

# Sexual Assault Investigations: Cold Case Team Manual

## PURPOSE:

This manual establishes the responsibilities, duties, and guidelines of an Adult Sex Crimes Unit Cold Case Team in a criminal investigations bureau.

## SCOPE:

The policies in this manual are created for detectives and supervisors assigned to the Adult Sex Crimes Unit Cold Case Team.

## OVERVIEW:

Detectives and supervisors assigned to a Sex Crimes Unit Cold Case Team are responsible for the research, review, and follow-up investigations involving cold case sexual crimes. These responsibilities include identification, review, and laboratory submission of any evidentiary items associated with the case.

**Definition of a cold case:** [Insert the jurisdiction's definition of a cold case or use the following parameters.]

A cold case sexual assault includes any cases for which all significant investigative leads have been exhausted and/or the offense has remained unsolved for at least 1 year after being reported.

A case or an investigation may qualify as a cold case if the lead detective or case agent has retired, transferred, or otherwise ceased responsibility for the investigation. A supervisor or the case agent may request a cold case detective in these circumstances to assume responsibility of the investigation. Investigative circumstances may arise in which the cold case supervisor assigns or transfers a case from the cold case team.

The following factors can help to determine if a case or an investigation qualifies as a cold case:

- ◆ There has been no activity on the case for at least 1 year or a different, preestablished timeframe.
- ◆ There are no new named leads in the case.
- ◆ There have been no supplements authored within a preestablished timeframe.

Although a case can go cold because of a lack of leads, new information or uninvestigated leads also indicate a need to look at older cases. The following questions can help determine whether a cold case team should review a case:

- ◆ Are there possible identified witnesses and leads that could have been located, re-contacted, examined, or interviewed?
- ◆ Has additional evidence with potential forensic value been discovered?
- ◆ Could additional evidence be available for examination if the initial laboratory testing proved negative?
- ◆ Does the case have viable and pursuable information, but the original case agent does/did not have the time needed to work it?

## DETAILED PROCEDURES:

### 1. Understanding the Responsibilities of the Cold Case Team (CCT)

- a. Identify and investigate all unsolved sexual assaults not assigned to a current member of the Sex Crimes Unit or Homicide Unit.
- b. Evaluate, assess, and document any cold case sexual assault or related offense in which the potential for scientific analysis of untested evidence is available.
- c. Partner with the crime laboratory and property management bureaus to identify, test, and preserve any evidence related to any unsolved sex crime.
- d. Ensure that evidence in adjudicated cases remains available to potentially support the prosecutor for future “prior bad acts” hearings.
- e. Conduct timely, complete, and appropriate follow-up on cold case sex crimes in which a suspect has subsequently been identified.
- f. Coordinate and consult with the Prosecuting Attorney’s Office on the submission and prosecution of a cold case sex crime.
- g. Connect and meet regularly with the victim services provider to ensure victim needs are being met and addressed.
- h. Potentially assist, upon request, other police departments from outside jurisdictions that are investigating cold cases that may be of concern within the [insert jurisdiction] boundaries.

### 2. Creating a Multidisciplinary Response

Research indicates that forming and utilizing a multidisciplinary team to address unsolved sexual assaults using untested sexual assault evidence is a best practice. This team is essential in creating sound policy, designing clear goals, delivering an appropriate response, and ensuring a victim-centered approach. Team members can include, but are not limited to, the following disciplines:

- a. Law enforcement
- b. Victim advocacy
- c. Prosecution
- d. Crime laboratory personnel
- e. Evidence and property custodians

Other members should be added based on victim and community needs.

### 3. Creating the Law Enforcement Cold Case Team

Personnel should consist of the following:

- Sworn supervisor
- Sworn detective(s)
- Nonsworn support staff

**a. Sworn Supervisor Position:**

The supervisor assigned to the team should ideally have roughly 5 years of supervising a violent crime detail with experience on sex crimes cases.

**(1) Supervisor Traits and Characteristics:**

- (a)** Strong interpersonal, investigative, organizational, and administrative skills
- (b)** Thorough understanding of DNA and its analysis, crime scene investigation, and interpretation
- (c)** Good working relationship and understanding with the prosecuting attorney
- (d)** Proven ability to work with outside agencies to coordinate investigative efforts
- (e)** Demonstrated ability to not only identify but also to work to obtain grant and grant funding, if the need should arise

