

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.

Anon 11

List of questions

1. The interpretation of bioinformation

- a. In your view, is the SGM Plus® system, which uses ten STR markers, sufficiently reliable for use in ascertaining the identity of suspects in criminal investigations and/or criminal trials?

Ans: No, not yet, as long as the scientists are using a percentage score system in court and that the training and quality of expert witness status remains un-resolved.

2. Sampling powers

- a. From whom should the police be able to take fingerprints and DNA samples? At what stages in criminal investigations and for what purposes? Should the police be able to request further information from DNA analysts, such as physical characteristics or ethnic inferences?

Ans: As per P.A.C.E. But, for those found not guilty, or for those none-suspects who volunteered their samples, they should be removed.

- b. Should police expenditure on bioinformation collection and analysis be given priority over other budgetary demands?

Ans: In some cases yes. The tool is invaluable, but the tool is still quite blunt!

- c. Do you consider the current criteria for the collection of bioinformation to be proportionate to the aims of preventing, investigating, detecting and prosecuting criminal offences? In particular: is the retention of bioinformation from those who are not convicted of an offence proportionate to the needs of law enforcement?

Ans: Totally disproportionate.

- d. Is it acceptable for bioinformation to be taken from minors and for their DNA profiles to be put on the NDNAD?

Ans: Absolutely not.

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.

3. The management of the NDNAD

- a. Is it proportionate for bioinformation from i) suspects and ii) volunteers to be kept on forensic databases indefinitely? Should criminal justice and elimination samples also be kept indefinitely? How should the discretion of Chief Constables to remove profiles and samples from the NDNAD be exercised and overseen?

Ans: No: No: It should be removed from Chief Constables and passed to a independent Ombudsman

- b. Is the ethical oversight of the NDNAD adequate? What, if any, research on NDNAD profiles or samples should be permitted? Who should be involved in the oversight of such databases and granting permission to use forensic DNA profiles or samples for research?

Ans: No. Other than for the purposes of justice, none. An independent panel should watch the watchers.

- c. Who should have access to information on the NDNAD and IDENT1 databases and how should bioinformation be protected from unauthorised uses and users? Should forensic databases ever be made available for non-criminal investigations, such as parental searches, or the identification of missing or deceased persons?

Ans: The FSS should maintain control, but be checked by an independent panel, not the Police who are eager to use the database to raise funds from big business interests. Civil cases including paternity tests can be done, as long as it is controlled by the FSS.

- d. What issues are raised by the transfer of bioinformation between agencies and countries? How should such transfers be facilitated and what safeguards should be in place for the storage and use of transferred data?

Ans: The risks are so high for abuse and errors as seen in the transfer of data for the NAFIS fingerprint database when it was sent to Mexico for converting to a digital format.

4. Ethical issues

- a. Is the use of DNA profiles in 'familial searching' inquiries proportionate to the needs of criminal investigations? Do you consider the use of familial searching may be an unwarranted invasion of family privacy?

Ans: No. Two separate issues. Yes, this will be unwarranted invasion if the database is for criminal records only as it should be.

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.

- b. Certain groups, such as ethnic minorities and young males, are disproportionately represented on forensic databases. Is this potential for bias within these databases acceptable?

Ans: As long as the database contains nothing other than samples from convicted criminals, this should not be a issue. Truth is not bias

- c. Is it acceptable that volunteers (such as victims, witnesses, mass screen volunteers) also have their profiles retained on the NDNAD? Should consent be irrevocable for individuals who agree initially to the retention of samples voluntarily given to the police? Are the provisions for obtaining consent appropriate? Should volunteers be able to withdraw their consent at a later stage?

Ans: This is not acceptable. In my experience was that this came about for two reasons. 1. The work required in order to manage and remove samples stored was excessive and costly for the FSS.

2. The FSS told the police that in order to be more successful they had to have maximum volume in order to give a greater potential for an identification in court on the percentage score system. ACPO agreed to this demand.

- d. Would the collection of DNA from everyone at birth be more equitable than collecting samples from only those who come into contact with the criminal justice system? Would the establishment of such a population-wide forensic database be proportionate to the needs of law enforcement? What are the arguments for and against an extension of the database?

Ans: This of course, is the ultimate question. This question can only be answered by the people, by them exercising their democratic rights through an empowered and trustworthy parliament. The current prime ministers view is well known.

My view is that it would not be proportionate and that if done, would be almost impossible to undo.

As a former soldier, I recognize the term Mission Creep. And it is correct to describe the current situation is this way.

5. The evidential value of bioinformation

- a. What should be done to ensure that police, legal professionals, witnesses and jury members have sufficient understanding of any forensic bioinformation relevant to their participation in the criminal justice system?

Ans: The knowledge of those involved is poor. Police Officers are too easily encouraged to jump to the view that DNA is the answer to all their prayers and to over value the evidence.

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.

Courts and jury's also fail to grasp the consequences of this relatively new science and what it actually means in respect of crime scene stains and the identity of a citizen.

There is rarely sufficient time or weight given to DNA evidence in court. Justice is not being served.

More must be done to both educate and monitor performance of all those handling this material.

The consequences of doing nothing to correct this wayward vessel are too horrible to contemplate. There are already those in our society comparing the ever growing power of the state over its people with that of Soviet Russia.

I am not over worried about the Big Brother Scenario as much as what Big Brother does with what it sees.

- b. How much other evidence should be required before a defendant can be convicted in a case with a declared DNA match? Should a DNA match ever be taken to be sufficient to prove guilt in the absence of other evidence?

Ans: This is where the Police, CPS have rushed into the fray with this false belief that DNA is all they need to get their tick on the box of a detection/Conviction to satisfy the Home Office.

DNA should never be taken to be sufficient evidence of guilt on its own. There are too many variables in the crime scene and the investigation as a whole. This only identifies the source of the crime scene stain. Identifying the source of the stain is not enough.

In the same way that a fingerprint identification of the trigger of a gun only proves that the suspect touched the trigger of the gun, at some point in time, there must be other evidence to build the case in respect of how the citizens DNA appeared in the crime scene. And, there must be no doubt that there are no other contamination issues or that secondary transference did not occur.

The FSS has always warned that as the technology progresses and becomes ever more sensitive, the opportunity for contamination and transfer become greater.

The identification of the source of the crime scene stain is probably the easy part, though I am yet to be convinced of its' reliability. There are other areas where the Police and the CPS often fall foul, often by failures in disclosure, or poor investigation overall.

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.

If we had the death penalty, you could sentence a man to death on a fingerprint as a method of identity, because, surprisingly is still classed as irrefutable evidence of identification even in the presence of the 'New Kid on the Block', DNA. This must situation be reviewed.

6. Other issues

- a. Are there any other issues, within our terms of reference, which we should consider?

Ans: There are possible issues regarding the race to find a method to analyse mixed samples to the detriment of the quality of the result.

Ans: There are questions regarding the political pressures put on the judicial system and its use of this technology and its potential abuse for political ends both in increasing detection rates and the possible use of the NDNAD as a source of revenue.

Ans: The pace of which the government is pushing this agenda is most alarming.