

# Changing the Criminal Justice System Response to Sexual Assault: An Empirical Study of a Participatory Action Research Project

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## Highlights

- Thousands of sexual assault kits have not been submitted by the police for forensic DNA testing.
- This paper describes a longitudinal action research project conducted in Detroit, Michigan.
- We also studied how this action research project impacted the Detroit criminal justice system.
- Participating in this project changed stakeholders' attitudes about the utility of research.
- The results led to new protocols for SAK testing and new legislation for SAK forensic DNA testing.

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**Abstract** In jurisdictions throughout the United States, thousands of sexual assault kits (SAKs; also known as a “rape kits”) have not been submitted by the police for forensic DNA testing. DNA evidence may be helpful to sexual assault investigations and prosecutions by identifying perpetrators, revealing serial offenders through DNA matches across cases, and exonerating those who have been wrongly accused. This paper describes a longitudinal action research project conducted in Detroit,

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Michigan after that city discovered approximately 11,000 untested sexual assault kits in a police department storage facility. We conducted a root cause analysis to examine individual, organizational, community, and societal factors that contributed to the development of the rape kit backlog in Detroit. Based on those findings, we implemented and evaluated structural changes to increase staffing, promote kit testing, and retrain police and prosecutors so that cases could be reopened for investigation and prosecution. As we conducted this work, we also studied how this action research project impacted the Detroit criminal justice system. Participating in this project changed stakeholders' attitudes about the utility of research to address community problems, the usefulness of DNA evidence in sexual assault cases, and the impact of trauma on survivors. The results led to new protocols for SAK testing and police investigations, and new state legislation mandating SAK forensic DNA testing.

**Keywords** Sexual assault · Rape · Sexual assault kit · Rape kit · Action research model · Collaboration · Criminal justice system

## Introduction

The United States criminal justice system has a long history of not investigating and prosecuting the crime of sexual assault, as <3% of reported assaults result in a conviction (Lonsway & Archambault, 2012; Shaw & Lee, 2019; Spohn, 2020). Survivors consistently describe their

experiences reporting to the police as re-traumatizing and hurtful as they endure victim-blaming questions about their credibility, integrity, and character (Kaiser et al., 2017; Morabito, Pattavina, & Williams, 2019; Spohn, White, & Tellis, 2014; Tasca et al., 2013; Venema, 2016). Meanwhile, actual progress on the investigation is so slow or non-existent it “feels like nothing” is being done to investigate the reported crime (Greeson, Campbell, & Fehler-Cabral, 2016, p. 103). For over a decade, Human Rights Watch (2009, 2010, 2013) has been monitoring the U.S. criminal justice system response to sexual assault as a threat to public safety and violation of human rights laws. From this review, Human Rights Watch discovered that police have been systematically ignoring biological forensic evidence associated with thousands of reported rape cases in which victims had a sexual assault kit (SAK; also known as a “rape kit”) collected.

A SAK medical forensic examination is a lengthy and traumatic experience for survivors in which health care practitioners collect evidence of the crime from their bodies (e.g., semen samples, saliva swabs, fingernail scrapings; Department of Justice, 2013). The police are supposed to submit the kit to a forensic laboratory for DNA analysis, but in jurisdictions throughout the United States, law enforcement personnel retrieve the kit at the hospital and put the untested kit in crime scene storage (Campbell, Feeney, Fehler-Cabral, Shaw, & Horsford, 2017; Pinchevsky, 2018). For example, in the first study to document this problem, Peterson, Johnson, Herz, Grizziano, and Oehler (2012) reported that Los Angeles had 10,895 untested SAKs in storage, most of which likely still contained viable biological evidence. Los Angeles was not the only city with this problem, as investigative reporting projects and advocacy watchdog efforts indicated there may be 200,000–400,000 untested SAKs in the U.S. police departments (Campbell, Feeney, et al., 2017; Campbell, Fehler-Cabral, Bybee, & Shaw, 2017; Pinchevsky, 2018). Hundreds of thousands of victims reported violent crimes to the police, and evidence that could be instrumental to investigation and prosecution—or exoneration of those falsely accused—has been sitting untested in storage. “Feels like nothing” indeed.

In August 2009, Detroit, Michigan discovered that it was one of a growing number of cities with large numbers of untested SAKs. As part of a multi-agency review of Detroit’s procedures for handling crime scene evidence, stakeholders from the local police, county prosecutor’s office, and state police discovered approximately 11,000 rape kits in off-site storage facility. An initial review revealed that the vast majority of these kits had never been submitted for forensic DNA testing and these cases had not been investigated by the police (Michigan Domestic & Sexual Violence Prevention & Treatment Board,

2013). The city of Detroit was under tremendous financial strain, with no money and no plan for how to resolve this problem. A potential solution emerged in 2010 when the National Institute of Justice (NIJ) released a request for proposals to fund action research projects on untested SAKs. NIJ wanted to support researcher-practitioner partnerships in cities with large numbers of untested rape kits to conduct root cause analyses, develop testing protocols, and evaluate solutions to support sustainable system change. State policy makers connected Detroit stakeholders to our research team (the authors of this paper), and we received funding to conduct a five-year participatory action research project to resolve Detroit’s untested SAKs.

Throughout this project, we also studied the process of the collaboration itself to document how the team worked together to create organizational- and system-level reforms in the criminal justice system. In this paper, we describe our action research model, present empirical findings on how the project impacted stakeholders and the community, and reflect on how our values as community psychologists guided our efforts to create policy change. We also examine some uncomfortable tensions inherent in working within an oppressive system to create change.

