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GOVERNMENT NOTICE

GOEWERMENTSKENNISGEWING

DEPARTMENT OF POLICE DEPARTEMENT VAN POLISIE

No. R. 207

13 March 2015

CRIMINAL LAW (FORENSIC PROCEDURES) AMENDMENT ACT, ACT 37 OF 2013

FORENSIC DNA REGULATIONS, 2015

The Minister of Police has, under section 15AD of the South African Police Service Act, made the regulations in the Schedule.

MINISTER OF POLICE
NPT NHLEKO, MP

SCHEDULE

1 Definitions

In these Regulations, unless the context otherwise indicates —

- (a) “**assessment committee**” means a committee of the Board contemplated in section 15AA(2) of the Act;
- (b) “**Board**” means the National Forensic Oversight and Ethics Board established in terms of section 15V(1) of the Act;
- (c) “**chairperson**” means the chairperson of the Board;
- (d) “**complainant**” means a person who lodges a complaint in terms of these regulations;
- (e) “**complaint**” means a complaint contemplated in section 15Z(1)(d)(i) of the Act;
- (f) “**Criminal Procedure Act**” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (g) “**DNA match**” means the positive outcome of a comparison between any two or more known or unknown forensic DNA profiles;
- (h) “**DNA reference samples**” means a buccal or blood sample taken from a person;
- (i) “**forensic DNA investigative lead**” means the outcome of a comparative search done on the forensic DNA database;
- (j) “**FSL admin system**” means the Forensic Science Laboratory Administration system used to manage forensic casework; and
- (k) “**the Act**” means the Criminal Law (Forensic Procedures) Amendment Act, 2013 (Act No. 37 of 2013).

2 The taking of a DNA sample

- (1) The authorised person must supervise the taking of a buccal sample from a person who is required to submit such sample, and who requests to take the sample himself or herself.
- (2) The DNA reference (buccal) collection kit must be used to collect the buccal sample.

- (3) In the absence of a buccal sample or upon a specific request of a person from whom the sample is required, a control blood sample may be taken by a registered medical practitioner or registered nurse.
- (4) The personnel protective clothing provided in the DNA reference (buccal) collection kit must be worn by the authorised person when a buccal sample is collected from any person. The personnel protective clothing provided in the DNA reference (buccal) collection kit must be disposed of by placing these items in the original packaging (pouch) of the kit, which in turn must be attached to the evidence sealing bag containing the DNA reference sample.
- (5) A victim of a sexual offence must be taken to a registered medical practitioner or registered nurse for the medico-legal examination.
- (6) The appropriate evidence collection kit for examining a victim of a sexual offence must be handed to the registered medical practitioner in order to collect the forensic evidence. The investigating officer must ensure that the evidence collection kits are submitted to the Forensic Science Laboratory for forensic DNA analysis as soon as possible, but in any event within 30 days after the examination.
- (7) Only a registered medical practitioner or registered nurse may take intimate samples from any person.
- (8) The authorised person must take the buccal sample immediately after the fingerprints of the person have been taken.

3 The keeping of records in respect of collected buccal and crime scene samples

- (1) **Samples taken from an arrested person**
 - (a) When a buccal sample is collected from an arrested person, the DNA Reference (buccal) Collection kit must be utilised and his or her fingerprints must be taken on form SAPS 76.
 - (b) The unique barcode form reference number of the DNA Reference (buccal) Collection kit must be recorded on form SAPS 76 and on the collection form (provided with the DNA Reference (buccal) Collection kit). The original collection form must be filed in the docket and the copy of the form, together with the buccal sample, must be placed in the evidence sealing bag.
 - (c) The collection form (provided with the DNA Reference (buccal) Collection kit) must be completed before the sample is actually taken.

- (d) The form SAPS 76, the barcode number on the evidence sealing bag and the unique barcode reference number of the DNA Reference (buccal) Collection kit and the particulars of the person from whom the buccal sample was taken, must immediately be captured on the CAS/ICDMS system after the sample was taken.
 - (e) The following contact particulars of the arrested person, where available, must be captured on the CAS/ICDMS system once a sample had been taken:
 - (i) cell phone number;
 - (ii) email address; and
 - (iii) postal or residential address.
- (2) Samples taken from persons for investigative purposes**
- (a) When a buccal sample is collected for investigative purposes from a person who is not arrested, the DNA Reference (buccal) Collection kit must be utilised and his or her fingerprints must be taken on form SAPS 192.
 - (b) The original collection form must be filed in the case docket and the copy of the form, together with the buccal sample, must be placed in the evidence sealing bag.
 - (c) The contact particulars of the person from whom the buccal sample has been taken, (including the cell phone number, where available) must be recorded in the investigation diary (SAPS 5) in the case docket. The authorised person must clearly indicate on the collection form that the sample was taken for investigative purposes
- (3) Samples collected by the Independent Police Investigative Directorate**
- (a) If a buccal sample is collected (using the DNA Reference (buccal) Collection kit) by an authorised person on behalf of IPID and this is not captured on the CAS/ICDMS system, the fingerprints of the person must be taken on form SAPS 192. The authorised person must clearly indicate on the collection form that the sample was collected for investigative purposes.
 - (b) The original collection form must be filed in the case docket and the copy thereof must be placed, together with the buccal sample, in the evidence sealing bag. The words “for investigative purposes” must be recorded on the evidence sealing bag and also in the covering letter.
 - (c) The collection form provided with the DNA Reference (buccal) Collection kit must be completed.

- (d) The contact particulars of the person from whom the buccal sample has been taken, (including his or her cell phone number where available), must be recorded in the investigation diary (SAPS 5) in the case docket.
 - (4) Detective commanders must inspect the CAS/ICDMS on a weekly basis and ensure that the information is correctly captured on the CAS/ICDMS. The fact that an inspection was conducted must be recorded in the Occurrence book (SAPS 10).
 - (5) Officials responsible to process form SAPS 76 at the Component: Criminal Record and Crime Scene Management must ensure that the unique barcode reference number of the DNA Reference Sample Collection kit that is recorded on form SAPS 76 is captured with the fingerprint number and the particulars of the person arrested or charged on the CRIM system.
 - (6) Any office or place that is private, out of sight and hearing of other persons, may be used as a place where a buccal sample may be taken.
 - (7) The buccal sample must be taken in the presence of a witness who must countersign the collection form.
 - (8) The detective commander or designated person must take the necessary steps to ensure that every bodily sample taken, is submitted to the Forensic Science Laboratory for examination as soon as possible, but in any event within 30 days after the sample has been taken.
 - (9) The re-taking of a buccal sample must be done within 30 days after receiving the request from the Forensic Science Laboratory.
 - (10) The detective commander must perform monthly inspections at the SAPS 13 stores to ensure that no bodily samples are kept at the station for a period longer than 30 days. The inspection must also ensure that bodily samples that have not yet been sent for analysis to the Forensic Science Laboratory are properly recorded and safely kept in the exhibit store and recorded in the SAPS 13 register. The fact that an inspection was conducted and any corrective steps taken, must be recorded in the Occurrence book.
- 4 Preservation and timely transfer of collected samples to the Forensic Science Laboratory**
- (1) The approved evidence collection kit and DNA reference (buccal) kit that have specifically been designed for the purpose of collecting forensic DNA evidence must be utilised for the collection of DNA evidence and buccal samples respectively.

- (2) The evidence collection kit must be packaged in an evidence sealing bag and must clearly indicate the relevant station and CAS number, before they are submitted to the Forensic Science Laboratory, unless compelling reasons (such as the size of the forensic sealing bag) that hamper the packaging thereof in the supplied evidence sealing bag.
- (3) If an evidence collection kit is not available or there are compelling reasons as contemplated in sub-regulation (2), the detective concerned must consult with the Forensic Science Laboratory to ascertain how the exhibit or sample must be dealt with.
- (4) The forensic evidence packaged in the marked evidence sealing bags may be submitted to the Forensic Science Laboratory by means of a reliable courier service. If the handling of the objects is monitored by a track-and-trace system, the system must be audited by the authorised officer or a person designated by him or her.
- (5) Reasonable steps must be taken to ensure that the exhibits or samples are not exposed to heat degradation.
- (6) A buccal sample —
 - (a) may not be packaged with other exhibits;
 - (b) must be packaged in a separate evidence sealing bag and submitted to the Forensic Science Laboratory; and
 - (c) must be accompanied by a covering letter that clearly request that it be compared with crime scene samples that have previously been or will be submitted to the Forensic Science Laboratory.
- (7) A covering letter must be attached to the marked evidence sealing bag containing the buccal sample submitted to the Forensic Science Laboratory. The following information must be recorded in the covering letter:
 - (a) barcode number of the buccal sample;
 - (b) station and CAS number, or the number of the reference sample where relevant;
 - (c) it must be indicated whether the buccal sample was taken from:
 - (i) a child;
 - (ii) an arrested person;
 - (iii) a victim or complainant;
 - (iv) a person who is under investigation, but not arrested and with his or her informed consent or authorised by the court;
 - (v) from a family member of a missing person or unidentified human remains; and
 - (d) whether the bodily sample or crime scene sample is from —
 - (i) a missing or unidentified person; or
 - (ii) unidentified human remains.

- (8) The Forensic Science Laboratory may request that buccal samples be submitted to them to verify that a person's forensic DNA profile is the same as the forensic DNA profile found on exhibits. The Forensic Science Laboratory may refer to such a sample as a "confirmation DNA reference sample" in correspondence. On submitting the confirmation DNA reference sample, the evidence sealing bag must be marked as "confirmation DNA reference sample" and must also clearly indicate this in the covering letter.
- (9) The detective commander must ensure proper management of requests for confirmation DNA reference samples. This may include monthly docket inspections to ascertain if a buccal sample from a person was actually submitted to the laboratory for analysis.
- (10) The authorised officer may determine the Forensic Science Laboratory to which the buccal samples and exhibits may be submitted.

5 Conducting of comparative searches

- (1) The administration, maintenance and comparative searches on the NFDD must be conducted independently of the analysis, custody and disposal of DNA samples by competent forensic examiners attached to the Quality Management Component in the Division: Forensic Services.
- (2) Examiners in the Forensic Science Laboratory must ensure that the following information is captured on the appropriate information technology system utilised to manage the analysis of bodily samples:
 - (a) the barcode of the buccal sample;
 - (b) the station and CAS/ICDMS number, where relevant;
 - (c) whether the buccal sample was taken from:
 - (i) a child;
 - (ii) an arrested person;
 - (iii) a person convicted of an offence;
 - (iv) a person who is under investigation, but not arrested and with his or her informed consent or authorised in accordance with section 36E(2) of the Criminal Procedure Act;
 - (v) a police official, or any other person, who as part of his or her official duties attends or processes a crime scene;
 - (vi) a police official or any other person, who may be handling, processing or examining crime scene samples or bodily samples for forensic analysis;
 - (vii) a person directly involved in the servicing or calibration of equipment in laboratories used in the forensic DNA analysis process;
 - (viii) a person who entered a forensic DNA laboratory;

- (ix) a contractor or supplier directly involved in the manufacturing of consumables, equipment, utensils or reagents;
 - (x) the victim of the offence; or
 - (xi) a family member of a missing person or unidentified human remains; and
- (d) whether the bodily sample or crime scene sample is from —
- (i) a missing or unidentified person; or
 - (ii) unidentified human remains.
- (3) The NFDD system, or the casework system (until the NFDD system is available), must be used to conduct comparative searches to identify potential forensic DNA leads. Potential forensic DNA leads must be verified by competent forensic examiners from the NFDD before forensic DNA leads are reported to investigating officers.

6 Communication of forensic DNA findings and related information

- (1) A police official, member of IPID or official of the court must in writing request that an examination be conducted and findings be made on exhibit material submitted to the Forensic Science Laboratory. A request for examination must accompany all exhibits submitted to the Forensic Science Laboratory.
- (2) If the court date is known at the time of submitting the exhibits, the court date must be clearly indicated in the covering letter that accompanies the exhibit material.
- (3) The particulars of the person and the court date must be updated on the CAS/ICDMS and CRIM systems respectively. The investigating officer must inform the section responsible for forensic database management in the Division: Forensic Services, as soon as possible, but within 7 days after becoming aware of the findings of the court.
- (4) A forensic analyst attached to the Forensic Science Laboratory must ensure that forensic DNA profiles are derived from a crime sample, bodily sample and buccal sample within 30 days from the receipt thereof at the Forensic Science Laboratory. The forensic analyst must inform the relevant investigating officer of the result of the analysis. The report of the result must be filed by the investigating officer in the police docket.
- (5) The forensic analyst must report to the investigating officer the outcome of the examination and the results of the tests for purposes of section 212(6)(a) and (b) of the Criminal Procedure Act if —
- (a) the person under investigation or the DNA of a suspect matches the DNA found in the crime scene sample;
 - (b) an identification of human remains has been made;
 - (c) preliminary tests on the exhibit material in the case are negative or no DNA could be found in the crime scene sample relevant to

- the case;
- (d) a person under investigation or a suspect may be excluded by the DNA found in the crime scene sample; and
 - (e) DNA was found in crime scene samples in the case, but no match could be made as no buccal sample was received by the Forensic Science Laboratory for comparison.
- (6) The investigating officer must, in addition to the report, communicated through a system notification by means of the FSL admin system to the docket diary of the CAS/ICDMS system, be informed if —
- (a) the preliminary tests were negative;
 - (b) the forensic DNA of a suspect is excluded from the DNA found in the exhibits;
 - (c) the forensic DNA of a suspect matches the DNA in the exhibits examined;
 - (d) no forensic DNA finding could be made;
 - (e) human remains or a missing person is identified; and
 - (f) different cases are linked to each other or a suspect is linked to different case(s).
- (7) The Forensic Science Laboratory may implement a process related system with different teams to process DNA crime samples, bodily samples and DNA reference samples. The DNA process teams may, inter alia, include persons responsible for —
- (a) case reception and registration of forensic casework;
 - (b) evidence recovery;
 - (c) submission of DNA crime samples, bodily samples and buccal samples to the DNA analysis process laboratory;
 - (d) DNA analysis process laboratory;
 - (e) monitoring the status of the DNA analysis process; and
 - (f) analysed forensic DNA profiles and associated data derived from the samples and compile a DNA report.
- (8) The findings of the case must be reported by the forensic examiner as contemplated by sub-regulations (6) and (7).
- (9) Forensic investigative leads must be communicated to the investigator responsible for investigating a particular case. The system solution for the NFDD must communicate the forensic investigative leads to the docket diary of the CAS/ICDMS system.
- (10) The investigating officer must investigate, follow-up forensic investigative leads and record progress in the docket diary of the CAS/ICDMS system of each case linked. The investigating officer must report progress to the section head at the Division: Forensic Services responsible for the NFDD.

