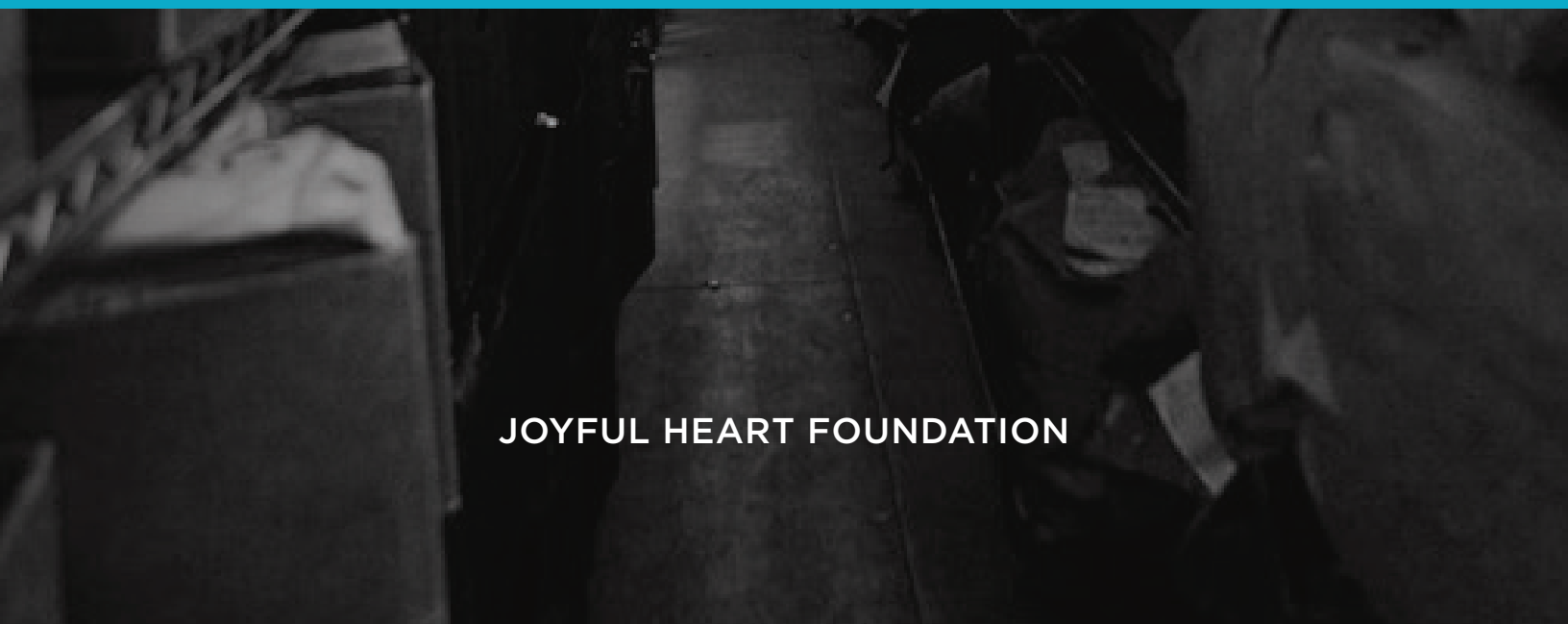
Navigating Notification

A Guide to Re-engaging Sexual Assault Survivors Affected by the Untested Rape Kit Backlog



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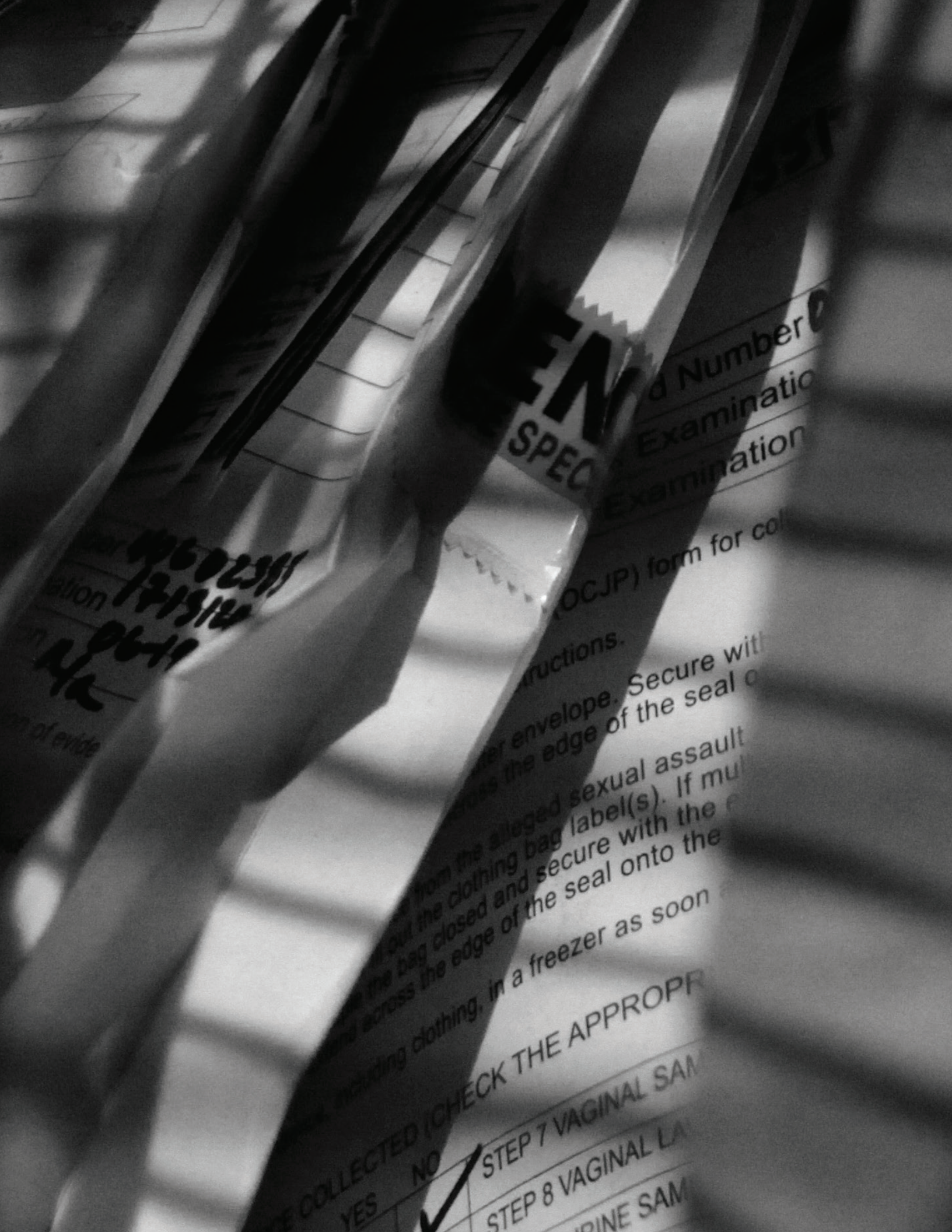
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Dear Friend,

We are honored to introduce *Navigating Notification: A Guide to Re-engaging Sexual Assault Survivors Affected by the Untested Rape Kit Backlog*, a report by the Joyful Heart Foundation. This report offers much-needed guidance to communities facing one of the most troubling criminal justice issues in modern times: how to notify and re-engage survivors whose rape kits have been part of a backlog.

Hundreds of thousands of untested rape kits are sitting in police and crime lab storage facilities nationwide. Each of those rape kits represents a survivor who, in the aftermath of a sexual assault, underwent an invasive rape kit collection examination and reported the assault to the police—all with the hope that justice would be achieved. Yet far too many of those survivors never heard anything more about their rape kits or their cases.

The cities we represent have made the commitment to end their backlogs—nearly 17,000 untested kits in New York and more than 11,000 in Detroit. Our respective communities came together to find the resources needed not only to test every single kit, but also to investigate leads and move cases forward to prosecution, and to put policies in place to ensure that the backlog never occurs again in our cities.

Now, we are helping cities across the United States do the same. Last year, the Manhattan District Attorney's Office announced a $38 million initiative to test rape kits that have sat untested in storage facilities from coast to coast. In conjunction with a separate, yet complementary, $41 million initiative announced simultaneously by the U.S. Department of Justice, dozens of jurisdictions will be able to test an estimated 70,000 kits. To help them do so, we developed a set of best practices gleaned from testing efforts in New York City and Detroit, learning from both our successes and our challenges—including how best to serve the survivors whose rape kits were finally tested years, or even decades, after their assaults.

When it came time to re-engage these survivors, we faced a complex decision-making process in which each answer seemed to lead to another question. When should we contact survivors whose rape kits are being tested after years of neglect? How should we contact them, and who should do it? What information and resources should we make available? How can we seek justice while also honoring survivors' agency and decisions about participating in a system that seemed to forget them long ago?

In seeking to answer these multilayered questions, we found very little guidance in the field. Not only were we among the first cities to work on eliminating the backlog, but also few jurisdictions have policies or protocols for contacting survivors after a lengthy time lapse—a process referred to as "victim notification." Our communities were left on our own to wade through these critical decisions and to ensure that the policies we ultimately created prioritized survivor safety, well-being and autonomy.

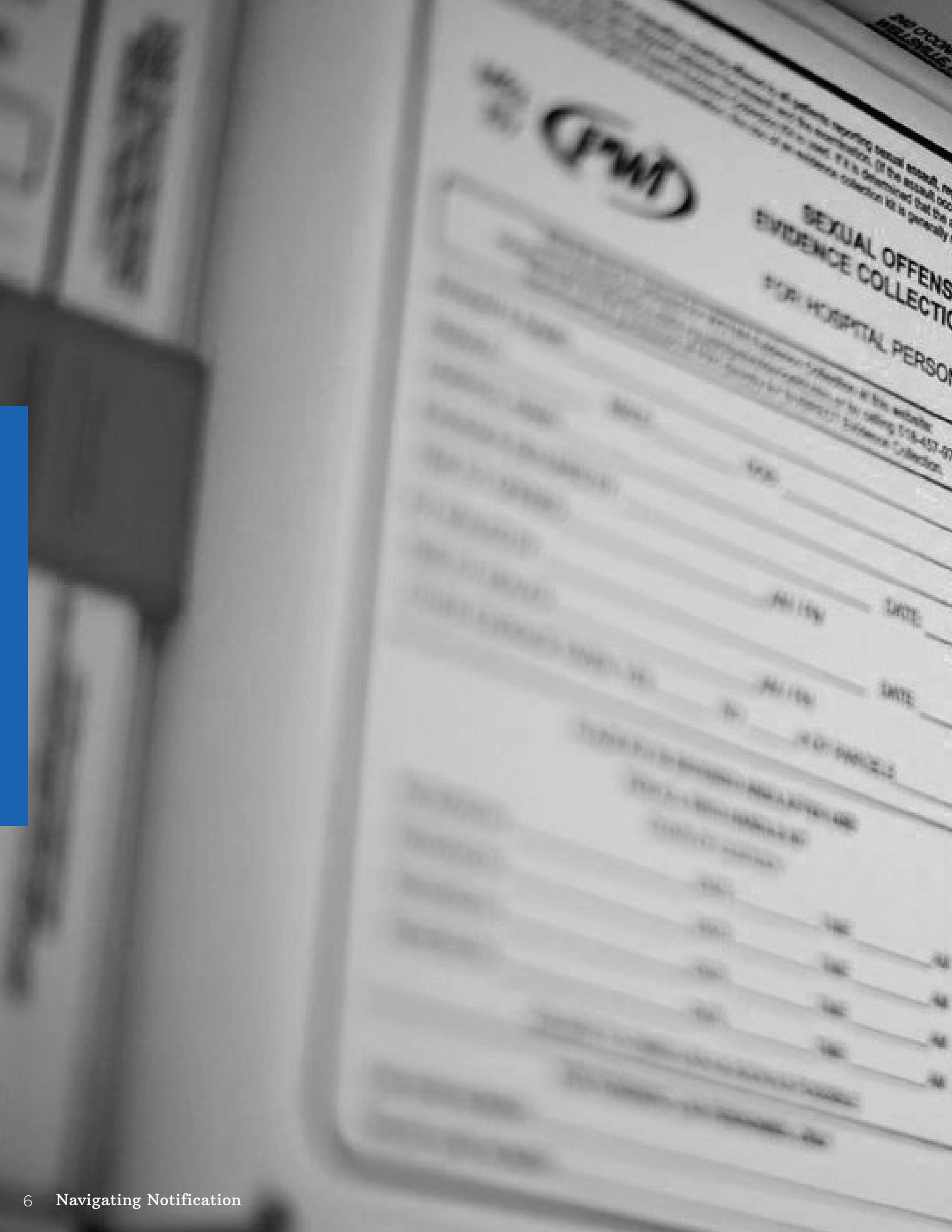
This report—the culmination of more than three years of original research on this issue—offers best practices and guiding principles for jurisdictions undertaking victim notification. These principles encapsulate the recommendations that received the strongest support among survivors and across disciplines.

