

UNIFORM CRIME REPORTING AUDIT REPORT

AUSTIN POLICE DEPARTMENT TX2270100 SEX CRIMES, DOMESTIC VIOLENCE, & C.R.A.S.H UNITS January 11, 2019

CLASSIFYING AND SCORING

Classifying and scoring offenses are two core functions for reporting crime in the UCR Program.

Classifying is determining the proper crime categories in which report offenses in UCR. The offense's classification is based on the facts of an agency's investigation of crimes. Agencies must first appropriately classify offenses known to police into Part I and Part II standard offense categories, as defined by the UCR Program.

Scoring is counting the number of offenses after they have been classified. The appropriate scoring of Part I crime is related to two types of crimes, crimes against person and crimes against property.

(UCR Summary Reporting (SRS) Handbook)

The APD audit consisted of a review of crimes against person, specifically ninety-five (95) exceptionally cleared Part I rape offenses that were reported to the Department in the months of January, November and December 2017.

The results of the audit were strictly derived based on the narrative of the offenses and supplemental reports provided to the audit team as they apply to UCR reporting guidelines.

HIERARCHY RULE

Summary reporting employs a hierarchy rule. The Hierarchy Rule requires the law enforcement agency to determine which of the Part I offenses reported is highest on the hierarchy list and score only that one offense from a multiple-offense incident. The offenses of **justifiable homicide, motor vehicle theft, arson, and human trafficking** are exceptions to the Hierarchy Rule. In a multiple-offense incident, the highest ranked offense must be reported along with the exceptions.

(The Texas UCR Handbook Pg. 10-13)

Hierarchy List

- 1.Homicide
- 2.Rape
- 3.Robbery
- 4.Aggravated Assault
- 5.Burglary
- 6.Larceny-theft
- 7.Motor Vehicle Theft
- 8.Arson
- 9.Human Trafficking

The Hierarchy Rule applies **only** to crime reporting and does not affect the number of charges for which the defendant may be prosecuted for in court.

The audit review revealed that five (5) of the rape offenses reviewed indicated that the UCR hierarchy rule was not followed or was inappropriately applied for reporting. Had the agency reported only the Rape as required by the hierarchy rule, the exceptional clearance would have been appropriate for the rape once the arrest was made on the other offense.

Incident #201720539 – There were 3 offenses in this incident, rape being the highest ranked. Summary guidelines state that when an incident has more than one reportable Part 1 offense the hierarchy rule applies and only the highest Part 1 offense is reported to UCR. APD failed to follow the UCR guidelines and reported all offenses in a multiple offense where rape was required to be ranked the highest.

Incident #2017290228 – Classified as Rape. A separate offense of aggravated assault was opened for the same incident. This was a Family Violence case. Both incidents were reported for UCR purposes. Summary guidelines state that when an incident has more than one Part 1 reportable offense the hierarchy rule applies and only the highest Part 1 offense is reported to UCR. APD failed to follow the UCR guidelines and reported all offenses in a multiple offense where rape was required to be ranked the highest.

Incident #2017150349 – Classified as Rape. A separate incident of aggravated assault was opened for the same incident. Both incidents were reported for UCR purposes. This was a Family Violence case. Summary guidelines state that when an incident has more than one Part 1 reportable offense the hierarchy rule applies and only the highest Part 1 offense is reported to UCR. APD failed to follow the UCR guidelines and reported all offenses in a multiple offense where rape was required to be ranked the highest.

Incident #20163111161 – Classified as Rape. A separate incident of aggravated assault was opened for the same incident. This was a Family Violence case. Summary guidelines state that when an incident has more than one Part 1 reportable offense the hierarchy rule applies and only the highest Part 1 offense is reported to UCR. APD failed to follow the UCR guidelines and reported all offenses in a multiple offense where rape was required to be ranked the highest.

Incident #20163660103 - Classified as Rape. A separate incident of aggravated assault was opened for the same incident. This was a Family Violence case. Summary guidelines state that when an incident has more than one Part 1 reportable offense the hierarchy rule applies and only the highest Part 1 offense is reported to UCR. APD failed to follow the UCR guidelines and reported all offenses in a multiple offense where rape was required to be ranked the highest.

REQUIRED ACTION – Follow UCR Summary definition to use Hierarchy Rule and Separation of Time and Place rule properly. Internal policies and processes must be reviewed to ensure they meet the guidelines of the UCR Summary reporting to properly apply the Hierarchy Rule.

