

Ten myths about the police National DNA Database

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Background

In England and Wales, the police now take DNA samples routinely without consent from anyone aged ten or above who is arrested in connection with any recordable offence. Recordable offences include being drunk and disorderly, taking part in an illegal demonstration and minor acts of criminal damage by children, caused by kicking footballs or throwing snowballs. A false accusation is sufficient to be arrested on suspicion of committing an offence. All DNA samples are kept permanently by the companies that analyse them, and the computerised DNA profiles and personal data (such as name and ethnic group) are also kept permanently on the National DNA Database, even if a person is never charged or is acquitted.

In Scotland, DNA may be taken on arrest for any imprisonable offence and computerised DNA profiles and samples are kept permanently if the individual is convicted. However, the Scottish Parliament voted against permanent retention of DNA from innocent people, in May 2006. Instead, police powers were expanded to allow temporary retention (for up to 5 years) from a much smaller number of people who had been charged but acquitted of a serious violent or sexual offence.

In Northern Ireland, the law is the same as in England and Wales, but it has not yet been fully implemented.

Myth 1. Keeping more people's records on the DNA database will make it more effective

The value of *entering* increasing numbers of DNA profiles from individuals on the Database (unrelated to the reason for arrest) is that it may allow investigation of a *past* crime to be re-opened, by unexpectedly identifying a new suspect. The purpose of *retaining* an individual's DNA profile on a database is to treat them as a suspect for any *future* crime. Keeping DNA profiles from convicted criminals has been shown to be effective, as has collecting more DNA from crime scenes. But keeping DNA profiles from unconvicted people on the Database has not helped to solve more crimes: the proportion of recorded crimes detected using DNA has not increased in the last 5 years, despite 2 million more people's records being kept. The Government has provided evidence of DNA *matches* with unconvicted persons, but matches are not the same as prosecutions or convictions – many matches occur with victims or passers-by or are false matches. The number of false matches will increase as the Database gets bigger.

Myth 2. Keeping the records of unconvicted people on the DNA database makes us all safer

If people are a danger to society, it makes sense to keep their DNA profiles on the Database. But vulnerable people may be put at risk by being on the Database, because an individual's computerised DNA profile can be used to trace their movements or identify relatives. If a person's DNA sample is also accessed, other personal information about their health may also be obtained. If criminals can infiltrate the system they may be able to use it to identify people whose identity is protected, including vulnerable women or children, or people in witness protection schemes. The permanent retention of records of arrest, linked to DNA, also means

there is significant potential for individuals to suffer erosions of their rights. Potential abuses could include: refusal of visas or access to visa waiver schemes (such as that operated by the US); refusal of employment; and excessive Government or police surveillance (of individuals or selected groups of people).

Myth 3. Removing the records of unconvicted people would allow murders and rapists to walk free

Adopting a policy of removal of records in line with Scotland's would make no difference to cases such as the Ipswich and Sally-Ann Bowman murders. The chance of a crime scene DNA profile matching an individual's profile on the DNA Database is higher in Scotland than in England and Wales, even though most people have their records removed from the Database on acquittal in Scotland. Keeping records of vulnerable women and children on the Database does not make them safer, because of the danger of misuse.

Myth 4. Individuals with records on the Database will only be identified if they have committed a serious crime

Most people whose names are sent from the Database to the police in 'match reports' are not subsequently convicted of any crime: for example, they may have been at the crime scene earlier in the day, or the match may be a false one. In addition, all Police National Computer records are now kept permanently, linked to the National DNA Database. Information contained in these records may be used to refuse someone a visa or a job, even if they have never been convicted of a crime. The retention of permanent records of arrest is unprecedented in British history.

Myth 5. Information will only be shared with other countries if it is needed to investigate a serious offence

There is now a presumption in favour of data-sharing across the European Union for the purposes of crime prevention and detection. However, other European countries only keep DNA profiles of convicted criminals permanently on their databases, whereas the Database in England and Wales contains DNA profiles from around a million unconvicted people, about 100,000 of whom are under 18. Although the police in other countries will not be given direct access to the DNA database, a plan is being developed to allow them to submit crime scene DNA profiles and to receive reports on matches with individuals' profiles on the Database. A worst case scenario is that someone who infiltrates the law enforcement system of another country could use this system to track down a potential victim, by submitting a DNA profile obtained from, say, the toothbrush of a child, rather than a crime scene. Other governments – for example, the US - may also seek records of arrest, or the DNA profiles of named individuals.

Myth 6. DNA evidence is foolproof

DNA evidence is not foolproof: false matches can occur by chance, especially if the DNA profile from the crime scene is not complete. The National DNA Database Annual Report 2005/06 states that between May 2001 and April 2006, 50,434 matches with crime scene profiles, or 27.6% of the total number of match reports, involved a list of potential suspects, not a single suspect, being given to the police, because matches with multiple records on the Database were made. The increasing use of Low Copy Number (LCN) DNA analysis – which allows a DNA profile to be extracted from a single cell – has led the Director of the Forensic Institute in Edinburgh to warn that innocent people may be wrongly

identified as suspects as a consequence of being on the Database. For example, a single cell of DNA can be transferred from someone who had never been at a crime scene, simply because they had earlier shaken hands with the perpetrator. The LCN technique was strongly criticised by the judge in the Omagh bombing trial.

Myth 7. Keeping individuals' DNA profiles on the Database helps to exonerate innocent people who have been falsely accused of committing crimes

A DNA database is not required to provide evidence of guilt or innocence when there is a known group of suspects for a specific crime: a computerised DNA profile can be obtained from each individual and compared directly with a crime scene DNA profile. A database of individual DNA profiles is therefore unnecessary to exonerate an innocent person – their DNA profile can be taken directly from them, rather than looked up on a database. The 'added value' of putting individuals on a database is only to introduce new suspects into an investigation.

Myth 8. The Database can only be used to identify an individual, not for other purposes

The Database may be used for any "purposes related to the prevention or detection of crime". Uses now include: familial searching (using partial DNA matches to try to identify the relatives of a suspect); searching by name; and undertaking various types of genetic research (including controversial attempts to predict ethnic appearance from DNA). Undertaking genetic research using the Database or samples is a breach of the usual ethical requirements for consent to such research.

Myth 9: Putting everybody on the Database would be fairer and would help to solve more crimes

To put everyone on the database would require DNA to be taken from all British residents and visitors, by force if necessary, sent to laboratories and analysed, and put on the computer database, linked with each person's name and address. This would be an enormous and expensive distraction from solving crimes, as well as increasing the likelihood of errors and misuse. If everyone in the world was on a DNA Database this would lead to more crimes, not less, because of the danger of misuse by governments and infiltration by organised criminals, who could use it to track victims and political opponents.

Myth 10. People's DNA profiles, samples and personal details can only be accessed by a small number of people

Copies of the personal information collected by the police when someone is arrested – such as name and ethnic appearance – are sent with people's DNA samples to the commercial laboratories which analyse and store the samples, rather than directly to the central DNA Database. Records of arrest – although not the DNA profiles themselves - are also kept on the Police National Computer (PNC). A wide range of agencies, including potential employers, can access information from the PNC.

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