

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 14

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?

DNA profiles are statistical in nature and so an additional piece of evidence should be required.

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?

Where there is reason to suspect the person of a serious crime.

Further details to be available only in serious crimes against the person.

- b. Should police expenditure on bioinformation collection and analysis be given priority over other budgetary demands? *No. Because wide scale DNA collection is not acceptable practice.*
- 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? *DNA is collected at every possible feeble excuse. This is not proportionate and is unacceptable. It tends to alienate people from the State, and the overall consequence for society is negative.*
- d. Is it acceptable for bioinformation to be taken from minors and for their DNA profiles to be put on the NDNAD? *Not acceptable. Removal of cells from a minor is in my view a common assault, except where it is for the specific benefit of the minor, with parental consent.*

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? *i) Suspects' DNA should be removed at the conclusion of the investigation. ii) Volunteers DNA should be deleted on request at any time.*

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- 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? *There is no ethical oversight of DNA records. Research should be limited to samples donated for the specific purpose. A body is needed to oversee the ethical control, but I would not agree to permission for research.*
- 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? *The information (DNA) was provided for the use of serious crime investigation. Other uses are against the ethos of data protection.*
- 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? *In essence, data about a UK citizen should not be disclosed to another country. However, in the case of serious crime, data may be compared between countries, but the name of the person should only be disclosed if a judge rules the crime to be of sufficient severity.*

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?
- 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? *Yes, assuming the technique is adequately reliable. The chance of wrong conviction is not increased by the 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? *Not acceptable. Consent should be revocable. Consent must not be requested when the person is under pressure, or scared, or in a police station, or being offered a deal or inducement. It must always be possible for consent to be withdrawn.*

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- 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? *I would be very much against the universal collection of this data as it is a severe intrusion into the freedom of the individual and is an assault. It will alienate people against the State.*

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? *Training.*
- 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? *I understand that DNA profiles are statistical in nature, and therefore a second piece of evidence should be required.*

6. Other issues

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

The justification for public surveillance, including DNA sampling, is inevitably a matter of judgment. During wartime the public accepted the loss of freedoms in order that the Country might survive. In peacetime the public will not accept widespread surveillance, which will, in my view, create widespread detestation of the State and its laws, with severe consequences to follow.

In making a judgment as to what is reasonable, my view is that crime and terrorism kill relatively few people in the UK. On a personal level, the risks from these causes barely figure in my estimations. My sporting activities on the sea are far more dangerous. Government might believe that I am misled, but this is irrelevant – it is my freedoms they want to diminish.

The committee should consider the following:-

When children reach the age of 18, the State should, without charge, disclose all data held on them, including DNA information and samples. If the State wishes to retain any items of data, consent should be required.

Schools should be required to tell children about personal freedoms (not just those enshrined in law), the right to not be under surveillance and the threats posed to our freedom by biometrics and DNA sampling, and should discuss issues such as those raised in this report.