

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 30

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?

Answer: Yes, I think the technology is sufficiently reliable; the probability of unrelated people sharing the same profile is sufficiently low when 10 STR markers are used.

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?

Answer: Very difficult to answer to this question, I guess the police may wish DNA samples to be taken from the same persons for whom fingerprints were being taken previously, to help in the criminal investigations. I understand DNA samples are taken from suspects, but also from victims and witnesses, so the database does not consist only of criminals' profiles. However, given the presently very negative perception about the database and the fact that once somebody's profile is in it, it is very difficult to get it removed, people are not happy that their profile is included. If everyone's profile was included at birth, the negative image would be lessened, but this would involve huge expenses and would be consistent with a "*Big Brother is watching you*" type of society.

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

Answer: No at least not in countries where resources are limited.

- 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?

Answer: No

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

Answer: Given the negative impact on individuals, No it is difficult to accept that for minors, they would not be encouraged to behave as normal citizens. The message would be that whatever efforts they might make, their future was doomed.

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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?

Answer: Bioinformation can be used for comparative purposes only, so it does not pose a threat even if it is kept indefinitely. However, when DNA samples are kept indefinitely, with information on whether they were from criminals or volunteers and because they permit identification of individuals, there may be cause to worry in their potential misuse, specially if the repository is privatised someday (in the future) and may be considered as having a commercial value? There should be safeguards in that aspect? Research usually involves anonymised samples and not those where identification is possible; moreover these samples originate from individuals who have not given prior consent for research.

- 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?

Answer: See answer for "a" above, there would be several ethical issues to be sorted out before granting permission to use forensic DNA samples 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?

Answer: No, never for parental searches, as it may cause harm to other individuals in the family. It may be considered for non-criminal investigations such as the identification of missing or deceased persons where it is less susceptible to cause distress.

- 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?

Answer: only data would be transferred and not samples hopefully??

4. Ethical issues

- a. Is the use of DNA profiles in 'familial searching' inquiries proportionate to the needs of criminal investigations? **Answer: No.**

Do you consider the use of familial searching may be an unwarranted invasion of family privacy? **Answer: yes, it will affect the lives of people involved.**

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- 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?

Answer: No

- c. Is it acceptable that volunteers (such as victims, witnesses, mass screen volunteers) also have their profiles retained on the NDNAD?

Answer: No

Should consent be irrevocable for individuals who agree initially to the retention of samples voluntarily given to the police? **Answer: No**

Are the provisions for obtaining consent appropriate? **Answer: No**

Should volunteers be able to withdraw their consent at a later stage? **Answer: yes**

- 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? **Answer: yes**

Would the establishment of such a population-wide forensic database be proportionate to the needs of law enforcement? **Answer: No**

What are the arguments for and against an extension of the database?

Answer: This database is not anonymous; all DNA profiles included enable identification of their owners, many safeguards are needed to ensure that there is no future misuse of DNA samples.

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?

Answer: they need to have some sort of basic objective training in this field, know better the strengths and shortcomings of forensic bioinformation.

- 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?

Answer: certainly no

6. Other issues

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

I tend to consider issues concerning profile data separately from those pertaining to DNA samples.

According to UNESCO declaration on the genome and human rights, DNA belongs to the individuals, it is their heritage. In this light, DNA samples should not be kept indefinitely by NDNAD, and for other potential uses, specially when no consent has been obtained prior to the storage of these samples.