

San Joaquin County Grand Jury



Cold Cases in San Joaquin County:

On the Back Burner

2018 - 2019 Case #0318

Summary

The San Joaquin County 2018-2019 Civil Grand Jury investigated the various municipal and county law enforcement agencies throughout the County to determine the status of cold case investigations. This investigation was initiated as a result of recent media coverage and public interest in cold case investigations. Specifically, the Grand Jury sought to: (1) determine the number of cold case homicides, sexual assaults, and missing persons with suspicious circumstances, and (2) examine the staffing, funding, processes, and effectiveness of cold case investigations in San Joaquin County.

In the course of the investigation, various administrative and investigative personnel from law enforcement agencies throughout San Joaquin County were interviewed. The Grand Jury also conducted a cold case survey of various law enforcement agencies in San Joaquin County. In addition, numerous materials pertaining to cold case investigations were reviewed. The Grand Jury also toured the California Department of Justice crime laboratory in Ripon.

The following sections highlight the most significant findings and recommendations determined by the Grand Jury as a result of this investigation:

Major Findings

- There are more than 500 cold case homicides in San Joaquin County, including at least 12 homicide victims whose remains have never been positively identified. The exact

number of cold case homicides is unknown due to the lack of a consistent “cold case” definition and the lack of a digitized tracking system.

- Cold case homicide investigations in San Joaquin County rarely result in case closure, arrest or prosecution. This is a contributing factor to the increasing number of cold case homicides in San Joaquin County.
- There is insufficient staffing and funding for cold case investigations in San Joaquin County due primarily to financial limitations and lack of priority.

Major Recommendations

- The San Joaquin County Sheriff and the San Joaquin County District Attorney utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Sheriff’s Detectives and at least two full-time District Attorney’s Investigators dedicated solely to cold case investigations no later than December 31, 2019.
- The City of Stockton utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Police Detectives dedicated solely to cold case investigations no later than December 31, 2019.
- The San Joaquin County District Attorney’s Office establish a Cold Case Task Force and each law enforcement agency in San Joaquin County sign a Partnership and Cooperation Agreement with the Cold Case Task Force no later than March 31, 2020.
- Each law enforcement agency in San Joaquin County expand their definition of “cold case” to include missing persons with suspicious circumstances, and sexual assault (forcible rape and attempted rape), in addition to homicide no later than March 31, 2020.

Glossary

- **CA DOJ:** State of California Department of Justice
- **CODIS:** Combined DNA Index System; enables federal, state and local forensic laboratories to exchange and compare DNA profiles electronically, thereby linking serial violent crimes to each other and to known offenders.
- **Cold Case Accountability Act of 2020:** A change.org petition seeking new federal legislation to assist cold case investigations and support families of cold case victims.
- **County DNA Identification Fund 20737:** Fund that receives San Joaquin County share of Proposition 69 fees collected by courts for criminal offenses.
- **DNA:** Deoxyribonucleic acid; a chemical which is found in virtually every cell of the body and determines each individual’s hereditary characteristics.
- **DNA Phenotyping:** The prediction of physical appearance from DNA.
- **FamilyTreeDNA:** Company providing direct-to-consumer DNA testing for ancestry.

- **GEDmatch.com:** An open data personal genomics database and genealogy website.
- **Genetic Genealogy:** The combination of DNA analysis with traditional historical and genealogical research to study family history and identify persons.
- **Measure A:** Ballot measure approved by Stockton voters in 2013 authorizing a three-quarter cent sales tax to pay for law enforcement and other services.
- **NIJ:** National Institute of Justice; the research, development and evaluation agency of the U.S. Department of Justice.
- **Proposition 69:** State proposition passed in 2004 that allows for the collection of DNA samples from all felons and persons arrested for certain crimes.
- **Rand Corporation:** Nonprofit institution that helps improve policy and decision making through research and analysis.
- **Rapid DNA:** The fully automated process of developing a DNA profile from a reference sample cheek swab in less than two hours.
- **RapidHIT ID System:** Automated system that generates lab-quality forensic DNA profiles in less than 90 minutes.
- **SB 813:** State legislation approved in 2016 that eliminates the ten-year statute of limitations for sexual assaults and allows the prosecution of such crimes at any time.
- **Statute of Limitations:** Laws that set a maximum time after a crime for legal proceedings to be initiated.
- **STRmix:** Short tandem repeat technology; a forensic software used to aid in the analysis and interpretation of DNA mixtures.
- **US DOJ:** United States Department of Justice

Background

In April of 2018, Sacramento Police arrested Joseph James DeAngelo, 72, as a suspect in the notorious “Golden State Killer” criminal investigation. Investigators believe DeAngelo to be the serial killer responsible for committing at least 13 homicides and more than 50 rapes in California from 1974 to 1986. The arrest was made after investigators found DNA matches to DeAngelo’s third cousins through GEDmatch.com, a public genealogy website. This historic breakthrough in criminal investigatory techniques has fueled an ongoing fascination with high-profile, unsolved crimes by both the media and the general public. Such intense interest has only been enhanced by numerous subsequent arrests made in other previously unsolved homicide and sexual assault cases throughout the United States.

Commonly referred to as “cold cases,” these investigations typically refer to homicide or sexual assault cases that have never been solved, and for which there is no current active investigation or leads to pursue. Cases involving “missing persons with suspicious circumstances” are also commonly categorized as “cold cases” based upon the possibility of a serious felony or homicide having been committed.

Criminologists estimate that at least 200,000 homicides have gone unsolved in America since the 1960's. The national "clearance rate" for homicide today is approximately 64%, which translates to about a one in three chance that police won't identify a murderer. Estimates for unsolved homicides in California exceed 33,000 between 1980 and 2008. The California Attorney General's Office does not currently keep a list of unsolved or cold case homicides, thus leaving it up to individual police departments to track such cases themselves.

