

## **Presentation to the Standing Committee On Justice and Human Rights**

***Bill C-75*** - An Act to Amend the Criminal Code, the Youth Criminal Justice Act, and other Acts and to make consequential Amendments to other Acts

*Submitted by  
David A. Bird*

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When I appeared before this Committee on November 2, 2016, I presented the case for taking DNA automatically on conviction now, and ultimately to the taking DNA along with fingerprints and mug shots at the time of arrest. I was pleased that my testimony was used to support a recommendation by the Committee in its Final Report to Parliament (June 20, 2017), to expand the taking of DNA:

*Recommendation 24: The committee recommends that the Minister of Justice introduce legislation to amend the Criminal Code to allow for the immediate and automatic collection of a DNA sample from any adult who has been convicted in Canada of a designated offence as defined in section 487.04 of the Criminal Code.*

On November 15, 2017, the Government provided your Committee with its Response to the Final Report. Unfortunately, the Government's response did not address Recommendation 24, or even mention DNA.

My fear was that, as with previous Recommendations to Parliament to make legislative changes to expand the use of DNA (June 2009-Standing Committee on Public Safety and National Security and June 2010-Senate Standing Committee on Legal and Constitutional Affairs), the Government would once again decide to do nothing. What I did not anticipate is that the Government would actually propose legislation that would make the National DNA Data Bank (NDDB) less effective at assisting law enforcement to solve crimes. I am referring to the proposal in Bill C-75 to hybridize 100+ offences that are punishable by 10 years or less on indictment. To understand why this proposal will have a negative effect on the NDDB, it is necessary to understand how complicated the system in Canada is.

The DNA Identification Act (DNAIA) creates and regulates the NDDB. The NDDB has two main indexes:

- The Crime Scene Index (CSI) – DNA profiles derived from designated offence crime scenes, and
- The Convicted Offenders Index (COI) – DNA profiles derived from some persons convicted of designated offences.

The NDDB compares CSI to COI and CSI to CSI. It can report:

- No match (the NDDB has not assisted the investigation except if the police had their eye on someone whose DNA they knew was in COI. That offender is eliminated as a suspect when the crime scene sample does not match their DNA).
- There is a match (In the case of a match to COI, the identifying information is provided to police who can then focus their investigation. Often, a match to COI provides the vital information to solve a case. On many occasions, the case is cold and the police have no other leads).
- There is a possible match (the profiles are compared and the COI profile cannot be excluded as matching the crime scene DNA - due to mixtures, degraded or contaminated DNA).

The effectiveness of the NDDB and all similar international DNA Data Banks depends on the number of profiles in COI, and CSI profiles being uploaded. Clearly, the more profiles that are in the indices, the more likely it is that there will be a match. It is the *Criminal Code* that determines who can be required on conviction to provide a sample for analysis and the resulting DNA profile be uploaded to the COI.

The *Criminal Code* restricts the Courts to making DNA orders only to offenders who have been convicted of designated offences that are listed in section 487.04. However, not everyone who commits a designated offence is subject to DNA sampling. The designated offences are divided into 4 categories:

- Mandatory primary offences (40 of the most serious offences, for example murder, aggravated assault, sexual assault) – The court must make the order.
- Presumptive primary offences – (39 serious offences, for example, terrorism and criminal organization offences, hostage taking and break and enter a dwelling). The court must make the order unless offender convinces the court that the impact on their privacy and security of the person is grossly disproportionate to the public interest in the protection of society and the proper administration of justice).
- Listed secondary offences (14 hybrid offences including assault, criminal harassment and uttering threats) – The court may make the order on application by the prosecutor taking into account:

- The offender's criminal record,
- The nature and circumstances of the offence,
- The impact on the person's privacy and security.
- Generic secondary offences (200 or so offences under the *Criminal Code*, *Controlled Drugs and Substances Act (CDSA)*, and the *Cannabis Act* that are punishable by 5 years or more on indictment) – The judge has the same discretion not to make the order for a listed secondary offence but the Crown must have proceeded by indictment.

The Canadian system appears to me to be the most complex system in the world for taking DNA and comparatively reduces the number of offenders who are sampled. Most countries, and individual American states, began with a list of the most serious offences where taking a DNA sample was mandatory and expanded that list to include all persons convicted of felonies, which are roughly the same as our indictable offences. The United Kingdom led the way in taking DNA on arrest and was soon followed by New Zealand and Australia. Many American states have also begun to take DNA on arrest. This was upheld by the United States Supreme Court in 2013.

