

After 3 years and \$1.5 million devoted to testing rape kits, Alaska made one new arrest

First of two parts: In the state with the highest rate of sexual assault in the nation, testing the backlog of rape kits may not be enough. Many were from cases where the identity of the suspect was already known, or were opened only to find no usable DNA.

- Author: [Kyle Hopkins](#)
- Published December 30, 2020



Rape kits stacked in the evidence storage area of the Alaska State Crime Lab in Anchorage in 2019. (Loren Holmes / ADN)

This article was produced in partnership with ProPublica as part of the [ProPublica Local Reporting Network](#) and is part of a continuing series, [Lawless: Sexual violence in Alaska](#).

First of two parts.

In October, Anna Sattler saw the man who raped her for the first time since she [jumped from his van](#) 19 years earlier.

He wore a dark tie and a blue face mask, appearing in one of Alaska's first felony jury trials of the COVID-19 pandemic. Sattler was committed to getting justice for what had been done to her. She had subjected her body to the swabbing and prodding and picture taking of a forensic exam after the 2001 kidnapping, so troopers could collect a sample of the rapist's DNA. In court, where a jury of socially distanced strangers examined images of her genitalia, she answered the defense lawyer's questions about why she was barhopping the night of her rape.

In the end, all the little humiliations built a case. A Kenai jury found Carmen Perzechino, a former sled dog musher who had fled to the Philippines, [guilty of all counts](#). He is awaiting sentencing.

The state public safety commissioner [celebrated the verdict](#) as a win in Alaska's push to test hundreds of old sexual assault kits collected by state troopers, some dating back to the 1980s. The "kits" are textbook-sized boxes or even bags of evidence collected at the beginning of a sex crime investigation. For a variety of reasons, they were never before submitted to a crime lab where the suspect's DNA would have been extracted, possibly identified and entered into a database.

Sattler figured the verdict was just the beginning of a reckoning, brought about by the grant-funded effort, for Alaska men who'd gotten away with rape.

"I expected this to be like the floodgates," she said.



Carmen Perzechino was found guilty on Nov. 4, 2020, of raping and kidnapping Anna Sattler in a cold case from 2001. In the proceeding held via Zoom are, in the upper row from left, Superior Court Judge Jennifer Wells, Perzechino and defense attorney Andy Pevehouse. In the lower row are investigator Mike Burkmire and prosecutor Jenna Gruenstein. (Obtained by Anchorage Daily News and ProPublica)

But what the state's news releases didn't mention is that Perzechino is and will likely remain the only offender arrested as a result of the initial effort to clear the backlog of unsubmitted evidence. After spending three years and \$1.5 million to test 568 kits and review the results, Alaska has filed only this one new criminal charge.

The Sexual Assault Kit Initiative grants paid for a prosecutor, Assistant Attorney General Jenna Gruenstein, and a cold case investigator to review the DNA results from every test, but that money will run out in 2021. Asked if the project will lead to any more charges filed, Gruenstein said the state concluded the majority could not be prosecuted but "a few cases" are still being reviewed.

Now, Alaska is [spending an additional \\$2.75 million](#) from state coffers to test about 2,400 more rape kits from local police departments in hopes of solving other cases.

This story is the first in a two-part examination by the Anchorage Daily News and ProPublica of why Alaska's effort to clear the backlog was not as effective as politicians or the public might have hoped and why it has not identified serial rapists.

In the next story we will examine how Alaska law enforcement may have limited the effectiveness of the rape kits by failing to collect DNA swabs from people arrested or convicted of certain crimes, contrary to state law. Those missing DNA profiles might have matched evidence found in rape kits.

The reasons for the low success rate are complex. Many of the backlogged kits involved cases where DNA evidence did not solve the crime because the identity of the suspect was already known, and the investigation turned on consent rather than who was involved. In even more cases, the sealed rape kits were opened to reveal no usable suspect DNA at all.

Still, some places, such as [Cuyahoga County in Ohio](#), have used DNA to file hundreds of criminal indictments and identified serial rapists like Nathan Ford, whose DNA matched evidence in 19 sexual assault kits. The [city of Fayetteville](#), North Carolina, used \$1.1 million in grants to clear a backlog of 688 kits leading to [59 cases "solved and charged,"](#) including some involving serial rapists, Lt. Michael Petti said.

They are the exception. Most states and local governments are reporting modest results, but few have tested so many kits resulting in so few new charges as Alaska.

In Washington state, federal Sexual Assault Kit Initiative grants paid for the testing of 5,096 backlogged rape kits as of Nov. 30, but the state attorney general's office and a state patrol

spokesman could not say how many charges had been filed as a result. [A December report](#) to the state's Legislature notes two cases that led to convictions and three that are awaiting trial.

Wisconsin [tested 4,472 kits](#), leading to the [convictions of four people](#), and several more are awaiting trial. In Iowa, the state Department of Justice received \$3 million in federal grants resulting in the testing of 1,535 kits and two new criminal cases. In Connecticut, which received \$4.7 million, the Sexual Assault Kit Initiative coordinator provided two examples of arrests made as a result of [genealogy testing](#) funded by the grants. The Hawaii Department of the Attorney General [tested 1,512 kits](#) resulting in one new conviction.

All told, the federal government has spent more than \$223 million on the Sexual Assault Kit Initiative program, known as SAKI, over the past six years. The Sexual Assault Kit National Training and Technical Assistance Program [reports](#) some 71,491 kits were sent for testing from September 2015 to June 2020.

In that period, charges were filed in 1,521 new criminal cases, according to the program.

A senior policy adviser at the Bureau of Justice Assistance, Angela Williamson, who manages the SAKI grant program, said it's unfair to compare the performance of various grantees until the sites have completed their projects.

"We don't know these numbers yet," she said. "But testing is only one part of the solution, which is why SAKI supports so many other critical activities such as crime analysis and investigation."

The delayed testing comes too late for some. In Alaska, some victims contacted long after reporting the attack no longer wanted to disrupt their lives and pursue a criminal trial. In other cases, victims and suspects have died in the years between the report of a sexual assault and the new initiative.

"On a shelf gathering dust"

The federal Bureau of Justice Assistance began the Sexual Assault Kit Initiative in 2015 [under President Barack Obama](#). The money was intended not only to clear existing backlogs but to help state and county leaders come up with ways to avoid future ones.

The issue was gaining nationwide attention as states and cities began to realize that countless sexual assault kits had gone untested over decades. Some had never been submitted by police to crime labs; others were considered a low priority and languished in evidence backlogs.

[That year](#), state Rep. Geran Tarr, an Anchorage Democrat, urged colleagues in the Alaska Legislature to launch a statewide inventory of untested kits. The audit would serve as the first step in identifying the scope of the problem here and would be necessary to obtain grant money for testing.

"There are perhaps violent criminals who are still out on the streets only because these kits haven't been processed," said Tarr, who'd heard about the issue of sexual assault kit backlogs

from a national advocacy group. Sen. Berta Gardner, also an Anchorage Democrat, proposed a companion bill in the state Senate.

“The evidence that could bring the guilty to justice, and prevent the perpetrator from raping, again sits on a shelf gathering dust,” Gardner [wrote in January 2016](#).

The statewide inventory of untested kits included those collected by state troopers, which were directly in the state’s control, and those kept by local police departments, which were one step removed. Then-Gov. Bill Walker said his administration aimed to clear the trooper backlog by 2017. “It is now a top priority,” he said.

Advocacy groups estimate that hundreds of thousands of such kits had been sitting in evidence lockers, some containing the only key that could solve certain cases: a sample of the rapist’s DNA.

Sometimes the evidence was never submitted for testing because police believed it wouldn’t have made a difference in the pending sex crime case. Some suspects had already pleaded guilty. Others admitted to having a sexual encounter with the victim but claimed it was consensual. In those cases, a DNA sample that confirmed the identity of the suspect wouldn’t change the investigation, police believed at the time, because it hinged on a he-said-she-said question of consent rather than identity.

But many sexual assaults reported in Alaska involve a woman who is unconscious and can’t give consent. In past decades, police might not have sent DNA samples in such cases for testing, thinking it wouldn’t solve the case. (Investigators already knew who the suspect was; he had admitted sexual contact but said it was consensual.) However, testing all such kits could reveal patterns such as a string of identical accusations against a single person. With enough evidence, prosecutors might be able to file charges.

At the time of some older cases, such as the 2001 attack by Perzechino, state troopers had a “standard practice” of declining to test a kit unless a suspect had been identified, [according to](#) Department of Public Safety Commissioner Amanda Price. Today, many states, including Alaska, have mandated testing of all kits.

After testing, the state crime lab can add eligible DNA profiles of suspects to a state database where it can be compared to the FBI Combined DNA Index System to see if that person’s DNA was found at another crime scene, in another sexual assault kit or matches a known offender.

Rachel Lovell, a researcher at Case Western Reserve University in Ohio, and colleagues described many reasons for the massive rape kit backlogs in [a recent edition](#) of the FBI’s Law Enforcement Bulletin: “Poor evidence tracking, outdated and ineffective investigation practices, scarce resources and personnel, misunderstanding of crime lab case acceptance policies, and lack of knowledge among law enforcement personnel about the value of testing the kits.”

As the backlogs gained national attention, the issue resonated across the country, Lovell said in an interview. People were enraged to learn that evidence of such serious crimes was often bagged, boxed and forgotten on a shelf.

