

# “At Least They’re Workin’ on My Case?” Victim Notification in Sexual Assault “Cold” Cases

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**Caitlin Sulley, LMSW,<sup>1</sup> Leila Wood, PhD, MSW,<sup>1</sup>  
Laurie Cook Heffron, PhD, LMSW,<sup>2</sup>  
Lynn Westbrook, PhD,<sup>1</sup> Nicole Levy, MSSW,<sup>1</sup>  
Sapana D. Donde, PhD,<sup>1</sup>  
and Noël Busch-Armendariz, PhD, LMSW, MPA<sup>1</sup>**

## Abstract

Sexual assault is a significantly under-reported, -investigated, and -prosecuted crime in the United States, which criminal justice and advocacy actors across the country are working to address. Law enforcement procedures often involve providing crime victims, including sexual assault victims, with written notification by mail about the status of their case, but little is known about the best practices for victim notification in sexual assault “cold” cases. This qualitative research explored whether this standard law enforcement practice was appropriate for sexual assault victims in “cold cases” particularly when there had been no contact from law enforcement, despite forensic evidence having been tested. The research questions were *what do sexual assault victims in cold cases have to say about victim notification protocols and practices?* and *What do sexual assault victims in cold cases have to say about hypothetical written victim notification protocols?* Twenty-three

<sup>1</sup>The University of Texas at Austin, TX, USA

<sup>2</sup>St. Edward’s University, Austin, TX, USA

## Corresponding Author:

Leila Wood, School of Social Work, Institute on Domestic Violence & Sexual Assault, The University of Texas at Austin, 1925 San Jacinto Blvd., Stop D3500, Austin, TX 78712, USA.  
Email: [leilawood@austin.utexas.edu](mailto:leilawood@austin.utexas.edu)

sexual assault victims were asked in focus groups and individual interviews to respond to hypothetical written notification letters for content and the sending authority and to give input on alternative modes of communication. The data were analyzed using grounded theory. Themes related to trust, personal agency, and decision making from notification examples emerged. Recommendations on notification included respecting privacy, including specifics, identifying next steps, normalizing, translating, and providing resources. Implications for developing notification protocols include use of emerging evidence about neurobiology of trauma, use of victim input, and patience for the varying reactions and needs of sexual assault victims.

### **Keywords**

sexual assault, crime victim, victim notification, law enforcement procedures

With one in five women reporting experiencing a rape and half of women in the United States reporting some kind of sexual victimization across their lifespan (Black et al., 2011), sexual assault against women in the United States should be considered a public health epidemic that warrants increased action from social, medical, and criminal justice systems. However, it is a significantly under-reported, -investigated, and -prosecuted crime in the United States (Busch-Armendariz & Vohra-Gupta, 2011; Bachman & Saltzman, 1995). Research indicates that the combination of forensic evidence collection (sexual assault kits [SAKs]) and victim desire for prosecution significantly increases the likelihood that charges will be filed and that a case will move to prosecution (Johnson, Peterson, Sommers, & Baskin, 2012). Yet, jurisdictions all across the United States have inventoried SAKs without fully considering their evidentiary use. A nationwide backlog of unprocessed SAKs continues to undercut justice for sexual assault survivors. With no national documentation of this problem, local agencies' statistics on the untested SAKs in their custody only hint at the true extent of this issue (National Institute of Justice [NIJ], 2015). An estimated 18% of unsolved rape cases involved untested forensic evidence (Strom et al., 2009), and approximately 1,000 police agencies showed 70,000 SAKs remained untested ("Tens of Thousands of Rape Kits Go Untested Across USA," Reilly, 2015). Extrapolating those figures to the nation's 18,000 police departments predicts unprocessed SAKs to number in the hundreds of thousands ("Tens of Thousands of Rape Kits Go Untested Across USA," Reilly, 2015). The recent national movement to eliminate the "rape kit backlog" spurred federal legislation and generated local entity funding to process untested SAKs (The

National Center for Victims of Crime [NCVC], 2012). The testing of SAKs in “cold” or dormant cases has created opportunity for case resolution, but also involves contact with victims whose cases have been dormant for years or decades. Unfortunately, little is known about the best way to reach out to notify victims of sexual assault with new case information, necessitating a qualitative exploratory inquiry to explore best practices. The present study uses in-depth interviews and focus groups with victims of sexual assault to consider options for notification. The exploratory data reveal guidance toward the development of best practices for victim notification in sexual assault cold cases.