7 DNA examinations conducted at the Forensic Science Laboratories

- (1) Forensic DNA examinations must be performed in accordance with the Quality Management System of the Forensic Science Laboratory, based on ISO17025.
- (2) The Forensic Science Laboratory must perform forensic DNA examination on all cases and buccal samples received at the laboratory.
- (3) DNA casework with fixed court dates and with known suspects must be prioritised and completed within the timeframe as agreed upon by the prosecutor.
- (4) Cases which have been identified where a serial offender is involved or where an offender is involved in multiple offences, must be prioritised by the Forensic Science Laboratory and completed within 30 days after receiving confirmation of DNA reference samples or confirmation that the cases are linked. The Head: Forensic Science Laboratory must implement monitoring measures to ensure compliance thereto.
- (5) The Forensic Science Laboratory must ensure that forensic DNA profiles are submitted for loading onto the NFDD or a similar system within 30 days after receipt of the sample at the Forensic Science Laboratory.
- (6) All DNA casework must be examined and completed within the target dates as established by the authorised officer.

8 Request for access to information stored on the NFDD

- (1) Police officials responsible for the investigating or coordinating of criminal investigations or casework related to the identification of missing persons or unidentified human remains may, in writing, request comparative searches for criminal investigative purposes and be provided with the outcome of the search or with a forensic DNA investigative lead report.
- (2) All staff of the NFDD must be vetted.
- (3) Only examiners in the section: Forensic Database Management of the Quality Component are authorised to perform comparative searches and have access to the NFDD.
- (4) A person may in writing request the authorised officer to confirm whether his or her forensic DNA profile is contained on the NFDD: Provided that a person must first apply for a clearance certificate on a form determined by the National Commissioner. The criminal record, if any, must be attached to the application.

- (5) Management information such as relating to successes, the number of forensic DNA profiles loaded on the NFDD and the number and type of forensic DNA leads issued may be disclosed with the consent of the authorised officer.

9 Follow-up of forensic investigative leads

- (1) The Divisional Commissioner: Detective Service must establish nodal points within that division to monitor and follow-up unsolved forensic investigative leads with Provincial Commissioners.
- (2) Every Provincial Commissioner must ensure that forensic investigative leads, multiple offenders and serial cases involving murder, rape, sexual assault and psychologically motivated crimes are investigated and resolved.
- (3) All the dockets linked in a serial case or where an offender is involved in multiple offences, must be obtained and re-opened on the CAS/ICDMS. All evidence must be considered and followed-up and a profile of the serial offender must be compiled.
- (4) Before the prosecuting authority has taken a formal decision on whether to proceed with a prosecution or not, serial cases may only be closed on the CAS/ICDMS with the approval of the Provincial Commissioner concerned and the Divisional Commissioner: Detective Service.
- (5) The Divisional Commissioner: Detective Service and the Provincial Commissioner must ensure that investigations and leads are communicated and coordinated across station borders or, where applicable, provincial borders. He or she must also facilitate the identification of psychologically motivated crimes (such as serial murders, serial rapes, multi-murders, child murders, sexual murders, mass murders, spree murders) and liaise with the Investigative Psychological Unit when such cases occur and when serial offences occur in more than one province.
- (6) Every task team must consolidate all forensic investigative leads or cases which indicate links based on information such as modus operandi, DNA, fingerprints, cell phone data, or identikit.
- (7) When cross-over series occurs between different offences (for example when the suspect originally committed rape and then proceeded to commit murder), appropriately trained and experienced investigators in murder casework must be co-opted to the initial task team or, if the dockets are handed over to another unit (such as Organised Crime or Family Violence, Child Protection and Sexual Offences) members of such units may form part of the task team to ensure continuity.

- (8) The roles and responsibilities between national and provincial task teams and specialised investigation units must be clearly defined by the Provincial Commissioner of the Province in consultation with the Divisional Commissioner: Detective Service.
 - (9) The task team must —
 - (a) coordinate their investigations across stations and provincial borders and between specialised investigative units; and
 - (b) investigate any case which has been closed and which is now linked by a forensic investigative lead.
 - (10) Investigating officers must investigate the modus operandi in their cases and identify trends where the same modus operandi had been used, in order to link the same perpetrator. The investigating officer must report to the relevant task team instances where investigations or modus operandi link a suspect to different cases.
 - (11) The Crime Intelligence Analysis Centre (CIAC) must assist investigating officers by performing modus operandi and intelligence screening to identify possible suspects.
 - (12) The investigating officer must consult the Investigative Psychology Unit to assist with the investigation to confirm any behavioural links between cases.
 - (13) The investigating officer must ensure that the National Prosecuting Authority is informed of any case prepared for trial, in which forensic investigative leads or information links the suspect to other cases.
 - (14) A Provincial Commissioner must, after consultation with Divisional Commissioner: Detective Service, establish a nodal point in his or her province to monitor the progress of task teams in his or her province in respect of the investigation of forensic investigative leads. The nodal point must, at least on a monthly basis, provide feedback to the nodal point at the Division: Detective Service.
 - (15) The nodal point at the Division: Detective Service must, at least on a monthly basis, provide feedback to the section head: Forensic Database Management on progress on reported forensic investigative leads.
- 10 Destruction of DNA Reference samples and buccal samples**
- (1) DNA reference samples and buccal samples must be destroyed within 30 days after obtaining a forensic DNA profile or after the sample has been processed by the Forensic Science Laboratory.
 - (2) Buccal samples must be disposed of in medical waste removal containers and incinerated.

- (3) Any other extract or processed portion of a buccal sample must be disposed of in medical sharps container and incinerated.
- (4) The destruction of the buccal samples must be recorded in the laboratory case file or appropriate register. The appropriate register may be a logbook or the information system used in the laboratory to support DNA casework.

11 Notification of court findings

- (1) The clerk of the court will notify the authorised officer of the outcome of the court case by completing a form SAPS 69 and provide the form to the investigating officer after the finalization of the case in court. The clerk of the court will record the identity number and full names of the accused and relevant station and CAS/ICDMS number on form SAPS 69.
- (2) The information that must be recorded on form SAPS 69 includes that the —
 - (a) child has been diverted in accordance with Chapter 8 of the Child Justice Act, Act 75 of 2008;
 - (b) person was not prosecuted in court;
 - (c) accused was acquitted;
 - (d) accused was discharged at a preparatory examination;
 - (e) conviction was set aside on appeal or review; or
 - (f) person was convicted.
- (3) In the case of a conviction, the complete details of the offence(s), the sentence, including the particulars of the sentence and period of suspension (if applicable) must be recorded on form SAPS 69.
- (4) The investigating officer must capture the judgment of the court on the CAS/ICDMS system and provide form SAPS 69 to the authorised officer or a person designated by him or her to ensure that the necessary steps are taken to update the information on the CRIM system and NFDD.

12 Removal of forensic DNA profiles from the NFDD on application

- (1) A person who wishes to have his or her forensic DNA profile removed, must apply for a police clearance certificate on a form determined by the National Commissioner to confirm that he or she has no criminal record.
- (2) The police clearance certificate that indicates that the person has no criminal record, must be attached to the written application for the removal of the forensic DNA profile. The application must be made on the form determined by the National Commissioner
- (3) The application must contain the —
 - (a) complete particulars of the applicant;
 - (b) reason why the buccal sample was originally obtained from the

- person;
 - (c) relevant station and CAS/ICDMS number if a forensic DNA profile was derived from a buccal sample that was taken in respect of the investigation; and
 - (d) reason why the applicant wants it removed.
- (4) The Director General: Department of Justice and Constitutional Development or person designated by him or her must inform the authorised officer of convictions pardoned in terms of section 84(2)(j) of the Constitution of the Republic of South Africa, 1996. The authorised officer or designated officer must ensure that criminal records which have been pardoned are expunged.
- (5) If a buccal sample has been taken from a person who was not arrested, because it was believed that the forensic DNA profile of that person may be of value to include or exclude that person as the perpetrator of the crime, the investigating officer must, within 30 days after the finalisation of the case, inform the section head: Forensic Database Management in the Division: Forensic Services of the outcome.
- (6) If the person is included in the investigation of a case, the forensic DNA profile of that person must remain in the Investigative Index of the NFDD until the finalisation of the case.

If a person is excluded from the investigation of a case or acquitted, the forensic DNA profile of that person must be removed from the Investigative Index of the NFDD within 30 days after receiving notification from the investigating officer that the case has been finalised. The investigating officer must, within 30 days after the finalisation of the case, inform the authorised officer of the outcome to enable him or her to remove the forensic DNA profile of that person, to enable the investigating officer to inform him or her in writing accordingly.

13 Protocols and training relating to familial searches

- (1) The NFDD system or a system designed to perform familial searches may be utilised to conduct familial searches in respect of forensic DNA profiles to identify missing persons or unidentified human remains.
- (2) A likelihood ratio calculation may be applied to the outcome of the familial search to identify investigative leads in order to enable an investigation officer to —
- (a) interview family members of near matches; or
 - (b) identify unidentified human remains.
- (3) The Divisional Commissioner: Detective Service must, after consultation with the Provincial Commissioners, identify specific detectives at national - or provincial level, to be trained in order to investigate and

follow-up investigative leads that have been identified by means of familial searches.

- (4) The National Commissioner must ensure that a training program is developed for detectives referred to in sub-regulation (3) to ensure that they are properly trained to investigate forensic investigative leads generated by means of familial searches.

14 **Complaints to the Forensic Oversight and Ethics Board**

The Chairperson of the Board must ensure that —

- (a) complaints lodged in terms of these regulations are —
- (i) properly assessed; and
 - (ii) efficiently dealt with and disposed of;
- (b) complainants are treated with respect and courtesy;
- (c) complainants receive, as far as is reasonably practical, assistance to enable them to understand the procedure in relation to complaints lodged;
- (d) complainants receive a timely and appropriate response; and
- (e) complainants are informed of the outcome of the investigation of their complaints.

15 **Lodging of complaints**

- (1) A complaint may be lodged by a person who —
- (a) has knowledge, or becomes aware, of any violation relating to the manner in which a DNA sample or forensic DNA profiles is or has been handled;
 - (b) who is affected, or likely to be affected, by the action, omission or decision of the NFDD relating to manner in which a DNA sample or forensic DNA sample is or has been handled;
 - (c) who has knowledge, or becomes aware, of any breach of security relating to —
 - (i) the safe transportation or storage of a DNA sample;
 - (ii) the safe transportation or storage of a forensic DNA profile;
 - (iii) the physical security of the NFDD; or
 - (iv) any other matter that breaches that prejudices or compromises the proper management of DNA samples, forensic DNA profiles or the integrity of the NFDD;
 - (d) who has knowledge of unethical conduct by an employee in the exercise of any function of the NFDD, or is affected by unethical conduct; or
 - (e) has knowledge of unethical conduct by an independent provider in the provision of services under arrangement with the NFDD.
- (2) A complaint may be made by a person acting on behalf of a person mentioned in sub-regulation (1) who —
- (a) is a child;
 - (b) is unable to make the complaint himself or herself because of —
 - (i) physical disabled; or

- (ii) mental disability; or
- (c) has requested a representative to act on his or her behalf.

16 Dealing with complaints

- (1) The Board may receive complaints made in accordance with these Regulations about any matter referred to in regulation 15.
- (2) The Chairperson must ensure that any complaint that is received in terms of regulation 15 is dealt with in terms of these regulations.
- (3) The Chairperson must appoint an assessment committee within seven days of receipt of a complaint to assess the complaint and submit a report with recommendations to the Board.
- (4) A complaint must be made not later than 12 months after —
 - (a) the date on which the matter which is the subject of the complaint occurred; or
 - (b) the date on which the matter which is the subject of the complaint came to the knowledge of the complainant.
- (5) The time limit in sub-regulation (4) shall not apply if the Board is satisfied that —
 - (a) the complainant had good reasons for not making the complaint within that time limit; and
 - (b) notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.

