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# Final Report: Outcomes from Efforts to Swab Individuals Who Lawfully “Owe” DNA in Cuyahoga County

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## Introduction

With the passage of Ohio Senate Bill 5 in 1995 (effective 1996), Ohio began collecting DNA from individuals *convicted* of felony offenses for upload into Ohio’s DNA database. The law regarding eligibility for inclusion in CODIS changed with the passage of Ohio Senate Bill 77 in 2010. In addition to the earlier law mandating the collection of DNA from individuals convicted of felony offenses, Ohio Senate Bill 77, which went into effect July 1, 2011, called for the collection of DNA from those individuals *arrested* for felony offenses. This new law was an unfunded mandate upon law enforcement.

The identification of two high-profile Cleveland-area serial rapists and murderers highlighted a systemic problem of not collecting and/or not entering lawfully “owed” DNA swabs from suspects into the federal DNA database, the Combined DNA Index System (CODIS). Lawfully owed DNA swabs are DNA swabs that legally should have been collected based upon a qualifying offense but were not. In 2009, after discovering the bodies of 11 decomposing women in the Cleveland home of serial rapist and murderer, Anthony Sowell, officials also discovered that Sowell should have been in CODIS after receiving a 15-year prison sentence for rape but was not. It was later uncovered that Sowell had apparently been swabbed by the Ohio Department of Rehabilitation and Correction, but the swab was never entered into CODIS (Dissell, 2011). Likewise, another violent offender, Larry McGowan, was swabbed sometime between 2002 and 2003, but his sample never made it into CODIS (Dissell, 2017). In 2017, Larry McGowan was sentenced to 41 years in connection to the sexual assault and murder of a woman in 1997 in Cleveland, in addition to sexual assaults of six other women in the area. Investigations by the Cuyahoga County Sexual Assault Kit Task Force (Task Force) linked at least two of the previously unsubmitted sexual assault kits to McGowan after his DNA was entered into CODIS in 2012 from a sexual assault of a woman in Akron.

While Cuyahoga County has had documented failures with the collection of lawfully owed DNA from individuals (e.g., Sowell and McGowan), until recently, it remained unknown *how many individuals lawfully owed their DNA*. The Cuyahoga County Prosecutor’s Office (CCPO) and researchers from the Begun Center for Violence Prevention Research and Education (Begun Center) at the Jack, Joseph and Morton Mandel School of Applied Social Sciences at Case Western Reserve University *collaborated on a project to identify individuals who owe DNA, swab eligible suspects who owe, and follow up on what happens*

after their DNA is entered into CODIS. This undertaking was funded by a 2016 award from the Bureau of Justice Assistance’s (BJA) Sexual Assault Kit Initiative (SAKI) to CCPO. Since early 2015, the Begun Center has been the research partner of the Cuyahoga County Sexual Assault Kit Task Force (Task Force), which was formed to respond to Cuyahoga County’s “backlog” of untested Sexual Assault kits and led by CCPO. In Cuyahoga County, “backlogged” sexual assault kits (SAKs) are defined as SAKs from 1993 through 2011 that had never been submitted for forensic testing prior to this initiative. This research brief details the combined efforts of CCPO and the Begun Center, collectively referred to as “we” in this research brief.

More specifically, the main activities of the “Owed” DNA project include:

- Completing a *Census* of individuals who should have had their DNA collected but did not (lawfully “owe” DNA), with a particular focus on identifying individuals who might link to “backlogged” SAKs as part of the Sexual Assault Kit Initiative (SAKI). In this context, the *Census* is defined as a list of individuals who were confirmed to lawfully owe their DNA in Cuyahoga County (*Phase 1*).
- Lawfully collecting DNA from suspects identified in the *Census* as owing DNA, submitting the swabs for DNA testing, and following up on any possible hits resulting from swabbing (*Phase 2*).
- Disseminating the findings from these efforts (*Phase 3*).

Phase 1 of this project—completing the *Census*—was discussed in a prior brief (“Completing a *Census* of Individuals Who Lawfully ‘Owe’ DNA in Cuyahoga County”). In that brief, we detailed the issue of owed DNA and the process and outcomes of conducting a *Census*. Our *Census* is comprised of two parts: Part I of the *Census* focused on those suspects who were confirmed to owe due to a felony arrest (Ohio Senate Bill 77, effective July 1, 2011). Part II of the *Census* focused on those who were confirmed to owe due to a felony conviction (Senate Bill 5, effective 1996). ***These efforts produced a final Census of 15,370 individuals who were confirmed to owe DNA in Cuyahoga County.***

In this research brief, we focus on Phase 2 and 3 of this project—the swabbing, the follow-up, and disseminating the results. More specifically, this research brief details: (1) the process and outcomes of swabbing and submitting swabs of individuals who owe DNA in

Cuyahoga County and (2) assessing the outcomes of what happened after a person’s DNA was entered into CODIS. These findings are being disseminated to document our efforts and outcomes, and as a framework for other jurisdictions that are addressing owed DNA issues.

