

Victim Notification: Why, When, and How

A Guide for Multidisciplinary Teams

The information in this brief applies to cold case sexual assaults as well as current case sexual assaults. Mentions of sexual assault apply to both types of sexual assault cases.

Determining the best method to contact a sexual assault victim can feel overwhelming. There is no one best way to notify a victim about the status of their case. Each victim is a unique person who underwent a very personal, very traumatic experience. The risk of retraumatization cannot be avoided. However, research conducted with survivors of sexual assault and professionals in the field suggests some key considerations for a multidisciplinary team (MDT) to review. Doing so will help MDTs determine how and when to notify victims using a trauma-informed and victim-centered approach while optimizing community resources.

The responsibility of victim notification—from deciding which victims to contact to determining *why*, *when*, and *how* to reach out to them—cannot fall on one discipline alone. MDTs should include local police; prosecutors; community-based and systems-based advocates; survivors, if possible; and forensic nurses when establishing notification protocols. MDTs should also be open to learning from their initial notifications and revising their protocols as needed.

Why Introduction

The decision to test and investigate all sexual assault cases as well as previously unsubmitted sexual assault kits (SAKs) raises additional questions about victim notification, including *why* victims will be notified. As MDT members determine the reasons why victims will be notified about their SAKs, they will need to reflect on questions such as these:

- ◆ What are the prosecutorial and investigative implications of notifying a sexual assault victim about renewed activity in their case?
- ◆ Will legal action be considered as a result of forensic evidence findings?
- ◆ Has testing the SAK revealed a significant public safety risk or a risk to the victim's safety, such as the identification of a serial sexual offender?

The terms “survivor” and “victim” are both used in discussing sexual assault cases. People who have been subjected to sexual violence vary in the term they prefer—some identify as victims and others as survivors. The National Sexual Assault Kit Initiative Training and Technical Assistance (SAKI TTA) Team recommends distinguishing between the terms.

- ◆ *Victim* may refer to someone who has recently been affected by sexual violence, by a particular crime, or by aspects of the criminal justice system.
- ◆ *Survivor* may refer to an individual who (a) has gone through the recovery process or (b) is dealing with the short- or long-term effects of sexual assault.

When speaking with an individual, be respectful by asking which term they prefer.

Protocol Development

Establishing a standardized victim notification protocol can be helpful for acting consistently and for ensuring that victims are well served, but some cases will always fall outside of the standard framework. Every victim and case is unique, which means every victim notification will likely be unique. Thus, law enforcement officers and advocates need an MDT to consult about specific cases and circumstances. For some jurisdictions, this includes a case review by the victim advocate, law enforcement, and prosecutor who will be working the case before notification takes place.

When designing the *why* in a victim notification protocol, consider the following:

◆ **What are the implications for notifying the survivor?**

Remember that at the time of the sexual assault, the victim underwent a forensic evidence exam, reported to police, and may have assumed that they had done everything necessary to have the case effectively investigated. Thus, engaging sexual assault victims does risk retraumatization—but it could also be critical in helping them on their path of recovery.

- ♦ **How do MDTs best serve the victims in their communities?**

Focus on how victim notification can be done while reducing retraumatization risks, ensuring victim rights, establishing a team approach on when and how to notify a victim, addressing confidentiality concerns, and identifying everyone's roles in the investigation and prosecution process.

- ♦ **How can MDTs help protect victims?**

Give efficient support and an open-minded, unified approach in pursuing sexual assault cases. Incorporate safety planning into the victim notification protocol, which includes identifying community resources to use during a crisis situation and ensuring that each victim's privacy is respected. By creating guidelines that discuss how to evaluate each case with both victim privacy and safety as objectives for the notification, MDT members are contributing to the protection of victims.

When Introduction

Once an MDT has detailed *why* to contact victims, the next decision is about *when* that initial contact will happen. Again, an MDT should look at decisions through a victim-centered lens to consider both the impact to the victim and the community resources available.

For cold case sexual assaults, some jurisdictions notify all victims in cases with recently tested SAKs. Other jurisdictions contact victims only when recently tested forensic evidence creates a possible new lead and the potential to move forward with prosecution.