“I think that’s why people are sort of disgusted or sort of shocked at all these rape kits that haven’t been tested,” she said.

Alaska attempted its first statewide inventory by 2016. The initial count showed some 3,600 untested sexual assault kits. That year, the Department of Public Safety received a \$1.1 million, three-year [SAKI grant](#) to assess the problem.

“We owe it to victims and their families to deliver justice to perpetrators and bring closure to these tragic experiences,” Walker, the governor, said at the time. The next year the state received another grant, for \$450,000, to continue the work.

The program quickly expanded across the country. Two grants in Oklahoma. Three in Montana. Four in Oregon.

Today, more than half of Americans live in one of the 71 jurisdictions that have received the federal grants.

When speaking to other legislators about the motivation to count and test shelved rape kits in 2015, Tarr said she’d come to a realization that violent offenders might be roaming Alaska towns purely because the evidence against them had been forgotten.

“Maybe even just one crime could be solved if we had this information in a more timely fashion,” she said.

Five years later, that’s precisely what happened.

Most kits contained no suspect DNA

In Alaska, the first round of testing focused on about 700 kits collected by state troopers; a fraction of the untested kits identified statewide. That initial number quickly shrank as investigators identified, for example, some that had been previously tested, were too damaged to test or had been mislabeled.

Ultimately, 568 trooper kits were sent to a private lab in Virginia to be unsealed and tested. By spring 2019, the testing was complete.

The lab found that as was the case in other states, nearly two-thirds of the previously unsubmitted rape kits in Alaska contained no DNA samples from anyone other than the victim.

From there, the number of kits that could unlock unsolved cases grew even smaller, as investigators began to pore over the DNA results arriving in monthly batches from the lab. Of the 199 kits that had DNA from someone other than the victim — meaning a potential suspect —

99 were set aside. Either the DNA belonged to someone other than the rape suspect, such as a partner, the DNA sample was of poor quality or degraded and couldn't be matched to a single person, or authorities determined the case didn't meet the statutory definition of sexual assault.

Now the 568 kits were down to about 100 that might be used to solve a cold case. Of those, 59 of the DNA samples matched a known person in law enforcement databases.

The cold case investigator, retired trooper Mike Burkmire, and prosecutor Gruenstein huddled over the 59 cases to determine if they could make new arrests. Most of the DNA "hits" confirmed the identity of a person who was already a named suspect in the case rather than revealing a previously unknown suspect.

Burkmire investigated the cases that remained and forwarded four for prosecution, according to [a Department of Public Safety report](#). The Department of Law declined three of the cases, including one in which the suspect was deceased and two in which the survivors did not want to move forward with a trial.

Gruenstein, the prosecutor, said deference to victims played a role in the low number of charges filed in Alaska and was based on the recommendations of survivor advocates. "While we might not have charged certain cases because of a victim's wishes, it is possible that in other states, those cases would have been charged, resulting in higher numbers of charged cases."

The remaining case resulted in the arrest of Perzechino, whom Sattler said she wouldn't have recognized as her rapist because so many years had passed. Had it not been for the new test of her old kit, the case never would have been solved.

With the testing of trooper kits well underway as a pilot project, the Legislature in 2018 agreed to spend state money to test about 2,400 additional kits held by police departments around Alaska.

It is unclear what will happen if Alaska's expanded testing uncovers new leads. The state funding does not include money for a cold case investigator, meaning any new leads will compete for attention from detectives focused on other duties.

That's what happened in Akron, Ohio, years ago. The DNA results from 1,200 previously untested kits started coming back to the police department in 2015, said Lt. David Whiddon, but the department had a shortage of detectives. There was no one to consistently follow up on the new leads.

Akron obtained two SAKI grants beginning in 2018 to fund police work and prosecutions. As of [this month](#), the department had arrested nine suspects known to have attacked 14 victims, plus it filed "John Doe" warrants against an additional 15 people who could be arrested if the identity of the person matching the DNA pops up in the federal database.

Walker, the former governor who sought the first inventory of untested kits in Alaska, said in a recent phone interview that you can't judge the testing project by the numbers alone.

Alaska has the highest rate of reported sexual assault in the country. As governor, Walker said, he spoke to sexual assault survivors who saw no point in reporting they had been attacked because they didn't think the justice system would take them seriously.

Testing every sexual assault kit sends a message that every report matters, he said, and no evidence will be ignored.

"Anytime there's any conviction of someone who has committed that heinous crime, it's worth it," said Walker, an independent who dropped his reelection bid in 2018.

Anna Sattler isn't so sure. She's grateful for the SAKI program and to the cold case investigator and prosecutor who bulldogged her 2001 case to a conviction. But following the verdict she assumed other trials would soon follow.

"It can't be one out of 568 that went to court and found someone guilty. Those aren't good numbers. That doesn't say anything," she said.

Next: The Missing Evidence

About this author

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Seeking protection, justice: Sexual assault in Northwest Alaska



KNOM Radio

Jan 30, 2021



'Do I feel safe in this community? No'

KNOM Radio

This is the first in a series of five stories that explores the community dynamics around sexual assault in the Northwest Alaska community of Nome and efforts to heal long-standing unequal treatment.

This story features sensitive subject matter. Reader discretion is advised. If you need to talk with someone while reading this, or need help, some resources are listed at the bottom of the article.

Hundreds of sexual assaults have been reported in Nome over the last 15 years, but few have brought arrests and even fewer convictions.

There are a number of factors that make it hard to investigate and prosecute sexual assault cases. Some survivors think law enforcement doesn't prioritize these kinds of crimes, especially when the victims are Native.

A National Native News analysis of Nome's 300 plus sexual assault cases reported between 2010 and 2017 shows that only 25 of them went to court.

After 2020 saw unusually high numbers of sexual assault reports, Nome police say they're working to address this and arrest more suspects. They are also finishing an audit of 460 sexual assault cases going back to 2005.

Alaska Native Women in Nome

Nearly 65 percent of Nome's population of roughly 3,700 is Alaska Native. 372 sexual assaults were reported to the Nome Police Department between 2008 and 2017. Thirty of them resulted in arrests. The majority of those sexual assault cases involved Alaska Native women.

Darlene Trigg, Inupiaq, is an advocate for Native women and longtime resident. She says statistics like that don't surprise her.

"As an Alaska Native woman ...do I feel safe in this community? No, I do not feel like I can partake in all of the things that our community has to offer, safely. I limit my interactions in this community, I make sure that I don't put myself in a situation where something unsafe might happen," Trigg said.

Trigg says she doesn't feel safe walking alone in town after dark and she limits her daily interactions in public. Trigg is a sexual assault survivor herself. She says her attacker was not prosecuted and still lives in Nome. Trigg says she didn't report her assault and she, "didn't experience any justice."

Bertha Koweluk, Inupiaq, runs Bering Sea Women's Group, the regional shelter for victims of domestic violence who are sometimes also victims of sexual assault.

Koweluk argues historical trauma creates a different reality for Alaska Natives in Nome. Historical trauma is defined by Dr. Maria Yellow Horse Brave Heart as the "cumulative emotional and psychological wounding over the lifespan and across generations, which emanates from massive group trauma." There's a longstanding distrust of law enforcement within the Native community, rooted in unfair treatment, or the perception of unfair treatment, for generations. It leads people to be less likely to report crimes.



[Bertha Koweluk, Inupiaq, leader of Bering Sea Women's group, in Nome, Alaska, during late fall of 2020. \(Photo from KNOM\)](#)

“I know that’s why there is such a disconnect of people understanding historic trauma and domestic violence, why it plays in the way we think about who we are, where we come from. I just remember in grade school not wanting to admit that I ate Native food because the kids who came from the village were always put aside and treated differently, so you never claimed it [being Alaska Native],” Koweluk said.

Nome Police Chief Mike Heintzelman says there’s some indication that the department’s recent efforts to build trust with the community might be working; reports of sex crimes in Nome last year were particularly high. At the end of 2020, over 120 sexual assault cases had been reported. He says almost all of those cases involved Alaska Native perpetrators and Alaska Native survivors.

“If the trend continues, we’ll be in excess of 130 cases for the year, where 88 were reported last year [2019], and that was a record high,” he said in October. “But I am really hoping that a lot of this has to do with people who are more comfortable with coming to the Nome Police Department, knowing that the case will... be given the due diligence that it should be. We have things in play right now that make us more efficient and checks and balances that will make sure that the case doesn’t go missing,” Heintzelman said.

Heintzelman said when an officer takes on a new case, a superior officer monitors progress and the superiors are in turn monitored by higher level officials like the deputy chief and chief. Now, Heintzelman says cases don't go cold when an officer leaves town, like they did in the past.

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Officers and police leadership see frequent turnover in Nome, with many in recent years staying for 12 months or less. Further, Nome's seven patrol officers have the option to work on a "two-week-on/ two-week-off" schedule. This enables officers to spend their off-time away from Nome.

In a high-profile case from 2017 that garnered activists' criticism and media attention, Clarice "Bun" Hardy, Inupiaq, a former Nome Police dispatcher, reported her sexual assault to officer and co-worker Nicholas Harvey. Hardy claimed Harvey did not follow up on her case, nor did the Police Chief at the time, John Papisadora. Two years later, Hardy joined the ACLU in filing suit against the City of Nome, Lt. Harvey, and Chief Papisadora alleging they mishandled her rape claim. That lawsuit is currently working its way to trial.

