DNA Database System
Oversight Committee
Annual Report 2022
# Table of Contents

Section 1; Chairperson’s Foreword................................................................. 1

Section 2; Members of the Committee .......................................................... 5

Section 3: Functions of the Committee .......................................................... 6

Section 4; Governance .................................................................................... 7

Section 5; Overview of Forensic Science Ireland.............................................. 8

Section 6; Work of the Oversight Committee .................................................. 10

   6.1 Security and IT Security .......................................................................... 10
   6.2 Statistics from NFCO ............................................................................. 10
   6.3 Statistics from FSI .................................................................................. 11
   6.4 Update on the Prüm Treaty ..................................................................... 12
   6.5 Update on the construction of the new facility at Backweston .................. 12
   6.6 Data Protection and GDPR ..................................................................... 13
   6.7 Section 31 of the Act of 2014 ................................................................. 13
   6.8 Sections 41 and 42 of the Act of 2014 ..................................................... 14

Section 7: Legislative Developments in DNA in Ireland .................................... 15

   7.1 Institutional Burials Act 2022 .................................................................. 15
   7.2 Defence Forces (Evidence) Act 2022 ..................................................... 15

Section 8: Findings of the Committee ............................................................... 16

Appendix A: Section 71-74 Inclusive of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014......................................................... 19
Section 1; Chairperson’s Foreword

I am very happy to present to the Minister for Justice the Annual Report of the DNA Database System Oversight Committee (the Committee) for the year ended 31st December 2022.

1.1 Part 9 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 (the Act of 2014) comprising Sections 71-74, inclusive, provides inter alia, for the establishment of the Committee in order to perform the functions assigned to it by the Act. The functions are set out in Section 72 and include the provision that the Committee shall oversee the management and operation of the DNA Database System for the purposes of maintaining the integrity and security of the System and for that purpose to satisfy itself that the provisions of the Act in relation to the System are being complied with. Details of the functions of the Committee are to be found in Section 3 of this report.

1.2 The Committee held seven meetings over the course of 2022 which sought to address the requirements of Section 72 of the Act. A record of the dates of the meetings can be found at Section 4 of this report.

1.3 The Committee is kept informed of the operations and developments in respect of the DNA Database System by the Director of FSI, (who is also a member of the Committee), and who provides regular statistical information and analysis in advance of meetings in relation to the Database System and also regarding the operation of the Prüm Treaty. On behalf of the Committee, I should like to thank the Director and staff of FSI, particularly the management and staff of the DNA & Biological Analysis Department, for their continued assistance and support throughout the year. The work of the Committee would not be possible without their cooperation and commitment.

1.4 In the course of 2022 the number of persons’ profiles on the DNA Database increased by 15% and the number of crime stains on the DNA Database increased by 13%. In total 796 investigations were assisted by the Database in 2022.

1.5 The Committee has noted the increased demand in relation to DNA & Biological Analysis services in 2022, not only in the increased number of DNA samples submitted to FSI but also in respect of legislative developments in the area of DNA in Ireland which have extended the demand for services. The enactment of both the Institutional Burials Act 2022 and the Defence Forces (Evidence) Act 2022 will bring about further significant work for DNA & Biological Analysis services. Details of both Statutes are set out in Section 7 of this report. The Committee would like to commend the DNA & Biological Analysis Department at FSI for their dedication in meeting such increased demand for services while also noting the continuing challenges presented in recruiting suitably qualified and experienced staff members.
1.6 To an ever increasing extent the development and success of our Criminal Justice system is dependent on the effectiveness and integrity of the DNA Database System and on the ability of the appropriate staff members to be in a position to respond in a timely and professional manner to the requirements of Criminal Justice investigations.

1.7 The Committee is of the view that the operation of the DNA Database System continues to be successful due in large part to the hard work and professionalism of the Director and staff of Forensic Science Ireland (FSI) and the staff of the National Forensic Coordination Office (NFCO)(a section of the Garda National Technical Bureau).

1.8 The Committee was pleased to note that in September 2022 the integration of the FSI network domain into the Department of Justice domain was completed, thereby providing enhanced security for the DNA Database System together with increased support for the IT infrastructures. Nonetheless the robustness and security of FSI’s Information Technology hardware and systems, which are central to the successful and safe functioning of the DNA Database System remain under active review.

1.9 In September 2022, the Committee undertook a tour of the FSI facilities at Garda Headquarters. The Committee had not been able to visit FSI facilities since 2020 due to the Covid-19 restrictions.