For current sexual assault cases, it is important to maintain open communication with victims, keeping them aware of the progress on their case—including decisions to move forward with prosecution. The best approach for a given jurisdiction should be discussed at the MDT level—in both statewide and local agency MDTs.

Protocol Development

An MDT determines when notification should occur; therefore, the team should discuss considerations such as the following:

- ♦ Should a cold case sexual assault victim be notified prior to the submission and testing of their SAK?

- ♦ Should a victim be notified before testing results are available or only after results have been received?
- ♦ Will a victim be notified because of any renewed, updated, or recent activity? Only if DNA is obtained from the result? Only if the SAK testing results in a Combined DNA Index System (CODIS) hit?
- ♦ What will the MDT do if results indicate the presence of a serial or crossover offender—and thus a public safety risk?
- ♦ Does the victim's current situation—for example, if the victim is living with the perpetrator—affect the timing of the notification?
- ♦ Should additional case investigation be completed before the victim is contacted?
- ♦ Should the suspect ever be contacted before the victim is contacted?

Determining these answers requires that the MDT first answer the questions about which survivors should be contacted and why. There is no one-size-fits-all victim notification. Discussion among all disciplines, including advocacy, on the when for victim notification will enable the MDT to develop a policy that works for its jurisdictions.

An MDT that determines that its jurisdictions should not contact all victims of cold case sexual assault can offer an opt-in program for survivors to seek information about their cases. Giving survivors a toll-free phone number, or other means of contact, to learn about the status of their SAKs and cases allows them closure and control that can promote healing.¹

As soon as a jurisdiction begins the work to test its unsubmitted SAKs or to establish a practice to test all current SAKs, it should establish a victim notification protocol that details *why*, *when*, and *how*. Doing so can assist in creating a vital team approach among all disciplines and stakeholders. The protocol should be a blueprint of guidelines and concepts that are derived from experience on previous cases, expertise in victim advocacy and sexual assault, research, and suggestions from other collaborating agencies. Following these considerations for creating such a protocol promotes healthy victim contact that leads to successfully re-engaging or maintaining engagement with a victim in the criminal justice system.

How

Introduction

Conceptualizing victim notification in multiple stages (initial notification, follow-up contact, and ongoing contact) is helpful in determining *how* the notification should take place. The initial notification is the most precarious stage. The person making the contact does not yet know the victim's life circumstances, preferences for contact, or likely response; in a cold case, the victim may not be expecting contact about the case. The victim's safety, privacy, and well-being must be considered throughout notification.

Protocol Development

Initial contact is most commonly made by phone, in person, or by letter. Each type of notification has advantages and disadvantages for both the victim and the notification team, as shown in the graphic. The primary considerations should be about how a victim may perceive the notification, how victim privacy can be maintained during initial contact, and how the overall welfare of the victim will be affected. Weighing the choices can be difficult, and the type of contact may vary by victim.

An essential component of a victim notification protocol is the inclusion of victim advocates, such as by pairing a victim advocate and an investigator to make the notification. This approach enhances the support available to victims and can encourage their participation, as a multitude of reactions can ensue from initial contact. The strength of this union is crucial because of the different scopes of practice of an investigator and a victim advocate.

Victim-centered, trauma-informed protocols can influence best practices for victim notifications. The more everyone is trained and informed on how to engage victims of sexual assault, identify trauma, and ensure that a victim's rights are not violated, the more supported and empowered the victim will be. Implementing victim notification protocols can be challenging if the protocols do not detail a team approach. Community- and systems-based advocates have continuously shown their effectiveness in keeping victims engaged, informed, and supported throughout their cases.² When community- and systems-based advocates and law enforcement officers work together, victims see not only a team of professionals but also people who are genuinely invested in their well-being and their receipt of justice.

