



NATIONAL INSTITUTE OF JUSTICE

NOTIFYING SEXUAL ASSAULT VICTIMS AFTER TESTING EVIDENCE

JANUARY 2016 LESSONS LEARNED: SEXUAL ASSAULT KITS



Office for Victims of Crime

OVC
"Putting Victims First"

NIJ

**U.S. Department of Justice
Office of Justice Programs**

**810 Seventh St. N.W.
Washington, DC 20531**

Loretta E. Lynch
Attorney General

Karol V. Mason
Assistant Attorney General

Nancy Rodriguez, Ph.D.
Director, National Institute of Justice

Joye E. Frost
Director, Office for Victims of Crime

This and other publications and products of the National Institute of Justice can be found at:

National Institute of Justice
Strengthen Science • Advance Justice
<http://www.nij.gov>

Office of Justice Programs
Innovation • Partnerships • Safer Neighborhoods
<http://www.ojp.usdoj.gov>

The National Institute of Justice is the research, development and evaluation agency of the U.S. Department of Justice. NIJ's mission is to advance scientific research, development and evaluation to enhance the administration of justice and public safety.

NIJ is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance; the Bureau of Justice Statistics; the Office for Victims of Crime; the Office of Juvenile Justice and Delinquency Prevention; and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART).

Opinions or points of view expressed in this document are those of the authors and do not reflect the official position of the U.S. Department of Justice.

Photo Sources (front): HTV Television, ©Bonnie Jacobs/iStock LP, ©Jose AS Reyes/ iStock LP

NATIONAL INSTITUTE OF JUSTICE

NOTIFYING
SEXUAL ASSAULT VICTIMS
AFTER TESTING EVIDENCE

NCJ 249153

Office for Victims of Crime

OVC
"Putting Victims First"

NIJ



HERE

Nursing

IAI
NA

It has long been known that the participation of the victim of an alleged sexual assault can be critical to the success of investigating and prosecuting a criminal case. When the National Institute of Justice awarded funding to Detroit and Houston to look at the issue of previously untested evidence in sexual assault cases, the Institute required that both jurisdictions create multidisciplinary teams including police investigators, crime lab analysts, prosecutors and victim service providers. And, because NIJ is a scientific research agency — dedicated to finding answers to criminal justice problems through science — we also ensured that social science researchers were on the teams to work hand-in-hand with the practitioners.

The multidisciplinary teams in Detroit and Houston had to develop protocols for notifying victims in cases where the sexual assault kit (SAK) had not previously been — but was now being — tested for DNA evidence. These protocols (and the process that the teams went through to develop them) may help other jurisdictions consider how best to notify victims of the results of SAK testing; these may be useful both in situations where a large number of previously untested SAKs in older cases are now being tested and in the investigation and prosecution of current cases. Using a victim-centered approach for notifying victims about the status of their sexual assault cases may help minimize the trauma a victim experiences when receiving this type of information, especially in older cases.

Testing SAKs in older cases can raise complex legal and psychological issues for the victim. Notifying victims can trigger memories and feelings regarding the assault, and this re-traumatization can cause flashbacks and other symptoms, exacerbate post-traumatic stress disorder and other mental health issues, and affect substance use or abuse. Therefore, the Houston and Detroit multidisciplinary teams made it a goal to develop “victim-centered,” “trauma-informed” protocols for notifying victims regarding the testing of their SAKs. (See sidebar, p. 2, “Victim-Centered, Trauma-Informed Notification.”)

In 2011, after a competitive selection process, the National Institute of Justice awarded grants to the Wayne County (Detroit), Mich., Prosecutor’s Office and to the Houston Police Department to look at the issue of sexual assault kits (SAKs) that had not previously been sent to a crime laboratory for DNA testing.

The overarching goal of this project was to identify effective, sustainable responses regarding previously untested SAKs.

This brochure — one in a series of four — is derived from lessons learned in the project. We hope that the brochures assist other jurisdictions that are addressing the issue of previously untested SAKs.

