

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.

Andrew Evans

## **QUESTIONS ANSWERED:**

### **Question 1: The interpretation of bioinformation**

#### **ANSWER:**

I believe that the SGM Plus® system is sufficient.

### **Question 2: Sampling powers**

#### **ANSWER:**

a. I believe that the police should be able to use DNA samples and fingerprints from anyone as long as that individual is under suspicion of committing that crime. A blanket sample of individuals should not be obtained. DNA samples should not be used to obtain physical characteristics or ethnic features. c. Only those who are convicted of a crime should have their DNA retained. d. Only those above the age of 16 should have their DNA retained unless it is for a serious offence i.e. rape or murder.

### **Question 3: The management of the NDNAD**

#### **ANSWER:**

Currently when an individual has provided a DNA sample voluntarily or through conviction of a crime it has only been given to provide a method of identification. However, my fear is as technology improves and the DNA database expands, the information that is possible to obtain from a sample will be more than just the identification of the individual. For someone who volunteered their DNA, this information will be something that they did not contemplate when the sample was given. Also a person convicted of a crime, although forfeiting their right to anonymity, should be protected from the ability of technology to glean this extra information. Therefore those convicted, although they have their DNA kept, should be protected from having their samples used to obtain information that goes beyond proving their ID. Though I believe that no one should be able to volunteer their DNA they should be made aware of the possibility that their sample could be used to obtain information about them that goes beyond proving their ID and if this is the case they should be able to withdraw their consent at a later date. In all cases where DNA is kept, I believe that samples should not be stored after an individual dies and therefore should not be kept indefinitely because to use someone's DNA, for research for example, without their consent, equates to using someone's organs after death without consent. I find it abhorrent that an individual who is innocent of any crime should go begging to a chief constable in order to have their biometrics removed from a national database. A chief constable cannot be impartial in this decision and this will lead to inconsistent decisions across different police authorities.. Although we shouldn't be in the position where samples of innocent individuals are kept, at least there should be a procedure to make an appeal to a judge or magistrate to overturn a decision.

### **Question 4: Ethical Issues**

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**ANSWER:**

a. I believe that familial searching is a serious breach of people's liberty. I see this as the slow encroachment of a national DNA database. b. If ethnic minorities are disproportionately represented on the database then it is acceptable if they are there as a result of a conviction only. c. Those convicted of a criminal offence have, by their conviction, forfeited their right to anonymity from the criminal justice system. They also have forfeited their right not to have their DNA and fingerprints recorded. However, those not convicted even if charged are innocent and should have their right to this anonymity upheld and should not have their DNA kept by the police and this includes those who have provided samples as a result of investigation and elimination. I believe that no one should be allowed to volunteer DNA samples but if this is acceptable then they should be able to withdraw their consent at a later date. The reason for this is that I believe that there is a danger that a change to the criminal justice system may make an activity, which is lawful today, illegal tomorrow. d. Any movement towards a collection of DNA samples from everyone will be a dangerous move. My fear is that once we accept this we will be more willing to accept other more intrusive technologies in the future. (MRI scans of people's thoughts for example). Also I feel that I would become a permanent suspect and the concept of being presumed innocent until proven guilty will disappear in this country. I believe that this would be disproportionate to the needs of crime prevention or detection.

**Question 5: The evidential value of bioinformation**

**ANSWER:**

b. If it is reasonably possible that a sample could be contamination then other evidence should be available.

**Question 6: Other issues**

**ANSWER:**

Does DNA sampling actually prevent someone from committing a crime. I believe that approximately 1% of individuals who are already on the DNA database still go on to commit a crime. If a reduction in crime is only minimal then expanding the database for this reason should not be promoted. I believe that DNA database helps in the conviction rate. But how much does it prevent reconviction rates. What are the real benefits if not crime reduction.

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**Organisation & Position:**

Are you responding personally on your own, or on behalf of your organisation?: Personal

The user's or organisation's name may be included in the list of those that have commented: yes

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This response may be quoted in the report: yes

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Where you heard about the consultation: Other NO2ID web site

Can we contact you again: only until the Report is published, so that you can send me a copy