

Summary: Intervention & Options

Department /Agency: Home Office	Title: Impact Assessment of the implementation of the S & Marper ECtHR judgement regarding DNA profiles, DNA samples and fingerprints retention	
Stage: FINAL	Version: FINAL	Date: November 2009
Related Publications: Annual Report National DNA database: HYPERLINK " http://www.npia.police.uk/en/11403.htm " Consultation Document: http://www.homeoffice.gov.uk/documents/consultation-documents/2009-dna-database/dna-consultation-2009		

Available to view or download at:

www.crimereduction.homeoffice.gov.uk/crimeandsecuritybill/

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What is the problem under consideration? Why is government intervention necessary?

On 4 December 2008 the European Court of Human Rights (ECtHR) held in the case of S and Marper that retaining fingerprints, DNA samples and profiles from those arrested but not convicted indefinitely was a breach of Article 8 (right to private life). Although the court accepted that the retention pursues the legitimate purpose of the detection and prevention of crime, it found that the "blanket and indiscriminate nature" of the retention powers was disproportionate to those aims and failed to strike a fair balance between the public interest in preventing crime and the rights of the individual to private life. The Government issued a consultation document on 7 May on proposals for a retention framework to comply with the Judgment.

What are the policy objectives and the intended effects?

The establishment of a retention framework which achieves the right balance between the rights of the individual and the wider needs of public protection and which complies with the ECtHR judgment. The policy seeks to minimise any threats to public protection through destruction of data which is important to crime detection and prevention, by taking account of research around risk factors in respect of those arrested but not convicted and setting retention periods in the light of them.

What policy options have been considered? Please justify any preferred option.

DNA PROFILES: Option 1 – Do nothing; Option 2 – Automatic deletion of profiles after proposed retention period.

DNA SAMPLES: Option A – Do nothing; Option B – Destruction of samples after six months retention.

FINGERPRINTS: Option I – Do Nothing; Option II – Destruction of fingerprints in line with preferred profile option.

Options 2, B and II are the preferred options.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? After 12 months and periodically thereafter.

Ministerial Sign-off For

Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....Date: November 2009

Summary: Analysis & Evidence

Policy Option: 2, B & II

Description: Summary of profiles, samples and fingerprints

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' There would be a cost of around £15k to re-programme the computer software to delete profiles and fingerprint records. It would cost 11.2m to delete orphaned profiles. We estimate that to destroy DNA samples would cost around £14.2m to £16.2m (one-off) plus 4.4m/year. To destroy paper records of fingerprints, it would cost around £26.1m (one-off) and 389k/year.
	One-off (Transition)	Yrs	
	£ 51.5m to 53.5m		
	Average Annual Cost (excluding one-off)		
	£ 4.8m		
			Total Cost (PV) £ 91.2m to 93.2m
Other key non-monetised costs by 'main affected groups' There would be costs of destroying fingerprint records of under 18s after five years for those individuals that have been convicted for the first time. In addition, there is a potential cost to society because of reduced detections.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' It costs around £0.90/year to store a DNA sample in a fridge. Under the option of destroying all DNA samples, this cost would not occur. Given the large number of samples that would need to be removed we have estimated a saving of around £5.2m (one-off) and £7.7m/year.
	One-off	Yrs	
	£ 5.2m		
	Average Annual Benefit (excluding one-off)		
	£ 7.7m		
			Total Benefit (PV) £ 70.3m
Other key non-monetised benefits by 'main affected groups' There are benefits of having a retention period, as there would be a greater probability of re-offending individuals being caught. However, this benefit would be lower compared to the 'Do nothing' case. There are potential benefits to the individual due to privacy rights.			

