

Cold Case Models for Evaluating Unresolved Homicides

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Abstract

During the period 1980-2008 the United States has accumulated nearly 185,000 unresolved murders.¹ Based on the number of homicides and clearance rates for murders 2009-2012 this figure is either closer to, or well over 200,000. As of 2004 the United States also had approximately 14,000² unidentified sets of human remains, many of which could be homicides, further increasing our total number of unresolved cases.

The efforts to resolve some of these cases by law enforcement and others have been unrelenting. And while historically we can easily identify the early 1980s with Dade County Sheriff's Office as the beginnings of the "cold case concept"³, a standard protocol for evaluating cold cases has not yet been identified and implemented, as noted by the Rand Corporation study for the National Institute of Justice (NIJ).⁴ The intent of this article is to provide the readers with two cold case models that can assist in streamlining the evaluation process and possibly significantly contribute to the resolution of cold cases.

Keywords: Cold Cases, Evaluation Models, Unresolved Homicides

Cold Case Unit Configuration

While many evaluation models exist and their successes have been varied in nature, the "best practices" rule, based on the review of cases as well as investigator feedback, is applicable. That is simply this: a cold case unit should minimally consist of two or more seasoned detectives. This unit needs to be exempt from all other responsibilities and allowed to fully concentrate on the unresolved cases. Having access to the additional skills of an analyst will be helpful and save a lot of time. The unit should also have a district attorney assigned to them who they can confer with on a daily basis in order to maintain continuity and cleanliness of arrest and conviction of the perpetrator(s). While other configurations exist and have some successes, this is the "best practices" configuration and if maintained will provide positive results.

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Introduction to Cold Case Evaluations

There are almost as many methods of evaluating cold cases as there are agencies investigating them with the fore runner probably being the standard format of a seasoned detective sitting down and reviewing the case file from cover to cover looking for solvability factors, physical evidence, names of suspects and remaining undeveloped leads, etc. As this can be, and is a very time consuming process, most agencies do not have the man power or resources⁵ to do this unless they have obtained grant money that helps to offset overtime pay and other expenses involved; imagine having to read through and totally comprehend a 3,000 page case file? Better yet how about 12,000 pages?⁶ As a result, cases may remain untouched and not investigated unless someone snitches, confesses or by chance the evidence was submitted to a crime lab and a CODIS DNA match notification is received. All of these factors contribute to the continuing rise of unsolved murders.

In recent years, DNA has been touted as the champion of cold case resolution. In reality however, DNA only resolves about 30% of all cases. One study of over 400 murders in California which attempted to measure criminal justice outcomes in investigations determined that detective decisions had more of an impact on solvability than forensic science.⁷ The over reliance on DNA will more likely than not lead to investigative mistakes, a lack of innovation in cold case reviews, and potentially, more unresolved cases. An arrest and conviction (or exoneration) must contain the “totality” of the circumstances and evidence, both physical and testimonial.

However, with a carefully selected team of people consisting of a mix of private citizens, not just detectives, successful resolutions can be accomplished through the review process. It is an old case, no one has looked at it in 10 or more years, so what do you have to lose allowing outsiders to review the file not only within the confines of the police department but by your rules and with signed statements of confidentiality?

As previously mentioned, there is no set standard protocol reference the evaluation of cold cases in the United States. Additionally, without outside funding very little can be done and once funding has been depleted, often times, the cold case concept goes away, leaving unresolved issues for the police and the families related to the deceased. It is our hope that the following will be helpful to the readers and the detectives who are tirelessly working to resolve these cases.

Cold Case Evaluation Models

The initiation of any cold case evaluation process, regardless of its nature or design, has to begin with the consolidation of cases into one location and the entering of basic case data into a database for future analysis and control/management purposes (see Figure 1).