17 Lodgement of a complaint

- (1) A member of the public, body or an organ of state, including a member of the Service, who wishes to lodge a complaint must submit the complaint to the Chairperson in writing.
- (2) A complaint made on behalf of another person may be lodged with the Chairperson, provided that the person on whose behalf a complaint is lodged consents thereto in writing.
- (3) The requirement of consent shall not apply if the person on whose behalf a complaint is lodged is for some reason of legal incapacity unable to do so, or where the Chairperson has, in his or her sole discretion, authorized a deviation from this requirement.
- (4) A complaint must be signed by the person who is lodging the complaint or the complainant or his or her representative must -
 - (a) provide his or her full name, identity number and contact details;
 - (b) specify the nature of the complaint and the basis for the allegation;
 - (c) provide relevant information on the complaint; and
 - (d) specify the nature of recourse sought by the complainant.

- (5) A written complaint must be lodged with the Chairperson of the Board.
- (6) A written acknowledgement of receipt of the complaint must be issued within 5 (five) working days from the date of receipt of the complaint

18 Complaints lodged anonymously

- (1) A complaint may not be lodged anonymously, unless exceptional circumstances justifies this.
- (2) If the Chairperson deems it necessary that a complaint be lodged anonymously, the complainant must provide the information referred to in Regulations 17(4)(b),(c) and (d) and 17(5).

19 Receiving, registering, processing, referring, and disposing of complaints

- (1) A complaint falling outside the mandate of the Board may be referred in writing, within seven days of receipt of the complaint, to an appropriate authority or institution that is competent to deal with the complaint.
- (2) If a complaint has been referred in terms of sub regulation (1), the complainant must be informed in writing of such referral within seven days of such referral.
- (3) A complaint falling within the mandate of the Board must be registered in a computer-based register and the complainant must be informed in writing, within seven days of the receipt of the complaint, that his or her complaint has been received and referred to a committee for attention and follow-up.
- (4) A complaint registered in terms of sub-regulation (3) must be disposed of within one month or such other period as the Board may authorize in writing.

20 Appointment and composition of complaints assessment committee

- (1) The Board must appoint an assessment committee of not more than three persons contemplated in section 15AA(2) to assess the complaint.
- (2) The assessment committee must include a person —
 - (a) who has knowledge and experience in forensic science, if the complaint relates to forensic science;
 - (b) who has knowledge and experience in human rights law, if the complaint relates to a human rights violation; or
 - (c) who has knowledge and experience in ethics relating to forensic science, if the complaint relates to unethical conduct.
- (3) The Board must appoint the assessment committee within seven days upon receipt of the complaint.

21 Assessment of a complaint

- (1) In assessing a complaint, the assessment committee may take into consideration –
 - (a) whether the Board is mandated to receive and investigate the complaint;
 - (b) whether the Service has conducted or is conducting an investigation of its own;
 - (c) whether the complainant has exhausted the internal remedies available in the Service;
 - (d) whether the complainant has exercised his or her right in a court of law or another competent tribunal;
 - (e) whether the complaint is of a trivial, frivolous, vexatious nature or made in bad faith; and
 - (f) whether the complaint should be referred to an appropriate authority or institution that is competent to deal with such complaint.
- (2) If the assessment committee is of the opinion that additional information is required to make a proper assessment, it may request such information from the complainant or the authorized officer of the NFDD.
- (3) In conducting an assessment, the assessment committee shall be entitled to be furnished with –
 - (a) reasonable access to the NFDD;
 - (b) access to systems in place to store and destroy DNA samples
 - (c) access to records maintained in the Division: Forensic Services relating to the transportation, storage and destruction of DNA samples;
 - (d) policies relating to the management of DNA samples and forensic DNA profiles;
 - (e) statistics relating to all DNA samples received, disposed of and forensic DNA profiles that are stored, destroyed or removed from the NFDD;
 - (f) measures taken by the NFDD to put in place remedial measures to reduce or address the factors that gave rise to a valid complaints; and
 - (g) any other reasonable information that the assessment committee may require.
- (4) The authorised officer of the NFDD must provide the information referred to in sub-regulation (3) to the assessment committee within (14) fourteen days after the requested.
- (5) The assessment committee may request written or oral submissions from any person or authority which may be necessary to properly assess the merit of the complaint.

- (6) Any such request to a person or authority to provide a submission must be made by written notice and delivered by registered post or delivered by hand directly to the relevant person requesting information or to the executive authority of the organization or organ of state where the information is kept.
- (7) The assessment committee, after considering all the relevant factors and available information, must report in writing to the Board on the outcome of such assessment within seven days of making an assessment.
- (8) The Chairperson must table the assessment committee's report for discussion at the next Board meeting.
- (9) The Board may request the assessment committee to further investigate the complaint if the response is not considered adequate.
- (10) If the Board, after considering the report and recommendations of the assessment committee, has made a decision that the complaint should be pursued, the Chairperson must, within ten days, communicate such decision in writing to the complainant and to any other party that may be involved.
- (11) If the Board has made a decision not to pursue the complaint after considering the report and any recommendations of the assessment committee, it must, within ten days of the decision, inform the complainant in writing of such decision and the reason for such decision.
- (12) If an assessment relates to an alleged criminal act, the Board must submit the complaint and any documents the assessment committee may have obtained, within ten days to —
 - (a) the National Commissioner for investigation; or
 - (b) a relevant authority for further action and finalization.
- (13) If a complaint is referred to a relevant authority, the authorized officer of the NFDD must ensure that full cooperation, assistance and support is provided to the relevant authority.
- (14) The findings and any recommendation of the Board may be communicated to the National Commissioner or the relevant authority for information and follow-up.

- (15) If an assessment relates to an act of misconduct requiring disciplinary action against a member of the Service or IPID, the Board must submit the complaint and any documents the assessment committee may have obtained, together with the reasons for the recommendation, within ten days to –
 - (a) the National Commissioner for further investigation and finalization, if the alleged act of misconduct relates to a member of the Service; or
 - (b) the Executive Director of IPID for further action and finalization, if the alleged act of misconduct relates to a member of IPID.
- (16) The National Commissioner or the Executive Director, as the case may be, must consider and give effect to the Board's findings and any recommendations.
- (17) If the National Commissioner or the Executive Director fails or refuses to implement the Board's recommendation, the National Commissioner or the Executive Director must provide written reasons for such failure or refusal to the Chairperson within 10 days of receipt of the report and recommendations.
- (18) If the Board is not satisfied with the reasons provided, it may refer the report and recommendations to the Minister of Police within 14 days after being informed thereof.

22 Alternative dispute resolution

- (1) The Board may, if it deems it necessary in the interests of service delivery, proceed to resolve a complaint through the mediation and conciliation process contemplated in section 15Z(d)(iii) of the Act.
- (2) The decision to refer the complaint for resolution or mediation and conciliation must be done in consultation with the complainant and the affected party.
- (3) If the informal resolution or mediation fails, the Board may refer the matter complained of to the Minister for direction.
- (4) In the case where a criminal act is alleged to have been committed by a person subject to an assessment, the Board must refer the matter to the relevant authorities for further action.
- (5) The Board must ensure that recommendations regarding disciplinary matters are referred to –
 - (a) the National Commissioner;
 - (b) the Executive Director; or
 - (c) any other relevant authority.

23 Reports

- (1) The report contemplated in section 15AA(5) containing recommendations regarding disciplinary action against a member of the Service, IPID, or any other relevant authority must be furnished to the National Commissioner, the Executive Director of IPID or the head of the relevant executive authority, as the case may be.
- (2) The National Commissioner, the Executive Director of IPID or the head of the relevant authority to which the report and recommendation have been submitted, must provide the Chairperson with a written report within one month of receipt of the recommendations on the outcome or disciplinary action.
- (3) The Chairperson must ensure that a report is compiled on the status of all complaints received and assessed, including, but not limited to, any systemic matter that constitutes an abuse of power, impropriety or prejudice to any person or community that lodged a complaint.
- (4) The Chairperson must ensure that the report referred to sub-regulation (5) is submitted to the Minister on a bi-annual basis.
- (5) The report contemplated in section 15Z(6) of the Act must contain —
 - (a) the number of complaints received;
 - (b) the nature of the complaints;
 - (c) the number of complaints which the Board decided were well-founded;
 - (d) the number of complaints which have been referred to —
 - (i) the National Commissioner;
 - (ii) the Executive Director of the Independent Police Investigative Directorate; and
 - (iii) any other relevant authority; and
 - (e) a summary of —
 - (i) the subject matter of complaints that the responsible body received;
 - (ii) any matters of general importance arising out of those complaints, or the way in which the complaints were handled;
 - (iii) any matter where action has been or is to be taken to improve services as a consequence of those complaints.
- (6) The report contemplated in section 15Z(6) of the Act, must be sent as soon as is reasonably practicable to any authority established by law regulating the protection of personal information.

24 Register

- (1) The Chairperson must ensure that all complaints are categorized and kept in a register.

- (2) The register must contain —
 - (a) details of every complaint that is lodged;
 - (b) details of the nature and category of each complaint;
 - (c) the date of receipt of the complaint;
 - (d) the date of referral of the complaint to the committee for assessment;
 - (e) the outcome of the assessment of each complaint; and
 - (f) the outcome of disciplinary action that has been recommended.

25 Public awareness

The Board must make information available to the public as to —

- (a) the arrangements for dealing with complaints; and
- (b) how additional information about those arrangements may be obtained.

26 Access to the forensic DNA profile and crime scene sample for exoneration purposes

- (1) Any person who believes he or she has wrongfully been convicted of an offence may, in writing, request the authorised officer to have access to the forensic DNA profile derived from a crime sample that was collected and submitted to the Forensic Science Laboratory in a particular case.
- (2) The request must contain the relevant station and case number in respect of which it is alleged that there was a wrongful conviction and the request must set out reasons why the forensic DNA profile is required.
- (3) The authorised officer or his or her delegate must consider the request within 30 days after having received the request at the Forensic Science Laboratory. If a request is refused, written reasons must be provided.

27 Forensic awareness, investigation and examination interventions

- (1) The National Commissioner must take appropriate measures to implement a forensic awareness program for police officials and the public.
- (2) The Divisional Commissioner: Human Resource Development must, after consultation with the authorised officer, develop training programs to ensure that police officials from the Divisions: Visible Policing and Detective Service are trained on the provisions and application of the Act.
- (3) The authorised officer must appoint staff to develop training programmes and ensure that crime scene examiners are trained on —
 - (a) the processing and examination of different types of crime scenes;
 - (b) performing preliminary tests for bodily fluids;
 - (c) the manner in which the integrity of a crime scene must be properly secured and maintained;

- (d) the evidential value and packaging of exhibit material; and
 - (e) the provisions of the Act.
- (4) The authorised officer must liaise with the National Prosecuting Authority and, if so requested, provide assistance in respect of the training of prosecutors on the importance of forensic evidence and the interpretation of forensic report findings.

28 Information technology infrastructure and systems

- (1) The Divisional Commissioner: Technology Management Services must, after consultation with the authorised officer, implement and maintain information technology systems to —
- (a) support an efficient DNA examination service;
 - (b) ensure that effective system solutions are maintained for the capturing of fingerprint numbers and buccal samples, together with the suspect information on CAS/ICDMS system and CRIM system;
 - (c) perform the comparative search, verification of potential forensic investigative leads, linking forensic DNA investigative leads to other forensic investigative leads, reporting of forensic DNA investigative leads and administration of the NFDD;
 - (d) provide for adequate system solutions to support the combining and management reporting of different forensic investigative leads (such as forensic DNA, ballistics and fingerprints) to the investigating officers on the CAS/ICDMS and BI systems; and
 - (e) provide adequate system solutions to provide members of the detective service functionality to manage unsolved serial and multiple offender cases and compile a profile of persons and suspects identified through forensic investigative leads.
- (2) The information technology systems for DNA examinations and system solution of the NFDD must have adequate security measures to prevent unauthorised access and maintain data integrity, including annual risk assessments and adequate disaster recovery measures. The Divisional Commissioner: Technology Management Services must annually report to the Board on measures taken to ensure the integrity of the data on the casework systems and NFDD system.
- (3) The Divisional Commissioner: Technology Management Services and the Managing Director of the State Information Technology Agency must ensure that risk assessments on the data integrity, access and security including disaster recovery is performed within 60 days after the coming into operation of the Act, on the system solution for the NFDD, CRIM, CAS/ICDMS, DE-STRIlab, AFIS, IBIS, FSL Admin, PCEM and other forensic systems.
- (4) A risk assessment must be conducted on an annual basis to ensure the data integrity and the effectiveness of the security measures.

- (5) The risk assessment report must take into consideration current industry standards, identify shortcomings and recommend measures to address the shortcomings and best practices. The risk assessment report and the implementation plan to address and resolve the identified shortcomings must be submitted to the Minister of Police within 30 days after the risk assessment has been performed.
- (6) The Divisional Commissioner: Technology Management Services and the Managing Director of the State Information Technology Agency must report on a quarterly basis to the Minister of Police on the progress with mitigating the risks identified.

