

# Bureau of Alcohol, Tobacco, Firearms & Explosives



## **Privacy Impact Assessment** for the ATF DNA Indexes

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## **EXECUTIVE SUMMARY**

The Deoxyribonucleic acid (DNA) Staff Index and Profiles Generated Index (PGI) (hereinafter referred to as “ATF DNA Indexes”) are databases of DNA information profiles maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for the purpose of detecting possible contamination from ATF staff members or potential cross contamination between cases processed during the same time period or in the same laboratory area. The ATF DNA Indexes are maintained to support ATF’s criminal investigations and to ensure the integrity of DNA profiles recovered from forensic evidence. All of the information in the DNA Staff Index is provided by consent of the employee; information in the PGI is collected with consent, or provided by court order, search warrant, or from another law agency.

Due to the highly sensitive nature of the personally identifiable information (PII) contained in a DNA profile, enhanced measures are taken to protect it, including the use of anonymous identifiers, segregation of data by system and location, and restricted access protocols. This PIA addresses the ATF DNA Indexes, which are suitable profiles that do not meet the Federal Bureau of Investigation’s (FBI) Combined DNA Index System (CODIS) requirements for uploading at the State and National DNA Index levels, but must be maintained at the ATF laboratory Local DNA Index level for the purposes explained above. DNA profiles that meet CODIS requirements and are uploaded to the State and National DNA Index levels are outside the scope of this PIA.

### **Section 1: Description of the Information System**

*(a) The purpose that the records and/or system are designed to serve:*

The ATF DNA Indexes are databases of DNA profiles maintained by ATF in order to detect possible contamination from ATF staff members or potential cross contamination between cases processed during the same time period or in the same laboratory area. The ATF DNA Indexes are maintained to support ATF’s criminal investigations and to ensure the integrity of DNA profiles recovered from forensic evidence. This information is necessary to compare and eliminate DNA profiles of ATF staff members or innocent bystanders, thus, augmenting the value and integrity of potential law enforcement leads that may be derived from the DNA collected at crime scenes.

*(b) The way the system operates to achieve the purpose(s):*

The ATF DNA Indexes are stored within FBI CODIS, as required by 28 C.F.R. § 28.12(f).<sup>1</sup> The CODIS software is setup as a three-level hierarchy: Local DNA Index System (LDIS), State DNA Index System (SDIS), and National DNA Index System (NDIS). ATF’s laboratory is considered Local

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<sup>1</sup> The FBI is authorized to index DNA by 42 U.S.C. § 14132. CODIS is the automated DNA information processing and telecommunication system that supports the National DNA Index System (NDIS). A Privacy Impact Assessment for NDIS was approved and published on FBI’s website on February 24, 2004, available at: <https://www.fbi.gov/services/records-management/foipa/privacy-impact-assessments/ndis>. The following website provides additional information regarding CODIS, its architecture, and statistics: <http://www.fbi.gov/about-us/lab/biometric-analysis/codis/codis-brochure-2010>.

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(LDIS), and all samples entered in ATF's CODIS system remain on the ATF server, unavailable and inaccessible to the FBI unless they are uploaded to the next higher level of CODIS (SDIS). In order to be uploaded, DNA profiles must be obtained from forensic evidence directly related to a crime and must satisfy defined quality criteria<sup>2</sup> and policy requirements. Profiles in the ATF DNA Indexes do not meet the quality criteria and/or policy requirements for upload to SDIS or NDIS. As an added precaution, the ATF DNA Indexes are prevented from being uploaded to the SDIS or NDIS level by software configuration.

The DNA Staff Index is comprised of DNA profiles of staff members who may come in contact with evidence in the course of their routine duties. ATF staff members may include: laboratory staff, special agents, explosive enforcement officers, task force officers and contractors involved in processing evidence, as well as building maintenance personnel and visitors (e.g., interns, maintenance contractors, instrument repair personnel, and local officers) who may enter a room where evidence is processed. Information in the DNA Staff Index is solely comprised of individuals who have voluntarily agreed to submit their DNA because of the nature of their employment duties. The ATF staff member's DNA profiles are stored within LDIS using an anonymous identifier comprised of letters and numbers corresponding to location, title and order of collection.

The PGI is comprised of DNA profiles from references (i.e., victims and potential suspects that have been excluded from consideration) and also from evidence which is not eligible for entering into LDIS because it does not meet policy requirements, quality criteria, or is not directly related to a crime. These DNA samples are provided by law enforcement that were collected either with consent of the individual, by court order, search warrant, or from another law enforcement agency. PGI profiles are stored in CODIS at the local level using an anonymous identifier based on the forensic laboratory case number, exhibit number and sample description.

