

## **MEMORANDUM OF UNDERSTANDING FAMILIAL SEARCHING PROTOCOL**

A Memorandum of Understanding (MOU) is hereby established between the California Department of Justice's DNA Data Bank Program (DOJ) and the following agencies: \_\_\_\_\_, Investigating Agency, and \_\_\_\_\_, Prosecuting Agency, regarding their request that DOJ conduct a familial search of its State DNA Index System (SDIS).

This familial search, and appropriate additional testing and inquiry, will be performed by DOJ in an attempt to identify a relative(s) of the potential perpetrator in the Investigating Agency's case number \_\_\_\_\_. The relevant forensic unknown DNA profile derived from evidence associated with this case and uploaded to SDIS has laboratory ORI CA0\_\_\_\_\_ and CODIS Specimen Identification Number \_\_\_\_\_.

This MOU is a prerequisite to pursuing the development of an investigative lead by means of a familial search.

By signing this MOU, the Investigating Agency and Prosecuting Agency agree to the following:

### **Investigating Agency**

1. The crime at issue is serious and has critical public safety implications.
2. The crime is unsolved. If the crime is solved while DOJ is engaged in its familial searching protocols, the Investigating Agency will immediately notify DOJ and the process will terminate.
3. The Investigating Agency has pursued all other reasonable and viable investigative leads, including DNA profile comparison(s) to suspect reference samples, with negative results.
4. The Investigating Agency has consulted with the Prosecuting Agency and both agencies agree that requesting a familial search is an appropriate and necessary step in the development of investigative leads.
5. The forensic unknown DNA profile is a single-source, complete profile produced by Identifiler® analysis (15 STR loci plus Amelogenin) of the crime scene sample.
6. The Investigating Agency will provide the laboratory reports regarding DNA testing and, if requested by DOJ, the associated bench notes.

7. The Investigating Agency verifies the forensic unknown DNA profile is in the SDIS forensic unknown index. No hit to an offender has resulted from routine searches.
8. The Investigating Agency will present DOJ with a full Yfiler® Y-STR profile of the crime scene forensic unknown as a condition of DOJ pursuing the development of this potential lead.
9. The Investigating Agency will provide DOJ with a written summary of all available case information that would be helpful in identifying a relative of the perpetrator. The summary should include, but is not limited to:
  - Subject physical description (height, weight, hair color, eye color, tattoos, accent or any other identifying information)
  - Age
  - Ethnicity
  - Modus operandi
  - Type, time and location of the crime(s)
  - Weapon(s) used
  - Victim demographics (physical description, location of work, home and areas frequented)
  - Vehicle(s) and/or transportation used
  - Existing laboratory reports
  - A list of excluded subjects along with the basis for exclusion
  - Any potentially related crimes
10. If provided with a familial search investigative lead by DOJ, the Investigating Agency will take all reasonable steps to pursue and complete the investigation and submit it to the Prosecuting Agency for filing consideration in a timely manner.
11. If provided with the name of a convicted offender as the result of the process described herein, the Investigating Agency will, following its further investigation, provide DOJ with laboratory reports indicating whether the relative(s) of the offender matched the crime scene sample.
12. Representatives of the Investigating Agency and the crime laboratory involved agree to meet with the Prosecuting Agency and the DOJ in person prior to release of the name of the convicted offender(s).

### **Prosecuting Agency**

Prosecuting Agency agrees to meet with the Investigating Agency, the crime laboratory involved, and the DOJ in person prior to release of the name of the convicted offenders(s).

By signing this MOU, and upon receipt of all required information, DOJ agrees to each of the following statements:

**Department of Justice (DOJ)**

1. DOJ will conduct a familial search of its DNA Database using statistical formulae designed to evaluate the likelihood of kinship between the source of the crime scene sample and convicted offenders in the database. Arrestee samples will not be searched.
2. Based on these statistical evaluations, DOJ will conduct Y-STR typing of a prioritized and manageable group of candidate convicted offenders most likely to be related to the source of the crime scene sample. If no offender Y-STR profiles are concordant with the Y-STR profile from the crime scene sample, no offender's name will be released.
3. For any concordant Y-STR profile, the DOJ Familial Search Committee will review all available data, including kinship index calculations and information contained in other government databases, in order to identify additional evidence bearing on kinship.
4. DOJ Special Agents and/or analytical staff will review additional information, separate from the underlying case, to assist with the disclosure determination. Absent a separate agreement, DOJ Special Agents or analytical staff will not become involved in the underlying criminal investigation.
5. After reviewing all available information, the DOJ Familial Search Committee will release the name of the convicted offender to the Investigating and Prosecuting Agencies if it determines that there is a reasonable probability that the convicted offender is a relative of the source of the evidence sample.
6. DOJ's disclosure to the Investigating and Prosecuting Agencies of a convicted offender's name will be accompanied by documented scientific test results and other information relevant to the issue of kinship.
7. This MOU, and the procedures it describes, is valid only as long as DOJ maintains its familial search program.
8. DOJ is bound by the use and disclosure restrictions governing the DNA Data Bank Program and set forth in Penal Code section 295 et seq., and will maintain the familial search program only to the extent that it is consistent with those statutory parameters.

All parties to this MOU understand and agree to each of its provisions.

I certify that I am a duly authorized representative of the entity indicated below, and have the authority to sign this MOU on behalf of my agency and obligate it accordingly.

FOR THE INVESTIGATING AGENCY:

\_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Agency: \_\_\_\_\_  
Date: \_\_\_\_\_

FOR THE PROSECUTING AGENCY:

\_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Agency: \_\_\_\_\_

FOR THE CALIFORNIA DEPARTMENT OF JUSTICE:

\_\_\_\_\_  
Signature Date

Name: \_\_\_\_\_  
Chairperson, Familial Search Committee  
California Department of Justice