

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 1

1. **PURPOSE:**

This policy establishes the responsibilities, duties, and guidelines of the Adult Sex Crime Unit Cold Case Team in the Criminal Investigations Bureau.

2. **SCOPE:**

This policy applies to all detectives and supervisors assigned to the Sex Crimes Unit Cold Case Team.

3. **GENERAL DIRECTION:**

Detectives and supervisors assigned to the Sex Crimes Unit Cold Case Team are responsible for the research, review, and follow-up investigations involving cases defined as cold case sexual crimes. This includes the identification, review, and lab submission of any evidentiary items associated with the case.

**A. Definition**

1. Per " State Statute", a cold case is defined as, " a homicide or a felony sexual offense that remains unsolved for one year or more after being reported to a law enforcement agency and that has no viable and unexplored investigatory leads."

Per a cold case is defined as: "A case or investigation, in which the lead detective or case agent has retired, transferred, or otherwise ceased responsibility for the investigation. The exception to this is when a cold case detective is requested, by either supervision or the case agent, to assume responsibility of the investigation."

2. These definitions and the assignment of cold cases or cold DNA hits is adhered to however, investigative circumstances may arise in which at the discretion of the cold case supervisor, a case can be assigned to or transferred from the cold case team.
3. Additional factors in deciding whether a case is cold should include:
  - a. There has been no new activity on the case (established time frame).
  - b. Not all witnesses and leads have been examined, interviewed, etc.(do they need to be located, re-contacted, etc...)
  - c. Additional evidence with potential forensic value has been discovered.
  - d. No supplements have been authored (est. time frame).
  - e. There are no new leads in the case. However new information, indicates a need to look at the previous lead/s.
  - f. Initial lab testing proved negative and additional items of evidence are available for examination.
  - g. The case is solvable but the original case agent does/did not have the time needed to work it.

<b>INVESTIGATIONS BUREAU</b>	
Subject: <b>Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team</b>	Policy Number
Page 2	

**4. DETAILED PROCEDURES:**

**A. Responsibilities of the Cold Case Team (CCT)**

1. Identify and investigate all unsolved sexual assaults not assigned to a current member of the Sex Crime Unit or Homicide Unit. This may be expanded to other crimes including burglary and robbery.
2. Evaluate, assess, and document any cold case sexual assault or related offense in which the potential for scientific analysis of untested evidence is available.
3. Coordinate with the crime lab and property management bureaus in the identification, testing, and preservation of any evidence related to any unsolved sex crime.
4. Ensure that evidence in adjudicated cases remains available to potentially assist the prosecutor for future "prior bad acts" hearings.
5. Conduct timely, complete, and appropriate follow up on cold case sex crimes in which a suspect has subsequently be identified.
6. Assist, upon request, other police departments from outside jurisdictions that are investigating cold cases and that may be of concern within the \_\_\_\_\_ boundaries.
7. Assist detectives within the respective Bureau's with high profile cases investigations at the discretion of the CCT Supervisor. To include suspected serial rapes, sexual homicides, kidnappings that are sexually motivated, stranger rapes involving children.
8. Coordinate and consult with the Prosecuting Attorney's Office on the submission and prosecution of cold case sex crime.
9. Coordinate and meet with the victim services provider on a regular basis to ensure victim needs are being met and addressed.

**B. Identifying and Creating a Multi-Disciplinary Response**

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

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 3

Law enforcement, victim advocacy, prosecution, crime lab, property custodian. Additional members should be added based on the victim and community needs.

## C. Creating the *Law Enforcement Cold Case Team*

Personnel should consist of the following:

Sworn Supervisor  
Sworn Detective/s  
Non-Sworn Support Staff

### 1. Sworn Supervisor Position:

- a. The supervisor assigned to the team should have a minimum of five years supervising a violent crime detail, with preference to sex crimes cases. He/she must possess strong interpersonal, investigative, organizational, and administrative skills.
- b. The supervisor must have a thorough understanding of DNA and its analysis, crime scene investigation and interpretation, and they must have a good working relationship and understanding with the Prosecuting Attorney.
- c. The supervisor should be able to work with outside agencies in coordinating investigative efforts and be able to identify and work to obtain grant and grant funding if the need should arise.

### Supervisor Job Duties:

1. Oversee, review job performance, and develop a selection process for cold case (CC) detectives.
2. Conduct regular audits and reviews of cold cases investigated by the team. This includes a review and approve or disapprove of any change in the status cases assigned to the CC detectives.
3. Identify and establish an information management system for the tracking of cases investigated, CODIS hits received, cases submitted for prosecution, and investigations closed by the cold case team. **(see attachment for case review procedures)**
4. Develop a standard case review, solvability, submittal, and closure procedure that all CC team members can utilize. This will ensure a consistent and accurate investigation is being conducted in all cases assigned to the unit.

