

CODIS Hits Can Solve Cold Cases and Correct Wrongful Convictions, Yet Currently They're Being Overlooked.

CODIS is an immensely powerful crime-solving tool, but it is not being used to its full potential. Across the nation, inadequate review procedures mean DNA evidence that could identify the perpetrators of violent crimes and reveal wrongful convictions is falling through the cracks.

What is CODIS?

The FBI's Combined DNA Index System ("CODIS") can identify the perpetrators of violent crimes or tie seemingly unconnected crimes together. When a DNA profile is obtained from a crime scene, it is submitted to police DNA databases and fed into CODIS. Likewise, when a person is convicted of a serious felony, their DNA is also submitted to CODIS. CODIS indexes these profiles and returns any that match as a "hit," which is then reported to the state crime lab.

When a crime lab learns of a CODIS hit, it notifies the law enforcement agency that submitted the DNA profile involved, normally a local police department (some states also notify the jurisdictional prosecutor, normally the local DA), leaving it entirely up to them to decide how to proceed.

**Contains >25
million DNA
profiles**

**An estimated
62,000 CODIS
hits annually**

The Problem

This reliance on local law enforcement agencies to act with no oversight or centralized review is allowing CODIS hits to fall through the cracks.

1. Exculpatory CODIS Hits Are Not Being Acted Upon or Disclosed

When law enforcement agencies see a CODIS hit relates to a closed case where a conviction has already been secured, they seem to frequently ignore the hit report, assuming it is immaterial as the perpetrator has already been identified.

But in wrongful conviction cases, this is a major problem. It means exculpatory DNA evidence might exist and be available to police and prosecutors yet never be acted upon or disclosed. The actual perpetrator avoids accountability while an innocent person remains incarcerated.

2. CODIS Hits in Cold Cases Are Being Overlooked

We have also heard that many agencies have no one specifically assigned to review CODIS hits, meaning hits in cold cases where no investigator is actively assigned might also be slipping through the cracks. This threatens to leave violent crimes unsolved even when DNA evidence identifying the offender is available.

Added Urgency from Sexual Assault Kit Testing Efforts

As states make progress testing backlogged sexual assault kits, the need for action is even more urgent. With thousands of currently unprocessed kits finally submitted to CODIS, many will generate hits identifying the perpetrators in cold cases. After so many resources have gone into addressing the backlog — and after victims have had to wait so long — it is vital that the crime-solving information that emerges gets put to use.

This Issue is Not a Hypothetical

We already know of two confirmed cases where exculpatory CODIS hits emerged post-conviction but were ignored. **The data indicates that guaranteeing proper review of CODIS hits nationwide would lead to 20–25 new exonerations every year and help solve countless cold cases, all while using minimal resources.**

Michael Gooze's Case

In 2007, Michael Gooze was convicted of a burglary in Georgia on the testimony of a police informant who said he had seen Gooze committing the crime. In 2009, the Georgia crime lab informed local police that blood found at the crime scene had returned a CODIS hit to the very police informant who had accused Gooze in the first place. But local police took no action. Gooze and his attorneys had no way of knowing the hit existed — let alone its exculpatory contents. It only came to light in 2015 through a one-off grant-funded statewide CODIS hit review. Without such a program, Gooze's conviction would likely still stand.

Paul Garrett's Case

In a case rife with misconduct, Paul Garrett was convicted in a rape/homicide case in Tennessee in 2003. Just one year later, the state crime lab informed local police and the DA that the DNA profile from the sexual assault kit in the case had triggered a CODIS hit to another man, Calvin Atchison, who had prior convictions for similar crimes. Yet neither the police nor prosecutor took any further action or disclosed the hit to Garrett. The hit was only acted upon seven years later when a cold case unit stumbled upon the CODIS hit, ultimately leading to Garrett's exoneration and Atchison's prosecution.

The Solution: Guaranteed Review of CODIS Hits at the State Level

The Accurate Justice Project is working to design and secure model policies guaranteeing the review of *all* CODIS hits, including those in closed and cold cases.

An effective solution would include:

- Guaranteed review of *all* new CODIS hits with follow-up to ensure appropriate action is taken
- CODIS hits in cases *without a conviction*: fully investigated to determine whether they can help identify the perpetrator / secure a conviction
- CODIS hits in cases *closed by conviction*: reviewed to confirm the person named in the hit is the same person who was actually convicted. If the hit points to someone else, the convicted person (and innocence counsel) are notified and the prosecutor reviews the conviction's integrity
- Timely and compassionate notification of victims
- Public reporting of outcomes to monitor compliance and generate valuable data

Local law enforcement agencies and prosecutor's offices should adopt internal procedures to govern the handling of incoming CODIS hits to ensure all of the above steps are taken. To address this problem statewide, though, state-level entities must also take action. Legislatures should pass laws requiring prosecutors take the steps above, and state attorneys general can offer to assist local prosecutors with some of the triaging of hits to alleviate any burden.

Adopting these policies would promote public safety and provide justice to victims and the innocent.

For more information, visit www.accuratejustice.org or contact Hayden Davis (hdavis@accuratejustice.org).