The Greatest Ethical Criteria for Building DNA Databases for Criminal Investigations is Consent

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Abstract

The creation of DNA databases for criminal investigative purposes sparks debates about moral and legal issues related to violations of human rights. The practice demonstrates how the right to freedom, or the freedom to make a choice, is one of the human rights that can be abused when building such a database. The right to freedom is used to describe a person's ability to freely choose whether or not to be sampled for a DNA test when building databases. When creating a database on a general population level, the need for prior consent from the subject is implied by their right to freedom and respect for their own self-determination. This is not a situation where databases are established from criminal suspects who are compelled to submit to mandatory DNA sample collection. When it comes to criminal prosecution, legal regulations accept the police's obligation and authorization to collect samples for personal or criminalistic identification, analyse, preserve, and discard obtained personal information. The subject's written consent is not required in these circumstances. But regardless of whether the personal information will be used or not, we should be aware that the process of capturing and collecting it by national institutions might have a direct impact on the subject's privacy. In order to achieve a fair balance between public and private interests, the consent form may be revised, and the person providing the biological material will be explicitly informed of the uses to which his genetic information will be put, the length of time his DNA will be subjected to additional automated processing, and the steps and conditions necessary to have his DNA profile removed from the national DNA databases.

Keywords: Ethical consideration • DNA databases • Consent form • Databases • Management

Introduction

In 1995, the UK saw the beginning of the significant development of forensic DNA databases, which from then spread rapidly throughout the world. There are currently 70 nations with active DNA databases, all of which use distinct strategies for database construction and management, according to the 2019 Interpol global DNA profiling survey. The police are undoubtedly interested in the DNA profiles of the people who have been arrested being added to the national DNA databases, mainly to help them solve more crimes. However, some of the people who were detained are released during the criminal process, or the offence does not result in an indictment and a legal resolution.

The goal of collecting biological samples from a suspect is to determine whether that individual may be connected to a specific crime occurrence for which they are being investigated.

Description

A certain number of people, especially those who are innocent, consent to the collection of their biological material in order to demonstrate their innocence. This allows their DNA profiles to be compared with DNA profiles from biological material from crimes they did not commit after being subjected to laboratory analysis. Maintaining DNA profiles of suspects who are actually innocent raises certain moral and ethical concerns. The study by Wallace, et al. provides a comprehensive evaluation of ethical and legal criteria related to forensic DNA databases. In the S. and Marper v. UK case (also known as the Marper case), the grand chamber of the European court of human rights unanimously decided in December 2008 that the indefinite retention of innocent people's DNA profiles, fingerprints, and samples violated article 8 of the European convention on human rights (the right to privacy). The protection of freedoms act 2012 entered into law in England and Wales in 2013 as a result of the verdict. Following the Marpet ruling in 2008, the majority of the European Union's member states began to adjust their domestic laws to the new data protection directive, which governs police data collection and usage for criminal and counterterrorism investigations. Although the majority of EU member states have already complied with the ruling, other nations, including North Macedonia, may need to take additional measures to achieve compliance. The Republic of North Macedonia's national DNA database was developed in December 2007 and as of this writing have 26,000 DNA profiles of living individuals and roughly 13,000 DNA profiles of biological traces. Additionally, DNA samples are kept in this database. The Republic of North Macedonia currently lacks proper forensic DNA database laws. Based on a provision from article 69 of the law on police, the ministry of internal affairs established and maintains the present national DNA database. This law contains some rules regarding the preservation of police records, particularly those pertaining to individuals for whom DNA analyses have been conducted. The ministry of internal affairs instruction of the manner and procedures for forensic registration and identification of persons and unidentified corpses, published in March 2014, contains information on the database's upkeep and use. Current databases are made up of samples taken from individuals who have either committed crimes or are thought to be associated to certain crimes. A particular form for the provision of comparative biological material must be signed as consent to give the sample when supplying reference biological material from an individual for DNA analysis. It is unavoidable to note the person's position, which may be "suspect," "perpetrator/convict," "victim," or "voluntary/for elimination."

Conclusion

There have been some complaints from those who have been convicted in the past over ethical standards related to sample collection, processing, maintaining DNA profiles for DNA databases, and removing DNA samples, which have drawn attention to the need for some legislative involvement. When they were detained by the police in 2010 and 2009, respectively, the case brought before the European court of human rights by Trajkovski and Chipovski versus North Macedonia unmistakably demonstrated some flaws in the applicable law at the time. Both applicants filed complaints with the European court of human rights alleging that the privacy rights guaranteed by article 8 of the human rights convention had been violated. The first applicant claimed that a mouth sample had been unlawfully taken without a court order or consent, and the second applicant

claimed that DNA evidence had been unlawfully taken and processed by the police. The applicants noted that at the time, the national legal framework lacked precise and definite guidelines for the acquisition, use, storage, and disposal of DNA data.

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