

Utah Sexual Assault Kit Initiative Victim Notification Recommended Protocol

It is difficult to anticipate how a victim of a cold case sexual assault will respond to notification that their sexual assault kit has now been tested. Victims may experience a wide range of emotions and reactions. According to the National Institute of Justice, feelings and memories regarding the assault, may cause re-traumatization, flashbacks and other symptoms that heighten post-traumatic stress disorder and other mental health issues or affect substance use or abuse (2016).

The goal of the victim notification protocol is to reduce re-traumatization for victims of cold cases by preparing criminal justice partners in trauma-informed and victim-centered victim notifications.

Trauma-Informed – Understanding, recognizing, and responding to those experiencing or who have experienced trauma.

Agencies are recommended to receive training in the neurobiology of trauma and sexual assault. Recommendations for online trainings include:

National Institute of Justice-*The Neurobiology of Sexual Assault* -Dr. Rebecca Campbell
<https://www.nij.gov/multimedia/presenter/presenter-campbell/Pages/welcome.aspx>

Arkansas Coalition Against Sexual Assault-*Neurobiology of Trauma*-Dr. David Lisak
<https://www.youtube.com/watch?v=py0mVt2Z7nc>

End Violence Against Women International-*Neurobiology of Sexual Assault Webinar Series*-Dr. James W. Hopper
<http://www.evawintl.org/WebinarDetail.aspx?webinarid=1026>

Victim-Centered – Focus on the needs and concerns of a victim to ensure the compassionate and sensitive delivery of services in a non-judgmental manner. Seeks to minimize re-traumatization associated with the criminal justice process.

Victim-centered approaches have been shown to decrease stress, anxiety and self-blame; increase a sense of safety, security and empowerment; and increase engagement in investigation and prosecution processes. Such approaches also result in increased rates of successful investigations and prosecutions as well as decreased stress, burnout and vicarious trauma for criminal justice [personnel]” (Joyful Heart Foundation [JHF], 2016).

Utah law now requires law enforcement agencies investigating sexual offenses to notify sexual assault victims about their cases under certain circumstances ([U.C.A 77-37-3](#)).

Please Note: This is a guideline of best practices for victim notification. Some of these guidelines may conflict with the resources and information available to your individual department/agency.

In some instances, you may need to resort to the policies and procedures currently outlined for your department/agency. It is also recommended that you review current policies and procedures and if necessary implement changes more consistent with trauma-informed and victim-centered best practices.

OBJECTIVES IN NOTIFICATION

1. Increase the use of victim-centered and trauma-informed best practices for the purpose of reducing re-traumatization during the victim notification process (National Institute of Justice [NIJ], 2016).
2. Increase rapport and foster relationships with victims through the victim notification process. Reengaging a victim is *not* for the sole purpose of determining level of cooperation, but first and for most an opportunity to provide information and rebuild trust in the system (JHF, 2016).
3. Promote a uniform process for performing victim notifications, while recognizing the uniqueness of every case and every survivor.
4. Improve multi-disciplinary collaboration.

CASE REVIEWS

Once a previously unsubmitted sexual assault kit has completed testing and an agency has received a lab report, it is recommended the case and lab results are reviewed by a multi-disciplinary team or Sexual Assault Response Team (SART) if active. The multi-disciplinary team assesses each case's potential to be investigated and prosecuted as well as recommendations on how or if a victim notification should be completed. The Utah Sexual Assault Kit Initiative Victim Notification Protocol recommends proceeding with victim notification when a case has potential for prosecution or other relevant legal action. Other relevant legal action could include a case-to-case associations, 404b evidence, parole hearings where a victim could testify, etc. However, it is still recommended to review cases that do not have obvious potential for prosecution with a multi-disciplinary team. Each case is reviewed individually and should be given consideration for completing a notification. This may occur when the potential benefit to the victim outweighs the risk of re-traumatization i.e. CODIS hit identifies an unknown suspect, suspect is found to be dead, there is no potential for prosecution, but notification may bring closure/healing to a victim etc. Contact the Utah Coalition Against Sexual Assault to find out more information on developing a SART in your area or a multi-disciplinary team.

