

**The Position of the Scientific Working Group on DNA Analysis Methods  
Regarding  
Private Laboratories' Access to CODIS  
And  
Quality Review of Outsourced DNA Data**

The FBI Laboratory has requested that SWGDAM address the following questions:

- (1) Should private accredited contract laboratories have direct access to enter DNA data into the COmbined DNA Index System (CODIS)?
- (2) What level of quality review is necessary to enter outsourced DNA data into CODIS?

Based upon our experience, to ensure the integrity of forensic and convicted offender DNA data and databases, SWGDAM reaffirms that:

- (1) Direct access to CODIS must remain solely with law enforcement forensic DNA laboratories; and
- (2) 100% of outsourced DNA data must be technically reviewed by the NDIS Participating Laboratory prior to CODIS entry in accordance with the NDIS Procedures.

***Background and Responsibility of SWGDAM for Quality Assurance Standards***

Upon completion of the Federal DNA Advisory Board's statutory term, the responsibilities of reviewing the FBI Director's Quality Assurance Standards and addressing issues of quality in the DNA community was entrusted to the Scientific Working Group on DNA Analysis Methods (SWGDAM). Our group is comprised of forensic scientists from Federal, State and Local DNA laboratories with many of our members serving as the DNA Technical Leaders for their laboratories.

Since receiving responsibility for recommending revisions to the Quality Assurance Standards from the DNA Advisory Board, SWGDAM has had a standing Quality Assurance Committee dedicated to this task. The Quality Assurance Committee is responsible for reviewing the Quality Assurance Standards for both Convicted Offender DNA Databasing Laboratories and Forensic (Casework) Laboratories.

***Quality Assurance Standards and CODIS***

Over the years, DNA policies and quality standards have been extensively scrutinized by numerous groups in addition to the Federal DNA Advisory Board, such as the National Commission on the Future of DNA Evidence, the Attorney General's Initiative on DNA Laboratories and various Congressional Committees. Additionally, the DNA standards are major agenda items at annual meetings held by the National Institute of Justice and semiannual meetings for CODIS State Administrators sponsored by the FBI Laboratory.

In response to the needs of the DNA community and in a continuous effort to maintain and improve quality, revisions have been made to the FBI Quality Assurance Standards Audit Document. As an example, the current Audit Document clarifies several issues raised by the community and addressed by SWGDAM. Moreover, the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) and the National Forensic Science Technology Center (NFSTC) – two of the auditing bodies of public and private DNA laboratories – maintain a dialogue with SWGDAM on quality matters. Finally, the Quality Assurance Committee of SWGDAM is currently conducting an extensive and complete review of the FBI Director's Quality Assurance Standards (originally issued in 1998 and 1999) that will be presented for discussion in a public forum. [Please see Appendix A – Draft comments on the Review of the Quality Assurance Standards and Committee notes on requirements for a Technical Review.]

Throughout the implementation process of the Quality Assurance Standards into Federal, State and Local laboratories, the integrity of the DNA data and the resulting databases remain paramount. The existing quality systems used to maintain the DNA data/databases, in conjunction with the CODIS Program, have identified perpetrators of violent crimes and exonerated those wrongly accused.

Law enforcement laboratories authorized to use CODIS software agree via a Memorandum of Understanding to comply with the FBI Director's Quality Assurance Standards and the Operational Procedures of the National DNA Index System (NDIS). The DNA data in these databases are submitted by law enforcement agencies and represent crime scene evidence or samples collected from offenders. Forensic laboratories take ownership of these samples and must maintain a strict chain of custody to ensure sample integrity. Forensic laboratories are therefore ultimately accountable for the evidentiary samples themselves and the resulting DNA data. This accountability extends to the DNA data legally entered and searched in the DNA databases and consequently the National DNA Index.

### ***SWGDAM Position***

It is recognized that much needed Federal dollars have recently been made available to assist forensic DNA laboratories in dealing with growing backlogs of samples by outsourcing DNA testing to private contract laboratories. It is also acknowledged that the backlogs of samples awaiting analysis have now shifted to backlogs of DNA data requiring quality reviews prior to uploading the DNA profiles to CODIS. Notwithstanding the pressures to provide immediate relief for these new backlogs by relaxing the existing quality standards, our experiences have emphasized the merits of existing policy and the need for continued quality review of all DNA data.

Our reaffirmation for continuing the quality review required by the FBI Director's Quality Assurance Standards is based upon the quality issues observed in the outsourced DNA data after completion of the contract laboratory's technical review process. While the overwhelming majority of outsourced DNA data has been acceptable, a variety of significant data quality issues have been observed by SWGDAM members that likely would have been missed were the current Quality Assurance Standards not in place.

Although opponents of the 100% review process would argue that any inaccuracies relating to a CODIS match would be identified during the match confirmation process, our concern is that the inability to identify and correct quality issues during this review process could easily lead to the failure to identify a CODIS match when it was present.

And with respect to the issue of permitting private laboratories direct access to CODIS, SWGDAM is concerned that expanding access beyond law enforcement agencies may undermine public confidence in the confidentiality of this DNA data. Additionally, permitting private laboratories direct access to CODIS would effectively eliminate any quality review of the DNA data by a law enforcement laboratory. Had the final review responsibility and upload into CODIS not been retained and exercised by the responsible law enforcement laboratory, the quality infractions observed by SWGDAM members would have gone undetected.

In addition, law enforcement forensic laboratories are directly accountable to their communities and the criminal justice system while vendor laboratories are accountable to their customer (the law enforcement laboratory). Removal of law enforcement's oversight of the private contract laboratory by discontinuing 100% data review and/or allowing the contract laboratory direct access to CODIS would result in a loss of quality. Therefore, any diminution of the current Quality Assurance Standards would seriously compromise the integrity of the National DNA Index.

#### ***Additional Options for Laboratories Participating in the National Index***

Working together, SWGDAM and the NDIS Procedures Board are attempting to provide alternative measures for the DNA community to capitalize on this investigative tool while remaining in compliance with necessary quality standards. Alternative mechanisms to assist the DNA community in their quality review of the data were proposed by a SWGDAM Ad Hoc Group and approved by the NDIS Procedures Board in May 2005. These mechanisms permit the temporary use of contract technical reviewers for outsourced offender DNA data and the implementation of 'Expert Systems' to assist in the quality review process for offender DNA data. In accordance with these new NDIS Procedures, in special emergency situations and subject to the approval of the NDIS Custodian, a laboratory may, for a limited one year period, store and search DNA data at the State level, which is awaiting the required quality review. [Please refer to Appendix B – NDIS Procedure "DNA Data Acceptance Standards.] Additionally, SWGDAM's Expert System Committee has been assisting the National Institute of Justice in planning for their sponsorship of a testing facility for these Expert Systems. Given time it is believed these alternatives will assist the government laboratories in reducing their backlogs while maintaining quality programs.