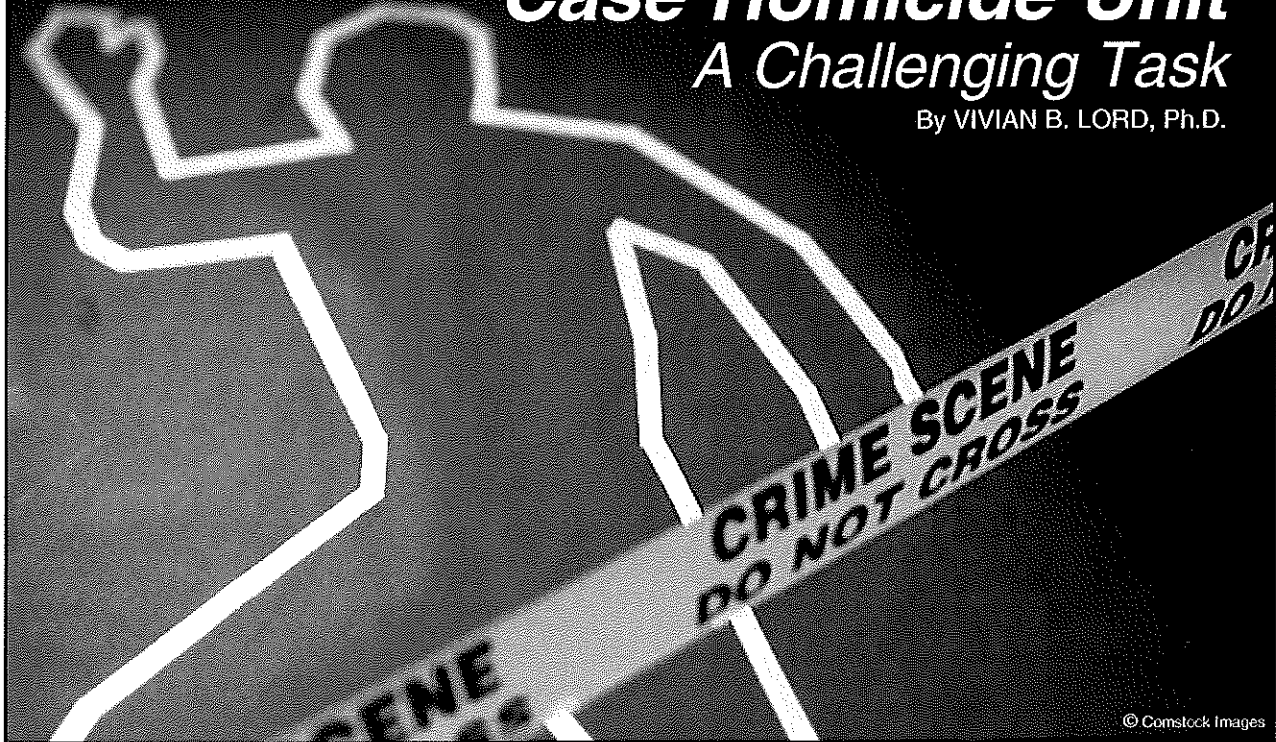


Implementing a Cold Case Homicide Unit

A Challenging Task

By VIVIAN B. LORD, Ph.D.



The local newspaper reported that the police department had more than 350 unsolved homicides, some dating back to 1979. The article stated that investigators were lobbying for a cold case squad; families of victims were complaining; and members of the city council were asking questions.¹ This conflict left the chief struggling over a dilemma that confronts many leaders of law enforcement agencies with limited resources. Does an administrator dedicate homicide investigators to work on decade-old cases that they have

little chance of clearing when numerous new murders, not to mention a number of suicides, accidental deaths, kidnappings, officer-involved shootings, and serious assaults, occur each year?

With advanced technology to analyze physical evidence and the growth of DNA and fingerprint national databases, interest in old, unsolved homicides has increased steadily over the past few years.² The media has begun reporting on the cold case detective units implemented across the nation, but little has appeared about the

issues they face.³ Unlike many television portrayals, cold case homicides are not easily solved or prosecuted. After all, if the cases could have been resolved quickly when “hot,” why would they still be open 10 to 25 years later?