29 General

- (1) The Divisional Commissioner: Human Resource Development must ensure that authorised persons are properly trained in the taking of buccal samples.
- (2) The Divisional Commissioner: Detective Service must, —
 - (a) within 90 days of the commencement of the Act, obtain a list of offenders who are serving a sentence of imprisonment in respect of an offence referred to in Schedule 8, as well as persons who have been released on parole or under correctional supervision in respect of an offence referred to in Schedule 8 from the Department of Correctional Services;
 - (b) compile an action plan for implementation to support the taking of buccal samples from persons referred to in sub-regulation (a), as well as persons awaiting trial under the Criminal Procedure Act; and
 - (c) liaise with the authorised officer to ensure that the forensic DNA profiles of persons referred to in sub-regulations (a) and (b) are included in the NFDD.
- (3) The National Commissioner must, within 90 days of the commencement of the Act, ensure that assessment tools are implemented to measure the effectiveness and timely compliance with —
 - (a) the submission of buccal and crime samples to the Forensic Science Laboratory for examination;
 - (b) the performance of forensic DNA analysis of buccal samples and crime scene samples; and
 - (c) responding to, and performing follow-up of unsolved forensic investigative leads.
- (4) The National Commissioner must ensure that cases are re-opened and appropriately reflected as such in the case docket diary of the CAS/ICDMS if forensic investigative leads are identified.

- (5) A case where a forensic investigative lead has been reported may only be closed on the CAS/ICDMS if so authorised by the detective commander, after the unsolved investigative lead has been investigated and followed-up.
- (6) The authorised officer must, in consultation with the Divisional Commissioner: Technology Management Service, create a national central repository for forensic animal DNA profiles. Access to this repository may be granted to testing laboratories performing animal forensic DNA analysis.
- (7) The authorised officer may determine national standards for testing laboratories that perform animal forensic DNA analysis and may facilitate research with academic institutions and other facilities to develop procedures, best practices and chemistries in the identification of animal DNA for forensic purposes or criminal investigation.
- (8) The Director General: Department of Justice and Constitutional Development must provide the authorised officer or person designed by him or her, on a monthly basis, of the particulars of persons whose names have been included in the National Register for Sex Offenders contemplated in section 50(1) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2008 (Act No. 32 of 2008).
- (9) The National Commissioner must, in consultation with the Department of Public Works, ensure that adequate forensic facilities are provided and maintained in accordance with the relevant accreditation standards.
- (10) The Director General: Department of Public Works must, after consultation with the authorised officer, on an annual basis, provide the Minister of Police with a risk assessment of the laboratory facilities provided for forensic services which addresses the following matters:
 - (a) the quality and adequacy of the facilities;
 - (b) maintenance measures to support the utility of the facilities;
 - (c) the manner in which the shortcomings identified in the risk assessment will be addressed;
 - (d) steps taken to ensure that the accreditation status or quality management program of the forensic service is not negatively impacted by the current state of the facility;
 - (e) the refurbishment of facilities to support the implementation of new technologies and instrumentation to improve forensic services; and
 - (f) provision of adequate storage facilities for the safekeeping of exhibits and case files and measures taken to ensure that the exhibits and case files in storage are not compromised.

No. R. 207

13 Maart 2015

WYSIGINGSWET OP DIE STRAFREG (FORENSIESE PROSEDURES), WET
37 VAN 2013

FORENSIESE DNS REGULASIES, 2015

Die Minister van Polisie het, ingevolge artikel 15AD van die Wet op die Suid-Afrikaanse Polisie, die regulasies in die Bylaag gemaak.

MINISTER VAN POLISIE
NPT NHLEKO, MP

BYLAAG

1. Woordomsrywings

In hierdie Regulasies, tensy uit die samehang anders blyk, beteken —

- (a) “**die Wet**” die Wysigingswet op die Strafreë (Forensiese Prosedures), 2013 (Wet No. 37 van 2013);
- (b) “**DNS ooreenstemming**” die positiewe uitslag van ‘n vergelyking tussen enige twee of meer bekende of onbekende forensiese DNS profiele;
- (c) “**DNS verwysingsmonsters**” ‘n wangholtemonster of bloedmonster wat van ‘n persoon geneem is;
- (d) “**forensiese DNS ondersoekleidraad**” die uitslag van ‘n vergelykende soektog wat op die forensiese DNS databasis gedoen is;
- (e) “**FSL admin-stelsel**” die administrasieselsel van die Forensiese Wetenskap Laboratorium wat gebruik word om forensiese sake te bestuur;
- (f) “**klaer**” ‘n persoon wat ‘n klagte ingevolge hierdie regulasies aanmeld;
- (g) “**klagte**” ‘n klagte soos in artikel 15Z(1)(d)(i) van die Wet bedoel;
- (h) “**komitee**” ‘n komitee van die Raad soos bedoel in artikel 15AA(2) van die Wet;
- (i) “**Raad**” die Nasionale Raad vir Forensiese Oorsig en Etiek wat ingevolge artikel 15V(1) van die Wet gevestig is;
- (j) “**Strafproseswet**” die Strafproseswet, 1977 (Wet No. 51 van 1977); en
- (k) “**voorsitter**” die voorsitter van die Raad.

2. Die neem van 'n DNS monster

- (1) Die gemagtigde persoon moet toesig hou oor die neem van 'n wangholtemonster van 'n persoon wat so 'n monster moet verskaf, maar verkies om die monster self te neem.
- (2) Die versameltoerusting vir 'n DNS verwysings (wangholtemonster) moet gebruik word om die wangholtemonster te versamel.
- (3) In die afwesigheid van 'n wangholtemonster, of op die bepaalde versoek van 'n persoon waarvan die monster vereis word, kan 'n kontrole bloedmonster deur 'n geregistreerde mediese praktisyn of geregistreerde verpleegster geneem word.
- (4) Die persoonsbeskermende klere wat in die DNS verwysings (wangholtemonster) versameltoerusting verskaf word, moet deur die gemagtigde persoon gedra word wanneer 'n wangholtemonster van enige persoon geneem word. Daar moet oor die persoonsbeskermende klere wat in die DNS verwysings (wangholtemonster) versameltoerusting verskaf word, beskik word deur die items in die oorspronklike verpakking (sak) van die toerusting te plaas, wat weer aan die bewysstukverseëlingsak wat die DNS verwysingsmonster bevat, geheg moet word.
- (5) 'n Slagoffer van 'n seksuele misdryf moet vir die regsgeneeskundige ondersoek na 'n geregistreerde mediese praktisyn of geregistreerde verpleegster geneem word.
- (6) Die toepaslike bewysstukversameltoerusting vir die ondersoek van 'n slagoffer van 'n seksuele misdryf moet aan die geregistreerde mediese praktisyn oorhandig word ten einde forensiese bewysstukke te versamel. Die ondersoekbeampte moet verseker dat die bewysstukversameltoerusting so gou as moontlik, maar in elke geval binne 30 dae na die ondersoek, aan die Forensiese Wetenskap Laboratorium vir forensiese DNS ontleding gestuur word.
- (7) Slegs 'n geregistreerde mediese praktisyn of geregistreerde verpleegster mag 'n intieme monster van enige persoon neem.
- (8) Die gemagtigde persoon moet die wangholtemonster onmiddellik neem nadat die vingerafdrukke van die persoon geneem is.

3. Die byhou van rekords ten opsigte van versamelde wangholtemonsters en misdaadtoneelmonsters

- (1) **Monsters geneem van 'n gearresterde persoon**
 - (a) Wanneer 'n wangholtemonster van 'n gearresterde persoon geneem is, moet die DNS verwysings (wangholtemonster) versameltoerusting gebruik word en sy of haar vingerafdrukke op vorm SAPD 76 geneem word.

- (b) Die unieke strepieskodevorm-verwysingsnommer van die DNS verwysings (wangholtemonster) versameltoerusting moet op vorm SAPD 76 en op die versamelvorm (voorsien tesame met die DNS verwysings (wangholtemonster) versameltoerusting) aangeteken word. Die oorspronklike versamelvorm moet in die dossier geliasseer word en die afskrif van die vorm, tesame met die wangholtemonster, moet in die bewysstukverseëlingsak geplaas word.
 - (c) Die versamelvorm (wat saam met die DNS verwysings (wangholtemonster) versameltoerusting verskaf is) moet voltooi word voordat die monster geneem word.
 - (d) Die vorm SAPD 76, die strepieskodenommer op die bewysstukverseëlingsak en die unieke strepieskodeverwysingsnommer van die DNS verwysings (wangholtemonster) versameltoerusting en die besonderhede van die persoon van wie die wangholtemonster geneem is, moet onmiddellik op die MAS/ICDMS-stelsel aangeteken word nadat die monster geneem is.
 - (e) Die volgende kontakbesonderhede van die gearreesteerde persoon moet, indien beskikbaar, op die MAS/ICDMS-stelsel aangeteken word sodra 'n monster geneem is:
 - (i) selfoonnommer;
 - (ii) eposadres; en
 - (iii) pos- of residensiële adres.
- (2) Monsters geneem van persone vir ondersoekdoeleindes**
- (a) Indien 'n wangholtemonster vir ondersoekdoeleindes geneem is van 'n persoon wat nie gearreesteer is nie, moet die DNS verwysings (wangholtemonster) versameltoerusting gebruik word en sy of haar vingerafdrukke op vorm SAPD 192 geneem word.
 - (b) Die oorspronklike versamelvorm moet in die saakdossier liasseer word en die afskrif van die vorm, tesame met die wangholtemonster, moet in die bewysstukverseëlingsak geplaas word.
 - (c) Die kontakbesonderhede van die persoon van wie die wangholtemonster geneem is, (insluitende die selfoonnommer, indien beskikbaar) moet in die ondersoekdagboek (SAPD 5) van die saakdossier aangeteken word.

- (3) Monsters versamel deur die Onafhanklike Polisie-onderzoek-direktoraat**
- (a) Indien 'n wangholtemonster versamel word (met gebruik van die DNS verwysings (wangholtemonster) versameltoerusting) deur 'n gemagtigde persoon namens OPOD en dit is nie op die MAS/ICDMS-stelsel aangeteken nie, moet die vingerafdrukke van die persoon op vorm SAPS 192 geneem word. Die gemagtigde persoon moet duidelik op die versamelvorm aandui dat die monster vir ondersoekdoeleindes versamel is.
 - (b) Die oorspronklike versamelvorm moet in die saakdossier geliasseer word en die afskrif daarvan moet saam met die wangholtemonster in die bewysstukverseëlingsak geplaas word. Die woorde "vir ondersoekdoeleindes" moet op die bewysstukverseëlingsak, asook in die dekbrief aangebring word.
 - (c) Die versamelvorm wat in die DNS verwysings (wangholtemonster) versameltoerusting verskaf word, moet voltooi word.
 - (d) Die kontakbesonderhede van die persoon van wie die wangholtemonster geneem is (insluitende sy of haar selfoonnommer, indien beskikbaar), moet in die ondersoekdagboek (SAPD 5) in die saakdossier aangeteken word.
- (4) Speurbevelvoerders moet die MAS/ICDMS op 'n weeklikse basis inspekteer en verseker dat die inligting korrek op die MAS/ICDMS aangeteken is. Die feit dat 'n inspeksie gedoen is, moet in die Voorvalleboek (SAPD 10) aangeteken word.
- (5) Beamptes wat verantwoordelik is vir die verwerking van vorm SAPD 76 by die Komponent: Kriminele Rekord en Misdaadtoneelbestuur moet verseker dat die unieke strepieskode-verwysingsnommer van die DNS verwysingsmonsterversameltoerusting wat op vorm SAPD 76 aangeteken is, tesame met die vingerafdruknommer en die besonderhede van die persoon wat gearrester of aangekla is op die KRIM stelsel aangeteken word.
- (6) Enige kantoor of plek wat privaat is, buite sig en gehoor van ander persone, mag gebruik word as 'n plek waar 'n wangholtemonster geneem kan word.
- (7) Die wangholtemonster moet geneem word in die teenwoordigheid van 'n getuie wat die versamelvorm moet onderteken.

- (8) Die speurbevelvoerder of aangewese persoon moet die nodige stappe doen om te verseker dat elke liggaamlike monster wat geneem is, so gou as moontlik, maar in elke geval binne 30 dae nadat die monster geneem is, vir ondersoek na die Forensiese Wetenskap Laboratorium gestuur word.
- (9) Die neem van 'n nuwe wangholtemonster ter vervanging van 'n vorige monster, moet binne 30 dae na ontvangs van 'n versoek van die Forensiese Wetenskap Laboratorium geskied.
- (10) Die speurbevelvoerder moet maandelikse inspeksies uitvoer by die SAPD 13 store om te verseker dat geen liggaamlike monsters vir 'n langer tydperk as 30 dae by die stasie gehou word nie. Die inspeksie moet ook verseker dat liggaamlike monsters wat nog nie vir ontleding na die Forensiese Wetenskap Laboratorium gestuur is nie, behoorlik aangeteken word en veilig in die bewysstukstoor bewaar word en in die SAPD 13-register aangeteken word. Die feit dat 'n inspeksie gedoen is en enige regstellende stappe wat geneem is, moet in die voorvalleboek aangeteken word.