This brief provides updated statistics and represents the final outcomes from the 2016 SAKI Owed DNA grant award (2016-AK-BX-K011). (We previously distributed an interim outcomes report.)

## Key Findings

After conducting legal research and consulting the Attorney General’s Office, CCPO made the determination that suspects who should have had their DNA collected but did not cannot be compelled to submit a DNA sample unless they are arrestees in a pending case or are in custody or under supervision of the criminal justice system (police or court). *In other words, not all suspects who lawfully owe their DNA can be compelled to be swabbed. Therefore, swabbing efforts detailed in this brief have been organized according to “Subsets” of suspects who were confirmed to owe their DNA lawfully and who could be compelled to have their DNA collected (described in detail below) by the court system.*

In terms of following up on the swabs, the Ohio Bureau of Criminal Investigation (BCI) provided information to our team: (1) confirming that the swabbed individuals’ DNA was entered into CODIS and (2) detailing any forensic hits that resulted once their DNA was entered into CODIS. A *forensic hit* is when the DNA profile matches to an evidence sample already in CODIS from another crime. Since none of these suspects had their DNA profile in CODIS (i.e., offender/arrestee profiles), all DNA “hits” in CODIS discussed in this brief are forensics hits.

To document the degree to which the hits were useful in investigations and prosecutions, we have provided information on the *status of the cases*. We have categorized the status of the cases as either *reviewed* or *not reviewed* as a result of the hit (as detailed in Tables 1-4). In addition to aiding in solving crimes, DNA hits are useful for: (a) confirming the identities of individuals who were sentenced for or are named suspects in the offense, such as with previously disposed and named suspect cases (i.e., conviction integrity), and (b) excluding suspects (such as consensual partners or those determined not to be suspects in the crimes).

A case was defined as *reviewed* if the information from the forensic hit was employed in any investigative manner to take a current “look” at the case—including exclusionary “looks” (i.e., determining the individual is not a suspect in the crime). Hits that were confirmatory (i.e., previously disposed); not prosecutable (i.e., outside the statute of limitations); or where law enforcement reviewed the CODIS hit but determined the case would not be reopened.

Thus, as provided in Tables 1-4, the outcomes of the *reviewed cases* are:

- Crime solved as a result of the CODIS hit, was a “cold” hit (where the census member was not previously named as a suspect in the crime);
- CODIS hit reviewed, case subsequently closed without charges;
- CODIS hit reviewed, review of the case is ongoing as of the writing of this paper; or
- Individual named in the CODIS hit determined not to be involved in the crime.

The outcomes of the *not reviewed cases* are:

- Previously disposed (suspect already prosecuted for the crime without the use of DNA),
- Outside of the statute of limitations, or
- Case previously closed without charges and the CODIS hit did not change this decision.

## Key Outcomes

The following outcomes speak to the value in ensuring all individuals who lawfully owe DNA are swabbed and entered into CODIS. Most of these individuals have been swabbed due to subsequent crimes, where law enforcement has now collected their DNA. Some have been swabbed due to proactive measures by CCPO, Cuyahoga County Sheriff’s Office, and Cuyahoga County Probation Department.

## Swabbing and Forensic Hits

As of December 31, 2019:

- Of the **15,370** individuals on our Census who were confirmed to owe their DNA lawfully, **2,293** (14.9%) have been confirmed to now have their DNA in CODIS.
- We received **85** forensic hits from these 2,293 now-swabbed individuals. *Thus, an average of 3.7% of all swabs collected produced a forensic hit.*
- The vast majority of the hits were connected to crimes that occurred within Cuyahoga County (88%, n = 75).
- Two-thirds of all the forensic hits were “cold” hits (66%, n = 56), meaning the individual was not previously named as a suspect in the crime.
- The hits were connected to a total of 11 different types of crimes, with Sexual Assault being the most common (41.2%, n = 35 of 85). Twenty-one percent of the hits (n = 18 of 85) were connected to “backlogged” Sexual Assaults (labeled as Sexual Assault Kit Initiative [or SAKI] Sexual Assaults in the below tables). The second most common type of crime from these hits was Burglary (20%, n = 17). Additionally, 8.2% (n = 7 of 85) of the hits were connected to Homicides.

## Outcomes of the Hits

As of December 31, 2019:

- A majority of the hits have resulted in cases being reviewed (73%, n = 62 of 85), implying that a little over a quarter of the hits resulted in cases not being reviewed (28.2%, n = 24 of 85).
- Of the reviewed cases, 14.5% (n = 9 of 62) have already resulted in crimes being prosecuted as a direct result of the CODIS hit (including Breaking and Entering, Burglary, Auto Theft, Sexual Assault, and Theft) and another 29% (n = 18 of 62) are ongoing. *These are crimes that have been solved as a direct result of the efforts described in this report.*
- The forensic hits were also useful in excluding individuals as suspects in 1.6% of all the hits (n = 1 of 62) and in confirming the identity of named suspects or suspects in previously disposed cases in 8.1% of the hits (n = 5 of 62), one of which was a Homicide.

