The Rape Kit’s Promise: Techno-optimism in the Fight Against the Backlog

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The Rape Kit’s Promise: Techno-optimism in the Fight Against the Backlog

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ABSTRACT

News of hundreds of thousands of untested forensic rape kits in police storage facilities and forensic labs across the United States has sparked a national dialogue about criminal justice responses to sexual assault. In a battle for more funding for forensic testing, victim advocacy organizations and activists are pointing to the necessity of rape kits for identifying and convicting sexual offenders. When tested, they argue, rape kits can ensure victims’ healing and justice, and increase public safety. Current campaigns to reduce rape kit backlogs reflect a widespread techno-optimism around forensic technologies’ ability to reduce and prevent violent crime. This optimism has a long history. The rape kit’s development in the 1970s was fueled by anti-violence activists’ hope that a new technology would improve criminal justice responses to sexual assault. The rape kit’s history provides an insightful backdrop to current rape kit backlog campaigns and the optimistic sociotechnical imaginary of a society rid of sexual violence through forensic technologies that drives them. An analysis of textual data, including media articles, government reports, conference proceedings, and advocates’ social media campaigns, reveals the history of techno-optimism around the rape kit and its recent expressions in rape kit backlog campaigns. This data also draws attention to the less visible consequences of this techno-optimism: a booming forensic industry profiting from the optimism around the rape kit, an increasing pressure on sexual assault survivors to comply with forensic procedures, and a narrowing of critical dialogues on criminal justice responses to sexual assault and sexual assault prevention.

KEYWORDS

Techno-optimism; sociotechnical imaginaries; forensic rape kits; sexual assault

Introduction

News coverage on the hundreds of thousands of untested forensic rape kits sitting in police storage facilities and forensic labs across the United States has generated a wave of activism around forensic rape kits. Since the early 2010s, many victim advocacy organizations have been arguing that backlogs of untested kits represent law enforcement’s systemic failure to take sexual
assault reports seriously (e.g. Joyful Heart Foundation, 2018; National Center for Victims of Crime, 2011; RAINN, 2018). Rape kits, they argue, are crucial technologies for identifying and convicting sexual offenders, and when tested, can ensure victims’ healing, justice, and public safety. The Joyful Heart Foundation, a national victim advocacy organization, writes on their website, ‘hundreds of thousands of rape kits sit untested … each kit represents a lost opportunity to bring healing and justice to a survivor of sexual violence and safety to a community’ (End the backlog, 2018a, para. 4). Echoing this sentiment, AEquitas (2018), a prosecutorial resource organization that specializes in gender-based violence, recently asserted, ‘the rape kit backlog … affects us all. Testing kits is critical to holding offenders accountable … prevent[ing] sexual assault from occurring and keep[ing] our communities safer.’ Some legislators have joined these organizations’ calls to address rape kit backlogs. Congresswoman Carolyn Maloney, an avid supporter of backlog reduction efforts, has asserted, ‘clearing the nationwide backlog of unprocessed rape kits is essential to bringing closure to victims of sexual assault and getting rapists off the streets’ (Maloney, 2017, para. 2).

In an effort to draw attention to forensic rape kit backlogs, advocacy organizations and legislators are advancing particular ideas about the rape kit’s potential. Importantly, their calls to action on kit backlogs are fueling a growing techno-optimism that the rape kit – a small cardboard box filled with bodily fluids, hairs, and documentation of a sexual assault victim’s injuries assembled during a medical forensic examination – has the power to make society safer and more just for victims of sexual violence.

Forensic sexual assault kits, or rape kits as they are often called, are standardized evidence collection tools that forensic nurses and physicians use to collect bodily fluids and document physical injuries on a sexual assault victim’s body. Forensic rape kits contain swabs for collecting traces of foreign bodily fluids, vials for urine and blood samples, envelopes for hair and foreign debris, paper bags for clothing, standardized forms for documenting injuries, and instructions for conducting the forensic exam (see Figure 1; Du Mont and White, 2007). Often lasting up to 4–6 hours, the forensic rape kit exam involves a series of steps in which a forensic nurse or physician swabs different areas of a victim’s body for fluid samples, combs a victim’s hair for loose debris, photographs a victim’s injuries, and bags the victim’s clothing for analysis. In cases involving penetration, the exam can also include an internal examination and photographs of injuries inside the victim’s vagina, anus, or mouth (White and Du Mont, 2009). In the exam room, the victim’s body is treated as the ‘crime scene’ that is scanned and mined for evidence (Price et al., 2010). As many victims’ reports have attested, rape kit exams can be uncomfortable, painful, and re-traumatizing for victims (Du Mont et al., 2009; Doe, 2012; Mulla, 2014).

If a rape kit is sent to a forensic laboratory for testing, forensic scientists can analyze the kit’s forensic samples to confirm recent sexual activity, determine a
victim’s level of intoxication during the assault, and generate DNA profiles to confirm or determine the identity of sexual assault perpetrator(s) (Du Mont and White, 2007). DNA profiles can be uploaded to state and national DNA databases, where they are compared to profiles of known offenders to determine the perpetrator’s identity – a process used in cases where the victim is unable to identify the perpetrator(s), which available victimization statistics suggest are relatively uncommon (Morgan and Kena, 2017). DNA profiles uploaded to databases can also be compared to unidentified profiles generated from crime scene samples to link sexual offences of individual perpetrators (Lynch et al., 2008).

