

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.

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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? - **YES**

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? - **In the course of bona fide investigations, the police should be offered every assistance and facility.**
- b. Should police expenditure on bioinformation collection and analysis be given priority over other budgetary demands? - **There should be a priority but not to the exclusion of proper policing requirements.**
- 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? - **Subject to ongoing review, the current criteria are probably appropriate for addressing the current challenges. The retention of bioinformation is essential (as is further development of the database) to the future well being of society as it allows for the rapid elimination of such persons from future enquiries of every type (plane crashes, murders, burglaries, missing persons, etc)**
- d. Is it acceptable for bioinformation to be taken from minors and for their DNA profiles to be put on the NDNAD? - **YES**

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? - **YES; YES; YES. Once captured DNA information**

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should be held indefinitely and Chief Constables should not have discretion to remove such profiles and samples.

- 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? – **This is all subject to confidentiality and the moral ethics of those involved. The probability is that the vast majority of research will be beneficial and we should not be held hostage to occasional breaches. That said, research should be permitted (if we are to move ahead) and the oversight/permission aspects should be left in the hands of those deemed to be “responsible”.**
- 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? – **From birth, bioinformation should be taken and held safely. We have the technology to now do this and it should be used to the full. Access to this information should be protected from unauthorised enquiry but, subject to common sense and integrity, forensic databases should be available for the general good.**
- 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? – **This information should be easily available – after all we are now a “Global Village!” Safeguards need to be in place and care taken to ensure that over-regulation does not swamp the effective use of such data in the interests of protecting the public in general – regardless of where the public reside on this planet.**

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 and No**
- 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? – **Yes**
- 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

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voluntarily given to the police? Are the provisions for obtaining consent appropriate? Should volunteers be able to withdraw their consent at a later stage? – **Yes; Yes; Probability; No**

- 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 (excellent move forward); Yes; I think that the argument “for” far outweighs the “against” if we are to discourage anti-social behaviour at every level and develop a safer society. The “against” lobby will raise all the issues that revolve around the occasional breaches of confidentiality that occur in any human environment.**

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? – **Introduce education on the subject into the educational curriculum with evening courses for older persons.**
- 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? – **The DNA evidence should be conclusive – subject always to proper due process.**

6. Other issues

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