To find some answers, the author reviewed the Charlotte-Mecklenburg, North Carolina, Police Department’s cold case unit about a year after its inception. By interviewing homicide investigators, technical analysts, and district attorneys involved with cold cases, she discovered some of the unique challenges



Dr. Lord chairs the criminal justice department at the University of North Carolina at Charlotte and is a member of the Charlotte-Mecklenburg Police Department's homicide review team.

“ A major premise of implementing cold case units is that new technology will enhance previous examinations conducted on physical evidence. ”

such units encounter. But, more important, she found a key to the department's response: combining volunteer resources with experienced investigative expertise.⁴

Unit Development

First, the department assigned two veteran detectives, representing 10 percent of its homicide personnel, to the cold case unit. Both wanted to work on the old investigations because they felt that given a concentrated effort, they could clear a number of them and provide the families of the victims with some measure of comfort by showing that the department would continue trying to find those responsible for their loved ones' deaths.

Next, the agency obtained assistance from the FBI's local office and National Center for Analysis of Violent Crimes.

This involvement allowed the cold case detectives to become part of the Safe Streets Task Force and be deputized as federal agents, giving them jurisdiction outside Mecklenburg County.

Last, the department implemented its concept of volunteers helping detectives review the cases. Because using volunteers constitutes a major element of community policing, the agency already had a rich reservoir of individuals working in a variety of capacities. After September 11, 2001, the volunteer spirit expanded; people were empathetic and wanted to be involved. Since March 12, 2003, three volunteers, with past law enforcement and investigative-related experience and currently retired or working in other fields, have brought many skills, opinions, and perspectives to the work that

supplement those of the seasoned homicide investigators. Most important, all three possess the vital ingredient of discreetness, thereby ensuring that all information remains confidential.

Review Process

The three volunteers attempted different review formats. They ultimately decided to record information under the following headings: victimology, recap of the crime, crime scene report summary, evidence/property recovered and lab analysis results, witness information and statement recounts, related investigation, medical examiner's report summation, potential suspects, and recommended follow-up.

On an ongoing basis, they review separate cases individually, sorting and reading all of the information in the folder, before attending a meeting with the rest of the review team, comprised of the two cold case detectives, the assigned FBI agent, and the captain of the unit.⁵ Many of the files are extensive, and, because the three volunteers have other obligations, they complete a case review about every 3 to 4 weeks. Nearly a week before the group meeting, they send a draft report of each case to the other members via e-mail. At the meeting, the volunteers summarize the ones they have

reviewed. The team provides input, suggestions, and questions, extensively discussing each case. The volunteers then incorporate the additional group information and send their final report to the assigned detective and the captain. Through this process, each reviewed case receives the benefits of the skills and experiences of at least six trained professionals.

Case Selection

Working under pressure to prove the value of a separate cold case unit, the detectives and their supervisor at first arbitrarily selected homicides based on what they personally knew about them. They also considered those wherein victims' families actively sought answers.

However, over the course of the first year of operation, the cold case detectives realized that bringing all of the department's homicide investigators together to systematically identify cases that they thought would be solvable if time could be devoted to them would prove more fruitful. That way, the detectives who had worked on these investigations in the past could continue to have an active role. In other words, rather than the cold case detectives spending a great deal of time reading the files, the investigators originally assigned would brief them on the homicides and

potential leads. Not only would this use time more efficiently, but the detectives who had invested a great deal of energy on the cases initially still could receive credit and feel part of the investigations.

The unit has developed a criteria template to use for all cold homicides. Now, before unit personnel review a case, they complete this standardized form. Important criteria they

“

Through this process, each reviewed case receives the benefits of the skills and experiences of at least six trained professionals.

”

pursue include the presence and existence of physical evidence conducive to modern technology, the availability of witnesses, and an identifiable and living suspect.

