



HOME OFFICE

POLICY EQUALITY STATEMENT (PES)

Name of Policy/Guidance/Operational Activity

Policy: The National DNA Database (NDNAD)

The National DNA Database holds approximately 6 million DNA profiles taken from arrested individuals and from crime scenes. The database matches individuals to crime scenes, providing the police with possible suspects.

The NDNAD is run by the Home Office on behalf of UK police forces. The NDNAD Strategy Board governs the operation of the NDNAD. This is a police led Board including representatives from the Home Office, Information Commissioner, DNA Ethics Group and others.

New legislation setting out how long an individual's DNA can be retained on the NDNAD, based on their conviction history, age and the seriousness of the offence will come into force on 31 October 2013.

The records held on the NDNAD are determined by law, so equality considerations are based on monitoring whether these laws have a discriminatory effect and making data publically available.

Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.

We are aware of particular issues relating to race, gender and age. These issues relate to disproportionate representation which is an inevitable part of having a DNA database. As the NDNAD is a necessary tool for the police in solving crime, the disproportionality cannot be addressed by action in relation to the database itself. Monitoring is in place to check that it does not increase. Further issues have been identified relating to disability and sexual orientation, which *have* been addressed, but because the NDNAD does not record this information it is not possible to monitor the impact of the action taken. There is no evidence to suggest that any of the other protected characteristics are particular causes of disproportionate representation on the NDNAD.

Data on the composition of the NDNAD

Data is published on the gov.uk website every quarter on the composition of the NDNAD by age, gender and ethnicity. The NDNAD figures in this policy equality statement are taken from the June 2013 edition of this data:

<https://www.gov.uk/government/publications/national-dna-database-statistics>

The content of the NDNAD is currently determined by arrests. With the introduction of the Protection of Freedoms Act, the composition will change due to different retention periods based on conviction outcome, age and seriousness of offence. This may have an effect on protected groups because over-representation can be different at the arrest stage of the CJS than at later stages such as convictions:

Home Office statistics on arrests by age, gender and ethnicity:

<https://www.gov.uk/government/publications/police-powers-and-procedures-in-england-and-wales-201112>

MoJ statistics on offenders convicted by ethnicity and gender (Conviction tables):

The effects of the Act on the age, gender and ethnicity breakdowns of the database will be monitored by:

- Composition of database before and after implementation
- Composition of profiles deleted as part of implementation

Complete data on the gender, age and ethnicity breakdown of the NDNAD was published with the [2011-12 NDNAD Annual Report](#) and will be published each subsequent year. This data provides numbers of, for instance, Asian females age 20-24 on the database and is comparable with the equivalent census data.

NDNAD Strategy Board

The Strategy Board publishes the minutes from its quarterly meetings, and produces an Annual Report containing detailed information on the operation of the NDNAD. A representative of the [NDNAD Ethics Group](#) sits on the Strategy Board to support the Board in meeting its public sector equality duties.

The Strategy Board is producing guidance for police forces on determining applications from individuals to have their DNA deleted in exceptional cases and this will be subject to a public consultation to help ensure equality considerations are represented.

Consultation with stakeholders

The Home Office undertook a public consultation in 2009 in relation to the new retention proposals for DNA which can be found [here](#). A number of external organisations commented that they considered that the Scottish model of DNA retention was considerably more proportionate than the proposals set out in the consultation. These included Black Mental Health, the Equalities & Human Rights Commission, GeneWatch, Liberty and the NDNAD Ethics Group. As the proposals under the Protection of Freedoms Act are closely based on this more proportionate Scottish model, no further consultation has been undertaken.

Ethnicity

Statistics show that disproportionate numbers of those on the NDNAD are from black and minority ethnic backgrounds. 14% of the individuals on the database are recorded as BME and 8% as black, which is higher than the proportions in the general population:

Census data on population by ethnicity:

<http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-286262>.

This is due to the population of the NDNAD being derived from those arrested for recordable offences, rather than any inherent disproportionate use or effect of DNA evidence. Although the percentages of BME individuals on the NDNAD reflect those in the arrest statistics, the NDNAD numbers have historically also included those against whom no further action is taken – innocent of committing any crime. Given that arrest statistics involve a higher proportion of BME individuals than in the general population, this and the NDNAD numbers could give rise to the perception that these groups are more likely to commit crime. The Protection of Freedoms Act will address this by changing the law so that the database will retain predominantly convicted individuals.

Arrests and convictions, by police defined ethnic appearance, England & Wales

	White	Black	Asian	Other	Not Recorded	Total (number)
Arrests (Yr 2009-10)	80.2%	9.9%	6.0%	2.6%	1.3%	1,386,030
Convictions (Yr Sep 2012)	74.7%	9.3%	4.7%	1.6%	9.6%	310,900
NDNAD (June 2013)	78.1%	7.5%	6.0%		8.4%	6,012,382

Ministry of Justice statistics on race at different stages of the criminal justice system:

<https://www.gov.uk/government/publications/criminal-justice-statistics--2>

<https://www.gov.uk/government/publications/race-and-the-criminal-justice-system--3>

Media reports have suggested that around 77% of young black men are profiled on the NDNAD. Research published as part of the [2009-11 Annual Report](#) established that the true proportion of young black males on the NDNAD is between 45% and 61%, accounting for differences in how ethnicity is recorded on the NDNAD and in the census data.