1.10 The Committee is pleased to note the progress in relation to the construction of FSI’s new laboratory facilities at Backweston, Celbridge Co. Kildare. This project is being overseen by the Office of Public Works (OPW) and construction is now due to be completed in Summer 2023. FSI operations, including DNA & Biological Analysis services, will move to Backweston on a phased basis over a number of months. The Committee believes that the transfer of FSI operations, including DNA & Biological Analysis services, to the new facility at Backweston will have positive implications for the DNA Database System.

1.11 On behalf of the Committee, I should like to thank the Detective Superintendent and the staff of NFCO for their continued assistance and support to the Committee over the course of the year. NFCO provided regular statistical update reports to the Committee, in advance of each Committee meeting, which contributed to the work of the Committee in a very constructive way. In October 2022, the Committee met with representatives from the NFCO to discuss, clarify and exchange views on matters of mutual interest and concern. The Committee will continue to engage with NFCO throughout 2023.

1.12 In September 2022, the Committee met with the Director General of the Irish Prison Service (IPS) to discuss in particular the application of Section 31 of the Act of 2014, which provides for the taking of DNA samples from certain convicted offenders, serving prison sentences and detained under relevant provisions of the Act. The taking of such samples ceased in early 2020, this decision having been taken in the context of the outbreak of the Covid-19 pandemic, so that there is now a significant backlog of such prisoners from whom
samples have not been taken. The Committee has expressed its serious concerns in relation to this matter to the Director General of IPS and has noted the ongoing implications for the operation and integrity of the DNA Database System if this issue is not addressed. As at 31st December 2022, the Committee was not satisfied that the matter had been addressed satisfactorily and will continue to keep the matter under active review in 2023.

1.13 Issues which continue to be kept under active review by the Committee, as at 31st December 2022, relate to;

- The robustness and security of FSI's Information Technology Hardware and Systems, which are central to the successful and safe functioning of the DNA Database System and its essential role in the overall Criminal Justice system.
- Appropriate staffing levels within FSI and NFCO required to meet the ever increasing demand for services.
- Ongoing levels of non-submission of samples within specific Garda regional divisions.
- The current operation of Section 31 of the Act of 2014 which relates to the taking of samples from certain Convicted Offenders who are serving prison sentences.
- The current operation of Sections 41 and 42 of the Act of 2014 which relate to the taking of samples from AGS personnel for Elimination (Garda Síochána and Crime Scene Investigation) Indices.

These issues are more fully addressed within the body of this report.

1.14 Ms. Sunniva McDonagh S.C. was appointed a member of the Committee in May 2022 (in place of Ms. Deirdre Duffy B.L., who had resigned from the Committee in February 2021.) Ms. McDonagh has particular expertise in the field of human rights law.

1.15 Mr. John O’Dwyer, former Deputy Data Protection Commissioner, retired from the Committee in September 2022. I should like to acknowledge the important and much valued contribution of Mr. O’Dwyer to the work of the Committee throughout his time as a member.

As at 31st December 2022 no replacement representative from the Office of the Data Protection Commissioner has been appointed to the Committee.

1.16 I should like to thank my fellow Committee members and Ms. Maeve O’Flynn, our secretariat, for their continuing hard work and commitment in relation to the oversight and maintenance of the integrity and security of the DNA Database System.
1.17 The Committee is satisfied with the operation of the DNA Database System and its benefits to the investigation of crime and looks forward to continuing its work in relation to the overseeing of the management and operation of the DNA Database System.

Judge Catherine A Murphy
Section 2; Members of the Committee

Her Honour Judge Catherine Murphy, Chairperson

Mr. Chris Enright, Director General, FSI

Ms. Sunniva McDonagh, S.C. (Appointed to the Committee 27th May 2022)(In place of Ms. Deirdre Duffy B.L., who had resigned from the Committee 26th February 2021)

Mr. John O’Dwyer, Deputy Data Protection Commissioner (Resigned from the Committee 16th September 2022)

Mr. Thomas Anthony Quilter, Former Assistant Garda Commissioner and Former Head of Garda Technical Bureau

Dr. Maureen Smyth, Former Director of DNA in FSI
Section 3: Functions of the Committee

Section 71 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 provides for the establishment of the DNA Database System Oversight Committee (in the Act referred to as “the Committee”) to perform a range of functions assigned to such Committee by the Act.

Section 72(1) of the Act provides that the Committee shall oversee the management and operation of the DNA Database System for the purposes of maintaining the integrity and security of the System and shall for those purposes, satisfy itself that the provisions of the Act of 2014, in relation to the System are being complied with.

