



## National DNA Database Strategy Board

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Author & Warrant/Pay No	Stacey Dibbs p008982
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### Open Minutes of Meeting

Thursday 11th June 2009

10.30 a.m.

5<sup>th</sup> Floor Conference Room, New Scotland Yard

### **1.0 Welcome and Introductions**

Mr Gary Pugh (Chair)	Association of Chief Police Officers (ACPO)
Mr Jim McQuillan	Forensic Service Northern Ireland representing ACC Ian McCausland
Ms Hannah Sharpe	Association of Police Authorities (APA)-representing David Money
Ms Sarah Cunningham-Burley	Human Genetics Commission
Dr Simon Bramble	Head of the Police Science & Forensics Unit, NPIA
Mr Eric Downham	Deputy Head of the Police Science & Forensics Unit, NPIA
Ms Suzy Walton	Representing Chair of the DNA Ethics Group
Ms Kirsty Faulkner	Head NPIA NDNAD Delivery Unit
Dr Doug Pearston	Scottish DNA Database Manager
David Shaw	DCC West Mercia Police Service
DI Stacey Dibbs	ACPO DNA Staff Officer
Ms June Guinness	Forensic Science Regulator representing Mr Andrew Rennison
Ms Caroline Caird	NPIA NDNAD DNA Quality Adviser (guest)
Ms Carole Muir	Forensic Service Northern Ireland
Mr Nick Apps	ACPO Criminals Record Office (guest)
Mr Sean Sutton	National Missing Person Bureau NPIA (guest)

### **2.0 Apologies**



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Mr Stephen Webb	Home Office
Mr Tyson Heppel	Home Office
ACC Ian McCausland	Police Service Northern Ireland
Mr Andrew Rennison	Forensic Science Regulator
Mr David Money	Association of Police Authorities
Prof Peter Hutton	Chair Ethics Group
Mr Ian Miller	Information Commissioners Office

Introductions of by all persons present.

No Home Office representative was present at the meeting. Concern was expressed by all Board members that since the tripartite quorum was not met the Board would be in a difficult position to formalise any requirement for decision making as necessary.

Representation was made for the Home Office to be represented at all Strategy Board meetings.

**Action: Gary Pugh (GP) to escalate Home Office representation to the Home Office Policing Powers Unit**

### **3.0 Open/Redacted Minutes**

The Open and Redacted minutes were presented from the January meeting in paper format as there had been an issue with a corrupted file. The minutes were reviewed for accuracy.

The Board considered not drawing a distinction in the future between Open and Redacted minutes unless there was a sensitive operational policing issue discussed at the meeting. There would, however be a time period in order that all Board members could peer review the minutes fully before publication and amendments made as necessary and if appropriate.

Agreement was made by all Board members present.

Simon Bramble (SB) commented that the meeting should be open but this should not stifle debate. Gary Pugh further commented that there should be recognition and hence consideration of sensitive Commercial issues as well as those Operational.

Sarah Cunningham-Burley (SCB) informed the group that she had not been able to access the published minutes on the NPIA website. Suzy Walton (SW) also remarked that the minutes were buried within the website.

**Action: Stacey Dibbs (SD) to follow up and report back to the Board**



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Action: All members to review minutes and feedback to SD within two weeks

### **4.0 Matters Arising and Actions Register**

05/09 – It was reported by the Chair that there was a considerable amount of work to still be conducted with respect to this action. It was being progressed through the Equality Impact Assessment (EIA) Working Group. Consultation would be through DCC David Shaw (DS) - Chair of EIA Working Group, but any considerations or proposals by the Working Groups should be drawn back to the Board for the ratification and a final decision based on all the apparent implications highlighted.

SCB informed the Board that the Human Genetics Commission (HGC) have an 18 month project on issues surrounding Genetic Discrimination which will feed into this issue.

DS – requested an Ethics Group representative at the EIA meetings

Action: SW agreed to nominate Ethics Group lead

10/09 – Ongoing action. Awaiting results of Home Office Consultation following ECtHR judgement

08/09 - June Guinness (JG) requested that the summary of the breakdown of sample class codes be available for review.

Action: Kirsty Faulkner (KF) agreed to take this forward as part of the Custodian Trends Paper

14/09 – Ongoing action.

### **5.0 Governance – Draft 8**

Draft version 8 previously circulated to the Board. GP thanked Eric Downham for his contribution. (ED)

GP summarised the status of the document-the new Governance has tried to reflect the changes since the model has moved to Organisational representation and that the current and agreed membership would reflect this. The core voting membership would be a tripartite arrangement with other represented organisations, with a stake in DNA, ensuring a rounded input to shape the future direction of the NDNAD.