## **Review of Literature**

Sexual assault victims often experience insensitive responses from law enforcement (policing agencies) and other criminal justice system actors. These tensions contribute to victim concerns about reporting the incident and remaining involved throughout the entire prosecution process (Spohn & Tellis, 2012). The timeline for cases, from reporting to sentencing, is second nature to advocates and law enforcement, but can be frustrating and obscure for victims (Parsons & Bergin, 2010). These information gaps contribute to victim concerns about reporting the assault, much less remaining involved throughout the entire prosecution process (Spohn & Tellis, 2012).

## **Definitions**

This study refers to sexual assault cold cases, which by definition are cases that have been dormant and unresolved for years or decades. This study focuses on SAKs. An untested SAK refers to a SAK that has not been subjected to forensic analysis (Durose, 2008; Patterson & Campbell, 2012). An unsubmitted or unrequested SAK is a SAK that has never been submitted or requested for testing, and most often is stored in a police department property room (Fallick & Wells, 2015). A backlogged SAK is a SAK that has not been tested within 30 days after being submitted to a crime lab (Durose, 2008; Nelson, 2010; Strom et al., 2009). This definition of backlogged is widely used; however, other definitions of the term *backlogged* exist.

## **SAK Procedures**

Sexual assault victims who report to law enforcement often complete evidentiary exams with the goal of helping to provide evidence for a possible criminal justice case (Johnson et al., 2012). The evidentiary examination

that results in a SAK is a long and invasive process, even when conducted by a sensitive and well-trained Sexual Assault Nurse Examiner (SANE). As DNA analysis came into common use in the late 1990s, data from SAKs have been used to expand the Combined DNA Index System (CODIS; NIJ, 2015). The collection of forensic evidence does not guarantee that it will be tested, however. Even when law enforcement agencies have high SANE program engagement and cases with physically injured victims, kits are 25% less likely to be referred to the crime lab when victim actions (e.g., showering after the assault) limit SAK efficacy (Patterson & Campbell, 2012). Analysis of one county's SAKs, collected in the typical process, found a single SANE working with five different law enforcement departments; in that situation, only 58% of kits were submitted to the crime lab (Patterson & Campbell, 2012).

Nevertheless, the growing movement to utilize SAKs in prosecution provides a long-overdue opportunity for change in practice. For example, one encouraging finding for both victims and law enforcement is that victims are 37% more likely to report a subsequent victimization when law enforcement demonstrated effort to investigate a prior report, including evidence collection and searches (Xie, Pogarsky, Lynch, & Macdonald, 2006). While advocates recognize reforms at both the national and local levels, a hostile climate remains some victims' foremost experience. Law enforcement's combination of the concrete (e.g., documented substance abuse from the victim) and perceptual (e.g., victim credibility) requires a heuristic judgment. That judgment determines victim access to every other opportunity for legal redress, especially regarding the role of forensic evidence and the potential for suspect identification and arrest (Tasca, Rodriguez, Spohn, & Koss, 2012). A study of more than 600 rape cases suggests that prosecution rates increase with laboratory testing; and conviction rates increase with victim statements and medical treatment (Johnson et al., 2012). Forensic evidence predicts arrest and charging, but not conviction. Interestingly, 77% of plea deals included forensic evidence, indicating the potential powerful use of evidence collection (Johnson et al., 2012; Parson & Bergin, 2010).

### ***Victim Notification of SAK Results***

**Notification topics.** Initial reports of sexual assault may result in a sexual assault forensic examination and collection of a SAK. Following a forensic examination and initial reporting, the SAK may or may not be tested, and victims may receive information from the criminal justice system over the course of months or years. Sexual assault victims receive written or verbal notification on three major topics: analysis results of SAK testing, notice of

criminal justice proceedings, and updates from law enforcement. Although varying widely in format, purpose, and perspective, these notifications are a necessary but often insufficient means of addressing victim concerns and dispelling myths (Busch-Armendariz, Donde, Sulley, & Vohra-Gupta, 2015). The information victims need or want from notification may be in actual conflict with law enforcement practices. A national survey of more than 800 law enforcement, intimate partner violence (IPV) service staff, and IPV victims examined the information that is legally required in every state, to be given to victims about the criminal justice response when responding to an emergency call for IPV. This work found that 50% of law enforcement officers preferred a single document of information for victims, while 44% of victims sought as many documents needed to get the information across (Busch-Armendariz et al., 2015). Victims reported that certain information, like law enforcement's acknowledgment that IPV is a crime, encouraged their trust in officers' work (Busch-Armendariz et al., 2015). Delayed SAK notification, however, directly undercuts trust. After that initial information delivery, many victims receive only stock letters on case progress, which emphasizes the need to focus on written communication when exploring best practices.