Key Assumptions/Sensitivities/Risks DNA SAMPLES: We have assumed that there are around 5.3m legacy samples on the DNA database. FINGERPRINTS: We have assumed that there would be around 922k and 372k legacy records for adults and under 18s respectively. In addition, we estimate that of those arrested but not convicted around 24 per cent are under 18.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ -20.9m to -22.9m	NET BENEFIT (NPV Best estimate) £ -21.9m
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What is the geographic coverage of the policy/option?	England & Wales
On what date will the policy be implemented?	2010
Which organisation(s) will enforce the policy?	NPIA
What is the total annual cost of enforcement for these organisations?	£ Unknown
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£ N/A

What is the value of changes in greenhouse gas emissions?				£ N/A
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)	Micro N/A	Small N/A	Medium N/A	Large N/A
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£ Unknown	Decrease of	£ Unknown	Net Impact	£ Unknown

Kev:	Annual costs and benefits: Constant Prices	(Net) Present Value
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Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

On 4 December 2008 the European Court of Human Rights (ECtHR) held in the case of S and Marper that retaining fingerprints, DNA samples and profiles from those arrested but not convicted indefinitely was a breach of Article 8 (right to private life). Although the court accepted that the retention pursues the legitimate purpose of the detection and prevention of crime, it found that the “blanket and indiscriminate nature” of the retention powers was disproportionate to those aims and failed to strike a fair balance between the public interest in preventing crime and the rights of the individual to private life. The Government introduced provisions at Commons Committee stage of the Policing and Crime Bill in February 2009 to provide for regulations on the retention use and governance of biometric data.

The Government conducted a public consultation document from 7 May until 7 August 2009 on proposals for a retention framework to comply with the Judgment. Over 500 responses were received. In the light of them and the views of Parliament on the use of secondary rather than primary legislation the Government withdrew the clauses from the Policing and Crime Bill and is bringing the necessary measures forward in the face of the Crime and Security Bill.

A.2 Issue

The development of a framework for the retention of biometric data in particular in respect of those taken from people arrested but not convicted which achieves a proportionate balance between the rights of the individuals from whom the data has been taken to respect for private life and the wider interests of society in terms of the need to safeguard public protection.

A.3 Groups Affected

- Individual members of the public who will be affected both in terms of the impact on their right to private life and more widely in terms of any impact of the policy on law and order and the detection and prevention of crime
- Private sector firms; there are a very few number (only 5 are regularly involved) which provide DNA sampling services to law enforcement agencies. Whilst there would be no regulatory burden on these companies there might be some loss of business regarding the storage of samples
- Law enforcement agencies. There will be some impact in terms of fewer DNA profiles being retained and therefore available for matching than the previous policy of indefinite retention. Other methods of detection, where available, are likely to be more costly or time consuming. However, the preferred option seeks to minimise this impact.

A.4 Consultation

Within Government

The development of the policy has been overseen by the S and Marper Implementation Group chaired by the Home Office on which interested parties including Government Departments (Ministry of Justice (MoJ), Attorney General's Office and Northern Ireland Office) are represented.

Public Consultation

A public consultation document "Keeping the Right People on the DNA Database" was published on 7 May 2009. It attracted over 500 responses. A significant majority of respondents was against retaining DNA for any period of time from those not convicted. There was support from a large number of respondents for a retention framework along the lines of the Scottish system in respect of sexual and violent offences. While there was some support for the attempt to give special consideration to children, there was confusion over the proposals and a general criticism of the proposal to retain data of those not convicted, particularly bearing in mind the United Nations (UN) Convention on the Rights of the Child. While most respondents failed to differentiate between samples and the profiles which are derived from them, where they did, there was strong support from the public and civil liberties groups for the proposal to destroy samples. However, some caution was expressed by policing and prosecutorial organisations in terms of possible operational and evidential implications. Association of Chief Police Officers (ACPO) argued for a fixed retention period for DNA profiles for all those arrested and not convicted of at least 10 years, including children, and indefinite retention of fingerprints (or at least the longer retention period they advocated for DNA).

Proposals to put the exceptional case procedure (early deletion of data ahead of the expiry of any retention period) on a statutory footing with criteria for consideration of applications were welcomed but there were calls for a judicial appeal route beyond the chief officer. Proposals to extend the independent element of the governance of the National DNA Database (NDNAD) were welcomed although some considered the governance structure should be independent of the police.

