



**BRIEFING ON NRSO:
CRIMINAL LAW (SEXUAL
OFFENCES AND
RELATED MATTERS)
AMENDMENT ACT
AMENDMENT BILL
20 MAY 2021**



THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

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PURPOSE OF THE PRESENTATION

Brief Parliament on:

- The background
- Steps taken to implement the Committee's recommendation
- The location of the Register in the Department of Justice and Constitutional Development
- Whether to scrap the Register and make use of the SAPS register
- Constitutional issues with regard to the publication of offender details (access to the Register)
- Whether consideration has been given to the possible chilling effect on our economy in increasing the regulatory burden
- Closing remarks



THE BACKGROUND

- On 17 March 2021, the DoJ&CD made presentation to the Committee to present on:-
 - challenges and plans regarding the implementation of the Bill to carry out the additional work introduced by the amendments to the Bill,
 - to provide clarity on any matter that is raised in the discussions
- SAPS presented on the functioning of the Criminal Record system (CRC) on the same date

At the conclusion of the presentations, the Committee recommended that a meeting be convened between the DoJ&CD, SAPS, DHA and DSD to explore *“what would best serve South Africa, given the challenges faced within the current constrained fiscal environment”*;

- The DoJ&CD established and chaired the Inter-departmental Advisory Task Team (IDATT) consisting of SAPS, DSD and DHA;
- The Task Team met on 29 April 2021, but with the absence of DHA, and made certain resolutions.

BACKGROUND CONTINUED ...

- Parliament is currently considering the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill, (the Bill) which *inter alia* seeks to —
 - Expand NRSO scope to include particulars of all sex offenders beyond offenders against children and persons with mental disabilities;
 - Include other vulnerable persons, namely, female persons between the ages of 18 and 25, persons with physical, intellectual or mental disabilities and persons 60 years of age or older who, for example, receive community based care and support services; and
 - Increase the periods for which a sex offenders' particulars must remain on the NRSO before they can be removed from the Register
- These amendments respond to the #TheTotalShutDown 24 Demands and consequently to Pillar 3 of the National Strategic Plan on GBVF (GBVF / NSP).



Considerations and Recommendations made by the IDATT

CONSIDERATIONS BY THE IDATT

- The major purpose of keeping the Register
- The need to consider how other countries effectively maintain similar Registers to combat sex crimes;
- The inherent inter-dependencies between stakeholders;
- The need for an effective interface of electronic data systems between stakeholders;
- The need for the collection of disaggregated data for both accused persons and crime victims, as required by the Presidential Summit Declaration against GBVF, 2019;
- The need for resource sharing between stakeholders to collectively establish a repository that will best serve the GBVF survivors and the country's fiscus;
- The resources and costing required to establish such repository;
- The need for an enabling legislation for the repository, as it is with the NRSO and other SA National Registers:
 - National Child Protection Register: Children's Act 38 of 2005 (DSD)
 - Register for the Abuse of Older Persons: Older Persons Act 13 of 2006 (DSD)

THE GLOBAL PURPOSE OF KEEPING THE REGISTER

- Prevent new sex offending and re-offending by national and international sex offenders;
- Prevent paedophilia;
- Monitor and track sex offenders following their release into the community.
- Support research initiatives to guide effective prevention, response and support programming;
- Provide offender and victim profiling analysis;
- Assist in channeling resources where they are need most;
- Prevent sex offenders of foreign jurisdictions from entering our country;
- Contribute in the elimination of the GBVF in the country;
- Mostly importantly, help government to capture the magnitude of sex offending in the country

