



SAKI
SEXUAL ASSAULT
KIT INITIATIVE
Reform. Accountability. Justice.

BREAKING THE NEWS

***THE PROSECUTOR'S ROLE IN
SURVIVOR NOTIFICATION***

DISCLAIMER

*This project was supported by **Grant No. 2015-AK-BX-K021** awarded by the **Bureau of Justice Assistance**. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.*



INNOVATIVE

Sustaining effective practices
and promoting systemic
change

INFORMED

Training, resources, and
assistance supported by
research and experience

PRACTICAL

Customized strategies that
are accessible, responsive,
and easy to apply



JOYFUL HEART FOUNDATION

Our mission is to transform society's response to sexual assault, domestic violence, and child abuse, support survivors' healing, and end this violence forever.

OBJECTIVES

- Integrate a trauma-informed approach into plan for survivor notification
- Review plan for notification with law enforcement and advocacy
- Ensure safety, privacy, and case integrity for the survivor
- Initiate sustainable survivor involvement in investigation and prosecution

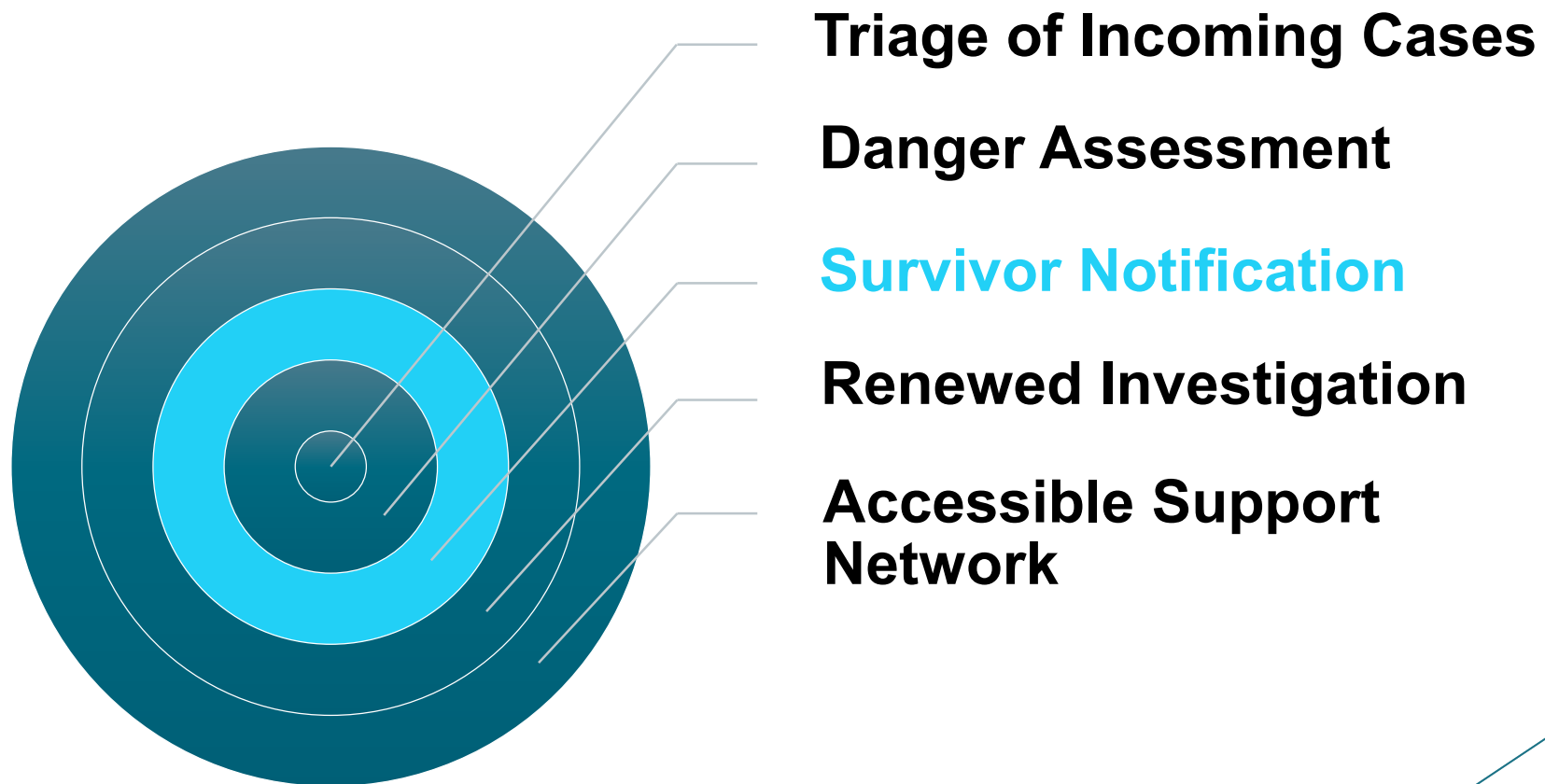
KEYS TO SUCCESS

- Trauma-informed policy and practice
- Commitment to preventing further delay
- Valuing survivor involvement
- Respect for the fact that there are no cold cases for survivors and those who support them