**(2) Supervisor Job Duties:**

- (a)** Oversee, review job performance, and develop a hiring selection process for cold case detectives.
- (b)** Conduct regular audits and reviews of the team's cold case investigations. This includes a review and approval/disapproval of any change in the status of the cases assigned to the cold case detectives.
- (c)** Identify and establish an information management system for the tracking of cases, investigated, Combined DNA Index System (CODIS) hits received, cases submitted for prosecution, and investigations closed by the cold case team.
- (d)** Develop a standard case review, submittal, and closure procedure that all CCT members can use. This will ensure that a consistent and accurate investigation is conducted in all cases assigned to the unit.
- (e)** Review the CCT policy and procedure manual regularly to ensure current and updated coordination of assigned cases.
- (f)** Develop a policy for investigative standards of case follow-up if one does not already exist. If one does exist, review to ensure the content is still relevant and up to date.
- (g)** Consider using or developing a cold case checklist for investigators.
- (h)** Use an information management system to oversee and monitor all CODIS, DNA, and/or suspect identifications. Ensure that timely and appropriate follow-up is being conducted.
- (i)** Ensure that your chain of command is up to date and aware of cases in your unit.
- (j)** Complete monthly audits and reports of cases reviewed, suspect identified, cases submitted for prosecution, and cases closed.
- (k)** Develop a relationship and meet regularly with members of the immediate CCT.
- (l)** Create a working group for these unsolved cases to include the crime laboratory, property room, victim services unit, and prosecutor's office. Meet regularly and as needed to ensure a complete and coordinated response is being followed.
- (m)** Gain an understanding, develop a guideline for, and work with the local and national media; partner with the department media liaison.

## b. Cold Case Detective Position:

Detectives assigned to the team must have at least 2 years (ideally 5 years) of experience investigating violent crimes (e.g., homicides, sexual assaults, child molest/abuse, and aggravated assaults). These investigations should involve cases that required (1) technical and analysis of crime scene experience, (2) interviewing suspects and witnesses, (3) the use of comprehensive computer searches, and (4) the use of DNA.

**Note:** This experience is deemed necessary because the detective is not only responsible for investigating and solving these unsolved crimes, but also must review hundreds of cases and evaluate the solvability based on the evidence and witnesses available after months or years of inactivity.

- (1) **Cold Case Detective Skills.** When selecting cold case detectives, it is recommended that they possess the following skills:
  - (a) Demonstrate excellent communication, investigative analysis, and written documentation skills.
  - (b) Understand the dynamics of sexual assault to include the impact of trauma on victims.
  - (c) Recognize sexual offender behavior.
  - (d) Employ a victim-centered practice.
  - (e) Have a thorough and complete understanding of crime scene analysis, the use of DNA, and crime laboratory procedures.
  - (f) Possess the ability to work closely with internal and external partners. This includes detectives in other units, prosecutors, crime laboratory personnel, and victim services.
  - (g) Have a complete understanding of state law, constitutional statutes, search and seizure issues, and other laws and statutes relevant to sexual crimes.
  - (h) Be familiar with
    - (i) various electronic and other resources available for locating victims, witnesses, and suspects and
    - (ii) departmental procedure for arranging travel and interviewing such individuals. These resources include cold case databases, internet sites, and search engines.
  - (i) Be willing and able to travel out of state to further an investigation.
  - (j) Exclusively investigate the unsolved crimes assigned to him/her.
    - (i) Using the cold case detective for normal response investigations does not allow the investigator to concentrate fully on resolving cold cases. The cold case detective may be utilized in extraordinary circumstances to assist response detectives.

**Note:** It is important that the cold case detective regularly communicate and coordinate with response detectives as well. This key component helps detectives link current cases to cold cases, ensures that cold case detectives' skills remain sharp, and facilitates mentoring of new detectives.
    - (ii) Demonstrate the ability to work effectively and efficiently, with minimal supervision.
  - (k) Network with members of other jurisdictions and develop a solid working relationship with other detectives.
- (2) **Cold Case Detective Job Duties.** Cold case detective job duties should include, but are not limited to, the following:
  - (a) Identify unsolved sexual assault and related sex crime cases within the entire department. Determine the status of each case. (Additional details of case analysis and review are included in this guide under Section 4: Reviewing Cases and Evidence.)

- (b) Review the identified case and document in the CCT database to ensure investigative review is not being duplicated.
- (c) Identify all evidence related to these unsolved sex crimes; identifying evidence may include physically observing the evidence to ensure it is available. Determine if any previous laboratory analysis has been completed.
- (d) Submit untested evidence for scientific analysis to the crime laboratory upon case evaluation and review. Submitting evidence should be conducted in collaboration with crime laboratory personnel. Consider the probative nature of the evidence and any crime laboratory policies that may affect this submittal. When assessing this, keep in mind that evidence from one case may assist in solving another.
- (e) Assess the original case interview and determine if there will be an investigative need to conduct an additional comprehensive interview with the victim.
- (f) Attend trainings to stay up to date on best practices in cold case and sexual assault investigations—including, but not limited to, trauma-informed interviewing and the impact of trauma on victim behavior, and cold case investigation techniques.
- (g) Determine the best practice as well as the appropriate time and location to notify the victim of the cold case and coordinate with victim services. This procedure should be consistent with all notifications but also allow for flexibility within individual cases. (See Section 6: Victim Notification and Contact.)
- (h) Upon identification of a suspect in an unsolved case, the assigned case agent in a timely manner will conduct case follow-up (See Section 5.f: Conducting CODIS Hit Follow-Up [Suspect Identification].) All follow-up, including any DNA hits, shall be documented into the cold case database and a “casebook” will be initiated. (See Section 5.a: Organizing the Investigative Case File.)
- (i) The cold case detective is responsible for presenting the case to the prosecutor when appropriate to do so. As such, he/she is considered the “case agent” and shall work closely with the prosecutor to ensure the case and any investigative and/or case issues are addressed. This may include any additional interviews, evidence to be tested, and/or other critical follow-up needs.