There was acknowledgment of the attempt to provide an evidence base for the proposals, but significant criticism of the research and, therefore, the retention periods which it underpinned.

Concerns were expressed about the high levels of people from Black and Minority Ethnic (BME) communities, particularly young black males, on the database.

B. Rationale

The retention of DNA and fingerprints from those arrested but not convicted is required to ensure that important detections are not lost. An analysis of all DNA matches in the 2008/09 financial year for rape and murder and manslaughter revealed that 11 per cent of rape and 10 per cent of homicide matched profiles belonged to individuals who did not have a conviction at the time of the match. Research conducted by the Home Office over the summer of 2009 shows that those arrested and not convicted have a significantly higher risk of re-arrest than otherwise similar individuals who have not previously been arrested and that this risk does not become the same as the general population for 6 years. It is on this basis that a retention period of 6 years for non convicted adults has been selected.

As far as juveniles are concerned, there is no evidence to support a shorter period, in fact the reverse is the case. However, the Government has taken account of the comments of the ECtHR in respect of children in terms of the needs of their development and integration into society as well as the results of the consultation exercise. In the light of this the Government is proposing a 3-year retention period for all those who have been arrested but not convicted for less serious offences. For those arrested but not convicted for serious offences, it is proposing a differential regime; for those under 16 the data will be retained for 3 years but for 16 and 17 year olds the data will be retained for a period of 6 years. This takes account of the ages at which peak offending occurs. So far as juvenile convictions are concerned the proposal to delete the data relating to a first minor offence reflects the Government's desire to provide a more lenient regime in the case of one off minor offending.

In regards to national security, the police and Security Service have made clear that those (national security) investigations which include counter-espionage and counter-proliferation as well as counter-terrorism cases – can last considerable periods of time. (In some cases investigations into individuals have lasted as long as 25 years.) A blanket 6 year retention timeframe would therefore be damaging to national security. Consequently national security related DNA profiles and fingerprints should be retained beyond the 6 year point (where there is a national security case for doing so). This would require a review every two years on a case by case basis. Data would be deleted if it became clear between reviews that its retention would no longer be necessary. (The policy for juveniles would be similar but would take account of the differential treatment proposed for juveniles more generally).

C. Objectives

The development of a framework for the retention of biometric data in particular in respect of those taken from people arrested but not convicted which achieves a proportionate balance between the rights of the individuals from whom the data has been taken to respect for private life and the wider interests of society in terms of the need to safeguard public protection.

D. Options

DNA PROFILES

Option 1 – Do Nothing

Continue to hold DNA profiles indefinitely for all individuals. This would not be compatible with the S & Marper ruling but is included as a baseline for comparison.

Option 2 – Automatic deletion of profiles after proposed retention period

- | | |
|--|--|
| 2a. Adult (non-conviction) – Serious crime (including terrorism): | Delete after 6 years |
| 2b. Adult (non-conviction) – Minor crime: | Delete after 6 years |
| 2c. Under 18s (conviction) – Minor crime (1 st conviction): | Delete after 5 years |
| 2d. Under 18s (non-conviction) – Serious crime (including terrorism): | Delete after 3 years
(6 years for 16/17
year olds) |
| 2e. Under 18s (non-conviction) – Minor crime: | Delete after 3 years |

It should be noted that under this option, adults who are convicted of an offence, under 18s convicted for a serious offence, and under 18s who are convicted of a minor crime for the second time within 5 years of the first offence, would have their profiles kept on the

database indefinitely. Furthermore, adults who are arrested on the grounds of national security, but not convicted would have their profiles retained beyond 6 years and reviewed on a 2 year basis (the policy for juveniles would be similar but would take account of the differential treatment proposed for juveniles more generally).

DNA SAMPLES

Option A – Do nothing

Continue to hold DNA samples indefinitely for all individuals.

