

RESOURCE FOR LOCAL LAW ENFORCEMENT AGENCIES

Model Internal Procedure

**For Law Enforcement Handling of DNA
and Fingerprint Hits**

Putting forensic databases to use to **hold offenders accountable, provide justice to victims, and correct wrongful convictions**

Preface

This is a model procedure for local law enforcement agencies to ensure that DNA and fingerprint database hits—especially those generated by the Combined DNA Index System (CODIS) and the Automated Fingerprint Identification System (AFIS)—are used to their full potential to solve crimes and identify wrongful convictions.

These forensic database hits can often arise years after the original crime occurred. Without comprehensive procedures, this delay makes these hits vulnerable to being overlooked or missed. The investigating officer may have left the agency, retired, or moved into a new role, leaving the hit essentially “orphaned” with no one thinking it is their responsibility to review it. Even when an investigating officer is still assigned, the age of the case may cause the hit to get de-prioritized. Given that forensic database hits disproportionately occur in violent criminal cases, and can be extremely powerful for identifying the true perpetrator or exposing serial offenders, this oversight needs to be addressed.

The problem is even greater in wrongful conviction cases. Forensic hits that emerge years after the original conviction was secured can reveal the innocence of the convicted person and help identify the true offender. Yet these cases will, by their nature, be marked as closed by conviction, increasing the risk yet further that hits to these cases will be ignored or overlooked. This can have the tragic effect of leaving an innocent person in prison, unaware of the evidence that could free them, while the true perpetrator remains free.

This comprehensive model procedure ensures these failures do not occur by ensuring that every incoming forensic hit has a clear chain of ownership, laying out the specific investigative steps to be taken for each hit, and providing for appropriate follow-up mechanisms from senior leadership as a failsafe. Adoption of this protocol will improve public safety while providing justice to victims—and the wrongfully convicted—alike.

This model procedure is targeted towards agencies of between 20–200 officers. We also have sample procedures available upon request for larger and smaller agencies, and would also be delighted to work with you to create a custom procedure tailored to your agency’s existing workflows and needs. Please contact Hayden Davis at hdavis@accuratejustice.org.

Model Procedure

1. When a new hit from a law enforcement DNA or fingerprint database (such as the Combined DNA Index System (CODIS) or the Automated Fingerprint Identification System (AFIS)) is transmitted to [Agency] it will be submitted into [Case Management Tool] and:
 - a. The case to which the hit relates shall be marked as Open; and
 - b. A notice shall be sent to:
 - i. The Officer in Charge (OIC);
 - ii. The Property Room Officer; and
 - iii. The [Lead of Investigative Unit]
2. If the listed OIC is no longer with the [Agency] or is otherwise unable to investigate the hit and continue to serve as OIC in the case, the [Lead of Investigative Unit] shall assign a new officer to serve as OIC in the case.
3. The OIC shall review the hit to determine whether it relates to a case what was previously referred for prosecution.
 - a. If the case *was not* referred for prosecution, the OIC shall:
 - i. Conduct an investigation to determine whether the hit can help identify the perpetrator in the case;
 - ii. Work with the [Sergeant or other investigatory supervisor] to determine whether there are any connected cases that the hit may be able to assist in solving;
 - iii. Notify any victims in the case that a forensic hit in their case has been received and ask under what circumstances they wish to receive further updates as the investigation continues, unless the victim has previously expressed a preference not to receive such updates.

Upon the conclusion of these steps, the case may be marked as closed in [Case Management Tool].

- b. If the case *was* referred for prosecution, the OIC will notify the [Jurisdictional Prosecutor's Office] of the hit and confirm whether a conviction was secured.

- i. If a conviction was not secured, the OIC shall investigate the hit to determine whether it can help identify the perpetrator, whether the previous suspect or someone else.
 - ii. If a conviction was secured, the OIC shall review the CODIS hit to determine if the hit is confirmatory or potentially exculpatory.
 - 1. A hit shall be considered confirmatory if the person named in the hit matches the convicted person. Once a hit has been determined as confirmatory, the case may be closed with no further action required.
 - 2. A hit shall be considered potentially exculpatory if the hit:
 - a. Points to the individual profile of a person other than the person convicted; or
 - b. Points to a forensic profile in another case only.
- 4. When a potentially exculpatory hit has been identified, the OIC shall:
 - a. Notify the [Sergeant or other investigatory supervisor] and [Lead of Investigative Unit];
 - b. Notify the [Jurisdictional Prosecutor, specifically the Conviction Integrity Unit if one exists] of the hit;
 - c. Notify any victims in the case that a forensic hit has been received and ask under what circumstances they wish to receive further updates, unless the victim has previously expressed a preference not to receive such updates; and
 - d. Conduct an investigation to determine whether the hit may identify a previously unknown perpetrator.

Upon conclusion of these steps, the case may be marked as closed in [Case Management Tool].

- 5. If, within [6 weeks] of a hit being received in a case, the OIC has not closed the case or provided an update to the [Sergeant or other investigatory supervisor], the [Sergeant or other investigatory supervisor] shall request an update from the OIC.
- 6. If, within [12 weeks] of a hit being received in a case, the case has not been marked as closed and the [Lead of Investigative Unit] has not received an update, the [Lead of Investigative Unit] shall request an update from the [Sergeant or other investigatory supervisor].