Section 72(2) subsection (a)-(g) inclusive provide that, without prejudice to the generality of subsection (1), the Committee shall oversee-

a) the arrangements employed by the Director of FSI in relation to the receipt, handling, transmission and storage of samples taken under this Act for the purpose of generating DNA profiles for entry in the DNA Database System,
b) the procedures employed by the Director of FSI in relation to the generation of DNA profiles from the samples taken under this Act, and the quality control and quality assurance of those procedures, to ensure that they comply with international best practice,
c) the measures employed by the Director of FSI to ensure that the DNA Database System is not improperly accessed by any person, that the DNA profiles and information entered in the System are used only for the purposes permitted by this Act and that they are not improperly disclosed to any person,
d) the means by which the results of searches of the DNA Database System are reported by the Director of FSI to the Garda Síochána, the Ombudsman Commission or a coroner, as may be appropriate,
e) the practices and procedures employed by the Director of FSI to ensure that samples taken under this Act for the purpose of generating DNA profiles for entry in the DNA Database System are destroyed, and the DNA profiles generated from those samples are removed from that System, in accordance with Part 10 of the Act.
f) the practices and procedures employed by the Director of FSI in the operation of Chapters 2 and 7 of Part 12 of the Act, and
The practices and procedures employed by the Director of FSI in the operation of section 4 of the Act.

**Section 4: Governance**

The DNA Database System Oversight Committee is independent in the performance of its functions and in accordance with Schedule 1 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 (The Act of 2014) and the provisions of the Act, the Committee regulates its own procedures. The Committee acts at all times in accordance with the best interests of and for the integrity of the DNA Database System.

The terms of membership of the Committee are set out within Schedule 1 of the Act of 2014. The Minister for Justice is responsible for the selection process of members to the Committee and thus appointments to the Committee are in line with Department of Justice practices, having regard to promotion of gender balance, diversity and inclusion.

In accordance with Schedule 1 of the Act of 2014, the Committee holds as many meetings as are necessary for the performance of its functions and makes such arrangements as are appropriate for the conduct of its meetings. The Committee held seven meetings in 2022. The first two meetings of the year, which took place in February, were held via Zoom due to COVID-19 restrictions. A record of the dates of the meetings and a record of the Committee’s attendance at the meetings can be found in the below table:

<table>
<thead>
<tr>
<th>Date</th>
<th>08/02/2022</th>
<th>23/02/2022</th>
<th>25/04/2022</th>
<th>28/06/2022</th>
<th>16/09/2022</th>
<th>25/10/2022</th>
<th>13/12/2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>CM</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>CE</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>SM</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>JOD</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>TQ</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>MS</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

*Table 2* Each Committee member is represented by their initials. Y indicates attendance at the meeting. N indicates absence from the meeting. N/A indicates Not Applicable i.e where the Committee member was no longer serving or had yet to begin serving on the Committee and therefore was not eligible to attend the meeting.

The Committee met with members of the Irish Prison Service (IPS) during the September meeting.
The Committee met with members of the National Forensic Coordination Office (NFCO) during the October meeting.

**Section 5; Overview of Forensic Science Ireland**

Forensic Science Ireland (FSI) is an associated office of the Department of Justice. FSI works to deliver, to best international standards, comprehensive scientific analysis and independent expert opinion, advice and training to support the Irish Criminal Justice system. Originally known as the Forensic Science Laboratory, FSI was established in 1975 to provide a scientific service to the Criminal Justice System by analysing samples submitted from crime scenes and providing expert evidence in criminal trials. In June 2014, the scope of FSI was extended under the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014. Under the Act of 2014, FSI is named as the custodian of the DNA Database and was renamed from Forensic Science Laboratory to Forensic Science Ireland to recognise this broader remit.

In December 2019, the responsibility for the Fingerprints and Documents and Handwriting services transferred from the Garda National Technical Bureau to FSI. This consolidates most laboratory-based forensic work under FSI. FSI currently has 210 staff, including seconded Garda members, scientists and analysts trained in forensic testing and reporting techniques, supported by administration professionals.

Applying DNA technology, FSI contributes to the investigation of a range of crime types including crimes of violence and sexual assault. This technology, along with other forms of trace evidence e.g. paint, glass, textile fibres, is also utilised in cases such as burglaries, robberies, firearms and supply of illegal drugs. There were 23,279 case submissions into FSI in 2022 – an increase of 40% compared to 2018. This does not include biometric reference samples such as DNA FTA samples and Fingerprint PC65 samples.

