

ANNUAL REPORT OF THE NATIONAL FORENSIC OVERSIGHT AND ETHICS BOARD (‘NFOEB’ OR ‘BOARD’)

2 MARCH 2016

NATIONAL FORENSIC OVERSIGHT AND ETHICS BOARD
(NFOEB)
REPUBLIC OF SOUTH AFRICA



MEMBERS OF THE BOARD

APPOINTED BY THE MINISTER WITH EFFECT FROM 27 JANUARY 2015
[REPORTED TO THE NATIONAL ASSEMBLY ON 5 MARCH 2015]

NAME	POSITION ON BOARD	PUBLIC SERVANT/CIVILIAN
JUDGE YVONNE MOKGORO	CHAIRPERSON	RETIRED JUDGE
MS VANESSA LYNCH	DEPUTY CHAIR	CIVILIAN
CIVILIAN SECRETARY OF POLICE	MEMBER	PUBLIC SERVICE: CIVILIAN SECRETARY OF POLICE
PROF. ZODWA DLAMINI	MEMBER	CIVILIAN
DR KAREN EHLERS	MEMBER	CIVILIAN
MS ALIDA GROVE	MEMBER	PUBLIC SERVICE:DEPT. OF CORRECTIONAL SERVICES
MS THANDIWE MOTLONYE	MEMBER	PUBLIC SERVICE:DEPT. OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
ADV. RAMS RAMASHIA	MEMBER	CIVILIAN
MS OOSHARA SEWPAUL	MEMBER	PUBLIC SERVICE: DEPT. OF HEALTH
MS MANCHING MONAMA	PENDING	CIVILIAN

VISION AND MISSION OF THE NFOEB

The Vision and Mission of the NFOEB is to:.

- Ensure that the integrity of the National Forensic DNA Database ('NFDD') is maintained by providing guidance and oversight relating to the taking, retention and use of DNA samples and forensic DNA profiles for criminal intelligence purposes in the fight against crime.
- Execute an oversight role in respect of the overall operation of the NFDD in an effective and efficient manner.
- Promote and protect the rights of the public arising from the use of the NFDD for criminal investigation purposes;
- Safeguard and secure the integrity of the NFDD against improper use by any person or persons;

STRATEGIC OBJECTIVES: 2015

- To create a support infrastructure for the Board and appoint a DNA Secretariat to assist the Board to develop and implement the required policies and procedures for effective oversight and function.
- To create Board Sub-committee's to work with DNA Secretariat to complete oversight reports as per Sub-committee charters.
- To oversee the development of Standard Operating Procedure's in conjunction with the National Police Commissioner.
- To finalise the policy and identify software to support Familial Searching.
- To oversee the implementation of the DNA Database Software to support comparative searches on NFDD and manage the retention and deletion of Forensic DNA profiles therefrom.
- To develop an outline of the Boards reporting requirements.

KEY PROCESSES ALONG VALUE CHAIN TO DELIVER BOARD'S VISION AND MISSION

The Board's objectives and deliverables can be mapped onto key processes along the value chain as follows:

4. Drafting policies, procedures and recommendations to improve legislation

5. Drafting reports in terms of the Act and submitting to Parliament (with follow up)

Overseeing Implementation of Transitional Arrangements

1.Overseeing training of SAPS and development of appropriate training for stakeholders

2.Overseeing sample collection and performance of FSL & NFDD to minimum quality standards

Compliance with Regulations

3. Overseeing compliance with ethical and privacy issues

Collect Samples

Analyse Samples

Enter profiles onto NFDD

Comparative Search

Delivery of match reports

Destroy samples

Expunge / Retain Profiles

Samples must be delivered to the FSL within 30 days of collection

Bodily & crime scene samples must be analysed within 30 days of receipt at FSL

DNA Profiles must be loaded onto the NFDD within 30 days of receipt of sample by FSL

Bodily samples (unless they are crime scene samples) must be destroyed within 3 months of the profile being loaded onto NFDD