## Extrapolation of the Outcomes

Below we present an extrapolation of the key outcomes from the swabbing where we provide our “best estimates” as to how these findings could be generalized to the entire Census (i.e., population). *Specifically, we focus on the number of forensic hits that would be expected to be obtained if all individuals from the Census were swabbed and entered into CODIS, and how many of those would be expected to connect to current, unsolved Sexual Assaults if the rates of hits continued at the rate we have observed in these data.*

- If the remaining 13,077 individuals from the Census were swabbed (15,370 – 2,293) with 3.7% hitting to a forensic sample in CODIS, we estimate that we would receive **484** additional forensic hits.
- From these 484 forensic hits, we estimate that **102** would link to SAKI Sexual Assaults (21% of our sample hitting to “backlogged” SAKs]) and **97** would link to non-SAKI Sexual Assaults (20% of our sample hitting to non-SAKI Sexual Assaults) for a total of **199** Sexual Assaults.
- Of the estimated 97 non-SAKI Sexual Assaults, we expect the vast majority to hit to Sexual Assaults that occurred after 2011, which are considered non-SAKI Sexual Assaults in the county (94.1% of the non-SAKI Sexual Assaults occurred post-2011). Therefore, we estimate that **91** (of the 100) would be connected to current Sexual Assaults in the county.
- Yet, not all DNA hits are connected to suspects—in Sexual Assault, some hits are to consensual partners (94.1% of the non-SAKI, current Sexual Assaults were linked to non-consensual partners). *Thus, we estimate that if we were able to collect swabs from all who are on our Census, there would be **86** suspects linked to unsolved, current Sexual Assaults.*
- **This implies that just from our Census of individuals who owe their DNA, there are an estimated 86 sexual offenders who are still “out on the streets”—possibly sexually assaulting others** (likely more given current estimates of serial offending, see Lovell, Flannery, & Luminais, 2018).

## Swabbing Efforts and Outcomes

Below we describe the four different ways that we identified people who were confirmed to owe DNA and eligible for swabbing because they were currently under supervision (“Subsets”). We also present the outcomes from the swabs that were collected from these individuals.



It should be noted that out of the 2,293 census members who have been confirmed to be in CODIS, 77 individuals appeared in more than one “Subset” (see Appendix A). Since we have been conducting regular “sweeps,” we expected to identify some people more than once as they proceeded through or reentered the criminal justice system. In most instances, this implies that the person was identified more than once for owing because they were going through the criminal justice system faster than the crime lab could test and process the swab and report the results of the swab to us (e.g., swabbed at arrest and again at arraignment or while being detained in jail). In some instances, appearing in more than one sweep implies that the person “fell through the cracks” and was not swabbed when they should have been, and thus kept appearing on different lists as still owing. Lastly, it is also possible that an individual might have picked up a new charge (e.g., an individual on probation may also have been ordered to be swabbed at a new arraignment for a different crime). In order to not count the same person in more than one Subset, we present these 77 individuals separately in the tables.

### **Subset #1: Swabs from Individuals Currently Incarcerated in Cuyahoga County Jail**

**Process.** Throughout the grant, we conducted two “sweeps” of individuals currently in Cuyahoga County jail (described here as Subset #1) and on our Census. This involved the Cuyahoga County Sheriff’s Office providing us a list of all current inmates. We then compared that list to our Census.

**Outcomes.** These two jail sweeps resulted in **76** inmates being swabbed who owed their DNA. After the swabs were collected, a request was submitted to BCI to provide: (1) confirmation that these individuals’ DNA had been entered into CODIS and (2) any resulting forensic CODIS hits.

Of the 76 swabs, we received **2** forensic hits—1 to a Sexual Assault offense and 1 to a Breaking and Entering offense. We followed up on these forensic hits, as detailed in Table 1. Table 1 provided details as to whether a hit was in Cuyahoga County (as compared to outside Cuyahoga County) and whether the hit was a cold hit (as compared to a warm hit). A cold hit is when the forensic hit matches to an individual who was not previously a named suspect in the crime (i.e., a crime perpetrated by a stranger). A warm hit matches to an

individual who was already a named suspect in the crime.

**Table 1. Outcomes Connected to Swabbing Inmates Currently in Cuyahoga County Jail Who Were Confirmed to Owe DNA (Subset #1)**

Jail Swabs					
N of Swabs Collected	76				
N of Forensic Hits	2				
% of Forensic Hits out of Swabs Collected	2.6				
Type of Crime Connected to Hit	N	N of Total within Cuyahoga County	N of Total with Cold Hits	N of Total Connected to Serial Sex Suspects	Status of the Case
Sexual Assault	1	1	1	1	Reviewed: suspect pled guilty and went to prison
Breaking and Entering	1	1	0	0	Not reviewed: previously disposed (confirmed identity of suspect)

**Subset #2: Swabs from Individuals Currently on Community Control (“Probation”)**

**Process.** We conducted two “sweeps” of individuals who were currently on community control (“probation”) in Cuyahoga County (described here as Subset #2) and on our Census. A total of **504** probationers were confirmed to be swabbed as a result of these efforts.