However, as recent dialogues about rape kit backlogs have revealed, in many cases, laboratory analysis does not immediately follow after a rape kit exam. The increasing demand for forensic testing and limited laboratory resources has resulted in significant delays in rape kit testing in public laboratories (National Institute of Justice, 2011). Many more kits are never sent to the laboratory and are instead housed in police storage facilities, in some cases for decades (see Figure 2; Campbell et al., 2017). While rape kit backlogs have been defined differently in the fields of forensic science and law enforcement (Quinlan, 2019), advocacy organizations have popularized the phrase to refer to rape kits that have not been sent to a laboratory for testing and remain in police storage facilities for more than 10 days, and kits that sit untested in forensic laboratories for more than 30 days (Joyful Heart Foundation, 2018).

Figure 1. Rape kit used in sexual assault forensic examinations at University of California Los Angeles (UCLA) Hospital in Santa Monica, which includes items for collecting physical evidence, standardized forms, and instructions for the forensic exam [Credit: Getty Images].
Investigations by scholars and victim advocacy organizations have generated a wide range of explanations for rape kit backlogs. Common explanations include: lack of funding for rape kit testing (Strom and Hickman, 2016; Strom et al., 2009), lack of standardized police procedures for rape kit evidence submission and testing (Human Rights Watch, 2009; Patterson and Campbell,
and lack of police training on the science of DNA testing (Campbell et al., 2017). Additionally, rape myths and systemic prejudice against some victims in the criminal justice system, particularly victims of color and victims from marginalized communities, have been identified as reasons for why some police are reluctant to submit some rape kits for testing (Human Rights Watch, 2009; Yung, 2017). With the increasing attention on rape kit backlogs and the corresponding calls for more funding and institutional reforms to address them, it is important to critically consider the visions of forensic technology upheld in rape kit backlog campaigns, and explore how these visions came to be, and what their consequences may be.

The current campaigns around the rape kit backlog are occurring in a broader context of recent social movements such as #MeToo and #TimesUp, which have shone the media spotlight on the systemic nature of sexual violence and have generated widespread public dialogues about how to address it. Amidst these dialogues, campaigns around the rape kit backlog are presenting the rape kit as a technology that can effectively prevent sexual violence. In light of this techno-optimism in the rape kit, several questions can be raised: Where did this techno-optimism come from? How was it built? How is it being sustained through ongoing campaigns to address rape kit backlogs? What are its consequences? As will become clear, these seemingly narrow questions open up a broader investigation into how this techno-optimism is fueling linkages between criminal justice institutions and forensic industries, and narrowing critical dialogues on criminal justice responses to sexual assault and sexual assault prevention.

In what follows, I explore these questions by first examining the history of techno-optimism around the rape kit in the United States and then investigating the unseen consequences of its recent expressions in American rape kit backlog campaigns. To trace this history and contemporary context, I draw on media articles, government reports on forensic policies and practice, activists’ social media posts, victim advocacy organizations’ websites, and conference proceedings on sexual violence and forensic testing in the United States. Through this historicized analysis, I examine how the rape kit developed alongside an optimism that it could solve the problems of sexual violence and the failures of the criminal justice system to take it seriously. I reveal how this optimism has framed sexual violence as a problem with a technoscientific solution. More specifically, I explore how this optimism has shielded the rape kit from critique, limited collective capacities to question the rape kit’s efficacy and the inequities it may reflect and promote, and narrowed collective discussions of alternative solutions to sexual violence.

**Analytical Perspective: Understanding Techno-optimism in the Rape Kit**

The widespread faith in the rape kit to solve the problem of sexual violence reflects a broader *techno-optimism* that forensic science and technology will
advance and improve society. Many hope and expect that the rape kit will make society safer and more just by ensuring public safety, justice, and healing. Berlant (2011) describes optimism as a form of attachment to an ‘object of desire’ (p. 23) that offers a set of promises that may or may not be realized. She writes, ‘any object of optimism promises to guarantee the endurance of something, the survival of something, the flourishing of something’ (p. 48). Under this light, the techno-optimism in the rape kit can be seen as an attachment to an object that promises the endurance and healing of sexual assault victims, the survival and safety of possible future victims, and the flourishing of a safe society.

To understand techno-optimism around the rape kit, I draw on Jasanoﬀ’s (2015a, p. 4; 2015b, p. 321) notion of sociotechnical imaginaries. Unlike Berlant (2011), whose analysis of optimism is rooted in affect theory, Jasanoﬀ (2015b) combines insights from Science and Technology Studies and political and cultural theory to conceptualize ‘imagination as a social practice’ (p. 323) that produces ideas that become rooted in institutions, culture, and material artifacts. She suggests that sociotechnical imaginaries are ‘collectively held, institutionally stabilized, and publicly performed visions of desirable futures, animated by shared understandings of forms of social life and social order attainable through, and supportive of, advances in science and technology’ (p. 4). Sociotechnical imaginaries, according to Jasanoﬀ, unite members of a collective with a shared vision of a future that is considered possible through advances in science and technology. While imaginaries may begin as ideas of an individual or a small collective of ‘sociotechnical vanguards’ (Hilgartner, 2015, p. 24), Jasanoﬀ (2015a, p. 4) argues that it is only when these ideas are adopted by a larger collective that they become imaginaries. Imaginaries are not necessarily restricted to nation states (Jasanoﬀ, 2015a); however, they become stronger when they are tied to existing, broader imaginaries (Hilgartner, 2015) that are ‘embedded’ (Jasanoﬀ, 2015b, p. 326) in existing institutions.

As I explore below, the techno-optimism in the rape kit has been fueled by a small group of ‘vanguards’ who are stabilizing collectively held visions of a future in which the power of forensic technology is mobilized to identify, convict, and incarcerate sexual offenders and maintain public safety. Even though some of these vanguards may be strategically employing the rape kit to draw attention to larger systemic issues in sexual assault policing and prosecutions, their narrow attentions to the rape kit reﬂect and promote optimism in the kit’s potential. The techno-optimism they are generating is tied to a broader faith in technology to rectify the injustices of discriminatory and prejudicial policing, bring justice to victims, and prevent future crime, as well as a trust in American criminal justice institutions to solve social problems. As the following analysis will reveal, the optimistic vision of the kit is collectively held and promoted by some victim advocacy organizations, legislators, law enforcement agencies, funding agencies, and activists, and is becoming increasingly
embedded in mainstream media and criminal justice policy and practice. Applying Jasanoff’s concept of sociotechnical imaginaries helps reveal the broader visions of social order and safety arising from forensic technology, which are embedded in the optimistic attachment to the rape kit.

