



E41 A Prosecutor-Led Interagency Cold Case DNA Project: An Alternative to “Blindlabbing” the Backlog

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After attending this presentation, attendees will understand a new paradigm in cold case identification, review, and investigation that is unique among American jurisdictions – a prosecutor-led interagency cold case DNA project.

This presentation will impact the forensic science community by explaining and promoting a new model of cold case review that directs front-end legal and factual prosecution review of all cold case files before DNA analysis or police investigation is approved and initiated. This model firmly rejects traditional yet inefficient models of cold case review.

Traditional models often result in “blindlabbing” – testing cases solely because they are part of a crime laboratory's cold case DNA backlog, rather than based on the prosecutor's present-day assessment of the legal and factual merits of a case. Traditional models also often result in inefficient and ineffective investigative efforts by police. This stems from the fact that these models bypass front-end approval of forensic testing and investigation by the one official who has the final say over whether or not the case will ever be pursued in court – the prosecutor.

Before the Jackson County (Kansas City, Missouri) Prosecutor's Office Cold Case Unit began its work on June 1, 2009, each of the three participating agencies (the others being the Kansas City Police Department Sex Crimes Cold Case Unit and the Kansas City Police Crime Laboratory) met and agreed to a systematic methodology for the identification, review, and investigation of violent cold case crimes.

Phase 1 of the project involved cold case evidence identification. This phase was effectuated by the completion of a then-ongoing

inventory of all evidence retained by the lab in unsolved sexual assault cases. The prosecutor's office Cold Case Unit completed this exhaustive inventory. At the conclusion of the inventory, 2,551 cases had been reviewed in a single month. Based on this review, it was determined that there were 1,835 cold cases in Kansas City with evidence amenable to DNA testing between the years 1979 and 1992.

Phase 2 of the project involved cold case investigative file review. Only those files previously determined by the inventory to have associated evidence at the lab that was amenable to DNA analysis were reviewed. The prosecutor's office reviewed cases from 1979 (the first year legally permissible under Missouri's statute of limitations) forward in time. The police department conducted case review from 2006 backward in time.

Although both the prosecutor's office Cold Case Unit and the police department concurrently reviewed cases from separate years, *only* those cases approved by the prosecutor's office were tested by the lab. This model of cold case review maximizes laboratory and investigative resources because the prosecutor *and only the prosecutor* has the final word as to whether charges will be filed in any case. Prosecution “pre- approval” for DNA analysis is the equivalent of a conditional commitment that charges will be filed in the event that a database DNA match is obtained. With this case review model, scarce investigative and laboratory resources are not wasted or misdirected on cases that have not received – and may never receive – the prosecutor's approval. As a result, collective laboratory and investigative resources are much more focused and efficiently directed.

As of mid-July, 2010, the prosecutor's office Cold Case Unit had reviewed a total of 1,181 cold sex crimes cases. Of these cases, 1,003 had been rejected for DNA analysis and 146 were approved for immediate testing, with 32 cases approved for delayed testing. Thus, 85% of the backlogged cold case load at the lab was disapproved for DNA testing for either legal or factual reasons, or both.

This model of case review resulted in a substantial preservation of laboratory and investigative resources and concomitantly focused these resources on cases with a high potential for future prosecution. Time, effort, and scarce systemic resources were not wasted, and project morale was thereby enhanced. The overall focus of this project has been to coordinate interagency resources so that each participating entity is working smart rather than simply working hard.

Prosecutor, Cold Cases, DNA Backlog