

Prioritizing Cold Case CODIS Hit Follow-up: Strategies for Sexual Assault Investigators

Overview

The SAKI TTA Team developed this guidance document to provide information on the appropriate actions to take when sexual assault investigators receive a CODIS hit notification—when a suspect has been identified in a cold case, either through a DNA match or other investigative means. However, 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 and follow-up strategy in the case.

CODIS Hit Notification Organization System

The CODIS Hit Notification system guidelines were developed in the early 2000s with NIJ grant funding based on experience and peer evaluation from law enforcement subject matter experts from sexual assault units. The following organizational levels outline a prioritization process for proper staffing and CODIS hit follow-up, with the understanding that all CODIS hits should be reviewed in a timely manner. Jurisdictions should evaluate these guidelines to determine how this system will align with their current standard operating procedures.

1. Notification of CODIS Hit Information Initial Follow-up After CODIS Hit Notification and Timeline of Events

A CODIS hit will be assigned to an investigator and their supervisor within 5 days of the initial CODIS hit notification. They will receive all information and paperwork generated by a crime laboratory related to the CODIS hit.

Upon assignment, the investigator should complete the following steps:

- ◆ Review details of the hit.
- ◆ Complete initial research on the named suspect.
- ◆ Assess priority of completing follow-up based on organizational level (see text boxes).
- ◆ Determine, if appropriate, the probative relationship the CODIS hit may have to the case.

¹ Involves a basic criminal/intelligence database search of the suspect's name and returns relevant information that shows a current home or work address, or shows that the suspect is in Department of Corrections (DOC) custody.

Organization Level 1

- a. Suspect is in custody (in or out of state) or is not in custody and has at least one arrest/conviction for a prior sex offense.
- b. Suspect's release date is within 12 months.
- c. Suspect has at least one arrest/conviction for a prior sex offense.
- d. Suspect can be located with minimal effort.¹
- e. There is a high degree of confidence the CODIS hit belongs to the suspect and not the victim's consensual partner or another person.
- f. Victim has been located and is willing to participate in investigation and prosecution processes.
- g. The case appears to have a high likelihood of judicial success.

Organization Level 2

- a. Suspect is in custody (in or out of state).
- b. Suspect's release date is more than 1 year away.
- c. Suspect has prior and post DNA matches for another crime.
- d. Suspect is not in custody but could be located with minimal effort.¹
- e. An elimination sample from the victim's consensual partner has not been collected; however, the consensual partner can be located.
- f. Victim can be located with minimal effort¹ and, based on the investigative filing, is believed to want to prosecute.
- g. The case appears to have a reasonable likelihood of judicial success.

Organization Level 3

- a. Suspect is not in custody and has no prior sex offenses or has been in custody for more than 10 years.
- b. An elimination sample from the victim's consensual partner has not been collected and the consensual partner cannot be located.
- c. Suspect is not in custody and has no prior violent offenses.
- d. Victim cannot be located.

| Days After Being Assigned a CODIS Hit... | The Investigator Will... |
|--|---|
| 3 | Initiate appropriate case follow-up |
| 30 | <p>Supplement the case in the department's Records Management System (RMS), specifically noting the following:</p> <ul style="list-style-type: none"> ◆ Type of CODIS hit (e.g., to offender, to another case) ◆ Details about suspect, including the following: <ul style="list-style-type: none"> ▪ Name and identifying information ▪ Current location, if known ▪ Status (e.g., in or out of custody) ◆ Type of activity attempted to initially locate the victim electronically ◆ Follow-up action(s)² initially taken, if any. |

Delayed Timeline for CODIS Hit Notifications

The timeframe for the following table is based on days since the initial CODIS hit notification.

| If No Investigative Steps Are Taken Within... | Then... |
|---|---|
| 30 days | The investigator and/or supervisor will document the reason(s) for the delay in the RMS. |
| 60 days | The case will be escalated to the next level of command. A follow-up escalation will occur for each missed timeframe. |
| 90 days | |

2. General Investigative Follow-up

| General Reminders for Investigators |
|---|
| Complete a comprehensive case file review. |
| Do not rely solely on DNA evidence to prove the case. |
| Ensure the integrity of the database hit by obtaining a confirmation DNA sample from the suspect. |
| Check for any prior crimes. |
| Document new CODIS hit information by creating a supplemental report to add to original investigative report. |
| Ensure the CODIS hit subject is designated under the appropriate investigative class in the RMS with as much personally identifiable information as possible. |

Doing the Research and Preparing the Case

- ◆ Document details about the suspect's location (e.g., believed whereabouts, unknown location, known location/cannot establish contact). An interview should be conducted once the suspect is located.
- ◆ Pull the case file and all corresponding documentation.^{3,4}
- ◆ Classify the hit as probative or not probative.
 - **Probative hit:** Research the hit/suspect's current location using available resources.
 - **Non-probative hit/hit that hinders case progress:** Complete a supplemental report in the RMS to document reasons for this classification.
- ◆ Review the case file and original police report for the possibility that the CODIS hit may be from a consensual partner.⁵
- ◆ Run inquiries to gather as much available intelligence on hit/suspect.⁶
- ◆ Obtain the suspect's photograph from around the time of the assault (mugshots are acceptable).