IMPACT ON THE SURVIVOR

- Fear of rapist's return
- Fear of another rape committed
- Unanswered questions
- Learning to live with silence

HOW NOTIFICATION FITS IN



RECOGNIZE OFFENDER DANGER

- Suspect known to victim
- Suspect unknown to victim
- Serial offenders
- Cross-over offenders

BEFORE BREAKING THE NEWS

- Review charging considerations
- Conduct case-specific discussion with law enforcement and advocacy
- Look forward to answering questions
- Be ready to commit best efforts of investigation and prosecution
- Ensure support is immediately available

QUESTIONS...AND ANSWERS

- Why did this take so long?
- Are there other victims?
- Will I have to see him again?
- What if I don't recognize him?
- What if I can't remember everything?
- After all this time, do we have a chance?

RESPONDING TO ISSUES

- Candidly describe investigatory efforts
- Fairly assess available training
- Recognize that an inability to participate earlier is part of victimization and is caused by the offender
- Discuss the criminal justice process in a victim-centered prosecution

RESPONDING TO ISSUES, cont'd

- Assure survivor that identification is supported through many dimensions of evidence
- Discuss forensic interview
- Discuss ways to preserve integrity of case and protect victim as a witness
- Make the commitment to serve the survivor and employ best efforts

NAVIGATING NOTIFICATION

- Joyful Heart started research in 2011 after work in Detroit and Los Angeles
- Partnered with Dr. Courtney Ahrens of California State University at Long Beach
- Brought stakeholders and survivors together
- Interviews, survivor retreat/focus groups, and surveys

PROVIDING INFORMATION

Participants varied on level of detail to give:

- Prioritize survivor well-being
 - Detailed information
 - Belongs to survivor
- Prioritize integrity of case & privacy concerns
 - Less information
 - Prosecutors' concerns

Participants widely agreed that giving information about criminal justice process is in the best interest of survivors.

