

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Question No. 1

Senator Stott-Despoja asked the following question at the hearing on 21 October 2005 on the Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005:

Again this is a related matter, but I am just wondering when the department is going to respond to the Australian Law Reform Commission AHEC report –essentially yours-because this-there are privacy implications obviously in relation to DNA databases.

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

The timing of the response to the report is a matter for the Government.

Question No. 2

Senator Ludwig asked the following question at the hearing on 21 October 2005 on the Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005:

Could you provide us with that table, if it is available? If not, you can take on notice the question of what outstanding matters on that table cannot be dealt with by the volunteer. In other words, where do you have a difference between, say, Queensland and the Commonwealth?

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

The tables governing permissible matching of DNA profiles in each Australian jurisdiction are set out on the following pages. A table has also been included that shows the changes to the Commonwealth matching table that are proposed to be made through the Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005.

CURRENT COMMONWEALTH DNA MATCHING TABLE (s.23YDAF Crimes Act 1914)

Profile to be matched	Is matching permitted?						
Column 1	Column 2 Crime scene	Column 3 Suspects	Column 4 Volunteers (limited purposes)	Column 5 Volunteers (unlimited purposes)	Column 6 Serious offenders	Column 7 Missing persons	Column 8 Unknown deceased persons
1. crime scene	Yes	yes	no	yes	yes	Yes	Yes
2. suspects	Yes	no	no	no	yes	No	Yes
3. volunteers (limited purposes)	only if within purpose	no	no	no	only if within purpose	only if within purpose	only if within purpose
4. volunteers (unlimited purposes)	Yes	no	no	no	yes	Yes	Yes
5. serious offenders	Yes	yes	no	no	yes	Yes	Yes
6. missing persons	Yes	yes	yes	yes	yes	Yes	Yes
7. unknown deceased persons	Yes	yes	yes	yes	yes	Yes	Yes

PROPOSED COMMONWEALTH DNA MATCHING TABLE

(incorporating proposed amendments in Law and Justice Amendment (Video Link Evidence and Other Measures) Bill 2005 to s.23YDAF *Crimes Act 1914*)

Profile to be matched	Is matching permitted?							
	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
	Crime scene	Suspects	Volunteers (limited purposes)	Volunteers (unlimited purposes)	Serious offenders	Missing persons	Unknown deceased persons	
1. crime scene	Yes	yes	only if within purpose	yes	Yes	Yes	Yes	
2. suspects	Yes	no	only if within purpose	no	Yes	No	Yes	
3. volunteers (limited purposes)	only if within purpose	only if within purpose	only if within purpose	only if within purpose	only if within purpose	only if within purpose	only if within purpose	
4. volunteers (unlimited purposes)	Yes	no	only if within purpose	no	yes	Yes	Yes	
5. serious offenders	Yes	yes	only if within purpose	no	yes	Yes	Yes	
6. missing persons	Yes	yes	only if within purpose	yes	yes	Yes	Yes	
7. unknown deceased persons	Yes	yes	only if within purpose	yes	yes	Yes	Yes	

AUSTRALIAN CAPITAL TERRITORY DNA MATCHING TABLE

(s.97 Crimes (Forensic Procedures) Act 2000)

Profile to be matched	Is matching permitted?						
Column 1	Column 2 Crime scene	Column 3 Suspects	Column 4 Volunteers (limited purposes)	Column 5 Volunteers (unlimited purposes)	Column 6 Serious offenders	Column 7 Missing persons	Column 8 Unknown deceased persons
crime scene	yes	Yes	only if within purpose	yes	yes	Yes	yes
suspects	yes	No	only if within purpose	no	yes	No	yes
volunteers (limited purposes)	only if within purpose	Only if within purpose	only if within purpose	only if within purpose	only if within purpose	only if within purpose	only if within purpose
volunteers (unlimited purposes)	yes	No	only if within purpose	no	yes	yes	yes
serious offenders	yes	Yes	only if within purpose	no	yes	yes	yes
missing persons	yes	Yes	only if within purpose	yes	yes	yes	yes
unknown deceased persons	yes	Yes	only if within purpose	yes	Yes	yes	yes

QUEENSLAND DNA MATCHING TABLE

(Schedule 1, *Police Powers and Responsibilities Regulation 2000*)

