Operation Kendall
Investigation into the forensic activity undertaken by Devon and Cornwall Constabulary in relation to a DNA sample obtained as part of a rape investigation which occurred in 1989.
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Introduction

1. On 22 September 1989 a 16-year-old female was raped in Plymouth city centre. Despite extensive enquiries at the time the offender was not identified; however a DNA profile was obtained from the victim’s clothing and was stored within the National Archives of the Forensic Science Service (FSS).

2. On 28 November 2000 a male, Shaun Harrison, was arrested and charged with drink driving. As a consequence of his arrest Mr Harrison’s DNA was loaded onto the National DNA Database (NDNAD). No DNA matches were obtained at this time.

3. Following a new line of enquiry, pursued in August 2010 by Devon and Cornwall Constabulary, the FSS identified that the crime stain obtained from the 1989 rape had not been loaded onto the NDNAD, following its inception in 1995. It became apparent that the crime stain had therefore not been subject to any DNA forensic advancements.

4. Once the DNA sample was entered onto the NDNAD a DNA match was identified with the DNA of Mr Harrison. On 11 January 2011 Mr Harrison was charged with the 1989 rape. He was also charged with further sexual offences on other victims, which had occurred between 1998 and 2010. He was remanded in custody and stood trial in March 2012. He pleaded guilty and was sentenced to eight years in custody for the 1989 rape and a further four years for a rape he committed in 1994.

5. The matter was referred to the IPCC on 10 June 2011 and a determination was made that it should be independently investigated.

Terms of Reference

6. To conduct:

   a) an independent review of the procedures undertaken by Devon and Cornwall Constabulary in respect of a DNA sample, reference EC/89/1924, obtained as part of an extensive investigation into the rape in
1989; more specifically to review any contact between the Forensic Science Service and Devon and Cornwall Constabulary between the dates of 1995, when the National DNA database was introduced, and 2011 when this case was referred to the IPCC.

b) In addition, to review the Devon and Cornwall Constabulary policy and procedures in respect of its cold case review process between the time when lines of investigation in the original rape investigation were exhausted and 2011

c) This investigation will also explore the possibility whether there are systematic failings in relation to the upgrading and regular review of historical SLP DNA samples between the Forensic Science Service and other investigations within Devon and Cornwall Constabulary, and also other police forces within England and Wales.

7. To assist in fulfilling the state’s investigative obligation arising under the European Convention of Human Rights (ECHR) by ensuring as far as possible that:

   a) the investigation is independent on a practical as well as an institutional level;

   b) the full facts are brought to light and any lessons are learned.

8. To identify whether any subject of the investigation may have committed a criminal offence and if appropriate make early contact with the relevant prosecuting body.

9. To identify whether any subject of the investigation may have breached their standards of professional behaviour. If such a breach may have occurred, to determine whether that breach amounts to misconduct or gross misconduct and whether there is a case to answer.

Subject of the investigation

10. No complaints were received from any of the alleged victims, and the victims were therefore treated as interested parties for the purposes of the investigation.
11. A memorandum of understanding was established between the IPCC and Devon and Cornwall Constabulary with regard to the ongoing criminal investigation against Mr Harrison, which took primacy due to the gravity of the charges contemplated against him. The name given to this criminal investigation by Devon and Cornwall Constabulary was Operation Kendall.

12. Under the Police (Complaints and Misconduct) Amendments Regulations 2008, police officers are to be served with a Regulation 14A Notice by the IPCC in instances where it is believed that an officer’s actions may have breached the standards of professional behaviour and, that the breach is sufficiently serious that misconduct proceedings may be brought and the individual actions of the officer will be investigated.

13. Following careful consideration of all the available evidence, no Regulation 14A notices have been served on any persons in connection with this investigation. As such all police officers have been deemed as witnesses. This policy decision was revisited and reviewed throughout the course of the IPCC investigation.

Additional cases identified following the identification of Operation Kendall

14. Following the identification of events surrounding the DNA sample from Operation Kendall, a complete review was conducted by Devon and Cornwall Constabulary in conjunction with the FSS, into other undetected historic serious sexual offences with retained forensic material. This resulted in the upgrading of forensic material linked to three separate serious sexual offence cases which occurred in 1989, 1990 and 1993 respectively. Positive matches were obtained from the NDNAD on all three cases which resulted in investigations being commenced and led by Major Incident Teams based in Devon and Cornwall Constabulary. The force immediately notified the IPCC about the additional cases and they were formally referred.

15. These additional cases were added to the originating IPCC independent investigation (Operation Kendall) as per the terms of reference, rather than commencing separate independent investigations for each of the
cases. It was agreed with the then investigation Commissioner Rebecca Marsh that the findings and learning identified within this final report would be applicable to the three additional cases.

16. It was also decided that the alleged victims of the identified additional cases would be provided with regular updates regarding the progress of the IPCC investigation and also a summary of the IPCC independent investigation final report. At the time of writing this report no complaints had been received by the force or the IPCC from any of the alleged victims. Each of the cases was reviewed in order to identify any potential failings or omission which differed from those identified in Operation Kendall.

**Operation Blaxton**

17. This case related to the violent assault and rape of a 27-year-old female in Plymouth in 1990. In 2011, following the identification and upgrade of the retained forensic material a match was reported on the NDNAD. Alexander Shepherd was arrested and charged in December 2011. Shepherd was sentenced to six years and four months imprisonment.

**Operation Keats**

18. The second case related to an indecent assault on an 11-year-old female in Penzance in 1993. Following some cold case review work a request was made in 1998 by the force to the FSS to upgrade the forensic evidence relating to this case; however this upgrade was not completed at the time.

19. Enquiries by the IPCC have failed to establish the reason why this forensic sample was not upgraded by the FSS. The FSS was responsible for processing the samples sent to them by each force and it appears that there may have been an oversight by the FSS in relation to this particular sample, thereby resulting in its omission from the NDNAD.

20. However it is accepted that the force would only have expected to hear back from the FSS if a match had been established on the NDNAD. If no match was made then the force would not be notified. Unfortunately since the request by the force does not appear to have been processed by the
FSS it is therefore not unreasonable to accept that the force did not follow this line of enquiry up at the time.

21. Following the identification of this omission in 2011, Devon and Cornwall Constabulary sought to upgrade the sample without delay. The forensic evidence was retrieved and upgraded onto the NDNAD. A match was reported and William Pope was arrested in connection with the attack. He made a confession to the offence during the police interview and was found guilty at Truro Crown Court on 3 February 2012. He received a custodial sentence of six years.