Canada's current rules severely reduce the number of offenders who are sampled.

The number of offences covered is limited. Indictable offences with less than 5 years or certain *CDSA* or *Cannabis Act* offences are not included. By contrast, the police can get a search warrant for your house or other places to investigate any indictable offence under any federal statute.

The requirement that prosecutors must apply for, and judicial discretion must be exercised to decide whether to refuse to make an order in secondary designated offences, clearly acts as an impediment and restricts the number of DNA orders that are made. Busy prosecutors may forget to ask for an order, or they may decide that their chances of obtaining an order are low. Research that was carried out by the Department of Justice when I was still working in the RCMP legal services unit was, if I recall correctly, that orders were being made in only about 20% of secondary designated offence cases.

The public safety problem is that neither prosecutors nor judges are able to know whether the offenders may have committed another serious offence in the past or are likely to commit offences in the future. Internationally, there have been cases where the most respectable citizens have led double lives committing heinous crimes. - in Kansas a family man and pillar of his church was the BTK killer (Bind, Torture, Kill); a police officer in California (the Golden State Killer) carried out a series of rapes and murders. Here in Canada, Col. Russell Williams had a distinguished military career but was eventually found to be a rapist and murderer. If Col. Williams were involved in a hybrid offence such as impaired driving the prosecution would be likely to proceed summarily. There would be little likelihood of a sentence other than a fine. The main public safety benefit of taking DNA automatically on conviction is to catch these types of predators as early as possible.

The major problem that limits the use of the COI is that the Crown must proceed by indictment. This problem will be aggravated by Bill C-75. It is the aim of the Bill to encourage prosecutors to proceed summarily and I have little doubt that in most cases that is how they will proceed. The procedure is simpler and, in most cases, the Crown will not be seeking a sentence in excess of the new maximum of two years less a day. Every time a prosecutor decides to proceed summarily, he/she will lose the opportunity to apply for a DNA order.

I have read the brief that the Canadian Association of Chiefs of Police provided to the Standing Committee of the House on Justice and Human Rights when it was considering Bill C-75. I assume they got their numbers from the NDDB. The Committee may wish to ask Government officials how many of those matches to 588 offences, including 19 homicides and 24 sexual assaults, would not have occurred if the Crown could have proceeded by summary conviction.

The result of these problems is that the COI is much smaller per capita than the DNA Data Banks in other countries. I don't have the latest figures but I believe the United Kingdom has about 10% of the population in its Data Bank, the United States has about 5%. We have about 1%. It's a numbers game. When a crime scene sample is uploaded, the UK is 10 times more likely to have a match and the USA 5 times as likely to have a match as the NDDB.

The NDDB COI is growing at a snail's pace in comparison to similar national DNA databases. According to the NDDB's annual reports, in 2017-18, the number of samples in COI increased by only 19,055 profiles. I know the NDDB was built to be able to process 60,000 samples per year. There have been advances in technology so I suspect the NDDB could handle many more than 60,000 samples without hiring more staff. I urge you to call the RCMP, officials from the NDDB and the DNA Data Bank Advisory Committee. I have been retired since June 2011 and therefore do not have the latest information.

On June 2, 2016 I wrote to the Hon. Ralph Goodale, Minister of Public Safety, to bring to his attention the inaction of the government to authorize the taking of DNA automatically on conviction and to further authorize that DNA be taken at time of arrest and allow familial searching. On December 13, 2016 I received a response from Minister Goodale stating that "*my officials continue to examine options to enhance the use of DNA analysis to support investigations, while respecting legal and privacy considerations and allowing for consultation with the provinces and territories, law enforcement agencies, stakeholders and the public, in order to maintain the highest standard of safety for Canadians*". With Bill C-75 the collection of DNA will be further reduced. My letter to the Minister and his response, are annexed to this brief.

On May 6, 2018, I wrote to the Hon. Bill Blair, Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, to bring to his attention the fact that Bill C-75 will reduce by thousands the DNA orders that may be made and thereby reduce the number of crimes solved. A copy of my letter is annexed. I have received no response to my letter.

It is puzzling to me that a Government that professes that justice for all victims is a priority is not taking action to maximize the use of DNA to apprehend and prosecute perpetrators of crime. Bill C-75 is making the situation worse. In my view it can be predicted that there will be more unsolved crimes and more criminals on the loose if Bill C-75 passes with hybridization of many indictable criminal offences.

