

Blair's DNA crime database plan 'dangerous and flawed'

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Neil Mackay; Home Affairs Editor

TONY Blair's flagship crime-busting plan to take DNA information from every criminal in the United Kingdom is unworkable and "dangerous and flawed", according to Scotland's most senior lawyers and scientists. They also claim it will lead to scores of miscarriages of justice.

The attacks on the government's plan to force three million people to undergo DNA testing now appear to leave Labour backing a policy that is considered a non-runner by the very people it is intended to assist.

Even commercial DNA experts have warned against the project, claiming they have made mistakes while analysing DNA samples.

The Prime Minister is to spend #109 million to DNA-test everyone arrested for a criminal offence in the UK. Although Blair has already swept aside outrage from the civil liberties lobby, he is now under unexpected attack from the legal establishment and scientific community.

In Scotland, Jim Wallace, the justice minister, has promised an additional #1.7 million for DNA detection work. The government plans to build a database of DNA samples which can be accessed by police and cross-checked against crime scene samples to link suspects to offences.

Scotland's part of the DNA programme will see an extra 5000 crime scene stains taken and an extra 15,500 offenders forced to give samples. This will increase Scotland's DNA database to 75,000. Wallace claims this will "increase the ability of the police to secure further detections".

Donald Findlay QC, Scotland's most renowned criminal lawyer, said: "DNA testing can never be 100% reliable in providing an identification. All it offers is a statistical probability. It can not be totally positive in the eyes of the law. DNA is open to manipulation.

"It can happen that a sample is tested 16 times and points towards an individual being linked to a crime, however on the 17th test it may show that the person wasn't involved.

"We all assume scientists are running these tests accurately, but that's open to question. They need to spend a lot of money on DNA testing to ensure it's correct, and samples can also be contaminated.

"Because we live in the cult of the white coats - where a scientist's word is taken as gospel - a jury is inclined to believe that a defendant is guilty if they are linked to a crime by DNA.

"It's rubbish to blindly believe in DNA as a panacea for crime. I believe we could actually be opening the door to more miscarriages of justice as juries will start convicting on DNA evidence alone. It all smacks of a political gimmick. Just because a scientist says something is right, it doesn't mean it's right. Just look at what has happened to fingerprint evidence."

The so-called infallibility of fingerprint evidence was turned on its head last year by the Shirley McKie case.

McKie, a Scottish police officer, was accused of perjury after denying that a thumbprint found at a crime scene was hers. She was cleared of the crime, and a police inquiry later criticised the Scottish Criminal Record Office's fingerprint bureau for its conduct in the case.

Dr Alexander Cook, a molecular geneticist with Yorkhill Hospital, said: "Nothing can be infallible. You can't say that in scientific terms. We can't say that a DNA identification would never point towards the wrong person."

Even Keith Borer, the senior partner with Keith Borer Consultants - a Durham firm specialising in commercial DNA testing - said his firm had made two mistakes.

"In one, a man was accused of rape, and we got a match on his DNA with the first test we did," said Borer. "That test made it 25 million to one that there would be someone else with the same DNA profile. We later did tests at a higher level and there were parts of the sample that did not match his DNA.

"The man also had ME and there was no way he could have raped someone."

In May, the Appeal Court in London ordered the retrial of a man convicted to two rapes solely on genetic evidence. His defence said a mismatch could not be ruled out as the analysis of the samples had been insufficiently precise.

The National DNA database in Birmingham also mismatched a sample of an innocent man with a stain lifted from the scene of a burglary.

The man was charged with the offence, but it was later dropped when further tests and a cast-iron alibi showed he could not have been the criminal.

Sandy McCall Smith, vice-chair of the Human Genetics Commission, a body of experts set up by the government, said he was concerned that samples would be taken from minor criminals.

"Should the DNA of those who commit traffic offences be put on a forensic database?" he said.

Additional reporting by Jenifer Johnston