*Types of notification.* Most of the research on victim notification focuses on the various automated or written tools for delivering brief, factual updates on a specific set of events. Increasingly standard in larger jurisdictions, automated systems use the victim's preferred communication format (i.e., email, telephone, or mail) and the victim's registration to a system to improve privacy. Some of these notification systems are open to the public while others are specialized for victims and criminal justice professionals (Irazola, Williamson, Niedzwiecki, Debus-Sherril, & Stricker, 2013). An evaluation of one Statewide Automated Victim Information and Notification (SAVIN) found benefits to closed systems including victim-specific information. Benefits were also found to open systems including increased access to knowledge for a wider group. SAVIN is most effective when victims control their contact option, are required to register only once, and can use effectively developed instructions (Irazola et al., 2013). A North Carolina SAVIN evaluation drew on the input of 47 criminal justice professionals and 41 crime victims of all types, including IPV. Overall, 65% of survey participants indicated that victims most valued notification of court dates and case information (Larsen & Yearwood, 2004). Yet information about automated systems may not be routinely provided to victims. As recently as 2010, only 23% of police-provided materials to IPV victims mentioned automated victim notification services (Westbrook, 2015). Further research is needed to explore the

relationship between automatic system availability and victim participation in cases (Parsons & Bergin, 2010).

To our knowledge, only a small number of studies have focused on victims' response to written and/or verbal communication in delayed SAK notifications. A 2017 study evaluated the notification protocol implemented in Detroit as part of the NIJ-funded action research project (Campbell, Shaw, & Fehler-Cabral, 2018). The Detroit protocol included notification in person whenever possible by a prosecutor's investigator for brief contact and request for a second meeting with both the investigator and a community-based advocate, if the survivor agreed. The study determined that as a result of in-person notification, a majority of victims did not demonstrate strong negative emotional reactions and were willing to reengage with the process. Victims whose cases were older than 9 years, involved a known offender, or who displayed a strong negative emotional reaction to notification were less likely to continue with the criminal justice process. In addition, a 2016 study from the Joyful Heart Foundation examined perspectives of professionals and survivors on their recommendations for notification practices (Ahrens, Swavola, & Dahlgren, 2016). The most paramount practices included survivor choice and information in the process, survivor confidentiality and safety, and empathic response. In an earlier study, published in 2012, the NCVC conducted a roundtable with sexual assault victims who, while having highly individualized needs, consistently identified confidentiality and sensitive delivery as essential. The latter was underscored in their preference for customized contact (i.e., phone or in-person delivery) over written communication. Some suggested that victims in cold cases make their own decision about what, if any, information they wanted from their processed kit, such as accepting new evidence and ignoring inadmissible evidence. To further support victim control of their untested SAK, participants emphasized the need for interactive public awareness programs that provide an opportunity for point-of-use victim registration (NCVC, 2012). Although victims indicated a preference for in-person contact, written notification is often used in practice. The rapidly increasing use of written electronic and paper notifications requires substantial, timely research, particularly about the type, content, and delivery source of such notifications. The following study explores sexual assault victims' perception of written notification methods.

## **Method**

This exploratory study investigated written victim notification protocols for sexual assault victims in cold cases using qualitative methods. Three research questions guided the study.

## **Research Questions**

1. In general, what do sexual assault victims in cold cases have to say about victim notification protocols and practices?
2. Specifically, what do sexual assault victims in cold cases have to say about hypothetical written victim notification protocols?
3. What guidance do sexual assault victims in cold cases give about written victim notification protocols and practices?

## **NIJ Parent Project**

In 2011, NIJ awarded multidisciplinary teams in Detroit, Michigan and in Houston, Texas research support to better understand and respond to the large number of unsubmitted SAKs across the country. In Houston, the multidisciplinary team comprised of law enforcement, crime lab personnel, community advocacy, forensic nurse examiners, prosecutors, and researchers engaged from 2011 to 2015 in action research processes to explore the systemic factors that contributed to unsubmitted and untested SAKs in Houston. The Houston police department concluded that 6,663 SAKs that been collected from sexual assault complainants between 1978 and 2012 inventoried in police department property room and remained unsubmitted to the crime lab for testing. The overall project aim was to build national best practices in a number of areas such as recommendations for testing priorities, reviewing crime lab procedures, improving investigative and prosecutorial strategies, and building community partnerships. Given the large number of unsubmitted and untested sexual assault cold cases in Houston and across the country, victim notification protocols were a central area of interest. The current study was a part of Houston project and informed the development of national victim notification protocols for sexual assault survivors. Questions were framed around notification from law enforcement because the Houston police department would be the primary point of contact for notification efforts, based on discussion and agreement about the multidisciplinary team.

