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THE DETROIT SEXUAL ASSAULT KIT (SAK) ACTION RESEARCH PROJECT (ARP)

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EXECUTIVE SUMMARY

Detroit, Michigan is one of a growing number of U.S. cities that have large numbers of untested sexual assault kits (SAKs). In August 2009, representatives from the local police, state police, and the prosecutor's office toured a remote property storage facility to discuss how to best manage the volume of evidence in police custody. During that tour, an assistant prosecutor noticed a large number of storage boxes on shelving units, and when asked what they were, police personnel indicated that they were rape kits. When pressed for details about the kits, police officials were not able to verify how many SAKs were in police property and how many of those SAKs had been tested.

To develop long-term strategies for resolving this problem, a multidisciplinary action research project was created, The Detroit Sexual Assault Kit (SAK) Action Research Project (ARP), which brought together researchers and practitioners from law enforcement, prosecution, forensic sciences, forensic nursing, and victim advocacy to address four primary goals:

- 1) To assess the scope of the problem by conducting a complete census of all SAKs in police property;
- 2) To identify the underlying factors that contributed to why Detroit had so many unsubmitted SAKs;
- 3) To develop a plan for testing SAKs and to evaluate the efficacy of that plan;
- 4) To create a victim notification protocol and evaluate the efficacy of that protocol.

The first goal of this project was to assess the scope of the problem by conducting a census of all SAKs in police property (current to November 1, 2009). The census took 15 weeks to complete and revealed that there were 11,303 SAKs in police custody. Post-census review of property records indicated that 84 SAKs needed to be removed from the count (typically because the SAK did not contain sexual assault medical forensic evidence; the box had been used to store other types of crime scene evidence), thereby revising the census count to 11,219. Some of these kits (2,512) had laboratory ID

numbers, indicating that they had been *submitted* for testing, but it was unclear how many had in fact been *tested* for DNA. The vast majority of the SAKs in police property (8,717) had not been submitted for forensic testing. The Detroit SAK ARP created a step-by-step summary of the census procedures used in this project to guide other jurisdictions on how to conduct a census of SAKs in police property.

The second goal of this action research project was to study the underlying reasons why Detroit had so many unsubmitted SAKs. The research/evaluation team interviewed current and former employees in all organizations, and examined publicly-available documents and internal organizational records to assess the resources available for serving rape victims (in general) and testing SAKs (specifically). The results of this historical contextual analysis indicated that all organizations in Detroit that serve rape victims have struggled for decades with chronic understaffing and resource depletion relative to other U.S. cities with similar populations, racial/ethnic compositions, and/or crime rates.

Police personnel acknowledged that budget and staffing cuts compromised investigation quality such that “*cutting corners*” became normative. An analysis of 1,268 sexual assault police reports associated with SAKs that had not been submitted for testing revealed that most cases were closed after *minimal* investigational effort. In both the stakeholder interviews and in the actual police reports, law enforcement personnel expressed negative, victim-blaming beliefs about sexual assault victims. Rape survivors were often assumed to be prostitutes and therefore what had happened to them was considered to be their own fault. Adolescents were assumed to be lying, trying to avoid getting into trouble by concocting a false story about being raped. Police said that those who had been assaulted by friends and acquaintances had “*got-what-they-got*” because they had chosen to associate with the perpetrator. Case after case was labeled “*a deal gone bad*” or otherwise dismissed as “*not really a rape,*” and these attitudes directly affected law enforcement personnel’s decisions regarding whether to submit a rape kit for forensic testing. Without consistent supervision and training to challenge these practices, unsubmitted SAKs continued to accumulate. This research identified individual-level,

organizational-level, and systemic factors that may place communities at risk for developing this problem (i.e., stockpiles of untested rape kits), which can help other jurisdictions “take stock” of their past and present practices regarding sexual assault investigations and SAK testing.

The third goal of this project was to develop and evaluate a plan for testing these unsubmitted SAKs. At the beginning of this project, Detroit did not have sufficient funding to test all SAKs in police property. However, practitioners disagreed as to whether all SAKs *should* be tested, even if funds were available. Is it useful to test a SAK if the assailant is already known (non-stranger)? Does it make sense to test a SAK if the case is beyond the statute of limitations? These same questions came up in our research interviews with state and national stakeholders from the law enforcement, prosecution, forensic science, medical/nursing, and victim advocacy, so the Detroit SAK Testing plan was designed to gather data about these fundamental questions. Pooling funds from the Detroit SAK ARP budget, the state police department’s NIJ DNA Backlog Reduction Grants, and the resources of a university-based forensic laboratory (which was separately funded by NIJ), the project was able to test 1,600 SAKs (1,595 actually tested). Kits were randomly sampled and placed into four Testing Groups, each one designed to address specific research questions regarding the utility of SAK testing under different case circumstances. This design allowed us to examine the utility of SAK testing for stranger-perpetrated sexual assaults (Testing Group 1), non-stranger perpetrated sexual assaults (Testing Group 2), and sexual assault cases that were presumed to be beyond the statute of limitations (SOL) (Testing Group 3). For Testing Group 4, SAKs were randomly assigned to two different DNA testing methods to examine whether an emerging testing method, selective degradation, could offer faster, less expensive testing options, without sacrificing accuracy (relative to traditional DNA testing methods). All Testing Groups were compared with respect to their rates of CODIS (Combined DNA Index System) *entries* (the SAK contained a DNA eligible profile for CODIS), CODIS *hits* (a DNA match to a profile in CODIS), and *serial sexual assault hits* (a DNA match across two or more SAKs).