The current Governance structure will be presented to the Home Secretary with the view of seeking political endorsement of this approach. ED agreed this to be a sensible way forward and suggested that the Governance proposal should form part of the Home Office consultation. GP felt that the HO would not put this out as a separate consultation document

Jim McQuillan (JM) stated that the current wording paints the picture as Scotland and Northern Ireland as suppliers to the NDNAD. It did not recognise them as having a local



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database, with different jurisdictions and their own responsibility with local arrangements.

**Action: JM to provide appropriate wording to recognise these differences**

SW made the observation in relation to page 10;11.1.a – no reserved powers and commented that the Board may need to consider what is required of the Board. It was noted that in para 12.5 when a quorum is not met the Board cannot take Strategic Decisions.

SCB noted that the objective in section 4b does not make sense.

**Action: All comments on the current draft to be set to SD by 30<sup>th</sup> June 2009**

### **6.0 Operational Update-DNA Project Management**

#### **6.1 Overview of DNA Work Programme**

The Work Programme has been developed to ensure transparency to the Board of all projects within its jurisdiction. Not all are mandated within NPIA Forensics 21 and are operated as separate independent projects. GP stated that the Board is there to provide strategic oversight of the projects rather than be part of their operational delivery. He asked for comments on the programme. SD would be the point of contact for providing updates on the individual pieces of work.

JM asked how Scotland and PSNI could fit in with the Work Programme.

SB raised two points: 1. Scotland and Northern Ireland do need to be included within this Work Programme and that a separate programme could run alongside and 2. The Work Programme aims to ensure that there is visibility of those pieces of work that were previously being taken forward within the former DNA Operations Group.

Members of the Board asked to be represented or have an option to be part of the project or the captured work stream.

It was agreed by all that the Board and relevant stakeholders need to be included in the relevant Communications Strategy as visibility and understanding is what the Strategy Board is aiming for.

#### **6.2 Missing Persons Review**

GP welcomed Sean Sutton (SS) Head of the NPIA National Missing Persons Bureau and Caroline Caird (CC) NPIA Custodian Unit. SS gave a presentation to the Board on the proposals for a separate National Missing Persons Database. It was explained that the NPIA took over as the lead of the National Missing Persons Bureau in April 2008.

The Missing Persons database would be a body identification database with the operational activity to potentially identify unidentified persons, found dead and body



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parts and thus provide a matching service for forces from persons previously reported missing. The previously circulated paper proposed the options for the taking of DNA from those reported missing and the circumstances under which surrogate samples could be taken. The suggestion is that surrogate and kinship samples would be loaded to the Missing Persons database until such time that the person was located or matched against unidentified bodies or parts.

SS further spoke of the possibility of the Missing Persons database also holding voluntary samples taken from vulnerable persons, such as potential victims of honour based violence. However he explained that the Missing Persons proposal is a wholly compartmentalised issue and this further proposal to include vulnerable victims should not compromise the Missing Persons database.

SS stated that the political backdrop was immediate and pressing around the handling of unidentified persons and remains. Previously there has been no official database to assist with police investigations and there are now a growing number of unidentified persons in the UK. There have also been a considerable number of FOIA requests for information and increased stakeholder and political interest.

GP summarised the position and the purpose of the NDNAD explaining it is there to assist in the identification of potential suspects in criminal investigations not to locate Missing Persons. He stated that a Missing Persons database has a separate purpose but should fall within the Governance of the Board. It would be a logical step to provide a DNA service which encompasses unidentified bodies and body parts. He did raise the fact that this was not without its own issues and he requested that he had sight of the process of the taking and databasing of DNA and the results before this could be progressed further.

CC explained the scope of the proposal. It is not a database for those who have lost contact but a high risk Missing Persons/Vulnerable Persons database. Unidentified bodies and profiles from missing people are currently loaded onto the NDNAD but that this was inappropriate and unsuitable for those cases where a profile from the missing person was unavailable and the profiles of family members were used to infer the missing Persons profile. The NDNAD was not capable of conducting this type of kinship searching and a separate database was required. An informal database was offered by one of the Forensic Suppliers but this was only considered a temporary measure.

The decision to obtain a sample from a missing person hinges on the risk element of the investigation. DNA is not the only tool to the investigation and the use of DNA does not change the normal decision making processes of missing person investigations. The storage of data on the Missing Persons DNA database would be managed by the Missing Persons Bureau such that when a case was resolved, the DNA records would be deleted. This does not happen at present with missing person data held on the NDNAD.

