

MEMORANDUM TO: All Chiefs of Police and
Commissioner Thomas Carrique
Chairs, Police Services Boards

FROM: Richard Stubbings
Assistant Deputy Minister
Public Safety Division

SUBJECT: **DNA Canvass Protocol**

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The Office of the Independent Police Review Director (OIPRD) conducted a systemic review of Ontario Provincial Police (OPP) policies, procedures, standards and practices for conducting DNA canvasses and obtaining DNA with consent from vulnerable groups during criminal investigations.

In its July 2016 report, “Casting the Net: A Review of Ontario Provincial Police Practices for DNA Canvasses”, the OIPRD recommended that the OPP and similarly situated police services “develop a policy to govern how and when DNA canvasses are conducted. The policy must, among other things, identify and ensure best practices.”

Further, the report recommended that the OPP, Ministry of Community Safety and Correctional Services (now Ministry of the Solicitor General) and Ministry of the Attorney General (MAG) re-evaluate the content of the Consent to Provide Biological Samples form, in accordance with OIPRD’s report.

In response to the OIPRD’s report, the ministry, in consultation with MAG, the OPP, Ontario Association of Chiefs of Police and other stakeholders including the Ontario Forensic Investigators Association, has developed the attached document, which is being provided to you as best practice guidance, and includes the following three materials:

1. DNA Canvass Protocol

The protocol outlines best practices for all police services in relation to DNA canvasses, and addresses the need to ensure that, whenever an investigation involves the

collection of biological samples from a select group of individuals, there is compliance with the legal requirements of the *Criminal Code of Canada*, *DNA Identification Act*, *Charter of Rights and Freedoms* and the *Ontario Human Rights Code*.

2. Consent to Provide Biological Samples for Forensic Analysis Form

The purpose of the consent form is to ensure prospective donors understand their rights with respect to the voluntary provision of a bodily sample and that their consent is informed and voluntary. This consent form was developed in consultation with Crown Counsel from MAG's Criminal Law Division. Police services are particularly urged to adopt this consent form to ensure criminal prosecutions are not impacted by invalid consent forms.

This form should also be used where consent is being sought to obtain a DNA sample from an individual donor, in addition to a DNA canvass scenario.

A consent form for young persons is under development and will be circulated in the near future. In the meantime, for case-specific advice, police services may contact Jeremy Tatum, Counsel, Criminal Law Division, MAG, by email at Jeremy.Tatum@ontario.ca.

3. Notice to Person Providing a Biological Consent Sample

This notice is used to advise donors of the results of the forensic examination of their biological sample, and provide confirmation of the destruction of the sample.

If you have any questions about these materials, please contact Lisa Sabourin, Senior Policy Advisor, Policing Standards Section, at Lisa.Sabourin@ontario.ca.

Sincerely,



Richard Stubbings
Assistant Deputy Minister
Public Safety Division

Attachment

c: Mario Di Tommaso, O.O.M.
Deputy Solicitor General, Community Safety