With these principles to guide them, it is our hope that communities across the country will bring all of the necessary stakeholders together to develop notification policies that will be most effective for their communities and will honor the journey survivors have taken to seek justice.

Sincerely,

Cyrus Vance, Jr.
Manhattan District Attorney

Kym L. Worthy
Wayne County Prosecutor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Introduction

When survivors of sexual assault seek services through the medical or legal system, forensic evidence collection is often conducted. Known as a "rape kit," this procedure includes photographs, swabs, and an extensive internal and external examination to document injuries and collect DNA evidence. In consenting to these highly invasive procedures, survivors often assume that the evidence will be rigorously tested and used to help arrest and prosecute the rapist. But in thousands of police precincts throughout the country, these rape kits have been left to languish.

The National Institute of Justice estimates that hundreds of thousands of rape kits have been left untested in police and crime lab storage facilities across the U.S. In response to growing concerns about this backlog of untested rape kits, many jurisdictions have begun to enact reforms and start the process of testing rape kits that have been left untested for years and sometimes even decades. But doing so raises a number of important questions about whether and how to re-engage survivors in the process. At what point in the process should survivors be informed of the status of their rape kits, and how should this information be communicated to them? What type of support do survivors need upon being presented with information about their cases or upon hearing that their rape kits were never tested in the first place?

These and other important questions have remained largely unanswered as jurisdictions throughout the country struggle to develop their own victim notification procedures. This study sought to answer these questions by conducting research with criminal justice professionals, social services and advocacy professionals, research and policy professionals and survivors in order to identify practices that can help guide jurisdictions as they begin to re-engage rape survivors after a substantial lapse in time.

Victim Notification & the Rape Kit Backlog

Since 2010, Joyful Heart has made the elimination of the national rape kit backlog our top advocacy goal. Through partnerships with federal, state and local government, non-profit organizations, law enforcement, advocates and survivors, we are working to bring attention, critical funding and reforms to improve the criminal justice response to sexual violence.

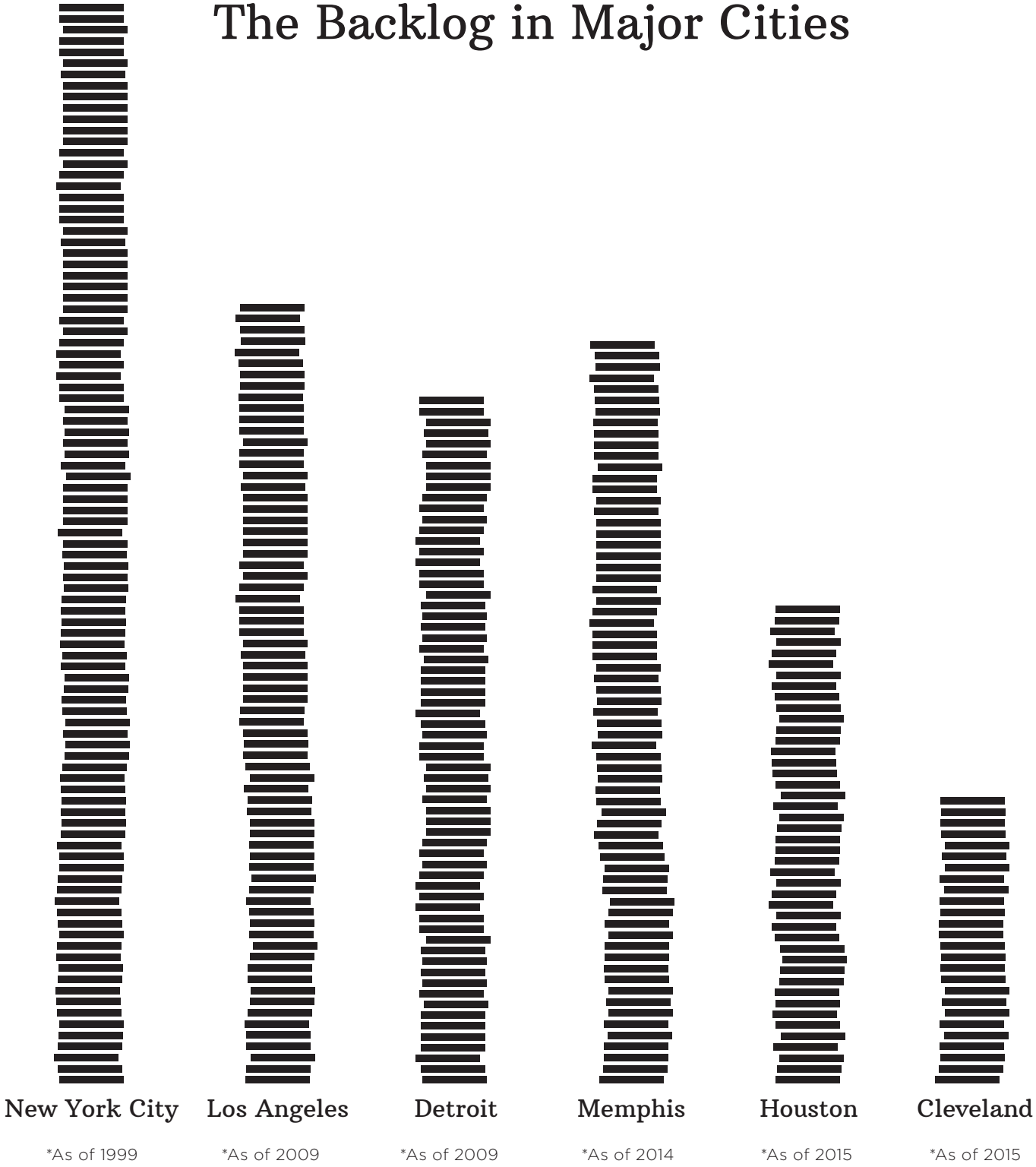
As part of this effort, Joyful Heart has sought to draw attention to the need to ensure that sexual assault survivors are notified about the status of their rape kits, a process referred to as victim notification. In recent years, states and local jurisdictions have begun to process the untested rape kits in their police and crime lab storage facilities and to take steps toward eliminating their rape kit backlogs. As they process those rape kits, they are faced with the question of how to re-engage survivors whose cases are often years—sometimes decades—old in a manner that is not re-traumatizing, can enhance the probability that a survivor will engage with the criminal justice system, and will increase the likelihood that a survivor will access supportive services.

Notifying a survivor about renewed activity in his or her case often brings up many difficult emotions and may cause traumatic memories to resurface. Upon learning that their kits had sat untested for years, some survivors may feel angry or hostile toward law enforcement. Other survivors may be pleased to receive any kind of update after hearing nothing for so many years. Some may be thankful that their case is finally solved. Being contacted by criminal justice personnel without warning may be unwanted and may even evoke feelings of distress and notifiers will face a wide range of reactions. It is important to note that, for some survivors, engaging in the criminal justice process provides a path to healing and justice, and thus notification of progress in their case can be welcome news. Notifying survivors after so many years have passed is a challenge, but it can be done in a way that mitigates harm. Many jurisdictions are working to do this in a way that is compassionate, effective, empowering and that respects the privacy of survivors and the immense weight of their experiences.

Creating a survivor-centered and trauma-informed approach to notification is key to gaining trust and re-engaging victims whose rape kits were not tested and whose cases were not pursued by the criminal justice system. This report will help communities create a plan for working with survivors in ways that are empowering and respectful.

– Dr. Rebecca Campbell, Ph.D.
Michigan State University

The Backlog in Major Cities



*To date, New York City, Los Angeles and Houston have cleared their backlogs. Detroit, Memphis and Cleveland are actively in process.

The Need for Research

Very few jurisdictions currently have official, written policies and procedures for victim notification in the context of a rape kit backlog. State and local jurisdictions must answer many complex questions, including who should conduct notification, how it should happen, when it should occur and what resources should be offered. While a few reports and other materials have been created on the topic,[1] to date there has been very little scholarly research conducted.

The first research studies on the topic were funded by the United States Department of Justice (DOJ), which recognized the need to study victim notification and offer best practices. In 2011, DOJ awarded grants to Wayne County, Michigan, where Detroit is located, and Houston, Texas, to study the underlying causes of the untested rape kit backlog problem and to produce replicable victim-centered practices and protocols for other jurisdictions. The Joyful Heart Foundation partnered with Detroit in this action-research project and served on its multidisciplinary team.[2]

Out of Joyful Heart's experiences in Los Angeles and later in Detroit, it became clear that more research and information on victim notification was critically needed. Joyful Heart sought to meet this need by partnering with Dr. Courtney Ahrens of California State University at Long Beach to conduct research on victim notification and to produce a report for the public on promising practices for re-engaging survivors whose rape kits were part of the untested rape kit backlog. This study sought to fill the gap in research on victim notification by surveying law enforcement officials, researchers, clinicians, nurse examiners, advocates, policy experts and survivors for their recommendations about re-engaging survivors. It is our hope that these results can be used to guide jurisdictions in re-engaging survivors in a way that accounts for and honors survivors' varied reactions, experiences and wishes as to participating in the criminal justice process.

Methodology

To develop a set of best practice recommendations, we recruited a diverse sample of experts and survivors to participate in the study. We purposefully selected participants to represent a range of professions, geographic regions, work settings and experiences with notification. Experts and survivors were asked about when and how notification should be conducted and were surveyed about who should conduct victim notification and what information should be provided. The study itself unfolded in three phases:

PHASE 1

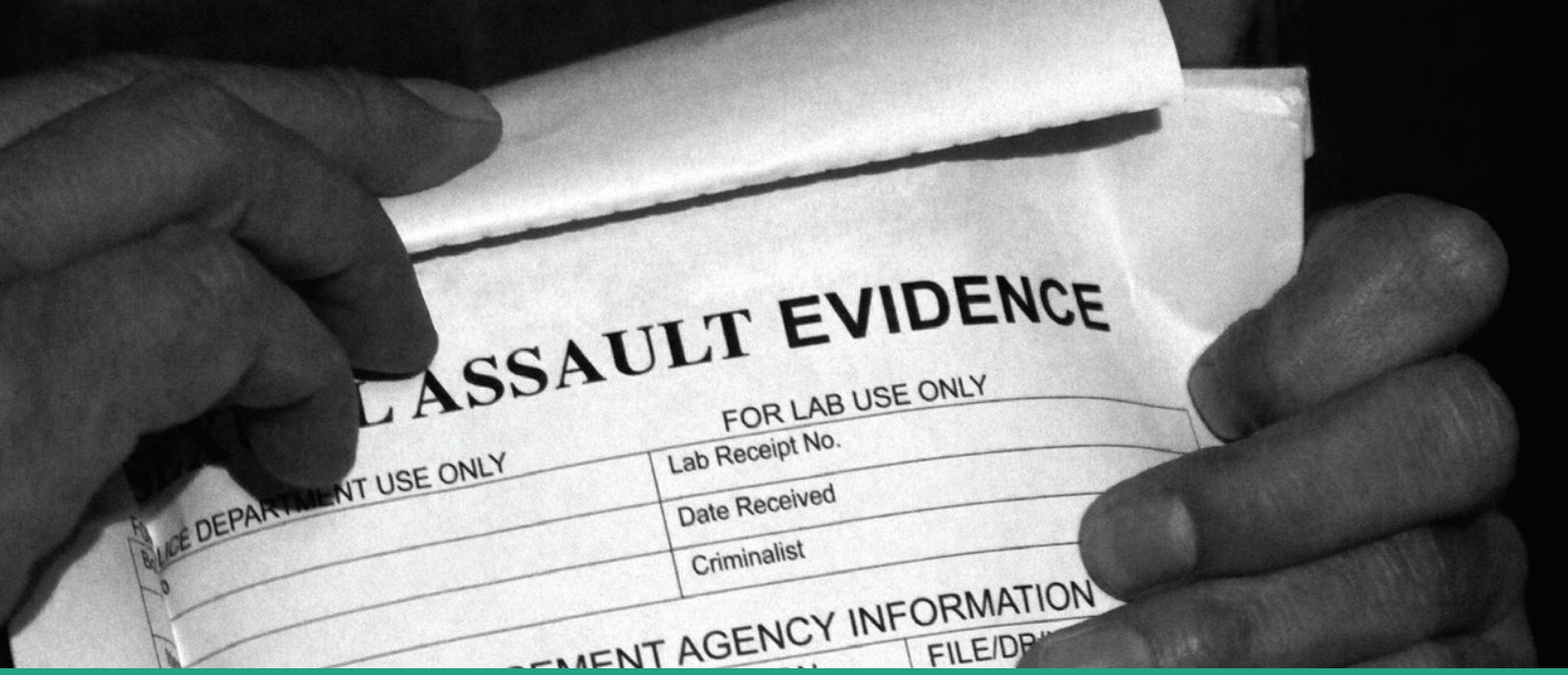
The first phase of the study aimed to uncover the widest possible range of viewpoints, opinions and experiences related to notification. Qualitative interviews were conducted with 79 criminal justice, medical, academic, clinical and advocacy professionals about their experiences with and recommendations for backlog notification.