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 4

5. Regularly review the CC team policy and procedure manual to ensure current and updated coordination of assigned cases.
6. Develop a policy for investigative standards of case follow up. **(see attachment for investigative follow up procedures)**
7. Develop a cold case checklist for investigators.
8. Through the use of an information management system oversee and monitor all CODIS, DNA, or any suspect identifications. Ensure that timely and appropriate follow up is being conducted.
9. Ensure that your chain of command is up to date and aware of cases in your unit.
10. Complete monthly audits and reports of cases reviewed, suspect identified, cases submitted for prosecution and cases closed.
11. Develop a relationship and meet on a regular basis with members of the immediate CC team.
12. Create a working group for these unsolved cases to include the crime lab, property room, victims services unit, and prosecutors office. Meet on a regular basis and as necessary to ensure a complete and coordinated response is being followed. **(see attachment for prosecutor/detective MOU document)**
13. Be able to understand, develop a guideline for and work with the, local and national media and work closely with the department media liaison.

## 2. Cold Case Detective Position:

- a. Detectives assigned to the team must have experience a minimum of five years investigating major felonies (homicides, sexual assaults, child molest/abuse, and aggravated assaults, etc.). These investigations should have involved cases which required crime scene experience both technical and analysis of, interviewing suspects and witnesses, and the use of comprehensive computer searches, the use of DNA. NOTE: This experience is deemed necessary since the detective is not only responsible for investigating and solving these unsolved crimes, but must review hundreds of cases and evaluate the solvability based on the evidence and witnesses available today.
- b. Detectives must possess excellent communication, investigative analysis, and written documentation skills. They must have a

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 5

thorough and complete understanding of crime scene analysis, the use of DNA, and crime lab procedures.

- c. Detectives must be able to work closely with internal and external partners. This includes other detective units, prosecutors, crime lab personnel, victim services. He/she must have a complete understanding of constitutional statutes, and search and seizure issues, as well as .
- d. Detectives must also be familiar with the various electronic and other resources available for locating victims, witnesses, and suspects, as well as the departmental procedure for arranging travel and interviewing such individuals. These resources include various cold case databases, internet sites, and search engines.
- e. Detectives must be willing and able to complete out of state travel when necessary to further an investigation.
- f. Detectives must be allowed to exclusively investigate the unsolved crimes assigned to him. Using the CCT Detective for normal response investigations does not allow the investigator to fully concentrate on resolving cold cases. Under extraordinary circumstances the CCT Detective may be utilized to assist response detectives. Note: It is important that the CCT Detective remains in communication and coordination with response detectives as well. This key component helps detectives' link current cases to the cold cases, ensures that the CC detectives skills remain sharp, and help facilitate mentoring of new detectives.
- g. Due to the nature of this work, the detective must demonstrate the ability to work effectively and efficiently, with minimal supervision. They must have the ability to network with other jurisdictions and develop a solid working relationship with other detectives.

## **Cold Case Detective Job Duties:**

1. Identify unsolved sexual assault and related sex crime cases within the entire department. Determine the status of these cases. **(Additional details of case analysis and review are included in this order under section Case Review for Cold Case Team).**
2. Review the identified case for solvability and document in a the CC team database. **(Sample forms for completing this duty are attached).** Thus ensuring investigative review is not being duplicated.

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 6

3. Identify any and all evidence related to these unsolved sex crimes. This may include the physical observation of the evidence to ensure it is available. Determine if any previous lab analysis was completed.
4. Upon case evaluation and review, submit untested evidence for scientific analysis to the crime lab. This should be conducted in collaboration with crime lab personnel. Consider the probative nature of the evidence and any crime lab policies which may effect this submittal. Keep in mind when assessing this that evidence from one case may assist in the solving of another.
5. Assess the original case interview and determine if there will be an investigative need to conduct an additional comprehensive interview with the victim. Be cautious when considering a second interview that impeaching the witness is avoided.
6. Determine the best practice and appropriate time and location to notify the victim of the cold case. Consideration should be given to included coordination with victim services. This procedure should be consistent with all notifications but allow for flexibility within individual cases (see below: victim notification).
7. Upon identification of a suspect in an unsolved case, the assigned case agent in a timely manner will conduct case follow up (see: The DNA Hit). All follow up including any DNA hits shall be documented into the CC database and a "CaseBook" will be initiated. (see below: Organizing a Case File)
8. The CC detective is responsible for the presenting of 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 any investigative or case issues are addressed. This may include any additional case evidence to be tested.

