

DEPARTMENT OF JUSTICE

The Missing Persons DNA Program Cannot Process All the Requests It Has Received Before the Fee That Is Funding It Expires, and It Also Needs to Improve Some Management Controls

Audit Highlights . . .

Our review of the Department of Justice's Missing Persons DNA Program (missing persons program) revealed the following:

- Created in January 2001, the missing persons program reached full operation in July 2004, which appears reasonable considering the issues it faced in establishing operations.*
- As of February 2005, the missing persons program had received 799 requests and completed DNA analysis for 261 of them, but is unlikely to complete testing for all requests before the fee supporting it expires.*
- It may be too soon to decide whether the existing fee supporting the missing persons program should be made permanent.*
- Several elements of the missing persons program are sound, but its management information and timekeeping databases, which could otherwise serve as valuable management tools, include inaccurate data.*

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REPORT NUMBER 2004-114, JUNE 2005

Department of Justice's response as of December 2005

The Joint Legislative Audit Committee requested the Bureau of State Audits to assess the Missing Persons DNA Program (missing persons program) administered by the Department of Justice (Justice), with a focus on determining whether it is meeting its statutory provisions and efficiently using its funds.

Finding #1: The missing persons program has recently reached full operation but will not complete existing work before the fee supporting the program expires.

After the missing persons program was created in January 2001, it faced several challenges in reaching full operation. These challenges included a hiring freeze for state agencies, the extensive training necessary for its staff, and low pay rates compared to other jobs requiring the same skills. Given these challenges, it seems reasonable that it took until July 2004 for the missing persons program to reach full operation. However, as of the end of February 2005, the program had received 799 requests for DNA analysis and 538 were awaiting analysis, which equates to 23 months of work. Program management has acknowledged that it will not be able to complete DNA analysis for all the requests before the fee supporting the missing persons program expires in January 2006.

Although some accumulation of work beyond what can immediately be processed is reasonable, the amount of work the missing persons program has accumulated suggests that in the short term the program does not have the capacity to process all of the requests it receives. In positioning itself for the long term, the program must ensure that its workload estimate is accurate.

☑ *The missing persons program is receiving the funding to which it is entitled and its costs are appropriate for a laboratory to incur.*

Thus far, the program's estimate has been close to the number of requests it has received. However, the program's workload estimate is based on a calendar year 2000 report from Justice's Missing and Unidentified Persons System showing that coroners and local law enforcement agencies submitted 150 reports of unidentified human remains in that year. More recent information shows that the average number of deceased unidentified persons reported from 2001 through 2004 is 190 per year, 40 more than the program's estimate. In addition, the program's current estimate does not include the number of requests it will receive related to missing persons, including personal articles and DNA supplied by parents and relatives.

To ensure that it is based on the most current data and reflects future program demands, we recommended that the missing persons program review its workload estimate periodically.

Justice's Action: Corrective action taken.

The missing persons program reports that in December 2004 Justice implemented a system for tracking service requests using Justice Trax software. The missing persons program stated that it now has reliable workload statistics on a monthly and yearly basis.

Finding #2: It may be too soon to decide if the existing fee supporting the missing persons program should be made permanent.

Between January 1, 2001, and June 30, 2004, the missing persons program recorded revenues of \$11 million and expenditures of \$7 million in the Missing Persons DNA Data Base Fund (DNA fund). As of June 30, 2004, the program had a fund balance of nearly \$4 million. Justice plans to use the fund balance in the DNA fund to continue operating the program should the \$2 fee end on January 1, 2006, as the California Penal Code, Section 14251, currently requires. Using expenditure data from the first six months of fiscal year 2004–05 to estimate the program's expenditures for the full fiscal year, we estimate that the fund balance is sufficient for the program to operate for more than one year at current staffing and expenditure levels after the fee expires. However, Justice's plan assumes that certain changes will occur that would enable the missing persons program to continue operating using its fund balance, even though the authorization for the DNA fund and the \$2 fee increase on death certificates both end on January 1, 2006. In

addition to the missing persons program receiving a fiscal year 2005–06 appropriation, the Department of Finance would have to move the program’s appropriation and fund balance to the General Fund. The missing persons program’s operations would be halted by June 30, 2006, when its fiscal year 2005–06 appropriation expires, unless legislation continues the necessary fee or the Legislature appropriates any remaining fund balance in a successor fund for fiscal year 2006–07.

Assembly Bill 940 proposes making the \$2 fee increase on death certificates permanent, to fund the missing persons program indefinitely. However, since the missing persons program has amassed a fund balance of \$3.9 million and needs to update its workload estimate, coupled with the fact that the program only recently achieved full operation, it may be too soon to decide if its funding should be made permanent. Therefore, we recommend that it may be more prudent for the Legislature to extend the \$2 fee increase on death certificates for a defined period of time and then reassess the program’s accomplishments and needs.

