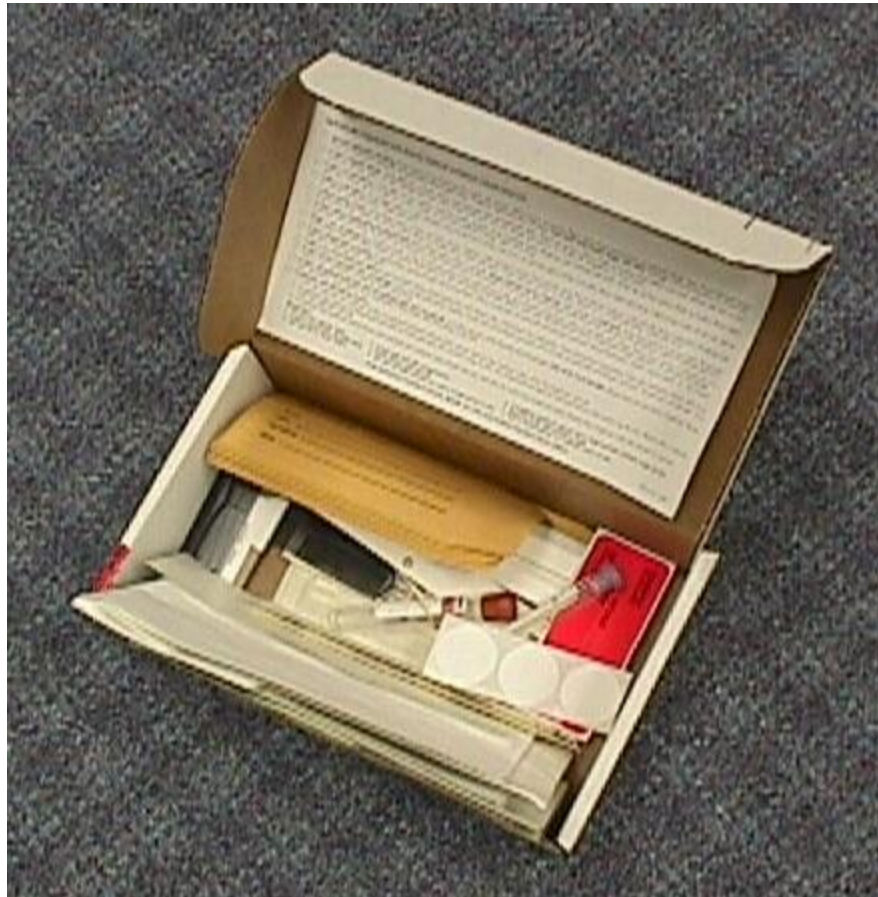




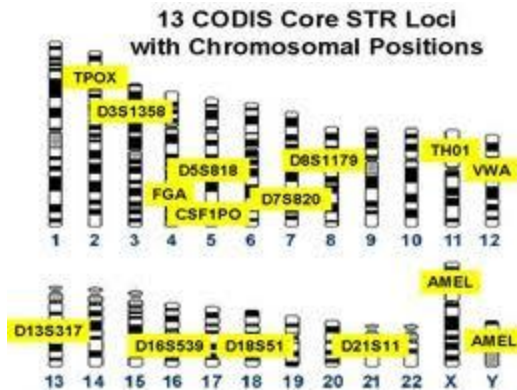
# Manhattan SAKs



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
OCT	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.

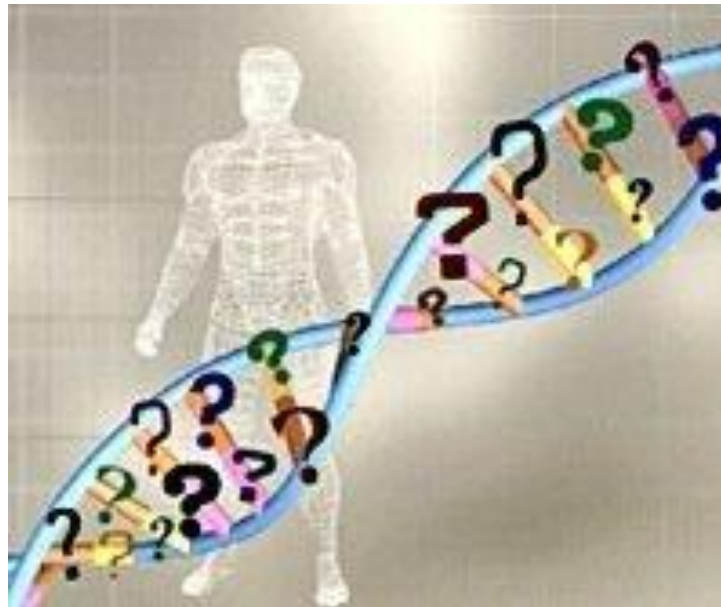
WHAT PART OF  
**NO**  
DON'T YOU UNDERSTAND?

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.