PHASE 2

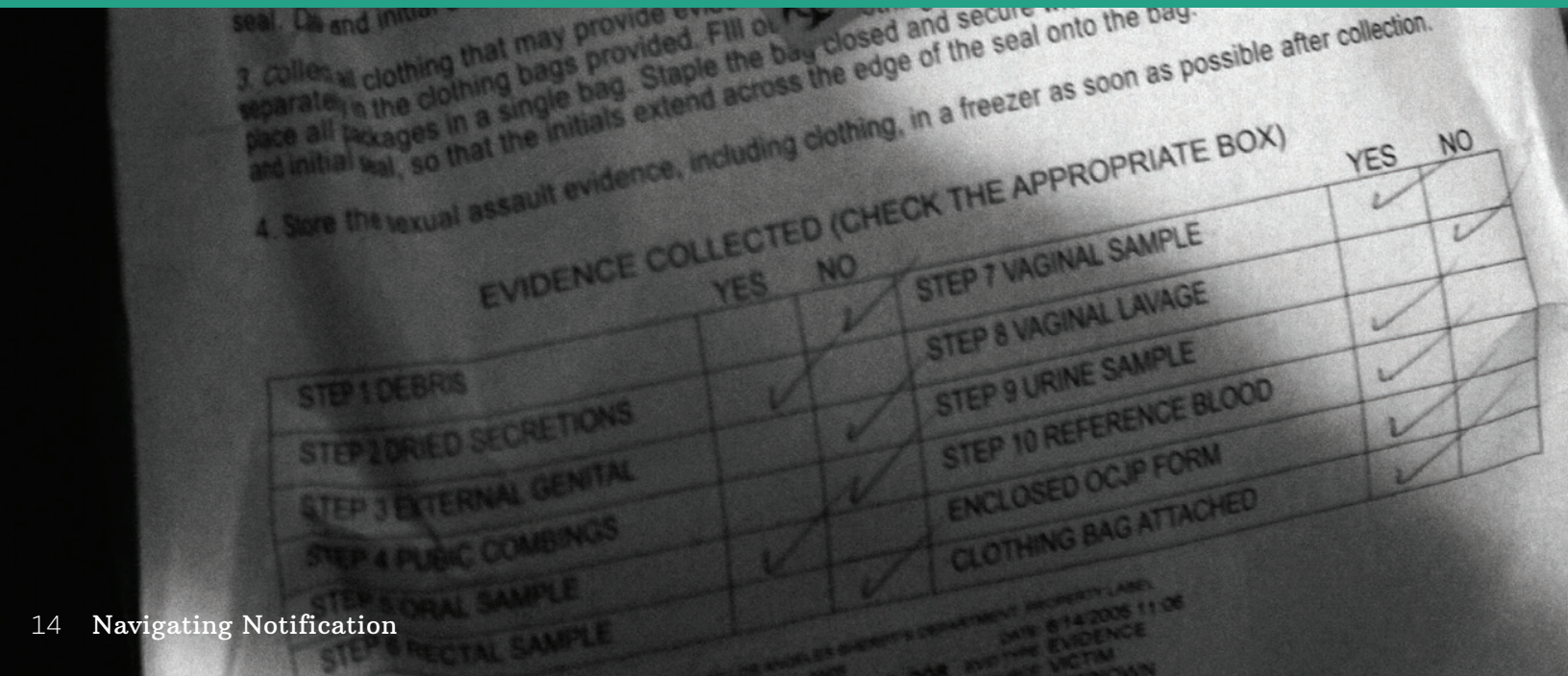
The second phase of the study sought to include survivors' voices. A total of 19 survivors, whose rape kits had been part of a backlog, participated in individual interviews about their experiences with and recommendations for victim notification. Ten of these survivors also participated in a two-day-long focus group. Participants were purposefully selected to represent a diverse range of assault and notification experiences. Racial, socioeconomic and geographic diversity was also obtained.

PHASE 3

The third and final phase of the study compiled the complete set of 93 recommendations from Phases 1 and 2 into a survey that was sent to both survivors and professionals. In this survey, 68 participants rated each recommendation according to importance, feasibility and relative priority. A comprehensive report detailing the ratings and rankings of all 93 recommendations can be found at: www.endthebacklog.org/vn.



Whether and When to Notify



The majority of participants widely supported an approach that offers survivors the choice about whether and when to receive information about their cases.

One of the first questions that surfaces and must be answered about victim notification is when to notify survivors. Do you notify all survivors or a subset of survivors, for example those whose cases might proceed to trial? Participants in our study were asked their opinions about the circumstances and timing of notification.

Our study found varied opinions on whether and when to conduct victim notification. Some participants argued for notifying all survivors and maintaining contact over time. Other participants argued for only notifying survivors when usable results were returned or when a decision was made to pursue prosecution. Where participants did agree was in their belief that survivor well-being should be at the core of decision-making about victim notification.

These differing opinions appeared to stem from different philosophies about notification. Participants who argued for regular and widespread contact tended to view access to information through the lens of victims' rights and argued that any and all information should be made available to the survivor. They argued that the criminal justice system has a responsibility to inform survivors of every decision made related to their cases—even if there is no good news to tell.

Everyone should have access to information about their life. If sometimes an advocate or law enforcement picks and chooses who is capable of receiving this news, it becomes infantilizing, maternalistic, patronizing. We are assuming we have the power to choose who is fragile and who is resilient, when most people are both. –Advocate

For these participants, attempts to limit notification to only select survivors (those whose cases would go forward versus those whose cases would not) were seen as unacceptable and misguided.

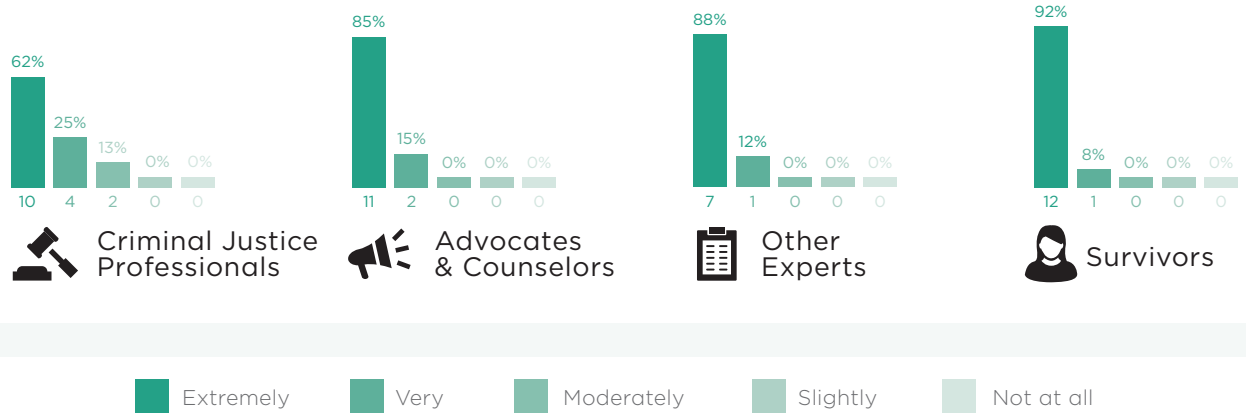
They all meet the same survivor, apparently, no matter where you are, right?... This phantom woman who doesn't want to talk about it... [But] she's not the one that went to the police in the first place. The fact is we're all talking about how to deal with survivors, but we're not dealing with all survivors. We're dealing with the 10 percent who report and have rape kits done. That means you report it in 72 hours. These are not women who aren't willing to talk about it. These are the ones who were willing. They're not the ones who are hiding it from people, because they went public with it instantly. –Survivor

Conversely, participants who supported limiting notification to select circumstances expressed concern about the potential harmful impact of notification years after the assault and cautioned that regular contact may be intrusive and delay the process of healing. These participants favored notification only in cases where contact was necessary for case progression (e.g., arrest and prosecution of the offender) and the benefits of notification outweighed the potential negative costs resulting from contact.

While participants had varying opinions on the timing of notification, the majority of participants widely supported an approach that offers survivors the choice about whether and when to receive information about their cases.

How important is it to the following groups that:

Survivors should be given the choice to decide when, how, by whom and how often they would like to be contacted.



Noting that each survivor is different from one another, participants argued that crafting a single approach that would meet the needs of every survivor is virtually impossible. Some survivors will want and need information in order to heal; others will not. The only way to meet the needs of diverse survivors is to give them voice in the process.

I think it has to start with a choice, because it's so different for everyone. I would like—I know this is almost crazy unfeasible, but I would love it if there was some trained personnel to get in touch with the person to whom the crime happened, and say, "Here are your choices." The choices should be we contact you with information about your rape kit, about your case. The next choice being we don't contact you, because you don't wanna hear from us again. Another choice would be we could send someone out to talk to you, to interview you... You can say who, you can say when, and you can say how. –Survivor Focus Group Participant

Offering choices to survivors is key. For survivors who want information, the lack of it severely hampers recovery. These survivors describe thinking about the case constantly and being unable to heal.

Just constantly thinking about, "When are they gonna contact me?" or, "How come they haven't, and why is it that, when I call, there's still nothing?"...Always on my mind, yes, that whatever it is, just the same questions for 14 years. They didn't say anything after that, anything, so it was a constant thought in my head, for a very, very long time. –Survivor

Others may not want further contact, but the only way to know this for sure is to ask.

How should a decision not to notify be made? If someone was fragile ten years ago, how would you know how they are now? Maybe you can see they are still fragile, but how do you really know? –Advocate

Giving survivors voice in the process also helps to counter the loss of self-determination and control that is at the core of the sexual assault experience. Survivors specifically cited the enormous value and power information holds in their healing process. Knowing that they hadn't been forgotten and that the system was working on their behalf was important to them.

It would be something. They tested it. They tried.... It would make me have a little bit more faith that they're doing something... For someone to actually be going through it and calling me, fantastic. That would actually just make a huge difference in that closure. Oh well, they can't match it to anyone, but they're trying. They've made an effort. –Survivor

For many survivors, this need for information extended to cases where no further action would occur (e.g., the offender is identified past the statute of limitations or the offender is deceased). For these survivors, just knowing who raped them, even if the offender would not be prosecuted, was appreciated.

Knowing whether this person is alive, dead, went to jail 15 years later for committing three other rapes actually would mean something to me. It would. I feel that information belongs to me. It doesn't belong to the [District Attorney]. It belongs to me. –Survivor

On the whole, survivors tended to prefer widespread notification and wanted the right to choose whether they want to receive communication about their cases. For both the survivors and many of the professionals in our sample, the question is less about picking and choosing who should be notified, and more about developing notification procedures that are empowering, healing and safe. The question then becomes more about how to notify survivors in a way that helps to rebuild the trust that has been lost.

I believe in providing information and providing it in an empowering way to say this is your case, we want to involve you and we're not doing anything without your knowledge and consent. It's empowering. When you tell them too late, it's hard for them to trust that you will be open and honest because you haven't been so far. They've been kept in the dark. They will go by what they've experienced so far. You are starting at a deficit with trust. –Academic Expert

How to Notify

Participants stressed the importance of a survivor-centered approach to notification that ensures a survivor's safety and confidentiality, and enhances agency. Offering a survivor a way to opt-in or opt-out of receiving more information was viewed as the only viable way to ensure that a survivor's unique needs are being met.

Empowering survivors to make their own decisions throughout the notification process was seen as particularly important in the context of the criminal justice system's failure to thoroughly investigate the case when it was reported.

Being able to dictate how the notification happens is very beneficial. Allow her to say, "No, just tell me over the phone" or "I'd prefer to do it at this location." Allow her to dictate. –Academic Expert

That's just another choice. That's the whole thing about choices. You do, as a victim, you feel like you have no choices. Everything was taken away from you.... Now, it's like [the police are] still trying to control everything, every aspect of this rape. Give me something. Give me something to deal with...something that I can take that's tangible. The choice is important. –Survivor

In order to ensure that notification is conducted in a way that guarantees survivors' safety and confidentiality, participants strongly favored an approach that took into account a survivor's current life circumstances (e.g., living with the suspect) and culture in order to avoid any breach of confidentiality, negative impact on their current relationships or other statuses (e.g., immigration), as well as to avoid retribution from the offender's family or acquaintances.

