

## Familial Search Policy and Procedures

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**Note: This policy is part of a pilot program approved by the administration of the Ohio Attorney General's Office.**

## 1 Introduction

Familial searching is a way of extending the utility of the offender DNA database to create investigative leads in cases of violent or other qualifying crimes through their relatives. A familial search does not identify the suspect of the crime. Familial DNA may be useful in potentially identifying a first generation male relative of the suspect.

For example, a DNA profile is developed from semen left at a homicide scene and no investigative leads are developed through the CODIS database. However, searching for profiles that are similar to, but not an exact match, may identify possible first-degree male relatives of the subject (father, son, brother). This list of potential relatives to the probative evidence DNA profile is narrowed by performing Y-STR DNA testing and comparing this Y-STR result to the one obtained from the forensic evidence. Further narrowing of the pool may be possible by reviewing demographic data, criminal history, and residential locations and so on. The pool may be narrowed to zero, one, two, or more potential relatives to the evidence DNA profile. The name(s) provided to the law enforcement agency is not the suspect in the case, but only a possible relative to the evidence profile.

Additional investigation by law enforcement of the individual's potential relatives is critical. It must be determined whether the individual has close family members that may have had the opportunity to commit the crime. If a potential suspect is identified, that suspect's DNA sample must be collected and submitted to the laboratory for a comparison to the evidence autosomal DNA profile. This does not initially have to be a direct sample, but may be a secondary sample from the individual, such as, a cigarette butt, drinking glass, etc.

## 2 Limitations

It is essential to understand the nature of the familial relationship profile. This investigative lead is subject to a number of limitations.

- A familial search may only be successful if a first-degree relative of the forensic unknown profile is in the database. A "first-degree relative" is a sibling, a parent, or a child, but not an uncle or cousin.
- This type of search only works for males. A search may only be successful if both the DNA profile from the evidence and the potential relative are males.
- The "kinship index" used to produce the list of potential candidates is based on a statistical calculation involving shared alleles and allele frequency. This list could result in thousands of candidates, which would prohibit the laboratory from testing the entire list. The results list is prioritized. A search may only be successful if the first-degree relative is prioritized high enough on this list to be selected for additional Y-STR testing.

- The potential relative to the offender may not be identifiable through a law enforcement records search.
- Y-STR profiles can be shared by a significant number of men in a given community. A consistent Y-STR profile between the offender and the evidence Y-STR profile does not confirm relatedness. This information shall only be considered as an investigative lead and shall be treated as an investigative lead by all parties involved.
- Due to the age of some of the offender database samples, a complete Y-STR profile may not be developed from the offender samples. When no additional Y-STR testing can be performed to show a familial link, this individual's name may not appear in the final list.

### **3 Case Selection**

The identification of a potential case begins with a conversation between BCI and the law enforcement agency or prosecutor's office. Either the agency or BCI may initiate the conversation.

A qualifying case must demonstrate the occurrence of a crime that is:

- Violent, causing serious injury or death; or which demonstrates a continuing threat of imminent and serious harm to one or more members of the community; and
- Not solvable by traditional methods of criminal investigation.

Familial searching will be limited to the most serious unsolved crimes or serial cases with a public safety component. All other investigative leads must have been exhausted. An exception to these criteria may be made by the BCI Superintendent for a matter of extreme public safety. The Laboratory Director, along with the administration, will determine what cases are searched and in what order once, a complete application and MOU have been executed for a case.

A written application must be completed to include the law enforcement agency's contact information (see Appendix A); case facts; a statement of how the case meets the selection criteria; an agreement to follow up on any investigative leads provided; and request from the agency and/or prosecutor to enter into an MOU (see Appendix B). BCI may request a meeting first, or may request the agency and/or prosecutor to sign the MOU.

The probative DNA profile associated with the crime scene evidence must have the following qualities:

- A complete thirteen CODIS core locus autosomal DNA profile (partial DNA typing results may be considered on a case by case basis);
- A single source or fully deduced single source DNA profile in CODIS;
- A DNA profile that was developed by an accredited laboratory;

- A DNA profile that is currently in CODIS and has been searched at NDIS and SDIS;
- A 15-locus Y-STR profile; and
- The DNA profile must be associated with a crime committed in Ohio.

