



GOVERNOR'S COORDINATING OFFICES

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FROM: Governor's Office of Crime Prevention, Youth, and Victim Services

June 1, 2022

The Honorable Larry Hogan
Governor of Maryland
100 State Circle
Annapolis, MD 21401

The Honorable William C. "Bill" Ferguson IV
President of the Senate
State House, H-107
Annapolis, MD 21401-1991

The Honorable Adrienne Jones
Speaker of the House of Delegates
State House, H-101
Annapolis, MD 21401

RE: Report required by Criminal Procedure Article § 17-105 (MSAR #13018)

Dear Governor Hogan, President Ferguson, and Speaker Jones:

In accordance with § 17-105 of the Criminal Procedure Article, which requires the Governor's Office of Crime Prevention, Youth, and Victim Services (Office) to prepare and submit an annual report to the Governor and the General Assembly by June 1 of each year, please accept this letter as fulfillment of the requirement report.¹

Chapters 681 and 682 of 2021 establishes requirements and procedures for forensic genetic genealogical DNA analysis and related searches of publicly accessible databases using genetic profiles; and includes provisions regarding regulation and oversight of testing connected to this analysis and direct-to-consumer genetic genealogy services. It also requires the Office to prepare and submit an annual report regarding requests for forensic genetic genealogical analysis and engage with a panel of stakeholders tasked to review the report each year and make policy recommendations. Specifically, and in accordance with § 17-105 of the Criminal Procedure Article, the Office must submit a publicly available report on requests for forensic genetic genealogical DNA analysis and search (FGGS), for the preceding calendar year, to the Governor and the General Assembly by June 1 of each year, as it relates to the following: (1) the number of

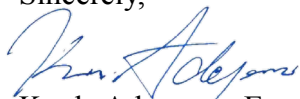
¹ Maryland General Assembly. (2021). *Chapters 681 and 682 (House Bill 240/Senate Bill 187), Criminal Procedure - Forensic Genetic Genealogical DNA Analysis, Searching, Regulation, and Oversight.*

requests for FGGS made, broken down by number of requests made by prosecutors, pre-trial defendants, and post-conviction defendants; (2) the number of times FGGS was granted and the basis of each grant or denial; (3) the number of putative perpetrators identified through FGGS; (4) the number of covert collections of reference samples from putative perpetrators, a description of the methods used during the covert collection, the time period needed to perform the covert collection, any complaints from individuals subject to surveillance during the covert collections, and any complaints or suggestions from judges supervising the covert collections; (5) an evaluation of the “pursued reasonable investigative leads” requirement in accordance with § 17-102(b)(4) of this title, including scientific, public, and non forensic; (6) the costs of the FGGS procedures; (7) the race and age of those identified as putative perpetrators; (8) the number of times a third party reference sample was requested and collected, and the race and age of the third parties; (9) the number of requests made by defendants and post conviction lawyers; and (10) the outcome of each authorized search, including whether the search resulted in an arrest or a conviction for the target offense.

In response to the enactment of Chapters 681 and 682 of 2021, the Office met with a panel of stakeholders on August 26, 2021, to include law enforcement, state’s attorneys, crime laboratory personnel, advocates, and sponsors of the bill, to develop a formal data collection process for law enforcement agencies to electronically submit information on requests for forensic genetic genealogical analysis. Through this partnered effort, the group created a *Data Definitions and Reporting Guide* to identify the reporting requirements, a definition for each required data element, and instruction on the submission of the required information. For more information, please visit: <http://goccp.maryland.gov/crime-statistics/law-enforcement-reports/fggs/>. The group also discussed the need to develop a standard affidavit form for law enforcement agencies to use, and to provide training for the judiciary to inform procedures. Since this time, an affidavit has been created and shared with law enforcement agencies. In addition, Maryland District Court Judge Norman Stone, chair of the Forms Subcommittee of the Court Operations Committee, confirmed that the affidavit satisfied the FGGS statute. Although the affidavit has been approved, it cannot be considered as an official district court document because each law enforcement agency is free to develop their own affidavit form. In addition, a training for the judiciary was scheduled for January 2022; however, a conflict occurred which required it to be rescheduled.

Furthermore, the Office is working with law enforcement agencies to gather specific information regarding requests for forensic genetic genealogical analysis, as required by § 17-105 of the Criminal Procedure Article. Based on the current efforts and partnerships in place, our Office anticipates that next year’s report, which will be submitted on June 1, 2023, will provide more insight as it relates to requests for forensic genetic genealogical analysis. Should you have any questions relating to the information provided, please feel free to contact me at 410-697-9338.

Sincerely,


Kunle Adeyemo, Esq.
Executive Director

cc: Sarah Albert, Department of Legislative Services (5 copies)