

DNA Evidence

Policy Link

These Procedures and Guidelines support and must be read in conjunction with the following:

- VPMP Briefs of evidence
- VPM Forensic procedures

Application

Procedures and Guidelines are provided to support the interpretation and application of rules and responsibilities. They include recommended good practices and assessment tools to help employees make lawful, ethical and professional decisions. Employees should use the **Professional and Ethical Standards** to inform the decisions they make to support interpretation of Procedures and Guidelines.

Procedures and Guidelines are not mandatory requirements on their own. However, where rules and responsibilities state that employees must have regard to Procedures and Guidelines, the Procedures and Guidelines must be used to help make decisions in support of the rules.

Procedures and Guidelines

1. Use of DNA evidence

As stated in **VPMP Briefs of evidence**, briefs should not be authorised where DNA evidence is the only evidence. Where additional corroborating evidence cannot be provided, the prosecution is only to proceed in exceptional circumstances.

DNA evidence should be used as part of a broader range of evidence. Given that DNA evidence provides a statistical likelihood of a person matching the sample, rather than an exact match, it is important for investigating members to gather as much corroborating evidence as possible to increase the likelihood of obtaining a conviction.

When considering the content of any brief, members are required to consider whether there is a reasonable prospect of a conviction being secured based on all of the available evidence. Where DNA evidence is the sole evidence, it is more difficult to be certain of obtaining a conviction. For this reason, only in

exceptional circumstances should a brief be authorised where DNA evidence is the only evidence; see section 3 for guidance in these circumstances.

2. Deciding whether to use DNA evidence

Prior to including DNA evidence on a brief, investigating members should be able to demonstrate the integrity and continuity of this evidence. To do this, members should identify whether there has been any opportunity for cross-contamination to occur from the point the sample is transferred to the scene or victim from the complainant (or vice versa) to its analysis, and verify that cross-contamination has not occurred.

So that potential cross-contamination can be discounted, members should consider the following factors and ensure that each issue can be addressed before including the evidence on the brief:

- Did the suspect have prior access to the scene or the victim, thus reducing the likelihood that the DNA was deposited during the offence?
- Has there been any potential for cross contamination between cases in which the suspect or victim may have been involved?
- Regardless of whether it was at separate times, were the suspect and victim:
 - transported using the same vehicle?
 - interviewed/tested in the same room?
- Were the exhibits ever exposed to other exhibits from a different case?
- Were the vehicles, rooms etc thoroughly cleaned between uses?
- Where a link to the suspect has been provided by a DNA database match; is there any potential connection between the victims of the linked crimes? e.g. their medical examinations, interviews or transport
- Were the exhibits couriered or in the possession of the same members prior to testing?
- Were contamination minimisation strategies applied at each scene? e.g. masks, gloves, disposable gowns etc
- Were the same support/expert services accessed? e.g. Regional Crime Scene Officer, VPFSD staff member, FMO, Crisis Care Unit (CCU)
- Were the interim arrangements of the cleaning of the CCU followed? (See Dept. of Justice: Interim Practice Arrangements – For the provision of forensic medical examinations to victim / survivors of sexual assault in CCUs to minimise the risk of DNA contamination).

3. Establishing exceptional circumstances

Where DNA evidence is the only evidence available, the brief should only be authorised in exceptional circumstances. These exceptional circumstances may be where a serious indictable offence has occurred. Where this is the case, the usual considerations about whether to prosecute should be applied, such as the public interest and the prospect of conviction. See **VPMG Brief Preparation and Management** for more information about:

- prosecutorial discretion
- points of consideration when checking briefs
- authorising briefs, including circumstances requiring special authorisation.

Further Advice and Information

For further advice and assistance regarding these Procedures and Guidelines, please contact the DNA Management Unit, Forensic Services Department on 9865 5122.

Update history

Date of first issue	25/10/10	
Date updated	Summary of change	Force File number
01/07/19	Instrument names amended to reflect updated DNA/forensic policies	FF-143085