

CONSTITUTIONAL ISSUES: RE PUBLICATION OF REGISTER

All legislation is subject to the Bill of Rights, in which the most fundamental democratic values are underscored in section 1(a) of Chapter 1

It is a criminal offence for anyone to intentionally disclose or publish information contained in the register, except as when necessary to give effect to the provisions of the Act or when ordered to do so by a court.

Only those entitled to apply for a certificate will have access to the information contained in the Register.

Dignity: The right to human dignity is enshrined in section 10 of the Constitution, and has been held as 'the heart of individual rights in a free and democratic society', as well forming 'the basis of the right to equality. If the NRSO is converted from a strictly controlled access register to a public one, it will attract the possibility of 'life-long punishment, humiliation and harassment.

Equality: If the NRSO is published online, it draws a differentiation in treatment between sex offenders and other offenders of violent crime (with the former's punishment continuing after sentence served in the form of public 'punishment')

CONSTITUTIONAL ISSUES: RE PUBLICATION OF REGISTER

Section 28: It will NOT be in the best interest of the child who is a sex offender and the child of the sex offender to publish the details. It will be an indirect punishment to the latter.

Privacy: If the NRSO is made public, the impact on a sex offender's right to privacy will be unjustifiably intrusive as it will grant the public unobstructed access to 'the inner sanctum of a person, denying sex offenders any degree of control over their personal information.

Privacy: Currently, the NRSO only limits the privacy rights of sex offenders in as far as the sharing of information about sex offenders to prohibit their employment to service points with direct access to children and persons with disabilities. In this context employers are obligated to keep the information obtained from the NRSO confidential

Freedom and security of persons: Allowing public access to the NRSO could result in sex offenders and their families living in constant dread of discovery and community-vigilantism.

Access to Information: One can recognise the instant appeal in the argument that public access to the NRSO would grant the public access to information, which they in turn can use to protect themselves. The SALRC has stated that this argument creates a false sense of individual and community security.

Trade, Occupation and Profession: In making the NRSO public, it will limit the job prospects of sex offenders unreasonably where such employment is required at areas having no direct exposure to children and persons with disabilities. This may lead to increased levels of unemployment, and consequently to recidivism.



Whether consideration has
been given to the possible
chilling effect on economy in
increasing the regulatory
burden

CHILLING EFFECT ON ECONOMY...

In order to determine the potential impact of the inclusion of females under 25 it should be noted that the Department could not find any empirical evidence what the impact would be. However, it stands to reason that females under the age of 25 form a large part of the population and they are also economically active to the extent that they, among others, apply for jobs.

Practically, it means that an employer of young persons will have to vet all his employees under the age of 25 years. This might add more resource demands.

The potential unintended consequence is that employers might become more reluctant to employ females under the age of 25 years.

The ambit of the proposed option to include females under the age of 25 years is extremely wide and will in all likelihood impact on the larger workforce of South Africa to the extent that nearly all employees will have to be vetted.

Inclusion of the particulars of all convicted sex offenders will, however, reduce the use of warm bodies as the demand to select certain categories of victims will be done away with. The system has SMART variables to capture this data



IT Infrastructure and its Functionality

SITA Application [DOJCD\NMatjila] SITA Application [DOJCD\NMatjila] SITA Application [DOJCD\NMatjila]

ICMS Integrated Case Management System

Lower Court Criminal Lower Court Criminal

Registration Administration

NRSO Registration Group

- Register Offender
- Search Offender
- Remove Offender
- Approve Offender

NRSO Clearance Application

- Register Clearance Application
- Search Clearance Application

Case Management

- View New Cases
- Schedule Case
- View Historical Cases
- Register Non SAPS Docket
- Transferred Cases

Court Roll

- Day Roll
- Month Roll
- Year Roll

Outcome Management

- Merge
- Capture Case Outcomes
- Case Search

NRSO Registration

- Register NRSO Offender

NRSO Clearance Application

- Register Clearance Application
- Search Clearance Application

NRSO Offender Removal

- Remove Offender (Court)
- Register Removal Application
- Search Removal Application

Integrity Risk Reports

- Judiciary Reports
- Case Turnaround Time R
- Monthly Court Statistics
- Harms And Standards R