**Outcomes.** After the 504 swabs were collected, a request was submitted to BCI to confirm entry into CODIS and to provide forensic hit results for these 504 individuals. According to the BCI, of the 504 swabs, **25** resulted in forensic hits. CCPO Task Force investigators followed up on these 25 forensic hits, as described in Table 2.

Since one of the goals of this project is to help identify individuals who might link to previously “backlogged” SAKs from the SAKI, we have broken out the Sexual Assaults connected to SAKI from Sexual Assaults not connected to SAKI. Thus far, one of the

individuals swabs from this Subset hit to one of the SAKI investigations from 1993-2011 with an unknown suspect (detailed in Insert A).

**Table 2. Outcomes Connected to Swabbing Current Probationers in Cuyahoga County Who Were Confirmed to Owe DNA, as of December 2019 (Subset #2)**

Probation Swabs					
N of Swabs Collected	504				
N of Forensic Hits	25				
% of Forensic Hits out of Swabs Collected	5.0				
Type of Crime Connected to Hit	N	N of Total within Cuyahoga County	N of Total with Cold Hits	N of Total Connected to Serial Sex Suspect	Status of the Case
<i>All Sexual Assaults</i>	7	7	6	1	
(SAKI) Sexual Assault	2	2	1	0	2 reviewed cases: subsequently closed without charges
(Non-SAKI) Sexual Assault	5	5	5	1	2 reviewed cases: ongoing 2 reviewed cases: suspects indicted and sentenced, 1 suspected sexual offender sentenced to 2 years community control. (see <b>Insert A</b> ), 1 suspect sentenced to 8 years in prison (see <b>Insert B</b> ) 1 reviewed case subsequently closed without charges
<i>Felonious Assault</i>	2	2	0	0	2 not reviewed cases: both previously disposed
<i>Homicide</i>	3	3	1	0	1 reviewed case: ongoing 2 not reviewed cases: 1 previously disposed, 1 hit to a person uninvolved with the crime
<i>Attempted Homicide</i>	1	1	1	0	1 reviewed case: 1 suspect indicted and pled guilty to Aggravated Robbery and Kidnapping. Sentenced 4 years prison. 1 suspect pled guilty to Attempted Murder,

					Aggravated Robbery, Felonious Assault, and Kidnapping. Sentenced to 15 years prison.
<i>Burglary</i>	4	1	4	0	2 not reviewed cases: outside of the statute of limitations  2 reviewed cases: subsequently closed without charges
<i>Breaking and Entering</i>	4	4	3	0	1 not reviewed case: previously disposed (confirmed identity of named suspect)  2 reviewed cases: 1 subsequently closed without charges, 1 was “no billed,” meaning a grand jury found insufficient evidence to support the charges and warrant prosecution  1 reviewed case: indicted as a result of this CODIS hit, suspect pled guilty and was placed on probation
<i>Aggravated Robbery</i>	2	2	1	0	1 not reviewed case: previously disposed (confirmed the identity of suspect)  1 reviewed case: ongoing
<i>Theft</i>	2	1	1	0	1 reviewed case: ongoing  1 reviewed case: subsequently closed without charges

**Insert A:** On October 11, 2018, Antonio Huffman entered a plea of guilty (“pleaded guilty”) to one count of Felonious Assault and one count of Abduction and was sentenced to two years of community control on each count. *Huffman was sentenced for this crime as a direct result of the efforts to collect DNA from individuals who owe* (Dissell, 2018).

Huffman was responsible for the Sexual Assault of a 17-year-old female over two decades ago, in August of 1997. In this case, the victim was walking down the street when a stranger ordered her into his vehicle at gunpoint, then drove to a park where he sexually assaulted her. As a result of the Cuyahoga County Sexual Assault Kit Initiative, the SAK from this 1997 sexual assault was tested and a single male DNA profile was developed, but his identity was unknown. In 2017, prosecutors presented the case to a grand jury and obtained a “John Doe” indictment (i.e., the DNA profile was indicted). He became the Taskforce’s “John Doe #124.”

Meanwhile, in 2012, Antonio Huffman was arrested and charged with felonious assault. His DNA should have been collected in 2012 for this offense but was not. In 2015, he was again arrested and charged with illegally possessing a firearm, and his DNA should have been collected but was not. In 2017, Huffman’s DNA was collected while on probation for the 2015 firearm possession as part of our probation “sweeps” (Subset #2) mentioned above. His DNA matched the DNA of indicted defendant “John Doe 124” in the 1997 victim’s SAK.

**Insert B:** In March 2012, a 14-year-old female victim was raped on the street in Cleveland Heights by an unknown male. A SAK was collected and tested by BCI. The testing found DNA on a vaginal swab, but the DNA did not result in a hit to any named suspect in CODIS.

Meanwhile, in 2014, Marquice Miller was arrested and charged with felony Theft. In 2015, he entered a plea of guilty to one count of Theft (F5). His DNA should have been collected for this offense but was not, and it was this offense that resulted in him being listed on our Census.