Jasanoff’s (2015a) conception of sociotechnical imaginaries also draws attention to the ways that collective imaginaries are ‘co-produced’ (p. 3) with technological objects and systems. The current optimistic socio-technical imaginary around the rape kit cannot be understood without examining how the rape kit came to be and how it is currently used in rape kit backlog campaigns. By analyzing the co-production of the rape kit and the optimistic imaginary that surrounds it, it becomes possible to see the collective meaning making around this technology and its potential consequences for victims and the communities they are part of.

To make sense of the consequences of the techno-optimism in the rape kit, I draw on Berlant’s (2011) conception of ‘cruel optimism’ (p. 24). Berlant sees cruel optimism as ‘maintaining an attachment to a significantly problematic object’ (p. 24) – an object that may in fact impede the kind of transformation it was intended to produce. While distinct in their theoretical approaches, together, Berlant and Jasanoff offer insights that shed light on the maintenance and consequences of techno-optimism in the rape kit. After examining how the optimistic imaginary around the rape kit was built and is being maintained, I consider ways these visions of the rape kit may in fact be impeding the transformation the kit promises victims and their communities.

The History of the Rape Kit and the Beginnings of a Sociotechnical Imaginary

The rape kit’s early history provides an important backdrop to the current dialogues about rape kit backlogs in the United States. This history reveals the making of an optimism that forensic technology could help solve the problems that sexual assault victims were facing in the criminal justice system.

In 1974, the Manhattan District Attorney’s Office opened up the first Sex Crimes Unit dedicated to prosecuting sexual assaults in the United States. In that year, one thousand rapes were reported in New York City, and 18 resulted in convictions (Rawlings, 2011). Unlike victims of other crimes, sexual assault victims were seen as having little credibility in the courtroom. Stemming from state legislation from 1886, in the early 1970s in New York, a sexual assault victim’s testimony had to be corroborated with independent evidence that confirmed sexual activity, physical force, and/or the identity of the accused (Younger, 1971). Recalling these requirements, a NYC prosecutor said: ‘those three pieces were so hard for attorneys to put together that these cases never got into court’ (Jackson as cited in Rawlings, 2011: para. 4).
While victims’ testimonies were doubted in the courtroom, medical evidence of injuries and sexual trauma was commonly seen as reliable and necessary corroborative evidence for sexual assault cases (Rawlings, 2011; Quinlan, 2017). Medical forensic evidence was often trusted to reveal the truth about crime and its perpetrators. However, despite the enduring faith in medical forensic evidence, in the early 1970s, most jurisdictions lacked standardized protocols for evidence collection (Fahrney, 1974) and training for medical staff conducting the exam (Corrigan, 2013). As a result, evidence collection was often haphazard and left to the unregulated discretion of examining physicians (Fairstein as cited in Tofte, 2018).

The failures of the criminal justice system to take sexual assault seriously became a rallying cry for feminist anti-rape movements in the 1970s (Corrigan, 2013; Quinlan, 2017). From feminist consciousness raising groups of the 1960s, activists in the 1970s were becoming increasingly aware of the prevalence of rape and victims’ experiences of being blamed, doubted, and disregarded by the physicians and police they turned to for help. Activists advocated for standardized protocols for forensic exams of rape victims, which they hoped would increase the likelihood that physicians would properly collect corroborating forensic evidence in forensic exams (Corrigan, 2013). Evidence collected with standardized procedures, they hoped, would increase victims’ credibility in court. As a result of pressures from activists, many jurisdictions began developing standardized protocols and rape kits for evidence collection.

Alongside these changes, the legal requirement for corroborative evidence in sexual assault cases was falling under increased scrutiny. Many activists and scholars argued that this legal requirement was fundamentally discriminatory and misguided (Ludwig, 1970; Younger, 1971; Anonymous, 1972). They argued that it was unfair that the evidentiary requirements for sexual assault were higher than they were for other crimes. As a result of these critiques, by the mid 1980s and 1990s, the legal requirement for corroborative evidence in sexual assault cases that the early rape kit reflected, was eliminated in most states (Bevacqua, 2000). Despite this, the kit maintained its central role in criminal justice responses to sexual assault. The kit remained a materialized form of the past legal requirement for corroborative evidence and continued to be used in sexual assault investigations and prosecutions to corroborate and challenge victims’ reports of sexual assault (Quinlan, 2017).

The faith in the kit was bolstered further by the introduction of forensic DNA testing to criminal investigations in the 1990s (Quinlan, 2017). Although the reliability of DNA evidence initially generated much legal controversy, DNA quickly became the gold standard for forensic identification (Aronson, 2007; Lynch et al., 2008). Increasing demands for forensic DNA evidence led to widespread laboratory backlogs of rape kits and other forensic evidence waiting to be tested (National Institute of Justice, 2011), which would only come to light several decades later.
In 2009 and 2010, backlogs of untested kits in laboratories and police storage facilities fell under the national spotlight after Human Rights Watch published two reports on rape kit backlogs in Los Angeles and Illinois. The reports exposed 12,669 untested sexual assault kits in police storage facilities in Los Angeles County (Human Rights Watch, 2009) and revealed that 80% of the kits in Illinois were never tested (Human Rights Watch, 2010). Untested kits, the advocacy organization wrote, represented ‘lost justice’ (Human Rights Watch, 2009, p. 1) for sexual assault victims. Both reports pointed to New York City’s Rape Kit Backlog Project in 2000 as evidence of the importance of testing rape kits. When New York City tested all of the 17,000 untested kits in police storage facilities, the reports asserted, ‘the city’s arrest rate for rape skyrocketed from 40 percent to 70 percent’ (Human Rights Watch, 2010, p. 19). This statistic, along with the representation of untested kits as ‘lost justice’ would become key features in the subsequent campaigns against rape kit backlogs.

