Just Sexual Assault Response for Cases without DNA Evidence.wav

Introduction [00:00:01] RTI International's Justice Practice area presents Just Science.

Introduction [00:00:10] Welcome to Just Science, a podcast for justice professionals and anyone interested in learning more about forensic science, innovative technology, current research, and actionable strategies to improve the criminal justice system. In this 2024 Sexual Assault Awareness Month special release episode, Just Science sat down with Erin House, Special Assistant Attorney General in Michigan, Richard Johnson, Kalamazoo SAKI investigator, and Lindsey King, Kalamazoo Community Based Victim Advocate, to discuss their team based approach for investigating sexual assault cold cases. While DNA can be a helpful tool for convicting sexual assault offenders, many sexual assault cold cases do not include DNA evidence. As a result, it is important for investigators and prosecutors to utilize a variety of methods to bring a sexual assault case to justice. Listen along as Erin, Rich and Lindsey discuss how their team first approaches a cold case, examples of case success stories, and how a multidisciplinary approach ensures that survivors are always supported and heard. This episode is funded by the National Institute of Justice's Forensic Technology Center of Excellence. Some content in this podcast may be considered sensitive and may evoke emotional responses, or may not be appropriate for younger audiences. Here's your host, Jason Chute.

Jason Chute [00:01:18] Hello and welcome to Just Science. I'm your host, Jason Chute with the Forensic Technology Center of Excellence, a program of the National Institute of Justice. April is Sexual Assault Awareness Month, and we'll be covering emerging topics in the arena of sexual assault response reform. Today, we'll be discussing the importance of non DNA evidence as it relates to sexual assault response. To help guide us in today's conversation I'm joined by our guests Erin House, Special Assistant Attorney General in Michigan, Rich Johnson, Kalamazoo SAKI investigator, and Lindsey King, Kalamazoo SAKI community based victim advocate. Welcome, Erin, Rich and Lindsey. It's great to have you all here.

Erin House [00:01:55] Thank you so much for having us.

Richard Johnson [00:01:56] Thanks, Jason.

Lindsey King [00:01:57] Good to be here.

Jason Chute [00:01:58] So you all are highly respected subject matter experts in the field of sexual assault response and you wear many hats. Let's start today's discussion with a brief introduction into what each of you do as professionals. Erin, can we start with you?

Erin House [00:02:10] Sure. Thanks jason. My name is Erin House, and I'm a prosecutor with the Michigan Attorney General's office. I lead a project in Kalamazoo County, which is in southwest Michigan, it's called the Sexual Assault Kit initiative, and that's an initiative where we are reinvestigating and prosecuting cold case sexual assaults related to previously untested rape kit. And I have the pleasure of working on a team that's a multidisciplinary. I'm the prosecutor. We have investigators and an advocate. And I'll let Rich and Lindsey introduce themselves.

Richard Johnson [00:02:42] My name is Richard Johnson. I'm a deputy investigator with the Kalamazoo County Prosecutor's Office SAKI project. I have a partner named Scott

Eger who is not here today, so I just want to give him a shout out. He's an equal participant and an important member of the team.

Lindsey King [00:02:55] And I'm Lindsey King, so I am the community based advocate on the team. So I am actually employed with a local nonprofit that serves survivors of intimate partner violence and sexual assault. I work on this team as the advocate, so providing emotional support to survivors throughout the whole time that they're with our project and even after.

Erin House [00:03:18] And I'd like to add that Lindsey also plays an important role to make sure that the rest of our team remains, victim centered and considering perspectives of victims and survivors throughout the entire process.

Jason Chute [00:03:30] Great. Now, I do have to make a comment here, Erin, that when we reached out to you about being a guest, one of your first reactions was to include the members of your team on this podcast. And I think that speaks to the strength of your MDT. So I really appreciate that. Let's talk a little about how long you all have been working together. How did this multidisciplinary collaboration come about?

Richard Johnson [00:03:50] So the team has been together since 2017. Erin was the founding member, and then I joined in October of 17. We had another advocate that was there prior to Lindsey joining. And, so we were together for the better part of half a decade doing this project.

Erin House [00:04:06] And I think one of the things that's unusual about our project is that it's a team approach from start to finish. We meet weekly, two hours a week to discuss all of our cases from just sort of the initial review of them during the investigation and during the prosecution. So it's an experience that I, having been an advocate before I became a prosecutor, find to be incredibly crucial to the results that we get. We have an incredibly high conviction rate and success rate with cases, and I believe it's because we work as a team together throughout the whole process.