 In-Person Visit	
<ul style="list-style-type: none">+ Offers a personalized approach+ Allows the person making contact to respond to the emotional reaction of the survivor+ Builds rapport with the survivor and can provide immediate support+ Allows the survivor to ask questions	<ul style="list-style-type: none">- Requires resources to locate the survivor and determine when he or she is available- Demands ensuring confidentiality at the time of the notification- Poses a safety risk if the survivor is living with the assailant- May feel invasive to the survivor to be approached by strangers
 Phone Call	
<ul style="list-style-type: none">+ Poses less threat than an in-person notification to the survivor's safety, privacy, and confidentiality+ Requires fewer resources than a visit+ Allows for immediate rapport building with the survivor+ Allows the survivor to ask questions+ Allows an in-person follow-up meeting to be scheduled	<ul style="list-style-type: none">- Can be difficult to verify current contact information- Can be difficult to assess survivor's emotional reaction- Poses a possible violation of privacy if intercepted- Risks harm to the survivor if another person intercepts or is present during the call
 Letter	
<ul style="list-style-type: none">+ Is least invasive; gives the survivor private time to process the information	<ul style="list-style-type: none">- Can be intercepted and read by others (e.g., intimate partner assailant, nonabusive partner/family)- Risks harm to the survivor if intercepted- Cannot assess survivor's emotional reaction or provide immediate support- Can be perceived as impersonal

Adapted from *12 Key Questions to Guide Victim Notification Protocols* (National Sexual Assault Kit Initiative). Retrieved from <https://sakitta.org/resources/docs/SAKI-Victim-Notification-Guide.pdf>.

In some jurisdictions, possibly because of a lack of resources or available advocates, investigators initiate contact with victims without having a victim advocate present. Because of the sensitive nature of the conversation, law enforcement officers who initiate victim notifications should have specific training in sexual assault and trauma to facilitate a victim-centered approach. For in-person notification in these situations, having a plain-clothes law enforcement officer make the contact has been shown to lessen the anxiety a victim may have compared with what they may feel in the presence of a uniformed officer. The investigator must be cognizant of the victim's comfort level and know how to connect the victim to support services. They should also be mindful if the victim's visible discomfort requires intervention and support from a victim advocate.

After the initial notification has been completed, evaluate potential survivor safety considerations and request the survivor's choices for follow-up contact. These choices should be respected.

Survivor Safety Considerations	Survivor Contact Preferences
<p>Does the survivor...</p> <ul style="list-style-type: none"> ◆ prefer to meet in a neutral location (perhaps a rape crisis center) to learn more about the case? ◆ want a specific support person to be present? 	<p>Does the survivor want to...</p> <ul style="list-style-type: none"> ◆ receive follow-up contact? ◆ be informed about a potential renewed investigation? ◆ be contacted about additional case-related details <ul style="list-style-type: none"> ▪ by email (to ensure privacy), ▪ by text (for ease of response), or ▪ by some other means?

References:

1. Sexual Assault Kit Initiative. (n.d.). *12 key questions to guide victim notification protocols*. Retrieved from <https://sakitta.org/resources/docs/SAKI-Victim-Notification-Guide.pdf>
2. Sexual Assault Kit Initiative. (n.d.). *Community- and systems-based advocates*.

Foundational Sources:

- Campbell, R., Fehler-Cabral, G., Pierce, S. J., Sharma, D., Bybee, D., Shaw, J., ... Feeney, H. (2015). *The Detroit Sexual Assault Kit (SAK) Action Research Project (ARP)* (NIJ 2011-DN-BX-0001). Washington, DC: National Institute of Justice.
- Joyful Heart Foundation. (n.d.). *Navigating notification: A guide to re-engaging sexual assault survivors affected by the untested rape kit backlog*. [New York, NY: Author.]
- Busch-Armendariz, N., Donde, S., Sulley, C., Vohra-Gupta, S., Heffron, L. C., Kalergis, K., ... Lee, A. (2015, March.) *How to notify victims about sexual assault kit evidence: Insight and recommendations from victims and professionals*. Austin, TX: University of Texas at Austin, School of Social Work, Institute on Domestic Violence & Sexual Assault.

Subject matter expertise contributed by Emily Burton-Blank and Marya Simmons.

This project was supported by Grant No. 2015-AK-BX-K021 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the U.S. Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice. For more information, visit www.sakitta.org.