KPI Reports

- Backlog Cases
- Unreturned Cases From C

Operational Reports

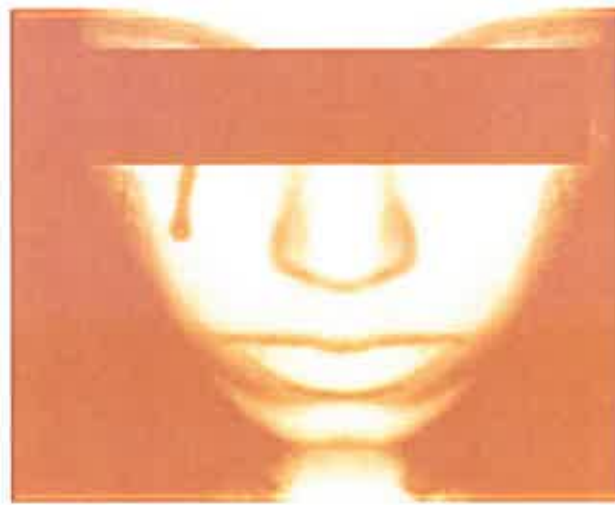
- All Open Cases
- All Open Cases - Detail
- CAS Number Detail Report
- Charge Sheet Filing List
- Court Cases Scheduled to
- Court Scheduling Utilization
- Court Scheduling Utilization
- InActive Cases
- Integration Status Report
- Leave To Appeal Listing
- Leave To Review Listing
- New Cases Registered
- Open Cases - Children On
- Postponed Cases - Month
- Postponed Cases - Month
- Transfers

PROGRESSIVE UPGRADES OF THE ELECTRONIC NRSO

LATEST FINALISED IN 2019

IT INFRASTRUCTURE

NRSO	SAPS
NRSO system has SMART functionalities-aligned to the most recent technological advancements	Reported that it requires an upgrade
System is linked to courts, which are the major data sources	Will have to be connected to the courts IT infrastructure
The NRSO system has been upgraded to detect cases where the court has inadvertently omitted to make an order of entry into the Register. This functionality ensures that NO convicted sex offender is not registered in the country.	This functionality will have to be built in
The NRSO system <i>automatically</i> sifts and enters the relevant convictions from the CRIMINAL ICMS. No manual labour is required in this regard.	This functionality will have to be incorporated
The NRSO system is fully operational, except for the registration of foreign sex offenders.	Also fully operational However, it does not keep data of foreign sex offenders
Vetting certificates issued within 10 days of receipt of application, despite the extremely limited human capacity	Vetting has been for many years but at a cost.



Action Plan for the Effective
Management of Register with
Proposed Expanded Scope
and with Shared Resources

ACTION PLAN TO IMPLEMENT THE EXTENDED SCOPE OF NRSO WITH SHARED STAKEHOLDER RESOURCES

What is Required?	Key Activities	Stakeholders	Timelines	Estimated Budget
Upgraded Electronic Register for Sex Offenders to accommodate new changes introduced by the Bill	Incorporate the proposed new sexual offences and other necessary variables	IJS, DoJ&CD IT (ISM), SAPS, NPA	30 June 21	No budget required
NRSO functions decentralized to the provinces	Update the NRSO to include a platform for decentralized functions	IJS, DoJ&CD IT (ISM), SAPS, NPA, Judiciary	30 Sept 21	4 588 900
	Shift personnel from over-populated service points to the NRSO (pending appointments)	DoJ&CD	31 Dec 21	No budget
	Finalise work study and job evaluation for the NRSO organizational structure	DoJ&CD	30 Sept 21	No budget

ACTION PLAN TO IMPLEMENT THE EXTENDED SCOPE OF NRSO WITH SHARED STAKEHOLDER RESOURCES

What is Required?	Key Activities	Stakeholders	Timelines	Estimated Budget per annum
Filling of posts in line with the NRSO organizational structure for Year 1	Appoint personnel 76 personnel (1 st year, i.e. before work study is completed)	DoJ&CD	31 Mar 22	11 078 000
Integration of SAPS and NRSO systems to facilitate removals	Develop systems integration on IJS Transversal Hub with SAPS	IJS, DoJ&CD, SAPS	31 Mar 22	5 000 000
Development of NRSO Online Applications for Removals and Vetting	Develop a solution for NRSO Online portal	ISM (DoJ&CD), IJS, SAPS,	31 Mar 22	
Introduction of SMS Notification System for applicants to NRSO	Develop SMS Notification System	ISM (DoJ&CD), SAPS	30 Dec 21	150 000
Procurement of Technical resources: Computers, scanners, printers, network cables	Procure technical resources for both national and provincial personnel (tender already available)	DoJ&CD	30 Sept 21	625 000