FSI issued in excess of 23,500 forensic reports in 2022 – an increase of 83% compared to 2018. This increase is due to the dramatic growth in DNA & Biological Analysis services provided over the period (increased by 33%), growth in the number of drugs reports issued (increased by 55%) and the integration of Fingerprint and Documents & Handwriting investigations into FSI.
FSI is currently based in Garda Headquarters in the Phoenix Park. Overseen by OPW, the construction of a new purpose-built forensic facility at The Backweston Laboratory Campus in County Kildare commenced in March 2020 and is currently nearing completion. Following substantial completion of the building, which is now expected in June 2023, FSI will complete the fit-out, deep-clean and commence the commissioning and validation of instrumentation. FSI is planning to have the new location accredited and issue the first accredited forensic reports by the end of 2023. The transition to the new building will occur on a phased basis so that FSI maintains service delivery from current locations, while accreditation is being attained for all forensic services at the new location.

The Prüm Treaty was established in 2005 to step up cross-border cooperation between EU Member States, particularly in combatting terrorism, cross-border crime and illegal migration. Under Prüm, Member States have an obligation to grant one another automated access rights to suspect and crime stain DNA profiles within their national DNA Databases. The Prüm Treaty also applies to the exchange of fingerprint and vehicle registration data. Details for Prüm sharing are outlined in EU Treaty Council Decision 2008/615/JHA of the 23rd June 2008 and Council Decision 2008/616/JHA of the 23rd June 2008. Each nation involved in sharing of DNA information has a single, centralised National Contact Point (NCP), which in Ireland is FSI. In October 2019, the Prüm data exchange went live with Austria. By the end of 2021 live data exchange was expanded to 10 further countries (Latvia, Netherlands, United Kingdom, Slovakia, Poland, Sweden, Estonia, Malta, Germany and France). FSI did not commence exchanges with any additional countries in 2022, but further expansion is planned during 2023.

FSI is a founding member of the European Network of Forensic Science Institutes (ENFSI), as well as the Association of Forensic Service Providers (AFSP). These organisations are focused on developing and sharing best international forensic practices and research within its members. Staff of FSI are active on all the relevant ENFSI and AFSP working groups. This international engagement is important in ensuring that expert evidence presented is grounded in the most recent scientific research and best international practice.
FSI is accredited according to ISO 17025: 2017 and holds a Gold ‘Excellence Through People’ certification.

Section 6; Work of the Oversight Committee

The Committee held seven meetings over the course of 2022.

At each meeting standard items on the agenda included the following:

1. Security and IT Security
2. Statistics from NFCO
3. Statistics from FSI
4. Update on Prüm
5. Updates on the construction of the new facility at Backweston
6. Data Protection and GDPR
7. Compliance with Section 31 of the Act of 2014
8. Compliance with Sections 41 and 42 of the Act of 2014

6.1 Security and IT Security

The issues of security in general and in particular relating to FSI’s Information Technology infrastructure and systems remained a priority item for the Committee throughout 2022. The Committee was pleased to note the completion of the integration of the FSI network domain into the Department of Justice network in September 2022. This allows for enhanced security and ongoing maintenance and support of the IT infrastructure supporting the DNA Database System. This also allowed for the upgrade of the Combined DNA Index System (CODIS) to be completed in 2022.

The Committee was also pleased to note that an independent penetration test of FSI’s security system took place in 2022.

As security of the DNA Database System is of the utmost priority, this matter will remain as a key focus for the Committee in 2023.

6.2 Statistics from NFCO

Throughout 2022, NFCO continued to provide the Committee in advance of each meeting with statistical updates, reports and analyses in relation to DNA samples and records (with particular reference to non-submitted samples) which have been of significant value to the work of the Committee. The Committee were pleased to note that significant progress has been made in addressing the issues of non-submission of DNA samples to FSI, highlighted in previous reports of this Committee. However, there are a small number of Divisions where the non-submission of samples remain to be above that of the national average. This matter will remain under review by the Committee in 2023.
Members of the NFCO attended the October meeting of the Committee and had a positive and constructive meeting. The Committee is satisfied, as a result of its meeting with members of NFCO in October that the current staffing levels at NFCO are appropriate and are being kept under review.

The Committee would like to commend NFCO for their work in this area and to thank NFCO in particular for their valuable update reports and support.

