

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN FEDERAL POLICE

Question No. 163

Senator Ludwig asked the following question at the hearing on 17 February 2006:

Regarding the AFP's newly announced policy of sourcing DNA samples from AFP Officers:

- a) What consultations were held during the formulation of the DNA sampling policy?
- b) Were any consultations with the Australian Federal Police Association held?
 - i) If so, when were these consultations held and what were the nature of the consultations?
 - ii) If not, why not?
- c) Were any other consultations with employees held and, if so, what was the nature of the consultations? How were they held – were there feedback forms, meetings, etc.
- d) Will the scheme be voluntary?
- e) If not, have potential recruits been informed that they may be denied employment if they refuse DNA samples? If not, will they be in future?
- f) What will the DNA samples be used for?
- g) What assurances do persons offering their samples have that this is the only function for which they will be used?
- h) What safeguards are in place to ensure that the DNA samples are used only for these purposes?
- i) Does the new policy require legislative action?
- j) If so, when is this expected to be brought before Parliament?
- k) When will collection of DNA samples begin?
- l) If it has already begun, how many officers have volunteered samples?

The answer to the honourable senator's question is as follows:

- a) During 2004 and 2005 the Police Commissioners' Policy Advisory Group considered formulation of DNA sampling policies and developed a best practice model, which was endorsed by the Police Commissioners' Conference in March 2005.

In mid-2004 Commissioner Keelty's stated in his address to the National Press Club "The AFP – 25 Years and Beyond" that he wished to extend existing arrangements for recording of finger prints of AFP personnel to include DNA sample collection.

Following the discussions with the Australian Federal Police Association (AFPA) outlined below, on 23 December 2005 AFP staff were advised via email of the new AFP National Guideline on Scientific Identification of Employees, which incorporates both fingerprint and voluntary DNA sample collection.

That Guideline provides for voluntary provision of DNA samples for the purposes of differentiating AFP employees' forensic material from other forensic material found at crime scenes and for disaster victim identification. The Guideline also provides, subject to further consent, for the use of the sample for comparison in criminal matters.

b) Yes.

i) Discussions have occurred between the AFP National Manager Human Resources and AFPA since mid-2004 and have included the provision in 2005 of a draft procedure to the then National Secretary of the Association, Mr Jim Torr.

Since the raising of concerns by the AFPA about the National Guideline in early 2006, discussions and two meetings have been held with Mr Torr (now Chief Executive Officer of the Association). There is commitment to ongoing discussion on this matter.

ii) Not applicable

c) Direct consultation with employees did not occur, in view of the discussions and consultation which had already occurred with the Australian Federal Police Association.

d) The current scheme is voluntary.

e) Written offers of engagement for AFP police recruits include a letter encouraging the recruit to provide a DNA sample for the purpose of eliminating their genetic material from possible contaminants at crime scenes and as a primary source of identification for disaster victim identification response.

Those letters specifically state that these samples will not be used for any health screening or genetic testing and emphasise the voluntary nature of the procedure, in stating that

“...as a volunteer;

- you are under no obligation to undergo the forensic procedure;
- you may at any time withdraw consent to volunteer to undergo the procedure;
- you may at any time withdraw consent for forensic material to be retained; and
- you may at any time withdraw consent to have the information obtained from the analysis of that material retained.”

f) The DNA samples will be used for differentiating AFP employees' forensic material from other forensic material found at crime scenes, disaster victim identification and comparison in criminal matters, subject to the consent of the person providing the sample.

g) The voluntary provision of the DNA samples is subject to the person's informed consent, with the description of the functions for which the sample will be used forming part of the information upon which the person relies in providing that consent.

h) Confidentiality and privacy protections in the current National Guideline include de-identification of samples, security and storage arrangements for samples and related information.

Restrictions on the use of the samples apply to both the "limited use" and unlimited use" consent samples, as set out in the National Guideline on *Scientific Identification of Employees*.

These are the same protections offered under the *Crimes Act 1914* to volunteers assisting police with investigative inquiries.

i) Application of the current procedures does not require legislative amendment. Requiring of provision of samples from all employees and employment applicants, and removing impediments such as jurisdictional issues, would require legislative amendment.

j) Whether any legislative amendments requested by the AFP are to be brought before Parliament is a matter for the Government to consider.

k) On 7 November 2005 Commissioner Keelty and National Manager Human Resources Mark Ney provided buccal swab DNA samples.

l) Pending further consultation between the AFP and AFPA, while indications of consent to provide samples are being accepted, collection of samples is not being actively pursued.