

Just Lawfully Owed DNA

Introduction [00:00:05] Now, this is recording, RTI International Center for Forensic Science presents Just Science.

Voiceover [00:00:20] Welcome to Just Science, a podcast for justice professionals and anyone interested in learning more about forensic science, innovative technology, current research, and actionable strategies to improve the criminal justice system. In episode one of our Research and Considerations for Sexual Assault Cases season, Just Science sat down with Dr. Rachel Lovell, Research Assistant Professor at Case Western Reserve University, and Mary Weston, Assistant Prosecuting Attorney at the Cuyahoga County Prosecutor's Office, to discuss lawfully owed DNA. Lawfully owed DNA is defined as a sample of DNA from a qualifying offender that should have been entered into the Combined DNA Index System but was not. Although legislation defines that a qualifying offender's DNA sample must be submitted into CODIS, this historically has not always been the case, resulting in thousands of lawfully owed DNA samples. Mary Weston and Dr. Rachel Lovell are working to correct this issue in Cuyahoga County, Ohio. Listen along as they discuss the collection of potential legal and research implications associated with lawfully owed DNA samples in this episode of Just Science. This season is funded by the National Institute of Justice's Forensic Technology Center of Excellence. Some content in this podcast may be considered sensitive and may evoke emotional responses or may not be appropriate for younger audiences. Here's your host, Tyler Raible.

Tyler Raible [00:01:39] Hello and welcome to Just Science. I'm your host, Tyler Raible with the Forensic Technology Center of Excellence, a program of the National Institute of Justice. Today, our guests are Dr. Rachel Lovell, Research Assistant Professor at Case Western Reserve University, and Mary Weston, Assistant Prosecuting Attorney in the Cuyahoga County Prosecutor's Office and the supervisor of the Cold Case Unit. Rachel, Mary, welcome. It's great to see you.

Mary Weston [00:02:00] Thanks for having us.

Rachel Lovell [00:02:02] Yes, thanks for having us.

Tyler Raible [00:02:03] So before we really dive in today's conversation, I do want to set up a little background. So, I know you both have been involved in the field of sexual assault response, but what prompted the two of you to work together on this topic of lawfully owed DNA?

Mary Weston [00:02:16] So Rachel and I, we already had, I suppose, like an established relationship because we had worked together for years on the Sexual Assault Kit Initiative. So we had this shared understanding of the kits and DNA and how victims were navigating the system when their cases had been sitting for years. We both had this kind of shared desire to dig deeper and see what else could be done and flesh out some issues. I think we both have a common goal of trying to bring justice to these victims. And so we had discussions about wanting to populate the CODIS database. You know, we were testing all these kits, thousands of kits, and the gold standard is when you get a male DNA profile in a kit, usually the offender is male, and it goes into CODIS, right? But you can test all these kits, but the worst is when you get that DNA profile into CODIS and just nothing happens, right? There's no hits. And so we kind of had a feeling that we had a problem. Rachel and I were kind of discussing it, but we didn't really understand the scope of the problem. We just knew we needed to populate that DNA database so we could get more hits. I mean, at

some point in our project, we had started indicting our John Doe cases, so that would be we do have a male DNA profile in a kit. We're fairly certain, based on the investigation and the circumstances, that that male profile is our perpetrator, but we don't have a CODIS hit. So we had started indicting those to pause the statute of limitations. And we have 170 of those. So clearly there's an issue, right? Or at least something to think about. And so Rachel and I started working on this together and we kind of had these common goals, but neither of us could really kind of do it alone, right. Like a researcher can't tackle this project alone. And I certainly had questions about where we should be looking and maybe how to sift through the data. There was just so much, so much of it. So it just made sense for us to work together and tackle this together.

