

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.
National Council of Women of Great Britain

Forensic use of bio-information ethical issues

A Consultation from the Nuffield Council on Bioethics

The National Council of Women appreciates this opportunity to comment on the ethical issues surrounding the use of bio-information in forensic science. NCW has long held the view that the rate of technological development often outpaces the regulations put in place to control them so that a consultation of this type is important. NCW does not have a detailed knowledge of the procedures involved in DNA forensic analysis but hopes that its contribution will be of value in the general context.

Question 1. The interpretation of bio-information. In your view, is the SGM Plus (not defined) system, which uses 10 STR (Short Tandem Repeat) markers, sufficiently reliable for use in ascertaining the identity of suspects in criminal investigations and/ or criminal trials.

This technique is presumably being constantly refined and evolving. One assumes that this is the best to date. Fingerprinting has long been accepted as a necessary technique in crime detection, however it is agreed that DNA is both more invasive and far reaching and public understanding of this is essential if it is to become more widely used.

Question 2. Sampling powers.

(a) From whom should the police be able to take fingerprints and DNA samples? At what stage 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 references?

These questions must be looked at on a case by case basis. If DNA sampling provides a useful tool for criminal investigation then it should be used. However, generalisation about what can and cannot be done could be counter productive.

(b) Should police expenditure on bio-information collection and analysis take priority over other budgetary demands?

Without an overview on total spending it is not possible to judge. Spending on it must be proportionate to its usefulness.

(c) Do you consider the current criteria for the collection of bio-information to be proportionate to the aims of preventing, investigating, detecting and prosecuting criminal offences? In particular: is the retention of bio-information from those who are not convicted of an offence proportionate to the needs of law enforcement?

In order to work effectively, there must be acceptance of the data base. Is there confidence that the input and access to this is uniform across the whole country? Who oversees this whole process? A well qualified body to carry out this task is essential.

(d) Is it acceptable for bio-information to be taken from minors and for their DNA profiles to be put on the NDNAD? (National DNA data base)

Many crimes are committed by minors, taking of the samples may work to protect some children and eliminate them from a scene of crime. Retention of the data base is a more difficult question and supports the need for an ethical body to review the situation case by case. The decision to remove or retain samples should not lie with only one person

3. Management of the NDNAD

(a) Is it proportionate for bio-information 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.

(b) Is the ethical oversight of the NDNAD adequate? What, if any research on NDNAD profiles 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?

(c) Who should have access to information on the NDNAD and IDENT 1 databases and how should such bio-information ever be made available for non-criminal investigations, such as parental/familial searches, and the identification of missing or deceased persons?

(d) What issues are raised by the transfer of bio-information between different agencies and countries? How should such transfers be facilitated and what safeguards should be in place for the storage and use of transferred data?

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The public understanding and acceptance of genetic developments is constantly changing as new technologies come into use. This will be the same in the forensic use of bio-information and at a future date it may be acceptable for everyone to have their DNA recorded thus eliminating many of the issues raised. However, the security of this information would have to be paramount and the public convinced of this. On a practical issue how long can the DNA be stored without degrading? If life- long storage is being considered changes in techniques may render earlier samples useless. It is not possible to foresee what the demands of research will be but these must be assessed case by case. The mobility of populations makes international exchange inevitable and whilst ethnic origins are at present only inferred whatever rules/guidelines are set in place must be able to adapt to changing information and its use. Ethical issues are involved in all aspects of DNA usage and a well qualified overseeing body is essential.

Question 4 . Ethical issues.

- (a) Is the use of 'profiles' in familial searching inquiries proportionate to the needs of criminal investigations? Do you consider the use of familial searching to be an unwarranted invasion of family privacy?
- (b) Certain groups such as some ethnic minorities and young males are disproportionately represented on forensic databases. Is this potential for bias within the data base acceptable in law enforcement?
- (c) Is it acceptable that volunteers (such as victims, witnesses, mass screen volunteers) can also have their profiles retained on the NDNAD? Should consent be irrevocable for individuals for individuals who agree initially to the retention of samples voluntarily given to the police? Are the conditions for obtaining consent appropriate? Should volunteers be able to withdraw their consent at a later stage?
- (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

Ethical issues are involved in all aspects of DNA usage and are referred to in previous answers. Problems arise inevitably in the taking, keeping, removal, multiple usage such as access for research of DNA of any individual. It would be a very costly exercise to produce a population-wide data base in the future and it would be essential that the detailed operation of such an undertaking were overseen by a qualified body. It is likely that separation of the NDNAD from the police and crime would assist its acceptance by the public. Personalised medicine is predicted for the future and for this DNA samples must be collected. However difficult questions such as use in family relationships are posed no matter how the DNA is collected, stored or removed.

Question 5: The evidential use of bio-information

- (a) What should be done to ensure that police, legal professionals, witnesses and jury members have sufficient understanding of any forensic bio-information relevant to their participation in the criminal justice system?
- (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 sufficient to prove guilt in the absence of other evidence?

As technology develops the part played by bio-information will inevitably grow. Understanding of bio-information should be an important part of the basic training of all concerned in its use - police, legal teams and juries.

Question 6: Other issues

Are there any other issues within our terms of reference which we should consider?

NCW has held the view as stated earlier that the rate of technological development often outstrips the understanding, implication and control of new research thus reinforcing the need for a qualified overseeing body with regular assessment of and input to the use of bio-information.

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