The high proportion reflects the proportion of young black males arrested since the database was set up in 1995. This kind of inequality within the Criminal Justice System is being addressed through the Ministry of Justice's *'Transforming the CJS: A Strategy and Action Plan to Reform the Criminal Justice System'*. Published in June 2013, it sets out a number of actions aimed at ensuring equality, including:

- Ensure the Criminal Justice Board takes a leading role in driving improvements in performance to ensure equality of treatment for everyone who comes into contact with the CJS – to include exploring why there is over-representation of some groups (especially those with a protected characteristic, e.g. race or sex, as defined by the Equality Act 2010) and where we have evidence of inequality in the CJS, put a plan in place to tackle it;
- Hold a number of events led by the Minister for Policing and Criminal Justice to discuss and debate equality issues and concerns openly with a range of stakeholders, particularly those voluntary sector organisations who represent service users. These will inform the work of the Criminal Justice Board and wider policy development; and
- Work closely with the Youth Justice Board to ensure a joined-up approach to improving equality across the adult and youth systems, with an initial focus around ensuring greater racial equality.

Gender

Significantly more men (79%) than women (20%) are recorded on the NDNAD. This is roughly in line with the gender of arrestees, although the proportion of women amongst arrestees is actually lower at 15%. However this discrepancy is likely to be due to lower rates of repeat offending in females – an individual is generally only sampled and added to the NDNAD once, even if they are arrested multiple times.

MoJ statistics on repeat offenders by gender (Offending Histories tables):

<https://www.gov.uk/government/publications/criminal-justice-statistics--2>

Men are three times as likely as women to be the victim of a violent offence perpetrated by a stranger – and it is in serious offences with no known suspect where the NDNAD can be most useful in identifying the offender.

MoJ statistics on Women and the CJS (Chapter 2: victims):

<https://www.gov.uk/government/publications/women-and-the-criminal-justice-system--2>

A vulnerable persons DNA database was set up in 2011 to allow individuals at risk of harm to consent to their DNA being kept to identify them should they be the victim of violence. This is used predominantly by women (84% of the individuals who have asked to be on the VPDD are female), for example potential victims of honour based violence and sex workers.

A number of transgender individuals have been identified on the NDNAD, due to the discrepancy between the gender indicated by their DNA and that recorded on the Police National Computer. The NDNAD records these individuals with a 'wild card' instead of the usual gender marker, which prevents the gender conflict being raised again and goes some way towards respecting the wishes of the individual to be recorded as the gender they wish.

Age

Home Office arrest statistics show that 14% of arrestees are juveniles under 18 years of age. But 20% of profiles added to the database are taken from juveniles. This number may be higher because it is less likely a juvenile will have previous offences and have been sampled before. Less than 2% of the individuals on the NDNAD based on current age are under 18. Profiles from children aged under 10 (the age of criminal responsibility) are not retained on the database.

Under the Protection of Freedoms Act, juveniles will be exempted from indefinite retention on the NDNAD if they have a single minor conviction.

Disabilities

There is some anecdotal evidence from both criminal justice professionals and the third sector to suggest that individuals with disabilities, most notably mental health issues, are over-represented on the NDNAD. This seems to arise from their being arrested as a step towards accessing mental health care from a place of safety.

Black Mental Health UK raised this issue in their response to the 2009 Home Office consultation. The issue arises when a person is arrested for a recordable offence (which may or may not be an effect of a mental health problem), has their DNA and fingerprints taken in custody, and is then assessed as requiring medical healthcare and receives no further action in terms of criminal justice.

The Protection of Freedoms Act will address this as individuals arrested but not convicted of any crime will no longer be permanently retained on the NDNAD.

The NDNAD does not record information about disabilities.

Sexual Orientation

The Crime and Security Act 2010 gave police forces the power to take a DNA sample from individuals convicted of violent or sexual offences in the past but without a profile on the NDNAD. A nationwide operation was instigated to sample these individuals. The NDNAD Strategy Board issued guidance for forces making clear that they should not seek to sample individuals whose only conviction was for a disregarded section 12 or 13 offence under the Sexual Offences Act 1956 (these are offences, now repealed, relating to consensual homosexual intercourse). Secondary legislation updating the qualifying violent and sexual offences list will reflect this stance.

SCS sign off



Name/Title

Gareth Redmond
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I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that due regard has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

Directorate/Unit

Policing Directorate /
Police Transparency Unit

Lead contact

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Date

25 September 2013

Review Date

December 2013