Every DNA profile that is suitable for comparison obtained from forensic evidence is compared to the known reference samples from that case. Suitable DNA profiles that do not match any reference samples submitted for a case are electronically searched against the PGI and DNA Staff Index to determine if contamination may have occurred. The unique identifier from the DNA Staff Index or PGI is only retrieved if an unknown DNA profile matches an entry in the ATF DNA indexes.

If a match occurs in the CODIS software between an evidence DNA profile and a DNA profile in the DNA Staff Index, the anonymous identifier associated with the DNA Staff Index is noted by the DNA Examiner. A separate computer not on the CODIS network contains the record of the anonymous identifiers linking them to the names of the staff members. A member of ATF Laboratory's DNA Unit consults this record to determine whether any DNA evidence is linked to a particular ATF staff member. There is no centrally located record for the DNA profiles in PGI. If a match occurs between an evidence DNA profile and a DNA profile in the PGI, the PGI identifier is noted by the DNA examiner and the appropriate laboratory case file is reviewed for possible cross

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<sup>2</sup> For instance, in order to satisfy the quality criteria for a DNA profile to be entered into LDIS, the profile must be suitable for interpretation (e.g., no complex mixtures), and have results from at least six loci. In genetics, a locus (plural loci) is the specific location of a gene, DNA sequence, or position on a chromosome or on a linkage map.

contamination.

*(c) The type of information collected, maintained, used, or disseminated by the system:*

ATF only collects information that is permitted by the Genetic Non-Discrimination Information Act of 2008 (GINA), 42 U.S.C. § 2000ff *et seq.* The GINA generally prohibits employers from requesting genetic material or information from its employees; however, ATF is authorized to collect this information because there is a specific exception for laboratories conducting DNA analysis for law enforcement purposes. See 42 U.S.C. § 2000ff-1(b)(6). While ATF is statutorily permitted to collect this information, ATF only collects the minimum amount of information (names, job titles, DNA profiles<sup>3</sup>, and assigns an anonymous identifier for each profile) necessary to achieve its mission: the purpose of detecting contamination of DNA profiles resulting from individuals who handled the evidence during or after the investigation, those who may enter evidence processing laboratories during the course of routine duties, and any incidental contamination which may have occurred between cases being investigated and processed in the laboratory around the same time.

*(d) Who has access to information in the system:*

The ATF DNA Indexes are maintained electronically on the ATF Laboratory's CODIS computer. The ATF DNA Indexes can only be accessed by the members of the ATF Laboratory's DNA Unit who have undergone an additional FBI background check and have signed the following FBI Forms: FD-484 (FBI Privacy Act Notice for Maintenance Employees), FD-816 (Access of Non-FBI Personnel for FBI Facilities Background Data Information Form), and two copies of FD-258 (Fingerprint cards). These forms allow non-FBI personnel access to FBI facilities and are required to be completed in order to access CODIS.

*(e) How information in the system is retrieved by the user:*

Records contained in ATF DNA Indexes can only be retrieved by an anonymous identifier. The ATF staff member's DNA profiles are stored in LDIS using an anonymous identifier comprised of letters and numbers, which refer to work location or position title. Profiles in the PGI are stored using an anonymous identifier based on the forensic laboratory case number, exhibit number and sample description. Records are not searched or retrieved by an individual's name or DNA profile.

*(f) How information is transmitted to and from the system:*

The DNA Staff Index profiles and PGI profiles are manually entered into a segregated system and then verified by an additional member of ATF's DNA Unit to ensure accuracy of information. The

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<sup>3</sup> The DNA profiles maintained in the ATF DNA Indexes consist of Short Tandem Repeat (STR) loci (also known as microsatellites) and one gender-determining marker (amelogenin). An example of a loci (genetic markers) used for forensic analysis is the following: D8S1179. These markers are considered "non-coding" DNA as they do not code for any known physical or medical traits.

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profiles in the ATF DNA Indexes cannot be uploaded to the other levels of CODIS, specifically SDIS and NDIS.

The only time the information transmits from the system is if a contamination event is detected. A contamination event is when a DNA profile obtained from evidence inadvertently matches a sample in the DNA Staff Index or the PGI. At present, the contamination event is recorded only on paper in a logbook, along with the DNA profile(s), name(s) of individual(s) involved, and associated paperwork documenting the contamination. This contamination logbook is contained in a secure, limited access room and accessible only by members of the ATF DNA Unit and members of laboratory management on a need-to-know basis. ATF plans to convert the paper contamination logbook to a limited access, password-protected electronic record, at which time, the physical copy of the contamination logbook will be destroyed in accordance with NARA guidelines.