Data shows numerous sexual assault cases were unresolved and piling up at the department over the last few years until 2018. That fall, then-Police Chief Bob Estes started an audit of 460 cases dating back to 2005. Estes left the department a year later with the case-audit still in progress and to this day it is still not complete.

Court System and Consent

In a region where sexual assault rates are the highest in the country, Nome-based district attorney John Earthman is the lone prosecutor in the state's regional district attorney's office. He has one of the highest caseloads in the state.

A report made two years ago to the Alaska Legislature by Alaska's Criminal Justice Commission states that in 2017, the per-capita rate of sexual violence incidents reported to law enforcement was 106 percent greater in Western Alaska than the statewide rate. Western Alaska's rates were the highest of any geographic region in the state, including urban areas.

In the same report, a third of women in Alaska reported experiencing sexual violence in their lifetime. In 2015 alone, 2.9 percent (an estimated 7,136 women) reported experiencing sexual violence that year. When looking at the Nome Census area [Bering Strait region], the number of women who reported experiencing sexual violence in their lifetime is similar, but the report emphasizes that the actual number of incidents involving sexual violence is most likely higher than what was reported.

Some survivors in Nome specifically have told KNOM they chose not to report their own trauma for many reasons, including lack of support or little accountability from law enforcement.

Earthman says rectifying past wrongs goes deeper than finishing NPD's audit of Nome's former cases. Sexual assault cases are complex and difficult to prove under existing statutes.



Nome-based Alaska regional district attorney John Earthman during an interview with KNOM in fall of 2020. (Photo from KNOM)

“What’s difficult, though, is when you’re dealing with a criminal statute of sexual assault, 'without consent' has a very specific definition.... consent means with or without resisting, basically, the victim was forced, or that this happened because they were threatened,” Earthman said.

According to state statute (AS 11. 41. 410), the burden of proof is on Earthman to show the offender used force, implied or otherwise, to have sex with the victim and that the accused was mentally aware they didn’t have consent from the victim.

The results: roughly 9 percent of all reported felony level sex offenses in Alaska in 2015 ended in a conviction for a sex offense, according to the Alaska Criminal Justice Commission’s report referenced earlier. The report says a total of 1,352 felony level sex offenses were reported to law enforcement in Alaska in 2015. That year there were 225 arrests for a felony sex offense. Of those 225 arrests, 159 resulted in a conviction, 119 of which included one or more convictions for a felony sex offense.

For Nome, arrest rates for sex offenses since 2008 follow statewide trends, but the conviction rates have been a lot lower.

IN 2015, ACCORDING TO THE ALASKA CRIMINAL JUSTICE COMMISSION:



[\(Image courtesy of KNOM\)](#)

No Audit, No Acknowledgement

As Chief Estes departed Nome, a new City Manager, Glenn Steckman, assumed leadership in the fall of 2019. Concurrently, the City Council commissioned an outside management and evidence audit of the Nome Police Department to be conducted by Greg Russell Consulting.

Steckman told the public during a November City Council meeting to expect results of the audit from Russell Consulting, LLC in a couple months. As of the publishing of this story, that audit of NPD has yet to be released by the consulting firm. Greg Russell says his workload and COVID-19 have delayed the finalization of this audit.

Regardless of the results of that audit, advocate Darlene Trigg says that the lack of action on scores of cases with Alaska Native victims by NPD needs to be acknowledged so the community can move forward.

“Well, it’s necessary. That’s the truth. You know? Some level of acknowledgement that harm has been done is probably not something that an attorney would want the city to do. However, there are people who are owed that in this community who are, you know, lost in their own trauma response, because of the way that they were treated, and, their families and their livelihoods and their...ability to walk in our town, in a healthy, safe way is forever changed,” Trigg said.

The current city administration says they’re less interested in looking back in the “rearview mirror,” and would rather make improvements for the future. Steckman says he, Chief Heintzelman, and several of the newer Nome Police officers were not part of the past mistakes. That said, the City Manager said a rebranding of NPD is in the works.

“You know, from potentially what our uniforms look like, to what our badges look like. And, you know, how we initiate that... we’re still working on the details. And we mean a true rebranding, it’s not just doing a facade. And that’s why we are encouraging training,” Steckman said.

‘We need to fix our humanity’

Nome Police officers currently receive training through the Alaska State Trooper Training Academy. Training includes topics like conducting forensic examinations, collecting better evidence and learning about culturally informed police response.

One of Nome’s newest officers, Scott Weaver, is undergoing this training. He is an investigator hired to finish the department’s audit of the cold cases going back to 2005. After only being here for two months, Weaver says he feels the community’s pain.

“I just took a sexual assault case, it’s an old case...from a mom and dad who was reporting a child that was you know, abused. And you know, both of them...Mom and Dad in tears, thankful for me just taking it...and running with the case, and I think it’s just, they’ve had a bad experience...I can see some of it in the cases. You know, I can understand why. I have empathy for their hurt, and I want to fix any injustice... I can stand up and say, I’m not responsible, I wasn’t here. Sure, I could take that cop out, but I am here now, and I can do something,” Weaver said.

Councilmember Jennifer Reader, one of two women on the local city council, says increasing Nome’s law enforcement is not the way to increase the arrest and conviction rate for sexual assaults.

“I wholeheartedly believe that our community has a humanity problem. We don’t have a policing problem. We do not need police to tell us what to do, the right thing to do, we don’t need that; we need to do the right thing. And that’s not what’s occurring right now. No policeman on this earth is going to be able to change that. So, we need to fix that. We need to fix our humanity,” Reader said.

RESOURCES:

- [Tribal Resource Tool map](#), a searchable directory
- [Native Alliance Against Violence](#)
- [Sacred Hoop Coalition - Addressing Violence](#)
- [Healing Native Hearts Coalition Website](#)
- [NAYA: Native American Youth and Family Center Healing Circle](#)
- [StrongHearts Native Helpline](#)
- [FBI Indian Country Victim Services](#)

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RADIO MISSION



This series is a collaboration between KNOM Radio in Nome and Alaska Public Media, originally aired and published for listeners in Western Alaska on January 20, 2021.

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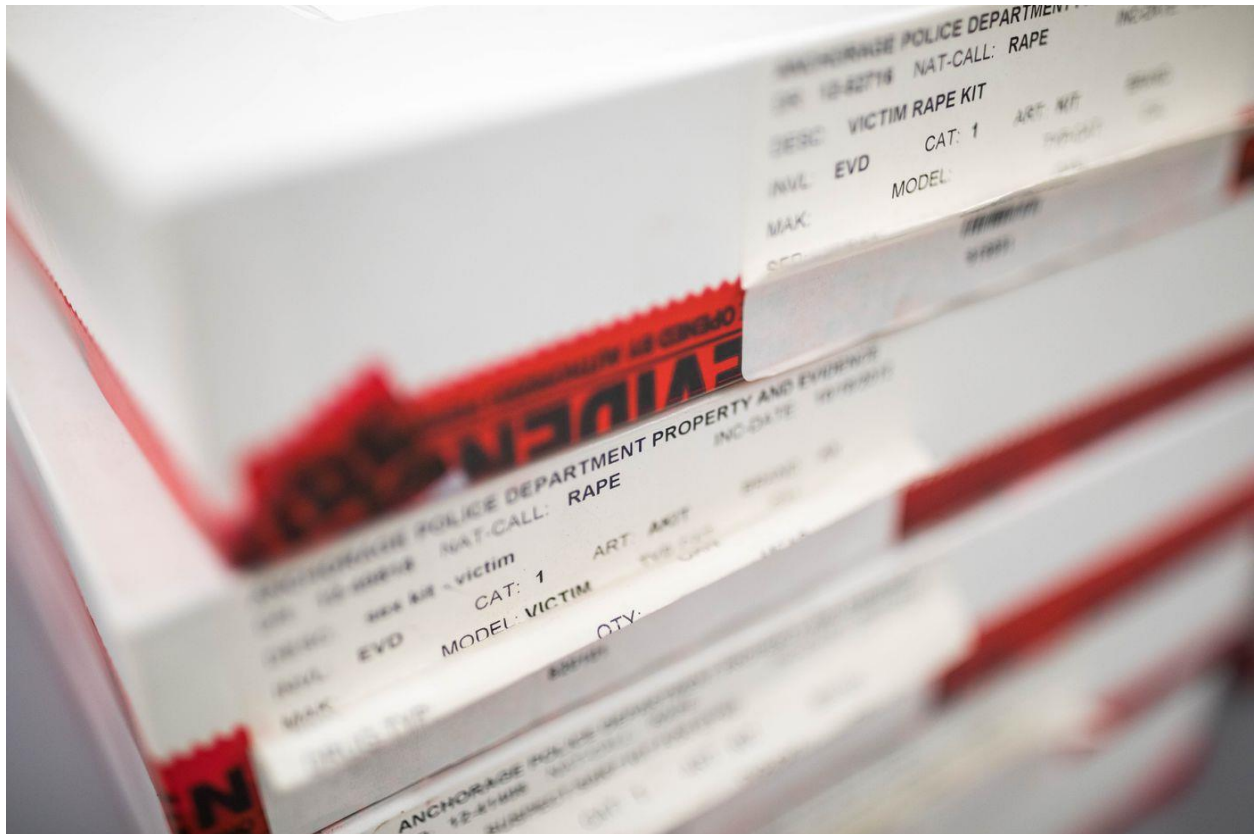
Visit Indian Country Today for part 2 of this 5-part series where sexual assault survivors in Nome and the surrounding region tell their own stories.