An Imaginary Taking Hold: ‘Sociotechnical Vanguards’ in the Fight to End Rape Kit Backlogs

Since the Human Rights Watch reports were published, victim advocacy organizations such as the National Center for Victims of Crime; the Rape, Abuse, Incest National Network; and the Joyful Heart Foundation, have become driving forces behind the campaigns to reduce rape kit backlogs. Together, these organizations have collectively pressed for increased awareness and knowledge about rape kit backlogs and have advocated for federal and state funding to reduce them. While their attention to rape kit backlogs may have begun as a strategic way to draw attention to larger systemic issues in criminal justice responses to sexual assault, these campaigns now narrowly focus on the rape kit and its potential to solve the problem of violent crime. They promote a technoscientific solution to sexual violence rooted in existing imaginaries about the power of forensic DNA technology and premised on calls for increased funding for laboratory testing of backlogged kits. In a context where forensic evidence carries significantly more credibility in the criminal courtroom than sexual assault victims (Quinlan, 2017), rape kit backlog campaigns are highlighting advances in forensic science and the potential value of DNA evidence in rape kits to identify and convict sexual offenders. With the message that testing rape kits is a necessary step for ensuring public safety, justice, and victims’ healing, these organizations have been working to generate and solidify an optimism in the rape kit and enroll funders, legislators, law enforcement agencies, and the public in the fight against rape kit backlogs.

The advocates within these organizations are working as a type of ‘vanguard’ in rape kit backlog campaigns. Hilgartner (2015) uses the term ‘sociotechnical vanguards’ (p. 34) to refer to small groups of people who work to enact
sociotechnical visions of the future that have not yet been fully accepted by broader publics. These vanguards, he argues, often ‘assume a visionary role’ (p. 34) as holders of knowledge about a particular technology, which they see as having potential that has yet to be realized. Unlike the vanguards in the world of synthetic biology who Hilgartner describes, many of the vanguards in the campaigns against rape kit backlogs are not scientists but are instead advocates and professionals in the non-profit sector. Together, they promote a vision of a socio-technical future in which rape kits’ potential to identify and track violent offenders is realized and the safety, healing, and justice of victims is ensured.

Sociotechnical vanguards, Hilgartner (2015) argues, play an important role in advancing the sociotechnical imaginaries – and it could be added, optimistic visions of technology – that are held by larger collectives. The vanguards of rape kit backlog campaigns have helped to advance and solidify existing optimistic imaginaries around forensic science. Sitting outside of the world of science has been a distinct advantage for some of these vanguards.

One vanguard who has received significant media attention is Mariska Hargitay, an actress who played Detective Olivia Benson in the television drama, *Law and Order Special Victims Unit* (SVU), and who later founded the Joyful Heart Foundation (JHF) to promote advocacy and education around sexual violence. As both an actress and advocate, Hargitay’s work has contributed to advancing sociotechnical imaginaries of the powers of DNA evidence and rape kits. As an actress on *Law and Order SVU*, a show that popularized ideas about DNA evidence as an essential crime-fighting tool, Hargitay helped realize a pop cultural representation of DNA’s power. As the founder of the JHF, and the producer of the recent documentary film *I am Evidence* (2018) on rape kit backlogs, Hargitay has used her celebrity status to draw attention to rape kit backlogs. In a recent interview, she explained that prioritizing the elimination of rape kit backlogs has been central to the JHF’s work in ‘help[ing] survivors heal and reclaim their lives’ (Hargitay as cited in Simon, 2018, para. 4). She has spoken openly about how expert status is not required to generate change: ‘I wasn’t an expert, I was simply an actor on a TV show who had just learned the statistics’ (Hargitay as cited in ‘Mariska Hargitay hits the table’, 2018) and ‘you don’t need to be an expert to make a difference – I’m not’ (Hargitay as cited in Simon, 2018, para. 6). As a celebrity victim advocate, Hargitay has used the media spotlight to advance the sociotechnical imaginary and techno-optimism around the rape kit.

Victim advocacy organizations’ vision of rape kits ensuring public safety and justice has been adopted by some politicians and law enforcement agencies who are joining the fight against rape kit backlogs. Pressing for legislation to mandate rape kit testing in California, state Senator Connie Leyva (2018) recently stated ‘it’s critical that rape kits are processed swiftly to both attain justice and help identify and prosecute rapists so that we can keep them off
the streets’ (para. 3). Expressing a similar sentiment, Cuyahoga County Office of the Prosecutor (2015) wrote on their website,

We now realize that the DNA in these old rape kits is a ticket to prison for a trainload of violent rapists. These Cold Case kits are a virtual gold mine. We have an unprecedented opportunity to take a large percentage of this county’s most dangerous criminals off the street all at the same time. We have hit the mother lode – and we intend to mine the hell out of it. (para. 9)

To further arguments about the necessity of rape kit testing, some have pointed to economic benefits of testing kits. Forensic Laboratory Director, Ray Wickenheiser (2004, p. 2), estimates that the initial investment into testing kits will result in approximately $12.9 billion dollars of savings, which he argues will inevitably arise from the prevention of future sexual assaults.