Option B – Destruction of all samples after six months retention

All samples, for all individuals whether convicted or no further action taken, will be immediately destroyed once the profile has been successfully developed. The maximum period a sample may be stored for is 6 months.

FINGERPRINTS

Option I – Do nothing

Continue to hold fingerprint indefinitely for all individuals.

Option II – Destruction of fingerprint records in line with profile deletion policy

This policy option proposes to delete fingerprint records from IDENT1 and destroy paper copies of fingerprints for:

Ila. Adult (non-conviction) – Serious crime (including terrorism):	Destroy after 6 years
Ilb. Adult (non-conviction) – Minor crime:	Destroy after 6 years
Ilc. Under 18s (conviction) – Minor crime (1 st conviction):	Destroy after 5 years
Ild. Under 18s (non-conviction) – Serious crime (including terrorism):	Destroy after 3 years (6 years for 16/17 year olds)
Ile. Under 18s (non-conviction) – Minor crime:	Destroy after 3 years

It should be noted that under this option, adults who are convicted of an offence, under 18s convicted for a serious offence, and under 18s who are convicted of a minor crime for the second time within 5 years of the first offence, would have their fingerprint record kept indefinitely. Furthermore, adults who are arrested on the grounds of national security, but not convicted would have their fingerprints retained beyond 6 years and reviewed on a 2 year basis (the policy for juveniles would be similar but would take account of the differential treatment proposed for juveniles more generally).

E. Appraisal (Costs and Benefits)

DNA PROFILES

General Assumptions and Data

- All costs and benefits are compared against the 'Do nothing' (Option 1) case.
- It is assumed that for the automatic deletion of DNA profiles, there would be a one-off programming cost of around £15k¹ to re-programme and test the NDNAD and the Police National Computer (PNC)
- There would be an ongoing programming cost. However, as this is likely to be a small change to the programming code, we assume this cost to be negligible.

¹ National Policing Improvement Agency (NPIA)

- It is estimated that around 980k² people who were not convicted are on the NDNAD. Of which, around 530k³ do not have a PNC record (orphaned).
- Latest available data suggests that it would take 1 worker to locate 1.2⁴ profiles per hour, which equates to around 2k profiles located per year per worker (7.12 hours in a working day and 220 working days in a year). Therefore we estimate that it would take around 280 staff to remove the orphaned profiles (530k/2k).
- Data provided by ACRO suggests that a police staff's salary is around £33k. Assuming a 21 per cent mark-up to include non-wage costs, the annual salary would be around £40k.
- We assume that the staff would require half-a-day training at a one-off cost of around £25k for all 280 staff.

Option 2 – Automatic deletion of profiles after proposed retention period

Costs

Under this option, we estimate that there would be a one-off cost of around £15k to the public sector of re-programming the computer software and testing the system.

There is a potential cost of re-adding profiles that have been deleted. However, this is likely to be negligible.

To remove the legacy orphaned profile, we anticipate a one-off cost of around £11.2m. This is based on approximately 280 workers on a salary of around £40k searching and deleting the orphaned profile. This cost also includes the £25k (one-off) training.

The policy to retain the profiles of those that are arrested on the grounds of national security but not convicted would mean that the total cost would be lower. However, due to the small number of national security related profiles (hundreds) the overall impact on the costs would be negligible.

Compared to the 'Do nothing' there is a potential cost to society because of reduced detections. We are unable to quantify this cost due to a lack of available data.

Therefore the total monetised cost of this option is estimated to be around £11.2m (one-off).

Benefits

This option leads to far fewer profiles being retained compared to the 'Do nothing'. That said a considerable number of profiles are still not deleted at the end of the retention period due to the assumption that there is a 55% probability that the individual would have re-offended during this period.

In addition, there are potential benefits to the individual as they would have their privacy rights observed. We are unable to quantify this benefit due to a lack of available data.

