

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 28

### 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?

#### 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?

**Samples can be taken on arrest if the DNA which is collected is destroyed if the person is found innocent or is cautioned. If a volunteer (in cases of elimination or other) requests its destruction it should be granted. Samples from minors should not be taken without parental consent. Samples from people who do not re-offend and for convictions which are considered mild should be destroyed after a proposed 5 years or similar length.**

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

**No. It has been said that DNA samples have only played an active role in solving 5.4% of crimes solved.**

- 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?

**No. In my opinion it is criminal. I believe it is an offence to peoples liberty and a physical violation to acquire body tissue from non-consenting humans even from petty criminals. There is no actual reason to keep a DNA sample from innocent persons; if they were to be involved in a new crime the information can be taken again. It will have served no purpose to have kept that sample safe during that period; only to ideologically presuppose that you exist as a potential criminal. This suggests that the state views its citizens all as potential criminals through the logic that at least a proportion**

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**will definitely offend and better to have a persons DNA in case they become an offender than not to. This stance suggests that we are headed toward a paranoid and surveillance state. I believe in giving people the freedom to not offend.**

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

**No. Minors who are involved in petty crime should be protected from this violation and should have the right and freedom to learn from their mistakes. The state is trying to collect as many samples as possible and minors are the future generation. Minors as should adults who are involved in serious crime (e.g. rape, murder) should of course have samples taken.**

### **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?

**The decision to destroy the DNA sample should lie on the individuals discretion – in every instance other than serious crime. If the DNA which should be considered body tissue is belonging to a person they should never be renounced the right to destroy it where ever it may be. The discretion to destroy the DNA sample should lie with no one else and I consider the fact that it is a violation and a disgrace.**

- 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?

**It should be made illegal for any DNA sample to be used unless it is to eliminate a suspect of a serious crime from a crime scene, or be used in serious cases of the like. DNA should not be permitted to be used for ANY research and if indeed it is suggested then written request for permission should be sent to each individual for the right to research on their body tissues. Just because the sample is no longer on our personal being it does in effect make the research on the sample no different than if the scientist in question were probing our body on an surgical table. Abstraction of this reality is a convenient blind spot for many things that would not ordinarily go, actually happen.**

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- 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?  
**This is a question for an IT specialist. It is clear that there are many flaws with 'The Spine' which have still not been resolved. It should be made a criminal offence to obtain samples without authorisation in the event that they should be stolen.**
- 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?

#### 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?  
**I consider the use of DNA for familial searches an invasion, however it is impossible to say whether the person being searched for does want to be found.**
- 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?  
**No it is not acceptable that there should be a disproportion of ethnic minorities on the NDNAD. A disproportionate amount of the population (ethnic minorities) are stopped and searched so there are already bias' in the way the law enforcement agencies execute their role. It is no wonder this bias is also represented in the NDNAD.**
- 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?  
**Volunteers should be allowed to withdraw consent at a later stage with regards to DNA retention.**
- 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?

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**The idea of taking DNA samples from babies who are not yet conscious of the mere concept of their rights let alone their beliefs is an atrocious and disgraceful suggestion. We are born free with the freedom to not commit crimes. I stress this point so as to make clear the ideological penalty of assuming we are guilty before proven innocent; taking DNA samples from the entire population assumes this ideological stance. This is a stance I will not tolerate in what I value to be a free society. Total acquisition of DNA samples rejects the possibility that we are free to make decision whether they are good or bad decisions. It assumes we are not capable to make any decisions at all and must be surveiled at all times for our own good. It also clearly suggests that we are no longer in control of the state but that the state now owns disproportionate power over who it should serve. To take samples from all beings who are in their most vulnerable position – a child - is a revolting suggestion. It is tantamount to rape in my opinion.**

## **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?
- 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?  
**It needs to be ascertained within the scientific community whether or not there are any flaws in DNA matching – it seems that logical that this can be tested. If it is flawless then it is hard to see what the problem is – but if there is a 1% possibility of error then the criminal justice need to make this clear and systems put in place so as to prevent miscarriages of justice. The other problem concerning DNA and foul play is that is impossible to know if a sample really is the correct sample without an expert and if the expert is crooked then you have a huge problem potentially.**

## **6. Other issues**

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