

Cold Sexual Assault Investigations: Key Considerations & Recommendations

This document highlights key considerations and recommendations for cold case sexual assault investigations, including cases reopened based on the availability of DNA evidence from previously untested sexual assault kits (SAKs). Effective investigative practices in sexual assault are one of the principal objectives of the Bureau of Justice Assistance's (BJA's) Sexual Assault Kit Initiative (SAKI). There are three typical ways that a cold sexual assault case investigation can move forward:

- 1. Classic Case.** The investigation is reopened due to family or media pressure or simply because of the amount of time that has passed. This is the least common scenario in cases of sexual assault.
- 2. DNA Availability.** The investigation is reopened due to new availability of resources for forensic testing. This is the most common way that cases will move forward under SAKI.
- 3. New Case Information.** The investigation is reopened, because a suspect confesses or a witness agrees to testify as part of a plea deal after they are arrested for committing a crime. Investigation of SAKI cases with new DNA evidence may lead to developments in other cold cases. Even cold cases without DNA evidence may be able to move forward based on other types of information

Preparing for Cold Case Investigations

As a jurisdiction begins to test previously unsubmitted SAKs, law enforcement agencies will face an increased workload as Combined DNA Index System (CODIS) hits come back. DNA samples will lead to both case-to-case hits and suspect identification. Planning around CODIS hit follow-up is key. Law enforcement agencies will need to develop a plan to allocate available resources for these cases:

- ◆ Ensure that adequate personnel and support services are established.
- ◆ Consider having communication protocols (e.g., email alerts) in place for the assignment, follow-up, and oversight of CODIS hits.

This will help ensure resources are in place for subsequent investigations and prosecutions.

Case Prioritization

When working through a large volume of cases, you may need to develop a prioritization tool for investigation. Suggested prioritization factors include the following:

- ◆ Statute of limitations deadline
- ◆ Witness and victim availability
- ◆ New or substantial evidence available or testable

These prioritization factors have been used in other jurisdictions, although not enough research exists to determine their effectiveness. Cases also may need to be prioritized after CODIS hit, including cases that require immediate action because of community safety or offender status. Therefore, it may be helpful to identify those cases that are urgent because of an imminent public safety threat, that may need additional investigative work, and that can be put on hold (e.g., offender is already incarcerated).

For more information on case prioritization, view the Introduction to Investigation of Cold Sexual Assault Cases webinar and other resources available on www.sakitta.org.

Establish Personnel Standards

- ◆ Has core knowledge, skills, and abilities
- ◆ Has experience in sexual assault/major cases/cold cases
- ◆ Is self-motivated and a team player
- ◆ Has an understanding of DNA forensics
- ◆ Understands the dynamics of rape

Assigning Cases

Establishing accountability for these CODIS cases is critical. U.S. law enforcement agencies have varying structures and resources for sexual assault investigations. Some agencies may already have or are creating a dedicated cold case sexual assault team or may work cold case assignments in with investigators' current caseloads. Whatever the method, law enforcement must assure that investigative follow-up is completed.

Consider, whenever possible, establishing and working within a multidisciplinary team that includes officers, crime laboratory staff, victim advocates, and prosecutors. A cold case team needs to include officers dedicated solely to the investigation of cold cases. Investigators working on active cases struggle to balance or prioritize cold cases. Buy-in from leadership is essential to developing and maintaining a cold case team.

Smaller and rural jurisdictions may be more likely to face challenges in investigating cold sexual assault cases thoroughly. In some instances, creating partnerships or working in a mutual aid agreements with a larger, more experienced agency can help. This approach provides the opportunity to resolve the case and give smaller, and perhaps less experienced, investigators valuable training experience.

Locating, Collecting, and Reviewing Case Materials

Locate the following information on pre- and post-CODIS hit case activity:

- ◆ ALL reports, statements, recordings, and 911 call documentation
- ◆ ALL evidence, photographs, negatives, and diagrams
- ◆ Medical records and/or sexual assault nurse examiner reports
- ◆ Bulletins, composites, and media

Location and retention of this information varies by jurisdiction and source. If possible, conduct research to locate these materials before any CODIS hits are received, to lessen the burden of locating them while conducting CODIS hit follow-up.

Organizing your Case File

Create a standardized format for storing and organizing all the information. This could include hard binders, electronic copies of information, or a combination of both. Develop a method for filing this information to be easily accessible, such as within your case book. Identify and divide all written reports, and create separate sections listing all evidence, any leads, etc.

