

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 to January 2007. The views expressed are solely those of the respondent(s) and not those of the Council.

Mike McGregor

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?

Under some circumstances, yes. However STR analysis is especially of use when extremely small crime scene samples of DNA are available for comparison with a suspect, and results obtained from extremely small sample cannot carry the same weight and large samples.

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 able to take samples from anyone arrested for a crime as soon as they are arrested, but the samples should not be retained unless they are convicted are accept a caution. The purpose of the sample would be that it could be used in that particular investigation and also for comparison in unsolved crimes. The police should be able to ask the analysts for physical and ethnic information if it is relevant to the crime(s) under investigation.

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

Possibly, yes. Any law enforcement tool which is proven to be more effective than another, should be able to merit budgetary priority.

- 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 I do not agree with the retention of bioinformation of those not convicted of (or cautioned for) an offence. Perhaps the database IS an extremely useful crime detection tool which has ensured justice in a number of cases. However, it could be equally argued that every citizen must wear an electronic tag simply because it would be an extremely useful crime detection tool which would ensure justice in a larger number of cases, however it would be equally reprehensible. The usefulness of a tool does not, in itself, justify our loss of freedoms.

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 to January 2007. The views expressed are solely those of the respondent(s) and not those of the Council.

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

Yes, under the condition that the definition of a minor is updated. It is unacceptable to take bioinformation from minors younger than (say) 12 years old.

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?

Only those samples taken from convicted criminals where the crime is of a certain magnitude (e.g. not driving offences) should be retained indefinitely. The retention or removal decisions should not be taken by Chief Constables (whose main qualification for the job is their management skills!), but should be taken by members of the judiciary.

- 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 ethical oversight of the databases is being conducted by wholly inappropriate people, i.e. police and home office officials who have their own agenda. I am unsure as to who is suitable to be involved in the oversight of the databases, although I have some views over who is not suitable. Scientists, I believe, are unsuitable for ethically overseeing anything. These are the type of people who accepted and sanctioned grave robbery in the advancement of surgical knowledge, and there are plenty of other examples of their ethical questionability. Also, politicians, and I don't mean this as an insult – merely as a statement of fact, remain unsuitable because they must rely on "expert opinion", before they can form one of their own on any subject other than the mundane. Perhaps members of the judiciary might be suitable.

- 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 don't know who should have access, but I feel it should be kept to a minimum. I feel unhappy about using criminal justice information for parental search purposes.

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 to January 2007. The views expressed are solely those of the respondent(s) and not those of the Council.

- 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?

I am not happy with any transfer of data. I feel our own agencies are untrustworthy and need to be monitored, so foreign agencies are definitely not to be trusted; any safeguards would not be adhered to, because they would feel that their own security issues outweigh our civil rights.

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?

Yes, it is an invasion of privacy. DNA samples can be taken against the person's will, and as a civilized, democratic society we need to have extremely good reasons to justify such a personal assault.

- 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, if DNA profiling is infallible, as the public is lead to believe (!), then any ethnic bias can only result in members of that ethnic minority being less likely to remain undetected for their crimes, but not falsely accused. To take action to make the likelihood of their remaining undetected be the same as for anyone else would be ludicrous.

- 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, it is not acceptable for volunteers to have their profiles retained. Consent should not be irrevocable. I don't know enough about the provisions for obtaining consent. Volunteers should be able to withdraw their consent.

I feel so strongly about this that I would be prepared to hinder a criminal investigation by withholding my consent should I be requested to volunteer.

- 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?

Yes it would be more equitable, in that everyone is treated equally shabbily. But such an action is abhorrent to me. We would become a nation of suspects. If we went down this road I would have to consider emigrating. By the way, I am someone who has never attended a public protest about anything, but I would have to join the encampment that would be lodged outside parliament in protest.

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 to January 2007. The views expressed are solely those of the respondent(s) and not those of the Council.

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?

Don't know, but it is important that they do have sufficient understanding.

- 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?

No, a DNA match alone must never be sufficient to prove guilt. I am skeptical over the supposed infallibility of such evidence, and I am also uneasy about the lack of qualification given to jurors about lending too much weight to such evidence.

6. Other issues

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