

2016/17

ANNUAL REPORT

NATIONAL FORENSIC OVERSIGHT AND ETHICS BOARD (DNA BOARD)

INCLUDING A PROGRESS REPORT
For the period 1 April 2017 to 30 September 2017



NATIONAL FORENSIC
OVERSIGHT AND ETHICS BOARD
(DNA BOARD)



ANNUAL REPORT 2016/17

(INCLUDING A PROGRESS REPORT FOR THE PERIOD:
1 APRIL 2017 TO 30 SEPTEMBER 2017)

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FOREWORD /

by the Minister of Police

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Foreword /

BY THE MINISTER OF POLICE



It gives me great pleasure in my capacity as the Executive Authority of the National Forensic Oversight and Ethics Board (DNA Board) to submit this 2016/17 Annual Report for tabling before Parliament. The report focuses on and details the activities of the Board spanning the period from 1 April 2016 to 31 March 2017 in conjunction with providing an overview of progress made during the first six-month period of the 2017/2018 financial year.

Throughout the world, particularly in modern-day democracies, it is generally accepted practice that governments play a leading and active role in ensuring the protection of respective societies by means of the swift administration of justice. This objective among other, is best achieved by means of the early detection, arrest and conviction of offenders, facilitated in part, by way of the ethical, legal and transparent use of Forensic DNA profiling in criminal investigations. The promulgation of the *Criminal Law (Forensic Procedures) Amendment Act 37 of 2013 (the 'DNA Act')* has enhanced the processes by which forensic DNA profiling is utilised with a view to better promote and augment the dispensation of justice in South Africa.

The ethical and transparent management, as well as use and application of forensic DNA in criminal investigations in South Africa, has accordingly been strengthened and supported through the establishment and maintenance of the National Forensic DNA Database (NFDD). DNA evidence is no longer used simply as a prosecutorial tool on a case-by-case basis, but extends to the useful incorporation of the NFDD alongside forensic DNA profiling harnessed as a holistic criminal intelligence tool aimed not only to convict or exonerate alleged perpetrators, but also exclude persons of interest in an investigation.

While the core function of a DNA database is centred on uploading as many arrestee and convicted offender profiles onto the database in an effort to increase the probability in obtaining positive matches with crime scenes or unknown profiles, it is nevertheless a process requiring ongoing and concerted monitoring and oversight. Countries around the world that in the past have introduced DNA legislation, have in the main done so under the auspices and direction of some form of oversight body in response to meeting the requirement imposed by the relevant DNA legislation. This is advocated as a means to consistently ensure that human rights concerns are at all times accounted for, as well as avoid any form of political manipulation or other deviations from the founding principles of the DNA database.

In South Africa, the establishment of the National Forensic Oversight and Ethics Board (the 'DNA Board') in terms of the provisions of section 15V of the DNA Act, has formally ensured compliance with this global standard.

Regular oversight of the NFDD is aimed at ensuring that ethical, legal and other safeguards are set in place to at all times, ensure transparency of the system regarding the collection, retention and use of DNA samples and forensic DNA profiles in criminal investigations.

The DNA Board provides ethical oversight over the NFDD and manages complaints related to the taking, retention and use of all DNA samples and forensic DNA profiles. The Board's core functions include monitoring the implementation of the provisions of the DNA Act while submitting proposals to the Minister pertaining to any improvements to relevant legislation regarding the overall operations and management of the NFDD. The Board also monitors the collection and storage of samples in conjunction with the oversight of the performance and functions of the Forensic Science Laboratory (FSL) and the NFDD respectively. The Board has an overarching duty to ensure compliance related to all ethical and privacy considerations and ensure that requisite minimum quality standards have been adopted and adhered to on an ongoing basis. Over time, the DNA Board must also assess the effectiveness of the DNA Act in fighting crime and where necessary, review the legislation in order to facilitate apparent amendments with a view of maximising the efficient use and application of the NFDD as an impactful crime fighting tool.

Regular oversight of the NFDD is aimed at ensuring that ethical, legal and other safeguards are set in place to at all times, ensure transparency of the system regarding the collection, retention and use of DNA samples and forensic DNA profiles in criminal investigations. This is geared towards improving the confidence and trust of society in the ability and integrity of the South African Police Service to utilise Forensic DNA in a responsible and ethical manner that underscores and respects their fundamental rights.

During the three years since its establishment, the Board has worked towards setting the requisite systems in place to support the effective realisation of its designated mandate. An immediate and ongoing imperative however, remains the entrenchment of these systems in order to strengthen its operational independence. The Board will continue to work with key stakeholders within the criminal justice system in an effort to ensure the full and effective implementation of the Act.

I hereby formally table this Annual Report to Parliament.



HON B CELE, (MP)
MINISTER OF POLICE
DATE: 26/3/2018

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Acronyms /

CAS	Case Administration System
CJS	Criminal Justice System
CRIM	Criminal Record Information Management
CSPS	Civilian Secretariat for Police Service
DCS	Department of Correctional Services
DNA	Deoxyribonucleic Acid
FDM	Forensic Database Management
FLM	Forensic Lead Management
FSL	Forensic Science Laboratory
ICDMS	Integrated Case Docket Management System
IT	Information Technology
JCPS	Justice, Crime Prevention and Security Cluster
MTEF	Medium-Term Expenditure Framework
NFDD	National Forensic DNA Database
SANAS	South African National Accreditation System
SAPS	South African Police Service
SITA	State Information Technology Agency
QMS	Quality Management System

This report is made up of two sections, namely:

PART 1:

Annual Report of the National Forensic Oversight and Ethics Board for the reporting period 1 April 2016 to 31 March 2017

PART 2:

Progress Report in respect of the work of the Board for the period 1 April 2017 to 30 September 2017



PART 1/

Annual Report of the
National Forensic Oversight
and Ethics Board
for the reporting period
1 April 2016 to
31 March 2017

01 /

INTRODUCTION

The National Forensic Oversight and Ethics Board (hereafter referred to as the DNA Board) is an independent statutory body established in terms of section 15V of the *Criminal Law (Forensic Procedures) Amendment Act, No. 37 of 2013* (hereafter referred to as the DNA Act).

The Board was appointed by the Minister of Police during January 2015, is currently chaired by a former Constitutional Court Judge and comprises of four public and five private sector representatives whom collectively and in particular, possess sound knowledge and experience within the areas of forensic science, as well as human rights and constitutional law, among others. The Board is required to determine and monitor strategic direction, while the DNA Secretariat is required to oversee the subsequent implementation thereof.

The Board's statutory obligations are defined by section 15Z of the DNA Act and include:

- a. Providing regular, independent and effective governance and oversight over the overall operations of the National Forensic DNA Database (NFDD);
- b. Ensuring that ethical, legal and social implications of the use of forensic DNA in criminal investigations are considered; and
- c. Receiving and assessing complaints from any affected person regarding any alleged violations relating to the abuse of DNA samples and forensic DNA profiles and any security breaches in the database and/or processes.