*(g) Whether it is a standalone system or interconnects with other systems (identifying and describing any other systems to which it interconnects):*

The ATF DNA Indexes are maintained electronically on the ATF Laboratory's CODIS computer. This computer is connected to the Criminal Justice Information Service Division – Wide Area Network (CJIS-WAN). CODIS has three levels. LDIS is the “local” level and can only be accessed by the laboratory where it is maintained. SDIS is the “state” level and NDIS is the “national” level. The ATF DNA Indexes are stored at the LDIS level and can only be accessed by the members of the ATF Laboratory's DNA Unit. The profiles in the ATF DNA Indexes cannot be uploaded to SDIS or NDIS.

*(h) Whether it is a general support system, major application, or other type of system:*

CODIS, owned and operated by the FBI, is the automated DNA information processing and telecommunication system that supports the NDIS. The ATF DNA Indexes are information stored within a local version of CODIS, LDIS, on ATF's server. The anonymous identifiers and the contamination logbook are stored on a separate computer that is not on the CODIS network.

## **Section 2: Information in the System**

### **2.1 Indicate below what information is collected, maintained, or disseminated. (Check all that apply.)**

<b>Identifying numbers</b>												
Social Security				Alien Registration				Financial account				
Taxpayer ID				Driver's license				Financial transaction				
Employee ID				Passport				Patient ID				
File/case ID				Credit card								
Other identifying numbers (specify): The ATF staff member's DNA profiles are stored in CODIS using an anonymous identifier comprised of letters and numbers, which refer to work location or position title (e.g., laboratory assigned number). PGI profiles are stored in CODIS using an anonymous identifier based on the forensic laboratory case number, exhibit number, and sample description.												
<b>General personal data</b>												
Name				X	Date of birth				Religion			
Maiden name					Place of birth				Financial info			
Alias					Home address				Medical information			
Gender				X	Telephone number				Military service			
Age					Email address				Physical characteristics			
Race/ethnicity					Education				Mother's maiden name			
Other general personal data (specify): Note: The names of ATF staff members are contained in a limited access, password protected electronic record that links those names to a DNA profile within the DNA Staff Index by way of an anonymous identifier. In the event of a contamination event, the names of the involved parties are also contained in the contamination logbook.												
<b>Work-related data</b>												
Occupation					Telephone number				Salary			
Job title				X	Email address				Work history			
Work address					Business associates							
Other work-related data (specify): The specified job title is contained in the record and may be contained in the unique identifier.												
<b>Distinguishing features/Biometrics</b>												
Fingerprints					Photos				DNA profiles		X	
Palm prints					Scars, marks, tattoos				Retina/iris scans			
Voice recording/signatures					Vascular scan				Dental profile			
Other distinguishing features/biometrics (specify):												

System admin/audit data					
User ID	<input checked="" type="checkbox"/>	Date/time of access	<input checked="" type="checkbox"/>	ID files accessed	<input type="checkbox"/>
IP address	<input type="checkbox"/>	Queries run	<input type="checkbox"/>	Contents of files	<input type="checkbox"/>
Other system/audit data (specify): Any entries and/or changes to the profiles within the ATF DNA Indexes are recorded by the CODIS software.					

Other information (specify)
DNA profiles and an anonymous identifier for each profile are contained in CODIS, a FBI system that automates DNA information processing and telecommunication system that supports NDIS. This information is specifically contained in LDIS, which resides on an ATF server and workstation, located in a secure, limited access room in a secure facility.

**2.2 Indicate sources of the information in the system. (Check all that apply.)**

Directly from individual about whom the information pertains					
In person	<input checked="" type="checkbox"/>	Hard copy: mail/fax	<input type="checkbox"/>	Online	<input type="checkbox"/>
Telephone	<input type="checkbox"/>	Email	<input type="checkbox"/>		
Other (specify): DNA samples are provided by individuals voluntarily, via buccal swab, and placed in the DNA Staff Index and PGI, or are recovered from forensic evidence as part of a criminal investigation, and placed in PGI (these samples do not qualify for CODIS, so they are entered into PGI to check against contamination). The voluntarily collected DNA samples are collected directly from the individual, whether it is a member of the public, an ATF employee, or another Federal employee (for example, a Federal agent assisting with crime scene processing).					