Rachel Lovell [00:04:13] I will add that, as Mary mentioned, we had a working relationship and prior even to the Sexual Assault Kit Initiative in Cuyahoga County, there was known issues with collecting DNA. There had been some big misses of people who should have been in CODIS and were not. So there had been some reporting by Rachel Dissell from The Plain Dealer around why those people had been missed. At that point, the misses were within the prison system, and these were individuals who had missed, in particular Anthony Sowell - he had served 15 years for rape in prison and should have been swabbed and wasn't. So when he came back out and he was connected to the murders of at least 11 women, there would have been questions about why wasn't he in CODIS if he had been in prison and he should have been swabbed. So there had been some investigative reporting about misses within the prison system and what the prison system in Ohio was doing around fixing the issue. We knew that there was an issue within the prison system. The prison system supposedly had reported about what had gone on to sort of help fix some of the issues with lifting and swabbing people. But then Mary's office and Mary knew as well that there were folks in CODIS, those folks in their SAKI ones, who they could tell from looking at their criminal histories and others who also should be in CODIS - not necessarily people who had gone into prison but because of their arrest for a felony - her investigators were telling her, hey, this person should be in CODIS, but they're not in CODIS. So there was early evidence to suggest that Cuyahoga County had a larger issue with collecting lawfully owed DNA and that those would potentially hit to several of the rape kits. What we really didn't know was the scope of the issue. And we also actually didn't know exactly how we were going to tackle it. We had proposed something, but we knew that there was probably an issue. We didn't have an idea scope.

Tyler Raible [00:06:11] That makes perfect sense. And we'll get more into the article in a little bit, because I think there's obviously so much fascinating stuff that we can talk about. But before we do that, I do want to talk about the role of collaboration. So what is it about your partnership that really has supported how you address this topic?

Rachel Lovell [00:06:26] As a research entity, so I work at a research center at a university where we do primarily applied work, meaning we're working in the community with police, with prosecutors, with advocacy organizations, community organizations. So the folks in my research center and the work that we do, it wasn't particularly atypical to work with even the prosecutor's office, police departments and other sorts of entities in this. But I think what makes it particularly collaborative and has been successful is really two things. One is that the prosecutor's office really invited us in to really sit at the table with them. So it wasn't just like we're just here to analyze your data and then we spit it back out to you. I started sitting in the meetings very early because it was just such a complex issue that I couldn't even really understand what data I was looking at. So I had to hear them talk. I had to be embedded as part of that because that was the only way I could really understand what questions to ask and what the data were telling me about what the

issue was, especially around owed DNA. And I'm not a prosecutor, my job is not to read state statute. So while as a layperson I can read them, I don't really understand how it all works in practice, and nor do I have access to the data that law enforcement does. On my end, we had the expertise and the knowledge around data and data systems, data management, and we have a pattern of working with law enforcement. But we needed that law enforcement entity to sort of help guide this practice so that it would be collaborative.

Tyler Raible [00:08:04] That's something that I've learned in my experience hosting this podcast is that more heads are better than one. Right? So the more people you can bring to a problem, the more likely it is that you can find a solution that'll work. And I think that this article is actually a great example of that, called Outcomes from Efforts to Swab Individuals Who Lawfully "Owe" DNA in Cuyahoga County. One of the first things that struck me about this was that in the intro it talks about this collaboration between the CCPO, Cuyahoga County Prosecutor's Office, and the Begun Center. So I think that both in terms of your description and what actually happened, you know, that collaboration is evident. So before we really get into the article, can we get a brief description of what is lawfully owed DNA?

Mary Weston [00:08:45] So it's when an offender's DNA should be in the national offender database, but it's not. So the national offenders database, we commonly call it CODIS, right, we all call it CODIS. It stands for the Combined DNA Index System, but it's the national DNA database of offenders. So somebody who's committed some sort of a crime that makes them eligible for collection in their state, their DNA can go into CODIS. And there's two sides of CODIS. There's evidence uploads, so crime scene evidence goes into what I like to call the evidence side of CODIS. And then there is the offender side. So offenders that should be collected at felony arrest or conviction, their DNA gets uploaded to the offender side. And the magic happens when there are matches across those two sides. And every state is different, but mostly if somebody is convicted of a felony, their DNA should be collected and added to this database. In Ohio, we have a swab upon arrest statute. So any time somebody is arrested for a felony, the law says that law enforcement shall, right, must collect DNA from that person to put into the offender side of CODIS. And then once you do that, you would see if they hit to any DNA profiles on the evidence side of CODIS. Right. But if that person was arrested for a felony in Ohio and months have gone by and that person is not in CODIS, well, that person owes DNA at this point, right. They should be in CODIS and they are not.

Tyler Raible [00:10:14] One question that I had when I was reading the article is, and this is evidenced by the numbers, is there are a lot of people who either slip through the cracks or don't get added to the system, is there a reason for that? Are they slipping through the cracks? Is it a funding issue? I'm a little unfamiliar with the topic.

Mary Weston [00:10:27] I think it could be all of those things. When we first started looking at this issue, it was just that we didn't really know a lot about it. I mean, I've been a prosecutor for years and I don't think I'm an undiligent prosecutor, but I didn't realize, like, oh, the statute out there that says that all these different steps of the criminal justice system, a person should be checked to make sure their DNA has been collected. I remember early on in my career, I've been a prosecutor since 2006, I knew that the person's DNA should be collected upon conviction. But there was really no big hoopla about the fact that the law changed in around 2011 and it changed to swab upon arrest. I wasn't even aware of that and neither were my colleagues. In chatting with police officers, this wasn't really a discussion that was taking place. There wasn't a lot of attention about it, there wasn't a lot of education about it. And so it wasn't until we started working these

sexual assault kits and we're like, we wish that there were hits to these cases that we started realizing, well, this person should be in CODIS and they're not. Like, say, for instance, we identified a suspect in some other way - well this person has a prior criminal record, why weren't they in the system? So to answer your question, it was like there wasn't a lot of attention on it. There's still misses at arrest. When we first started this project, my office only prosecutes felonies, so any time somebody is arraigned, right - they have that first arraignment where they are advised of the charges and they are assigned an attorney and they are assigned a judge - and they are, that initial hearing, which is called an arraignment, the statute says this is a chance for the DNA to be collected and we weren't really doing that. So I suppose in some ways it was things that were falling through the cracks. After Rachel and I got into it and we realized we had to conduct the census, right. We had to build a list of people we knew that owed DNA. And when we first conducted that census, there's fifteen thousand people just from two law enforcement agencies in our county. Now, they are the biggest customers in terms of a felony arrest - Cleveland police and the Cuyahoga County Sheriff's Department - but that's a lot of people. And that's when you start wondering what's going on here and you want to dig deeper and find out where those misses are taking place.

Rachel Lovell [00:12:28] So part of our role as the research entity is to help understand the processes and the systems and try to collect data around those different processes and systems to understand this better. Because, you know, I said at the beginning that we didn't really have an idea of scope. And then when we started to get information about how many, we were overwhelmed, like Mary said, with over fifteen thousand people, most of that within a five-year span of time in two law enforcement jurisdictions. You know, the process that we had to sort of assess that was completely changed because tracking fifteen thousand people, you can't look up each individual person and so forth. And so part of our job as the research entity is to sort of help figure out this process and some of the early lessons that we were learning and the questions that we were asking along with the prosecutor's office is what has been done before? And one of the things that they identified as one of the main issues was that there was no way for people to know whether someone had been swabbed before. And so the AG's office in Ohio through the Bureau of Criminal Investigations, or BCI, who is the CODIS administrator for the state, had started to put what they call this sort of DNA checkbox at the top of someone's name, if you look them up in the statewide database, which is called OHLEG in Ohio. So only law enforcement has access to that. But if you look somebody up at the very top, there's this little red checkbox that says this person's DNA is in the system, which prompted us to really ask more questions. Well, like, so there is a mechanism when someone is arrested to see whether they're already in CODIS or see whether they need to be swabbed. But as Mary said, that information really hadn't been filtered out into the process quite as much. So there were issues with, you know fingerprints was sort of integrated into that early booking process because it had been around for a long time. But that wasn't the case with DNA, because the laws had been changing fairly rapidly around DNA collection. And prior to this work, only recently had someone been able to even see whether someone's DNA was in CODIS or not if they actually look them up. What we really found was that the criminal justice system is a complex series of steps and these systems don't necessarily speak to each other. So you could actually have multiple agencies arresting someone. So it could be the sheriff's office arresting someone on a warrant, but it could be a Parma case, for example, or somebody else's case or a federal agency arrests someone but it's somebody's local case and that it wasn't quite integrated into the process with police. So that's step A. Arraignment is step B, but step B wasn't checking whether that was done at Step A. So you could go A, B, C, D, and then they go to the courts and then they go to probation and then maybe prison and then back to parole or probation and all those

different entities are different in their criminal justice system. And primarily, I think there wasn't really a way to sort of check the other systems. There was the assumption that everyone else was kind of doing that and there wasn't a mechanism. So I think, you know, it's more complex than perhaps people just swab at felony arrest. You're like, well, a police officer may not know whether it's a felony at the time of arrest. They may have to wait until that evidence gets tested to see are these aspirin or are these oxycodone, like, what's the content of that? How many grams? Is this heroin? Is it not heroin? All these different charges, you're not exactly sure. Or is this the second domestic violence or the third domestic violence? Those make a difference in terms of whether it's a felony and that very first interaction, the officer may not know. So they may not arrest. So there were all these different things that we're learning that it's much more complex than I think that people give credit to. And so the swabbing hadn't been integrated to really make sure that every entity is doing this. And I think that's what you're finding across almost all of BJA's SAKI sites that are doing owed DNA, that the number of individuals who lawfully owe DNA is much larger than people ever thought that it would be. And I think it is because it's a little bit more of a complex issue than people just they're arrested, swab them, put them in.

Tyler Raible [00:16:52] I do want to talk about the article. I guess, for our listeners, can the two of you describe phase one of this whole process, first, the census, so that we have a good jumping off point to continue the conversation?

Mary Weston [00:17:03] We had two kind of pools of data we were pulling from. We had contacted our Bureau of Criminal Investigations in Ohio and they maintained arrest data and we had requested felony arrest data. And they sent us a list of, Rachel, correct me if I'm wrong, but it was like a list of like 6000.

Rachel Lovell [00:17:22] We started with a list of sixteen thousand over a five-year span of time. And that's the list that we had to whittle down.

Mary Weston [00:17:29] But they cautioned us like, hey, this is not necessarily all felony arrest data. Like Rachel pointed out earlier, there are offenses that can be either misdemeanors or felonies, depending on if there's certain circumstances in play. So we got this very raw data of people that had been arrested for offenses that could be felonies. We had to really review that, and that was kind of an extensive process was looking through that list. And we sort of went through it and said, OK, here's an offense that's always a felony. Let's put this in the pool of people that owe, right. Like it's a murder. Ok, that person, there's no misdemeanor murder, rape, felonious assault, robbery, burglary. If these were the arrests, then that person was arrested for a felony. And then we sort of spot checked some other offenses. And we were very conservative. Like if we thought there's a chance this is a misdemeanor, we did not put that person in the owed column. We really wanted our final product to be people that we could be very confident that they owe their DNA. There was another pool of data we were able to pull from, which was my office's data. We only prosecute felonies. So if our software that I use on a day to day basis - all the prosecutors use it - if somebody is a defendant in our database, that means they were indicted for a felony. So we were able to use the data from like, let's say, 2011 forward that, you know, it became a swab upon arrest state, Ohio did at that point, that means anyone that was indicted for a felony since then, they owe. We were lucky in that regard that we were able to use our software. And most BCIs, I think in most states, do maintain that sort of arrest data. So we were able to pull from those two sources. And that was phase one. Right. We got this giant list of people and then we had to sort of get rid of duplicates. This is the nice part about having a research partner. So Rachel's team was able to help us really kind of take a closer look at that data and say, are there duplicates?

Are there people that are, they owe for multiple things? Absolutely. And get that list down. And so the BJA SAKI project calls that the census. That's a word we use for the list of people that we were able to finalize, that we were confidently able to say owe DNA, their DNA should be in CODIS. And that first number was like 15,370 people. And Rachel can speak to this, but actually in the past year or so, we have taken a closer look at that census and there was even additional duplicates on that list. Just because there's people that share names, there's people that share birth dates. And I don't remember what the final number of our census is now, but it's over twelve thousand. But it's still a large sample. It's still way more than we ever expected from two law enforcement agencies over a couple of years of arrests.

Rachel Lovell [00:20:18] So it took a lot of cleaning. I think we're at about 14,500 who are people who owed and of that we now have, maybe now close to 3,000, because we've been doing some more of this, who now we have confirmed to be in CODIS from that original list. But first we had to do the census and figure out how do we know if someone owes and how do we know it's that person?

Mary Weston [00:20:46] And I don't think that we are alone in that area across the country. I think that's an issue. There is not, at least not a month that goes by that Rachel or I are not contacted by another jurisdiction that's trying to tackle this problem. Because the more you look into it, if you're asked, if you are a law enforcement agency or a criminal justice partner and you're asking these kinds of questions, about CODIS and DNA and felons being swabbed, it's not surprising that there are other jurisdictions where this is an issue as well.

Tyler Raible [00:21:16] OK, so you go through phase one, you collect this census. And then that brings us to now -phase two and three, the center of this article, the swabbing, the follow up, disseminating the results. So what are some of the key features of this article that our audience should be aware of?

Rachel Lovell [00:21:30] There wasn't really a model to start from. And one of the things that researchers can do very well is to disseminate and sort of help build up generalizable knowledge in this space. And when we first started to tackle this, there wasn't a literature to pull from on how to collect this and I remember sitting around in meetings and the mayor's office has, the CODIS unit has this big conference room table. And I remember sitting out there and us discussing this and going, what if we do all of this and like there's like, we can get one person in CODIS and we get no hits? Like we had no real understanding of a) we didn't know how many people we would possibly find. What if we find 100 people and then none of those matched anything or we can't find them or they're all dead? Like we really had no evidence to suggest what we could do with this. There was no knowledge of the process or outcomes or impact of this. And I think that that's what really sort of surprised and as well as, you know, I think that's why we like talking about this issue, is to help bring awareness to other jurisdictions, to have them start asking their own questions about this now that we've sort of disseminated some of what we've learned in this space. Ohio law doesn't allow us to go and swab people who have been missed. So if they have been missed, and Mary, this gets much more into your realm as I'm not a prosecutor, but if you go through the whole criminal justice process and you've been missed and you don't have a current case, they can't knock on your door and compel you to give a swab. So that meant that because of that, that we had to just look at the people who had current cases or picked up a new charge. And what we learned is that if you follow these individuals over time, many of them will come back into the criminal justice system. And there's an opportunity if you sort of set those things in place to get them the

second time. And as such, we've been able to really follow many of these individuals now over because we're keeping track of all of this. And we've been able, I think upwards of 15 to 20 percent of these individuals are now confirmed to be in CODIS. And about three to four percent of those that went into CODIS came back with a forensic hit, meaning they hit to a crime that's in CODIS. It just wasn't necessarily attached to that person because that person wasn't in the federal DNA database. And so these outcomes are much better than we really ever thought might be the case. We just didn't know what we would find and to find, and Mary has many examples of this, that they've now been able to prosecute. They are linking to attempted homicides. They are linking to rapes; they're linking to burglaries. They're linking to all these cases that now, many of them were cold hit. They didn't have a suspect, and now they do, because now they're in CODIS, we've been able to identify and now many of the processes are being talked about in the county. I think that's one of the biggest things we've learned is helping spark these conversations is really important.

Tyler Raible [00:24:46] So, Rachel, Mary, one thing that I absolutely love about the article and Rachel, you talked about this, is showing the value, right, the value of the work. And you said you were surprised by a lot of the findings. What I really appreciate, as I was reading it, was hitting it from all these different angles, right. Stories throughout, case studies of examples of where somebody who didn't get flagged in the system was still on the street. And later in the article, I got really excited to see the tangible value of what was going on. So this question might be more for Mary, but how do you envision this article impacting the field of sexual assault response?

Mary Weston [00:25:23] I envision that focusing on lawfully owed DNA and the findings that you're going to see in this article shows that putting resources into collecting lawfully owed DNA will solve cases and it will actually prevent cases too. We have solved some fairly important cases here as a result of collecting the DNA from the people on our census. In the fall of 2017, we determined that over five hundred people on our census were currently on felony probation at that time. So we asked the probation department to collect the DNA from those probationers. They should have been collected at arrest. They should have been collected at arraignment. They should have been collected when they were first placed on probation and they hadn't been collected yet. So probation collected DNA from those individuals in the fall of 2017. One of the hits we got was to a 2012 stranger rape of a 14-year-old girl in a suburb of Cleveland, Cleveland Heights. In 2012, she had been walking down the street. She got in a fight with her mom and she just walked out the door and was walking down the street and a stranger attacked her, grabbed her around the neck, dragged her into some bushes and raped her. She reported it to the police. She went to the hospital. She had a sexual assault kit collected and a male DNA profile was found in her kit and it was uploaded into CODIS, but there were no hits at that time. And so when we did this probation sweep, is what we kind of call it, in the fall of 2017, that sexual assault kit hit to somebody who was on probation here and he was on probation for theft. He had, this guy whose name was Marquis Miller, he had been arrested in 2014 for a felony theft in a suburb of Cleveland. He had gone, been indicted and arraigned and he had pled guilty and he was convicted of felony theft and he was placed on probation in 2015, I believe. And so between 2015 and 2017, he had not been collected. As part of this focus and this kind of this request that we made as part of this project, my office reached out to the probation department and asked them to collect these probationers' DNA, and we got this CODIS hit. And so Marquis Miller ended up being indicted for this 2012 stranger rape of this child who was badly beaten in 2012. It was a pretty brutal sexual assault. And he was convicted. He was convicted of rape and attempted kidnapping and he went to prison. We have other stories like that, too. We had as part of our BJA SAKI project, we had tested a lot of older kits. We had a 1997 rape that

was unsolved where a teenage girl, 17 years old, had been pulled into a car at gunpoint by a stranger and taken to a park and she was sexually assaulted. She remembered that her perpetrator told her his name was Tony and she eventually got away and called the police. Again, she got a sexual assault kit done. That sexual assault kit was not tested for years, got a male DNA profile out of her kit, uploaded it to CODIS, and it wasn't hitting to anybody. But again, as part of that probation sweep in the fall of 2017, we got a CODIS hit to a man named Antonio Huffman. And sure enough, it was like, well, is this the Tony? Is this the Tony that the victim described brutally assaulting her? And so and it, sure enough it was so we prosecuted him as well. So these are just a few examples of cases that can be solved. If you have DNA from your crime scene and one kind of side of CODIS, you just need that, you just need that person's DNA on the other side, on the offender side of CODIS, to get those hits. And so you really, you really need that robust offender side of CODIS database.

Rachel Lovell [00:28:58] I think, Tyler, to add to that, for sure, that the initiative has shown hits to other types of crimes. So as Mary mentioned, the federal DNA database actually consists of two indices. There's the hits to a crime scene - that's a forensic - and then hit to a person, you know, a person's name or person goes into that. That's called an offender one. And the forensic one is a much smaller index than the offender one. And so there's just a smaller number of crimes they hit to in that forensic one. So I think that's important to remember when you're interpreting the statistics, is that you're trying to make it hit from just things collected at a crime scene. However, the nature of sexual assault and the crime itself means that there's often DNA connected to that crime given the interpersonal nature as compared to other types of crime, like burglaries and thefts and things like that. There's less likely a chance that there's going to be DNA left behind at those crime scenes. And so one of the things we did find, it can help solve other crimes. But I think what's also really important to think about is that it can solve rapes specifically because you're just much more likely to get, rapes are a disproportionate number of crimes in that forensic index. And so here's all these rapes that these kits are being tested. The true probative value of testing those is when there's a strong, robust database to pull from, so the testing becomes more and more powerful as that database continues to grow and develop. And here are people that the state has said your DNA should be in there. And so by testing those, you have a much greater chance of getting something out of that testing and getting a hit or getting some strong investigative leads from doing this. So I think when we talk to different jurisdictions and for folks that are listening to this, especially in law enforcement, if I was to advise or sort of have a larger take away, it would be to start asking questions in your jurisdiction. What is the law? What have you done? What does that sort of database look like? Are there cases that you think you may be able to solve from just ensuring that there's DNA into the database? And the reports that we wrote were really written giving guidance to other jurisdictions to say if this is what you want to do, this is how we did it. These are the questions we started asking. This is how we started collecting data on this. Here's, at least, a blueprint. It doesn't necessarily mean it's their blueprint because each state is different. But here's how we got started. Here's how you can start asking those questions. So I think that was really one of the goals of the report was to be written in a way that can be accessible to a larger community and not just the academia. There's a good chance you will be able to solve some crimes and not just solve past crimes but prevent future crimes. The research on SAKI shows that, look how many serial offenders there are. And so serial offenders, they repeatedly commit, and they don't just rape, so they rape and they do all these other things. So you're able to solve potentially a lot of crimes as well as sexual assault if you are ensuring that those people get into CODIS.

Tyler Raible [00:32:15] I mean, it certainly seems like a compelling reason for jurisdictions to evaluate or re-evaluate some of the issues they might be facing with lawfully owed DNA. So as we're kind of wrapping up, what's next for each of you? Is there anything coming up that you're excited about, any future projects, events, resources that might be coming out or you want to let our audience know about?

Mary Weston [00:32:33] I am excited just, on the topic of owed DNA, because we've sort of changed how we're looking at it and paying attention to it in our county. We've started a whole new program where in the arraignment room now we identify who is not in CODIS and we have those collections being made. And that's a whole new kind of protocol that we've put into place. So I'm excited going forward to kind of see how that pans out and see how that kind of improves our rates of CODIS hits on our unsolved cases. We've already seen, like a lot of CODIS hits come in. We've had around 90 CODIS hits just from our census and we continue to get those CODIS hits. Moving forward to work in my office, we're sort of trying to move even beyond CODIS. We have started identifying cases that maybe could be solved using genealogy, for instance. So that's something that's new to us and we're working on that right now.