Victim-Centered, Trauma-Informed Notification

Victim-centered means that the victim is at the center of all decisions regarding recovery and any involvement with the criminal justice system; the victim's choice, safety and well-being is the focus; and the needs of the victim are everyone's — not just victim advocates' — concern.

Trauma-informed means attending to the victim's emotional and physical safety; using resources, services and support to increase the victim's capacity to recover; and educating victims, service providers and the general community about the impact of sexual-assault trauma on the health and well-being of the victim.

Watch Dr. Rebecca Campbell, the lead researcher in the Detroit project, and Dr. Noël Busch-Armendariz, a lead researcher in the Houston project, talk about using a victim-centered, trauma-informed approach when notifying victims about the results of DNA testing of evidence in a sexual assault kit.

<http://nij.gov/multimedia/Pages/playlist-evidence-in-sexual-assault-cases.aspx>.

Victim Notification in Detroit

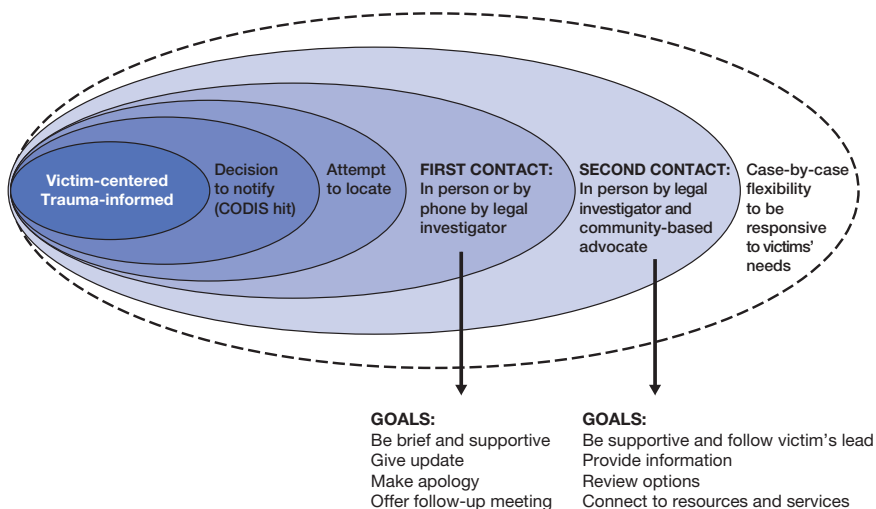
The multidisciplinary team in Detroit reviewed each case in which there was a hit in the Combined DNA Index System (CODIS) to determine the specific circumstances of the case. Then, they followed a two-step process to notify the victims:

1. Investigators affiliated with the prosecutor's office (not the police department) contacted the victim to:
 - Explain that the SAK had not been tested at the time the assault was originally reported, but it had now been tested.
 - Offer an apology that the SAK had not been previously tested.
 - Request a follow-up meeting.
2. Investigators and an advocate then met with the victim to:
 - Provide further details.
 - Discuss options.
 - Connect the victim with community services.

The graphic on the next page depicts the victim notification protocol that was created in Detroit. Victims in older cases in which the SAK had not previously been

tested were notified only if there was a CODIS hit. Another key piece of Detroit’s protocol was that the first contact with victims was by a legal investigator, not a member of the police department. This was done to minimize re-traumatization, including any bad experiences that the victims may previously have had with the Detroit Police Department.

The Detroit Victim Notification Protocol



See a step-by-step guide of the victim notification protocol developed in Detroit: “The Detroit Sexual Assault Kit Action Research Project,” at NCJRS.gov, keyword NCJ 248680.

Conducting Victim Notification: Lessons Learned in Detroit

The Detroit action-research team learned a number of lessons that could be helpful to other jurisdictions that want to develop a victim-centered, trauma-informed notification protocol.

“One of the most critical lessons was the importance of a multidisciplinary perspective on victim notification, given that it involves re-activating memories of a major traumatic event and communicating complex forensic and legal information,” said Dr. Rebecca Campbell, the lead researcher in the Detroit project. “The input from

all core disciplines — police, prosecution, crime lab, sexual assault nurse examiners, and advocacy — was essential for creating a comprehensive plan that addressed survivors' psychological and informational needs.”