## **Recruitment and Human Subjects Procedures**

Researchers with extensive research and direct practice experience (a range of 2-20 years) working with survivors of interpersonal violence collected data from sexual assault victims. Purposive and convenience sampling procedures were used to recruit sexual assault victims. Purposive sampling was carried out by engaging rape crisis centers to recruit survivors who may have reported sexual assault to law enforcement. Administrators, counselors, and

advocates at a large rape crisis center in Houston<sup>1</sup> initially recruited potential participants. These staff were provided information about the research aims, a recruitment script, and flyer. Organization staff then provided the information to additional organizations who serve survivors. The subsequent organization staff then also utilized the information and procedures to recruit additional survivor participants. From initial purposive recruitment, a convenience sample of available participants were recruited. Focus groups and/or individual interviews were conducted to collect data from sexual assault survivors about their opinions and guidance for victim notification protocols.

Participant interviews and focus groups were conducted in a variety of private settings throughout the city in locations that were convenient and selected by participants. Recruitment materials stated that survivors could participate in a focus group or interview, and survivors indicated the format of their choice to the recruiter. Organization staff arranged the logistics and meeting space. The Institutional Review Board (IRB) at The University of Texas at Austin reviewed and approved this study, and all participants provided written informed consent. Participants were compensated US\$20 for their time and any related expenses (like parking or transportation). No demographic information was collected to protect individual anonymity.

### *Description of Participants*

A community sample of adult female (18 years and older) sexual assault survivors were recruited for this study. Given the specificity of the study research questions, four inclusion criteria were established for participation: (a) all participants were sexual assault victims, (b) all participants participated in a sexual assault forensic examination following their victimization, (c) all participants reported their sexual assault to a law enforcement agency in the United States, and (d) all participants indicated that they did not receive information about the testing of their SAK (they did not know the status of their SAK testing) or they did not receive follow-up by police. Prior to data collection, the researchers conducted initial screening procedures, and anyone who did not meet all four criteria was excluded.

Twenty-three adult female sexual assault victims participated in this study ( $N = 23$ ); six participated in one-on-one interviews; and 17 participated in focus groups. Participants' victimization and SAK evidence spanned a quarter of a century (1980-2014); two participants reported their victimization to law enforcement in the early 1980s. No other information about the crime or victimization was formally recorded. Three groups of sexual assault survivors emerged among participants, those with (a) active law enforcement investigations with some follow-up, (b) limited law enforcement follow-up

**Table 1.** Sample Letters.

Letter A	Letter B
<p>Dear Jane/John Doe:</p> <p>I am writing to you regarding an incident that you reported to the (city) Police Department. It can be very hard to report crimes of a personal nature, and so I want to commend you for your courage. We would like to explore possible new avenues in your case. We would like to invite you to come in for a follow-up interview. Please contact me at XXX-XXX-XXXX.</p>	<p>Dear Jane/John Doe:</p> <p>I am writing to you regarding an incident that you reported to the (city) Police Department. It can be very hard to report crimes of a personal nature, and so I want to commend you for your courage. We recently received information that the results of your sexual assault kit did not provide us with evidence for your case. Unfortunately, this means we cannot move forward with your case at this time. We are sorry about this disappointing news. We know that receiving this letter may trigger intense feelings of sadness, anger, even despair. These are common and understandable reactions to personal crimes, particularly if justice cannot be served through the criminal justice system.</p>
<p>Sometimes victims of crime need more time to decide whether they want to move forward with a case or not. If you are not ready to move forward with your case now, then feel free to contact me in the future.</p>	<p>The (rape crisis center) is an excellent community resource and can provide you with support and counseling. Enclosed is their brochure with more information. Their services are free.</p>
<p>Thank you very much for your time.</p>	<p>Again, we are sorry to relay this news. If new evidence becomes available in your case, please contact us at XXX-XXX-XXXX.</p>
<p>Sincerely,</p>	<p>Sincerely,</p>

and uncertainty about any forensic testing processes or any results, and (c) no law enforcement follow-up. The diverse range of experiences with law enforcement aided the inquiry about notification practices.