**c. Nonsworn Law Enforcement Support Staff:**

- (1) **Crime Analyst/IT Support:** The crime analyst is an integral part of the CCT. This person would ideally be a certified crime analyst and have a minimum of 2 years in such position. The crime analyst should have a thorough understanding of violent crime, have excellent computer skills, and be trained in crime mapping and analysis. The crime analyst will support the cold case detectives with research on suspects, witnesses, and victims. He/she should also be able to identify crime trends and patterns, and link unsolved cases. The crime analyst will maintain a complete database of cold case investigations, as well as track the case and its information for future retrieval and statistical review.
- (2) **Victim Advocate:** The victim advocate is a critical component of the CCT. He/she must possess working knowledge in the areas of trauma, victimization, and sexual assault. The victim advocate should have a minimum of 2 years’ experience as a case-carrying advocate in interpersonal violence. Preference should be given to those individuals with direct experience in working with sexual assault victims. It is preferable that the victim advocate have a general understanding of police investigations and related law enforcement/prosecution practices. In coordination with cold case detectives, the victim advocate can assist with locating and contacting the victim. Additionally, this individual can identify best practices and implement a guideline for the contact of cold case sexual assault victims. (See Section 6: Victim Notification and Contact.) In coordination with cold case detectives, the victim advocate should provide resources, support, and—if appropriate—case updates to the victim.

## 4. Reviewing Cases and Evidence

### a. Assess investigative resources and decide whether case prioritization is needed

Case prioritization can take place at two general points. Cases can be reviewed prior to any laboratory screening or analysis, or they can be prioritized after forensic testing results are received.

- (1) Develop a case review priority if the identified cases exceed the investigative and prosecutorial resources available. When considering a prioritization process, it may be helpful to identify cases that are nearing the end of their statute, cases with viable evidence, high-profile cases, and those with a potential to be linked to others. These are just some possible considerations.

**Note:** Testing previously unsubmitted sexual assault kits (SAKs) has revealed that many previously unconnected cases can be linked through forensic evidence and case review.

- (2) Review all cases to identify those in which the statute of limitations has expired. If necessary, consult and utilize the local prosecutor to identify statute limitations. In consultation with the prosecutor's office, determine if expired cases can still be prosecuted. Consider testing evidence in these cases because evidence could link to other current or cold cases. The prosecutor may also be able to use such evidence under "prior bad acts" rules. Cold case detectives should begin case review within the prosecution limitation guidelines.
- (3) Assign blocks of years (e.g., 1990–1994, 1995–1999) to predetermined detectives if you have a large volume of cold cases and resources are available; work should be delegated prior to any completion of laboratory evidence analysis. Another option is to assign/group cases together based on type of victim, race of suspect, method of attack, location, and so on.
- (4) As laboratory information is received, each case shall be assigned to a cold case detective. If necessary, develop a priority decision process to assist in follow-up.

### b. Locate all known unsolved sexual assault reports

- (1) Locate unsolved sexual assault records management system (RMS) reports.
- (2) Locate pre-RMS sexual assault reports, if appropriate. Locate any handwritten crime logs for sexual assaults.
- (3) Locate report numbers and copies of any incident reports that are not contained within existing electronic databases.
- (4) Obtain complete sexual assault reports from the Records Bureau (i.e., your custodian of records), including all supplements possibly on microfiche. (Ensure all microfiche reports shall not be destroyed.)
- (5) Attempt to locate all reported sexual assaults through any available police dispatch logs/cards by using the radio codes. Ask for assistance from Computer Services Bureau personnel.

### c. Locate sexual assault evidence

- (1) Designate a liaison with the property room supervisor.
- (2) Check through impounded property searches in the RMS for the status of all evidence/property.
- (3) Determine the status of all property/evidence. Contact law enforcement property personnel concerning current and archived property invoices contained in computerized or handwritten logs that are maintained by the Property Bureau.
- (4) Make photocopies of all handwritten logs.
- (5) Match all evidence (SAKs and other items) and logs with sexual assault reports.
- (6) Conduct a physical inspection of the property room for sexual assault evidence. (See next section on testing.)
- (7) Examine property and evidence items for accuracy and completeness. Examine these items and impound (if necessary), documenting this activity in your report system.

- (8) Determine if any previous laboratory examination may have been completed. Print out the entire evidence report from the RMS. (If microfiche, then contact the Records Bureau.) Create a moratorium on the purging of all sex crime written reports and logs.
- (9) Consider establishing a DO NOT DESTROY policy/order for all sexual assault evidence.

#### **d. Test sexual assault kits/evidence**

- (1) Conduct complete inventory of all SAKs in possession of the property room.
- (2) Include all detailed information available on the outside of the SAK. (Do not open the SAK at this point.) This includes all victim information, any suspect information, date of assault, related police report number, and any indication of prior laboratory analysis.
- (3) Document all information into an electronic database for future reference.
- (4) Have a discussion with your multidisciplinary team and create a logistical strategy to have all SAKs tested. More detailed information on developing a testing plan can be found in the SAKI Virtual Academy (<https://academy.sakitta.org/>) or in other resources on [www.sakitta.org](http://www.sakitta.org).
- (5) Determine each SAK's testing status and statute expiration date; also figure out if any court disposition has already been made in each case.
- (6) Do not submit evidence for analysis until you have discussed the details of the analysis requests with your crime laboratory. You may need to outsource testing to a private forensic laboratory. Develop a logistics pattern for submission, including the number of items to be submitted and the anticipated timeline for analysis/results.

