

# **Forensic Report CRIME SCENE ANALYSIS & CASE LINKAGE**



**Date of Report**  
July 1, 2020

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**Client**  
Daniel K. Holtzclaw

**Related Civil Actions**  
*Sherry Ellis, Carla Raines, & Regina Copeland v. Daniel Holtzclaw, The City of Oklahoma City, et al., Case No. CIV-16-0019-HE; and*

*Jannie Ligons, Shandayreon Hill, Tabatha Barnes, Terri Morris, Syrita Bowen, Carla Johnson, and Kala Lyes, v. Daniel Holtzclaw, The City of of Oklahoma City, et al., Case No. CIV-16-184-HE; and*

*Adaira Gardner v. Daniel Holtzclaw, The City of of Oklahoma City, et al., Case No. CIV-16-349-L*

## BACKGROUND

This examination and report comes subsequent to a criminal trial in which then Officer Daniel Holtzclaw, of the Oklahoma City Police Department, was accused of sexual assault and other related charges (36 charges in total). He was charged with these offenses which were reported to have occurred during, or related to, traffic stops made while on duty and under color of authority. He was arrested on August 21, 2014.

At his criminal trial, the prosecution ultimately provided evidence against Daniel Holtzclaw from 13 separate accusers. In December of 2015, he was found guilty of 18 charges related to 8 of those accusers. He was acquitted of the remainder<sup>1</sup>.

Many of Holtzclaw's accusers have filed civil actions against him, as well as against The City of Oklahoma City and other related parties. These lawsuits argue that Daniel Holtzclaw's convictions stem from a pattern, practice, and/or custom of illegally detaining African-American women. It is further argued this was done for the purposes of sexual assault and coercion, through the abuse of his position as a police officer. Specifically, that he targeted his victims because they were vulnerable, owing to their criminal histories, outstanding warrants, drug abuse, and / or prostitution. This is alleged "pattern" is described in *Holtzclaw v. Oklahoma* (2019):

Taken together, the women's stories form a pattern wherein Appellant would conduct a traffic stop, or stop the victims while they were walking. While discussing the reason for the stop, he would ask whether the women had any drugs or "anything on them". He would then demand that they show him their breasts or vaginas, often asking how he could be sure the women weren't hiding something in their bra or pants or otherwise referring to the demand as a search. With several victims he touched their breasts or vaginas; he also demanded fellatio from some victims. In addition, he was convicted of five counts of first or second degree rape, and acquitted of three other rape claims. Appellant's threats included taking each of his victims to jail or detox, arresting her, charging her with a crime or promising that if she did as he demanded, he could make warrants or criminal charges go away, or otherwise help her situation. Most of the victims had previous recent contacts with law enforcement; some had outstanding warrants, some had drug paraphernalia on them, some were under the influence of drugs or alcohol when stopped. Sometimes he offered the victims a ride. Most of the crimes occurred late at night or in the early morning hours. The women ranged in age from seventeen to in their fifties.

The "identification" of this "pattern" appears to originate from an investigative theory, which then became a legal argument, about presumed behavioral pattern evidence. This type of pattern evidence is the province of forensic expert examination and

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<sup>1</sup> Originally, 21 individuals claimed that they had been sexually assaulted by Daniel Holtzclaw. Some eventually admitted they had lied, including one man. Others made allegations that were not possible, because Holtzclaw had already been placed on administrative leave. One of the eight women never reported to police investigators, only to the media. Only one of these individuals, Shaneice Barksdale, was actually tried and convicted of making a false report. Additionally, at trial, Daniel Holtzclaw was acquitted of all charges relating to 5 of the Plaintiffs: Shandayreon Hill, Carla Raines, Florene Mathis, Terri Morris, and Kala Lyes.

testimony. Specifically, it requires the identification of a discrete pattern of *modus operandi* behavior; signature behavior; and motive.

This type of forensic examination can be used at trial, in relation to common scheme or plan theories, in order to joinder cases or admit prior acts. It must therefore be based on scientific facts and evidence, not investigative or legal theory<sup>2</sup>. No such expert forensic examination has been offered or conducted in this case.

## PURPOSE

In cases of alleged sexual assault, the required forensic investigation consists of at least the following essential pillars: *the complainant's statement; the complainant's sexual assault exam; the suspect's statement; the suspect's sexual assault examination; the crime scene evidence; and the results of evidence testing* (Savino and Turvey, 2013). These pillars provide the foundation for any number of related crime scene investigation and analysis efforts. Therefore, they must be conducted in a manner that comports with accepted scientific protocols, the violation of which renders them scientifically unreliable.

*Crime Scene Analysis* requires consideration of the complete forensic investigation as described in these pillars, to include forensic victimology and the subsequent examination of available physical and behavioral evidence (e.g, crime reconstruction and *modus operandi*). As with any forensic examination, crime scene analysis requires an evaluation of the nature and quality of the underlying forensic investigation, in order to reliably establish *evidence integrity*<sup>3</sup>. Its goal is to reveal what happened, how it happened, where it happened, to whom, and ultimately why - from the perspective of the physical and behavioral evidence.

*Case linkage analysis* refers to the process of determining whether or not there are discrete connections, or behavioral commonalities, between two or more previously unrelated cases through Crime Scene Analysis (examination of victimology, *modus operandi*, signature, and related behavioral patterns; see Atchereley, 1913; Groth, 1979; Gross, 1924; Savino and Turvey, 2013; Turvey, 2011; Weston and Wells, 1974). It is most often employed to serve one of two purposes: (1) to assist law enforcement with

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<sup>2</sup> As understood by the professional community, and held in *New Jersey v. Bruce Sterling* (2011), linkage analysis for the purposes of joining offenses at trial is a form of forensic behavioral pattern analysis. Consequently, attorneys and other non-experts should not argue that cases are linked for courtroom purposes without the benefit of underlying expert analysis and testimony. This would be like having a lawyer provide an opinion about DNA or fingerprint evidence based on their own inexpert examination, without the underlying crime lab examination, report, and testimony.

<sup>3</sup> *Evidence integrity* refers to the reliability and probity of the evidence that has been collected. It is demonstrated by adherence to basic protocols associated with establishing a reliable chain of custody, the protection of physical evidence while it is in custody, and its competent testing and interpretation by qualified forensic personnel. It also refers to any failure to collect, protect, and/ or test essential items of evidence. In a scientific examination, evidence integrity may not be assumed — rather it must be established. See Bay (2008) and Gardenier (2011).

the application of its resources by helping to direct investigative efforts; and (2) to assist the court in determining whether or not there is sufficient behavioral evidence to suggest a common scheme or plan in order to help address forensic issues, such as whether similar crimes should be tried together, or whether other crimes, and uncharged offenses, may be brought in as evidence (Hazelwood and Warren, 2003; Turvey, 2011).

*Modus Operandi* (MO) is a Latin term that means method of operating. It refers to the manner in which a crime has been committed. A criminal's modus operandi is comprised of choices and behaviors that are intended to assist in the completion of a crime (Turvey, 2011). Black's Law Dictionary (Black, 1990, p. 1004) translates the phrase modus operandi as "method of operation or doing things," and states that it is "used by police and criminal investigators to describe the particular method of a criminal's activity." As explained in Gross (1924), some repeat offenders (such as sex offenders and thieves) may develop a characteristic style, or MO, which they rarely depart from. Atchereley (1913) refers to this as an offender's "trademark". However the development of trademark MO is by no means assured. Weston and Wells (1974; p. 110) state more accurately that not all criminals have a particular MO, but some can develop and maintain similar enough methods to justify linking cases investigatively. MO is adaptive, changing sharply based on the flexible state of the offender (e.g. mood, substance abuse, mental illness), the victim (e.g. mood, substance abuse, fear response), and the crime scene (e.g. day/night, weather, witnesses). Therefore, while investigatively helpful, is not considered a sufficiently reliable mechanism for linking or unlinking cases in a forensic context.

