

Suspects

FORENSIC PROCEDURES INFORMATION SHEET

The legislation requires me to tell you several things before I formally ask you to consent to a forensic procedure.

The consent process and the carrying out of the forensic procedure will be recorded electronically (unless it is deemed impracticable to do so). The reason for this recording is to provide a record of what is said and done here today. The recording provides you with protection. You and/or your legal representative will have the opportunity to view and/or listen to any recording that is made. You can object to the recording of the carrying out of the forensic procedure but not to recording of the consent process. If you object to the video recording of the actual forensic procedure or it is deemed impracticable to record the procedure, the procedure must be carried out in the presence of an independent person who is not a police officer, unless you expressly and voluntarily waive your right to have an independent person present; and a written record must also be made and a copy provided to you.

circle response given

Do you object to the recording of the carrying out of the forensic procedure?

YES / NO

Do you identify as an Aboriginal person or a Torres Strait Islander?

YES / NO

Aboriginal or Torres Strait Islander (Cross Out If Not Applicable)

As you have indicated that you identify as an Aboriginal or a Torres Strait Islander, you have the right to have an interview friend present when I ask you to consent and whilst the forensic procedure is being carried out. This is in addition to your right to have a legal representative present. A representative of an Aboriginal Legal Aid organisation will be notified that you will be asked to consent to a forensic procedure, unless you have already arranged for a legal representative to be present or you voluntarily waive your right to have a legal representative present.

Do you wish to have an interview friend present?

YES / NO

- You are a suspect for the offence/s of: _____

- You are being asked to consent to the following forensic procedure: _____

Buccal, Hair and Blood DNA requests (Cross Out If Not Applicable)

You have been provided with written information about the rules that apply to the disclosure and use of information placed on the DNA database system. The DNA procedure will be carried out by an appropriately qualified police officer or person by way of:

(Read out whichever is appropriate)

- a **buccal swab** which requires you to rub a swab around the inside of your mouth and around your gums
- a **hair sample** which involves the pulling out of hair (with roots) from your head or arms
- ***a sample of blood** which will be obtained by means of a finger prick

***BLOOD SAMPLES ONLY:** (Cross Out If Not Applicable)

As the forensic procedure is the taking of a sample of blood, you may request that a medical practitioner of your choice be present while the blood is being taken.

Do you wish for a medical practitioner to be present?

YES / NO

PROCEDURES OTHER THAN BUCCAL/HAIR/BLOOD (Cross Out If Not Applicable)

- The procedures will be carried out in the following way: _____
- The purpose of the forensic procedure to be carried out is: _____
- The forensic procedure may produce evidence against you that might be used in a court of law.
- You may refuse to consent to the forensic procedure in which case the consequences will be:

**Suspect Under Arrest
(Cross Out If Not Applicable)**

- Non consent to non-intimate forensic procedure (e.g. self-administered buccal swab).**
 - > A senior police officer may order the carrying out of the non-intimate forensic procedure. This may include an order for the taking of a sample of hair other than pubic hair or the taking of a self-administered buccal sample.
- Non consent to intimate forensic procedure**
 - > An application may be made to a Magistrate or other authorised officer for an order authorising the carrying out of the forensic procedure.

**Suspect Not Under Arrest
(Cross Out If Not Applicable)**

- Non consent to non-intimate forensic procedure (e.g. self-administered buccal swab).**
 - > An application may be made to a Magistrate or other authorised officer for an order authorising the carrying out of an intimate or non-intimate forensic procedure. This may include an order for the taking of a blood sample or a sample of hair other than pubic hair or the taking of a self-administered buccal swab.
- Non consent to intimate forensic procedure**
 - > An application may be made to a Magistrate or other authorised officer for an order authorising the carrying out of the intimate forensic procedure.

- You may communicate with an Australian legal practitioner of your choice and/or have such practitioner present before deciding whether or not to consent to the forensic procedure.

**Do you wish to try to contact a legal practitioner,
or to have a legal practitioner present, before
I ask you to consent?**

YES / NO

[PLEASE COMPLETE SUSPECT CONSENT FORM]

DNA SAMPLE - SUSPECT INFORMATION HANDOUT (BUCCAL / HAIR / BLOOD)

You are going to be asked to consent to undergo a forensic procedure to obtain a sample of your DNA. The following information is required to be given to you. You have the right to contact a legal representative.

Information obtained from the analysis of forensic material obtained from the carrying out of the forensic procedure will be placed on the N.S.W. DNA database system, and may become part of a national DNA matching scheme, and, in particular, may be compared with information from the DNA database systems of other participating jurisdictions.

- **Information on the DNA database system may be accessed by an authorised person for one or more of the following purposes:**
 - a) forensic matching;
 - b) making information available to you;
 - c) administering the DNA database system;
 - d) providing access to other law enforcement officers or to other prescribed persons under arrangements between NSW and another State or Territory or the Commonwealth;
 - e) for and in accordance with the Mutual Assistance in Criminal Matters Act 1987 or the Extradition Act 1988;
 - f) to review, or inquire into, a conviction or sentence under Part 7 of the Crimes (Appeals and Review) Act 2001;
 - g) investigation of a complaint about police conduct under Part 8A of the Police Service Act 1990;
 - h) a coronial inquest or inquiry;
 - i) investigation of a complaint by the Privacy Commissioner;
 - j) any other purpose prescribed by the regulations.

- **A person may only disclose identifying information stored on the DNA database for one or more of the following purposes:**
 - a) forensic comparison in the course of a criminal investigation by a police officer or other person prescribed by the regulations;
 - b) making information available to you;
 - c) administering the DNA database system;
 - d) any arrangement of the kind referred to in section 97 of the Crimes (Forensic Procedures) Act 2000.
 - e) providing access to other law enforcement officers or other prescribed persons under arrangements between NSW and another State or Territory or the Commonwealth;
 - f) to review, or inquire into, a conviction or sentence under Part 7 of the Crimes (Appeal and Review) Act 2001;
 - g) investigation of a complaint by the Privacy Commissioner;
 - h) informing a volunteer whose DNA profile is on the missing persons index that their profile matches a DNA profile on an index of the DNA database system, and that the DNA profile of a missing blood relative of the volunteer matches a DNA profile on an index of the DNA database system;
 - i) any other purpose prescribed by the regulations.

- **A person may only disclose identifying information revealed by the carrying out of the procedure on you:**
 - a) to you;
 - b) if the information is already publicly known;
 - c) in accordance with any other provision of the Crimes (Forensic Procedures) Act 2000;
 - d) in accordance with the Mutual Assistance in Criminal Matters Act 1987 or the Extradition Act 1988;
 - e) to investigate any offence or offences generally;
 - f) to decide whether to institute proceedings for an offence;
 - g) for proceedings for any offence;
 - h) for a coronial inquest or inquiry;
 - i) for civil proceedings relating to the way in which a procedure was carried out (including proceedings under Part 9 of Police Service Act 1990);
 - j) for your medical treatment;
 - k) for the medical treatment of a victim of an offence where there are reasonable grounds to believe that the offence was committed by you;
 - l) if you consent in writing to the disclosure;
 - m) for investigating complaints about the conduct of police officers under Part 8A of the Police Service Act 1990;
 - n) for scrutiny by the Ombudsman under section 121 of the Crimes (Forensic Procedures) Act 2000;
 - o) any other purpose which has been prescribed by the regulations.

You have the right to request in writing a copy of your DNA profile that has been derived from the sample, along with a statement as to whether or not a match has been found, in relation to the investigation, between your DNA profile and any other DNA profile.