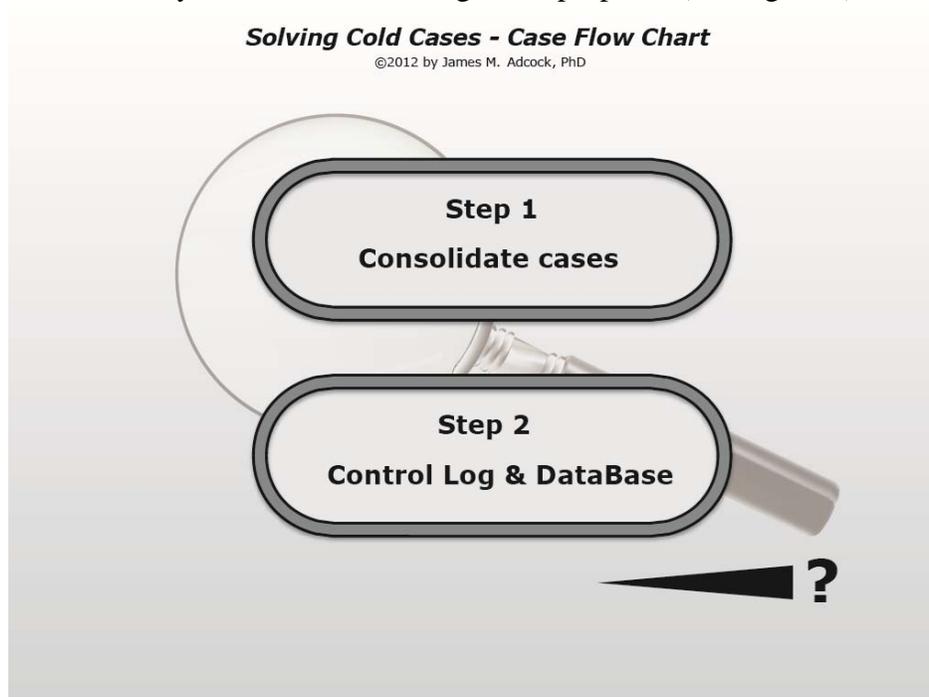


Figure 1

Once data entry is complete, the review process must begin in earnest. The following two sections of this article will describe two models. The first is that which is reflected in Adcock and Stein's cold case text (2011) (2nd ed. in process). The second model came about after conducting numerous seminars on cold case investigations, receiving feedback from cold case investigators, and observing requirements put forth by federal agencies for local law enforcement to receive grant monies to evaluate cold cases.. The first model is arguably the more thorough of the two, but is time consuming and in certain situations may not be feasible. The second model was designed based on the present state of thinking regarding cold case investigations: that is to focus primarily on DNA analysis and other evidence with identification potential. This model may prove to be more convenient for police departments inundated with unresolved cases, as well as those agencies seeking federal grant monies.

Cold Case Model – I

This model, if followed properly, is a comprehensive, effective, and team-based evaluation tool based on the most common categories found in investigative files: behavioral evidence, physical evidence, and informational evidence. The crux of this model is the team approach whereby members hold periodic sessions to discuss findings, theories, and validate their combined findings with information directly from the case file. This process becomes particularly critical during Phase IV which includes the identification of persons of interest, as well as each person's pre, peri, and post-offense behavior. This methodology of citing all material lays the groundwork for communicating with the district attorney prior to a suspect's arrest, during trial preparation, ensures solid testimony during trial as all information has been appropriately validated. The design is scientifically based: every piece of information must be validated with an accurate source. This model lends itself well to a team of reviewers led by a seasoned detective to question the members and their findings with "how do you know that?" For example, It is for these reasons that The Dutch Police Academy in Apeldoorn, NL adopted this model for their advanced master's level academic program for detectives as their system of cold case review is equally scientifically based and compliments the model put forth by Adcock and Stein.

Despite the utility and comprehensive nature of this model, as stated earlier, it may be inappropriate for some cold case evaluations. This model may be too time-consuming for investigators, or an agency may not have the manpower or funds to devote to this framework. As such, we have provided an alternative model for agencies that will be focusing primarily on physical evidence during a cold case review due to either the lack of time and manpower, or the fact that they are seeking federal grant monies from agencies such as the National Institute of Justice (NIJ) which requires the focus to be on evidence that has DNA potential.