An offender's *signature* is a pattern evidenced by an accumulation of signature behaviors. *Signature behaviors* are individual acts committed by an offender that are not necessary to commit the crime but that suggest the psychological or emotional needs of that offender (Turvey, 2011). While every offender engages in signature behaviors, not all signature behaviors will add up to a unique offender signature. That is to say, it is the case that different offenders can evidence the same set of signature behaviors. Unlike MO, signature can be more stable over the lifetime of an offender, as it is reflective of more enduring psychological motives and themes. This is particularly the case in sexual offenses, where the offender may have a specific pattern of behaviors and associated feelings, or even a specific fantasy, that they are trying to live out through the offense (Money, 1988). In such instances, this can make signature a more reliable case linkage tool.

The sole purpose of this report is to provide *Crime Scene Analysis* and *Linkage Analysis* results related to the complaints made against Daniel Holtzclaw brought forth by the Plaintiffs. This requires an examination of offense modus operandi behavior, signature behavior, and motive. It is not the purpose of this report to address legal standards of evidence or sufficiency, only the thresholds and requirements of scientific evidence examination. Again, no such expert forensic examination has been offered or conducted in this case as of this writing.



## **MATERIALS EXAMINED**

The examiners agreed to conduct this specific set of examinations in May of 2020. Subsequently, the examiners began to receive discovery material relating to this case at their office. Upon request, the examiners were provided with, and relied upon, at least the following discovery materials:

1. Available Oklahoma City Police Department Crime Reports
2. Available Oklahoma City Police Department scene photos
3. Available SANE Reports
4. Available OSBI Police Laboratory Reports
5. Available interviews of the accusers / plaintiffs - video and audio
6. The Oklahoma City Police Department interview of then Officer Daniel Holtzclaw
7. The complete Preliminary Hearing Transcript - *Oklahoma v. Daniel Holtzclaw*, CASE NO.: CF-2014-5869
8. The complete Trial Transcript, with exhibits - *Oklahoma v. Daniel Holtzclaw*, CASE NO.: CF-2014-5869
9. Available appellate filings and rulings
10. Available Depositions of the plaintiffs
11. Gill, P., Goodman-Delahunty, J., Ryan, S., Schanfield, M., Schiro, G., and Turvey, B. (2017) *BRIEF OF FORENSIC SCIENTISTS AND ACADEMICS AS AMICI CURIAE IN SUPPORT OF APPELLANT DANIEL K. HOLTZCLAW*, June 16.

## **I. IN-CUSTODY SEXUAL ASSAULT**

In-custody sexual assault by law enforcement is a very real problem in the United States. Police officers and other law enforcement employees are afforded tremendous trust, authority, and discretion. When employed within a culture of impunity, some abuse that authority to commit violent crimes - including sexual assault.

The examiners have extensive experience working cases that involve this kind of exploitative sexual behavior by law enforcement, in both the United States and Latin America. This includes cases involving sexual assault and misconduct by law enforcement employees within their agencies; against intimate partners; against those in their care and custody; and involving multiple offenses that are part of a pattern. Additionally, and in preparation for this examination, the authors examined the national public database of such offenses compiled by *The Buffalo News*. This database

provides details from at least 700 cases of sexual assault and exploitation by law enforcement across the United States, up to 2016<sup>4</sup>.

The examiners have observed that these cases are characterized by law enforcement employees who identify the weaknesses in their agency protocols, and then exploit them against those who are either subordinate or otherwise vulnerable. They do so in a manner that is consistent across offense when multiple cases are involved. That is to say they engage in the same or similar sexual acts to satisfy their predatory needs, while also keeping their activity hidden. They select victims who they believe either cannot or will not report them for fear of consequence. They select locations where they believe their actions cannot be observed or documented. And their offenses tend to be similar over time in order to avoid detection, dictated by the security measures and accountability protocols put in place within their respective agencies. Typically, their actions and intentions are eventually established by attempts to hide, alter, fabricate or destroy evidence that might implicate them (e.g., logs, photos, records, text messages, and reports). However, they are also known to collect trophies, most commonly in the form of photos and videos - either directly from the cell phones of detainees and / or arrestees, or via photos and videos taken on their personal cell phones.

Ultimately, for those who perpetrate in-custody sexual assault, the primary theme is control. They seek to control their victims by controlling the environment; their physical movements; the evidence that is left behind; and any potential records of events. And they are revealed by their attempts to tamper with evidence, records, and reports that seek to conceal what they have done.

These kinds of abuses can occur because law enforcement in the United States have nearly unparalleled authority to forcibly detain and arrest citizens suspected of criminal activity. And to exert force when exercising their duties, up to and including the use of lethal measures. Amongst vulnerable populations, this creates a natural fear of law enforcement. It can also result in anxiety about arrest, detention, and physical harm. This both creates and feeds a culture of compliance to law enforcement instructions, even in extreme cases where those instructions are blatantly illegal.

## II. VULNERABLE POPULATIONS AND LAW ENFORCEMENT

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<sup>4</sup> “The Buffalo News collected more than 700 credible cases of sexual misconduct from law enforcement personnel over a 10-year period. Local media reports, court documents and press releases were used to identify cases or allegations in which sexual misconduct was linked to police work or the use of police resources. Cases include only those in which some action lends credibility to the accusation. In most cases, that includes termination, indictment, conviction, the officer’s statements, resignation while an investigation was under way or internal affairs conclusions regarding departmental charges. This data does not include misconduct cases that occurred inside jails or prisons.” - “Abusing the Law”, *The Buffalo News*; url: <https://s3.amazonaws.com/bncore/projects/abusing-the-law/data.html>.

In general, populations that are vulnerable to law enforcement include subordinates, women, minorities, immigrants, those living in poverty, those living in high crime areas, those with criminal records and charges / warrants hanging over their head, those engaging in illegal activity to make a living (e.g., drug dealing or prostitution), those with substance abuse problems, and those with mental health issues. Each of these groups is vulnerable to pressure, coercion, and even exploitation by law enforcement. This is owing to a variety of intersectional factors, not the least of which are legal consequences and the potential loss of income from detention and incarceration. Even the threat of such consequences is enough to create a context of tremendous pressure. Additionally, when someone belongs to more than one of these groups their vulnerability is compounded.

As will be discussed later in this report, the factors which make detainees and / or arrestees vulnerable to pressure and coercion can have a variety consequences. One is that they are more vulnerable to sexual exploitation, coercion, and assault. The other is that they are more easily induced into making false statements and reports.

The reality of false reporting is well established in this case. Law enforcement originally procured allegations of sexual assault against Daniel Holtzclaw from 21 separate individuals, including one man. Some eventually admitted they had lied, including the man. Others made allegations that were not possible, because Holtzclaw had already been placed on administrative leave. One of the eight women never reported to police investigators, only to the media. And Shaneice Barksdale, was actually tried and convicted of making a false report. Only the allegations of the 13 remaining accusers were taken to trial. In other words, the rate of false reporting in this case at the outset was as high as 1/3. This should have been the first red flag to investigators that their investigative and interview tactics were prone to creating false allegations. These tactics, and their consequences with respect to scientific reliability, will be discussed later in this report.

### **III. INVESTIGATIVE & FORENSIC PILLARS:**

#### **Assessing Scientific Reliability**

As mentioned previously, in cases of alleged sexual assault, the required forensic investigation consists of at least the following essential pillars: *the complainant's statement; the complainant's sexual assault exam; the suspect's statement; the suspect's sexual assault examination; the crime scene evidence; and the results of evidence testing* (Savino and Turvey, 2013). These pillars provide the foundation for any number of related crime scene investigation and analysis efforts. Therefore, they must be conducted in a manner that comports with accepted scientific protocols, the violation of which renders them scientifically unreliable.

