



ViCAP: A Powerful Tool to Track and Analyze Crimes of Serial Sex Offenders

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Objectives

- Recognize patterns and signs indicative of serial offending
- Develop insight into use of ViCAP for investigation and prosecution as well as benefits of expanding the database
- Maximize the value of ViCAP for investigatory leads and links to other sexual assaults and homicides
- Identify and present evidence of an offender's other crimes, wrongs, acts under Federal Rule of Evidence 404(b) or the local equivalent, thereby linking offenders to other victims

As of December 2017:

43,795
kits inventoried

31,698
kits sent for testing

2,883
CODIS hits



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But a large number of rape kits do not turn up DNA profiles, as reported by Forensic Magazine in Part One of this series. ViCAP could link the signatures of such attacks, unearthing the blueprint, even potentially a map of offenders—even without DNA.

“That’s the case where ViCAP could really step in. Whether we have DNA or not, if we don’t know who the offender is, let’s go back to the database and see where similar M.O. is displayed—or if we do have a known offender, and their DNA is not in CODIS, or situations like that—we can really help inform some of these cases”

~ Christina Palazzolo, an FBI crime analyst at ViCAP

CODIS Hit Rate

- Not every kit provides enough DNA for a profile, and not every profile leads to a match against a known offender in federal and state databases.
- Generally, states have reported a **CODIS “hit rate” of between 20 to 25 percent** of the kits tested

Seth Augenstein, *‘They’re Just Sitting Here’: A CODIS Rape Kit Conundrum in Ohio, and Beyond*, FORENSIC MAGAZINE (2017)

Sex Offenders

- Significant incidence of serial offending of known and unknown victims
- Frequency of cross-over offending including known and unknown victims, different sexes, ages
- Many are mobile, offending in multiple jurisdictions
- Many offend across time
- Homicide and sexual assault may be linked

Cuyahoga Study

In March 2016, researchers at Case Western Reserve University published an analysis of serial vs. one-time sexual offenders, based on a random sample of cases associated with previously backlogged kits from Cuyahoga County, Ohio. Their analysis found that **more than half of these sexual assaults were connected to serial offenders**, suggesting that serial offenders are more common than previously believed.

RACHEL LOVELL, ET. AL., CUYAHOGA COUNTY SEXUAL ASSAULT KIT PILOT PROJECT: REPORT ON SERIAL AND ONE-TIME SEXUAL OFFENDERS (Begun Center for Violence Prevention Research and Education, Case Western University, March 2016)

Cross-Over Offending

“Serial sex offenders frequently assault both strangers and non-strangers, and often drastically vary their modus operandi across assaults. Offenders in the sample frequently exhibited crossover offending by relationship, age and even some by gender.”

RACHEL LOVELL AND DAN CLARK, DO SERIAL SEX OFFENDERS MAINTAIN A CONSISTENT MODUS OPERANDI?:
FINDINGS FROM PREVIOUSLY UNSUBMITTED SEXUAL ASSAULT KITS 1 (Begun Center for Violence
Prevention Research and Education, Case Western University, September 2017)



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Studies of perpetrators identified through testing backlogged kits show that serial offenders commit many types of violent crimes, including crimes against intimate partners and acquaintances.

SLOANE GRAY, PORTRAIT OF A SERIAL RAPIST (End the Backlog, October 23, 2017)

ViCAP

An Untapped Resource

ViCAP

The Violent Criminal Apprehension Program (ViCAP) is the unit of the FBI which maintains the largest investigative repository of major violent crime cases in the United States. The program is designed to collect and analyze information about homicides, sexual assaults, missing persons, and other violent crimes involving unidentified human remains.

ViCAP Web

- State-of-the-art behavior-based crime analysis tool structured to address the violent crime problems impacting law enforcement agencies today
- Enables law enforcement agencies to collect, collate, enter, and analyze their own violent crime information on local level
- Facilitates identification of similar cases on regional, state, and national basis.
- ViCAP Web available to law enforcement agencies nationwide through secure internet connectivity of the Law Enforcement Online (LEO) Service of the Law Enforcement Enterprise Portal (LEEP), administered by FBI's Criminal Justice Information Services (CJIS).

ViCAP: Information Services (CJIS)

Suggested types of behavioral and investigative information that should be entered related to the following solved and unsolved violent crimes:

- Homicides (and attempts) that are apparently random, motiveless, or sexually oriented, or are known or suspected to be part of series
- Sexual Assaults committed by a stranger, or those known or suspected to be part of series
- Missing Persons where circumstances indicate strong possibility of foul play and victim still missing
- Unidentified Human Remains where manner of death is known or suspected to be homicide

How ViCAP Works

Entering Data in ViCAP

- Investigators from participating agencies electronically enter comprehensive data on their case directly into ViCAP Web
- Types of information input into the program:
 - Type of crime
 - Victim information; characteristics

Suspect Information

- Race, sex, age range
- Physical descriptors such as height and weight, hair
- Scars/marks/tattoos and descriptions of each and location on the suspect's body
- Outstanding features of the suspect such as glasses, accent, odor, physical characteristics

Entering Data in ViCAP

Initial approach to victim

Internet communications

- Snapchat,
- Facebook;
- Dating apps

When and where the crime occurred

Many times offenders will take the victim to an area he is familiar with, whether it be a secluded wooded area, an alleyway, vacant apartment or structure...