DNA SAMPLES

General Assumptions and Data

- All costs and benefits are compared against the 'Do nothing' (Option A) case.
- It is estimated that around 515k⁵ DNA samples are taken every year⁶.

² NPJA

³ ACPO Criminal Records Office (ACRO)

⁴ ACRO

⁵ This figure is of those individuals that convicted and not convicted.

⁶ NPJA

- The latest available data suggests that there were around 5.2m⁷ sample profiles on the NDNAD in March 2009 in England and Wales.
- The Forensic Science Service (FSS), who has 80 per cent of the market share, has estimated that the cost of destroying their legacy samples would be around £1m to £3m.
- It is estimated that the cost of destroying a DNA sample would be around £8.50⁸.
- NPIA has estimated that the cost of storing a DNA sample in a fridge is around £4.50 for 5 years. Therefore, the cost of storing a DNA sample would be around £0.90 per year.
- We assume an implementation date of 2010. Furthermore, we have assumed a 10 year horizon for the cost/benefit analysis (CBA).

Option B – Destruction of all samples after six months retention

Costs

By assuming an implementation date of 2010 (year 0), it is estimated that by 2009 there would be around 5.2m legacy samples that would need to be destroyed. As 80% of these would be destroyed by FSS, the cost would be around £1m to 3m (one-off). Without better data, we estimate that the remaining 20% of samples that would be destroyed by other organisations would cost around £8.50 per sample, which equates to approximately £8.9m (one-off). It should be noted that as these samples would be destroyed on mass, the cost could be lower due to economies of scale and efficiency savings.

As 515k samples would need to be destroyed in year 0 (2010), for the purposes of calculating the PV, we have assumed this cost of around £4.4m to be one-off rather than a recurring cost.

We estimate that the cost of destroying the DNA samples would be £4.4m per year. This is based on the 515k samples that would need to be destroyed at a cost of £8.50.

Compared to the 'Do nothing' there is a potential cost to society because of reduced detections. We are unable to quantify this cost due to a lack of available data.

Therefore the total monetised cost of the option is estimated to be between £14.2m and £16.2m (one-off) plus £4.4m per year. This equates to a total PV cost of around £50.6m to £52.6m.

Table E.1a Summary of Costs

	£
Cost of destroying legacy samples (Public Sector)	£9.9m to £11.9m (one-off)
Costs of destroying DNA samples (Public Sector)	£4.4m (one-off) + £4.4m/year
Cost to society from reduced detections	Not Quantified
TOTAL	£14.2m to £16.2m (one-off) + £4.4m/year
TOTAL (PV)	£50.6m to £52.6m

Benefits

It is estimated that by the implementation date of 2010 (year 0) there would be around 5.7m samples that would be destroyed, resulting in a one-off refrigeration savings of approximately £5.2m.

⁷ NPIA Annual Report 2007-09: <http://www.npia.police.uk/en/docs/NDNAD07-09-LR.pdf>. As at end of March 2009 there were around 5.6m sample profiles in the UK, of which around 93% were from England and Wales. This figure also includes volunteers (around 40,000).

⁸ NPIA estimate the cost to be around £8 to £9, therefore we have used the mid figure of £8.50.

Compared to the status quo, we estimate that there would be a refrigeration savings of around £7.7m per year. This is because under the ‘Do nothing’ scenario, the cost of the samples that are refrigerated are accumulated over the years, and in this option these costs would not occur.

In addition, there are potential benefits to the individual as they would have their privacy rights observed. We are unable to quantify this benefit due to a lack of available data.

Therefore the total monetised benefit of the option is estimated to be around £5.2m (one-off) plus £7.7m per year. This equates to a total PV benefit of around £70.3m.