Legislative Action: Legislation enacted.

Assembly Bill 940 (Chapter 471, Statutes of 2005) was approved by the governor on October 4, 2005. This bill extends the fee supporting the program until January 1, 2010.

Finding #3: Several elements of the missing persons program are sound.

In creating the missing persons program, Justice has put into place several sound elements. Specifically, the program’s staffing approach and training levels appear appropriate, it has successfully educated local law enforcement agencies about its program, and it has made reasonable efforts to obtain federal funding.

Missing persons program staff train for nearly two years before they are qualified to work with minimal direct supervision. Although the timeline is lengthy, the training process ensures that staff meet accreditation requirements and industry standards. In addition, its training process is comparable to that of laboratories doing similar work.

At its inception in 2001, the missing persons program did not have an existing pool of requests on which to begin analysis. By February 28, 2005, it had received 799 requests from local law enforcement agencies in 50 of California’s 58 counties, such as Los Angeles, Orange, and San Diego. This suggests that the program has been effective in making its mission and services known to local law enforcement agencies. The program has used a combination of information bulletins, presentations at industry conferences, and a training video to communicate its mission and services.

Section 14251(a) of the California Penal Code states that the \$2 fee increase on death certificates would remain in effect until January 1, 2006, or until federal funds became available, whichever is sooner. Thus, it appears that the Legislature contemplated a real possibility of federal funds to operate a missing persons DNA database. Although

our review disclosed that some federal grants relate to DNA analysis, these funding opportunities are not specifically earmarked for DNA analysis of missing persons or unidentified human remains. Nevertheless, according to Justice, its process to identify appropriate federal grants includes sending representatives to the National Institute of Justice's annual meeting where future grant opportunities are discussed and using its budget office to research and coordinate efforts to identify federal funding.

Finding #4: The missing persons program could not provide sufficient documentation to support that it adheres to the priorities its advisory committee established.

The program's advisory committee, consisting of coroners, law enforcement officials, and other stakeholders, set up priorities for the program for processing DNA requests. However, we could not determine if the program is following the guidelines, because its list for documenting the priority it assigns to a request and the reasons why is incomplete. The list is designed to capture the following information: the request number; whether the request concerns a child; the cause of death, if known; whether the request concerns a specific missing person; and comments about the materials available for analysis, for example, a tooth, a femur, or hair. Despite containing these categories, the list does not provide enough information to determine the request's priority, because it does not state the priority that was assigned and does not include all of the priority categories contained in the guidelines.

To ensure that the missing persons program is completing the most critical requests first and that its limited resources are focused on the highest-priority requests, it should amend its priority list to include all of the information used to determine the priority assigned to each request.

Justice's Action: Corrective action taken.

The missing persons program told us that it has included the priority code that is consistent with the guidelines developed by its advisory committee on its priority list for case assignments. The missing persons program stated that each case is maintained in the case assignments list along with its priority code so that the priority assigned to any particular case can be determined. Further, the missing persons program maintains the case assignment list on its computer network such that any laboratory management personnel can access the list and make staff assignments.

Finding #5: Some of the data the program's management information and timekeeping databases contain are not reliable.

The missing persons program uses a variety of databases, two of which contained data we believed would be relevant to the audit. One is a database the program uses to assist it in tracking and storing information related to requests for DNA analysis, and the other is one it uses for staff timekeeping. However, through our testing we determined that the data contained in the databases are inaccurate and not reliable for our audit purposes. The database the program uses to track requests contains some inaccurate

dates and the timekeeping database lacks controls to ensure that approved time records are not changed, was missing a staff member's time, and included some time that was not recorded properly.

To make certain that it has effective tools to help manage and measure the program, missing persons program management should take the necessary steps to ensure that its management information and timekeeping databases contain accurate and reliable data.

Justice's Action: Partial corrective action taken.

The missing persons program reported that it has addressed the inaccuracies in its management information database. The missing persons program concurred with our evaluation of its timekeeping system. It is currently evaluating options that will address the concerns cited in the report. The missing persons program noted that it anticipates having a usable prototype within a few months.

Finding #6: Justice is receiving the revenues earmarked for the program and the program's expenditures appear reasonable.

According to Justice's accounting records, revenues for the program are \$3 million per year. This amount substantially agrees with the fees due based on the number of death certificates issued for fiscal years 2001-02 through 2003-04.

We reviewed the program's expenditures for these same three fiscal years. Its facilities costs are the most significant expenditures, totaling \$1.4 million for rent and \$2 million for tenant improvements. However, these expenditures appear reasonable considering the program's space needs, the tenant improvements made, and the methodology Justice follows to determine the program's share of facilities costs. Finally, Justice's methodologies for apportioning personal services costs seem reasonable and the program's expenditures for other operating expense and equipment costs seem appropriate for a laboratory to incur.