### *Data Collection Procedures and Sample Letter Development*

Researchers gathered example letters from four law enforcement jurisdictions across the country and developed two hypothetical victim notification letters (see Table 1 for sample letters). Two law enforcement officials and two victim advocates from the local rape crisis center reviewed the letters before

they were used in interviews or focus groups. Letter A indicated that the SAK had been tested, new information was available about the case, and victims were invited to the city police department for an interview to further discuss their case. Letter B informed victims that their SAK had been tested but the results did not provide new information about their case.

### ***Interview and Focus Group Processes***

A qualitative design was used to aid in understanding of the process and perceptions used to understand notification methods. Data were collected in English ( $n = 22$ ) or Spanish ( $n = 1$ ), based on participants' preferences. A semistructured interview guide of open-ended questions was used to elicit participants' responses to sample written notification letters. Researchers asked participants a series of open-ended questions in three areas: (a) letter content, (b) sending authority, and (c) their ideas for alternative methods to receive case information. Questions included as follows: *Describe how you made the decision to report or not report your crime to law enforcement? Describe how you got information following your report to law enforcement or submission of forensic evidence? and Describe how you would feel about being contacted by law enforcement regarding the testing of your SAK, if you thought your case was no longer being investigated?* After reviewing the letter content, participants were asked about strengths, areas of improvements, and reactions invoked by those that would receive the notification letter. To inquire about sending authority, victims were asked to discuss their preferences about three letterhead formats: (a) local law enforcement, (b) a coalition of responders and providers (including the local rape crisis center), or (c) no designation. Finally, participants were asked about alternative methods of receiving information such as Facebook page, Twitter, television, radio, newspaper, and so on.

### ***Data Analysis Procedures***

Using grounded theory techniques that consider action and process (Charmaz, 2006), this project was conceived as a first step in the development of theory about victim-informed notification for sexual assault survivors. To achieve this aim, several systematic steps were used. First, interviews and focus groups data were audio-recorded and later transcribed verbatim through an accredited transcription service. Second, two members of the research team independently analyzed the transcripts using line-by-line coding and later a third qualitative researcher used an independent

constant comparison method associated with grounded theory (Charmaz, 2006; Corbin & Strauss, 2008) to verify the initial codes. After this initial coding, axial coding was used to build relationships between codes and clarify themes and ideas (Corbin & Strauss, 2008). The initial coding method was inductive and focused on knowledge construction emerging from the voices of participants (Charmaz, 2006). The second round of coding was used to produce emergent themes that were reviewed and refined by the three original qualitative researchers and an additional researcher with expertise in information studies. The qualitative software program Provalis was used to track memos and codes and create audit trails, and the researchers relied heavily on the use of participant quotations to improve the credibility, originality, resonance, and usefulness as a grounded theory study (Charmaz, 2006). The broad area of findings reported below were concepts that were reference by nearly all 23 participant and saturated in the data, unless noted as divergent perspective.

## **Findings**

Several important findings emerged and are organized in three broad areas: (a) trust, (b) personal agency development, and (c) decision making. The following themes are explored below. In addition, participants offered concrete guidance for future notification derived from these themes.

### ***Trust***

Trust is a critical factor for survivors engaging in the criminal justice system. From general work on “distress” (e.g., Walsh & Bruce, 2011) to more focused studies of “fear” (e.g., Jaquier & Sullivan, 2014), research continues to examine the relationships among victims’ emotional states and relationship with the criminal justice process. Past, present, and anticipated experiences of these kind shape the self-protection needs that victims are willing to put at risk in their interactions with SANE staff, law enforcement, and advocates. The idea of receiving a notification letter engendered feelings of anger, confusion, and frustration for most victims, all rooted in perceptions of trust with criminal justice actors. Most participants reported distrust and inauthentic effort from initial negative interactions with law enforcement, prosecutors, and medical professionals. Upon reading the letter, several victims reported the notification reinforced their sense of distrust. One victim offered suggestions for an approach that demonstrated respect and had the potential to instill trust in the professional. The victim said,

I think personally for me some respect in doing it face to face. I think having the advocate present is really great too. Take time out of your day to recognize how tragic this was for me. You know, and to really give me that time, in a more personal way.

Reopening the law enforcement interactions, particularly in such a formal format, also reopened victims' old wounds and triggered fear and anxiety. One sexual assault survivor said with concern,

If there's nothing [to report about the case] then why send the letter? It opens up a wound that's closed. I think the only one they should send out is if there is something.