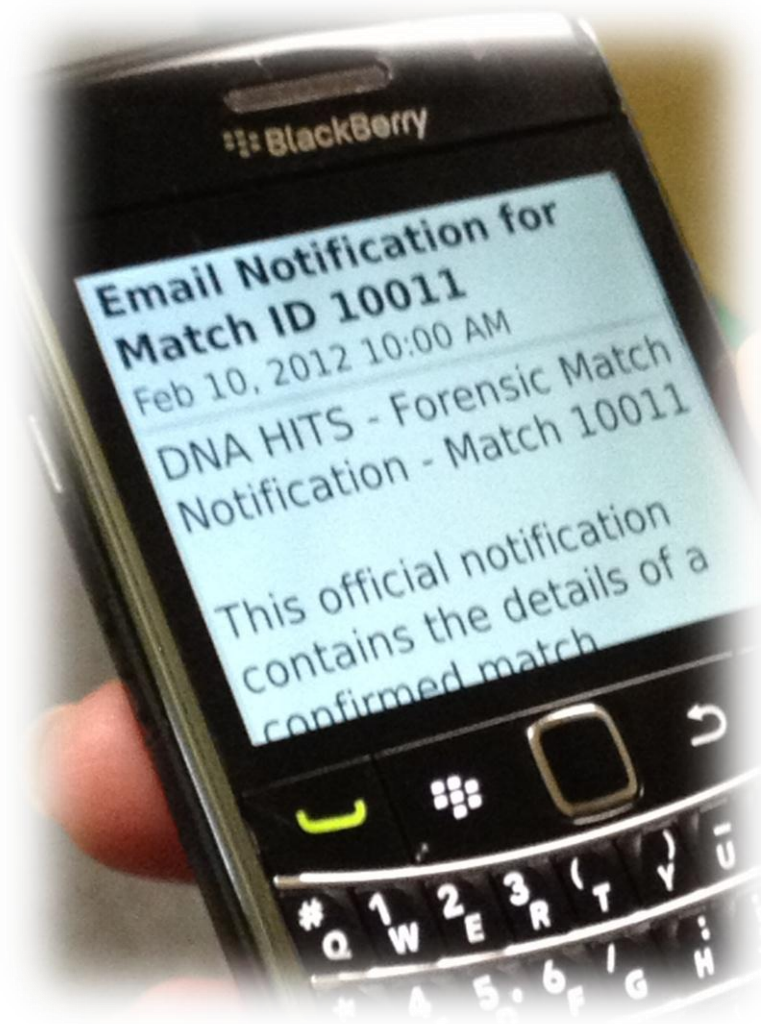


**DNA HITS**





# 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	<a href="#">FB04-0370</a>	01/19/2011		2004-030-061319	Sexual Assault	03/01/2004		M169854		Other - blood on Metrocard					Pending								
		<a href="#">FB10-S1264</a>							R659346															
6901	F - O	<a href="#">FB04-0370</a> <a href="#">10544366A</a>	09/13/2010		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

INCIDENT DETAILS

Incident Date03/01/2004

Case TypeSexual Assault

BoroughManhattan

Full Complaint #2004-030-061319

NOTES

Hit#	Type	FB#/Bar Code	Hit Date	Complainant	Full Complaint #	Case Type	Incident Date
7695	F - NSA	<a href="#">FB04-0370</a>	01/19/2011	██████████	2004-030-061319	Sexual Assault	03/01/2004
		<a href="#">FB10-S1264</a>					
6901	F - O	<a href="#">FB04-0370</a> <a href="#">10544366A</a>	09/13/2010	██████████	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 1<sup>st</sup> to go out (on 5 year SOL theory).
- We had 10 years – so the 1990 and 1991 SAKs should have gone 1<sup>st</sup>.
- 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.



## PROPERTY CLERK'S INVOICE

FD-503 (Rev. 10-6-62)

Circle only one of the below categories.

G 966401

☐ LARGEST EVIDENCE☐ DECEDENT'S PROPERTY☐ FOUND PROPERTY☐ INVESTIGATORY☐ PEDDLER PROPERTY☐ OTHER

DATE PREPARED 7/26

19 97

PCT. 032

Reporting Officer

Gomez

Rank

Station No.

Filing No.

Division

Reporting Unit

Title

Age

Address (Street, City, State, Zip Code)

Filing No.

Division

Title of Asset

Transfer No.

Character/Status/Asset Description

Sodomy 1\*

Filing No.

Filing No.

Filing No.

Filing No.

Origin of Property

Transfer No.

Under Investigation

Filing No.

Filing No.

Filing No.

Filing No.

Date of Receipt

Transfer No.

P.O. Reference

Filing No.

Filing No.

Filing No.

Filing No.

Date of Receipt

Transfer No.

Person Known To This Dept.

Filing No.

Filing No.

Filing No.

Filing No.

Date of Receipt

Transfer No.

S/A/A

Filing No.

Filing No.

Filing No.

Filing No.

ITEM NO.

QTY.

ASSETS

CASH VALUE

EST. VALUE

EST. VALUE

EST. VALUE

EST. VALUE

1

1

London

EST. VALUE

EST. VALUE

EST. VALUE

EST. VALUE

2

1

Piece Of Issue

EST. VALUE

EST. VALUE

EST. VALUE

EST. VALUE

3

2

Condomwappers

EST. VALUE

EST. VALUE

EST. VALUE

EST. VALUE

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](http://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!

Ilse Knecht

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