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CODIS IS A CORE GOVERNMENTAL FUNCTION

The Consortium of Forensic Science Organizations (CFSO) opposes H.R.7916 or any legislation granting private laboratories direct access to the Combined DNA Index System (CODIS) or to redistribute federal government grants currently designated for public laboratory DNA purposes. Such changes would fundamentally alter the governance and long-standing oversight of the national DNA database, reduce the capacity of public laboratories, and raise important policy, operational, and legal considerations as well as introduce avoidable risks to continuity, accountability, and confidentiality.

Concerns provided by our public laboratory directors, CODIS users and administrators, and forensic science practitioners are outlined below:

CODIS BACKGROUND:

1. CODIS is the acronym for the Combined DNA Index System and is the generic term used to describe the FBI's program of support for criminal justice DNA databases as well as the software used to run these databases.
2. The CODIS database consists of several indexes, each serving a specific purpose in DNA analysis and comparison. These indexes include the Offender Index, the Arrestee Index, the Forensic Index, the Missing Persons Index, the Unidentified Human Remain Index, and more.
3. The National DNA Index System or NDIS is considered one part of CODIS, the national level, containing the DNA profiles contributed by federal, state, and local participating forensic laboratories.
4. Two other CODIS databases supporting NDIS are local DNA databases (LDIS) and state DNA databases (SDIS).

CONCERNS WITH THE LEGISLATION:

The CODIS Access Modernization Act is misleading in its proposed findings and does not clearly or directly support allowing private laboratory access to CODIS.

PROPOSED FINDING #1: DNA testing backlogs, delays in timely processing of evidence, and strategic public-private partnerships.

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1. There are no documented national backlogs by public laboratories in DNA testing for the Offender Index, the Arrestee Index, the Missing Persons Index, or the Unidentified Human Remain Index.
2. Sexual assault kit or other DNA **case** backlogs are being mitigated by increased efficiencies at public laboratories and outsourcing the case evidence to private laboratories. To the extent backlogs do exist, they are not primarily attributable to any delay in the public laboratory review of private laboratory data, but rather due to a variety of factors including the delay in law enforcement's delivery of cases to the local or state crime laboratory, and Congress is already helping to resolve these variables with funding related to sexual assault kit initiatives. Currently, public laboratories already use contracts with private laboratories to work forensic cases and to get samples from those cases into CODIS.
    a. The federal Sexual Assault Kit Initiative (SAKI) provides funding through a competitive grant program to support the comprehensive reform of jurisdictions' approaches to sexual assault cases resulting from evidence found in sexual assault kits (SAKs) that have never been submitted to a crime laboratory.
    b. Once the public forensic laboratory receives a SAK or other crime scene DNA, the laboratory can do the analysis in-house or outsource the evidence to private accredited forensic DNA laboratories. The Debbie Smith DNA Backlog Grant Program assists laboratories that need it to collect DNA samples, carry out the analysis, submit profiles to CODIS, and increase capacity.
3. Strategic public-private partnerships currently exist with some accredited private laboratories for the analysis of DNA evidence. In current practice, private laboratories obtain crime scene DNA evidence only via law enforcement or public forensic laboratories. Contracting to outsource evidence to private laboratories highlights the existing partnerships between them.
4. Currently, when a private laboratory completes evidence examination and develops a DNA profile, the data are forwarded to a CODIS-participating public laboratory for technical and administrative review. The determination of CODIS eligibility is made by the public laboratory, not the vendor, following evaluation of the case record, analytical data, and applicable eligibility criteria.
5. **The CODIS upload is performed only by the public laboratory.** Through this process, the public laboratory assumes long-term accountability and stewardship of the DNA profile.

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a. These responsibilities extend well beyond initial data entry and include ongoing compliance with federal and state requirements, audit readiness, eligibility reassessment, profile maintenance (including expungements, updates, and all match dispositions), and continued case support.
b. CODIS data, and the associated IT infrastructure, must be maintained indefinitely. Public laboratories provide continuity, institutional stability, and sustained accountability for the profiles they enter, ensuring the integrity of the database over time. In contrast, private entities may undergo mergers, changes in ownership, or exit the forensic marketplace, creating inherent risks to long-term data stewardship. The current framework ensures that enduring responsibility for CODIS data resides with public laboratories as stable public safety entities.
c. If a private laboratory was provided access to CODIS and then went out of business, they would still be responsible for profiles entered into CODIS and to maintain the case record and other documentation related to the profile being eligible for CODIS. Because the private laboratory would no longer be in existence, and without anyone responsible for the profiles and records, NDIS profiles from a defunct private laboratory would likely need to be expunged from CODIS, making them unsearchable and unavailable for comparison. It is not likely a public laboratory would want to take responsibility for the profiles initially generated by a private laboratory due to unknown potential issues.