Reason for Investigation

As a result of recent media coverage and public interest in cold case investigations, the Grand Jury decided to investigate the various municipal and county law enforcement agencies throughout San Joaquin County to determine the following:

- The current number of cold cases for homicides, sexual assaults, and missing persons with suspicious circumstances
- The sufficiency of staffing and funding to fully investigate all such cold cases
- The current process and procedures for cold case investigations
- The current effectiveness in solving and closing cold case investigations

Method of Investigation

The following outlines the approach used in examining the current status of cold case investigations throughout San Joaquin County:

Materials Reviewed

- Online research pertaining to cold case investigations, both nationally and locally
- Municipal and county law enforcement agency websites in San Joaquin County
- Transcripts and notes from Grand Jury interviews of administrative and investigative personnel of various law enforcement agencies throughout San Joaquin County
- Cold case survey results from various law enforcement agencies throughout San Joaquin County
- Proposed Budget Reports from various law enforcement agencies throughout San Joaquin County
- Stockton Police Department Strategic Plan, 2017-2019
- Dr. Anthony Braga Report to the Stockton Police Department, 2006
- California Department of Justice website
- National Institute of Justice website
- Legislative Acts pertaining to DNA analysis, sexual assault kits, and statutes of limitations

Interviews Conducted

- Administrative personnel from various law enforcement agencies throughout San Joaquin County
- Investigative personnel from various law enforcement agencies throughout San Joaquin County

Site Visited

- California Department of Justice Central Valley Regional Laboratory in Ripon

Discussions and Findings

1.0 Defining “Cold Cases” in San Joaquin County

No universal definition of “cold case” currently exists. This is due in part to the fact that there is no universally accepted metric for when a case becomes “cold.” The National Institute of Justice (NIJ) defines a cold case as “any case whose probative investigative leads have been exhausted.” The definition of a cold case varies between law enforcement agencies. Such definitions have often been established by past practice, as opposed to by written policy.

The Grand Jury reviewed “cold case” definitions being utilized by numerous law enforcement agencies and determined that the following elements are those most commonly included in a cold case definition, whether by written policy or past practice:

- *Case status* – all known leads exhausted, statute of limitations not expired
- *Type of crime* – usually homicide, sometimes missing persons or sexual assault
- *Age of case* – may include a specific timeframe, but often nonspecific

San Joaquin County

Table 1 below was developed through interviews and surveys of various administrative and investigative staff from the municipal and county law enforcement agencies throughout San Joaquin County. Table 1 provides specific detail regarding whether the law enforcement agency currently has a cold case definition, whether that definition is from written policy or past practice, which crime categories are included in that definition, whether there is any time element involved, and the case status pertaining to active leads.

Table 1. Survey Responses on Cold Case Definition

Facts Developed	DA	Escalon	Lathrop*	Lodi	Manteca	Ripon	Sheriff	Stockton	Tracy
Agency has a cold case definition	Y	Y	NA	N	Y	Y	Y	N	Y
Definition by written policy	N	N	NA	N	N	N	N	N	N
Definition by past practice	Y	Y	NA	N	Y	Y	Y	N	Y
Definition includes homicide	Y	Y	NA	NA	Y	Y	Y	NA	Y
Definition includes missing persons with suspicious circumstances	N	Y	NA	NA	N	Y	Y	NA	Y
Definition includes sexual assault	Y	Y	NA	NA	N	Y	N	NA	Y
Definition has specific time element	N	>5yrs	NA	NA	N	N	>5yrs	NA	N
Definition includes no active leads	Y	Y	NA	NA	Y	Y	Y	NA	Y

* Contracts with Sheriff Department for police services.

Y – Yes N – No NA – Not available > – Greater than

This investigation revealed that there are varying definitions, and even lack of definition, for “cold case” throughout San Joaquin County. No law enforcement agency in the County has a written policy defining “cold cases.” Statements obtained from interviews and surveys of various law enforcement agencies in San Joaquin County confirmed the detrimental impact of not having a clear cold case definition by written policy. For example, one agency reported that they could not state how many cold cases they had because they “don’t have a well-defined ‘cold case’ policy.” The Grand Jury also heard multiple reports of staff confusion pertaining to how and when an unsolved case becomes a “cold case.”

Finding

F1.0 There is inconsistency and confusion regarding what defines a “cold case” amongst the law enforcement agencies in San Joaquin County.

2.0 Counting Cold Cases in San Joaquin County

Obtaining an accurate count of the current number of cold case homicides, missing persons, and sexual assaults in San Joaquin County is problematic, largely due to the overall lack of clarity and consistency in defining “cold cases.” Statements obtained through interviews and surveys of law enforcement agencies in San Joaquin County confirmed the difficulty and confusion in both obtaining and maintaining accurate number counts of cold cases. For example, one agency reported they have no idea how many new cold cases they receive. In addition, the lack of a digitized system for tracking older cases has resulted in some cold cases not being counted. The Grand Jury learned that the lack of accurate numbers in counting and tracking cold cases in San Joaquin County is a contributing factor to the overall lack of priority for staffing, funding, and investigating cold cases.

Table 2 below shows cold case statistics that were obtained through interviews, surveys, and budget requests from the various law enforcement agencies in San Joaquin County.

Table 2. Cold Case Statistics from San Joaquin County

Type of Crime	DA	Escalon	Lathrop*	Lodi	Manteca	Ripon	Sheriff	Stockton	Tracy
Homicide	572 ¹	0	NA	NA	4	0	206	>320 ²	3
Missing persons with suspicious circumstances	NA	0	NA	NA	NA	0	82	3 ³	1
Sexual assault	>200 ¹	2	NA	NA	NA	0	NA	NA	0
Attempted murder of a Police Officer	NA	1	NA	NA	NA	NA	NA	NA	NA
Homicide with an unidentified victim	NA	0	NA	NA	0	0	12	0	0

* Contracts with Sheriff Department for police services

1) District Attorney’s numbers are estimates for the entire county

2) Stockton estimate from 2015. This number has increased by an unknown amount since then.

3) There are an estimated 56 additional persons missing for more than ten years that are not currently classified as cold cases but remain open files with the Missing Persons Unit of the Stockton Police Department.