## **5. Investigating Cold Cases**

### **a. Organizing the Investigative Case File**

A hard-back copy of the investigation is helpful to organize the case. Once the case has been completed, consider impounding the casebook or a copy. When determining how to organize and file critical information in your casebook, utilize the Three P System: Paper/Property/Person. Prepare a three-ring binder notebook and include the following information:

- (1) A cold case checklist/review tracking sheet
- (2) The cold case database summary sheet
- (3) The following papers:
  - (a) Original case assessment form
  - (b) A copy of the complete original report and supplements (all linked reports may be combined into the same book for convenience).
  - (c) List of all reports—including scene diagrams, laboratory analysis, latent print examination, and so on
- (4) The following property:
  - (a) List of all property/evidence
  - (b) Computerized evidence forms
  - (c) Photographs, recordings, and any other items located
- (5) Person:
  - (a) List of all victims, witnesses, investigative leads, family members, and associates
  - (b) List of all officers, detectives, and supervisors. This information is essential to the success of a case. If officers cannot be located with the prosecutor, assess the impact this will have on prosecution.

- (6) A completed review summary of the case. Summaries will help prevent the detective, or subsequent detectives, from rereading the entire case file for details when looking for similarities in *modi operandi* of other cases. This summary can also provide the detective with key data for entry into the cold case database.

#### **b. Performing Individual Case Review**

Conduct an initial CCT review/analysis of the case and evidence:

- (1) Locate and read the entire report and all supplements. Include any current crime laboratory supplements or evidence reports.
- (2) Assess the original victim statement for content, strength, and criminal acts. Determine if re-interviewing the victim is warranted at a later time. If the original interview was recorded, review the tape in its entirety.
- (3) Enter case information into your information management or cold case database system.
- (4) Conduct a preliminary search for the victim and her/his location. Determine their location and status. Consider completing a complete history of the victim, relatives, contacts, and timeline of activities leading up to the event (i.e., a victimology). Attempt to locate a photograph of the victim from around the time of the crime.
  - (a) Understand there are considerations for not contacting the victim at this stage of the case review/investigation. Because any laboratory testing results are unknown, decisions to contact the victim should consider the traumatic effect of re-contacting a victim after such a long time.
  - (b) Determine the need for additional follow-up when the victim cannot be located. Consider keeping the case open but inactive.
  - (c) If the victim is deceased, determine whether a later contact with the immediate family is warranted after test results have been received.
  - (d) If victim does not desire prosecution at the time of the original report, then try to identify if there is a particular reason why. When contacting the victim after laboratory results have provided new information, always allow the victim time to reflect on this new information and decide later. Consider providing support services at this time. (See Section 6: Victim Notification and Contact.)
- (5) Determine the status of the suspect if this person is listed on the SAK report or original police report.
  - (a) Complete a criminal history check.
  - (b) Attempt to determine the relationship to the victim.
  - (c) Try to locate this person's current address.
  - (d) Determine if this person has DNA in the local, state, and/or federal DNA database.
- (6) Identify all evidence available. Determine the location, status, and probative value in the case. Ensure that the SAK in the case has been tested in accordance with the testing plan. If appropriate, submit additional evidence as soon as practical. Communicate clearly with the crime laboratory to ensure they are aware of this submission. Consider resubmitting previously tested evidence because technology may have improved since the original submission.
- (7) Locate any photographs/negative, discs, and so on associated with the case. Make a copy or retain the original in your working file. If no originals exist, then consider going to the described scene and (if possible) taking new photographs of the area.
- (8) Identify and retain any witness composites, media releases, video surveillance tapes, Silent Witness Flyers, National Crime Information Center (NCIC) Teletypes, all-points bulletins.



- (9) Locate and review all medical records associated with the victim. Include sexual assault exam and any treatment the victim may have received outside of the exam for associated injuries. Obtain originals or copies for your working file. Consider impounding other copies.
  - (a) Have the victim sign a release form, if necessary, for these records. A subpoena may be required if the victim cannot be located.
  - (b) Identify and liaise with local hospitals to determine their record retention policies.
  - (c) Consider at this point whether the victim should be contacted and made aware of the case's status.
- (10) Identify and review all investigative leads/witnesses. Determine any relationship to the victim and timeline of activities leading up to the event. If evidence indicates a consensual sex partner, then attempt to locate the whereabouts of this person. The recommendation is to not contact this person at this point.
- (11) Conduct a crime analysis of any incidents in the geographical location, during the time of the crime. Look for other criminal acts, suspicious activity, vehicles, kidnappings, rapes, and so on. As an example, if a vehicle was involved, consider the searching database and vehicle records for the described type of vehicle.
- (12) Ensure that documentation is completed on all investigative activity in the cold case database and/or department report management system.