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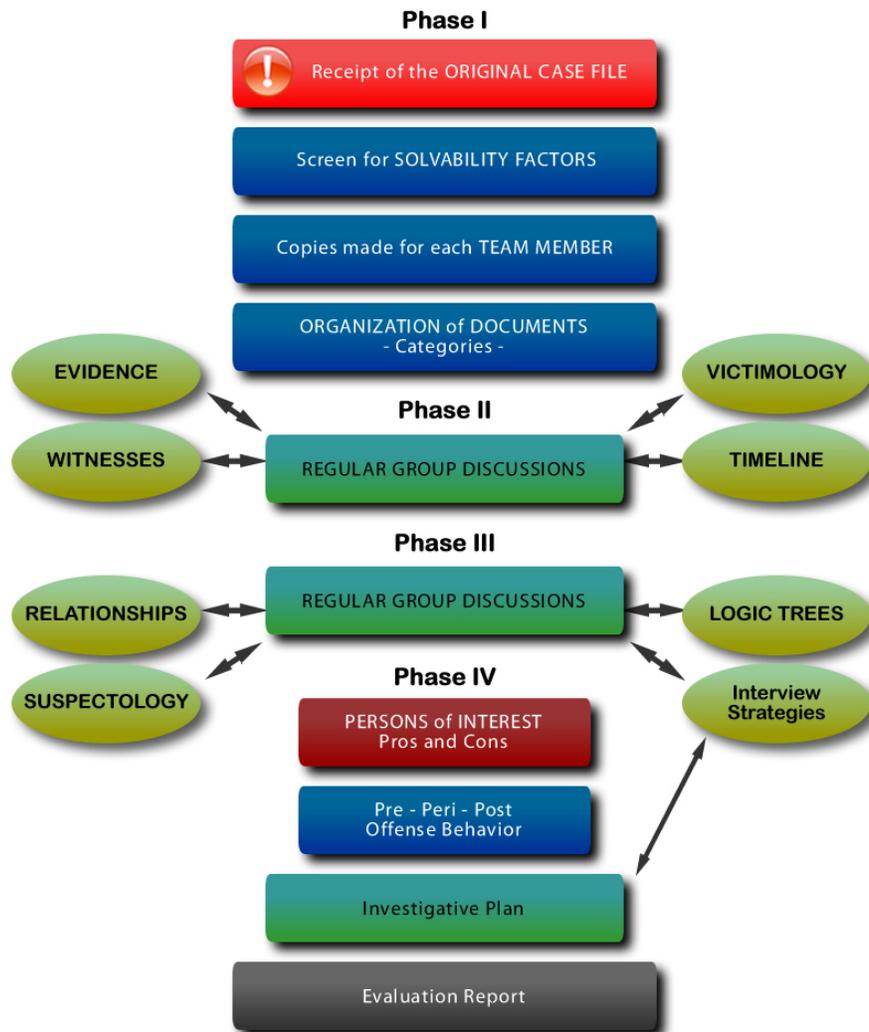


Figure 2

Cold Case Model – II

This second model was designed to streamline the evaluation process while also attempting to maintain a scientific base of reference, as well as a comprehensive nature. Many agencies, whether inundated with cold cases or seeking grant monies, need a more expeditious process to evaluate cases than that presented in model one (Adcock and Stein, 2011). As such, the following is being suggested as an alternative way to approach these cases, bringing to the forefront the evidentiary issues like DNA and fingerprints. With this concept in mind, go to Step 3 as found in Figure 3 below.