#### **4 Frequency of Searches**

If no matching Y-STR profile is identified to the forensic unknown profile, the search is considered complete. The negative results are reported to the agency. The profile may be searched again in twelve months upon written request of the Law Enforcement Agency.

#### **5 Confidentiality**

Because familial searching does not generate a direct association between the evidence profile and the offender profile, it is of the utmost importance to safeguard information obtained because of the search. The results of the familial search and subsequent Y-STR testing, if any, will be released only on a need to know basis. Only law enforcement personnel who have a direct involvement in the investigation of the case shall be permitted to have this information. Such staff shall receive training and a copy of this policy document.

Access to DNA records is governed by both state and federal statutes. Any violation of these statutes and/or the dissemination restrictions set forth in this section will constitute a breach of this agreement and a violation of the FBI Standards in the NDIS Operating Manual, subject to criminal penalties, for which BCI may investigate.

Dissemination and use of all DNA records must be limited to law enforcement agencies for the administration of criminal justice.

#### **6 Documentation**

A new LIMS case number will be assigned to the familial unknown to be searched. The case type will be **FAM** for Familial Search. A case conversation entry will be added to the original BCI case (if available) indicating the Familial Search case number.

Throughout the process of conducting a familial search at BCI, the following requirements for documentation will be met and kept in the case file or electronically in LIMS:

- An approved application and MOU from submitting law enforcement agency and/or prosecutor.
- List of candidate offenders resulting from the search. This would be the raw .txt file from the familial software.

- A copy of the administrative letter sent if no matching Y-STR profile is obtained, if applicable.
- Batch information, including data review, and electropherogram of the matching Y-STR profile(s).
- Copy of the Criminal Intelligence Unit (CIU) reports, if applicable.
- A copy of the investigative lead letter sent to the agency, if applicable.

## **7 Reporting Results**

Names of individuals on the candidate list shall not be released prior to having Y-STR testing performed by the laboratory. Only those offenders whose Y-STR profile is consistent with that of the evidence Y-STR profile will be considered for release.

All communications regarding a positive or negative familial search result will be in writing.

### Negative Result

When no investigative lead is identified, a letter will be sent notifying the requesting agency of the negative search result.

### Positive Result

If a potential investigative lead is determined based on a Y-STR result, the thumbprint collected with the sample will be verified and the CODIS qualifying offense will be checked. If Y-STR profiles have been determined to be consistent, BCI reserves the right to review non-DNA information in order to identify additional evidence showing relatedness, if available.

The Criminal Intelligence Unit (CIU) may initiate a background investigation on the candidate to determine potential first-degree relatives. The first-degree relatives will be compared to the case facts to determine if they may be excluded based on age at the time of the crime, location of residence, or any other known factors.

As necessary, once the CIU has completed the background check of the candidate and the first-degree relatives, the names will be released to the requesting agency by BCI through an in-person meeting. At the time the name(s) are released, BCI and the requesting agency shall discuss the limitations of the investigative lead, precautions to be taken, appropriate and inappropriate communications about the lead, and so forth. BCI will be available to answer questions as the investigation progresses.

## **Appendix A- Familial Search Application**

**Agency Contact Information**

Name	
Agency	
Street Address	
City ST ZIP Code	
Work Phone	
Fax	
E-Mail Address	
Laboratory Case Number	
CODIS Specimen ID	

**Case Criteria**

Please indicate whether the case meets the following criteria:

- |  |   |
|--|---|
| <input type="checkbox"/> Crime is violent/poses imminent threat of serious physical harm<br><input type="checkbox"/> Single source profile in CODIS<br><input type="checkbox"/> Y-STR profile for evidence (15 loci) | <input type="checkbox"/> All investigative leads exhausted<br><input type="checkbox"/> Has 13 CODIS core loci<br><input type="checkbox"/> Associated with an Ohio crime |
|--|---|

**Memorandum of Understanding**

Familial searching: The LEA understands that any information provided from the familial search is an investigative lead. If a name is provided, that offender is not the perpetrator that left the evidence, but possibly a first-degree relative (father, brother, son). The agency agrees to investigate the lead and carry the case through prosecution. The agency will work in conjunction with Bureau or Criminal Investigation. The LEA agrees to enter into an MOU to document the obligations of the Parties.

