



**AUDIT OF THE NATIONAL INSTITUTE OF JUSTICE'S
OVERSIGHT OF THE SOLVING COLD CASES
WITH DNA PROGRAM**

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AUDIT OF THE NATIONAL INSTITUTE OF JUSTICE'S OVERSIGHT OF THE SOLVING COLD CASES WITH DNA PROGRAM

EXECUTIVE SUMMARY

If a crime is committed and the case remains unsolved after all investigative leads are exhausted, the case becomes cold. The likelihood of solving such cold cases decreases over time. However, as a result of advances in DNA technologies, biological evidence from cold cases that: (1) was obtained before DNA technology was readily available, (2) previously generated inconclusive results, or (3) was aged, degraded, limited, or otherwise compromised and once thought unsuitable for testing, may now be successfully analyzed.¹ To further the use of DNA technology to solve cold cases, the National Institute of Justice (NIJ) launched the Solving Cold Cases With DNA program (Cold Case DNA program) in 2005. NIJ's Cold Case DNA program offers funding to states and local governments to identify, review, and investigate Uniform Crime Report (UCR) Part 1 Violent Crime cold cases that have the potential to be solved through DNA analysis.² Funds can be used to locate and analyze biological evidence associated with cold cases, as well as conduct Combined DNA Index System (CODIS) hit follow-up investigations for the purpose of obtaining confirmatory DNA samples.³

The Office of the Inspector General (OIG) conducted this audit to evaluate NIJ's oversight of its Cold Case DNA program. The audit covers Cold Case DNA program awards from FYs 2010 through 2012. We also conducted six audits of Cold Case DNA program recipients to determine whether reimbursements were allowable and to evaluate program performance and accomplishments. The audits covered nine Cold Case DNA program cooperative agreements totaling \$5.2 million awarded to the: (1) City of Los Angeles (Los Angeles), fiscal years (FY) 2010 and 2012; (2) City and County of Denver (Denver), FYs 2010 and 2012; (3) Jackson County, Missouri Prosecutor's Office (Jackson County), FYs 2010 and 2012; (4) Colorado Department of Public Safety (CDPS), FY 2010; (5) Kansas City,

¹ DNA, or deoxyribonucleic acid, is genetic material found in almost all living cells that contains encoded information necessary for building and maintaining life. Approximately 99.9 percent of human DNA is the same for all people. The differences found in the remaining 0.1 percent allow scientists to develop a unique set of DNA identification characteristics (a DNA profile) for an individual by analyzing a specimen containing DNA.

² In the Federal Bureau of Investigation's Uniform Crime Report (UCR) Program, violent crime is composed of four offenses: murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault. Violent crimes are defined in the UCR Program as those offenses which involve force or threat of force. For the purpose of this program, a violent crime cold case refers to any unsolved UCR Part 1 Violent Crime case for which all significant investigative leads have been exhausted.

³ In the report we refer to matches within the CODIS database as "hits." A "hit" is when one or more DNA profiles from a crime scene are linked to a convicted offender (offender hit) or to evidence from another crime scene (forensic hit).

Missouri Board of Police Commissioners (Kansas City), FY 2011; and City and County of San Francisco (San Francisco), FY 2010.

Based on our audit of the Cold Case DNA program, we identified deficiencies related to NIJ's monitoring of the use of program funding, program implementation, and performance reporting. Specifically, we found that Kansas City and Jackson County were using award funds for unallowable purposes. Ninety-five percent of the cases reviewed by Kansas City and 34 percent of the cases reviewed by Jackson County using award funded positions were not eligible under the program because the cases were relatively recent sex crimes, for which all significant investigative leads related to the biological evidence had not been exhausted prior to inactivating the case or a DNA profile had already been developed and uploaded into CODIS. As a result, we identified \$440,232 in unallowable costs for Kansas City, and \$504,524 in unallowable costs and \$415,829 in funds to better use for Jackson County.⁴ We found that NIJ did not identify these issues, despite conducting an in-depth review of Jackson County's award, which was closely aligned with Kansas City's award, as the two agencies were awarded funds to conduct dual reviews of the same cases.

We also found that CDPS encountered problems implementing its Cold Case DNA program. During our audit we determined that the CDPS experienced major delays in both spending and drawing down award funds. As of March 31, 2013, 30 months into a 36 month extended award period, the CDPS reported \$93,953 in award expenditures, just 14 percent of the total award. The success of the CDPS's cold case efforts depended largely on participation by local agencies throughout the state. However, the CDPS's implementation of the program did not address resource constraints that limited the local agencies' ability to work on cold case investigative efforts. As a result, we had serious concerns over the CDPS's ability to successfully complete the program objectives prior to the anticipated program end date.⁵ We found that NIJ did not resolve this issue, despite a number of indicators that should have been evident in the course of its general monitoring, such as slow spending and award extension requests.

We also found that NIJ did not identify issues at all six award recipient sites we visited related to the accuracy of their performance reporting. We determined

⁴ The findings and recommendations specifically related to Kansas City and Jackson County were communicated in separate audit reports to NIJ. U.S. Department of Justice Office of the Inspector General, *Audit of the National Institute of Justice Cooperative Agreement Award Under the Solving Cold Cases with DNA Program to the Kansas City, Missouri Board of Police Commissioners*, Audit Report GR-60-14-007 (March 2014). U.S. Department of Justice Office of the Inspector General, *Audit of the National Institute of Justice Cooperative Agreement Awards Under the Solving Cold Cases with DNA Program to the Jackson County, Missouri Prosecutor's Office, Kansas City, Missouri*, Audit Report GR-60-14-008 (March 2014).

⁵ The findings and recommendations specifically related to CDPS were communicated in separate audit report to NIJ. U.S. Department of Justice Office of the Inspector General, *Audit of the National Institute of Justice Cooperative Agreement Award Under the Solving Cold Cases with DNA Program to the Colorado Department of Public Safety, Denver, Colorado*, Audit Report GR-60-13-009 (July 2013).

that the performance metrics included as part of two progress reports submitted to NIJ for calendar year 2012 by five award recipients did not match the supporting documentation. We identified metrics related to the number of cases reviewed and subjected to DNA analysis understated by as much as 89 cases in a given period and overstated by as much as 31 cases in a given period. For the sixth award recipient, San Francisco, we found that although the reported performance metrics matched the supporting documentation, the supporting documentation included cases that should not have been counted as reviewed under this program.⁶ In addition, we found that, as partnering agencies, Kansas City and Jackson County counted 485 of the same cases in their performance reports, contrary to OJP guidance. As stated previously, we also determined that Kansas City and Jackson County reviewed a large number of ineligible cases that were included as part of the metrics reported, all resulting in significant overstatements. We found that NIJ did not identify these issues, despite conducting in-depth reviews of both the Los Angeles and Jackson County programs.

According to the performance data compiled by NIJ, the Cold Case DNA program funded the review of 123,010 cold cases, which resulted in 3,931 profiles being uploaded to CODIS and 1,505 CODIS hits since the program's inception in FY 2005 through June 2013. However, as stated previously, we identified many instances where the data reported to NIJ in the performance reports was inaccurate. As a result, in our judgment, the overall performance data maintained by NIJ is not sufficiently reliable for the purposes of determining the number of cold cases reviewed and analyzed as the result of the Cold Case DNA program funding.

While we cannot, therefore, evaluate the overall program accomplishments, we did see indications during our audit that Los Angeles, Denver, and San Francisco successfully implemented their respective Cold Case DNA programs. Conversely, CDPS, Kansas City, and Jackson County did not successfully meet their approved Cold Case DNA program objectives.

Finally, we found that the general consensus among the award recipient officials we spoke with during our audit was that the cases analyzed using Cold Case DNA program funds would otherwise not have been reviewed due to the low priority nature of cold cases and state and local budgetary constraints. Therefore, despite concerns related to these specific award recipients, we believe this is an indication that NIJ funding played an important role in increasing the number of cold cases reviewed and analyzed.

Our report contains detailed information on the full results of our audit, and includes three recommendations to assist NIJ in its oversight of the Cold Case DNA program.

⁶ The findings and recommendations specifically related to San Francisco were communicated in a separate audit report to NIJ. U.S. Department of Justice Office of the Inspector General, *Audit of the National Institute of Justice Cooperative Agreement Award Under the Solving Cold Cases with DNA Program to the San Francisco Police Department, San Francisco, California*, Audit Report GR-90-14-003 (June 2014).

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AUDIT OF THE NATIONAL INSTITUTE OF JUSTICE'S OVERSIGHT OF THE SOLVING COLD CASES WITH DNA PROGRAM

INTRODUCTION

When a crime is committed, the goal of law enforcement agencies is to solve the case by developing leads and identifying suspects. However, in some instances all significant investigative leads are exhausted and the case remains unsolved, becoming a cold case. The likelihood of solving cold cases decreases over time as witnesses forget details of the crime and investigative resources are focused on more recent crimes. However, criminal justice professionals are discovering that advancements in DNA technology are breathing new life into old, cold, or unsolved criminal cases.¹ DNA has proven to be a powerful tool in the fight against crime for identifying suspects, convicting the guilty, and exonerating the innocent. The Combined DNA Index System (CODIS) has also enhanced the use of DNA to assist law enforcement by effectively and efficiently identifying suspects and linking serial crimes.

Advances in DNA technologies have substantially increased the successful DNA analysis of aged, degraded, limited, or otherwise compromised biological evidence. Crime scene samples once thought to be unsuitable for testing may now yield DNA profiles. Additionally, samples that previously generated inconclusive DNA results may now be successfully analyzed. In order to assist state and local jurisdictions in identifying, reviewing, and investigating cold cases that have the potential to be solved through DNA analysis, the National Institute of Justice (NIJ) launched the Solving Cold Cases With DNA program (Cold Case DNA program) in 2005. The concept behind NIJ's program was to take advantage of the advent of DNA technology and subsequent advances to solve cold cases that occurred at a time when the technology was not available or advanced enough to process the biological evidence.

National Institute of Justice

The Office of Justice Programs' (OJP) mission is to increase public safety and improve the fair administration of justice across America through innovative leadership and programs. OJP seeks to disseminate state-of-the-art knowledge and practices across America and to provide grants for the implementation of these crime fighting strategies.

¹ DNA, or deoxyribonucleic acid, is genetic material found in almost all living cells that contains encoded information necessary for building and maintaining life. Approximately 99.9 percent of human DNA is the same for all people. The differences found in the remaining 0.1 percent allow scientists to develop a unique set of DNA identification characteristics (a DNA profile) for an individual by analyzing a specimen containing DNA.

NIJ is the research, development, and evaluation agency within OJP. NIJ's mission is to provide objective and independent knowledge and tools to reduce crime and promote justice, particularly at the state and local levels. NIJ's Office of Investigative and Forensic Sciences provides direct support to crime laboratories and law enforcement agencies to improve the quality and practice of forensic science. The office oversees a number of programs aimed at expanding the information that can be extracted from forensic evidence, including DNA.