**6.3 Statistics from FSI**

Throughout 2022, at each meeting, detailed statistical information was provided to the Committee by the Director and staff of FSI with regard to the operation of the DNA Database, including the number of samples taken, the Sections of the Act of 2014 under which the samples are taken, the number of samples and DNA profiles which were destroyed/removed, together with a breakdown of the number and category of cases to which the assistance of DNA matches contributed. Such reports require careful and detailed analysis of the part of the staff of FSI and to them, the Committee extends its thanks and appreciation.

As at 31st December 2022 there were 67,301 DNA profiles on the National DNA Database, (the total at the end of 2021 was: 58,703). As at 31st December 2022 there were 50,072 DNA profiles on the Reference Index (The total at the end of 2021 was 43,471). In total 796 investigations were assisted by the Database in 2022.
6.4 Update on the Prüm Treaty

The background to the Prüm Treaty has been set out in Section 3 of this report. Statistics in relation to Prüm Treaty, relating to the match hits and work undertaken to exchange information with additional countries under the Prüm Treaty were also shared with the Committee throughout the year in advance of each meeting. As at 31st December 2022 FSI was sharing DNA Data with 11 countries under the Prüm data exchange agreement.

<table>
<thead>
<tr>
<th></th>
<th>Irish Crime Stain to Prüm person</th>
<th>Prüm Crime Stain to Person on Irish database</th>
<th>Prüm Crime Stain to Ireland Crime Stain</th>
<th>Date Information Exchange Began</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>22</td>
<td>21</td>
<td>3</td>
<td>02/10/2019</td>
</tr>
<tr>
<td>Latvia</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>19/08/2020</td>
</tr>
<tr>
<td>Netherlands</td>
<td>16</td>
<td>14</td>
<td>6</td>
<td>07/02/2020</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>522</td>
<td>286</td>
<td>39</td>
<td>19/03/2020</td>
</tr>
<tr>
<td>Slovakia</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>11/11/2020</td>
</tr>
<tr>
<td>Poland</td>
<td>5</td>
<td>7</td>
<td>1</td>
<td>27/11/2020</td>
</tr>
<tr>
<td>Sweden</td>
<td>2</td>
<td>14</td>
<td>1</td>
<td>30/11/2020</td>
</tr>
<tr>
<td>Estonia</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>04/12/2020</td>
</tr>
<tr>
<td>Malta</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>17/03/2021</td>
</tr>
<tr>
<td>Germany</td>
<td>17</td>
<td>93</td>
<td>11</td>
<td>30/04/2021</td>
</tr>
<tr>
<td>France</td>
<td>25</td>
<td>83</td>
<td>8</td>
<td>06/08/2021</td>
</tr>
<tr>
<td>Total</td>
<td>616</td>
<td>522</td>
<td>69</td>
<td></td>
</tr>
</tbody>
</table>

The results from the sharing of DNA Data have been mutually positive for all participants. In particular the sharing of Data with the United Kingdom has yielded significant results.

The United Kingdom has negotiated ongoing access to the existing Prüm Decisions as part of the EU UK Trade and Cooperation Agreement (TCA). Ireland did opt-in to the Council Decision and this Decision was adopted on 17 June 2022 by the Council of the EU.

As at 31st December 2022, FSI was exchanging information with 11 countries under Prüm. Connection with additional countries were not possible until the upgrade of the CODIS system was complete, which itself was not possible until the collapse of the FSI domain into the Department of Justice domain was completed. As at 31st December discussions regarding establishing information exchanges had commenced with Portugal, Croatia, Finland, Spain & Lithuania.

6.5 Update on the construction of the new facility at Backweston

As at 31st December 2021, (being the date of the last annual report), the construction of FSI’s new building at the Backweston, Laboratory Campus was due to have been completed
in mid-2022. It is now expected that substantial completion will take place in Summer 2023. The Committee is informed that forensic services will transition to the new building on a phased basis, with accreditation of first services expected in 2023. It is expected that DNA & Biological Analysis services will transfer to Backweston in the latter half of 2023.

The Committee considers the progress in relation to the completion of the facility to be a major achievement, due, to a significant extent, to the commitment and drive of the Director and staff of FSI and the OPW.

The Committee members undertook a tour of the DNA facilities at FSI’s current Headquarters at Garda Headquarters in September 2022. The Committee witnessed the processes in relation to the intake of DNA samples by FSI, the digital and physical management of DNA samples and DNA profiles as well as the processes in respect of the deletion of profiles. The Committee were satisfied with the processes that FSI have in place to control and manage the intake of DNA samples and input of DNA profiles on the DNA Database System. This was the first tour that the Committee was able to conduct since the pandemic restrictions commenced in 2020.