Table E.1b Summary of Benefits

	£
Refrigeration savings (Public Sector)	£5.2m (one-off) + £7.7m/year
Benefits to individual due to privacy rights	Not Quantified
TOTAL	£5.2m (one-off) + £7.7m/year
TOTAL (PV)	£70.3m

FINGERPRINTS

General Assumptions and Data

- All costs and benefits are compared against the ‘Do nothing’ (Option I) case.
- We estimate that there would be around 115k individuals that would be arrested but not convicted per year. This was calculated by averaging the 900k DNA profile records identified for removal between May 2001 and December 2008⁹.
- Data provided by NPIA suggest that there were around 8m records in 2008. Assuming a 115k to 515k ratio of non-convicted to total (convicted plus not convicted), we estimated that around 1.8m of these 8m records are for those individuals who were not convicted. We assume that in 2009 there would be an additional 115k non-convicted individuals added to the database, which gives a total of around 1.9m (non-convicted) fingerprint records.
- It is estimated that it would take around 8 minutes¹⁰ to destroy a paper record of a fingerprint. Given that around 115k paper records would need to be destroyed each year, we estimate that it would take around 10 police staff to carry out this task¹¹. We estimate that more police staff would be required to destroy the legacy prints due to the volumes involved. It is likely that around 78 police staff would be required for the destruction of the prints for adults and around 32 police staff for the under 18s.
- Data provided by ACRO suggests that a police staff’s salary is around £33k. Assuming a 21 per cent mark-up to include non-wage costs, the annual salary would be around £40k.
- We have assumed that of the 115k records taken, around 24 per cent¹² are of those between the ages of 10 and 17.
- It is estimated that around 980k¹³ people who were not convicted are on the NDNAD. Of which, around 530k¹⁴ do not have a PNC record (orphaned). Due to a lack

⁹ NPIA

¹⁰ NPIA

¹¹ This is based on a police staff working 7.12 hours a day and 220 working days in a year.

¹² Arrests for Recorded Crime (Notifiable Offences) and the Operation of Certain Police Powers under PACE England and Wales 2006/07 (<http://www.justice.gov.uk/publications/docs/arrests-recorded-crime-engl-wales-2006-07-b.pdf>). We have taken the proportion of those arrested between the ages of 10 and 17 (around 353k) and divided it by the total arrested who are over 10 years old (around 1.5m).

¹³ NPIA

¹⁴ ACRO

of available data, we have assumed that there would be similar orphaned records that correspond to IDENT1.

- Latest available data suggests that it would take 1 worker to locate 1.2^{15} records per hour, which equates to around 2k profiles located per year per worker (7.12 hours in a working day and 220 working days in a year). Therefore we estimate that it would take around 280 staff to remove the orphaned records (530k/2k).
- We assumed that the staff would require half-a-day training at a one-off cost of around £25k for all 280 staff.
- We assume an implementation date of 2010. Furthermore, we have assumed a 10 year horizon for the CBA.

Option II – Destruction of fingerprint records in line with profile deletion policy

Costs

Under this option, the cost of automatically deleting the fingerprint records from IDENT1 would be absorbed in the £15k programming cost of NDNAD and PNC.

We estimate that the one-off cost of destroying the legacy paper copies of fingerprint records for adults to be around £3.1m and under 18s (non-conviction) to be approximately £1.3m. Due to a lack of available data we are unable to quantify the proportion of the under 18's that are 16/17 years old. However, the overall impact on the legacy cost is likely to be negligible.

Adults:

We estimate that around 88k (76 per cent of 115k) records taken in 2004 would have to be removed in the implementation year of 2010 (year 0), those taken in 2005 would be removed in 2011 etc. Therefore, the number of legacy records (those taken prior to 2003) has been estimated to be around 922k¹⁶.

Under 18s (non-conviction):

We estimate that around 27k (24 per cent of 115k) records taken in 2007 would have to be removed in the implementation year of 2010 (year 0), those taken in 2008 would be removed in 2011 etc. Therefore, the number of legacy records (those taken prior to 2006) has been estimated to be around 372k¹⁷.

To remove the legacy orphaned fingerprints, we anticipate a one-off cost of around £11.2m. This is based on approximately 280 workers on a salary of around £40k searching and deleting the orphaned records. This cost also includes the £25k (one-off) training. To search and destroy the 530k legacy orphaned fingerprint paper records, we estimate it would take around 45 minutes, therefore costing approximately £10.1m (one-off).