It should be emphasized that the accuracy of the statistics provided for each crime category in the Table 2 are impacted by several important variables, including:

- Homicide – lack of digitized system for tracking older cases resulting in estimates that do not include every unsolved case from decades past

- Missing Persons – not always considered a crime; not always considered a cold case
- Sexual Assault – not always considered a cold case; the recent elimination of the ten-year statute of limitations on sexual assault cases through SB 813 should impact this metric and bring needed focus to unsolved sexual assault cases

Findings

F2.0 There are more than 500 cold case homicides in San Joaquin County, including 12 homicide victims whose remains have never been positively identified. The exact number of cold case homicides is unknown due to the lack of a consistent written definition for “cold case” and the lack of a digitized tracking system.

F2.1 The lack of accurate numbers in counting and tracking cold cases in San Joaquin County is a contributing factor to the overall lack of priority for staffing, funding, and investigating cold cases.

3.0 Increasing Numbers of Cold Cases in San Joaquin County

Violent Crime in San Joaquin County

Statistics concerning the number of homicides and forcible rapes in San Joaquin County during the past decade show significant fluctuations. Crime statistics in San Joaquin County are most impacted by the amount of crime within the City of Stockton. Table 3 below shows the number of homicides and rapes in both Stockton and the rest of San Joaquin County from 2010 through 2015.

Table 3. Homicide and Rape Statistics in San Joaquin County

Crime	Location	2010	2011	2012	2013	2014	2015	Total
Homicide	Stockton	49	58	71	32	49	49	308
	Rest of County	6	6	6	1	8	10	37
	Total	55	64	77	33	57	59	345
Rape	Stockton	107	90	90	91	134	135	647
	Rest of County	37	28	34	24	25	45	193
	Total	144	118	124	115	159	180	840

Homicide Clearance Rates

The national “clearance rate” for homicide was 64.1% as of 2015. Fifty years ago, it was more than 90%. “Clearance rate” is the term used by law enforcement to describe cases that end in arrest, or when a suspect has been identified but cannot be arrested due to death or other circumstances. Research identifies the following key contributing factors to the substantial increase in unsolved homicides in the United States:

- Stranger-on-stranger homicide
- Increased use of firearms in homicides
- Increased involvement of gangs or drugs
- Witness fear of retaliation
- Witness distrust of law enforcement

The nature of violent crime in America has changed over the decades. In the early 1960’s, the vast majority of homicide cases involved individuals who knew one another. By 1992, 53% of all murders occurred between strangers.

The FBI collects crime clearance statistics but doesn’t provide numbers by jurisdiction. That makes it difficult to assess the clearance rates of local law enforcement agencies. Table 3 shows that the number of homicides throughout San Joaquin County from 2010 through 2015 is 345. Assuming the national average clearance rate of 64% is applied, that leaves 124 unsolved homicides for that same period.

The Stockton Police Chief recently stated that 70% of the city’s homicides in 2018 were closed, which is a higher number than in previous years. While this improvement is commendable, it still leaves approximately ten of Stockton’s 33 homicides in 2018 unsolved.

Losing Ground

The reality in both America and in San Joaquin County is that the cumulative number of unsolved homicides is increasing each year. The primary factor in this equation is the decreased clearance rate for solving homicides. However, the lack of effective cold case investigations is also a contributing factor.

The Grand Jury found that cold case homicides in San Joaquin County are rarely solved or closed. Based upon interview and survey responses, as well as online research, the following is a complete listing of the known cold case homicide closures for the law enforcement agencies in San Joaquin County during the past five years:

- Stockton Police Department – two cases closed (both suspects deceased)
- Tracy Police Department – one case closed (suspect deceased)

In addition, there have been no known arrests or prosecutions involving cold case investigations in San Joaquin County during the past five years.

Each of the law enforcement personnel interviewed during this investigation confirmed that the cumulative number of cold case homicides is increasing each year. The San Joaquin County District Attorney's Office recently reported that their office and other law enforcement agencies continue to fall further behind each year on cold case homicide investigations.

Findings

F3.0 The total number of cold case homicides in San Joaquin County is increasing each year due primarily to the decreased clearance rate for solving homicides.

F3.1 Cold case homicide investigations in San Joaquin County rarely result in case closure, arrest or prosecution. This is a contributing factor to the increasing number of cold case homicides in San Joaquin County.

F3.2 Due to the current inconsistencies in both defining and counting cold cases involving missing persons with suspicious circumstances, and sexual assaults, there is insufficient information to clearly determine the extent to which the number of those unsolved cases may be increasing.

4.0 Staffing Cold Case Investigations in San Joaquin County

A Universal Challenge

Any legitimate discussion concerning law enforcement staffing must begin with acknowledging what has become a universal challenge for police agencies: hiring and retaining qualified officers. This problem has impacted the various law enforcement agencies in San Joaquin County, most notably the two largest agencies: the Stockton Police Department and the San Joaquin County Sheriff's Department.

Reduced to only 331 sworn officers in 2013, the Stockton Police Department was greatly aided through the passage of Measure A by voters that same year. This three-quarter cent sales tax provided funding for law enforcement. The result was a stated goal to increase the Stockton Police force to 485 officers by June of 2017. Despite continued challenges in both hiring and retaining qualified officers, the number of uniformed Stockton police officers totaled 466 as of March 2019. The Stockton Police Chief indicated it was hard to reach the budgeted maximum of 485 officers due to retirements, attrition and staff leaving for other jurisdictions.

The San Joaquin County Sheriff's Office has also faced the same continual challenge in both hiring and retaining qualified sheriff's deputies. The newly elected Sheriff recently confirmed both the

shortage of sworn officers and the difficulty of finding qualified candidates to fill vacant positions. Even the smaller law enforcement agencies within San Joaquin County reported that their main challenge in filling vacant positions is the inability to get qualified applicants through the required background investigation.

A Lesser Priority

Cold cases are typically some of the most difficult and complex cases to work. They require seasoned investigators and dedicated staff that are focused solely on cold cases as their first priority. Unfortunately, that is rarely the reality in law enforcement. A national cold case survey in 2012 found that only ten percent of responding agencies had dedicated cold case investigators.