Solving Cold Cases With DNA Program

NIJ's Cold Case DNA program offers funding to state and local governments to identify, review, and investigate Uniform Crime Report (UCR) Part 1 Violent Crime cold cases that have the potential to be solved through DNA analysis.² For the purpose of this program, a violent crime cold case refers to any unsolved UCR Part 1 Violent Crime case for which all significant investigative leads have been exhausted. Funds can be used to locate and analyze biological evidence associated with cold cases, as well as conduct CODIS hit follow-up investigations.³ However, according to NIJ officials responsible for overseeing the Cold Case DNA program, the program was not intended to cover cases with probative biological evidence that was obtained during a time when DNA technology was available but a decision was made by the agency to inactivate the case without processing the biological evidence.

According to the Cold Case DNA program solicitations for fiscal years (FY) 2010 through 2012, the Cold Case DNA program goals were to make funding available to states and units of local government to: (1) identify, review, and prioritize violent crime cold cases that have the potential to be solved using DNA analysis in order to determine whether DNA analysis of any existing biological evidence could help solve the cold case; (2) identify, collect, retrieve, and evaluate biological evidence from such cases that may reasonably be expected to contain DNA; and (3) perform DNA analyses on such biological evidence, including the handling and screening of this evidence. Permissible uses of funds included salaries and benefits of additional employees, overtime, travel, laboratory and computer equipment, laboratory supplies, contractor services, and training.

² In the Federal Bureau of Investigation's Uniform Crime Report (UCR) Program, Part 1 Violent Crime is composed of four offenses: murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault. Violent crimes are defined in the UCR Program as those offenses which involve force or threat of force.

³ Matches within the CODIS database are identified as "hits." A "hit" is when one or more DNA profiles from a crime scene are linked to a convicted offender (offender hit) or to evidence from another crime scene (forensic hit).

Program Funding

The Cold Case DNA program has been offered through a competitive award process since FY 2005. Between FYs 2005 through 2012, NIJ awarded a total of \$73.2 million, as shown in Exhibit 1.

EXHIBIT 1: COLD CASE DNA PROGRAM AWARDS BY FISCAL YEAR⁴

SOLICITATION BY FY	NUMBER OF AWARDS	TOTAL AMOUNT AWARDED
FY 2005	38	\$ 14,245,153
FY 2007	21	8,485,130
FY 2008	42	16,119,105
FY 2009	27	12,263,938
FY 2010	27	10,148,219
FY 2011	11	4,355,843
FY 2012	22	7,580,191
Totals:	188	\$73,197,579

Source: OJP's Grant Management System (GMS)

During FYs 2010 through 2012, NIJ received 331 applications, funded 60 awards, and denied funding to 271 applicants, as shown in Exhibit 2. Appendix II contains a complete list of the 60 awards.

EXHIBIT 2: COLD CASE DNA PROGRAM APPLICATIONS VERSUS AWARDS, FYS 2010-2012

SOLICITATION FY	NUMBER OF APPLICATIONS	NUMBER OF AWARDS (AS A PERCENTAGE)	NUMBER OF APPLICATIONS DENIED FUNDING (AS A PERCENTAGE)
FY 2010	130	27 (21%)	103 (79%)
FY 2011	119	11 (9%)	108 (91%)
FY 2012	82	22 (27%)	60 (73%)
Totals:	331	60 (18%)	271 (82%)

Source: OJP's GMS and NIJ

According to NIJ officials, NIJ receives an annual appropriation for DNA and forensic programs and activities, a large portion of which is designated for DNA analysis and capacity enhancement programs, such as, backlog elimination. No specific amount is designated for the Cold Case DNA program. NIJ officials stated that they determine how much to dedicate to each program, based on funds remaining after programs specifically identified in the appropriation are funded. NIJ officials went on to say that fund allocation is based on the perceived needs of the forensic science community, which is informed by state and local demand for

⁴ NIJ officials stated that NIJ chose not to fund the program in FY 2006, in order to determine if federal funds were in fact needed to facilitate the creation and growth of cold case programs. NIJ opted to continue to fund the program in FY 2007, based on state and local law enforcement demonstrated need for more funding. Additionally, in FY 2013, NIJ decided to alternate funding for the Cold Case DNA program and the Using DNA Technology to Identify the Missing Persons program, meaning Cold Case DNA program awards are available every 2 years, rather than annually as in the past. As a result, NIJ did not make any FY 2013 awards for this program.

certain types of funding, as well national studies that also highlight demand. NIJ was appropriated \$161 million, \$133.4 million, and \$125 million for DNA-related and forensic programs and activities in FYs 2010, 2011, and 2012 respectively. NIJ's Cold Case DNA program awards totaled \$10.1 million (6 percent of total DNA funding), \$4.4 million (3 percent of total DNA funding), and \$7.6 million (6 percent of total DNA funding) during the same periods.

Office of the Inspector General Audit Approach

The objective of our audit was to evaluate NIJ's oversight of its Cold Case DNA program. The audit covers Cold Case DNA program awards from FYs 2010 through 2012.

To accomplish our audit objective, we audited six state and local agencies that were awarded a total of nine cooperative agreements totaling \$5.2 million, which represents 24 percent of the \$22.1 million in awards made during FYs 2010 through 2012, as shown in Exhibit 3.⁵

EXHIBIT 3: COLD CASE DNA PROGRAM AWARDS SELECTED FOR REVIEW

JURISDICTION ⁶	FY	TOTAL AWARD
City of Los Angeles (Los Angeles)	2010	\$1,130,868
	2012	500,000
City and County of Denver (Denver)	2010	596,273
	2012	499,818
Jackson County, Missouri Prosecutor's Office (Jackson County)	2010	504,524
	2012	415,829
Colorado Department of Public Safety (CDPS)	2010	687,250
Kansas City, Missouri Board of Police Commissioners (Kansas City)	2011	452,293
City and County of San Francisco (San Francisco)	2010	424,107
TOTAL	9 AWARDS	\$5,210,962

Source: OJP's GMS

The purpose of the audits was to determine whether reimbursements claimed for costs under the awards were allowable, reasonable, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the awards, and to evaluate reported program performance and accomplishments. We also conducted interviews with NIJ officials and reviewed NIJ's oversight materials for the six state and local agencies that were included as part of our audit. Appendix I

⁵ Cooperative agreements are a type of grant for which the awarding agency is responsible for providing additional oversight and guidance throughout the project period. For the Cold Case DNA program NIJ elected to enter into cooperative agreements, as opposed to grants, due to the substantial federal involvement required for projects that relate to DNA analysis. Otherwise, there is no substantive difference between cooperative agreements and grants.

⁶ These awards were judgmentally selected for review based on the amount of funding received and because three of the agencies received multiple awards during the scope of our audit.

contains a more detailed description of our audit objectives, scope, and methodology.

FINDINGS AND RECOMMENDATIONS

NIJ'S OVERSIGHT OF THE SOLVING COLD CASES WITH DNA PROGRAM

Based on the results of our audit, we identified deficiencies related to NIJ's monitoring of the use of program funding, program implementation, and performance reporting. Even though Kansas City and Jackson County were using award funds for unallowable purposes, we found that NIJ did not identify these issues, despite conducting an in-depth review of Jackson County's award, which was closely aligned with Kansas City's award as the two agencies worked in close partnership. We also found that NIJ did not resolve significant problems encountered by CDPS while implementing its program, despite a number of indicators that should have been evident in the course of its general monitoring, such as slow spending and award extension requests. Additionally, we found issues with the performance data reported by all six award recipients we audited that were not identified by NIJ through its monitoring procedures. We found this especially notable for Los Angeles and Jackson County because NIJ conducted in-depth monitoring at these locations. That monitoring also failed to detect additional problems with the data reported by Kansas City and Jackson County, which reported reviewing 485 of the same cases, contrary to NIJ guidance. Based on our audit results, we make three recommendations to improve NIJ's oversight of Department of Justice (DOJ) cooperative agreements.

NIJ Cold Case DNA Program Monitoring Activities

NIJ has the primary responsibility for monitoring Cold Case DNA program awards made to state and local agencies. The Cold Case DNA program grant manager is charged with monitoring all awards under the program. This includes monitoring the award recipients' compliance with relevant statutes, regulations, policies, and guidelines, as well as with the awards' stated objectives and implementation plans. NIJ's monitoring activities include both general monitoring of all awards and in-depth reviews for selected awards, which involve increased scrutiny. All reviews are designed to assess, to varying degrees, the administrative, programmatic, and financial integrity of the awards and award recipients.⁷

General monitoring tools include reviewing Grant Adjustment Notices (GAN), semi-annual Categorical Assistance Progress Reports (progress reports), Federal Financial Reports (FFR), and conducting programmatic desk reviews (desk reviews).

⁷ Administrative monitoring addresses compliance with grant terms and conditions, and reporting requirements. Programmatic monitoring addresses the content and substance of the program, which requires both qualitative and quantitative reviews to assess grant performance. Financial monitoring addresses the grant's financial health, which includes a general review of financial reports and comparing grant expenditures to the approved budget.

- A GAN is a request to make a programmatic, administrative, or financial change to a grant. NIJ officials identified common types of GANs, including budget modifications, changes in the scope of the award, and changes in the project period. GANs initiated by the award recipient requesting a project extension or change in scope may provide NIJ with information indicating an underlying issue with the program implementation.
- Cold Case DNA program award recipients are required to prepare progress reports twice a year for the life of the award to describe the performance of activities or accomplishment of objectives as set forth in the approved award application. NIJ staff review each progress report as it is submitted. NIJ officials stated that if they identify potential irregularities, such as obviously incorrect numbers or missing information, they contact the award recipient and request that the data be changed to reflect the correct information. Progress reports also provide NIJ with information about the recipients' program activity that may indicate unallowable uses of program funds or, conversely, inactivity that may indicate program implementation issues.
- Grant recipients are also required to prepare an FFR for each calendar quarter. This report should include summary information on expenditures and unliquidated obligations incurred for both the reporting period and cumulatively. NIJ officials stated that they monitor financial reporting to identify possible issues, such as slow spending, which can be indicative of a performance or program implementation issue.
- Desk reviews include a comprehensive review of materials available in the award file to determine administrative, programmatic, and financial compliance, including grantee performance. Specifically, the NIJ grant manager reviews award documentation, progress reports, FFRs, drawdown activity, prior reviews, and GANs. The reviewer is instructed to evaluate report compliance and accuracy, as well as identify any implementation issues. According to NIJ officials and in accordance with OJP policy, NIJ conducts desk reviews for all active awards every year. These reviews can lead to additional, in-depth monitoring.