Here are 15 guiding principles based on the Detroit team's experience in developing a victim notification protocol:

1 Bring everyone to the table.

Notification involves complex legal, psychological and evidentiary issues. Although some disciplines may not be involved in conducting the actual notification (law enforcement and advocacy, for example), having a broad-based multidisciplinary team ensures that diverse perspectives will be considered at every stage of the process. Consider including representatives from:

- Police.
- Prosecution.
- Forensics sciences.
- Medical/nursing.
- Systems-based advocacy.
- Community-based advocacy.

2 Clarify what decisions are — and are not — open to multidisciplinary input.

There are many ways in which the multidisciplinary review, input and debriefing sessions may be done (through an oversight steering committee or a separate working group, for example), including how frequently the group needs to meet (weekly, monthly, quarterly, ad hoc). Regardless of the particular process that each jurisdiction chooses to adopt, it is important to clarify which individuals or organizations have decision-making authority over what issues. Although some decisions may be made through collaborative discussion and consensus, others may be made solely by one discipline. However, even if decision-making authority is held by only one individual or organization, collaborative input can help inform that decision.

3 Connect with local, state and national colleagues who have expertise in victim notification.

Reaching out to other jurisdictions to hear about their lessons learned — and educating the multidisciplinary team on such lessons — can be important. Of course, individuals on the multidisciplinary team may already have experience doing victim notification as part of their routine CODIS-hit follow-up protocols. It is important to include those individuals in the process of developing notification protocols.

4 Allocate sufficient time for developing protocols.

Although there is no standard amount of time needed to develop notification protocols, it will likely be a lengthy process, as many complex decisions must be made. It may be helpful to set aside additional meetings or retreats to discuss victim notification issues in sufficient depth.

5 Expect disagreements among stakeholders.

Team members are likely to have different opinions regarding when, how and why victims should be notified about SAK testing. Consider using an outside facilitator (as was done in Detroit) to allow the group to reach consensus on complex issues.

6 Establish protocols to protect the confidentiality of the victims who are notified.

Updates on victim notification should be limited to those directly involved with the victims, regardless of what confidentiality agreements have been signed. It is also important to offer victims the option of working with practitioners with whom they can have confidential conversations, such as community-based advocates.

7 Acknowledge that there is no right way to do victim notification.

Given the limited research to date regarding previously untested SAKs, empirically based best practices for victim notification have not yet been identified. Here, however, are some guiding principles:

- Because notification may be traumatic, the emotional needs of victims must be taken into consideration.
- Providing victims with options and choices helps facilitate their recovery from the trauma.
- Providing victims with options and choices may affect their willingness to participate in further investigation and prosecution.

8 Be sensitive to differing rules regarding the disclosure of confidential information.

Set clear expectations up front regarding what information should — and should not — be divulged to the multidisciplinary team. For example, although investigators might want to know how the victims perceived the interactions during notification, advocates cannot disclose these communications unless specifically authorized to do so by the victim. The Detroit team invited an experienced advocate, who was not directly involved in any of the cases, to provide general guidance to the investigators regarding victim notification. The advocate also helped the team understand confidentiality differences among the various professions that are involved in responding to a sexual assault.

9 Provide comprehensive training to all staff involved in conducting victim notification.

These trainings should emphasize the importance of self-care and a victim-centered, trauma-informed approach to working with sexual assault survivors. (See sidebar, p. 2.)

10 Know your community, know your population.

Victim notification protocols should be tailored to the specific needs, resources and realities of a community. Consider the diversity of a community with respect to race and ethnicity, social class, religion, and cultures and customs as well as the relationship that the community historically has had with law enforcement.

11 Start small — and be flexible.

Develop draft notification protocols; implement them with a small number of cases; evaluate how they worked (either formally or informally through multidisciplinary team debriefings); and make appropriate changes — and then implement and re-evaluate the revised procedures. Because each sexual assault case is unique, the victim notification protocols should be flexible enough to accommodate unusual or urgent situations.