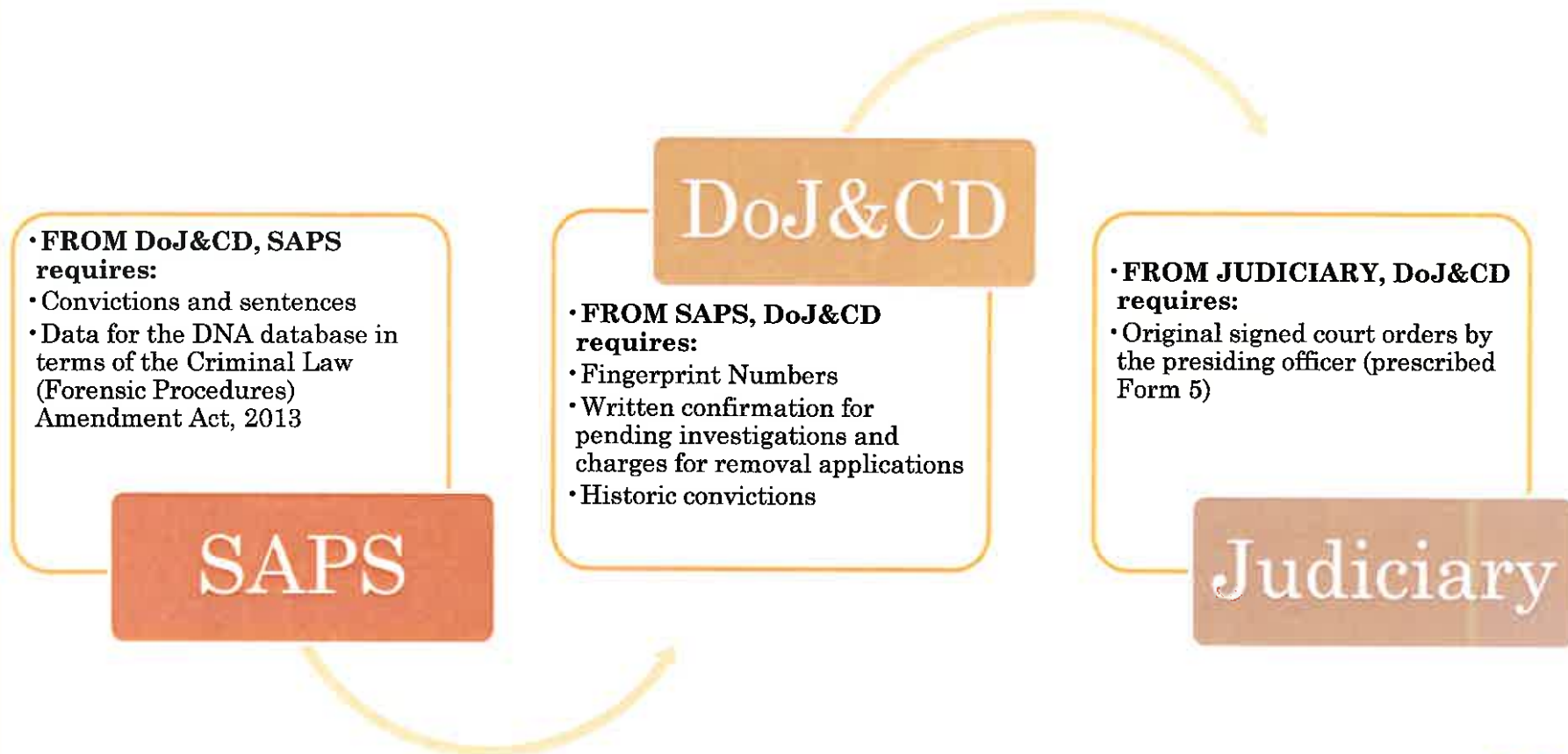
THE GLOBAL TREND TO MANAGE ENTRIES, REMOVALS AND PUBLIC ACCESSIBILITY

- **Entry process into the Sex Offender Registers**
 - In SA, Kenya, US and Canada, the State is responsible for entering the details of a convicted offenders on the respective Register
 - Only in the UK, where offenders for violent and sexual offences are required to register with the police under the Act.
- **Removal of details from the Sex Offender Registers**
 - Generally, persons placed in the Sex Offender Registers remain on the register for a period ranging from 2 years to an indefinite term of registration, depending on the sentence imposed on conviction.
 - In SA, the period is from 5 years to an indefinite term.
- **Accessibility of the Sex Offender Registers**
 - Whilst some countries restrict open access to their Registers, some have mandated that sex offender information websites be created and maintained by every state and made available for public viewing.
 - In SA, the Register is accessible to certain categories of persons by way of application to the NRSO.