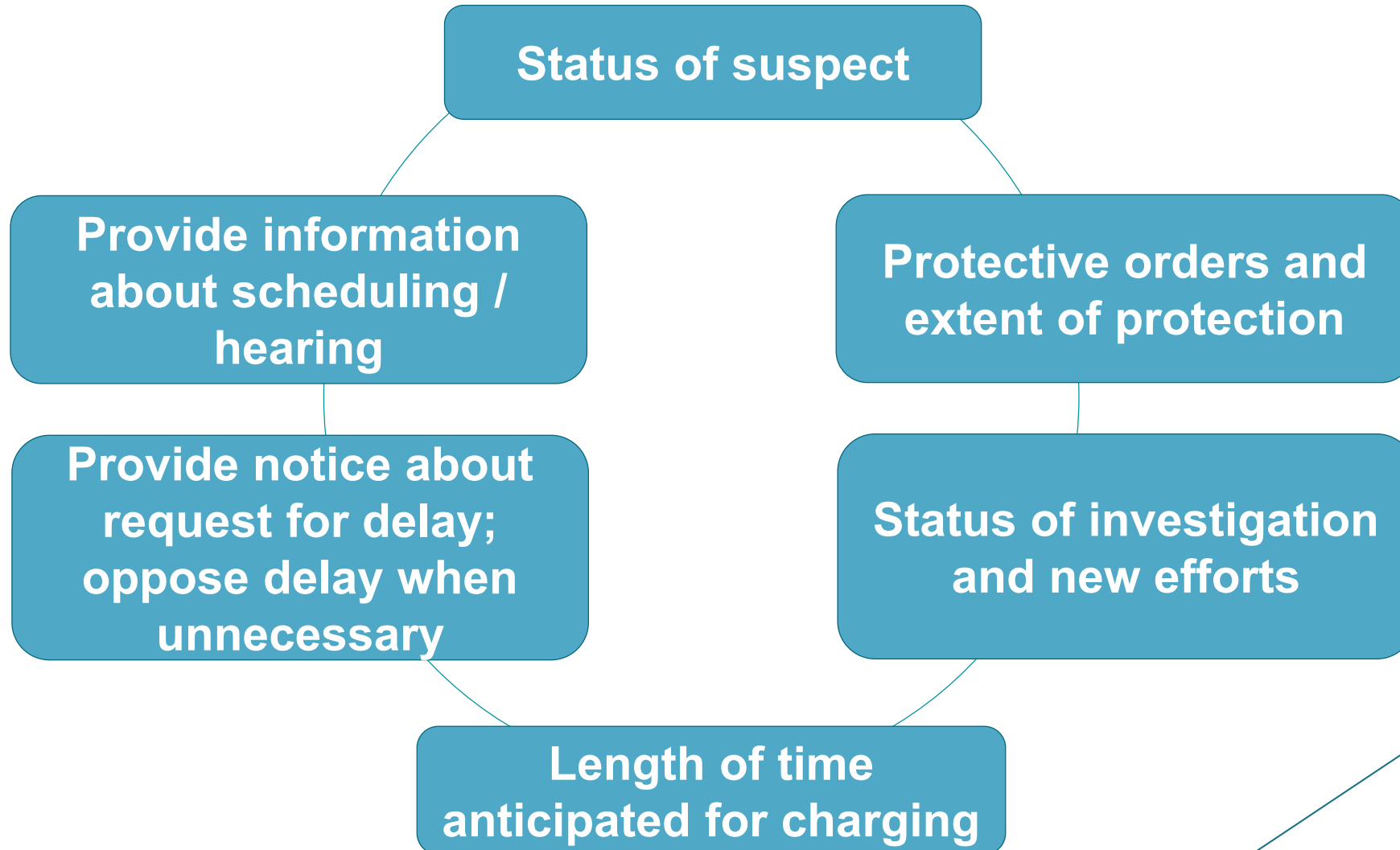
INFORMATION & ENGAGEMENT

- Overall, participants expressed that survivors are more likely to stay engaged throughout criminal justice process when they are prepared for what could happen during the progression of their case
- Withholding case information may be interpreted in a negative manner by survivors