During the period under review, the DNA Board has continued working with the Forensic Science Laboratory (FSL) nodal contact points with a view to completing all oversight reports.

The current Board membership is highlighted in **Table 1**, while Board meetings accordingly attended are reflected in **Table 2** hereafter.

TABLE 1: Board Composition:

NAME	DESIGNATION	PUBLIC SERVANT / CIVILIAN
Judge Yvonne Mokgoro	Chairperson	Retired Constitutional Court Judge
Ms Vanessa Lynch	Deputy Chairperson	Civilian member
Mr Alvin Rapea	Member	Public Service member: Secretary for Police Service
Ms Alida Grove	Member	Public Service member: Department of Health
Ms Thandiwe Motlonye	Member	Public Service: Department of Correctional Services
Ms Ooshara Sewpaul	Member	Public Service member: Department of Justice and Constitutional Development
Dr Karen Ehlers	Member	Civilian member
Adv Rams Ramashia	Member	Civilian member
Prof Zodwa Dlamini	Member	Civilian member
Ms Benedicta Monama	Member	Civilian member

TABLE 2: Meetings of the Board for the period commencing 1 April 2016 to 31 March 2017:

NO	DATES	ATTENDANCE
1.	12 August 2016	Five members / Five CSPS officials
2.	14 September 2016	Five members / Five CSPS officials / One DCS representative (on behalf of Ms. Motlonye)
3.	01 November 2016	Six members / Two CSPS officials
4.	08 March 2017	Eight members / Two CSPS officials

02 / GOVERNANCE AND SUB-COMMITTEES

The DNA Board has developed its internal governance rules and procedures as provided for in section 15X (2) which are supported and emulated by the respective Sub-Committee Charters, each in turn providing a framework for the effective and efficient overall functioning of the operations of the DNA Board. The respective objectives of each of the Sub-Committees are listed in **Table 3** below.

TABLE 3: List outlining the respective Sub-Committee functions:

SUB-COMMITTEE	FUNCTIONS
<p>The Systems Reports and Gap Analysis Sub-Committee:</p> <p><i>Overseeing the sample collection and performance of the Biology Unit and NFDD</i></p>	<ul style="list-style-type: none"> Overseeing and monitoring the development of system notification reports; Overseeing the adding and removal of DNA profiles within the time-frame determined in the DNA Act; Monitoring the destruction of DNA samples within the prescribed time frame; and Identifying challenges, instances of non-compliance and areas of improvement.
<p>The Public Relations Sub-Committee:</p> <p><i>Communicating and engaging with the public</i></p>	<ul style="list-style-type: none"> Ensuring transparency, accountability, accessibility; Promoting awareness of the Board's existing functions; Providing a Public Relations resource function within the DNA Secretariat in turn reporting to the Public Relations Sub-Committee; and Broadening media awareness, as well as expanding an online presence and communication services from a central point of communication.
<p>The Training Sub-Committee:</p> <p><i>Overseeing training of SAPS to take buccal swabs</i></p>	<ul style="list-style-type: none"> Monitoring national capacity in collecting sufficient samples for population of the NFDD; Overseeing the provision of training that is occurring and its quality assurance over a 5-year period; and Planning and oversight of field work and occasional inspections.

SUB-COMMITTEE	FUNCTIONS
<p>The Assessment Sub-Committee (Complaints):</p> <p><i>Overseeing compliance with ethical and privacy issues and dealing with complaints</i></p>	<ul style="list-style-type: none"> Protecting the right to privacy as envisaged by the relevant laws; Adhering to all requisite provisions governing destruction/expungement processes; and Managing and collating the receipt of complaints and referring the latter to the DNA Secretariat for referral/upscaling to the Assessment Sub-Committee for attention.
<p>The Finance and Risk Sub-Committee:</p>	<ul style="list-style-type: none"> Operationalising accountable management of the DNA Board; Ensuring that the DNA Board operates within budget; and Ensuring effective DNA Secretariat reporting to the Finance and Risk Sub-Committee.
<p>The DNA Secretariat:</p>	<ul style="list-style-type: none"> Appointing a full-time Secretariat to provide ongoing, high level support to the Board; and Recruitment and appointment of support staff to the Secretariat.
<p>Reports:</p>	<ul style="list-style-type: none"> Analysing and interpreting the DNA Act.
<p>General Operational Aspects:</p>	<ul style="list-style-type: none"> Reviewing Transitional Arrangements as provided for in terms of the DNA Act; Monitoring the collection of DNA samples from convicted offenders; and Providing strategic input into the development of software solutions for the NFDD.

The Board's governance rules and procedures, as well as sub-committee charters were not finalised during the reporting period. These will be formally adopted before the end of the 2017/18 financial year. Notwithstanding, the Board has continued to provide effective monitoring and oversight pertaining to the overall operations of the NFDD. These activities were strengthened and enhanced by the effective functioning of the various Sub-Committees, each in turn comprising of at least three members, with some incumbents simultaneously serving on more than one Sub-Committee. In the absence of establishing a full-time Secretariat during the period under review, the Sub-Committees have nevertheless continued to play a central role in ensuring that the Board realises its functions as prescribed in section 15Z of the DNA Act. Sub-Committee meetings attended by Board members are listed in **Table 4** hereafter.

TABLE 4: Sub-Committee and other meetings of the Board for the period commencing on 1 April 2016 to 31 March 2017:

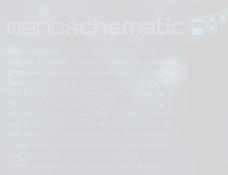
NO	DATES	MEETINGS (KEY ELEMENTS)	ATTENDANCE
1.	08 June 2016	Sub-committee -Visiting Forensic Database Management	Four members / Four SAPS officials / One DCS official
2.	12 August 2016	Sub-committee meeting	Eight members / Three CSPPS officials
3.	14 September 2016	Sub-committee meeting	Eight members / Five CSPPS officials / One facilitator
4.	01 November 2016	Sub-committee meeting	Three members / One SAPS official
5.	28 February 2017	Shortlisting of DNA Secretariat Head	Two members / Two CSPPS officials
6.	08 March 2017	Sub-committee meeting	Five members / Six SAPS officials
7.	09 March 2017	Interviews for the DNA Secretariat Head	Three members / One CSPPS official
		Joint meeting with Division: Forensic Service	No attendance register could be sourced in an effort to confirm attendance