Operation Crane

22. The final case related to the rape of a 15-year-old girl in St Mawes in 1989. However, this case did not proceed further.

**Chronology of DNA forensic advancements**

23. DNA profiling in forensic work first became available in 1987. From that point onwards the advances in scientific technology have created the opportunity to revisit historic cases, which together with the introduction of the National DNA Database, have facilitated the detection and prosecution of many offenders in both current and historic unsolved cases. A DNA sample may be taken from a person arrested for, charged with or convicted of a recordable offence.

24. Single Locus Profiling (SLP) was the main DNA profiling technique in use between 1989 and 1996. The technique was highly discriminating; although a relatively large amount of starting evidential material was required to obtain a profile. This technology allowed certain DNA profiles to be collated onto a basic discrete SLP database which preceded the more complex NDNAD.

25. Second Generation Multiplex (SGM) profiling was introduced in 1995. This technique was also capable of high discrimination and it could achieve results of up to 1 in 50 million. Consequently results could be put onto a national database which resulted in the founding of the computerised NDNAD in 1995.
26. At present the National Policing Improvement Agency (NPIA) is the custodian of the NDNAD. Previous to this it was the FSS until 2005. The custodian is responsible for the integrity of the records held on the NDNAD and for notifying police forces of any matches generated.

27. Police forces are not notified when a check has been made and no match has been found. If for whatever reason a profile has failed to load to the NDNAD the Custodian will inform the laboratory and the police force so that corrective action can be taken.

28. All material submitted by police forces to forensic science organisations that provide DNA profiling services and any data derived from these samples remain the property of the police force.

29. It is of relevance to clarify that the SLP samples contained within the pre-existing SLP database were not compatible with those in the newly formed NDNAD. The SLP profile has to be physically re-analysed before an upgraded profile could be produced and loaded onto the NDNAD.

30. This analysis was not completed as a matter of course. As a consequence of this additional re-analysis, in 1996 all police forces were informed by the FSS that any of their outstanding SLP samples could be re-analysed upon their request, with a view to loading them onto the new NDNAD. If this was not completed the SLP sample would remain on the basic SLP database and would not be subject to the same comparisons as those on the NDNAD.

31. Following on from the arrest and charge of Mr Harrison in 2011 for the 1989 rape, Devon and Cornwall Constabulary made enquiries with the FSS about what had happened to the forensic sample obtained from Operation Kendall in the intervening period. Two letters, dated 28 February 2011, and 4 May 2011 respectively, were sent from Detective Chief Superintendent Russell Middleton to Mrs Joan McBeath, who was an Account Executive for the FSS, querying this matter.

32. In her replies, dated 24 March 2011, and 10 May 2011 respectively, Mrs
McBeath attempted to provide an overview of what she believed had occurred to the SLP DNA sample in question. However, in order to avoid duplication of the presented evidence the content of both of the letters is corroborated and explained in more detail in a briefing document prepared by Mrs Catherine Turner of the FSS.

33. Mrs Turner is the National Cold Case Lead Consultant for the FSS. She is the co-author of the Home Office Police Standards Unit’s “Good Practice Guide – Cold Case Reviews of Rape and Serious Sexual Assault” (2005). She has been a forensic scientist with the FSS for over 20 years, working predominantly in the field of offences against the person.

34. Following a request by Devon and Cornwall Constabulary, Mrs Turner prepared a briefing document, dated 22 June 2011, which provided a detailed chronology of the forensic review activity undertaken by the FSS and Devon and Cornwall Constabulary in relation to Operation Kendall.

35. This briefing document has been reviewed by the IPCC lead investigator and has provided the basis for the following chronology of the forensic activity surrounding the aforementioned rape investigation.

36. Following an additional request by Devon and Cornwall Constabulary, Mrs Turner produced a second briefing document, dated 11 July 2011, within which she reviewed all of the Devon and Cornwall Constabulary cases held on the historic SLP DNA database in a bid to identify whether any other samples might be suitable for review and possible upgrade.

37. This document was also reviewed by the IPCC lead investigator and the findings have been included within this report where appropriate.

Chronology of the forensic review activity surrounding Operation Kendall and other identified cases

Events occurring in 1989

38. On 22 September 1989 a stranger rape occurred in Plymouth city centre. Following detailed forensic work a SLP profile was obtained from a stain on the victim’s clothing. However the offender was not identified and the profile and remaining forensic evidence was put into storage within the
FSS national archives and recorded onto the SLP database.

**Events occurring in 1992**

39. Around this time Devon and Cornwall Constabulary introduced their computerised crime recording system (CIS). From this point onwards the identification of cases is a relatively straightforward process with the advent of search facilities. However, prior to the introduction of this computerised system criminal investigations were paper based, which coupled with the absence of a centralised file storage facility, has and seemingly continues to, make the location of original evidential case papers problematic.

40. DI Charles Coaton is employed within Devon and Cornwall Constabulary’s Criminal Case Review Unit (CCRU). In his statement he commented that the location of “hard copy” files compiled prior to the introduction of CIS was difficult and remained so until the creation of the major crime spreadsheet within the force in 2010. The investigating officer would have to conduct a time consuming physical hand-on check of all force storage facilities in order to locate the original case files of evidence.

41. The introduction of the major crime spreadsheet thus enabled a quick and efficient point of reference to be conducted into evidential materials which had been retained from historic cases. However, prior to the introduction of this spreadsheet in 2010 a physical search for the relevant paperwork would have been necessary.

42. Changes to in-force structures, formations and weeding policies over the years also added to the difficulty of tracing evidential material. This factor coupled with the usage of many unofficial archive and storage facilities in addition to the official ones compounded the problems. This is exemplified in Operation Keats where the investigation team were unable to locate the original case papers and had to produce a new file of evidence in preparation for charging the suspect via medical records, newspapers, retired police officers accounts and old witnesses. This area will be discussed in more detail in the following section.

**Events occurring in 1996**
43. According to the initial FSS briefing document prepared by Mrs Turner, during this particular time police forces were informed that any of their outstanding SLP profiles on the pre-existing SLP database could be re-analysed upon their request, with a view to loading profiles onto the newly formed NDNAD.