### **3. Non-Sworn Law Enforcement Support Staff:**

#### **1. Crime Analyst/IT Support:**

- a) The Crime Analyst is an integral part of the CCT. This person must be a certified crime analyst and have a minimum of two years in such position.
- b) The crime analyst should have a complete understanding of violent crime, have excellent computer skills, and be trained in crime mapping and analysis.
- c) The crime analyst will support the CCT Detectives with research on suspects, witnesses, and victims. He/she should also be able to identify crime trends and patterns and links unsolved cases.

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 7

d) The crime analyst will maintain a complete database of the cold case investigations, as well as track the case and case information for future retrieval and statistical review.

## 2. **Crime Victim Advocate:**

a) The victim advocate (VA) position is a critical component of the CCT. They must possess working knowledge in the areas of trauma, victimization, and sexual assault.

b) The VA should have a minimum of two years as a case carrying advocate in interpersonal violence. Preference will be given to those individuals with direct experience in working with sexual assault victims.

c) It is preferable that the VA have a general understanding of police investigations and related law enforcement/prosecution practices.

d) Identify best practices and implement a guideline for the contact of cold case sexual assault victims. In coordination with the CC detectives can assist the VA with locating and making contact with the victim.

e) In coordination with the CC detective provide resources, support, and if appropriate case updates to the victim.

## **C. Investigative Case Review:**

### **1. Sexual Assault**

- a. Determine if the statute of limitations has expired. Ex. Louisiana law: \_\_\_\_\_ . If necessary, consult and utilize the local prosecutor to identify statute limitations.
- b. In consultation with the prosecutors office. Determine if cases that have expired can still be prosecuted. Consider testing evidence in these cases, for linking cases and prior bad acts rules.
- c. As a general rule cold case detectives should begin case review within the prosecution limitation guidelines.
- d. If numerous cases exist develop a case review priority. When considering a priority process it may be helpful to identify cases that are nearing the end of their statute, cases with viable evidence, high profile cases, and of with a potential to be linked to others. These are just some possible

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 8

- e. If resources are available assign blocks of years to pre determined detectives. Eg., 1990-1994, 1995-1999, etc. Or assign/group cases together based on type of victim, race of suspect, method of attack, location, etc.

## 2. Locate all known unsolved sexual assault reports

- a. Unsolved Sexual Assault RMS Reports.
- b. Pre-RMS Sexual Assault Reports (if appropriate). Locate any handwritten crime logs for sexual assaults
- c. Locate report numbers through past sexual assault/kidnapping bulletins/flyers in sex crime unit's bulletin book. (This is necessary as the pre-1990's DR Logs no longer exists and there is no database for retrieval.)
- d. Contact Police Property personnel concerning current and archived property invoices contained in computerized or handwritten logs that are maintained by the Property Bureau. Determine the current status of all property/evidence.
- e. Order complete report from R&I, including all supplements possibly on microfiche.
- f. Examine property for completeness of evidence and re-impound if necessary under RMS system.
- g. Locate all Sexual Assault Reports through dispatch logs/cards by using the radio codes with the assistance of Computer Services Bureau personnel.
- h. Check through impounded property searches in RMS for the current status of all evidence/property.
- i. Printout entire evidence report from RMS terminal (If microfiche, contact R&I Bureau). Create a moratorium on the purging of all sex crime written reports and logs.

## 3. Locating sexual assault evidence

- a. Create liaison with property room supervisor.
- b. Review both computerized or handwritten impound logs.
- c. Match all evidence (SAK's and other items) and logs with sexual assault reports.
- d. Make copies of all logs.
- e. Physically inspect the property room for sexual assault evidence (see section below on testing).
- f. Determine the status of the evidence (has any examination been done)
- g. Consider establishing a **DO NOT DESTROY** policy/order for all sexual assault evidence.

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 9

## 4. Testing of Sexual Assault Kits/evidence

- a. Conduct complete inventory of all sexual assault kits in possession of the property room.
- b. 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, any indication of prior laboratory analysis.
- c. Document this information into an electronic database for future reference.
- d. Based on a predetermined multi disciplinary decision, create a logistical strategy to have all kits tested or assess each SAK case by case (when assessing utilize the attached case prioritization forms).
- e. Review the "test all" method and the case prioritization strategy for identifying which method you will employ (see section 5 for case prioritization method).
- f. Determine status of each, statute expiration date, status of the victim listed, status of the suspect, and if any court disposition has already been made in this case.
- g. Prior to submitting evidence for analysis, discuss the details of this with the crime laboratory you will be utilizing. Develop a logistics pattern for this submission, to include the number of items to be submitted, the anticipated time line for analysis/results.