The Detroit Sexual Assault Kit (SAK) Action Research Project (ARP) noted that one of the most critical lessons learned was the use and application of multidisciplinary teams and case reviews for victim notifications. "The input from all core disciplines-police, prosecution, crime lab, nursing/SANE, and advocacy-was essential for creating a comprehensive plan that addressed survivor's psychological and informational needs" (Campbell et al., 2015).

CONSIDERATIONS

The notification process is not a one-size-fits-all. In preparing for notification, considerations and decisions should be cognizant of the victim's potential, individual vulnerabilities, history, stabilities as well as different case circumstances. *Every attempt should be made to notify a victim at a time, place, and manner that provides as much privacy as possible.*

1. Consider When to Make Notification

- a. Consider when the notification will take place. Notifications should be completed in a timely manner to prevent the victim from first learning about new case activity from other sources, including the media, witnesses, or even the suspect (The National Center for Victims of Crime [NCVC], 2011).
- b. Attempts to locate the victim for notification should be exhausted before proceeding with the investigation unless the victim notification would unreasonably interfere with the investigation (NCVC, 2011).

2. Consider Who Should Make Notification

- a. It is recommended the investigators involved in victim notification be trained in trauma-informed and victim-centered practices (Busch-Armendariz et al. 2015; JHF, 2016). Any renewed activity in the investigation may cause psychological trauma to the victim and their family, particularly if a substantial amount of time has passed or if they have not received regular updates regarding the case (NCVC, 2011).
- b. It is strongly recommended at least one victim advocate be trained on the victim notification protocol and be included in notifications. Victim advocates are a valuable resource for law enforcement and victims (JHF, 2016). If a victim advocate is unavailable in your area, consider contacting the SAKI Victim Advocate (amwalker@utah.gov) who is available to attend or complete notifications throughout the state.

3. Consider How to Make Notification

- a. Consider how to maintain the safety of all parties involved in the notification while maintaining the victim's privacy.
 - i. What are the victim's current life circumstances?
 - ii. What is the relationship between the victim and suspect? Cases involving domestic violence and stalking may require specific safety precautions and detailed safety plans from a victim advocate (Campbell et al., 2015).
 - iii. Who else may be present during the notification? Keep in mind some victims may not have told anyone about the assault, including spouses, children, other family members, and/or friends (Busch-Armendariz et al. 2015).

- iv. What will you wear during the notification? Arriving in a uniform and marked police car may impact a victim's privacy, however it also may raise safety concerns for law enforcement (Campbell et al., 2015).
 - v. Has the victim appointed a designee? The Utah Victim Rights Statute (U.C.A 77-37-3) allows victims to appoint a designee to receive case updates, notifications, etc.
- b. Consider what method of notification you will use-scheduled or unscheduled face-to-face notification, phone call, letter, or email. Methods of Notification are outlined and defined further, please refer to page 5-7.

4. Consider Prior Victim Treatment

- a. Consider how a victim may have been treated or engaged at the time of the original investigation. This may inform how you complete the notification. If concerns about prior victim treatment are raised by the multi-disciplinary team, it is strongly recommended that notifiers take steps to re-establish victim's trust in the system.
- b. Consider that it may not always be obvious how a victim was treated. It is recommended to offer an apology on every notification. Research suggests that offering an apology to the victim as early as possible is the first step to re-establishing trust in the system (JHF, 2016). Victims may have varying emotions from prior involvement with the original investigation. A simple, "I'm sorry this happened to you" can go a long way with victims.
- c. Consider that victims may be fearful or hostile upon seeing a law enforcement officer on their doorstep.
- d. Consider that some victims may need to express their prior frustrations or surprise to learning their case is now being looked at or investigated because of recent testing. Provide an opportunity for victim's to express feelings and emotions and take the time to actively listen. Taking the time to listen to a victim will also help re-establish their trust and rapport with the criminal justice system (JHF, 2016).