44. Mrs Turner added there was a mixed response from the police forces to this request, with some forces focussing more of their resources upon this re-analysis process than others. However, at this juncture it should be noted that the forensic samples contained within the SLP database were retained regardless of any action taken by a force or not.

45. Mrs Turner also reported that even though new and better forensic technology became available, the ability to undertake this SLP analysis was maintained on a one-off basis by the FSS.

46. It is clear that in order for police forces to undertake this upgrading process they would potentially have been subject to significant financial implications. In the first instance the existing SLP cases needed to be reviewed on a case by case basis in order to identify whether the forensic re-analysis was appropriate in the circumstances i.e. whether the case had since been solved or no further action was warranted.

47. Following a review of the available evidence and discussion with independent experts in the field of police forensics, including Martin Lloyd Evans (Head of the Major Crime Review Unit - South Wales Police), there does not appear to be any set policy or legislation which instructed each force to undertake this upgrading process. The matter was left in the hands of the respective force budget holders to decide whether this area of police investigation was worthy of further investment and focus.

**Events occurring in 1998**

48. In her evidence Mrs Turner commented on the contents of a fax, dated 31 March 1998, which had been sent between Mr Malcolm Wells, who was Head of Scenes of Crime within the Scientific Support Unit in Devon and Cornwall Constabulary, to Dr John Bassett from the FSS. The fax had originated from the FSS and comprised a typed list of 10 cases with the
heading “Undetected Crimestains on SLP Database – Material Available for Conversion to National Database (SGM)”. It would appear that at this time the FSS were attempting to notify the force about crime stains which they held on their SLP database which may have been worthy of an upgrade onto the newly formed NDNAD. It is known that all of these cases related to serious sexual offences.

49. It should be made clear that the fax was in a table format with pre-set columns for the FSS laboratory case reference number, police reference number, police division, accused/suspect’s name, and complainant’s name. There were some blank spaces within the table where the relevant information should have been included, although all of the FSS laboratory case reference numbers were listed.

50. With regard to the row referring to Operation Kendall only the FSS laboratory case reference number column was completed with the remaining fields left blank. There were handwritten notes alongside the right hand edge of the table with handwritten words including “NFA” and “GO” next to some of the cases. There were no notes written alongside the row relating to Operation Kendall.

51. Enquiries conducted by the IPCC have confirmed that the handwritten information contained on the fax header accompanying the fax was written by Mr Wells, and the handwritten markings on the fax itself were also made by Mr Wells.

52. From the fax itself it can be seen that the bottom two cases listed were asterisked with the handwritten word “GO” next to them. In addition on the fax header Mr Wells had written “John, please submit the bottom two cases (9/10) for inclusion on the database, Thanks”.

53. It is clear that on the fax header Mr Wells was requesting Dr Bassett to upgrade two of the ten cases for inclusion onto the NDNAD. Both of the asterisked cases occurred in 1993 and were at the bottom of the table; one of these cases was Operation Keats. Operation Blaxton and Operation Crane were also listed on the fax.

54. It is suggested that these two cases were selected for inclusion onto the
NDNAD since the information relating to the cases should have been retrievable on the force computerised crime recording system, which had been introduced in 1992. This would therefore have enabled a basic amount of research to be conducted quickly on what the incident case reference related to and whether it had since been solved or no further action taken. The remaining eight cases occurred between 1987 and 1990 which would suggest that they had not been included onto the force IT crime recording system and existed solely in paper format.

55. Operation Kendall was included within the original 10 listed cases on the fax but was not one of the cases included on Mr Wells' request back to the FSS to be upgraded.

56. In his evidence Mr Wells was unable to recall sending this particular fax back to the FSS, but he did recount that during his time within the force Scientific Support Unit he had received similar faxes about upgrading samples from the FSS on a regular basis. He stated that he would normally have made some enquiries about each of the cases highlighted by the FSS by trying to identify the relevant OIC or the scene of crime officer who dealt with the initial incident. However, he pointed out that this was often a problematic and time-consuming process since many of the cases occurred before the introduction of the force computer system, and he therefore wouldn't have a significant amount of information upon which to base his enquiries.

57. He recalled that once he had initiated enquiries and if he didn't hear back from the respective individual or was unable to retrieve further information relating to the case, then he would not have given the FSS the go ahead to conduct further tests on the particular sample.

58. In respect of the fax, dated 31 March 1998, Mr Wells added that some of the information relating to each of the cases was missing from the original FSS fax, including the police reference number, the accused or suspect's name and also the complainant's name. In his opinion this made the process more complex and time consuming.

59. Mr Wells recollected that the Central Submissions Unit for the force was
established sometime in 1990; when every forensic sample was received in a central place before being submitted to the FSS. Prior to this the cases were sent up directly from the Basic Command Units (BCU’s) to the FSS so the individual records for this were kept locally with the OIC. This in turn would have meant that the force SSU would not have had a copy of the submission record for each sample sent to the FSS, including the one for Operation Kendall, and therefore no means of knowing about the existence of a particular case without sight of the original file papers.

60. On 8 June 1998 a letter was sent to Mr Wells and Detective Chief Inspector (DCI) Norman Brown, who was the Head of the SSU within Devon and Cornwall Constabulary at the time, from Graham Carter of the FSS. In his letter Mr Carter stated that he was writing in response to a request from Detective Sergeant (DS) Giles Boyling, who was a Crime Scene Manager within Devon and Cornwall Constabulary. From the evidence it appears that DS Boyling was making enquiries with Mr Carter in order to establish whether or not the FSS had any material remaining in two unsolved sex cases; one of which was Operation Kendall.

61. In his evidence DS Boyling was unable to recall the rationale behind this request but suggested that it may have been made as a result of ongoing enquiries conducted in connection with a particularly violent murder of a young girl in Exeter in November 1997.

62. According to DS Boyling in the months following this murder in 1997 the force intensified their efforts in relation to upgrading their stored DNA profiles in an attempt to identify the offender, since a partial DNA profile had been obtained from the murder scene. DS Boyling believed that since he was a crime scene manager at the time it may have been his role, as part of the ongoing murder investigation, to identify cases with outstanding DNA samples that had not been upgraded.

63. He was unable to recall the two unsolved rape cases referred to in the letter from Mr Carter to DCI Brown in June 1998, and suggested that the letter was in fact addressed to DCI Brown and Mr Wells rather than himself and he therefore may not have had sight of it. He was unable to
recall any further information in relation to this matter.