Solving Cold Cases - Case Flow Chart

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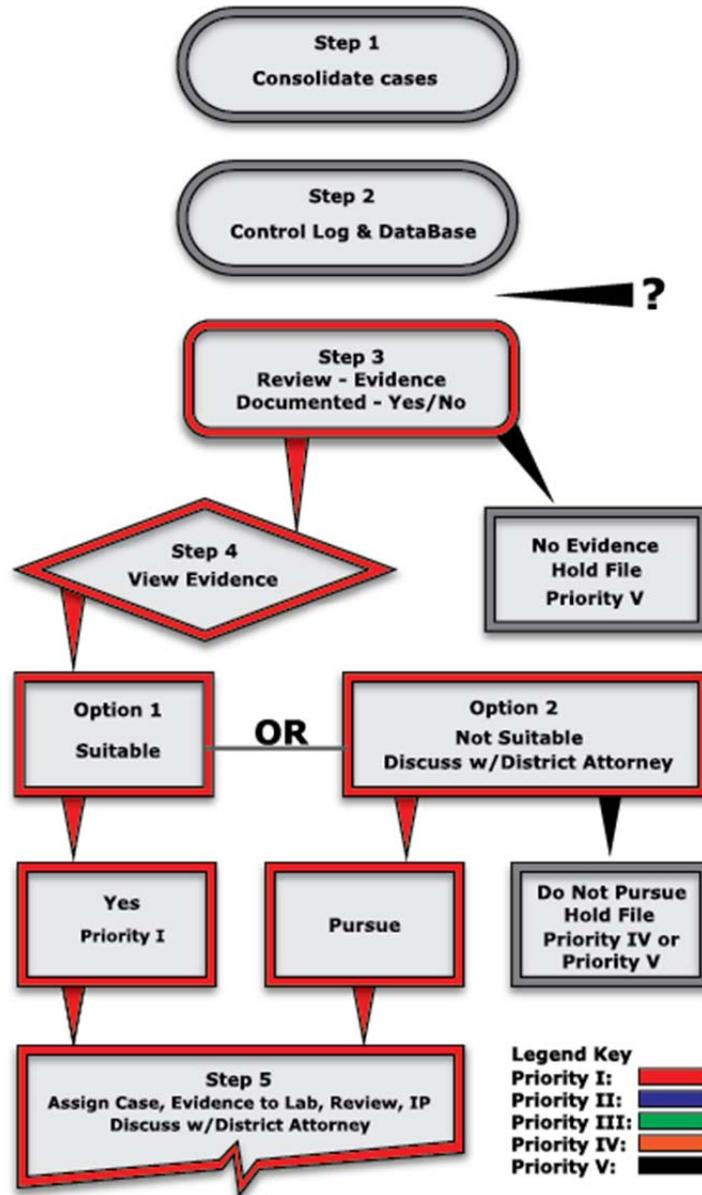


Figure 3

In order for this model to work correctly there has to be a system of prioritization established. With that, as depicted at the bottom of Figure 3, the following colored coded schedule is suggested:

Prioritizing Cold Cases

- Priority I:** **RED**- Contains evidence with DNA or Latent Print (LP) identification potential. At the onset all cases with this evidence potential are a Priority I until CODIS and/or AFIS results are received. Possible labeling for priority could be Priority 1- DNA, Priority 1 – LP or Priority 1 – Other. Bottom line is that the investigation contains some evidence that may identify a perpetrator.
- Priority II:** **BLUE** – Contains evidence with DNA/LP Potential without a CODIS/AFIS match but a SUSPECT is named in the file.
- Priority III:** **GREEN** – Contains evidence with DNA/LP potential without a CODIS/AFIS match and No SUSPECT is named in the file.
- Priority IV:** **ORANGE** - DNA or other evidence still exists, however slight, but in order to complete the analysis process more samples are needed and/or more investigation is required to obtain the necessary evidence to complete the analysis process.
- Priority V:** **BLACK** - No evidence is found. The case file is placed into a hold category until time allows for a more thorough review and/or evidence or witnesses avail themselves.

