

CODIS Hit Follow-Up & Cold Case Investigation Plan



Maryland Sexual Assault Evidence Kit Policy and Funding Committee

CODIS Hit Follow-Up & Cold Case Investigation Plan

Derived from RTI International's and SAKI TTA's *Strategies for Sexual Assault Investigators: Prioritizing CODIS Hit Follow-Up* and *Strategies for Sexual Assault Investigators: CODIS Hit Review and Investigation*

This document was developed in consultation with local law enforcement.

Purpose

The purpose of this document is to provide the appropriate actions to take when a sexual assault investigator receives a Combined DNA Index System (CODIS) hit notification in a SAKI grant case.¹ This document should be used to help prioritize SAKI grant CODIS hits when an investigator receives multiple CODIS hits within a short time period. Law enforcement agencies (LEAs) should use this information to aid in the investigatory process and ensure that all CODIS hits are reviewed and investigated in a timely manner.

General Principles

- Investigators should not rely solely on this plan when making decisions. Throughout the investigation, new information may be revealed and circumstances involving the suspect(s) may change, thus requiring an updated evaluation, assessment, and follow-up strategy in the case.
 - Given the unique dynamics of cold cases, this document should only be used to offer guidance and is not intended to trump individual determinations by law enforcement.
 - Each case should be evaluated on an individual basis.
- All CODIS hits should be reviewed in a timely manner.

Prioritizing CODIS Hits

Application: This section should be referenced when an LEA is notified of multiple CODIS hits at one time.

Step 1	All CODIS hits should be assigned to an investigator and their supervisor within <u>5 - 10 days</u> of the initial CODIS hit notification. ²
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¹ SAKI grant cases involve kits that were collected on or before April 30, 2018 that were never submitted for analysis.

² The assigned investigator should receive a CODIS hit notification letter generated by a crime laboratory.

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Step 2	Upon assignment, the investigator should complete the following steps: • Review details of the hit: Did the CODIS hit match to another case or to an offender? ○ Offender Hits: If the CODIS hit was an offender hit, consider whether this CODIS hit may belong to the victim's consensual partner. ▪ If you determine that the hit belongs to a consensual partner, contact the lab so that the profile can be removed from CODIS. ○ Forensic Hits: If the CODIS hit was a "case-to-case" or forensic 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. • Complete initial research on the named suspect • Determine, if appropriate, the probative relationship the CODIS hit may have to the case ○ Please notify the lab if you determine that the hit is non-probative.³ • Assess priority of completing follow-up based on the prioritization chart below.
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CODIS Hit Organizational Chart (Prioritization Chart)
If a case meets any of the bullet points within a level, then the case should be classified according to that specific level. • Example: If a suspect is incarcerated and will be released within 12 months, but there is only a reasonable likelihood of judicial success, the case would still be a level 1 case.
Level 1
• Suspect is in custody and release date is less than 1 year away. • Suspect has at least one arrest/conviction for a prior sex offense. • Suspect can be located with minimal effort.⁴

³ A non-probative hit is a hit that hinders case progress.

⁴ 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 Corrects (DOC) custody.

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• There is a high degree of confidence the CODIS hit belongs to the suspect and not the victim's consensual partner or another person. • Victim has been located and is willing to participate in the investigation and prosecution process. • The case appears to have a high likelihood of judicial success.
Level 2
• Suspect is in custody (in or out of state) and their release date is more than 1 year away • Suspect has DNA matches for another crime. • Suspect is not in custody but could be located with minimal effort. • An elimination sample from the victim's consensual partner has not been collected; however, the consensual partner can be located. • Victim can be located with minimal effort and, based on the investigation filing, is believed to want to participate in the investigation and prosecution process. • The case appears to have a reasonable likelihood of judicial success.
Level 3
• Suspect is not in custody and has no prior sex offenses. • An elimination sample from the victim's consensual partner has not been collected and the consensual partner's identity is not known or the consensual partner cannot be located. • Suspect is not in custody and has no prior violent crimes.⁵ • Victim cannot be located.

After deciding the organizational level for each CODIS hit, law enforcement should proceed with the investigation starting with the level 1 cases.

Step 3	Investigating CODIS Hits & Cold Cases
	Conduct general investigative follow-up: • Complete a comprehensive case file review • Check for other physical evidence or other evidence available to you ○ Avoid using CODIS hit as the only evidence

⁵ Violent crime means a crime of violence as defined in [Section 14-101 of the Criminal Law Article of the Maryland Code](#). "Violent crime" also includes burglary in the first, second, and third degree.

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	• Consider whether the CODIS hit may belong to a victim's consensual partner. ○ If the CODIS hit belongs to the victim's consensual partner, notify the lab so that the profile can be removed from CODIS. ○ Upon further investigation, if it is determined that the profile does not relate to the case, notify the lab so that the profile can be removed from CODIS • If applicable and possible, discuss case with the original investigator • Conduct a full background investigation of the offender • Review any previous suspect/offender interviews • Consider the manner of victim involvement • Contact MCASA to initiate victim notification protocol • Consider whether there are enough facts and information in the victim's original statement to develop, at minimum, probable cause ○ How much additional information is needed to advance the case and support criminal charges? • Locate witnesses and interview them • Obtain the victim's medical records that relate to the sexual assault. • Visit the crime scene • Conduct offender interview(s) at the later stages of the investigation. ○ It is critical to have knowledge of all available information about the crime, victim, and offender prior to contacting the offender. • Confer with prosecutor regarding what they would like to have prior to filing charges.⁶ ○ You will need to obtain a warrant to collect a sample of the suspect's DNA based on the CODIS hit. Thereafter, submit the sample to the lab for testing and comparison to the case. ▪ The lab will need sufficient time to test the sample and make the comparison. Please contact the lab for guidance regarding submittal procedures and testing timeframes. • Have a supervisor review the case.
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⁶ Please keep track of all SAKI grant cases that are charged and prosecuted and the outcomes in each case. You will need to report this information to the Office of the Attorney General. If you have any questions please email Jessica Williams at jwilliams@oag.state.md.us.

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Timeline for CODIS Hit Follow-Up

Law enforcement should follow-up on all CODIS hits within a reasonable time not to exceed 90 days. If no investigative steps are taken within 90 days, the delay should be communicated to the investigating officer's supervisor. Given the complexities associated with cold case investigations, we understand that follow-up will vary among cases and the demands of other cases may impact follow-up. As such, this timeline is aspirational. However, the general rule remains: law enforcement should follow-up on all CODIS hits within a reasonable amount of time.