64. In the response letter, dated 8 June 1998, Mr Carter confirmed that some material should be remaining from the DNA SLP test that the FSS had successfully performed on the forensic samples in both of the unsolved rape cases in question. He also made reference to other forensic evidence being available that had been exhibited and retained from Operation Kendall. The letter was concluded with “Should you require anything further done with these cases, please contact me at Chepstow”.

65. Enquiries by the IPCC have failed to establish whether further contact was made with the FSS at this time regarding these cases or indeed whether any requests were subsequently made by Devon and Cornwall Constabulary to upgrade these two cases. However, it can be inferred that due to the fact that neither sample was upgraded onto the NDNAD at the relevant time that either nothing further was requested, or no further enquiries undertaken.

**Events occurring in 1999**

66. An internal memorandum, dated 17 December 1999, was sent from Detective Inspector Kevin Wayte to Detective Superintendent Paul Davies; both of whom worked within the Criminal Cases Review section of Devon and Cornwall Constabulary.

67. The memorandum made reference to Operation Harlequin which appeared to be a review of “undetected” crime relating to rape, attempted rape, abduction and attempted abduction occurring between 1992 and 1998. A total of 173 offences were identified within the report.

68. Of the 173 offences, it was ascertained that 41 crime files had been destroyed in compliance with the force file destruction policy and 34 crime files could not be traced; possibly having being destroyed.

69. The force policy relating to the destruction of records in existence up until December 1998 stated that crime reports regarding undetected rapes and undetected indecency offences involving juveniles were retained for five years, and then made subject to review by a Detective Superintendent.
70. It was reported that the Operation Harlequin Review Team encountered extreme difficulty in locating a number of the crime files. In addition, it was noted that of the files available for review there were common deficiencies apparent such as a lack of a standardised format and missing paperwork including victim and witness statements.

71. The review reported that up to 16 of the offences indicated the possibility of forensic progression if samples were still available.

72. This memorandum and review work demonstrates that the force were aware of the problems encountered in the location of historic case file evidence, which in part may be attributed to the force file destruction policy at the relevant time period, or merely by the lack of a centralised file storage facility. This particular review work solely covered cases occurring between 1992 and 1998 i.e. post the introduction of CIS. There is no mention or evidence of a review being undertaken of such crimes occurring prior to this time.

**Events occurring in July 2001**

73. As part of her research for her briefing document Mrs Turner was able to determine that during this time the case file for Operation Kendall, together with six other case files relating to crimes committed within Devon and Cornwall Constabulary, were sent from the FSS National Archives to the Major Crime Service (MCS) at Chepstow.

74. In her correspondence, dated 24 March 2011, to Detective Chief Superintendent Russell Middleton, Mrs McBeath suggested that since the MCS often undertook cold case reviews, it may have been the case that Devon and Cornwall Constabulary had already started reviewing cold cases at this time and it was possible that this particular case was under review. However, she added that there was no record on the case file of any such discussion to support this possibility.

75. In addition, Mrs Turner was also unable to locate any documentation to provide an explanation for this transfer, although she suggested that this may have occurred as a result of a direct action from Devon and Cornwall Constabulary, rather than a directive from the FSS.
76. This report has also been unable to provide an explanation for this transfer of files. It is known that the force had established a Cold Case Review Unit by this time and it is suggested that this transfer may well be the result of the work of this department, although this can not be corroborated.

77. These case files do not appear to have been returned to the FSS National Archive from the MCS in Chepstow until sometime after February 2004. The significance of this will become apparent in the next section of the report.

Events occurring around January 2004

Operation Advance

78. In 2004, following collaborations between the Home Office and the FSS, a feasibility study (Operation Advance) was commissioned by the Home Office in order to assess the potential for upgrading selected profiles within the SLP database in order that they could loaded onto the NDNAD, using the more sensitive forensic techniques available at the time.

79. Operation Advance was thus developed as a national programme of work designed to encourage and support police forces to conduct a systematic review of all of their unsolved historic sex crimes which had the potential for reworking. This was completed in order to identify further investigative opportunities. The first phase of Operation Advance focussed on serious sexual offences which occurred between 1989 and 1994; subsequent phases developed on the back of the success of Operation Advance focussed on different years as well as other types of offence.

80. However, due to tight timescales, and financial restraints, Operation Advance was restricted solely to research which could only be undertaken using the FSS case files which were available at that time i.e. those that were easily accessible from the FSS National Archives; any files that were signed out to other scientists or not available at that time were not pursued and not included within this study.

81. On 22 July 2004, police forces were presented with the general and specific findings resulting from Operation Advance at a national
symposium. During this symposium each police force was given results on their cases; these results varied from no new profile produced through to giving the name of an individual whose profile on the NDNAD matched the analysed sample. The Metropolitan Police Force was not involved since it had already run its own cold case review project, which was called Operation Sapphire. The Good Practice Guide 2005, which is highlighted within this report, is based on the empirical evidence and good practice procedures collated from Operation Sapphire, and two other pilot cold case review projects based in South Wales and Northumbria Police.

82. Once the police forces were given their results all subsequent actions, regarding the investigation of the offences, were then the responsibility of the respective police forces.

83. According to Mrs Turner, representatives from Devon and Cornwall Constabulary attended the first Operation Advance symposium and also the subsequent two symposia which were held as a result of the success achieved from Operation Advance phase 1.

84. According to DI Charles Coaton, Detective Superintendent Ray Lawry attended the symposium on behalf of Devon and Cornwall Constabulary. Mr Lawry has since retired from the force.

85. In her evidence Mrs Turner re-iterated that the Operation Advance programme was not intended to be a comprehensive review of every sex crime submitted to the FSS between 1989 and 1999; she clarified that this was a quick means of identifying selected historic offences which might have benefited from the application of up-to-date DNA technology in order to demonstrate to police forces the benefits of undertaking their own programme of reviews.

86. In her second briefing document, dated 11 July 2011, Mrs Turner reported that when the feasibility study was conducted for Operation Advance there were seven Devon and Cornwall Constabulary cases present within the FSS National Archives at the time, and these were therefore included in the study. She stated that there were an additional seven Devon and Cornwall Constabulary cases which were not in the National Archives;
these were the cases which had been transferred to the FSS MCS department in Chepstow in 2001. These were therefore not included within the Operation Advance study.