These will be evaluated in turn, in relation to the 13 plaintiffs whose accusations were taken to trial:

## A. The Complainants Statements

With the exception of Terri Morris<sup>5</sup>, Jannie Ligons, and Shardayreon Hill, who reported their complaints directly to law enforcement — a list of potential complainants was carefully curated by law enforcement investigators to include primarily black females. To be clear, the majority of Daniel Holtzclaw's accusers did not come forward on their own. Rather, they were contacted by law enforcement investigators because they fit a particular victim profile and had been stopped by Daniel Holtzclaw in the performance of his duties. 34 of those women reported that they had not been sexually assaulted by him.

In what can only be described as a violation of competent investigative practice, investigators did not record any of the 40+ interviews with those women who reported that Officer Holtzclaw did not assault them. Specifically, Det. Kim Davis testified that this was an order "directed by command". It is hard to imagine anyone giving such a biased order. It is just as hard to imagine a competent investigator being willing to follow it, as recording all contact with potential complainants is best practice — unless you are deliberately seeking to suppress evidence.

Regardless, the final list of curated complainants ultimately included Tabitha Barnes, Carla Raines, Florene Mathis, Rosetta Grate, Regina Copeland, Sherry Ellis, Syrita Bowen, Carla Johnson, Adaira Gardner, and Kala Lyles.

### 1. Interview Contexts

Investigative interviews have several goals necessary to the successful completion of the overall investigation. First, they are intended to elicit detailed information about the crime that can be corroborated. This is accomplished by statements which can either be verified by the available physical evidence, or statements which lead to the discovery of corroborating physical evidence. Second, they are intended to help evaluate and even establish measures necessary for assisting and protecting potential victims. In the context created by the investigators in the Daniel Holtzclaw case, these goals were consistently not understood or met. In fact, the context of these interviews in many cases may be described as a coercive negotiation. This is based on the documentation of the following coercive practices, observed in the bulk of the complainant interviews conducted by law enforcement:

- a. Investigators in this case routinely started interviews by giving the *false impression that they already had evidence, or a report*, that the interviewee was a victim of sexual violence by a police officer. In general, this practice can create confusion, as

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<sup>5</sup> It is helpful to note that the initial complaint made by Terri Morris was not precisely against Daniel Holtzclaw, but rather an unknown officer. The one photo lineup used in the investigation was given to Ms. Morris. She thought it could be Officer Dutton or Officer Holtzclaw. Her report was uncertain. This photo lineup did not include a picture of Officer Jeff Sellers. He had previously fired from OCPD for having sex with people while on the job. Officer Sellers had actually stopped Ms. Morris during April 2014.

well as the possibility of statement contamination. Vulnerable populations are generally unwilling to contradict an authority figure, an often simply agree to avoid conflict. This can result in a false report. Especially when investigators are insistent, as they were during the majority of the recorded interviews<sup>6</sup>.

- b. Contamination can further occur when interviewers *suggest the specific identity of the sexual aggressor*. The result can be an allegation about an actual episode of sexual violence against an innocent suspect. Again, this is especially true when investigators are insistent about the identity of their preferred suspect, as they were during the majority of these interviews<sup>7</sup>.
- c. Contamination can further occur when interviewers make comments giving the impression that there is a *proven threat with other evidence*; that if interviewees do not make the proper statements or allegations, there will be *no justice*; and that the result of the interviewee's failure will be *more victims*. This places tremendous pressure on the interviewee to comply, to help put away a bad guy. Doing this can also leads the interviewee to an unspoken inference or agreement — that stopping this alleged threat requires cooperation, and that even false testimony is acceptable for the greater good. This coercive practice occurred during the majority of the recorded interviews.
- d. Among the most coercive interview tactics is mentioning an interviewee's criminal activity, records, and pending charges. This gives the impression that investigators can help the interviewee avoid punishment, improve their legal situation, or simply create an alliance with someone in authority that can help them out in the future. This creates an incentive to cooperate with the investigation, to obtain implied benefits. This coercive tactic was used during the majority of these interviews.
- e. Consider **Terri Morris**: She was taken into custody and placed in the back of a patrol car on 6/3/14, after the CI reported her location and she: "had been hitting her head on the cage and wanted to leave"; "was crying and kept saying she wanted to be let go" and "advised she did not want to pursue this matter any further and would not cooperate in the investigation of the police officer." She repeatedly told Det. Gregory that she did not want to talk to him, and that he knew she was on a "crack high". However, Det. Gregory insisted on bringing her downtown to police headquarters to sign a refusal form. Gregory informed his supervisor Lt. Timothy Muzny and brought Terri Morris to the OCPD interview room, where he pressed her to repeat her story. She repeated the same desire to leave the interview and end her

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<sup>6</sup> It is important to note that not all of the interviews with complainants were actually recorded. This is a violation of basic investigative practice, as all such interviews must be recorded in order to preserve essential evidence and protect the complainant's rights.

<sup>7</sup> For example, Tabitha Barnes testified in her deposition that the first time she met Det. Rocky Gregory, he "told me why he was there, investigating sexual assault, Daniel Holtzclaw. But at the time when he said the name, I didn't know what he was talking about, because I never knew his name." (pp. 81-82).



involvement throughout: “somebody else can do it”; “don’t want to”; “I just wanna leave”; “I just wanna, I just wanna be out...”; “I just wanna drop, I just wanna leave home.”; “I don’t want to. Please. Please, I just want to leave it alone. I just wanna go, I just wanna by my own. Please. Please, don’t. I don’t wanna see him. I want nothing. Oh my god. No.” ; “But I don’t want to, please don’t. I don’t want to be a part of that thing no more. No, no. Sorry I’m just (home?) I just came, please.”; “Don’t do this to me. Please.”; “But I just don’t wanna be a part of this no more. [inaudible] I just wanna leave it alone.”; “I don’t know...ask another person...”

Det. Gregory also acknowledged under oath that he tried to force Terri Morris to look at a photo line-up: “I attempted, but she didn’t want to look at it.”

On 6/24/14, after the CI again tipped off police to Terri Morris’s location, Det. Gregory brought Det. Danny Higginbottom with him to conduct a photo line-up in the back of a patrol car at NE 21<sup>st</sup> and Kelley. Before conducting the line-up, Det. Gregory pressured Morris to answer questions about her allegations even though Terri Morris had signed a refusal to prosecute form three weeks earlier and had repeatedly told Det. Gregory that she didn’t wish to pursue the matter. He threatened to take her “downtown” after she appeared to utter unintelligible objections. After he falsely assured her that he was “not going to make her do anything you don’t want to,” she complained: “Alright, it’s like I done told the story like a thousand times.” Det. Gregory responds: “I’m trying to catch it here, okay, so I don’t have to keep bothering you.” Subsequent to her non-committal answers, and her failure to make a positive identification using the the line-up, she walked away from Det. Gregory, muttering: “Yeah, this is bullshit.”

Terri Morris did not implicate Daniel Holtzclaw until after she was put in jail on misdemeanor charges at the beginning of July, 2014. She stated during her jailhouse interview with Det. Gregory and Lt. Muzny: “well they got me in here on trespassing”. During that interview, her story changed to line up with Daniel Holtzclaw. Det. Gregory repeatedly mentioned drug rehab to keep her compliant when she seemed to stray from that narrative. These circumstances provide extreme contextual vulnerability and indicate a clear pattern of coercion by law enforcement.

- f. Consider **Shardayreon Hill**: She had seven outstanding warrants at the time she testified at trial. These circumstances provide extreme contextual vulnerability with law enforcement.
- g. Consider **Florene Mathis**: when she was interviewed, she was actually an inmate at the Oklahoma County jail. She also had ten outstanding felony arrest warrants, including a 2014 felony case involving assault and battery with a dangerous weapon. These circumstances provide extreme contextual vulnerability with law enforcement.