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Alaska requires that DNA be collected from people arrested for violent crimes. Many police agencies have ignored that.

By failing to collect those DNA samples, law enforcement has left Alaska's DNA database with crucial gaps, allowing at least one serial rapist to go undetected.

- Author: [Kyle Hopkins](#)
- Published December 31, 2020



Rape kits stacked in the Alaska State Crime Lab in 2019. Though Alaska has a backlog of DNA from rape kits like these, law enforcement agencies across the state have failed to collect DNA from people arrested for violent crimes. (Loren Holmes / ADN)

This article was produced in partnership with ProPublica as part of the [ProPublica Local Reporting Network](#) and is part of a continuing series, [Lawless: Sexual violence in Alaska](#).

Second of two parts.

Law enforcement agencies across Alaska are failing to collect DNA from people arrested for violent crimes, violating [a state law](#) passed with [much fanfare](#) in 2007 that was going to put Alaska at the leading edge of solving rape cases.

The Anchorage Daily News and ProPublica found that across the state, some law enforcement agencies are not aware of the law or are not following it. That lapse means the database is potentially missing thousands of people and may explain why the effort to test a backlog of unexamined rape kits for DNA [has yielded only one new prosecution](#).

[Emails obtained](#) by the Daily News and ProPublica show state officials have been aware of the problem since at least December 2017, when the director of the police regulatory board forwarded a request to all police departments.

“The Department of Public Safety has determined that jail personnel are not consistently collecting DNA samples from offenders arrested for ‘qualifying offenses,’ particularly those arrested in rural areas serviced only by contract or municipal jails,” then-Assistant Attorney General John Novak wrote. (The Alaska Police Standards Council sent the memo on behalf of Novak. Officials overseeing the state crime lab, the Department of Law and then-Department of Public Safety Commissioner Walt Monegan also received the email.)

Years later, supervisors at some police departments said they still were unaware of the requirement.

The problem extends to local police and to state troopers, according to [a progress report](#) published this year by the Department of Public Safety on efforts to clear a backlog of sexual assault evidence kits.

The failure was perhaps most striking in the case of accused serial rapist Alphonso Mosley, whose DNA was not submitted to the state crime lab after a qualifying arrest in 2012. In the years that followed, prosecutors say, Mosley committed three more rapes across the city, impregnating one of his victims. Even when he was arrested a second time for domestic violence in 2015, no DNA was collected, contrary to state law.

Alaska was among the first states in the nation to require all suspects arrested for a violent crime such as robbery, domestic violence or rape, even misdemeanor assault, to be swabbed for DNA. The swabs would be sent to the state crime lab, where the DNA would be extracted and could be matched against evidence from cold cases and kept on file to aid in future cases.

Privacy advocates have long fought such laws, saying they infringe on civil liberties and should not be allowed prior to conviction. Alaska lawmakers were unmoved, comparing the swabs to jailhouse mugshots.

“What we have before us is the 21st century version of fingerprints,” Sen. Con Bunde, R-Anchorage, told his colleagues.

[\[Part 1: After 3 years and \\$1.5 million devoted to testing rape kits, Alaska made one new arrest\]](#)

Alaska is now one of [at least 31 states](#) that require DNA samples be collected upon arrest or when criminal charges are filed against a person. Many of those states are now discovering that their laws have been ignored and they're missing DNA evidence, in some cases tens of thousands of samples.

The problem of states passing DNA collection laws that are ignored or partially implemented is being discovered on a national scale and is sometimes known as "owed DNA." It involves people arrested, convicted or sentenced for crimes who now "owe" a DNA sample because authorities neglected to collect or process it.

The reason the owed DNA problem is significant is that it inhibits investigators' ability to solve crimes. In recent years, states, including Alaska, have come under pressure to process backlogs of untested sexual assault exam kits, an effort that is undermined if the DNA databases are incomplete.

Researchers in Ohio were among the first to quantify the problem, [reporting in 2019](#) that about 15,300 DNA samples had been missed in Cuyahoga County. [The Tennessee Bureau of Investigation estimates](#) that there are more than 76,000 missing DNA profiles from felony offenders in that state, based on preliminary research.

The attorney general's office in Washington state [calculates](#) that "tens of thousands" of people legally owe the state DNA samples for entry into the FBI's Combined DNA Index System (CODIS).

Angela Williamson, who oversees the Sexual Assault Kit Initiative for the U.S. Bureau of Justice Assistance, said states with larger populations likely have about 50,000 missing samples each.

It's not clear how to fix the problem nationwide, because it's not clear if the laws in various states allow authorities to seek out people released from custody and obtain DNA samples. In some states, including Alaska, officials have started collecting missed samples from those who are still in jail or prison or who are on probation.

Matching DNA doesn't just solve sexual assault cases; it can also deliver justice in burglary and murder cases, save Alaska money on years-long investigations and even exonerate the wrongly accused, said Rachel Lovell, a research assistant professor at Case Western Reserve University who has co-authored studies on owed DNA in Ohio.

When the DNA is finally collected, she said, "there are crimes waiting to be solved."

An accused serial rapist roamed free

In 2019, Anchorage police announced the arrest of a man prosecutors called the "definition of a serious serial rapist," precisely the kind of offender the DNA collection laws were meant to capture.

Alphonso Mosley, 35, is awaiting trial for three alleged sexual assaults committed between 2012 and 2019. (Mosley has pleaded not guilty to the charges. His DNA also linked him to an earlier attack in 2009, but that victim had since died.)

One of Mosley's victims was developmentally disabled, the charges say. One became pregnant with his child. One moved away from Anchorage, prosecutors wrote, "out of fear and shame."

"The victims are already terrified of the defendant because he has freely roamed the streets for years," Assistant District Attorney Betsy Bull wrote in a bail memo describing why Mosley posed a risk to the public. She told the judge Mosley looked for women who had been drinking, offered them alcohol, then pinned them down and assaulted them in the woodsy Town Square Park of downtown Anchorage, in the back of a van and even outside the city jail. (The judge denied the defense's request to reduce his bail.)

[When announcing the indictment](#), the state Department of Law said Mosley's DNA was collected under Alaska's DNA identification law following his arrest in a 2018 case unrelated to the sexual assaults.

But what police and prosecutors didn't say is that Mosley's DNA had also been collected by the state Department of Corrections in 2012 after he assaulted a girlfriend. For reasons that remain unclear, the sample was never received by the state's crime lab, according to the Department of Public Safety. As a result, Mosley's DNA profile was not entered into the FBI's CODIS database.

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The Anchorage Police Department and jailers had another chance to obtain Mosley's DNA and add it to the database in 2015, when he was arrested for punching his girlfriend in the face and pleaded guilty to [domestic violence assault](#). According to the Department of Public Safety, his DNA was not collected after that arrest, which would have been contrary to state law.

If the Alaska system for gathering and processing DNA from arrestees worked as intended, Mosley might have been identified years earlier and before at least two of the sexual assaults. That's because authorities collected the DNA of an unknown man from the victim of the 2009 rape and entered it into CODIS in March 2010. Had Alaska law enforcement officials followed the law and put Mosley's DNA into the system after either the 2012 or 2015 arrests, he would have been immediately flagged as a suspect in the earlier rape.

After police identified Mosley as a suspect in a 2017 rape during their investigation, his DNA was [finally collected and entered into the database](#) in 2018, according to the Department of Public Safety, leading to "hits" on DNA taken from rape victims in 2009 and 2012. The woman in the earliest case had died, but police recommended Mosley be charged with rape for the 2012 and 2017 assaults.

It took the district attorney's office eight months to file the felony charges in court. During that time, he committed another outdoor assault, according to the criminal complaint. A Department of Law spokeswoman said the department cannot comment on specifics of a pending case.

In August 2019, the same month Mosley was charged with the three sexual assaults, the Anchorage Police Department for the first time began training officers to collect DNA upon arrest, 12 years after the Legislature passed the law requiring it to do so.

“We received clarification and guidance last year from the Department of Law with the Municipality of Anchorage and the State of Alaska because the 2007 legislation as written wasn't clear about which agencies, outside of the (state) Department of Public Safety, are authorized to collect DNA samples,” said Anchorage police spokesman MJ Thim. “Today, our officers can and do, if warranted, collect DNA samples at the time of an arrest.”

“It's all news to me”

When Alaska became one of the first seven states to enact a law requiring police to obtain DNA samples upon arrest, Karen Foster provided much of the lobbying muscle.

Foster's daughter, a freckled, baby-faced 18-year-old named Bonnie Craig, had been abducted and raped in Anchorage in 1994, her body found face down in a creek. One of the most high-profile murder cases in Alaska history, in part due to Foster's relentless efforts to keep the investigation in the public eye, the killing went unsolved until a DNA hit 12 years later.

DNA evidence from Craig's body matched the profile of Kenneth Dion, a former Alaskan who was serving time out of state for armed robbery. He'd been in and out of jail over the years since the killing but had never before been a suspect in Craig's death. His DNA was uploaded into the FBI database while he was serving time in New Hampshire. It's unclear why his profile was not uploaded earlier.

Dion had pleaded no contest to violent crimes such as robbery and assault in Alaska in the early 1990s, before the state enacted any DNA collection laws.