This investigation revealed that there are currently only three individuals who are specifically assigned to investigate cold cases in San Joaquin County. None of these individuals is currently working on cold case investigations full-time. The current staffing of cold case investigators in San Joaquin County is as follows:

- Stockton Police Department – one retired detective working part-time (16-20 hours/week; maximum 960 hours/year)
- San Joaquin County Sheriff's Department – one full-time sergeant working less than 25% of the time on cold case investigations
- San Joaquin County District Attorney's Office – one full-time investigator working approximately 20%-30% of the time on cold case investigations

The present level of cold case staffing in the largest law enforcement agencies in this county cannot be expected to effectively investigate and solve cold cases. In fact, it is evident that cold case investigative work is often the lesser priority in their work assignments. Statements obtained through interviews and surveys of various law enforcement personnel confirmed both the frustration in juggling competing priorities, and the futility in working cold case assignments alone. The Grand Jury learned that there are a significant number of cold case homicides with the Stockton Police Department and San Joaquin County Sheriff's Department that have not been reviewed for many years due to insufficient staffing and lack of prioritization.

Assessing Options

The major law enforcement agencies in San Joaquin County need additional dedicated and experienced investigators for cold cases. Possible options for meeting this critical staffing need include the following:

- Transfer experienced staff from other assignments
- Hire additional qualified retirees (limited to part-time)
- Seek qualified volunteers

Interviews with administrative and investigative staff revealed that the Stockton Police Department needs at least three more full-time detectives to effectively manage and investigate the current backlog of cold cases. The San Joaquin County Sheriff's Department has consistently made unsuccessful budget requests for additional cold case staffing, requesting from two to four additional full-time deputies. The San Joaquin County District Attorney's Office also made an unsuccessful budget request to add a Cold Case Investigator and an Investigative Assistant for 2018-2019.

Staffing a successful cold case investigative team may require utilizing all available options, especially considering budgetary restrictions and pension/benefit costs.

Casting a vision and building momentum through collaboration and successful investigations can generate enthusiasm that may appeal to retired detectives. As an example, the City of Walnut Creek Police Department successfully solved a cold case in 2011 and was energized to the point of "pushing for a volunteer squad, staffed by retired detectives, to update reports and apply new forensic analysis."

Findings

F4.0 There is insufficient staffing for cold case investigations in San Joaquin County, primarily within the San Joaquin County Sheriff's Department, the Stockton Police Department, and the San Joaquin County District Attorney's Office.

F4.1 There are a significant number of cold case homicides with the Stockton Police Department and the San Joaquin County Sheriff's Department that have not been reviewed in many years due to insufficient staffing and lack of prioritization.

F4.2 Law enforcement agencies in San Joaquin County continue to be challenged in hiring and retaining enough qualified officers to fill budgeted positions. This has been a contributing factor to insufficient staffing of cold case investigations.

F4.3 Providing experienced staffing for cold case investigations may require transferring staff from other assignments, hiring additional qualified retirees, or seeking qualified volunteers.

5.0 Funding Cold Case Investigations in San Joaquin County

Overview

A 2012 national cold case study by the Rand Corporation found that 56% of cold case investigations were funded through grants or supplemental agency funds. The same study found that only 20% of cold case investigations were being funded through established line items in the agency's budget. There are numerous factors contributing to the funding deficit for cold case investigations in America. Economic crises, critical humanitarian and justice issues, and unfunded pension liabilities are but a few of the major elements impacting today's budget priorities. In addition, the difficulty in quantifying a return on investment with cold case funding relative to active police investigations is another obstacle when competing for limited funds.

San Joaquin County

The Grand Jury found that funding for cold case investigative work has been insufficient for the law enforcement agencies in San Joaquin County primarily due to financial limitations and lack of priority. The interviews and surveys of law enforcement personnel consistently revealed a desire to accomplish more regarding cold case investigations. However, funding requests for additional cold case staffing, training, and technology have been routinely denied. This has been especially true for the three largest law enforcement agencies in San Joaquin County: the San Joaquin County Sheriff's Department, the Stockton Police Department, and the San Joaquin County District Attorney's Office. For example, the Sheriff's Department has unsuccessfully requested additional staffing for cold case investigations every year since 2011.

Responses from interviews and surveys consistently indicated the need for additional cold case staffing and training as the greatest priorities. Also mentioned were needed funding for technology improvements and for utilizing private laboratories to do additional testing of DNA evidence.

Funding Alternatives

Grant funding for cold case investigations has periodically been available through the National Institute of Justice, an agency of the United States Department of Justice (US DOJ). The Grand Jury learned that each of the three largest law enforcement agencies in San Joaquin County had attempted unsuccessfully to obtain such grants on one or more occasions in recent years. There was also a consensus amongst administrative staff that receiving grant money is helpful, but not sustainable to fund staffing year after year. However, research did reveal that the Sacramento County District Attorney's Office, Laboratory of Forensic Services, did successfully obtain a grant of \$336,293 in 2017 through the NIJ "DNA Capacity Enhancement and Backlog Reduction Program."

Another source of funding assistance might be the funds deposited annually into County DNA Identification Fund 20737 as a result of Proposition 69. The statute does not stipulate how the funds are to be disbursed at the local level. Currently, a Proposition 69 oversight committee meets

periodically to approve disbursement of collected funds for reimbursement of expenses incurred for DNA collection. The County portion of funds in 2017 was \$111,381. Such funds could possibly be used in a creative way to enhance DNA analysis and assist criminal investigations. One example is the Contra Costa County Sheriff's Office recently spent \$97,000 to purchase a RapidHIT ID System, a revolutionary technology to process DNA analysis in about 90 minutes.

In summary, all available funding options for cold case investigations should be utilized moving forward. Potential cost savings may be achieved by utilizing retired detectives working part-time, without benefits, at approximately one-third of the cost of a full-time, benefited employee.

Finding

F5.0 There is insufficient funding for cold case investigations in San Joaquin County, primarily for the San Joaquin County Sheriff's Department, the Stockton Police Department, and the San Joaquin County District Attorney's Office. The lack of sufficient funding is due primarily to financial limitations and lack of priority.