### c. Completing Comprehensive Case Analysis

It is critical for detectives to be able to fully assess and review all relevant information in a cold case. This assessment may be invaluable in all situations (i.e., when a suspect has or has not been identified). Consider the following areas as part of this case analysis:

- (1) Evaluate motive considerations.
  - (a) Was this possibly a random event or an opportunity?
  - (b) Was this premeditated, planned, the victim targeted?
  - (c) Are there possible areas to discuss with psychologist?
  - (d) Was the victim high or low risk?
  - (e) Was the act high or low risk?
  - (f) Does this appear to be serial in nature?
- (2) Consult with original case agent and investigators (critical priority to be completed within 45 days of review).
  - (a) Inquire about any case notes that may be available.
  - (b) Record any interviews with them for future testimony.
  - (c) Obtain any case files they may have in their possession.
- (3) Consult with laboratory personnel and experts.
  - (a) Speak with laboratory personnel (if case appropriate) from the following areas:
    - (i) Serology/DNA
    - (ii) Latent Prints (Automated Fingerprint Identification System [AFIS]/Integrated Automated Fingerprint Identification System [IAFIS])
    - (iii) Firearms (National Integrated Ballistic Information Network [NIBIN])
    - (iv) Comparative Analysis
    - (v) Toxicology
    - (vi) Questioned Documents

- (4) Consult with forensic nurse examiner and medical examiners.
- (5) Consult with crime scene specialists.
  - (a) Blood spatter
  - (b) Scene reconstruction
  - (c) Scene analysis
  - (d) Additional evidence possibilities
- (6) Consult with psychological experts.
  - (a) Approaches to interviewing witnesses/investigative leads/suspects
  - (b) Scene information
  - (c) Profiling
- (7) Consult with polygraph specialists for suspect interview.
- (8) Consult with other investigators to gain perspective/insight (team approach).
- (9) Consult with crime research specialists.
  - (a) Timelines
  - (b) Crime/geo mapping
  - (c) Associated criminal activity
  - (d) Registered sex offenders

#### d. Formulating an Investigative Plan

- (1) **Traditional Methods.** Cold case detectives need to be familiar with, and regularly use, the following traditional follow-up methods:

- (a) Interview/re-interview officers, witnesses, and family members.

Utilize the CCT analyst and advocate if initial whereabouts are not found.

**Caution:** A strategy/approach needs to be established as to when, how, where, and who will contact the victim and family. Contacting the victim during the initial stages of the cold case investigation may not be the best strategy. (See Section 6: Victim Notification and Contact for additional information.)

- (i) Be aware that the victim's story may or may not match their original statement exactly. Caution should be taken if impeaching the victim's statement appears imminent.
- (ii) Evaluate the victim's original statement. If it is consistent and strong, a second interview may not be necessary. If it lacks details for criminal charges, a second interview should be seriously considered. Consult with your prosecutor to determine the best response to this situation.
- (iii) Understand the potential negative effects of contacting the victim. When contact is made, be prepared for how the contact may retraumatize the victim. Allow the victim time to process information. Have a victim advocate available to provide assistance and follow your notification protocol. Consider that in many situations, victims may not yet have told family members about the assault. Provide the victim with support and resources.
- (iv) Conduct the victim interview in a comfortable location, if possible, based on the victim's choice.
- (v) Use trauma-informed and cognitive-style interviewing, which allows the victim to work at their own pace by relating the experience and describing what may have occurred years ago. The decision to pursue the case further is up to the victim and does not have to be made at this juncture.

- (vi) If helpful, inform the victim of the case details, as needed.
- (vii) Give strong consideration to recording (audio or video) the interview.
- (viii) Consult with your prosecutor to determine whether a photographic lineup presented to the victim is needed or necessary. Waiting to conduct this may also be a good strategy.
- (ix) Obtain a release for any medical records that are needed for your file.

- (2) **Investigate suspect's life.** If a suspect or lead in the case has been previously identified, then detectives may use the following investigative considerations. (See also Section 5.f: Conducting CODIS Hit Follow-Up [Suspect Identification].)
- (a) Complete background
  - (b) Former friends
  - (c) Acquaintances
  - (d) Co-defendants
  - (e) Neighbors
  - (f) Cellmates
  - (g) Employers
  - (h) Ex-partners/spouses
  - (i) Complete criminal history (i.e., not just local)
  - (j) Psychological assessment (if in system of record or court file)
  - (k) Examine all evidence for serology/DNA potential for inclusion or exclusion.
- (3) Examine all latent fingerprints associated with the original investigation. Assess for entering into (and searching in) local and national databases, AFIS/IAFIS, and continuous searches.
- (4) Determine if a gun was involved; if yes, examine all projectiles and casings for NIBIN searches.
- (5) Review information that may have been recovered at the scene as part of scene assessment.
- (a) Review any scene blood spatter.
  - (b) Determine if any scene analysis/profile had been completed and review the results.
  - (c) Evaluate whether additional evidence analysis is warranted.

**e. Nontraditional Methods of Investigation:**

The following methods should be considered when resources permit. Detectives should understand the use of these methods and how they may enhance their cold case investigation. In general, these methods are most appropriate after a lead or suspect has been identified in the case.