Investigation and Case Management Strategies

CODIS Hit Follow-up

The table below outlines the four possible CODIS outcomes from testing and the first steps that can be taken in each scenario:

Offender Match	Case to Case Match	No Match	No DNA
<ul style="list-style-type: none"> ◆ Assess probative value. ◆ Create offender work-up (threat assessment, timeline/opportunity, criminal history, family, associates, and employment). ◆ Conduct file review. ◆ Locate/initiate victim notification, if victim has not already been notified of testing according to established protocols. ◆ Meet with prosecutor. 	<ul style="list-style-type: none"> ◆ Communicate with case match agency/agent. ◆ Share and review file(s). ◆ Identify new leads. ◆ Analyze patterns/ modus operandi (MO). ◆ Coordinate assignments. ◆ Consider statute of limitations and John Doe warrants. 	<ul style="list-style-type: none"> ◆ Determine profile type and additional testing options (e.g., Y or familial). ◆ Consider other available evidence. ◆ Conduct crime analysis or identify linkages to other cases through patterns/MO. ◆ Consider statute of limitations and John Doe warrants. ◆ Document in file. 	<ul style="list-style-type: none"> ◆ Communicate with the laboratory to see whether all SAK items have been tested ◆ Determine whether additional testing is possible (for complex mixtures, consumption decisions). ◆ Conduct 2nd level of evidence/ scene review. ◆ Conduct 2nd case file review. ◆ Conduct crime analysis or identify linkages to other cases through patterns/MO.

Best Practices

To manage the increased workload, investigation assistance and case organization is key. Some strategies that can be implemented include the following:

- ◆ **Involve victim advocates.** Incorporating victim advocates' assistance in communicating with cold case victims can be beneficial to not only help locate and update the victim on their case, but also provide reassurance and address victim concerns, especially if the case is going to court. **Note:** System-based advocates who work within criminal justice agencies can be a valuable resource to guide victims through the investigation process. However, community-based advocates offer confidential communication and connection to key community resources for survivors.
- ◆ **Develop and distribute policies and procedures for cold case investigations.** If possible, these policies and procedures should be in place before unsubmitted SAKs are analyzed. Policies should
 - cover investigative responsibilities in cold cases, case management guidelines to include timelines for task completion, and a tool for supervisory oversight, and
 - be put in writing, so they become common practice in the unit and can be passed along if new investigators come on board.
- ◆ **Implement Case Monitoring Systems.** Consider developing or acquiring a system to track individual cold case investigation activities and monitor results. Ideally, create a system that is robust and will pull together information from multiple sources, such as laboratory DNA screening and test results, clearance and arrest outcomes, and court filings and convictions.
 - Supervisors should develop a case monitoring system for the overall status management of all cold case investigations.
 - Ideally, a system would be available for investigators to archive, retrieve, link, and analyze information related to their case
- ◆ **Include Crime Analysts.** If possible, include a crime analyst on your team to help identify related criminal activity of offenders, collect related case information, create crime timelines, locate possible suspects or persons of interest, locate victims, and link other crimes possibly associated with the case. If you are anticipating a high volume of CODIS hits and cases, a crime analyst can provide crucial support for investigators. They can also assist with the development of electronic information systems, updating case information, data entry, and coordination with other agencies.
- ◆ **Coordinate with Prosecution.** Establish this relationship early in the process. Determine standards for case submission, a process for reviewing cases, and coordinate any additional follow-up activity with the prosecutor's office.

Suggested and Available Training for Investigators

Investigators who are responsible for working sexual assault cold cases need to possess essential skills and abilities that include having a firm understanding of the dynamics of sexual assault cases, survivors, and offenders. Consider providing the following types of training for investigators working on cold cases:

Neurobiology of trauma	Trauma-informed Interviewing	Understanding Combined DNA Index System (CODIS), DNA analysis/forensic science	Sexual Assault Response Team (SART) Training	Suspect Interview Strategies
Cold case review strategy	Crime scene review and analysis	Report writing and documentation	Crime analysis and research	Major case supervision for sergeants and lieutenants

Training on cold cases investigations is available under the SAKI Training and Technical Assistance Program. For training or assistance developing or updating cold case procedures, contact the SAKI Training and Technical Assistance team via email sakitta@rti.org or call 1-800-957-6436.

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