87. According to Mrs Turner of the seven cases included in the Operation Advance study, one had already been upgraded, and four were possibly “detected”. This left two which were reviewed under the Operation Advance remit. One of these was upgraded onto the NDNAD, while the other was not taken forward as there were no suitable extracts to be utilised and upgraded.

88. During her research into Operation Kendall, Mrs Turner determined the case file was not in the FSS National Archives at the time of the Operation Advance feasibility study and therefore did not form part of the Operation Advance programme. As has been previously outlined she established that the records indicated that the case file was with the MCS at Chepstow but she was unable to provide a rationale for why this was the case.

89. It is unfortunate that the reasoning behind this case file transfer to the MCS at Chepstow remains unclear. However, due to the passage of time and the retirement of relevant members of staff within the FSS, this investigation has been unable to establish a reason for the file transfer.

90. As has been previously suggested it may be hypothesised that some sort of review had been commissioned to take place on these cases by Devon and Cornwall Constabulary through the work of their CCRU, although there is no substantive evidence to support this.

Events occurring between 2005 to 2007

91. In her evidence Mrs Turner made reference to an email, dated 2 August 2005, which she had sent to Dr Bassett and Colin Dark; both of whom worked within the FSS. In the email she stated she had taken a phone call from Superintendent Ray Lawry, from Devon and Cornwall Constabulary, who had informed her that the force wanted to set up a cold case review operation to look at serious sex crimes dating back as far as 1970, but starting between 1993 and 1999 initially. Mrs Turner added that she formed the impression that Devon and Cornwall Constabulary had a
comprehensive database, but had requested a list of sex offences which had been submitted by the force to the FSS within the set time period.

92. It is evident that representatives within Devon and Cornwall Constabulary approached the FSS at this time with a view to undertaking a project to review their historical sexual offences. It is unclear why the time period between 1993 and 1999 was selected, although this clearly corresponded with the introduction of the force computerised crime recording system.

93. Following this phone call and email, a more comprehensive list of all sex cases, submitted to the FSS by the force between 1987 and 1993, including Operation Kendall, was emailed to the force from the FSS on 16 August 2005.

94. According to Mrs Turner it was suggested that a number of forensic reviews of cases dating from 1993 to 1997 were commissioned by the force and undertaken by personnel working within the MCS at Chepstow.

95. It remains unclear why, despite undertaking forensic projects and reviews, the forensic evidence relating to Operation Kendall was not subject to an upgrade to the NDNAD. Mr Lawry has since retired from the force and is therefore unavailable to assist with this matter.

Events occurring in August 2010

96. As a result of new investigative information outlined previously within this report Devon and Cornwall Constabulary contacted the FSS and requested a review of the forensic evidence relating to Operation Kendall. The forensic evidence was upgraded and subsequently produced a match on the NDNAD, resulting in the arrest and charge of Mr Harrison with the alleged sexual assault and rape.

Review of all existing Devon and Cornwall Constabulary cases on the historic SLP DNA database

97. As a direct consequence of the identification of the SLP sample, which initiated Operation Kendall, Devon and Cornwall Constabulary requested a review of all their existing DNA samples on the historic SLP database relating to serious crime. This was immediately undertaken by Mrs Turner

98. She stated that the SLP database comprised evidential profiles which were linked to FSS case reference numbers only, without the corresponding force details. She proffered that it was therefore not straightforward to produce a list of Devon and Cornwall Constabulary cases directly from the database.

99. As a consequence, Mrs Turner based her findings on three key pieces of documentation. The first document, dated 16 February 1995, was produced by the FSS in Chepstow and was entitled “unsolved crime stains on DNA (SLP) database for Chepstow” (1995). This identified 16 historic Devon and Cornwall cases and identified what material was remaining in each case. Of the 16 cases, six were marked as “not undetected”. The remaining 10 cases match exactly the case details on the faxed list from Mr Wells from 1998.

100. In addition, Mrs Turner reviewed the information contained on the fax list sent from Mr Wells to Dr John Bassett of the FSS in 1998, and also the Operation Advance feasibility study records.

101. In summary, she concluded that there were six potentially “new” cases which warranted further investigation; three cases which had evidence of previous review activity which in her opinion required further investigation; and seven cases which were marked as “not undetected” which required a police review to determine whether or not they were detected since the FSS did not have access to definitive information regarding the court status of cases.

Policies and Procedures

102. The importance of carrying out independent reviews of major crime investigations is recognised throughout the police service. The concept of reviewing major crime investigations was developed by the Byford report (1981) into the failures of the investigation into the series of murders committed by Peter Sutcliffe, the Yorkshire Ripper.

103. Following on from this the guidelines for Major Crime Reviews were first
contained in the Home Office Circular 114/82, which made provision for reviews to be conducted of major crime investigations in an effort to assist the investigating team. In 1989, ACPO introduced a policy recommending that reviews be carried out on all murders that remain undetected after 28 days. The aims of the review process were to identify and develop investigative opportunities to progress an investigation, to act as a form of quality assurance in relation to both the content and process of an investigation, and to identify, develop and disseminate good investigative practice.

104. Further guidelines to enhance the conduct of reviews in relation to murder investigations (and where appropriate other major crime enquiries) were issued in 1998 by the ACPO Crime Committee as part of the Major Incident Room Standard Administrative Procedures (MIRSAP). They issued Revised Guidance for Major Crime Reviews, which have now been updated within the Murder Investigation Manual 2006. Following these guidelines all forces should have a policy in place for dealing with reviews based upon these guidelines.

105. Additionally the Murder Investigation Manual states that it is strongly recommended that as a minimum requirement all undetected offences of murder or stranger rape should be formally reviewed. It is also strongly recommended that force policies should reflect the need to regularly review all undetected murders and rapes periodically. In particular, a review of outstanding forensic evidence may reveal new investigative opportunities as a result of scientific advancement.

106. As has been previously highlighted within this report, in 2003 the Home Office Police Standards Unit (PSU) worked closely with the FSS in conducting systematic reviews of undetected stranger rapes and other serious sexual offences. The main aim of the work was to identify the scientific potential of samples retained from historic undetected stranger rapes and other serious sexual offences.

107. Pilot work was conducted by a number of police forces in conjunction with the FSS into the development of the cold case review concept. The
success of this led to the initiation of Operation Advance by the PSU in collaboration with the FSS in 2004. In 2005, the PSU published the Good Practice Guide: Cold Case Reviews of Rape and Serious Sexual Assault.