## Organizing the Investigative Case File

- a. Prepare a three ring binder notebook with the following information included. A hard back copy of the investigation is helpful in organizing the case.
- b. Once completed consider impounding the casebook or a copy.
- c. A cold case checklist/review tracking sheet.
- d. Cold case database summary sheet.
- e. Original case solvability/assessment form.
- f. Copy of complete original report and supplements (\*All linked reports may be combined into the same book for convenience purposes).
- g. List all evidence. Include any computerized evidence forms.
- h. List all reports, including scene diagrams, lab analysis, latent print examination, etc.

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 10

- i. List all officers, detectives, supervisors. This is essential to the success of a case. If officers cannot be located with the prosecutor, assess the impact this will have on prosecution.
- j. List all witnesses, investigative leads, family members.
- k. Photographs (Obtained through R&I personnel).
- l. Summary of the case-
- m. Summaries will prevent the detective from re-reading the case file for details when looking for similarities in M.O. of other cases.
- n. This will also provide detective with data for entry into cold case database (Sex Crime Database).

## **5. Case Prioritization Case Methodology: Initial CCT review/analysis of the case and evidence**

- a. Locate and read the entire report and all supplements.
- b. Complete a form for solvability and a CC checklist form. (see attachment, utilizing an established numerical solvability outline, determine the degree to which the CCT has the ability to successfully resolve the case. All cases will have a factor between 1 and 5 (refer to attached solvability scales). \*This is critical in assisting the CCT Detective in prioritizing his multiple investigations).
- c. Enter case in Cold Case Sex Crime Database, consider utilizing FBI VICAP (if appropriate) for entry and dissemination
- d. Assess the original victim statement for content, strength, criminal acts. Determine if an additional interview of the victim is warranted at a later time. If the interview was recorded review the tape in its entirety.
- e. Enter case information into your information management or cold case database system (see database attachment for more information).
- f. Conduct a preliminary search for the victim and her/his location. Determine their location and status. Consider a Victimology - complete history of the victim, relatives, contacts, and timeline of activities leading up to the event. Attempt to locate a photograph of the victim in relation to when the crime occurred.
  - a. There are considerations for NOT contacting the victim at this stage of the case review/investigation. Since it is unknown of any results from lab testing, we should consider the traumatic effect of re-contacting a victim after such a long period of time

## INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 11

- b. When victim cannot be located determine the extent needed for additional follow up. Keeping the case open but inactive may be considered.
  - c. If the victim is deceased, determine whether a later contact after test results with the immediate family is warranted.
  - d. If victim does not desire prosecution at the time of the original report, attempt may be made to identify if there is a particular reason. When contacting the victim after lab results provided new information, always allow the victim time to reflect on this new information and make a decision at a later date. Consider providing support services at this time (see victim notification section for further).
- g. If a suspect is listed on the SAK report or original police report, determine the status of this person.
  - a. Complete a criminal history check
  - b. Attempt to determine the relationship to the victim.
  - c. Attempt to locate this persons current address.
  - d. determine if this person has DNA in the local, state, r federal DNA database
- h. Identify all evidence available. Determine the location, status, and probative value in the case. If appropriate, submit evidence as soon as practical. Communicate clearly with the crime lab to ensure they are aware of this submission.
  - a. Document the evidence in the cold case database.
  - b. If possible physically locate the evidence. Included is all latent prints, shoe impression, ammunition/casings, weapons, clothing, bedding, comparative analysis evidence.
  - c. Consider resubmitting previously tested evidence as technology may have improved.
  - d. Submit lab analysis requests, if appropriate.
- i. Locate any photographs/negative, discs, etc associated with the case. Make a copy or retain the original in your working file. If none exist consider going to the describe scene and if possible take new photographs of the area.
- j. Identify and retain any witness composites, media releases, video surveillance tapes, Silent Witness Flyers, NCIC Teletypes, APB bulletins.
- k. Locate all medical records associated with the victim. Include sexual assault exam and any treatment the victim may have received. Obtain

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 12

originals or copies for your working file. Consider impounding other copies.