In the campaigns against rape kit backlogs, a simple equation has been drawn between testing DNA evidence in rape kits and preventing violence. Sexual violence, so the narrative goes, could be prevented if only the powers of DNA evidence could be put to use. Sexual violence is thus seen as a problem with a technoscientific solution. Testing kits, it is argued, will ‘save lives’ (Maloney, 2003a, para. 2) and make a future without sexual violence possible.

To help solidify and advance this vision of rape kit testing, rape kit backlog campaigns have drawn on broader existing sociotechnical imaginaries. Hilgartner (2015) argues that vanguard visions are often more likely to take hold if they are tied to existing and familiar sociotechnical imaginaries. He describes how vanguards in synthetic biology tied their emerging imaginaries to well-established national imaginaries of the United States as a ‘technological powerhouse’ (p. 36). Along similar lines, vanguards’ techno-optimism in the rape kit has been bolstered by entrenched imaginaries in the United States about the power of forensic technology and the American criminal justice institution. Tapping into existing cultural understandings of the powers of DNA evidence (Aronson, 2007), and echoing long-standing beliefs about the value of medical forensic evidence (Corrigan, 2013; Mulla, 2014), has helped to fuel rape kit backlog campaign narratives about the significance of rape kit testing. Similarly, by tying rape kit testing to incarceration and public safety, these campaigns have relied upon widespread conservative narratives about the suitability of incarceration as an effective solution to social problems (Davis, 2003). Aligned with these broader imaginaries, the optimism in the rape kit’s power is increasingly taking hold.

**Maintaining Techno-optimism in the Rape Kit**

Current media attention on rape kit backlogs points to the relative success that advocates have had in generating public interest and concern about the issue. Now, there are news headlines that read, ‘The rape kit backlog: A sexual
assault problem we can’t ignore’ (Wein, 2018) and ‘Rape kit backlog has advocates worried about how many sex offenders are still on the streets’ (Brand, 2018). The apparent public concern about rape kit backlogs across the United States raises questions about how the techno-optimism in the rape kit is being maintained. Jasanoﬀ (2015b) argues that sociotechnical imaginaries gain and sustain power and inﬂuence when they are widely circulated and embedded within practices and cultural artifacts. Thus, it is possible to understand how the techno-optimism around the rape kit is maintained by looking at how it is being circulated beyond the bounded communities of victim advocacy organizations and embedded in cultural artifacts and institutional practices.

One of the ways that rape kit backlog campaigns have circulated techno-optimism in the kit is through coalition building. Jasanoﬀ (2015b) argues that coalition building is an important part of building and maintaining collectively held sociotechnical imaginaries. Through coalition building, a small community of vanguards can share their vision of possible futures with others and solidify an inﬂuential and collectively held sociotechnical imaginary (Hilgartner, 2015; Jasanoﬀ, 2015b). One of the recent eﬀorts to build coalitions around rape kit backlogs occurred on April 16, 2018, when the Joyful Heart Foundation (JHF) organized a ‘Day of Action’ to end rape kit backlogs. On Twitter, JHF organized a ‘Backlog Chat’ under the hashtag #BacklogChat where organizations spoke publicly about rape kit backlogs. Collectively, they reinforced the message that testing rape kits is crucial and that working collectively is necessary for ending rape kit backlogs. Natasha’s Justice Project (2018a) encouraged Twitter followers, ‘be sure to join us as we unite around this movement. We are stronger together.’

Reinforcing a similar idea that coalitions are necessary for change, RAINN instructed followers that preventing future rape kit backlogs requires ‘rais[ing] your voice! Tell your Members of Congress you support funding for programs to test DNA evidence … Take to Twitter, Facebook, and Instagram and tell your networks about the need to end the backlog!’ (RAINN, 2018). The Day of Action not only served to widely circulate visions about the importance of rape kit testing to broader communities, but also to build and solidify a larger coalition of organizations and victim advocates in the ﬁght against rape kit backlogs.

Ideas about the importance of testing rape kits have also been circulated through ‘performances’ in mainstream media and on victim advocacy websites. Performance, according to Jasanoﬀ (2015a), can play an important role in sustaining imaginaries. To sustain optimism about the rape kit’s power, rape kit backlog campaigns have used cultural artifacts, such as statistics and catch phrases, to illustrate the value of testing rape kits. Catch phrases, such as ‘test rape kits, stop serial rapists’ (EndtheBacklog, 2018a, para. 1), and statistics such as ‘[since] January 2018, testing these backlogged rape kits has resulted in the identiﬁcation of nearly 1,313 suspected serial rapists’ (para. 2), are
performances of the rape kit’s potential. These performances help maintain an optimistic sociotechnical imaginary about the rape kit and its power to solve the problem of sexual violence.

To generate public interest and concern about rape kit backlogs, advocacy organizations and legislators also use victims’ stories to perform two opposing visions of the future: a desirable, utopic future that could be achieved through rape kit testing, and an undesirable, dystopic future that could result from the failure to test rape kits. Optimistic imaginaries about the benefits of technology, Jasanoff (2015a) explains, are often paired with shared fears about the possible consequences of not taking advantage of technological advances. The contrasting optimistic/utopic and fearful/dystopic visions of the future are used in rape kit backlog campaigns to heighten the stakes of clearing rape kit backlogs.

To illustrate the possible positive outcomes of testing rape kits, rape kit backlog campaigns often employ stories of victims who were given a sense of closure or justice when their rape kits were tested. These stories commonly feature white women who were raped by strangers whose kits, when eventually tested, lead to the arrest, prosecution, and incarceration of their attacker. One such story is Natasha’s. When her rape kit was eventually tested after nearly a decade of sitting in storage, the stranger who had raped her was identified and convicted. Her story has been featured in mainstream news media and on victim advocacy organizations’ websites (e.g. EndtheBacklog, 2018b), including her own (Natasha’s Justice Project, 2018b), as an illustration of the importance of testing rape kits.