It is likely that it would cost around £389k per year for the 10 police staff to destroy the 115k paper copies of fingerprints (adults and under 18s). As adult samples taken in 2004 and under 18 (non-conviction) samples taken in 2007 would be destroyed in the implementation year (year 0), we have assumed for the purposes of calculating the PV that the 389k cost for this year would be counted as apart of the one-off costs rather than being apart of the recurring costs.

The policy to retain the fingerprints of those that are arrested on the grounds of national security but not convicted would mean that the total cost would be lower. However, due to the small number of national security related records (hundreds) the overall impact on the costs would be negligible

¹⁵ ACRO

¹⁶ Of the 1.9m records, around 76 per cent are adults => 1.4m – (88k records taken in 2004 + 88k taken in 2005 + + 88k taken in 2009) = 922k.

¹⁷ Of the 1.9m records, around 24 per cent are under 18s => 454k – (27k records taken in 2007 + 27k taken in 2008 + 27k taken in 2009) = 372k.

Due to a lack of data, we are unable to quantify the costs of destroying paper copies of fingerprint records of under 18s convicted for the first time (but not for a second time within five years) and volunteers. However, due to the relatively small numbers involved¹⁸, it is likely that the cost would not be significant.

Compared to the 'Do nothing' there is a potential cost to society because of reduced detections. We are unable to quantify this cost due to a lack of available data.

The total cost of this policy is estimated to be around £26.1m (one-off) plus £389k per year. This equates to a PV cost of around £29.3m.

Table E.2a Summary of Costs

	£
Cost of destroying legacy records - Adults (Public Sector)	£3.1m (one-off)
Cost of destroying legacy records – Under 18s (Public Sector)	£1.3m (one-off)
Cost of destroying orphaned legacy records (Public Sector)	£21.3m (one-off)
Costs of destroying fingerprint records – Adults (Public Sector)	£296k (one-off) + £296k/year
Costs of destroying fingerprint records – Under 18s (Public Sector)	£93k (one-off) + £93k/year
Cost of reviewing fingerprint records for those arrested on the grounds of national security but not convicted, every 2 years after 6 years retention (Public Sector)	Negligible/year
Cost of destroying records of under 18s convicted for the first time & volunteers (Public Sector)	Not Quantified
Cost to society from reduced detections	Not Quantified
TOTAL	£26.1m (one-off) + £389k/year
TOTAL (PV)	£29.3m

Benefits

This option would lead to fewer fingerprints being retained compared to the 'Do nothing' option. That said a considerable number of records are still not deleted or destroyed at the end of the retention period due to the assumption that there is a 55% probability that the individual would have re-offended during this period.

In addition, there are potential benefits to the individual as they would have their privacy rights observed. We are unable to quantify this benefit due to a lack of available data.

F. Risks

DNA PROFILES

Option 2 – Automatic deletion of profiles after proposed retention period

There is the potential risk that the automated system would delete the wrong profile. Furthermore any error in data deletion could lead to a miscarriage of justice. Extensive testing of the automated system is included in the costs and would reduce this risk.

Due to the small number of profiles stored for national security purposes and the bespoke 2 year review process (stringent safeguards) – the risk is significantly reduced that there would be any inadvertent deletion of the wrong profile.

¹⁸ We estimate that around 40 per cent of those convicted for a first offence would not be convicted for a second offence within five years.

DNA SAMPLES

Option B – Destruction of all samples after six months retention

Under this option, there is a risk that should new techniques be developed to extract more information from a sample, then this could not be used on older samples. This may be mitigated in part by re-sampling the individual (though this may not be practical or appropriate in a large number of cases).

In addition, cases may be lost both domestically and abroad due to the inability to produce the original sample. This could be resolved by the possibility for retesting the individual where appropriate.

