



LAW SOCIETY
OF SOUTH AFRICA

OFFICE OF THE CHIEF EXECUTIVE OFFICER

21 January 2009

Via e-mail: LiLouw@justice.gov.za

Dr L Louw
c/o The Ad Hoc Committee on Criminal Law (Forensic Procedures) Bill

Dear Madam

**COMMENTS ON THE CRIMINAL LAW (FORENSIC PROCEDURES)
AMMENDMENT BILL**

INTRODUCTION

This document is submitted on behalf of the Law Society of South Africa in response to the draft Criminal Law (Forensic Procedures) Amendment Bill.

1. The law Society objects absolutely to taking of non intimate samples of persons by police officials for the reasons as stated below:
 - a. The police officials are not trained as medical experts and may not be able to correctly take the said samples.
 - b. The police have interest in any criminal matter and it cannot be said with certainty and confidence that such samples may not be exposed to contamination.
 - c. The integrity of such samples may not be relied upon.
 - d. If such samples need to be taken the procedure must be done by health workers.
 - e. In terms of the proposed amendment non intimate samples involve ' blood finger prick and this procedure is far above the competency of a police official.

2. The law society further objects to the taking of body prints by police officials as this is likely to infringe on a person's right to privacy. The process will have more integrity if it is performed by a health worker. The police officers are not skilled enough to perform this duty.

DE REBUS

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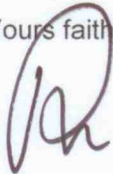
3. The Law society objects to the retention and storing of DNA analysis of persons who are acquitted of charges they are charged of as this will victimize innocent citizens of the country. There is no guarantee that the police may not maliciously use this information to the detriment of innocent citizen.

CONCLUSION

The process of gathering DNA samples cannot be left in the hands of the police if the rights of individuals are to be respected. If police are to be in charge of gathering this type of evidence this may encourage fraud and dishonesty on the part of the police and prosecution to the disadvantage of ordinary citizens.

The police officers we currently have in the country cannot be trusted with such a task. It is always in the best interest of justice to have an independent person performing all these procedures. The fact that the police and prosecutors have interest in the conviction rate may encourage dishonesty and malice on their part. The Bill has good intentions and seeks to accelerate the wheels of the criminal justice but this cannot be done at the expense of human rights.

Yours faithfully



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