6.0 Investigating Cold Cases in San Joaquin County

Preparation

The following elements were identified through interviews and surveys as being essential to effective preparation for cold case investigations:

- Training specific to cold case investigations
- Organized computer database for cold cases

Cold case investigation is a specialized field that is presently benefiting from both rapid technological advances and emerging investigative techniques. Numerous opportunities exist for cold case and related training through such organizations as the US DOJ, the State of California Department of Justice (CA DOJ), and various other law enforcement institutes, agencies, and associations. The Grand Jury learned that present cold case investigative staff in San Joaquin County have had minimal opportunities to stay current through relevant cold case training events.

It remains commonplace in law enforcement for older cold case files dating back to the early 1990's and before to remain as paper files stored in boxes and binders. This is no different in San Joaquin County. The Grand Jury learned that such case files can range from a dozen pieces of paper to four full binders. Retrieving and reviewing such files is cumbersome and inefficient, though retention of paper files may be desirable for some cases. The lack of an organized computer database inhibits accurate and efficient tracking, evaluation, prioritization, and investigation of cold cases. The San Joaquin County Sheriff's Department acknowledged this challenge in their 2018-2019 Proposed

Budget request, indicating that cold cases prior to 1990 are not digitized, thus requiring any review or evaluation of the case and evidence to be done by hand.

Prioritization

The 2012 Rand Corporation study on cold case investigations listed the following factors as those most influential in the decision to reopen cold cases:

- New witness coming forward
- New DNA technology to test old physical evidence
- New evidence for DNA testing
- Other physical evidence
- New technology to test other physical evidence

The Rand study concluded that *“these responses strongly indicate that physical evidence is the major factor in decisions to reopen cold cases.”*

In their 2018-2019 Proposed Budget Request, the San Joaquin County District Attorney’s Office stated their desire to assist law enforcement agencies throughout the County by reviewing and triaging unsolved homicide cases. Their goal is to identify DNA evidence that has not been previously submitted for testing, and submit that evidence to the California Department of Justice crime labs for analysis. Current staffing levels and priorities prevent this level of assistance from the District Attorney’s Office.

The Grand Jury learned that some investigative staff at law enforcement agencies in San Joaquin County currently have no efficient or effective method of prioritizing which cold cases to investigate. Based upon interview results, the following prioritization methods are those being most utilized at present:

- Contact from family members of cold case victims
- Tips received/new information provided
- Random choice by the investigator
- Directed by supervisor

Many of the current methods being utilized to prioritize cold case investigations in San Joaquin County are inconsistent with the priority of physical evidence as emphasized by the 2012 Rand Corporation study. Neither do many of the current methods for prioritization align with the method of triaging physical evidence proposed by the District Attorney’s Office.

DNA Evidence (also see Appendix A)

The Grand Jury learned through interviews and surveys that there are significant numbers of cold case homicides in San Joaquin County with DNA evidence that could be tested using enhanced DNA

technology now available. The exact number of cases with testable DNA evidence is unclear due to the lack of effective tracking or evaluation methods. However, one estimate received by the Grand Jury indicated the number of such cases to be in the hundreds.

Limitations

Despite incredible advances in using DNA technology to identify persons, there are additional challenges presented to investigators of cold cases in San Joaquin County. The Grand Jury learned from multiple sources that the CA DOJ regional crime labs do excellent work; however, they are limited in the amount of staff time they can devote to evidence testing. This limitation was most apparent when involving cold cases where the chances of successful DNA testing results were less likely. Not only were the chances of approval for testing less likely for many cold cases, but the amount of time to receive a test result was often longer. Due to limited staff resources, the CA DOJ has policies in place that only allow them to analyze a minimal amount of DNA evidence based on their workloads and demands from law enforcement agencies throughout California. It is noteworthy that the Tracy Police Department's recent closure of a cold case homicide resulted from additional DNA testing by a private, nonprofit laboratory that was reportedly utilized due to testing limitations at the CA DOJ crime laboratory.

Another limitation in the investigation of cold case homicides in San Joaquin County is the significant percentage of cases involving street gangs. The Grand Jury learned that the number of cold case homicides involving street gangs is estimated to be as high as 50% in San Joaquin County. The significance of this reality does not pertain to a lesser demand for justice, but rather acknowledges that these cold cases present additional challenges, such as the lack of DNA or other physical evidence for testing, and the lack of available or willing witnesses to testify

Findings

F6.0 There is a need for additional training specific to cold case investigations for the law enforcement agencies in San Joaquin County.

F6.1 The lack of organized computer databases for cold cases is impeding the effective evaluation and investigation of cold cases in San Joaquin County.

F6.2 The methods for prioritization of cold case investigations in San Joaquin County are often ineffective, with insufficient emphasis placed on available physical evidence.

F6.3 The exact number of cold case homicides in San Joaquin County that have testable DNA evidence is unknown due to the lack of effective tracking and evaluation methods.

F6.4 There are limitations on the amount of physical evidence that the State of California Department of Justice crime laboratories will process for cold case investigations due to staffing and prioritization.

F6.5 Cold case homicides involving street gangs often present greater challenges due to the lack of testable DNA evidence and the lack of available or willing witnesses.

7.0 Solving Cold Cases in San Joaquin County

Elevation

Any successful path forward in solving cold cases in San Joaquin County must begin with elevating the priority of staffing and funding such investigations. The focus and priority of law enforcement on today and tomorrow must expand to include the past. By not investigating cold cases or seeking arrests and convictions, criminals are potentially being allowed to commit additional violent crimes.

Innovation (also see Appendix B)

Another key element to future success in solving cold cases in San Joaquin County will be the utilization of advanced technology and emerging techniques, including:

- STRmix DNA interpretive software
- Rapid DNA technology
- Genetic genealogy
- DNA phenotyping

These innovative techniques have assisted in solving cold cases throughout the United States.

