



## **Resolution No. 09 – 06**

### **Judicial Impediments within the Health Information Act**

WHEREAS: Alberta Health Information Act was proclaimed in law in 2001. The Act establishes a comprehensive legislative scheme for dealing with health information so that working protocols are in place to protect the privacy of individual's health information; and

WHEREAS: Law enforcement agencies have confronted significant challenges in acquiring critical personal information from victims and accused persons involved in criminal acts due to the strict interpretation by health authorities, whom will not disclose regardless what interpretations of the Health Information Act allow. There have been recent incidents in Alberta where individuals suffering serious life threatening injuries, either through a criminal act or self-inflicted, are admitted to a health care facility and due to lack of disclosure of personal information to police service of jurisdiction, the collection and preservation of critical evidence is compromised or lost; and

WHEREAS: Law enforcement agencies throughout the Province of Alberta have experienced several compelling examples of the where the police investigators have attended medical facilities to continue serious investigations, however prohibited from securing vital physical evidence such as DNA, photographs from victims who were unconscious. There are several complicating factors relative to the authority of family members, the lack of personal directives, interpreted by health professionals to be insufficient authority to grant access to unconscious victims. Police are placed at investigative disadvantage to record, collect and preserve physical evidence which may be transient in nature but lead to a suspect. These matters focus on an issue of consent of an adult who is simply incapable of providing consent, due to temporary or permanent unconscious state. The notion that all adults require a personal directive is a serious setback to the next of kin who are already victimized and now disadvantaged from assisting the police with their investigation; and

WHEREAS: With the current interpretation of the Health Information Act (H.I.A.), police are placed at an investigative disadvantage to gain access to information within a “missing persons” medical records that might indicate if they have received any medical attention after their disappearance. The strict and forbidding interpretation of the H.I.A. causes law enforcement agencies to exhaust their stretched resources and prohibits investigators from providing next-of-kin with any information about their missing family member;

#### THEREFORE BE IT RESOLVED

The Alberta Association of Chiefs of Police calls upon the Solicitor General and Minister of Public Security in the Province of Alberta to intercede on the behalf of all police services in the Province of Alberta for the Minister of Health and Wellness to effect the changes within the Health Information Act that permits disclosure of information under exigent circumstances. As well the inclusion of the matter of “physical evidence” presently doesn’t fall within the definition of information that may be released as outlined in section 37.3 subsection (2) of the Alberta Health Information Act. Recommended that amendments to Health Information Act that accommodate an enhanced disclosure of personal information; and

#### THEREFORE BE IT FURTHER RESOLVED

It also requires the need for an MOU (Memorandum of Understanding) between the Alberta Health and Wellness Minister: the Hon. Ronald LIEPERT, the Alberta Solicitor General and Public Security Minister: the Hon. Fred LINDSAY and the Alberta Justice Minister: the Hon. Allison REDFORD for a closer working relationship in consultation and consort with Alberta law enforcement agencies to develop effective and efficient working protocols to provide police the expedient working protocols to execute their duties for public safety.