

SPEAKING NOTES:

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The Canadian Professional Police Association (CPPA) welcomes the opportunity to present our submissions to the House of Commons Standing Committee on Justice and Human Rights with respect to Bill C-13, *An Act to Amend the Criminal Code, the DNA Identification Act and the National Defence Act*.

The CPPA is the national voice for 54,000 police personnel across Canada. Through our 225 affiliates, membership includes police personnel serving in police services from Canada's smallest towns and villages as well as those working in our largest municipal and provincial police services, the RCMP Members Associations, and First Nations police officers.

The Canadian Professional Police Association is acknowledged as a national voice for police personnel in the reform of the Canadian criminal justice system. We are motivated by a strong desire to:

- Enhance the safety and quality of life of the citizens in our communities;
- Share the valuable experiences of those who are working on the front lines; and
- Promote public policies that reflect the needs and expectations of law-abiding Canadians.

The CPPA was created in 2003, with the merger of the Canadian Police Association (CPA) and National Association of Professional Police (NAPP). For over a decade we have been actively involved in discussions concerning the creation of, and enhancements to the National DNA Data Bank including Bill 104, Bill C-3, Bill S-10, and various consultations concerning DNA legislation

The DNA Data Bank was established in 2000 to assist law enforcement agencies in solving crimes by:

- Linking crime scenes where no suspect has been identified,
- Helping to identify suspects,
- Eliminating suspects where there is no match between crime scene DNA and the DNA data bank,
- Determining whether a serial offender is involved.

Currently, the DNA Data Bank is receiving only a fraction of the expected or eligible samples; less than 50% of primary offence samples and much less of the secondary offence samples.¹ Although the enabling DNA legislation has been in effect for almost five years, it is evident that samples are not being requested, authorized, or collected to the full extent of the law. Further work needs to be done in training the judiciary, crown prosecutors and law enforcement to ensure that samples are sought in ALL eligible cases.

The National DNA Data Bank has assisted in solving the most serious crimes such as murder, attempted murder and sexual assault, which may not have otherwise been resolved. Canada's National DNA Data Bank also provides valuable assistance to law enforcement agencies with break and enters and crimes of similar nature.

¹ National DNA Data Bank. National DNA Data Bank of Canada. (brochure) 2004.
< http://www.nddb-bndg.org/images/brochure_e.pdf >

The Data Bank now predicts that 5% of the crime scene profiles entering the Data Bank will result in a match with a previous offender's profile. While this is a significant achievement, it pales by comparison to the United Kingdom, where there is a 40% chance that a crime scene sample will match immediately with an individual's profile on the National DNA Database (U.K.).² In a typical month in the United Kingdom, the national databank will find matches linking suspects to 15 murders, 31 rapes, and 770 motor vehicle crimes. In U.K. crimes where a DNA profile has been obtained, the rate of crimes detected increases by more than 50 percent, from 24% to 37%.³

Bill C-13's purpose is to amend provisions in the *Criminal Code* respecting the taking of bodily substances for forensic DNA analysis and the inclusion of DNA profiles in the National DNA Data Bank. Bill C-13 also makes related amendments to the *DNA Identification Act* and the *National Defence Act*. The Bill:

- adds offences, including repealed sexual offences, to the lists of designated offences in the Criminal Code,
- provides for the making of DNA data bank orders against a person who has committed a designated offence but who was found not criminally responsible by reason of mental disorder,
- provides for the review of defective DNA data bank orders and for the destruction of the bodily substances taken under them,
- compels offenders to appear at a certain time and place to provide a DNA sample, and,
- allows for a DNA data bank order to be made after sentence has been imposed.⁴

² Home Office Communication Directorate. *DNA 21st Century Crime Fighting Tool*. United Kingdom. July 2003.
< <http://www.homeoffice.gov.uk/docs2/dnacrimightingtool.pdf> >

³ Ibid.

⁴ MacKay, Robin. Legislative Summary Bill C-13: An Act to Amend the Criminal Code, the DNA Identification Act and the National Defence Act. Library of Parliament. 9 Nov. 2004.