The only instance I would have hesitation about is if it was an intimate partner and the survivor is still with that person. You would need to take extra precautions... If the perpetrator is an intimate current or former partner, get in touch with the victim to see about safety and whether she is in a relationship with that person. –Policy Expert

Participants suggested doing safety assessments with survivors in order to ensure survivors felt confident about their safety.

You must consider survivors' safety because some feel they are still in grave danger. When you have been sexually assaulted by a stranger that can be crippling and debilitating. He could have been my neighbor or someone watching me for a long time... Some women are afraid the perpetrator will find them and retaliate. –Survivor

While participant recommendations about the specific notification methods (in-person, phone, letter) varied, on the whole they supported a survivor-centered approach. Some favored impersonal techniques such as letters or email because they empowered survivors to choose if they wanted to receive more information and if so, to decide what time and place was good for them. One recommendation offered was to create an interactive website that survivors could access when they are ready or a toll-free information line. These techniques were seen to some as less intrusive and more empowering in that survivors would be given time to overcome the shock of the news and to prepare themselves to receive information in their own time frame.

If they just show up at the survivor's doorstep, the survivor might not be ready for that. With a letter or phone call, the survivor still has the power. She can hang up on you. It's not as in her face as going to see her. –Clinician

Others felt that the approach was too cold and impersonal. The inability to ask questions and to get support and information in real time was viewed as a drawback and seen as potentially distressing to survivors.

I would want something personal, for them to come to me. Sending a letter about an event that to me was about so much humiliation wouldn't work... A letter could get into the wrong hands. If it is a call, introduce yourself and say you want to come talk in person. Do not give too many details. I would rather it be in person. [Detective] came to meet with me. He asked me when he called how I wanted to do it. I felt safe in my home. My home now is where I have my family and safety. –Survivor

These concerns led many participants, especially survivors, to argue for a more personal approach to notification, such as phone calls and visits, in order to ensure that a survivor's immediate needs are met, available resources provided, and questions answered in real time.

I don't want a letter because letters get lost, and this was important. I want somebody to call me, and keep calling me until I answer or call them back. They can talk to me and make sure that I know when to be there, what time to be there, what it's for, so they can answer my questions. Cuz if they send me a letter or they just send the sheriff, one, to me that's not as trustworthy, in a sense, cuz you don't know when it's gonna come, if it's gonna give me enough notice. Two, I'm gonna have questions cuz at that point, I was not familiar with the criminal justice system. If you told me there's a preliminary hearing, I don't know what that is. Are you gonna put me on the stand? No. Can I be in there? No. Is he gonna be there? What do I need to wear? –Survivor

These participants also emphasized that personal methods communicate the seriousness of the crime and convey concern for the survivor's well-being. Personal methods also allow notifiers to assess a survivor's reactions and needs on the spot and make timely referrals.

I definitely preferred the in-person contact. I thought that it just meant that they cared. Yeah, it was very important. I think if I got a letter or a phone call, I woulda just thought I was being checked off a long list. This way I felt special. –Survivor

Face-to-face is the best. It's a very traumatic event in this person's life. It's a sensitive issue. You want to know how the victim feels. If you call and lay this information on them, you don't know how they will react. With face-to-face, you will know how the person handles the information and can offer support then and there. –Survivor

But not everyone supported a personal approach. Participants who argued against a more personal approach cited concerns about the shock of police showing up unexpectedly at a survivor's home and asserted that the negative impact of this method of notification outweighed the benefits of being able to ask questions. Others relayed the concern that the public nature of an in-person notification could threaten a survivor's privacy.

Taking into account the pros and cons of potential notification techniques, and the importance of survivor determination, many participants supported a multistage approach that starts with an initial alert that offers as much privacy as possible and builds to a more personal and detailed interaction at the time and place of a survivor's choosing. Notification methods should reflect the goal of returning power to survivors by allowing them to choose how notification should unfold. Allowing survivors to decide how they want to receive information about their cases may be the only way to ensure that their diverse needs are met and to ensure survivor well-being.

There was also broad support among participants for the notification process to be done in a sensitive, kind and empathetic manner. Among survivors, the question was less about the notification technique and more about the tone and nature of the interaction itself. Participants highly favored a slow and patient approach to notification to ensure that survivors are able to process the information being shared. Survivors, in particular, wanted someone to care, be kind and address their needs.

Gently, yet professionally. It was like there was a serious tone to it, but also, he was really willing to help me, I guess, with a helpful, "I'm here. I'm here to help you. We'll get you through this. Whatever you need, call me anytime. Here's my card. Here's my cell phone. Call me anytime." Yeah. Just being helpful and sincere. –Survivor

Also of importance to survivors was receiving an apology as early as possible in the notification process. Survivors in our study wanted the criminal justice professionals to take responsibility and apologize for the delay in testing. Taking responsibility was viewed as an essential step to re-establishing trust in the system. They also wanted assurances that steps were being taken to make sure the rape kit backlog didn't happen again.

Sergeant [Name] did apologize to me. He apologized. He apologized so many times. He apologized when he first met me. He apologized for the officers then, and he apologized cuz he said, "I know they were—they were not trained properly how to handle a victim." He said, "Especially a child." He said, "I can see many things on this report that I do not agree with, and I apologize for that, but I'm here to make things right or at least try to make." That meant the world to me. That meant the world to me because, although it was not his fault, he was taking accountability for—because he represented the [Jurisdiction] police department. He took accountability, saying, "It's not just them. It's us, and we were wrong, and we're sorry for what we did, but I'm here to try to make it right with you." That's why I call him my knight in shining armor. I love him to death because of how he just really handled, and he didn't take anything for granted. He thought about my feelings every step of the way, and I appreciate that. I appreciate that because it was long overdue. It was long overdue. –Survivor

In the end, the question appears to be less about the specific technique that is used to contact survivors and more about the tone or the nature of the interaction itself. Are the notifiers kind? Are they respectful? Have they invited survivors into the process, offered them choices and listened to what they said? Considering a notifier's ability to interact effectively with survivors—in an empathic, respectful, and responsive manner—may ultimately be one of the most important decisions of all. Such considerations are particularly important when deciding who should conduct these notifications.

Who Should Notify

Notifiers should have the training to understand the effect of trauma on survivors and the range of survivor responses. They should be prepared to think about the people behind the kits, their history with the system and how they may feel about the backlog.

On the question of who should conduct the notification, participants expressed a wide range of opinions about who should be involved in the process. Participants were asked about particular professions that should be involved and other characteristics that would create a competent and survivor-centered notifier.

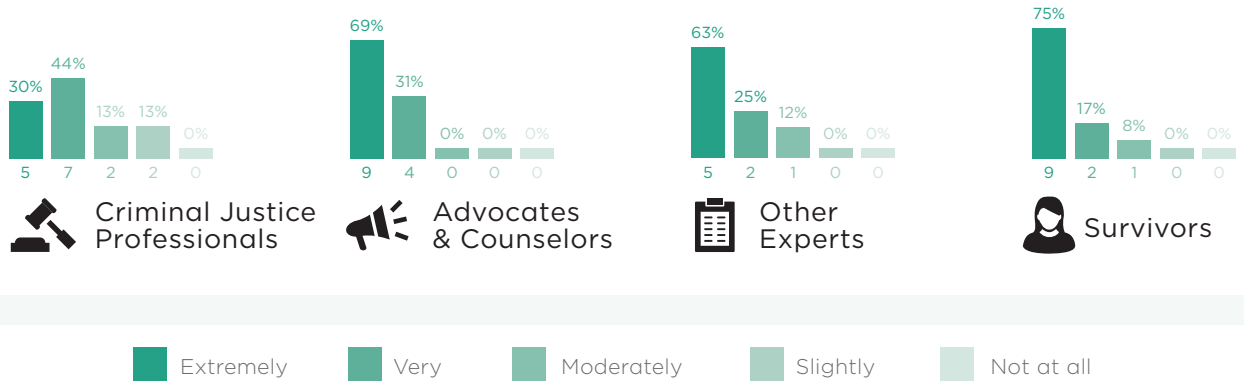
The majority of participants strongly supported the involvement of victim advocates. Opinions about having police and prosecutors assume sole responsibility for conducting notifications were more mixed. Recommendations to ask nurse examiners to notify survivors or to involve the crime lab were both rated unfavorably. There was little support for selecting notifiers based on characteristics such as gender, survivor status or previous connection to the case.

The most common reason cited for including advocates in the notification process had to do with the type of training they receive. Unlike criminal justice personnel, who are trained to investigate and prosecute cases, advocates are trained in crisis management and are prepared to help survivors cope with the trauma they experienced as a result of the rape. As such, participants argued that advocates would be more likely to respond in an emotionally supportive way through active listening, affirmation and deflecting self-blame.

Hopefully, an advocate will know more about trauma and crisis management. This can create a crisis. They have a way of talking with survivors that is totally calming. They know this is a hard time. They can make a meaningful connection. –Advocate

How important is it to the following groups that:

Rape victim advocates should be involved in contacting survivors about their backlogged rape kit.

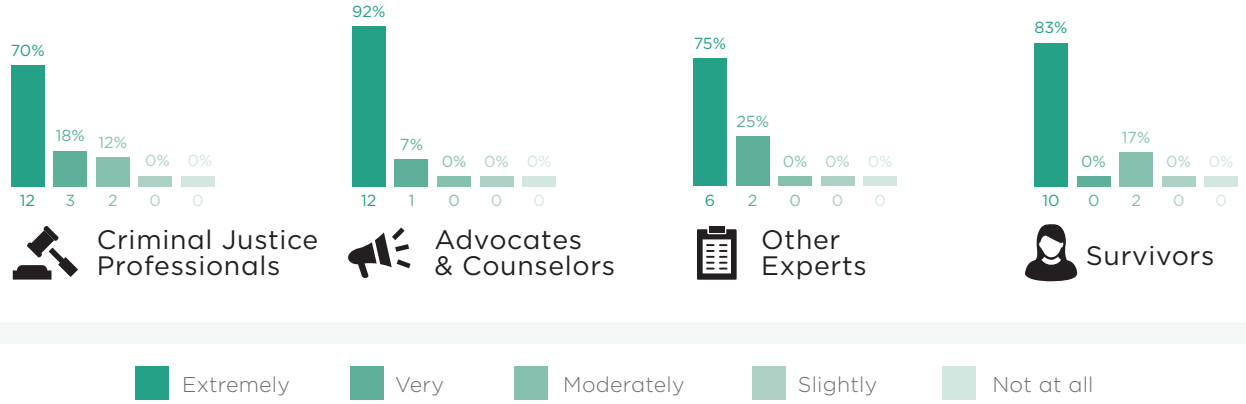


There must be no chance of isolation. The person must be well-trained, a solid advocate. You want them to have an advocate to whom they can say or show anything. Someone might have a life partner or coworkers and still be isolated. Someone who can read the situation. There is a shock piece to it. The survivor might have wave after wave of trauma. For others, the waters might be still and here comes a tsunami. There must be no isolation. –Clinician

Additionally, participants strongly favored the inclusion of community-based advocates in the notification process.

How important is it to the following groups that:

Advocates should be available to support survivors following notification.



Advocates who were not connected to the criminal justice system were considered to be in a better position to offer ongoing, consistent support to survivors and to be more connected to services in the community.

I think it's so critical to let people know that there are support systems out there. I think they should at least be aware of some kind of—maybe a rape advocacy group, some kind of therapy, different types of places that have therapy, paid for, unpaid for. I would've loved to have some kind of information disseminated to me at any time, especially in that beginning period. It was so critical to have people tell me, this is what you can do.... It would be nice if anybody even called, knowing that this is what you've gone through, to say, "These are some things you can do to help." –Survivor

Participants also reasoned that community-based advocates, who are independent from the legal system, may be able to say and do things that criminal justice personnel may not be able to.

I am looking for admissions or inconsistencies, but victims are looking for an apology. Advocates can say all the things I cannot say. An advocate is someone who has dealt with trauma and knows the available resources. Law enforcement could hand someone that information, but advocates can make the referral. 'I am here for you, here are your resources.' They can make an introduction and bridge that gap. –Police Officer

Benefits of including advocates in the notification process were also seen to extend to the system. When survivors are supported throughout the life of the case, they are more likely to work cooperatively and consistently with legal personnel.