Lindsey King [00:04:40] Yeah. And for me, Erin and Rich have been on this team for a long time. I just joined in the summer of 2023. So it's been a really amazing experience working on this type of team and coming from the advocacy world, you know, I've helped survivors through making a police report, going through the court process and things like that before. But without having a team like ours, sometimes things can feel a little siloed. You know, you have the local police department, you have the local prosecutors office. And then oftentimes there's a local organization like the one I work for where there's victim advocates there to support survivors. And so as much as we can try to build relationships with detectives and officers and prosecutors, sometimes survivors can start to be discouraged when there's not a lot of communication throughout the process. And so it's been a really cool experience to be on this team where we're all working together. We're providing these wraparound, comprehensive services for survivors as they go through the process.

Jason Chute [00:05:40] Thank you for that. That's a great description, in my opinion, of how a multidisciplinary team should be operating together so I appreciate the details. Now, Erin, you mentioned something specific you mentioned to a team approach. So for the new listeners or members of our audience that are perhaps not as familiar with the approach to investigating a sexual assault case or a cold case, sexual assault case, can you kind of

walk us through the methods as an MDT from the initial review of a case, maybe through prosecution at a high level?

Erin House [00:06:08] Absolutely. So we have, as I said, a little over 200 cases that are part of our project. We initially received, police reports that ranged from, I think, in the mid 1970s up until 2015 from local law enforcement agencies. We then also received, reports from the medical forensic exam that many sexual assault survivors get after they've been sexually assaulted. We sometimes received some other documents, could be a written statement, could also be then the reports of DNA testing that was attempted in these cases. I would say that of our cases, there's probably DNA was only found in about 50% of the cases. And of the 50% where we found DNA, probably only half of those cases did the DNA profile matched to a specific individual versus simply having a DNA profile that's for an individual, but someone who is unknown. It's not matched to someone's name. So we take that original information and sort of assess it as a team, and we try to not make judgments simply based upon that, about the strength of a case. So we'll discuss more throughout this podcast about how DNA does and doesn't weigh into our evaluation process, but we're looking into the original investigation, the results that we do have of testing, and then particularly the statements that the survivor made during the medical forensic exam and potentially any other evidence that can be gleaned from that. And then we sort of discuss and prioritize as a team which cases we're going to pursue, at which point. So there's issues of the statute of limitations, which means, you know, how long after a crime is committed, can that crime be charged in the state of Michigan? And every state has different rules for statutes of limitations, but some of which cases we take up at which time are dictated by statute of limitations issues, and sometimes they're dictated by a number of other issues. So then our investigators start looking into where is the victim survivor. Where are they living? Like, literally, are they still in our community? Are they still in our state or are they somewhere else in the United States? But we also look into how is that person doing. So what are we able to glean from social media? Maybe from other police reports or other records that we can find about where is that person in their life. Because it may have been five, ten years or more since they made this initial report. The investigators then do extensive research into the offender, because what we know is that most people would never commit a sexual assault offense in their lifetime, but those that do tend to repeat these offenses over and over and over again. So we do not presume that these are isolated incidents. And so our investigators then begin to do an extensive background investigation into the suspect that involves our investigators contacting every law enforcement agency in a community where we can identify that that suspect has ever lived or near to where they've lived. And this is a time consuming process for our investigators. But what we often yield from that by calling police departments and asking them, do you have any police reports, where this person is named in a police report has led us to discover either directly, other sexual assaults that may have been reported or other activity that involves domestic violence or sexual assault or harassing behavior, sexually inappropriate behavior that may also help us to build stronger cases. So we do an extensive background investigation, something that we call a case overview before we ever make contact with a survivor in one of our cases, so that we can show her that we are invested in her case, that we are knowledgeable about her case, and so that we can answer some of her most critical questions that she or he often have when we first make contact with them, which is where is the person who did this to me now? And have they done this to anyone else? And so we do this extensive background investigation, and then we do a lot of strategizing as a team about how and when we should best try to approach the survivor, because we know that we're going to be doing those approaches out of the blue. And so we look at factors of in person is our preferred method. But we will also look to see, depending on the distance to get to that person, is there another method whether it

involves a phone call or a contact through a private social media messaging, and then discussion about who would be the best person to do that. In person, we always send an investigator, and the advocate are the two people that always go together as a team. If we're having to make a contact by phone or through social media, often, we'll have Lindsey as our advocate be the first person to reach out.

Jason Chute [00:10:46] That's great. Erin, thank you for that. Detailed description. A lot to unpack there. So with that description, do you have a standard operating procedure that you work from to do this?

