

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 41

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?not qualified to comment

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? Police should only be able to take such samples from genuine suspects. The current practice whereby the police take samples from everyone they arrest, whether a crime has been committed or not, is an outrage and a national disgrace for a civilised country formerly considered to have a fine reputation for honouring civil rights. I believe it is also highly questionable for the police to keep DNA samples from all those who have accepted a formal caution. It would be proper for individuals to have the right to appeal against such retention on the grounds for example that they accepted a caution for something they had not done because (A) they were terrorised into doing so by a gangmaster or (B) they were protecting someone highly vulnerable or someone they loved.
- b. Should police expenditure on bioinformation collection and analysis be given priority over other budgetary demands? no
- 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? Absolutely not.
- d. Is it acceptable for bioinformation to be taken from minors and for their DNA profiles to be put on the NDNAD? Absolutely not

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? Without a conviction I can see no justification in a civilised society for the wholesale retention of DNA samples

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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? The Royal Society
- 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? I would strongly oppose parental searches. As for the dead, they are routinely abused at post mortems, so what further harm can we do them by bandying their DNA about?
- 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? Such international transfer should only be permitted by an authority independent of the police, namely a judge.

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? Children may have very good reasons for hiding from their parents. For parents to be given access to DNA databases to look for them would be an abuse of the children's civil rights
- 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? Only if it accurately reflects the actual offending.
- 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 always have the right to withdraw their consent and the right to personally oversee the destruction of their samples.
- 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? It would be an outrage to take DNA samples at birth: such a practice would amount to state tyranny.

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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? I would have thought it obvious that the answer is education.
- 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 can imagine no circumstances in which DNA evidence alone should lead to a conviction.

6. Other issues

- a. Are there any other issues, within our terms of reference, which we should consider? I believe you should consider the question of police cautions very carefully. I have already referred to this above.