

The DNA Database: Contacting your MP



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The Coalition Government is committed to introducing new legislation on DNA in its forthcoming Freedom Bill. This is an important and welcome move, but the details still need to be worked out.

To make sure the new law protects your rights and freedoms you should write to or visit your MP. Ask him or her to support the Freedom Bill and to make sure it includes all the necessary safeguards. These are:

- The destruction of all DNA samples once the computerised DNA profiles needed for identification purposes have been obtained from them;
- The deletion of all police computer records and photographs when DNA and fingerprint records are deleted;
- Time limits on the retention of records from people given cautions or convictions for minor offences;
- Independent oversight of the removal of records;
- Stricter controls on how stored DNA records and samples can be used.

You can also ask your MP to support a review of the collection of DNA samples by the police.

Below are some suggestions about the issues to raise with your MP. You can ask your MP to support the safeguards listed and also to write to the Secretary of State, Theresa May, to find out if the Home Office will support them.

1. Explain the reasons for your concern about the current law

You may want to tell your MP if you are concerned about your own DNA or the DNA of someone in your family being collected and retained by the police. You might also be concerned about the impacts on other people's rights and freedoms, or about the impact on black and ethnic minority communities due to the racial bias in whose records are kept on the DNA database. Your DNA can be used to track you or your relatives and a record of arrest on the police computer can be used to refuse you a visa or a job.

2. Support the Scottish approach to the DNA database in the Freedom Bill

The Freedom Bill will bring the law on the retention of computerised DNA records and fingerprints in England, Wales and Northern Ireland into line with Scotland's. This would mean that most people who are found not guilty or have no further action taken following arrest would have their records taken off the DNA database immediately. A minority prosecuted for violent or sexual offences would have their DNA records retained temporarily. This is a significant improvement compared to the previous Government's

approach, which allowed the DNA records of all innocent people who had their DNA taken on arrest to be kept indefinitely.

3. Ensure that people's police records and photographs are deleted at the same time as their records on the DNA and fingerprint databases

In Scotland, all police records are deleted at the same time as DNA and fingerprint records. But in England, Wales and Northern Ireland the Crime and Security Act 2010 (which was adopted before the election but will not now enter into force) required only records on the DNA database and fingerprint database to be deleted: it did not include other police computer records or photographs.

Innocent people's police records used to be removed after 42 days: those with cautions after 5 years; and those with single convictions for minor offences after ten¹ but all records on the Police National Computer (PNC) are now being retained to age 100.² They are currently being transferred to a new database called the Police National Database (PND).

It is important that new legislation covers PNC and PND records because these records can be used to refuse someone a visa or a job simply because they have a record of arrest.³ The US embassy now states that anyone who has been arrested must apply for a full visa, rather than using the visa waiver scheme.⁴ Visa applicants must then pay the ACPO Criminal Records Office (ACRO) to release their record to the US embassy as part of the expensive and time consuming application process.⁵ This has major implications for a large proportion of the population who may no longer be able to travel freely simply because they have been arrested. An estimated 25% of adult men and 7% of women have been arrested at least once.⁶

4. Ensure that all DNA samples are destroyed once the computerised DNA profiles needed for identification purposes have been obtained from them

The Crime and Security Act 2010 required people's DNA samples to be destroyed not later than six months after their arrest, but this has not yet been implemented. There was cross-party support for this measure because individuals' DNA samples – which are currently stored indefinitely - are not needed for identification purposes once a DNA profile has been obtained from them. The DNA profile is a string of numbers based on parts of the DNA sequence, which is stored on the National DNA Database. Destruction of DNA samples would save money (it costs about £1 per sample per year to store them), protect privacy, and make the system much easier to administer, because individual samples would not need to be traced back to a laboratory when a computer record on the DNA database is deleted.

5. Support time limits on the retention of records from people who have cautions or old convictions for minor offences

When the DNA database was first set up, Home Office guidance required DNA database records to be deleted at the same time as records on the Police National Computer.⁷ People with cautions or convictions for minor offences would typically have all their records deleted after five to ten years (provided they had not reoffended). The decision to retain all records indefinitely had no parliamentary oversight and has major

implications for the rehabilitation of offenders, particularly for children, and for the right to peaceful protest. Many of the people affected by indefinite retention of their records have cautions, reprimands or final warnings: meaning they have never been convicted by a court. A legal opinion obtained by the Equalities and Human Rights Commission in 2009 suggested that the indefinite retention of all DNA and fingerprint records from people who have received cautions and convictions for minor offences is unlawful.⁸

6. Include a system for independent oversight

Many people are concerned that the police will not remove their records when they are legally required to do so. This has been a problem in the past. In 2000, Her Majesty's Inspectorate of Constabulary estimated that 50,000 profiles may have been kept illegally on the DNA Database.⁹ The new law will need to include provisions for independent oversight to ensure that it is actually being implemented.

7. Adopt tighter restrictions on how people's stored DNA records can be used

Existing legislation allows use of the DNA database for "*purposes related to the prevention or detection of crime*". In the past, this has been interpreted broadly to allow use of the database for genetic research without consent. The new law should explicitly prevent the DNA database being used for research on people's genetic characteristics without their consent. Research should be limited to use of anonymised data for quality assurance purposes, such as checking the number of false matches.

8. Ask the Government to review whether some DNA samples are being collected unnecessarily

Powers to take DNA on arrest are important in some cases. However, this power was originally restricted to cases where the sample was relevant to the case under investigation. Now, most DNA samples are collected routinely on arrest in cases where DNA evidence is not relevant. The evidence suggests that this has not increased the likelihood of detecting crimes using DNA.¹⁰

This costs the taxpayer a lot of money (£30 to £40 per person added to the DNA database). It can traumatise children or people with mental health problems and also contributes to the racial bias in who is on the database.^{11,12,13,14,15} A more restrictive policy should be considered: particularly for children, whose DNA profiles are unlikely to make a purely speculative match with the profile of a rapist or a murderer. This would require a thorough review of the pros and cons of the current policy.

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- ³ Doward J (2009) Names of innocent people will stay on police database. *The Observer*. 20th December 2009. <http://www.guardian.co.uk/politics/2009/dec/20/dna-police-database-rights>
- ⁴ Under United States visa law people who have been arrested at anytime are not eligible to travel visa free under the Visa Waiver Program (VWP); they are required to apply for visas before traveling. Available on: http://london.usembassy.gov/add_req.html . See also the US Visa Waiver Wizard: <http://london.usembassy.gov/root/visa-wizard/pages/index.html> .
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<http://www.acpo.police.uk/Certificates/Application%20Form%20Version%202011%20-%20English.pdf>
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