SB agreed that moving this forward is a strategic decision for the Board. However, without a Home Office representative present a decision could not be made at this



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meeting. As Information Asset Owner of the NDNAD he would want to be clear as to what data would go onto the database. He also stated that there needed to be clear guidance from the Information Commissioner and Ethics Group as to what records could and could not be held on the database, in terms of data protection issues, as it would not be a criminal database. There also needs to be consideration as to legislation and security. He agreed to the principle that the Strategy Board should have oversight of this database.

GP asked the Board, on the issue of purpose is there agreement that a National Missing Persons DNA Database is required and that it would fall within the scope of the Strategy Board. There was general agreement from all.

SW agreed to nominate a lead from the Ethics Group to assist in the development of the database and it was agreed that relevant organisations should be engaged.

It was requested by GP that a Statement of Purpose, the Scope (both included in paper) and an Operating Model covering profile collection and retention be presented to the Board at a future meeting for further consideration. It is for the Board to consider the whole which should include all contentious issues.

With respect to the collection of surrogate and kinship samples it was agreed in principle, but the question of authority to obtain these samples with agreement would need to be fully explored.

A policy decision would be required as to the level of authority required to initially take a sample in connection with the Missing Person, the decision to profile the sample, the authority to search against the NDNAD, if required and the authority to retain on the Missing Persons database. Within the police environment it imposes this decision at a higher level to take the appropriate accountability.

ED went onto note that there is spectrum of cases, for example the 14year old Missing Person from a care or secure home where they have been arrested and DNA taken. It becomes an issue for the Board as to the decision for searching a profile against the NDNAD.

SB agreed that there needed to be clarity and a case by case assessment and that the decision needs to be accountable when given the correct guidance.

CC commented that currently surrogate samples are loaded to the NDNAD as crime stains which is inappropriate as missing persons were more likely to be victims of crime rather than perpetrators.

The Board agreed that accountability is the safeguard but there are considerable ethical issues around the taking and retention of samples from a Missing Person as they are taken without their consent.



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SS stated that within the Good Practice Guide Forces are required to take samples in High Risk cases but at present this is not being implemented and therefore not achieving Home Office targets.

It was asked that the National Missing Persons Bureau provide the policy and procedures that support incidents where profiles will be searched against the database.

SB stated that policy issues would need to be resolved, since a Missing Persons database would receive similar scrutiny to the NDNAD. Further engagement would be required, as would solution training and a configured system before the operating system could be available.

SW proposed that a Risk Register be prepared.

SCB asked for guidance that would describe the process of authorisation on the taking of samples, searching, their retention and status.

SB agreed and that it should also include the technical infrastructure, kinship sampling and familial searching. He agreed to a meeting with the National Missing Persons Bureau to formulate.

Hannah Sharpe (HS) asked that the APA be consulted on this development. An commented that an associated strong Communication Strategy brokered now would be required in light of the S & Marper ruling. She asked that the Operating Model included all ethical considerations and the authority processes.

Vulnerable Volunteers were further considered and it was agreed by the Board that it was not appropriate to hold such profiles on the NDNAD. It was considered that they could be held separately as a subset of the Missing Persons Database but the management of this subset of data would be outside the control of the Missing Person Bureau. The practical considerations were discussed in view of delivering functionality. SD explained the procedure in the Metropolitan Police Service where DNA is taken in some cases of Honour Based Violence on a volunteer basis but it is not suitable to load to the NDNAD nor archive and that there needs to be a database to store such profiles. Further discussion ensued around such volunteer profiles as a subset of the Missing Persons Database and the decision or authority to take or profile this volunteer sample.

SW raised the point that no groups should be put under pressure to volunteer such a profile and SCB noted that considerable care would be needed around the wording of such a consent form and requests to remove samples from the database.

### 6.3 Police Elimination Database

A closing paper was presented to the Board by ACPO Criminal Records Office (ACRO) updating the board on the current position.



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It was discussed that there needed to be a fundamental review of Police Regulations governing the taking and searching of DNA against crime scenes profiles from Police Officers and Staff before this could progress further. He paralleled the proposed process in line with the taking and searching of fingerprints of officers and staff alike.

### **6.4 NDNAD Communications Strategy**

A paper was presented updating the Board on progress. The focus has been on developing a website and its target audience. Since approval was given, 80% of the first draft of the content has been written. Professor Peter Hutton was thanked for his guidance on this project in particular his suggestion of improvements and in providing content to describe DNA and its function.

GP commented that although the website was a priority, it was not in itself a communications strategy.