03 /

2016/2017 STRATEGIC OBJECTIVES

NO	2016/17 STRATEGIC OBJECTIVES	ACHIEVED / NOT ACHIEVED	CHALLENGES
1.	<p>The appointment of the DNA Secretariat with a support staff compliment must be approved with the provision of operational infrastructure to support Board functions and its membership. The Board requires the assistance of a permanent DNA Secretariat with a view to provide assistance in relation to the development and implementation of its reporting and compliance requirements in accordance with the provisions of the DNA Act. In the interim, a draft statutory reporting framework has been developed.</p>	<ul style="list-style-type: none"> ▪ The appointment of a full-time DNA Secretariat to assist the Board in achieving its mandate has not been realised. The absence of a permanent DNA Secretariat has hampered the Board's ability to effectively carry out its oversight mandate. This has resulted in board members having to act in such a capacity in order to facilitate and implement the Board's decision-making processes. 	<ul style="list-style-type: none"> ▪ The DNA Secretariat recruitment, selection and appointment processes were finalised by 1 June 2017.
2.	<p>The eight sub-committees continue to function and liaise with FSL Nodal contact points with a view to completing oversight reports as outlined in their respective charters.</p>	<ul style="list-style-type: none"> ▪ The various Sub-Committees have continued to play a vital role in managing the range of priorities identified to support the effective implementation of the DNA Act. ▪ Through the work of the Transitional Arrangements Sub-Committee by way of example, a recommendation was put forward to the Civilian Secretariat for Police Service to expedite the development of a Bill which seeks to address challenges related to the sampling of convicted offenders. 	<ul style="list-style-type: none"> ▪ Sub-Committee charters have not been finalised during the 2016/17 reporting period.
3.	<p>The Sentenced Offender Sampling Programme must be prioritised</p>	<ul style="list-style-type: none"> ▪ Convicted offenders are currently being released without being sampled, following on the expiry of the endorsed transitional arrangements ▪ The transitional period expired during January 2017. A new Bill has been drafted with a view to effectively address the sampling process of convicted offenders. 	

NO	2016/17 STRATEGIC OBJECTIVES	ACHIEVED / NOT ACHIEVED	CHALLENGES
4.	The Policy for Familial Searching must be finalised and implemented.	<ul style="list-style-type: none"> ▪ The Policy will be developed following the implementation of the software solution to support familial searches. 	<ul style="list-style-type: none"> ▪ The NFDD software solution must be developed and adopted to allow for carrying out familial searching.
5.	The sample collection and performance of FSL and NFDD (Systems reports and Gap analysis functions) must be overseen and monitored.	<ul style="list-style-type: none"> ▪ Oversight over sample collection processes is aimed at monitoring the compliance of samples being analysed within 30 days from receipt, to obtaining a forensic DNA profile. The Board requested that the dates of sample receipts be included as part of the information captured on the system. 	<ul style="list-style-type: none"> ▪ This request was satisfactorily concluded by 1 April 2017
6.	The NFDD software solution to support comparative searches must be implemented to ensure that the retention framework of the NFDD as envisaged by the DNA Act, is supported.	<ul style="list-style-type: none"> ▪ The development of the system software solution has continued during the reporting period and the following objectives were achieved: <ul style="list-style-type: none"> - The successful completion of the Buccal Sample Registration on CAS/ICDMS systems and CRIM processes; - The capturing of DNA Buccal numbers on the DCS System; - The successful development of the NFDD System Solution; - The completion of the Administration Module; - The completion of the NFDD Index; - The completion of the DNA lead verification process; and - The complete interfacing of the NFDD with the new DNA system (Labware). 	<ul style="list-style-type: none"> ▪ The following activities were not, or only partially concluded: <ul style="list-style-type: none"> - The partial development of the expungement module; The Familial searches software solution is still to be developed; - The communication of profiles of crime scene samples reporting model to Interpol is still to be developed; and - The Forensic Lead Management (FLM) module has only been partially developed, ▪ The DNA Board will as a possible alternative, investigate the possibility of utilising the CODIS system during the 2018/19 financial year.
7.	The training of SAPS personnel to properly in taking buccal swabs must be monitored and overseen.	<p>During the reporting period 9 485 officers were trained to perform buccal sampling. The contract with the previous service provider, (Forensics4Africa), expired at the beginning of 2016 and a new two-year contract was entered into with Koena Consulting. The latter contract will provide the relevant training, as and when it is required.</p>	<p>National representation has proven insufficient in effectively operationalising section 36D (1) of the DNA Act.</p>



3.1 Operational Challenges:

The following operational challenges were encountered during the reporting period:

1. The DNA Board has been obliged to continue functioning without a full-time DNA Secretariat which has hampered its ability to meet certain strategic objectives, such as mapping out the Board's statutory reporting functions and requirements.
2. The Board has also continued to function without sufficient, designated and independent office space or the requisite Information Technology (IT) infrastructure. The absence of a separate identity (logo), has also meant that the Board has been unable to impactfully perform its requisite public awareness role.
3. Members have not been remunerated for either ongoing out-of-pocket expenses, or time and services provided and brought about by administrative challenges. The Board has since engaged the Civilian Secretariat for Police Service in an effort to resolve these issues. It is anticipated that all outstanding claims will accordingly be settled by the end of the first quarter of the 2017/18 financial year.

04 / STRATEGIC OBJECTIVES FOR THE 2017/18 FINANCIAL YEAR

1. To continue the training of police officers in an effort to ensure that section 36D (1) of the DNA Act is operationalised through national representation.
2. To complete the National Forensic DNA Database software development process in conjunction with the ability to effectively perform familial searches in accordance with the DNA Act.
3. To activate provincial task teams in ensuring that investigative leads are followed up.
4. To provide support to the Civilian Secretariat for Police in finalising the Amendment Bill for the continuation of the convicted offender sampling programme.
5. To facilitate alignment and synchronisation of the Sexual Offences Register with the provisions of the DNA Act.