6.6 Data Protection and GDPR
At each meeting Data Protection and GDPR implications were discussed and no significant concerns were noted.

Mr. John O’Dwyer, the representative from the Data Protection Commission retired from the office of the Data Protection Commission in September 2022 and as a consequence ceased to be a member of the Committee from that date. As at 31st of December 2022, no replacement representative from the office of the Data Protection Commissioner has been assigned to the Committee.

6.7 Section 31 of the Act of 2014
In September 2022, the Committee met with the Director General of the Irish Prison Service (IPS) to discuss in particular the application of Section 31 of the Act of 2014 which provides for the taking of DNA samples from the convicted offenders who are serving prison sentences and to whom the provisions of Part 4 of the Act of 2014 applies.

The taking of such samples ceased in early 2020, this decision having been taken in the context of the outbreak of the Covid-19 pandemic so that there is now a significant backlog of such prisoners from whom samples should but have not been taken.

The Committee reiterated its concerns (already expressed in correspondence) in relation to this matter to the Director General when they met with her in September and drew her attention to the ongoing implications for the successful operation and functioning of the DNA Database and for the integrity of the System.
As at 31st December 2022, the Committee is not satisfied that this matter has been addressed satisfactorily and will continue to keep it under active review in 2023.

6.8 Sections 41 and 42 of the Act of 2014

It was noted in the Committee’s annual report of 2021, that there had been significant disruption in the taking of samples from Garda recruits/newly appointed members of AGS as a result of the COVID-19 pandemic. The Committee were unable to meet with the Commissioner to discuss this matter in detail in 2022. This matter will be kept under review in 2023.

It was noted that a Protocol with regards to the taking of DNA samples under Sections 41 and 42 is in final stages of completion in relation to this issue as at 31st December 2021. The matter will remain under review.
Section 7: Legislative Developments in DNA in Ireland

7.1 Institutional Burials Act 2022
The Committee noted that the Institutional Burials Act was signed into law on the 13th of July 2022. The purpose of the Act is inter alia to establish an Agency to engage in cases where precise burial places cannot be identified but where inappropriate burials are likely to have taken place in an institutional setting and to provide for the establishment of a specific DNA Database to be known as the DNA (Historic Remains) Database.

Section 66 of the Act provides that the Minister for Children, Equality, Disability, Integration and Youth, with the prior consent of the Minister for Justice, and after the Minister for Justice has consulted with the DNA Database System Oversight Committee, may direct the Committee in writing to oversee the management and operation of the DNA (Historic Remains) Database for the purposes of maintaining the integrity and security of the DNA (Historic Remains) Database. Section 66 makes it clear that where the Oversight Committee acts, pursuant to such a direction by the Minister for the Department of Children, Equality, Disability, Integration and Youth, to oversee the management and operation of such Databases, it shall meet and be known as the Historic Remains Databases Oversight Committee. The duties of the Historic Remains Databases Oversight Committee shall be carried out entirely separately and distinctly from and independently of the duties of the criminal justice DNA Database System Oversight Committee, this Committee.

In other respects, the functions and obligations of the Historic Remains Database Oversight Committee mirror those of this Committee.

As at 31st December 2022 steps are being taken to recruit a Director for the Agency in order to proceed to commence the implementation of the provisions of the Act of 2022.

7.2 Defence Forces (Evidence) Act 2022
The Committee noted the enactment of the Defence Forces (Evidence) Act 2022. The purpose of this Act is to provide for the taking of DNA samples from persons suspected of certain offences under military law for the purpose of generating DNA profiles in respect of those persons to be entered in the DNA (Military Police) Database System. Although, this Act is not associated with the Criminal Justice DNA Databases, the Committee notes that this Act is a significant development in the area of DNA legislation in Ireland.
Section 8: Findings of the Committee

1. It is the view of each member of the Committee that the importance of the DNA Database System cannot be overstated, that it is an essential part of the Criminal Justice System and that the maintenance of its integrity and efficiency must be upheld to the highest standards. The Committee is cognisant of its responsibilities under the Act of 2014 and is committed to carrying out its statutory obligations to the best of its ability.

2. The emphasis placed on the use of DNA in Criminal Justice cases is ever increasing. FSI issued in excess of 23,500 forensic reports in 2022 – an increase of 83% compared to 2018. This increase is due to the dramatic growth in DNA & Biological Analysis services provided over the period (increased by 33%) The value of the DNA Database System in fighting crime is evident. In total 796 investigations were assisted by the Database in 2022. Legislative developments both within the criminal justice sphere and outside testify that the importance and value of DNA is being recognised by State. The Committee notes, however, that increased demand for services may result in a strain on staff resources available and this matter should be carefully managed. This is a matter which the Committee shall keep under review in 2023.