Kirsty Faulkner (KF) stated that key topics should be agreed by the Board and reviewed on a quarterly basis therefore ownership would be with the Board although managed though the NPIA as custodian of the website. The Board discussed key elements for inclusion such as S & Marper, the Missing Persons database and the operation of the NDNAD. The objective of the website was explored. Suggestions were given on testing the website with target audiences. SCB volunteered a consultative group from the Human Genetics Commission.

### **6.5 NDNAD Transition Project**

David Shaw (DS) gave a presentation on the transition of the NDNAD from the Forensic Science Service (FSS) to the NPIA. The presentation will be available on the website

### **7.0 Strategic Risk Register**

The Strategy Board risk register was reviewed for each identified risk element.

#### **7.1 S & Marper Home Office Consultation (STRAT01)**

The Board were informed by GP that the S & Marper Home Office Consultation has been released on the Home Office website. No further implementation meetings had been scheduled as yet. It was believed that the issue will still be the retention of unconvicted profiles. There has been strong media interest and GP reported that he had been interviewed on a number of occasions for both television (Politics Show) and the press.

JM asked if the Committee of Ministers had had sight of the proposals and whether feedback had been given.

**Action: SB and ED to confirm with Home Office the reaction or consideration of the European Court of Human Rights to the Consultation**



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It is expected that both the HGC and Ethics Group would make their own response to the Consultation.

SCB felt that it was important that there was awareness in the media that the Consultation was Home Office owned and not a NDNAD Strategy Board Consultation document. The Board should not be seen to own it.

GP agreed and was of the opinion that the Strategy Board would more deal with the consequences.

### **7.2 Ethical/Diversity Considerations (STRAT05)**

It was noted that a paper should be presented to the next Strategy Board with regards to the forthcoming publication of the Equality Impact Assessment Stage 2.

Alex Prottis (lead) to be invited to the next meeting.

No issues were raised at the meeting by the Ethics Group.

GP expressed his appreciation and thanks of the work and contribution Professor Peter Hutton had made to the NDNAD Strategy Board during his time as Chair of the Ethics Group.

### **7.3 Performance and Data Integrity (STRAT02)**

NDNAD Performance and Trend reports were presented to the Board and discussed. An explanation of the data was given by KF. No issues were highlighted at this time.

It was asked if data collection information could be brought to the Board meetings, such as the number of 'detections' reported by the police in annual returns. It was felt that such data would be useful in light of the political and media interest in the database.

### **7.4 Information Asset Owners Report (STRAT 04/06)**

SB gave an explanation of the role of the information Asset Owner (IAO) and that he was the nominated lead on behalf of the NPIA. GP as Chair of the NDNAD is the nominated Data Controller in Common with Force Chief Constables and the NPIA are the Data Processors for the NDNAD in terms of accountability. These roles have been agreed by the Information Commissioner.

The role of the IAO has been brought about as a consequence of the Hannigan report and the recommendations within, following Government data loses. The report stated that all Government departments must have mature data security regimes and declare where information is a security risk. All heads of relevant units are now required to have an IAO who will be responsible for the security of data within their unit. The role of the IAO is part of a mature Information Assurance Model. For the NDNAD the IAO must provide an annual report on the residual risks surrounding the database which is



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escalated to the Cabinet Office via Peter Neyroud as head of the NPIA-the 'Accounting Officer'.

In addition to the annual report, a quarterly review of the Custodian Risk Register must be conducted considering issues of data integrity, confidentiality of the data and availability elements of the NDNAD. Mitigation must be given to improve security.

The highest risk identified is that of Familial Searching or DNA BOOST on the NDNAD. It relates to the fact that copies of a significant part of the database are provided to certain Forensic Providers so they can perform these searches. The NPIA are working with Providers to change this model so as to provide assurance to the Board that the risk is being managed.

SB agreed to provide an update to the Board on the movement and management of the identified risks.

SB further updated the Board on the requirement of the NPIA to carryout a Privacy Impact Assessment (PIA) of the NDNAD. He explained that this would be an on-going activity and the PIA would aim to manage risks surrounding the Data Protection Act (DPA) from a citizen perspective. The risks would be assessed and managed against the eight principles of the DPA. Two meetings have been held internally within the NPIA. The vision is to extend more externally to include interested groups and stakeholders, such as, the Information Commissioners Office, the Ethics Group and the Centre of Genomics in Society (Exeter University). This would give a more citizen focused scrutiny in terms of where risks lie as to exposure of personal data and why certain pieces of personal data are kept.

SB agreed to share risks with the Board and produce a short report for each meeting as appropriate.