ACTION PLAN TO IMPLEMENT THE EXTENDED SCOPE OF NRSO

What is Required?	Key Activities	Stakeholders	Timelines	Estimated Budget
Training on the Bill and the new NRSO system	Conduct 9 virtual training sessions	Justice College; NRSO	31 Dec 21	No budget
Sensitization of public, including institutions of higher learning, of the new Bill	Implement 9 multi-media and contact public awareness campaign	PEC,NRSO, DHET, NSP Pillar 3 stakeholders	31 Mar 22	300 000
Assets (start up costs)				1 619 000
TOTAL				R23 360 900



Resource Costing for the implementation of the new NRSO

SUMMARY	YEAR 1	YEAR 2	YEAR3	TOTAL COST OF MTEF 2020 TO 2023
	2020/21	2021/22	2022/23	
CPI		5.5%	5.5%	
Compensation of Employees	11,078,000	11,688,000	12,331,000	35,097,000
Operational costs	625,000	660,000	697,000	1,982,000
Assets (Start-up costs)	1,619,000		-	1,619,000
TOTAL COSTS	13,322,000	12,348,000	13,028,000	38,698,000

SUMMARY	YEAR 1	YEAR 2	YEAR3	TOTAL COST OF MTEF 2020 TO 2023
	2020/21	2021/22	2022/23	
CPI		5.5%	5.5%	
National Office	10,085,000	9,351,000	9,866,000	29,302,000
Regional Office	3,237,000	2,997,000	3,162,000	9,396,000
TOTAL COSTS	13,322,000	12,348,000	13,028,000	38,698,000

Most of the costed budget relates to human resource capacity (i.e. R35, 097 000)- spread over a period of 3 yrs. In mitigating the budget pressure, the Dept is in the process of transferring personnel from over-populated branches to the NRSO



Proposals

Three options have been discussed in the Portfolio Committee

- **Option 1: Retain NRSO:** The proposed amendment of including particulars of all convicted sex offenders will make data entries simpler and faster as no stringent sifting of data will be required. Currently, only convictions of sex crimes involving children and persons with disabilities are eligible for entry. data fy the inclusion of particulars of offenders in the NRSO.
- However, the inclusion of all convicted sex offenders will increase workload, but not to insurmountable levels. Below is the volume of sexual offences cases finalised with a conviction:

CONVICTION TREND IN SEX CRIMES DEPICTING THE CASELOAD FOR REGISTRATION ON THE NRSO

2018/2019

3 291

2019/2020

2 075

Three options have been discussed in the Portfolio Committee

- **Option 2: Clearance certificate with full criminal record:** A distinction should, by way of introduction, be drawn between the Police Clearance Certificate (PCC) and the Police Clearance Report (PCR).
- The PCC reflects all previous convictions and is only obtainable in Pretoria. Application for the PCC entails submitting fingerprints that were taken by a police official.
- **Option 3: Clearance certificate only reflecting sexual offence convictions:** In both instances, in the case of the SAPS PCC and the PCR, a filtering mechanism could be introduced to only reflect sexual offence convictions. However, the introduction of such a “filtering” system would lead to increased human and financial resources.
- The SAPS PCR (decentralised throughout the country) and the SAPS PCC (situated in Pretoria) will also experience an increase in applications as a result of the extension to “all sexual offences” and the introduction of an extended definition of “vulnerable person”. However, insofar as the systems of SAPS’ PCR and PCC it could be regarded as “business as usual”, but with a possible increase in turn-around time (time spent to issue certificates).



Closing Remarks

The DOJ&CD has, over the years, created a basic framework on the implementation of the NRSO, the following need to be borne in mind for any decision that may be taken to change the status quo:

- The need to build technical knowledge in the receiving department;
- Financial and human resources, including skills transfer and capacity building in respect of understanding the management of the NRSO will be needed;
- The new hosting home will have to develop its own processes and procedures to implement the NRSO;
- The upgrading of a system to fully incorporate the NRSO will be needed. Government has already spent millions of rand to upgrade the NRSO into a smart system that does not require many warm bodies;
- The NRSO system is built to automatically sift and enter all convictions from the CRIMINAL ICMS.
- The inclusion of the NRSO in the GBVF NSP is indicative of the confidence of the GBVF sector in the NRSO; hence the call of the sector to Parliament to increase the scope of the NRSO;
- The intrinsic interdependencies and data sharing between stakeholders will remain, irrespective of where the NRSO is housed.
- The IJS Transversal Hub is the possible solution to facilitate data sharing between DoJ&CD, SAPS, DSD, DCS, OCJ, DHA and DIRCO.



Thank you
Enkosi



THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT