



Survivor Notification: Recommendations for Oregon

Introduction: Why does survivor notification matter?

The Oregon Attorney General's Sexual Assault Task Force (SATF) convened a *Victim Notification Work Group* to develop recommendations for how Oregon will approach survivor notification after processing untested Sexual Assault Forensic Evidence (SAFE) Kitsⁱ. The work group was a collaboration among advocates, criminal justice providers, policy advocates, and statewide technical assistance and training providers. We gathered additional feedback from SATF's multidisciplinary subcommittees and statewide stakeholders.

All partners, some of whom identified as survivors, indicated the need for an intentional process to notify survivors prior to testing kits, either through Public Service Announcements (PSA) or other media campaigns (e.g., websites, billboards, radio ads, etc.). This approach provides survivors with an opportunity to opt in or opt out of notification. If they opt in to notification, survivors can inform providers on *how* and *when* they are notified. In the absence of specific direction from a survivor, we encourage responders to reference the following recommendations.

The recommendations are informed by national practices (including sample policiesⁱⁱ, with technical assistance from the [Joyful Heart Foundation](#)ⁱⁱⁱ), while reflecting local conditions. We acknowledge the tension that exists between national practice and feedback from partners and survivors here in Oregon. The reality is there is no easy answer. As a result, this document is not intended to provide a step-by-step, one-size-fits-all approach for providers, but rather highlight the importance of a trauma-informed notification practice in Oregon with trained providers.

National experiences provide information about what we might expect here in Oregon. Some survivors may be pleased to hear new information about their case; however, others may experience the news as traumatic or unwelcome. Every *Sexual Assault Forensic Evidence* (SAFE) Kit is connected to a human being who experienced a traumatic event. Contacting survivors after a significant lapse in time may reactivate a range of emotions and bring back old issues for which they may not be prepared.

Our goal is to ensure Oregon's survivor notification practices are survivor-centered and mitigate trauma. These recommendations are meant to be referenced when developing protocols within each jurisdiction, allowing for case-by-case assessments.

The recommendations include:

- a **definition of terms** for practitioners
 - subsections on **who** contacts survivors, **when** we contact survivors, and **how** we contact survivors.
 - connecting survivors to **community-based advocacy programs**
 - **sample language** for practitioners to use when they notify survivors
 - a **sample letter** to be used only in situations where phone or in-person contact was unsuccessful, or not an option.
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Definitions

- **Advocates:** for the purposes of survivor-notification, advocates refer to a continuum of advocacy services, including, *Community-Based Advocates*, *Law-Enforcement Based advocates*, and *Victim Assistance Advocates* as defined below:
 - **Community-Based Advocate:** Refers to an advocate employed by or volunteering with a community-based, non-profit organization, otherwise known as a *Qualified Victim Services Program*^{iv} (as it relates to advocate privilege).
 - **Law Enforcement-Based Advocate:** Refers to an advocate employed by or volunteering with a law enforcement agency.
 - **Victim Assistance Advocate:** Refers to a victim assistance advocate employed by or volunteering with a District Attorney’s Office.
 - **CODIS:** Refers to the Combined DNA Index System. There are two ways in which DNA is put into CODIS. One is when a DNA profile from an unknown perpetrator is created from crime scene evidence and entered into the database. Another way is when the DNA profile from a known perpetrator is entered into the database
 - **Criminal Justice Provider:** Refers to someone employed by a law enforcement agency or a District Attorney’s Office, unless otherwise named as such.
 - **Sexual Assault Forensic Evidence (SAFE) Kit:** A SAFE Kit, or known nationally as a Sexual Assault Kit (SAK) is used as part of a medical-forensic exam to collect evidence after a sexual assault. Evidence might include swabs of any area where there was contact between the victim and the perpetrator, and may include hair samples and other evidence.
 - **Trauma-informed:** A trauma-informed approach recognizes that traumatic experiences can **terrify, overwhelm, and violate** the individual. Trauma Informed Care is a commitment not to repeat these experiences and, in whatever way possible, to restore a sense of safety, power, and self-worth^v.
 - **Untested kits:** Untested kits refers to those kits that were submitted to a laboratory for testing but are still awaiting analysis or were not ever submitted to a laboratory for testing. Neither category included non-reporting kits (also known as “anonymous kits or “Jane Doe kits”), which are not testing without the consent of a victim.
 - **Victim/Survivor:** While the term “victim” is typically applied after a crime occurs, we use the term “survivor” to identify those who have experienced sexual violence; however, both terms are used interchangeably.
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Survivor Notification: When do we contact the survivor?

Survivor notification is the process of contacting survivors about the status of their case and/or SAFE Kit in response to the testing and processing of untested kits. Survivors may experience the news as disturbing, no matter how it is delivered; therefore a trauma-informed approach that includes sensitivity, empathy, and patience is important. Be prepared for a wide range of emotions.

There are potentially 3 scenarios we will need to assess:

1. Cases where eligible evidence is found after processing a kit, the DNA profile is loaded into CODIS, and a match or 'hit' is obtained.
2. Cases where a DNA profile is loaded into CODIS, but the profile doesn't match another DNA profile within the system.
3. Cases where the kit is processed and there is no evidence.

National practice excludes notifying survivors when there is no evidence found after processing a kit, citing that it is *unnecessary to retraumatize survivors when there isn't any news to share or course of action for them to take*. We are not aware of any other community which is notifying survivors in instances where no evidence was found after the kit was processed.

We have heard from and listened to survivors and practitioners in Oregon who disagree with this particular issue, asserting that *all survivors deserve to know what happened after their kit was tested, regardless of the outcome*. This difference in perspective was reflected in round table discussions that NCVC conducted with survivors nationally^{vi}.

No single approach will meet the need of every person or community, so therefore we don't have a simple policy recommendation. We recommend that you engage your community and ask survivors what they want. This can be accomplished by offering survivors options to decide whether, how and when they are notified; options can be communicated by way of PSAs or other media campaigns. Once your policies and practices are developed, be consistent in your messaging and follow-through.

For additional guidance, The National Institute of Justice recently released their publication on [Notifying Sexual Assault Victims After Testing Evidence](#).^{vii}

Notification: Who Contacts the Survivor?

Criminal Justice Provider & Victim Advocate

The most important factor that determines *who* contacts the survivor is a provider who is trained and understands the dynamics of sexual assault and a trauma-informed approach. SATF is available to connect providers with opportunities for this kind of training.

In an effort to provide wrap around services during survivor notification, **pair a criminal justice provider with a victim advocate.** Jurisdictions need to determine if the victim advocate is from a community-based non-profit program, a victim assistance program, or a law enforcement-based advocate.

The National Center for Victims of Crime developed a sample policy document available on their website, www.victimsofcrime.org (check their DNA Resource Center). We are highlighting and paraphrasing some of the components of their sample policy below:

- Determine which criminal justice provider and which advocacy program is paired together for notification. We recommend coming to a consensus about this at a SART meeting or other meeting with multi-disciplinary partners.
 - Prior to notification and communication with the survivor, coordinate a time in which both the criminal justice provider and victim advocate can be present.
 - If there are concerns about survivor safety (i.e. the perpetrator was recently released, there appears to be an imminent threat to the survivor, etc.), or the media is preparing to release information that would impact the survivor, notifying the survivor as soon as possible may prevent the presence of both team members. It is critical, however, that every effort be made to coordinate with the advocate, even when timely notification to the survivor is critical.
 - Start every discussion of a cold case investigation and best methods of notification with the understanding that contacting a survivor about renewed activity in a sexual assault case can cause psychological trauma to the survivor and survivor's family, particularly where the survivor has not received regular updates over time.
 - Conduct notification in a timely manner to avoid the survivor first learning about the new case activity from other sources, including the media. However, contacting a survivor too early can potentially interfere with the investigation. Safety of the survivor must also be considered in deciding when to notify the survivor. When and how to notify the survivor is a team decision, involving at a minimum the criminal justice provider and a survivor advocate.
 - If the survivor has moved and you are relying on another jurisdiction/precinct in another state to make contact, please share Oregon's recommendations. Make an effort to offer every survivor information about their local community-based program as soon as the partnering jurisdiction has contacted them, with a request that they contact the designated criminal justice provider or advocate in Oregon.
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Connecting Survivors to Community-based Sexual Assault Programs

If an advocate from a community-based nonprofit program is not paired with the criminal justice provider during notification, it is important that survivors be connected (with their permission) to their local non-profit, community-based sexual assault program. To that end, we suggest that the victim-assistance or law enforcement based advocate explain their role as victim assistance providers, and the degree of confidentiality they can provide.

Effective October 1, 2015, Community-Based Advocates working for a *Qualified Victim Service Program*, provide an added layer of confidentiality through advocate privilege.

Establishing a protocol whereby survivors are connected with a Community-Based Advocate ensures quick and timely delivery of wrap-around services. These protocols should be discussed and agreed upon, in writing, among the various advocacy programs in each community.

At a minimum, offer survivors a phone number and/or written information and materials for appropriate community resources – in particular, community-based sexual assault programs - sent by mail, email, or in person. Ask the survivor what their preference is.

Sample Protocol:

Implement a warm hand-off between system-based and community-based programs. Obtain the survivor's written consent prior to contacting the community-based advocate, with details about how to reach the survivor. The goal of the community-based program is to provide the survivor with information about their options and the support services that are available.

Survivor Notification: How do we notify survivors?

Strive for confidentiality and safety

With each case a variety of factors need to be considered when determining the best method for the initial notification. It is paramount to consider the safety and confidentiality of survivors, as well as ensuring a trauma-informed approach.

Methods for notification include in-person contact, telephone, letter, email notification, or notification to the survivor's designated third party. Each case will present circumstances that, upon review, will require a person-specific response.

Make every attempt to notify a survivor in a time, place, and manner that provides privacy and safety. Keep in mind that survivors may not have informed family members or friends about the assault. Ensuring privacy allows survivors to choose whether or not they will reveal details of the crime to others.

We do not recommend trying every form of communication for every case, rather, we are suggesting considerations to make prior to contact.

Please be aware of survivors who may speak a language other than English or may be Deaf or hard of hearing and communicate with American Sign Language (ASL). In such cases, interactions would be conducted with sensitivity to language barriers or other culturally-specific factors, including the need to ensure confidentiality and privacy (e.g., in some communities, the interpreter and survivor may know each other).

In-person Contact

In-person contact provides the most immediate crisis intervention at the time of notification. In-person contact is the most personal approach and allows survivors to get their questions answered immediately. It provides an opportunity to lay a foundation for a survivor-centered relationship and is the most expeditious process, especially in cases where imminent safety risks to the victim are present.

This method does pose confidentiality and safety risks when other family members or friends are present. It may trigger a survivor upon learning the reason for contact, highlighting the need for a trauma-informed approach with trained providers.

Considerations to make before in-person notification:

- The survivor's family or friends may not be aware of what happened, therefore a survivor's privacy can be threatened if loved ones are present during notification.
- The survivor may distrust or be angry with law enforcement. An advocate is helpful in these instances.
- If your initial contact is in-person, please be alert and aware of activities that are going on, such as a large family gathering or celebration. This will reduce the chances of notification occurring during an inopportune or inappropriate time.

- Please assess the safety of advocates when conducting in-person notification. Review internal policies and procedures prior to survivor notification, which may describe the time of day and whom advocates are with (e.g., law enforcement) when they visit a survivor’s home.

Telephone Contact

Telephone contact may provide the greatest degree of privacy and ensure confidentiality during the initial contact with the survivor. Leaving a message gives a survivor the opportunity to call back at a time when it is safe and convenient for them and/or to choose a time and place to meet in person to receive details about their case.