In-depth monitoring tools, which include site visits and enhanced programmatic desk reviews (EPDR), allow grant managers to follow up on any issues identified during a desk review, verify grant activities, validate reported information, and assess the status of project implementation.⁸ OJP requires that grant managers use the Grant Assessment Tool (GAT) Monitoring Decision Tool – a computer module populated with grant information – to develop annual in-depth monitoring plans. The GAT generates a risk priority score of high, medium, or low for each open, active OJP grant, based on a variety of risk criteria, including the

⁸ Site visits can be completed in conjunction with OJP's Multi-Office Site Visits, where all open and active DOJ grants are reviewed and financial monitors from the Office of the Chief Financial Officer conduct a concurrent financial review.

grantee's compliance with OJP reporting requirements and the structure and history of the grant program and grantee. NIJ officials stated that a high classification indicates more than just high risk; it is also an indication of complexity of the grants and the number of active awards. The grant manager uses these rankings, in conjunction with professional discretion, to make monitoring decisions.⁹

According to OJP officials, site visits and EPDRs are similar, with the major difference being that EPDRs are conducted remotely.¹⁰ Grant managers are responsible for conducting a number of tasks related to administrative, programmatic, and financial monitoring of a grant program, as detailed in OJP's site visit and EPDR checklists. When conducting a site visit, grant managers must meet with the grantee to discuss specific issues related to implementation plan progress, observe grant activity, and assess planned versus actual progress. Similarly, when conducting an EPDR, grant managers must conduct phone interviews with the grantee to discuss specific issues related to implementation plan progress, request documentation to support activities reported, and assess planned versus actual progress. Each question in the checklists indicates whether documentation should be obtained from the grantee to support the reviewer's answers. At the conclusion of the review, grant managers must prepare a site visit or EPDR report that includes issues requiring action on the part of the grantee. Both site visit and EPDR checklists must be reviewed by the grant manager's supervisor, who certifies that the checklist was completed in its entirety, the documentation required to support any findings was collected and retained electronically, and the report facts are supported by the checklist and documentation.

Based on the results of our audit, we identified deficiencies related to NIJ's monitoring of the use of program funding, program implementation, and performance reporting. We also identified concerns related to the overall program data maintained by NIJ and award recipient program sustainability.

Use of Program Funding

The FYs 2010 through 2012 Cold Case DNA program solicitations outline allowable and unallowable uses of funds. Permissible uses of the funds include activities directly related to the three program goals, also known as funding purposes, namely case review to identify potential probative biological evidence, locating biological evidence, and DNA analysis of biological evidence. Funds may also be used for certain investigative activities provided they directly relate to the funding purposes. Costs for general cold case investigations – those that do not

⁹ OJP has a statutory requirement to conduct in-depth monitoring activities of at least 10 percent of the open and active award funds annually. 42 U.S.C. 3712h(c)(1) (2006). OJP requires its bureaus and program offices to meet the same 10 percent requirement for each fiscal year. NIJ officials stated that they regularly meet or exceed this requirement.

¹⁰ The EPDR is a monitoring alternative that was implemented because of restricted travel budgets.

have the potential to be solved through DNA analysis – are not allowed. Funds are also not to be used for general casework backlog reduction.

According to NIJ officials responsible for overseeing the Cold Case DNA program, the concept behind the Cold Case DNA program is to take advantage of the advent of DNA technology and subsequent advances to solve cold cases that occurred at a time when the technology was not available or advanced enough to process the biological evidence. This statement is in line with the program solicitations, which describe the program in terms of advances in DNA technology that have increased the successful analysis of aged, degraded, limited, or otherwise compromised biological evidence. Biological samples once thought to be unsuitable for testing or that generated inconclusive results may now be analyzed. These statements confirm that the funds are meant for cases where limits in DNA technology at the time the crime was committed prevented the investigation from moving forward.

NIJ officials responsible for overseeing the Cold Case DNA program also stated that the program was not meant to include cases with biological evidence that was obtained during a time when the DNA technology was available but a decision was made by the agency to inactivate the case without processing the biological evidence. This corresponds to NIJ's definition of a cold case, that is, any unsolved case for which all significant investigative leads have been exhausted. If suitable DNA technology was available at the time the crime was committed and probative biological evidence was collected, such as a rape kit in a sex crime, the biological evidence represents a significant investigative lead. If the biological evidence was not analyzed before the case was closed, all investigative leads were not exhausted and the case does not qualify under this program. This underscores the fact that the review and investigation of certain cases cannot be funded using program funds.

NIJ's monitoring tools address use of program funding in a number of ways. Grantee initiated GANs are accompanied by an explanation regarding the reason for the requested change. The reasoning behind a change in scope or a proposed budget modification may reveal an underlying issue with uses of program funds. Progress reports provide a way to log activity and ensure the activity is in line with the funding purposes. However, we found that GANs and progress reports do not necessarily contain enough information to reveal an issue related to use of program funds. In order to gather sufficient information to make a determination regarding the appropriate use of funds, NIJ's grant manager may need to use in-depth monitoring tools. Both site visits and EPDRs require the reviewer to observe and evaluate grant activity, interview grantee officials, and review supporting documentation. As previously mentioned, the reviewer is required to issue a site visit or EPDR report that includes issues requiring action on the part of the grantee.

Based on our audits, we found that Kansas City and Jackson County were using award funds for unallowable purposes. However, despite the existence of the monitoring tools discussed above, including an EPDR of Jackson County, we saw no

indication that NIJ identified the issues or contacted the award recipients regarding the issues.

Kansas City and Jackson County received separate awards to conduct “dual reviews” of unsolved sex crimes cases. The general approach was described by both agencies as follows: (1) Kansas City’s Sex Crimes Cold Case Squad conducted an investigative review of the case file to make an initial determination regarding whether the case should be pursued, and (2) the case was then forwarded to Jackson County’s Cold Case Unit for a legal and factual review to determine if the case had prosecution potential. It was at this point that Jackson County, with the assistance of Kansas City, approved or disapproved a case for DNA testing.¹¹ According to Jackson County officials, the purpose of the prosecution preapproval model of cold case review is to avoid using scarce DNA testing resources prior to a prosecutor evaluating the merits of a case. We conducted a separate review of both programs, keeping in mind that the programs were closely related.

Kansas City Board of Police Commissioners

During our audit of Cooperative Agreement 2011-DN-BX-K526 awarded to Kansas City, we found that Kansas City was using award funds to review recent sex crime cases where the probative biological evidence (rape kits) was collected but not processed or a DNA profile had already been developed and uploaded into CODIS. Of the 2,510 cases that Kansas City reviewed under the program, 2,377, or 95 percent, of the cases were from crimes committed between 2006 and 2011. Yet, as discussed above, cases from more recent years were not eligible for inclusion in the program because DNA technologies were not a limiting factor for processing the probative biological evidence during the investigations. Further, these cases did not meet the definition of a cold case under this program because not all significant investigative leads related to the biological evidence had been exhausted prior to inactivating the case or a DNA profile had already been developed and uploaded into CODIS.

We looked at a judgmental sample of seven case files from 2009 and 2010, which were reviewed by award funded investigators. The sample revealed that not only were the crimes committed during a time when DNA technology was readily available, the cases either did not meet NIJ’s definition of a cold case because all significant investigative leads had not been exhausted related to the probative biological evidence or a DNA profile had already been developed. Specifically, we found that: (1) for four of the cases, the biological evidence – a rape kit – was collected at the time the crime was committed and Kansas City chose not to

¹¹ Neither program included funding for DNA analysis of biological evidence. Kansas City’s 2011 award primarily funded salaries and benefits for three Sex Crimes Cold Case Squad Detectives to work on grant-related cold case investigations. Jackson County’s 2010 and 2012 awards funded salaries and benefits for up to three Cold Case Analysts, one Cold Case Investigator, and one Cold Case Paralegal to work on activities incident to the identification, review, and investigation of cold cases within the award requirements.

develop DNA profiles related to the evidence before inactivating the case; as a result, the agency did not fully pursue all investigative leads related to the biological evidence; and (2) for three of the cases, the biological evidence had already been processed and uploaded to CODIS as part of the original investigation, which was prior to the case being reviewed as part of this award. These cases reflect unallowable uses of grant funds because according to the FY 2011 program solicitation: (1) this funding is to be used to review cases for which all significant investigative leads have been exhausted, and (2) activities under this program are only permissible until all samples with potential DNA evidence have been recovered and analyzed.

We also reviewed all of Kansas City's progress reports because the accompanying narratives included descriptions of cases cleared as part of the program. The reports include nine cleared cases from 2007 through 2011. Based on the progress report narratives, six of the cases appeared to be instances where the suspect was known and the victim refused to cooperate or made inconsistent or uncorroborated statements. Again, costs for general cold case investigations—those that do not have the potential to be solved through DNA analysis—are not allowed. DNA would not help solve these cases, because the suspect was already known and the case remained unsolved for reasons unrelated to DNA testing.¹² Three of the cases appeared to be instances where all investigative leads were not exhausted prior to the cases' inclusion in the program, specifically the existence of biological evidence that was not processed at the time of the original investigation, an issue previously discussed.

We also noted that Kansas City's award application specifically indicated that it planned to use the funding to review 1,448 cold cases for crimes committed between 1972 and 2005 that were known to have biological evidence. The application briefly mentioned that if Kansas City completed the review of these cases, it might start reviewing cases from 2006 and forward. However, our review of Kansas City's case database revealed that there were over 1,000 cases from 1972 through 2005 that had yet to be reviewed, and it nevertheless used the vast majority of the funds on more recent cases, contrary to the stated intent in its funding application. According to the OJP Financial Guide, a GAN must be initiated for changes in scope, duration, activities, or other significant areas. This includes altering programmatic activities or changing the purpose of the project. Kansas City did not file a GAN outlining changes in scope to reflect its use of the program funds. Therefore, in addition to reviewing cases that were not eligible under NIJ's program, Kansas City's review of cases from 2006 through 2011 was also inconsistent with the goals stated in its own application. We used the original timeframe established by Kansas City itself – 1972 through 2005 – to differentiate cold cases that were eligible to be reviewed and more recent cases that were not eligible.

¹² For example, Kansas City reviewed inactive cases under the program, which were then exceptionally cleared either because the victim still did not want to cooperate or the prosecutor declined to file charges. There was no indication that biological evidence played a role in either the review or subsequent decision to clear the case.

We believe that the underlying cause of Kansas City's use of program funding for unallowable purposes relates to Solving Cold Cases with DNA program funds it received in FYs 2007 and 2009. According to Kansas City's FY 2011 application, the funds from the two previous awards were used to form the Sex Crimes Cold Case Squad and to review cases from a pool of 3,995 sex crimes committed between 1972 and 2005 that were known to have biological evidence. The FY 2011 application proposed looking at the 1,448 of cases from this pool that still needed to be reviewed. However, from the beginning of the FY 2011 award, in addition to cases from 1972 through 2005, Kansas City immediately began reviewing cases from 2006 forward. We asked Kansas City officials why these cases were reviewed, despite the existence of cases from 1972 to 2005 that had not been reviewed. Kansas City officials stated that it was determined that cases from 1972 through 1978 were not a good use of police resources because work was limited by statute of limitations issues. Kansas City officials also stated that there could have been a number of issues related to some of the other cases, namely those from the late 1970s and early 1980s, such as lost case files, human error in entering data into the database, and the possibility that the case files were with a partnering agency. Therefore, Kansas City chose to focus on the more recent cases that it felt might be more likely to lead to an arrest, rather than reviewing the cases identified in its application. Whether or not the Kansas City officials were correct in their assessment of the relative merits of the cases from 1972 to 2005, the fact remains that the funding was both sought and intended for use on them, not on the newer cases for which Kansas City ultimately utilized the funding.