In a press release about the kit backlog, a spokesperson from Congresswoman Carolyn Maloney’s (2014) office wrote:

> Listening to the harrowing tale of Natasha Alexenko, who was brutally raped in Manhattan and waited 15 years before her attacker was finally brought to justice, thanks to DNA evidence, Congresswoman Maloney reaffirmed her commitment to reducing the national backlog of rape kits. (para. 1)

In a recent media interview, Natasha asserted, ‘I want to be one of the last people that gets up here behind a podium and tells you that … even though their body was a crime scene, their rape kit sat and collected dust’ (as cited in CA Lawmakers, 2018). When stories like Natasha’s are performed in news media and on victim advocacy organization websites, they help foster a utopic vision of a future in which rape kits are successfully used to identify and incarcerate sexual offenders and prevent sexual violence. These stories about rape kit testing successes are often told alongside fearful stories about the dangers of untested rape kits.

Stories about dangerous stranger rapists assaulting other victims while rape kits sit untested are used in rape kit backlog campaigns to raise public alarm about the risks of not testing rape kits. These stories help to promote a narrow vision of sexual violence as a crime committed primarily by strangers
(Quinlan, 2019), when in fact, statistics suggest that most sexual assaults are committed by someone known to the victim (Morgan and Kena, 2017). More broadly, these stories help generate a dystopic vision of a future in which rapists walk free while rape kits remain untested.

The documentary, I am Evidence (2018), features the stories of Helena and Amerberly, two women who were raped by the same stranger. The delays in testing Helena’s kit in California are directly linked in the documentary to Amberley’s rape in Ohio. Amerberly is quoted as saying, ‘if they would have taken it more seriously and believed Helena and tested her rape kit in a timely manner, I would have never gotten raped, because he would have already been caught.’ Following this, Helena says, ‘The DNA identified by testing my kit brought a serial interstate rapist to justice. If it had been done earlier, at least one other rape could have been prevented, perhaps more.’ This narrative of the dangerous stranger rapist who remains unknown to police because of an untested kit has been echoed by advocacy organizations and legislators. As Congresswoman Maloney (2003b) said in another press release on the backlog, ‘The failure to process DNA evidence quickly and correctly … keeps rapists on the streets, where they can strike again and again’ (para. 3). These performances of victims’ trauma and the threat of continued violence from stranger rapists contribute to stoking fears about a future in which rape kits remain untested.

The sociotechnical imaginary about the rape kit’s potential to ensure public safety, healing, and justice, is becoming embedded in institutional practices and policies. Under increasing public pressure, many state governments are enacting legislation that mandates rape kit testing and provides state-level funding for addressing rape kit backlogs. In March 2019, California passed legislation requiring law enforcement agencies to submit rape kits for testing within 20 days of receiving them and crime laboratories to test them within 120 (Leyva, 2019). California’s legislation follows states such as Connecticut, Illinois, and Ohio, where legislation was enacted to mandate expeditious rape kit testing. The federal government has supported these efforts with federal grants to help fund rape kit testing (see U.S. Department of Justice, 2016). As the optimistic imaginary that testing rape kits will result in increased safety and justice is becoming embedded in broader coalitions, cultural artifacts, and policy and practice, it is gaining more power and influence. However, it has consequences that have gone largely unseen.

**Unseen Consequences of Techno-optimism in the Rape Kit**

The optimistic imaginary around the rape kit has significant consequences for the forensic industry and victims of sexual violence. More broadly, this imaginary has consequences for communities’ collective capacities to question rape kits’ efficacy and imagine alternatives. With the recent rush of media attention
about the dangers of rape kit backlogs and policy development to address them, little space has been made for questioning these potential consequences. However, given its increasing influence, it seems imperative to ask: who benefits from the techno-optimism in the rape kit and who does not?

A Booming Forensic Industry

The economic benefits of the increasing optimism in the rape kit for the forensic industry are clear. As a result of increasing public pressure, funding is now being funneled into backlog reduction efforts. From 2008 to 2012, the National Institute of Justice allocated approximately $442 million to fund DNA backlog reduction initiatives across the country (U.S. Government Accountability Office, 2013). According to the Joyful Heart Foundation, the United States Congress has so far approved $131 million for the Sexual Assault Kit Initiative, a federal grant program for testing backlogged rape kits, with an additional $45 million in the 2018 budget (EndtheBacklog, 2018c). Some states, such as Texas and Michigan, have offered state-level funding for rape kit testing. In 2015, the Manhattan District Attorney’s Office announced a $35 million dollar grant program for cities working to clear their backlogs (New York County District Attorney’s Office, 2015).

With the increasing pressures on state forensic laboratories with growing demands for DNA testing, some law enforcement agencies are turning to private DNA laboratories to test the thousands of rape kits sitting in their storage facilities (Forensic Technology Center of Excellence, 2014). The influx of funding to address rape kit backlogs has undoubtedly benefited the forensic industry, from the private and public forensic laboratories to the corporations that supply laboratory technologies.

While calls for more funding for rape kit testing are increasing, other areas of sexual assault funding are getting less attention. A survey conducted by the National Alliance to End Sexual Violence (2014) found that over 40% of 326 rape crisis centers surveyed across the United States were forced to reduce staff and decrease services due to reductions in funding levels. Community-based rape crisis centers have a long history of providing counseling support and advocacy for sexual assault victims and contributing to sexual assault prevention efforts through public education on sexual violence and consent (Corrigan, 2013). Since they began opening during in the 1970s, these centers have had to rely heavily on volunteer labor to offer their range of services and education programs. While funding for forensic testing is on the rise, funding for other sexual assault services and prevention efforts are not. Optimism in the rape kit’s capacity to prevent sexual violence has thus become embedded in sexual assault funding priorities, to the benefit of some groups and not others.
**Expectations and Disruptions for Victims**

The optimistic imaginary around the rape kit also has potential consequences for victims. Widespread beliefs that rape kits are necessary for justice and public safety can fuel expectations about how victims ought to respond to the violence they experience. Sameena Mulla’s (2014) ethnography of sexual assault forensic exams reveals how common understandings of DNA as a crucial form of evidence have placed significant pressure on victims to consent to rape kit exams. After an assault, victims are expected to demonstrate what she calls, ‘corporeal discipline’ (Mulla, 2014, p. 40) by taking the necessary steps to preserve the forensic evidence on their bodies so that it can be later collected in the rape kit.