Likewise, ignoring some victims' long-fought battle to close old wounds emphasizes past events. Here, letters A and B are contrasted.

Then all of a sudden they receive this letter and saying—maybe they already had had that grieving process because I feel like—I feel like—I rated everything in that I would go into crisis. I would definitely feel that this person will go into a crisis here [with Letter B] more than the other case [Letter A]. Just make it only if it's necessary.

The letters' formal mode of expressing personal empathy led to the common distrust of people, namely sexual assault service professionals, seeking to establish false relationships.

The last thing that I ever wanna hear somebody tell me is I know how you feel. "We know that receiving this letter may trigger intense feelings" [quoting letter]—you have no idea.

For a small group of victims, Letter B (indicating no news) provided a hopeful sense of genuine attention to the case. In trusting the letter's honesty, some participants found even negative information reassuring.

This letter kind of gives you the sense that okay well at least somebody is workin' on my case. Because though they have not found—they haven't gotten any results from the rape kit. They haven't caught the man who did it or the woman who did it to me. At least they're workin' on my case.

Careful use of language, however, is needed to avoid raising hopeful, but unrealistic, expectations.

"This unfortunately means we cannot move forward with your case at this time." [Quoting letter]. Does it mean that at any other time you're going to move forward with the case? Because you're still giving false hope by saying that.

### *Issues of Personal Agency*

Personal agency development emerged as an important element of notification preferences for most participants. The sample update letters prompt recipients to rethink their own role in their experiences with the criminal justice system. The letters represent a lack of timely information for victims who reported a sexual assault to a law enforcement agency. When victims receive the letter, they are reminded that they must engage in continuous personal agency development to make sense of their status as a crime victim.

If they say we don't have evidence, we'll get back to you—if they ain't got evidence, they not gonna call us back. They're not gonna actually go through with it.

For some participants, personal agency becomes a matter of recognizing their actual lack of agency in the SAK process. Participants' cooperation in the invasive SANE exam was seen as one step in developing or regaining their personal agency. The response to the sample letters, format and content aside, draws a firm line between the victim and law enforcement responsibilities.

How backlogged are they on doing the actual right test? You hear of thousands sitting on the shelves back there, and they're not being tested for years. Come on. How long do you have to prosecute them? You only have a year, isn't it? I mean if they're sitting on the shelf forever then they're not doing enough to help us. If we have a deadline to file charges and they're not doing what they're supposed to be doing then hello. They're not doing it. Why do the rape test if they're not gonna test it right away?

Letter B, in particular, challenged a few victims to generate their own approaches to moving forward.

Instead of like saying we cannot move forward with your case, you should please call dah, dah, dah, your caseworkers, whoever it may be to explore more options. I don't know. The last thing we wanna put in these women's heads is we cannot move forward . . . Well, you can move forward. There are so many other outlets you could go. Only catching the perpetrator is just part of it.

### *Issues of Decision Making*

Overwhelmingly, participants discussed the action or lack of action indicated in the letters. The letters requested victims to act, that is, to make and implement a decision. A victim must make a difficult and complex decision to make the requested phone call to set an interview date. This act brings their private pain back into a highly structured public space—an act likely to include a significant loss of control.

Well, you said it was like 15 years ago . . . Would like you to come in for an interview—no, I don't wanna go into the police station for an interview.

In addition, the act of rejecting a letter's assumption of victim responsibilities prioritizes personal values over law enforcement procedures.

I don't like that it says if new evidence becomes available in your case, please contact us. *You* should be contacting *me*.

### *Recommendations for Practice From the Victim Perspective*

The issues of trust, personal agency development, and decision-making aspects of the sample updated SAK letter responses intertwine to help shape victim response to communication and notifications. In addition to understanding victim response, data were analyzed for victim recommendation of notification practices. The items listed below were mentioned in some form by nearly every participant as they considered their notification needs, and independently verified through the coding process. Although no model or template emerged from these exploratory interviews and focus groups, the broad recommendations, however, may well help in their future development.

**Respect privacy and safety.** Both the content and delivery method of notification must be designed to carefully consider privacy and safety. Virtually every participant emphasized this point. Such sensitive respect speaks to victims' affective states by recognizing their current situations with regard to the dated forensic evidence. One repeated recommendation was that letters may, in fact, not be the "right" method for notification in cold cases. A victim said,

I made my report to the police and the police were supposed to follow up so I really don't want to think that anybody else knows about it.

**Include specific information.** Objective, factual data provided to victims support the decision-making process by allowing them to fit the new information

into their existing situations. Participants recommend including the case number, contact information, and the chronology of events (e.g., date of crime and type of evidence collected).