“I found out that if they had collected DNA on arrest, they would have known probably within a week, or at least a month, who the killer was,” Foster said in a recent phone interview.

[*\[Read more in the Lawless series\]*](#)

News that a DNA match had solved the Craig case came around the same time the Alaska Legislature was considering an omnibus bill that included the sample-upon-arrest proposal. The state Senate voted unanimously for the bill despite protests from the American Civil Liberties Union and privacy advocates who worried about the government collecting genetic material from people who had not yet been convicted of a crime. (The law calls for DNA samples to be removed in the event the arrestee is found not guilty or the charges are dismissed; the state says it does not know how many DNA profiles have been expunged.)

“Let’s take their DNA when arrested and let’s match them up,” Sen. Bill Wielechowski, D-Anchorage, said at the time. “There are a small percentage of people committing crimes in our communities.”

The state crime lab expected the new law to increase DNA samples by 70% and called for about \$400,000 a year in additional funding to handle the extra work.



The Alaska State Crime Lab. (Loren Holmes / ADN)

Foster, who has since moved out of the state, said she looked into the matter a few years after the law passed and was surprised to see it seemed as if little had changed. She’d been assured by the state that the system was working and the question of owed DNA never came up, she said.

“So it’s all news to me,” Foster said. Perhaps looking at the number of arrests in Alaska, compared with the number of DNA samples collected, she said, might reveal the scope of the problem.

But Department of Public Safety records for the number of DNA samples collected from arrestees each year is incomplete. The available information shows a high of 6,082 samples collected from arrestees in 2009. That number fell by half to 2,830 samples in 2017.

The number of people arrested for crimes against a person each year in Alaska is not readily available, said Barbara Dunham, project attorney for the Alaska Criminal Justice Commission.

But the justice commission does track the number of criminal cases filed each year that involve one or more assault charges, one of the most common types of crimes that would require collection of a DNA sample upon arrest. In some years, including 2017 and 2015, the number of assault cases filed in state court alone exceeds the total number of arrestee samples submitted to the crime lab. (Dunham noted that some offenders are arrested more than once and might already have their DNA on file at the time of their arrest.)

In fact, as the number of reported violent crimes [rose in Alaska](#) between 2013 and 2017, the number of DNA samples sent to the lab fell. It is unclear why.

Meantime, a [2016 audit](#) of the state crime lab found that it had not expanded its services or increased the speed of evidence processing despite its move into a new \$90 million building in 2012.

The Department of Public Safety would not make the state crime lab's sexual assault and CODIS program supervisor, Michelle Collins, available for an interview. The department also denied requests for an interview with Randi Breager, a special assistant to the public safety commissioner who prepared the report that said troopers and police in Alaska are rarely swabbing for arrests.

For now, the overall number of missing DNA samples in Alaska, each representing an opportunity to solve past or future criminal cases, remains unknown.

"We do not have that estimate," Department of Public Safety spokeswoman Megan Peters wrote in an email. The department recently created a working group to address the missing DNA problem, among others, she said.

The group "will be working with multiple departments to collate data to help identify the scope and magnitude of the gaps in collection," she said.

Number of missing samples remains unknown

In Ohio's Cuyahoga County, Lovell's team had no idea how many missing samples they might discover when they began looking at arrests and convictions from 2008 to 2016. A 2016 federal Sexual Assault Kit Initiative [grant](#) funded the research, with [findings published](#) in 2019. By the time the research was complete, they [discovered](#) that more than 15,300 people had been missed or owed DNA.

That's for just two law enforcement agencies, the Cleveland Police Department and county sheriffs, in one county with a population of about 1.24 million. (Alaska's statewide population is 732,000.)

As of January 2019, efforts to swab just 10% of the previously missed samples led Ohio authorities to open dozens of new criminal investigations including into sexual assaults, burglaries and homicides.

“Several rapists have been convicted as a direct result” of tracking down the owed DNA, Lovell said.

Williamson, who heads the Sexual Assault Kit Initiative program, said the Bureau of Justice Assistance considers owed DNA to be phase two of the agency’s efforts to clear rape kit backlogs nationwide.

It’s fantastic that states and cities across the country are testing sexual assault kit evidence for the first time, she said. “But if you know the offenders who are responsible are not in CODIS, you are not going to get justice for the victims.”

As of December, law enforcement agencies and local governments in a dozen states have received \$10.6 million Sexual Assault Kit Initiative grants for tracking down owed DNA. Alaska isn’t one of them.

The state has not applied for one of the grants, the Department of Public Safety said.

Slipping through the cracks

The remoteness and isolation of Alaska makes this a place of escape. Not always in a good way. Some criminals see Alaska as the end of the road, a place to distance themselves from trouble with the law in other states.

Enforcing the DNA collection laws here, and entering those samples in the federal database, could solve crimes elsewhere, Lovell said.

“For Alaska, or any rural jurisdiction, the mobility of many of the individuals, I think, is what’s particularly scary,” she said. “Many people who live in Alaska are not actually from Alaska.”

The state faces law enforcement challenges unlike anywhere else in the United States. As of 2019, about 1 in 3 communities had [no local law enforcement](#) of any kind. State troopers must fly to make arrests in villages across the state that sometimes lack a public safety building or even running water.

Despite the breadth of Alaska’s law on owed DNA, there’s confusion within police departments about who is responsible for collecting it. Some police departments interpreted the law to mean the responsibility to collect DNA upon arrest falls to the state Department of Public Safety, not individual departments. Other smaller departments assumed the Department of Corrections would collect the sample.

People arrested for a qualifying offense also might not be booked into jail and instead appear at an arraignment without submitting a sample.

The Daily News and ProPublica asked police departments across Alaska if their officers obtain DNA swabs upon arrest. Of the 17 that responded, six said they did not.

“I believe that all the DNA collection is done at the correctional center. We only collect when we have a search warrant,” said Soldotna Police Chief Peter Mlynarik. Police in Wrangell and Palmer also said they do not collect DNA at the time of arrest.

In Juneau, Lt. Scott Erickson said that police do not collect DNA at the time of arrest and that he was unaware of the 2007 law.

Asked how the state first discovered the failure to swab some arrestees and inmates, Department of Public Safety spokeswoman Peters said in an email, “This issue has come up a number of times since the statute came into effect through examples and interagency conversations about protocol and policy.”

The one conviction that resulted from Alaska’s three-year, \$1.5 million effort to test 568 rape kits collected by state troopers showed the potential of shelved DNA evidence when combined with samples obtained from suspects by police in the field.

[In that case](#), a Kenai jury found onetime Iditarod musher Carmen Perzechino guilty of raping and kidnapping a woman in his van in 2001. Perzechino’s DNA was in the database because he voluntarily gave a sample to Anchorage police in 2012, when he was arrested for attempting to solicit a prostitute. When the Department of Public Safety recently tested the rape kit from an unsolved 2001 attack, it matched his profile.

Retired state trooper Mike Burkmire investigated the crime, phoning Perzechino last year to confront him about the rape for the first time.

Despite his 25 years in Alaska law enforcement, Burkmire said he had never heard about a state law mandating DNA collection at the time of arrest until he began working as a cold case investigator in 2018.

At a national Sexual Assault Kit Initiative conference in Washington, D.C., Burkmire attended a presentation on owed DNA and saw Alaska listed among the states that collect samples when someone is first taken into custody.

While flying across the state to train police departments on DNA collection over the past two years, Burkmire found that most Alaska cops he spoke to didn’t know about the mandate either.

“I have met two police officers that actually knew the law existed,” Burkmire said, “but none that have ever actually collected a sample upon arrest.”

About this author

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Without justice in Nome, women wrestle with trauma and healing after sexual assault

By

[Jenna Kunze, KNOM - Nome](#)

-

February 1, 2021



Four-wheeling down Front St. in Nome, fall 2020. (Jenna Kunze/KNOM)

Content warning: this story contains sensitive subject matter.

There were 432 reports of sexual assault in Nome over a 10-year period ending in 2018. Of those, Nome Police made 45 arrests. So far, there have been even fewer convictions.

Some Alaska Native survivors say those statistics don't surprise them, and that law enforcement has prioritized other crimes but not sexual assault — especially when survivors are Native.

Nome police have acknowledged problems with a backlog of investigations and community trust. They say they have [changed how assaults are investigated](#) and how survivors are treated. The region's single district attorney said specifics of how consent is defined in Alaska law makes sexual assaults very difficult to prosecute, especially when alcohol is involved. But for women

who have been assaulted and see their attackers walking free in their small town, those facts bring little comfort.

Read Part 1 of this series: [In Nome, few sexual assault crimes result in prosecutions](#)

KNOM interviewed eight sexual assault survivors as part of [this series](#). A few themes emerged. Many are survivors of childhood abuse who were assaulted again as adults. Sometimes they were prosecuted for minor crimes while their attackers escaped prosecution entirely. The lack of resolution in their sexual assault cases deepened their sense that law enforcement was untrustworthy, leading survivors to grapple with their trauma for years — sometimes leading to depression, risk-taking and self-harm. Many found empowerment through sharing their stories, redefining what justice meant to them.

Brenda Qipqiña Evak is a 31-year-old Nome resident, justice advocate, and survivor of childhood sexual abuse.