MISCLASSIFICATION: RAPE OFFENSES

The UCR definition of Rape is the penetration, no matter how slight, of the victim's vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This definition includes either gender of victim or offender.

(UCR Handbook-Chapter 2, pg. 19)

In the audit review, auditors discovered that fifteen (14) incidents of the ninety-five (95) reviewed were incorrectly classified as rape, as the offenses did not meet the UCR Summary definition for UCR rape.

Incident #200510974 – Offense did not meet the definition of Rape. Victim does not know if she was raped or not.

Incident #20172710965 – Offense did not meet the definition of Rape. No force was used – consensual.

Incident #20172151012 – Offense did not meet the definition of Rape. No force was used – consensual.

Incident #20172821814 – Offense did not meet the definition of Rape. The victim does not know if she was raped or not.

Incident #20173241086 – Offense did not meet the definition of Rape. No force was used – consensual.

Incident #20165052355 – Offense did not meet the definition of Rape. The case did not give details of why they classified it as a rape offense.

Incident #20175046568 – Offense did not meet the definition of Rape.

Incident #20163151786 – Offense did not meet the definition of Rape. Penetration was not mentioned in the incident.

Incident #20175028406 – Offense did not meet the definition of Rape — no penetration.

Incident #20165014493 – Offense did not meet the definition of Rape. Original case was reported to another jurisdiction. Offense reportedly took place in Austin. Case did not give details as to why it was classified as rape.

Incident #20173071002 – Offense did not meet the definition of Rape. No penetration as per report.

Incident #20172051336 - Offense did not meet the definition of Rape. No force was used – consensual.

Incident #20172121616 - Offense did not meet the definition of Rape. No force was used – consensual.

Incident #20172400933 - Offense did not meet the definition of Rape. No force was used – consensual.

REQUIRED ACTION – Agency should follow the UCR Summary guidelines to properly classify reportable UCR offenses.

USE OF UNFOUNDED CLEARANCE

Agencies occasionally receive complaints that are determined through investigation to be false or baseless. In other words, no crime occurred. If the investigation shows no offense occurred nor was attempted, UCR Program procedures dictate the offense be reported and then subsequently score the offense as unfounded.

(UCR Summary Reporting (SRS) Handbook)

During the audit review, auditors found that of the ninety-five (95) rape offenses reported to the Department, fourteen (15) were reported as having been cleared by exceptional means. However after a review of the case files, auditors found the offenses should have been reported as unfounded through investigation.

Incident #20112930814 – Investigation proved it was a false report.

Incident #20175043865 – Victim stated that it never happened.

Incident #20163470998 – Victim stated she objected at first and then consented.

Incident #20162530264 – Victim stated it was consensual. Officer concluded it was consensual.

Incident #20162640850 – Victim is a habitual runaway. According to officers, she has more than 60 cases open in the last two years in the system. Through investigation, it has been found the outcry is false.

Incident #20165026852 – Victim is a habitual runaway. According to officers, she has more than 60 cases open in the last two years in the system. Through investigation, it has been found the outcry is false.

Incident #20162310975 – Victim is a habitual runaway. According to officers, she has more than 60 cases open in the last two years in the system. Through investigation, it has been found the outcry is false.

Incident #20162310975 – See incident # 20162640850, this is the same victim.

Incident #20163600539 – See incident # 20162640850, this is the same victim.

Incident #20163261251 – Victim stated that the incident did not happen.

Incident #20172400933 – Consensual relationship

Incident #20172941825 – Based on narrative of offense the rape offense reported never took place. Complainant lied to police.

Incident #20173180649 – Based on the narrative of the offense the complainant lied to police.

Incident #20173131469 – Consensual relationship

Incident #20175036545 – Offense did not meet Rape definition. Offense did not meet the elements of the definition because the narrative stated the offense reported never took place. Unfounded.

REQUIRED ACTION – Agency should follow the UCR Summary guidelines to document an incident as unfounded properly. Internal agency policy 406.2.7 correlates to the UCR Summary guidelines. Current

process for accurately reporting unfounded incidents must be improved to reflect agency internal policy and UCR Summary guidelines.

USE OF EXCEPTIONAL CLEARANCE

Part I offenses, such as Rape, are cleared either by arrest or exceptional means.