05 /

THE 2016/17 BUDGET

The following table illustrates the budget allocation and expenditure for the 2016/17 financial year:

NATIONAL FORENSIC OVERSIGHT AND ETHICS BOARD			
Row Labels	Current Budget	Total Expenditure	Balance at 31/03/2017
COMPENSATION OF EMPLOYEES	2 399 000,00	563 455,15	1 835 544,85
EMPL CONTR:BARGAIN COUNCIL(RES)	1 000,00	74,40	925,60
EMPL CONTR:MEDICAL (RES)	60 000,00	37 382,00	22 618,00
EMPL CONTR:PENSION (RES)	220 000,00	50 588,62	169 411,38
S&W: BASIC SALARY (RES)	1 903 000,00	389 145,00	1 513 855,00
S&W: SERVICE BONUS (RES)	140 000,00	32 428,75	107 571,25
S&W:HOUSING ALLOWANCE (RES)	35 000,00	14 400,00	20 600,00
S&W:PERFORMANCE BONUS (RES)	40 000,00	39 436,38	563,62
GOODS AND SERVICES	696 000,00	100 290,83	595 709,17
CATERING:DEPARTML ACTIVITIES	15 000,00	4 468,80	10 531,20
COM:CELL CONTR(SUBSCR&CALLS)	42 000,00	-	42 000,00
COM:TEL/FAX/TELEGRAP&TELEX	24 000,00	-	24 000,00
COM:POSTAL BOX	5 000,00	-	5 000,00
CONS/PROF: BOARDMEMB/COMM	130 000,00	-	130 000,00
ASS <5000: FURNITURE	40 000,00	-	40 000,00
SITA INCL WEBSITE	140 000,00	-	140 000,00
CONS: STATIONARY	20 000,00	-	20 000,00
ADVERTISING/SIGNAGE	25 000,00	-	25 000,00
T&S DOM:ACCOMMODATION	65 000,00	16 529,76	48 470,24
T&S DOM:AIR TRANSPORT	75 000,00	71 650,14	3 349,86
T&S DOM:CAR RENT	10 000,00	5 050,13	4 949,87
T&S DOM:FIXED DAILY ALLOWANC	5 000,00	-	5 000,00
T&S DOM:FOOD&BEVER	5 000,00	-	5 000,00
T&S DOM:INCIDENTAL COST	10 000,00	-	10 000,00
T&S DOM:KM ALL(OWN TRANSPORT)	10 000,00	-	10 000,00
T&S DOM:KM ALLOWANCE SMS	-	-	-
T&S DOM:ROAD TRANSPORT	5 000,00	2 592,00	2 408,00
T&S DOM:SPECIAL DAILY ALLOW	-	-	-
VENUES AND FACILITIES	20 000,00	-	20 000,00
IT AND OTHER EQUIPMENT	50 000,00	-	50 000,00
GRAND TOTAL	3 095 000,00	663 745,98	2 431 254,02

An assessment of the budget indicates underspending on both Compensation of Employees, alongside Goods and Services. The significant under-expenditure on Compensation of Employees has been the result of funded DNA Secretariat Head and Specialist Investigator vacancies not having been filled. The Board is however, committed to ensuring that these posts are filled by the end of the 2017/18 financial year.

A great deal of uncertainty has been apparent regarding the extent to which the Board could exercise control over its budget during the 2016/17 financial year. The Board by way of example, has been unable to lease temporary office space, or procure the necessary IT systems (including the development of the requisite website) from the appropriated budget allocation and accordingly which in part, accounts for underspending on the Goods and Services budget allocation. Discussions are ongoing with the Civilian Secretariat for Police Service in order to find a sustainable solution to this challenge. Furthermore, the Board will engage the National Treasury to determine whether the finances can be ring-fenced with a view to ensure a greater degree of independence. The appointment of the DNA Secretariat during the 2017/18 financial year will also ensure that going forward, the Board maintains regular and improved oversight of spending patterns to ensure operational efficiency and effectiveness.

06 / CONCLUSION

Since its establishment, the DNA Board has worked towards establishing the necessary systems in support of effectively executing its mandated oversight role. The absence of a permanent DNA Secretariat during the 2016/17 financial year has invariably had a significant impact on the Board's ability to achieve this objective. Moreover, the lack of adequate office space and the necessary IT infrastructure has severely affected its optimal operational and administrative functioning. Despite numerous engagements with the Civilian Secretariat for Police Service on these matters, a resolution could not be found. Additionally, challenges regarding the allocation and spending of the Board's budget have further impeded its ability to act independently, both from an organisational and operational perspective.

Despite these challenges, the DNA Board has been committed to exercising continued operational oversight over the NFDD, in concert with ongoing support rendered through the activities and functions of the various Sub-Committees.

The System Reports and Gap Analysis and Training Sub-Committees have been effective in monitoring the performance of the NFDD and addressing the needs of the FSL in an effort to ensure the optimal functioning of the database.

The Transitional Arrangements Sub-Committee in particular, has been instrumental in driving the request for the development of a new Bill which aims to address the gap in the implementation of the DNA Act following the expiry of the transitional period during January 2017. Subsequent to the recommendation of the Board, this Bill has since been drafted by the Civilian Secretariat for Police Service. The Bill proposes instituting a further two-year period, allowing for the continued sampling of convicted offenders who have not yet been processed. Furthermore, it proposes the imposition and endorsement of a penalty for imprisonment of a period not exceeding five years in cases where convicted offenders refuse to submit to the taking of a buccal sample.



PART 2/

Progress Report
1 April 2017 to
30 September 2017



07 /

THE NATIONAL FORENSIC DNA DATABASE
(TRANSITIONAL SUBCOMMITTEE)

The National Forensic DNA Database (NFDD) has been established in terms of section 15G (1) of the Criminal Law (Forensic Procedures) Amendment Act, No. 37 of 2013. In terms of section 15F, the NFDD is obliged to facilitate and enable the management and coordination of comparative searches in order to achieve the following objectives:

- Strengthening criminal investigations;
- Identifying potential perpetrators;
- Proving the innocence or guilt of an accused person;
- Exonerating a person convicted of an offence; and
- Assisting with the identification of missing persons or unidentified human remains.

Section 15M (2) of the DNA Act makes provision for familial searches that may be conducted for the purposes of forensic DNA profiling derived from any bodily sample of a missing or unidentified person, or any bodily sample or crime scene sample taken from unidentified human remains. The functionality to conduct familial searching by the NFDD has not yet been developed or sourced by the State Information Technology Agency (SITA) and is only scheduled for development by- or to be acquired during the 2018/2019 financial year. The FSL presently utilises a validated 16 loci marker kit for direct comparison casework (intra-casework). The DNA Board has, however, requested clarity from the Laboratory on when the chemistry kits will be upgraded to the 21 loci marker kit, in line with international best practice.

The increase in the number of loci will enhance the use of mixture interpretation and also strengthen the ability of the NFDD in conducting inter-case, inter-index and familial searches¹. The FSL has commenced with validation studies on a 21 loci marker kit that will be used only for DNA profiling in relation to the Missing Persons and Unidentified Human Remains index of the NFDD, since this is the only index in respect of which familial searching will be permitted and performed. The financial implications of the transition must also be factored into future budget cycles, as no provision has been made for this funding line item during the current Medium-Term Expenditure Framework (MTEF) cycle.

¹ Section 15M (2) of the DNA Act states that familial searches may be conducted in respect of missing persons and unidentified human remains. Section 15M (6) specifically mandates that the Minister [of Police] must ensure that a policy relating to familial searches is developed.

08 /

QUALITY MANAGEMENT (SYSTEMS REPORT SUBCOMMITTEE)

The proper management of the NFDD is dependent on and informed by a quality assurance framework that sets scientific quality standards as a means for assuring the quality and integrity of data generated by the Biology Unit.