- (1) Mail cover
- (2) Trash pull
- (3) Telephone records
- (4) Jail/prison calls
- (5) Jail/prison visitor records
- (6) Personal/work computer searches
- (7) Surveillance
- (8) Confrontation calls/wires
- (9) Informants
- (10) Psychological profiling
- (11) Undercover and surveillance operations

## f. Conducting CODIS Hit Follow-Up (Suspect Identification)

- (1) **General Direction.** When a CODIS hit is received from the crime laboratory, the cold case detective has the responsibility to attempt to resolve the identified case within a reasonable time limit. Based on the numerous DNA hits that may occur at one time, the cold case detective can institute a prioritization response to these hits.
  - (a) The DNA/latent hit is of intelligence value and may or may not support probable cause for an arrest. In most cases, the DNA hit alone may not support probable cause for an arrest; however, the hit is probable cause for a search warrant when requesting a confirmation sample be obtained for the case. A confirmation DNA sample is necessary (per FBI CODIS policy) to ensure the integrity of the database hit. A cold case detective will obtain this confirmation sample. Consulting with your prosecutor may be necessary at this point.
  - (b) Cold case detectives may also voluntarily obtain a DNA sample when a warrant cannot be secured. (Refer to the Department or Bureau Policy Manual.)
  - (c) Cold case detectives may also utilize covert means to obtain a reference DNA sample from the suspect. This includes collecting any discarded/abandoned items that may contain DNA. Consult with your crime laboratory as to whether a discarded profile is satisfactory.
  - (d) Cold case detectives will need to coordinate with the appropriate agency if the suspect is incarcerated out of state; this work is necessary to determine the type of warrant needed for service. Generally, a search warrant affidavit from your jurisdiction can be provided to the receiving agency that will complete and have signed a warrant valid in their state.
- (2) The assigned case agent will immediately conduct a complete and thorough suspect analysis to determine the threat that the suspect poses to public safety.
- (3) A complete background check on the suspect will be conducted to determine the suspect's ability, motive, and involvement with the crime and the victim.

**Note:** Do not rely solely on DNA evidence to prove your case. Being able to physically place the suspect in the area at the time of the crime is a priority. (See Section 5.d.[2]: Formulating an Investigative Plan.)

- (a) Identify the offender's status once an offender hit is received; also identify the suspect's current location, if found. Priority should be given to suspects who are not in custody because their potential for committing additional crimes is very high.
  - (b) Determine where in-custody suspects are currently being held and the amount of time until they will be released. These suspects will also be prioritized based on how much longer they will be incarcerated. Consultation with the prosecutor is needed when considering whether to arrest these in-custody suspects. Balancing the charging of a new case and the suspect's current sentence may be a deciding factor. Avoid contacting the correctional institution at this point as information may reach the inmate and compromise your investigation.
  - (c) Determine prior crimes the suspect may have committed. If possible, obtain and review copies of these police reports and court documents.
- (4) Complete a supplemental report to the original investigation. Document the DNA hit, to whom it hit, where this person currently is (if known), and any initial efforts completed in follow-up.
  - (5) Ensure the case agent identifies the source/location of the crime scene evidence that matches the offender. An assessment of the match's probative nature should be determined. Do additional evidence items need to be examined at this time? Are the known facts of the case supporting the type and location of the evidence? Will this evidence help support a charge of sexual assault? Example: DNA on a breast swab may not be probative enough to file sexual assault charges.

**Note:** Always be cognizant that consent is the most likely defense the offender will use. Continued investigative follow-up, testing of additional items, additional interviewing, and offender backgrounds are all critical in overcoming the consent defense.

- (6) All suspect and related DNA hit information shall be entered into the CCT database. The CCT supervisor shall be notified of this hit.
- (7) Consider whether the suspect may have had a relationship with the victim that was not revealed during the initial investigation of the assault. This situation may occur if the original suspect description does not match the suspect of the DNA hit. Clarify with the victim, if necessary; the victim may also need to identify consensual partners.
- (8) After the hit, the cold case detectives should locate and contact the victim to determine availability for court and to re-interview, if necessary. (See Traditional Methods part of Section 5.d: Formulating an Investigative Plan and Section 6: Victim Notification and Contact.)
- (9) Obtain a confirmation DNA sample from the suspect. (See Section 5.g: Performing Investigative Follow-Up: Suspect Contact for more information about alternative ways to obtain confirmation samples, if needed.)
- (10) Utilize an analyst for locating the suspect if the suspect's current location is unknown; also, the cold case detective should consult with the prosecutor about obtaining an arrest warrant. Preference should be given to obtaining a direct warrant versus a grand jury warrant. Cold case detectives shall be familiar with both types of arrest warrants.

#### **g. Performing Investigative Follow-Up: Suspect Contact**

- (1) Formulate plan for obtaining interviewing the suspect. All suspects should be interviewed or attempted to be interviewed. The CCT should determine prior to the interview what strategy would be utilized, and legally, if an interview can be completed (e.g., 6th Amendment issue).
- (2) Use the element of surprise to your advantage. Interviewing an investigative lead or the identified suspect should be one of the last tasks completed. Do not inadvertently tip off the suspect that you are going to interview them.
- (3) Determine if obtaining a confirmation DNA sample from the suspect is necessary. This sample confirms the original DNA profile that the laboratory may have developed. Obtaining a confirmation sample and interviewing the suspect may be done at the same time.
- (4) Remember that the confirmation sample must be obtained legally. This includes obtaining a search warrant or court order, a sample that was given voluntarily, or abandoned or discarded DNA. Consult with your prosecutor if any questions arise.