In October 2017, as part of our first probation “sweep,” Marquice Miller had his DNA collected. That DNA collection resulted in a forensic hit to the 2012 victim’s SAK. *As a direct result of this Owed DNA Initiative, in January 2019, Marquice Miller was indicted for the 2012 sexual assault.* On July 2019, Miller pled guilty to Rape and Attempted Kidnapping and was sentenced to 8 years in prison.

### Subset #3: Swabs from Individuals at Arraignment

**Process.** As a result of identifying such a large number of individuals who owed their DNA, CCPO developed an internal policy that tasks Assistant Prosecuting Attorneys (APAs) with ensuring that defendants in *new and active cases* submit to a DNA collection procedure. As part of this policy, APAs check the DNA status of indicted defendants prior to the defendant’s first court appearance (generally, the arraignment hearing). The APA does this by accessing the Ohio Law Enforcement Gateway (OHLEG), an electronic statewide law-enforcement database, which includes a data field for whether the suspect’s DNA is in CODIS. If the defendant’s DNA is not in CODIS, the defendant owes DNA (as a result of being formally charged with a felony). In that event, the APA moves the arraignment room judge to order the defendant to submit to a DNA collection procedure within 24 hours in accordance with Ohio Revised Code 2901.07.

After CCPO’s policy was implemented, CWRU collected the names of individuals whose DNA was requested by CCPO at an arraignment hearing, i.e., as a direct result of CCPO policy. *From the start of this practice until the time of analysis, we identified 6,687 individuals who were arraigned for a new felony charge and were identified by CCPO as owing DNA for a felony charge* (again, some of these might have been swabbed at an initial police arrest as well).

**Outcomes.** We merged the list of 6,687 individuals to our Census and identified 268 census members who were named on arraignment hearing lists, i.e., had an opportunity to be swabbed by court order at such a hearing. Out of the 268, 203 were entered into CODIS. Of those 203, 6 resulted in forensic hits to other crimes. CCPO followed up on the 6 forensic hits, as detailed in Table 3. Of the 6 hits listed in Table 3, none resulted in charges being filed as a result of the forensic hits. The reasons why the cases were not charged are detailed in Table 3.

A total of 65 (out of the 268) individuals were entered into CODIS, despite being on a list of people who were asked to be swabbed at arraignment. We discovered these 65 individuals in two separate waves of analysis. We investigated why these 65 individuals were not in CODIS by determining the status of their case using the online dockets. In the first examination (conducted in September 2018), 40 individuals were found to not have their DNA in CODIS. Out of the 40 individuals: 9 did not show up for their arraignment so they

could not be swabbed, 7 had their cases closed, 14 had active cases (prosecutions), 1 was sentenced to prison, and 9 were sentenced to probation. In the second examination (conducted in January 2020), 25 individuals were found to not have their DNA in CODIS. Out of the 25 individuals: 5 did not show up for their arraignment so they could not be swabbed, 4 had their cases closed, 14 had active prosecutions, and 4 were sentenced to probation (one individual actually had 3 different cases). For the other 4 individuals, the arraignment court did not order a DNA collection procedure, and/or CCPO did not file a motion requesting such a collection.

Therefore, this effort resulted in us identifying some instances where the policy was not being implemented as intended—where the arraignment court did not order a DNA collection procedure, CCPO did not file a motion requesting such a collection, the court did not inquire about the defendant’s DNA at sentencing, and/or probation did not swab or confirm a swab. From the January 2020 review, of the 4 who were sentenced to probation, 2 still owed their DNA and 2 had been swabbed by probation (despite being missed by the court). These findings reflect the newness of the policy and provide another example of the challenges in collecting swabs from individuals who owe. However, this also shows the overall success of the policy implementation in terms of the sheer number of swabs that were collected that would not have been collected before and points to areas where there can be improvement in terms of how to better implement the policy.

**Table 3. Outcomes Connected to Swabbing Individuals at Arraignment Who Were Confirmed to Owe DNA, as of December 2019 (Subset #3)**

Arraignment Swabs					
N of Swabs Collected	268				
N of Forensic Hits	6				
% of Forensic Hits out of Swabs Collected	2.2				
Type of Crime Connected to Hit	N	N of Total within Cuyahoga Count	N of Total with Cold Hits	N of Total Connected to Serial Sex Suspects	Status of the Case
<i>All Sexual Assaults</i>	3	3	2	1	

(SAKI) Sexual Assault	1	1	1	0	1 not reviewed case: CODIS hit to a case already with the SAK Task Force, hit was to a consensual partner
(Non-SAKI) Sexual Assault	2	2	1	1	1 not reviewed case: CODIS hit to consensual partner 1 reviewed case: ongoing
Auto Theft	1	1	0	0	1 reviewed case: subsequently closed without charges
Theft	1	1	1	0	1 not reviewed case: outside of the statute of limitations
Homicide	1	1	0	0	1 reviewed case: ongoing

### Subset #4: Swabs from Individuals with “DNA in CODIS”

**Process.** CCPO requested data from BCI on how many additional suspects from the completed Census were in CODIS as of December 31, 2019. This was done to determine how many Census members had their DNA entered into CODIS cumulatively from the beginning of this project, January 1, 2016, through December 31, 2019. In response, BCI provided the CODIS status of each individual – i.e., whether the individual’s DNA was in CODIS or was still owed. *At the end of the grant, we had completed six sweeps.*

This effort resulted in a list of **1,368** census members whose DNA was collected and entered into CODIS between the beginning of this project and December 31, 2019.