4. Bewaring en tydige oorplasing van versamelde monsters na die Forensiese Wetenskap Laboratorium

- (1) Die goedgekeurde bewysstukversameltoerusting en DNS verwysings (wangholtemonster) toerusting wat spesifiek ontwikkel is vir die doel van versameling van forensiese DNS bewysstukke moet gebruik word vir die versameling van onderskeidelik DNS bewysstukke en wangholtemonsters.
- (2) Die bewysstukversameltoerusting moet in 'n bewysstukverseëlingsak verpak word en moet duidelik die betrokke stasie en MAS-nommer aandui, voordat dit na die Forensiese Wetenskap Laboratorium gestuur word, tensy dwingende redes bestaan (soos die grootte van die forensiese verseëlingsak) wat die verpakking daarvan in die verskafde bewysstukverseëlingsak belemmer.
- (3) Indien die bewysstukversameltoerusting nie beskikbaar is nie of daar dwingende redes bestaan, soos bedoel in sub-regulasie (2), moet die betrokke speurder met die Forensiese Wetenskap Laboratorium skakel om te bepaal op watter wyse die bewysstuk of monster hanteer moet word.
- (4) Die forensiese bewysstukverpakking in die gemerkte bewysstukverseëlingsak mag by wyse van 'n betroubare koerierdiens na die Forensiese Wetenskap Laboratorium versend word. Indien die hantering van die voorwerpe by wyse van 'n volg-en-opsporingstelsel gemonitor word, moet hierdie stelsel deur die gemagtigde beampte of 'n persoon wat daarvoor aangewys is, geoudit word.

- (5) Redelike stappe moet gedoen word om te verseker dat die bewysstukke of monsters nie aan agteruitgang weens hitte blootgestel word nie.
- (6) 'n Wangholtemonster moet —
- (a) nie saam met ander bewysstukke verpak word nie;
 - (b) in 'n aparte bewysstukverseëlingsak verpak en aan die Forensiese Wetenskap Laboratorium gestuur word; en
 - (c) vergesel word van 'n dekbriëf (wat uitdruklik versoek dat dit met misdaadtoneelmonsters wat voorheen na die Forensiese Wetenskap Laboratorium gestuur is of nog gestuur sal word, vergelyk word).
- (7) 'n Dekbriëf moet aan die gemerkte bewysstukverseëlingsak, wat die wangholtemonster bevat, geheg word en na die Forensiese Wetenskap Laboratorium gestuur word. Die volgende inligting moet in die dekbriëf vermeld word:
- (a) strepieskodenommer van die wangholtemonster;
 - (b) stasie en MAS-nommer of die nommer van die verwysingsmonster, waar toepaslik;
 - (c) daar moet aangedui word of die wangholtemonster geneem is van 'n —
 - (i) kind;
 - (ii) gearresterde persoon;
 - (iii) slagoffer of klaer;
 - (iv) persoon wat ondersoek word, maar nie gearrester is nie (met sy of haar ingeligte toestemming of magtiging van die hof); of
 - (v) familielid van 'n vermiste persoon of ongeïdentifiseerde menslike oorskot; en
 - (d) of die liggaamlike monster of misdaadtoneelmonster afkomstig is van —
 - (i) 'n vermiste of ongeïdentifiseerde persoon; of
 - (ii) ongeïdentifiseerde menslike oorskot.
- (8) Die Forensiese Wetenskap Laboratorium kan versoek dat wangholtemonsters gestuur word om na te gaan of 'n persoon se forensiese DNS profiel dieselfde is as die forensiese DNS profiel wat op bewysstukke gevind is. Die Forensiese Wetenskap Laboratorium mag in korrespondensie na sodanige monster as 'n "bevestiging DNS verwysingsmonster" verwys. By die versending van die bevestiging DNS verwysingsmonster, moet die bewysstukverseëlingsak as "bevestiging DNS verwysingsmonster" gemerk word en moet dit ook duidelik so in die dekbriëf aangedui word.

- (9) Die speurbevelvoerder moet behoorlike bestuur van versoeke vir bevestigende DNS-verwysingsmonsters verseker. Dit kan insluit maandelikse dossierinspeksies om te bepaal of 'n wangholtemonster van 'n persoon inderdaad vir ontleding na die laboratorium gestuur is.
- (10) Die gemagtigde beampte mag die Forensiese Wetenskap Laboratorium bepaal waarheen wangholtemonsters en bewysstukke gestuur moet word.

5. Uitvoering van vergelykende soektogte

- (1) Die administrasie, instandhouding en vergelykende soektogte op die NFDD moet onafhanklik van die ontleding, bewaring en beskikking van DNS monsters gedoen word deur bevoegde forensiese ondersoekers verbonde aan die Kwaliteitsbestuurskomponent in die Afdeling: Forensiese Dienste.
- (2) Onderzoekers in die Forensiese Wetenskap Laboratorium moet verseker dat die volgende inligting aangeteken word op die toepaslike inligtingtegnologiesestelsel wat gebruik word om die ontleding van liggaamlike monsters te bestuur:
- (a) die strepieskode van die wangholtemonster;
 - (b) die stasie en MAS/ICDMS-nommer, waar toepaslik;
 - (c) of die wangholtemonster geneem is van 'n —
 - (i) kind;
 - (ii) gearresterde persoon;
 - (iii) persoon wat skuldig bevind is aan 'n misdryf;
 - (iv) persoon wat ondersoek word, maar nie gearrester is nie en met sy of haar ingeligte toestemming of gemagtig ingevolge artikel 36E(2) van die Strafproseswet;
 - (v) polisiebeampte, of enige ander persoon wat as deel van sy of haar amptelike pligte, 'n misdaadtoneel bywoon of verwerk;
 - (vi) polisiebeampte, of enige ander persoon, wat besig mag wees om misdaadtoneelmonsters of liggaamlike monsters vir forensiese ontleding verwerk of ondersoek;
 - (vii) persoon wat direk betrokke is by die diens of kalibrasie van toerusting in laboratoriums wat in die forensiese DNS ontledingproses gebruik word;
 - (viii) persoon wat 'n forensiese DNS laboratorium betree;
 - (ix) kontrakteur of verskaffer wat direk betrokke is in die vervaardiging van verbruikersgoedere, toerusting, gereedskap of reagense;
 - (x) slagoffer van die misdryf; of
 - (xi) familielid van 'n vermiste persoon of ongeïdentifiseerde menslike oorskot; en
 - (d) of die liggaamlike monster of misdaadtoneelmonster afkomstig is van —
 - (i) 'n vermiste persoon of ongeïdentifiseerde persoon; of

(ii) ongeïdentifiseerde menslike oorskot.

- (3) Die NFDD-stelsel of die saakbestuurstelsel (totdat die NFDD-stelsel beskikbaar is) moet gebruik word om vergelykende soektogte uit te voer om potensiële forensiese DNS leidrade te identifiseer. Potensiële forensiese DNS leidrade moet deur bevoegde forensiese ondersoekers van die NFDD nagegaan word voordat forensiese DNS leidrade aan ondersoekbeamptes gerapporteer word.

6. Kommunikasie van forensiese DNS bevindings en verwante inligting

- (1) 'n Polisiebeampte, lid van OPOD of beampte van die hof moet skriftelik versoek dat 'n ondersoek gedoen word en bevindings gemaak word oor bewysmaterial wat aan die Forensiese Wetenskap Laboratorium gestuur is. 'n Versoek vir ondersoek moet alle bewysstukke vergesel wat aan die Forensiese Wetenskap Laboratorium gestuur word.
- (2) Indien die hofdatum bekend is tydens die versending van die bewysstukke, moet die hofdatum uitdruklik in die dekbrieff wat die bewysmaterial vergesel, aangedui word.
- (3) Die besonderhede van die persoon en die hofdatum moet op die MAS/ICDMS en KRIM stelsels opdateer word. Die ondersoek-beampte moet so gou as moontlik, maar binne 7 dae nadat hy of sy bewys word van die bevindings van die hof, die seksie, wat verantwoordelik is vir die bestuur van die forensiese databasis in die Afdeling: Forensiese Dienste, inlig.
- (4) 'n Forensiese analis verbonde aan die Forensiese Wetenskap Laboratorium moet verseker dat forensiese DNS profiele van 'n misdadaadmonster, liggaamlike monster en wangholtemonster binne 30 dae na die ontvangs daarvan by die Forensiese Wetenskap Laboratorium, onttrek word. Die forensiese analis moet die betrokke ondersoekbeampte inlig van die uitslag van die ontleding. Die verslag van die uitslag van die ontleding moet deur die ondersoekbeampte in die polisie-dossier ingesluit word.
- (5) Die forensiese analis moet die ondersoekbeampte inlig van die uitslag van die ondersoek en die toetse vir doeleindes van artikel 212(6)(a) en (b) van die Strafproseswet indien —
- (a) die persoon wat ondersoek word of die DNS van 'n verdagte ooreenstem met die DNS wat in die misdadaadtoneelmonster gevind is;
 - (b) die identifikasie van menslike oorskot gedoen is;
 - (c) voorlopige toetse op die bewysmaterial in die saak negatief is of geen DNS gevind kon word in die betrokke misdadaadtoneelmonster nie;

- (d) 'n persoon wat ondersoek word of 'n verdagte uitgeskakel kan word deur die DNS wat in die misdaadtoneelmonster gevind is; en
 - (e) DNS in misdaadtoneelmonsters in die saak gevind is, maar geen ooreenstemming gevind kon word nie, aangesien geen wangholtemonster vir vergelyking deur die Forensiese Wetenskap Laboratorium ontvang is nie.
- (6) Die ondersoekbeampte moet, bykomend tot die verslag, wat deur 'n stelselkennisgewing by wyse van die FSL admin-stelsel aan die dossierdagboek van die MAS/ICDMS-stelsel gestuur is, ingelig word indien —
- (a) die voorlopige toetse negatief is;
 - (b) die forensiese DNS van 'n verdagte deur die DNS wat in die bewysstukke gevind is, uitgeskakel is;
 - (c) die forensiese DNS van 'n verdagte ooreenstem met die DNS wat in die bewysstukke, wat ondersoek is, gevind is;
 - (d) geen forensiese DNS bevinding gemaak kon word nie;
 - (e) menslike oorskot of 'n vermiste persoon geïdentifiseer is; en
 - (f) verskillende sake met mekaar verbind word of 'n verdagte aan verskillende sake verbind word.
- (7) Die Forensiese Wetenskap Laboratorium mag 'n prosesverwante-stelsel implementeer met verskillende spanne om DNS misdaadmonsters, liggaamlike monsters en DNS verwysingsmonsters te verwerk. Die DNS prosesspanne kan, onder andere, bestaan uit persone verantwoordelik vir —
- (a) die ontvangs en registrasie van sake ooreenkomstig forensiese saakbestuur;
 - (b) bewysstuk-herwinning;
 - (c) versending van DNS misdaadmonsters, liggaamsmonsters en wangholtemonsters na die DNS ontledingsproseslaboratorium;
 - (d) die DNS ontleding-proseslaboratorium;
 - (e) die monitering van die DNS ontledingsproses; en
 - (f) die ontleding van forensiese DNS profiele en verwante data, wat uit die monsters onttrek is om 'n DNS verslag saam te stel.
- (8) Die forensiese ondersoeker moet van die bevinding in die saak, soos beoog in sub-regulasies (6) en (7), ingelig word.
- (9) Die ondersoekbeampte wat verantwoordelik is vir die ondersoek van 'n bepaalde saak moet ingelig word van forensiese ondersoekleidrade. Die stelseloplossing van die NFDD moet die forensiese ondersoekleidrade aan die dossierdagboek van die MAS/ICDMS-stelsel kommunikeer.

- (10) Die ondersoekbeampte moet forensiese leitrade ondersoek, opvolg en vordering in die dossierdagboek van die MAS/ICDMS-stelsel van elke betrokke saak aanteken. Die ondersoekbeampte moet vordering aan die seksiehoof by die Afdeling: Forensiese Dienste verantwoordelik vir die NFDD rapporteer.

7. DNS ontledings wat by die Forensiese Wetenskap Laboratoriums uitgevoer is

- (1) Forensiese DNS ontledings moet ooreenkomstig die Kwaliteitsbestuurstelsel van die Forensiese Wetenskap Laboratorium, gebaseer op ISO17025 uitgevoer word.
- (2) Die Forensiese Wetenskap Laboratorium moet forensiese DNS ontleding doen ten opsigte van alle sake en wangholtemonsters wat by die laboratorium ontvang is.
- (3) Sake waarby DNS betrokke is, met vasgestelde hofdatums en bekende verdagtes moet voorkeur geniet en voltooi word binne die tydbestek soos met die aanklaer ooreengekom.
- (4) Sake wat geïdentifiseer is as sake waar 'n reeksmisdadiger betrokke is of waar 'n oortreder by meervoudige misdade betrokke is, moet voorkeur by die Forensiese Wetenskap Laboratorium geniet en binne 30 dae (na bevestiging ontvang is van DNS verwysingsmonsters of bevestiging dat die sake verbind word), voltooi word. Die Hoof: Forensiese Wetenskap Laboratorium moet maatreëls instel om die nakoming daarvan te verseker.
- (5) Die Forensiese Wetenskap Laboratorium moet verseker dat forensiese DNS profiele binne 30 dae na ontvangs van die betrokke monster by die Forensiese Wetenskap Laboratorium, aan die NFDD of 'n soortgelyke stelsel verskaf is, sodat dit op die betrokke stelsel gelaai kan word.
- (6) Monsters van alle sake waarby DNS betrokke is, moet ontleed en afgehandel word binne die sperdatums soos bepaal deur die gemagtigde beampte.