QDNA index result to be compared	Is comparison permitted								
Column 1	Column 2 Crime scene	Column 3 Suspect	Column 4 Volunteer (limited purpose)	Column 5 Volunteer (unlimited purpose)	Column 6 Serious offender	Column 7 Missing person	Column 8 Unknown deceased person	Column 9 Non-volunteers (NT) index	Column 10 Volunteers (NT) index
Crime scene	Yes	Yes	If within purpose	Yes	Yes	Yes	Yes	Yes	Yes
Suspect	Yes	Yes	If within purpose	Yes	Yes	No	Yes	Yes	Yes
Volunteer (limited purpose)	If within purpose	If within purpose	If within purpose	If within purpose	If within purpose	If within purpose	If within purpose	If within purpose	If within purpose
Volunteer (unlimited purpose)	Yes	Yes	If within purpose	Yes	Yes	Yes	Yes	Yes	Yes
Serious offender	Yes	Yes	If within purpose	Yes	Yes	Yes	Yes	Yes	Yes
Missing person	Yes	Yes	If within purpose	Yes	Yes	Yes	Yes	Yes	Yes
Unknown deceased person	Yes	Yes	If within purpose	Yes	Yes	Yes	Yes	Yes	Yes

SOUTH AUSTRALIAN DNA MATCHING TABLE

(s.46D Criminal Law (Forensic Procedures) Act 1998)

	crime scene	suspects	volunteers (limited purposes)	volunteers (unlimited purposes)	offenders	Missing persons	unknown deceased persons
Crime scene	yes	Yes	if within purpose	yes	yes	Yes	yes
Suspects	yes	No	no	no	yes	No	yes
volunteers (limited purposes)	if within purpose	No	no	no	if within purpose	if within purpose	If within purpose
volunteers (unlimited purposes)	yes	No	no	no	yes	Yes	yes
offenders	yes	Yes	no	no	yes	Yes	yes
Missing persons	yes	Yes	yes	yes	yes	Yes	yes
Unknown deceased persons	yes	Yes	yes	yes	yes	Yes	no (see subsection (3)(b))

TASMANIAN DNA MATCHING TABLE (s.54 *Forensic Procedures Act 2000*)

Profile to be matched	Is matching permitted?						
Column 1	Column 2 crime scene	Column 3 suspects	Column 4 volunteers (limited purposes)	Column 5 volunteers (unlimited purposes)	Column 6 offenders	Column 7 missing persons	Column 8 unknown deceased persons
Crime scene	yes	Yes	no	Yes	yes	Yes	Yes
Suspects	yes	No	no	No	yes	No	Yes
volunteers (limited purposes)	only if within purpose	No	no	No	only if within purpose	only if within purpose	only if within purpose
volunteers (unlimited purposes)	yes	No	no	No	yes	Yes	Yes
offenders	yes	Yes	no	No	yes	Yes	Yes
Missing persons	yes	Yes	yes	Yes	yes	Yes	Yes
unknown deceased persons	yes	Yes	yes	Yes	yes	Yes	Yes

VICTORIAN DNA MATCHING TABLE (s.464ZGI Crimes Act 1958)

Profile to be matched	Is matching permitted?						
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>	<i>Column 7</i>	<i>Column 8</i>
	<i>Crime scene</i>	<i>Suspects</i>	<i>Volunteers (limited purposes)</i>	<i>Volunteers (unlimited purposes)</i>	<i>Serious offenders</i>	<i>Missing persons</i>	<i>Unknown deceased persons</i>
1. crime scene	yes	Yes	no	Yes	yes	yes	yes
2. suspects	yes	No	no	No	yes	no	yes
3. volunteers (limited purposes)	only if within purpose	No	no	No	only if within purpose	only if within purpose	only if within purpose
4. volunteers (unlimited purposes)	yes	No	no	No	yes	yes	yes
5. Serious offenders	yes	Yes	no	No	yes	yes	yes
6. missing persons	yes	Yes	yes	Yes	yes	yes	yes
7. unknown deceased persons	yes	yes	yes	Yes	yes	yes	no

WESTERN AUSTRALIAN DNA MATCHING TABLE

(s. 78 Criminal Investigation (Identifying People) Act 2002)

DNA profile to be compared with information in DNA database	Information in DNA database						
	A	B	C	D	E	F	G
	Crime scene index	Suspects index	Volunteers (limited purposes) index	Volunteers (unlimited purposes) index	Offenders index	Missing persons index	Unknown deceased persons index
1. From crime scene	Yes	Yes	If within limit	Yes	Yes	Yes	Yes
2. Of suspect	Yes	No	No	Yes	Yes	Yes	Yes
3. Of volunteer or involved person (limited purposes)	If within limit	No	No	No	If within limit	If within limit	If within limit
4. Of volunteer or involved person (unlimited purposes)	Yes	No	No	No	Yes	Yes	Yes
5. Of offender	Yes	Yes	No	Yes	Yes	Yes	Yes
6. Of missing person	Yes	Yes	If within limit	Yes	Yes	Yes	Yes
7. Of unknown deceased person	See s. 63	See s. 63	If within limit	See s. 63	See s. 63	See s. 63	See s. 63