Overseeing implementation of CODIS

8. Financial, Budgetary and Operations

6. Complaints

7. Communications, PR and engaging the public

LEGEND: FSL = FORENSIC SCIENCE LABORATORY | NFDD = NATIONAL FORENSIC DNA DATABASE

BOARD MEETINGS HELD 2015/2016

DATE	PLACE, ATTENDANCE	KEY ELEMENTS
2 MARCH 2015	PRETORIA, 8 MEMBERS, 3 CSP OFFICIALS	TREASURY GUIDELINES, SECRETARIAT REQUIREMENTS, DEVELOPMENT OF POLICIES AND PROCESSES; OVERVIEW OF
8 APRIL 2015	FORENSIC SCIENCE LAB. PRETORIA, 8 MEMBERS, 8 FSL	SITE MEETING AT FORENSIC SCIENCE LAB. [FSL]
3 JUNE 2015	PRETORIA, 8 MEMBERS, 3 CSP OFFICIALS	SUB COMMITTEES, OPERATIONAL REQUIREMENTS
31 AUGUST 2015	PRETORIA, 8 MEMBERS, 5 CSP OFFICIALS, FACILITATOR	STRATEGIC PLANNING WORKSHOP: GUIDELINES TO OPERATIONALISE BOARD
30 SEPTEMBER 2015	BENONI, 6 MEMBERS, 3 CSP OFFICIALS, FACILITATOR	FOLLOW UP STRAT-PLAN WORKSHOP: OBJECTIVES TO OPERATIONALISE BOARD
23 NOVEMBER 2015	PRETORIA, 8 MEMBERS, 2 CSP OFFICIALS	REVIEW OF POLICIES AND PROCESSES, URGENT MATTERS
5 FEBRUARY 2016	PRETORIA, 8 MEMBERS, 2 CSP OFFICIALS	BUDGET REVIEW, OPERATIONAL ISSUES, OVERSIGHT FUNCTIONS, PREPARATION FOR FSL MEETING
5 FEBRUARY 2016	FORENSIC SCIENCE LAB. PRETORIA, 8 MEMBERS NFOEB	OVERSIGHT MEETING WITH NFOEB, FSL, TMS, LEGAL SERVICES, SCM

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SIDE MEETINGS HELD 2015

DATE	PLACE, ATTENDANCE	KEY ELEMENTS
15 APRIL 2015	PRETORIA, TRAINING SUB-COMMITTEE	DISCUSSION OF CONVICTED OFFENDER ROLL OUT: REFERENCE SAMPLES
16 APRIL 2015	PRETORIA, TRAINING SUB-COMMITTEE	OVERVIEW OF TRAINING PROCESSES WITH SERVICE PROVIDER; REVIEW OF TRAINING MATERIAL
13 MAY 2015	CAPE TOWN, PORTFOLIO COMMITTEE, DEPUTY CHAIR	OBSERVATION OF IMPLEMENTATION PROGRESS OF DNA ACT PROVISIONS BY FORENSIC SCIENCE SERVICES [FSS]
4 NOVEMBER 2015	PRETORIA, DEPUTY CHAIR	INTRODUCTION TO NEW ACTING FSS DIVISIONAL COMMISSIONER, URGENT MATTERS OUTSTANDING, CAUSE OF DELAYS, BACKLOG ISSUES

SUB COMMITTEES OF THE BOARD

The Board has delegated certain issues to eight (8) sub-committees formed from members of the Board. These committees will report to the Board and will bring recommendations to the Board. An agreement has been reached with the FSL to create nodal contact persons to liaise with each leader of the Sub-committees to help fulfil their charters. The following sub-committees have been created to help execute its duties and functions as envisioned by the DNA Act. Each committee has at least three members where some members serve in more than one sub-committee.

Sub Committee	Objectives
Systems Reports & Gaps Analysis:Overseeing sample collection and performance of FSL and NFDD to minimum quality standards	Ensure that # samples collected, correlates to # samples entered onto NFDD. Investigate the value chain from samples to profiles. Report quarterly on the numbers along the value chain. Complaints could also arise at this level.
Public Relations: Communicating and engaging with the public	Transparency, accountability, accessibility. Knowledge of Board’s existing functions. A PR Resource within the DNA Secretariat reporting to the PR Sub Committee. Media awareness and online presence, online communications. An office, point of communication.
Training: Overseeing training of SAPS to take buccal swabs	Monitor national capacity to collect sufficient samples to populate NFDD; Oversee training is occurring and quality is maintained over 5 years Field work, random inspections, oversight.
Assessment Committee (complaints):Overseeing compliance with ethical and privacy issues and dealing with complaints	Protect the rights of privacy as envisaged by laws. Adherence to destruction/expungement provisions. Administrator receives complaints and feeds to DNA Secretariat who feeds the Assessment Sub Committee.

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Sub Committee	Objectives
Finance and Risk	To operationalise the NFOEB. To ensure NFOEB operates within budget. The DNA Secretariat reporting to the Finance & Risk Sub Committee.
DNA Secretariat Appointments and Infrastructure	Advertise and Appoint full time DNA Secretariat to provide ongoing, high level support to the Board. Oversee implementation of operational requirements.
Reports (Task)	Analysis of DNA Act, breakdown of reports required, by who and by when.
Transitional Arrangements (TA's) (& General Operational Aspects)	Overview of TA's as provided for in DNA Act.

OVERVIEW OF BOARD'S STRATEGIC ACHIEVEMENTS: 2015

- Identified Key Deliverables and Tasks of the Board and time lines for each objective.
- Created Sub-Committees and charters to ensure to help execute its duties and functions as envisioned by the provisions of the DNA Act.
- Identified resource needed for operations of the Board those were provided to Civilian Safety and Police (CSP) for further handling
- Finalised Regulations to be read in conjunction with the DNA Act.
- Initiated Site Meetings with FSL to understand processes, objectives and facilities of the FSL as required by the DNA Act.
- Developed First Draft of Familial Searching Guidelines to underline Policy to govern this practice in accordance with the provisions of the DNA Act.