< <http://www.parl.gc.ca/38/1/parlbus/chambus/house/bills/summaries/c13-e.pdf> >

The CPPA supports the incremental improvements contained in Bill C-13, and we urge parliament to proceed with swift passage of Bill C-13 to give effect to the amendments contained therein. In addition, the CPPA strongly recommends that Parliament fulfil its obligation to convene a parliamentary committee to review the *DNA Identification Act* this year.

DNA analysis and has proven to be a breakthrough technology in policing and the administration of justice; a science which assists in detecting and convicting offenders, and in acquitting the innocent. In serious police investigations the cost savings in reducing the time spent on investigations in identifying and confirming or eliminating suspects can be extraordinary. This is particularly important in crimes such as stranger child abductions, where precious hours can be critical to finding the victim alive.

In Canada we have yet to realize the full potential of DNA technology and a National DNA Data Bank. Not only is the existing law not being applied to its fullest, but the law itself unduly restricts the use DNA technology as compared to the experience in other jurisdictions. The fact that a sample submitted to the UK Data Bank is 8 times more likely to result in a match than a sample submitted in Canada demonstrates this point.

To quote the DNA Databank's own literature,

“The more samples that go into the Data Bank, the better our chances of finding a match and helping to prevent or solve a crime.”⁵

⁵ National DNA Data Bank. National DNA Data Bank of Canada. (brochure) 2004.
< http://www.nddb-bndg.org/images/brochure_e.pdf >

Recommendations

1. The Canadian Professional Police Association (CPPA) recommends that Parliament proceed with swift passage of Bill C-13 to give effect to the amendments contained therein.
2. The CPPA strongly recommends that Parliament fulfil its obligation to convene a parliamentary committee to review the *DNA Identification Act* in 2005.
3. The Department of Justice, in collaboration with the Public Safety and Emergency Preparedness, should develop and implement a coordinated strategy with the judiciary, crown prosecutors and law enforcement to ensure that DNA samples are sought and obtained in all eligible cases to the full extent of the law.
4. For the purposes of this review, the CPPA recommends amendments to the Criminal Code of Canada to ensure the taking of samples:
 - a. At time of charge for persons charged with designated offences;
 - b. From persons currently in custody or on conditional release for a designated offence, including all offenders serving sentences for any indictable offence; and,
 - c. Those who consent to the taking of samples.
5. In addition, the CPPA recommends amendments to the Criminal Code of Canada to:
 - a. Expand the scope of designated offences established under the Criminal Code to enable effective and efficient utilization of Forensic DNA Analysis as a means of furthering the interests of justice in the investigation of ALL crime.

- b. Provide that where the court determines that the prescribed duties imposed under section 487.07 subsection (1) were not complied with, that shall not, of itself, invalidate the seizure of the sample nor constitute grounds for exclusion of evidence otherwise lawfully obtained.

The DNA database plays a key role in volume property crimes. While the annual detection rate for domestic burglary is around 14%, when DNA is successfully recovered from a crime scene this rises to 48%.

80% of detected burglaries result in charges, 88% of these resulted in a conviction.

CASE STUDIES:

The database plays a vital role in solving old crimes. In 80% of matches, the database linked the suspect with a different crime in addition to the crime for which they were arrested. A number of people arrested for minor offences, such as shoplifting, have been linked through their DNA to unsolved serious crimes, such as rape and murder.

John Wood was arrested for stealing £10 of groceries in 2001 and turned out to be responsible for an unsolved sex attack on two young girls in 1988.

A routine DNA sample taken by Kent Constabulary from the sex attack matched a crime stain on the National DNA Database.

Wood's two young victims, aged nine and eleven, had been subjected an hour-long attack in their Canterbury home.

Wood pleaded guilty to rape and indecent assault and was sentenced to 15 years.



Roy Tutill went missing after hitching a lift home from school in Surrey in April 1968. Three days later the 14 year old's body was found in woodland near Leatherhead. He had been sexually assaulted and strangled.

In 1999 Brian Lunn Field from Solihull, West Midlands was stopped by police on a drink-driving offence. A routine DNA sample was fed into the National DNA Database, which gave a match against a profile obtained

from frozen semen stain sample from 1968, thanks to advances in DNA profiling in 1996.

Lunn Field pleaded guilty at the Old Bailey in November 2001 and was sentenced to life imprisonment.