Possible Signs of a Consensual Partner

- ◆ Police report or medical/SANE report indicates consensual partner.
- ◆ Elimination swab was not obtained.
- ◆ CODIS hit matches name of consensual partner listed in police report or medical SANE report.
- ◆ CODIS hit identifies a suspect that doesn't match the victim's original suspect description.

Involving the Victim

- ◆ Prior to contacting the suspect identified from the CODIS hit, the victim may need to be notified to determine case status and their engagement back into the criminal justice system.⁷

² Examples include conducting background searches for locations of suspect and victim, interviewing suspect and victim, and locating any witnesses not originally interviewed.

³ Examples include RMS, RMS-Archives, Invize, Laserfiche, and Evidence Section File.

⁴ Older case files may be stored with the Archives Unit.

⁵ This cannot always be easily determined. Police report or medical SANE report may indicate this information.

⁶ Examples include RMS, P2P, and criminal history.

⁷ Follow department protocol on victim notification.

- ◆ Follow current victim notification protocols.
 - Contact the victim by phone (when appropriate); discuss scheduling an in-person meeting to review the case.
 - Assure the victim they are safe at this time.
 - Schedule a convenient place/time to meet.
- ◆ Meet with the victim in person
 - Show the suspect's photograph(s) to determine if the victim recognizes the suspect.⁸
 - Discuss the CODIS hit and document the victim's response.
 - Obtain a photograph of the victim from around the time of the rape, if available.
 - Explain the CODIS hit confirmation process and protocol for providing regular status updates.
 - Offer to have a rape crisis advocate contact the victim.

3. Suspect Contact Considerations

Preparing to Interview the Suspect

- ◆ Review all intelligence gathered on the CODIS hit suspect.
- ◆ Determine the suspect's status and location.
- ◆ Identify a preferred interview strategy.
- ◆ Have a search warrant ready to serve in preparation for contacting the suspect and collecting a DNA sample.⁹

Suspect Interview Considerations

- ◆ Record (audio and/or video) all contact with the suspect.
- ◆ Have a picture of the victim at time of assault and/or crime scene pictures.
 - If the suspect denies contact with the victim or crime scene, consider showing pictures of the victim and scene.
- ◆ Determine the suspect's familiarity with the crime.
 - Does the suspect recognize the victim?
 - Has the suspect ever been to the location of crime?
 - Does the suspect recognize the crime scene?

Strategy for Interviewing Suspects

If the suspect denies any knowledge or contact, ensure those statements are accurately recorded and follow-up questions pertaining to specific details are consistent with the denial.

- ◆ Consider whether an arrest will be made and ensure the prosecutor has been consulted.
- ◆ After the interview, complete a Request for Forensic Services (e.g., Evidence Submission Form) to submit the confirmation suspect swab to the Crime Laboratory; this request allows the Crime Laboratory to verify the CODIS hit. Follow-up with the Evidence Custodian to verify the swab is sent.
- ◆ Notify the victim after the suspect's swab is collected and the interview is complete. Keep the victim informed of changes in the case status and verification process.
- ◆ Assess the need to obtain a warrant for suspect arrest after receiving the CODIS Confirmation Report that indicates verification. Ensure the prosecutor has been consulted. (Note: If the victim advises that the subject from the CODIS hit was a consensual partner and not the suspect, then DNA collection is not required. Direct the CODIS Administrator to close out the hit.

4. Other Considerations

- ◆ Determine if a statute of limitations exists. If the case is outside the identified statute of limitations, then the suspect will not need to be located and contacted. These facts will be documented in a supplemental report.
- ◆ Review additional crime analysis based on CODIS hit case information. Attempt to identify any other cases that may be related to this case.

⁸ Don't tell the victim the photo is of the suspect prior to showing the photo.

⁹ This is to obtain necessary confirmation buccal swabs for laboratory examination and comparison. Do not present this document to the suspect until the end of the interview.