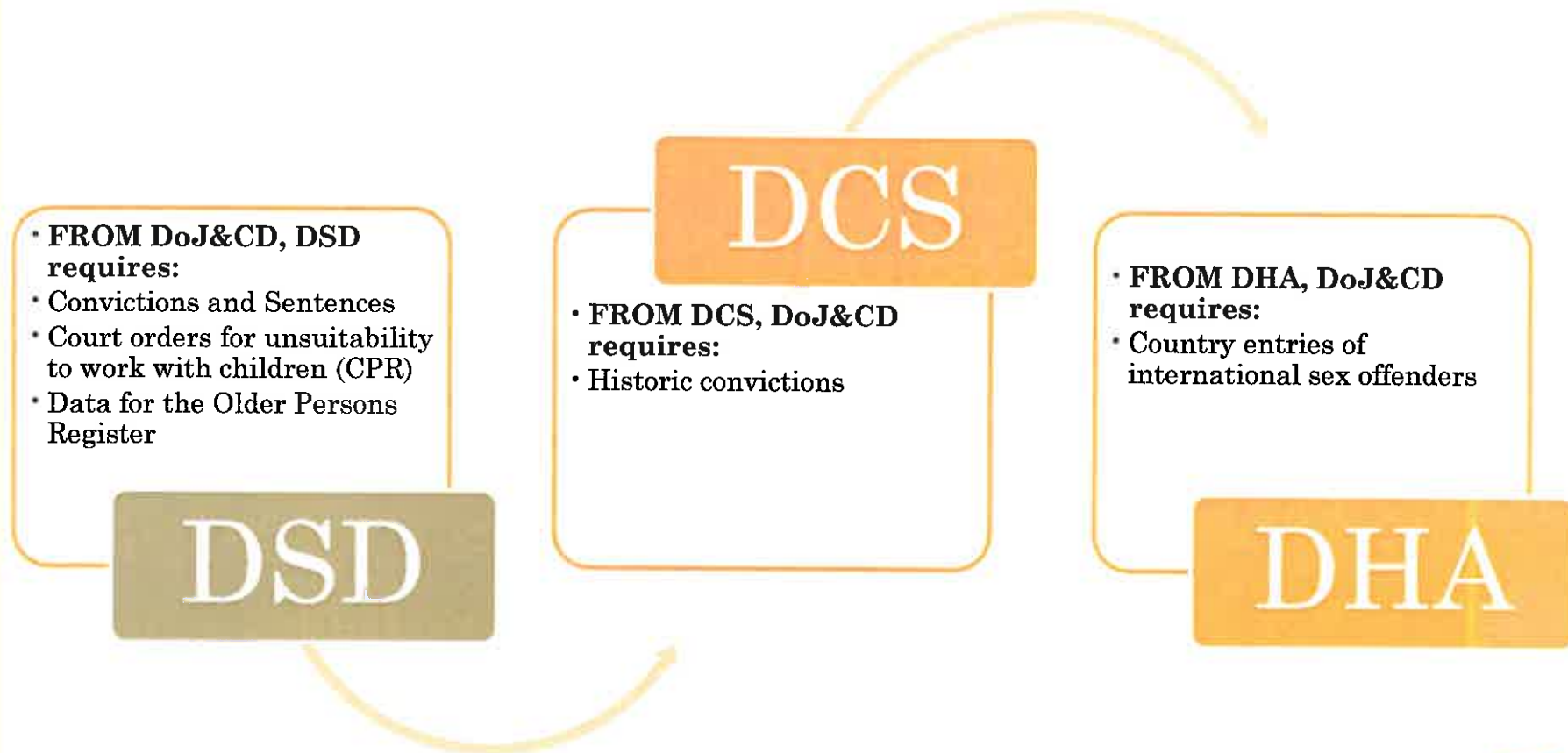
THE IDATT NOTED THE NEED FOR AN EFFECTIVE INTERFACE OF ELECTRONIC DATA PLATFORMS

- In line with Regulation 12(1), the NRSO is kept in an electronic format as part of the electronic infrastructure of the Department and the courts.
- The IDATT proposed the systems interface equipped with functions to:-
 - Facilitate support and management of interdependencies between stakeholders;
 - Promote resource sharing between stakeholders;
 - Manage data sharing and the effective process flow between DoJ&CD, SAPS, OCJ, DoH, DSD, DCS, DIRCO on the existing IJS Transversal Hub;
 - Collect details of both the accused persons and the victims, as required by the Presidential Summit Declaration
 - Improve and maintain data integrity.

THE IDATT IDENTIFIED INTERDEPENDENCIES BETWEEN PRIMARY STAKEHOLDERS



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THE INTEGRATED JUSTICE SYSTEM (IJS) TRANSVERSAL HUB AS A FOUNDATION...