Collaboration

A final critical component in the future success of solving cold cases in San Joaquin County will be the level of collaboration between all key members involved in the investigation and prosecution of such cases. This investigation revealed that there is presently a climate of isolation and frustration in attempting to investigate cold cases without the necessary assistance and support. Responses received from surveys and interviews revealed investigative staff want help in many areas, including: discussing case strategy, interviewing witnesses in the field, processing and serving warrants, obtaining legal advice, and testing of physical evidence.

This investigation confirmed the necessity of a cooperative and coordinated relationship between law enforcement agencies and the District Attorney's Office. The 2012 Rand Corporation study on cold case investigations emphasized the importance of cooperation between police and prosecutors in improving both the efficiency and the effectiveness of cold case investigations. The study indicated the benefit of having police consult with prosecutors beginning at case screening, to offer advice on whether the case is likely to produce a conviction and what kinds of evidence will be most compelling in court.

In their 2018-2019 Proposed Budget Request, the San Joaquin County District Attorney's Office expressed a clear desire to assist law enforcement partner agencies throughout the County with cold case investigations. However, the Grand Jury learned that there is presently minimal contact between the District Attorney's Office and cold case investigative staff.

There are many examples from nearby counties where the District Attorney's Office has taken a leadership role in coordinating and facilitating cold case investigations and prosecutions. A few of these counties include:

- Sacramento County – Cold Case Prosecution Unit
- Contra Costa County – Cold Case-Unsolved Homicide Unit
- Alameda County – Unsolved Crimes/DNA Cold Case Unit
- Santa Clara County – Cold Case Unit
- Solano County – Cold Case Unit

The desire for the San Joaquin County District Attorney's Office to form a Cold Case Task Force was a consistent request in both interviews and survey responses from law enforcement agencies throughout the County. Such a Cold Case Task Force is needed to provide a multitude of essential functions in cold case investigations, including:

- Establish a Mission Statement clearly defining "Cold Cases"
- Coordinate training specific to cold case investigations
- Provide legal assistance including case review, warrant processing, and prosecution
- Coordinate with CA DOJ crime laboratories for necessary testing
- Collaborate with other counties and law enforcement agencies for support
- Collaborate regarding advocacy for victim's families and witnesses

As one example of successful collaboration, the Santa Clara County District Attorney's Office joined with county law enforcement agencies to sign a Cold Case Partnership and Cooperation Agreement. The county crime laboratory also joined this partnership and made a commitment to handle DNA in an expedited manner. The District Attorney also asked every county law enforcement agency for access to unsolved homicide and sexual assault cases in order to assist with locating and submitting DNA evidence, interviewing witnesses, and conducting a comprehensive case evaluation.

Findings

F7.0 The elevation of cold case investigations as a priority is vital to the future success in investigating and solving cold cases in San Joaquin County.

F7.1 The utilization of innovative technology and emerging techniques is an essential element to the future success of investigating and solving cold cases in San Joaquin County.

F7.2 The level of collaboration between law enforcement agencies and the District Attorney's Office is a critical component to success in solving and prosecuting cold cases.

F7.3 There is minimal contact between the District Attorney's Office and cold case investigative staff in San Joaquin County due to lack of staffing and priority.

F7.4 There is universal support amongst law enforcement agencies in San Joaquin County for the District Attorney's Office to form a Cold Case Task Force to support cold case investigation and prosecution.

8.0 Maintaining Contact with Families of Cold Case Victims

The consequences of unsolved cold cases include victims without justice and families without answers. This painful reality is one driving force behind the proposed Cold Case Accountability Act of 2020. One aspect of this proposed legislation is a requirement for law enforcement agencies to provide regular updates in writing and in person to families of cold case victims.

The Grand Jury learned through interviews and survey responses that there is currently no consistent procedure or practice for law enforcement agencies in San Joaquin County to maintain periodic contact with the family members of cold case victims. Most contacts with victims' families are currently being initiated by family members, and often correspond to the victim's birthday or the anniversary of their death. Many law enforcement personnel refrain from initiating contact with families of cold case victims due to time constraints, the lack of any progress to report, or the potential to provoke emotional trauma. Perhaps a reasonable and sensitive response is that the family should be consulted regarding their desired frequency of contact. Such contacts could be handled by nonsworn personnel in order to minimize the time impact on investigative staff.

Victim Services is a program of the San Joaquin County District Attorney's Office that serves victims and their survivor family members of homicide, sexual assault, and other crimes. As stated on the District Attorney's website, "In California victims of crime have state constitutional standing and rights, guaranteeing that their voices will be heard." For many cold case victims, their voice is still being heard through their surviving family members.

Victims of Violent Crime of San Joaquin County is a nonprofit support group whose members are comprised primarily of surviving family members of unsolved murders. The group has held an annual vigil during the holiday season for the past twenty years. All of the surviving family members who gather at these vigils are ultimately seeking the same things: justice and closure. However, the Chief Executive of Victims of Violent Crime recognizes that in order for survivor family members to experience justice and closure, more cold case detectives are needed in San Joaquin County to investigate their cases.

Finding

F8.0 There is no consistent procedure or practice for law enforcement agencies in San Joaquin County to maintain periodic contact with the family members of cold case victims.

Recommendations

R1 Each law enforcement agency in San Joaquin County develop a plan to define, prioritize, and digitally track cold case investigations no later than December 31, 2019. Prioritization will emphasize available physical evidence and utilize emerging DNA testing techniques.

R2 Each law enforcement agency in San Joaquin County expand their definition of “cold case” to include missing persons with suspicious circumstances, and sexual assault (forcible rape and attempted rape), in addition to homicide no later than December 31, 2019.

R3 The San Joaquin County Sheriff utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Sheriff’s Detectives dedicated solely to cold case investigations no later than December 31, 2019.

R4 The San Joaquin District Attorney utilize budget options and staffing reassignments as necessary to provide the equivalent of at least two full-time District Attorney Investigators dedicated solely to cold case investigations no later than December 31, 2019.

R5 The City of Stockton utilize budget options and staffing reassignments as necessary to provide the equivalent of at least three full-time Police Detectives dedicated solely to cold case investigations no later than December 31, 2019.