In order for agencies to clear offenses by Exceptional Means, the agency must be able to answer yes to the following questions:

1. Has the investigation definitely established the identity of the offender?
2. Is there enough information to support an arrest, charge, and turning over to the court for prosecution?
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, charging, and prosecuting the offender?

(UCR Summary Reporting (SRS) Handbook)

During their review, auditors review all narrative reports for the offenses that were reported in the timeframe selected. Auditors found that rape offenses that were exceptionally cleared did not meet the criteria for exceptional clearance as defined by UCR Summary Guidelines. Of the ninety-five (95) reports reviewed, thirty (30) did not meet the required guidelines for exceptional clearance, while twenty-nine (29) did meet the guidelines and were reported accurately as cleared by exceptional means.

Incident #2012771452 – Did not meet criterion #4.

Incident #20172750028 – Did not meet criterion #4.

Incident #20162140718 – Did not meet any of the above criteria for Exceptional Clearance.

Incident #2017701609 – Did not meet criterion #4.

Incident #20171190986 – Did not meet criterion #4.

Incident #20175036274 – Did not meet any of the above criteria for Exceptional Clearance.

Incident #20172631190 – Did not meet any of the above criteria for Exceptional Clearance.

Incident #20172681581 – Did not meet any of the above criteria for Exceptional Clearance.

Incident #20172760015 – Did not meet any of the above criteria for Exceptional Clearance.

Incident #20173330224 – Did not meet criterion #2.

Incident #20163490187 – Did not meet criteria #2 and #3.

Incident #20163021718 – Did not meet criterion #3.

Incident #20165046266 – Did not meet criteria #1 and #2.

Incident #20175004745 – Did not meet criterion #2.

Incident #201711896 – Did not meet criterion #3.

Incident #2017111739 – Did not meet criteria #2 and #3.

Incident #2017150932 – Did not meet criteria #2 and #3.

Incident #20165035843 – Did not meet criterion #2.

Incident #2016181821115 – Did not meet criteria #1, #2, and #3.

Incident #20152361558 – Did not meet criteria #1, #2, and #3.

Incident #20163211030 – Did not meet criteria #1 and #3.

Incident #20165015587 – Did not meet criteria #2 and #4.

Incident #20165026852 – Did not meet criteria #1 and #3.

Incident #20163560697 – Did not meet criteria #1 and #3.

Incident #20163450320 – Did not meet criteria #2 and #3.

Incident #2017170491 – Did not meet criteria #1 and #3.

Incident #201421222109 - Did not meet criterion for #2.

Incident #20172930808 - Did not meet criterion for #3.

Incident #20172741207 - Did not meet criteria for #3.

Incident #20172190745 – Did not meet criteria for #4

REQUIRED ACTION – Agency should follow the UCR Summary Guidelines to clear an incident by exceptional means properly. Internal agency policy 406.2.2 correlates to the UCR Summary guidelines. Current process for exceptional cleared incidents must be improved to reflect your internal policy and UCR Summary guidelines.

TIMELY CLEARANCE

Records should be reported to the UCR state program when the conditions are met by UCR Summary Guidelines of unfounded, cleared by arrest and cleared by exceptional means. Of the ninety-five (95) reports reviewed, two (2) were cleared at the incorrect time.

Incident #20111140861 – Record review indicated that the agency had the offender in custody in April 2011. Offense should have been reported as cleared by arrest 04/2011.

Incident #199923650424 – Record review indicated that the offense was no billed by the prosecutor in 2000. Offense should have been reported as cleared in 2000.

REQUIRED ACTION – Reporting agency should report updated information as soon as possible to the UCR State program when UCR Summary Guidelines of cleared by arrest or exceptional means are met.

**It should be noted that one (1) offense that was included in the count of offenses for this audit was labeled for Internal Affairs and was not reviewed.

ADMINISTRATIVE REVIEW OF AUSTIN POLICE DEPARTMENT CLEARANCE POLICY

Before the audit, the Austin Police Department submitted a copy of their clearance policy for review by the IBR Audit team. Upon review, auditors found that while the policy mirrors the published UCR guidelines for exceptional clearances, additions may be necessary to enforce reporting policies.

The Austin Police Department is directed to respond to DPS in writing with its plans to address the deficiencies identified in this report that require further action. Please provide the written response to this audit no later than February 22, 2019.

The IBR Audit team would like to thank the Sex Crime Unit of the Austin Police Department for their support and warm reception. Their assistance was very instrumental in the completion of the audit. If further assistance is required, please contact our office at 512 424-7135.