At 15, Evak felt angry and confused without knowing why, feelings she later recognized as a trauma response to abuse she was exposed to as a child. As a teenager, she and friends began experimenting with alcohol. They turned to older community members in Nome to buy it. Sometimes, those older suppliers — always men — would drink with them. That’s what happened one night in 2005 before Evak woke up at the Norton Sound Regional Hospital.

“The nurse said I was sexually assaulted,” Evak said. “They told me what the police told them. The police told them they found me without my pants on.”



Brenda Evak on Nome's Steadman Street in 2020 (Jenna Kunze/KNOM)

In interviews, survivors of sexual assault said they grew up hearing stories about local police — who were always white, always from out of town — harassing Alaska Natives.

They recounted stories about police slamming heads into the cop car doors, or stripping their clothes off in winter and sending people home on foot.

“I hear a bunch of stories about people who experience sexual abuse and they don't get their justice. So people don't really do anything,” Evak said.

When justice fails, then works against you

Evak's assailant was never charged. She doesn't know if police even looked for him. Nome police won't release Evak's case file, citing Alaska State Statute AS 40.25.120(a)(2), which exempts from public disclosure “records pertaining to juveniles unless disclosure is authorized by law.”

The only legal action that took place that night was against Evak. Nome Police issued her a citation for being a minor consuming alcohol, to which she pleaded guilty. It remains on her record.

She was assigned a counselor at Behavioral Health Services under Norton Sound Health Corporation. On her first visit, Evak remembers the male counselor asking if she was wearing her hospital bracelet from the incident, which happened just days before, to garner attention.

Keely Olson, director of Standing Together Against Rape, or STAR, in Anchorage, said that when sexual assault cases involving alcohol go unprosecuted, it leaves survivors alone to grapple with the trauma, feelings of guilt and the injustice that follows.

A lot of survivors blame themselves.

“A lot of folks will talk about how it was their fault because they were drinking,” Olson said. “It’s a very common response for us at STAR to say, you know, the natural consequence of drinking too much is to be hungover. It’s not rape.”

Who’s listening?

Another Nome woman, 25-year-old Andrea Ciuniq Irrigoo, said she also saw the justice system work against her. In April 2019, the days were getting long again, and Irrigoo had a new job and a new studio apartment downtown.

Irrigoo decided she would head down to Front Street and poke her head into the bars to find friends or even family who might be in town. At one bar, she was approached by a man she recognized as an acquaintance from around town.

He offered to buy her drinks, and she said she accepted. That was the last thing she remembers.

When she came to in what she recognized as her apartment, she was naked and the man from earlier was naked on top of her.

Irrigoo asked him to leave, but he refused.

“I was trying to hand him his clothes, and then he started to get rough. I was trying to push him away, then he punched me,” Irrigoo said.

Irrigoo fought back, but he got on top of her and strangled her until she lost consciousness.

“Then it goes black,” she said. Irrigoo remembers screaming out for her neighbor, who heard her pleas and called police. “Then, the officer broke down the door.”

EMTs took Irrigoo to the hospital for a forensic exam and rape kit swab. The police report from that night includes notes about a golf-ball sized bruise on Irrigoo’s cheekbone as well as red and raw patchy skin on her neck.

The man was charged with domestic violence — to which he pleaded not guilty — but the charges were dropped a year later by the Nome district attorney John Earthman. Earthman

declined to speak with media about the specifics of why he chose to dismiss the case, but said that ultimately the available evidence would not have led to a conviction.

“I definitely made a decision not to charge that case. And I definitely talked to her about the reasons for that. But I did have to give her news and you know, it’s not good news. It’s bad news,” Earthman said.

But despite that, Irrigoo doesn’t understand why such a violent attack against her wasn’t charged.



Andrea Irrigoo in Nome in 2020.

(Jenna Kunze/KNOM)

Irrigoo is a teacher, musician, and traditional Yup'ik grass weaver, but throughout various moments of life she's also struggled with trauma responses. Those are behaviors like self-medicating or self-harm that professionals say can occur after a traumatic event like rape.

Trauma specialist Eden Lunsford works at STAR with Olsen. She said substance use is a common coping mechanism in traumatic events.

“There are so many symptoms that come after a person has been through a sexual assault,” Lunsford said. “Panic attacks, or anxiety, or depression, all these different things can come up. So the substance use (gives) a person a way for them to avoid feeling some of those things. It's a maladaptive way of kind of reclaiming their safety, their environment. But in all actuality, it's putting them in harm's way.”

When she was four, Irrigoo said she was raped by a relative in the village where she grew up.

She attempted suicide once in middle school, and again last spring after the charges against the man who assaulted her were dropped.

“I went through a phase of, you know, what do I have to do to get the court to see that he is not a good person and he deserves to be in jail?” Irrigoo said. “Do I need to slaughter my wrists in front of the courthouse and say, ‘You did this,’ with my blood on there? ... I guess just to prosecute him, I'd have to be dead. Not actually be here talking about it. If we're not even being listened to in the court or anywhere else, then who's listening?”

Understanding Indigenous history as healing

[According to a survey published by the Urban Indian Health Institute in 2018](#), the risk of rape or sexual assault is 2.5 times higher for Native women than the rest of the United States.

By sharing their stories, survivors like Evak hope to bring awareness and understanding as to how the community got here in the first place.

“That is true, we do have high numbers,” Evak said. “[Sexual assault] does happen a lot amongst our people. They're quick to point that out, but they're not acknowledging why these high numbers are the way they are. Why do we have such high numbers of sexual assault? Why has this gone on so long? The answer is because it all stems from generational trauma stemming from colonization. Nobody wants to say that westernizing our people was the reason.”



Anvil City Square in Nome at sunset in 2020. (Jenna Kunze/KNOM)

Some residents say despite Alaska Native settlement in Nome for thousands of years, European history has overwritten Indigenous history, as seen in the town's square honoring the "Three Lucky Swedes" who found gold on Anvil Creek, attracting an extractive gold mining industry to Nome that still exists today.

A growing body of research connects Alaska's extractive industries to the dehumanization of Native people — particularly women — dating back to first contact. Some say the legacy of that dehumanization is carried forward in government institutions, like the justice system. In 1741, Russian hunters invaded the Aleutian Islands in search of natural resources and took Alaska Native women and children as hostages to bribe the Native men to hunt for them.

"So they were using women, and they were using our land for their own ends and their own means, and it didn't matter that we were human beings," said tribal attorney, Nome resident and sexual assault survivor Meghan Sigvanna Topkok. "We were not viewed as equal. If you were not considered civilized — Christian — you had less rights, fundamentally, than a person who was. So that's how European nations could come in and lay claim to our land and completely divest us of that."

Topkok said it's important for Natives to understand history to contextualize some of the inherited traumas that have resulted from colonization.

"For me, I didn't learn about a lot of this stuff until I was in college," Topkok said. "The moment that I learned about this in college, it completely reframed my understanding of the issues, and

my response. So all of a sudden, I started to understand why my family acted the way that they did, (and) why they made decisions the way that they did. For me, that brought a lot of healing.”

Not an exclusive problem

Despite sexual assault rates being higher among Native community members, it’s not an exclusively problem.

Former Nome resident, 55-year old Karen McLane, is a childhood sexual assault survivor turned sexual assault nurse examiner who grew up in Nome. Her family moved into a trailer across from the armory on the seawall side in 1970, and she lived in town until leaving for Tucson, Arizona in 2011. McLane moved away because of severe medical issues that inhibited her motor skills and her ability to defend herself. Ultimately, she didn’t want to be in Nome — a place she feels is dangerous to be a woman — without the ability to move around freely.

McLane, who is white, said she was sexually assaulted in the 1970s and 80s by a family member and various community members but didn’t report it to police until decades later when she fully understood her own abuse and became worried about the safety of another family member.

“We always called it ‘bothering us,’” McLane recounts in a phone interview from Arizona. “When we say, ‘Is that person bothering you?’ Up there, they were sexually harassing you. That’s what we mean by that.”

When McLane called in to report the incidents in 2017, the statute of limitations had run out, and no evidence besides testimony could be garnered. Still, she said she felt it was important for the community to know that her family, like others, was plagued with similar issues.

“Maybe if other women in Nome knew that an Anglo person like myself ... had those same kind of domestic violence issues as anybody else, and that sexual assault happens to ... a large percentage of us ... maybe other people would feel more comfortable saying something,” McLane said. “Using your voice in the right circumstance and with the right tact can effect change, even if it’s scary.”

Opening the door for other girls



Nome seen from Anvil Mountain in fall, 2020. (Jenna Kunze/KNOM)

Instead of vindication through the criminal justice system, many survivors in Nome are turning toward telling their story as a form of justice, empowerment and healing.

Deidre Levi, 24, is one of them. Levi is the high school girls basketball coach in her hometown of St. Michael. She describes herself as a very active and social member of her community — attending open gym every night — before her assaults. Now, when she enters a room, the first thing she does is look for three things she could fight someone off with.

Between 2018 and 2019, Levi was assaulted twice during trips to Nome.

One summer night in 2018, Deidre was hanging out with her older sister and a few of her sister's friends at one of the women's trailers in Nome. They were all drinking when the perpetrator came by for a haircut from her sister's friend. He stayed to drink with them.

The next time Deidre woke up, the man was on top of her, raping her. Afterwards she got up and left to her sister's hotel room at the Aurora Inn, where a friend was called who took her to the hospital.