**Outcomes.** CCPO requested resulting hits from BCI for these **1,368** individuals. According to BCI, of the **1,368** swabs, **52** resulted in forensic hits. CCPO followed up on these 52 forensic hits, as detailed in Table 4.

**Table 4. Outcomes Connected to Census Members in CODIS, as of December 2019 (Subset #4)**

DNA in CODIS Swabs	
N of Swabs Collected	1,368
N of Forensic Hits	52



% of Forensic Hits out of Swabs Collected		3.8			
Type of Crime Connected to Hit	N	N of Total within Cuyahoga County	N of Total with Cold Hits	N of Total Connected to Serial Sex Suspects	Status of the Case
<i>All Sexual Assaults</i>	<b>24</b>	22	15	5	
(SAKI) Sexual Assault	<b>15</b>	14	9	3	8 reviewed cases: subsequently closed without charges 2 not reviewed cases 1 not reviewed case: previously disposed 1 not reviewed case: subsequently closed without charges 1 not reviewed cases: previously disposed (confirmed the identity of the suspect) 2 reviewed cases: ongoing
(Non-SAKI) Sexual Assault	<b>9</b>	8	6	2	3 reviewed cases: subsequently closed without charges 2 not reviewed cases: subsequently closed without charges 3 reviewed cases: ongoing 1 reviewed case: case dismissed without prejudice
<i>Sexual Offense</i>	<b>2</b>	2	2	0	1 reviewed case: suspect indicted and pled guilty to Gross Sexual Imposition, sentenced to probation 1 reviewed case: subsequently closed without charges
<i>Homicide</i>	<b>2</b>	2	1	0	2 reviewed cases: ongoing

<i>Burglary</i>	<b>11</b>	11	8	0	2 reviewed cases: ongoing  4 reviewed cases: subsequently closed without charges  1 reviewed case: CODIS hit confirmed named suspect, suspect pled guilty to Burglary and is currently on probation  4 reviewed cases: 4 suspects indicted as a direct result of CODIS hit, all suspects pled guilty and sentenced to probation
<i>Aggravated Burglary</i>	<b>2</b>	2	1	0	1 not reviewed case  1 reviewed case: ongoing
<i>Robbery</i>	<b>2</b>	1	1	0	1 reviewed case: subsequently closed without charges  1 not reviewed cases: outside of the statute of limitation
<i>Breaking and Entering</i>	<b>2</b>	2	2	0	1 reviewed case: subsequently closed without charges  1 reviewed case: suspect indicted and sentenced to probation as a result of CODIS hit
<i>Auto Theft</i>	<b>4</b>	2	3	0	2 reviewed cases: subsequently closed without charges  1 reviewed case: case closed due to insufficient evidence  1 reviewed case: suspect indicted as a result of CODIS hit, ordered to pay a fine <b>(see Insert C)</b>
<i>Theft</i>	<b>1</b>	1	unknown	0	1 reviewed case: suspect indicted as a result of CODIS hit, ordered to pay a fine <b>(see Insert C)</b>
<i>Drug Abuse</i>	<b>1</b>	0	unknown	0	1 not reviewed cases: outside of the statute of limitations
<i>Fleeing &amp; Eluding</i>	<b>1</b>	1	1	0	1 reviewed case: subsequently closed without charges

**Insert C:** In 2014, Matthew Ramey was sentenced to one year of probation stemming from a Theft and Aggravated Theft arrest. When arrested for this in 2013, Ramey should have been swabbed but was not, resulting in him being included in our Census.

As part our Subset #3 swabbing efforts (DNA in CODIS swabs), we received two forensic hits for the same individual, Matthew Ramey (detailed in Table 4)—1 Auto Theft and 1 Theft. He has since been sentenced for both 2017 crimes, and his DNA has been confirmed to be in CODIS.

## Conclusion

Previous research has found that DNA databases deter crime, reduce crimes rates, and produce a cost savings of between \$1,566 and \$19,945 per profile (Doleac, 2017).

Through the work of the Task Force and of other jurisdictions around the country that are grappling with large numbers of untested SAKs, the importance of a robust DNA database has become ever more critical. *A database with more DNA profiles leads to increased results of testing SAKs.* Furthermore, work in Cuyahoga County has shown that serial sexual offenders are more common than once thought (Lovell et al., 2018) and are committing many serious felonies and not just Sexual Assaults (Lovell, Huang, Overman, Flannery, & Klingenstein, 2020), suggesting that DNA has the potential to link a number of crimes. The findings presented here also illustrate that the issues with owed DNA expand beyond sexual assault kits. Individuals who owed DNA are linking to a variety of crimes, with tremendous probative value for possible prosecution.

