



**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**

U.S. Department of Justice
Office of the Inspector General
Audit Division

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EXECUTIVE SUMMARY

The U.S. Department of Justice, Office of the Inspector General, Audit Division, has completed an audit of the Solving Cold Cases with DNA program cooperative agreement totaling \$452,293, awarded by the Office of Justice Programs (OJP), National Institute of Justice (NIJ) to the Kansas City, Missouri Board of Police Commissioners (Kansas City), as shown in Exhibit 1.

EXHIBIT 1: COOPERATIVE AGREEMENT AWARDED TO THE KANSAS CITY, MISSOURI BOARD OF POLICE COMMISSIONERS

AWARD NUMBER	COOPERATIVE AGREEMENT PROGRAM	AWARD DATE	PROJECT START DATE	PROJECT END DATE	AWARD AMOUNT
2011-DN-BX-K526	Solving Cold Cases With DNA	09/12/11	10/01/11	06/30/13	\$452,293
Total:					\$452,293

Source: Office of Justice Programs' (OJP) Grants Management System (GMS)

The purpose of the Solving Cold Cases with DNA Program is to provide assistance to states and units of local government to identify, review, and investigate Uniform Crime Reporting (UCR) Part 1 Violent Crime cold cases that have the potential to be solved through DNA analysis and to locate and analyze biological evidence associated with these cases.¹ For the purposes of this program, the NIJ defines a violent crime cold case as any unsolved UCR Part 1 violent crime case for which all significant investigative leads have been exhausted.

The purpose of the audit was to determine whether reimbursements claimed for costs under the cooperative agreement were allowable, reasonable, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the cooperative agreement, and to determine program performance and accomplishments. The objective of our 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, (6) program performance and accomplishments, and (7) post end date activity. We determined that monitoring of contractors and subrecipients, property management, indirect costs, program income, and matching were not applicable to this award.

¹ In the Federal Bureau of Investigation's 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.

We tested compliance with what we consider to be the most important conditions of the cooperative agreement. Unless otherwise stated in our report, the criteria we audit against are contained in the *OJP Financial Guide* and the cooperative agreement award documents.

We examined Kansas City's accounting records, financial and progress reports, and operating policies and procedures and found:

- \$440,232 in unallowable costs associated with the review of ineligible cases;
- Kansas City's Federal Financial Reports were not accurate;
- performance metrics reported to NIJ did not match the supporting documentation and were not accurate; and
- Kansas City did not meet the program goals.

The report contains two recommendations, which are detailed in the Findings and Recommendations section of the report. Our audit objectives, scope, and methodology are discussed in Appendix I. Our Schedule of Dollar-Related Findings appears in Appendix II.

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INTRODUCTION

The U.S. Department of Justice (DOJ), Office of the Inspector General (OIG), Audit Division, has completed an audit of the Solving Cold Cases with DNA program cooperative agreement totaling \$452,293, awarded by the Office of Justice Programs (OJP), National Institute of Justice (NIJ) to the Kansas City, Missouri Board of Police Commissioners (Kansas City), as shown in Exhibit 1.

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Source: Office of Justice Programs' (OJP) Grants Management System (GMS)

The purpose of NIJ's Solving Cold Cases with DNA Program is to provide assistance to states and units of local government to identify, review, and investigate Uniform Crime Reporting (UCR) Part 1 violent crime cold cases that have the potential to be solved through DNA analysis and to locate and analyze biological evidence associated with these cases.¹ For the purposes of this program, the NIJ defines a violent crime cold case as any unsolved UCR Part 1 violent crime case for which all significant investigative leads have been exhausted.

According to its application, Kansas City intended to use Cooperative Agreement 2011-DN-BX-K526 to address two components in the investigation of cold case sexual assaults. First, Kansas City planned to review cold cases with potential biological evidence that had not been analyzed by the police department's crime laboratory. Second, Kansas City planned to investigate cold cases that had a Combined DNA Index System (CODIS) hit identified or had a full or partial profile developed for an unknown suspect, but were not fully investigated.² The budget

¹ In the Federal Bureau of Investigation's 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.

² 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).

included full-time salaries and fringe benefits for three cold case sex crimes detectives, overtime for cold case sex crimes and homicide detectives, and travel for investigations and training.

Background

OJP's 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. NIJ, a program office of OJP, is the research, development, and evaluation agency of DOJ. The 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. The 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.