When the rape kit is equated with public safety and justice, a victim’s decision to have the rape kit exam is not just a personal one (Quinlan, 2019). The kit will not only benefit her, so she is told, but also the rest of society as it could put the perpetrator behind bars and protect others from being victimized. Mulla, and others who have studied victims’ experiences of the kit exam (e.g. Du Mont et al., 2009; Doe, 2012), have reported the negative consequences that pressures to have a kit exam can have on victims’ healing. These potential consequences that the widespread optimism in the rape kit can have on victims’ lives have been largely ignored in discussions about the rape kit backlog.

The ongoing efforts to clear rape kit backlogs can also have significant consequences for victims. In a recent article in the Washington Post, investigative journalist Jessica Contrera (2018) documents the shock, anger, and fear that many victims in Virginia Beach experienced when police notified them that their rape kit from years past was finally being tested (see Figure 3). Describing the type of calls that the detectives and victim advocates in the police station received from victims, she writes: ‘[they] kept hearing the same phrases: I thought this was done. I put this behind me. They kept answering the same questions: What does this change? Is there anything I have to do? Why now?’ (para. 61).

Contrera’s findings mirror those from a National Center for Victims of Crime (2012) roundtable discussion with sexual assault victims on their experiences of being told their rape kits were finally being tested. According to Ilse Knecht, the roundtable organizer, some victims welcomed the knowledge that their kit had finally been tested, while others had ‘fear that engaging with the criminal justice process might upset the careful life balance they ha[d] created since the crime occurred’ (Knecht, 2013). She described this further by saying,

> In one jurisdiction, a cold case investigator and an advocate arrived at a victim’s house to inform her that her rapist had been identified and was in police custody. The woman answered the door and listened to the news. She stepped outside and
closed her front door behind her, and said ‘Don’t ever contact me again. My son, in there, was born around that time and he doesn’t know’. (para. 10)

There have been some recent efforts to generate recommendations and new policy for ‘survivor-centered, trauma informed’ approaches for notifying victims about rape kit testing (see National Institute of Justice, 2018; Endthe-backlog, 2018d). However, many of these discussions focus on how to best disseminate rape kit testing information to victims. With this focus, these discussions sidestep larger questions about the inherent lack of control that
victims have over decisions about when their rape kits are tested and what is done with the results, and the wide-sweeping consequences that can stem from both.

**Limited Space for Imagination**

The optimistic sociotechnical imaginary around the rape kit’s powers has potential to limit collective dialogues about rape kits and sexual violence more generally. In a climate where rape kits are trusted as effective technologies for preventing sexual violence, it becomes more difficult to question their efficacy and consider alternatives. By focusing on the question of how rape kits can be made to work more efficiently to identify and convict sexual offenders, rape kit backlog campaigns have made little space for broader questions about how rape kit evidence actually works in the criminal justice system and for whom it most often works for. Most significantly, these campaigns have shielded from view the ways that the rape kit reflects and promotes distrust of sexual assault victims in the criminal justice system and narrows collective capacities to imagine alternative forms of sexual assault prevention.

The faith that rape kits can put rapists behind bars stems from broader confidence that DNA evidence will lead to convicting perpetrators of sexual assault. However, there is growing scholarly literature suggesting that DNA evidence often has a negligible effect on outcomes of sexual assault investigations and trials (Du Mont *et al.*, 2000; Du Mont *et al.*, 2003; Du Mont and White, 2007; Johnson *et al.*, 2012). DNA evidence can help identify who committed a sexual assault. However, in cases where an accused admits to the sexual encounter but argues that it was consensual, DNA evidence is largely irrelevant. Some victim advocacy organizations argue that even though DNA evidence may not be relevant in cases that revolve around consent, it still could be potentially useful in linking a perpetrator to another crime in which identity is a question (National Center for Victims of Crime, 2014; Endthebacklog, 2018a). However, this may be of little concern for victims whose cases center around the question of consent. Prosecutors report that consent defenses are often more difficult to prosecute (Quinlan, 2017). In these cases, it is often other evidence in the rape kit that becomes the subject of scrutiny in the courtroom.

Rape kit evidence, according to Rees (2010), can be a ‘mine of information for the defence team’ (p. 110). Defence lawyers often rely on forensic nurses’ notes on a victim’s injuries and medical and sexual history to challenge the victims’ testimony and credibility in court (Brown *et al.*, 1993; Temkin, 1998, 2005; Kelly *et al.*, 2006; Quinlan, 2017). In a previous study on sexual assault forensics (Quinlan, 2017), defense lawyers I interviewed described how they examine rape kit evidence for inconsistencies between the kit reports and victims’ police statements and court testimonies. Finding an inconsistency no matter how slight, they explained, can throw the victim’s credibility into
question in the courtroom, and alongside it, the victim’s description of the assault. One prosecutor expressed frustration with how often the kit’s evidence ‘backfires’ (p. 165) on her in court and said, ‘it’s always been fodder for cross-examination and rarely would I ever tender it for my benefit’ (p. 165). Most of the lawyers interviewed said that the kit is more often useful to lawyers defending accused sexual offenders than to the lawyers prosecuting them.