\_\_\_\_\_  
 Agency Chief

\_\_\_\_\_  
 Prosecuting Attorney

## **Appendix B -MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("MOU") is hereby established between the Bureau of Criminal Investigation, Office of the Ohio Attorney General ("BCI") and the following agency or agencies: \_\_\_\_\_ ("Investigative Agency") and/or the Office of the \_\_\_\_\_ ("Prosecuting Agency") regarding their request that BCI conduct a familial search of its State DNA Index System ("SDIS").

This MOU also ensures that the information received from BCI is used appropriately by the Investigative Agency and the Prosecuting Agency, within the requirements of the Ohio Revised Code, the Ohio Administrative Code, and U.S. Federal Laws and Regulations. All parties agree as follows:

### **Section 1. Purpose**

The purpose of this MOU is to document the request for a familial DNA search, and appropriate additional testing and inquiry, as requested by the Investigative and/or Prosecuting Agencies. This MOU lists and describes the actions, authority and limitations of the Parties in performing their mutual responsibilities pertaining to this search. The purpose of this MOU is to set forth terms and conditions under which a familial DNA search may be conducted by BCI. Entry into This MOU is a prerequisite to pursuing the development of an investigative lead by means of a familial search. This search is to be conducted in connection with Investigative Agency case number 2016-158940. The forensic unknown DNA profile derived from evidence associated with this case and uploaded to SDIS is identified as laboratory ORI OH018013K and CODIS Specimen Identification Number DB15S16-2746-5.2MN.

### **Section 2. General Responsibilities**

- A. The Investigative Agency agrees to the following:
1. Pursuant to R.C. 109.573(G)(2), the Investigative Agency and its representative named below are authorized and privileged to obtain information contained in the DNA database that identifies an individual person.
  2. The crime at issue is serious and has critical public safety implications.
  3. The crime is unsolved.
  4. If the crime is solved while BCI is engaged in its familial search, the Investigative Agency will notify BCI within twenty-four (24) hours and this MOU will be terminated.
  5. The Investigative Agency has pursued all other reasonable and viable investigative leads, including DNA profile comparison(s) to suspect reference samples, with negative results.
  6. The Investigative 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.

7. The forensic unknown DNA profile is a single-source or deduced single source, complete 13-core locus DNA profile of the crime scene sample.
8. The Investigative Agency will provide the DNA testing laboratory reports related to the case referenced and, if requested by BCI, the associated bench notes.
9. The Investigative Agency must verify that the forensic unknown DNA profile is in the forensic index and no hit to an offender has resulted from routine searches.
10. The Investigative Agency will present BCI with a minimum 15 locus Y-STR profile of the crime scene forensic unknown as a condition of BCI pursuing the development of this potential lead.
11. The Investigative Agency will provide BCI with a written summary of all available case information relevant to 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
12. If provided with a familial search investigative lead by BCI, the Investigative Agency will work with BCI to take all reasonable steps to pursue and complete the investigation and submit it to the Prosecuting Agency for filing consideration in a timely manner.
13. If provided with the name of an offender as the result of the process described herein, the Investigative Agency will, following its further investigation, provide BCI with laboratory reports indicating whether the relative(s) of the offender matched the crime scene sample.
14. Representatives of the Investigative Agency agree to meet with the Prosecuting Agency and the BCI in person or phone prior to release of the name of the



offender(s). If a crime laboratory other than BCI is involved, the Investigative Agency will make a good faith effort to set up a meeting with all parties involved.

B. The Prosecuting Agency agrees to the following:

1. Pursuant to R.C. 109.573(G)(2), the Prosecuting Agency and its representative named below are authorized and privileged to obtain information contained in the DNA database that identifies an individual person.
2. The Prosecuting Agency agrees to meet with the Investigative Agency and BCI in person or phone prior to release of the name of one or more offenders who may be a potential relative to the forensic unknown. This individual is not the suspect. If a crime laboratory other than BCI is involved, the Investigative Agency will make a good faith effort to set up a meeting with all parties involved.