An accredited Quality Management System (QMS) further plays a vital role in achieving, maintaining and improving the accuracy, timeliness and reliability of forensic DNA profiles produced, even though an accredited system is not required by the DNA Act.

The Section: Forensic Database Management (FDM) has established a Quality Management System which is based on the international ISO9001:2015 standard. All members that have access to the NFDD, have accordingly been vetted to log onto and utilise the system. A peer review of the functions overseen and administered by the Forensic Database Management section was successfully concluded on 7 February 2017 by an independent certification body² and has been since been certified as compliant with the international ISO9001:2015 standard. Regular surveillance assessments will be conducted to assess compliance with the international standard and the quality management system.

The validity of results are supported by both internal and external quality controls. The Biology Unit has also been independently evaluated during 2014 by Dr. Gill Tully, a Forensic Science regulator from the United Kingdom. The findings of this evaluation confirmed that the Biology section indeed functions in compliance with minimum norms and standards. In addition, the Biology Unit participates in national and international proficiency tests on a regular basis and has submitted an application for accreditation to the South African National Accreditation System (SANAS) regarding a number of test methodologies currently applied within its operational environment. It is anticipated that pre-assessments will be conducted during the latter part of the 2017/2018 financial year.

nanoschematic

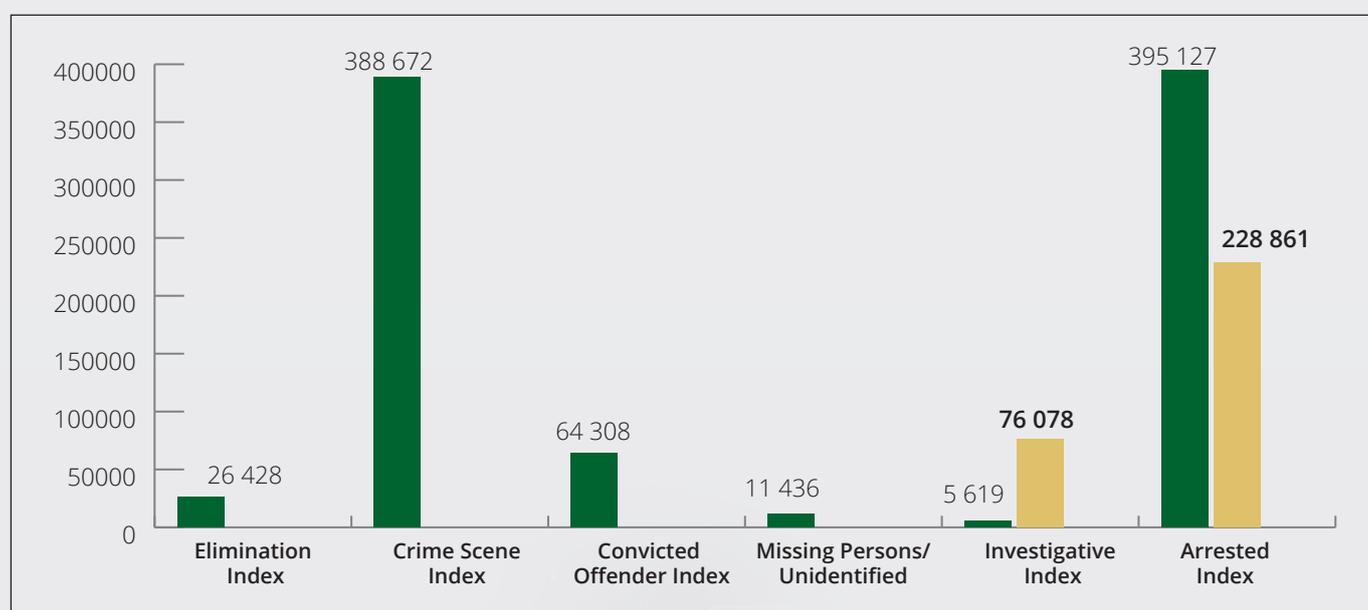
² The Forensic Database Management section was assessed and registered by NQA

09 /

INDICES AND FUNCTIONING OF THE NATIONAL FORENSIC DNA DATABASE

The total number of DNA profiles uploaded onto the NFDD database has increased from 580 230 to 891 590 DNA profiles between 31 October 2016 and 30 September 2017. The number of DNA profiles located within each index is indicated in **Graph 1**. The expungement of DNA profiles from the Investigate and Arrestee index, as required by the Act, is highlighted in yellow.

GRAPH 1: Forensic profiles loaded onto the various Indices of the NFDD for the period ending on September 2017:



When a match is identified via the NFDD an investigative lead is created. The Investigating Officer is obliged to follow up on the lead in determining whether the person of interest is indeed linked to the crime or not. As a result, two investigative lead types may be generated. In the first instance, an investigative lead can be identified between a person to cases, by establishing a link between the person who is identifiable, based on the existence of a reference DNA profile accordingly uploaded on the database and other crime scene samples. Secondly, links between different cases can be established and enable a determination that the same person committed various crimes, but the person has not yet been identified.

For the period ending August 2017, the NFDD has successfully matched 19 987 cases with known person identities uploaded onto the NFDD. The overall number of known persons on the NFDD and accordingly linked to cases comprise 7 584 individuals. A total of 11 475 cases were linked to unknown persons on the NFDD and the unknown persons linked to these cases in turn, comprise a total of 4 357 persons.

One example is that of Durban serial rapist, Bheki Doctor Magwaza, who has been sentenced to 319 years in jail for rape committed over a period of more than seven years³. It was established that DNA results decisively linked the accused to 26 cases and this outcome would not have been possible without a properly functioning database.

³ The article can be accessed at: <https://www.news24.com/SouthAfrica/News/durban-serial-rapist-sentenced-to-319-years-in-jail-20171115>

10 /

FORENSIC INVESTIGATIVE LEADS

The value of the national forensic DNA database is underpinned by forensic DNA investigative leads⁴ provided to detectives. Regulation 9 of the Forensic DNA Regulations 2015, as supported by the policy on the "Investigation and Management of Serial Rape and Serial Murder" prescribes that every provincial commissioner must establish special task teams in ensuring that forensic investigative leads, multiple offenders and serial cases involving murder, rape, sexual assault and psychologically motivated crimes are successfully investigated and resolved.

The table and graph hereafter, depicts the outstanding forensic DNA investigative leads as of 30 September 2017 that require follow-up from the specialised task teams, as well as monitoring and oversight by each provincial commissioner.