#### Defining Action Research and Its Use with the U.S. Criminal Justice System

Action research has a long history in the social sciences, dating back to Lewin’s (1952) influential vision of a pragmatic, utilitarian approach to science in which knowledge generates action to address a locally situated social problem. Different models of action research have emerged over the years (e.g., participatory action research and systemic action research), and Foster-Fishman and Watson (2010) offered a useful working definition that unites these varied approaches and distinguishes action research from traditional social science research: “action research (AR) involves a collaborative process between the research and members of a targeted community... where both the insiders (community members) and outsiders (researchers) co-generate meaning, mutually design actions, and jointly assess the impact of these interventions” (p. 235). Action research is a cyclical process of scientific inquiry and intervention that begins with a root cause analysis of the focal problem. Informed by those data, researchers and community partners design and implement actions to address the root causes. These interventions seek to address what Habermas (1987) referred to as problems in the “systems world” (rather than the “life world” of family and culture) by changing existing structures. Interventions are implemented and evaluated to determine whether they address the underlying causes, and are

revised, re-implemented, and re-evaluated in a cycle of learning and action (Greenwood & Levin, 2006).

The action research model has been most commonly used to improve health and human services (see Foster-Fishman & Watson, 2010 for review), but it is gaining traction in the criminal justice system. In their call for “a new criminal justice,” Klofas, Hipple, and McGarrell (2010) argued for action research as an important paradigm-shift, one in which researchers work collaboratively with criminal justice system professionals and community members to identify evidence-based solutions. For example, in response to marked increases in gun-related youth homicides in Boston, NIJ funded the Operation Ceasefire action research project, which studied sources of guns and gun trafficking, created maps of gun and knife homicides in Boston, and developed social network models to understand gang activity (Kennedy, 2012; Kennedy, Braga, Piehl, & Waring, 2001). These data were shared with criminal justice practitioners and community leaders to develop structural-level crime prevention projects that disrupted these regularities. These strategies were successful, as Operation Ceasefire saw a 63% reduction in youth homicides per month and a 25% decrease in gun assaults per month (Kennedy et al., 2001). Other NIJ-funded action research projects, such the Strategic Approaches to Community Safety Initiative and Project Safe Neighborhoods, have used similar researcher-practitioner-community partnerships to significantly reduce violent crime (e.g., homicide, youth violence, fire arms violence; McGarrell, Hipple, Corsaro, Bynum, Perez, Zimmernann, & Garmo, 2009; Rosenbaum & Roehl, 2010).

#### Applying the Action Research Model to the Problem of Untested Rape Kits

Given the successes of these action research projects with the criminal justice system, NIJ (2010) funded an extension of this intervention model to address the growing national problem of untested SAKs. Unlike other NIJ-funded action research projects, the focus of this project was *not* crime prevention (i.e., reducing rates of sexual violence). Rather, this solicitation funded researcher-practitioner partnerships to understand why thousands of sexual assaults reported to the criminal justice system were not acted upon by the police and why SAKs were not submitted for forensic DNA testing. In other words, the problem was... the system itself. This was a novel application of the action research model to understand how the criminal justice system had failed thousands of its most vulnerable citizens and to work with that system to change problematic practices, policies, and beliefs. NIJ funded two sites in this inaugural program: Detroit, MI and Houston, TX.

To launch the Detroit Sexual Assault Kit Action Research Project, the elected county prosecutor was instrumental in bringing all key stakeholders to the table and securing their participation, including front-line and senior-level leadership from prosecution, law enforcement, forensic sciences, medicine, nursing, victim advocacy, and research. Consistent with the action research model, we began with a root cause analysis of the problem; elsewhere we describe those findings in detail (Campbell & Fehler-Cabral, 2018; Campbell, Fehler-Cabral, et al., 2017; Campbell, Shaw, & Fehler-Cabral, 2015), but simply stated, the police did not think there was a problem. They steadfastly maintained there were valid reasons why those 11,000 rape kits were in storage and these SAKs did not merit forensic DNA testing. Stakeholders from every other discipline vehemently disagreed. To understand these differing perspectives, we conducted over 100 qualitative interviews with Detroit police, reviewed over 100 archival records (e.g., budgets, staffing plans, and internal memos), and coded over 1,200 sexual assault police reports associated with untested SAKs. Across these data sources, it was abundantly clear that the Detroit criminal justice system did not have the resources to test all SAKs and investigate all reported sexual assaults (Campbell, Feeney, et al., 2017; Campbell, Fehler-Cabral, et al., 2017). However, it was readily apparent that the police would not allocate their limited resources to these cases because they did not believe survivors. In official police reports, detectives referred to survivors as “prostitutes,” “ho’s,” “heffers,” “liars,” and “delinquents,” and this victim blaming directly contributed to detectives’ decisions not to submit kits for forensic DNA testing (Campbell & Fehler-Cabral, 2018). These results convinced all stakeholder groups—including the police—that there was indeed a problem. The untested rape kits were symptomatic of deeper issues in the criminal justice system, namely systemic disbelief and disregard of survivors and their safety and well-being.