The case was forwarded to the District Attorney's office, where it still is today — two and a half years later. Nome District Attorney John Earthman has not yet filed charges. Deidre has given up on formal resolution. After a certain point, she said she grew weary of the emotional toll of dealing with the case. She changed her number multiple times and made herself unavailable to the investigation. That made Earthman's job harder.

Instead of focusing on prosecution, Levi said she's directing her energy to mentoring the youth in her community through coaching.

"I was just opening a door for other girls that were too scared to open the door," Levi said. She wrote about one of her assaults on Facebook in a post that was shared hundreds of times, garnering the attention of survivors around the world. "A lot of girls messaged me, and they told me that they're not going to let anything happen again. And they said this cycle is stopping now, and we're not gonna be quiet about it anymore. The more you tell your story, the more it doesn't hurt you."



Four-wheeling down Front St. in Nome, fall 2020. (Jenna Kunze/KNOM)

This story is part of the ["Seeking Protection, Wanting Justice"](#) series by Alaska Public Media and KNOM, with funding in part provided by the Alaska Center for Excellence in Journalism.

This portion of the series was written by Jenna Kunze, co-reported by Alice Qannik Glenn and Emily Hofstaedter. The other parts to come outline community dynamics around sexual assault, deal with the difficulty in prosecuting a sexual assault crime, examine how Nome Police have handled cases in the past and hope to in the future, and explore what community members, survivors and law enforcement see as a path forward.

If you need to talk with someone after reading this or need help, here are some resources:

- *Bering Sea Women's Group: 907-443-5444; toll-free: 1-800-570-5444*

- *Behavioral Health Services at the Norton Sound Health Corporation: 907-443-3344, emergency number: 907-443-3200.*
- *STAR Alaska: 907-276-7273; toll-free 1-800-478-8999*
- *Alaska Network on Domestic Violence and Sexual Assault: 907-586-3650*

If you are outside of the Bering Strait region, visit the Alaska Network on Domestic Violence and Sexual Assault website for a [list of resources](#).

<https://www.knom.org/wp/blog/2021/02/05/part-3-seeking-justice-wanting-protection-disparities-in-sexual-assault-crimes-in-nome/>

Part 3: Seeking justice, wanting protection: disparities in sexual assault crime in Nome

KNOM Radio

Western Alaska has the highest sexual assault rate in the state, and those are just the cases that are actually [reported to authorities](#). Even when everything in a sexual assault case is reported instantly and an investigation is done right away, statistics show, most cases will not go to court. Cases can take years to go to trial, if they ever make it.

In Alaska, prosecutors and experts said the legal system requires a high burden of proof, and some said an outdated consent statute ensures most sexual assault cases won't result in convictions. Advocates and survivors said it's time for some of those laws to change.

Many Referrals, Few Charges

On a late November afternoon, sunlight streamed through the window in the Nome District's Attorney's office, illuminating boxes packed floor to ceiling filled with hundreds of old case files. Those files are being digitized, and some of the older, less-serious misdemeanors may even be disposed of forever.

"But like the sex cases, we always keep those no matter what happens."
– John Earthman, the Nome District Attorney

He said the felony cases and more violent crimes will always be kept on file. And Earthman gets plenty of those. Over four years, from 2014-2017, police and troopers referred 102 cases of sexual assault and sexual abuse of a minor to the Nome DA, who is tasked with deciding which reports will lead to criminal charges. Data indicates that the [number of sexual assaults being reported](#) to Nome Police is increasing.

Earthman, who has been at the Nome DA's office since the late nineties, gets cases from the Alaska State Troopers, Nome Police, and law enforcement in the Kotzebue-area. But it's the sexual assault cases he said that are most difficult for the people involved and the most difficult to charge.

"I'm not even supposed to charge something unless I have a reasonable belief that I can get a conviction that I can prove this case beyond a reasonable doubt."

That's a strict order from the Department of Law, said Earthman. In the [span from](#) 2014-2017, only 36% of the sexual assaults on adult victims were charged in Nome. Statewide that number from the same time period was barely higher at 38%.

The burden is on the prosecutor to prove the elements of the crime beyond a reasonable doubt, like in every other criminal case. The most straight-forward cases include DNA evidence and a confession from the assailant, but Earthman said those are rare. One of the most challenging things a prosecutor has to show is that the encounter wasn't consensual as defined very strictly by [state law](#).

“Without consent, by statute, by law is with or without resisting. This happens because of force or happens because of a threat of injury.”

– John Earthman, the Nome District Attorney.

A survivor has to prove they feared physical harm. Essentially, if they didn't actively say “no” and weren't physically forced into the act, the State of Alaska could interpret the sex as consensual.

Most referrals don't have enough of that evidence and don't meet the definition for assault, explained Earthman, “That's where most cases get screened down. That's what we call it.”

The law becomes a challenge for educators who want to teach what healthy sexual relationships should look like. L. Diane Casto is the executive director for the Alaska Council on Domestic Violence and Sexual Assault (CDVSA).

“In the work that we do consent means it's an ‘affirmative’ consent. You say you give your consent or you don't give your consent. If you don't give your consent. The person doesn't have it. But that's not how the law necessarily works.”

– L. Diane Casto

Not A Law That Helps Survivors

It has been almost [40 years](#) since the definition of “without consent” was updated by the State of Alaska.

Survivor advocates say these definitions are highly problematic for a number of reasons. Keely Olson is the Executive Director of Standing Against Rape, or STAR. She doesn't think the law accounts for the way someone typically behaves after they've already survived sexual assault.

“Unfortunately, under the law unless they can express that they... they fought back, they pushed, they screamed; they made it very clearly known that this was not something that they wanted to do. But rather that they froze, and they just laid there. That doesn't qualify under the statute as a sexual assault.”

– Keely Olson

And that type of “freeze response” behavior can be especially common Olson said in previous sexual assault or child sex abuse survivors. A [recent report](#) from the state health department reported that over 13% of Alaskans experienced some type of

childhood sexual abuse, while that number is closer to 20% for Alaska Native women. Almost all of the women who spoke with KNOM for this series reported experiencing some type of molestation or rape before they reached adulthood.

When an adult survivor of childhood sex abuse is assaulted, Olson said it's common for their body to remember old trauma responses.

"You're very likely to go back to the same kind of response that helped you survive as a child, which was to pretend you were asleep, to be very quiet, to not make any noise, to just kind of go away in your mind and wait for it to be over. So we see that as a trauma response that isn't really codified in the law."

But then there are the cases involving alcohol. It is illegal under state law to have sex with someone who is "unaware" and that includes someone too drunk to consent. But as Earthman said, he still has to prove the assailant knew the person was unaware.

"So we see that as a trauma response that [freeze response] isn't really codified in the law."

– KEELY OLSON

"For example, one person reports, 'Look, I was so drunk. I know that I wasn't capable of making a valid consent.' Pretty traumatic, right? So the cops go talk to the other person. 'Yeah, I was there. I know. I had so much that if anything happened I know I could not have agreed to anything that happened between us. I couldn't have done it.' I've had that scenario and who do you charge there?"

– John Earthman, the Nome District Attorney

Prosecutors in both rural and urban Alaska said that alcohol is a common factor in sexual assault cases, both assailant and survivor have often been drinking. Tom Hoffer serves as the DA in Bethel and formerly served at the DA's office in Fairbanks too. In both places, he said alcohol is a complicating factor.

"The biggest impediment in prosecution is where alcohol in fact, influences someone's body or impacts them, where they're not able to remember what happened. And that makes it harder. You know, that's one of those factors if a witness doesn't remember what they saw or what happened to them."

– Tom Hoffer, Bethel DA

Both prosecutors said drunkenness can't be used as a legal defense to get away with assault. Even if the assailant doesn't recall the assault they can still be charged. But prosecution does need other evidence, like DNA, and strong accounts. Alcohol can compound an already narrow threshold prosecutors have to prove a case.

The Nome Police Department regularly reports that most of the incidents they respond to "involve alcohol" but that's a designation left up to the individual, responding officer.

Sergeant Wade “Gray” Harrison formerly worked as an investigator for the Nome Police and still assists the department with many investigations, particularly sexual assaults.

“Basically, at any point, during the forensic exam with the victim, if they disclosed that they were drinking, or the suspect was drinking... or if they were at a party where alcohol was involved, that was a factor. And it’s just a simple “alcohol involved”—check it. And that’s probably 90% are obvious [alcohol involved].”

– Wade “Gray” Harrison

Survivors have said that NPD’s emphasis on drinking plays into racialized stereotypes about Alaska Native people.

Some survivors said they felt they were less likely to be taken seriously if they were drinking or drunk at the time of the assault. Most of them reported using alcohol as a way to cope with past trauma or sexual assault. Despite high rates of alcohol misuse, there are no in-patient substance misuse treatment facilities in Nome.

When alcohol becomes a complicating factor in why a survivor’s case can’t be prosecuted, it often adds to feelings of self-blame. Dr. Ingrid Johnson works as an associate professor at the University of Alaska Anchorage Justice Center. She studies different elements of the ways sexual assault survivors seek help. She says low prosecution rates are often one of the cited reasons a sexual assault goes unreported.

“You don’t want to have to go out, you know, essentially air your dirty laundry out and have your name dragged through the mud, because, you know, your substance abuse is going to be brought up and your mental health issues and your risky behaviors... the defense is going to try to essentially drag you through the mud.”

– Dr. Ingrid Johnson

Looking for Laws That Keep People Safe

Earthman said he sees many cases of what he calls “sexual trauma” that can’t initially be charged in court.