- a. It may be necessary to have the victim sign a release form for these records. A subpoena may be required if the victim cannot be located..
  - b. Identify and liaison with local hospitals to determine their record retention policies.
  - c. Consideration should be given at this point as to whether the victim should be contacted and made aware of the case status
- I. Identify and conduct review on all investigative leads/witnesses. Determine any relationship to the victim, timeline of activities leading up to the event. If indication of a consensual sex partner is present attempt to locate the whereabouts a this person person. It is not recommended contacting this person at this point.
- m. Conduct a crime analysis of any incidents in the geographical location, during the time period of the crime. Look for other criminal acts, suspicious activity, vehicles, kidnappings, rapes, etc. As an example if a vehicle was involved consider the MVD searching for the described type of vehicle.
- n. Ensure that documentation is completed on all investigative activity in the cold case database and/or department report management system.

## C. Comprehensive Case Analysis

### 1. Motive Considerations

- a. Was this possibly a random event or opportunity
- b. Was this premeditated; Planned, the victim targeted
- c. 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 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 they may have.
- b. Tape record any interview with them for future testimony.
- c. Obtain any case files they may have I their possession.

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 13

## 3. Consult with lab personnel and experts

- a. Determine lab capabilities for testing evidence
- b. Consult about what evidence would be most probative
- c. Determine lab capacity, costs and turnaround time for processing
- d. If case appropriate speak with lab personnel from: Serology/DNA, Latent Prints (AFIS/IAFIS), Firearms (NIBIN), Comparative Analysis, Toxicology, Questioned Documents.
- e. Consult with Forensic Nurse Examiner, Medical Examiners

## 4. Consult with crime scene specialists

- a. Blood Spatter
- b. Scene Reconstruction
- c. Scene Analysis
- d. Additional Evidence Possibilities

## 5. Consult with psychological experts

- a. Approaches to interviewing witnesses/IL's/Suspects
- b. Scene information
- c. Profiling

## 6. Consult with polygraph specialists for suspect interview

## 7. Get perspective/insight from other investigators (Team Approach)

## 8. 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:** CCT Detectives need to be familiar with and use on a regular basis the following traditional follow-up methods.

a. Interview/Re-interview officers/witnesses/family. Utilize the CCT analyst and advocate if initial whereabouts is not found.

b. Victim/Family issues

1. Caution: A strategy/approach needs to be established as to when, how, where, and who will contact the victim and family. It may not be the best strategy to contact the victim during the initial stages of the cold case

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 14

investigation. **(For additional information see the section below on victim contact).**

2. Be aware that the victims story may match EXACTLY as the original statement. Caution should be taken if impeaching the victims statement appears imminent.
3. If the original statement given by the victim is consistent and strong, a second interview may not be necessary. If the original statement is lacking details for criminal charges a second interview should be seriously considered. Consult with your prosecutor as to the best response to this situation.
4. When contact is made be prepared for a re-traumatic event. Allow the victim time to digest this new information. Have a victim advocate available to provide assistance. Consider that many instances the victim may not have told family of the rape. Provide
5. If possible conduct the victim interview in a location comfortable for the victim. Allow the victim in their own time relate the experience. The decision to pursue the case further is the choice of the victim and does not have to be made t this juncture. Inform the victim of the case details as needed.
6. Strongly consider audio or video recording the interview as an option.
7. Consult with your prosecutor as to whether a photographic lineup presented to the victim is needed or necessary. Waiting to conduct this may also be a good strategy at this time.
8. If you medical records are needed for your file, this may be a good opportunity to address this and obtain a release.

## **C. Investigate IL/Suspect's Life**

1. If a suspect or lead in the case has been previously identified or prior to any linking any evidence to a suspect detectives may utilize the following investigative considerations (also see CODIS Hit follow up below)

- a. Complete background
- b. Former friends
- c. Acquaintances
- d. Co-defendants
- e. Neighbors
- f. Cellmates
- g. Employers
- h. Ex-girlfriends/wives
- i. Complete criminal history (NOT just local)
- j. Psychological assessment (if in SOR or court File)
- k. Examine ALL Evidence for Serology/DNA potential for inclusion or exclusion.

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 15

D. Examine all latent fingerprints for AFIS/IAFIS continuous searches.

E. Examine all projectiles and casings for NIBIN searches.

F. Scene assessment

1. Blood Spatter
2. Scene Analysis/Profile
3. Additional Evidence Analysis

2. **Non-traditional Methods of Investigation:** These methods should be considered and when resources are permitting. The listed methods may be utilized. Cold Case Team (CCT) Detectives should have an understanding of the use of these and how they may enhance their cold case investigation. Generally the use of these are most appropriate when there is a lead or suspect in the case.