**Note:** If the suspect is incarcerated out of state, coordinate with the appropriate agency to determine the type of warrant needed for service. Generally, a search warrant affidavit from your jurisdiction can be provided to the receiving agency that will complete and sign a warrant valid in their state.

- (5) Record (either audio or video) all interviews.
- (6) Be prepared to interview the suspect. Have photographs, legal props, casebooks, or other interview tools available. Consider having victim photographs and crime scene location pictures to present.
- (7) Determine if DNA is the only identifier; if yes, consider getting a denial from the suspect and not presenting the DNA evidence. If discussing the DNA evidence, then hold this information until the end of the interview.
- (8) Consider various themes when interviewing the suspect. Detectives should be experienced and familiar with themes for interviewing rapists. It is important that detectives have training in the various interview and interrogation styles.
- (9) Be aware of, and avoid forcing the suspect into, a consent defense. A denial by the suspect may be a sufficient interview.
- (10) Ask questions to gather more details about the incident (e.g., victim's name, personal information about the victim that the suspect should know) if the suspect gives a consent defense.

- (11) Prepare a search warrant for obtaining the suspect buccal swab for confirmation. This may be completed during the suspect's interview.
- (12) Consult the prosecutor prior to suspect contact/arrest. In some situations, the prosecutor may have the ability to assist with the completion of warrants or court orders. Detectives should also staff the case (especially sex crimes) with the prosecutor for a prefiling decision. The prosecutor will not accept all cases. Meeting prior to an arrest may save the detective wasted follow-up or direct any additional follow-up requests for prosecution.
- (13) Remember that not all CCT investigations are resolved through DNA. If the DNA results do not identify a suspect, detectives should continue to review additional evidence and/or case investigative techniques.

#### **h. Coordinating Investigative Follow-Up: CODIS Case to Case Hit (No Identified Suspect)**

- (1) Understand that a crime laboratory may notify detectives that the evidence from their case matches evidence from another case. When this occurs, detectives should conduct appropriate follow-up as described previously in this policy.
- (2) Determine where the matching case occurred and obtain a complete copy of the file.
- (3) Review the entire case file as you would with an original case review. Identify any possible new suspects from this second case.
- (4) Consult with the agency or detective that is currently assigned to the case. Consideration should be made as to re-assigning the case to one detective.
- (5) Review all evidence in the second case to determine if there may be other items that can be used to identify the suspect.
- (6) Conduct an additional crime analysis search regarding both cases. Look for linkage other than the DNA match. This may include suspect description, vehicles, verbiage, geographical location, and time of the assault.
- (7) Enter all new case information into the cold case database or information management system.
- (8) Create and retain a second casebook with all the same material as your original case.
- (9) Consult with the prosecutor and consider using a "John Doe" arrest warrant for the DNA profile if a statute may run out.

**Note:** You may be able to work with a legislative liaison to determine if changing the statute of limitations is feasible.

#### **i. Reviewing CODIS Entry (No Match)**

- (1) Remember that many evidence samples yield a DNA profile but do not match to any person or case when entered into the CODIS database.  
**Note:** If this occurs, immediately review the case file for additional information or evidence that may assist in identifying the suspect through different means (e.g., latent prints, firearm ballistics).
- (2) Determine if a statute of limitations may apply. If there is a risk of a statute expiring, consult with the prosecutor about obtaining a John Doe arrest warrant for the profile.
- (3) Document in the investigative file the fact that a CODIS forensic profile has no immediate match.

## **6. Victim Notification and Contact**

In addition to this brief discussion of victim contact, a separate policy and best practice should be created with input from your multidisciplinary team to determine the most appropriate victim contact procedure. For more resources on developing a victim notification plan, visit the SAKI Toolkit ([www.sakitta.org/toolkit](http://www.sakitta.org/toolkit)) or the SAKI Virtual Academy (<https://academy.sakitta.org/>), which offers the online course, *Developing a Victim Notification Protocol*. The following section includes high-level considerations for victim notification and contact.

### **a. When and How to Notify Victims**

- (1) Consider the circumstances of the original case and the subsequent new case information. Is this a case involving a serial rapist or a murder suspect?
- (2) Understand that in cold cases, notification and communication with the victim and their family members shall be coordinated with the case detective and victim advocate, community or systems-based.
- (3) Be flexible. The timing, location, and method of the notification will vary from case to case and may depend on the resources and staffing available. Methods may include in-person, by phone, or by letter. Although a letter might be the only way to notify a victim, the potential risks to victim safety, privacy, and confidentiality make this form of notification the least desirable. Having a standard victim notification protocol will allow team members to coordinate the best time, and method by which, to notify the victim.
- (4) Any attempts to contact the victim shall be documented in the case file.
- (5) Agency Assist: at times, partnering with an agency in another jurisdiction is necessary to help find and notify a victim.
  - (a) Identify the best local detective to notify the victim. It's important to ensure the person making notification has experience in sexual assault casework and victim sensitivity. If it is determined that there is not an appropriate local contact that can carry out the notification in-person or by phone, then contact the victim by telephone yourself.
- (6) Be aware that if possible, when and how to initiate first contact should be a mutually agreed upon team decision among the detective, victim advocate, and the prosecutor.
- (7) Allow the victim time to absorb the information. During first contact, do not try to push the victim into an interview or a decision to pursue the case.
- (8) Consult with the prosecutor prior to notification about what information can be shared with the victim.