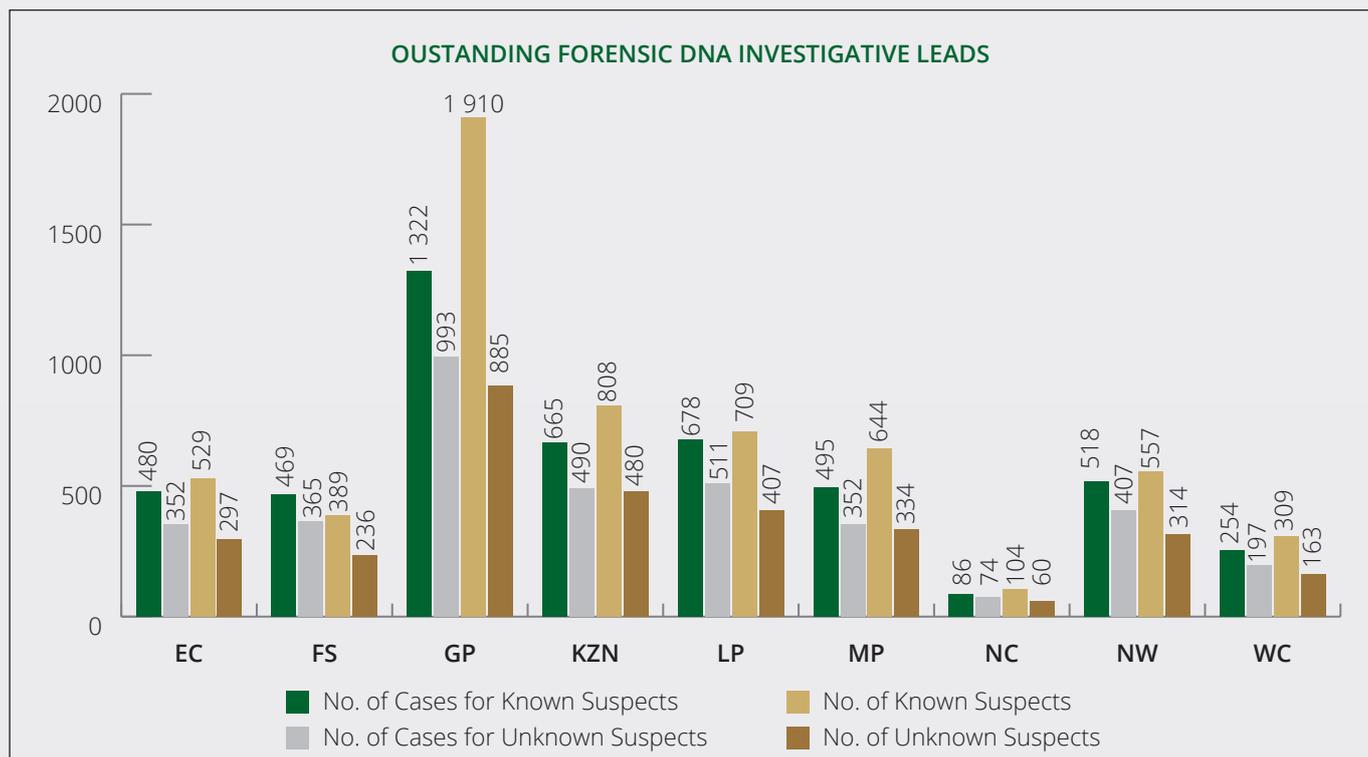
OUTSTANDING FEEDBACK/FOLLOW-UP OF FORENSIC DNA INVESTIGATIVE LEADS IN RELATION TO ALL OFFENCES AND WHICH ARE APPARENT AS OF THE END OF 30 SEPTEMBER 2017

[No Result of Trial Update on CRIM System/No SAPS76 (Fingerprint form for Arrested Persons) or SAPS69 For Result Of Trial Submitted to LCRC to Capture on CRIM System]

	NUMBER OF CASES FOR KNOWN SUSPECTS	NUMBER OF KNOWN SUSPECTS	NUMBER OF CASES FOR UNKNOWN SUSPECTS	NUMBER OF UNKNOWN SUSPECTS
Eastern Cape	480	352	529	297
Free State	469	365	389	236
Gauteng	1322	993	1910	885
KwaZulu-Natal	665	490	808	480
Limpopo	678	511	709	407
Mpumalanga	495	352	644	334
Northern Cape	86	74	104	60
North West	518	407	557	314
Western Cape	254	197	309	163
TOTAL	4967	3741	5959	3176

nanoschematic

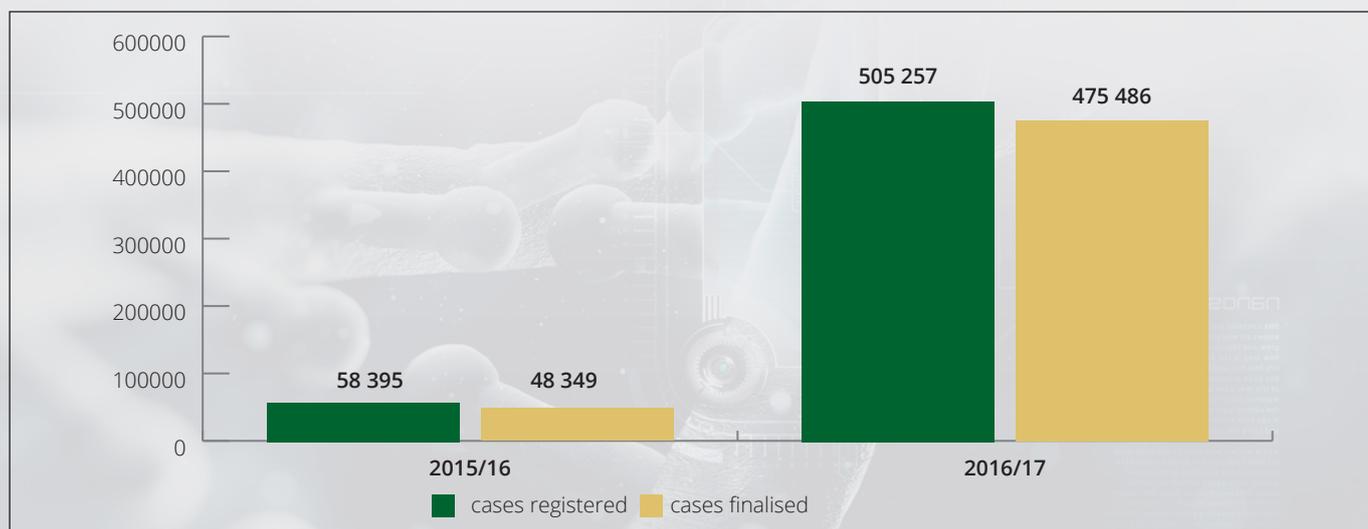
⁴ Forensic DNA investigative leads are the outcome of verified candidate DNA leads from the comparison search conducted on the NFDD.