Operational requirements of the Board: identified and challenges encountered

Item	Requirement	Status	Responsible
Office space, telephone & furniture	Approx. 120m2	A challenge at the moment – CSP not yet allocated office space and facilities to the Board due to no funds being available to the Board for this FY.	Treasury / CSP
NFOEB Logo	Board agreed to use Government Logo on letterhead with reference to the NFOEB	Completed	Treasury / CSP
Letterhead	Board agreed to use Government Logo on letterhead with reference to the NFOEB	Completed	Treasury / CSP
Website	Requested www.dnaboard.gov.za to run on VPN as a separate website	SITA not yet allocated additional space on server to run an additional domain through the CSP server. Awaiting feedback from SITA.	Treasury / CSP /SITA
Email address	Requested to be linked to domain @dnaboard.gov.za for each member	Until an additional domain for the Board is registered by SITA, Board cannot use domain name for email. Interim measure: CSP created DNABoard@CSP.gov.za which links to acting secretary of Board	Treasury / CSP /SITA
Private Bag	X.....	Completed	Treasury / CSP

CHALLENGES: BOARD RELATED

- No independent office space and facilities with separate identity for Board;
- No full time high level DNA Secretariat appointed to facilitate the Board's decision making process leading to Members of Board having to act in a full time capacity.
- CSP allocated Board's 2015 budget to other urgent matters - Board has no funding to facilitate its operation for 2015/2016 FY;
- Budget for 2016/2017 not sufficient to fulfil strategic objectives of Board;
- Members not yet remunerated for out of pocket expenses nor time and services provided to the Board during 2015.

CHALLENGES: IMPLEMENTATION OF KEY PROVISIONS OF DNA ACT

- SAPS has collected 126 reference samples from sentenced offender population of 162 423 of which 117 040 are sentenced and 45 05 383 are remand detainees as at 23 February 2016: Sentenced offenders currently are being released from prison without samples having been taken; DNA Act requires completion of sample taking from any person serving a sentence of imprisonment within two years with effect from the effective date of the Act. Challenges being experienced by SAPS at prisons where sentenced offenders are demanding briefing as to why samples are being taken and what will be done with the samples thereafter. This issue has been brought to the attention and currently being addressed by the regional Commissioners of the DCS.
- DNA Database software solution 'CODIS' developed by the FBY was identified by FSL and recommended for installation by Portfolio Committee for Police has not yet been implemented by FSL. FBI awaiting instruction to implement following a successful site visit from the FSL to the FBI Headquarters mid 2014. The South African State Security Agency (SSA) not yet confirmed implementation date with no current reason for delay. No date as to when security assessment will be completed. Accurate reports cannot be generated by the FSL nor can the NFDD retention framework as envisioned by the DNA Act be upheld without the appropriate software solution to monitor date of entry and type of forensic DNA profile entered onto the NFDD. Familial Search policy cannot be completed without CODIS first being installed.
- FSL Tender for DNA STR Chemistries to be employed by FSL for forensic DNA analysis awarded by Procurement Board to a company which STR kit has not been validated by the FSL. Result of award of tender for unvalidated STR chemistry has created backlogs as well as delay in implementation of Crime Lane at FSL as these kits cannot be used until validated. Non-compliance by FSL of 30 Day turn around on DNA analysis as required by DNA Act due issue of unvalidated STR chemistry being awarded.

INTERIM BUDGET* 2016/2017 FOR THE BOARD

(*Pending CSP approval)

ITEM	BUDGET
OPERATIONAL: GOOD AND SERVICES [Incl. remuneration of members, travel and subsistence expenses and other costs]	R690 000,00
PERSONNEL : COMPENSATION OF EMPLOYEES - 4 POSTS	R2 399 000,00
TOTAL	R3 150 000,00

The 2016/2017 budget represents an increase of approximately 50% on the 2015/16 budget which had been allocated to the Board, although not actually received. The 2016/2017 compensation amount might still be reduced depending on the outcome of the Job Evaluation but the Goods and Services should stay as is.

2016/2017: Objectives

- DNA Secretariat appointment approved and infrastructure established.
- Sub-committee's to work with DNA Secretariat and FSL Nodal Points to complete oversight reports as per charters.
- Sentenced Offender Sampling program to be prioritised.
- Finalise Policy and identify software to support Familial Searching.
- Implement DNA Database Software to support comparative searches on NFDD.
- Develop an outline of Boards reporting requirements.
- Oversee development of Standard Operating Procedure's in conjunction with

THANK YOU

email: dnaboard@CSP.gov.za

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