Erin House [00:10:56] Yeah. So as a team, we have over the last seven years have developed a very detailed protocol to ensure consistency of what we do. So Richard has been with us since the beginning, for the last seven years, but we have had, more than ten other investigators that have rotated through our project. And we wanted to make sure that we were providing the same level of detail and consistency and how we approach cases and survivors. So, yes, we have a very detailed protocol for the case overview, the pre investigation that goes on, and then the factors that go into victim notification and then literally even details of how do you handle all different aspects of that notification in terms of preparing for you know what if there's someone else there, and she may not have ever told those people that she's been sexually assaulted. And, knowing that when we present this information of, we're here to talk with you about something that you reported to the police many years ago that triggers so many feelings and memories for people that they can go sort of blank in their mind about asking questions. So instead of requiring them like, do you have questions for us? We often say things like, we know people in your situation may have questions about where this person is or may have questions about, you know, what if I don't remember enough? And then we'll sort of say, do you have any questions about that? And the person can then say, no, and we'll move on. Or if they say yes, and then we know to provide more information.

Richard Johnson [00:12:17] We also provide a folder to them, because a lot of times it's overwhelming when, you know, the police and, and advocate show up that, kind of outline everything that we talked about a little bit and give them resources that they can use at a later time to like, help them process the feelings.

Lindsey King [00:12:33] And then another part of the protocol is that I, as the victim advocate, will then reach out either later that same day or maybe the next morning, because we know that there's a lot of maybe shock right at the start. And so it's going to take some time and then as things start to sink in, there's going to need to be more support there.

Jason Chute [00:12:49] So want to back up just a second, Erin, at the beginning of your description, you mentioned about 50% of your cases come back with DNA. Can you take a moment and tell us the significance of having DNA versus not having DNA for these types of cases?

Erin House [00:13:05] So in our project, the DNA is not particularly significant. What we know is that most sexual assaults are committed by someone that the victim knows. So DNA in our cases is not usually helping us to identify the offender. The victim usually can tell you who the offender is. And as is common in most sexual assaults, offenders alleged consent. So years ago, before there was DNA, people could say I wasn't there and I didn't do that. And now they know that DNA is going to put them literally there and literally their DNA, usually inside a victim's body if they ejaculated, if they didn't wear a condom, if the

victim was able to have evidence collected within a few days after the incident. So in our cases, even when there is DNA, it's usually, not a whodunit. It's usually not a did they do it? It's an offender saying, yeah, I did those things, but they were consensual. So in our cases, the DNA evidence, I would say probably maybe only 5% of our cases out of 225 has the DNA been a significant factor in proving that a crime occurred, or identifying an offender that was previously unknown?

Richard Johnson [00:14:13] Most of the times, the DNA evidence is usually crucial when the victim is under the age of consent. That's when we found it to be most helpful. We've only really had a handful of what they would call the two stranger. Like, we don't know who the perpetrator is. And then, the DNA reveals that that's only happened a handful of times.

Jason Chute [00:14:31] And along those lines, can you speak about the demographics of your jurisdiction and how that might play into this?

Richard Johnson [00:14:37] Well, Kalamazoo County is predominantly a college community, has a populace of, somewhere around 100,000, give or take. But the jurisdiction expands way past that because although all the events occurred in Kalamazoo County, traditionally the victims and the perpetrators move outside. And, a lot of times the perpetrators will offend in other communities, other counties and other states. So it ends up being multi jurisdictional event, sometimes where we have several cases going in several counties relevant to the. Start off of one's sexual assault kit that occurred in Kalamazoo.

Erin House [00:15:12] One of the other things, I guess I should say related to DNA is, you know, there's been sort of a national initiative now towards pushing to have every sexual assault forensic evidence kit tested, regardless of whether a case is charged and regardless of whether the victim knew the identity of the offender or whether the offender alleges consent. Based upon an understanding that one victim's known offender may be another victim's unknown offender. So we have seen that in some cases that we've had, we also have just seen that simply the testing of these kits, which has prompted us the opportunity to relook into a case, even if the DNA testing didn't technically matter, it did prompt us to look into a case where we then were able to help a survivor get justice and closure. But we also have often identified many other victims from that same offender, which have allowed us to build stronger cases and to create, you know, a greater protection for the community beyond simply justice for one victim, but really getting a serial offender off the street.