108. This guide provided a best practice template on which police forces could base their cold case reviews and it highlights the possibility that forces could proceed with investigations despite not having the original case papers or exhibits.

109. Other benefits listed by the guide included the building of national intelligence and organisational memory; increasing the confidence in the police service and Criminal Justice System, and increasing public reassurance and reduction in the fear of crime.

110. Certainly police forces have an overarching moral duty placed upon them to investigate crime and reduce future crime by targeting offenders, but this applies to all areas of policing, of which conducting cold case reviews is just one. The level of focus on this particular area is very much dependent on the prioritisation and decision making by chief officers, senior management teams and senior investigating officers in each respective force.

**Devon and Cornwall Constabulary Criminal Case Review Unit (CCRU)**

111. According to their working practices Devon and Cornwall Constabulary Criminal Case Review Unit, which was established in 1999, is currently tasked with undertaking reviews of undetected homicide or serious sexual assault every two years. In addition, the Unit acts as the point of contact for the Criminal Cases Review Commission who are the crown-appointed body who decides whether a case is referred back to the Court of Appeal; undertakes reviews on a number of crime “themes” and other issues raised by the force; and meets regularly with other review teams from across the policing region, and also nationally in order to share findings.

112. Within the policy and procedures document of the CCRU it is stated that homicide reviews should be carried out in accordance with the guidance contained within the Murder Investigation Manual 2006, which has been accepted as policy by the force. It is also asserted that the force conducts
reviews on offences of a sexual nature or other serious crimes where the gravity of the offence suggests it would be prudent.

113. Within their working practice document there is a section on “rape review-historical investigations”. It is stated that “The Devon and Cornwall Constabulary has taken advantage of the Operation Advance opportunity to conduct reviews of historic and undetected rape investigations back to the inception of CIS crime recording in 1991”.

114. “The CCRU has worked under the nomenclature of Operation HARLEQUIN and several cases are under active review and development for the handover to Crime Department SIOs”.

115. The working practice document outlines that the guidance for the above review process is contained within the PSU’s “Good Practice Guide for Cold Case Reviews of Rape and Serious Sexual Assault” (2005).

**Evaluation of thematic issues / opportunities missed**

116. There are clearly many contributing factors which have impacted on the case files of evidence and associated forensic evidence obtained from historic serious sexual assaults within Devon and Cornwall Constabulary. Each of these factors will be addressed accordingly in the discussion below.

**Storage of historic case papers**

117. It is evident that the location and retrieval of the original investigation case papers and exhibits lies at the epicentre of any cold case review. Without the ready availability of this documentation, such as that obtained at the touch of a button on a computerised crime recording system, the task of reviewing cold cases is made more complex and time consuming.

118. Similarly, with particular reference to historic crime, it is suggested that without a crime recording system in place at the actual time of the incident the mere knowledge of its occurrence may be significantly compromised, notwithstanding identifying the location of the original evidential material. It was only in the early 1990’s when many police forces were in a position to introduce computerised crime recording
systems. Devon and Cornwall Constabulary introduced CIS in 1992.

119. It may be therefore be surmised that many historic cases are reliant on the recollection of individual police officers; some of whom will have led the initial investigation as SIO’s, but since moved onto other positions within the force or indeed retired. The organisational memory held by these officers thereby becomes fragmented with time, and in some instances is wholly irretrievable.

120. From reviewing the evidence there is no question that Operation Kendall was subjected to a thorough investigation by Devon and Cornwall Constabulary, with all potential lines of enquiry being explored at the time. However, despite these intense efforts the offender was not identified.

121. It is somewhat inevitable that, following the exhaustion of all lines of enquiry, the initial resources devoted to the identification of the offender and the detection of the crime would gradually diminish with the passage of time and the lack of new lines of enquiry. Without doubt there would have been a requirement for the focus and prioritisation of the individual police officers initially involved in the case to shift to more recently occurring incidents which necessitated their attention and expertise. It is entirely understandable that the case papers and related exhibits were therefore eventually placed into storage with this gradual yet necessary shift in priorities.

122. Despite the absence of a central storage or archiving facility and computerised crime recording system the particular case files of evidence relating to Operation Kendall rape were retained intact. However, this was not the case for Operation Blaxton; the Major Crime Team were unable to locate any of the original case papers. It would appear that they had either been lost or been subject to the force destruction of records policy.

123. Devon and Cornwall Constabulary do not appear to be any worse or better off than other police forces with regard to this matter. According to the “Good Practice Guide into Cold Case Reviews of Rape and Serious Sexual Assault” (PSU 2005) police forces have often experienced difficulties in gathering case files due to the fact that many forces did not
historically have a central archiving facility. Consequently documents and exhibits were often stored in various locations throughout the force with no overarching record of what had been retained and where.

124. Within Devon and Cornwall Constabulary there does not appear to have been a central file store in existence until 1998 with their computerised crime recording system being introduced in 1992.

125. Therefore it is somewhat unsurprising that historic cases, such as Operation Kendall, may remain undetected in storage boxes many years after their occurrence with no-one seemingly taking responsibility for its retention and case progression.

126. It should however be noted the absence of a force central storage system for historic case papers does not imply that the investigational standard of the original investigation or continuity of the original investigation evidence was compromised in any way. Following the identification of the evidential paperwork for Operation Kendall it was discovered that all of the relevant case papers had been stored in one location and the continuity of the evidence was not compromised in any way. This was corroborated by the Crown Prosecution Service at an early stage in preparation for the Crown Court trial.

**Undertaking investigations without the evidential case papers**

127. It is evident that the lack of a central storage facility and paper-based recording of the original case files of evidence impacted on the identification and progression of historic serious sexual assaults investigations with the forensic potential to be upgraded from SLP to the NDNAD.

128. It has already been suggested that these issues are not intrinsic to the force and are just as prevalent within other police forces. However, notwithstanding this there were undeniably opportunities for the force to further the available forensic evidence in historic serious sexual offences without physically handling the case papers themselves.

129. Such an opportunity presented itself in the form of Operation Advance. This project served to demonstrate to police forces that a reverse
approach could be adopted to reviewing their cold cases; with the identification of potential undetected SLP samples contained within the FSS laboratory in order to verify whether any of the case files were still worthy of upgrading. Operation Advance proved that the FSS record system and archives were comprehensive and searchable, with the possibility of identifying an individual force’s case submission by offence type, force code and specified time parameters.