This research brief has detailed the process by which we swabbed and tracked individuals who owed DNA and the outcomes of our swabbing efforts, which can serve as a framework for other jurisdictions addressing their issues with owed DNA and speak to the value in ensuring all individuals who lawfully owe DNA are swabbed and entered into CODIS.

As evidenced by the findings provided here, swabbing efforts have resulted in a number of positive outcomes. *Although a large number of individuals were confirmed to owe DNA (n = 15,370), we have, thus far, been able to verify that almost 15% now have their DNA in CODIS (n = 2,293) and of those who have been confirmed to now be in CODIS, 85 forensic*

hits were received (3.7%) with crimes ranging from Theft and Drug Abuse to Sexual Assault and Homicide (Table 5).

Based upon an extrapolation of the outcomes described here, we estimate that if all the individuals on the Census were swabbed and the rates of hits continued at the rate we have observed in these data, an additional 484 hits would be received. From these 484 hits, we further estimate that 86 would link to unsolved, current Sexual Assaults, like those committed by Marquice Miller.

**Table 5. Outcomes for Swabs Collected from Individuals Who Were Confirmed to Owe DNA in Cuyahoga County, by Type of Swabbed Subsets**

Swabbed Subsets	Swabs Collected	Forensic Hits in CODIS	% of Forensic Hits out of Swabs Collected	Type of Crimes
Inmates in Cuyahoga County Jail (Subset #1) only	76	2	1.3%	1 Sexual Assault 1 Breaking and Entering
Probationers in Cuyahoga County (Subset #2) only	504	25	5.0%	2 Robberies (Aggravated) 4 Breaking and Enterings 4 Burglaries 4 Homicides (1 Attempted) 7 Sexual Assaults 2 Assaults (Felonious) 2 Thefts
Individuals Swabbed at Arraignment (Subset #3) only	268	6	2.2%	1 Auto Theft 3 Sexual Assaults 1 Theft 1 Homicide
Individuals with “DNA in CODIS” (Subset #4) only	1,368	52	3.8%	4 Auto Thefts 2 B&E 13 Burglaries (2 Aggravated) 1 Drug Abuse 1 Fleeing & Eluding 2 Homicide 2 Robberies 24 Sexual Assaults 2 Sexual Offenses 1 Theft
Individuals in more than one “Subset”	77			
<b>Total</b>	<b>2,293</b>	<b>85</b>	<b>3.7 %</b>	<b>85 crimes (11 Types)</b>

As detailed in Table 6, the 85 forensic hits linked to 11 different types of crimes, *indicating the importance of collecting swabs for all felony arrests, not just for the most serious types of felonies*. Forensic hit reports were received most often for Sexual Assaults (41.2%, n = 35 of 85), with 21% of total forensic hits linking to Sexual Assaults from the SAKI. Hits were also frequently received for Burglary. Most of the crimes occurred within Cuyahoga County and were cold hits.

**Table 6. Outcomes for Swabs Collected from Individuals Who Were Confirmed to Owe DNA in Cuyahoga County Census, by Type of Crime**

Crimes	Within Cuyahoga County		Cold Hit
	N (%)	N (%)	N (%)
Auto Theft	5 (5.9)	3 (4.0)	3 (5.3)
Assault (Felonious)	2 (2.4)	2 (2.7)	0 (0)
Breaking & Entering	7 (8.2)	7 (9.3)	5 (8.9)
Burglary (including 2 Aggravated)	17 (20.0)	14 (18.7)	13 (23.2)
Drug Abuse	1 (1.2)	0 (0)	0 (0)
Fleeing and Eluding	1 (1.2)	1 (1.3)	1 (1.8)
Homicide (including 1 attempted)	7 (8.2)	7 (9.3)	4 (7.1)
Robbery (including 2 Aggravated)	4 (4.7)	3 (4.0)	2 (3.6)
Sexual Assault (non-SAKI)	17 (20.0)	16 (21.3)	13 (23.2)
Sexual Assault (SAKI)	18 (21.2)	17 (22.7)	11 (19.6)
Sexual Offense	2 (2.4)	2 (2.7)	2 (3.6)
Theft	4 (4.7)	3 (4.0)	2 (3.6)
<b>Total</b>	<b>85</b>	<b>75</b>	<b>56</b>

Tables 1-4 indicate that 73% of the cases had been reviewed. Of the cases that have been reviewed, 34.2% (n = 13 of 38) were prosecuted as a result of the swabbing efforts from this project—including a SAKI Sexual Assault and an Attempted Homicide. Eleven of the individuals swabbed were part of previously disposed cases. The hits have also been

useful in confirming the identities of suspects (8.1%, n = 5 of 62) and excluding suspects (1.6%, n = 1 of 62).

As part of this project, CCPO has received a 2019 BJA SAKI Owed DNA award (2019-AK-BX-0029) to continue efforts to collect swabs from individuals who owe DNA, continue to follow up on individuals who are swabbed, and implement and assess changes in policies and practices in the county regarding DNA collections (e.g., CCPO’s policy regarding checking whether arraignees owe DNA, as described above)<sup>i</sup>.