As a result of our audit, we questioned all personnel costs charged to the cooperative agreement, because 95 percent of the cases reviewed by the award funded employees were not eligible under the program. Further, Kansas City officials stated that it did not have a formal system to track the number of hours award funded employees spent on each case, which would allow us to determine the percentage of time award funded employees spent on eligible cases. Therefore, we questioned the \$436,688 in personnel costs charged to the cooperative agreement as unallowable. We also identified \$3,544 in travel costs used for investigative travel related to an ineligible case from 2008. As a result, we questioned \$440,232 charged to the cooperative agreement by Kansas City as unallowable.¹³

We reviewed the GANs and progress reports for this award to determine if NIJ should have been aware of the fact that Kansas City was using program funding to review ineligible cases. The GANs, including a budget modification that shifted funds between already approved categories and two project extension requests, provided no indication of the issue. However, the progress report provided subtle indications of the issue, because the accompanying narrative included descriptions

¹³ Kansas City has drawn down the entire award totaling \$452,293. We determined \$12,061 of grant expenditures were allowable because the funds were used for investigative travel related to cold cases that were eligible under this program and to attend an approved training.

of cases cleared as part of the program. Four of the 28 cases (14 percent) listed as being cleared as of December 2012, the most recent progress report period end date that NIJ received prior to the start of our audit, were for crimes committed in 2007 and 2009. However, it is unlikely that NIJ's program manager could have determined the magnitude of the issue based on this information alone.

In our opinion, as a standalone project, NIJ could not have been reasonably expected to identify the problems related to Kansas City's use of funds. However, we do believe NIJ should have identified the issue with Jackson County, as outlined below. It is possible if NIJ identified the issue with Jackson County, it would have led NIJ to take a closer look at Kansas City, because the awards for both agencies were to fund a dual review of the same cases. The findings and recommendations specifically related to Kansas City were communicated in separate audit report to NIJ. As part of that report, we recommended that OJP coordinate with Kansas City to remedy the \$440,232 in questioned costs associated with the review of ineligible cases. OJP agreed with this recommendation and stated that it would work with Kansas City to remedy the questioned costs.¹⁴

Jackson County, Missouri Prosecutor's Office

During our audit of Cooperative Agreement 2010-DN-BX-K008, we found that like Kansas City, Jackson County was using award funds to review relatively recent sex crime cases where the probative biological evidence (rape kits) was collected but not processed or a DNA profile had already been developed and uploaded into CODIS. Of the 1,233 cases that Jackson County reviewed under the program as of the end of July 2013, 424, or 34 percent, of the cases were from crimes committed between 2006 and 2011. Again, we believe it is clear that cases from more recent years were not eligible for inclusion in the program because DNA technologies were not a limiting factor for processing the probative biological evidence during the investigation. Further, these cases did not meet the definition of a cold case under this program because not all significant investigative leads related to the biological evidence had been exhausted prior to inactivating the case or a DNA profile had already been developed and uploaded into CODIS.

The cases included as part of our case file review for Kansas City were also reviewed by grant funded personnel at Jackson County. The 2010 Cold Case DNA program solicitation includes the same criteria as the 2011 program solicitation, meaning the cases were also not eligible to be reviewed under this award.

We also noted that according to Jackson County's FY 2010 award application, its primary goal was to review 1,748 cold cases for crimes committed between 1972 and 2005 that were known to have biological evidence amenable to DNA testing. Again, according to the OJP Financial Guide, a GAN must be initiated for

¹⁴ U.S. Department of Justice Office of the Inspector General, *Audit of the National Institute of Justice Cooperative Agreement Award Under the Solving Cold Cases with DNA Program to the Kansas City, Missouri Board of Police Commissioners*, Audit Report GR-60-14-007 (March 2014).

changes in scope, duration, activities, or other significant areas, and Jackson County did not file a GAN outlining the changes in scope. Therefore, in addition to reviewing cases that were not eligible under NIJ's program, Jackson County's review of cases from 2006 through 2011 was also inconsistent with the primary goal stated in its application. We used the original timeframe established by Jackson County – 1972 through 2005 – to differentiate cold cases that were eligible to be reviewed and more recent cases that were not eligible.

We believe that the underlying cause of Jackson County's use of program funding for unallowable purposes relates to the Solving Cold Cases with DNA program funds it received in FY 2008. According to Jackson County's FY 2010 application, the funds from the 2008 award were used to conduct legal and factual reviews of approximately 1,000 investigative files with testable evidence for the years 1979 through 1990. The application proposed looking at 1,748 cases from 1981 through 2005 that still needed to be reviewed. However, we found that one third of the cases actually reviewed were from 2006 through 2011. We asked Jackson County officials why these cases were reviewed, despite the existence of cases from the earlier period that had not been reviewed. Jackson County officials stated that Kansas City was responsible for determining which cases qualified as cold cases and that Kansas City expanded the cases reviewed to include more recent years, namely 2006 through 2011. When Kansas City opted to review cases from more recent years, it resulted in Jackson County also reviewing the cases from more recent years.

We questioned all costs charged to the cooperative agreement, all of which were for personnel costs because a significant number of the cases reviewed by the award funded employees were not eligible under the program. Further, Jackson County officials stated that it did not have a formal system to track the number of hours award funded employees spent on each case, which would have allowed us to determine the percentage of time award funded employees spent on eligible cases. Therefore, we questioned the entire award totaling \$504,524 as unallowable.

Additionally, we had concerns regarding the use of Cooperative Agreement 2012-DN-BX-K031 funds totaling \$415,829 awarded to Jackson County, none of which was spent as of the conclusion of our audit. The FY 2012 award application expanded the case timeframe that would be subject to review, including 2,545 cases with evidence amenable to DNA testing from years 1979 through 2010. Despite the fact that Jackson County included more recent case years for review and investigation, the concerns we have regarding the eligibility of the more recent cases still exist. Jackson County's case load, at least in part, mirrors Kansas's City's case load, because of the dual review process.¹⁵ Therefore, it is likely that the ineligible cases reviewed by Kansas City using FY 2011 award funds, which was 95 percent of what was reviewed, are in large part the same cases that will be

¹⁵ According to the FY 2012 award application, Jackson County includes 18 law enforcement agencies in addition to Kansas City. A smaller number of cases reviewed under this program were to be pulled from these smaller, more rural agencies.

reviewed by Jackson County using its FY 2012 award funds. Therefore, we identified the entire award totaling \$415,829 as funds to better use.

NIJ conducted an EPDR at Jackson County in July 2013. However, this EPDR did not identify the use of funding issues we describe above. During our fieldwork, we discovered that cases for crimes from as recent as 2011 were being reviewed as part of the program in two ways: an interview with Jackson County officials and our review of supporting documentation for performance data included in the progress reports. The EPDR checklist includes a space for the grant reviewer to document any phone or email communication used to answer questions for the programmatic review; however the reviewer filled this in "N/A." The programmatic review section asks the reviewer if the grantee maintains records to support data submitted on performance measures and if the reviewer can use the records to validate the data. The reviewer responded "yes." The reviewer is then instructed to select a sample of data and request the grantee provide evidence that supports the information reported. The reviewer responded that "the grantee is current with reporting performance measurement data." It does not appear the reviewer interviewed the grantee regarding performance or looked at the supporting documentation for the performance data. Additionally, the EPDR checklist was certified as complete by an NIJ supervisor, meaning these deficiencies were not caught by the supervisory review process discussed previously. As a result, based on our review of the EPDR checklist and the accompanying report, NIJ did not appear to be aware of information demonstrating that ineligible cases were reviewed under the program, including the year the crimes occurred and the circumstances surrounding the inactivation.

In our opinion, NIJ should have identified the problems related to Jackson County's use of funds. Proper use of the EPDR checklist should provide a reviewer with sufficient information to reveal significant issues, such as those related to the use of program funds. We recommend that NIJ enhance its monitoring efforts to include verification of the allowable uses of funds. The findings and recommendations related specifically to Jackson County were communicated in separate audit report to NIJ. As part of that report, we recommended that OJP coordinate with Jackson County to remedy the \$504,524 in questioned costs and \$415,829 in funds to better use associated with the review of ineligible cases. OJP agreed with these recommendations and stated that it would work with Jackson County to remedy the questioned costs and funds to better use.¹⁶

¹⁶ U.S. Department of Justice Office of the Inspector General, *Audit of the National Institute of Justice Cooperative Agreement Awards Under the Solving Cold Cases with DNA Program to the Jackson County, Missouri Prosecutor's Office, Kansas City, Missouri*, Audit Report GR-60-14-008 (March 2014).

Program Implementation

In the FYs 2010 through 2012 Cold Case DNA program solicitations, NIJ instructed applicants to include an implementation plan as part of the application's program narrative. This entailed specifically demonstrating how requested funds were to be used for the review and investigation of violent crime cold cases with the potential to be solved through DNA analysis. Once state and local agencies accepted Cold Case DNA program funding, the program narrative served as the approved implementation plan.

As discussed previously, NIJ's monitoring tools used to identify concerns regarding program implementation include GAN requests, progress reports, and FFRs. NIJ also has access to each award recipient's drawdown history, which can be a further indication of slow or no award spending. Finally, NIJ desk reviews explicitly require the reviewer to identify implementation issues. According to NIJ officials, if an implementation concern is identified through its monitoring, it contacts the award recipient to work directly with them to resolve the matter.¹⁷

Based on our audit, we found that the CDPS encountered problems implementing its program. Despite the existence of the monitoring tools highlighted above, we saw no indication that NIJ acted to resolve the implementation issues.

Colorado Department of Public Safety

During our audit of Cooperative Agreement 2010-DN-BX-K234 awarded to the CDPS, we found that the award recipient experienced major delays in both spending and drawing down award funds. As of March 31, 2013, the most recent FFR reporting period end date included as part of our audit and 30 months into a 36 month extended award period, the CDPS reported \$93,953 in award expenditures, just 14 percent of the total award. The award was projected to end on September 30, 2013, meaning the CDPS had 6 months, or 17 percent of the extended award period in which to spend the remaining \$593,297, or 86 percent of the total award. Additionally, as of the same date, the CDPS had drawn down a total of \$85,578, just 12.5 percent of the total award. The four most recent FFRs included as part of our audit listed unliquidated obligations, as shown in Exhibit 4.

¹⁷ According to OJP's Grant Manager's Manual, monitoring includes all substantive communication with grantees. This means monitoring activities include substantive, intensive work with grantees by mail, email, or phone. Working with the grantee through these channels, grant managers may address identified concerns with grantee compliance or performance; work toward developing a work product, deliverable, or strategy; and/or answer grantee questions.