The focus is initially on whether or not the case contains physical evidence, especially evidence that might identify a particular person of interest through either DNA or Latent Prints. The NIJ grants only focus on the presence of evidence with DNA potential when we might in fact have other types of evidence that prove to be very evidentiary and compelling in a court of law not to mention other investigative information in the file that could lead to both physical and/or testimonial information that has probative value. But at Step 3 we are only looking for the presence of physical evidence.

If there is no physical evidence the case becomes a priority 5 investigation until all others are dealt with. If evidence is there then it must be viewed and a determination made whether or not it suitable for testing. At this point the evidence is either suitable for testing or it is not suitable. In many situations the non-suitable evidence is not further evaluated, however, it is suggested before proceeding in this direction the detective should discuss the concerns with the District Attorney. The prosecutor might be willing to continue with the evidence as either its condition and/or handling may be something s/he could work with later if it goes to court.

The presence of this suitable evidence makes it a Priority 1 investigation. The evidence is then given to the crime lab for analysis and the assigned detective begins in earnest a thorough review of the file as s/he already knows it has solvability potential. This will allow the investigator to better evaluate the information in the file and gather the necessary information to prove or disprove a particular person committed the murder, all with the goal to bring the investigation to a trial and resolution. Then, Step 5 will be the most time consuming of all processes of the evaluation but by placing it here in the model versus in the beginning as depicted in Phase I and II in the first model, one already knows the potential for solving is much greater due to the presence of the evidence and just needs to put the pieces of the puzzle together.

At this point the process moves forward (see Figure 4). Step 5 is the most consuming in time and effort, besides you are waiting for the evidence to be evaluated by the crime lab that can take anywhere from 30-60 days depending on the turn-around times of the laboratory. By the time the evidence has been returned and a report has been received the case file and process can go a number of ways and the prioritization may change.

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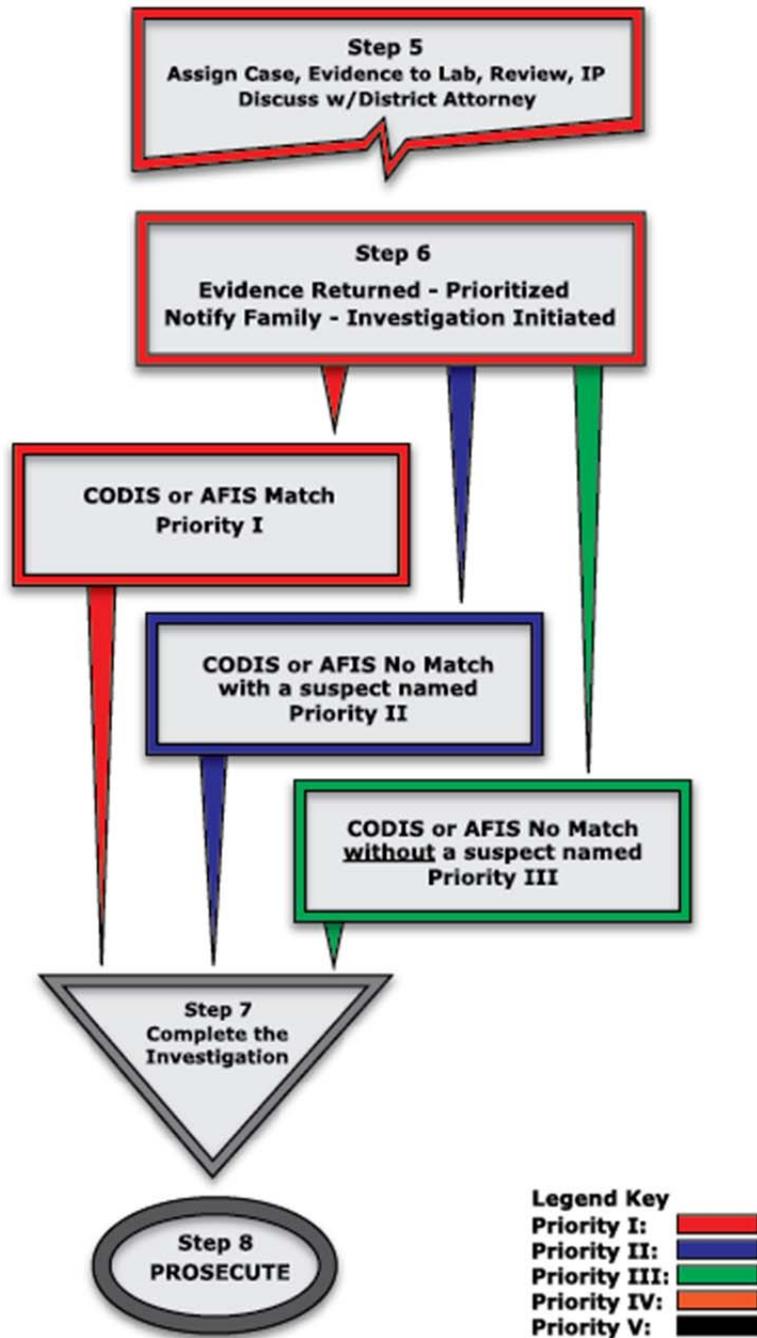