The Kansas City, Missouri Board of Police Commissioners has the responsibility of providing police service to the citizens of Kansas City, Missouri as mandated by Missouri State Statute. The Kansas City Police Department is unique, as most other departments are governed by city councils. While the police department is not governed by the City, the City does provide the department with funding, meaning the City controls the police department through its budget. According to Kansas City's website, the Board of Police Commissioners currently governs a department with more than 1,400 officer and 600 civilian employees. The Kansas City Police Department is made up of five departments, including the Investigations Bureau, which includes the cold case squads.

Our Audit Approach

We tested compliance with what we consider to be the most important conditions of the cooperative agreement. Unless otherwise stated in our report, the criteria we audit against are contained in the *OJP Financial Guide* and cooperative agreement award documents. We tested Kansas City's:

- **internal control environment** to determine whether the internal controls in place for the processing and payment of funds were adequate to safeguard cooperative agreement funds and ensure compliance with the terms and conditions of the cooperative agreement;
- **drawdowns** to determine whether cooperative agreement drawdowns were adequately supported and if Kansas City was managing cooperative agreement receipts in accordance with federal requirements;

- **expenditures** to determine whether the costs charged to the cooperative agreement were accurate and allowable;
- **budget management and control** to determine Kansas City's compliance with the costs approved in the cooperative agreement budget;
- **reporting** to determine if the required financial and programmatic reports were submitted on time and accurately reflected award activity;
- **performance and accomplishments** to determine whether Kansas City met the cooperative agreement objectives; and
- **post end date activity** to determine whether Kansas City complied with post end date requirements.

The findings and recommendations are detailed in the Findings and Recommendations section of this report. Our audit objectives, scope, and methodology appear in Appendix I. Our Schedule of Dollar-Related Findings appears in Appendix II.

FINDINGS AND RECOMMENDATIONS

We found that Kansas City did not comply with essential award conditions in the areas of expenditures, reporting, and performance. Specifically, 95 percent of the cases reviewed by Kansas City using award-funded positions were not eligible under the program; as a result, the award expenditures related to these positions totaling \$440,232 are unallowable. We also found that Kansas City's program performance data reported to the NIJ in the semi-annual progress reports did not match the supporting documentation and was not accurate. In addition, since 95 percent of the cases reviewed under the program were ineligible, Kansas City did not meet the program goals. Based on our audit results, we make one recommendation to address dollar-related findings and one recommendation to improve the management of DOJ cooperative agreements.

Internal Control Environment

We reviewed Kansas City's Single Audit Report, other prior audits, and the financial management system to assess the organization's risk of non-compliance with laws, regulations, guidelines, and terms and conditions of the cooperative agreement. We also interviewed management and key personnel, and inspected documents and records in order to further assess risk.

Single Audit

The *Office of Management and Budget (OMB) Circular A-133* requires that non-federal entities that expend \$500,000 or more per year in federal awards have a single audit performed annually. The most recent Single Audit for Kansas City was for the year ended April 30, 2013. We reviewed this audit report and did not identify any findings related to the police department or Cooperative Agreement 2011-DN-BX-K526 that were significant within the context of our audit.

Financial Management System

We reviewed Kansas City's financial management system, interviewed Kansas City officials, and inspected cooperative agreement documents. Internal control procedures for payroll included tracking employee activity by a designated timekeeper, most often a supervisor, using electronic timesheets and a supplemental overtime voucher. Overtime was authorized by an immediate supervisor, logged by the timekeeper, compiled by the payroll department, and approved by both the assistant and division commander. Internal control procedures for travel reimbursements included the traveler obtaining prior approval from the designated chain of command and providing a travel expense summary with receipts, all of which was reviewed and approved by the fiscal division. We did not identify any control weaknesses within the context of our audit.

Drawdowns

Kansas City officials stated that drawdowns were requested on a reimbursement basis. According to the *OJP Financial Guide*, the grant recipient should time drawdown requests to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days. We analyzed the cooperative agreement to determine if the total expenditures recorded in Kansas City's accounting records were equal to, or in excess of, the cumulative drawdowns. We determined that Kansas City complied with the requirement, as total expenditures were equal to cumulative drawdowns as of July 12, 2013. Kansas City had drawn down a total of \$452,293, the entire award, as of that date.