R6 The San Joaquin County District Attorney’s Office develop a plan for a Cold Case Task Force to facilitate collaboration in investigating and prosecuting cold cases for all law enforcement agencies in San Joaquin County no later than December 31, 2019.

R7 The San Joaquin County District Attorney’s Office establish a Cold Case Task Force for all law enforcement agencies in San Joaquin County no later than March 31, 2020.

R8 Each law enforcement agency in San Joaquin County sign a Partnership and Cooperation Agreement with the newly formed Cold Case Task Force no later than March 31, 2020.

R9 The newly formed Cold Case Task Force partner with the regional CA-DOJ crime laboratories to facilitate the timely and necessary testing of all DNA evidence for cold case investigations no later than March 31, 2020.

R10 Each law enforcement agency in San Joaquin County develop a procedure and practice for maintaining periodic contact with family members of cold case victims no later than March 31, 2020.

Conclusion

It has been said that cold cases are rife with challenges but also filled with rewards. However, this Grand Jury investigation revealed that cold case investigations in San Joaquin County have experienced minimal rewards due primarily to the lack of priority in staffing and funding such investigations. The Grand Jury has responded with a number of recommendations to improve the current state of cold case investigations in San Joaquin County.

In the end, investigating cold case homicides, missing persons, and sexual assaults is about doing what is right and just – for the victims, for their survivor family members, and for our community. As the Stockton Police Chief stated, “We think it’s so important that we have somebody assigned to these cases because we have hurting families who have never received closure.”

Disclaimers

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911. 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

Response Requirements

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The San Joaquin County Board of Supervisors shall respond to all Findings and Recommendations, where applicable.

The Stockton City Council shall respond to all Findings and Recommendations R1, R2, R5, R8, and R10.

The Escalon City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The Lodi City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The Manteca City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The Ripon City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The Tracy City Council shall respond to all Findings and Recommendations R1, R2, R8, and R10.

The San Joaquin County Sheriff shall respond to all Findings, where applicable and Recommendations R1, R2, R3, R8 and R10, within 60 days of receipt of the report.

The San Joaquin County District Attorney shall respond to all Findings, where applicable and Recommendations R1, R2, R4, R6, R7, R8, R9 and R10, within 60 days of receipt of the report.

Mail or hand deliver a hard copy of the response to:

Honorable Linda L. Lofthus, Presiding Judge
San Joaquin County Superior Court
180 E Weber Ave, Suite 1306J
Stockton, California 95202

Also, please email a copy of the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury, at grandjury@sicourts.org

Sources

1. Kaste, Martin. 2015. "Open Cases: Why One-Third of Murders in America Go Unresolved." NPR. March 30. npr.org
2. Hargrove, Thomas. 2018. "Cold Case Homicide Statistics." projectcoldcase.org
3. Gartrell, Nate. 2018. "This is rampant throughout law enforcement: Key evidence in Bay Area cold murder cases sat on shelf for years." Bay Area News Group. July 17.
4. Robert C. Davis, Carl Jensen, and Karin E Kitchens. 2012. "Cold-Case Investigations: An Analysis of Current Practices and Factors Associated with Successful Outcomes." Rand Corporation.
5. National Institute of Justice. "What is a Cold Case?" [NIJ.gov](http://nij.gov)
6. beenverified.com
7. City-Data.com
8. Bowers, Wes. 2019. "While homicides rose in Lodi, other types of crime decreased in Lodi in 2018." January 10. Recordnet.com
9. Ripon Police Department. "Annual Crime Statistics." riponpd.org
10. Kaste, Martin. 2015. "How Many Crimes Do Your Police 'Clear'? Now You Can Find Out." NPR. March 30. npr.org

11. County of San Joaquin Proposed Budgets, 2011/2012 through 2018/2019
12. Stockton Police Department. "Strategic Plan 2017-2019"
13. Stockton Record. 2019. "Want to join SPD? Deadline is Friday for March testing." March 2. Recordnet.com
14. Highfill, Bob. 2019. "Pat Withrow becomes SJ County's 25th Sheriff Monday and has big plans for the department." January 5. Recordnet.com
15. Salonga, Robert. 2011. "Serial slaying investigators' determination closes the mystery on 1977 Walnut Creek murder." July. Bay Area News Group.
16. Davis, Rob. 2015. "Identifying Best Practices for Solving Cold Cases." August. cebcp.org
17. National Institute of Justice. "NIJ Award Detail: Sacramento County District Attorney's Office Laboratory of Forensic Services." Nij.gov
18. Coldcasefoundation.org
19. State of California Department of Justice. "Proposition 69 (DNA)" oag.ca.gov
20. State of California Department of Justice. "Annual DNA Identification Fund Report for 2017" oag.ca.gov
21. Sciacca, Annie. 2019. "Contra Costa Sheriff's Office to add Rapid DNA technology to its arsenal." January 18. Bay Area News Group.
22. National Institute of Justice. 2002. "Using DNA to Solve Cold Cases." Nij.gov
23. National Institute of Justice. 2002. "The Long and Short of DNA." Nij.gov
24. Woolfolk, John. 2018. "Why is California fighting over collecting Criminals' DNA?" May 5. mercurynews.com
25. Botts, Jackie. 2019. "California man who spent 39 years in prison gets \$21 million for wrongful conviction." February 26. REUTERS. mercurynews.com
26. Tracy Press. 2018. "Cold murder case closed." November 29. goldenstatenewspapers.com
27. "STRmix" esr.cri.nz
28. California Statewide Law Enforcement Association. 2018. "New DNA Technology Credited for Arrest & Conviction of Stockton Woman's Killer." November 27. cslea.com
29. Gafni, Matthias. 2018. "Exclusive: The woman behind the scenes who captured the Golden State Killer." August 27. Bay Area News Group.
30. Gafni, Matthias. 2018. "UC Berkeley employee arrested in notorious NorCal Rapist cases using Genetic Genealogy website." September 21. Bay Area News Group.
31. Finley, Allysia. 2019. "The Making of a DNA Detective." February 16-17. The Wall Street Journal.
32. Brown, Kristen V. 2019. "Major DNA testing company sharing genetic data with the FBI." February 4. Bloomberg.
33. Pollack, Andrew. 2015. "Building a Face, and a Case, on DNA." February 23. The New York Times.
34. County of Santa Clara, Office of the District Attorney. "Cold Case Unit" scc.gov
35. Leigh, Vivian. 2018. "New proposal could spark nationwide cold case law." December 20. NewsCenterMaine.
36. San Joaquin County, District Attorney's Office. "Victim Rights" sjgov.org
37. Goldeen, Joe. 2019. "Precinct walk continues search for gunman, answers." March 10. Stockton Record. Recordnet.com