Lindsey King [00:16:14] I like what you said, Erin. It gives us the opportunity to provide some type of justice or closure for people, because we know that a lot of times DNA isn't found because of maybe a delay in reporting. You know, anyone can receive a sexual assault forensic exam within five days of an assault. But we know that even at that, you know, three, 4 or 5 day mark, the likelihood of finding DNA goes down. But that doesn't mean that nothing happened. And so sometimes, you know, when survivors might be wondering, was their DNA found. Sometimes people can think that's the one piece of proving or validating that something happened to me. You know, I know something that happened to me, but this is going to prove it. And it's like, that's kind of a myth we want to do away with. You know? We know that a lot of times DNA isn't found, but that doesn't mean nothing happened. And we can provide that support and validation for survivors when maybe all their friend group and all of society is saying, we don't believe you. We can be the ones to provide that education and support.

Jason Chute [00:17:10] So shifting a little bit and sort of along those lines. So how do you start building strong cases when you don't have the DNA or other physical evidence in a particular case?

Erin House [00:17:21] The most important thing is to support the survivor. The survivors experience and their ability to potentially provide powerful testimony in court is the most powerful evidence, I believe, that you can have as a prosecutor, and I think that's where the criminal justice system fails survivors the most is not providing them support and not recognizing the power of their voice and their experience. But the other thing that we routinely do on our team is that we recognize that most sexual offenders are serial offenders, and not necessarily the serial offender that we hear about on television news shows. And what we're saying is that most people who sexually offend will do it over and over again. So what we want to identify our potential other victims of that same offender. So that's a key part of our investigation. And I'll let Rich in a second talk more about how he does that. But we have had some of our greatest successes by identifying other victims and then being able to either bring those cases forward as a separate criminal charge, or have other survivors come forward and be willing to testify as what sort of known in the legal community as an other acts witness. So another sexual assault of act that occurred. The other thing that we find very strong in our cases is identifying people who are witnesses to the victim's trauma. So most sexual assaults just occur when there are only two people there, which is why people talk about that term of it's a he said she said. I mean, that's pretty much every sexual assault because most sex offenders won't commit these acts in front of other people. But there are people that are witnesses to the victim's trauma. So we have all kinds of witnesses we bring in in every trial. Tell us about what she or he was like before this offense occurred, and tell us how you believe that the person may have changed afterwards. And what we hear are about dramatic changes in people's, you know, emotional well-being, in their patterns, in their personality, sometimes even physically, and how they present themselves, and how they react to things, anxiety and trauma and withdrawal that can occur after a sexual assault. And so I think those are things that, when other prosecutors and investigators are thinking, well, gosh, I don't have any evidence. Those are things that I think are often overlooked, but are sort of the three most powerful things that you can have as evidence in a case when there's no physical evidence and no DNA. You have a victim's voice, which is incredibly powerful. You have people who can attest to the trauma that she's experienced, and you can usually identify other victims, and then it's no longer a he said she said case.

Jason Chute [00:20:00] Now, are you always looking for all three of those or can be a combination of those?

Erin House [00:20:05] I believe that it's all three in every case.

Richard Johnson [00:20:07] I agree, and although it does. Have to be all three, because we have presented cases where we have not found other acts and been successful. The impact of the other act witness is, exponentially greater, when that occurs. What I've seen is it empowers the victim to know that there are other act survivors and the, former collective need to, see justice occur for the greater good of society. Those other acts are usually found, like domestic assault cases. Just, a good forensic review of, the perpetrators past behavior and police context will yield you information. And sometimes it can be as as much as, like a statement, a victim or even a witness says in a police report that makes you think, well, that sounds like it could be something different. And then you follow up on that. We've had one case, where the perpetrator of a domestic assault against an intimate partner, and her statement led me to believe something else occurred.

And by contact and her she not only confirmed that she too was a victim of sexual assault, but her sister was as well. And then from there, we were able to prosecute the guy for the sister's assault. With no DNA and no chain examination on her word alone, he went to prison.