EXHIBIT 4: COOPERATIVE AGREEMENT 2010-DN-BX-K234 FFRS

REPORT NO.	REPORT PERIOD	PERIOD EXPENDITURES IN QUARTERLY REPORT	CUMULATIVE EXPENDITURES IN QUARTERLY REPORT	CUMULATIVE UNLIQUIDATED OBLIGATIONS IN QUARTERLY REPORT
7	4/1/12 - 6/30/12	\$26,959	\$74,813	\$112,059
8	7/1/12 - 9/30/12	5,212	80,025	149,709
9	10/1/12 - 12/31/12	5,553	85,578	158,054
10	1/1/13 - 3/31/13	8,375	93,953	154,418

Source: OJP's GMS

Unliquidated obligations should represent incurred costs that have not yet been paid by the recipient. We discussed the unliquidated obligations with CDPS officials, who stated that they used this field to report encumbered funds. Encumbered funds represented funds CDPS set aside for its local partnering agencies based on signed memorandums of understanding. However, it does not appear that the encumbered funds led to actual spending in subsequent reporting periods, as evidenced by the low levels of spending in each period we reviewed.

As an assist agency, the success of the CDPS's cold case efforts depended largely on participation by local agencies throughout the state to locate and submit cold case evidence for DNA analysis.¹⁸ However, the CDPS's implementation of the program did not address resource constraints that limited the local agencies' ability to work on cold case investigative efforts, thereby reducing the effectiveness of the CDPS's cold program. As a result, we had serious concerns over the CDPS's ability to successfully complete the program objectives prior to the anticipated program end date.

As of the start of our audit, NIJ's most recent completed desk review of CDPS's Cooperative Agreement 2010-DN-BX-K234 was in February 2012. The grant manager documented spending levels from the December 31, 2011, FFR as part of that review. However, the grant manager did not take action to resolve the issues related to program implementation and stated that there were no current delays or obstacles to the grantee's ability to meet program goals and objectives. This conclusion was reached despite the fact that the CDPS expended less than \$30,000 during the 15 months since the inception of the award.

Prior to our audit, the CDPS filed four GANs. Two of the GANs were requests for project period extensions, which extended the original 18-month project period to 36 months. One GAN was a request to change the project scope, which added contract employees to assist local law enforcement agencies in the review and

¹⁸ CDPS' Colorado Bureau of Investigation (CBI) Division was created to support and assist local, county, and state criminal justice agencies using professional investigative and forensic laboratory services. CBI identifies itself as an assist agency, because it only provides services if local, county, and state agencies request assistance.

identification of cold case homicide biological evidence. The final GAN was a request to modify the budget, which moved \$162,000 to fund those contract positions. The GANs alluded to the fact that CDPS was facing delays in implementing its Cold Case DNA award. This included the CDPS stating that partnering local agencies were facing economic restraints and pointing to a lack of participation by the partnering local agencies. In the second project extension, the CDPS described a plan to analyze sexual assault kits that had been collected by local law enforcement agencies since 2007 but never submitted for analysis as a way to utilize unspent cooperative agreement funds. As detailed above, cases with biological evidence that was collected but never analyzed, at a time when DNA technology was readily available, would not be eligible to be reviewed under this program. This GAN was subsequently approved by NIJ with no mention that this activity was not allowable under the program. However, CDPS officials informed us this work was never initiated, meaning award funds were not used for unallowable purposes.

The financial reports, in conjunction with the GANs, indicated that the CDPS was having trouble implementing the program. The financial reports do not appear to have been flagged, either at the time they were submitted or as part of NIJ's desk review. NIJ's review and approval of the GANs appeared to focus more on the proper filing of the documentation rather than the substance of the documentation. In our opinion, NIJ should have acted promptly to resolve the implementation problems. We recommend that NIJ enhance its monitoring efforts of FFRs, drawdowns, and GANs to include identification of issues related to program implementation, including no or slow spending and multiple requests for program extensions or scope changes. The findings and recommendations related specifically to CDPS were communicated in separate audit report to NIJ. As part of that report, we recommended that OJP coordinate with the CDPS to assess the CDPS's ability to complete the proposed program goals prior to the end of the award and evaluate the CDPS's need for any remaining unspent funds.¹⁹ OJP concurred with these recommendations and as a result of our audit, NIJ granted the CDPS another 12-month extension, providing the CDPS a total of 48 months to implement what was intended to be an 18-month program.

Performance Reporting

Each award under this program requires the submission of progress reports. According to the OJP Financial Guide, progress reports are due semi-annually on January 30th and July 30th for the life of the award. In the FYs 2010 through 2012 program solicitations, NIJ required award recipients to report the number of: (1) violent crime cold cases reviewed, (2) violent crime cold cases reviewed in which biological evidence still existed, (3) violent crime cold cases with biological evidence subjected to DNA analysis, (4) violent crime cold cases that yielded a

¹⁹ U.S. Department of Justice Office of the Inspector General, *Audit of the National Institute of Justice Cooperative Agreement Award Under the Solving Cold Cases with DNA Program to the Colorado Department of Public Safety, Denver, Colorado*, Audit Report GR-60-13-009 (July 2013).

viable DNA profile, (5) DNA profiles entered into the Federal Bureau of Investigation's CODIS, and (6) CODIS hits.

During our audit, NIJ provided us with documentation demonstrating its efforts to ensure that program metrics were consistently reported. In December 2012, NIJ released Guidelines for Cold Case Performance Measures and Progress Reports. This document defined each performance metric and provided examples of how each metric should be counted. Additionally, NIJ's monitoring tools address performance reporting in one of two ways. As previously mentioned, NIJ officials stated that they review progress reports when they are submitted to identify potential irregularities, such as numbers that appear to be incorrect based on prior performance or missing information, and work with the recipient to obtain the corrected information. We also saw evidence of NIJ personnel comparing the reported data, which are included in a performance measure table, to the accompanying progress report narrative, in order to ensure congruity between the two. The back and forth correspondence between award recipients and NIJ officials generally appeared to enhance performance report accuracy.

However, in order to make a definitive determination regarding performance report accuracy, in-depth monitoring is often required. Both site visits and EPDRs require the reviewer to observe and evaluate grant activity, interview grantee officials, and review supporting documentation. These actions provide the reviewer with the opportunity to gain an understanding of how grantees track the required metrics and to gain access to the documentation used to support the metrics. Again, the reviewer is required to issue a site visit or EPDR report that includes issues requiring action on the part of the award recipient.

Based on our audits, we identified issues at all six sites related to the accuracy of performance reporting. Despite the existence of the monitoring tools highlighted above, we saw no indication that NIJ identified the issues or contacted the award recipients regarding the issues.

Performance Metrics for Calendar Year 2012

We reviewed the performance metrics reported to NIJ by all six award recipients for accuracy. Our judgmental sample included the performance metrics from two reporting periods: (1) January 2012 through June 2012, and (2) July 2012 through December 2012.²⁰ We compared the performance metrics reported to NIJ to supporting documentation maintained by award recipient officials for both periods for all active awards.

²⁰ As of December 2012, there was no activity on Los Angeles' Cooperative Agreement 2012-DN-BX-K010, Denver's Cooperative Agreement 2012-DN-BX-K007, and Jackson County's Cooperative Agreement 2012-DN-BX-K031 because the recipients were still working under their FY 2010 awards. Therefore, no performance metrics were reported for these awards in the progress reports submitted for the periods ending June 2012 and December 2012. As a result, we did not include the performance metrics for the 2012 awards in our analysis.

We found that the progress reports submitted to NIJ by all six award recipients were not accurate. Even though each of the award recipients maintained documentation tracking the required performance data on cold cases, the data reported to NIJ did not match the supporting documentation maintained by the award recipients for reporting periods January through June 2012 and July through December 2012. For five of the award recipients, we identified metrics understated by as much as 89 cases in a given period and overstated by as much as 31 cases in a given period, as shown in Exhibit 5.²¹

²¹ The metrics listed in the supporting documentation for both Jackson County and Kansas City include ineligible cases discussed in the Use of Program Funding section of this report and detailed in the Double-Counting and Ineligible Cases section of this report.

EXHIBIT 5: PERFORMANCE METRIC ERRORS, CALENDAR YEAR 2012

JURISDICTION, AWARD: REPORTED DATA V. DATA IN SUPPORTING DOCUMENTS BY PERIOD	1. CASES REVIEWED	2. WITH BIOLOGICAL EVIDENCE	3. SUBJECTED TO DNA ANALYSIS	4. YIELDED VIABLE DNA PROFILE	5. ENTERED INTO CODIS	6. CODIS HIT
Los Angeles, 2010-DN-BX-K013						
Jan–June 2012 Reported	236	217	174	12	12	10
Supporting Documents	257	222	201	32	14	4
<i>Difference</i>	-21	-5	-27	-20	-2	6
Jul – Dec 2012 Reported	40	23	23	26	26	6
Supporting Documents	40	37	58	36	45	19
<i>Difference</i>	0	-14	-35	-10	-19	-13
Denver, 2010-DN-BX-K004						
Jan–June 2012 Reported	72	8	4	4	8	4
Supporting Documents	80	9	4	4	8	7
<i>Difference</i>	-8	-1	0	0	0	-3
Jul – Dec 2012 Reported	31	5	2	2	10	8
Supporting Documents	38	6	2	2	10	9
<i>Difference</i>	-7	-1	0	0	0	-1
Jackson County, 2010-DN-BX-K008						
Jan–June 2012 Reported	288	288	N/A	N/A	N/A	N/A
Supporting Documents	281	281	N/A	N/A	N/A	N/A
<i>Difference</i>	7	7				
Jul – Dec 2012 Reported	255	255	N/A	N/A	N/A	N/A
Supporting Documents	257	257	N/A	N/A	N/A	N/A
<i>Difference</i>	-2	-2				
CDPS, 2010-DN-BX-K234²²						
Cumulative Reported Dec 2010 – 2012	158	72	45	8	7	0
Supporting Documents	169	75	80	74	52	17
<i>Difference</i>	-11	-3	-35	-66	-45	-17
Kansas City, 2011-DN-BX-K526						
Jan–June 12 Reported	916	754	N/A	N/A	N/A	7
Supporting Documents	1,005	821	N/A	N/A	N/A	N/A
<i>Difference</i>	-89	-67				7
Jul – Dec 12 Reported	1,158	947	N/A	N/A	N/A	10
Supporting Documents	1,127	920	N/A	N/A	N/A	N/A
<i>Difference</i>	31	27				10

Source: OJP's GMS and Site-work

²² The supporting documentation maintained by CDPS did not contain sufficient detail to determine the reporting period in which program accomplishments occurred. As a result, we reviewed the accuracy of the cumulative metrics reported to the NIJ by the CDPS as of December 2012, rather than from the two progress report periods originally selected.

For the sixth award recipient, San Francisco, we found that although the reported performance metrics matched the supporting documentation, based on our review of a sample of cases, the supporting documentation included cases that should not have been counted as reviewed under this program.²³

For Los Angeles and the CDPS, the errors were the result of a lack of communication between law enforcement personnel, laboratory personnel, and the officials responsible for submitting the reports. The investigators and the laboratories used separate tracking mechanisms, and the employees responsible for submitting the progress reports obtained information through email requests, rather than directly from source documentation. This process prevented those responsible for reporting from cross checking the accuracy of the information generated by the different systems. For Kansas City, we found that in order to determine the case counts during a given period, Kansas City filtered the data using a date field. However, we found the data in this field was not uniform, making the filter tool somewhat difficult to use. This was compounded by the size of the database, which was quite large. The manual nature of this process appeared to make it difficult to ensure the count was correct. For both Denver and Jackson County, we found that the differences between the data reported and the data in the supporting documentation were relatively minor. However, there were additional problems with Jackson County's metrics, as outlined in the Double-Counting and Ineligible Cases section of this report. As a result of our audit work, Los Angeles, Denver, and CDPS all revised their performance measure tables in subsequent progress reports.