38. Cohen, Sam. 2013. "Vigil Held for Victims of Unsolved Homicides." December 6. Fox40.com
39. Dunlap, Kamika and Grady, Barbara. 2016. "Oakland cold cases no longer on the back burner." August 15. Bay Area News Group.
40. Anderson, Jason. 2015. "Hot on the trail of cold cases." April 15. Stockton Record. Recordnet.com

Appendix A: DNA Evidence

DNA is the fundamental building block for an individual's entire genetic makeup. The DNA in a person's blood is the same as the DNA in their skin cells, saliva, and other biological material. Each person's DNA is unique, with the exception of identical twins. Therefore, DNA evidence collected from a crime scene such as a homicide or sexual assault, can implicate or eliminate a suspect. Old cases that were previously thought unsolvable may contain valuable evidence capable of identifying the perpetrator. DNA can also be used to analyze unidentified remains through comparison with DNA from relatives.

The Combined DNA Index System (CODIS) is a computer network that connects forensic DNA laboratories at the local, state, and national levels. When a DNA profile is developed from crime scene evidence and entered into CODIS, the database software searches thousands of convicted offender DNA profiles to determine a possible match. CODIS also has a missing persons index which contains DNA profiles of unidentified remains, as well as DNA profiles of relatives of those who are missing.

In 2004, California voters approved Proposition 69 to further expand DNA collection to include all persons arrested for a felony. The result has been that California now maintains the largest state DNA database in the country and the third largest in the world.

Although DNA is not the only forensic tool available for the investigation of unsolved cases, advancements in DNA testing and the success of the DNA database system have inspired law enforcement agencies throughout the country to reevaluate cases previously thought unsolvable. DNA testing has even been used to exonerate more than 350 inmates since 1989.

Appendix B: Innovative Techniques

STRmix is a recently developed forensic software that can resolve previously unresolvable mixed DNA profiles. STRmix software combines biological modeling and mathematical processes to achieve results not possible with traditional DNA methods. This new DNA technology was credited for a recent arrest and conviction involving the 2012 rape and homicide of an elderly Stockton woman. The investigation by the Stockton Police Department and the CA DOJ Forensics Services laboratory in Ripon continued until 2016, when new STRmix DNA interpretation software used by the laboratory conclusively identified the suspect's DNA on items from the crime scene. The CA DOJ laboratory had previously been unable to separate DNA mixtures of different people. However, STRmix looks at many more factors in DNA mixtures, allowing a suspect to be identified from a mixture of DNA from different people.

Rapid DNA technology has shortened the DNA test time from weeks to about ninety minutes by inserting a swab of DNA into a cartridge and putting that into a machine for analysis. In the past, law enforcement agencies had to send DNA samples to government labs and wait for test results, which could take days or weeks. A federal bill passed in 2017 allows law enforcement agencies to

use rapid DNA technology to perform real-time DNA testing at their booking stations immediately following arrests. These samples are then compared to profiles in CODIS for possible matches. The same technology has also been used to identify victims of the deadly Camp Fire in Butte County. The Contra Costa County Board of Supervisors recently authorized the Contra Costa Sheriff's Department to spend approximately \$97,000 to purchase the RapidHIT ID System to enhance their investigative operations.

Genetic genealogy is the innovative method used to identify and arrest the suspected Golden State Killer in 2018. Using an untouched Golden State Killer DNA sample from a Ventura County crime lab, the FBI created a profile to load onto the public genealogy website GEDmatch, a freely accessible ancestry database where people submit DNA to find relatives and determine lineage. A team led by retired Contra Costa County District Attorney Paul Holes and volunteer Genetic Genealogist Barbara Rae-Venter, dug as far back as the suspect's great-great-great grandparents' lineage to make progress. The team created multiple family trees, then narrowed down suspects through physical attributes of the killer gleaned from DNA, as well as information such as where the killer might have lived. After a DNA match with a second cousin, investigators were able to zero in on Joseph DeAngelo as their suspect.

Since the arrest of DeAngelo, many other cold cases have been solved using the same methods. In fact, Rae-Venter later trained the Sacramento County District Attorney investigators who were able to use same method of genetic genealogy and DNA analysis to arrest the NorCal Rapist, a serial rapist believed to have terrorized women in six counties starting in the 1990's. Sacramento County District Attorney Ann Marie Schubert stated that investigators were able to load the suspect's profile to GEDmatch and arrest the suspect ten days later.

There is even optimism that within a few years, most cold cases will be solvable with public data. GEDmatch contains data from more than 1.2 million individuals and is adding 1,000 to 2,000 genetic profiles each day. One geneticist estimates that profiles from three million Americans of European descent could identify 90% of people within this demographic.

Recently, FamilyTreeDNA, another prominent consumer DNA testing company, advised that it has granted the FBI limited access to its nearly two million genetic profiles. The immediate result of this decision is that it more than doubles the amount of genetic data that is already accessible to law enforcement through GEDmatch.

It should be acknowledged, however, that there is some opposition to utilizing genealogical databases to identify offenders. Such criticism is based upon privacy concerns and will no doubt result in future litigation and legislation of this issue.

DNA phenotyping is an additional innovative technology that is generating interest for cold case investigations. DNA phenotyping is an attempt to use forensic DNA technology to determine physical traits. It is an evolving science being utilized by such companies as Parabon Nanolabs. Computer technology is used to generate a sketch of a possible subject based solely on DNA found

at the scene of a crime. This is an emerging technique that may eventually provide valuable assistance in cold case investigations or identification of human remains.