- h. Consider **Sherry Ellis**: at the end of her interview she asked Det. Davis for help with unpaid Oklahoma County fines. She was concerned that a warrant would be issued for her arrest. Det. Davis agreed to make a call on her behalf. There is no reason for this call other than to ensure a reciprocal relationship and guarantee testimony.
- i. Consider **Adaira Gardner**: On July 31, 2015, as she was preparing to testify against Daniel Holtzclaw, prosecutor Gayland Gieger wrote to defense attorney Scott Adams that “charges were declined against Ms. Gardner” in a pending “assault case as it could not be determined who was the initial aggressor based upon the statements of all the parties involved and evidence available.” Adaira Gardner was initially accused of wielding a machete against a victim and charged with assault with a deadly weapon. The timing of these circumstances is dubious at best.
- j. In an extreme example of coercion, Tabitha Barnes actually refused to testify at trial and tried to leave the courthouse. She was high on marijuana and PCP at the time. So Oklahoma City PD detained her for disorderly conduct and public intoxication.

## *2. Health Concerns Ignored*

Investigators focused their efforts on getting interviewees to make statements that would implicate Daniel Holtzclaw as a rapist. However, this focus came at the cost of complainant emotional and physical health. On one occasion, a complainant — Terri Morris — made a request to terminate her interview. The detective did not immediately cease and continued to apply pressure. He also continued to track her down, and harass her, and question her, until she was willing to implicate Daniel Holtzclaw. In other instance, complainants made it clear that they did not want to talk about their experience with sexual violence. These are indicators of emotional distress. When these indicators appeared, investigators pressed forward, and in some cases they even employed *emotional blackmail*<sup>8</sup>. This instead of terminating the interviews in order to attend to the emotional and psychological welfare of those who were suffering right in front of them — in some cases as a result of their coercive tactics.

Additionally, every victim should have been submitted for a medical evaluation and a sexual assault examination. This did not occur. The need for this should be immediately apparent, given that sexual assault impacts victims to a variety of different physical and mental traumas. This requirement will be discussed in the next section.

## *3. Pertinent Details Ignored*

As previously mentioned, investigative interviews are intended to elicit detailed information about the crime that can be corroborated. This is accomplished by statements which can either be verified by the available physical evidence, or statements which lead to the discovery of corroborating physical evidence. The following is a list of details routinely elicited to establish the basics regarding a sexual assault — largely ignored by investigators in this case.

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<sup>8</sup> This refers to the tactic of controlling or manipulating people with fear, obligation and guilt.

- a. Many of the complainants could not establish the precise locations of their attacks. Some could not recall the time or even the day accurately.
- b. Almost none of the complainants reporting oral sex were asked to describe their attacker's genitalia in terms of circumcision or other physical characteristics for comparison purposes.
- c. Only two of the complainants reporting penetration (Terri Morris and Adaira Gardner) were directly asked whether their attacker used a condom.
- d. Most of the complainants were not asked about potential transfer evidence sites with respect to potential biological material on surfaces or clothing.

### *3. Inconsistencies in the Statements*

Trained investigators establish a clear chain of events in sexual assault cases. They do this by slowly taking the complainant through their attack — step-by-step, and frame-by-frame. This allows them to identify any errors or inconsistencies in the allegations that might require further investigation, contradict other witnesses, indicate memory problems, or contradict the established evidence. The statements made by the complainants in this case were full of contradictions that law enforcement either did not identify, or did not bother to investigate. There are too many to enumerate here, so only the most pertinent examples are provided.

This section will be referred to as a consolidated red flag near the end of this report.

- a. Most of the complainants provided a description of their attacker which did not accurately describe Daniel Holtzclaw. Complainants routinely provided the wrong age, build, height, hair color, skin color and / or race. When this occurred, they were told not to worry and that they would be believed despite these glaring inconsistencies.
- b. At the end of her interview with Det. Gregory, Shardayreon Hill asked whether it mattered if Officer Holtzclaw had actually raped anyone, and asked whether he would still be held responsible. This statement and question are not consistent with the belief that Holtzclaw had actually committed sexual assault.
- c. There were multiple doctors and nurses in the area where Shardayreon Hill was located in the Hospital. None of them saw anything inappropriate despite her accusations of oral sex, digital penetration, and fondling.
- d. Tabitha Barnes gave inconsistent statements about what she was wearing and where she was at during the reported attack. She also testified that one of the allegations in her civil lawsuit was false — that Holtzclaw had not broken into her home and sexually assaulted her there.

- e. Tabitha Barnes testified repeatedly in her deposition that Daniel Holtzclaw never touched her: “He didn’t touch me. He didn’t touch me. He did not touch me. He didn’t touch me”. She also testified in her deposition that she was 100% truthful about everything that had been stated. However, this completely contradicts her trial testimony, namely that Daniel Holtzclaw had touched her breasts.
- f. Carla Raines denied being sexually assaulted with investigators multiple times, then later changed her story, then got the date of the reported attack wrong. She later had to admit she corrected the date based on information from the prosecutors.
- g. Sherry Ellis not only described a black attacker in her initial report, she could not identify Daniel Holtzclaw in court. She also could not remember how the reported attack occurred, and changed her story multiple times. She also changed her story about who she slept with, consensually, on the day of the reported attack.
- h. Terri Morris got the date, time, and location of her encounter with Daniel Holtzclaw wrong, as well as the color of Holtzclaw’s patrol vehicle — and then changed it to fit information provided to her by law enforcement. She also changed the details of her assault and her initial description of her reported attacker to fit Holtzclaw<sup>9</sup>.
- i. Syrita Bowen gave inconsistent statements about whether or not her reported attacker ejaculated.
- j. Carla Johnson gave inconsistent statements about what she was wearing and how she was specifically assaulted.
- k. Kala Lyles gave inconsistent statements about most of the pertinent aspects of her reported attack, included the nature of the sexual assault, the duration, where it happened, what was said by her attacker, how it happened, and in what sequence.

Given the aforementioned contextual problems, pertinent omissions, and major inconsistencies that exist in these statements, this pillar cannot serve as the basis for reliable investigative or scientific conclusions.

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<sup>9</sup> It is contextually useful to note that Det. Kim Davis’ gave a deposition on 1/29/19 in which she testified that Terri Morris a “big fat liar.” Specifically, Det. Davis testified that Terri Morris “lied about when it happened — and I don’t even know the order of these, and then she lied about where it happened. And then she half told the truth and then Rocky had to go back and find all of these. I don’t know where all of that — so I can’t even think you can ask that. Because I don’t — it all would have fallen in place. I would have known it was falling in place. Because when this first started, she was just a big fat liar.”

And further, Det. Davis testified that “I just know that Rocky when he met with her several times and then later she finally said that she lied and she admitted to him for lying. Because she didn’t want her boyfriend to know that she was smoking crack again.”

## **B. The Complainants' Sexual Assault Examinations**

A sexual assault examination must be conducted in every reported case of sexual assault, no matter the timeframe. It's not just about collecting biological evidence, clothing, and transfer evidence related to a recent sexual assault. Although that is paramount. It also establishes the complainant history; current state of overall health and related healing injuries or their absence (to include potential venereal diseases that might be transferred to a reported attacker); potential related pregnancy; issues with addiction or mental health concerns; and physical characteristics or limitations.

Specifically, collecting history from a complainant, as well as related information from collateral sources (e.g., friends, family members, other witnesses), is necessary to ensure that the most complete and accurate information is relied upon during any subsequent forensic examinations (NIJ, 2004; pp.83–84). In other words, a complete medical and sexual history is required to provide the basis for any decisions and interpretations made during a sexual assault examination or assessment. Taking a history is mandatory, not optional.