All of the award recipients except Los Angeles acknowledged receiving and appeared to be familiar with NIJ's Guidelines for Cold Case Performance Measures and Progress Reports.²⁴ However, we noted that Kansas City reported the number of CODIS hits, not only for the two periods we reviewed, but for every reporting period for its award. According to NIJ's Guidelines for Performance Measures and Progress Reports, award recipients should not include this metric if the award does not include funding for DNA analysis. This metric should have been reported as 'N/A' for all reporting periods, as the award did not fund DNA analysis. We saw evidence that NIJ corresponded with Kansas City during the progress report submission process for the reporting period ending in June 2012 regarding the fact that DNA analysis was not funded by the award. However, NIJ did not explicitly address the performance metric table in the report and subsequently approved the report, despite the metric error. In our judgment, NIJ should have identified the error and worked with Kansas City to correct it prior to approving the report.

²³ U.S. Department of Justice Office of the Inspector General, *Audit of the National Institute of Justice Cooperative Agreement Award Under the Solving Cold Cases with DNA Program to the San Francisco Police Department, San Francisco, California*, Audit Report GR-90-14-003 (June 2014).

²⁴ We noted that the Los Angeles official responsible for managing the award was recently appointed to the position at the time of our audit, which impacted his familiarity with some of the award material.

We also found that NIJ conducted a site visit at Los Angeles in December 2012. The site visit checklist requires that the NIJ reviewer determine whether the grantee maintains records to support data submitted on performance measures and, if yes, to note examples of the documents they are maintaining. The reviewer affirmed that the data was available. The instructions go on to say that: (1) for each performance measure, the grantee must provide evidence that supports the information reported; and (2) the grant manager must collect and retain key documents provided by the grantee to support reported measures. In the programmatic review section, the reviewer collected time sheets and travel records, determined that Los Angeles uses a laboratory information system to collect data, and noted that records are maintained electronically. However, we did not see any indication that supporting documentation for the performance measures was reviewed or retained by the reviewer. Additionally, the site visit checklist was certified as complete by an NIJ supervisor, meaning the issue was not caught by the supervisory review process. Consequently, the NIJ site visit did not identify discrepancies in the performance metrics reported by Los Angeles.

As previously mentioned, NIJ also conducted an EPDR at Jackson County in July 2013. Like the site visit checklist, the EPDR checklist requires that the NIJ reviewer determine if the grantee maintains records to support data submitted on performance measures and whether the records can be used to validate the data submitted. The reviewer affirmed that the data was available. The instructions go on to say that the reviewer should: (1) review data reported in recent progress reports or performance measurement tools and select a sample of data, and (2) request the grantee provide evidence that supports the information reported from the sample data selected. In the programmatic review section, the reviewer noted instead that Jackson County was current with reporting performance measurement data and that the data was complete. We did not see any indication that sample data was selected or evidence to support a sample was reviewed by the reviewer, as required by the EPDR checklist. Again, the EPDR checklist was certified as complete by an NIJ supervisor, despite the fact that the grant manager did not obtain the requisite supporting documentation. Consequently, the EPDR did not identify discrepancies in the performance metrics reported by Jackson County.

The supporting documentation maintained by both Los Angeles and Jackson County revealed issues related to the performance metrics. Both the site visit and EPDR checklists instruct the reviewer to review supporting documentation. However, for both the site visit and the EPDR we found that NIJ's programmatic review only *verified the existence* of source documentation. The NIJ review did not attempt to verify the accuracy of performance data reported. In our opinion, NIJ should have identified the performance reporting errors during the course of its in-depth monitoring and notified the award recipients accordingly. We recommend that NIJ enhance its monitoring efforts to include verification of the accuracy of performance reporting. This includes requiring Cold Case DNA program award

recipients to submit supporting documentation for the performance metrics along with progress reports.²⁵

Double-Counting and Ineligible Cases

Based on our audits, we found that Kansas City and Jackson County double-counted some of the same cases in their performance reports. As a result of the dual review process discussed in the Use of Program Funding section of this report, performance metrics reported to NIJ by Kansas City and Jackson County included the same cases. In total, we found that both agencies reported 485 of the same cases as reviewed, 444 of which were reported by Kansas City first and 41 of which were reported by Jackson County first.

According to NIJ's Guidelines for Performance Measures and Progress Reports, the applicants' data collection plans must include an explanation of how the tracking and reporting methods will avoid the possibility of double-counting cases affected by federal funds for projects that fund activities for more than one agency. The guidelines also state that cases should only be counted as reviewed once, even if they are reviewed multiple times under an award or across multiple awards. Both statements point to the fact that in order to correctly measure the impact of the federal funding, cases included as part of the Cold Case DNA program should not be counted more than once. Both Kansas City and Jackson County stated that they felt it was appropriate to report their individual efforts. However, as partnering agencies that opted to combine their Cold Case DNA program efforts, both Kansas City and Jackson County were responsible for coordinating their progress reporting to avoid duplication, consistent with the NIJ's applicable guidelines.

Additionally, in the Use of Program Funds section of this report, we identified cases at Kansas City and Jackson County that were not eligible to be reviewed as part of the Cold Case DNA program. As a result, these cases should not have been included as part of the performance data submitted to NIJ. For Kansas City, 95 percent – 2,377 of 2,510 – of the cases reviewed were not eligible. This means only 133 of the cases reviewed were potentially eligible, 39 of which had already been reported as reviewed by Jackson County.²⁶ For Jackson County, 34 percent – 424 of 1,233 – of the cases reviewed were not eligible. This means only 809 of the cases reviewed were potentially eligible, 58 of which had already been reported as reviewed by Kansas City. For the life of the award, Kansas City reported a total of

²⁵ In July 2013, the Government Accountability Office (GAO) released *Justice Grant Programs: DOJ Could Improve Decision-Making Documentation and Better Assess Results of DNA Backlog Reduction Program Funds*, GAO-13-605. As part of the review of NIJ's DNA Backlog Reduction Program, GAO addressed the extent that NIJ verifies data on grant results submitted by grantees and measures the outcomes of the DNA Backlog Reduction Program. Similar to the issue identified during the course of our audit, the GAO found that NIJ does not have an approach to verify the reliability of the data—testing data to ensure data quality—and as a result, faces continuing data errors.

²⁶ Our audits of both Kansas City and Jackson County did not review every case, and we note that some of the pre-2005 cases not reviewed during our audit may also have been ineligible.

2,456 cases reviewed. However, we found that Kansas City should only have reported 94 cases reviewed; therefore, Kansas City overstated the number of cases it reviewed by 2,362 cases. As of June 30, 2013, Jackson County reported a total of 1,242 cases reviewed. However, we found that Jackson County should have only reported 751 cases reviewed as of the end of July 2013. At the time of our fieldwork, Jackson County's 2010 award was still in progress; therefore we were unable to determine the total number of eligible cases reviewed under the award. However, it is clear that Jackson County overstated the number of cases it reviewed.

Nevertheless, NIJ did not identify the duplication or ineligible cases, either through monitoring progress reports or the EPDR of Jackson County. We identified the duplication issue during our interviews with both award recipients. The EPDR checklist states that many of the checklist questions can only be answered through discussion with the grantee. However, this issue did not appear to be identified by the reviewer. Additionally, the EPDR failed to detect the inflated figures reported by Jackson County, as a result of reviewing ineligible cases. Jackson County's supporting documentation for its progress reports clearly showed that a number of the cases being reviewed as part of this program were from more recent years. However, as previously mentioned, it does not appear that the reviewer looked at the substance of the supporting documentation. Both issues further support our recommendation that NIJ enhance its monitoring efforts to more readily identify issues related to performance reporting.

Reduction in Unanalyzed Cold Cases and Program Sustainability

According to the performance data compiled by NIJ, the Cold Case DNA program funded the review of 123,010 cold cases, which resulted in 3,931 profiles being uploaded to CODIS and 1,505 CODIS hits since the program's inception in FY 2005 through June 2013, as shown in Exhibit 6.

EXHIBIT 6: SOLVING COLD CASES WITH DNA PERFORMANCE METRICS BY FY AWARDED AS OF JUNE 30, 2013

FISCAL YEAR	PERCENTAGE OF AWARDS CLOSED	CASES REVIEWED	CASES WITH BIO. EVIDENCE	CASES TESTED	CASES YIELDING A PROFILE	CODIS UPLOADS	CODIS HITS	CASES CLOSED, ARRESTS, & CONVICTIONS
2005	100%	7,767	1,305	2,236	677	704	261	206
2007	100%	30,430	2,578	866	388	170	71	87
2008	100%	50,813	7,371	3,691	2,049	1,493	576	353
2009	93%	14,331	6,338	2,199	1,248	932	341	316
2010	56%	10,767	4,554	1,481	673	499	211	317
2011	27%	7,131	2,836	198	128	115	41	134
2012	0%	1,771	807	56	21	18	4	73
TOTAL		123,010	25,789	10,727	5,184	3,931	1,505	1,486
Data in the 'Cases Closed, Arrests & Convictions' column were extracted from the progress report narrative or included as an optional metric. They are not a mandatory part of grantee progress reports and are therefore likely to be underreported.								
FY 2005 awards did not require the submission of performance measures with the progress reports. Information for FY05 was extracted from the progress report narrative.								
FY 2007 awards were split between two solicitation titles in GMS and a portion of the awards were separated from the Cold Case designation. The metrics analysis for FY07 awards is only partially complete.								

Source: NIJ

However, as outlined in the Performance Reporting section of this report, we identified many instances where the data reported to NIJ in the performance reports was inaccurate. As a result, in our judgment, the overall performance data maintained by NIJ is not sufficiently reliable for the purposes of determining the number of cold cases reviewed and analyzed as the result of the Cold Cases DNA program funding.

While we cannot evaluate the overall program accomplishments, we did see indications during our audits that Los Angeles, Denver, and San Francisco successfully implemented their respective Cold Case DNA programs.²⁷ Specifically, as of the data reported through June 30, 2013:

- Los Angeles reviewed 582 cold cases to identify potential biological evidence as of June 30, 2013. As a result, it identified 451 cold cases with biological evidence, and solved 9 cold cases. While Los Angeles did not review as

²⁷ Although the performance reports were not accurate, we found that the metrics were generally underreported by both Los Angeles and Denver. Additionally, the figures listed here are the updated figures provided by the award recipients based on the results of our audit. For San Francisco, although the performance reports were not accurate, we found that it was generally working towards meeting its program goals pertaining to the review of homicide and sexual assault cold cases.

many cases as identified in its application, the large percentage of cases reviewed that had biological evidence required substantial efforts on behalf of the investigators involved.