3. The Committee is satisfied with the management and operation of the DNA Database System with regard to Section 72(2)(a), namely the arrangements employed by the Director of FSI in relation to the receipt, handling, transmission and storage of samples taken under the Act of 2014 for the generating of DNA profiles for entry into the DNA Database System and to Section 72(2)(b), the quality control and quality assurance of the procedures.

4. The Committee is satisfied with regard to Section 72(2)(c), namely the measures employed by the Director of FSI to ensure that the DNA Database System is not improperly accessed by any person, that the DNA profiles and information entered in the System are used only for the purposes permitted by the Act of 2014 and that they are not improperly disclosed to any person. The Committee continues to emphasise the importance of the security system as an integral part of the FSI IT programme and the concerns expressed in relation to this matter have been set out in Sections 1 and 6 of this Report.
5. The Committee is satisfied with regard to Section 72(2)(d), namely the means by which the results of the DNA Database System are reported by the Director of FSI to AGS, the Ombudsman Commissioner or a Coroner, as may be appropriate.

6. The Committee is satisfied with regard to Section 72(2)(e) namely the practices and procedures employed by the Director of FSI to ensure that samples taken under the Act of 2014 for the purposes of generating DNA profiles for entry in the DNA Database System are destroyed and that the DNA profiles generated from those samples are removed from that System in accordance with Part 10 of the Act of 2014. Statistics in relation to this matter were furnished regularly to the Committee in advance of meetings, during 2022.

7. The Committee is satisfied with regard to Section 72(2)(f) and (g), namely, the responsibilities around automated searching for and automated comparison of DNA profiles. A summary of the automated matches arising in 2022 from exchanges with the 11 countries who are parties under the Prüm data exchange agreement is set out at paragraph 6.4 of this report.

8. Regarding the issue of non-submitted samples, highlighted in the Annual Report of 2019 and referenced also in the Annual Reports of 2020 and 2021 while the Committee is satisfied that relevant recommendations which have been implemented have brought about very positive improvements in relation to this issue, it continues to have concerns that in a relatively small number of specific Garda Regional Divisions, the numbers of non-submitted samples continue to be noticeably higher than the national average. The concerns have been brought to the attention of the Garda Commissioner and the matter will remain under active review in 2023.

9. Regarding Section 31 of the Act of 2014, the taking of DNA samples from convicted offenders who are serving prison sentences and to whom the provisions of Part 4 of the Act of 2014 applies, the Committee engaged with IPS regarding this issue in 2022. The Committee wrote to IPS in April, July, September and October regarding the issue. The Committee noted that the Covid-19 pandemic had caused significant disruption in the taking of samples from prisoners and that sampling of prisoners had ceased in March 2020, a decision which was taken in the context of the Covid-19 pandemic. The Committee noted that a review of practices and protocols concerning the resumption of DNA sampling was undertaken by IPS in 2022. Training of Prison Officers to take such DNA samples took place in 2022. The Committee was informed that DNA sampling of prisoners would have recommenced by 31st December 2022.
The Committee has expressed its concerns in relation to this matter to the Director General of IPS and the matter will be kept under active review in 2023.

10. Regarding Sections 41 and 42 of the Act of 2014 (the taking of samples from AGS personnel for the Elimination Index, both AGS and Crime Scene Investigators), it was noted that a draft Protocol in relation to the taking of DNA samples under Sections 41 and 42 was understood to be in final stages of completion in respect of this issue as at 31st December 2021. The matter will remain under review. The Committee was unable to meet with the Garda Commissioner to discuss this issue in 2022. However, this issue will remain under review in 2023.

11. The Committee is pleased to note that substantial completion of the Laboratory on the Backweston Campus is expected in 2023. The Committee is informed that forensic services will transition to the new building on a phased basis, with accreditation of first services expected in 2023.

12. As a result of its meeting with members of NFCO in October 2022 the Committee is satisfied that the current staffing levels at NFCO are appropriate as at that time and will be kept under review.
Appendix A: Section 71-74 Inclusive of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

DNA Database System Oversight Committee

71. (1) Upon the commencement of this section, a committee which shall be known as An Coiste Formhaoirsithe um an gCóras Bunachair Sonraí DNA or, in the English language, as the DNA Database System Oversight Committee (in this Act referred to as “the Committee”) shall stand established to perform the functions assigned to it by this Act.

