

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 40

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?

On the whole, a system is only as good as the people trained to use it. If the SGM Plus system can accurately (within a 99.5% or greater certainty) match crime scene gathered genetic samples with a suspect's DNA then I would consider it reliable

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?

The police should be allowed to take both DNA samples and fingerprints from any and all suspects in a particular crime investigation. These "samples should be allowed to be gathered the moment a potential suspect's involvement in a particular case comes to light. At NO point should physical or ethnic inferences pertaining to a DNA sample be asked for or inferred.

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

Absolutely not. No part of the police is greater than the whole now nor should any part be more critical than any other

- 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?

The current levels of criteria for collection of bio-information seem adequate at this juncture in time. At no point should any bio-information collected pertaining to those people not convicted of any crime be retained for future analysis or use

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

ABSOLUTELY NOT!

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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?

Once any and all bio-information samples of suspects and/or volunteers for use in a particular case has been finished being used then those samples should be destroyed along with any identifiable records of such people who gave those samples. No sample of anybody EXCEPT those of the person convicted of a crime should be kept in any form. An independent commission with the power to force and oversee the destruction of such samples given by volunteers and suspects not used in a conviction.

- 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?

No research at all should be permitted on any bio-information given either before or after the process of ascertaining a guilty party has been concluded

- c. Who should have access to information on the NDNAD and IDENT1 databases and how should bioinformation be protected from unauthorized 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?

Police and law authorities should have exclusive access to such bio-information. No outside agency should be allowed or even considered to be given access to any and all bio-information collected.

- 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?

See answer to part b above

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?

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No, the police and law authorities are the only ones who should have access to such bio-information BUT only in the pursuit of criminal justice. Once such due process has been concluded then all samples should be destroyed.

- 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?

Race, ethnics or age should not be cause for bias. There are only 2 statements that fit:

- 1) Does the bio-information collected at the crime scene match the suspects?
- 2) If such a match of bio-information occurs within a certain percentage then store such bio-information until used in criminal proceedings to get a conviction.
- 3) If no such match, then that sample of bio-information and any recorded incident of such bio-information should be destroyed and that person eliminated from the inquiry.

- 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?

NO profiles to be stored in any way shape or form unless convicted for a crime. Only temporary consent for use of such bio-information is necessary and once that person is eliminated from the enquiry, all bio-information should be destroyed.

- 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?

Why do we need such a vast database in the first place? We don't live in a police state quite yet so the argument for mandatory DNA collection at birth is null and void

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?

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Proper training for the legal community including the police must be undertaken. Jury members should be given factual information in either spoken and/or written form on what bio-information is all about and how it can relate in criminal proceedings.

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- 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?

A DNA match alone is no guarantee that a person is guilty of an offence. Other more physical evidence must be presented in conjunction with DNA evidence to either convict or free the defendant(s)

6. Other issues

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

Not at this time.