Ultimately, the purpose of taking a history is to inform collection efforts and any interpretations of findings. As stated in NIJ (2004, p. 8), forensic examiners must “avoid basing decisions about whether to collect evidence on a patient’s characteristics or circumstances (e.g., the patient has used illegal drugs).” Too often, there is a failure to document such evidence, including areas of non-injury (negative documentation) and history. This can occur because the examiner is either uncomfortable with, or preferential towards, their patient’s complaint. In cases of extreme bias, there may even be attempts to suppress or conceal such evidence. This is professionally negligent.

Each complainant must undergo the same level of examination and documentation—there can be no exceptions. In particular, the forensic examiner must comprehend and acknowledge the importance of history to the integrity of their examinations, interpretations, and subsequent court testimony (see Jamerson and Turvey, 2013). This information is essential to understanding potential evidence of prior surgery and trauma, and any alternative evidentiary interpretations. It is also essential to establish the synergistic effects of prescription medications when combined with alcohol. And finally, concealment or curation of this evidence, which is required for competent medical treatment, prevents awareness of prior incidents and conditions which might have a bearing the complainant’s physical and cognitive abilities.

Only some of the Plaintiffs in the Holtzclaw case were referred for Sexual Assault Exams. Most were not. Of the three that were apparently referred, no adequate history was reported, and the findings were negative for evidence of sexual assault.

1. Shardayreon Hill: No SANE Exam provided
2. Tabitha Barnes: No SANE Exam provided
3. Carla Raines: No SANE Exam provided
4. Florene Mathis: No SANE Exam provided



5. Rosetta Grate: Referred for SANE Exam
6. Regina Copeland: No SANE Exam provided
7. Sherry Ellis: Referred for SANE Exam
8. Terri Morris: No SANE Exam provided
9. Syrita Bowen: No SANE Exam provided
10. Carla Johnson: No SANE Exam provided
11. Adaira Gardner: No SANE Exam provided
12. Kala Lyles: No SANE Exam provided
13. Jannie Ligons: Referred for SANE Exam

This represents professional abandonment of the majority of reporting plaintiffs by law enforcement with respect to documenting and collecting vital contextual and historical evidence related to a sexual assault examination — and with respect to assessing their physical and mental health needs. Therefore, this pillar cannot serve as the basis for reliable investigative or scientific conclusions.

### **C. The Scene Evidence**

The physical evidence available at the scenes, to include available digital evidence, was either ignored or left uncollected. In other words, the vast majority of the reported crime scenes were abandoned by law enforcement investigators. Even though some time had passed since the reported attacks, law enforcement are still admonished to:

1. Take the complainant to the scene of the attack, to establish and document its precise location;
2. Establish and document spatial relationships with photos, video, and measurements;
3. Establish and document the feasibility of reported events in the reported environment;
4. Identify potential witnesses; what could have been observed and who could have observed it;
5. Identify potential passive documentation such as security cameras with a line of site;
6. Collect cell phones from complaining witnesses to establish and collect GPS information, photos, phone calls, and text messages around the time of the reported attack.

To be clear, no formal crime scene processing efforts took place. And limited related documentation exists. Therefore, this pillar cannot serve as the basis for reliable investigative or scientific conclusions.

### **D. The Suspect's Sexual Assault Exam**

Daniel Holtzclaw did not undergo a proper sexual assault examination. Subsequently, no formal history was taken. Though he was eventually tested for a panel of STIs, and this came back negative.

Instead, his clothing was collected in the interview room at the police station. The video shows that Det. Gregory inserted his ungloved hand into the open evidence bag. This occurs before Daniel Holtzclaw places his uniform pants and belt into the same evidence bag. Everything is improperly collected into a single bag, no gloves are used during the collection process. This appears to have been theatrical as opposed to evidence driven.

Such a collection procedure violates every guiding protocol of forensic science. The improper, and ultimately negligent, collection procedure observed in the video renders any subsequent examination of related DNA evidence almost irrelevant. This is because the collection area (not clean environment) and personnel (wearing street clothes and no gloves) are contributing untold DNA samples into the bag that Daniel Holtzclaw's clothing items have been collected into.

As a result of this extensive breach in forensic protocols, this pillar cannot serve as the basis for reliable investigative or scientific conclusions.

#### **E. The Suspect's Statement**

Daniel Holtzclaw made a recorded statement to law enforcement, and a DNA sample was collected for testing and comparison. However, the collapse of the other pillars in this case present a significant difficulty. There is no reliable evidence available to compare his statement with, in order to refute or deny it.

### **IV. DISCRIMINATORY INVESTIGATIVE PRACTICE**

*Discriminatory investigative practice* in this case refers to disregard or abandonment of the evidence by investigators (e.g., cherry-picking what is documented, collected, tested, and / or presented in court) in order to curate a particular case theory or implicate a particular suspect. This extends to the curation of evidence that is presented in court, and whether the presentation is scientifically accurate or misleading. In this case, it is evident in the following:

1. Lt. Timothy Muzny explained the following in a supplemental report: "I contacted Unit 800 and had the Supervisor, Janet Mansfield, look up all the females that 2C45 [Officer Holtzclaw] ran through them from April 2014 to June 18, 2014. She gave me a list and I began checking the names through our Varuna system to see if any of the persons checked had a criminal history. I was specifically looking for women who had either a drug history and or a history of prostitution. I then made a list of women who I felt we needed to make contact with to see if they were a victim of a sexual assault. After detectives went and interviewed a person on the list who stated she was sexually assaulted we then went back and expanded our search and went back to January 2014. I then took those added names and checked them with our Varuna system to see if they had a drug and or prostitution history. The persons who fit this profile were added to a list to make contact with to see if they were a victim of

a sexual assault” (Standard Supplement Report on Carla Johnson by Timothy Muzny, August 22, 2014.)

2. It is unclear why Lt. Muzny narrowed the search to only those women with a history of drugs or prostitution. This description does not fit the description of the first credible accuser, Jannie Ligons, at all. The only thing that the specific parameters of this search ensures is a list of vulnerable minorities, with a grudge against law enforcement, who can be easily coerced or bargained with for considerations in exchange for statements and testimony.
3. The selective cultivation of a specific victim profile in order to suggest that there is a pattern in victim selection by Daniel Holtzclaw. In fact, this “pattern” was deliberately curated by law enforcement. In this case, law enforcement investigators selectively parsed their databases for black females engaged in suspected prostitution and / or drug use who had been pulled over by Daniel Holtzclaw<sup>10</sup>. Then they engaged in coercive tactics to elicit inculpatory statements against him, 1/3 of which resulted in acquittals, and all of which had serious contradictions.
4. Ultimately, law enforcement presented a heavily curated population of accusers in court, indicating that they represented a pattern and a preference. They do not, as will be discussed in the linkage analysis section of this report.
5. While there are some similarities with respect to accuser vulnerability and skin color, which again were cultivated by law enforcement, they are superficial. These superficial similarities were presented in court alongside sexual behavior that was regarded as largely equivalent across all cases. This misrepresents the behavioral evidence dramatically, as will be discussed in the linkage analysis section of this report.
6. True forensic linkage analysis requires an assessment of not just similarities, but dissimilarities. The range of behavioral dissimilarity in this series of accusations is significant. Presenting these cases, with this many behavioral dissimilarities acknowledged and unevaluated, evidences a misunderstanding of the basic concepts required for reliable linkage analysis (e.g., modus operandi and offense signature).
7. Law enforcement ignored the investigative requirement to recognize and consider alternate suspects on multiple occasions, especially when confronted with failed identifications of their primary suspect. Consider the following related facts and circumstances:

Investigators presented a photo lineup only to **Terri Morris**. During that photo lineup, she did not positively identify Officer Holtzclaw, and felt the suspect might be

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<sup>10</sup> This is actually part of his job as a patrol officer.

Officer Dutton or Officer Holtzclaw, but OCPD never investigated Officer Dutton. Additionally, excluded from the photo lineup was a person of interest, Officer Jeff Sellers, mentioned previously.

The District Attorney's office told detectives to stop the use of photo lineups, beginning with **Jannie Ligons**. This after female DNA was found on the fly of Daniel Holtzclaw's pants. It is unclear why the DA's office would interfere with the police investigation by giving instructions in violation of standard practice for ensuring reliable eyewitness identifications. It is further unclear why a competent detective would follow such an intrusive and negligent directive.

Police reports show that Kala Lyles mistook Daniel Holtzclaw for Officer Allan Cruz. He had who had stopped her and issued three citations in March 2013, prior to the three times Daniel ran her name on 4-09-2014, 5-16-2014, and 6-18-2014. This demonstrates a clear confusion regarding their initial identifications. Officer Cruz was not investigated as a suspect.

OSBI records of accusers show that Officer R. Jones (2C34, Commission #001796) filled out field interview cards for three separate accusers: Kala Lyles, Florene Mathis, and Terri Morris<sup>11</sup>. The interview of **Florene Mathis** by Det. Davis demonstrates that she had confused Officer Jones for Daniel Holtzclaw. Officer Jones was not investigated as a suspect.

**Sherry Ellis** described her attacker as a black male, with skin darker than her own, and indicated he was several inches shorter than her own height of 5'11". Alex Edwards, an African-American police officer, matched that description. He also worked just East of Officer Holtzclaw. Sherry Ellis was also not shown a photo lineup to confirm her identification. Additionally, Officer Edwards was not investigated as a suspect.

**Carla Raines** initially stated in her interview with Det. Gregory that the only police officer had been inappropriate with her in the past. She described him as a black police officer who exposed himself to her. Investigators did not pursue the suspect described in her initial complaint, or consider the possibility that she was telling the truth about this in her initial report.

## V. DISCRIMINATORY FORENSIC PRACTICE

*Discriminatory forensic practice* refers to disregard or abandonment of the physical evidence (e.g., cherry-picking what is documented, collected, tested, and / or presented in court) in order to curate a particular case theory or implicate a particular suspect. This extends to the curation of evidence that is presented in court, and whether the

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<sup>11</sup> Daniel Holtzclaw was acquitted of all charges relating to these three accusers.

presentation is scientifically accurate or misleading. In this case, it is evident in the following:

1. As mentioned in the section on Investigative and Forensic Pillars, there was a significant amount of evidence that was neither collected nor tested in relation to the reported crime scenes. This led to large blocks of physical and contextual evidence that could not be considered in court.
2. As mentioned in the section on Investigative and Forensic Pillars, there was a significant amount of evidence that was neither collected nor tested in relation to the Sexual Assault Examinations. This includes the fact that only three of thirteen reporting accusers received such an exam. This also led to large blocks of physical and contextual evidence that could not be considered in court.
3. As explained thoroughly in Gill, P., Goodman-Delahunty, J., Ryan, S., Schanfield, M., Schiro, G., and Turvey, B. (2017), the DNA evidence that was collected from Daniel Holtzclaw's uniform pants was consistent with non-intimate transfer. Yet, it was presented as being definitively associated with vaginal fluid. There is no evidence to confirm this theory.
4. DNA expert Dr. Michael Spence has submitted an Affidavit as part of Daniel Holtzclaw's appeal. He provides detailed findings explaining that the DNA evidence found on the fly of Officer Holtzclaw's uniform pants can be explained by non-intimate DNA indirect transfer. He further explains that this does not support a conclusion that sexual contact had occurred. Dr. Spence also examined and described many DNA evidence related errors that were made by OCPD's forensic analyst, Elaine Taylor.
5. A review of the criminal trial transcripts and exhibits, as well as the federal civil rights lawsuit depositions, demonstrates that misrepresentations and misunderstanding of the forensic evidence went beyond OCPD forensic analyst Elaine Taylor — to include the detectives who investigated Daniel Holtzclaw, his prosecutor, and the Oklahoma Attorney General who sought to retain the conviction.
6. As explained thoroughly in Gill, P., Goodman-Delahunty, J., Ryan, S., Schanfield, M., Schiro, G., and Turvey, B. (2017), investigators only collected Holtzclaw's uniform pants and belt. They did not collect his underwear and the penile swabs that could have provided more contextual evidence.
7. As explained thoroughly in Gill, P., Goodman-Delahunty, J., Ryan, S., Schanfield, M., Schiro, G., and Turvey, B. (2017), the State's forensic analyst did not conduct tests for body fluids, nor did she examine Holtzclaw's uniform pants with an Alternate Light Source.



8. As explained thoroughly in Gill, P., Goodman-Delahunty, J., Ryan, S., Schanfield, M., Schiro, G., and Turvey, B. (2017), the State's forensic analyst did not investigate the source of the male-female DNA mixture that she found on Holtzclaw's uniform pants. Consequently the conditions of transfer remain a mystery, and any related theories remain unverifiable.

## **VI. INVESTIGATIVE RED FLAGS**

For more than 20 years, the literature relating to sexual assault investigation has identified a number of investigative red flags for false reporting. As explained in Savino, Turvey, and Coronado (2017; pp.215-216; and pp.312-318): "It is important to remember that these red flags are not conclusive evidence that a false report of sexual assault has been made. They should be used as a guide. Their existence suggests that further investigation is needed. Until any red flags have been explained, no conclusion about the merits of the complaint may be formed either way." The following investigative red flags are evident in this case, requiring investigative attention and resolution:

1. The initiation of the report, or pressure to report, came from someone other than the complainant themselves. The majority of the accusations in this case were procured by law enforcement. In most of the subsequent interviews, law enforcement engaged in coercive tactics in order to get accusers to go on the record - some needed to change their stories completely to do so, and others did so with reluctance.
2. Because of the nature of the case (involving a law enforcement officer), and the nature of the accuser population (those vulnerable to law enforcement with admitted bad feelings towards them), combined with the coercive tactics being used -- the rate of false reporting in this case at the outset was as high as 1/3. This should be an indicator to investigators to change their approach and make it more inclusive of objective physical evidence.
3. An inconsistent description of the attacker: As mentioned previously, a majority of the complainants provided a description of their attacker which did not accurately describe Daniel Holtzclaw. Complainants routinely provided the wrong and even inconsistent age, build, height, hair color, skin color and / or race.
4. Drug/Alcohol use and abuse: Drug and alcohol use and abuse can cause mental infirmity. This is true whether or not a prescription medication is involved; and whether or not the use is excessive. Drug use affects perception, memory, and overall cognitive reliability. This is why it is important to establish exactly what drugs someone is taking along with the dosage, and how much alcohol they have consumed. In this case, 8 of the complainants were known either drug addicts, alcoholics, or prescribed psychotropics. In 2 of these cases, it was all three.

5. **Mental Illness:** Three of the accusers were taking psychotropics, and specifically anti-psychotic medication, related to mental health diagnoses.
6. **History of False Statements to Law Enforcement:** Many of the complainants in this case have a history of making false statements to law enforcement regarding their criminal history, drug use, identifying information (e.g., name, social security number), and making false 911 calls.
7. **Criminal History:** Many of the complainants in this case have extensive criminal histories, including arrests and convictions for prostitution, drug use and dealing, theft, assault, domestic violence, and forgery. Many were also convicted felons, with multiple felony convictions.
8. **Inconsistencies in retelling:** Those who make false allegations, and file false reports, might tell a different story each time they are asked. This is why it is important to get multiple versions on the record. This is especially true when drugs or alcohol are involved. In this case, the most serious inconsistencies were detailed in a prior section.