#### Identifying a Theoretical Framework for Evaluating the Impact of Action Research Projects

As we worked with Detroit stakeholders to address these problems and develop structural changes, we also studied the process of the action research project itself to assess the impact it had on the Detroit criminal justice system. In the action research literature, there is growing interest in evaluating whether participatory projects achieve their desired outcomes and identifying the processes that produced those outcomes (Hacker, Tendulkar, Rideout, Bhuiya, Trinh-Shevrin, Savage et al., 2012; Stanley, Marshall, Lazarus, LeBlanc, Heighton, Preater, & Tyndall, 2015; Wallerstein, Oetzel, Duran, Tafoya, Belone, & Rae,

2008; Ward, Schulz, Israel, Rice, Martenies, & Markarian, 2018). To assess process-to-outcome linkages, we turned to Kirkhart's (2000) theory of evaluation influence, which has been a foundational model in evaluation scholarship for studying how empirical findings can change policy responses to social problems (see Alkin, 2013; Schwandt, 2015). Kirkhart's (2000) model outlines three spheres of influence that together define how research/evaluation can influence practitioners and policy makers. First, Kirkhart (2000) noted that research/evaluation projects can have process-based influence: "not all of evaluation's influence emanates from the formative or summative reporting of results. Sometimes the primary influence centers around the process of conducting the evaluation itself" (p. 10). "Process use" refers to changes within program staff and organizations that stem from participating in a research/evaluation project, such as changes in stakeholders' attitudes and beliefs about utility and value of research (Amo & Cousins, 2007; Patton, 1998, 2008; Shaw & Campbell, 2014). Process use can facilitate stakeholders' trust in research/evaluation, which can support the second sphere of influence, "conceptual use." Conceptual use occurs when research/evaluation findings change how stakeholders think about a problem or issue in a fundamental way (e.g., a new insight, a deeper understanding, new questions; Patton, 2008; Weiss, 1980, 1998; Weiss, Murphy-Graham, & Birkeland, 2005). Conceptual use is often likened to an "aha moment," one that might lead to specific observable action steps or puts a new idea on "slow simmer" that later contributes to policy change (see Kingdon, 1995; Weiss, 1980, 1998, 2004). Process use and conceptual use can help create the third sphere of influence, "instrumental use," whereby the evaluation findings are used to guide specific action steps to change policy and practice (Patton, 2008; Weiss, 1980, 1998).

### The Current Study

Using Kirkhart's (2000) model as guide, the current study examined the extent to which the action research model contributed to *process use* among collaborative team members, operationalized as whether stakeholders exhibited changes in their attitudes and beliefs about how research could help Detroit resolve its untested rape kits. We also assessed whether the action research project facilitated *conceptual use*, defined as changes in stakeholders' fundamental beliefs about the importance of SAK testing and sexual assault investigation and prosecution. Finally, we assessed *instrumental use* as changes in policy and practice based on the action research project findings. We collected multiple types of qualitative data, including ethnographic observations, longitudinal qualitative interviews, and focus groups, to assess the extent to which the

action research model promoted process, conceptual, and instrumental use by criminal justice system personnel.

## Methods

### Ethnographic Observations: Sample and Procedures

The Detroit Sexual Assault Kit Action Research Project included members of our research team and representatives from all organizations involved in collecting, testing, and utilizing SAK evidence, including the local police department; the police department's forensic science crime laboratory; the county prosecutor's office; the state police forensic science crime laboratory; the local sexual assault nurse examiner (SANE) program; and local, state, and national victim advocacy organizations. The Detroit Sexual Assault Kit Action Research Project met bi-monthly for 30 months (81 meetings, 186 hours of observation). Every person who attended a team meeting was informed that the meetings were being documented for research purposes. A written informed consent form was shared before each meeting and attendees had the option to decline having the research team make note of their presence and/or comments; no one declined participation and no one requested that we refrain from making notes about their participation (100% consent rate).

For each of these observations, one research team member was designated the "observer" and was tasked with transcribing the discussions at the meetings as they were occurring; a second research team member was designated the "participant-observer" and was permitted to participate in substantive discussions, while also taking notes, though not in the running transcript-style of the first observer. In addition to these two sets of contemporaneous notes, the researchers wrote traditional ethnographic field notes within 72 hours of each observation (Emerson, Fretz, & Shaw, 2011). These field notes included: (a) thick descriptions of the meeting, supplemented with verbatim quotes (from the contemporaneous notes); (b) content memoing regarding emerging concepts, hypotheses, and findings, as well as ideas for additional data collection; and (c) reflexive memoing regarding the researcher's own experiences of conducting the project (see Lincoln & Guba, 1985). We also maintained a master a timeline that summarized the project's sequence of events and decisions. For the analyses described in this paper, we analyzed the contemporaneous meeting notes, traditional field notes, and the timeline document for information pertaining to how team members' attitudes and beliefs about the research project changed over time, how project results affected their beliefs about SAK testing and sexual assault

investigations, and how stakeholders utilized the findings to change policy and practice. Additional information about the ethnographic observations sample and procedures (as well as for the interviews and focus groups, described below) can be found in Campbell, Fehler-Cabral, et al. (2015).

#### Qualitative Interviews: Sample and Procedures

We asked all members of the Detroit Sexual Assault Kit Action Research Project to participate in individual qualitative interviews to explore topics in more depth than was feasible in the larger group setting (100% consent rate). Each interview participant was also asked to identify other people from their organizations we should interview (100% consent rate for referral sampling). We conducted a total of 42 formal interviews with Detroit stakeholders, spanning all organizations and all staffing levels within each organization (i.e., front-line workers to upper administration): 16 were cross-sectional interviews and 26 were longitudinal interviews (10 individuals were interviewed twice, approximately one year apart; 2 individuals were interviewed three times, each approximately 9 months apart). Participant recruitment and interviewing continued until we achieved saturation, whereby the same themes were repeated, with no new themes emerging among participants (Guest et al., 2006; Sandelowski, 1995). Written informed consent was obtained from all participants for the interviews, which were conducted in person by the Principal Investigator and/or Co-Principal Investigator of the project (interview length ranged from 45 minutes and 2.5 hours). Interviews were digitally recorded with participants' permission and transcribed verbatim.

The interviews were semi-structured qualitative assessments that examined many topics, including: (a) the participants' current job position and their role in SAK testing, investigation, prosecution, and/or victim advocacy; (b) their organization's past and present procedures regarding SAK testing and sexual assault investigations; (c) their beliefs regarding why some SAKs were submitted for forensic testing and others were not; (d) their understanding of the resources available in their organization for SAK testing, sexual assault investigations and prosecutions, and/or victim advocacy; and (e) how their own individual beliefs, as well as their perceptions of their organization's informal and formal policies and practices regarding SAK testing, investigation, prosecution, and/or victim advocacy, changed over the course of the action research project. This last section of the interview generated most of the data analyzed for this manuscript, but all transcripts (i.e., all text from all 42 interviews) were reviewed and coded for this study.

#### Focus Groups: Sample and Procedures

Three focus groups were conducted near the end of the project to discuss reflections on the project's processes and outcomes. The first focus group was attended by 13 individuals, spanning five organizations; the second by 15 individuals from five organizations; the third by six individuals from three organizations. The focus group questions were structured around key components of the project (e.g., conducting a root cause analysis, developing a testing plan, developing a victim notification protocol), and for each component, participants were asked to reflect on: (a) what we learned as a group regarding that task/topic (probing for how that understanding changed over time); (b) what they thought we did well with respect to that task; (c) what they thought we should have done differently on that task and why; and (d) what feedback or reactions they had to specific findings from the project (which were summarized in a table and provided to the participants for reference during the discussion; probing for how that understanding changed over time). The Principal Investigator facilitated each focus group, and another member of the research team took detailed notes of the discussions, in the same running transcript-style as the ethnographic observations (described above). There was no audio recording due to the technical difficulties of transcribing large group discussions. The focus group transcripts were coded and analyzed in their entirety for the results presented in this paper.

#### Qualitative Data Analysis

We used Miles et al.'s (2014) framework for analyzing the ethnographic observational field notes, qualitative interview transcripts, and focus group notes. In the first phase, *data condensation*, we completed two cycles of coding to identify themes and prepare the data for more detailed analyses. The first cycle of coding was conducted concurrently with data collection and involved applying descriptive codes that captured the topical content in the field notes and interviews. These codes were not developed *a priori*, and instead emerged from the data themselves, based on the content discussed in the meetings/observations and interviews. Two coders worked together to develop an initial set of provisional codes from the first three observations and the first three interviews. After every 2–3 new observations or interviews, the two analysts compared the new data to the existing codes to revise coding (as appropriate), to discuss and reconcile disagreements/discrepancies, and to draft lists of topics that needed additional exploration. This first cycle of coding was conducted with standard word processing software using color coding and "comment" features. The

second cycle of coding was conducted after data collection was complete. Building from the first-cycle content codes, we developed pattern codes to capture meaning, explanation, nuance, and inferences (Miles et al., 2014). Two analysts independently reviewed a set of five field notes and five transcripts to develop pattern codes within each content code; these codes were not established *a priori* and instead emerged from the data themselves. The analysts reviewed their coding together and all disagreements/discrepancies were discussed to reach consensus. This same process was repeated until all data were coded. This second cycle of coding was also conducted using standard word processing software, with supplemental audit trail tracking in spreadsheet software. We decided to use readily available software to complete the coding because it allowed us to share our work with our community partners in a format that was readily understood and accessible to them, which was necessary to promote transparency and trust in our work.

In the second phase, *data display*, we created micro-level tables that organized data by type (observation, interview, and focus group), stakeholder group (police, prosecutor, forensic science, medical/advocacy), and content theme (e.g., changes in attitudes toward research, changes in beliefs about SAK testing). We then created macro-level tables that examined the associations between themes (e.g., changes in attitudes toward research X changes beliefs about the utility of SAK testing). This phase of analysis was completed using standard data spreadsheet software and other commonly available design/presentation software packages.

In the third and final phase, *drawing and verifying conclusions*, we used Erickson's (1986) analytic induction method, which is an iterative procedure for developing and testing empirical assertions in qualitative research. An assertion refers to a hypothesized pattern in the data (e.g., "stakeholders developed trust in the research team through sustained interaction and strict adherence to research ethical principles protecting identity, privacy, and confidentiality"). Two analysts worked together to review the data displays (generated in the second phase) to draft provisional assertions that linked the codes together into mechanistic explanations (i.e., the level of analysis is the assertion, not the individual codes). The analysts then assembled confirming and disconfirming evidence to evaluate each assertion, paying close attention to whether we had sufficient and good quality evidence to substantiate a claim, and whether we had any data could that disconfirm/refute an assertion (Erickson, 1986). Assertions were revised or eliminated based on their evidentiary adequacy until a set of well-warranted assertions remain, similar to Glaser's constant comparison process (Glaser, 2007; Glaser & Strauss, 1967). To assess the trustworthiness of the analyses (Creswell, 2012;

Lincoln & Guba, 1985), we maintained prolonged engagement in the setting, practiced memoing and peer debriefing, and recorded an audit trail of all coding decisions and analysis methods. We also conducted member checks by presenting these findings to the Detroit Sexual Assault Kit Action Research Project team for review and discussion. Extended discussion of the data analysis procedures, including triangulation assessments across stakeholder groups and data sources, and trustworthiness assessments can be found in Campbell, Fehler-Cabral, et al. (2015) and Campbell, Shaw, et al. (2015).

## Results

### Process Use: Changes in Stakeholders' Attitudes and Beliefs About Action Research

Throughout the Detroit Sexual Assault Kit Action Research Project, stakeholders' attitudes and beliefs about the utility of research changed over time as they realized this project could truly help them resolve the city's untested rape kits. At the beginning of the project, some team members expressed concerns that the research would "trash us, make us look bad," and that it would be another example in a long history of Detroit being "roughed up" and "chewed up and spit out." The research team's emphasis on protecting identity, confidentiality, and privacy seemed to ease their minds, as they expected that the findings would "land in the [news]papers, names attached, all that." The idea that research could provide a protected space to study and understand problems was novel to many, as one member of the collaborative noted, "When we saw [that this] wasn't going to be another hack job... [it was] a real study with rules (about how research is conducted) and you (the researchers) were following the rules and the rules protected (confidentiality)... that made a big difference."

This foundational trust shifted stakeholders' perceptions that the action research project could help them develop solutions, and we saw this change most notably in two areas. First, we needed to develop a plan for testing these 11,000 SAKs, and stakeholders allowed the research team to help guide that process. The root cause analysis clearly showed that law enforcement personnel did not believe victims, so they did not invest their limited resources in testing rape kits. When we shared these findings with the collaborative partners, police acknowledged that perhaps *some* of those kits should have been tested years ago, but now it would make sense to test only the "real ones" and the "serious ones." That the police were still expressing doubt about victims' credibility increased disagreement and tension among stakeholders, and project team was

grinding toward a stand-still, unable to reach an agreement about which kits to test and why. As one member of the team recalled:

I remember those meetings about testing ... what a mess ... [then] you (the lead researcher) said something like, ‘we could test all these ideas, like in the research project.’ It was a light bulb for us. We were going around in circles and you stepped in and said, ‘enough —stop going in circles, there’s a way out, and here it is.’ I think that’s when a lot of us saw that we really did need some data and information and research to get out of this mess.

Stakeholders held deep-seated beliefs about which kits should be tested—and which should not—so we explained that rather than digging deeper into their ideological trenches, we could design a study to evaluate different testing plans and let the results guide next steps. For example, some stakeholders argued only the kits associated with stranger-perpetrated sexual assaults should be tested; others argued equally vehemently that there was utility in testing kits associated with non-stranger perpetrated sexual assaults. We explained how we could draw a sample of stranger- and non-stranger perpetrated SAKs and submit *both* groups for forensic DNA testing (even if some team members felt specific kits did not merit testing), and then see what the testing results indicated. Stakeholders appreciated how the research team provided a short-term solution to the team’s impasse, and ultimately, a long-term, data-based solution as well.

Second, the root cause analysis underscored the need for evidence-based training on trauma, as investigational decision-making was largely driven by myths and stereotypes. We asked stakeholders what kind of training they received on sexual assault, and their answers was, “pretty much none.” We asked if it would be helpful if we developed a pilot training program on the dynamics of sexual assault, the neurobiology of trauma, and trauma-informed investigational interviewing techniques, and the response was positive and enthusiastic, particularly so from the police: “you won’t just stand there and tell us we’re wrong over and over again... we may be wrong, yeah, and I think you can get that across differently.” When we clarified what they meant by “differently,” they emphasized that they trusted us to address problematic practices not as a matter of belief, but as a matter of science.

#### Conceptual Use: Deeper Changes in Stakeholders’ Understanding of the Problem

Conceptual use reflects changes in stakeholders’ underlying understanding and beliefs about a problem, and in the

Detroit Sexual Assault Kit Action Research Project, we saw changes in the way team members thought about SAK testing (specifically) and the crime of sexual assault and its impact on victims (generally). With respect to rape kit testing, stakeholders allowed us to create a pilot testing project, and many assumed testing this sample of kits would be a waste of resources, yielding no actionable information for police and prosecutors. That is not what we found. We quantified how many kits yielded a DNA profile that could be uploaded to the federal criminal database CODIS (Combined DNA Index System), and then once a profile had been uploaded, whether it matched (hit) to an existing DNA profile in the database. A CODIS hit is a promising investigational lead for police (e.g., identifying an offender, confirming identity of offender, and possibly matching across cases, revealing a suspected serial offender). In the root cause analysis, police personnel stated that none of these kits merited testing and that these victims were not believable, yet, 58% of the uploaded profiles yielded a CODIS hit, and 28% of the hits were to suspected serial offenders (Campbell, Fehler-Cabral, et al., 2015; Campbell, Shaw, et al., 2015). These findings were shocking to stakeholders, as one member of the law enforcement community explained:

Remember, these were the ones (kits) not tested, because whatever, they didn’t matter, the victims were lying, the victims were this or that, and then bam, every month, [forensic science team representative] brings the update (CODIS hit tracking chart) to the meeting ... we’ve got this many hits, this many serials. All of these should have been nothing, no hits, right? Because these were the toss away’s, the ones not worth it, there wasn’t anything to find ... we tested them and guess what, there are some seriously dangerous people out there. Still out there ... If that doesn’t change the way you think about this, I don’t know what would ... it was a huge wake up call ... the proof was in that chart, every month, showing the numbers, showing that the way we’ve been thinking about this was wrong. Flat-out wrong.

(emphases in original)

Many stakeholders were skeptical that non-stranger SAKs merited testing, but we found statistically equivalent CODIS hit rates for the stranger and non-stranger kits (Campbell, Pierce, Sharma, Feeney, & Fehler-Cabral, 2016). These findings challenged team members’ beliefs about the seriousness of known-offender rapes and the importance of testing SAKs for these crimes, as this stakeholder described:

[the non-stranger SAK testing results were] not what I was expecting. That many hits for the known

offenders? . . . I was one of those people thinking, no point in testing those. Save our money, no point . . . but look at the hits, look at the serials in that group . . . I admit it, I thought about these as he-said/she-said's . . . it probably wasn't rape, it was a misunderstanding about who wanted what . . . it's not a misunderstanding when you see the pattern . . . this totally changed how I think about these rapes (non-stranger).

While these forensic DNA testing results were coming in from the laboratory and being reviewed at team meetings, we were providing evidence-based training to the team on the neurobiology of trauma. Stakeholders across all disciplines commented that this training was the first time they had ever received formal instruction on the impact of trauma, and it had a profound impact on how they thought about sexual assault, as one team member described:

I've been doing this (sex crimes law enforcement) for a long, long time. I've never heard anything like this . . . never got any training on this . . . I had no idea . . . so many things I thought meant victim was lying, and then I learnt that sometimes victims are scattered and have trouble making sense and sound really flat and out of it because that's the trauma of the rape . . . I thought back to old cases, what I saw, what I think I saw, and I was off, by a lot.

Stakeholders said the training helped them understand that features they considered tell-tale characteristics of false reports (e.g., scattered memories in a police interview) were "probably signs of trauma. . . and should have investigated. We really should have." The research team presented different kinds of data—the DNA testing results and peer-reviewed research on trauma—and together, this information created a conceptual shift in how stakeholders, particularly the police, thought about sexual assault survivors.

#### Instrumental Use: Changes in Policy and Practice to Address Underlying Problems

Instrumental use refers to changes in policy and practice stemming from a research/evaluation project. Some forms of instrumental use are *direct* (i.e., because of finding "X," change "Y" was made in a direct one-to-one correspondence); others may be *indirect* (i.e., the findings set into motion a series of reflections, thoughts, and ideas that becomes a catalyst for change). In the Detroit Sexual Assault Kit Action Research Project, we examined whether there was direct and/or indirect instrumental use that addressed the problems identified in the root cause analysis. Because the focus of this project was *not* crime prevention (as in other criminal justice action research

projects), we examined whether the project was successful in increasing resources for Detroit organizations that serve sexual assault survivors, reforming SAK testing policies, and changing how criminal justice personnel understand and conduct sexual assault investigations and prosecutions.

#### *Increased staffing to support victim advocacy services, investigations, and prosecution*

The root cause analysis revealed that all Detroit-area organizations serving sexual assault victims were woefully under-staffed and under-resourced (Campbell, Feeney, et al., 2017; Campbell, Fehler-Cabral, et al., 2017). To address this problem, a state-level funding agency added four new community-based advocate positions and also invested in training, mentoring, and capacity building with the executive directors and staff of Detroit service agencies (Direct and Indirect Instrumental Use). To increase resources for investigation and prosecution, the prosecutor's office leveraged the findings from this project to obtain a federal Office of Violence Against Women Grants to Encourage Arrest award to support a multidisciplinary "cold case unit" to investigate and prosecute these cases (Direct and Indirect Instrumental Use). The prosecutor's office also partnered with a community foundation and the local crime commission to create the "Enough SAID (Sexual Assault in Detroit)" Campaign to raise community awareness about sexual assault and fundraise for SAK testing, investigation, prosecution, and victim advocacy (Indirect Instrumental Use).

#### *Completed testing of all previously unsubmitted SAKs*

The results of our pilot testing project clearly indicated that there was still viable biological forensic evidence within these older rape kits (Campbell, Pierce, Sharma, Feeney & Fehler-Cabral, 2019), so stakeholders decided that all previously untested Detroit SAKs should be submitted for forensic DNA analysis. Members of the Detroit Sexual Assault Kit Action Research Project worked with the Governor's Office and the Michigan Attorney General's Office to secure funding to test all remaining previously untested Detroit SAKs. The Michigan Attorney General's Office allocated \$4 million and all of the kits discovered in August 2009 have now been tested (Direct and Indirect Instrumental Use).

#### *Expanded training for all Detroit sexual assault service providers*

During the SAK project, the research team developed a pilot training on trauma for collaborative team members

and after the project, we partnered with a state-level victim advocacy agency to expand the training to all Detroit-area organizations, so all staff, not just the action research project team members, could participate. The training was further expanded to reach stakeholders throughout Michigan (Direct Instrumental Use). This training was helpful in educating practitioners and challenging myths and stereotypes, but on its own, it seemed unlikely to create lasting changes in sexual assault investigation practices. Therefore, our state partners developed a statewide model sexual assault investigation policy (Michigan Domestic & Sexual Violence Prevention & Treatment Board, 2015). They formed a multidisciplinary workgroup, including members of the SAK research team, to create a statewide resource that would ensure all sexual assault cases in the state are properly and ethically investigated (Direct and Indirect Instrumental Use).