Government sources					
Within the Component	<input checked="" type="checkbox"/>	Other DOJ components	<input checked="" type="checkbox"/>	Other Federal entities	<input checked="" type="checkbox"/>
State, local, tribal	<input checked="" type="checkbox"/>	Foreign	<input type="checkbox"/>		
Other (specify): N/A					

Non-government sources					
Members of the public	<input type="checkbox"/>	Public media, internet	<input type="checkbox"/>	Private sector	<input type="checkbox"/>
Commercial data brokers	<input type="checkbox"/>				
Other (specify): N/A					

**2.3 Analysis: Now that you have identified the information collected and the sources of the information, please identify and evaluate any potential threats to privacy that exist in light of the information collected or the sources from which the information is collected. Please describe the choices that the component made with regard to the type or quantity of information collected**

**and the sources providing the information in order to prevent or mitigate threats to privacy. (For example: If a decision was made to collect less data, include a discussion of this decision; if it is necessary to obtain information from sources other than the individual, explain why.)**

In light of the information collected, as described above, there is a privacy risk related to the inadvertent disclosure of sensitive information to persons not authorized to receive it. To mitigate this risk, ATF made a decision to: collect only information necessary to achieve its purpose; use a secure system and a separate, secure, electronic record to identify whether any contamination has occurred; and collect information only from individuals who may potentially contaminate evidence.

First, as an exception to the general prohibition of an employer to collect genetic material from its employees, pursuant to GINA, ATF is authorized to collect voluntarily-provided DNA information in order to conduct analyses for law enforcement purposes. However, ATF only collects the minimum amount of information (names, job titles, DNA profiles, and assigns an anonymous identifier for each profile) necessary to achieve its mission: the purpose of detecting contamination of DNA profiles resulting from individuals who handled the evidence during or after the investigation, those who may enter evidence processing laboratories during the course of routine duties, or any incidental contamination which may have occurred between cases being investigated and processed in the laboratory around the same time. Further, it must be noted that the DNA profiles that are collected by ATF do not contain markers that code for any known physical or medical traits, with the exception of gender.

Second, ATF uses a two-tier approach to protect the privacy of the individuals whose DNA profiles are contained in ATF's DNA Indexes. DNA profiles contained in the DNA Staff Index are maintained in ATF's local version of CODIS, which only contain DNA profiles and their respective anonymous identifiers. A separate restricted access, password-protected electronic record links these identifiers to the associated ATF staff member's names. The ATF PGI includes profiles generated from forensic evidence, and DNA profiles collected from individuals potentially associated with evidence submitted to the laboratory (e.g., victims, witnesses, and other innocent bystanders). These DNA profiles are designated by specific laboratory case numbers and item numbers. These profiles are maintained to detect any potential cross-contamination between cases processed during the same time period or in the same laboratory area. There is no centrally located record for DNA profiles contained in PGI as these profiles are coded with a case number. If a match is made, ATF's DNA Unit manually compares the matching DNA profiles to determine if a cross-contamination event may have occurred.

Third, information is collected directly from the individual, whether it is a member of the public, an ATF employee, or another Federal employee (for example, if a Federal agent assisting with crime scene processing). With the exception of a court order, search warrant, or when a profile is obtained from crime scene evidence, every individual signs a privacy waiver acknowledging that the individual is voluntarily submitting his/her information, and it will be used by the ATF Laboratory as a basis for excluding DNA profiles of the individual from the DNA collected for evidentiary purposes.

### **Section 3: Purpose and Use of the System**

#### **3.1 Indicate why the information in the system is being collected, maintained, or disseminated. (Check all that apply.)**

<b>Purpose</b>			
<input checked="" type="checkbox"/>	For criminal law enforcement activities	<input type="checkbox"/>	For civil enforcement activities
<input type="checkbox"/>	For intelligence activities	<input type="checkbox"/>	For administrative matters
<input type="checkbox"/>	To conduct analysis concerning subjects of investigative or other interest	<input type="checkbox"/>	To promote information sharing initiatives
<input type="checkbox"/>	To conduct analysis to identify previously unknown areas of note, concern, or pattern.	<input type="checkbox"/>	For administering human resources programs
<input type="checkbox"/>	For litigation	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Other (specify): Specifically, in order to detect contamination of DNA profiles resulting from individuals who handled the evidence during or after the investigation, those who may enter evidence processing laboratories during the course of routine duties, or those who were at the scene of a crime. Comparing and eliminating the DNA profiles of ATF staff members or innocent third-parties (e.g., victims, witnesses) augments the value and integrity of the potential leads that may be derived from the DNA collected at crime scenes.		

#### **3.2 Analysis: Provide an explanation of how the component specifically will use the information to accomplish the checked purpose(s). Describe why the information that is collected, maintained, or disseminated is necessary to accomplish the checked purpose(s) and to further the component’s and/or the Department’s mission.**

As authorized by the GINA, ATF collects and uses DNA profiles for “analysis of DNA identification markers for quality control to detect sample contamination,” to compare and eliminate DNA profiles of ATF staff members or innocent bystanders. See 42 USC § 2000ff-1(b)(6). This information is necessary to ensure the integrity, efficiency, and effectiveness of law enforcement investigations when reviewing and analyzing DNA collected at crime scenes.