Physical Evidence Analysis

A major premise of implementing cold case units is that new technology will enhance previous examinations conducted on physical evidence. DNA analysis has changed over the past decade, and different

types serve various purposes. Even though DNA analysis may have been conducted on an early, unsolved case, it may need updating to match the results with samples from convicted offenders.⁶

While advanced technology, especially in DNA analysis, can help solve cold cases, several problems have emerged. First, in the past, technicians and detectives collected evidence the way that they were trained based on the analysis that examiners could conduct at the time. Therefore, investigators may not have collected evidence at the time that today could help connect the suspect to the crime scene or the victim. Second, old methods consumed a great deal of the evidence so little may remain to analyze using new technologies. Third, in some instances, deterioration of the packaging of the evidence may cause problems, particularly with DNA profiling.

Due to the difficulties of these old cases, the condition of the evidence, and the time and labor constraints, detectives should contact the laboratory before submitting the physical evidence for DNA analysis. Often, the technicians can examine the crime scene and victim photographs and review previous lab results to determine which evidence would be more probative. Also, even though little of the sample

Criteria for Opening Cold Case Homicides

1. Does physical evidence exist?
DNA yes _____ no _____
Latent prints yes _____ no _____
Ballistics yes _____ no _____
Other yes _____ no _____

 2. Is physical evidence still in property control or available? yes _____ no _____
Location _____

 3. Have witnesses been identified? yes _____ no _____
Number of witnesses _____
Eye witnesses _____ Other witnesses _____
Witness availability _____

 4. Have suspect(s) been identified? yes _____ no _____
In custody yes _____ no _____ Status _____
Terminally ill yes _____ no _____ Deceased yes _____ no _____

 5. Is there opportunity for multiple clearances? yes _____ no _____

 6. Has the case been previously presented to the District Attorney's Office?
yes _____ no _____ Arrest made yes _____ no _____

 7. Clearance potential excellent _____ good _____ poor _____

 8. Should case be submitted to review team? yes _____ no _____
- Case reviewed by _____ Date _____
Supervisor _____

remains or all of it was consumed during an earlier analysis, examiners still may be able to analyze the prior DNA extracts using newer methods. Finally, because the detectives must be able to testify to the condition of the evidence—

including the packaging, which often has begun to deteriorate, become damp, or been crushed—they should document and photograph the packaging prior to sending the material to the laboratory, especially an external one.

Prosecution Challenges

District attorneys' opinions seem to vary on the resources that agencies should invest in cold case homicides. For example, Mecklenburg County has limited prosecutor resources; 5 out of approximately

40 assistant district attorneys prosecute murders. This translates into 12 trials annually, with more than 100 homicides currently pending. Although overall support for the investigation of cold cases exists, some prosecutors may not be convinced that it is the best use of their resources. If the suspect of a cold case already is serving a lengthy prison sentence for other charges, they feel that they can protect society better by attempting to place active offenders behind bars. Although Mecklenburg County prosecutors understand that the prosecution of cold cases sends the message to murderers and the families of their victims that these cases never will be forgotten, they also want to ensure that the ones brought to them warrant prosecution. To this end, the prosecutors consider early and frequent communication between the cold case investigators and themselves essential. Only with such communication can the investigators and prosecutors develop a shared approach to determining what evidence will suffice to successfully prosecute a case. Because prosecutors fear that premature arrests or the presentation of weak cases could undermine the credibility of the cold case unit and needlessly raise the hopes of victims' families, they evaluate the cold cases presented by the unit

based on the same criteria that they use for all other homicides.

The author interviewed approximately 20 other district or state attorneys with experience prosecuting cold homicides and found that they have had positive experiences and consider such investigations a priority. They acknowledged that because of the publicity that cold cases generate, it is politically disastrous to lose them. Jurors are sympathetic and want to participate in the solving of an

“
...the prosecutors consider early and frequent communication between the cold case investigators and themselves essential.
”

old case, but, from crime programs on television, they have acquired high expectations.

Although these attorneys contacted represented only a handful of those who prosecute homicides in the United States, they appeared to pride themselves on prosecuting and winning risky cases. They talked about presenting a cold case homicide to the jury as a mystery so that the members

can “play detective.” These prosecutors recognized that it took additional work and skill to convict defendants of murders where the crimes occurred many years before, where witnesses must search their memories for events that have receded to the far corners of their minds, and where physical evidence may have deteriorated.