- Denver reviewed 541 cold cases as of June 30, 2013, which exceeded its planned program activities. As a result, it identified 162 cold cases with biological evidence, and solved 57 cold cases.
- San Francisco reviewed 1,174 cold cases to identify potential biological evidence as of March 31, 2013, which was 59 percent of its unanalyzed cold cases. As a result, it identified 614 cold cases with biological evidence.²⁸

We also saw a number of anecdotal accounts in the progress reports that highlighted successes under Cold Case DNA program, as shown in the following examples.

- Denver identified three forensically-linked cold case homicides from 1979 that resulted in a DNA match to a Denver serial killer.
- Denver indicted three men for a 1994 double murder, attempted murder, and sexual assault based on DNA evidence that linked the men to the crime.
- Based on a CODIS match, Denver linked a convicted felon to a previously unsolved kidnapping/sexual assault from 2000. The suspect is incarcerated with a parole hearing scheduled for November 2014.
- Los Angeles extradited a 72-year-old man from Kentucky and charged him with one murder from 1987 and two murders from 1989 based on DNA evidence that linked him to the crimes.
- Based on a CODIS hit, Los Angeles linked a suspect to a 1982 murder. The suspect is currently on death row for a similar type of murder.
- Based on a CODIS hit, Los Angeles linked a registered sex offender residing in the Los Angeles area to a 1988 sexual assault and murder of an elderly victim.
- San Francisco arrested a local man in connection with a 1998 murder of a 36-year old woman. The victim was found alone and stabbed multiple times in her apartment.

²⁸ The number of cases solved is an optional metric, which San Francisco did not include as part of its progress reports.

- San Francisco arrested a local man for a 2001 sexual assault and robbery in Golden Gate Park that took place after offering the victim a ride home.

We found that Kansas City, Jackson County, and CDPS did not successfully meet their respective approved Cold Case DNA program objectives.²⁹

- CDPS proposed to review and prioritize the state's 577 cold case homicides in order to select 75 cases most likely to yield DNA evidence. As previously discussed, there were delays in utilizing program funds. CDPS did not provide award funding to the state and local agencies to conduct the initial stages of the review, which led many of the state and local agencies to decline to participate. According to the laboratory performance tracking spreadsheet, as of April 23, 2013, the laboratory had received and analyzed biological evidence from 38 cold case homicides. While CDPS analyzed some cases, the lack of spending was indicative of major program delays.
- Kansas City stated in its 2011 award application that it would review 1,448 cold cases. Although Kansas City reviewed a total of 2,510 cases through the award period that ended on June 30, 2013, 95 percent of the cases reviewed were not cold cases for the purposes of this program and were, therefore, ineligible.
- Jackson County stated in its 2010 award application that it would review 1,748 cold cases. Although Jackson County reviewed 1,233 cases as of July 30, 2013, 34 percent of the cases reviewed were not cold cases for the purposes of this program and were, therefore, ineligible. Further, because of the dual review process noted previously, Jackson County's future efforts will likely include reviews of the ineligible cases previously reviewed by Kansas City.

In addition to evaluating whether or not the individual award recipients were successful in implementing their programs, we also considered whether or not these programs could be sustained in the absence of federal funding. We asked NIJ officials what consideration is given to the sustainability of the award recipients' cold case efforts when making award decisions. NIJ officials stated and we confirmed that the program solicitations do not require applicants to address whether or not a program is sustainable. The peer review process by which program applications are rated and funds are awarded scores applications based on the criteria in the program solicitations. Consequently, program sustainability does not impact funding decisions.

²⁹ Kansas City and Jackson County provided examples of cases that were cleared under the program, such as cases with uncooperative victims or cases in which the prosecutor declined to file charges. However, as discussed previously, we determined the cases were not eligible under the program. Due to CDPS's program implementation issues previously identified, CDPS's progress reports did not contain any anecdotal accounts of successes resulting from the program.

While future sustainability has no impact on a grantee's access to funding, NIJ officials stated that it instructs award recipients not to rely on grant funding, meaning award recipients should spend federal funds under the assumption future federal funding may not be available for the program. NIJ also advises award recipients to sell the merits of the program to local funders. Despite this cautionary guidance, NIJ officials stated that they believe without the grant funds, the majority of the cases reviewed under this program would remain unaddressed.

The general consensus among the award recipient officials with whom we spoke during our audit was that the cases analyzed using Cold Case DNA program funds would otherwise not have been reviewed due to the low priority nature of cold cases and state and local budgetary constraints. The agencies must determine if resources can be devoted to investigating cold cases in light of the ongoing needs of the jurisdiction. We generally found that unless investigative time and DNA laboratory resources are set aside specifically to address cold cases – either through dedicated staff, dedicated overtime, or contracted services – these cases will not be prioritized due to competing needs of higher priority cases. State and local officials were also doubtful in the absence of NIJ funding that local funds would be available to address cold cases with the potential to be solved using DNA evidence. Award recipients pointed to their failed efforts to obtain state and local funding and uncertainty surrounding their budgets as evidence of the necessity of the grant funds to address cold cases. Both issues demonstrate that NIJ funding played an important role in increasing the number of cold cases reviewed and analyzed.

Conclusion

NIJ has the primary responsibility for monitoring Cold Case DNA program awards made to state and local agencies. NIJ uses general monitoring tools for all awards, which includes GANs, progress reports, FFRs, and programmatic desk reviews. NIJ also uses in-depth monitoring tools for selected awards, which includes site visits and EPDRs. All reviews are designed to assess, to varying degrees, the administrative, programmatic, and financial integrity of the awards and award recipients. During our audits of the Cold Case DNA program awards we found that NIJ's monitoring efforts did not identify that two award recipients were using funds for unallowable purposes. We also found that NIJ did not identify that one award recipient encountered problems implementing its program. Finally, we found that NIJ did not identify multiple instances of award recipients reporting performance data that did not match their supporting documentation or that two award recipients overstated performance data by reporting the same cases and reporting cases that were not eligible for review under the program.

Recommendations

We recommend that NIJ:

1. Enhance its monitoring efforts to include verification of the allowable uses of funds.
2. Enhance its monitoring efforts of FFRs, drawdowns, and GANs to include identification of issues related to program implementation, including no or slow spending and multiple requests for program extensions or scope changes.
3. Enhance its monitoring efforts to include verification of the accuracy of performance reporting. This includes requiring Cold Case DNA program award recipients to submit supporting documentation for the performance metrics along with progress reports.

STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards*, we tested, as appropriate, internal controls significant within the context of our audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to timely prevent or detect: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. Our evaluation of NIJ's internal controls was *not* made for the purpose of providing assurance on its internal control structure as a whole. NIJ's management is responsible for the establishment and maintenance of internal controls.

As noted in the Findings and Recommendations section of this report, we identified deficiencies in NIJ's monitoring efforts for its Cold Case DNA program that we believe adversely effected NIJ's ability to ensure optimal program performance.

However, because we are not expressing an opinion on NIJ's internal control structure as a whole, this statement is intended solely for the information and use of NIJ. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices, to obtain reasonable assurance that NIJ's management complied with federal laws and regulations, for which noncompliance, in our judgment, could have a material effect on the results of our audit. NIJ's management is responsible for ensuring compliance with applicable federal laws and regulations. In planning our audit, we identified the following law that concerned the operations of the auditee and was significant within the context of the audit objectives:

- 42 U.S.C. § 3712h(c)(1) (2006)

Our audit included examining, on a test basis, NIJ's compliance with the aforementioned law that could have a material effect on NIJ's operations, through interviewing NIJ officials and auditee personnel, conducting audits of six award recipients, and reviewing NIJ's oversight materials for the six state and local agencies that were included as part of our audit. Nothing came to our attention that caused us to believe that NIJ was not in compliance with the aforementioned law.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The objective of our audit was to evaluate NIJ's oversight of its Cold Case DNA program. The audit covers Cold Case DNA program awards from FYs 2010 through 2012.

Scope and Methodology Section

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit covers Cold Case DNA program awards from FYs 2010 through 2012. To accomplish our audit objective we: (1) audited six state and local agencies that were awarded a total of nine cooperative agreements totaling \$5.2 million, (2) interviewed NIJ officials responsible for overseeing the Cold Case DNA program and OJP officials responsible for overseeing OJP monitoring efforts, and (3) obtained and analyzed relevant NIJ documentation.

Audits Work for the Six State and Local Agencies

The purpose of the audits was to determine whether reimbursements claimed for costs under the cooperative agreements were allowable, reasonable, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the cooperative agreements, and to determine program performance and accomplishments. The objective of each audit was to assess risks and review performance in the following areas: (1) internal control environment, (2) drawdowns, (3) expenditures, (4) budget management and control, (5) financial and progress reports, and (6) program performance and accomplishments. For Kansas City, we also reviewed post end date activity.

We completed audits of NIJ Cooperative Agreements awarded to Los Angeles, Denver, Jackson County, CDPS, Kansas City, and San Francisco, as shown in Exhibit 7.

EXHIBIT 7: COLD CASE DNA PROGRAM AWARDS SELECTED FOR REVIEW

JURISDICTION³⁰	AWARD NO.	AWARD PERIOD	TOTAL AWARD	DRAWDOWNS AS OF THE START OF OUR SITE-WORK³¹
Los Angeles	2010-DN-BX-K013	01/01/2011-06/30/2013	\$1,130,868	\$994,663
	2012-DN-BX-K010	10/01/2012-03/31/2014	500,000	0
Denver	2010-DN-BX-K004	11/01/2010-10/31/2013	596,273	365,221
	2012-DN-BX-K007	10/01/2012-03/31/2014	499,818	0
Jackson County	2010-DN-BX-K008	12/01/2010-09/30/2013	504,524	504,524
	2012-DN-BX-K031	10/01/2012-10/31/2014	415,829	0
CDPS	2010-DN-BX-K234	10/01/2010-09/30/2013	687,250	85,578
Kansas City	2011-DN-BX-K526	10/01/2011-06/30/2013	452,293	452,293
San Francisco	2010-DN-BX-K015	09/01/2010-03/31/2013	424,107	422,948
TOTAL			\$5,210,962	\$2,825,227

Source: OJP's GMS and NIJ Drawdown Records

Our audits concentrated on, but were not limited to the award date through the date of our site work.

For all six state and local agencies, we tested compliance with what we consider to be the most important conditions of the cooperative agreements. Unless otherwise stated in our report, the criteria we audit against are contained in the OJP Financial Guide and the award documents. In conducting all six audits, we performed sample testing in three areas, which were cooperative agreement expenditures (including personnel expenditures), Federal Financial Reports, and Categorical Assistance Progress Reports. In this effort, we employed a judgmental sampling design to obtain broad exposure to numerous facets of the award reviewed, such as dollar amounts, expenditure category, or risk. However, this non-statistical sample design does not allow a projection of the test results for all cooperative agreement expenditures or metrics. In addition, we evaluated internal control procedures, drawdowns, budget management and controls, and program performance and accomplishments. However, we did not test the reliability of the financial management systems as a whole.