It is imperative to identify any DNA profile(s) that may be the result of contamination and not from the putative perpetrator. For example, if the only DNA profile found at a crime scene belonged to an ATF staff member, without the ability to rule out that profile, ATF would continue to search for a matching suspect. This could result in an otherwise viable suspect being eliminated from further investigation because his or her DNA did not match the only profile found at the crime scene. Such a situation could falsely exclude a suspect. Additionally, if ATF did not know that the profile belonged to an employee, that profile would be entered into LDIS as a forensic unknown and possibly uploaded and searched at SDIS and NDIS. This would unnecessarily subject that profile to being searched, compared with other criminal cases, and identified as a possible perpetrator. Using the DNA Staff Index ensures the integrity of the evidentiary DNA uploaded into CODIS.

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Identifying the contaminating staff member is also necessary for two reasons. First, the laboratory will want to confirm that the individual was in the chain of custody of the evidence or near the evidence at some point prior to or during the DNA analysis being performed. Second, this information is beneficial to prevent future contamination events. For example, the individual may be given additional training on how to prevent DNA contamination. If a contamination event is detected, the contaminating individual is not named in the laboratory report issued to the investigator. Instead, a general statement is added to the report indicating that a DNA profile obtained from the evidence is consistent with an ATF staff member.

Further, a DNA profile from one case can match a DNA profile from a different case in the PGI. This match could occur because the two cases are actually related, or it could occur because of case-to-case contamination. It is important to determine if case-to-case contamination has occurred for two reasons: (1) to ensure the investigators do not waste time or resources attempting to link cases that really are not connected; and (2) to investigate how the contamination occurred and determine if changes are necessary to prevent it from happening in the future. Such comparisons ensure the integrity of the evidentiary DNA uploaded into CODIS.

**3.3 Indicate the legal authorities, policies, or agreements that authorize collection of the information in the system. (Check all that apply and include citation/reference.)**

<b>Authority</b>		<b>Citation/Reference</b>
<input checked="" type="checkbox"/>	Statute	28 U.S.C. § 599A; 18 U.S.C. § 3600A; 42 U.S.C. § 14132; and 42 U.S.C. § 2000ff-1.
<input type="checkbox"/>	Executive Order	
<input checked="" type="checkbox"/>	Federal Regulation	28 C.F.R. § 28.12
<input checked="" type="checkbox"/>	Memorandum of Understanding (MOU) /agreement	An MOU between the FBI and ATF on the use of CODIS, which includes authorization provisions and other standards set by the FBI.  Agreement with United States Secret Service (USSS) Laboratory Division to conduct DNA analysis on USSS forensic cases and maintain DNA profiles of USSS Staff in LDIS for the purpose of contamination detection. USSS maintains their record to the anonymous identifiers of USSS employees. They do not maintain personal information on ATF employees or individuals in the PGI.
<input type="checkbox"/>	Other (summarize and provide copy of relevant portion)	

**3.4 Indicate how long the information will be retained to accomplish the intended purpose, and how it will be disposed of at the end of the retention period. (Reference the applicable retention schedule approved by the National Archives and Records Administration, if available.)**

As stated above, DNA profiles are collected in order to support ATF's criminal investigations and to ensure the integrity of DNA profiles recovered from forensic evidence. This information is necessary to compare and eliminate DNA profiles of ATF staff members or innocent bystanders, thus, augmenting the value and integrity of potential law enforcement leads that may be derived from the DNA collected at crime scenes. However, DNA records and the names of staff members are contained in a separate file and retained only if they are currently employed by ATF or there is still a need to maintain this information for pending criminal investigations and law enforcement purposes. Further, information is held in ATF's PGI as long as they are substantiated by internal records of the submitting agency and are permitted either by consent, by judicial/criminal justice authority, or by Federal, State, or local law for pending criminal investigations and law enforcement purposes.

Further, ATF follows NARA's Record Schedule N1-065-06-009 and the retention and disposal standard stated in FBI's system of records notice, JUSTICE/FBI-017, National DNA Index System (NDIS), 61 Fed. Reg. 37495, 37497 (last published in full on July 18, 1996).

**3.5 Analysis: Describe any potential threats to privacy as a result of the component's use of the information, and controls that the component has put into place to ensure that the information is handled, retained, and disposed appropriately. (For example: mandatory training for system users regarding appropriate handling of information, automatic purging of information in accordance with the retention schedule, etc.)**

Potential threats to privacy exist if DNA profiles and the identity of the individual to whom it relates were to be disclosed to an unauthorized party. ATF has controls in place to minimize this threat by controlling who has access to rooms and computers where the information is stored. This information can only be accessed by members of the ATF Laboratory's DNA Unit. These individuals have undergone mandatory training on how to use CODIS, have undergone an additional background check by the FBI, and have signed non-disclosure agreements as required for access to CODIS.