12 If multiple practitioners will be working together to conduct a victim notification, everyone must be briefed — ahead of time — about the case.

It is important that the practitioners who will be directly involved in the case are briefed ahead of time so that they can be aware of key issues that may come up during notification. For example, consider factors such as the SAK testing results, good or bad experiences the victim may have had during the initial investigation, and whether a suspect is currently incarcerated. It is very important to note that the victim's privacy must be respected, and team members need to be mindful not to stereotype based on preliminary information.

13 Be prepared to take action when practitioners are ready.

The timing of victim notification should be considered in light of when investigators, prosecutors and advocates are ready and available to work on the case, including keeping the victim informed. It is important to try to avoid a delay after notification so that the victim does not need to be “re-notified.” If, for some reason, a delay does occur, it is important to keep the victim informed regarding what is happening with her or his case.

14 Be mindful of safety concerns for both staff and victims.

Depending on how and where the notification will take place, the physical safety of the notifying staff — and the victims — could be at risk. Developing safety plans is critical. For example, sending notifying officers out in pairs is recommended. In addition, be advised that notifying victims will take an emotional toll on staff — and on the victims — so it is important to ensure that these needs are addressed.

15 Develop resources for victims and providers.

Consider developing a “Frequently Asked Questions” (FAQ) brochure and a packet of information on community resources. This might include community referrals, the name and phone number of a community advocate, a 24-hour crisis line, and a plausible explanation that the victim may want to tell others who might question their interaction with police (for example, that she was a witness to another crime).

Victim Notification in Houston

The Houston multidisciplinary team created a working group of 12 members to develop victim notification protocols. The team first conducted focus groups and individual interviews with 42 victims of sexual assault and 27 professionals, including victim advocates, community-based advocates and counselors, and sexual assault nurse examiners, to determine:

- Whether victims, in cases in which the SAK had not previously been tested, should be notified of DNA testing results if their case would not move forward in the criminal justice system.

- What special factors should be considered when notifying victims in older cases.

The victims who were interviewed by the Houston team had mixed feelings about whether authorities should try to contact victims if the case could not now be prosecuted. They also expressed concern about the consequences of not knowing (or being notified about) what had happened to their case, and about potential unintended consequences of notification, because not all victims may want to be notified after so long. Some victims equated the notification process with the assault itself — having the criminal justice system make decisions for the victims about notification reminded them of how their power and control was taken away by the person who assaulted them.

The professionals who were interviewed also had mixed feelings about notifying victims in all of the cases, but they concluded that every victim had the right to know about the status of her or his case. They also expressed significant concern about victim re-traumatization during the notification effort, noting that victims' reactions and responses depended on what stage in the healing process they were in, their coping skills, and their life circumstances.

Based on the interviews, the Houston team made these recommendations:

1. Law enforcement should not assume that a victim does — or does not — want to be notified.
2. Victims should be given the opportunity to elect to be informed regarding the status of testing their SAK rather than having the decision made by someone else.
3. Mechanisms for notification should be flexible and thoughtful and incorporate choices for victims.
4. Victims should have a choice in whether their case moves forward based on DNA testing.
5. Resources and support are crucial to the notification process.

For more information on these recommendations, see http://HoustonSAKResearch.org/resources/documents/IDVSA_victim.pdf.

The notification protocol adopted in Houston called for the Houston Police Department (HPD) to contact victims only in cases in which, after testing the SAK, there was a CODIS hit to an identified suspect — and, in these cases, only when the statute of limitations had not expired or, if it had expired, when the CODIS hit linked to a suspect who was on trial (or in the punishment phase) for another sexual assault. In all other

situations — a case-to-case CODIS hit without an identified suspect, for example — HPD did not contact the victim unless the victim contacted the information hotline (see below) or if the DNA profile later resulted in a CODIS hit.

Houston investigators contacted victims in a number of ways, first trying to reach the victim by phone to set up an in-person discussion. If that was not successful, they attempted to notify the victim in person at her or his home. Certified mail was used if the victim could not be contacted by phone or through a home visit.