In an effort to corroborate the progress regarding follow-up activities, oversight visits will be undertaken in all provinces. These will be scheduled during the 2018/19 financial year.

11 / DNA ANALYSIS PERFORMANCE

The Biology Section of the Forensic Science Laboratory has reported a significant increase in the number of cases registered since the implementation of the DNA Act. A year-on-year (2015/16 versus 2016/17) comparison of the total number of cases registered and finalised, reflect increases of 765% and 883% respectively, as indicated in **Graph 2** below:



The DNA Act requires that forensic DNA profiles be obtained within 30 days from date of receipt by the laboratory. In an effort to enable the Board in better monitoring this requirement, a recommendation was made to the FSL aimed at also capturing the date of receipt information as part of the data capturing process on the system and the process was accordingly concluded by 1 April 2017. This measure has enabled the FSL to report on the average DNA analysis turn-around times and concomitant percentages for obtaining a forensic DNA profile from a buccal sample. Currently, the average turn-around time for analysis processes comprise a time-frame of 44 days.

Regarding the period under review, the laboratory reported a 77, 6% compliance rate in terms of taking and processing buccal samples from persons arrested and charged for schedule 8 offences⁵. Even though this percentage does not fully comply with the Act, the increase of 765% in the number of cases successfully processed, is commendable particularly when considering that these functions were performed despite a very limited staff compliment.

During May 2017, the Division: Forensic Services submitted a request for additional staff to support functions regarding the registration, processing and analysis of DNA samples. The table below provides a breakdown of the additional staff accordingly requested by the Biology and Forensic Database Management (FDM) Sections, respectively:

	NUMBER OF CASE REGISTRATION STAFF (LEVEL 5) POSTS REQUESTED	NUMBER OF POSTS APPROVED FOR FILLING	NUMBER OF FORENSIC DNA ANALYSTS (LEVEL 7) REQUESTED	NUMBER OF POSTS APPROVED FOR FILLING
Biology Section (Pretoria)	-	-	5	9
Biology Section (FSL: Western Cape)	-	-	34	11
Biology Section (KZN)	-	-	5	5
Case Registration (Pretoria: Eastern Cape)	13	0	-	-
Case Registration (FSL: Western Cape)	58	0	-	-
Case Registration (KZN FSL)	5	0	-	-
Forensic Database Management (NFDD Index)	-	-	14	14
TOTAL	76	0	58	39

In view of the fact that the overtime budget has been depleted, it is imperative that the required additional staff are appointed in order to avoid backlogs being created with respect to DNA cases duly registered and finalised on an ongoing basis. Furthermore, the sustained absence of adequate human resource capacity will result in decreased levels of performance in realising and maintaining the requisite casework completion status and turn-around targets, should this challenge not be satisfactorily addressed in the near future.

In terms of the DNA Act, compelling reasons must be provided in cases where forensic DNA profiles are not generated within the prescribed period. The following factors have to some degree contributed to forensic DNA profiles not being obtained within the prescribed 30-day turn-round time-frame:

- Inadequate staffing;
- Challenges experienced with regard to the functionality of the DNA system (such as the DE-STRlab);
- Inadequate capacity within SITA to consistently maintain the system and provide the necessary technical support; and
- Challenges encountered with regard to the finalisation of the requisite bid documentation aimed at securing the maintenance of equipment used in the analysis of crime samples.

⁵ Buccal samples are taken from persons arrested and charged for any offence listed in terms of Schedule 8 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

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CONCERNS IDENTIFIED BY THE SYSTEMS REPORT AND GAPS ANALYSIS SUB-COMMITTEE

National Treasury previously earmarked criminal justice system (CJS) funding for the procurement of the requisite specialised equipment, consumables and collection kits. During August 2017, SAPS was notified that the CJS funding must be re-prioritised, while no longer making provision for any reoccurring costs (to an approximate value of R650 million) during the 2018/2019 financial year. Subsequent to the increase of 765% cases received in conjunction with a decrease in funding and apparent resource and staff shortages, the Biology Section of the FSL will as a consequence, therefore be unable to maintain or improve on the current status quo.

To ensure compliance with the Act, the Board has supported the request made by the Division: Forensic Services for an increase in their allotted baseline (operational) budget. The Board has further recommended that additional funding urgently be sourced and allocated to the budget of the Biological Section. Should optimal functioning of the Biological Section not be supported and maintained, compliance to the DNA Act will, as a consequence, not be realised. The table below illustrates the increase in the number of cases finalised over the last four-year period.

BIOLOGY UNIT FSL	2014/15	2015/16	2016/17	2017/18
TOTAL CJS EXPENDITURE	R 91 837 460	R 182 174 735	R 227 707 037	R 284 633 796
TOTAL CASES FINALISED	112 132	136 090	475 486	59 112

An additional concern has been identified as the ongoing water crises in the Western Cape, which may result in the laboratory being unable to continue with its work and which invariably will have a significant, negative impact on the throughput rate of the Biology Section.



13 /

TRANSITIONAL ARRANGEMENTS

13.1 Taking of buccal samples

The taking of buccal samples from persons arrested and charged for schedule 8 offences by detectives in the provinces is conducted in accordance with section 36D (2) of the DNA Act. Compliance has shown a steady improvement over the last eighteen-month period, increasing from a national average of 31% at the advent of implementation of the DNA Act, to 77.6 % by the end of the 2016/2017 financial year. The sustainability of improving on this compliance benchmark is at risk in the short-term though, in particular due to low and at some stations, depleted stock levels of the buccal sample collection kits. This situation is exacerbated by the lack of stock at the designated stores managed by the Division: Supply Chain Management. These limitations may in turn prevent the impactful operationalisation of section 36D (1) of the Act.

13.2 Buccal Samples Taken from Persons whose Names Appear on the National Register for Sex Offenders

Section 36D (1) and (2) of the DNA Act, prescribes that buccal samples be taken from persons whose names appear on the National Register for Sex Offenders. Furthermore, *section 15A (2) of the South African Police Service Act, No. 68 of 1995* as amended by the *Criminal Law (Forensic Procedures) Amendment Act, Act 6 of 2010 (the "Fingerprint Act")*, requires that the National Commissioner of the South African Police Service ensure that the fingerprints and photographic images of persons be included and retained as part of the information entered into the National Register of Sex Offenders, in accordance with *section 50 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, (Act 32 of 2007)*.

The Registrar has been established in an effort to provide accurate particulars of those individuals whose names appear therein. To date, no feedback has however been provided by the Registrar regarding the status of personal details of the perpetrators captured in the Register. These particulars were requested to be packaged in a specified order so as to enable the synchronisation and extraction of data stored on the criminal record system and simplify the process to ascertain whether a buccal sample, fingerprints and photographic images were in fact taken. The following information is required:

- Names and surnames of the persons entered in the register;
- Fingerprint numbers of the offenders;
- Identity numbers of the offenders; and
- Names of the relevant stations and case numbers for the offence.