C. BCI agrees to the following:

1. BCI 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 offenders in the database.
2. Based on these statistical evaluations, BCI will conduct Y-STR DNA typing of a prioritized and manageable group of candidates most likely to be related to the source of the crime scene sample. If no Y-STR profiles developed from the candidates are concordant with the Y-STR profile from the crime scene sample, no name will be released.
3. If an investigative lead is determined based on a Y-STR result, the CODIS Laboratory Manager will inform the Laboratory Director and Superintendent. The Criminal Intelligence Unit of BCI may initiate a background investigation on the candidate to determine potential first-degree relatives. The first degree relatives will be compared to the case facts to determine if they may be excluded based on age at the time of the crime, location of residence, or other factors.
4. After reviewing all available information, BCI will release the name of an offender, who may only be a potential relative to the crime scene sample, to the Investigative and Prosecuting Agencies if it determines that there is a reasonable possibility the offender is a relative of the source of the evidence sample.
5. If no Y-STR match occurs to the target profile, the search is complete and the negative results will be reported in an administrative letter to the Investigative

Agency. The profile may be search again in twelve (12) months upon request of the Investigative Agency.

### **Section 3. Restrictions on Dissemination and Use of Information**

It is understood by all parties that access to DNA records is governed by both state and federal statutes. Any violation of these statutes and/or the dissemination restrictions set forth in this section will constitute a default for which BCI may investigate. The requesting agency shall limit physical access to the location where this information may be stored, and will share or distribute the information pertaining to and resulting from this request and MOU only to those who have been determined to have a need to know, as determined by the signatories to this MOU. Only law enforcement personnel who have a direct involvement in the investigation of the case shall be permitted to have this information. Such staff shall receive training and a copy of the policy and procedure document. The obligations for confidentiality created by this MOU shall survive any breach, termination or natural conclusion of the case.

Dissemination and use of all DNA records must be limited to law enforcement agencies for the administration of criminal justice.

No party to this MOU shall knowingly disclose any DNA record received from BCI pursuant to this MOU to any person or agency except as authorized by BCI in writing, or otherwise use that DNA record for a purpose that is not authorized herein.

### **Section 4. Effective Date and Termination**

This MOU becomes effective as of the day and year of the last signature below. Any party may terminate this MOU for any reason after providing three (3) days written notice to all parties. Upon a breach of the responsibilities described in this agreement, any party may immediately terminate the agreement. Any information disclosed pursuant to this agreement shall remain confidential,

### **Section 5. Change or Modification**

This MOU constitutes the entire agreement between all parties. Any changes or modifications shall be made in writing, and signed by the parties. Changes or modifications are effective upon the date of approval by both parties.

### **Section 6. Liability**

Each party to this MOU shall be responsible for its own acts and omissions and those of its officers, employees, and agents. No party to this MOU shall be responsible for the acts or omissions of entities not a party to this MOU.

**Section 7. Notices, Correspondence, or other Communications**

Except as otherwise provided in this MOU, any notices, correspondence, or other communications related to this MOU shall be in writing and be personally delivered, sent by standard U.S. Mail, commercial express deliver, or facsimile.

**Section 8. Definitions**

As used in this MOU:

Familial search - Familial searching is a way of extending the utility of the DNA database to identify perpetrators of violent crimes through their relatives. Each familial search identifies many potential relatives of the perpetrator. Follow-up Y-DNA testing narrows the pool to zero, one or two potential relatives. Investigation of the remaining potential relatives determines whether they have close family members that may have had the opportunity to commit the crime.

Appropriate additional testing and inquiry - based on the familial search results, Y-STR typing will be performed on a prioritized and manageable group of candidate offenders most likely to be related to the source of the crime scene sample.

Inquiry - If an investigative lead is determined based on a Y-STR result, the Criminal Intelligence Unit of BCI may initiate a background investigation on the candidate to determine potential first-degree relatives.

SDIS – State DNA Index System

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 INVESTIGATIVE AGENCY:**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: \_\_\_\_\_

**FOR THE PROSECUTING AGENCY:**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: \_\_\_\_\_

**FOR THE BUREAU OF CRIMINAL INVESTIGATION:**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: \_\_\_\_\_