Figure 4

As depicted, if you have a CODIS or AFIS match the investigation remains a Priority 1 Investigation and is pursued accordingly. If there is no match but a suspect is named in the file then this is a Priority 2 investigation as the potential for solving is still great. However, if there is no match and no suspect named, the investigation will require a lot of work to identify the donor of your evidence and/or just to identify a suspect for further review and is therefore a Priority 3 investigation. Let's solve the ones we have the most potential and tools to solve and then return to the others later.

Complete the investigative process with periodic district attorney consultations starting with Priority 1, then 2 and then 3. Once all these are done the cold case team/person needs to return to the Priority 4 cases to see if they can develop new leads and/or evidence. While Priority 5 cases are probably not solvable things can change and the system has been known to convict on circumstantial evidence that is not physical in nature.

Discussion and Conclusions

Some issues must be reiterated and emphasized for those who are serious about evaluating their cold cases for resolution and hopefully, a conviction of the right offender. While the first model is the most comprehensive, its design is labor-intensive and requires a great deal of time and patience, whereas the subsequent model is more time-efficient and may cost a department less, both in manpower and expense in overtime, etc.

The hope in presenting the above models is that departments will feel less overwhelmed by the prospect of evaluating one, or even one hundred cold cases. It is also hoped that these models will prevent departments from arbitrarily sending evidence to crime laboratories in a blind attempt to retrieve viable results. That is, hoping that a CODIS hit will produce a suspect as opposed to methodically reviewing the file to narrow down the pool of suspects. With two unique models of evaluation, one for departments with adequate manpower, funds, and expertise, and one for departments that are seeking grant monies or that are simply wishing to expedite the review process, the optimum end result (regardless of the model chosen) is the same: the resolution of unsolved cases, and providing some measure of relief to grieving families, and victims seeking justice.

¹ ScrippsNews, June 2010

² Willing, Richard, "Report: Authorities have about 14,000 sets of human remains"; USA Today, 06-25-07.

³ Adcock, James M. and Sarah L. Stein; 2011; "Cold Cases: An Evaluation Model with Follow-up Strategies for Investigators"; CRC Press, Boca-Raton, FL

⁴ Davis, Robert C., Carl J. Jensen and Karen Kitchens. 2010. Cold Case Investigations: An Analysis of Current Practices and Factors, Associated with Successful Outcomes. A report submitted to the National Institute of Justice under grant # 2007-90858-CA-IJ.

⁵ Ibid

⁶ Adcock, James M.; 2011-2013; While lecturing for the Dutch Police Academy in the Netherlands it was noted that their cold case files frequently have upwards of 10,000 pages each, a daunting task if there ever was one.

⁷ Baskin, Deborah and Ira Sommers. 2010. The influence of forensic evidence on the case outcomes of homicide incidents. *Journal of Criminal Justice*, 2010, vol 38, Issue 6, pp 1141-1149.