PROPOSED FINDING #2: Mandatory and costly redundant reviews that delay investigations

1. The only ascertainable goal of the CODIS Access Modernization Act appears to be addressing an alleged and unsubstantiated claim of delay in submission of the DNA profile into CODIS, resulting from what the supporters claim are "mandatory and costly redundant reviews that delay investigations by days to years." Absent empirical evidence in the public record, the bill supporters allege widespread and lengthy delays in data reviews by public laboratories as they assess NDIS eligibility of the profiles generated by the private laboratories. These reviews are required currently by the FBI Quality Assurance Standards. In addition, a mandatory review by the uploading laboratory is required to ensure the quality and compliance of the database content and is not redundant in practice.

    a. While the above allegation is not rooted in supporting data, the FBI has already addressed this concern. In its update of March 13, 2026 (v.1.2), titled "FBI Laboratory Statement on Enhancing CODIS Operations Through a Collaborative Review of Applicable Standards and Procedures," the FBI

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reported that the "Scientific Working Group on DNA Analysis Methods (SWGDAM) proposed revisions to the FBI's Quality Assurance Standards (QAS) to provide public laboratories with greater flexibility and efficiency when searching DNA records generated by private laboratories. The revisions, which took effect on September 1, 2011, give NDIS [public] laboratories additional flexibility when searching outsourced DNA records at the State DNA Index System or SDIS." The change is reflected below in that it:

> *allows samples to be searched at SDIS prior to ownership review, but the ownership review must be completed prior to the upload of DNA data to SDIS or the reporting of search results. This allows NDIS labs the ability to prioritize/triage ownership review (QAS Standard 17.6 in 2011 version and QAS Standard 17.3.2 in the 2025 version). (Emphasis added).*

In addition, the FBI now allows the outsourcing of mandatory audits/assessments of private contract labs to be performed by the FBI or another public laboratory so that not every public laboratory must perform an independent technical assessment of the outsourced private contract laboratory. (QAS Standard 17.4.2.1 in the 2025 version)

b. While we dispute that there are currently widespread delays in CODIS eligible profiles from private labs being entered into the Forensic Index of CODIS by public laboratories, the amount of DNA evidence is increasing, and the public laboratory capacity is largely not. As such, conversations have been on-going with the FBI regarding potential solutions to increase the capacity and efficiency of the already CODIS participating public labs by addressing the administrative and technical challenges to expedite this review.

2. Direct access to CODIS by private laboratories does not expedite or slow down the implementation of emerging forensic technologies within government systems. This is an arguable point and not salient to CODIS access by private laboratories.

PROPOSED FINDING #3: Restricting CODIS access is detrimental to national security and public safety.

1. While violent offenders do cross jurisdictional lines, all eligible DNA processed by private laboratories currently are submitted by public laboratories to the nation-wide CODIS database, allowing all federal, state, local, military, and homeland security agencies to submit once to search all. Instead of having DNA profiles located in random private laboratories, the profiles are secured in government facilities.

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PROPOSED FINDING #4: NCMEC is a precedent for non-law enforcement entities to perform criminal justice agency functions.

1. The proposed finding relating to the National Center for Missing and Exploited Children (NCMEC) is misplaced. NCMEC only has access to NCIC, which, in the case of NCMEC, provides law enforcement with information to assist in locating missing persons, including children. NCMEC provides information it develops to NCIC for distribution to law enforcement agencies. Importantly, NCMEC does not engage in any forensic analysis. The Secret Service has been mandated to provide forensic and technical support for NCMEC and NCMEC does not have direct access to federal biometric databases.

PROPOSED FINDINGS #5 and #6: The Federal government relies on accredited private entities following national standards to perform sensitive national security and law enforcement activities so therefore private laboratory access to CODIS is a continuation of current practices.

1. Private contractors in support of sensitive national security and intelligence programs have employees with security clearances and are under "strict federal oversight." This bill does not have provisions for such strict oversight to maintain the integrity of DNA profiles.
2. The finding in the bill that "[a]ccredited private forensic DNA laboratories already perform forensic testing for Federal, State, local, military, and homeland security agencies while complying with the FBI QAS and ISO/IEC 17025 accreditation standards" says nothing to support the justification for direct access to CODIS. No private laboratories have ever been allowed to have direct access to CODIS and the rationale is much more complicated than merely private laboratory accreditation status or their clientele.

PROPOSED FINDINGS #7- #9 Private access to CODIS would be consistent with longstanding federal practices, support timely offender identification and increase apprehension and case resolutions.

1. The bill's whole premise is that there is a significant time delay between the development of the DNA profile and the submission of it to CODIS by the public laboratory. These proposed findings are not only repetitive of what has already been asserted but lack empirical objective evidentiary foundation.