5. Consider What Will be Said During Notification

- a. Consider how you will explain why the sexual assault kit was not submitted to the crime lab for testing. Many victims assumed their sexual assault kit was automatically submitted to the lab for testing and are now curious to why their sexual assault kit was not submitted previously to the crime lab for DNA testing (Busch-Armendariz et al. 2015). It is important to victims that you provide a genuine response and not an excuse. Here is an example of how to respond to this question:
 - i. "Researchers report that unsubmitted sexual assault kits built up in communities because of a system-wide breakdown. We now know so much more about the benefits of testing kits. As a result, our department has adopted a policy to test all sexual assault kits and is working to train

all officers about trauma and how it affects victims.” (Research Triangle Institute International [RTII], 2015).

- b. Consider what information can and cannot be relayed to the victim at the time of notification. It is important to provide as much information to the victim as possible. Research shows that victims of sexual assault want information about their case and having such information helps, victims heal (JHF, 2016). You should be prepared to share as much information as possible about elements of the investigation, the criminal justice process, DNA and DNA databases, the different roles of professionals involved in the process, what will be expected of the victim, and information about the next steps (NCVC, 2011).
- c. Considerations for what will be said during notification is further outlined in the Notification section, please refer to page 7-8.

METHODS OF NOTIFICATION

Face-to-face notification by law enforcement and an advocate should occur when possible to better assess victim reaction, address victim’s immediate needs and determine the most appropriate resources for the victim. In-person notifications are more personal and lay a foundation for victim-centered relationships (Busch-Armendariz et al. 2015).

Other less desirable methods of notification include: telephone calls, letters, or emails. Each method of notification poses certain challenges to the team contacting the victim.

1. In-person Notification

There are two options for performing in-person victim notifications; a scheduled in-person notification and an unscheduled in-person notification. Both scheduled and unscheduled notifications can result in successful victim-centered and trauma-informed notifications. The investigator and victim advocate should coordinate when deciding between a scheduled and unscheduled notification as well as consider specific case circumstances.

- a. Scheduled In-Person Notification – Contact made with the victim in advance to schedule an in-person meeting.
 - i. Confirm you are speaking to the victim.
 1. A victim advocate or investigator accompanied by a victim advocate should attempt to contact the victim by phone to arrange a time to meet in-person for the notification.
 - ii. Let the victim know who you are and who else is on the phone call.
 - iii. Ask the victim if they are in a position to safely speak to you. Keep in mind, the victim may not be in an ideal place to speak to you privately or some victims may prefer to call you back.
 - iv. Let the victim know you are calling about a case from (year) and you have received additional information and would like to speak with them in-person.

1. Example: “I am calling about a case from 2008, we have some information and we would like to meet with you in-person”.
 - v. Ask the victim where and when they would be comfortable meeting for more information. *Let victim decide how and when notification will take place.*
 1. Have a list of possible meeting locations outside of the victim’s home and place of work, such as a soft interview room at the police department, Rape Recovery Center, or other community advocacy facilities that would provide adequate privacy.
 - vi. If the victim is not available, identify yourself and your agency and ask for a return call from the victim when leaving a message. Avoid leaving a message with information about what the call is regarding. If pressed, say that the individual may have been a witness to a crime and you have some questions.
- b. **Unscheduled In-Person Notification** – A notification made without prior notice given to the victim about the meeting.
- i. Attempt to approach the victim when there are few privacy issues.
 - ii. Be careful not to alarm the victim.
 - iii. Be respectful of the victim’s wishes if it is not a good time to talk.
 - iv. Try again if the first in-person attempt does not work out.
 - v. Do not leave a business card on the victim’s door that says “sex crimes” if the victim is not available. As a last resort, leave a generic business card from your agency with your name written on the back.
 - vi. If you have exhausted all attempts to meet with the victim in-person, attempt other forms of notification.

Pros

- More Personal
- Relays a Level of Importance, Concern & Care
- More Engaging
- Pick Up on Non-Verbal Cues
- Address More Immediate Needs

Cons

- Logistically Harder
- Most Time Consuming
- Deal with Raw Emotions
- Privacy Issues
- Victim May Have Negative Experiences with Law Enforcement
- Alleged Perpetrator May Reside with Victim

2. Telephone Notification

- a. When leaving a message, identify yourself and your agency (but not that you are part of the sex crimes unit) and ask for a return call from the victim.
- b. Avoid leaving a message with information about what the call is regarding.
- c. Attempt to include an advocate on the phone call or request an advocate to follow-up with the victim after the call is completed.