“We don’t just dump these cases, I mean, we may not be able to charge them at that time. Some of these cases can be revived and can be charged if there’s another similar case later on. Tragically, that means someone else has been a victim.”

– John Earthman, the Nome District Attorney

When a suspect is reported for a sexual assault, [data](#) shows that there’s a 17% chance they’ve already assaulted the survivor reporting them.

Those statistics are galvanizing for people like Geran Tarr, an Anchorage-based representative in the Alaska House.

“I just am constantly amazed at how spectacularly the laws fail to keep people safe.”

– Geran Tarr

Tarr is trying to change the Alaska consent statute. Her legislation was one of dozens of pre-filed bills for the January 2021 legislative session. In her [proposal](#), the individuals involved actually have to give each other permission to have sex.

Tarr points out that Alaska's laws weren't written by the people they're primarily failing.

“A lot of these statutes weren't written with women contributing to the language at all. I can't believe a woman would have ever helped write a statute that created a legal loophole for sexual assault. Women weren't involved in writing these laws, because they weren't members of the governing bodies at the time.”

– Geran Tarr

As Tarr [drafted that legislation](#), she spoke with groups from all over the state: including survivors, activists, prosecutors, and experts in other states. While Alaska's consent laws are based on even older state laws; the paragraph defining “without consent” hasn't been updated since 1982. Meanwhile, other states have adopted updated sexual assault laws based on more contemporary understandings of rape and consent. A state like Montana [defines](#) consent as “words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact.”

The most recent [report](#) from the Alaska Justice Commission shows that 46% of survivors are Alaska Native women, despite Alaska Native people making less than 20% of the state's total population. Advocates said there are a lot of complicated reasons for why Native women are so overrepresented in those numbers; those reasons include a history of trauma from colonization which has led to increased vulnerability from poverty and homelessness, and a lack of resources for mental health and addiction.

But with so few cases going to court, some people like survivor advocate Lisa Ellanna of Nome see the statute as particularly failing Native women who try to hold their assailants accountable.

“The people that are most disproportionately affected by this issue are Alaska Native women. So that is another protected class. This is a discriminatory policy.”

– Lisa Ellanna

Re-visiting the consent statute is a good step forward for someone like Casto of the CDVSA, but she pointed out that it will always be difficult to trial sexual assault in the courts.

“No matter what legal definition you have of it [consent], it becomes incumbent upon the victim to kind of prove that there wasn't consent. And it's challenging she said to find legal phrasing that will make the definition of consent clear while still being able to hold up in court. I don't think any of us believe the current statute meets the needs of Alaska,

in terms of sexual assault and making sure that people are held accountable for their actions, it clearly needs to be changed.”
– L. Diane Casto

	Existing statute	Existing statute	Existing statute	Existing statute	Existing statute	New statute	New statute	Existing statute	New statute
Age of victim	Sexual abuse of a minor in the 4th degree. Class A misdemeanor.	Sexual abuse of a minor in the 3rd degree. Class C Felony.	Sexual abuse of a minor in the 3rd degree. Class C Felony.	Sexual abuse of a minor in the 2nd degree. Class B felony.	Sexual abuse of a minor in the 2nd degree. Class B felony.	Sexual abuse of a minor in the 2nd degree. Class B felony.	Sexual abuse of a minor in the 2nd degree. Class B felony.	Sexual abuse of a minor in the first degree. Unclassified felony.	Sexual abuse of a minor in the first degree. Unclassified felony.
Under 13 years old	AS 11.41.440(a)(1) Offender is under 16 and engages in sexual contact and victim is at least 3 years younger			AS 11.41.436(a)(2) Offender is 16 or older and engages in sexual contact or encourages another to do so and victim is under 13.	AS 11.41.436(a)(7) Offender is under 16 and engages in sexual penetration and victim is at least 3 years younger.	AS 11.41.434(a)(4) Offender is 18 or older and engages in or encourages sexual contact and victim is at least 10 years younger. (Same as for 13, 14, 15; and 16, 17 below.)		AS 11.41.434(a)(1) Offender is 16 or older and engages in or encourages sexual penetration.	AS 11.41.434(a)(4) Offender is 18 or older and engages in or encourages sexual penetration and victim is at least 10 years younger. (Same as for 13, 14, 15; and 16, 17 below.)
13, 14, 15		AS 11.41.438(a) and (b) Offender is 17 or older and engages in sexual contact and victim is at least 4 years younger (Class C felony with 12.55.125(i) does not reference back to Sec. 11.41.438)	AS 11.41.438 (a) and (c) Offender is 17 or older and engages in sexual contact and victim is at least 6 years younger (Class C felony with 99 years) (note that AS 12.55.125(i) does not reference back to Sec. 11.41.438)	AS 11.41.436(a)(1) Offender is 17 or older and engages in sexual penetration or encourages another to do so, and victim is at least 4 years younger.		AS 11.41.436(a)(1) Offender is 17 or older and engages in sexual penetration or encourages another to do so, and victim is at least 4 years younger. (The effect of this is that if victim is 10 years younger the crime moves to first degree.)	AS 11.41.434(a)(4) Offender is 18 or older and engages in or encourages sexual contact and victim is at least 10 years younger. (Same as for under 13; and 16, 17.)		AS 11.41.434(a)(4) Offender is 18 or older and engages in or encourages sexual penetration and victim is at least 10 years younger. (Same as for under 13; and 16, 17.)
Under 16 years old				AS 11.41.436(a)(4) Offender is at least 16 years old and encourages victim under 16 to engages in conduct where photographs, etc. are taken, per AS 11.41.455(a)(2)-(6).	AS 11.41.436(a)(5) Offender is 18 or older and is in a position of authority and offender engages in sexual contact with the victim.			AS 11.41.434(a)(3) Offender is at least 18 and is in a position of authority and offender engages in sexual penetration with victim.	
16, 17	AS 11.41.440(a)(2) Offender is 18 or older and is in a position of authority and offender engages in sexual contact with victim who is at least 3 years younger				AS 11.41.436(a)(6) Offender is 18 or older and is in a position of authority and offender engages in sexual penetration with the victim.		AS 11.41.434(a)(4) Offender is 18 or older and engages in or encourages sexual contact and victim is at least 10 years younger. (Same as for under 13; and 13, 14, 15.)		AS 11.41.434(a)(4) Offender is 18 or older and engages in or encourages sexual penetration and victim is at least 10 years younger. (Same as for under 13; and 13, 14, 15.)
Under 18 years old				AS 11.41.436(a)(3) Offender is at least 18 and is guardian/parent and offender engages in sexual contact with victim.				AS 11.41.434(a)(2) Offender is at least 18 and is guardian/parent and offender engages in sexual penetration with victim.	

Offender	Victim	Crime
23+	13	SAM 1
24+	14	SAM 1
25+	15	SAM 1
26+	16	SAM 1
27+	17	SAM 1
17-22	13	SAM 2
18-23	14	SAM 2
19-24	15	SAM 2

Alaska Court System
Felony Cases with Sex Offense Charges Filed
 Cases Filed FY2018 - FY2020

Filing Year		Count of Cases
FY2018	Total Felony Cases Filed	7,186
	Number of Cases for Felony Sex Offenses*	
	AS 11.41.410 (Sexual Assault in the First Degree; Unclassified Felony)	69
	AS 11.41.420 (Sexual Assault in the Second Degree; Class B Felony)	87
	AS 11.41.425 (Sexual Assault in the Third Degree; Class C Felony)	38
	AS 11.41.434 (Sexual Abuse of Minor in the First Degree; Unclassified Felony)	41
	AS 11.41.436 (Sexual Abuse of Minor in the Second Degree; Class B Felony)	95
	AS 11.41.438 (Sexual Abuse of Minor in the Third Degree; Class C Felony)	19
	Total Felony Sex Offense Cases Filed	228
FY2019	Total Felony Cases Filed	7,321
	Number of Cases for Felony Sex Offenses*	
	AS 11.41.410 (Sexual Assault in the First Degree; Unclassified Felony)	77
	AS 11.41.420 (Sexual Assault in the Second Degree; Class B Felony)	88
	AS 11.41.425 (Sexual Assault in the Third Degree; Class C Felony)	31
	AS 11.41.434 (Sexual Abuse of Minor in the First Degree; Unclassified Felony)	65
	AS 11.41.436 (Sexual Abuse of Minor in the Second Degree; Class B Felony)	112
	AS 11.41.438 (Sexual Abuse of Minor in the Third Degree; Class C Felony)	21
	Total Felony Sex Offense Cases Filed	243
FY2020	Total Felony Cases Filed	7,504
	Number of Cases for Felony Sex Offenses*	
	AS 11.41.410 (Sexual Assault in the First Degree; Unclassified Felony)	81
	AS 11.41.420 (Sexual Assault in the Second Degree; Class B Felony)	98
	AS 11.41.425 (Sexual Assault in the Third Degree; Class C Felony)	29
	AS 11.41.434 (Sexual Abuse of Minor in the First Degree; Unclassified Felony)	58
	AS 11.41.436 (Sexual Abuse of Minor in the Second Degree; Class B Felony)	104
	AS 11.41.438 (Sexual Abuse of Minor in the Third Degree; Class C Felony)	19
	Total Felony Sex Offense Cases Filed	250

*Cases may be filed with more than one charge.