



# Forensic Biology Section

## Control of DNA Records

### 1. Scope

- 1.1. To provide guidelines and instructions for the editing, removal, storage, and dissemination of casework and convicted offender data and records.
- 1.2. This applies to the personal information, DNA profiles, electronic data, copies of casework files, and data in the Maine DNA Databank, the State-level CODIS database (“SDIS”), and the National-level CODIS database (“NDIS”).

### 2. Requirements

- 2.1. The confidentiality of convicted offender samples collected for and maintained in the Maine DNA Database is defined by subsections 1577 and 1578 of the Maine DNA Databank and Database law.
- 2.2. Individuals who have been collected and/or analyzed for entry into the Maine DNA database may request to have their sample/DNA profile deleted from the database if their qualifying conviction has been overturned.

### 3. Procedural Notes

- 3.1. All actions taken by Crime Laboratory staff should be done in good faith with the highest ethics, public safety interest, and respect for civil rights possible.
- 3.2. Even though Crime Laboratory staff makes great efforts to prevent errors and maintain the integrity and privacy of DNA records, if errors are discovered they should be rectified with candor and quickness.
- 3.3. Matches from CODIS which result from an error made in good faith will still be reported to the investigating agency (and prosecutor’s office if possible). The nature of the error should be included in the report or communications made after the error is discovered. It is up to the court to decide whether suppression or exclusion of the evidence is warranted under the circumstances.

### 4. Removing Profiles from CODIS

- 4.1. **Expungement** - A person whose DNA record has been stored in the state DNA database may petition the Superior Court for expungement on the ground that the conviction justifying the inclusion of the DNA record in the state DNA database has been reversed or dismissed. Upon receipt of a court-ordered expungement order and a certified copy of the order reversing and dismissing the conviction, the Chief of the State Police will order/designate appropriate lab staff to purge that record from the state DNA database and the state DNA Databank resulting exclusively from the reversed conviction.
  - 4.1.1. Any computer records generated from the original sample should be printed and then deleted. The printed records, DNA collection card, court order, and any other hard-copy records should be removed and filed in a designated area within the Crime Laboratory. These records will be stored to document and verify this procedure was followed.



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- 4.1.2. Any biological samples or DNA extracts generated from the original sample should be disposed of properly.
- 4.1.3. Any DNA profiles generated from the original sample should be printed and then deleted from SDIS. The printed record should be filed with the other hard-copy records.
- 4.1.4. Once a DNA profile is deleted from SDIS, it will automatically be deleted from NDIS during the next scheduled upload. NDIS will return a confirmation of the deletion after the upload; this report should be printed and filed with the other hard-copy records.
- 4.1.5. A master log of expungements should be maintained.
- 4.2. **Administrative Removal** - If a DNA sample has been collected and/or analyzed, but is later found to not qualify for inclusion in the state DNA database, the sample and records will be administratively removed at the earliest opportunity.
  - 4.2.1. Examples of scenarios requiring administrative removal are: it is discovered an individual does not have a qualifying offense under Maine law when accessioning the biological sample or confirming a CODIS hit; new information is obtained that indicates a forensic DNA profile entered into CODIS does not meet state or federal guidelines (e.g. is not from the putative perpetrator).
  - 4.2.2. If a convicted offender sample has been collected and analyzed, the procedure outlined in "Expungement" should be followed. If a convicted offender sample has been collected but not analyzed, there is no DNA profile to delete, but all other steps in "Expungement" should be followed.
  - 4.2.3. If a casework sample has been analyzed and entered into the Maine DNA database, the DNA profile should be deleted from SDIS (which will automatically delete it from NDIS at the next upload), and the deletion report(s) should be filed in the relevant case file. Paper records do not need to be destroyed; it is only the DNA profile in CODIS that needs to be removed.
  - 4.2.4. A master log of administrative removals should be maintained.
5. **Confidentiality of Database Records**
  - 5.1. Crime Lab records, including databanks and databases, are confidential. Repeated requests for access by unauthorized parties should be reported to the NDIS Custodian at the FBI before they take legal action.
  - 5.2. Personal information and DNA profiles from specific individuals relevant to a criminal or identification investigation, can only be disclosed to the following individuals/agencies:
    - Crime Laboratory personnel.
    - Criminal Justice, Law Enforcement, and Medical Examiner's Office personnel.
    - A specific individual's criminal defense attorney, if relevant to an investigation.
    - Others if specifically ordered by a court order.



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- 5.3. Only the Forensic Biology Section and those authorized to perform data entry into the DNA Databank (to accession DNA cards) should have access to the entire databank of convicted offender personal identifiers.
  - 5.4. Requests concerning whether a name is in the databank should be directed to the Forensic Biology Supervisor first, and the State CODIS Administrator second if the Supervisor is not available.
  - 5.5. DNA profiles will be tracked and identified in the DNA databases by the Maine convicted offender number (ME#) assigned at accession. The identity of the person assigned to that number will only be released to those authorized above.
  - 5.6. Requests for access to records and/or names in the DNA databank from individuals other than those identified above should NOT be granted. These inquiries should be directed to the Forensic Biology Supervisor, who may refer them to the NDIS Custodian at the FBI.
  - 5.7. Requests for access to DNA profiles in the DNA database from individuals other than those identified above should NOT be granted. These inquiries should be directed to the Forensic Biology Supervisor, who may refer them to the NDIS Custodian at the FBI.
  - 5.8. Requests to perform searches in the DNA database from individuals other than those identified above should NOT be granted. These inquiries should be directed to the Forensic Biology Supervisor, who may refer them to the NDIS Custodian at the FBI.
  - 5.9. DNA records may be used to advance DNA analysis methods and support statistical interpretation of DNA analysis, including development of population databases, but all personal identifying information and case numbers must be removed from the DNA records prior to their release.
- 6. Dissemination of Audits**
- 6.1. External and internal audits of the Forensic Biology Section are available for review at the Crime Laboratory if a meeting is requested with the Crime Laboratory Director or Forensic Biology Supervisor. Copies of audits will be provided if the Crime Laboratory is directed to do so by a signed court order.
  - 6.2. External and internal audits of the Forensic Biology Section and the Crime Laboratory's remediation plan shall be forwarded to the NDIS Custodian or his/her designee within thirty (30) days of the receipt of the completed, official audit document from the auditors.
  - 6.3. If the Forensic Biology Section is unable to forward the required documentation within thirty (30) days of its receipt, the NDIS Custodian or his/her designee shall be contacted to request an extension of time for sending the required audit documentation.
- 7. Dissemination of Casework**
- 7.1. Copies of the Forensic Biology Section's DNA analysis case folder will be sent to defense and/or prosecution counsel upon request. The curriculum vitae of the reporting DNA Analyst should accompany the copies of the case folder.



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- 7.2. Copies of electronic data generated from DNA analysis will be provided to defense counsel if the Crime Laboratory is directed to do so or the prosecutor's office requests it.
- 7.3. Protocols are available on the Crime Laboratory website. Copies of other records, logs, and manuals may be provided upon request or viewed at the Crime Laboratory.

### **8. Storing Electronic Data**

- 8.1. All electronic data relevant to DNA casework analysis will be stored on the H-drive.
- 8.2. This includes DNA profile data from the Genetic Analyzers (.fsa files), GeneMapper projects (.ser files), DNA quantitation data from the Rotor-Genes (.rex files), and DNA quantification data from the PowerQuant (.eds and .xlsx files).