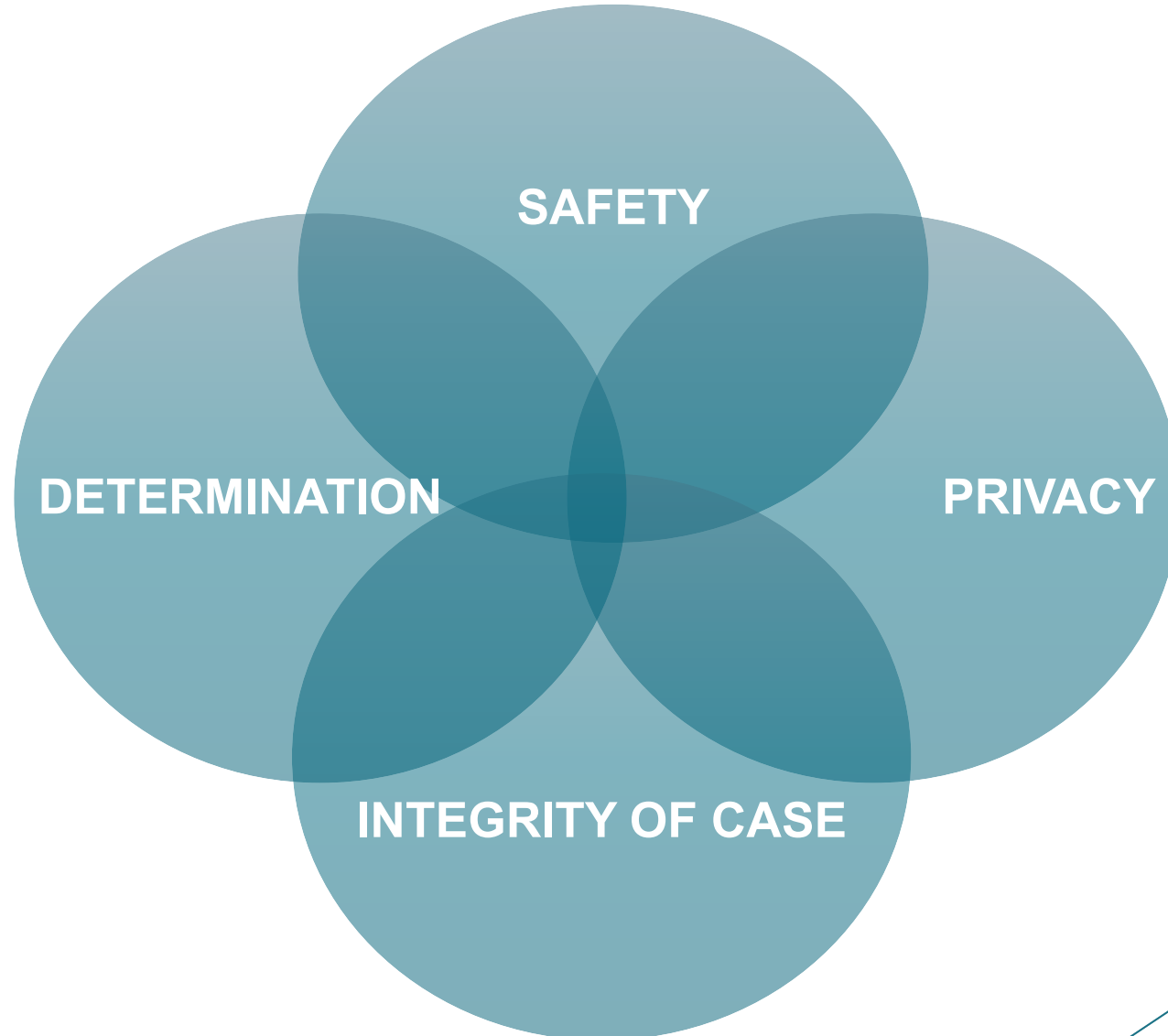
SURVIVORS' FEEDBACK

- Receiving full, complete information about cases, CJS, and the backlog is key to making informed decisions and promoting healing
- Survivors value the information shared with them
- Prioritize sharing information that maintains survivor safety
- Offering information and choices helps counter loss of self-determination and control at the heart of sexual assault

KEEPING SURVIVORS INFORMED



RESPECTING SURVIVORS' RIGHTS



SAFETY CONSIDERATIONS

SURVIVOR SECURITY

- Know where offender is: in or out of custody
- Secure no contact order with specific provisions
 - Distance
 - Direct / indirect contact
- Be proactive with access to jail phone calls, if allowed in jurisdiction
- Address physical, digital, social media dimensions of stalking
- Charge witness tampering / stalking if appropriate

SAFETY IN COURTHOUSE

- Detail courthouse and courtroom security and plan for any additional resources
- Monitor any attempts by anyone in courtroom to impact survivor
- Be aware of cell recording or videos
- Address the Court immediately with any substantiated concerns
- Plan for effective response if any breach

PRIVACY CONSIDERATIONS

SURVIVOR PRIVACY

**Public Records Act and
Freedom of Information Act requests**

**Proactive management of public records /
discovery**

Media coverage before and during trial

PROTECTING SURVIVORS' PRIVACY RIGHTS

- Interact with agencies subject to records disclosure requests
- Arrange for notification to prosecutor when request is made to agency
- Know and discuss statutory redactions
- Litigate defense requests for copies of discovery for defendant
- Obtain protective order monitoring review of discovery and prohibiting dissemination

RESPECT SURVIVOR'S ROLE IN PROSECUTION

- Discuss that survivor may be asked questions about what information investigators or prosecutor have provided
- Discuss any legal issues impacting release of information
- Describe ethical responsibilities to disclose information to defense

STRATEGIES FOR INTRODUCING NOTIFICATION EVIDENCE AT TRIAL

- *Voir dire* questions about experience of waiting for news that did not come
- Notification is part of timeline of survivor's experience of aftermath of rape
- Law enforcement testimony regarding contact with survivor as part of investigatory responsibility
- Direct examination of survivor about aftermath of rape: years of waiting, day she was contacted
- Instill sense of urgency of cold case through evidence of notification

**FOR SURVIVORS,
THERE ARE NO COLD CASES**

It is never too late for justice.

GOING FORWARD

- Commit to notifying survivors and beginning a trauma-informed prosecution
- Understand that, for survivors, the case is urgent
- Build systemic response to the uniqueness of a fresh case frozen in time
- Ensure access to justice by advancing prosecution of cold cases of sexual assault

CONTACT US

Patricia D. Powers, J.D.

Attorney Advisor

AEquitas

ppowers@aequitasresource.org

Ilse Knecht

Director of Policy & Advocacy

Joyful Heart Foundation

i.knecht@joyfulheartfoundation.org