I urge this Committee to consider tabling a Bill to make the taking of DNA samples automatic for all designated offences. The amendments required are not complex. The definition of the generic secondary designated offences in section 487.04, is currently:

*Secondary designated offence means an offence, other than a primary designated offence, that is*

- *(a) an offence under this Act that may be prosecuted by indictment — or, for section 487.051 to apply, is prosecuted by indictment — for which the maximum punishment is imprisonment for five years or more,*
- *(a.1) an offence under any of the following provisions of the Cannabis Act that may be prosecuted by indictment — or, for section 487.051 to apply, is prosecuted by indictment — for which the maximum punishment is imprisonment for five years or more:*
- *(b) an offence under any of the following provisions of the Controlled Drugs and Substances Act that may be prosecuted by indictment — or, for section 487.051 to apply, is prosecuted by indictment — for which the maximum punishment is imprisonment for five years or more:*

The underlined words above should be replaced with something along the lines of:

*and includes for the purposes of section 487.051 such an offence that is prosecuted summarily*

Section 487.051 should also be amended. Subsection (1) need not be changed but subsection (2) should be amended. It should make taking DNA virtually automatic for adults:

*The court shall make such an order in Form 5.03 in relation to a person who is convicted, discharged under section 730 of an offence committed at any time, including before June 30, 2000, if that offence is a primary designated offence within the meaning of any of paragraphs (a.1) to (c.01) and (c.03) to (d) of the definition primary designated offence or a secondary designated offence in section 487.04 when the person is sentenced or discharged. However, the court is not required to make the order if it is satisfied that the person has established that the impact of such an order on their privacy and security of the person would be grossly disproportionate to the public interest in the protection of society and the proper administration of justice, to be achieved through the early detection, arrest and conviction of offenders.*

Subsection (3) would then be amended to refer to youth:

**(3) *The court shall make such an order in Form 5.04 in relation to***

***(a) a person who is found not criminally responsible on account of mental disorder for an offence committed at any time, including before June 30, 2000, if that offence is a designated offence when the finding is made; or***

***(b) a person who is convicted, discharged under section 730 or found guilty under the Youth Criminal Justice Act or the Young Offenders Act, of an offence committed at any time, including before June 30, 2000, if that offence is a secondary designated offence when the person is sentenced or discharged.***

*However, the court is not required to make the order if it is satisfied that the person has established that the impact of such an order on their privacy and security of the person would be grossly disproportionate to the public interest in the protection of society and the proper administration of justice, to be achieved through the early detection, arrest and conviction of offenders.*

I am not a legislative drafter but Parliamentary Counsel should be able to produce the appropriate wording.

As a bandaid to the damage that hybridization will do to the effectiveness of the NDDB, I would suggest that this Committee at least propose an amendment to Bill C-75 to amend in section 487.04 the definition of “secondary designated offence (a)” to add after the words “prosecuted by indictment” the words “or summary procedure”. The more complex amendment would be to list all the new hybridized offences that affect the definition.

Finally, I would respectfully suggest that this Committee consider adding a Parliamentary three-year review requirement to assess the impact of Bill C-75 hybridization of offences on the justice system. The Committee may also wish to consider adding any comments it feels appropriate about the benefit of simplifying the collection of DNA, which would speed up the solving of crimes and ultimately result in earlier trials to that would remove delays in the justice system.

Respectfully submitted,

David A. Bird

Annex 1 - Letter dated June 2, 2016 from David Bird to the Hon. Ralph Goodale

Annex 2 - Letter dated December 13, 2016 from the Hon. Ralph Goodale to David Bird

Annex 3 - Letter dated May 6, 2018 from David Bird to the Hon. Bill Blair

June 2, 2016

34 Lambton Avenue

Ottawa, Ontario K1M 0Z9

Hon. Ralph Goodale

Minister of Public Safety

**Re: Standing Committee Reports on DNA**

Sir:

I am writing to ask you to introduce legislation immediately to authorize taking DNA automatically on conviction replacing the complicated system that currently exists and hampers the effectiveness of the National DNA Data Bank (NDDB). Unlike other free and democratic countries that take DNA on conviction or on charge for all serious offences, Canadian law requires a court order in all cases and classifies offences into categories with differing rules that govern when a court can make a DNA data bank order. This complicated system makes most offenders ineligible for making a DNA order and leads to mistakes and confusion so that many offenders who are eligible for DNA data banking are not ordered to provide a sample. Consequently, the number of DNA profiles in the Convicted Offenders Index (COI) of the NDDB is growing at only about 30,000 per year instead of the 100,000 if DNA were taken from all offenders.

