

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.

Mr Piers Herbert

## **QUESTIONS ANSWERED:**

### **Question 1: The interpretation of bioinformation**

#### **ANSWER:**

Yes, it appears so

### **Question 2: Sampling powers**

#### **ANSWER:**

a. On arrest, but only for the purpose of identifying the perpetrator of a crime. If the identities of those involved in a crime are already known without question there is no justification for sampling on arrest, but I would agree that a sample could be taken on conviction for a serious offence if not already taken on arrest. b. This is a matter for police operational judgement. c. No, the retention of bioinformation from those not convicted is not proportionate to the aims of preventing crime and in the cases of innocent citizens is a serious infringement of civil liberty. d. Yes, subject to same protections and civil liberty as adults.

### **Question 3: The management of the NDNAD**

#### **ANSWER:**

a. Where a person is convicted of an offence the infringement of liberty associated with retention of bioinformation may be considered part of the punishment, and is justified in the interests of detecting any future crimes the convicted person may commit. Even then there should perhaps be a time limit in the case of lesser offences. Where samples are taken without consent and the subject is not convicted, all samples must be destroyed and bioinformation removed from the database as soon as the subject is eliminated or the case closed (unless revocable voluntary consent for retention is given). Involuntary retention of information from innocent citizens is an unjustified infringement of civil liberty. Where samples are given by voluntary consent, the volunteer should be able to withdraw consent and have their information removed at any time. The current situation in England and Wales is unacceptable. The Scottish parliament have got it about right. The issue of chief constables discretion would become unimportant if adequate rights for innocent individuals were established

### **Question 4: Ethical Issues**

#### **ANSWER:**

a. Probably justified in serious cases b. There may be no bias if the disproportionality in the database simply reflects the extent to which certain ethnic or social groups become involved in crime. c. See answer to Q3 above, I would not consent voluntarily if I could not subsequently revoke consent. d. Yes it would be more equitable, but I think a universal DNA database is unlikely to be politically acceptable due to the infringement of civil liberty it would entail. I would not vote for a political party which proposed a universal database.