Expenditures

According to Kansas City's accounting records as of June 30, 2013, the project end date, cooperative agreement expenditures totaled \$452,293. We selected a judgmental sample of 20 transactions totaling \$37,968 for review, in order to determine if cooperative agreement expenditures were allowable, reasonable, and in compliance with the terms and conditions of the award.

Personnel and Fringe Benefits

The sample included payroll transactions totaling \$23,261 from two non-consecutive pay periods. For the two selected pay periods, we determined that salaries, fringe benefits, and overtime charged to the cooperative agreement were computed correctly, properly authorized, and accurately recorded. However, we found that the activities performed by the award-funded employees were not eligible under the program. As a result, we found that all personnel and fringe benefits costs charged to the cooperative agreement were unallowable.

The FY 2011 Solving Cold Cases with DNA program solicitation outlines allowable and unallowable uses of funds. Permissible uses of the funds included activities directly related to the three program goals, also known as funding purposes: cold case review, location of evidence, and DNA analysis of biological evidence. Funds could also be used for certain investigative activities provided they directly related to the funding purposes. Costs for general cold case investigations – those that do not 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, the general concept behind the 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. This statement is in line with the 2011 program solicitation, which stated that advances in DNA technology 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 point to the fact 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 also stated that the program was not meant to cover 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 biological evidence was collected, the evidence represents a significant investigative lead. If the biological evidence was not analyzed, all investigative leads have not been exhausted and the case does not qualify under this program. This stipulation underscores the fact that the review and investigation of certain cases cannot be funded using program funds.

We found that Kansas City was using award funds to review relatively recent sex crime cases, for which biological evidence had been collected during a time when DNA technology was readily available, including crimes committed between 2006 through 2011. 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. In our opinion, cases from more recent years are not eligible for inclusion in the program, because DNA technologies were not a limiting factor for processing biological evidence during the investigation, since they occurred at a time when the technology was readily available.

We looked at a 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 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 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 are problematic 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 years 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. Three of the cases appeared to be instances where all investigative leads were not exhausted prior to the cases' inclusion in the program, an issue previously discussed.

We also noted that according to Kansas City's award application, it planned to review 1,448 cold cases for crimes committed between 1972 and 2005 that were known to have biological evidence. The application briefly mentions that if Kansas City completed the review of these cases, they might start reviewing the year 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. According to the *OJP Financial Guide*, you must initiate a Grant Adjustment Notice (GAN) for changes in scope, duration, activities, or other significant areas. These changes include altering programmatic activities or changing the purpose of the project. Kansas City did not file a GAN outlining the changes in scope. 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 application. We used the original timeframe established by Kansas City – 1972 through 2005 – to differentiate cold cases that were eligible to be reviewed and more recent cases that were not eligible.

Kansas City also received Solving Cold Cases with DNA program funds 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 could lead to an arrest, rather than reviewing the cases identified in its application.

Kansas City officials went on to say that it did not distinguish between unsolved cases from the 1980s and unsolved cases from 2008. Kansas City defines a cold case as an unsolved case that is two years or older and the detective originally assigned to the case is no longer working in the unit from which the case originated. We understand that jurisdictions may define cold cases differently.

However, agencies using NIJ funds to advance its cold case efforts must abide by the definition outlined in the program solicitation.

We are questioning 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 they 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 are questioning the \$436,688 in personnel costs charged to the cooperative agreement as unallowable.

Other Direct Costs

The sample also included six travel expenditures totaling \$14,707.³ For five of these transactions, we determined that the expenditures were adequately supported, approved, and allowable. The allowable travel expenditures included travel to a conference covering DNA topics and investigative travel (i.e., travel to collect a comparison DNA sample from a suspect) related to eligible cases reviewed as part of this program. The remaining sample expenditure was for investigative travel totaling \$3,554 related to an ineligible case from 2008. As outlined in the previous section, we found that more recent cases were not eligible to be reviewed or investigated under this program. As a result, we are questioning the \$3,544 in travel costs related to this case as unallowable.

Budget Management and Control

The NIJ approved a detailed budget for the cooperative agreement which was organized by defined budget categories. According to the *OJP Financial Guide*, the cooperative agreement recipient must initiate a GAN for a budget modification that reallocates funds among budget categories, if the proposed cumulative change is greater than 10 percent of the total award amount. We compared cooperative agreement expenditures to the approved budget to determine whether Kansas City transferred funds among direct cost categories in excess of 10 percent. We determined that Kansas City complied with the requirement, as the cumulative difference between actual category expenditures and approved budget category totals was not greater than 10 percent.