I am a retired Department of Justice counsel. For 15 years, I was counsel to the RCMP. My files included DNA and I was closely involved in the creation of the (NDDB), which included developing international DNA sharing agreements in accordance with Canadian law.

I appeared with Richard Bergman, Chairperson of the National DNA Data Bank Advisory Committee, Hon. Peter Cory, former Supreme Court Justice and a member of the Advisory Committee, Greg Yost, Counsel, Criminal Law Policy Section of the Department of Justice and Dr. Ron Fournay, Director, National Services and Research, RCMP, as expert witnesses on the Statutory Review of the DNA Identification Act by the Standing Committee on Public Safety and National Security.

In the event that the results of the statutory review and the unanimous recommendations of the Standing Committee made in June 2009 have not been brought to your attention, I would like to emphasize the significance of the key recommendation, which was:

*The Committee recommends that the DNA Identification Act and related laws be amended to systematically require the taking of a DNA sample upon conviction for all designated offences. However, before proceeding with the amendment, the government must provide the NDDB with the additional resources required to accommodate the increased demand for DNA analysis that would result from taking DNA samples automatically upon conviction. (my emphasis).*

The Government of the day accepted the recommendations:

*The recommendations made by the Standing Committee are acceptable in principle to the Government. The Government will therefore consult with the provinces, law enforcement and other stakeholders on a priority basis with a view to developing a consensus on how best to proceed. (emphasis added)*

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The Standing Committee of the Senate on Legal and Constitutional Affairs also undertook a review of the DNA Identification Act. I also appeared before that committee as an expert witness. The Standing Committee issued its report in June 2010 and the key recommendation again was:

*That the Criminal Code be amended to allow for the immediate and automatic collection of a DNA sample from any adult who has been convicted in Canada of a designated offence as defined in section 487.04 of the Criminal Code. (my emphasis).*

The Government of the day noted that the recommendations of the Senate Standing Committee were "in broad agreement" with those made by the House Standing Committee and the Government claimed to be "actively consulting" with law enforcement, the provinces and stakeholders on implementing the recommendations.

My recollection is that consultations began and there was unanimous support by provinces and all stakeholders except, of course, the defence bar that DNA should be taken from all adults convicted of an indictable offence. However, nothing was done as the previous Government refused to provide the money necessary to expand the NDDDB to be able to process the large increase in samples it would have to analyze for uploading to the COI.

To be blunt, this refusal to make greater use of the NDDDB may have caused thousands of Canadians to be murdered, raped, robbed and otherwise victimized by persons who would have been caught earlier in their criminal careers had there been automatic taking of DNA on conviction. I urge you to implement the recommendation.

Based on the experience of other countries, I believe that the cost in implementing the recommendation will be less than it would have been in 2010. Unlike fingerprints which are taken every time a person is charged with an indictable offence, DNA is only taken once. The COI has more profiles now than when the calculations of costs were made. Accordingly, we can assume there will be more persons convicted who would not have to be sampled as they will already be in the COI. While there will be some additional costs for the NDDDB and presumably for provincial and federal corrections who will have to deal with persons who were convicted who would not otherwise have been detected, the benefits to Canadian society far outweigh these costs.

Once the legislation authorizes taking DNA automatically on conviction, I urge you to have your officials to further authorize that DNA be taken on arrest and allowing the NDDDB to be searched for familial relationships as is the practice in England and in most of the American States. If DNA was taken on arrest it would have even greater benefits than taking DNA only after conviction as it would lead to early identification of offenders. As the US Supreme Court found in *Maryland v. King* upholding taking DNA on arrest:

*The DNA collected from arrestees is an irrefutable identification of the person from whom it was taken. Like a fingerprint, the 13 CODIS loci are not themselves evidence of any particular crime, in the way that a drug test can by itself be evidence of illegal narcotics use. A DNA profile is useful to the police because it gives them a form of identification to search the records already in their valid possession. In this respect the use of DNA for identification is no different than matching an arrestee's face to a wanted poster of a previously unidentified suspect; or matching tattoos to known gang symbols to reveal a criminal affiliation; or matching the arrestee's fingerprints to those recovered from a crime scene.*

In addition to the public safety benefits that were identified by the U.S. Supreme Court, the cost of the current system to the courts and law enforcement agencies who must apply for, make and enforce the DNA collection orders, could all be avoided if DNA was collected at the time of arrest.