Pros

- Convenience
- May be More Confidential than In-Person
- May Allow Victims to Experience Emotions Privately

Cons

- May Seem Impersonal
- Locating Current Phone Numbers May be Difficult
- Difficult to Pick Up on Non-Verbal Cues

3. U.S. Mail Notification

- a. Write the letter in generic terms without a lot of detailed information (See Appendix A). Make sure to include direct contact number for investigator and advocate.
- b. Send the letter by certified mail to be signed for only by the victim.

Pros

- More Likely to be Noticed than Email

Cons

- May Seem Impersonal
- Locating Current Mailing Addresses May be Difficult
- Least Confidential
- Potential for Interception

4. Email Notification/Social Media (Last Resort)

- a. Write the email in generic terms without a lot of detailed information. Include contact information for investigator and advocate.
- b. Request a receipt if the email is looked at.

Pros

- May Be Victim's Primary Form of Communication
- Easier for Victim's Who Frequently Relocate

Cons

- May Seem Impersonal
- Easily Overlooked
- Misdirected by Spam Filters

- Privacy and Safety Concerns
- Less Likely to Seem “Official”

NOTIFICATION

Research released by the Joyful Heart Foundation found that methods of notification are important, however, the tone or nature of the interaction itself is far more impactful to the victim. *“Are the notifiers kind and respectful? Have they invited victims into the process and offered them choices or listened to questions and concerns?”* (2016).

1. Always confirm you are speaking to the right person before proceeding with the notification.
2. Identify and use non-verbal cues that facilitate trust.
3. Upon notification, clearly inform victims about the new evidence in detail and the next potential steps of the case, as well as what they should expect.
4. Follow the victim’s lead regarding how much information is given during the initial notification. Notification should be flexible to fit victim needs.
5. Offer choices to victims, to ensure they are in charge of the notification experience. Offering victim’s choices and control over decisions, helps facilitate recovery from trauma (NIJ, 2016).
6. Be prepared to discuss the victim’s immediate safety concerns, even if there is no obvious threat to the victim. A victim’s sense of safety and well-being may be disrupted when learning new information or learning the investigation is resuming. Ask how the victim is feeling about the new information. (NCVC, 2011).
7. Victims often are in shock and experience a wide range of emotions. Do not expect victims to maintain a specific demeanor during notification nor to make a decision about engaging in the process to investigate or prosecute the crime at the time of notification or by certain dates. Allow the victim time to process the new information. Let victims know it is their choice to engage in the process (NCVC, 2011). It is however, recommended you inform the victim of statute of limitations. Providing written materials to leave behind can help ensure that the victim has the information to make an informed decision after you leave while they process the information you provided.
8. The notification is not usually the best time to re-interview the victim unless the victim wants to. Follow their lead. The investigator should be prepared to interview the victim if that is what he/she wants to do. Come prepared with photo line-ups, bring copies of prior statements given by the victim, information about consensual partners that need to be ruled out, have audio recorders ready, etc.
9. Ask the victim if there is anything they need from the officer or advocate.

10. Ask for permission to follow-up with the victim. Let the victim decide the best time and way to communicate during the sexual assault investigation. Provide accurate expectations about follow-up (i.e., timeframe).
11. The victim advocate should also offer to follow up with the victim after the notification. Choose a time and follow up method that works best for the victim.
12. Expect the victim to have questions after the notification. Encourage the victim to follow up with you after the notification. Provide a way for the victim to initiate contact with the investigator and victim advocate.