Reporting

We reviewed the Federal Financial Reports (FFR) and Categorical Assistance Progress Reports (progress reports) to determine if the required reports were submitted on time and accurate.

³ There were additional travel charges totaling \$898 that were not included as part of our sample. While we did not review the supporting documentation for these expenditures, we did confirm that the costs were allowable under the Solving Cold Cases with DNA program.

Financial Reporting

The *OJP Financial Guide* states that grant recipients must report expenditures online using the FFR no later than 30 days after the end of each calendar quarter. We reviewed the submission dates for the five most recent FFRs as of the start of our fieldwork and determined that all five reports were submitted on time.

We also reviewed financial reporting for accuracy. According to the *OJP Financial Guide*, recipients shall report the actual expenditures and unliquidated obligations incurred for the reporting period on each financial report. We compared the reports to Kansas City's accounting records and determined that four of five of the FFRs were not accurate. The inaccuracies were due to timing differences between posting and reporting payroll expenditures. In two instances, a pay period fell at the end of the quarter and the corresponding pay date was at the beginning of the next quarter. The FFR reported these expenditures in the period of the pay date rather than the period the expense was incurred, as shown in Exhibit 2.

EXHIBIT 2: FFR ACCURACY BY PERIOD⁴

REPORT NO.	REPORT PERIOD END DATE	PERIOD EXPENDITURES IN QUARTERLY REPORT	PERIOD EXPENDITURES IN ACCOUNTING RECORDS	DIFFERENCE BETWEEN REPORTS & ACCOUNTING RECORDS
3	06/30/12	\$70,307	\$70,307	\$ 0
4	09/30/12	54,747	62,638	(7,892)
5	12/31/12	80,444	72,552	7,892
6	03/31/13	66,321	78,229	(11,909)
7	06/30/13	53,995	42,086	11,909

Source: OJP's GMS and Kansas City's Financial Records

This resulted in two FFRs understating the period expenditures and the subsequent two FFRs overstating the period expenditures by the same amount. However, the differences were only temporary and the cumulative difference was zero; as a result, we offer no recommendation related to this issue.

Categorical Assistance 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. We reviewed the submission dates for the four most recent progress reports submitted and determined that all four reports were submitted on time.

We also reviewed the progress reports for accuracy. According to the *OJP Financial Guide*, the funding recipient agrees to collect data appropriate for facilitating reporting requirements established by Public Law 103-62 for the *Government Performance and Results Act*. The funding recipient should ensure that valid and auditable source documentation is available to support all data

⁴ Throughout this report differences in the total amounts are due to rounding.

collected for each performance measure specified in the program solicitation. We selected two recent progress reports for our audit review. These reports covered the reporting periods from January 2012 through June 2012 and July 2012 through December 2012.

The NIJ's Solving Cold Cases with DNA Progress Report Form includes a performance measure table, which captures six performance metrics for each reporting period over the course of the cooperative agreement. Performance metrics include: (1) number of violent crime cold cases reviewed, (2) number of violent crime cold cases reviewed in which biological evidence still existed, (3) number of violent crime cold cases with biological evidence that are subjected to DNA analysis, (4) number of violent crime cold cases that yielded a viable DNA profile, (5) number of DNA profiles entered into the Federal Bureau of Investigation's CODIS, and (6) number of CODIS hits.

Kansas City officials informed us that investigative staff overseeing cold case work under the cooperative agreement tracked performance by updating a cold case database managed by the police department. At the end of each semi-annual reporting period, the period data was compiled and reported to the NIJ. We reviewed a copy of the database provided by Kansas City. Based on our review, we determined that the performance data reported to the NIJ did not match the supporting documentation maintained by Kansas City, as shown in Exhibit 3.

EXHIBIT 3: PERFORMANCE METRIC ERRORS, CALENDAR YEAR 2012

REPORTING PERIOD: REPORTED DATA, DATA IN SUPPORTING DOCUMENTS, AND THE DIFFERENCE	1. CASES REVIEWED	2. W/ BIOLOGICAL EVIDENCE	3. SUBJECTED TO DNA ANALYSIS	4. YIELDED VIABLE DNA PROFILE	5. ENTERED INTO CODIS	6. CODIS HIT
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
Difference	(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
Difference	31	27				10

Source: OJP's GMS and Site-work

The differences for both periods were in part due to the fact that the database included duplicate cases. For the January through June 2012 reporting period, we identified 28 and 26 cases that appeared in the database more than once for the first and second metric respectively. For the July through December 2012 reporting period, we identified 25 and 24 cases that appeared in the database more than once for the first and second metric respectively. In addition, the differences were likely due to the way information was pulled from the database.