Entering data in VICAP

Cont'd

Sexual Activity

- Types of penetration (oral, vaginal, anal)
- Any unusual sex acts performed

Weapon Information

Types and characteristics. (E.g., handgun, large knife with wooden handle, pocket knife, taser)

Entering data in ViCAP

Cont'd

- **Suspect vehicle information**
 - Make and model, color
 - Type of vehicle (e.g., passenger car, SUV, van, pickup truck, tractor-trailer)
 - Distinctive features (e.g., damage, tinted windows, stickers, broken interior door handle, temporary tags/paper plates)
- **Summary of the Crime**
 - Narrative can be searched for keywords (e.g., “choked”) or phrases used by the suspect (e.g., “count to 100, derogatory names for females or sex acts)
- **Composite sketches or images from video surveillance can be uploaded**

Tracking Mobile Offenders



END the Backlog

- As of January 2018, testing backlogged rape kits has resulted in the identification of nearly **1,313 suspected serial rapists**
- These serial offenders, linked to kits in just three cities, have committed crimes across at least 40 states and Washington, D.C.
- Many have been linked to other violent crimes, as well

How ViCAP Information is Used by Law Enforcement

Benefits of ViCAP Web

- Enables law enforcement agencies to collect, collate, enter, and analyze their own violent crime information on a local level
- **All of the information input into the program is searchable** through ad hoc queries
- Dallas PD's Sex Assaults Unit utilizes ViCAP on a daily basis to link crimes and identify serial predators

How ViCAP maximized investigation in Dallas

Case Example

- Predator was contacting victims through a dating app
- Victims would drive to predator's location, where they would be sexually assaulted and robbed at gunpoint
- Each victim mentioned that rapist would tell them to close their eyes and "count to 100" while he fled the scene
- Crimes were occurring before any DNA links could be established
- Simple search of keywords in narrative portion of these cases resulted in other victims being quickly identified and a serial rapist was apprehended

ViCAP Web Features

- Investigators can search ViCAP Web for cases similar to theirs anywhere in the United States
 - Investigators can read details of other agency's case and reach out to that agency's point of contact for further discussion
- “Wanted” page through fbi.gov which shows suspects wanted in violent crimes across the country
- Law enforcement agencies can upload suspect sketches or images captured from video surveillance for other agencies to review for possible suspect leads
- ViCAP alerts with offender description and M.O. are generated and distributed to all users

ViCAP Records

- Crime scene descriptions
- Victim and offender descriptive data
- Laboratory reports
- Criminal history records
- Court records
- News media references
- Crime scene photographs statements
- Data consists of cases involving homicides, missing persons, unidentified dead, sexual assaults and other criminal cases

Enhancing Prosecution Through ViCAP

Multiple Charges

“Other Crimes, Wrongs, or Acts” or Fed. R. Evid. 404(b)

VICAP Analysts Examine Crime Data and Patterns

- Identify potential similarities among crimes
- Create investigative matrices
- Develop timelines
- Identify homicide and sexual assault trends and patterns

PRIVACY IMPACT ASSESSMENT: VIOLENCE CRIMINAL APPREHENSION PROGRAM (VICAP) (Federal Bureau of Investigation, 2003), <https://www.fbi.gov/services/records-management/foipa/privacy-impact-assessments/vicap>

Charging Serial Rape

- Determine a timeline of offenses
- Account for any significant gap in time, e.g. incarceration
- Focus on similarities in sexual assaults and offender conduct
- Joinder should be pursued when possible
- Present each case (count) independently with emphasis on similarities

Crimes, Wrongs, or Other Acts

Fed. R. Evid. 404(b)(1)

Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

Crimes, Wrongs or Other Acts – Permitted Uses

Fed. R. E. 404(b)(2)

This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. On request by a defendant in a criminal case, the prosecutor must:

- (A) provide reasonable notice of the general nature of any such evidence that the prosecutor intends to offer at trial; and
- (B) do so before trial — or during trial if the court, for good cause, excuses lack of pretrial notice.