Erin House [00:21:20] And he went to prison for like 15 years on her word alone. We had an initial case that led us with DNA, actually to an unknown offender, but we didn't stop at just that case because we know that these are not isolated incidents. And so we were able to identify three other victims of sexual assault, none of whom had ever reported their sexual assault to the police, none of whom had ever had evidence collected. And two of those other three women were able to participate, wanted to participate in the criminal justice process. And so we charged him in all three cases, he was convicted. In all three cases, we had another, I think, powerful example of a case where, it had been originally dismissed by law enforcement and the prosecutors because the victim had met him online and had gone to his home, had voluntarily consumed marijuana with him, and then had fallen asleep and was sexually assaulted. And we believed her and we believed that she'd been sexually assaulted. And so we looked to pursue that case. But in the investigation of that case, we were able to identify two police reports where actual prior sexual assaults had been reported to law enforcement, and those were completely ignored during the original investigation. But from talking to those two women, we identified more than a dozen women who had been sexually assaulted by him over a I believe it was like a 15 year period. So a period spanning from prior to our initial case and then after our initial case. And he was then charged not only in our case where he was convicted and took a plea because he knew all those other women were going to testify. We then he was able to be charged in two other counties for assaults that had never been reported to the police, that there was no DNA, no forensic examination. He was taken to trial in one of the other counties. 6 or 7 of the women testified in addition to the victim of the charge case, and he was given 34 to 70 years in prison. And that led him to then plead guilty in the third county, where again, there was no DNA, no physical evidence. And so this was a man that had been sexually assaulting women from the time, girls from the time he was a teenager into his 30s. It was interesting. So we would hear someone's name, maybe you should talk to so-and-so. And then our investigator would go talk to that person. So out of the blue with an advocate and an investigator saying, we've heard that maybe you know something about this, and that is an incredibly emotional experience. But for those survivors who felt like they had suffered through something horrible and nothing could be done about that, for them to be told that we believe you and something could be done and you can speak up. Their voice being heard led to incredible healing for all of them when they're properly supported by the system, by advocates, by prosecutors, by police officers, survivors find participation in the criminal justice system to be empowering. And what we found in these cases, so many of them, not only is their experience positive, but that then leads to other healing in their lives that survivors start to have a healthier and more positive sense of themselves, which leads them to feel more confident in exploring their goals and their dreams. We've seen people go back to school, get promotions, leave unhealthy relationships, start healthy relationships, reform relationships with family members or friends that were destroyed by these sexual assaults. And so the ripple effect is so powerful of reaching out and allowing people to be heard and providing them the support that they have deserved from the very beginning.

Richard Johnson [00:25:05] Yeah. And some of them actually reestablish trust with law enforcement, which is super powerful.

Erin House [00:25:11] So after reviewing that initial report, we looked into his criminal history and found that two women had actually reported being sexually assaulted by him when they were teenagers and when he was also a teenager. We also found a police report where he had committed a fairly serious domestic assault on a third victim. When we reached out to those women, all three of them reported that they had been sexually assaulted by him. And then they also gave us names of other people that we thought we should talk to. And ultimately, we found more than a dozen women that he had sexually assaulted in a time span beginning 5 to 7 years before the case that was part of our project and then going on for almost up until our project had started looking into the case. And there was no reason to think that he would have stopped if we had not stopped him.

Jason Chute [00:26:03] Thank you for sharing that story. That's powerful and a true testament to your approach on these cases with no DNA evidence.

Erin House [00:26:11] We handled a case that involved a college student who was sexually assaulted when she was highly intoxicated, and there was DNA evidence that helped us in identifying that case. But we also continue, in every case, to look for the fact of, has this person committed other offenses. And what we found was when speaking to a woman who was his girlfriend around the time of the sexual assault, she said to us, you know, I had a friend around that time that told me that he sexually assaulted her, and I didn't believe her at the time because he told me that that's not what happened. But I think that maybe you all should talk to her. And so our investigator and our advocate tracked down that woman who was now in her 30s, and she said, I've been waiting for someone to come here because she had actually reported the sexual assault when she was 16 years old. And the police department never wrote a report about it. But we were able to identify her through another witness, and we were able to charge her case, and we were able to get a conviction. And he's serving prison time for both of those cases as well.

Jason Chute [00:27:16] I can really feel the energy from your multidisciplinary team, from the investigation side to that victim centered approach. And lining up these three key elements are really appreciate the descriptions here and the demonstration of how you guys are working together to solve these cases. I do have a question. When I'm hearing this, I'm hearing time. What is typical level of effort that you're putting into this?

Richard Johnson [00:27:39] Months. I mean, just to establish a relationship with the victim. So you have to earn their trust, and that can take months before they even acknowledge that there. Yeah. You guys can look at my case again. And then from there, you know, it's an exhaustive research effort to try to need out as much minutia as you can in the case. It's like putting a puzzle together. You know, you have to try to reestablish a puzzle as best you can. So that way you can look at it and say, oh, yeah, that's a dog. All right. You know, I can tell that to dog. So it takes time to do all that.