Ideally, the Registrar should also capture the reference number of the person and provide these details to the SAPS. Numerous attempts have been made by the DNA Board to facilitate the sharing of the CAS or DB numbers (buccal sample number). However, a response is yet to be received from the Registrar, despite numerous requests to comply with this provision.

14 /

FORENSIC AWARENESS

The Division: Forensic Services actively conducts forensic awareness campaigns regarding its services accordingly rendered in conjunction with the sharing of relevant information, in so far as it pertains to the DNA Act, with SAPS officials and members of the public. To date, a total of 30 156 officials have been trained as authorised persons to take DNA buccal samples. The training module for taking buccal samples also includes a focus on the Fingerprint and DNA Acts, evidential value, chain of custody, as well as preventative measures related to contamination at crime scenes and the interpretation of forensic DNA reports. A total of 264 and 229 forensic awareness sessions were facilitated respectively, for SAPS staff and members of public during 2016/2017 financial year.

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MEETINGS OF THE BOARD AND SUB-COMMITTEES FOR THE PERIOD 1 APRIL 2017 TO 30 SEPTEMBER 2017

TABLE 2: Meetings of the Board convened during the period 1 April 2017 to 30 September 2017

NO	DATES	ATTENDANCE
1.	07 June 2017	8 members / 3 CSPS officials
2.	06 September 2017	4 members / 3 CSPS officials

TABLE 3: Side-meetings of the Board convened during the period 1 April 2017 to 30 September 2017

NO	DATES	MEETINGS (KEY ELEMENTS)	ATTENDANCE
1.	08 May 2017	Special meeting: Introduction of new DNA Secretariat Head	4 members / 3 CSPS officials
2.	07 June 2017	Sub-committee meeting	7 members / 5 SAPS officials / 3 CSPS officials / 1 DCS official (on behalf of Ms. Motlonye)



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CONCLUSION

During the six-month period commencing from April 2017 to September 2017, a huge emphasis has been placed on the finalisation of the *Criminal Law (Forensic Procedures) Bill, 2017*. The Bill will be circulated and discussed with various forums/focus groups/structures within the Justice, Crime Prevention and Security cluster in order to obtain Cabinet approval. This Bill should be processed as a matter of priority in order to address the current challenges in respect of the sampling of convicted offenders.

The report has also highlighted potential challenges with regard to the functioning of the provincial task teams, who are responsible for following up on investigative leads. These task teams play a pivotal role in ensuring that cases that are linked are effectively investigated as a means of dealing with the high rate of repeat offending. Meetings with all provincial commissioners will be scheduled during 2018 with a view to discuss these challenges.



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2017/18 BUDGET

The table hereafter provides a breakdown of the budget and expenditure outcome for the 2017/18 financial year as allocated to the Board by the Civilian Secretariat for Police Service:

NATIONAL FORENSIC OVERSIGHT AND ETHICS BOARD			
Row Labels	Current Budget	Total Expenditure	Balance at 30/09/2017
COMPENSATION OF EMPLOYEES	2 621 000,00	657 712,32	1 963 287,68
EMPL CONTR:BARGAIN COUNCIL(RES)	1 000,00	75,38	924,62
EMPL CONTR:MEDICAL (RES)	107 000,00	21 210,00	85 790,00
EMPL CONTR:PENSION (RES)	353 000,00	65 127,04	287 872,96
S&W: BASIC SALARY (RES)	1 700 000,00	500 978,75	1 199 021,25
S&W: SERVICE BONUS (RES)	224 000,00	-	224 000,00
S&W:HOUSING ALLOWANCE (RES)	57 000,00	7 428,00	49 572,00
S&W:NON PENSIONABLE ALL OTH(RES)	149 000,00	62 893,15	86 106,85
S&W:PERFORMANCE BONUS (RES)	30 000,00	-	30 000,00
GOODS AND SERVICES	522 000,00	206 916,53	315 083,47
ADVERT:PROMOTIONAL ITEMS	19 000,00	-	19 000,00
CATERING:DEPARTML ACTIVITIES	23 000,00	7 059,60	15 940,40
CNS:BUS&ADV SER:BOARD MEMBER	137 000,00	130 665,79	6 334,21
COM:AIRTIME & DATA	10 000,00	389,00	9 611,00
COM:TEL/FAX/TELEGRAP&TELEX	2 000,00	-	2 000,00
CONS:SP&OS:PRINT CARTRIDGE	10 000,00	-	10 000,00
EQP<R5000:AUDIO VISUAL EQUIP	25 000,00	-	25 000,00
EQP<R5000:BAGS	5 000,00	-	5 000,00
F&O/EQP<R5000:OFFICE EQUIPMENT	30 000,00	-	30 000,00
F&O/EQP<R5000:OFFICE FURNITURE	20 000,00	-	20 000,00
O/P:COURIER & DELIVERY SERVS	3 000,00	-	3 000,00
SITA INTERNET SERV CHRGS	44 000,00	-	44 000,00
T&S DOM NON EMPL:ACCOMMODATION	15 000,00	1 779,00	13 221,00
T&S DOM NON EMPL:FOOD&BEVER	5 000,00	212,00	4 788,00
T&S DOM NON EMPL:INCIDENTAL COST	5 000,00	2 801,00	2 199,00
T&S DOM:ACCOMMODATION	30 000,00	-	30 000,00
T&S DOM:AIR TRANSPORT	65 000,00	52 842,22	12 157,78
T&S DOM:CAR RENTAL	10 000,00	1 381,05	8 618,95
T&S DOM:FOOD&BEVER	5 000,00	290,00	4 710,00
T&S DOM:INCIDENTAL COST	5 000,00	486,00	4 514,00

NATIONAL FORENSIC OVERSIGHT AND ETHICS BOARD

Row Labels	Current Budget	Total Expenditure	Balance at 30/09/2017
T&S DOM:KM ALL(OWN TRANSPORT)	5 000,00	-	5 000,00
T&S DOM:KM ALLOWANCE SMS	10 000,00	2 829,26	7 170,74
T&S DOM:RAILWAY TRANSPOR	5 000,00	-	5 000,00
T&S DOM:ROAD TRANSPORT	10 000,00	366,00	9 634,00
T&S DOM:SPECIAL DAILY ALLOWANCE	10 000,00	3 659,09	6 340,91
T&S:DOM NON EMPL:TRANSPORT	10 000,00	2 156,52	7 843,48
CONS SUPP: UNIFORM & CLOTHING	4 000,00	-	4 000,00
GRAND TOTAL	3 143 000,00	864 628,85	2 278 371,15





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