

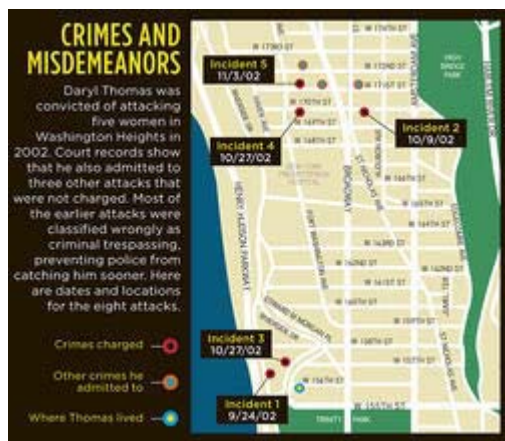
NYPD Tapes 3: A Detective Comes Forward About Downgraded Sexual Assaults

When even attempted rapes are being downgraded to misdemeanors, is the public safe?

By Graham Rayman

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Photo illustration by Chad Griffith



Details:

As a result of *The Village Voice* [releasing audiotapes](#) that capture NYPD superior officers encouraging street cops to manipulate crime statistics by downgrading crimes and intimidating crime victims, numerous current and former police officers have come forward to tell their own tales of questionable NYPD practices. (See "[The NYPD Tapes: Inside Bed-Stuy's 81st Precinct](#)" from May 5, 2010 and "[The NYPD Tapes, Part 2](#)" from May 12, 2010.)

But none is more alarming than the story being made public by retired NYPD Detective First Grade Harold Hernandez.

Responding to the ongoing *Voice* series "NYPD Tapes," Hernandez reveals publicly for the first time that the downgrading of crimes to manipulate statistics allowed a man to commit six sexual assaults in a Washington Heights neighborhood in 2002 before he was finally caught after his seventh attack.

The initial six crimes, committed over a two-month period, went unnoticed by 33rd Precinct detectives, Hernandez says, because patrol supervisors had improperly labeled most of them as misdemeanors. It was only through a lucky break—an alert neighbor spotted the suspect pushing his seventh victim into her apartment—that the rapist, Daryl Thomas, was finally captured.

After his arrest, Hernandez persuaded Thomas to detail his earlier crimes. The detective then combed through stacks of crime complaint reports to identify the pattern of violence.

Hernandez learned that most of the victims' complaints in the prior assaults had been classified as criminal trespassing, so the incidents never reached the detective squad and, in turn, were never declared a pattern, which would have triggered an intense campaign to capture the perpetrator.

NYPD Tapes: The Series[The NYPD Tapes Part 1: Inside Bed-Stuy's 81st Precinct](#)[The NYPD Tapes, Part 2](#)

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He says Thomas told him that with each new assault, his brazenness and level of violence increased: "I asked him, 'Weren't you ever afraid that you would get caught in any of these locations?' He goes 'Nah. I looked around, I never saw any cops,' " Hernandez says. "What they do is continue to hide these complaint reports, and what happens is no one is alerted that they have a serious crime pattern in those areas."

A Manhattan jury convicted Thomas in five cases on first-degree attempted rape, robbery, burglary, and sexual assault charges. He is currently serving a 50-year sentence in a state prison in Romulus, New York.

No police official was ever disciplined for misclassifying the complaints. Not only did Police Commissioner Ray Kelly allow the precinct commander, then Captain Jason Wilcox, to stay on, but he promoted him twice: Wilcox is now an Inspector and the commanding officer of the Manhattan Transit Bureau.

The Thomas case is a troubling example of the effect of downgrading crime complaints, which the *Voice* has exposed in its series, based on recordings made inside Brooklyn's 81st Precinct.

One of Thomas's victims, Jennifer Krupa, was stunned when the *Voice* told her what happened to the earlier complaints. She was attacked toward the end of the two-month period. "If there was a chance they could have caught him earlier, that is absolutely infuriating," says Krupa, a musician who now lives out of state and willingly allowed her name to be used.

Thomas's attack on her resulted in a brutal battle. Shortly after 2 a.m., he accosted her as she was entering her apartment. He grabbed her and put a knife to her throat. She screamed and struggled, and they both fell. He snatched her purse and ran, but she chased him down and grabbed the purse. He punched her in the face, but she held on to her purse, and he fled. Krupa wound up with a bruised face and a small cut on her throat.

She knew it could have been worse: "He was trying to get me into my apartment," she says. "This turned my life upside down for more than a year. I had panic attacks. I didn't sleep. There were days I couldn't leave my apartment."

Over time, the trauma faded, but she says, "Anytime I'm in a corner or in an elevator, I'm very aware of what's going on around me."

In addition to the Thomas case, the *Voice* series has documented a policy of refusing to take robbery complaints from some victims, and includes references to a dozen instances of crime complaint manipulation in the 81st Precinct. Subsequent [Web reports have contained evidence](#) of additional manipulations. Other *Voice* Web reports [document an attempted rape of the journalist Debbie Nathan](#) that was [downgraded to forcible touching](#) in the 34th Precinct, and an [attempted armed robbery report](#) that disappeared in the 94th Precinct. The *Voice* asked the Police Department for comment on the handling of the Thomas case, but did not receive a response. The *Voice* has also asked for comment on the other issues raised in the NYPD Tapes series, but none has been forthcoming from police headquarters or the Mayor's office.

At 4 a.m., on November 3, 2002, a woman heard a commotion in the hallway of her Washington Heights building and looked through her peephole. She spotted a man, later identified

as Daryl Thomas, 32, pushing a victim into her apartment. She called the police.

Patrol officers Luke Sullivan and Patrick Tanner burst into the apartment, and found Thomas hiding in a closet—he had a knife in his pocket, and the victim had handcuffs on her wrists. His backpack contained two pairs of women's panties and a length of rope.

Thomas was brought to an interview room at the precinct. A few hours later, Hernandez arrived to debrief him.

The man sitting across from Hernandez didn't fit the stereotype of a sex offender. Thomas helped manage a computer system at a Manhattan law firm. He had a wife and a daughter, and they all lived in the same neighborhood where the attack had taken place.

The detective gave Thomas breakfast and drew him into conversation. Thomas waived his right to remain silent, and never asked for a lawyer, records show.

"He starts telling me the story of one particular victim," Hernandez says. "I say, 'Listen, you've done this in the past, haven't you?' He says, 'Yeah.' 'How many times?' He goes, 'I don't know, seven or eight times.' "

The detective then asked Thomas for the general area where the attacks took place: "He says, 'Pretty much in this area, along the Fort Washington section of Washington Heights.' "

Hernandez was now puzzled. Why hadn't the 33rd Precinct Detective Squad heard anything about this pattern of violence? Surely the victims had filed reports about the previous incidents. But he could find no record.

He was aware of a sexual assault and robbery that had occurred on September 23, because he had done the interview himself. That case had been properly classified as a robbery and attempted rape, and it had been sent to the Manhattan Special Victims Unit for further investigation. But where were the others?

"I'm thinking, if there have been other cases, maybe Special Victims forgot to notify the precinct that they have a pattern," Hernandez says. "There should be a pattern sheet. But no. Sex Crimes says there's only the one case."

What should have happened is that all six of the earlier cases—not just the one Hernandez investigated—should have been classified as serious crimes and a pattern declared. When that happens, patrol, plainclothes anti-crime units, Sex Crimes, and the Robbery units would all be on alert for a man fitting the description of the attacker.

"It made no sense that there was no pattern," Hernandez says. "Then it dawned on me. They [precinct supervisors] are fudging numbers, misclassifying cases. So I start looking."

Thomas provided the detective with general dates and times and locations. Hernandez and a fellow detective, Barry Felder, drove him through the neighborhood and had him point out the crime scenes, records show: 647 West 172nd Street. 779 Riverside Drive. 156-08 Riverside Drive. 560 West 170th Street. 620 West 171st Street. Two others.

Hernandez then returned to the precinct, paged through all of the complaint reports, and hit pay dirt. Precinct patrol supervisors, he says, had classified the prior incidents as criminal trespassing, a

misdemeanor, except in one case, criminal possession of a weapon.

"They used every non-felony you could think of," he says. "If you read the narrative, the minimum they should have been classified as was burglary 1. The minute he grabs you in the hallway, armed, that makes it a burglary in the first degree."

To a dedicated investigator like Hernandez, that was shocking enough. That meant that for nearly two months, a serial robber-rapist was attacking women in Washington Heights, but the police didn't have the information that would have helped catch him.

"If you read the narrative, they are describing some kind of sexual assault or attempt," Hernandez says. "He came up behind them, grabbed them, placed the knife to the neck, or displayed it. He would demand money or their cell phones. If they didn't put up resistance, he was either going to fondle them or commit some other kind of sex crime to them."

Thomas lived in the neighborhood, which made it even more likely that he would have been caught had a pattern been announced.

"None of us were aware of it until he showed us the locations, and I was able to piece it together," Hernandez says. But supervisors had made sure that the early reports were shaded to keep them from being filed as serious, felonious crimes. "They look to eliminate certain elements in the narrative. One word or two words can make the charge into a misdemeanor."

Thomas estimated that his crime spree started in late August, a little over two months before he was arrested. He targeted white or Asian woman because he believed they were less likely to fight back. Some of the victims were on their way home from the subway station late at night. He would accost them at the door of their building, show a knife from behind, grab them, and try to force his way into the building. If they screamed or showed resistance, he fled.

One victim was a light-skinned Hispanic woman who worked as a waitress in a pub frequented by cops. Another was a German tourist on an extended stay in the city. A third was a Japanese woman. A fourth was a musician.

After Thomas was caught, the District Attorney charged the same cases that had originally been classified as misdemeanor trespass as first-degree robbery, burglary, sexual assault, and attempted rape.

Hernandez found out sometime later that a detective sergeant in the squad had noticed the similarity of the incidents, but when he brought it to the attention of the squad commander and the precinct commander, he was rebuffed.

"He told them, 'You have a predator out there,' and they said, 'Keep your mouth shut,' " Hernandez says. "He told them, 'You keep on believing that, it's going to blow up in your face. And it would get ugly if people found out about it.' They didn't listen."

The detective lays the responsibility for the downgrading at the feet of the precinct commander, then Captain Jason Wilcox, and his crime analysis sergeant.

In the wake of Thomas's arrest, Wilcox was concerned that he would be disciplined for the handling of those complaints.

"He was able to dance his way out of the situation," Hernandez says. "The upper echelon praised my work. Everybody overlooked the fact that they allowed this predator to remain on the loose."

Prosecutors from the Manhattan District Attorney's Office were very upset about the mishandling of those earlier incidents, and complained to their supervisor. The Assistant D.A. who handled the case, Nicole Blumberg, did not return *Voice* phone calls, and Thomas's defense attorney, Christopher Renfroe, declined comment.

"Once this thing blew up, the job made sure the press did not find out about this case," Hernandez says. "It was very high-profile within the department because they thought the women were going to run to the press."

No one was ever disciplined for misclassifying the attacks, he says. The case never made the newspapers or the electronic media.

Wilcox was promoted twice. A captain at the 33rd Precinct in 2002, he is now an Inspector in charge of the Manhattan Transit Bureau, which deals with subway crime in the borough. He has not responded to a request for comment.

A Manhattan grand jury indicted Thomas in five of the incidents, charging him with multiple counts of first-degree attempted rape, robbery, sexual abuse, and burglary. Despite the evidence against him, Thomas rejected plea deals of 20 years and 30 years and went to trial in November 2003. He testified that he had been in some kind of dream state during his crime spree, but the jury didn't buy it and convicted him of all 18 counts in the indictment.

In February 2004, he was sentenced to 50 years in prison. The earliest date he can be released is 2045. He will be 75 years old.

"Anybody who continues to allow this stuff to go on is pathetic," Hernandez says of the NYPD, which has become more concerned with crime statistics than actually solving crime itself. "They've lost sight of what they were supposed to be doing out there. They've lost sight of their oath."

Since the "NYPD Tapes" series began on May 5, the *Voice* has heard from more than a dozen current and retired police officers of various ranks who offered their own stories and expressed concern about the downgrading of complaints, the quota system, and how the statistical demand for stop-and-frisks was leading to potential civil rights violations.

So far, neither Mayor Michael Bloomberg nor Police Commissioner Ray Kelly has responded to *Voice* queries about these issues.

Retired Sergeant Sean McCafferty says that each precinct has a so-called crime analysis unit, and that is where the manipulation of complaints takes place. "They get the reports before the detective squad, and they would call the complainant and question them about their complaint," he says.

McCafferty says that the crime analysis unit doesn't work weekends, so if a complaint comes in late on a Friday, the detective squad won't see it until the following Monday. "That would stop the investigation for two days," he says. "CompStat has helped the department, but some people use it as a weapon. The commanding officers—their future depends on it."

Retired police officer Bobby Marin, who left the NYPD in 1985, says that the orders that precinct commanders gave to officers in the campaign to "clear corners" [highlighted in Part 2 of the *Voice*

series] sounded like civil rights violations: "Those tapes should be brought to the federal prosecutors," he says.

Marin added that the obsession with numbers has altered the police officer's job. "The main thing is handling the jobs—that's what makes you a good police officer," he says. "All they see is business, quotas, numbers, money."

An officer currently in a Manhattan precinct told the *Voice*: "Over the past two years, the cop writing a report is now cross-examining the victim. This insane CompStat pressure has turned a police officer who shouldn't care about what the complaint is into a defense attorney. I'm all about letting the paperwork reflect the reality. Let's just get it done and go on to the next job."

Professors John Eterno of Molloy College and Eli Silverman of John Jay College have released a new study based on a survey of hundreds of retired NYPD supervisors, which offers yet more evidence of the practice of downgrading criminal complaints. The study, to be published in the *International Journal of Police Science and Management*, found that pressure to downgrade crime complaints grew as a result of the CompStat model, which holds precinct commanders accountable for crime in their areas. The CompStat model has four major elements: timely and accurate intelligence (crime statistics), effective tactics, swift deployment of cops to troubled areas, and relentless follow-up. The model has been adopted throughout the United States, as well as in England and Australia.

Of the supervisors who saw a crime complaint altered, half of them thought it was unethical. (Technically, altering a crime complaint is itself a crime, known as falsifying business records.) Supervisors spoke of precinct commanders going to crime scenes to get the victim to change his story, the survey found.

"As crime goes down, the pressure to maintain [it] got great," one retired supervisor told the professors. "It was a numbers game."

The professors conclude: "Based on our findings, crime statistics in CompStat-like jurisdictions, at a minimum, warrant careful scrutiny."

For his part, Hernandez, 43, now retired and living outside of New York, says he loved the job and would have stayed in the NYPD for 30 years or more, but the constant struggle over classifying crime complaints, like the Thomas case, convinced him to retire in 2007 after 20 years.

'I gained the most coveted position in the detective bureau, but I couldn't deal with it anymore," he says. "It was battling on a daily basis. You are providing a disservice to New Yorkers when you do this stuff. I used to think, 'What if it happened to a family member or a friend?' " But changing things, he says, is too difficult for any one officer. "God forbid that someone could have stopped this, but was worried about careers and numbers and percentages."

Hernandez made more than 400 arrests in his distinguished 20-year career. In 2006, he was promoted to Detective First Grade, a highly coveted and honored position in the NYPD. (At any time, there are fewer than 150 detectives first grade in a department of more than 30,000 officers.) He earned 19 Excellent Police Duty medals, four Meritorious Police Duty awards, and three commendations.

In Hernandez's view, the CompStat model made great strides in policing New York City, but at some point along the way, particularly during the long tenure of Police Commissioner Ray Kelly,

the system became distorted into more of a contest for the right statistics—a drop in major crime complaints with a corresponding rise in quotas for summonses, arrests, and stop-and-frisks: "As time passed, there came a time for upper-management officers to attain higher rank, and they began to demand higher quotas to beat the next guy's decrease in crime," he says. "They began to make their demands known and force officers to make these quotas with the promises of choice assignments or better working conditions."

The Thomas case, Hernandez says, was just one of many questionable things he observed during his career.

He says he had a robbery case that someone downgraded to petit larceny and his signature was forged to make it appear that he himself had downgraded the crime. The forgery was discovered after a paralegal from the Manhattan D.A.'s Office obtained the case file from Police Headquarters in preparation for the trial.

In the file, there is a detective's memo, which re-classifies the robbery to a petit larceny. At the bottom of the document was a signature purporting to be Hernandez's: "It was a robbery, but when it goes downtown, it shows up as a petit larceny," he says. "The D.A. is pissed at me. She asks me, 'Are you perjuring yourself?' "

Hernandez examined the report, and was able to prove that it was not his signature by showing his true signature on other reports he had filed: "I'm saying, 'What are you talking about? This isn't my handwriting. Look at all my reports,' " he says. "Somebody forged my name. That's a crime. She agreed with me, and she was livid. And I was livid because my integrity had been questioned."

The sergeants and lieutenants in patrol now have so much influence on what is written in a criminal complaint that the detective squad may never find out about a major felony that has been misclassified. And it won't count in the seven major crimes, which are the only crime complaint numbers made publicly available. "If you classify a robbery as a petit larceny and mark it closed, it won't be assigned to the squad, and I'll never see it," Hernandez says.

It got to the point, he says, that he would enter the complaints himself into the computer system. But that still didn't solve the problem because precinct supervisors would go back into the system and alter the reports. "Or they would come to me and tell me to change it, and I would refuse because that's not a lawful order," he says. "If that didn't work, they would complain to the squad lieutenant and try to manipulate him."

Hernandez also recalls seeing grand larcenies classified as something called "theft by deception," which isn't even an actual charge in the penal code.

Every precinct has a crime analysis unit, which is yet another layer in the crime reporting process. In the old system, the complaint went from the cop to the desk sergeant to the clerks to the squad. Now, the crime analysis sergeant intervenes and has to sign off on it before it goes to the squad.

Hernandez says the crime analysis sergeant's job was to look for ways to downgrade as many complaints on the seven major crimes as possible. It happened in the so-called "124 room," a locked room in every precinct that contains the complaint files.

Sometimes, he says, crime analysis would hold a complaint until the following week so it wouldn't count against that week's statistics. "Sometimes you would get a robbery or a burglary or one of the seven majors a week later because they do their stats on a weekly basis," he says. "If one week was

too high, they would hold onto it and push it to the next week. The thing is, they are supposed to be assigned on a daily basis. That's a week of a case sitting dead, no one running down leads."

Patrol bosses would call the victim and try to get her to change her complaint: "If that didn't work, they would send it to the squad, and by then, it could be a week old," he says.

Countless times, he says, he received calls from victims about lost reports: "The victim says, 'I've been calling for a week,' and I have to say, 'I understand you're upset.' "

The NYPD has long said that manipulation of crime complaints occurs very rarely. But Hernandez and other detectives who spoke with the *Voice* disagree. "This is going on in all 75 precincts," he says. "Unfortunately, this is the culture for the young cop coming into the department. He doesn't see the bigger picture. If it's going to allow him to have a day off, and they won't ride him or harass him, he'll go along with it. And New Yorkers are being victimized, and no one responds to their complaints."

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Next week, "NYPD Tapes" continues with the story of Adrian Schoolcraft, the police officer who secretly recorded roll calls at the 81st Precinct in Bed-Stuy, and who was put in a mental ward after bringing up his concerns about downgrading crime reports to superior officers.

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