I think for me, not being vague about what this is about. Actually saying something like, we have processed your evidence kit.

*Identify next steps.* Notification practices that provide concrete steps for moving ahead in seeking criminal justice exemplify respect for victim emotions as well as support personal agency development. Participants repeatedly requested information that outlines next steps.

I would definitely elaborate . . . with these are the avenues that are generally possible, and then also . . . definitely make sure that they have the rape victims' hotline, so that if it's that upsetting, they have an opportunity—they know who to call.

*Normalize experiences.* Participants voiced a desire for communication strategies to normalize reactions. Notification strategies need to balance between normalizing and sharing experiences. Although no formula for finding that balance is available, the honest effort to do so is certainly essential.

You know, and someone really to say, "Right now, you're probably feeling A, B, and C. That is normal. I know right now you're probably thinking that you asked for this. I know right now, you're probably thinking that you do not want to pursue filing charges. I know right now you are scared. I know right now you feel to blame."

*Translate legal terminology from the victim's perspective.* The use of occupational jargon in legally situated written materials reinforces the existing power dynamics between sender and receiver. Similarly, the concept of an open case with officers' decisions "to explore possible new avenues in your case" assumes that officers and victims share not only a goal but the means of reaching that goal. As one participant noted, "that's almost like being violated again. We wanna explore new avenues—no, I don't like that. I don't want you to explore anything." Participants emphasized the need to explain legal terms and processes concretely in all communications.

*Provide victim-centered resources.* Understanding, managing, and acting on information in notification letters, however, falls squarely on the victim. Personalized resources working from a victim's perspective can be particularly valuable when the letters arrive long after rape counseling and other

supports are available. Several participants advised proving other formal support information.

Just if you're still seeking answers and different angles of wanting to move forward, please contact—you put a resource, a counselor. Even if it's from the police department, just give them options to explore the other options that you could take.

## **Discussion**

A purposive sample of 22 sexual assault survivors was interviewed about notification practices following dormant SAKs. Trust, personal agency, and decision making emerged as key themes determining notification approaches. Practical themes emerged for victim notification such as respect for privacy and safety, need for specific information and next steps and that notification should normalize experiences, translate legal terminology, and provide victim-centered resources. Providing long-overdue SAK findings to sexual assault victims inherently makes assumptions about victims' trust, personal agency, and decision making. The letter's essentially impersonal delivery of legal facts can potentially revictimize individuals, particularly those who have begun to move their private pain out of law enforcement's public spaces. Care is needed to address notification approaches, especially after long delays in access to justice.

Results from this study had practical implications for notification. The Houston police department's decision to involve victims in the development and implementation of their victim notification protocol serves as an example for thoughtfully facing unintended consequences. As part of the action research framework, the researchers provided the findings from this analysis to the multidisciplinary group for their review and consideration in planning the notification protocol. Based on the potential for revictimization by letter notification, the multidisciplinary team determined that notification by letter would be a last resort for contact after phone or in-person contact methods were exhausted (see protocol for reference). In addition, the Sexual Assault Information Line (SAIL; phone and email options) was developed. The SAIL was promoted via news coverage, print and web information, and social media. Victims were given control about when and how to get testing results. Victims who contacted SAIL were provided information, crisis intervention, and connection to police investigator and justice advocate<sup>1</sup> to receive additional information about their case and SAK forensic testing results.

Because demographics were not specifically collected during this study, it is difficult to offer recommendations to address specific diversity or cultural victim notification protocols. Nonetheless, it is equally important to recognize

that people's understanding of sexual assault is embedded in the context of crime, interpersonal violence, sexuality, gender roles, and a number of other social constructs. As communities develop victim-informed notification protocols, race, ethnicity, language, nationality, sex, gender identity, sexual orientation, religion, geography, ability, and age should be considered. In addition, the year in which the assault occurred, and the subsequent passage of time, can impact the notification perceptions and needs of the victim.

We are only recently learning about the impact of trauma on the brain's ability for recall. Hormonal reactions to trauma inhibit recall (Wirth, 2015). Emerging best practices show that multiple sleep cycles help the brain to recover and consolidate memories in ways that can be articulated in an investigative interview (Campbell, 2012). How does this translate for victims with "cold cases," when the notification itself can be interpreted as a unique trauma? What is the trauma of the notification itself and how can "notifiers" help to mitigate the harm? More information about the connection between notification, trauma, and re-trauma risk is needed.

