



National DNA Database Strategy Board

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5 December, 2008

To: Chief Constables

S & Marper ECHR Judgement Briefing

At present we are carefully considering the implications of the ECHR Judgement and how it will subsequently impact on the retention and search of DNA profiles/samples on the NDNAD. The Judgement requires considerable interpretation and this will be undertaken with the Home Office and Legal Advisors.

Now that the Judgement has been handed down the Court plays no further part and implementation is overseen by the Committee of Ministers (COM) of the Council of Europe, which will expect to see an action plan and rough timeline for implementation of general measures to remedy any violation from the UK Government. The next meeting of the COM in 2009 is in March. It will be necessary for the UK Government to provide details (even if only in broad terms) of the proposed general implementation measures at this meeting.

A Contingency Planning Group, chaired by the Home Office PPPU and established before the Judgement, comprises members of ACPO, NPIA, CPS, APA, MOJ, HOLAB, with engagement with the Scottish Executive, the Northern Ireland Office and the Attorney General's Office, will sit over the coming weeks together with Counsel to clarify the implications of the Judgement. It will consider among, other matters, the impact to speculatively search on arrest, future approaches to the retention policy and destruction of samples. Issues for consideration in this case include the retention of a subjects profile following arrest but not conviction where there is a subsequent arrest that resulted in a conviction or other judicial disposal and hence whether the profile can now be retained for the latter matter.

Obviously no definitive answers can be given at this stage and it will be a matter of weeks before the UK Government can formalise any implementation measures. However, I will keep you updated of any considerations or decisions taken, on the basis of legal advice, by the Contingency Planning Group and Counsel.