

# Cold Case CODIS Hit Review and Investigation: Additional Strategies for Sexual Assault Investigators

## Overview

This is the second installment of the SAKI TTA Team's CODIS brief follow-up investigative series. In this installment, the SAKI TTA Team will provide information on next steps to take in an investigation after the CODIS hit notification and prioritization process. (For guidance on prioritization of hits, see *Prioritizing Cold Case CODIS Hit Follow-up*: [https://sakitta.org/resources/docs/SAKI\\_CODIS\\_FollowUpProtocol\\_Brief\\_final.pdf](https://sakitta.org/resources/docs/SAKI_CODIS_FollowUpProtocol_Brief_final.pdf)).

The following brief highlights further steps—including comprehensive case file review, comprehensive background investigation, physical evidence check, victim involvement, and moving toward prosecution—to ensure a successful case closure. Investigators should not rely on these factors alone when making decisions. New information may be revealed and circumstances involving the suspect(s) may change during an investigation, thus requiring an updated evaluation/assessment to, and follow-up strategy for, the case.

## Comprehensive File Review

After the initial review of CODIS hits, investigators should determine which cases to address first. Once a prioritization scheme is developed, it is pertinent that investigators employ a comprehensive review of the original case. The case file holds extremely important information about the relationship between the suspect and victim, witnesses, evidence taken at the time of the incident, and investigative leads. The case file should also lead the cold case investigator to the original investigator (if available). The original investigator may be able to provide invaluable information not captured in the case file.

- ◆ Review all documents.
- ◆ Did the CODIS hit match to another case or to an offender?
  - If the CODIS hit was a “case to case hit,” locate the other case file and incorporate it into your case file.
  - If the match belongs to another police jurisdiction, contact the other jurisdiction and initiate coordination of investigative follow-up.
    - ◆ Make sure clear responsibilities are defined.
    - ◆ Obtain a complete copy of this report, if possible.

- Identify clear assignment and tasks to be completed by each agency.
- Discuss case with original investigator (if available).
  - ◆ Remember that updated DNA testing is more accurate and sensitive compared to antiquated forms of DNA testing. CODIS hits are based on this new technology, not investigators' skills.
- ◆ Determine what piece of evidence from the crime scene or SAK matched to the offender. Is this an intimate sample or another evidence sample that may not be from the SAK?
  - Is there additional testing of evidence that we will need?
  - Is there any electronic evidence that can be secured and reviewed?
- ◆ Is other evidence available to you?
  - Avoid using a CODIS hit as the only evidence.
  - Determine if any evidence is probative.
- ◆ Determine if this is a “stranger” assault. If yes, do the originally reported facts support the CODIS hit offender? (i.e., Is the physical description similar in both?)
- ◆ Determine if the offender was known to the victim. If yes, are there strategies to address this?
- ◆ Consider whether this CODIS hit may belong to a victim's consensual partner.
- ◆ Is there a need to try to locate a consensual partner, if indicated in the original report?
- ◆ Complete a written supplemental report and place it in the cold case file.

## Comprehensive Background of Offender

- ◆ If incarcerated
  - Where are they incarcerated?
  - What are they in custody for (e.g., violent crime)? Prior rapes indicate this person is a serial rapist.
  - How long will they be in custody? If they are due to be released, do we have probable cause at this point to charge them? Our investigative timeline may be expedited by this information.

- ◆ If not incarcerated
  - Is a search and seizure warrant needed?
  - Develop an arrest plan
    - ◆ When authoring an arrest warrant application, use “VICTIM” instead of the victim’s name. Use the victim’s age at the time of the incident. (Charges are public documents and we want to avoid re-traumatizing the victim.)
  - Are they currently alive?
    - ◆ If no, consider contacting the victim to inform them of the suspect’s death (and consider enlisting the help of a victim advocate in this contact).
  - Consider developing travel plans to the offender’s location; interviewing same; and obtaining a confirmation sample, if necessary.
- ◆ Determine if suspect is still in a relationship with the victim, if applicable.
- ◆ Identify strategies for when the offender interview will be conducted based on the offender history and details of this offense.
- ◆ Conduct offender interview(s) at the later stages of the investigations. It is critical to have knowledge of all available information about the crime, victim, and offender prior to contacting the offender.
- ◆ Was the offender previously interviewed regarding this investigation?
  - If yes, what were the statements they made?
  - Consider re-interviewing the suspect.
- ◆ Review other criminal police reports involving this offender. If the offender made contact with police, what was it like?
- ◆ Adhere to all constitution protections involving custody/ non-custody and interviewing of offenders.
- ◆ If the offender is out of state, determine their jurisdiction.
  - Can you obtain assistance from police in this location? Be careful if you make contact with this jurisdiction, as you may not want them to communicate with the offender at this point.
  - Initiate travel plans to the other jurisdiction.
- If no, consider re-contacting the victim given the new DNA evidence to ensure they still do not want to pursue a case.
- If no (and the victim is one of many involved in a serial-perpetrator case), discuss how to proceed.
- ◆ Are there enough facts and information in the victim’s original statement to develop, at a minimum, probable cause?
- ◆ How much additional information is needed from the victim to advance the case and support criminal charges against the offender?
- ◆ Visit the scene of the crime
  - Was there something that was missed the first time around/during the initial evaluation of the crime scene?
  - What has changed since the incident occurred?
- ◆ Review your strategy for victim contact and notification.
- ◆ Develop a comprehensive victim interview plan. Consult with the prosecutor for the interview type and depth necessary for this interview.
  - What additional information is needed?
  - What additional information would be helpful?
  - Consider what information you can share with the victim.
  - Employ a trauma-informed interview process.
    - ◆ Consider asking the victim to write down what happened, as opposed to a verbal interview.

## Moving Forward to Prosecution

- ◆ Locate witnesses; interview them, if necessary.
- ◆ Discuss involvement of the media.
- ◆ Identify any other items of evidence and status.
  - Are they still in police possession?
  - What is their current condition?
  - Consider possible additional lab testing. Will this additional testing further charges or answer remaining questions about the case?
- ◆ Obtain all of the victim’s medical records.
- ◆ Confer with the prosecutor as to what they would like to have prior to filing charges.
- ◆ Have a second investigator review the case.

## Intensify the Search

- ◆ In the original report, did the victim express a desire to pursue this case?

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