Each of these red flags indicates an area that requires further investigative attention by law enforcement, in order to explain or understand. Such investigative efforts necessarily lead to the corroboration and verification of reliable statements. Or doubt regarding the reliability of statements that remain uncorroborated. These red flags were either unidentified, ignored or dismissed by law enforcement investigators. There is no evidence that they were resolved or addressed during the investigation.

## **VII. LINKAGE ANALYSIS**

*Case linkage analysis* refers to the process of determining whether or not there are discrete connections, or behavioral commonalities, between two or more previously unrelated cases through Crime Scene Analysis (the examination of victimology, modus operandi, signature, and related behavioral patterns).

While there may be general or thematic similarities between some cases, it is the nature of the dissimilarities that are of greater weight and importance to rendering final linkage analysis conclusions. Linkage analysis efforts that fail to account for dissimilarity, focusing on similarities, should be considered inadequate at best, if not biased.

For this section, reference the table attached to this report, titled: HOLTZCLAW / PATTERN OF ACCUSATIONS.

### **A. Qualitative Analysis**

In this section we will evaluate that quality of the evidence to determine whether it is of sufficient integrity to establish crime related behavior, and conduct a forensically reliable linkage analysis.

The threshold for courtroom testimony from a scientific expert is typically expressed as “to a reasonable degree of scientific certainty”. This means that scientific methodology has been applied, the literature has been referenced, and interpretations of the evidence are within the bounds of the accepted research and practice. Given the requirements of scientific inquiry, this easily meets or exceeds a reasonable doubt standard. It is therefore worth noting that the jurors in The Holtzclaw case unfounded the complaints from 5 of the 13 accusers in this case - as they apparently found reason to doubt. This is expressed in the list provided below:

1. Shardayreon Hill: **Unfounded**
2. Tabitha Barnes: Conviction
3. Carla Raines: **Unfounded**
4. Florene Mathis: **Unfounded**
5. Rosetta Grate: Conviction
6. Regina Copeland: Conviction
7. Sherry Ellis: Conviction
8. Terri Morris: **Unfounded**
9. Syrita Bowen: Conviction
10. Carla Johnson: Conviction
11. Adaira Gardner: Conviction
12. Kala Lyles: **Unfounded**
13. Jannie Ligons: Conviction

While not a consideration in this analysis, the jury’s decision bears mentioning because an argument could be made that these unfounded cases should be excluded at the outset. However, given the utter failure of the investigative and forensic pillars in this case, that will not be necessary and this list is simply provided for context.

Scientific reliability has a clear chain of custody requirement to establish the providence and integrity of data, which includes physical and then related behavioral evidence. In other words, evidence must be well documented and adequately corroborated in order to serve as the basis for scientific conclusions. This is accomplished by attendance to protocols related to the investigative and forensic pillars. However, few if any of the efforts by investigators led to gathering information from accusers that could be verified. This same negligence exists in every other aspect of this investigation, to the point where the pillars have utterly collapsed. This means that the investigative and forensic efforts in this case are not of sufficient quality to use as the basis for scientific or forensic conclusions.

However, the examiners will entertain such a limited examination based solely on the inconsistent and unreliable statements of the accusers, and the absence of specific behavioral evidence, because the results are revealing.

## **B. Modus Operandi Analysis**

Modus operandi analysis requires the use of confirmed and corroborated offense related behavior. There is no such behavior in this case. There exist only an inconsistent series of curated allegations, internally inconsistent with un-investigated reflags, no supporting physical evidence, acquired from a vulnerable population in a context of coercion.

As described in prior sections of this report, the described modus operandi behavior in this case relates almost exclusively to a proposed victim selection pattern (black females who are also prostitutes and / or drug addicts), and the use of a law enforcement patrol vehicle while under color of authority. This modus operandi was curated by law enforcement investigators based on their search criteria, and the parameters of Daniel Holtzclaw's patrol duties. Of greater concern, it does not address all of the elements of a modus operandi.

For example, there is no evidence of precautionary acts. In other words, there is no evidence that Daniel Holtzclaw tampered with evidence, records, and reports in order to conceal his activities. Given that he is a law enforcement officer with full knowledge of the capabilities of his department and its respective investigators, one would expect to find the covering of tracks. There is no evidence of any such effort.

Additionally, the modus operandi suggested by law enforcement would tend to suggest that Daniel Holtzclaw had unprotected penile-vaginal sex with six different women, five of whom were known prostitutes or drug addicts. Again, given that he is a law enforcement officer, with full knowledge of the range of sexually transmitted infections that he could encounter within such a vulnerable population, this seems a high and unnecessary risk. Made even more-so by the fact that that he was in a committed relationship, and any sexually transmitted infection that he acquired outside of that relationship would raise immediate suspicion and unwanted attention<sup>12</sup>.

## **C. Signature Analysis**

As described in prior sections of this report, *Signature behaviors* are individual acts committed by an offender that are not necessary to commit the crime, but that suggest the psychological or emotional needs of that offender (Turvey, 2011).

*Victim Selection:* Most of the accusers are between 29-57. This is not the same age range, and some appear dramatically because of conditions associated with their vulnerable status. So even within the cohort there is a range of difference in the way that accusers appear. Accusers Shardayreon Hill (22 YO BF) and Adaira Gardner (19 YO BF) fall even further outside that contrived group, appearing much younger than any of the other accusers. These age differences, and clear differences in appearance, would represent significant dissimilarity in victim selection.

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<sup>12</sup> Daniel Holtzclaw was tested for STIs after the allegations were made, and then again when he was in prison. He tested negative for STIs on both occasions: 8-12-2014 and 2-4-2016.

*Trophies:* A signature behavior that would be expected in a series of crimes such as this includes the taking of trophies, such as photos or videos of the victims. No such trophies were found. And there is no evidence that such evidence existed and was destroyed or deleted.

*Compulsions:* A signature behavior that would be expected in a series of crimes that involves a controlling law enforcement officer intent or stalking and harassing his victims would evidence of extensive victim surveillance across multiple victims. Not just one. These are compulsive behaviors that are by their nature both obsessive and uncontrollable. There is no such evidence of ongoing stalking or harassment in this case - of any of the victims.

*Anger / Punishment:* A signature behavior that would be expected in a series of crimes that involves a controlling law enforcement officer intent or stalking and harassing his victims would be a sexual assault characterized by the need for punishment and/or rage. There is no such anger or aggression evident in the sexual assault related behavior described by the accusers in this case (e.g. brutal levels of force and extensive victim injury). The behavior described is more power-assertive with respect to its behavioral motivation.

*Preferred Sex Acts:* The signature behavior pattern related to the sexual assaults indicates no progression or development over time. Rather, it evidences three different types of sexual preference, confidence, and risk, occurring across different timeframes. The is evidenced by the following preferential groups:

1. *Zero sexual penetration:* This group includes Tabitha Barnes, Carla Raines, Florence Mathis, and Carla Johnson (note: Raines and Mathis were unfounded). These are low risk offenses requiring limited time to accomplish with easy deniability should the offender be encountered and/or observed by any witnesses.
2. *Oral penetration:* This group includes Terri Morris and Jannie Ligons (note: The Morris allegations resulted in an acquittal). This is also a low risk offense group, requiring only a short amount of time to accomplish, with possible deniability should the offender be encountered and/or observed by any witnesses. It is also easy to rapidly conceal.
3. *Vaginal penetration:* This group includes Regina Copeland and Adair Gardner. This is a high risk offense group, requiring some amount of time to accomplish, with limited deniability should the offender be encountered and/or observed by any witnesses. It is also not easy to rapidly conceal. It would indicate a confident offender with control of their environment and victim, and little concern about time or witnesses.