8. Versoek vir toegang tot inligting wat op die NFDD gestoor word

- (1) 'n Lid wat verantwoordelik is vir die ondersoek of koördinering van strafregtelike ondersoeke of saakbestuur wat verband hou met die identifikasie van vermiste persone of ongeïdentifiseerde menslike oorskot, mag skriftelik versoek dat vergelykende soektogte vir strafregtelike ondersoekdoeleindes gedoen word en van die uitslag van die soektog of van 'n forensiese DNS ondersoekleidraadverslag voorsien word.

- (2) Alle personeel van die NFDD moet 'n veiligheidsklaring ondergaan.
- (3) Slegs ontleders in die seksie: Forensiese Databasisbestuur van die Kwaliteitskomponent is gemagtig om vergelykende soektogte uit te voer en tot die NFDD toegang te verkry.
- (4) 'n Persoon mag die gemagtigde beampte skriftelik versoek om te bevestig of sy of haar forensiese DNS profiel op die NFDD ingesluit is: Met dien verstande dat 'n persoon eers op 'n vorm, soos deur die Nasionale Kommissaris bepaal, vir 'n gedragsertifikaat aansoek moet doen. Die rekord van vorige veroordelings, indien enige, moet aan die aansoek geheg word.
- (5) Inligtingsbestuur wat verband hou met suksesse, die aantal forensiese DNS profile wat op die NFDD gelaai is en die aantal en soort forensiese DNS leidrade wat uitgereik is, mag met die toestemming van die gemagtigde beampte openbaar gemaak word.

9. Die opvolg van forensiese ondersoekleirade

- (1) Die Afdelingskommissaris: Speurdiens moet nodale punte binne daardie Afdeling vestig om forensiese ondersoekleirade te monitor en onopgeloste forensiese ondersoekleirade met provinsiale kommissarisse op te volg.
- (2) Elke provinsiale kommissaris moet verseker dat forensiese ondersoekleirade, meervoudige oortreders en reekssake wat moord, verkragting, seksuele aanranding en sielkundig-gemotiveerde misdrywe insluit, ondersoek en opgelos word.
- (3) Al die dossiere wat in 'n reekssaak verbind word of waar 'n oortreder by meerdere misdrywe betrokke is, moet verkry word en op die MAS/ICDMS heropen word. Alle bewysstukke moet oorweeg en opgevolg word en 'n profiel van die reeksoortreder moet opgestel word.
- (4) Alvorens die vervolgingsgesag 'n formele besluit geneem het om met 'n vervolging voort te gaan, al dan nie, mag reekssake slegs met die goedkeuring van die betrokke Provinsiale Kommissaris en die Afdelingskommissaris: Speurdiens op MAS/ICDMS afgesluit word.
- (5) Die Afdelingskommissaris: Speurdiens en die Provinsiale Kommissaris moet verseker dat ondersoeke en leidrade oor stasiegrense, en, waar van toepassing, provinsiale grense, kommunikeer en koordineer word. Hy of sy moet ook die identifikasie van sielkundig-gemotiveerde misdrywe (soos

reeksmoorde, reeksverkratings, meervoudige moorde, kindermoorde, seksueel verwante moorde, massamoorde, moordtogte) fasiliteer en met die Sielkundige Ondersoekeenheid skakel wanneer sulke gevalle plaasvind en wanneer reeksmisdade in meer as een provinsie plaasvind.

- (6) Elke taakspan moet alle forensiese ondersoekleidrade konsolideer van sake wat met mekaar verband hou (gebaseer op inligting soos modus operandi, DNS, vingerafdrukke, selfoondata of identikit.)
- (7) Indien oorskakeling tussen verskillende tipes misdrywe geskied (byvoorbeeld wanneer die verdagte oorspronklik verkrating en lateraan moord pleeg), moet gepaste opgeleide en ervare ondersoekers in moord saakbestuur ingesluit word by die aanvanklike taakspan of, indien die dossiere aan 'n ander eenheid oorhandig word (soos Georganiseerde Misdad of Gesinsgeweld, Kinderbeskerming en Seksuele Misdade), mag lede van sodanige eenhede deel vorm van die taakspan om kontinuïteit te verseker.
- (8) Die rol en verantwoordelikhede tussen nasionale en provinsiale taakspanne en gespesialiseerde ondersoekenehede moet duidelik deur die provinsiale kommissaris van die provinsie in oorlegpleging met die Afdelingskommissaris: Speurdiens bepaal word.
- (9) Die taakspan moet —
 - (a) die ondersoek oor stasie- en provinsiale grense en tussen gespesialiseerde ondersoekenehede koordineer; en
 - (b) enige saak ondersoek wat afgesluit is en ten opsigte waarvan daar 'n forensiese ondersoekleidraad bestaan.
- (10) Onderzoekbeamptes moet die modus operandi in hulle sake ondersoek en tendense identifiseer waar dieselfde modus operandi gebruik is, ten einde die oortreder daarmee te verbind. Die ondersoekbeampte moet gevalle waar ondersoek of modus operandi 'n verdagte met verskillende sake verbind, aan die betrokke taakspan rapporteer.
- (11) Die Misdadintelligensie-analisesentrum moet ondersoekbeamptes bystaan deur modus operandi en inligtingversameling om moontlike verdagtes te identifiseer.
- (12) Die ondersoekbeampte moet die Sielkundige Ondersoekeenheid raadpleeg om bystand te verleen met die ondersoek ten einde enige verband tussen gedrag in verskillende sake te bevestig.

- (13) Die ondersoekbeampte moet die aanklaer inlig van enige saak waar forensiese ondersoekleidrade of inligting die verdagte met ander sake verbind.
- (14) 'n Provinsiale kommissaris moet, na oorlegpleging met die Afdelingskommissaris: Speurdiens, 'n nodale punt in sy of haar provinsie vestig om vordering van die taakspanne in sy of haar provinsie in verband met die ondersoek van forensiese ondersoekleidrade te monitor. Die nodale punt moet, ten minste maandeliks, terugvoering aan die nodale punt van die Afdeling: Speurdiens verskaf.
- (15) Die nodale punt by die Afdeling: Speurdiens moet ten minste maandeliks aan die seksiehoof: Forensiese Databasisbestuur terugvoering verskaf oor die vordering met aangemelde forensiese ondersoekleidrade.

10. Vernietiging van DNS verwysingsmonsters en wangholtemonsters

- (1) DNS verwysingsmonsters en wangholtemonsters moet binne 30 dae na ontvangs van die forensiese DNS profiel, of na die monster deur die Forensiese Wetenskap Laboratorium ontleed is, vernietig word.
- (2) Daar moet oor wangholtemonsters beskik word in mediese afval vewyderingshouers wat verbrand word.
- (3) Enige ander oorblyfsel of verwerkte deel van 'n wangholtemonster moet oor beskik word in mediese afval verwyderingshouers en verbrand word.
- (4) Die vernietiging van die wangholtemonsters moet in die laboratorium-saaklêer of gepaste register aangeteken word. Die toepaslike register kan 'n logboek wees of die inligtingstelsel wat in die laboratorium gebruik word om DNS saakbestuur te ondersteun.

11. Kennisgewing van hofbevindings

- (1) Die klerk van die hof sal die gemagtigde beampte inlig van die uitslag van die hofsaak deur 'n vorm SAPD 69 te voltooi en die vorm na afhandeling van die saak in die hof aan die ondersoekbeampte te oorhandig. Die klerk van die hof sal die identiteitsnommer en volle name en van van die beskuldigde en betrokke stasie en MAS/ICDMS-nommer op vorm SAPD 69 aanteken.
- (2) Die inligting, waar van toepassing, wat op die vorm SAPD 69 aangeteken moet word is dat die —
 - (a) saak teen 'n kind ingevolge Hoofstuk 8 van die 'Child

- Justice Act, 2008' (Wet No. 75 van 2008) afgewentel is;
- (b) persoon nie in die hof vervolgt is nie;
 - (c) beskuldigde vrygespreek is;
 - (d) beskuldigde by 'n voorlopige ondersoek vrygespreek is;
 - (e) skuldigbevinding op appèl of hersiening ter syde gestel is; of
 - (f) persoon skuldig bevind is.
- (3) In die geval van 'n skuldigbevinding, moet die volledige besonderhede van die midryf(we), die vonnis, insluitende die besonderhede van die vonnis en tydperk van opskorting (waar van toepassing), op vorm SAPD 69 aangeteken word.
- (4) Die ondersoekbeampte moet die bevinding van die hof op die MAS/ICDMS stelsel aanteken en vorm SAPD 69 verskaf aan die gemagtigde beampte, of 'n persoon deur hom of haar aangewys, om te verseker dat die nodige stappe gedoen word om die inligting op die KRIM-stelsel en NFDD op te dateer.

12. Aansoek vir die verwydering van forensiese DNS profiele van die NFDD

- (1) 'n Persoon wat verkies om sy of haar forensiese DNS profiel te laat verwyder, moet aansoek doen vir 'n gedragssertifikaat op 'n vorm, bepaal deur die Nasionale Kommissaris, om te bevestig dat hy of sy geen rekord van vorige veroordelings het nie.
- (2) Die gedragssertifikaat wat aandui dat die persoon geen vorige veroordelings het nie, moet aan die skriftelike aansoek vir die verwydering van die forensiese DNS profiel geheg word. Die aansoek moet gedoen word op die vorm deur die Nasionale Kommissaris bepaal.
- (3) Die aansoek moet die volgende bevat:
- (a) volledige besonderhede van die aansoeker;
 - (b) die rede waarom die wangholtemonster oorspronklik van die persoon versamel is; en
 - (c) die betrokke stasie en MAS/ICDMS-nommer indien 'n forensiese DNS profiel uit 'n wangholtemonster onttrek is wat in verband met 'n ondersoek geneem is.
- (4) Die Direkteur-Generaal van die Departement van Justisie en Staatkundige Ontwikkeling, of 'n persoon deur hom of haar aangewys, sal die gemagtigde beampte inlig van veroordelings wat ingevolge artikel 84(2)(j) van die Grondwet, 1996 kwytgestel is. Die gemagtigde beampte of aangewese beampte moet verseker dat rekords van vorige veroordelings wat kwytgestel is, uitgewis word.

- (5) Indien 'n wangholtemonster geneem is van 'n persoon, wat nie gearresteer is nie, omdat daar geglo is dat die forensiese DNS profiel van daardie persoon van waarde kan wees om daardie persoon in- of uit te sluit as pleger van die misdaad, moet die ondersoekbeampte, binne 30 dae na die afhandeling van die saak, die seksiehoof: Forensiese Databasisbestuur in die Afdeling: Forensiese Dienste inlig van die uitslag.
- (6) Indien 'n persoon in die ondersoek van 'n saak ingesluit is, moet die forensiese DNS profiel van daardie persoon in die Onderzoekindeks van die NFDD bly tot die afhandeling van die saak.
- (7) Indien 'n persoon van die ondersoek uitgesluit, of vrygespreek is, moet die forensiese DNS profiel van daardie persoon binne 30 dae na ontvangs van 'n kennisgewing van die ondersoekbeampte dat die saak afgehandel is, van die Onderzoekindeks van die NFDD verwyder word. Die ondersoekbeampte moet, binne 30 dae na afhandeling van die saak, die gemagtigde beampte inlig van die uitslag om hom of haar in staat te stel om die forensiese DNS profiel van daardie persoon te verwyder en hom of haar skriftelik dienooreenkomstig in te lig.

13. Protokol en opleiding in verband met familieverwantskapsoektogte

- (1) Die NFDD-stelsel of 'n stelsel wat ontwikkel is om familieverwantskapsoektogte te doen, kan gebruik word om familieverwantskapsoektogte te doen in verband met forensiese DNS profiele ten einde vermiste persone op te spoor of ongeïdentifiseerde menslike oorskot te identifiseer.
- (2) 'n Berekening van waarskynlikheid mag toegepas word op die uitslag van die familieverwantskapsoektogte om ondersoekleidrade te identifiseer ten einde 'n ondersoekbeampte in staat te stel om —
 - (a) familieledede van naby verwante te ondervra; of
 - (b) ongeïdentifiseerde menslike oorskot te identifiseer.
- (3) Die Afdelingskommissaris: Speurdiens moet, na konsultasie met die provinsiale kommissarisse, bepaalde speurders op nasionale - of provinsiale vlak identifiseer, vir opleiding om ondersoekleidrade, wat by wyse van familieverwantskapsoektogte geïdentifiseer is, te ondersoek en op te volg.
- (4) Die Nasionale Kommissaris is verantwoordelik om 'n opleidingsprogram vir speurders te ontwikkel om forensiese ondersoekleidrade te ondersoek wat by wyse van familieverwantskapsoektogte verkry is.

14. Klagtes aan die Nasionale Raad vir Forensiese Oorsig en Etiek

Die voorsitter van die Raad moet verseker dat 'n —

- (a) klagte wat ingevolge hierdie regulasies aangemeld is behoorlik evalueer en doeltreffend hanteer word;
- (b) klaer met respek en beleefd hanteer word;
- (c) klaer, sover as wat redelikerwys prakties is, bystand ontvang om hom of haar in staat te stel om die prosedure in verband met die aangemelde klagtes te verstaan;
- (d) klaer 'n tydige en gepaste reaksie ontvang; en
- (e) klaer van die uitslag of ondersoek van sy of haar klagte ingelig word.