## Lessons Learned and Recommendations

CCPO was the first site funded under the Bureau of Justice Assistance’s SAKI to be awarded an owed DNA grant. When applying for the grant, we knew there were issues with collecting owed DNA in our jurisdiction but had no roadmap as to how to address the issue or what we could expect in terms of outcomes. We present the results from this report (and previous reports on this award) in the spirit of providing a roadmap, detailed below.

Below is a list of our key lessons learned and recommendations.

### **1. Efforts to ensure DNA is being lawfully collected is a critical endeavor for jurisdictions.**

Since we did not have a roadmap for the efforts described here, we expected to identify (at most) several thousand who owed their DNA and were surprised to find such a large number (n= 15,370) of individuals in our jurisdiction who owed DNA. In the period of only three years, we were able to confirm that 15% were now in CODIS and almost 4% had a hit to a forensic sample in CODIS. While not every jurisdiction would have these same outcomes, *this suggests that it is an important effort for jurisdictions to undertake as a way to identify unnamed suspects and as a check on the implementation of the state’s DNA collection laws.*

### **2. Swab at felony arrest is more complicated than it sounds.**

The criminal justice system is a sequential process. Each subsequent step serves as a check on earlier step(s) in the process, which means that ensuring suspects are lawfully swabbed takes a concerted effort among many agencies within the criminal justice system. *This suggests that issues with lawfully collecting DNA can*

*be mitigated when states account for this complexity by allowing DNA to be collected at different points in the criminal justice process (e.g., arraignment, pre-trial, sentencing, parole/probation) and by having a “catch-all” provision that allows for DNA to be lawfully collected from individuals who owe and who do not have a pending case or are not on probation or in prison. For instance, Florida’s DNA collection statute allows for the collection of DNA from such individuals by court order.*

**3. The more robust the statewide DNA database, the more “return on investment” for testing forensic samples and collecting lawfully owed DNA**

As stated in a previous brief on this project, Ohio’s CODIS database is large relative to its population. The more robust the database, the more likely there is to be a “hit” to a forensic sample in CODIS when a profile is entered. To maximize the return on investment, *this suggests that states should consider expanding the types and number of crimes that qualify for lawfully collecting DNA samples at arrest/conviction (while still accounting for individuals’ civil liberties).*

**4. Census members frequently reengage with the criminal justice system.**

As indicated by the large number of individuals in Subsets #3 and #4, in the course of three years, a substantial portion of individuals from the Census reengaged with the criminal justice system. *This suggests that the more passive ways to collect DNA from those who owe can be effective, such as creating a “watch list”/flagging system in order to ensure they are swabbed for subsequent offenses as we have done in CCPO’s electronic management system, JusticeMatters. JusticeMatters is able to note when an individual’s DNA is owed, which triggers an “action required” email to the assigned APA, letting them know that the individual should be swabbed.*

**5. Swabbing suspects who owe will solve stranger rapes, and those suspects are not just connected to sexual offenses.**

As evidenced by the criminal histories of the suspects who have been prosecuted as a direct result of this grant, suspected sexual offenders are not necessarily linked to other sexual crimes. In fact, neither Miller nor Huffman had a felony sexually-based offenses in their criminal history. Recent research from the SAKI suggests that the majority of suspected sexual offenders are “generalists” as compared to “specialists” (Lovell, Huang, Overman, Flannery, and Klingenstein, 2020). *This suggests that*

*states that only swab for the most violent/serious felony arrests will miss substantial opportunities to identify sexual and other types of violent suspects.*

**6. More and frequent training is needed to ensure compliance with state law.**

Jurisdictions should work to have DNA collection be as standardized as fingerprinting (in accordance with their state law). In Ohio, the statewide law enforcement database (OHLEG) has a bright red “DNA check box” right below the individual’s name. Anyone in law enforcement can look up any person in the database to see if the individual’s DNA is already in the statewide database. While not a permanent fix to the issue of lawfully owed DNA, *this suggests that all states should have a system that at least allows all in law enforcement to have real-time access to a person’s DNA status and avoid duplicative samples and every person within law enforcement should make it standard practice to look up the DNA status of each person at their first point of contact.*

**7. There is a need to work closely with the state agency that maintains the CODIS database to receive regular updates on who owes DNA to ensure their DNA is subsequently collected.**

Without a shared system between the state CODIS system and local law enforcement agencies, prosecutor’s offices, and the courts, it is difficult to have updated data to determine if there is a DNA collection problem and how to effectively address the problem.

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document are those of the author and do not necessarily represent the official position or policies of the US Department of Justice.

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## Appendix A

### Appendix A. Number of individuals who appeared in more than one “Subset”

Subset(s)	N Swabbed
<b>Those in only one Subset</b>	
Arrestment Only	268
Jail Only	76
Probation Only	504
DNA in CODIS (Confirmed in BCI data, without any other sources)	1368
<b>Those in more than one Subset</b>	
Arrestment and Jail	5
Arrestment and Probation	56
Jail and Probation	7
Arrestment, Jail, and Probation	9

<sup>i</sup> CCPO's policy also covers DNA collection at other stages in the criminal justice system as well (not just at arrestment).