The complex ways that rape kits can work for and against victims of sexual assault in the courtroom has been largely obscured by growing optimism in the rape kit. When rape kits are promoted as necessary tools for ensuring safety, healing, and justice, it becomes more difficult to see how in some cases, they may be failing to live up to this promise. It also becomes difficult to see how rape kits reflect, and in some cases help to perpetuate, a legal history of sexual assault victims having little credibility in the courtroom (Quinlan, 2017).

The optimistic sociotechnical imaginary around the rape kit has other broader consequences for collective imagining. In conversations about the rape kit backlog, limited space has been made for imagining alternative approaches to sexual assault prevention. Rape kits, it is assumed, can provide a technoscientific solution to sexual violence. This faith in rape kits rests on broader beliefs that criminal justice processes of convicting and incarcerating sexual offenders will prevent sexual violence. However, with an estimated 77% of sexual assaults remaining unreported to police (Morgan and Kena, 2017), solutions to sexual violence that rely heavily on the criminal justice system appear limited at best.

The sociotechnical imaginary around the rape kit constrains collective imagining of radically different approaches for preventing sexual violence. In rape kit backlog campaigns, public dialogues about prevention have become caught between the fears of widespread violence that dystopic narratives of untested kits generate and the promise of technological interventions that the utopic narratives about the kit create. With many victims continuing to distrust the criminal justice system, particularly those from marginalized communities who have experienced institutionalized racism and prejudice, there is a pressing need to imagine prevention efforts that do not rely solely on forensic technologies and criminal justice processes.

**Conclusion**

The rape kit’s history reveals how the techno-optimism in the rape kit was built alongside the kit itself. Early imaginings of the kit were tied to an optimism that it could solve injustices in the criminal justice system. This optimism has since been reinvigorated by vanguards in the fight against rape kit backlogs and is increasingly gaining influence through rape kit backlog campaigns. As this analysis has shown, the growing techno-optimism around the rape kit to solve the problem of sexual violence and redress injustices in the criminal
justice system has wide-sweeping consequences for the forensic industry, victims, and their communities.

Jasanoff’s (2015a) conception of sociotechnical imaginaries usefully draws attention to the production of collective imaginaries and the practices through which visions of science and technology become embedded in institutions, culture, and material artifacts. Drawing on this idea, this analysis has traced practices in rape kit backlog campaigns that are producing and maintaining visions of the rape kit’s promise and how these visions are becoming embedded in mainstream media and criminal justice policy and practice. By seeing ‘imagination as a social practice’ (Jasanoff, 2015b, p. 323), this analysis has revealed the work involved in collective meaning making around the rape kit. Understanding how optimism in the rape kit is produced and maintained opens up the possibility of recognizing and questioning the consequences of that optimism for sexual assault victims and their communities.

Jasanoff (2015a) argues that the potential constraining effect of socio-technical imaginaries has implications for social change. Describing this she writes,

other ways of seeing and reasoning – ways that would make injustice palpable – may not enter anyone’s imagination … and hence may never give rise to organized criticism or opposition, let alone to revolutions that could hold power accountable, or at the extreme overthrow it. (p. 14)

Widespread techno-optimism in the rape kit limits collective capacities to see the rape kit, sexual violence, and sexual violence prevention differently. This optimism restricts collective critique and opposition to the negative consequences the kit can have on victims and undermines collective capacities to imagine alternative solutions to sexual violence. This optimism has fueled an influx of funding in the forensic industry instead of community-based rape crisis centers and public education programs on sexual violence. And, more broadly, it has restricted public dialogues about sexual violence prevention and criminal justice reform to the realm of technoscience, instead of opening up dialogues about the social and cultural roots of sexual violence and the continued injustices and distrust of sexual assault victims in the criminal justice system.

The techno-optimism in the rape kit arose out of feminist activists’ dissatisfaction in the 1970s with the criminal justice system’s failure to take sexual assault seriously. Forty years later, a similar optimism in the kit’s potential has appeared in activists’ hopes that testing rape kits will make the criminal justice system work better to protect sexual assault victims and prevent future rapes. In Corrigan’s (2013) historical account of the feminist anti-rape movement, she argues that the movement’s faith in law and criminal justice ultimately reduced its capacity to enact the social change it intended to generate. The movement’s alliance with the state and trust in the law to address sexual violence de-politicized the movement, she argues, and distanced it
from other left-leaning social movements working towards wide-spread social change.

A similar argument could be made of the rape kit and the way in which it has been constructed in rape kit backlog campaigns. The movement’s faith in science and technology to solve the problem of sexual violence has in some ways been a barrier to imagining and realizing broader, more comprehensive sexual assault prevention efforts. Likewise, the movement’s reliance on broader imaginaries in the power of DNA evidence (Aronson, 2007) and the necessity of American criminal justice institutions to address violent crime (Davis, 2003) have limited imagination around sexual assault prevention.

Techno-optimism around the rape kit is thus, perhaps, a ‘cruel’ (Berlant, 2011, p. 24) form of optimism that risks impeding the widespread social transformation it intended to produce. Berlant writes that optimism becomes cruel ‘when something you desire is actually an obstacle to your flourishing’ (p. 1). The vision of the rape kit in rape kit backlog campaigns has become an obstacle to the wide-sweeping social change that advocates in anti-violence movements have long been calling for. The optimism that many have that the rape kit will address the injustices of the criminal justice system and prevent sexual violence impedes these hopes being realized, as it narrows sexual assault prevention efforts and limits imagination of alternative avenues for change. As public dialogues about sexual violence are gaining momentum across North America, it is crucial to consider how the growing techno-optimism around the rape kit may be limiting collective imagination and realization of social change for victims of sexual violence and their communities.

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