130. It is known that representatives from Devon and Cornwall Constabulary attended the symposia, and received a limited number of potential cases to upgrade. In addition, it is unfortunate that a number of cases with the potential to be upgraded were booked out by the MCS in Chepstow at the time of Operation Advance. It can only be hypothesised that had these cases been present within the FSS archives then they would have been included within Operation Advance and may have been upgraded at this time.

131. Notwithstanding this, as has been documented within this report, it was never the intention of Operation Advance to include all historic SLP samples within the project; indeed it was intended to demonstrate to police forces the potential of such an initiative and as such it should not have deterred the police force from commissioning further scientific work in relation to the retained materials.

132. It is suggested that following Operation Advance, Devon and Cornwall Constabulary could have approached the FSS and requested all of their SLP samples, which related to serious crime including murder and stranger rape, be upgraded. It is recognised that a request to upgrade all existing SLP samples would have been an unrealistic task but the force could have considered prioritising samples relating to serious crime which would have made for a more achievable and viable undertaking.

133. The fax sent to Devon and Cornwall Constabulary in 1998 by the FSS listed 10 undetected crime stains relating to serious sexual assaults occurring between 1987 and 1993, which were still on the SLP database. Through the existence of this fax it is evident that individual staff within
Devon and Cornwall Constabulary must have been aware of the existence of these undetected crime stains.

134. It is acknowledged that a significant amount of information was missing off the 1998 fax. However, due primarily to the passage of time and change of personnel within relevant departments in the force it remains unclear how much research was undertaken, or resources were dedicated to identifying further information pertaining to each case, and whether it warranted an upgrade in the circumstances i.e. remained undetected.

135. Evidence provided by Mr Wells suggests that he did undertake some work in an attempt to identify more information about each case. However, it appears that he was reliant on the recollection of the relevant scene of crime officers (SOCO) or officer in the case (OIC) in order to obtain further information relating to each investigation. It might be thought that the SOCO or OIC in question would no longer be in a position to answer such a query due to the significant passage of time.

136. It should be noted that Mr Wells is listed within the acknowledgements section of the Good Practice Guide (2005) as having made a contribution to the guidance document when he was working at the FSS between 2000 and 2007. In addition, he was the scene of crime officer who attended the original 1989 rape in Plymouth.

137. It is therefore difficult to understand why he did not make further enquiries in relation to the 1998 fax from the FSS at the time, or, indeed, following his return to the Force from the FSS undertake a more robust approach regarding the review of cold cases, as a result of his involvement in Operation Advance. However, it is also recognised that Mr Wells was only one of a number of individuals who had the opportunity to further historic forensic samples with many of his colleagues either retiring or relocating to other positions within the force.

138. Due to a lack of corroborative evidence this investigation has been unable to verify the extent to which enquiries were undertaken in an attempt to identify whether the remaining SLP samples on the fax warranted upgrading. However, by the fact that it has recently been established that
several of the cases included on the fax had not been upgraded to the NDNAD and also by the recent hits on the DNA database for newly upgraded cases, it would appear to suggest that limited focus was placed on this retrieval process, resulting in a number of potential missed opportunities to apprehend offenders of serious crimes and potentially prevent further offending.

139. It is suggested that since the fax originated from the FSS and all of the cases listed the laboratory case number, an easier route for the force to have taken would have been to contact the FSS to request further details about the individual case, as per the recommendations highlighted after the Operation Advance pilot studies and recorded within the Good Practice Guide.

140. A number of successful cold case studies have been presented as examples of good practice by other forces, where a cold case team within a force has requested the re-submission of an historic SLP sample by the FSS, despite the fact that nothing of the original evidential file could be located.

Provision of adequate resources to undertake cold case reviews

141. Clearly obtaining a DNA hit on the database linking the suspect to the crime is only part of the picture. Additional work is essential in order to provide the evidence necessary to convict the offender in court. In order to achieve this end result sufficient resources are needed to be made available in order to develop these cases through to a successful conviction; this necessitates the presence of a dedicated cold case review team.

142. It is apparent that most forces now have cold case review teams, including Devon and Cornwall Constabulary. They have demonstrated their commitment to reviewing historical cases through the establishment of their criminal case review unit in 1999, following the ACPO guidelines in the same year. In addition, between 2005 and 2007 there is evidence of detailed correspondence between the force and the FSS regarding their
historic cold cases.

143. In addition a document produced by Mrs Turner appears to list the agreed actions between representatives from Devon and Cornwall Constabulary and the FSS in relation to proceeding with historical sexual offence cases between 1993 and 1997. Mrs Turner also produced an email, dated 2 Aug 2005, which she had sent to her colleague in the FSS following a phone call from Detective Superintendent Ray Lawry during which he had indicated that the force intended to undertake a comprehensive review of their cold cases between selected dates.

144. Similarly through their attendance at the Operation Advance symposia they demonstrated their willingness to undertake this investigative opportunity and will have seen first hand the benefits of performing cold case reviews.

145. There is however no question that senior individuals within the force were aware of the existence of outstanding sexual assault cases dating back to 1970, and they had made attempts at reviewing them in a reverse chronological approach. However, there does not appear to be evidence of the continuation of this review activity in relation to reviewing cases occurring prior to 1992/3 as evidenced in the continued existence of SLP samples in 2010.

146. Over the years it would appear that the force had the intention to undertake significant cold case review activity but have fallen short of their proposed target. The reason behind this shortfall remains unclear, due in part to the retirement of senior officers who may have been able to provide some answers behind this.

**Conclusion**

147. Forensic science has long made a vital contribution to criminal investigations. However, it is clear that in order for this contribution to be robust and thorough, police forces need to utilise their capabilities in a manner that is properly managed and organised if they are to make an efficient and effective impact on the detection and prevention of crime.
148. Furthermore it is acknowledged that police forces just as much as any other public organisation or body have to live with budgets and significant budgetary constraints. Budget holders therefore have to make judgements and use their discretion on a daily basis as to the appropriate allocation of resources; however these financial decisions have to be balanced against the fact that the force has a finite budget to work to and a standard of service provision to maintain.

149. Notwithstanding this, it is acknowledged that whilst there is an inevitable cost implication to undertaking cold case reviews and reinvestigations, it is also the case that there will be cost implications due to further potential offending and future victimisation by the perpetrator.