15. Aanmelding van klagtes

(1) 'n Klagte mag aangemeld word deur 'n persoon wat —

- (a) kennis het, of bewus word van enige onreëlmatigheid in verband met 'n DNS monster of verkryging van 'n forensiese DNS profiel;
- (b) geraak is of waarskynlik geraak sal word deur die optrede, nalate of besluit van die NFDD in verband met die wyse waarop 'n DNS monster of forensiese DNS monster hanteer word of hanteer is;
- (c) kennis het of bewus word van enige veiligheidsbreuk in verband met —
 - (i) die veilige vervoer of stoor van 'n DNS monster;
 - (ii) die veilige vervoer of stoor van 'n forensiese DNS profiel;
 - (iii) die fisiese beveiliging van die NFDD; of
 - (iv) enige ander aangeleentheid of verbreking wat die behoorlike bestuur van DNS monsters, forensiese DNS profiele of die integriteit van die NFDD benadeel of onder verdenking plaas;
- (d) wat kennis verkry van onetiese gedrag deur 'n werknemer in die uitvoering van enige funksie met betrekking tot die NFDD, of wat deur onetiese gedrag geraak is; of
- (e) kennis het van onetiese gedrag deur 'n onafhanklike verskaffer in die verskaffing van dienste soos ooreengekom met die NFDD.

(2) 'n Klagte kan namens 'n persoon aangemeld word deur 'n persoon wat in sub-regulasie (1) vermeld word wat —

- (a) 'n kind is;
- (b) nie in staat is om self die klagte aan te meld nie as gevolg van —
 - (i) fisiese ongeskiktheid; of
 - (ii) verstandelike ongeskiktheid; of
- (c) 'n verteenwoordiger versoek het om namens hom of haar op te tree.

16. Hantering van klagtes

- (1) Die Raad mag klagtes ontvang wat in ooreenstemming met hierdie Regulasies oor enige aangeleentheid waarna in regulasie 15 verwys word, gelê is.
- (2) Die voorsitter moet verseker dat enige klagte wat ingevolge regulasie 15 ontvang is, ooreenkomstig hierdie regulasie hanteer word.
- (3) Die voorsitter moet, binne sewe dae vanaf die ontvangs van 'n klagte, 'n komitee aanstel om die klagte te evalueer en 'n verslag met aanbevelings aan die Raad te stuur.
- (4) 'n Klagte moet binne 12 maande gelê word vanaf die datum waarop die aangeleentheid, wat die onderwerp van die klagte is, plaasgevind het of die datum waarop die aangeleentheid wat die onderwerp van die klagte is, tot die kennis van die klaer gekom het.
- (5) Die tydsbeperking in sub-regulasie (4) sal nie geld nie indien die Raad tevrede is dat —
 - (a) die klaer goeie rede gehad het om nie die klagte binne die tydsbeperking te lê nie; en
 - (b) ten spyte van die vertraging, dit steeds moontlik is om die klagte doeltreffend en regverdig te ondersoek.

17. Aanmelding van 'n klagte

- (1) 'n Lid van die publiek, liggaam of staatsorgaan, insluitende 'n lid van die Diens, wat 'n klagte wil lê, moet die klagte skriftelik aan die voorsitter rig.
- (2) 'n Klagte wat namens 'n ander persoon gelê is, mag by die voorsitter gelê word indien die persoon namens wie 'n klagte gelê word, skriftelik daartoe instem.
- (3) Die vereiste van toestemming sal nie geld indien die persoon namens wie 'n klagte aangemeld is, vir enige rede onbevoeg is om dit te doen, of waar die voorsitter in sy of haar uitsluitlike diskresie, 'n afwyking van hierdie vereiste gemagtig het.
- (4) 'n Klagte moet onderteken word deur die persoon wat die klagte lê of die klaer of sy of haar verteenwoordiger en moet die volgende meld:
 - (a) sy of haar volle name, identiteitsnommer en kontakbesonderhede;
 - (b) die aard van die klagte en die basis vir die bewering;
 - (c) relevante inligting oor die klagte; en
 - (d) die aard van die remedie wat deur die klaer verwag word.

- (5) 'n Skriftelike klagte moet by die voorsitter van die Raad aangemeld word.
- (6) 'n Skriftelike ontvangserkenning van die klagte moet uitgereik word binne 5 (vyf) werksdae na die datum van die ontvangs van die klagte.

18. Klagtes wat anoniem aangemeld word

- (1) Tensy uitsonderlike omstandighede teenwoordig is, mag 'n klagte nie anoniem aangemeld word nie.
- (2) Indien die voorsitter tevrede is dat 'n klagte anoniem aangemeld word, moet die klaer die inligting verskaf waarna in Regulasies 17(4)(b), (c), (d) en 17(5) verwys word.

19. Ontvangs, registrasie, verwerking, verwysing, en afhandeling van klagtes

- (1) 'n Klagte wat buite die mandaat van die Raad val, moet binne sewe dae na ontvangs daarvan, skriftelik na die toepaslike gesag of instelling, wat bevoeg is om so 'n klagte te hanteer, verwys word.
- (2) Indien 'n klagte ooreenkomstig sub-regulasie (1) verwys word, moet die klaer binne sewe dae skriftelik van sodanige verwysing in kennis gestel word.
- (3) 'n Klagte wat binne die mandaat van die Raad val, moet op 'n rekenaargebaseerde register wat vir hierdie doel aangelê is, aangeteken word en die klaer moet skriftelik, binne sewe dae na ontvangs van die klagte, in kennis gestel word dat sy of haar klagte na 'n komitee vir oorweging verwys is.
- (4) 'n Klagte wat ingevolge sub-regulasie (3) aangeteken is, moet binne een maand of binne sodanige ander tydperk as wat die Raad skriftelik mag toelaat, hanteer word.

20. Aanstelling en samestelling van 'n komitee

- (1) Die Raad moet, in ooreenstemming met artikel 15AA(2), 'n komitee, bestaande uit nie meer as drie persone nie, aanstel om 'n klagte te evalueer.
- (2) Die komitee moet 'n persoon insluit wat —
 - (a) kennis en ondervinding het in forensiese wetenskap, indien die klagte verband hou met forensiese wetenskap;
 - (b) kennis en ondervinding het in die regsposisie betreffende menseregte, indien die klagte verband hou met 'n beweerde skending van menseregte; of

- (c) kennis en ondervinding het in etiese aspekte betreffende die forensiese wetenskap, indien die klagte verband hou met beweerde onetiese gedrag.
- (3) Die Raad moet die komitee binne sewe dae na ontvangs van 'n klagte aanstel.

21. Evaluering van 'n klagte

- (1) By die evaluering van 'n klagte, moet die komitee oorweeg of die –
- (a) Raad gemagtig is om die klagte te ontvang en te ondersoek;
 - (b) Diens sy eie ondersoek gedoen het of doen;
 - (c) klaer enige interne remedies uitgeput het;
 - (d) klaer sy of haar reg in 'n hof of ander bevoegde tribunaal uitgeoefen het;
 - (e) klagte onbenullig, beuselagtig, kwelsugtig of te kwader trou gemaak is; en
 - (f) klagte verwys behoort te word na 'n tersaaklike gesag of instelling wat bevoeg is om so 'n klagte te hanteer.
- (2) Indien die komitee van mening is dat bykomende inligting benodig word om 'n behoorlike evaluering te maak, kan die komitee die inligting van die klaer of die gemagtigde beampte van die NFDD versoek.
- (3) By die evaluering van die klagte, is die komitee geregtig op –
- (a) redelike toegang tot die NFDD;
 - (b) toegang tot stelsels wat die bewaring en vernietiging van DNS monsters beheer;
 - (c) toegang tot rekords wat bygehou word in die Afdeling: Forensiese Dienste in verband met die vervoer, berging en vernietiging van DNS monsters;
 - (d) beleid in verband met die beheer oor DNS monsters en forensiese DNS profiele;
 - (e) statistieke in verband met alle DNS monsters wat ontvang, hanteer en forensiese DNS profiele wat geberg, vernietig of van die NFDD verwyder is;
 - (f) regstellende maatreëls wat deur die NFDD in werking gestel is om die faktore wat tot 'n geldige klagte aanleiding gegee het, aan te spreek; en
 - (g) enige ander inligting wat die komitee redelikerwys mag benodig.
- (4) Die gemagtigde beampte van die NFDD moet die inligting waarna in sub-regulasie (3) verwys word, binne (14) veertien dae na so 'n versoek ontvang is, aan die komitee verskaf.

- (5) Die komitee kan skriftelike of mondelinge verhoë van enige persoon of gesag versoek wat na die oordeel van die komitee nodig mag wees vir die behoorlike assessering van die meriete van 'n klagte.
- (6) Enige versoek aan 'n persoon of gesag om 'n voorlegging te maak, moet skriftelik gedoen word by wyse van geregistreerde pos of deur dit per hand direk by die betrokke persoon of die uitvoerende gesag, van die organisasie of staatsorgaan wat oor die inligting beskik, af te lewer.
- (7) Die komitee moet, na oorweging van al die betrokke faktore en beskikbare inligting, skriftelik, binne sewe dae nadat die evaluering gemaak is, aan die Raad verslag doen oor die uitslag van die evaluering.
- (8) Die voorsitter moet die komitee se verslag ter tafel lê vir bespreking by die Raad se volgende vergadering.
- (9) Die Raad mag die komitee versoek om die klagte verder te ondersoek indien die evaluering as onvoldoende beskou word.
- (10) Indien die Raad, na oorweging van die verslag en aanbevelings van die komitee, besluit het dat daar met die klagte voortgegaan moet word, moet die voorsitter, binne tien dae, die besluit skriftelik aan die klaer en enige ander party wat betrokke mag wees, oordra.
- (11) Indien die Raad besluit het om nie met die klagte voort te gaan na oorweging van die verslag en enige aanbevelings van die komitee nie, moet die Raad, binne tien dae nadat so 'n besluit geneem is, die klaer skriftelik van die besluit en die redes vir die besluit, inlig.
- (12) Indien 'n evaluering verband hou met 'n beweerde strafregtelike handeling, moet die Raad die klagte en enige dokumente wat die komitee verkry het, binne tien dae oorhandig aan –
 - (a) die Nasionale Kommissaris vir ondersoek; of
 - (b) 'n relevante owerheid vir verdere optrede en afhandeling.
- (13) Indien 'n klagte na 'n relevante owerheid verwys word, moet die gemagtigde beampte van die NFDD verseker dat volle samewerking, bystand, en ondersteuning aan die betrokke gesag verskaf word.
- (14) Die bevindings en enige aanbevelings van die Raad mag aan die Nasionale Kommissaris of die relevante owerheid oorhandig word vir inligting en vir opvolging.

- (15) Indien 'n evaluering verband hou met 'n handeling van wangedrag, wat vereis dat dissiplinêre stappe teen 'n lid van die Diens of OPOD gedoen word, moet die Raad die klagte en enige dokumente wat die komitee verkry het, tesame met die redes vir die aanbeveling, binne tien dae oorhandig aan –
- (a) die Nasionale Kommissaris vir verdere ondersoek en afhandeling, indien die beweerde handeling van wangedrag verband hou met 'n lid; of
 - (b) die Uitvoerende Direkteur van OPOD vir verdere ondersoek en afhandeling, indien die beweerde handeling van wangedrag met 'n lid van OPOD verband hou.
- (16) Die Nasionale Kommissaris of die Uitvoerende Direkteur, wie ookal betrokke is, moet die Raad se bevindings en enige aanbevelings oorweeg en daaraan uitvoering gee.
- (17) Indien die Nasionale Kommissaris of die Uitvoerende Direkteur versuim of weier om die Raad se aanbevelings te implementeer, moet die Nasionale Kommissaris of die Uitvoerende Direkteur binne 10 dae na ontvangs van die verslag en aanbevelings skriftelik redes vir sodanige versuim of weiering aan die voorsitter verskaf.
- (18) Indien die Raad nie tevrede is met die redes wat verskaf is nie, kan die Raad die verslag en aanbevelings, binne 14 dae nadat die Raad daarvan ingelig is, na die Minister van Polisie verwys.

22. Alternatiewe geskilbeslegting

- (1) Die Raad mag, indien dit in die belang van dienslewering nodig geag word, 'n klagte oplos by wyse van 'n mediasie- en versoeningsproses soos beoog in artikel 15Z(d)(iii) van die Wet.
- (2) Die kan, in oorlegpleging met die klaer en die geaffekteerde party, besluit om die klagte vir oplossing of mediasie en versoening te verwys.
- (3) Indien die informele oplossing of mediasie misluk, mag die Raad die aangeleentheid waaroor die klagte handel, vir leiding na die Minister verwys.
- (4) In die geval waar 'n misdaad na bewering gepleeg is deur 'n persoon wat aan 'n evaluering onderwerp is, moet die Raad die betrokke aangeleentheid na die betrokke owerhede verwys vir verdere optrede.

- (5) Die Raad moet verseker dat aanbevelings in verband met dissiplinêre stappe verwys word na —
- (a) die Nasionale Kommissaris;
 - (b) die Uitvoerende Direkteur; of
 - (c) enige ander relevante gesag.