The laboratory's computer that contains the CODIS software that stores the information is maintained in a limited access room in a secure, limited access facility. Further, a separate restricted access, password-protected record exists with ATF's key to the anonymous identifiers, linking them to the names of the ATF staff members associated with the DNA profiles. There is no centralized record for the DNA profiles in PGI as these profiles are coded with case numbers.

If a staff contamination event is detected, the contaminating individual is not named in the laboratory report. Instead, a statement is added to the report indicating that a DNA profile obtained from the evidence is consistent with an ATF staff member. Also, ATF laboratory reports do not contain any DNA profile information. The contamination event is recorded in a logbook, along with

the DNA profile(s), the name of the staff member, and associated paperwork documenting the contamination. A hard-copy record of this contamination logbook is maintained in a secure, limited access room and accessible only by members of the ATF DNA Unit and members of laboratory management on a need-to-know basis. ATF plans to store the contamination logbook as an electronic record which will be a limited access, password protected file. It should be noted that cross-contamination from DNA profiles collected from individuals potentially associated with evidence submitted to the laboratory is remote due to these samples being processed in a different location from the forensic evidence samples.

Further, multiple quality control steps are in place to ensure accuracy of the DNA Staff Index. The anonymous identifier is written on the package containing the DNA swabs provided by an individual. The DNA profile data is also reviewed before and after entry into LDIS along with associated positive and negative controls.

Also, the DNA profiles in ATF's PGI undergo the standard laboratory technical review process to ensure accuracy of such profiles. The ATF PGI includes profiles generated from forensic evidence, and DNA profiles collected from individuals potentially associated with evidence submitted to the laboratory. These DNA profiles are designated by specific laboratory case numbers and item numbers. These profiles are maintained to detect any potential cross-contamination between cases processed during the same time period or in the same laboratory area. If a match is made, a member of the ATF's DNA Unit manually compares the matching DNA profiles in order to determine whether a cross-contamination event may have occurred.

## **Section 4: Information Sharing**

### **4.1 Indicate with whom the component intends to share the information in the system and how the information will be shared, such as on a case-by-case basis, bulk transfer, or direct access.**

Recipient	How information will be shared			
	Case-by-case	Bulk transfer	Direct access	Other (specify)
Within the component	X			
DOJ components	X			
Federal entities	X			Pursuant to a Federal or State court order.
State, local, tribal gov't entities	X			Pursuant to a Federal or State court order.
Public				
Private sector				
Foreign governments				
Foreign entities				

Recipient	How information will be shared			
	Case-by-case	Bulk transfer	Direct access	Other (specify)
Other (specify):				

**4.2 Analysis: Disclosure or sharing of information necessarily increases risks to privacy. Describe controls that the component has put into place in order to prevent or mitigate threats to privacy in connection with the disclosure of information. (For example: measures taken to reduce the risk of unauthorized disclosure, data breach, or receipt by an unauthorized recipient; terms in applicable MOUs, contracts, or agreements that address safeguards to be implemented by the recipient to ensure appropriate use of the information – training, access controls, and security measures; etc.)**

Controls have been put in place by ATF when information has been shared internally and externally in order to prevent or mitigate threats to privacy. When it comes to sharing information internally, there is a privacy risk of inadvertent disclosure of sensitive information to individuals not authorized to receive it. To mitigate this risk, access to the information is limited to members of the ATF Laboratory’s DNA Unit and members of laboratory management on a need-to-know basis.

Also, if a contamination event occurs, staff member names or DNA profiles are not released in ATF laboratory reports. Staff member names are not recorded in the laboratory report or the laboratory case file. The contamination event is recorded in a logbook, along with the DNA profile(s), names of individuals involved, and associated paperwork documenting the contamination. This contamination logbook is in a limited access room and accessible only to members of the ATF DNA Unit and members of laboratory management on a need-to-know basis. ATF plans to store the contamination logbook as an electronic record which will be a limited access, password protected file.

Further, information may be disclosed externally to Federal, State, and local law enforcement agencies as required by an applicable routine use, protective court order, or other legal process. Once information is disclosed, there is a privacy risk of disclosure of sensitive information to individuals not authorized to receive it since ATF no longer has control over this information.

Finally, there is currently an MOU between the FBI and ATF on the use of CODIS, which includes confidentiality provisions and other standards set by the FBI to mitigate any threats to privacy. In addition, the public may review the FBI’s NDIS Operational Procedures Manual,<sup>4</sup> which sets forth the responsibilities of each NDIS participant, including ensuring privacy protections, as part of meeting designated quality assurance standards.