Lindsey King [00:28:15] I was just going to add to that of it takes a lot of time to build rapport and build trust with survivors. From the first time we talked to them, it's not retraumatizing, but it brings back up this trauma. And we know that remembering a traumatic event, our bodies tend to have a similar response. So it's like when you remember a traumatic event, your body might not know the difference there. It's feeling it all over again. So we have that initial contact with survivors. And then it could be, you know, a few weeks or months before they're even ready to talk to us again. A lot of times the immediate responses push it down, and it might not be that way, but we know that it can take a lot of time to build that trust, and we never forced anyone or pushed anyone to do anything that they're not comfortable with, because that's what happened to them when

they were traumatized. But we also try to really show steadfast support for them that we believe them, and that we're not forgetting what happened to them. Because one of the biggest problems I see in traditional criminal justice approaches is that we expect victims to respond on a timeline that we create without respect for their trauma or the need that they have for additional time. And so, you know, too often, I think victims are pushed to make decisions quickly. And if you don't respond fast enough and you don't commit quickly enough, then we're going to move on to another case. And then victims feel forgotten and they feel like their experience wasn't important. And so in doing cold cases, what we see is that sometimes will ask victims will. After you had these initial contacts, did you ever hear from law enforcement again? And their memory is no, that they didn't. And yet we can see documentation that we that we believe that, detective did call and leave them messages, did maybe send a letter to their house or drop a card in their door. But the survivor wasn't able to act upon that at that point. And so it felt like, you know, well, maybe they did leave me a couple of messages, but then nobody called again, because I guess what happened to me wasn't important. And so we say we're going to go at your pace, but we are not forgetting what happened to you. What happened to you was important. And we will remain here ready to take action if you want us to. And that has paid off for us over and over and over again. Because once someone sees you guys aren't giving up on me, you're not just going to walk away when I don't call you back, or when I get frustrated about something that really establishes a huge trust level, and that has enabled us to have survivors that have stuck with us during prosecutions that, due to Covid and other issues, have spanned out over 2 to 3 to up to five years. We've never had a survivor that's backed out during that time because they felt a commitment from us, and we have engaged and ongoing support and just reaching out to them during whatever time span it was that the process dragged out.

Richard Johnson [00:31:09] As an investigator, when they're talking about their event, they're not telling the story. You can see viscerally that they're reliving the event. And, you know, that's as an investigator, it's very motivating for me. It's like, I got to try and do something about this.

Jason Chute [00:31:25] And as I hear you talking about this and I could see Erin, your point on seeing through the prosecution and staying with it, I could see why they would want to after building that trust up with them. I do have a question on the reach out and the pace. So with this, is there a difference whether or not you have DNA or no DNA evidence on how you do that reach out and what that pace looks like.

Lindsey King [00:31:47] Our strategy for reaching out, our protocol for reaching out is always the same. So there's no difference. When Erin talked about the case overview that happens before the victim notification, no matter what is found in that case overview, whether there's DNA evidence or other physical evidence or not, we always reach out in the same way. I mean, there's a lot that goes into our protocol for the notifications, but short answer is no, we always reach out the same.

Richard Johnson [00:32:16] Yeah. You start by believing. I mean, that's that's the bottom line. You start by believing and then you do a Ronald Reagan, you know, trust but verify. So you corroborate as much information is the investigation to yield to you. And you build on that.

Erin House [00:32:32] And what we find is that we strongly avoid asking survivors to make decisions about whether they want to participate in a reinvestigation or prosecution. And the more that we say to them, we're not asking you to make those decisions, we're just

asking you to get to know us and to learn more about our process and for us to share what we can do, that builds their confidence and leads to people being more likely to say, yes, I do want to participate. As we said, the initial notification is always done with the advocate and the investigator. I, as the prosecutor, don't participate in that because it's really just too many people to be showing up on someone's doorstep. But we do try fairly early on in the process. If the survivors willing to do a meeting that then incorporates me to show the survivor, our entire team, that there's these three parts prosecution, advocacy and law enforcement. For them to see the dynamic of how we work together. And I think as a prosecutor, it's really important, even if people don't know a lot about the criminal justice system, they need to know that you're going to be the lawyer that's going to fight for them in the courtroom, and that is part of their decision making process, is not just how much do they trust their advocate, how much do they trust the investigator, but how much do they trust the prosecutor. And so we also just try to be able to answer as many questions as we can for people about the what ifs, and to give them as many assurances as possible.

Richard Johnson [00:33:52] Yeah, it's more of an empathy based approach.

Lindsey King [00:33:56] And what I'll say about Rich and his approach is sometimes survivors reach out to Rich just as much as they reach out to me, because his empathetic approach at the beginning stage was kind of restorative in maybe they had a bad experience previously with an officer, and then they they got this empathy based approach, and it helped maybe restore their faith a little bit in the system.