Rachel Lovell [00:33:26] I'm excited about all those things for Mary's office and for Mary, and we're excited to continue to be involved in those things. But in a very nerdy research-y sort of way, we have in draft form, it's not ready yet, we are going to be submitting an article for peer review in a forensic journal to sort of start help building up the scholarly literature in this space as well, which I think will also sort of help shore up some misconceptions about how CODIS works and what CODIS is and also hopefully help elevate the conversation, at least among academics, but hopefully to a larger extent, because I think academics sometimes don't really understand how CODIS works. For example, people can have their DNA taken out. It isn't just like a forever abyss where you just fall in and then you're forever stuck there. And I think it could help with potential exonerations and all these sorts of things. So I think talking about the process and showing the outcomes from this, I think will really help. So I think publishing this is an important component.

Tyler Raible [00:34:34] It's got to be validating to see that, you know, that physical change happening and getting those calls. As we're finishing up, are there any final thoughts you'd like to share with our listeners before we wrap up today?

Mary Weston [00:34:45] I think that it can't be stressed enough that you're not going to just solve cases if you put resources into collecting DNA profiles from felony offenders and people that owe DNA. But you're going to prevent crimes, too. And I think that the prevention of crimes isn't maybe so obvious to people listening and maybe thinking about starting to ask these kinds of questions. I think it's more obvious, like you're going to solve cases because you maybe you're going to get a CODIS hit to an old case. But here in Cuyahoga County, we have examples of cases that probably could have been prevented, sadly enough. There's a guy named Larry McGowan. These are all stranger rapes - 1996, he raped a woman, he shot her. In 1998, he raped another woman. He was in and out of prison kind of his whole life. In 2002 or 2003, we believe he was, his DNA was collected in prison, but there was something wrong with the swab. It failed. His DNA did not make it into CODIS. He got out of prison and in 2010 he raped another woman. And then he had gone back into prison for something and he got out of prison in 2012. He had been out for two weeks. He raped a fourth woman. He got arrested for that rape. Akron police, I believe, made the arrest and they collected his DNA pursuant to being of his felony arrest. And when they put it into CODIS, it lit up. It produced CODIS hits to all these, the 1996

rape, the 1998 rape, the 2010 rape. And if you think about it, if that 2002 swab had been re-collected for instance, and his DNA had been entered into CODIS at that time, it would have produced hits to the '96 and '98 cases, at least possibly, right, and maybe would have prevented the 2010 rape. And when he was in prison again, like he was in prison right before he committed that last rape, if he had been collected then maybe it would have produced the hits. Particularly with these serial offenders, when you start looking at the timeline, sometimes it's a little sad to think, oh man, what if we had known this earlier? What if, what if we had had these CODIS hits, then we could have prevented maybe some crimes that happened after the person should have been collected. So, and he's not the only example, there are other examples. These are the sad cases that Rachel and I, we mull over, and we think over and we think how could these things have been prevented? People are always welcome to call me or call Rachel or email us. And we're happy to talk to people about how we kind of got started. And I started asking those questions for ourselves.

Rachel Lovell [00:37:11] Ditto

Tyler Raible [00:37:12] Thank you both so much for sitting down with us today. For those of you that are keeping score at home, it's the Outcomes from Efforts to Swab Individuals Who Lawfully "Owe" DNA in Cuyahoga County.

Mary Weston [00:37:20] Thank you so much for having us. It was a pleasure.

Rachel Lovell [00:37:22] Yes, thank you.

Tyler Raible [00:37:23] So if you enjoyed today's conversation, be sure to like and follow Just Science on your podcast platform of choice. For more information on today's topic and resources in the forensic field, visit forensiccoe.org. I'm Tyler Raible and this has been another episode of Just Science.

Voiceover [00:37:40] Next week, Just Science sits down with Dr. Julie Valentine, Associate Dean and Associate Professor at Brigham Young University in the College of Nursing and a certified sexual assault nurse forensic examiner, and Heather Mills, a forensic scientist manager at the Utah Bureau of Forensic Services, to discuss evidence collection and groping sexual assault cases. Opinions or points of views expressed in this podcast represent a consensus of the authors and do not necessarily represent the official position or policies of its funding.