In this project, 1,595 SAKs were tested, which yielded 785 CODIS eligible profiles (49% of the SAKs tested), 455 CODIS hits (28.5% of the SAKs tested; 58% of the profiles entered), and 127 serial sexual assaults (8% of the SAKs tested; 28% of the CODIS hits). A series of statistical models were evaluated that compared the probabilities of CODIS entry rates, CODIS hit rates, and serial sexual assault hit rates, accounting for the sampling differences between the four Testing Groups. Using continuation-ratio models, the results from the conditional and unconditional probability rate analyses showed no significant difference in CODIS hit rates as a function of either victim-offender relationship or SOL-status. In other words, SAKs associated with cases that were stranger-perpetrated had statistically equivalent CODIS hit rates as cases perpetrated by non-strangers; similarly, rates did not significantly differ by statute of limitations status. Some stakeholders in Detroit (as well as those at the state and national level) advocated for prioritizing SAKs for testing by victim-offender relationship (to prioritize stranger-perpetrated crimes) and/or “*skipping over*” SAKs associated with cases that are presumed to be beyond the statute of limitations; however, these results do not support such a plan because the rates of CODIS hits do not significantly differ as a function of these variables. These results indicate that there is merit in testing both stranger and non-stranger SAKs, and presumed SOL-expired and non-expired SAKs, in terms of expected yields for CODIS entries, CODIS hits, and identification of serial sexual assaults.

In Testing Group 4, two different methods of DNA testing were compared: traditional vs. selective degradation. There was no significant difference between the two groups in CODIS entry rates, indicating that the selective degradation method might yield rates equal to those obtained from customary methods, but the analyses did not provide sufficient evidence to firmly conclude that the groups had equivalent rates (they could differ by more than $\pm 5\%$). Materials costs were similar across the two groups, but the selective degradation method saved 1.10 hours of staff time per SAK. These savings, when aggregated across a large collection of SAKs, may substantially reduce personnel costs. These results merit replication (preferably with larger samples) prior to broad-based implementation.

The fourth goal of the Detroit SAK ARP was to develop and evaluate a victim notification protocol. The Detroit collaborative had a two-day planning retreat to develop a victim-centered, trauma-informed notification protocol (with an accompanying step-by-step guide and sample FAQ documents for other jurisdictions). The protocol stipulated that a multidisciplinary team would review cases that had CODIS hits and discuss if and how to notify survivors, given the specific circumstances of each case. The notifications would proceed in a two-stage process, whereby the goals of the first contact were to explain to the victim that her/his rape kit had not been tested at the time s/he made the police report, but now it had been found and tested; offer an apology to the survivor that her/his SAK had not been tested; and offer a follow-up meeting to discuss the issues in more detail. At that second, follow-up meeting, an investigator and community-based advocate would provide more detailed information, discuss options, and connect the survivor to community services.

In the evaluation of this protocol, 41 cases were selected for notification by the multidisciplinary review team, and the investigators were able to find 31 survivors (2 cases were closed-out because the investigators had exhausted all possible leads trying to find the victims; 8 cases were still pending at the time the evaluation data collection period closed) (95% find rate). The average length of time between when the assault occurred and the time of notification was nine years. Most survivors (65%) could be found with relatively low investigational effort: databases searches (e.g., LEIN—Law Enforcement Information Network), plus 0-4 phone calls, and 0-1 in-person visits to 1 address. Survivors who were harder to locate wanted to participate in the prosecution of their cases at a comparable rate to those who were easier to find, suggesting that victims' "locate-ability" should *not* be a selection criterion for either SAK testing or victim notification.

The first contact with the survivors was made by investigators affiliated with the prosecutor's office (not the focal police department) and typically occurred at the victims' homes. Some survivors had strong negative reactions (16%) (e.g., anger, refusal to talk to investigators), more had strong

positive reactions (29%) (e.g., happiness, relief), and most (55%) did not exhibit strong emotional reactions—they were open to hearing what the investigators had to say, but were reserved and cautious. Most survivors (64%) wanted a follow-up meeting with the investigators and an advocate to discuss options in more detail, and in the end, most (57%) also decided that they wanted to participate in the investigation and prosecution process. This rate of re-engagement was higher than expected given the pervasive victim-blaming treatment many survivors had experienced from law enforcement personnel at the time they had filed the police report.

Victims were less likely to react positively and to re-engage the longer the period of time between the assault and the notification (beyond nine years), which highlights the importance of timely testing of SAKs and investigation of reported sexual assaults. Survivors who were 16-24 years old at the time of the assault were somewhat more likely to have had negative reactions to the notification and were somewhat less likely to want to have continued contact with the criminal justice system. Given that prior research has found that victims in this age group are at high risk for victim-blaming treatment, these girls/young women may have had difficult encounters years ago, and as such, may have been disinclined to re-engage. In this evaluation, only a small number of notifications were conducted with victims of non-stranger rape, but preliminary findings suggested that they were not as likely as victims of stranger rape to continue contact with the criminal justice system post-notification.

The results of this project were influential in creating a number of significant changes in policy and practice, including, but not limited to: a policy change in the local police department to submit all SAKs for forensic testing; training for police and other practitioners on victim-centered, trauma-informed services and offender-focused investigations; securing \$4 million from the state Attorney General's Office to test as many remaining Detroit SAKs as possible; and the passage of new state-wide legislation requiring all law enforcement agencies in the state of Michigan to submit SAKs for testing (if released for testing by the rape victim) (the Sexual Assault Kit Evidence Submission Act (PA 227)).