

Instructions for DNA Endorsement Procedure

Effective January 1, 2008 on the proclamation in force of the new amendments to section 487.071 of the *Criminal Code*.

Reason for Endorsement

When a DNA profile already exists in the National DNA Data Bank (NDDB) for a convicted offender, peace officers are requested to proceed by endorsement process to ensure that the offender's information and DNA profile remains there, should an appeal of the original conviction result in an acquittal or discharge and require its permanent removal. The subsequent court orders/authorizations can be used to retain the DNA profile in the NDDB.

READ TO OFFENDER: (includes adults and young offenders)

- “You are here for the execution of a DNA Data Bank Order or Authorization made by a Judge. You will be detained until I can verify whether your DNA profile is already contained in the National DNA Data Bank or, if that cannot be verified by your identifying documents and your fingerprints, until a new DNA sample is collected from you. I am required to take your fingerprints in any event so they can be compared with fingerprints on file to ensure that you are the person named in the order.
- It is my duty to carry out the order and, if you obstruct me in the execution of this duty, I may use force to obtain the fingerprints and DNA sample from you and you may also be charged with obstruction under section 129 of the Criminal Code amongst other possible offences.”

Do you understand or have any questions?

The following procedures apply for the collection of a biological sample from a convicted offender for the NDDB:

1. After a DNA Data Bank court order/authorization is issued and given to the police and the person who is subject to the order/authorization is in police custody or appears at a police location pursuant to a DNA Data Bank Appearance order/authorization, the peace officer responsible for the execution of the DNA Data Bank Order/authorization shall, if possible, **check that the offence or offences listed on the order/authorization** were made with respect to a conviction for a **designated offence** (see section 487.04 of the *Criminal Code* or attached list for the definitions of designated offences –please note that for historic offences committed before January 1, 1988, it may be impracticable to check). At least one designated offence that should be listed on the court order/authorization.
2. Prior to sampling the convicted offender, a peace officer shall first verify if a DNA profile is already contained in the NDDB as indicated by the displayed message ***

DNA ON KNOWN OFFENDER- DATA BANK*** found in the Criminal Record Synopsis of the Identification Data Bank attainable through the Canadian Police Information Center (CPIC).

3. **If a DNA profile is contained in the NDDB**, a peace officer shall fingerprint the offender using Form 3801 and complete endorsement form (see step 5 to obtain forms). *(If there is ANY doubt as to the identity of the offender and/or whether or not a DNA profile is in the NDDB, a new biological sample should always be taken.)*
 - If, for unique physical reasons, fingerprints cannot be taken:
 - Complete a new biological sample using the convicted offender NDDB collection kit
 - Draft and submit an affidavit to attest to the identity of the offender and the reason why fingerprints could not be collected.
4. The peace officer shall complete the NDDB Submission Form (Form 5751) (see step 5 to obtain form)
5. The peace officer shall staple together the following documents:
 - Endorsement Form for DNA Order/Authorization (available at www.nddb-bndg.org, or supplied by RCMP (ICS))
 - completed Fingerprint Form 3801 (available at www.nddb-bndg.org, or supplied by RCMP (ICS))
 - copies of all court orders/authorizations
 - NDDB Submission Receipt (Form 5751) (available at www.nddb-bndg.org or supplied by RCMP (ICS))

Please note: The fingerprint form 3801 does not replace the court disposition sent to criminal records. Please ensure that the criminal prints (C-216) are taken and submitted separately.

6. The peace officer shall mail these documents **using couriered or registered mail ONLY** to:

National DNA Data Bank P.O. Box 8885 1200 Vanier Parkway NPS/Lab, Loading Dock #1 Ottawa, Ontario, K1G 3M8
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7. The peace officer shall complete Form 5.07 (available at www.nddb-bndg.org, or supplied by RCMP (ICS)). As per section 487.057 CC, a peace officer who takes a DNA sample shall make a report, using Form 5.07, to the provincial court judge or the court that issued the Order/ Authorization and shall send a copy to another peace officer from another jurisdiction requesting the offender's DNA sample.

8. **If a DNA profile is not contained in the NDDB** (or if the identity of the offender cannot be confirmed), a peace officer shall use a NDDB convicted offender DNA collection kit and proceed with a biological sample collection following instructions provided on the checklist included in the collection kit.