

MEMORANDUM OF UNDERSTANDING

DOJ 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 any 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 and Prosecuting Agencies agree to each of the following statements:

1. The crime at issue is serious and with significant 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 familial search process will terminate.
3. All other reasonable and viable investigative strategies, including DNA profile comparison(s) to suspect reference samples, have been pursued with negative results.
4. The Investigating Agency has consulted with the Prosecuting Agency and has received assurances that the case will be prosecuted if it is solved and sufficient proof exists.
5. The forensic unknown DNA profile from the case evidence sample is a single-source, complete profile produced by Globalfiler® analysis or another expanded autosomal STR kit (with at least 21 STR loci plus Amelogenin) and a full Yfiler® profile. The profile may be deduced from a mixture. If there is insufficient DNA remaining from all relevant case evidence samples to perform the expanded kit testing, the DOJ Familial Search Committee will consider submissions that only have Identifiler® loci and Yfiler® loci.

6. The laboratory reports regarding the DNA testing of the case evidence will be provided to DOJ. If requested, the associated bench notes will also be provided.
7. 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 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, and 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
9. If provided with a familial search investigative lead by DOJ, the Investigating Agency will take all reasonable steps to pursue and complete the investigation. If applicable, the Investigating Agency will submit the case to the Prosecuting Agency to ensure that charges can be filed in a timely manner.
10. 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 case evidence sample.
11. Representatives of the Investigating Agency, the crime laboratory involved, and the Prosecuting Agency agree to meet with DOJ in person prior to release of the name of the convicted offender(s).

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

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 case evidence sample and convicted offenders in the database. Arrestee samples will not be searched.
2. Based on these statistical evaluations, DOJ will conduct additional STR typing of a prioritized and manageable group of candidate convicted offenders most likely to be related to the source of the case evidence sample. If no statistically significant offender profiles suggest kinship with an offender, no offender's name will be released.
3. For any statistically significant offender 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. Upon request, DOJ Special Agents and/or analytical staff may be available to assist in the underlying criminal investigation.
5. Prior to the release of any offender's name, the DOJ Familial Search Committee may choose to discuss the case with the Investigating Agency, the Prosecuting Agency, and the crime laboratory in order to assist the Committee in determining whether to release the offender's name.
6. 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.
7. 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.
8. This MOU and the described procedures are valid only as long as DOJ maintains its familial search program.
9. 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 each of its provisions.

I certify that I am an employee of the entity indicated below and have the authority to sign this MOU on behalf of my agency and obligate it accordingly.

INVESTIGATING AGENCY:

Dated this _____ day of _____, 20__.

Name: _____

Title: _____

Agency: _____

Signature

PROSECUTING AGENCY:

Dated this _____ day of _____, 20__.

Name: _____

Title: _____

Agency: _____

Signature

FOR THE CALIFORNIA DEPARTMENT OF JUSTICE:

Dated this _____ day of _____, 20__.

Name: _____
Chairperson, CA DOJ Familial Search Committee

Signature