4. *Oral and Vaginal penetration*: This group includes Shardayreon Hill, Rosetta Grate, Sherry Ellis, Syrita Bowen, and Kala Lyles (note: The Hill and Lyles allegations resulted in an acquittal). This is the highest risk offense group, requiring a great deal of time to accomplish, with limited deniability should the offender be encountered and/or observed by any witnesses. It is also difficult to rapidly conceal. It would indicate a confident offender with almost total control of their environment and victim, and no concern about time or witnesses.

At minimum, this clustering of signature behaviors tends to suggest the possibility of two different offenders — one that has little time, limited confidence, limited control, and seeks deniability; and another that is precisely the opposite.

Additionally, the reported progression of offenses over time indicates the following arc with respect to sexual behavior:

1. Oral & Vaginal penetration w/ Penis; Forcible Touching / bare breasts (Hill)
2. Procured Exposure / bare breasts (Barnes)
3. Forcible Touching / bare breasts; Procured Exposure / genitals (Barnes)
4. Procured Exposure (Raines)
5. Forcible touching / bare breasts (Mathis)
6. Oral & Vaginal penetration w/ Penis (Grate)
7. Vaginal penetration w/ penis (Copeland)
8. Oral & Vaginal penetration w/ penis; Forcible Touching / bare breasts (Ellis)
9. Oral penetration w/ penis; Forcible Touching / bare breasts, genitals (Morris)
10. Vaginal penetration w/ Penis (Copeland)
11. Forcible touching / bare breasts, vagina (Johnson)
12. Vaginal penetration w/ penis, finger;  
Forcible Touching / bare breasts, vagina (Gardner)
13. Oral & Vaginal penetration w/ penis; Forcible Touching / bare breasts (Lyles)
14. Oral penetration w/ penis; Procured Exposure / bare breasts (Ligons)

This reported arc, which requires a progress of modus operandi and signature behavior, does not demonstrate an evolution from the least confident and skillful group of related behaviors to the most confident and skillful, as would be expected in an offender unaffected by emotional distress, addiction, or mental illness. Instead, this arc of offense related behavior does not evolve at all. It begins with the most confident, complex and risky group of related behaviors, and then goes back forth between preferential groupings without suggesting a specific pattern or progression.

Given the totality of findings in this section, presenting this series of allegations as being representative of a distinct pattern of consistent behavior is misguided at best. In other words, there is no investigative or forensic support for such a conclusion. The behavioral evidence cannot be used to suggest such a linkage in this case.

### VIII. CONCLUSION

The facts and circumstances evident in this case demonstrate an absence of reliable physical evidence upon which to form reliable investigative and forensic conclusions. Under these circumstances, and in the absence of reliable evidence, it is not possible to accurately reconstruct events on the evenings of the alleged assaults, let alone offer a reliable modus operandi, signature, or case linkage analysis — given the collapse of the investigative and forensic pillars required to support such findings.

Should new evidence become available, this examiner would necessarily reconsider any of the related findings in this report.



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HOLTZCLAW / PATTERN OF ACCUSATIONS

PLAINTIFF	RACE / AGE	PROSTITUTION / DRUG ADDICTION	ACQUITTAL / CONVICTION	DATE OF INCIDENT	RELATED TO TRAFFIC STOP	LOCATION OF INCIDENT	DIRECT THREATS OF DETOX OR JAIL	DRUG USE / INTOXICATION Incident	ORAL PENETRATION	VAGINAL PENETRATION	ANAL PENETRATION	FORCIBLE TOUCHING	PROCURED EXPOSURE	PROCURED TOUCHING	DISPOSITION
Shardayreon Hill	22 / BF	DRUG ADDICTION	Acquitted / Unfounded	Dec. 20, 2013; Jan. 9, 2014	Yes - Hill & friend pulled over in vehicle with friend Pos. drugs / PCP.	SW Medical Ctr.	No - she was at the hospital, and was eventually sentenced to jail for her crimes.	Yes - Ingested PCP to hide it; Taken to Hospital	Yes - Penis	Yes - Digital	No	Hand to bare Breast while cuffed to hospital bed	No	Hand to Pants / Crotch	Holtzclaw - 6 counts / not guilty Hill - pleaded guilty to possession w/ intent
Tabitha Barnes	41 / BF	DRUG ADDICTION; MENTAL ILLNESS; PSYCHOTROPIC MEDICATION; PAINKILLERS	Convicted	Feb. 27, 2014	Yes - in front of her house w/ friend	Driveway / Patrol Car	NO	NO	NO	NO	NO	Lifted victims naked breasts as part of search for drugs.	Yes - She lifted her shirt and exposed her breasts without prompting.	NO	Holtzclaw - 1 count / guilty; Barnes - tried to leave courthouse but was arrested
				Mar. 25, 2014	No - Outside of her home Man passed out on her yard	Home / Front Porch	NO	NO	NO	NO	NO	Touched bare breasts	Yes - Instructed her to show her breasts and genitals.	NO	"
				Mar. 26, 2014	No - knocked on her door, she did not let him in	Home / Front Porch	Yes	NO	NO	NO	NO	NO	No	NO	"
Carla Raines	44 / BF	SUSPECTED PROSTITUTION	Acquitted / Unfounded	Mar. 14, 2014	Yes - stopped her while walking alone	Patrol Car / 16th St.	NO	NO	NO	NO	NO	NO	She lifted her shirt and exposed her breasts without prompting.	NO	Holtzclaw - 1 count / not guilty
Florene Mathis (not a plaintiff)	53 / BF	DRUG ADDICTION; ALCOHOLISM	Acquitted / Unfounded	April 14, 2014	Yes - stopped her while walking alone	Sidewalk / NE Jordan St.	NO	Yes - smoking crack cocaine and intoxicated; admitted alcoholic	NO	NO	NO	Yes - Hand to Breast outside of clothing while uncuffing	NO	NO	Holtzclaw - 1 count / not guilty
Rosetta Grate	37 / BF	PROSTITUTION; DRUG ADDICTION	Convicted	April 24, 2014	Yes - stopped her for prostitution and drug use; drive her home	Home / 633 Culbertson	Yes	Yes - smoking crack cocaine	Yes - Penis	Yes - Penis	NO	NO	NO	NO	Holtzclaw - 1 count / guilty; Grate - In jail
Regina Copeland	54 / BF	DRUG ADDICTION; ALCOHOLISM	Convicted	April 25, 2014	Yes - pulled her over then had her drive to a second location.	Patrol Car / 2425 NE 24th St.	??	Yes - crack cocaine; admitted alcoholic, drinking	NO	Yes - Penis	NO	NO	NO	NO	Holtzclaw - 1 count / guilty; Copeland - In jail
Sherry Ellis	39 / BF	PROSTITUTION	Convicted	May 7, 2015	Yes - stopped her while walking alone	Patrol Car / Highland St. & then NE 18 & Mirimar (Creston Hills Elementary)	Yes	Yes - Antidepressant and anti-psychotic	Yes - Penis	Yes - Penis	NO	Yes - Hand to Breast outside of clothing	NO	NO	Holtzclaw - 4 counts / guilty; Ellis - In jail
Terri Morris	43 / BF	PROSTITUTION	Acquitted / Unfounded	May 8, 2014	Yes - stopped her while walking alone	Patrol Car / Inconsistent	Yes	Yes - crack cocaine; admits drugs addiction	Yes - Penis	NO	NO	NO	Yes - Breasts and genitals	NO	Holtzclaw - 3 counts / not guilty
Syrta Bowen	48 / BF	DRUG ADDICTION	Convicted	May 21, 2014	Yes - stopped her while walking alone	Patrol Car / 13th & Highland	Yes	Yes - Alcohol	Yes - Penis	Yes - Penis	NO	NO	NO	NO	Holtzclaw - 2 counts / guilty