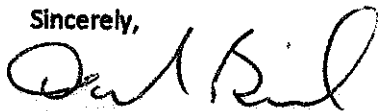


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Familial searching consists of checking whether there is a close relative of the perpetrator of an offence in a DNA data bank by using essentially the same kind of analysis as is used regularly in paternity testing. The benefits of familial searching have been repeatedly demonstrated in solving the most heinous crimes. Familial searching was pioneered in England and used to identify the serial Stiletto Rapist. Recently, it was used to identify the Grim Sleeper in Los Angeles. Familial searching could also be useful, for example, in solving murders along the Highway of Tears.

With the object of bringing Canada into line with international standards that maximize the public safety benefits of DNA technology, I urge you to revisit the Standing Committee's Reports.

Sincerely,



David Bird

c.c. Rt. Hon. Justin Trudeau, Prime Minister of Canada

Hon. Jody Wilson-Raybould, Minister of Justice

Hon. Rona Ambrose, Leader of the Opposition

Tom Mulcair, Leader, New Democratic Party

Robert Oliphant, M.P., Chair, Standing Committee on Public Safety and National Security

Anthony Housefather, M.P., Chair, Standing Committee on Justice and Human Rights

Sen. Bob Runciman, Chair Standing Committee on Legal and Constitutional Affairs

Minister of Public Safety



Ministre de la Sécurité publique

Ottawa, Canada K1A 0P8

DEC 13 2016

Mr. David Bird  
34 Lambton Avenue  
Ottawa, Ontario K1M 0Z9

Dear Mr. Bird:

Thank you for your correspondence of June 2, 2016, advocating for the introduction of legislation to authorize the collection of DNA automatically on conviction.

As referenced in your correspondence, the *DNA Identification Act* (DNAIA) underwent statutory review by the House of Commons Standing Committee on Public Safety and National Security (SECU) and the Standing Senate Committee on Legal and Constitutional Affairs (LCJC) in 2009 and 2010, respectively. Both Committees made several recommendations in their reports, including the two that you have raised concerning the collection of a DNA sample upon conviction for all designated offences.

In response to the recommendations made by both Committees, the government committed to consult provinces/territories, law enforcement and other stakeholders, with a view to developing a consensus on how best to proceed to address the recommendations. Through these consultations, several issues were raised related to the particular recommendations noted in your correspondence that required further analysis and consideration.

You will also be aware of the recommendations of both Committees pertaining to the creation of new DNA-based indices to support the investigation of missing persons and unidentified remains. In the LCJC report, in particular, "the breadth and complexity of the issues that remained to be addressed" to establish these new indices was noted. The work that was undertaken to address these broad and complex issues culminated in the amending of the DNAIA in 2014 to introduce three new humanitarian indices (Missing Persons Index, Relatives of Missing Persons Index, and Human Remains Index) and two new indices to further strengthen support for criminal investigations (Victims Index and Voluntary Donors Index). Work is underway to implement these five new indices, which will significantly advance the state of DNA-based biology casework in Canada. Most importantly, the results of this work will provide additional tools for law

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enforcement, coroners and medical examiners to ensure that comprehensive efforts are available to locate missing persons and identify unknown human remains, helping to bring closure to the families of missing persons.

I wish to assure you that my officials continue to examine options to enhance the use of DNA analysis to support investigations, while respecting legal and privacy considerations and allowing for consultation with the provinces and territories, law enforcement agencies, stakeholders and the public, in order to maintain the highest standard of safety for Canadians.

Yours sincerely,



The Honourable Ralph Goodale, P.C., M.P.

c.c. The Right Honourable Justin Trudeau, P.C., M.P.  
Prime Minister of Canada

The Honourable Jody Wilson-Raybould, P.C., M.P.  
Minister of Justice and Attorney General of Canada

The Honourable Rona Ambrose, P.C., M.P.  
Leader of the Official Opposition

Thomas Mulcair, M.P.  
Leader of the New Democratic Party

Robert Oliphant, M.P.  
Chair, Standing Committee on Public Safety and National Security

Anthony Housefather, M.P.  
Chair, Standing Committee on Justice and Human Rights

Senator Bob Runciman  
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May 6, 2018

The Honourable Bill Blair  
Parliamentary Secretary to the Minister of Justice  
and Attorney General of Canada  
House of Commons  
Ottawa, ON  
K1A 0A6

***Re: Amendments to the Criminal Code and the DNA Identification Act***

Dear Sir,

I am writing to you because as a former Police Chief you undoubtedly understand the importance of DNA in solving crimes, and yet your government is preparing to reduce the effectiveness of the National DNA Data Bank. As Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, you are in a unique position to bring this important issue to the attention of the Minister, and promote legislation to make the National DNA Data Bank more effective.

By way of introduction, I am a retired Department of Justice lawyer. During the last 15 years of my career I was counsel to the RCMP and was involved in the creation and administration of the National DNA Databank. Since my retirement I have continued my efforts, as a private citizen, to push for legislative changes that would expand the taking of DNA.

On June 2, 2016, I wrote a letter to the Hon. Ralph Goodale, drawing to his attention the inaction of the government to authorize the taking of DNA automatically on conviction as recommended by the House of Commons Standing Committee on Public Safety and National Security (SECU) in 2009 and the Standing Senate Committee on Legal and Constitutional Affairs (LCJC) in 2010. Even though the former government accepted those recommendations, nothing has been done for almost 10 years.

On November 2, 2016, based on my previous experience and continued interest in this issue, I was asked to appear as a witness before the Senate Standing Committee on Legal and Constitutional Affairs, and was pleased that my testimony was used to support a recommendation to expand the taking of DNA. Recommendation 24 of the Final Report to Parliament, June 20, 2017:

"The committee recommends that the Minister of Justice introduce legislation to amend the Criminal Code to allow for the immediate and automatic collection of a DNA sample from any adult who has been convicted in Canada of a designated offence as defined in section 487.04 of the Criminal Code."

On December 13, 2016 Minister Goodale responded to my letter of June 2, 2016 indicating that five new DNA indices would be added to the DNA Identification Act. These additional indices would help locate and identify missing indigenous women and girls but will not identify the perpetrators. To do that, the taking of DNA needs to be expanded to include all convicted offenders, and preferably, all arrestees.

Instead of making more use of DNA, your government is proposing to make the situation worse. As you know, Bill C-75 proposes to hybridize most indictable offences punishable by a maximum penalty of 10 years or less. The Bill is massive and I have not been able to find a list of the offences being hybridized but there appear to be at least 100. The problem is that the current Criminal Code DNA provisions provide for what are called "generic secondary offences": secondary designated offence means an offence, other than a primary designated offence, that is: *(a) an offence under this Act that may be prosecuted by indictment — or, for section 487.051 to apply, is prosecuted by indictment — for which the maximum punishment is imprisonment for five years or more.* This means that every time prosecutors decide to proceed by summary conviction, they cannot apply for a DNA data bank order. Hybridizing 100 offences as proposed by Bill C-75 will mean thousands fewer DNA orders, which of course means fewer crimes solved.

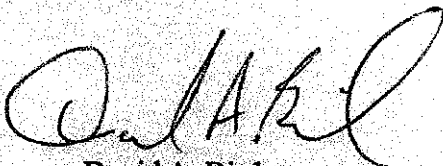
When I was legal counsel for the RCMP, I recall that research was done for the Department of Justice which indicated that a DNA order was only made in about 20% of all convictions. If hybridization of most indictable offences with a maximum penalty of ten years or less becomes law, there will be thousands of cases where a DNA order would have been ordered under the current law but will no longer be made under this hybridization, which means our national data bank will have fewer DNA profiles and therefore fewer murderers and rapists will be caught. I would like to think that this is inadvertent and that the Minister of Justice has not yet had this problem brought to her attention.

I believe that in your role as Parliamentary Secretary to the Minister of Justice and Attorney General, and as a former Police Chief, you have a responsibility to raise this serious issue with Minister Wilson-Raybould and explain to her how important it is to bring forward legislation that will avoid the negative impact of Bill C-75.

The solution is simple – make taking DNA automatic on conviction. It is difficult for me to understand why the National DNA Data Bank of Canada does not have the same types of DNA related qualifying offences that are allowed to be entered in the U.S. and U.K. national DNA data banks.

In addition, Minister Wilson-Raybould might also wish to ask her officials about the effect of hybridization on the collection of fingerprints. Although I have been retired for 7 years, I recall there was a problem in charge-screening provinces as the courts had held that the police lost the power to take fingerprints for a hybrid offence if the Crown elected to proceed summarily. Hybridization as proposed in Bill C-75 will make this problem worse. I have recently checked the Department of Justice's laws on the government website and there does not appear to have been an amendment to the Identification of Criminals Act to address this problem.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'D. A. Bird', with a large, stylized loop at the end.

David A. Bird