Jason Chute [00:34:19] I would say if we looked up victim centered, there would be a picture of the Kalamazoo team. Excellent approach. So with that, when we're talking about this approach, especially with the nonphysical or non DNA evidence, what recommendations would you give to other agencies that are out there to ensure these types of cases are identified and not overlooked, because they don't have that DNA element to them?

Richard Johnson [00:34:43] I think it starts with having a foundation of being a victim centered approach, making sure that the advocate is on board. If your community has one. If not, then try to gain the training you need to present a victim centered, empathy based contact initially. I mean, most victims talk about, those first interactions with law enforcement as either going to be innately negative or innately positive. It's only been the positive ones that have gone forward. The negative ones never go forward.

Erin House [00:35:13] One of the strongest things we hope from our project is that things that we're doing that work could and should be applied to every sexual assault investigation, regardless of whether the assault occurred, you know, hours ago, weeks ago, months ago or decades ago. Survivors need to be treated differently by the system so that they feel supported and are able to engage, and these cases have to stop being looked at as he said she said. There has to be an understanding that false report of sexual assault is incredibly rare and most sex offenders are serial offenders. And so we have got, for the sake of survivors, to give them more in our system, to help them feel that what happened to them mattered and that they are important. Whether or not we can be successful in a prosecution, I think is in some ways less important than how we treat someone, although how we treat someone well will lead to a much more successful prosecution most of the time. But if we don't change the way the system approaches sexual assault, we are going to see what our team sees all the time, which is the debilitating impact of unresolved trauma. When people were made to feel that what happened to them didn't matter. And what we're also going to see is that sex offenders

who've been reported to the police but are not being held accountable, and they go on to offend over and over and over again. People that sexually assault women will also engage in acts of domestic violence, of stalking, of child abuse. This is a type of person that believes that you know their needs and their desires are more important than anyone else, and they will disregard the feelings and experiences and the rights and the autonomy of other people by perpetrating on them. And so these things have to be changed, and there's nothing that we're doing that can't be replicated.

Jason Chute [00:37:03] So moving forward, what are the lessons learned from investigating and prosecuting these cold sexual assault cases, specifically the cases without DNA? How can these lessons be applied to current sexual assault cases that are being reported?

Richard Johnson [00:37:17] When I first joined SAKI, you know, I had been in law enforcement for a quarter century already, and I didn't realize what I realized until I knew it. I realized that, you know, I was asking all the wrong questions for all the right reasons. And I was a part of the problem while trying to be part of the solution. It's because I didn't have the training and the knowledge base to do an empathy based approach when it comes to sexual assault survivors or domestic assault survivors. That I'm sure I screwed up a lot of cases.

Lindsey King [00:37:50] I think something that's really important. Some of the lessons we've learned that can be applied are that survivors need to feel a sense of support and a sense of control from start to finish. With sexual assault. It's a crime of power and control. Survivors often feel helpless, like their power was taken away from them. So we can build trust and try to foster that sense of control with them so that they can feel like they have a say. They can feel supported and empowered throughout. And so, as hard as it is, I recommend that people take the time, leave space for the survivors to be able to trust you and move at their own pace.

Erin House [00:38:31] Not only do I think the approaches that have worked for our team would be effective for fresh sexual assaults that are being reported now, there are a couple of things that we are looking into that have to do with addressing. How do you fix cases that weren't handled right the first time, and you don't necessarily need new DNA evidence or a sexual assault kit initiative like we have to say, let's go back as police departments and prosecutor's offices and look at some uncharged sexual assault cases that we have and whether we could build better cases if we tried using some of the new things that we know. And so there's currently a partnership developing between the Michigan Attorney General's office and the US Marshal's office to look at what we're calling cold warrant sexual assault. So sexual assaults that were charged. But for whatever reason, the other offender has left the community or maybe even left the state or the country. And so getting those people extradited and brought back to your community is important, but you've got to make sure that your survivor is supported and ready to do that. So applying some of what we do is going to be important in those cases, as well as looking at the fact that these offenders have likely committed other offenses in the time since their case was charged. But with our project, most of our initial referrals from law enforcement came from sexual assault forensic evidence kits that were sent out for testing in 2016 as part of a statewide initiative. But just about every police department also slipped in anywhere from 2 to 5 or more sexual assaults that bothered them. Cases where they felt that a sexual assault had occurred, but for a variety of reasons, it had never been resolved. And they sent those to us. And we have investigated those just the same. And so I would encourage every prosecutor's office, police department, every agency, like

Lindseys, knows, of survivors who have previously reported sexual assaults or may have never reported them before, but those cases could still be looked at now. And as long as they're not barred by the statute of limitations, survivors could still get justice and offenders could still be held accountable.