It helps to explain and have someone there with you through the process, someone to explain the process. When they are involved with the legal system, it is very scary. It can feel like being re-victimized. "I was the victim. I survived this event. Why do I now have to deal with this? I just want it to be done." When there's an advocate, it helps to provide support. Not having education around these issues and processes, it can be very daunting. It increases anxiety and fear. An advocate can be a bridge to the legal system. –Clinician

It's critical to note that research shows members of certain populations including communities of color, tribal communities and the homeless are particularly vulnerable to sexual assault and historically have been ignored or mistreated by the criminal justice system. It's likely that survivors from these populations will struggle with the decision to engage in the justice process. Participants recommended that the notification process take into consideration the inclusion of different types of advocacy groups, especially when notifying recent immigrants, women of color, LGBTQ or the homeless in order to ensure a culturally competent response, which will help pave the way for survivors to put their trust in the system.

You want to get groups on the ground to help you. Get the groups that focus on the special population to help you with this. Get those advocates involved in helping you with the notification piece. They have a stake and will make sure you do it in a competent way. Identify and engage significant community-based groups working on behalf of unique populations. It is important that they are the messengers and offer support. People will need support at the beginning, middle, and end after this process. There is a post- or after care part to this. What will that look like? Can they come back at any time to make sure people are okay? Once you test and can do something or not, that person may still need support. –Advocate for Diverse Populations

Some participants also advocated for the inclusion of criminal justice personnel in the notification process, reasoning that criminal justice personnel are in a better position to be able to answer a survivor's questions about their case in real time and that their participation lends credibility to the process. Having criminal justice personnel conduct the notifications was thus viewed as more efficient.

The detectives I work with, they are the only people who do it. As far as training, the patrol officers, our sex crimes unit is really close by and they are very well aware of what I do. If we get a CODIS hit on an old case, the case is pulled. If the detective is still currently working in the sex crimes unit, it will go back to that detective. If they move on from the unit and are no longer there, [it] will go to the cold case unit. –System Advocate

Other participants raised concerns about law enforcement conducting notifications alone, including their ability to respond with empathy, patience and support; concern about the amount of time that can be dedicated to a single case; and other organizational barriers. Survivors often need more ongoing support and have information needs that may extend past a 15-minute phone call.

Some participants expressed concern about the conflict between what the criminal justice system needs and what survivors may need. Noting that police tend to approach victims through an investigative rather than an emotionally supportive lens, these participants questioned law enforcement's ability to respond effectively.

There can be frustration and blame with law enforcement that the kit sat for so long. Members of law enforcement aren't trained as social workers. They are trained as investigators and ask a lot of questions starting with why. It varies person by person. If a victim shuts down, law enforcement may not understand that because they look at the news as a good thing.... The news could trigger something, and it's important to have someone there to manage it. It brings up a lot [of] things. –Advocate

There are 1,000 ways this could go poorly. Very few ways that this could go well. One of the complications of victim notification protocols is that these are potentially active cases. There's a real tug to have law enforcement be first contact, while all my research suggests that law enforcement officers would not be well equipped to handle this. The legal demands and the emotional needs of the victim are not aligned with officers' purpose, mission, approach, and ideology. Law enforcement is positioned for a moment of doubt and disbelief before the first word comes out of their mouth. What survivors need most is belief, assurance. Nobody knows how misaligned this would be in cases going back 5-10 years prior. –Academic Expert

Other participants were focused more on organizational barriers and consequences. Some of these participants expressed concern about the lack of resources, and the impact this can have on officers' ability to act as effective notifiers.

The police are overworked already. To ask them to step into this role requires a lot of training. It's different from notifying family members about a homicide. It will be challenging to add to their already pressing duties. Jurisdictions are losing funding right and left. [City] has so few officers working these cases, and they are already doing overtime. They might not want to be insensitive, but it can come out that way. They are experiencing burn out. –Policy Expert

Given the diversity of opinions about who should conduct notification, one promising approach offered was the creation of a multidisciplinary team. By bringing together professionals with varying skills and knowledge bases, jurisdictions can help ensure that multiple aspects of a survivor's needs are addressed and that the team members themselves are allowed to capitalize on their own areas of training and expertise. Multidisciplinary teams can include a variety of criminal justice and advocacy representatives, including police, prosecutors, community-based advocates, system-based advocates, and members of diverse social and cultural groups. Most survivors supported the idea of a multidisciplinary team that included both advocates and law enforcement.

I think they should use a victim coordinator who works along with the detective or whoever is doing the notification. It could be an advocate from a crisis center. It can be intimidating to meet with the police. There should be someone who knows what to say, who is compassionate, empathetic and listening. The advocate can prepare the police as well. –Survivor

The idea of [a] victim advocate paired with an investigator was well-received. Advocate may not understand legal and DNA results, but investigator could explain. The advocate can do crisis intervention and communicate in holding a victim or sensitively addressing her needs. Both expertise in collaboration [and] a comprehensive process. They will talk to the victim and provide unique services. –Academic Expert

Participants were also asked about other characteristics that could be considered when selecting notifiers, including gender, survivor status and connection to the case. Some participants suggested using the original detective on the case, which was based on the assumption that a rapport had already been established. But others disagreed, arguing that the original detective failed to investigate the case properly in the first place and was the person who treated them poorly when they reported the crime. Many survivors were supportive of including other survivors in the notification process, particularly if they had been trained as advocates, but the importance of including other survivors in the process was not as widely supported among other professionals.

Overall, our study found that the training the notifier received was more important than the person's gender or profession, especially to survivors.

Participants believed training was key to positive interactions and they had a lot to say about the subject. They asserted that the most capable notifiers would understand the effect of trauma on survivors and the range of survivor responses. They would be prepared to think about the people behind the kits, their history with the system, and to understand how survivors may feel about the backlog. Training about the various reactions that survivors might have to notification can help prepare notifiers to avoid potentially harmful judgments about a survivor's behavior and help notifiers respond appropriately.

Participants also suggested that training include key phrases to use with survivors and tips for better listening. Participants further suggested that advocates could help with training of law enforcement and better prepare them for interactions with survivors. Cultural competency training was cited as important in creating an empathetic response to survivors from diverse backgrounds. Finally, because those tasked with notification may witness the resurfacing of trauma in and strong reactions by survivors, notifiers should be informed about the signs and effects of vicarious trauma, strategies for prevention and tools for self-care.

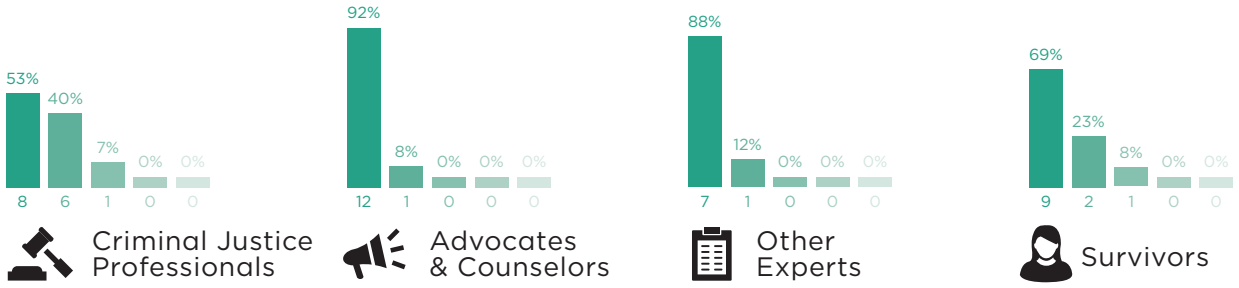
Overall, survivors were less concerned with who actually conducted the notification than the training the notifier had received, emphasizing the importance of a notifier being supportive and patient, answering their questions, offering information, and being honest and forthcoming.

Depending on what the information was to be delivered, whoever's job it was to deliver it. I wouldn't've, I don't think, cared who, just as long as it was an appropriate person who could do whatever they were supposed to be doing. –Survivor

I don't care who that person is. As long as that person can just be straightforward with me and say, "Hi. This is the results that we have." I don't want anyone to cut me corners. I don't want anyone [to] lie to me because I've been lied to all this time, that we're gonna do something, but not. I'd rather just be told the truth. Whoever it is, I want someone to tell me the truth. –Survivor

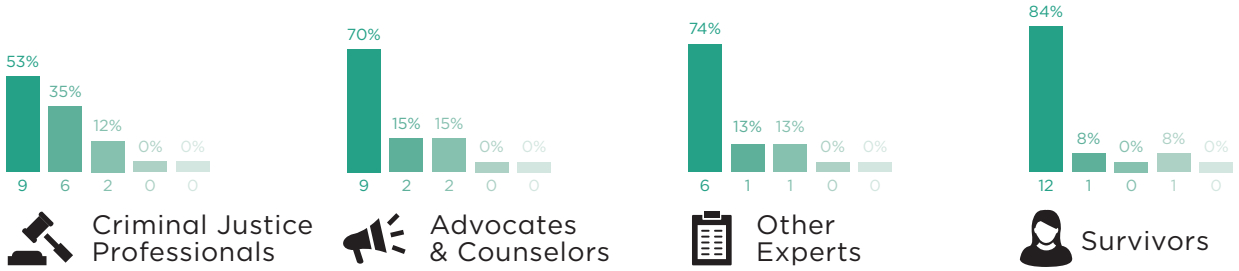
How important is it to the following groups that:

Training programs for law enforcement personnel should take a survivor-centered approach focused on survivors' needs.



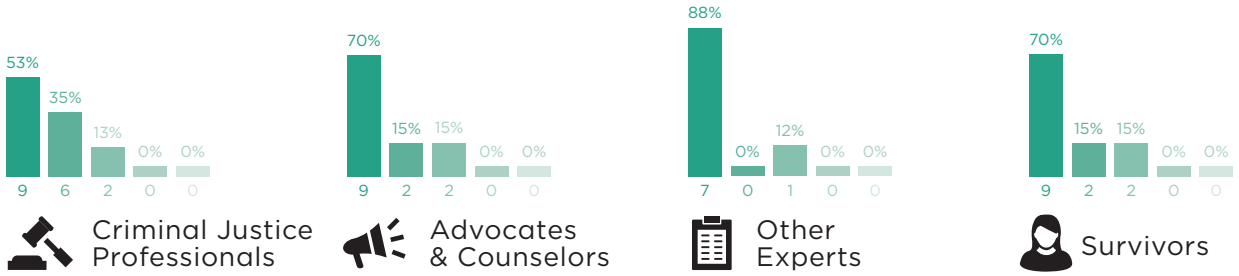
How important is it to the following groups that:

Law enforcement personnel should be required to undergo rape trauma training.

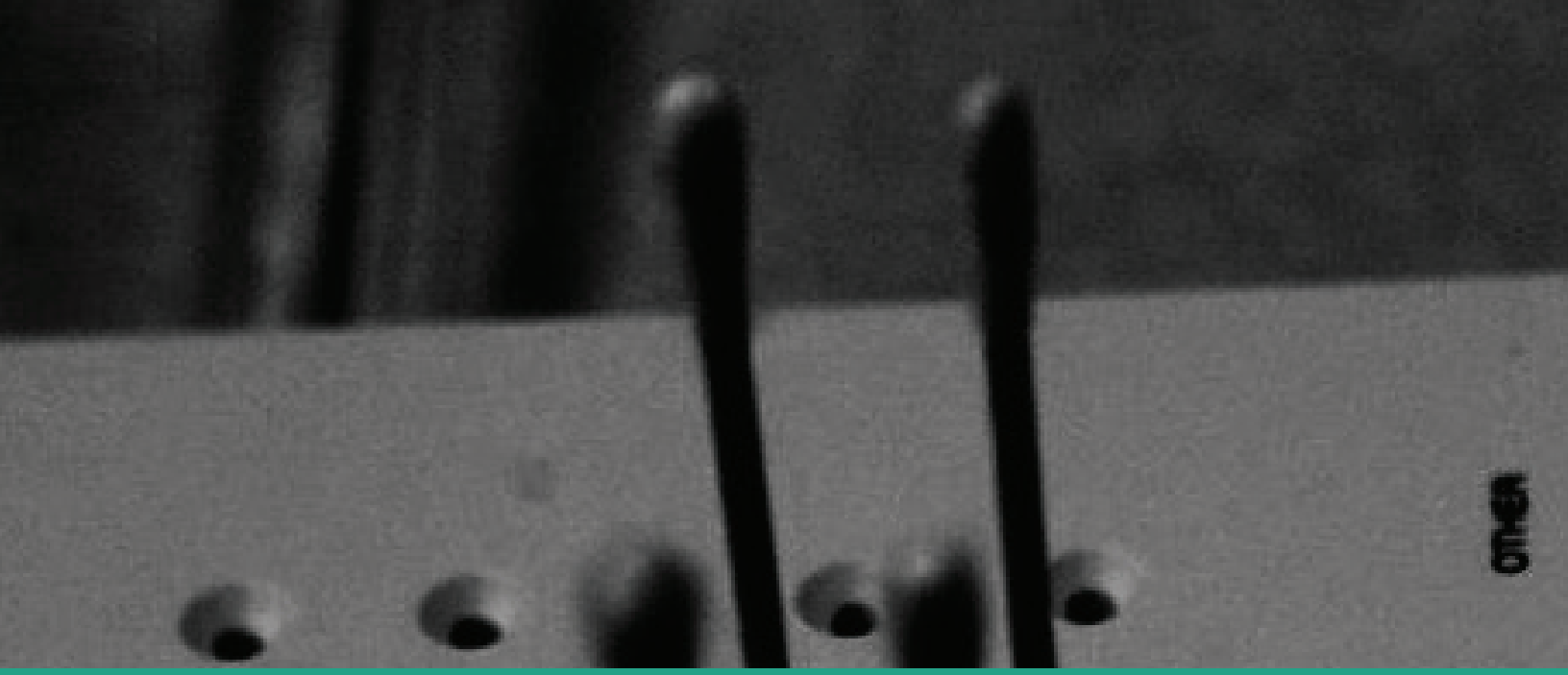


How important is it to the following groups that:

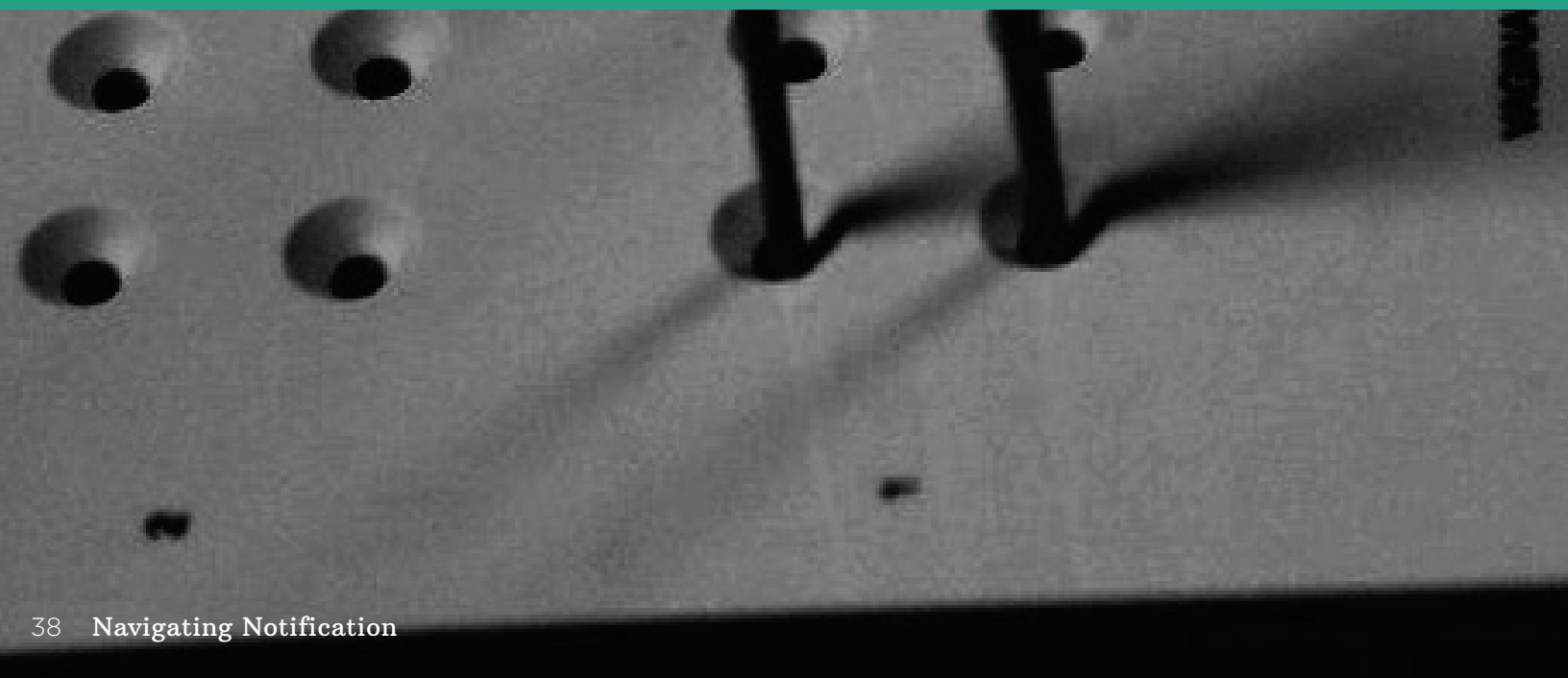
Law enforcement personnel should be trained to handle potential varied reactions survivors might exhibit during the notification process.



Extremely · Very · Moderately · Slightly · Not at all



What Should Be Included During Notification



Notifiers should conduct considerable advance planning to anticipate what survivors might need moving forward—what information should be conveyed about the case and available support services—and to provide that information in a format that is accessible.

One of the questions that must be addressed when creating a victim notification policy is what information should be conveyed to survivors during the notification process. For most participants in the study, notification was not just about conveying test results but rather about arming survivors to cope with the implications that the results might have.

Therefore, notifiers should seek to anticipate what survivors might need moving forward—what information should be conveyed about the case and available support services—and to provide that information without the survivors having to ask for it.

Participants varied widely in their recommendations about the amount of detail to share during initial notifications. For those participants who favored providing detailed information in the first contact, their rationale centered around survivor well-being. These participants stressed that information about the case belongs in the hands of the survivors themselves and survivors should have access to it when they wish. Many pointed out that detailed information is important to making informed choices and to the healing process.

Empowerment and autonomy. Respect their right to evaluate this their way not our way. Not re-traumatizing them. You are bringing up something traumatic. Need for full, accurate information. –Prosecutor

In contrast, some participants argued against giving full information during the initial contact because of the potential for a breach of confidentiality. They argued for a limited first notification, especially if the contact is done in letter form. Some asserted that withholding information was important to the integrity of the case.

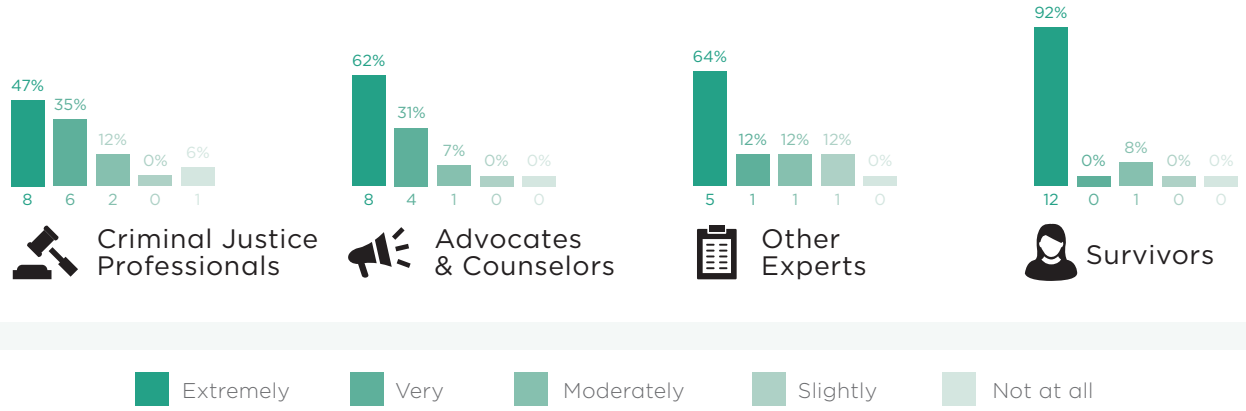
Every instance is unique. Sometimes I am more careful about what I say... I will tell them a lot, but not too much about the case. Just about the DNA hit, not other evidence. Don't want to open them to cross-examination on the stand. –Prosecutor

While there was diversity among the larger group of participants about how much detail to share about the case during initial notifications, survivors in the study expressed a clear desire for access to full and complete information if they wanted it. Survivors argued

that receiving comprehensive information about the criminal justice system and their case was necessary in order to make informed choices and to promote healing.

How important is it to the following groups that:

The survivor should be given information about the criminal justice process, and what may be expected of him or her during the process.



Providing resources about the criminal justice process was widely acknowledged as being in the best interests of survivors, because it helps survivors understand a complicated system and was viewed as essential to informing a survivor's decision-making process. Participants argued that survivors are more likely to stay engaged throughout the process when they are prepared for what could happen during the progression of their cases.

A little bit more knowledge maybe somehow. I don't know how, but about the legal system-ish. He did explain things to me, but I really didn't know much about the legal parts of it.... It could be as simple as just a vocabulary sheet. I mean they go over so many things, and then maybe some of the key notes, key words on what to discuss were on a form with the definitions. I even had a problem like is the prosecutor for me or is it for him? Like that simple little things that I just kinda like oh I don't know what that means. Little stuff like that. –Survivor

Provide materials that talk about the flow of the process, perhaps a diagram of the ways in which the case could proceed from certain points. –Policy Expert

The survivors in our study were very clear that their preference was to be given full and complete information about what happened to their cases, why the backlog occurred and what is being done to prevent it in the future. For those whose kits were tested and yielded a DNA hit on the database, they wanted to know as much information as they could about the suspect, including the suspect's whereabouts.

How did you find him? What happened? What has he been doing all these years? What took so long? I did ask if I was safe, and [they] said he was at Rikers, and he was behind bars and would be until the trial. That was one thing we went over. Certainly I would ask all those sorts of questions but didn't. –Survivor

It's important to note that survivors sometimes perceive the withholding of information as an intentional effort to keep them in the dark, particularly when jurisdictions had originally tried to cover up the backlog. Such interpretations can breed distrust and have a negative effect on survivors' likelihood of continued engagement with the system.

I would have liked to have had more information given to me, because I now in retrospect realize how much was being withheld... I mean they definitely put a narrow funnel of—sort of like kept things out of my line of vision to keep things simple for law enforcement... They were—I'm trying to think of the right word. Not dishonest, but they withheld information about what had happened with my kit, and tried only to present me with the information about moving forward, as opposed to answering my questions about what had happened with my kit and why... They didn't want to provide answers regarding what had happened with the kit, or why. Actually told me that it was confidentiality issues that they weren't allowed to give me the information I was asking for... I kept asking, "So wait—so how—so did you just process my kit? Did you process it before? Like what happened?" He said, "Well, I can't—that would actually compromise the investigation. I can't tell you that." –Survivor

Conversely, there was widespread agreement about providing information on sources of support.

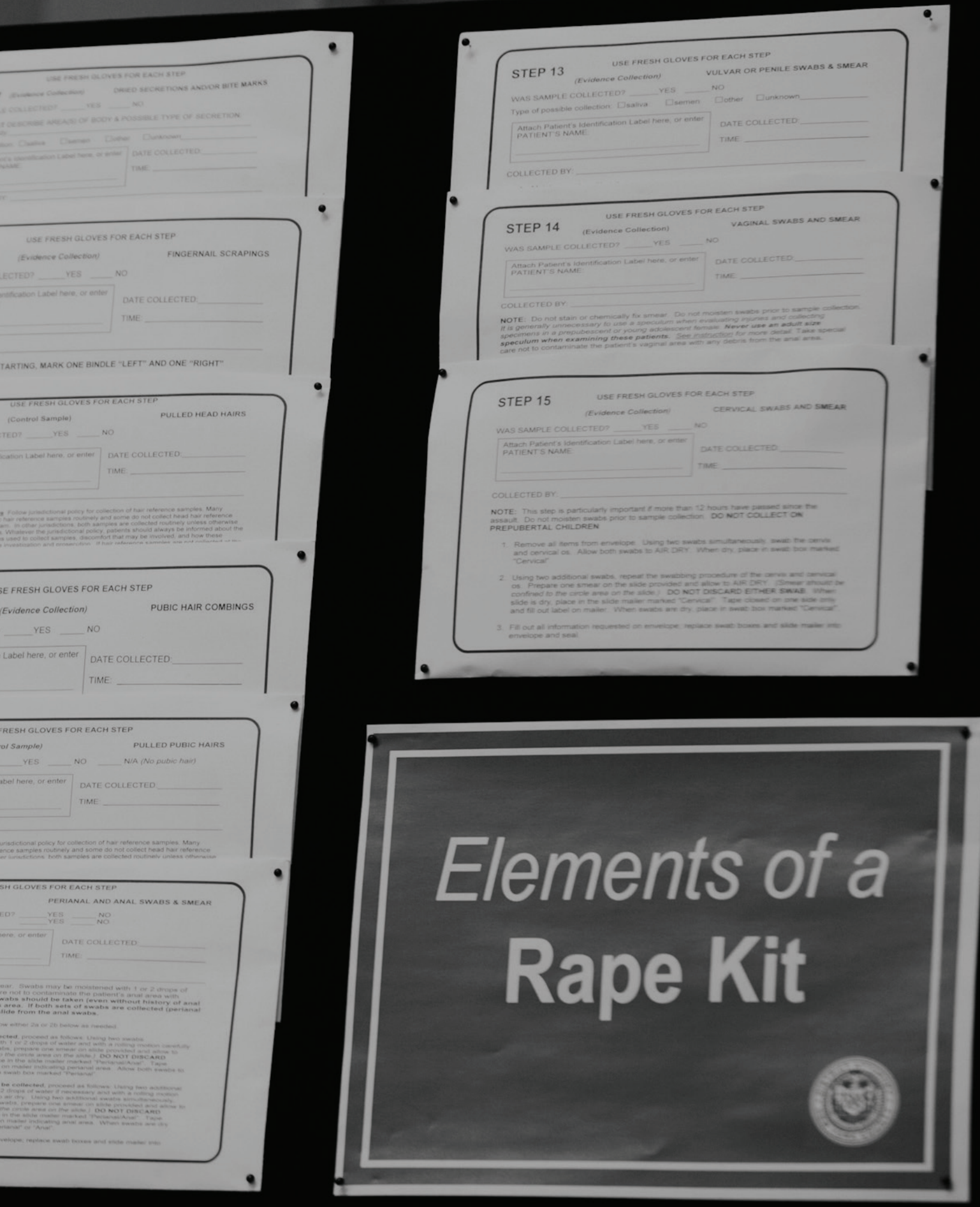
Referrals and information on available support systems were seen as crucial to helping survivors deal with the trauma that may resurface from notification. Recognizing that survivors may initially experience difficulty digesting the information, many participants advocated for materials to be prepared in advance, including a list of community-based resources, referrals, contact information and a timeline of the criminal justice process. Participants emphasized that preparing information in advance conveys to survivors that notifiers care about their well-being.

I think it showcases that they care about you somewhat, that it's not just a cursory, "All right. Bye." ... Just to have that available to me was really important. Even if you choose not to seek counseling, the fact that people thought of opportunities for you to go and do something. –Survivor

Put as much in writing as possible because they will be in shock. –System Advocate

For most participants, follow-up support was confined to providing a list of referrals and/or having advocates follow-up with survivors, but a few jurisdictions took the idea of follow-up support a step further by actually convening support groups for survivors whose kits had been in the backlog. These participants described very clear benefits for the survivors who participated in the groups.

In every case, notifiers should follow the lead of survivors regarding how much information to give in the initial notification. Being patient and offering choices to survivors ensures that they are in charge of the notification experience. All of the suggestions taken together advocate for the need for considerable advance planning to ensure that survivors are offered as much information as possible and in a format that is accessible.


Elements of a
Rape Kit

Best Practices and Guiding Principles

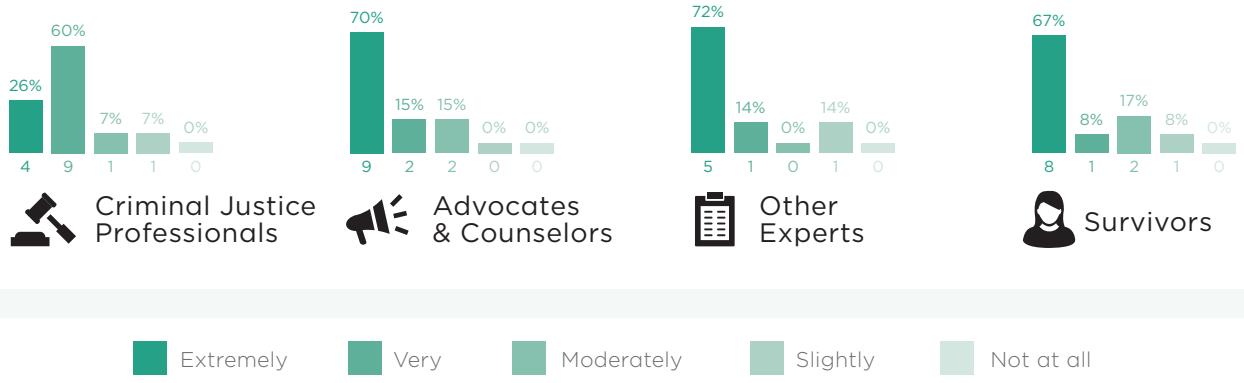
As states and local jurisdictions begin to develop policies for eliminating their rape kit backlogs, it is important for them to consider establishing procedures for reconnecting with survivors whose cases are years—sometimes decades—old in a manner that does not re-traumatize survivors and enhances the likelihood of re-engagement with the criminal justice system.

Participants in our study agreed that all responsible parties should convene to develop written notification policies. Policies should be created through a formalized process to enhance organizational commitment and investment, ensuring that multiple viewpoints are considered and organizational needs are met.

As jurisdictions work to create and revise notification procedures in their own communities, we encourage them to reach out to survivors, advocates and other jurisdictions for help and support. Soliciting feedback from advocates and survivors offers a way to ensure that policies are survivor-centered[3] and trauma-informed.[4] Putting in the effort to create thoughtful and comprehensive procedures up front will benefit everyone involved.

How important is it to the following groups that:

Police should create official policies related to re-engaging survivors whose kits were part of the backlog.



Ultimately, it is up to the stakeholders in each jurisdiction to decide which approach works best in their own communities. We hope that the guiding principles and themes below can help jurisdictions make informed choices about what victim notification can look like.

Convene a Multidisciplinary Team

To ensure that multiple aspects of a survivor's needs are addressed in the notification process, a team of professionals with varying skills and knowledge should be convened to discuss notification policy. Multidisciplinary teams can include survivors and a variety of criminal justice and advocacy representatives, such as police, prosecutors, community-based and system-based advocates, and members of diverse social and

cultural groups. The team should collaborate with different types of advocacy groups (e.g., immigrants, communities of color, LGBTQ and the homeless) to ensure that the notification process is culturally sensitive.

Ensure Survivor Determination

Notifiers should seek to ensure that survivors are in control of how notification occurs. After the initial contact, survivors should be empowered to choose how they receive information about their case including when and where they hear it. They must also be given choices about how much detail they receive. Giving survivors as much control over decisions as possible is key to helping them feel safe and supported.

Employ Kindness and Respect

Survivors in our study were less concerned with how notification happened or who did it than with the way they were treated in the process. Many of the survivors reported being treated poorly at the time of reporting the crime. Being treated in a compassionate, respectful and empathetic manner can be a corrective experience and can facilitate healing. Many survivors asserted that it was important that the notifier conveyed being sorry that it had taken so long for the case to be solved and that it was important to receive an apology.

Protect Privacy and Confidentiality

Survivors on the whole were concerned with keeping news about their cases confidential. This had an impact on how they thought notification should occur. In many cases, years have passed since the assault they suffered. Family, friends and coworkers in the person's life may not be aware of the crime. Notifiers should contact a survivor in the way that offers the most respect for his or her privacy for the first meeting and then follow the survivor's wishes for the ongoing notification to ensure the utmost privacy.

Provide Complete Information

Access to information about their case is very important to survivors; in our study, survivors agreed that information can promote healing. While ideally, full information would be given in a setting chosen by the survivor, notifiers should be ready to share information about the case at the initial contact if the survivor so wishes. Some

survivors will want to know everything, some will not. Let them choose. Ensure that survivors know whom to contact with questions or concerns throughout the case progression. Written information was also seen as helpful. Participants recommended that, at a minimum, a written list of available services should be prepared ahead of time and provided to every survivor.

Train Notifiers

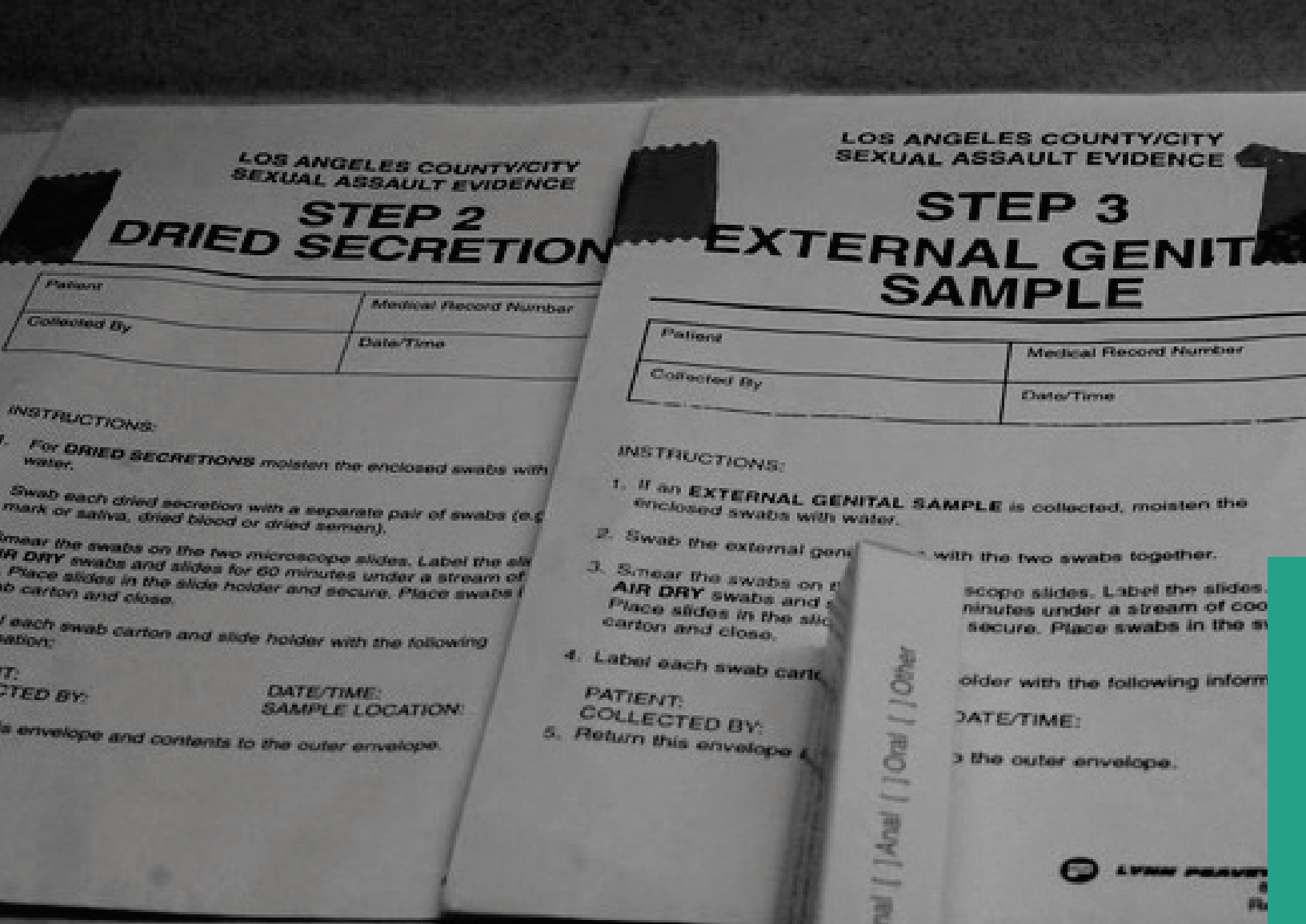
Survivors may experience a range of feelings as a result of notification. The most effective and capable notifiers—whether law enforcement alone or a team approach—will be knowledgeable about the effect of trauma on survivors and the potential for a variety of survivor responses. Training can provide notifiers with information about different cultures and can help them be prepared for the diverse requests they may receive. Notifiers should be prepared to answer questions about the backlog, DNA testing and the criminal justice system in the event that a survivor has such questions at initial contact and beyond. Training should also inform notifiers about vicarious trauma, how to prevent it and ideas for self-care.

Offer Support and Resources

Because news about renewed action in untested rape kit cases can resurface traumatic feelings for survivors, notifiers must be prepared to provide resources and connections to local service providers. Attending to survivors' emotional needs from the first point of contact can convey that notifiers are concerned with survivors' safety and wellness and can help with the healing process. To ensure that all survivors' needs are addressed, notifiers should be knowledgeable about and coordinate with local agencies serving diverse populations.

Prioritize Safety

Survivors' safety must be a top priority when conducting notifications. Concerns about retribution from the offender's family or other acquaintances can create real anxiety and fear for survivors. In each case, safety should be a part of the discussion about survivor well-being. Advocates can help survivors with planning for safety.


LOS ANGELES COUNTY/CITY
SEXUAL ASSAULT EVIDENCE
STEP 2
DRIED SECRETION
Patient
Medical Record Number
Collected By
Date/Time
INSTRUCTIONS:
For DRIED SECRETIONS moisten the enclosed swabs with water.
DATE/TIME:
SAMPLE LOCATION:
LOS ANGELES COUNTY/CITY
SEXUAL ASSAULT EVIDENCE
STEP 3
EXTERNAL GENIT
SAMPLE
Patient
Medical Record Number
Collected By
Date/Time
INSTRUCTIONS:
1. If an EXTERNAL GENITAL SAMPLE is collected, moisten the enclosed swabs with water.
PATIENT:
COLLECTED BY:
SWAB CARTON
SWAB SPECIMEN TYPE: [ ] Vaginal [ ] Anal [ ] Oral [ ] Other

Victim Notification Process

Who Decides Whether Notification Will Occur?

Who Should Initiate and Conduct the Notification?

- Point of Contact
- Information Line

Which Survivors Should Be Notified and When Should that Occur?

- Notify Prior to Testing
- Notify After Testing

What Form Should the Notification Take?

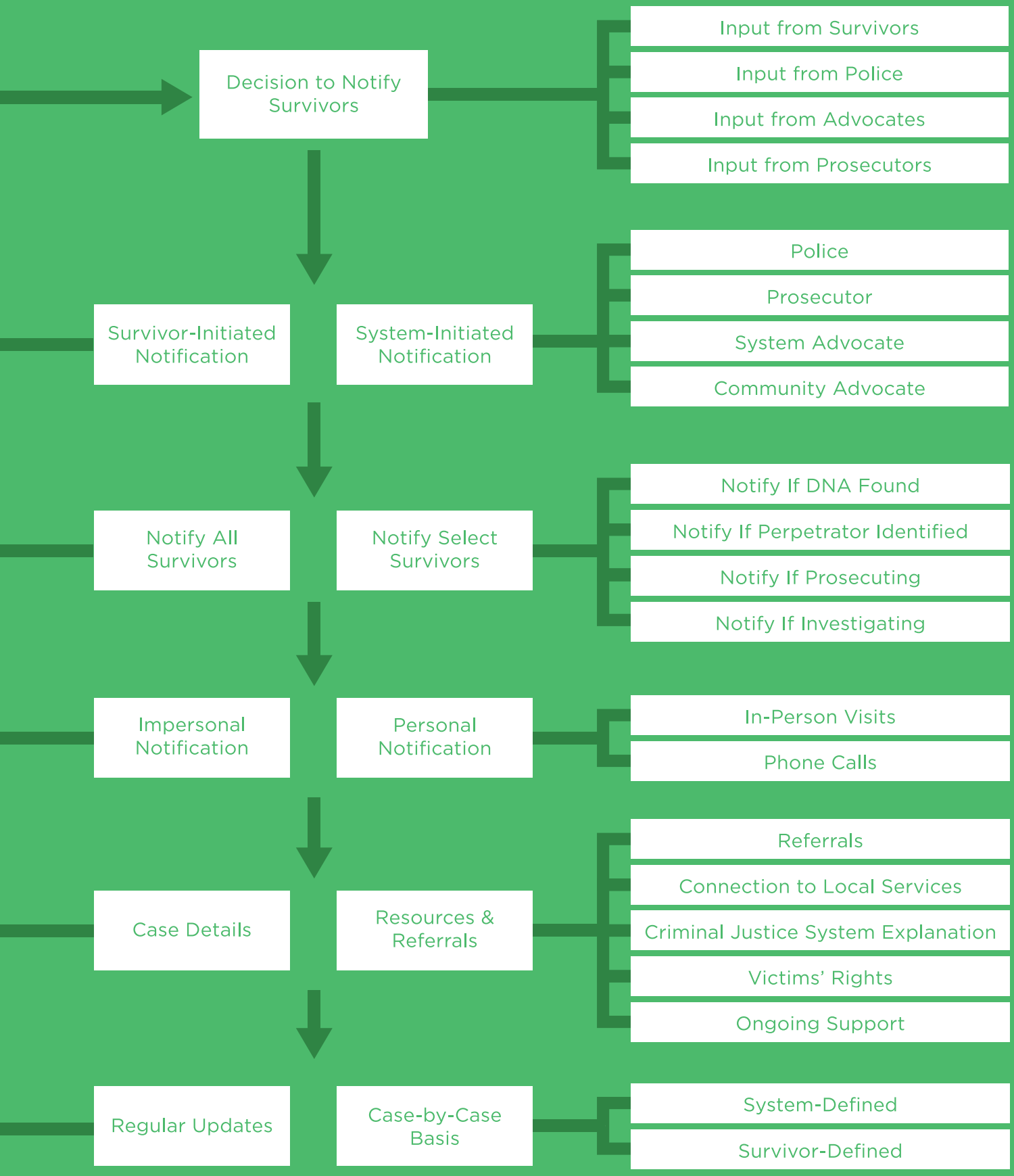
- Letters

What Type of Information Should the Notification Include?

- Select Information
- Detailed Information
- Apology

How Often Should Notification Occur?

- System-Initiated
- Survivor-Initiated

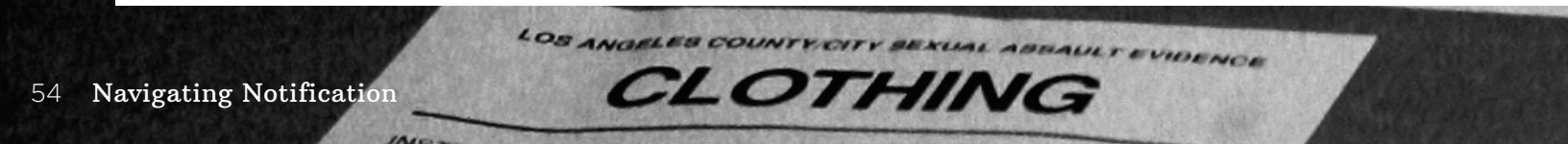

Decision to Notify Survivors
Input from Survivors
Input from Police
Input from Advocates
Input from Prosecutors
Survivor-Initiated Notification
System-Initiated Notification
Police
Prosecutor
System Advocate
Community Advocate
Notify All Survivors
Notify Select Survivors
Notify If DNA Found
Notify If Perpetrator Identified
Notify If Prosecuting
Notify If Investigating
Impersonal Notification
Personal Notification
In-Person Visits
Phone Calls
Case Details
Resources & Referrals
Referrals
Connection to Local Services
Criminal Justice System Explanation
Victims' Rights
Ongoing Support
Regular Updates
Case-by-Case Basis
System-Defined
Survivor-Defined

Conclusion

Overall, the recommendations from our study that received the strongest and most consistent support all emphasized the importance of honoring survivors' diverse and unique needs by allowing them to choose if, when, what and how they wish to receive additional information about their cases. Participants emphasized the importance of survivor-centered and trauma-informed approaches that place survivors' needs at the center of the process, making sure that survivors are provided with support and resources throughout the re-engagement process and ensuring that notifiers are trained to understand, respect and address survivors' varied needs.

Survivor-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.[5] Such approaches also result in increased rates of successful investigations and prosecutions as well as decreased stress, burnout and vicarious trauma for criminal justice practitioners.[6]

Our study found that adopting an approach to victim notification that incorporates the principles of empowerment, understanding and support is of critical importance in minimizing re-traumatization. Such an approach allows each survivor to determine which approach works best for him or her, giving back some of the control that was lost during the assault and possibly mending the connection that was broken when the criminal justice system failed to test the rape kit and pursue the case when it was first reported.



The study results also suggest that official, written policies for addressing the backlog are needed. These policies should be developed in conjunction with a multidisciplinary team and be based on best practices, whenever possible. Policies should be created through a formalized process to enhance organizational commitment and investment, ensuring that multiple viewpoints are considered and organizational needs are met. Soliciting feedback from advocates and survivors offers a way to ensure that policies are survivor-centered and trauma-informed.

Deciding how to notify survivors in untested rape kit backlog cases is a crucial choice point along the journey toward comprehensive rape kit reform. Survivors must be at the heart of these choices. It starts with acknowledging that each untested rape kit represents a survivor who suffered a deeply personal crime. Communities working to end their backlog must embark on a thoughtful, multidisciplinary and collaborative process to determine how to conduct notification in a way that takes survivors' needs and wishes into account. For those committed to a compassionate response to survivors of rape who have waited too long for justice, this report will serve as a guide to ensure that the harm survivors have suffered is not further compounded through re-engagement with the criminal justice system.

Acknowledgements

The authors would like to extend our deepest gratitude to everyone who contributed to and made this report possible.

First and foremost, we thank the survivors who courageously and generously shared with us their experiences with notification and the criminal justice process and their thoughtful and insightful recommendations for improving those systems. We are grateful to the professionals who offered their expertise, their suggestions and their own experiences, including Dr. Valli Kalei Kanuha. We thank Dr. Courtney Ahrens and the staff at California State University at Long Beach for designing and carrying out the study. We are immensely thankful to Sukey and Mike Novogratz and Carrie and Chris Shumway for their longtime support of our work on the backlog. We are also grateful to the Manhattan District Attorney's Office for their generous underwriting of this report and their invaluable leadership on this issue. For their insight and expertise, we thank Sherisa Dahlgren, Liz Swavola, Sarah Haacke Byrd, Ilse Knecht and the staff at Joyful Heart. Special thanks to the Joyful Heart Healing program team for creating a safe, healing and restorative retreat experience for our focus group participants.

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Endnotes

1 Busch-Armendariz, N.; C. Sulley; B. McPhail. "Sexual Assault Victims' Experiences of Notification After A CODIS Hit: A Report to the Houston Sexual Assault Kit Action Research Working Group." The University of Texas at Austin, Institute on Domestic Violence & Sexual Assault School of Social Work (2015): 1-14; The National Center for Victims of Crime (2011). "Sample Policy for Cold Case Victim Notification." http://victimsofcrime.org/docs/default-source/dna-resource-center-documents/cold-case-victim-notification-policy.pdf?sfvrsn=2 (accessed 11 February 2016).

2 Houston has also developed materials based on this report's research, including their victim notification protocol and victim information line brochure (www.houstonsakresearch.org). Find the full report here: Rebecca Campbell, R.; G. FehlerCabral; S.J. Pierce; D. B. Sharma; D. Bybee; J. Shaw; S. Horsford; H. Feeney. "The Detroit Sexual Assault Kit (SAK) Action Research Project (ARP), Final Report." NJCRS (2015), 1-464.

3 A survivor-centered approach places survivors' interests and needs at the center of all decisions regarding recovery and involvement with the criminal justice system; incorporates listening with belief, patience, compassion, faith, understanding and generosity; promotes survivors' self-agency to act in their own best interest and support informed decision-making; coordinates the elements of the response in survivors' interest; ensures their safety and well-being; seeks just solutions for all; and holds each stakeholder accountable. Sexual Violence Justice Institute, Becoming Victim Centered, Minnesota Coalition Against Sexual Assault (2013).

4 Being trauma-informed means having knowledge of the impact of traumatic stress on the mind and body and how it will affect an individual's response to her environment. This includes shifting one's perspective to a more compassionate understanding that survivors' responses to a traumatic event are natural and adaptive. Other principles of trauma-informed care include promoting safety, ensuring cultural competence, supporting survivor autonomy, choice and control and acknowledging that recovery is possible for everyone regardless of how vulnerable they may appear. Guarino, K., P. Soares, K. Konnath, R. Clervil, and E. Bassuk. Trauma Informed Organizational Toolkit. Rockville, MD. Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, The Daniels Fund, the National Child Traumatic Stress Network, and the W.K. Kellogg Foundation (2009).

5 Fehler-Cabral, G., R. Campbell, and D. Patterson. "Adult Sexual Assault Survivors' Experiences With Sexual Assault Nurse Examiners (SANEs)."Journal of Interpersonal Violence 26.18 (2011): 3618-3639; Patterson, D. "The Impact of Detectives' Manner of Questioning on Rape Victims' Disclosure." Violence Against Women, 17.11 (2011): 1349-1373.

6 Campbell, R., D. Patterson, and D. Bybee. "Prosecution of Adult Sexual Assault Cases: A Longitudinal Analysis of the Impact of a Sexual Assault Nurse Examiner Program." Violence Against Women 18.2 (2012): 223-244; Townsend, S., and R. Campbell. "Organizational Correlates of Secondary Traumatic Stress and Burnout among Sexual Assault Nurse Examiners." Journal of Forensic Nursing 5.2 (2009): 97-106.

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