Houston Creates a Hotline

Houston authorities created a telephone hotline (called “SAIL,” the Sexual Assault Information Line) — and a separate email option — for any victim of sexual assault since 1980 who had had a sexual assault examination performed. This gave victims (or someone on the victim’s behalf) the option of contacting the police department. If they called, they were given information about the results of DNA testing of their SAK, given referrals for social services, and put in touch with an investigator and a justice advocate.

Other strategies used in Houston included the creation of:

- The CODIS (Combined DNA Index System) Squad to address sexual assault cases prior to 2011 in which there was a CODIS hit.
- A justice advocate position within HPD (see below).
- Strategies for getting out the word through the Internet, news, brochures, presentations and word-of-mouth, with the assistance of a public information officer.

See the “Complainant Notification and Information Line Protocols” for an in-depth discussion regarding the Houston hotline and email protocols, including operational details and the vehicles used to get the word out: <http://HoustonSAKResearch.org/> resources.

Houston Creates a Justice Advocate Position

The Houston Police Department created a temporary “justice advocate” position in the Adult Sex Crimes Unit to work with victims in cold cases and new adult cases. One of the justice advocate’s goals with respect to the older cases was to try to re-engage victims in the criminal justice system. The justice advocate’s duties are to:

- Establish and maintain contact with victims in collaboration with investigators.
- Identify victims with complex psychosocial needs and serve those needs.
- Connect victims to other resources.
- Serve as a liaison between HPD and community organizations.
- Document the contact with the victim.

Six months after the justice advocate began work, the NIJ-funded multidisciplinary team conducted a focus group with seven HPD officers to consider the impact of the role on their investigations. The team determined that the justice advocate helped minimize victim re-traumatization, making them feel safer and more comfortable engaging with law enforcement in the investigation. The investigators reported that the justice advocate helped them establish rapport with victims, giving them the opportunity to conduct more thorough investigative interviews with victims. They also reported that a better understanding of victim responses allowed them to focus on their work and move investigations along more rapidly. It was determined that the justice advocate had such a positive impact on the work of investigators — and on victim outcomes — that the position was made permanent.

- Watch Houston researcher Caitlin Sulley discuss HPD's hiring of a justice advocate: <http://nij.gov/multimedia/Pages/playlist-evidence-in-sexual-assault-cases.aspx>
- Watch Emily Burton-Blank, HPD Justice Advocate, discuss the impact of her role in the investigation of sexual assaults: <http://nij.gov/multimedia/Pages/playlist-evidence-in-sexual-assault-cases.aspx>
- For more about the justice advocate position in Houston, see <http://HoustonSAKResearch.org/resources>

Victims' Experiences With Notification in Houston

To assess the effectiveness of the victim notification protocols, the Houston team interviewed seven victims about their experience. Based on these interviews, the Houston team made six recommendations that reflect the successful elements of the victim notification protocols:

1. Law enforcement and the justice advocate must be prepared for a variety of emotional reactions from victims. Emotional responses identified in the interviews ranged from shock, annoyance, fear, confusion, fright, depression and anger, to happiness and appreciation.

2. Contacting victims may provide an opportunity for growth and undo some of the harm done in the past, or it may result in danger and re-traumatization for the victim. Therefore, staff who notify victims should demonstrate compassion, concern and flexibility to reduce the likelihood of re-traumatization.
3. To improve their response to victims, law enforcement should receive training and continuing education on the impact of trauma. Because officers are often the first to interact with victims, they should learn to establish trust and rapport and also create a lasting impact by treating victims with care and compassion.
4. To improve victims' experiences and reduce potential harm, the justice advocate should be included in the notification process.
5. Law enforcement and the justice advocate should provide information on support services, including rape crisis centers, national hotlines, mental health clinicians and faith-based counselors.
6. At the time of initial contact, law enforcement and the justice advocate should explain to victims their options regarding participation in the case. This is an opportunity for law enforcement to leave the door open for victims to be engaged in a way they feel comfortable. The initial contact is also the time to find out whether and how often they would like to receive updates about the status of their case.

