

11th January 2010

Mr Andrew Dismore MP
Chair, Joint Committee on Human Rights
Committee Office
House of Commons
7 Millbank
London SW1P 3JA

Dear Mr Dismore

Scrutiny of Crime and Security Bill 2009-10

In light of the JCHR's forthcoming scrutiny of the Crime and Security Bill 2009-10, I would like to highlight several recommendations in the Nuffield Council on Bioethics report on *The forensic use of bioinformation: ethical issues* (2007).¹

Retention of DNA profiles

The Council's report stated that "there is, at present, a lack of convincing evidence that retention of profiles of those not charged with or convicted of an offence has had a significant impact on detection rates and hence it is difficult to argue that such retention can be justified. Accordingly we recommend that independent research should be commissioned by the Home Office to assess the impact of retention. In the light of the findings of that research, an informed judgment could then be made." (paragraph 4.53)

We note that the Home Office has recently published evidence to support its proposal – which is to be included in the Crime and Security Bill – to retain the DNA of all arrested but unconvicted people for 6 years.² Given the potential human rights implications of retaining the DNA of unconvicted people, we would like to emphasise the importance of this evidence being carefully and independently examined. We would urge the JCHR to ensure this takes place as part of its scrutiny of the Bill.

Chair

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Other issues

In July 2009, the Council responded to the Home Office consultation 'Keeping the right people on the DNA Database'. Some of its comments may be relevant to the JCHR's scrutiny of this Bill.

The Council welcomed some of the Government's proposals, such as the pledge to destroy all DNA samples. It had concerns about a number of the proposals and set out recommendations drawing on the Council's 2007 report. These included:

- There should be a statutory basis for the regulation of all aspects of the forensic use of DNA, with specific powers of oversight delegated to an appropriate independent body or official.
- There should be a far greater commitment to openness and transparency and a greater availability of documents to public scrutiny.
- An independent body, along the lines of an administrative tribunal, should oversee requests from individuals to have their profiles removed from bioinformation databases.

I enclose a copy of the Council's full response to the Home Office consultation with this letter.

We would also like to bring to your attention the Council's observation that the distinction between recordable and non-recordable offences is to some extent arbitrary (e.g. failing to give advance notice of a procession is recordable, but obstruction of the highway is not). As the status of the offence for which a person is arrested affects whether a DNA sample can be taken, we recommend that the list of recordable offences should be rationalised so as to exclude all minor, non-imprisonable offences (paragraph 4.17).

Please do not hesitate to contact me if you would like further information or assistance.

Yours sincerely

A handwritten signature in black ink that reads "Hugh Whittall". The signature is written in a cursive, slightly slanted style.

Hugh Whittall
Director

Copied to:
Dr Mark Egan, Commons Committee Clerk
Chloe Mawson, Lords Committee Clerk

References

1 Nuffield Council on Bioethics (2007) *The forensic use of bioinformation: ethical issues*. Available at: www.nuffieldbioethics.org/forensic

2 Home Office (2009) *DNA retention policy: Re-arrest hazard rate analysis*. Available at: www.homeoffice.gov.uk/documents/cons-2009-dna-database/