- a. Mail Cover
- b. Trash pull
- c. Telephone records
- d. Jail/Prison calls
- e. Jail/Prison visitor records
- f. Personal/work computer searches
- g. Surveillance
- h. Confrontation calls/wires
- i. Informants
- j. Psychological profiling
- k. Undercover and surveillance operations

## E. Suspect Identification (DNA/ CODIS Hit or latent print included)

### General Direction:

When a DNA or latent print hit is received from the crime lab the CCT 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 CCT Detective can institute a prioritization response to these hits. **(see attached post DNA hit prioritization criteria form).**

1. The DNA/latent hit is of intelligence value and may or may not support probable cause for an arrest. Under CODIS rules the DNA hit may be considered probable cause for a search warrant to obtain a confirmation sample from the suspect. Since the chain of custody is generally absent with convicted offender samples a confirmation sample is ultimately necessary. Consultation with the prosecutor may be necessary at this point.
2. The assigned case agent will immediately conduct a complete and thorough suspect analysis. Based on this analysis the case agent will prioritize the investigation **(see attached post DNA hit prioritization criteria form).**

## INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 16

- a. A complete background on the suspect will be conducted to determine the suspect's ability, motive, and involvement with the crime and the victim. Do not rely solely on the 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 above section on Suspects Life)
  - b. Once an offender hit is received the detective will identify the offender's status and if found the current location of the suspect. Priority should be given to suspects who are not in custody, as their potential for committing additional crimes is very high.
  - c. Determine prior crimes the suspect may have committed. If possible obtain copies of these police reports, court documents, and review them.
  - d. 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
  - e. In-custody suspects need to be identified as to how long they will remain in custody and where they are currently being held. These suspects will also be prioritized based on the length to which they will remain incarcerated. When considering arresting these in custody suspect consultation with the prosecutor is needed. Balancing the charging of a new case and his 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.
  - e. The case agent needs to identify the source/location of the crime scene evidence that is matching the offender. An assessment as to the probative nature of the match should be determined. Do additional evidence items need to examine 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.
  - f. If additional testing is necessary, open a dialog with the crime lab to provide them with case information and rational as to the investigative purpose of more testing.
  - g. Note: Always be cognoscente the most likely defense the offender will use is consent. Continued investigative follow up, testing of additional items, additional interviewing and offender backgrounds are all critical in overcoming a consensual sex defense.
3. All suspect and related DNA hit information shall be entered into the cold case team database. The CC supervisor shall be notified of this hit.
  4. A confirmation DNA sample is necessary (per FBI CODIS policy) to ensure the integrity of the database hit. CC detective will obtain this confirmation sample. In most cases, the DNA hit alone may not support probable cause for an arrest,

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 17

however it is probable cause for a search warrant when requesting a confirmation sample be obtained for the case (review FBI CODIS policy).

- a. CCT Detectives may also utilize the voluntary obtaining of a DNA sample when a warrant cannot be secured (refer to Department or Bureau Policy Manual).
  - b. CCT detectives may also utilize covert means to obtain a reference DNA sample from the suspect. This includes any discarded/abandoned items which may contain DNA. Consult with your crime lab as to whether a discarded profile is satisfactory to them.
  - c. If the suspect is incarcerated out of state, coordination with the appropriate agency 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 which in turn completes and has signed a warrant valid in their state.
5. Consideration should be made in sexual assaults as to whether the suspect may have had a relationship with the victim that was not revealed in the initial investigation. This may show up if the original suspect description does not match the DNA hit suspect. Clarification with the victim may be necessary and possible identification of consensual partners may need to be considered.
  6. After the hit the CCT Detectives should locate and contact the victim (sex assaults) to determine availability for court and to re-interview if necessary (see traditional locating methods above). Utilizing a best practice should be a high priority as the victim is being contacted (see victim advocate section below).
  7. If the suspect's current location is unknown (utilize analyst for locating) the CCT Detective should consult with the County Attorney on obtaining an arrest warrant. Preference should be given to obtaining direct warrant vs. a grand jury warrant. CCT Detectives shall be familiar with both types of arrest warrants. .

## **F. Additional Investigative Follow Up/Suspect Contact:**

1. Formulate plan for obtaining interviewing the suspect. All suspects will 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 is can be completed. (eg. 6<sup>th</sup> Amendment issue).
2. The element of surprise is the investigators 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 him.
3. Audio/Video Record all interviews.
4. Be prepared for the interview of the suspect. Have photographs, legal props, case books, or other interview tools available. Consider having both victim photographs and crime scene location pictures to present.

## INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 18

5. If DNA is the only identifier, consider getting a denial from the suspect and not presenting the DNA evidence. If discussing the DNA evidence hold this until the end of the interview.
6. 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 available.
7. A denial by the suspect may be a sufficient interview. Be aware of and avoid forcing the suspect into a consent defense.
8. If given a consent defense, question for more details of the incident. Eg. Victim's name, any personal information about the victim the suspect should know.
9. Prepare a search warrant for obtaining the suspect Buccal Swab for confirmation. This may be completed during the interview of the suspect.
10. Consult County Attorney prior to contact/arrest. In some cases the County Attorney 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 County Attorney for a pre-filing decision. Not all cases will be appropriate or accepted by the County Attorney. Meeting prior to an arrest may save the detective wasted follow-up or direct any additional follow-up requested for prosecution.
11. Not all Cold Case Team 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.

### **G. CODIS Case to Case Hit - No Identified Suspect**

1. Detectives may be notified by a crime lab 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 file complete copy.
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 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 to identify who the suspect is.

# INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 19

6. Conduct additional crime analysis search regarding both cases. Look for linkage other than the DNA match. This may include suspect description, vehicles, verbiage, geographical location, time of the assault, etc.
7. Enter all new case information into the cold case database
8. Create and retain a second casebook with all the same material as your original case.
9. If a statute may run out consult with the prosecutor and consider using a "John Doe" warrant for the DNA profile. (Note: work with the legislative liaison to determine if changing the Statute of limitations is feasible)

## H. CODIS Entry No Match

1. Many evidence sample yield a DNA profile but when entered into the CODIS database it does not match to any person or case.
2. If this occurs, immediately review the case file for additional information or evidence that may assist in identifying the suspect through different means (latent prints, firearm ballistics, etc.)
3. 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 warrant for the profile.
4. Document in the investigative the file the fact that a forensic profile is in CODIS with no immediate match.

## I. Contacting the Victim (Advocacy for victim and family)

1. In addition to this brief discussion of victim contact, a separate policy and best practice should be created to determine the most appropriate victim contact procedure.
2. Determine from the initial investigation if the victim has emphatically requested that she/he not be contacted or the case investigated. Consider the circumstances of the original case and the subsequent new case information. Is this a case now involving a serial rapist or a murder suspect?
3. Notification and communication with victim and family in cold cases shall be coordinated with the case detective and victim advocate, community or system-based.
4. The timing, location, and method of the notification will vary from case to case. Methods may include, in-person, telephonically, letter or mail, third party notification. Note: never utilize e-mail as a contact option. This is both impersonal and unprofessional. Having a standard victim contact guideline will allow team members to coordinate the best time to and method by which to notify the victim.

## INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 20

**5. Any attempts to contact the victim shall be documented in the case file.**

**6. In-person contact may have both beneficial attributes and negative implications.**

Positives;

- a. The potential for immediate crisis/advocate intervention is available.
- b. Many questions can be answered providing the victim with an informed platform by which to make any further decisions about participating in the criminal justice process
- c. Provides a victim-centered, personal approach that lays the groundwork for further contact.

Negatives:

- a. Victim has dismissed the memory of the original rape and does not want it brought back up.
- b. Victim is with family and has not told anyone.
- c. Victim is with a new family/life and they do not know of her past.
- d. Victim is angry with Law Enforcement for not pursuing her/his case.

**7. Telephonic contact may have both beneficial attributes and negative implications. It may not be possible for the case agent/and advocate to contact the victim in-person.**

If telephonic contact is made:

- a) Disclose limited details until an in-person interview can be arranged, providing the victim wants to meet.
- b) Do not attempt to interview the victim over the phone.
- c) Allow the victim time to contemplate this new information and gather support.
- d) Attempt to coordinate in person assistance if available.
- e) Remember: Telephonic contact does not provide the human in person contact, and may seem impersonal for such an important matter.

**8. Contact by letter should be a secondary choice and only if other methods are not successful. This option is the least personal and confidential.**

- a) Complete the letter with generic information in case the letter is received by someone other than the victim.
- b) Provide multiple contact information.
- c) Consider a return USPS service.