The Transversal Hub is already in operation between DoJ&CD, SAPS, NPA, DSD, DHA & DCS





Location of the NRSO
and Whether or Not to
Scrap the NRSO and
Use SAPS CRC

THE IDATT NOTED KEY FACTORS TO BE CONSIDERED WHEN DETERMINING LOCATION

Legislative Mandates of Stakeholders

Maintain the focus on prevent sex crimes and GBVF

System's update required to host the Register

Ability to collect disaggregated data of offenders and victims

Budget and resources needed

Shared resources to alleviate pressure from government's fiscus

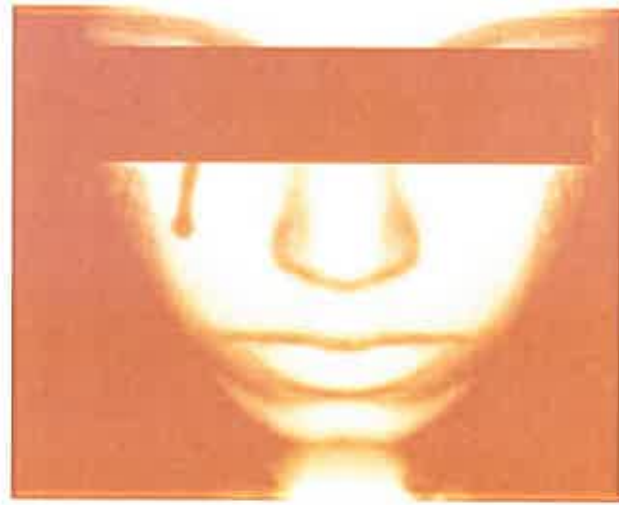
The Extrapolation of 10 Salient Issues Raised by DoJ&CD and SAPS During the Previous Presentations to the Committee

No NRSO	SAPS Criminal Record Centre (CRC)
<p>1. The NRSO was established on 30 June 2009. Currently, its services are centralized at national office, but plans are underway to commence with the decentralisation of services to all provinces.</p>	<p>SAPS has the geographical spread of 97 Local Criminal Record Centres (LCRC) with 36 service points nationwide. The CRC has been in existence for many decades.</p>
<p>2. The NRSO is a national repository capturing the particulars of sex offenders convicted of sex crimes involving children and persons with mental disabilities. The Bill proposes the extension of this scope to ALL victims of sex crimes.</p>	<p>CRC is the database for ALL crimes without any particular focus to GBVF crimes.</p>
<p>3. It provides protective measures intended to discourage new sex offending whilst preventing repeat sex offending.</p>	<p>No prescribed protective measures offered to GBVF victims.</p>
<p>4. It keeps details of both the sex offender and the victim. It further provides disaggregated information of the victim, and the plan is to upgrade the new NRSO system to include more variables for victim's details</p>	<p>It captures records of convicted offenders only.</p>

No	NRSO	SAPS Criminal Record Centre (CRC)
5.	It is intended to assist in determining sex offending trends and the profiles of sex offenders and victims, as required by the Presidential Summit Declaration against GBVF of 2019	It may only provide offending trends and the profile of sex offenders only, since it does not capture the details of the crime victims.
6.	Vetting services are FREE	Application fee for processing police clearance certificate is R150 (fee revised annually). The fee for application for the Police Clearance Report (PCR) is however R70 (also annually revised)
7.	Currently, the NRSO has personnel capacity of 1 x director and 3 permanent data capturers. Plans to adequately capacitate this office and the regions is underway	482 personnel for LCRC 929 495 personnel for Police Clearance Reports (PCR)
8.	Projected budget for the effective management of the NRSO in line with the expanded scope of the Bill = R13 322 000	Projected budget required: LCRC= R28 648 300 PRC = R120 444 255 SAPS reported that the PRC will be the preferred option for this purpose.
9.	System recently updated to have SMART functionalities. However, further minor updates are planned and budgeted for IJS	System requires update to catch up with evolving technology and currently there is inadequate network infrastructure.
10.	Interdependencies: Receive fingerprints from	SAPS will require data of current convictions

THE IDATT ACKNOWLEDGES
THE INHERENT
INTERDEPENDENCIES
BETWEEN STAKEHOLDERS AND
THEREFORE RECOMMENDS
THAT THE COMMITTEE'S
CONSIDERATION BE ON HOW
THE STAKEHOLDERS SHOULD
JOINTLY SHARE RESOURCES
FOR THE EFFECTIVE
MANAGEMENT OF THE
REGISTER





Constitutional Issues with
regard to the Publication
of Offender's Details
(Access to the Register)