Considerations to make before calling:

- A survivor may want to receive more information on the phone so that they can determine if future contact is desired. We recommend following their lead.
- If the survivor wants to meet in person, ask them where they would like to meet. Options include: the local community-based advocacy program, the local police station, their own home or other public location that is deemed safe for everyone. Ask for their preference when determining a meeting location.
- Determine how many phone attempts you will make. Some communities are attempting at least 2 phone calls and leaving a message. Consider sending a letter after 2 unsuccessful phone call attempts (see sample letter).
- If you leave a message, identify yourself. If you leave an agency name, consider being vague (example from Portland Police Bureau, “My name is {name given} and I’m with the City of Portland. Please call me back at {number given}.”)
- DO NOT leave information about what the call is regarding. Ask for a return call from the survivor.
- Survivors may use a different name on their voicemail, or have someone with a male-like voice leave their outgoing message – this need not deter you from leaving a message, provided that confidential information is not disclosed.
- Confirm the identity of the survivor when they call back.

U.S. Mail Notification

Utilizing U.S. Mail increases the likelihood that the recipient will receive notification, if the provider is unable to reach the survivor by phone.

A sample letter is included for your use.

Considerations to make before U.S. Mail notification:

- A letter may be received and opened by someone other than the survivor, particularly if it is sent to the survivor’s last known address. The sample letter provides language written in the most generic terms possible.
- Use of an agency envelope vs. a blank envelope. We recommend assessing this on a case-by-case basis, keeping in mind the safety and confidentiality of each survivor. We recognize that survivors may be more likely to open a letter with a return address from your agency.
- The survivor may have relocated frequently, and is therefore not easily reached by U.S. Mail.
- Certified mail is not recommended for the following reasons:

- While it appears to offer confidentiality, it may increase the likelihood that someone other than the recipient will notice it, or inquire about the content of the letter.
- It may pose a challenge for some survivors with limited mobility or no transportation to travel to the nearby post office, if they were not home at the time of delivery.
- It is an inconvenience for survivors and may increase anxiety.

Email Notification

Email notification is not confidential, and therefore, is not a recommended form of communication. An email is permanent and may be accidentally sent to the wrong person. Limit email contact or only use it as a means to maintain communication when email correspondence with the survivor has already been exchanged, and only with the survivor's permission.

Email, however, may be the primary form of communication for survivors who have relocated or are not easily reached through other methods. Attempt all other forms of contact first, and before an email is sent, discuss the issue with multi-disciplinary team to ensure all other avenues of notification have been exhausted.

Please reference the sample letter for generic terms to use in an email.

Considerations to make before utilizing email notification:

- Partners or family members may share an email, therefore, we advise using the most generic terms possible.
 - **Consider editing your email signature, removing any potentially identifying information like, "sex crimes cold case unit," or "victim advocate" from your title.**
 - Because emails can be misdirected through spam filters, or become inactive, requesting a read receipt might be useful.
 - Verification of an email is useful, however, that **does not mean that the intended recipient is the one who received it.**
 - **Remember that once an email is sent, is cannot be retracted.**
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What is our Message to Survivors?

A Simple Apology and Straightforward Information – Do not offer excuses

Once you have restored contact with a survivor, keep in mind that while some may be relieved to receive contact, others will have felt forgotten and may be angry or upset. Provide information about local resources, including the contact information for the local community-based sexual assault support program. See the section on ***Connecting Survivors to Community-Based Sexual Assault Programs*** for additional information. Provide Information about [Crime Victims' Rights](#)^{viii*}.

National experiences teach us that survivors do not want to be coddled or patronized. Keep your message simple and straightforward. A genuine apology is best. Be prepared to answer questions and offer support.

Do not offer any excuses – there are none. Do not assume that survivors are aware that their kit was never processed.

While there are many variations and unique styles in delivering news, here is an example of what providers can say:

“We are sorry it took so long to process your evidence. We are here now to provide any and all information we have.”

****[Crime Victims' Rights](#)***

Inform survivors of their rights as a crime victim upon contact. Rights of particular importance in sexual assault cases include: the right to privacy, the right to refuse discovery, and the right to protection. Inform victims that if they wish, they can contact a victims' rights attorney for advice on the best way to assert and protect these rights. At a minimum, provide a crime victims' rights brochure.

