

This response was submitted to the consultation held by the Nuffield Council on Bioethics on the Forensic use of bioinformation: ethical issues during November 2006 to January 2007. The views expressed are solely those of the respondent(s) and not those of the Council.

Sarah Smith

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? Yes
- b. Should police expenditure on bioinformation collection and analysis be given priority over other budgetary demands? Don't Know – as the Police see fit.
- 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? Yes – our rights as individuals are over-ridden by our duty to help the Police solve crimes, to the benefit of everyone.
- d. Is it acceptable for bioinformation to be taken from minors and for their DNA profiles to be put on the NDNAD? Yes, so long as their parents are aware – it should be the norm for everyone to be on there.

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? Not sure
- 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? Not sure

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- 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? Police matters only.
- 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 don't see why we shouldn't help foreign authorities catch criminals. Need to be careful that info given does not lead to torture/abuse.

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? 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, if they're the ones who commit a proportionate amount of crimes.
- 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? Consent should not be needed – inclusion should be automatic. Whyever not, so long as info is only used by the Police?
- 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, collection at birth would be fairer, but I think difficult to impose on people. Better to collect, as at present, from everyone 'as and when'.

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? Appropriate training.
- 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

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be taken to be sufficient to prove guilt in the absence of other evidence?
Not without circumstantial evidence too.

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6. Other issues

- a. Are there any other issues, within our terms of reference, which we should consider? Think of the 'good of the many' over the 'rights of the few'. What are the 'few' afraid of?