**9. Agency Assist. At times it is necessary to have an agency in another jurisdiction help with finding and notifying a victim.**

## INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 21

- a) Identify best local detective to notify victim. Its important to ensure the person making notification has experience in sexual assault and victim sensitivity. Start with detectives who have experience in sexual assault investigations. If such person is not available, connect with a homicide detective and determine if he or she is qualified and trained in victim sensitivity.
  - b) If it is determined that there is not an appropriate local contact, make notification by telephone. If there is a detective available that the victim had a good relationship with, that detective should contact the victim by telephone.
10. It will be a mutually agreed upon team decision when and how to initiate first contact. Keep in mind that contacting the victim or family too early may affect or interfere with any additional follow-up that is needed.
11. Allow the victim time to absorb the new contact and information. Do not try to push the victim into an interview or decision on pursuing the case at first contact. .
12. Do provide the victim with as much information as possible in order for her/him to make an informed decision.
13. If conducting additional interviews, allow the victim to review their original statement to refresh their memory. Be cautious as to allowing the victim to review additional witnesses or suspects statements.
14. Consider prior to the interview what information you may need for the investigation. This may include whether showing the victim a suspect lineup or providing a suspect name to the victim is a sound investigative decision at this point. One consideration may be if the victim potentially had a relationship with the suspect. This should be completed in consultation with your local prosecutor.
15. Additional contact, support, services, and or assistance will be coordinated through the victim advocate. It will be the victim advocates role to keep the CCT Detective and victim current with any information that may be critical in the prosecution of the case. Advocacy services for the victim and the family will be the responsibility of the advocate. However the detective should make himself available for additional questions or concerns.
16. Contacting a victim after many years about reopening a sexual assault case may reopen old psychological wounds and trigger drug or alcohol use l previous users. Support services should include connection to drug and alcohol treatment programs and additional counseling for trauma.
17. The Detective, advocate and prosecutor should provide as much support and information as possible to help the victim feel safe going

## INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 22

forward with the case but it is the victims ultimate decision as to whether they want or can proceed to court with their case.

### 18. Contacting relatives of deceased victims of a now solved cold case sexual assault.

Additional:

Many times a cold sexual assault is solved and it is discovered that the victim is now deceased. Relatives of the victim may have knowledge of the previous 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. Things to consider:

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

### J. Investigative Preparation for court

1. The detective assigned the case is considered the case agent through any court proceedings
2. He or she is responsible for the presentation of the case to the prosecutor, grand jury and full trial.
3. Any additional follow up on the case is the responsibility of the case agent. It is helpful to have an agreement in place with the prosecuting agency on standards for filing cases. **(see attached sample of prosecution/investigation memorandum of understanding)**
4. If a disagreement occurs between the detective and prosecutor a meeting of the team members is suggested.
5. 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.
6. If a grand jury system is in place the case agent should be familiar with the some of the questions he/she may be asked. As an example the understanding basic information below will be helpful in GJ testimony:

## INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence Backlog Team**

Policy Number

Page 23

- a. Know the case facts supporting all charges.
- b. Know the date/location of the crime, the date of the DNA hit, the date the evidence was submitted to the lab.
- c. Know the most recent contact with the victim and their desire to prosecute.
- d. Know what evidence was matched to the suspect.
- e. Advise whether the DNA match has been confirmed?
- f. Avoid stating to the GJ anything that identifies the suspect was in a convicted offender database.
- g. Be prepared to explain time line issues on evidence collected, requested and then when it was analyzed.
- h. When the suspect was contacted.

### K. Investigative Conclusions and Case Closure:

1. All cases assigned to the CC team should be closed in a consistent and appropriate manner using standard investigative criteria. **(see attached case closure criteria form)**
2. The team supervisor shall review and approve all case submitted to the prosecutor and all case closures.
3. When considering the category of case closures, detectives shall follow FBI /UCR case guidelines. Closures may also indicate an administrative closure to a case when there is no definitive way to close the investigation.
4. The closure and final case status shall be entered into the CC database.
5. Cases previously closed can be re-opened if additional information or evidence becomes available.
6. The unit supervisor on a monthly/quarterly basis shall report a recap to his chain of command. This report may include, current case statuses, new cases investigated, CODIS Hits, cases closed, or any information deemed relevant to the teams mission.

### L. Media relations/assistance

1. Using the media as a tool to solve cold case sexual assaults may be helpful. Identifying and locating suspect, gaining witness or key information by media exposure should be considered.
2. Caution should be used if releasing information. The impact on the victim and their family should be a top priority. If releasing information is considered harmful to the victim this should not be done.

## INVESTIGATIONS BUREAU

Subject:

**Sex Crimes Unit: Sexual Assault – Cold Case and Evidence  
Backlog Team**

Policy Number

Page 24

3. Advise the victim and family if a media release is imminent.
4. Never release information that compromises the investigation.
5. If your cold case team feels they have not identified all unsolved sexual assaults a media release may help in uncovering additional cases. It is imperative to have trained advocates available if this strategy is used.
6. Coordinate all media with the agency public information officer. Ensure that all department staff and cold case team members are aware of any releases.
7. Be prepared for media follow up to include any negative short comings they may attempt to expose.