Strategies for Using “Other Acts” Evidence

- Identify and present evidence to demonstrate motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident
- Recognize that the list is not exhaustive and that this is a rule of inclusion
- Develop effective strategies for use of FRE 404(b) in case in chief, intelligence for cross-examination or rebuttal
- Recognize that patterns or signs may be physical, behavioral, or both

Forensic Evidence

**Secondary witnesses
Other victims**

Cyber Evidence

**Victim
Interview(s)**

**Corroborate
disclosure(s)**

**Link
Sexual
Assaults**

Offender Statement(s)

Medical Evidence

Expert Testimony



Avenues to Fed. R. Evid. 404(b)

- Victim's experience of rape
- Distinct characteristics of rapist and / or conduct
- Situational behavior of offender: known or unknown to the victim
- Features of accessibility, vulnerability, offender conception of credibility
- ViCAP
- CODIS hits

Patterns and Signs of Serial Offending

Patterns can be Physical or Behavior or Both

Evidence of Other Victims & Patterns Below Surface

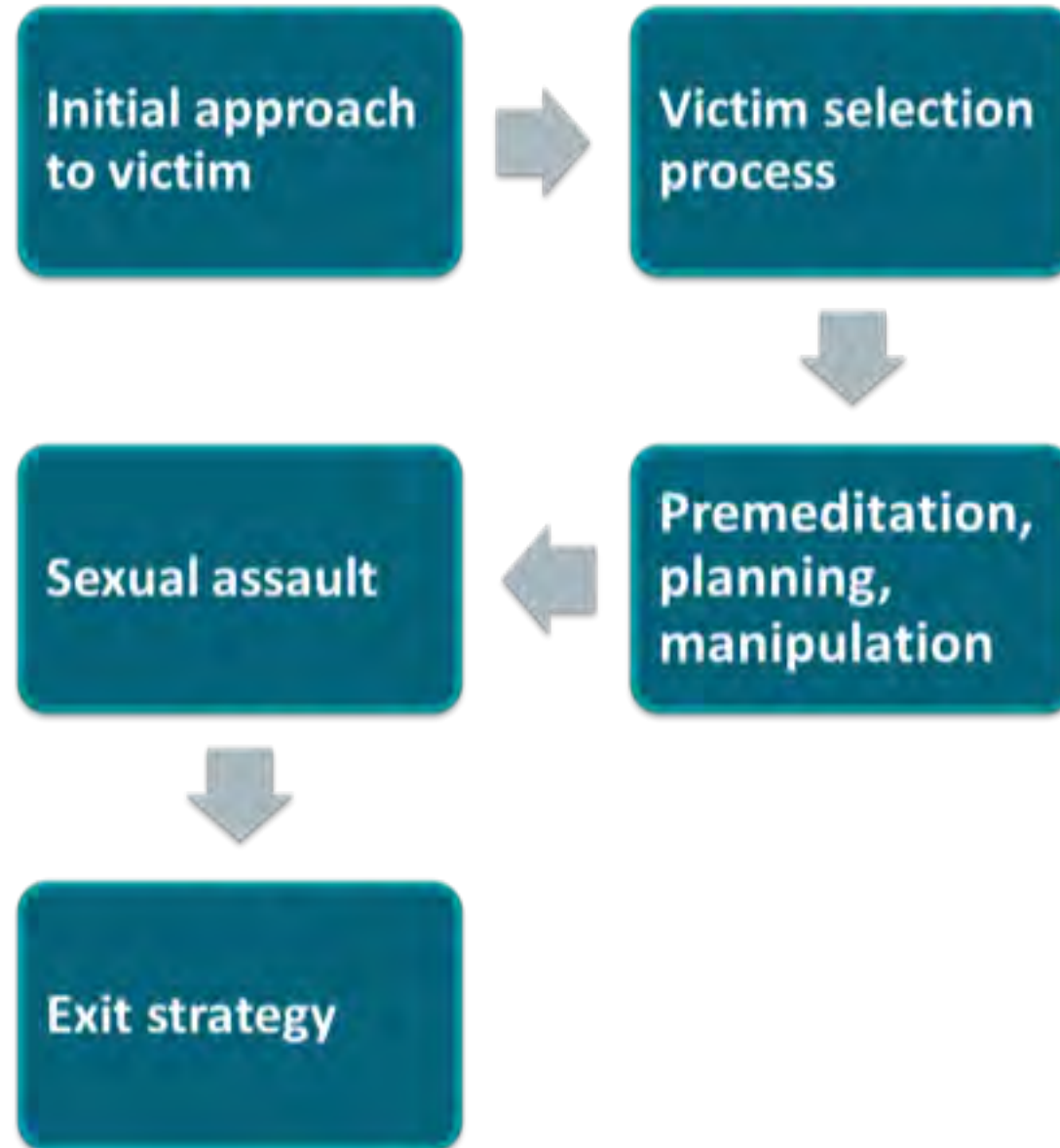
Initial Approach of Offender



Examine Predatory Behavior for Deeper Similarities



Scrutinize Offender Behavior in Linked Cases



Recognize Predatory Conduct in All Cases

- Offenders known to victims
- Offenders unknown to victims
- Serial incidence in both types
- Cross-over offending

Going Forward

- Recognize value and potential for ViCAP in cases with DNA *and* without DNA
- Identify physical and behavioral similarities in offender conduct
- Utilize ViCAP as a tool in cold cases involving both known and unknown offenders
- Expand database of ViCAP to enhance investigations, prosecution, and community safety

For victims there
are no cold cases...

It is never too late
for justice!



Contact Information



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