23. Verslae

- (1) Die verslag, beoog in artikel 15AA(5), met aanbevelings oor dissiplinêre stappe teen 'n lid van die Diens, 'n lid van OPOD of enige ander relevante owerheid moet, waar van toepassing, aan die Nasionale Kommissaris, die Uitvoerende Direkteur van OPOD of die hoof van die relevante uitvoerende owerheid, oorhandig word.
- (2) Die Nasionale Kommissaris, die Uitvoerende Direkteur van OPOD of die hoof van die relevante owerheid aan wie die verslag oorhandig is, moet die voorsitter, binne een maand na ontvangs van die aanbevelings, van 'n skriftelike verslag oor die uitslag van die dissiplinêre stappe voorsien.
- (3) Die voorsitter moet verseker dat 'n verslag opgestel word oor die status van alle klagtes wat ontvang en evalueer is, insluitende, maar nie beperk nie tot, enige stelsel aangeleentheid wat neerkom op magismisbruik, onbehoorlikheid of vooroordeel van enige persoon of gemeenskap wat 'n klagte gelê het.
- (4) Die voorsitter moet verseker dat half-jaarliks aan die Minister verslag gedoen word oor klagtes waarna in sub-regulasie (5) verwys word.
- (5) Die verslag beoog in artikel 15Z(6) van die Wet moet die volgende inligting bevat:
- (a) die aantal klagtes wat die Raad ontvang het;
 - (b) die aard van die klagtes wat ontvang is;
 - (c) die aantal klagtes wat die Raad as gegrond bevind het;
 - (d) die aantal klagtes wat verwys is na —
 - (i) die Nasionale Kommissaris;
 - (ii) die Uitvoerende Direkteur van OPOD; en
 - (iii) enige ander relevante owerheid; en
 - (e) 'n opsomming van —
 - (i) die onderwerp van die aangeleentheid of klagtes wat die verantwoordelike liggaam ontvang het;
 - (ii) enige aangeleentheid van algemene belang wat uit daardie klagtes voortspruit, of die wyse waarop die klagtes hanteer is; en
 - (iii) enige aangeleentheid waar daar opgetree is of opgetree moet word om diens te verbeter as gevolg van sodanige klagtes.

- (6) Die verslag bedoel in artikel 15Z(6) van die Wet, moet so gou as wat redelikerwys prakties is, aan enige owerheid gestuur word wat regtens verantwoordelik is vir regulering van die beskerming van persoonlike inligting.

24. Register

- (1) Die voorsitter moet verseker dat alle klagtes gekategoriseer en in 'n register bygehou word.
- (2) Die register moet die volgende bevat:
- (a) Besonderhede van elke klagte wat aangemeld is;
 - (b) besonderhede van die aard en kategorie van elke klagte;
 - (c) die datum van ontvangs van die klagte;
 - (d) die datum van verwysing van die klagte na die komitee vir evaluering;
 - (e) die uitslag van die evaluering van elke klagte; en
 - (f) die uitslag van dissiplinêre stappe wat aanbeveel is.

25. Openbare bewusmaking

Die Raad moet inligting aan die publiek beskikbaar stel aangaande die —

- (a) reëlins vir die hantering van klagtes; en
- (b) wyse waarop bykomende inligting oor daardie reëlins verkry kan word.

26. Toegang tot die forensiese DNS profiel en misdaadtoneelmonster vir doeleindes van vryspraak

- (1) Enige persoon wat glo dat hy of sy verkeerdelik aan 'n misdryf skuldig bevind is, mag die gemagtigde beampte skriftelik versoek om toegang tot die forensiese DNS profiel wat van die misdaadmonster onttrek is en na die Forensiese Wetenskap Laboratorium gestuur is.
- (2) Die versoek moet die betrokke stasie- en saaknommer vermeld ten opsigte waarvan daar beweerd word daar 'n foutiewe skuldigbevinding gemaak is en die versoek moet gronde uiteensit waarom die forensiese DNS profiel vereis word.
- (3) Die gemagtigde beampte, of 'n persoon deur hom of haar aangewys, moet die versoek binne 30 dae oorweeg. Indien 'n versoek geweier word, moet skriftelike redes verskaf word.

27. Forensiese bewusmaking, ondersoek en ondersoek ingrypings

- (1) Die Nasionale Kommissaris moet gepaste maatreëls tref om 'n forensiese bewusmakingsprogram vir polisiebeamptes en die publiek te implementeer.

- (2) Die Afdelingskommissaris: Menslike Hulpbrononwikkeling moet, na oorlegpleging met die gemagtigde beampte, opleidingsprogramme ontwikkel om te verseker dat polisiebeamptes van die Afdelings: Sigbare Polisiëring en Speurdiens opgelei word oor die bepalinge en toepassing van die Wet.
- (3) Die gemagtigde beampte moet personeel aanwys om opleidingsprogramme te ontwikkel en te verseker dat misdaadtoneelondersoekers opgelei word in die —
 - (a) prosessering en ondersoek van verskillende tipes misdaadtonele;
 - (b) uitvoering van voorlopige toetse vir liggaamsvloeistowwe;
 - (c) wyse waarop die integriteit van 'n misdaadtoneel behoorlik beveilig en behou moet word;
 - (d) bewyswaarde en verpakking van bewysmateriaal; en
 - (e) bepalinge van die Wet.
- (4) Die gemagtigde beampte moet met die Nasionale Vervolgingsgesag skakel en, indien hy of sy versoek word, bystand verleen ten opsigte van die opleiding van aanklaers in forensiese bewysstukke en die uitleg van forensiese verslagbevindings.

28. Inligtingstegnologie-infrastruktuur en stelsels

- (1) Die Afdelingskommissaris: Tegnologiese Bestuursdienste moet, na oorlegpleging met die gemagtigde beampte, inligtingstegnologiesestelsels implementeer en in stand hou om —
 - (a) 'n doeltreffende DNS ondersoekdiens te ondersteun;
 - (b) te verseker dat doeltreffende stelseloplossings in stand gehou word vir die aantekening van vingerafdruknommers en wangholtemonsters, tesame met die verdagte se inligting op die MAS/ICDMS- en KRIM-stelsels;
 - (c) die vergelykende soektog, nagaan van kandidaat forensiese ondersoekleirade, verbinding van forensiese DNS ondersoekleirade met ander forensiese ondersoekleirade, rapportering van forensiese DNS ondersoekleirade en administrasie van die NFDD uit te voer;
 - (d) voorsiening te maak vir voldoende stelseloplossings om die kombinasie bestuur en rapporting van verskillende forensiese ondersoekleirade (soos forensiese DNS, ballistiek en vingerafdrukke) aan die ondersoekbeamptes op die MAS/ICDMS en BI stelsels te ondersteun; en
 - (e) voorsiening te maak vir voldoende stelseloplossings om lede van die Speurdiens te voorsien van funksionaliteit om onopgeloste reeks- en meervoudige oortredersake te

bestuur en 'n profiel op te stel van persone en verdagtes wat deur forensiese ondersoekleidrade geïdentifiseer is.

- (2) Die inligtingstegnologiesistelsels van DNS ondersoek en stelsel-oplossings vir die NFDD moet voldoende veiligheidsmaatreëls hê om ongemagtigde toegang te voorkom en data integriteit te handhaaf (insluitende jaarlikse risiko-evaluering en voldoende rampherstelmaatreëls). Die Afdelingskommissaris: Tegnologiese Bestuursdienste moet jaarliks aan die Raad verslag doen oor maatreëls wat gedoen is om die integriteit van die data op die saakwerk stelsels en NFDD stelsel te verseker.
- (3) Die Afdelingskommissaris: Tegnologiese Bestuursdienste moet, in oorleg met die Besturende Direkteur van die Staatsinligtingstegnologie-Agentskap, verseker dat risiko-evaluering op die data integriteit, toegang en veiligheid, insluitende rampherstelvermoë binne 60 dae na die inwerkingtreding van die Wet, op die stelseloplossing van die NFDD, KRIM, MAS/ICDMS, DE-STRIlab, AFIS, IBIS, FSL admin, PCEM en ander forensiese stelsels gedoen word.
- (4) 'n Risiko-evaluering moet jaarliks gedoen word om die data integriteit en veiligheidsmaatreëls te verseker.
- (5) Die risiko-evalueringverslag moet bestaande industriestandaarde in ag neem, tekortkominge identifiseer en die maatreëls aanbeveel om die tekortkominge en beste praktyke aan te spreek. Die risiko-evalueringverslag en die implementeringsplan om die geïdentifiseerde tekortkominge aan te spreek en op te los, moet binne 30 dae nadat die risiko-evaluering gedoen is, aan die Minister van Polisie gestuur word.
- (6) Die Afdelingskommissaris: Tegnologiese Bestuursdienste en die Besturende Direkteur van die Staatsinligtingstegnologie-Agentskap moet kwartaaliks aan die Minister van Polisie verslag doen oor die vordering met die minimalisering van risiko's wat geïdentifiseer is.

29. Algemeen

- (1) Die Afdelingskommissaris: Menslike Hulpbronontwikkeling moet verseker dat gemagtigde persone behoorlik opgelei is in die neem van wangholtemonsters.
- (2) Die Afdelingskommissaris: Speurdiens moet, —
 - (a) binne 90 dae na die inwerkingtreding van die Wet, 'n lys van die Departement van Korrektiewe Dienste verkry van oortreders wat 'n vonnis van gevangenisstraf ten opsigte van misdrywe waarna in Bylae 8 verwys word, asook

- persone wat op parool of korrektiewe toesig vrygelaat is ten opsigte van misdrywe waarna in Bylae 8 verwys is;
- (b) 'n aksieplan saamstel vir implementering ter ondersteuning van die neem van wangholtemonsters van persone waarna in sub-regulasie (a) verwys word, en persone wat ingevolge die Strafproseswet verhoorafwagting is; en
 - (c) skakel met die gemagtigde beampte om te verseker dat forensiese DNS profiele van persone waarna in sub-regulasies (a) en (b) verwys word, in die NFDD ingesluit is.
- (3) Die Nasionale Kommissaris moet, binne 90 dae na die inwerkingtreding van die Wet, verseker dat evauleringsinstrumente gevestig word om die doeltreffendheid en tydige nakoming te meet van die —
- (a) indiening van wangholte- en misdaadtoneelmonsters vir ondersoek by die Forensiese Wetenskap Laboratorium;
 - (b) verrigting van forensiese DNS ontleding van wangholtemonsters en misdaadtoneelmonsters; en
 - (c) reaksie op en opvolging van onopgeloste forensiese ondersoekleidrade.
- (4) Die Nasionale Kommissaris moet verseker dat sake heropen en toepaslik aangedui word in die saakdossierdagboek van die MAS/ICDMS wanneer forensiese ondersoekleidrade geïdentifiseer is.
- (5) Indien 'n forensiese ondersoekleidraad gerapporteer is, mag die saak slegs met die instemming van die speurbevelvoerder op die MAS/ICDMS afgesluit word mits onopgeloste ondersoekleidrade ondersoek en opgevolg is.
- (6) Die gemagtigde beampte moet, in oorlegpleging met die Afdelingskommissaris: Tegnologiese Bestuursdienste, 'n nasionale sentrale bewaarplek vir forensiese dier-DNS profiele vestig. Toegang tot hierdie bewaarplek mag verleen word aan toetsingslaboratoriums wat forensiese DNS ontleding van diere uitvoer.
- (7) Die gemagtigde beampte mag nasionale standaarde bepaal vir toetsingslaboratoriums wat forensiese DNS ontleding op diere uitvoer en mag navorsing met akademiese instellings en ander fasiliteite bevorder om prosedures, beste praktyke en wetenskaplike metodes te ontwikkel om DNS van diere vir forensiese doeleindes van misdaadondersoek te identifiseer.
- (8) Die Direkteur-Generaal van die Departement van Justisie en Staatkundige Ontwikkeling moet maandeliks aan die gemagtigde beampte, of persoon deur hom of haar aangewys, die

besonderhede verskaf van persone wie se name in die Nasionale Register vir Seks-Oortreders (waarna in artikel 50(1) van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2008 (Wet No. 32 van 2008) verwys word) ingesluit is.

- (9) Die Nasionale Kommissaris moet, in oorlegpleging met die Departement van Openbare Werke, verseker dat voldoende forensiese fasiliteite verskaf en instand gehou word ooreenkomstig die toepaslike akkrediteerstandaarde.
- (10) Die Direkteur-Generaal van Openbare Werke moet jaarliks, na oorlegpleging met die gemagtigde beampte, die Minister van Polisie voorsien van 'n risiko-beoordeling van die laboratorium fasiliteite vir forensiese dienste, wat die volgende aangeleenthede aanspreek:
- (a) die kwaliteit en geskiktheid van die fasiliteite;
 - (b) instandhoudingsmaatreëls ter ondersteuning van die bruikbaarheid van die fasiliteite;
 - (c) die wyse waarop tekortkominge, wat in die risiko-evaluering geïdentifiseer is, aangespreek sal word;
 - (d) stappe wat gedoen is om te verseker dat die akkrediteerstatus van die kwaliteitsbestuursprogram van die forensiese dienste nie negatief beïnvloed sal word deur die toestand van die fasiliteite nie;
 - (e) die opknapping van fasiliteite om die implementering van nuwe tegnologieë en instrumentasie te ondersteun om forensiese dienste te verbeter; en
 - (f) verskaffing van voldoende stoorfasiliteite vir die veilige bewaring van bewysstukke en saaklêers en maatreëls instel om te verseker dat die bewysstukke en saaklêers wat gestoor word, nie in gevaar gestel word nie.
-

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