

This response was submitted to the consultation held by the Nuffield Council on Bioethics on *The Forensic use of bioinformation: ethical issues* between November 2006 and January 2007. The views expressed are solely those of the respondent(s) and not those of the Council.

ACPOS (Association of Chief Police Officers in Scotland)

Dear Dr. McCartney

**NUFFIELD COUNCIL ON BIOETHICS: CONSULTATION OF THE FORENSIC USE OF BIOINFORMATION**

I am writing as Secretary of the ACPOS Crime Business Area, which encompasses the DNA Portfolio for Scotland. I received the above consultation via Deputy Chief Constable Bald who was the ACPOS representative on the National DNA Strategy Board, and I would wish to offer the following by way of comment with regard to those questions where it is appropriate for the Scottish Police Service to comment on ethical issues.

**Question 1:**

The current SGM Plus system is sufficient for police operational needs. In Scotland all database matches must also be corroborated by supporting evidence and a further DNA evidential profile developed from the subject following arrest.

**Question 2:**

In respect of sampling powers the recent legislation introduced in the Police, Public Order and Criminal Justice (Scotland) Act 2006, has amended Section 18a of the Criminal Procedure (Scotland) Act 1995, and has expanded the circumstances where DNA can be lawfully retained. This currently addresses the needs of the Scottish Police Service and enhances the previous sampling powers.

With regard to juveniles, persons aged under 16 or under 18 if under a Supervision Order, the criteria for obtaining samples is identical to that of adults, although most forces only take samples from serious or serial juvenile offenders. The majority of juvenile cases are reported to the Scottish Children's Reporter Administration (SCRA) which does not constitute criminal proceedings and therefore the sample is not retained.

**Question 3:**

Criminal Justice DNA samples are retained indefinitely where a conviction has been secured in respect of the case where the sample was taken.

Currently the use of DNA databases is limited to the prevention and detection of crime, significant legislative change, with cognisance of the European Convention on Human Rights (ECHR), would be required to allow access and use for unrelated research or medical purposes.

Transferring data between agencies and countries should be permitted with appropriate safeguards. The current manual system of removing demographic details from a profile for searching on a purely 'hit/no hit' basis is sufficient to comply with data protection legislation. Automation of that process would be a tremendous advantage in the investigation of serious and organised crime and counter terrorism operations. The European Network of Forensic Institutes has agreed processes to facilitate exchange of sensitive forensic data according to internationally agreed quality standards.

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**Question 4:**

Familial searching is a proven technique that has assisted in the investigation of serious criminal inquiries. Utilising this tool in serious cases is proportionate as the samples referred to are legally retained for use in the prevention and detection of crime. The Police Standards Unit has published guidance to Senior Investigating officers, highlighting that they must have a clear understanding of the ethical issues surrounding the use of familial DNA.

In respect of voluntary sampling, in Scotland this consent can be withdrawn, however such a request has only been received once since the legislation was introduced.

**Question 5:**

The police service invests heavily in training, including the use of DNA. It is incumbent on police and legal professionals to ensure they have sufficient working knowledge to allow them to provide a professional service. DNA evidence should be presented by prosecutors and forensic experts during court proceedings in a manner that can be understood by lay jury members. The issue of jury comprehension is a complex one, experienced in a range of cases other than those involving bioinformation.

The Scottish and National DNA Databases are subject to both internal and external audit and operate within current legislation. Whilst it is recognised that there are ethical arguments in respect of the retention of such samples, DNA has proven to be a vital tool in the investigation and prevention of crime and its use is proportionate to these aims. It is also noteworthy that DNA evidence can be utilised to exonerate as well as implicate individuals.

I trust this is of assistance to you, please do not hesitate to contact me if you require any further information or assistance.

Yours sincerely

Secretary