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<sup>4</sup> Available at: <https://www.fbi.gov/file-repository/ndis-procedures-manual-ver4-approved-04272016.pdf/view>.

## **Section 5: Notice, Consent, and Redress**

### **5.1 Indicate whether individuals will be notified if their information is collected, maintained, or disseminated by the system. (Check all that apply.)**

X	Yes, notice is provided pursuant to a system of records notice published in the Federal Register and discussed in Section 7.	
X	Yes, notice is provided by other means.	Specify how: ATF staff members who submit their DNA to the DNA Staff Index and other individuals, such as victims and witnesses, who submit their DNA to the PGI, sign a privacy waiver acknowledging that the individual is voluntarily submitting his or her information, and it will be used by the ATF Laboratory as a basis for excluding DNA profiles of the individual from the DNA collected for evidentiary purposes. The waiver also explains that disclosure of DNA profiles, without names, may be made to others involved in the DNA identification process on a need-to-know basis.
X	No, notice is not provided.	Specify why not: DNA profiles generated from evidence and crime scenes, not eligible for SDIS or NDIS, may be linked to unknown individuals; thus, no consent is provided. This is a forensic casework DNA profile. These profiles of unknown individuals are added to ATF's PGI.

### **5.2 Indicate whether and how individuals have the opportunity to decline to provide information.**

X	Yes, individuals have the opportunity to decline to provide information.	Specify how: A DNA Staff Index sample from an ATF staff member is provided voluntarily. However, if an individual declines, that person must wear protective garments (e.g., lab coat, gloves, mask) when entering ATF laboratory space where evidence is being processed. Non-staff members, such as victims and witnesses who are linked or associated with evidence submitted to the laboratory, may have the opportunity to decline to provide a sample.
X	No, individuals do not have the opportunity to decline to provide information.	Specify why not: DNA profiles generated from evidence and a crime scene are not given the opportunity to decline to provide their

		profile in PGI because their identity is unknown at the time of collection. These samples are considered forensic casework DNA profiles.
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**5.3 Indicate whether and how individuals have the opportunity to consent to particular uses of the information.**

	Yes, individuals have an opportunity to consent to particular uses of the information.	Specify how:
X	No, individuals do not have the opportunity to consent to particular uses of the information.	Specify why not: Once a DNA sample is provided, disclosure may be required by an applicable routine use, court order, or other legal process and consent may not be an option. This is explained on the waivers that individuals acknowledge and sign voluntarily.

**5.4 Analysis: Clear and conspicuous notice and the opportunity to consent to the collection and use of individuals’ information provides transparency and allows individuals to understand how their information will be handled. Describe how notice for the system was crafted with these principles in mind, or if notice is not provided, explain why not. If individuals are not provided the opportunity to consent to collection or use of the information, explain why not.**

Individuals who are requested to submit a sample to the DNA Staff Index are provided with an DNA Staff Index Waiver (“Waiver”), which explains that submitting their DNA for inclusion in ATF’s DNA Staff Index is voluntary and that refusing to submit a DNA sample will have no effect on the employee’s ability to do his or her job, job performance evaluation, or employment with ATF. In order to be transparent and to ensure informed consent, the Waiver explains that the purpose of the DNA Staff Index is to detect unintended contamination of evidence during the course of investigation and examination. The Waiver explains the process: DNA profiles obtained from evidence are compared to the DNA profiles in the DNA Staff Index which includes ATF personnel who handled the evidence during or after the investigation, those employees who may enter evidence processing laboratories during the course of routine duties, and visitors to laboratory space where evidence is processed.

In regard to the PGI, members of the public (individuals potentially associated with evidence submitted to the laboratory) who voluntarily submit DNA samples are provided with a similar waiver and information statement which states their profiles will be used for comparison purposes. The waiver also states their DNA profile will be retained to detect possible cross-contamination between cases processed in the laboratory.

Notice is not provided in all cases, specifically for the PGI. Due to the nature of law enforcement investigations, a DNA profile generated from a piece of crime scene evidence may be linked to an individual who is unknown at the time the evidence is collected. This unknown profile may be related to the suspect or to an innocent bystander. The DNA profile cannot be associated to an individual unless ATF Laboratory staff receives a known sample from a reference, such as a victim or witness.

