

Government plans to keep DNA samples of innocent

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DNA samples of innocent to be kept on file

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The government is planning to get around a European court ruling that condemned Britain's retention of the DNA profiles of more than 800,000 innocent people by keeping the original samples used to create the database, the Guardian has learned.

A damning ruling last December criticised the "blanket and indiscriminate nature" of the UK's current DNA database - which includes DNA from those never charged with an offence - and said the government had overstepped acceptable limits of storing data for crime detection.

Last month the home secretary, Jacqui Smith, said she would publish a white paper setting out "a more proportionate, fair and commonsense approach", but she has not given any indication whether DNA samples already obtained would be destroyed. However, Home Office sources said the government, which was given three months to respond to the ruling, has "no plans" to destroy samples of DNA.

The revelation raises questions about the extent of the government's response to the court's findings and prompted fresh criticism last night of its "surveillance state" ambitions. The Guardian this week revealed the scale of Whitehall plans to mine data on innocent citizens from public and private databases in order to enhance the fight against terrorism.

Writing in today's Guardian, the justice secretary, Jack Straw, accepts he must climb down on a controversial clause in the coroners' and justice bill, which civil liberties critics have warned is too vague and widely drawn. Straw admits there are "justifiable concerns" that personal data - from medical records to the identity card register - could be used for purposes far removed from their original intention.

The concerns over handling DNA samples come as the Home Office has set out amendments to the police and crime bill which would give the home secretary power to make new regulations about the retention of DNA, without further parliamentary scrutiny.

Experts had anticipated the government would respond to the European court by reforming the database using

the Scottish model, where DNA is not retained from innocent people except in cases of arrest over sexual and violent offences.

Since its foundation in 1995, the database has become the world's largest. Of its 5 million entries, more than a million are children and 857,000 innocent people. Home Office and police sources have told the Guardian measures are under way to collect stronger evidence of how the database is used to solve crime. The measures come after the court said it would need "weighty reasons" before it would accept the current scale of the database, and raise concerns that the government may seek to overturn the findings by showing the current scale of the database has played a role in solving crime.

"The government did not have figures for the crimes solved by DNA data of unconvicted people on the database," Stephen Cragg, barrister in the case at the European court, said: "The European court has said that if the UK government wants to be a pioneer of a DNA database it will have to make out a stronger case."

The government has previously cited cases such as the murder of Sally Ann Bowman by Mark Dixie as evidence that the database has helped solve crime. But Cragg stressed: "The majority of examples provided by the government involved matching suspects' DNA with crime scene stains. These cases did not involve samples retained from innocent people."

Attempts to retain DNA samples are likely to meet with vigorous protests from civil liberties groups. "The government has already stretched the limits of what should be permissible in a free society," the director of Privacy International, Simon Davies, said. "Over the past decade, by deception and stealth, legislation and practice has allowed the collection and use of DNA in ways that would be entirely unacceptable in most democracies."

In a separate development, the government has sent a letter to MPs stating its intention to "retain biometric data provided such retention is based on consideration of the individual circumstances".

Vernon Coaker, a Home Office minister, writes: "I cannot emphasise enough the importance of ... DNA in particular, in the identification and detection of offenders."

A Home Office spokesperson said: "As made clear we will comply fully with the judgment, which is why we have brought forward at the earliest opportunity an amendment to the Policing and Crime Bill to allow us to introduce regulations on the retention of DNA and fingerprints. The contents of the regulations will be subject to a full public consultation in the Forensics white paper."

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