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OTHER CONCERNS REGARDING PRIVATE LABORATORY ACCESS TO CODIS:

OVERSIGHT AND ACCOUNTABILITY:

1. Public forensic laboratories operate within law enforcement or other government agencies whose personnel are subject to government employment standards, background screening, and ongoing oversight consistent with state laws and operations.
2. As mentioned previously, because CODIS data must be maintained and supported indefinitely, the long-term stewardship of DNA profiles entered into the database and the IT infrastructure itself are critical responsibilities. Public laboratories provide continuity and institutional accountability for the data they enter into CODIS, whereas private entities may merge, discontinue services, or exit the forensic marketplace over time.

CONFLICT OF LAWS:

1. CODIS operates within a complex framework of federal and state laws that govern the collection, analysis, database entry, and expungement of DNA profiles. Many states have statutes that specifically designate governmental forensic laboratories or agencies as responsible for the operation and management of state DNA databases.
2. In addition to CODIS, there are state and local DNA databases (SDIS and LDIS) that contain profiles from local and state laboratories according to specific state regulations. Direct access to CODIS by private laboratories would bypass those databases thereby reducing their law enforcement effectiveness.
3. State laws differ on when and for what crimes DNA profiles may be entered into CODIS. Public laboratories in one state contracting with a private laboratory in another state, with a different DNA database law, may face a conflict of applicable jurisdictional laws.
4. State laws regarding the expungement of DNA profiles differ. The entity entering the profile is generally responsible for expunging it. Questions arise as to how the private laboratory would be notified to expunge the profile and which state law controls the expungement.
5. States may opt out of participating in National DNA Index System (NDIS) if elements of CODIS are privatized because privatization will likely conflict with state laws regarding privacy, access, appropriate use, and data security of CODIS.

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CONFIDENTIALITY OF SENSITIVE LAW ENFORCEMENT INFORMATION:

1. Sensitive and confidential information related to open law enforcement investigations without the existing safeguards present within public forensic laboratories would be released to non-law enforcement entities, whose employees are not vetted and cleared like public sector law enforcement or laboratory employees. Public employees are often governed by confidentiality laws that are likely not enforceable on a private entity, and especially one outside the state jurisdiction.

OWNERSHIP OF DNA DATA:

1. Long-term continuity regarding ownership, availability, and maintenance of DNA data generated and submitted to CODIS by private laboratories is extremely important. Currently, the data entered into CODIS are the responsibility of government entity contracting with the private laboratory.
2. Many private DNA laboratories providing DNA casework and DNA database work have gone out of business. Notable laboratories that have done work in the forensic DNA space that have gone out of business, been sold, or left the forensic industry entirely are: Myriad Genetics, Relative Genetics, Orchid, Cellmark, Sorenson Forensics, Orchid Cellmark, NMS DNA Laboratory, Intermountain Forensics, Forensic Analytical Specialties, Genescreen, and Reliagene among others.
3. CODIS associations frequently require additional follow-up activities long after the original profile is entered into the database, including confirmation testing, investigative coordination, and court testimony. Public forensic laboratories maintain responsibility for these activities for the life of the database entry. There is no reliable or assured way to guarantee, via contract alone, that private laboratories with uncertain longevity can provide this long-term follow-up work.

BUSINESS INTERESTS:

1. The operation and governance of CODIS are appropriately treated as core governmental functions. Public laboratories are not motivated by profit margins or financial investors and exist solely to protect the safety of the public and the integrity and security of the data.
2. Public laboratories are not influenced by the pressures of competition within the industry that can lead to shortcuts in process and quality assurance and control.

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FINANCIAL IMPACTS:

1. Access to government grants by private laboratories will reduce the amount of money actually dedicated to forensic analyses as portions of the grant will be taken by private laboratories for overhead and for their own profit line.
2. Costs for private laboratory experts to consult with prosecutors and testify at trial will be borne either as a part of federal grants to the private laboratories or by the prosecution offices.
3. Access to grants by private laboratories will reduce the funding to public laboratories for capacity enhancement and personnel, diminishing their ability to handle DNA cases, leading to additional outsourcing. Additional outsourcing will result in increased grant requests by private laboratories and less money for public laboratories. This dynamic shift risks increasing privatization of DNA analysis, with potential consequences similar to those observed in the United Kingdom's experience with forensic market changes.

CONCLUSION:

CFSO believes the current CODIS structure, where private laboratories may generate DNA data under the oversight of a public CODIS laboratory, appropriately balances the need for analytical capacity with the need to preserve public accountability, database integrity, and consistent governance of the national DNA database. This legislation is not necessary and would create many negative consequences.

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