Sample Successes

The author's interviews revealed numerous samples that provided insight into the challenges cold homicides present to the criminal justice system. In several instances, the remains of the murdered victim emerged decades afterward. Once the body was identified and garnered publicity, witnesses came forward. Sometimes, the relationship between the defendant and the witness had changed. In one case, after seeing the television broadcast of the discovery of a teenage girl's remains 12 years after she had disappeared, the defendant's former wife came forward to report the murder of a young female by her then husband. No physical evidence or weapon linked the man to the crime; the case revolved around the ex-wife's testimony.

As melodramatic as it might seem, authorities have solved a few cases when defendants wanted to talk about crimes. One inmate contacted detectives

to “get something off his chest.” He had become involved in religion and wanted to confess to a murder. Another inmate corresponded with a judge to discuss a killing that he had witnessed. When detectives came to question him, he refused to talk, but they managed to obtain a blood sample. DNA analysis matched one of the two defendants in the case. The other defendant, in another prison, talked about the crime because he assumed that his partner already had confessed.

In a number of cold cases, detectives continued to submit fingerprints or samples for DNA analysis until advances in technology secured a match. In 2003, authorities tried a man for the 1981 sexual assault and murder of a woman. They first had prosecuted in 1996 when DNA analysis conducted on swabs taken at the victim’s autopsy revealed a ratio of 1 to 10,000 chances that the DNA could have come from someone other than the subject. In 2003, however, technicians reanalyzed the DNA and the ratio increased to 1 in 100 billion, which led to the man’s conviction.

Conclusion

Cold case homicides have caught the imagination of the public, and families of these victims have had their hopes raised that the murderers of their loved ones still will come

to trial. Many jurisdictions have created specialized cold case homicide units.

A year after implementation, the Charlotte-Mecklenburg Police Department has a cold case unit still undergoing revisions. It has refined the selection process of cases, begun the analysis of physical

“
Unlike many television portrayals, cold case homicides are not easily solved or prosecuted.
”

evidence on selected ones, and prepared others for the district attorney. The unit continues to grapple with some issues, including physical evidence and prosecution challenges, but remains determined to forge ahead in the pursuit of justice for the victims and their families. One man still waiting for resolution of his brother’s murder in 1974 summed up the feelings of many by saying, “As long as I know it’s not shelved and forgotten forever.” ♦

Endnotes

¹ M. Manware, “Unsolved Killings Split Police,” *Charlotte Observer*, November 29, 2002, sec. 1A, p. 4.

² For additional information, see Charles L. Regini, “The Cold Case Concept,” *FBI Law Enforcement Bulletin*, August 1997, 1-6; and James Markey, “New Technology and Old Police Work Solve Cold Sex Crimes,” *FBI Law Enforcement Bulletin*, September 2003, 1-5.

³ For an overview of cold case squads, see Ryan Turner and Rachel Kosa, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, and the Police Executive Research Forum, *Cold Case Squads: Leaving No Stone Unturned*, NCJ 199781 (Washington, DC, July 2003).

⁴ Although the media has publicized homicide cold case units as a new concept, they are not. Many law enforcement agencies began adding cold case investigators more than 5 years ago as advancements in DNA analysis and other forensic technology progressed. Perhaps, the idea of using volunteers with past law enforcement experience in conjunction with veteran investigators constitutes a new phenomenon. M. Manware, “Review Team Delves into Old Homicide Cases,” *Charlotte Observer*, June 23, 2003, sec. 1B, p. 6; and T. Tizon, “Cold Case Cowboys Ride Again: A Volunteer Squad of Retired Police Officers in Oregon,” *Los Angeles Times*, January 29, 2004, sec. 1A, p. 4.

⁵ Quite often, specific documents, such as medical examiner’s reports and evidence analysis results, are not in the case folders but housed in archives. Currently, college interns are assessing the case files for missing information and ensuring that they are complete before the volunteers receive them for review.

⁶ For additional information, see John E. Smialek, Charlotte Word, and Arthur E. Westveer, “The Microscopic Slide: A Potential DNA Reservoir,” *FBI Law Enforcement Bulletin*, November 2000, 18-22; and Alice R. Isenberg, “Forensic Mitochondrial DNA Analysis: A Different Crime-Solving Tool,” *FBI Law Enforcement Bulletin*, August 2002, 16-22.