ADVOCATE'S ROLE IN VICTIM NOTIFICATION

1. As soon as possible, an advocate should conduct a needs assessment with the victim to provide appropriate referrals and contact information. Local service providers within the victim's community may also help provide or coordinate valuable services i.e. Utah Office for Victims of Crime, local shelters or rape crisis centers, Utah Crime Victims Legal Clinic, etc. (JHF, 2016).
2. Refer victims to a specific person within an agency when possible and/or give the referral agency notice when referring victims to create a "warm hand off".
3. When appropriate, assist victims to create meaningful safety and privacy plans.
4. Ensure the victim is informed of and afforded all of his/her rights, including the right to receive notice as the case progresses, the right to referrals and assistance, and the right to seek victim compensation, among other statutory rights.
5. Make available ongoing advocacy services and case updates for the victim.
6. Advocates are also asked to distribute a survey to victims notified to gauge victim responses. A separate survey is also requested for completion by the advocate involved in the notification. Contact Dr. Heather Melton (heather.melton@soc.utah.edu) or the SAKI Victim Advocate (amwalker@utah.gov) for more information.

REPORT NOTIFICATION OUTCOME

Per SAKI and DANY grant requirements agencies are instructed to report the outcome on any victim notification completed on a previously unsubmitted or untested sexual assault kits. Please contact the SAKI Victim Advocate (amwalker@utah.gov) to receive tracking forms for victim notifications. Basic information will be tracked such as agency case number, victim name, and victim notification outcome.

OPTIONS IN SPECIFIC SCENARIOS

1. Minor Victims

- a. If the victim is a minor at the time of notification, the notification protocol should be followed with a non-offending parent or guardian at a neutral, youth friendly location,

- such as the local Children's Justice Center. Follow Forensic Interview of Children Training protocols.
- b. If the victim was a minor at the time of the offense, but at the time of the notification is an adult, the notification protocol should be followed status quo.

2. Deceased Victims

- a. Check all available resources and documents for information about potential secondary victims involved in the original investigation or who offered support to the victim following the sexual assault. Some potential resources and documents include:
 - i. Law Enforcement Reports
 - ii. Notes from the Forensic Exam
 - iii. Local Victim Service Agencies
- b. Consider the following before notifying a secondary victim:
 - i. What were the circumstances of the victim's death?
 - ii. Is the secondary victim aware of the sexual assault?
 - iii. How supportive was the secondary victim at the time of the original investigation?
 - iv. Is the secondary victim a potential witness?
 - v. Will the case potentially attract media attention?
 - vi. What information should be released to the secondary victim?
 - vii. At what point in the process should information be shared with the secondary victim?
 - viii. What resources are needed to find the secondary victim?
- c. Provide a list of secondary victim resources.

3. Victims Who Live Out of the Area

- a. If travel funding is available, in-person notification is ideal. Coordinate with local law enforcement and victim services to act as a buffer, assist with warrants or other legal parameters, and provide local resources and support to victims.
- b. If unable to travel, contact the local law enforcement agency and victim services provider where the victim currently resides and provide information about your request. Attempt to assess the level of knowledge about trauma and its impact on survivors. Provide the local law enforcement agency with a copy of our Victim Notification Protocol and emphasize the importance of following the specific outlined protocol. Be clear that your goal is to try to reduce chances of re-victimization and to compassionately bring the survivors back into the system. Obtain the name and contact information of the individual performing the notification.
- c. If the local Law Enforcement Agency where the victim currently resides is not willing to follow the victim-centered notification protocol or is not willing to assist, notification should be attempted over the phone (NCVC, 2011).

Appendix A: Template Letter

June 6, 2016

Jane Doe
1234 S. Fake St.
Salt Lake City, UT 84105

Dear Ms. Doe,

My name is John Doe and I am a detective with the _____ Police Department. I am contacting you because additional information has been obtained on a case from 2008.

Please contact me at your earliest convenience for additional information. I can be reached by email (_____) or by phone at 801-000-000. Our office is open Monday-Friday from 8:00 am to 5:00 pm.

You can also contact our Advocate by email (_____) or by phone at 801-000-000 for additional information.

If I miss your call, please feel free to leave a message with your contact information and whether or not I have permission to leave a message at that number.

Be assured that the _____ Police Department is committed to providing excellent service to its community.

Thank you.

Sincerely,

John Doe
Investigation Division
_____ Police Department

**This template letter is utilized only as a last resort to contact victims. Print on individual department letterhead. Edit signature lines that include identifying information such as "sex crimes unit", "cold case unit", or "victim advocate".*

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