Patience to address these crimes is also critical. Report on outcomes of victims contacted by investigators and the justice advocate in Houston demonstrated that patience and flexibility to respond to a victim who is just notified with information about their cold case was critical to keeping victims engaged with the criminal justice process.

The insight and recommendations of victims and the professionals that serve them guided notification practices and their development (Busch-Armendariz & Sulley, 2015). Victims wanted to be notified whether the case could move forward and wanted to exercise choice and control in the process (Busch-Armendariz, et al., 2015). This study also supports the findings of Campbell et al. (2018) that in-personal notification may be ideal.

### *Limitations*

As an exploratory, qualitative study, this research deepens understanding, rather than establishes a process leading to reproducible findings. Within that specific context, two limitations should be addressed in future work on these research questions. Participant insights on the two letters required them to balance content (i.e., new findings vs. no new findings) with style (i.e., the three letterhead variations). Although complex, a multilevel approach is quite likely to provide meaningful nuances in that substantial research indicates victims value both content and tone. In addition, the hypothetical letters necessarily elicit responses that are affectively and cognitively distant from actual experiences. With full consideration of participants' perspectives, examining real-time responses will provide a more constructivist understanding of victim priorities.

Sexual assault victims have important concerns around privacy, safety, and understanding related to victim notification. Communication is difficult after trauma, and the brain does not always let information in about resources or the retelling of information in clear and logical ways. Victims' willingness to engage in the criminal justice process is critical to the case moving forward, in addition to the SAK collection. Ways in which victims are reengaged increase the likelihood of that willingness, thus, the ability to move to prosecution. With this knowledge, communities have the opportunity to rethink how to best respond to victims in ways that are more grounded in social science research and neurobiology.

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### **Note**

1. A justice advocate is a law-enforcement-based victim service professional embedded in the Adult Sex Crimes Unit to serve victims in both cold cases and new cases. The justice advocate's duties include crisis intervention, providing victims with information about the criminal justice process, resources and referrals, and serving as a liaison between the investigator and victim and between the police department and the community.

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## Author Biographies

**Caitlin Solley**, LMSW, is a director of the sexual assault research portfolio at the Institute on Domestic Violence & Sexual Assault (IDVSA) at the University of Texas at Austin School of Social Work. She oversees research and training initiatives focused on institutional response to sexual assault, victim-centered practices, gender-based violence among college populations, and victim engagement in the criminal justice system. She has served survivors of sexual assault and family violence in law enforcement and community-based settings.

**Leila Wood**, PhD, MSW, is a researcher at the IDVSA at the University of Texas at Austin School of Social Work. Her scholarship areas are intimate and interpersonal violence in the campus context, intimate partner violence service evaluation, and qualitative methods. Previously, she worked in community settings on issues of interpersonal violence.

**Laurie Cook Heffron**, PhD, LMSW, is an assistant professor of social work in the School of Behavioral and Social Sciences at St. Edward's University in Austin, Texas. She has interest and expertise in the areas of forced migration, domestic and sexual violence, and human trafficking, and her research explores the experiences of, and relationships between, violence against women and migration, particularly among Central American migrant women in the United States.

**Lynn Westbrook** is an associate professor at the University of Texas at School of Information with an MLS from the University of Chicago and a PhD from the University of Michigan. Her research interests focus on the cognitive and interpersonal aspects of human-information interactions with emphases on the holistic views of women in crisis situations, particularly intimate partner violence, gynecological cancers, and sexual human trafficking. Author of numerous articles, she most recently contributed to *Library & Information Science Research*, *Journal of the American Society for Information Science and Technology*, and *Journal of Documentation*.

**Nicole Levy**'s research contributions have focused on sexual assault, children exposed to interpersonal violence, and the development of a bystander intervention for sexual and dating violence. Prior to her graduate education, she was a licensed financial advisor.

**Sapana D. Donde** is a licensed clinical psychologist and a research associate in the School of Social Work at the University of Texas at Austin. She received her doctorate in clinical psychology, with a specialty in clinical child psychology, from the George Washington University. Her research interests include the neurobiology of trauma, interpersonal violence, and trauma-informed mental health services.

**Noël Busch-Armendariz** is the director of the IDVSA, and a university presidential professor in the School of Social Work at the University of Texas at Austin. She is a nationally recognized expert in sexual assault and human trafficking. She has worked as a battered woman's advocate, support group leader, program director, and registered lobbyist. She serves on the program committee of SafePlace, Inc. and the policy committee of the Texas Council on Family Violence.