## **Section 6: Information Security**

### **6.1 Indicate all that apply.**

X	<p>The information is secured in accordance with FISMA requirements. Provide date of most recent Certification and Accreditation: For the purposes of ATF's LDIS, this is a system housed under CODIS which is maintained by the FBI. The FBI completed its Certification and Accreditation (C&amp;A) on March 30, 2016. For the purposes of the record of the anonymous identifiers linking them to the names of the staff members, this resides within the Communications Support Systems (CSS), which provides the infrastructure for ATF data and voice network requirements. The C&amp;A for CSS was completed on June 10, 2015.</p> <p>If Certification and Accreditation has not been completed, but is underway, provide status or expected completion date: A security risk assessment will be performed on this system once the PIA process is completed.</p>
X	A security risk assessment has been conducted. A security risk assessment will be performed on this system once the PIA process is completed.
X	Appropriate security controls have been identified and implemented to protect against risks identified in security risk assessment. Specify: Security control selection will occur upon the completion of the PIA and FIPS 199 characterization and categorization assessment to determine if a Certification and Accreditation is required.
X	Monitoring, testing, or evaluation has been undertaken to safeguard the information and prevent its misuse. Specify: Security control implementation requirements will be determined upon the completion of the PIA and FIPS 199 characterization and categorization assessment.
X	Auditing procedures are in place to ensure compliance with security standards. Specify, including any auditing of role-based access and measures to prevent misuse of information: Security control implementation requirements will be determined upon the completion of the PIA and FIPS 199 characterization and categorization assessment.
X	Contractors that have access to the system are subject to provisions in their contract binding them under the Privacy Act.
X	Contractors that have access to the system are subject to information security provisions in their contracts required by DOJ policy.
X	The following training is required for authorized users to access or receive information in the system:
X	General information security training
X	Training specific to the system for authorized users within the Department.
	Training specific to the system for authorized users outside of the component.
X	Other (specify): The FBI's NDIS Operating Procedures and ATF's Operating Procedures

**6.2 Describe how access and security controls were utilized to protect privacy and reduce the risk of unauthorized access and disclosure.**

The ATF DNA Indexes are maintained electronically on the ATF Laboratory’s CODIS computer which requires a user ID and password in order to log in to the system. Password changes are required regularly by the system. This system is located in a secure, limited access room and facility. The ATF DNA Indexes can only be accessed by the members of the ATF Laboratory’s DNA Unit who have undergone an additional FBI background check and have signed a non-disclosure statement.

ATF staff member’s DNA profiles are stored and linked with an anonymous identifier in a separate restricted access, password-protected electronic record. Accessing the electronic record requires a user ID and password (which changes every 60 days). There is no centrally located record for the DNA profiles in PGI.

**Section 7: Privacy Act**

**7.1 Indicate whether a system of records is being created under the Privacy Act, 5 U.S.C. § 552a. (Check the applicable block below and add the supplementary information requested.)**

<input checked="" type="checkbox"/>	Yes, and this system is covered by an existing system of records notice.  Provide the system name and number, as well as the Federal Register citation(s) for the most recent complete notice and any subsequent notices reflecting amendment to the system: <ul style="list-style-type: none"> <li>• JUSTICE/ATF-003, Criminal Investigation Record System, 68 Fed. Reg. 3551, 3353 (last published in full on Jan. 24, 2003);</li> <li>• JUSTICE/ATF-007, Personnel Record System, 68 Fed. Reg. 3551, 3356 (last published in full on Jan. 24, 2003); and</li> <li>• JUSTICE/ATF-009, Technical and Scientific Services Record System, 68 Fed. Reg. 3551, 3560 (last published in full on Jan. 24, 2003).</li> </ul> An update to these system of records notices, however, will be conducted. To the extent of information sharing and the retention period, the FBI’s system of records notice, JUSTICE/FBI-017, National DNA Index System (NDIS), 61 Fed. Reg. 37495, 37497 (last published in full on July 18, 1996), also applies to this system.
<input type="checkbox"/>	Yes, and a system of records notice is in development.
<input type="checkbox"/>	No, a system of records is not being created.

**7.2 Analysis: Describe how information in the system about United States citizens and/or lawfully admitted permanent resident aliens is or will be retrieved.**

Records contained in ATF DNA Indexes can only be retrieved by an anonymous identifier. The ATF staff member’s DNA profiles are stored in CODIS using an anonymous identifier comprised of letters and numbers, which refer to work location or position title. PGI profiles are stored in CODIS

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using an anonymous identifier based on the forensic laboratory case number, exhibit number, and sample description. Records cannot be searched or retrieved by an individual's name.

The unique identifier information is only retrieved from the system if an unknown DNA profile matches an entry in the ATF DNA indexes. If a match occurs in the CODIS software between an evidence DNA profile and a DNA profile in the DNA Staff Index, the anonymous identifier associated with the DNA Staff Index is noted by the DNA Examiner. This identifier is then compared with the limited access, password protected electronic record to locate the associated staff member's name. If a match occurs in the CODIS software between an evidence DNA profile and a DNA profile in the PGI, the PGI identifier is noted by the DNA examiner and the appropriate laboratory case file is reviewed for possible cross contamination.