#### *Preventing the problem of unsubmitted SAKs from happening again*

Throughout the Detroit Sexual Assault Kit Action Research Project, team members consistently emphasized the need to prevent this problem from happening again. Within the first three months of the project, the Detroit police department changed their policy to require investigators to submit all *new* SAKs (i.e., kits in current cases) for forensic DNA analysis. No more officer discretion, no more case-by-case determinations, all SAKs released by victims for testing must be submitted for forensic testing. This change, coupled with the funding to test all previously untested SAKs, ensured that all Detroit kits—old and new—would be submitted for forensic DNA testing (Direct and Indirect Instrumental Use). To prevent the problem of untested SAKs in the future—in Detroit and in other communities throughout Michigan—multiple organizations from the Detroit Sexual Assault Kit Action Research Project worked together to support *state-level* legislation requiring all current SAKs to be submitted for testing. The Sexual Assault Kit Evidence Submission Act (PA 227 of 2014) was passed by both houses of the Michigan legislature and was signed by the Governor into law on June 26, 2014 (Indirect Instrumental Use). In addition, project partners advocated for a new computer system that could track SAKs from the point at which they were collected by a healthcare provider and released by the victim for retrieval by law enforcement, to when they were submitted for testing, to when the testing had been completed. The State of Michigan allocated funds for a state-wide SAK tracking system, which includes a special victim portal so survivors can track their own kits, and the system was implemented in 2019 (Indirect Instrumental Use).

## Discussion

The U.S. criminal justice system has not taken the crime of rape seriously for decades, and indeed, many scholars and activists have argued that the system has *never* taken sexual violence seriously as foundational laws, policies, and procedures make it burdensome, at best, and retraumatizing, at worst, for survivors to report and pursue prosecution (see Lonsway & Archambault, 2012; Spohn, 2020; and Spohn & Tellis, 2012 for reviews). It is perhaps not surprising then that thousands of untested rape kits have been discovered in police department storage facilities throughout the United States (Campbell, Feeney, et al., 2017; Campbell, Fehler-Cabral, et al., 2017; Pinchevsky, 2018). The forensic DNA within those kits could be critical for prosecution, and yet, police have been systematically ignoring this evidence for decades. As victims' rights, legal activist Sarah Tofte (2013) argued, "the rape kit backlog is a tangible symbol of our accumulated criminal justice failures to take rape—and rape victims—seriously."

So how can we change this system so that criminal justice professionals will invest time, effort, and care to test SAKs, investigate reports, prosecute cases, and support survivors? This is the challenge we faced in the Detroit Sexual Assault Kit Action Research Project. Throughout this multi-year collaboration, the values of community psychology shaped our work and helped us create sustainable solutions that were contextually specific to the needs of Detroit. At the same time, partnering with a powerful and oppressive social institution sometimes made it exceedingly difficult to live our values as community psychologists. Using Tebes, Thai, and Matlin's (2014) review of the discipline's key principles as a framework for reflection (principles listed in italics in text below), we examine how these principles helped us achieve project goals, and at the same time, how some principles may be in conflict with each other, particularly in projects that involve working inside social systems to advocate for change.

Consistent with the classic model of action research (Greenwood & Levin, 2006), we began with a root cause analysis grounded in the *social ecological model* to examine individual, group, organizational, community, and societal factors that contributed to the development of the rape kit backlog in Detroit. Our analyses sought to understand the *diversity and cultural contexts* of this community, and how institutionalized racism, sexism, and classism affected not only survivors, but also the under-resourced legal and social agencies in this financially strapped city. Qualitative methods gave stakeholders space to define their experiences in their own words, and quantitative analyses provided incontrovertible data that

persuaded the most recalcitrant stakeholders to acknowledge that the Detroit criminal justice system had indeed failed sexual assault survivors, most of whom were African American women and girls living in poverty (*methodological pluralism*). As an action research project, *stakeholder participation and multi-level collaboration* were essential in the process of creating *empirically based models of action* that focused on developing *wellness, strengths, and competence*. We implemented and evaluated structural changes to increase staffing resources, to submit kits for forensic DNA testing, and to retrain police and prosecutors so that cases could be reopened for investigation and prosecution.

As we evaluated these potential solutions, we also studied the project itself to identify process-to-outcome linkages that supported our change efforts. Using Kirkhart's (2000) conceptual framework of evaluation use (*theoretical pluralism*), we assessed the extent to which the action research model promoted process use, conceptual use, and instrumental use. From our observations, interviews, and focus groups, we saw clear evidence that our collaborative partners came to trust the research team and the research process as a vehicle for addressing this problem (process use). Our project challenged stakeholders' long-standing beliefs about SAKs and sexual assault victims, as one stakeholder noted, "the way we've been thinking about this was wrong. Flat out wrong" (conceptual use). These data suggest that the action research model was effective in influencing stakeholders, but, as with any empirical study, there are methodological limitations that must be acknowledged. It is possible that participants censored their answers to cast themselves, their organizations, the city of Detroit, and/or the action research project in a more favorable light. Likewise, participants may not have provided accurate information due to poor memory recall. To mitigate these problems, we used a multi-method design (*methodological pluralism*) in which we supplemented self-report interviews with observational methods. We conducted a formal triangulation assessment to gauge the accuracy and consistency of our data, which indicated excellent congruence across data types and stakeholder groups (Campbell, Goodman-Williams, Feeney & Fehler-Cabral, 2020). As such, feel reasonably confident about the quality of our data and strengths of our conclusion, and as such, we worked with stakeholder to consider how to use these findings to create change (instrumental use). Together, we developed new local protocols for SAK testing and investigations, and statewide training, model policies, and state-level legislation. The results of project were nationally disseminated by NIJ to law enforcement agencies throughout the United States (see NIJ, 2016a, 2016b, 2016c), and this work informed new national initiatives, such as the Department of Justice, Bureau of

Justice Assistance's (BJA) Sexual Assault Kit Initiative (SAKI), which supports SAK auditing and testing in 54 sites, 21 of which are entire states (indirect instrumental use).

