

**DNA EVIDENCE SCREENING IN THE SOUTH AFRICAN CONTEXT:
AN EXPERT WITNESS PERSPECTIVE**

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The Dutch Roman Legal system in South Africa offers unique challenges when DNA technology is presented in court. It implies that a single presiding court officer determines the evidentiary value of the DNA data that is presented. It should in fact be irrelevant whether the DNA evidence is presented by the prosecution or by the defence, as the scientific content remains the same and the role of the DNA expert is merely to assist the court.

Due to the high incidence of serious and violent crime in South Africa, the value of high throughput screening technologies in our forensic environment is evident. However, this holds yet another level of complexity in that our current legal system often chooses not to prosecute cases where the screening results (with no significant individualisation potential) were negative. Even more alarming is the fact that the absence of STR results on evidence is often used as a reason not to prosecute. This, of course, holds the risk in South Africa that the value of DNA evidence can be overestimated (by prosecution), and negative DNA evidence remains underutilised (by defence). Often the South African legal system / officers perceives DNA evidence to be above that of other evidence in a case.

The new screening technology, employed by the SAPS FSL to address the high DNA case load, holds great potential from a scientific perspective. However, the value of this technology may be lost if the presiding court officer is not familiar with the nuances of DNA technology, and or the conditions/assumptions under which the results were generated. The above crystallises the next challenge in forensic DNA analysis in South Africa, which is one of training and education.

In South Africa we do not have a system of Frye hearings, and the onus of proving guilt lies with the prosecution. The presentation of DNA evidence in our current legal system is not efficient in terms of time or cost, for either the prosecution or the defence. Given the realities of limited infra-structure and limited resources in our country, this efficiency should be addressed by a national commission, representing all stakeholders, in order to maximise the potential of new technologies, and ultimately serve the purpose of justice in our country.