FINGERPRINTS

Option II – Destruction of fingerprint records in line with profile deletion policy

There is the potential risk that the automated system would delete the wrong record from IDENT1. Any error in data deletion could lead to a miscarriage of justice. Extensive testing of the automated system is included in the costs and would reduce this risk.

Furthermore, difficulties could be created in other areas where fingerprints are used. For instance it might not be possible to identify a body.

Due to the small number of fingerprints stored for national security purposes and the bespoke 2 year review process (stringent safeguards) – the risk is significantly reduced that there would be any inadvertent deletion of the wrong record.

G. Enforcement

Sample and profile destruction programme to be overseen by NPIA and the NDNA D Strategy Board. An automatic deletion programme for profiles and fingerprints will be established. A separate system will be designed for the 2 year review process for national security related DNA based on a specific case by case process.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Table H.1 Costs and Benefits		
Option	Costs	Benefits
2	<p>£11.2m (one-off) to delete orphaned profiles and re-programme computer software</p> <p>Costs to society because of reduced detections (not quantified)</p> <p>Cost of reviewing profiles of those arrested on the grounds of national security but not convicted, every 2 years after 6 years retention. Negligible/year</p>	<p>Benefits to individuals of having their privacy rights observed (not quantified)</p>
B	<p>£14.2m to £16.2m (one-off) + £4.4m/year of destroying DNA samples</p> <p>Costs to society because of reduced detections (not quantified)</p>	<p>£5.2m (one-off) + £7.7m/year in refrigeration savings</p> <p>Benefits to individuals of having their privacy rights observed (not quantified)</p>
II	<p>£26.1m (one-off) + £389k/year of destroying Adult and under 18s fingerprint records and legacy orphaned records</p> <p>Cost of deleting fingerprint records of under 18s convicted for the first time & volunteers (not quantified)</p> <p>Costs to society because of reduced detections (not quantified)</p> <p>Cost of reviewing fingerprint records of those arrested on the grounds of national security but not convicted, every 2 years after 6 years retention. Negligible/year</p>	<p>Benefits to individuals of having their privacy rights observed (not quantified)</p>
TOTAL	£51.5m to £53.5m (one-off) + 4.8m/year	£5.2m (one-off) + £7.7m/year
TOTAL (PV)	£91.2m to £93.2m	£70.3m
NPV*	£-20.9 m to £-22.9m	

* Net Present Value (NPV) = Benefits (PV) - Costs (PV). PV's have been discounted at 3.5% over 10 years.

Source: ACRO, FSS, MoJ, NPIA

The Government's preferred option is to: automatically delete DNA profiles after the proposed retention period (Option 2), destroy all DNA samples after six months retention (Option B), and destroy fingerprint records in line with the DNA profile deletion policy (Option II).

Although the preferred option results in a net cost, due to the European Court ruling, it would be illegal for the Government to maintain the 'status quo'.

I. Implementation

The Government plans to implement these changes in full within 2 years of Royal Assent of the Bill (to take account of the need to destroy legacy data).

J. Monitoring and Evaluation

The effectiveness of the new regime would be monitored by the National DNA Strategy Board and the DNA Ethics Group. There will be a separate process for the retention of national security related DNA which will provide the equivalent monitoring for classified material.

K. Feedback

See comments under Public Consultation. The proposal to destroy samples has been welcomed but concerns remain about the retention of DNA profiles from those not convicted.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

Annexes

Annex 1. Specific Impact Assessments

Competition Assessment

No impact

Small Firms Impact Test

No impact

Legal Aid

No impact

Sustainable Development

No impact

Carbon Assessment

No impact

Other Environment

No impact

Health Impact Assessment

No impact

Equality Impact Assessment

No impact. The recommended policy options do not have a disproportionate impact on race, gender or disability.

Human Rights

Compared to the 'Do nothing' case the recommended policy proposals do not restrict an individuals right to privacy given that their profiles would be deleted after the retention period is over.

Rural Proofing

No impact