We were successful in *creating systems change*, and we readily acknowledge this is not always what happens in community action research projects. Furthermore, we make no claims that these successes are due solely to the efforts of the research team. We had the good fortune to undertake this work with practitioners and policy makers who advocated from within the system we sought to change, championed the cause of untested SAK and survivors' rights, and encouraged key stakeholders to stay engaged throughout the duration of the project (see Campbell & Fehler-Cabral, 2020). We also acknowledge that for as hard-fought and hard-won as these reforms were, they are indeed reforms not radical transformations, and *creating second-order systems change* remained elusive. The goal of this action research project was not crime prevention, as in other criminal justice-focused action research projects, but the response of the system itself to a gendered crime. Can a powerful, oppressive system change itself? We thought often of feminist/womanist activist Audre Lorde's (1983) quote: "the master's tools will never dismantle the master's house." Working collaboratively with this system—which is one of our core values and principles as community psychologists—seemed unlikely to promote second order change—which is also one of our core values and principles. The criminal justice system systematically denies access and help on the basis of gender, race, class, and other social identities (Sidanius & Pratto, 2001). In this community—and in communities throughout the United States—police were discriminating against sexual assault survivors by denying them equal protection under the law (Department of Justice, 2015). We were successful in institutionalizing practices to ensure access and to make the criminal justice system do what it is supposed to do when sexual assaults are reported: test evidence, investigate the case, and if the facts of the case merit, prosecute the offender. We were also successful in changing how criminal justice professionals did these tasks through trauma-informed training to reduce re-traumatization for sexual assault survivors. Yet, the criminal justice system remains an adversarial process that requires survivors to relive their abuse many times because accused parties have constitutional rights to confrontation and cross-examination. This is the nature of the American legal system—it is wholly resistant to second order change, and first order change takes years of engagement and determination.

Throughout this project, we also questioned the extent to which our efforts *promoted liberation from oppression*. Simply put, the overarching goal was to increase

incarceration of rapists. At the same time, the epidemic of mass incarceration in the U.S. reveals how carceral solutions target and disproportionately harm people of color, queer/trans people, and members of other marginalized communities (Alexander, 2012; Lobuglio & Piehl, 2015). Though mass incarceration is not due to over-policing of gender-based violence (National Research Council, 2014), we acknowledge that promoting investigation and prosecution through DNA evidence strengthens the capacity of a surveillance state and carceral approaches (Bumiller, 2009; Lynch, Cole, McNally, & Jordan, 2008; Quinlan et al., 2009). The criminal justice system systematically inflicts harm on the basis of gender, race, class, and other identities (Alexander, 2012; Bauer, 2018; Sidanius & Pratto, 2001), and the prison abolitionist movement challenges the power of the carceral state and the violence it perpetuates against marginalized communities. As the Chrysalis Collective (2016) explained, “the state and its prisons are the biggest perpetrators of violence against our communities.” This was an unresolvable tension for us: as community psychologists, mass incarceration is inconsistent with our values and principles, and yet, this project promoted a carceral solution to attend to the systemic violence and injustice enacted upon victims of sexual assault. We want justice for sexual assault victims and we also want the state to stop oppressing vulnerable individuals through its institutional neglect of sexual violence. While incarceration may not be the solution, neither is a complete lack of response to the violence and threats of violence experienced by individuals based on their gender, race, social class, and other identities. Both mass incarceration and institutional neglect of gender-based violence are tools used by the criminal justice system to support oppression.

We cannot reconcile these opposing positions, but *valuing and promoting empowerment* means that we need to support sexual assault survivors’ choices. The rape survivors in this study were most often poor Black women, and despite the historic abuse of African American women by the criminal justice system (Crenshaw, 1991; Richie, 2012), they chose to pursue legal recourse. They sought post-assault medical care and consented to SAK collection, released the rape kit for DNA testing, and filed a police report. This was not a project about rape victims who do not engage the criminal justice system—it was a project about survivors who sought legal remedies and were denied them. The choice whether to engage the criminal justice system and the meaning of justice is different for each survivor, and not all survivors choose a carceral approach to justice. We note that in Detroit, as in nearly all communities throughout the United States, there is no meaningful alternative to a carceral approach for sexual assault. Alternative models of accountability, such

as restorative justice (Ptacek, 2010; Van Ness & Strong, 2014) or transformative justice (Chrysalis Collective, 2016; Gready & Robins, 2014), challenge the primacy of the criminal justice system as the purveyor of justice by empowering the community to promote safety and well-being. Our experiences in Detroit undoubtably support the need for these alternative systems. This project was not about creating those alternatives—it was about collaborating with the criminal justice system to prevent the harm and abuse of survivors who do choose carceral solutions. The principles of community psychology are instrumental for defining ethical, meaningful work within oppressive systems to advocate for change, just as they are informative for guiding the creation of alternatives to those systems.

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