HS stated that the NPIA information Asset Owner status should be made more explicit in the Governance policy

### **7.5 Resilience (STRAT07)**

A paper was presented to the Board on the new 15 loci DNA profiling kits soon to be made available to the forensic community. The discriminating power of the database is reducing as more profiles are loaded which in turn increases the risk of adventitious matches. The Board requested a paper on the strategic requirement that they would need to consider.

It was decided that such considerations should form part of the Work Programme as a project within its own right.

KF gave a short verbal update on the transition from SGM to SGM+ and why this future change was necessary in terms of the life expectancy of each scientific innovation. She paralleled this with the technology of a 15 loci DNA test and further explained the



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advantages of the 15 loci method in terms of sharing more areas/loci in common with international DNA science techniques.

The Board asked for a fuller explanation of this proposed technique to include the abilities and consequences of such methods and to include the validation of a new system. The Board felt they needed to understand more fully what it means to move to a new technique, what it involved and why it would have more discriminating power.

**Action: KF to prepare paper to address these issues and include the areas as discussed for next Strategy Board meet.**

It was explained that such new techniques would be phased implementation. The UK system would move to 15 loci with the Forensic Providers being accredited and validated to perform the science.

Commercial considerations were discussed as to whether the UK would use one manufacturer of the kits or open up the market. This would take the Board into a stringency debate that would need serious consideration once aware of all the details.

The final report from the Delivery Unit was presented to the Board by KF.

GP addressed the issue of DNA Boost and the contractual and commercial obligations that were holding up the launch. SB explained that they needed resolving between the NPIA and FSS but that this was being progressed.

GP felt that the Strategy Board should commission such algorithms and the NPIA should get to this position as opposed to the Forensic Providers providing the service. He included familial search algorithms in such services and feels that it should be offered by the NPIA even if the algorithm is commercially bought in. It was discussed how to procure the best available algorithm for operation by the NPIA.

June Guinness (JG) on behalf of the Forensic Science Regulator informed the Board that they had previously agreed that the Regulator would evaluate the familial search from an end user requirement/specification. The Regulator would then set the standard.

SB highlighted that there was a need to move to a position of the best available for searching on the database and what the requirements are for such a search. Once at this position the algorithm could be procured and then testing could take place against it. Validation would be from the Regulator to the Supplier.

A business requirement to include a Business Model for Familial Searching would be needed from the NPIA and would form part of the Next Generation Algorithm proposals. A paper would be presented at a future Strategy Board meeting.

Reduced stringency searching was also acknowledged and it was noted that this again plays into the Next Generation Algorithm. Again this would be reported at a later Strategy Board meeting.



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### 7.6 Science and Innovation (STRAT03)

A second paper was presented to the Board on new DNA testing by the Forensic Science Regulator. JG gave an explanation of the paper and described what the Regulator would consider in terms of new testing. Two manufacturers have produced 15 loci kits with the 10 current SGM Plus loci and 5 new loci recommended by ENFSI. The new kits give more discriminating profiles and have the advantage that they are less sensitive to inhibition. The fundamental issue is the improved performance. A number of kits are available commercially with slight variants. It is for the Board to consider which kit should be recommended or whether to offer to the market the use of different kits.

Non-concordance issues were highlighted with the use of more than one kit but balanced against a monopoly market if only one kit commissioned.

Again there was a request from the Board for a paper to give the pros and cons of such issues and the implications of one or more kit. The Board felt there was a need for greater understanding before any decisions could be reached and agreed.

### 7.7 International Exchange (STRAT08)

A short paper was presented to the Board. The PRUM Council Decision was discussed and it was felt that despite the UK having agreed to the new EU legislation, at present the proposals for International DNA exchange were unmanageable. The Board endorsed a further paper on the PRUM Council Decision and the implications to the NDNAD.

CC highlighted the issues of International Data Exchange around policy and both ethical and privacy concerns. She informed the Board that whereas presently the UK NDNAD has approximately 5 million profiles; the other 26 member states only held this number between them and were therefore less experienced with dealing with adventitious or chance matches. The Prum process only included a hit / no hit response between databases. Current MLAT processes would be used to progress any hits but these fell outside the evaluation of the Prum process and were unsuitable for the volume of hits that were likely to occur

There needs to be greater understanding of all the processes employed before progression can be made by all European Countries. It was felt by the Board that the UK need to first define their business requirements for the benefit of all its citizens but that this was outside the realms and jurisdiction of the NDNAD Strategy Board.

Without greater defined parameters and procedures International DNA Data Exchange could undermine DNA profiling and the police service. It was decided by the Board that the political issues should be a matter for the Home Office to address before greater consideration of International Exchange could be given by the Board.