### **b. Additional Interviews and Support Services**

- (1) Familiarize yourself with the case file and identify what information you need from the victim for the investigation; do all of this prior to the interview.
- (2) Additional contact, support, services, and or assistance will be coordinated through the victim advocate. It will be the victim advocate's role to keep the cold case detective and victim informed of any information that may be critical to the prosecution of the case.
- (3) The detective, advocate and prosecutor should provide as much support and information as possible to help the victim feel safe going forward with the case. Remember, it is ultimately the victim's decision as to whether they want or can proceed to court with their case.

### **c. Contacting Relatives of Deceased Victims (Recently Solved Cold Case Sexual Assaults)**

It is not uncommon for the CCT to learn after a cold case sexual assault has been solved that the victim passed away prior to case closure. The victim's relatives may have knowledge of the cold case and closure for them could be an important piece of information. After a thorough history and background check, careful consideration should be given prior to contacting the family.

Consider the following questions:

- (1) Is there any indication that a family member previously knew of the original assault?
- (2) Was a family member the (or a) suspect in the assault?
- (3) Are there any family members easily available for an in-person contact?
- (4) Can the case information be legally discussed or released?



## 7. Case Closure and Prosecution

### a. Investigative Preparation for Court

- (1) Remember that the detective assigned to the case is considered the case agent through any court proceedings. The case agent is responsible for the presentation of the case to the prosecutor, grand jury, and full trial.
- (2) Keep in mind that the case agent is responsible for any additional follow-up that may arise in the case. It is helpful to consider an agreement or a memorandum of understanding with the prosecuting agency on standards for submitting and filing cold cases.
- (3) Follow best practices. The casebook and all documentation should be turned over to the prosecutor. A meeting with the prosecutor prior to filing the case is critical and highly recommended. It is preferable if identified and assigned prosecutors are available for all cold case sexual assaults.
- (4) Resolve any disagreements between the detective and prosecutor by meeting with all team members to help mediate the situation.
- (5) Determine if a grand jury system is in place; if one is, then the case agent should be familiar with the some of the questions they may be asked. As an example, understanding the following basic information will be helpful in grand jury testimony:
  - (a) Case facts supporting all charges
  - (b) Date/location of the crime
  - (c) Date of the DNA hit
  - (d) Date the evidence was submitted to the laboratory
  - (e) Desire of the victim to prosecute and most recent contact with the suspect
- (6) Know what evidence was matched to the suspect.
- (7) Advise whether the DNA match has been confirmed.
- (8) Avoid stating to the grand jury anything that indicates that the suspect is in a convicted offender database.
- (9) Be prepared to explain timeline issues about when evidence was collected, requested, and analyzed.
- (10) Know when the suspect was contacted.

### b. Investigative Conclusions and Case Closure

- (1) Ensure uniformity. All cases assigned to the CCT should be closed in a consistent, appropriate manner using standard investigative criteria.
- (2) Review existing documentation. A written guideline or policy should be in place for establishing a standard procedure for closing cases.
- (3) Involve supervisors. The unit supervisor shall review and approve all cases submitted to the prosecutor and all case closures.
- (4) Follow existing guidelines and best practices. When considering the category of case closures, detectives shall follow FBI/Uniform Crime Reports case guidelines. Closures may also indicate an administrative closure to a case when there is no definitive way to close the investigation.
- (5) Document all relevant details. The closure and final case status shall be supplemented with facts as to why the case has been closed. This information will be entered into the cold case database.
- (6) Reopen cases if additional information or evidence becomes available.



- (7) Review case summary reports. On a monthly/quarterly basis, the unit supervisor shall report a recap to their chain of command. This report may include current case statuses, new cases investigated, CODIS hits, closed cases, or any information deemed relevant to the team's mission.

## 8. Media Relations/Assistance

Using media as a tool to solve cold case sexual assaults may be helpful. Identifying and locating suspects, and gaining witness or key information by media exposure should be considered.

**a. Caution should be exercised when releasing information. The impact on the victim and their family should be a top priority. If releasing information is considered harmful to the victim, then this should not be done.**

- (1) Advise the victim and family if a media release is imminent.
- (2) Do not ever release information that compromises the investigation.

**b. A media release may help in uncovering additional cases if your cold case team feels they have not identified all unsolved sexual assaults. Having trained advocates available is imperative if this strategy is used.**

- (1) Develop a written standardized media strategy for cold cases.
- (2) Coordinate all media interactions with the agency public information officer. Ensure that all department staff and cold case team members are aware of any releases.
- (3) Be prepared for media follow-up to address concerns about the case.