(2) Subject to this Part, the Committee shall be independent in the performance of its functions.

(3) Schedule 1 shall have effect in relation to the Committee.

Functions of Committee

72. (1) The Committee shall oversee the management and operation of the DNA Database System for the purposes of maintaining the integrity and security of the System and shall, for those purposes, satisfy itself that the provisions of this Act in relation to the System are being complied with.

(2) Without prejudice to the generality of subsection (1), the Committee shall oversee—

(a) the arrangements employed by the Director of FSI in relation to the receipt, handling, transmission and storage of samples taken under this Act for the purpose of generating DNA profiles for entry in the DNA Database System,

(b) the procedures employed by the Director of FSI in relation to the generation of DNA profiles from the samples taken under this Act, and the quality control and quality assurance of those procedures, to ensure that they comply with international best practice,

(c) the measures employed by the Director of FSI to ensure that the DNA Database System is not improperly accessed by any person, that the DNA profiles and information entered in the System are used only for the purposes permitted by this Act and that they are not improperly disclosed to any person,

(d) the means by which the results of searches of the DNA Database System are reported by the Director of FSI to the Garda Síochána, the Ombudsman Commission or a coroner, as may be appropriate,

(e) the practices and procedures employed by the Director of FSI to ensure that samples taken under this Act for the purpose of generating DNA profiles for entry in the DNA
Database System are destroyed, and the DNA profiles generated from those samples are removed from that System, in accordance with Part 10,

(f) the practices and procedures employed by the Director of FSI in the operation of Chapters 2 and 7 of Part 12, and

(g) the practices and procedures employed by the Director of FSI in the operation of section 4.

(3) The Committee shall, in the performance of its functions under subsections (1) and (2), make such recommendations as it considers appropriate in relation to the management and operation of the DNA Database System to the Minister and the Director of FSI, as may be appropriate.

(4) The Committee may, and if so requested by the Minister shall, review any matter relating to the management and operation of the DNA Database System and shall submit a report in writing of any such review to the Minister.

(5) Subject to subsections (6) and (7), the Minister shall, as soon as practicable after receiving a report under subsection (4), cause a copy of it to be laid before each House of the Oireachtas and to be published in such manner as the Minister considers appropriate.

(6) The Minister may, when laying a copy of a report received by him or her under subsection (4) before each House of the Oireachtas or publishing the report, omit any matter from the copy of the report that is so laid or published if he or she is of opinion that the disclosure of the matter—

(a) would be prejudicial to the security of the DNA Database System, the security of the State or the investigation of criminal offences, or

(b) may infringe the constitutional rights of any person.

(7) If a matter is omitted in accordance with subsection (6) from a report received by the Minister under subsection (4), a statement to that effect shall be attached to the copy of the report when it is laid before each House of the Oireachtas or is published.

**Cooperation with Committee**

73. (1) The Director and the other members of the staff of FSI shall cooperate with the Committee in relation to the performance by the Committee of its functions under this Act.

(2) The Director and the other members of the staff of FSI shall, for the purposes of subsection (1) furnish the Committee with such information as it may request and which, in the opinion of the Committee, is required for the performance of its functions.
(3) The Committee may, whenever it considers it appropriate to do so, request the Garda Síochána and the Ombudsman Commission to furnish information to it that is required for the performance of its functions under this Act.

(4) The Garda Síochána and the Ombudsman Commission shall comply with a request under subsection (3).

(5) Nothing in any other enactment shall prohibit the disclosure of relevant factual information either to or by the Committee.

**Annual report of Committee**

74. (1) The Committee shall as soon as may be, but not later than 6 months, after the end of each year make a report in writing to the Minister regarding the performance by the Committee of the functions assigned to it by this Act during that year.

(2) A report under subsection (1) shall include information in such form and regarding such matters as the Minister may direct.

(3) Subject to subsection (4), the Minister shall, as soon as practicable after receiving a report under this section, cause a copy of it to be laid before each House of the Oireachtas and to be published in such manner as the Minister considers appropriate.

(4) Subsections (6) and (7) of section 72 shall, with any necessary modifications, apply to a report received by the Minister under this section as they apply to a report received by him or her under subsection (4) of that section.

(5) Notwithstanding subsection (1), if, but for this subsection, the first report under this section would relate to a period of less than 6 months, the report shall relate to that period and to the year immediately following that period and shall be made as soon as may be, but not later than 6 months, after the end of that year.