Additionally, inform victims of the availability of the crime victims compensation program.

Thank You

We expect to learn more about the impact notification will have on survivors as we implement this practice in Oregon. As a result, we are treating these recommendations as a living document to be revised and updated when necessary.

The Oregon Attorney General's Sexual Assault Task Force is grateful for the leadership and input from our membership and allied partners, including:

Ashley Beatty, Victim Assistance Program Coordinator, Deschutes County DA VAP
BB Beltran, Executive Director, Sexual Assault Support Services (SASS) – Lane County
Jenna Harper, SATI Coordinator, Oregon Attorney General's Sexual Assault Task Force - Statewide
Molly Hawkins, Victim Assistance Advocate, Marion County DA VAP
Sybil Hebb, Director of Policy Advocacy, Oregon Law Center - Statewide
Det. Carrie Hull, Ashland Police Department
Keri Moran-Kuhn, Associate Director, OCADSV – Statewide
Susan Lehman, Victim Assistance Specialist, Portland Police Bureau
Trish Meyer, Assistant Executive Director, Saving Grace – Deschutes County
Haley Pursell, Director of Services, Portland Women's Crisis Line - Statewide
Don Rees, Deputy District Attorney, Multnomah County DA
Michele Roland-Schwartz, Executive Director, Oregon Attorney General's Sexual Assault Task Force – Statewide
Brenda Tracy, RN, Survivor, Advocate - Statewide

Thank you to the following for their contribution to this document: ***Criminal Justice, Legislative & Public Policy***, and ***Victim Response Subcommittees***, the **survivors and other statewide stakeholders**, and the **SATF Steering Committee**. Thank you to the [Joyful Heart Foundation](#) for their investment of time and technical assistance.

The recommendations were supported with funding from the Oregon Department of Justice.

Last updated: February 2016

ⁱ <http://www.endthebacklog.org/portland>

ⁱⁱ National Center for Victims of Crime (NCVC) <http://victimsofcrime.org/docs/default-source/dna-resource-center-documents/cold-case-victim-notification-policy.pdf?sfvrsn=2>

ⁱⁱⁱ www.endthebacklog.org

^{iv} [HB 3476](#) Relating to confidential communications by qualified victim service program advocates

^v Trauma Informed Oregon: <http://traumainformedoregon.org/resources/trauma-informed-care-principles/>

^{vi} National Center for Victims of Crime (NCVC) *Sexual Assault Kit Backlogs: Survivor Perspectives*: <http://victimsofcrime.org/docs/dna-resource-center-documents/survivor-stories-summary.pdf?sfvrsn=2>

^{vii} Nation Institute of Justice, "[Notifying Sexual Assault Victims After Testing Evidence](#)"

^{viii} <http://www.doj.state.or.us/victims/pages/rights.aspx>

Sample Letter

A Template for Survivor Notification

{AGENCY LETTERHEAD}

{Insert date}

{Survivor Name}

Address Line 1

Address Line 2

Dear {Survivor Name},

My name is {Advocate name} and I am an Advocate with the {Name of County} District Attorney's Office. I have some new information about a case that occurred in {year}.

Please contact me at your earliest convenience. I can be reached by email at [{email address}](#) or by phone at {phone number}. Our office is open Monday- Friday 8:00 am to 5:00 pm.

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.

Thank you.

Sincerely,

{Advocate name}

{Insert formal signature}



John Hummel District Attorney

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Grand Jury Fax: (541) 330-4698
www.dcca.us

Date

Ms. Jane Smith
1235 Unicorn Avenue
Bend, OR 97701

Dear Ms. Smith,

My name is Ashley Beatty and I am an Advocate with the Deschutes County District Attorney's Office. I have some new information about a case that occurred in 2000.

Please contact me at your earliest convenience. I can be reached by email at Ashley.beatty@dcca.us or by phone (541) 317-3186. Our office is open Monday- Friday 8:00 am to 5:00 pm.

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.

Thank you.

Sincerely,

Ashley Beatty
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