Jason Chute [00:40:45] That's an excellent point, Erin, and I really appreciate that proactive approach, and I love the thoughts that you guys have on transitioning from the cold cases to these newer cases. We're getting ready to wrap up here. I'd like to hear from each of you. Is there anything that's coming up that you're excited about?

Lindsey King [00:41:04] We've touched on it a little bit, but I'm excited to see some of these types of teams, maybe more multidisciplinary teams applied to more current cases. I'd be excited to see multidisciplinary teams implemented in police departments all across the nation, so that we can start to see more survivors having those wraparound services better outcomes.

Erin House [00:41:30] I'm excited to just have this opportunity today to share what we've been doing in our small community in Southwest Michigan, and how that could apply to the criminal justice system all across the United States. We have been working really hard, trying to hone what we're doing to do a better and better job, and we would love to share what we're doing to help other people try to recreate these kind of successes, not just in convictions. We have, like a 95% conviction rate on cases that no one wanted to charge initially. So these were cases that were all considered to be bad cases that we've made into incredibly strong cases where people are serving decades and decades in prison. But to just have that opportunity to say we can change the way that our society and our criminal justice system looks at these cases and the powerful impact that will have on survivors well-being and on protecting the community from these perpetrators getting away with it and continuing to harm other people.

Richard Johnson [00:42:30] I'm hopeful that the everyday citizen is starting to have a firm understanding of of the impact of sexual assault, and that those people that are in power, the legislators, you know, the governors will see the need to, get resources. So these sort of teams can occur because it really is about the dollar and it's about the availability of personnel. I mean, most law enforcement agencies are understaffed and don't have the time and availability to invest like we do. It's because they don't have the resources or funding, to do the proper job. So if they don't have those things, the proper job will never get done.

Jason Chute [00:43:10] We are running near the end of our time together, and I would like to give each of you a chance for a quick final thought.

Erin House [00:43:16] Just like to say that DNA is not a crucial piece in sexual assault prosecutions. Survivors are the center of your case, and they are the strongest evidence that you can present at trial. If you can properly support the survivor in your case, then they are able to come forward and be the most powerful witness. And so I just encourage all prosecutors DNA can be important. You're not going to ignore it, but please do not make your decisions based upon whether you do or don't have DNA evidence, because that is not representative of most sexual assaults, which are perpetrated by people that a victim knows, who then alleges that it was consensual.

Richard Johnson [00:43:53] I would say, start by believing, consider all the elements and how victims are impacted throughout the course of the investigation. Do your best to have an empathy based approach.

Lindsey King [00:44:02] It can be done. Part of it might be legislative, part of it might be macro level, making sure there's enough funding. But I just would really hope that the larger society starts to understand how important this is, how serious of a crime sexual assault is. It's truly a community safety issue. It's an economic issue. And if we start to do more thorough investigation, start to provide wraparound services all the time for survivors of sexual assault, start to believe them, start to, really take it seriously. It's not going to just have a positive impact on that one survivor. It's truly going to lead to a safer community.

Erin House [00:44:46] And I think we stressed the idea that additional funding would be helpful, but I worry that that could deter communities feeling like, well, we don't have the funding, so therefore we can't do it. There are advocates like Lindsey working right now in every single community pretty much across the country, and there's no reason that law enforcement and prosecutors can't begin to start calling those agencies and saying, Will you work with me? Will you come to this meeting that I have with a survivor with me? There's no reason that that can't be happening even if you don't have funding.

Jason Chute [00:45:19] And with that, I'd like to thank Erin, Rich and Lindsey for sitting down with Just Science to discuss the role of non DNA evidence and case resolution related to cold sexual assault response. Thank you, Erin, Rich and Lindsey.

Erin House [00:45:32] Thank you so much for having us.

Lindsey King [00:45:33] Thank you.

Richard Johnson [00:45:34] Thanks for having us, Jason.

Jason Chute [00:45:35] If you enjoyed today's conversation, be sure to like and follow Just Science on your podcast platform of choice. For more information on today's topic and resources in the field of forensic science, visit Forensiccoe.org. I'm Jason Chute, and this has been another episode of Just Science.

Introduction [00:45:54] Next week, Jason sits down with Doctor Katherine Scafide to discuss new research that can help sexual assault nurse examiners to better detect bruises on a range of skin tones. Opinions or points of views expressed in this podcast represent a consensus of the authors, and do not necessarily represent the official position or policies of its funding.