150. In the Good Practice Guide: Cold Case Reviews of Rape and Serious Sexual Assault (2005) it is reported that some serial sex offenders will have criminally active “life spans” of up to 40 years; raising the question about how many sex offenders have “slipped through the net” and gone on to become prolific offenders.

151. It is apparent that there were a number of opportunities for Devon and Cornwall Constabulary to have reviewed this particular case over the years and have failed to do so. However, it would be remiss not to outline the good work that has been conducted by the cold case review team since the identification of Operation Kendall with the identification of further SLP samples to upgrade, their resulting “hits” on the NDNAD and subsequent criminal investigations.

152. Devon and Cornwall Constabulary have recognised their organisational failing in relation to the upgrading of the SLP sample and as a force they have sought to rectify this with immediate effect, through their remedial action in requesting a comprehensive review on all of their other SLP samples connected to serious historic crime.

153. On a national level there is no doubt that Devon and Cornwall Constabulary are not the only police force to have historic forensic samples sitting within the FSS archives, with the potential to be re-analysed and upgraded onto the NDNAD. There can be little uncertainty
that other police forces could also have crucial forensic evidence locked away, during which time forensic science techniques have evolved which could potentially identify serious and serial offenders.

154. The police service as a whole has a moral duty to victims of crime and a responsibility to reduce future crime being committed by proactively targeting the offenders. Moreover the case of R V Osman has placed a duty on police forces to do all that can reasonably be expected of them to prevent further serious harm being committed. The Home Office, ACPO and the police forces themselves need to make an informed decision on whether major crime review is an area of investigation they can afford to overlook.

155. In conclusion, police forces need to be mindful of the negative impact of failing to pursue these cold case review opportunities, both in relation to the possible future risk of harm to members of the public and also the adverse effect on guardianship issues, such as public confidence. Media reporting of successful cold case reviews can only serve to provide reassurance to members of the public that the police service remains focussed on solving serious offences whenever they were committed and lines of enquiry are never closed.

156. This case has acted as a trigger for Devon and Cornwall Constabulary to conduct a comprehensive review of all their undetected serious sex crimes. What remains unclear is what it will take to instigate similar actions within other police forces, and indeed the Home Office and ACPO to place more directed focus and resources on undertaking cold case reviews in order that no stone is left unturned in cold case review activity.
Findings and recommendations

Finding 1 – Review of historic DNA samples sent to the FSS

157. Devon and Cornwall Constabulary did not upgrade all of their historic SLP DNA samples relating to serious sexual offences in line with the forensic advancements. These DNA samples remained in the archives of the FSS and were not upgraded to the NDNAD, which potentially could have led to the detention of the offender at an earlier opportunity.

Local outcome

158. Devon and Cornwall Constabulary have undertaken a comprehensive review of their historic SLP DNA samples, and have ensured all their historic SLP DNA samples relating to serious sexual assaults and rapes have been reviewed and upgraded where necessary.

National recommendation

159. The IPCC recommends ACPO and police forces give due consideration to conducting reviews of their undetected cold cases involving serious crime in order to ensure each case has undergone a suitable review process and each associated SLP DNA sample has been added onto the NDNAD where applicable. This should also include historic cases where no further action has been recorded against the investigation. This would serve to ensure the NFA decision was entirely justified in the circumstances.

160. It is recommended each force prioritise the most serious crime, such as murder and stranger rape, for inclusion, although it is recognised it would not be proportionate to upgrade all SLP DNA samples relating to minor offences.

161. This review process could potentially contribute to increased public confidence in the criminal justice system and the police service through the apprehension of serious/serial offenders and prevention of future crime. It is unquestionably a more cost effective and efficient approach for police forces to take, as has been evidenced by the successful outcomes of the cases outlined within this report.

Finding 2 – The development of a searchable database

162. Many of the historic crimes committed before the early 1990s were originally recorded on paper and were not included on a searchable database until some
time later within the force. Problems regarding the identification of historic cases and the location of associated case papers subsequently arose, with particular regard to cold case review and case tracking and management.

Local outcome
163. Devon and Cornwall Constabulary introduced its computerised crime recording system in 1992 and introduced their central file store in 1998. In addition to this in 2010 the force developed a major crime catalogue / spreadsheet which attempted to record all the evidential material i.e. files, videos, and tapes, held in Devon and Cornwall Constabulary relating to previous investigations. This also included major crime files which had no computer record as the crime occurred prior to CIS. This resulted in a dynamic spreadsheet which is used as a reference point for locating historic cases and identifying what material has been retained.

National recommendation
164. The IPCC recommends both ACPO and all police forces seek to resolve any problems arising from the identification and progression of historic cases, with specific regard to the location of original case papers. Forces are encouraged to consider the benefits of developing a searchable database capable of holding and sharing information on historic crime across many years. Many cases will predate the information technology age and it is essential these paper records are converted into a searchable database which can be used for both cold case review and for future use in today’s real time investigations.

165. Developing such a database will help to prevent any further loss of offence and offender data, enhance organisational memory and provide a starting point for later migration to a national intelligence system.

Finding 3 – Review of destruction and retention policies for original case papers and exhibits
166. As part of their cold case review process Devon and Cornwall Constabulary encountered problems in locating case files and papers relating to historic serious sexual offences. Prior to the introduction of their central file store in 1998, it would appear the force had a number of archive and storage areas in addition to any official ones. In addition it would appear some case papers were either lost or mislaid which related to serious historic sexual offences.
167. According to the Good Practice Guide Cold Case Reviews of Rape and Serious Sexual Assault by the Police Standards Unit (2005) the evaluation of cold case reviews highlighted serious shortcomings in the way the police forces store and maintain original case papers and exhibits. Widespread destruction and loss of these items has had a serious effect on progressing potentially solvable cases.

**Local Outcome**

168. Devon and Cornwall Constabulary introduced their central file store in 1998. In addition to this as has been previously outlined the force in 2010 the force developed a major crime catalogue / spreadsheet which is used as a reference point for locating historic cases and identifying what material has been retained.

**National recommendation**

169. The IPCC recommends ACPO advise all forces to consider the benefits of conducting reviews of their policies on the retention and storage of case files and exhibits in relation to serious crime, including rape and serious sexual assault. Forces should ensure that they are not destroying information that could be useful in the future; either to take advantage of current forensic technology or any future advances.

**Response from Appropriate Authority**

Devon and Cornwall Constabulary have accepted all the recommendations and findings in this report.

Amanda Trevett  
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