Although these recommendations provide guidance, some of the findings of the Houston team's interviews with victims were more nuanced and complicated, including reactions to time factors, uncertainty, and general life barriers. Some asked, "Why am I being contacted now? Why did they wait so long?" Some reported that they had "moved on" and did not want to re-live the assault. Some expressed uncertainty and confusion that their case was re-opened; there was no guarantee of a successful resolution. Contacting victims about SAK testing can reveal issues that may complicate their decision about whether to move forward with investigation and possible prosecution, such as lack of transportation and childcare, mental illness, and current life stressors.

By interviewing victims after the notification process and giving victims the opportunity to participate in interviews about their experiences, the Houston team gained powerful insight into what worked and how victims were affected by the process. "We cannot avoid the emotional costs," said Dr. Noël Busch-Armendariz, one of the lead researchers in the Houston project, "but we can structure the involvement in a way that does not do more harm, that empowers the victim, and acknowledges the harm done by the offender."

Other Brochures in This Series

Forming an Action-Research Team to Address Sexual Assault Cases

Performing an Audit of Sexual Assault Evidence in Police Custody

Creating a Plan to Test a Large Number of Sexual Assault Kits

For More Information

See an interactive Web page on using evidence in sexual assault kits:

<http://NIJ.gov/unsubmitted-kits/pages/default.aspx>

Learn more about the Detroit project: <https://www.NCJRS.gov> (keyword: 248680)

Learn more about the Houston project: <http://www.HoustonSAKResearch.org>

Learn more about the issue of untested evidence in sexual assault cases:

<http://www.NIJ.gov> (keyword: untested evidence in sexual assault cases)

Learn more about the Office for Victims of Crime (OVC), which supported the creation of this brochure, and their programs and services to help victims:

<http://www.OVC.gov>

Learn more about OVC's training, technical assistance, and other capacity-building programs that enhance service providers' ability to support victims of crime in communities across the nation: <http://www.OVCTTAC.gov>

Learn more about sexual assault investigations, including understanding the neurobiology of sexual assault and a partnership formed by NIJ and the FBI to help address the issue of unsubmitted evidence in sexual assault cases.

Visit NIJ.gov, keyword: sexual assault investigations

Or join the conversation on social media:



Follow us on twitter.com/OJPNIJ



Like us on facebook.com/OJPNIJ

Acknowledgments

One of the National Institute of Justice's requirements in the Detroit and Houston projects was that multidisciplinary teams had to be involved in every step along the way. We thank the team members for their extraordinary commitment to these projects and for their role in improving the administration of justice in the United States.

The Detroit team:

- Michigan State University*
- Wayne County Prosecutor's Office
- Detroit Police Department
- WC Safe
- YWCA Interim House
- Michigan State Police
- Michigan Domestic Violence Prevention and Treatment Board
- Joyful Heart Foundation
- Michigan Prosecuting Attorneys Association

The Houston team:

- Sam Houston State University
- The University of Texas at Austin**
- Houston Forensic Science Center
- Houston Police Department
- Houston Area Women's Center
- Memorial Hermann Health System
- Harris Health System
- Harris County District Attorney's Office

*NIJ wishes to acknowledge Dr. Rebecca Campbell who wrote the final report from which content in this brochure is derived.

**NIJ wishes to acknowledge Dr. Noël Busch-Armendariz who wrote the final report from which content in this brochure is derived.

Photo Sources (back): HTV Television, HTV Television, HTV Television, ©Yaroslava Koziy/Shutterstock, Inc.

U.S. Department of Justice
Office of Justice Programs
National Institute of Justice
8660 Cherry Lane
Laurel, MD 20707-4651

Official Business
Penalty for Private Use \$300

PRESORTED STANDARD
POSTAGE & FEES PAID
DOJ/NIJ/GPO
PERMIT NO. G - 26

SEXUAL ASSAULT KITS

Using Science to Find Solutions



Explore how evidence in SAKs is used in solving sexual assault cases, including:

- Implications for victims.
- Why many kits historically were not tested.
- What policymakers and criminal justice professionals should know.



Visit www.nij.gov/unsubmitted-kits to learn more.