For Los Angeles, Denver, CDPS, and San Francisco reliance on computer based data was not significant to our objective. For Jackson County and Kansas City, we analyzed computer based data provided by both agencies to identify the number of cases reviewed using award funds and the number of ineligible cases reviewed. We also reviewed the computer based data for duplicates and errors, and made appropriate adjustments based on our review.

³⁰ These awards were judgmentally selected for review based on the amount of funding received and because three of the agencies received multiple awards during the scope of our audit.

³¹ We requested updated drawdown information for Jackson County and San Francisco after completing our site-work. Jackson County had drawn down a total of \$504,524, the entire award, as of November 4, 2013. San Francisco had drawn down \$422,948 as of June 25, 2013.

APPENDIX II

**COLD CASE DNA PROGRAM AWARD RECIPIENTS
FYs 2010, 2011, and 2012**

JURISDICTION	STATE	FY 2010	FY 2011	FY 2012	TOTAL
		AMOUNT	AMOUNT	AMOUNT	
City of Los Angeles	CA	\$1,130,868	0	\$500,000	\$1,630,868
New York City Office of the Criminal Justice Coordinator	NY	0	796,829	500,000	1,296,829
Miami-Dade County	FL	665,748	0	500,000	1,165,748
City and County of Denver	CO	596,273	0	499,818	1,096,091
Attorney General, Alabama	AL	467,930	0	499,997	967,927
Jackson County Prosecuting Attorney's Office	MO	504,524	0	415,829	920,353
Colorado Department of Public Safety	CO	687,250	0	0	687,250
King County Sheriff's Office	WA	544,147	0	0	544,147
Wisconsin Department of Justice	WI	506,323	0	0	506,323
City of Jacksonville	FL	0	500,000	0	500,000
City of Miami, Florida	FL	0	0	500,000	500,000
San Bernardino County	CA	0	500,000	0	500,000
County of Riverside	CA	0	0	499,999	499,999
Arizona Criminal Justice Commission	AZ	0	499,975	0	499,975
Chicago, City of	IL	0	0	499,565	499,565
Napa County Sheriff's Department	CA	499,284	0	0	499,284
Charlotte, City of	NC	0	485,777	0	485,777
Oklahoma State Bureau of Investigation	OK	474,341	0	0	474,341
County of Ventura	CA	49,343	0	418,047	467,390
Virginia State Police	VA	0	0	466,900	466,900
MN Dept. of Public Safety — Bureau of Criminal Apprehension	MN	0	465,079	0	465,079
Kansas City, Missouri Board of Police Commissioners	MO	0	452,293	0	452,293
City And County of San Francisco	CA	424,107	0	0	424,107
County of Kent	MI	407,449	0	0	407,449
Salt Lake City	UT	389,200	0	0	389,200
City of Fort Worth	TX	384,960	0	0	384,960
Baltimore County Maryland	MD	185,308	176,444	0	361,752
Milwaukee Police Department	WI	334,061	0	0	334,061
City of Boston	MA	0	0	314,372	314,372
Unified Police of Greater Salt Lake	UT	0	0	303,645	303,645
City of Portland	OR	280,453	0	0	280,453
Charles County Government	MD	0	0	246,440	246,440
Montgomery County Ohio	OH	0	0	242,300	242,300

JURISDICTION	STATE	FY 2010	FY 2011	FY 2012	TOTAL
		AMOUNT	AMOUNT	AMOUNT	
City of Glendale Police Department	AZ	238,042	0	0	238,042
City of Worcester, Massachusetts	MA	0	0	231,503	231,503
City of Hollywood	FL	0	224,974	0	224,974
City of Tacoma	WA	0	0	224,850	224,850
Louisiana State Police	LA	222,360	0	0	222,360
City of Annapolis	MD	221,177	0	0	221,177
St. Johns County Sheriff's Office	FL	0	219,723	0	219,723
County of San Mateo	CA	217,178	0	0	217,178
Pinellas County Sheriff's Office	FL	0	0	214,354	214,354
Marion County Board of County Commissioners	FL	199,735	0	0	199,735
Lee County	FL	198,725	0	0	198,725
County of Allegheny	PA	0	0	169,536	169,536
Long Beach Police Department	CA	0	0	157,922	157,922
Alachua County	FL	151,270	0	0	151,270
Palm Beach County Sheriff's Office	FL	132,505	0	0	132,505
City of Torrance	CA	0	0	93,175	93,175
City of Ocala	FL	0	0	81,939	81,939
Converse County, Wyo.*	WY	35,658	0	0	35,658
Multnomah County	OR	0	34,749	0	34,749
TOTALS		\$10,148,219	\$4,355,843	\$7,580,191	\$22,084,253

Source: OJP's GMS

*Converse County, Wyoming declined funding after its FY 2010 award funds were obligated. The award was administratively closed by OJP and the entire award was de-obligated.

APPENDIX III

OFFICE OF JUSTICE PROGRAMS RESPONSE



U.S. Department of Justice

Office of Justice Programs

Washington, D.C. 20531

JUL 16 2014

MEMORANDUM TO: Michael E. Horowitz
Inspector General
United States Department of Justice

THROUGH: Raymond J. Beudet
Assistant Inspector General for Audit
Office of the Inspector General
United States Department of Justice

FROM: Karol V. Mason *KVM*
Assistant Attorney General

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report, *Audit of the National Institute of Justice's Oversight of the Solving Cold Cases with DNA Program*

This memorandum provides a response to the Office of the Inspector General's (OIG's) June 26, 2014, draft audit report, entitled *Audit of the National Institute of Justice's Oversight of the Solving Cold Cases with DNA Program*. The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on the draft report.

The draft audit report contains three recommendations and no questioned costs. For ease of review, these recommendations are restated in bold and are followed by OJP's response.

- 1. We recommend that NIJ enhance its monitoring efforts to include verification of the allowable uses of funds.**

The Office of Justice Programs agrees with the recommendation. By October 1, 2014, the National Institute of Justice (NIJ) will develop and implement internal procedures to enhance monitoring efforts over its Solving Cold Cases with DNA Program, to include a verification process on the allowable uses of funds under the program. In fact, NIJ has already begun the process of identifying strategies, such as enhanced training for NIJ staff related to performance metrics, and when it is appropriate to increase the amount of monitoring for technical assistance awards. The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

2. **We recommend that NIJ enhance its monitoring efforts of FFRs, drawdowns, and GANs to include identification of issues related to program implementation, including no or slow spending and multiple requests for program extensions or scope changes.**

The Office of Justice Programs agrees with the recommendation. As part of NIJ's monitoring efforts, NIJ grant managers review grantees' Federal Financial Reports, progress reports, Grant Adjustment Notices (GANs), and drawdown histories, to help identify project delays that are evident in slow spending and repeated requests for project period extensions and scope revisions. In addition, over the past six months, NIJ has increased its staff of grant managers and created a Grants Management Division (GMD), within the Office of Investigative and Forensic Sciences, to assist with monitoring and oversight of its grant programs. NIJ anticipates that the creation of the GMD and increased staff will enhance the overall monitoring efforts, especially for those grant programs requiring performance metrics reports.

By October 1, 2014, NIJ will develop and implement internal procedures to enhance monitoring efforts for the Solving Cold Cases with DNA Program, as well as work to establish internal controls that will help address issues of slow spending and multiple requests for project period extensions and scope changes. The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

3. **We recommend that NIJ enhance its monitoring efforts to include verification of the accuracy of performance reporting. This includes requiring Cold Case DNA program award recipients to submit supporting documentation for the performance metrics along with progress reports.**

The Office of Justice Programs agrees with the recommendation. NIJ acknowledges the importance of verification of performance data to ensure that accurate information is reported by grantees. Effective with the January 1, 2014 through June 30, 2014 reporting period, NIJ began requiring grant recipients to include documentation to support performance metrics data in their semi-annual progress reports. NIJ will review the documentation during its grant monitoring activities.

By October 1, 2014, NIJ will develop internal procedures to enhance monitoring efforts for the Solving Cold Cases with DNA Program, which will include verification of performance metrics data. The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

Thank you for your continued support and assistance. If you have any questions regarding this response, please contact LeToya A. Johnson, Acting Director, Office of Audit, Assessment, and Management, on (202) 514-0692.

cc: Mary Lou Leary
Principal Deputy Assistant Attorney General

Maureen A. Henneberg
Acting Deputy Assistant Attorney General
for Operations and Management

Gregory K. Ridgeway
Acting Director
National Institute of Justice

Leigh Benda
Chief Financial Officer

LeToya A. Johnson
Acting Director
Office of Audit, Assessment, and Management

Rafael A. Madan
General Counsel

Silas V. Darden
Acting Director
Office of Communications

Richard P. Theis
Director, Audit Liaison Group
Internal Review and Evaluation Office
Justice Management Division

OJP Executive Secretariat
Control Title IT20140630102729

APPENDIX IV

OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

The Office of the Inspector General (OIG) provided a draft of this audit report to the Office of Justice Programs (OJP). OJP's response is included as Appendix III of this final report. The following provides the OIG analysis of the responses and a summary of actions necessary to close the report.

Recommendation:

1. Enhance its monitoring efforts to include verification of the allowable uses of funds.

Resolved. OJP agreed with our recommendation. In its response, OJP stated that by October 1, 2014, the National Institute of Justice (NIJ) will develop and implement internal procedures to enhance monitoring efforts over its Solving Cold Cases with DNA Program, to include a verification process on the allowable uses of funds under the program.

This recommendation can be closed when we receive documentation demonstrating that NIJ has developed and implemented internal procedures to enhance its monitoring efforts over its Solving Cold Cases with DNA Program, including verification of the allowable use of funds.

2. Enhance its monitoring efforts of FFRs, drawdowns, and GANs to include identification of issues related to program implementation, including no or slow spending and multiple requests for program extensions or scope changes.

Resolved. OJP agreed with our recommendation. In its response, OJP stated that by October 1, 2014, NIJ will develop and implement internal procedures to enhance monitoring efforts for the Solving Cold Cases with DNA Program, as well as work to establish internal controls that will help address issues of slow spending and multiple requests for project period extensions and scope changes.

This recommendation can be closed when we receive documentation demonstrating that NIJ has developed and implemented internal procedures to enhance monitoring efforts for the Solving Cold Cases with DNA Program, as well as work to establish internal controls that will help address issues of slow spending and multiple requests for project period extensions and scope changes.

3. Enhance its monitoring efforts to include verification of the accuracy of performance reporting. This includes requiring Cold Case DNA program award recipients to submit supporting documentation for the performance metrics along with progress reports.

Resolved. OJP agreed with our recommendation. In its response, OJP stated that effective with the January 1, 2014, through June 30, 2014, reporting period, NIJ began requiring grant recipients to include documentation to support performance metrics data in their semi-annual progress reports. NIJ will review the documentation during its grant monitoring activities. Additionally, OJP stated that by October 1, 2014, NIJ will develop internal procedures to enhance monitoring efforts for the Solving Cold Cases with DNA Program, which will include verification of performance metrics data.

This recommendation can be closed when we receive documentation demonstrating that NIJ has developed and implemented internal procedures to enhance monitoring efforts for the Solving Cold Cases with DNA Program, including verification of performance metrics data.