In order to determine the case counts during a given period, a detective 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. We also noted that Kansas City reported the number of CODIS hits, not only for these two periods, but for every reporting period for this 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. Therefore, this metric should have been reported as 'N/A' for all reporting periods.⁵

Additionally, we identified another form of duplication, which was the result of Kansas City's work with a partnering agency. Kansas City and the Jackson County Prosecutor's Office (Jackson County) received separate cooperative agreements to conduct "dual reviews" of unsolved sex crimes cases. The general approach was described by both agencies as follows: (1) Kansas City 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 a legal and factual review to determine if the case had prosecution potential.

We found that both Kansas City and Jackson County were counting cases reviewed by both agencies as part of their performance metrics. According to NIJ's *Guidelines for Performance Measures and Progress Reports*, cases should only be counted as reviewed once, even if they are reviewed multiple times under an award or across multiple awards. This means that in order to avoid double-counting, only one agency should report a case reviewed as part of its performance metrics, regardless of the case being reviewed by both agencies. In total, we found that both agencies reported 485 of the same cases; 41 of which were reported by Jackson County first. This means that Kansas City should not have reported these 41 cases, as they had already been counted as reviewed.

Finally, we found that Kansas City's progress reports overstated the number of cases reviewed, based on our determination that 95 percent of cases were ineligible, as outlined in the Expenditure section of this report. As a result of these issues, the actual number of cases reviewed under the program was significantly less than what was reported. The total numbers reported for the life of the cooperative agreement and the actual numbers for each metric are shown in Exhibit 4.

⁵ NIJ issued the *Guidelines for Performance Measures and Progress Reports* to award recipients in December 2012. The guidance was available to award recipients prior to the July through December 2012 progress report period due date on January 30, 2013. In addition to using the guidance to complete the performance measure table for that period and all periods moving forward, it is reasonable to conclude that award recipients could also use the guidance to revise metrics that were included as part of previous reporting periods, if necessary.

EXHIBIT 4: TOTAL CASES REVIEWED – ACTUAL VERSUS REPORTED

REPORTING PERIOD: REPORTED DATA, DATA IN SUPPORTING DOCUMENTS, AND THE DIFFERENCE	1. CASES REVIEWED	2. W/ BIOLOGICAL EVIDENCE	3. SUBJECTED TO DNA ANALYSIS	4. YIELDED VIABLE DNA PROFILE	5. ENTERED INTO CODIS	6. CODIS HIT
Total Reported	2,456	2,083	N/A	N/A	N/A	30
Actual	94	87	N/A	N/A	N/A	N/A
<i>Difference</i>	2,362	1,996				30

Source: OJP's GMS and Site-work

Based on the information outlined above, we determined that the performance metrics were not accurate. We recommend that the OJP obtain a final progress report, which includes the corrected performance data based on eligible cases under the program.

Program Performance and Accomplishments

As previously mentioned in this report, the purpose of the program was to provide assistance to states and units of local government to identify, review, and investigate UCR Part 1 Violent Crime cold cases that have the potential to be solved through DNA analysis and to locate and analyze biological evidence associated with these cases. We reviewed the NIJ cooperative agreement solicitation, Kansas City documentation, and interviewed Kansas City officials to determine whether the program goals were implemented. The goals and the degree to which the cooperative agreement met those goals are detailed below.

For its first goal, Kansas City proposed to review cold case sex crimes. Specifically, Kansas City's award application primarily addressed reviewing cold cases for crimes committed between 1972 and 2005 that were known to have evidence. As previously mentioned, we found that 95 percent of the cases reviewed under the program were not eligible. We were not able to determine the amount of time spent on the ineligible cases as compared to eligible cases. However, in our opinion, the fact that 95 percent of the cases reviewed were ineligible likely represents that a significant portion of Kansas City's efforts and resources were not related to the goals and objectives of the program.

Kansas City's second and third goals were to investigate DNA CODIS hits that were the result of past reviewed cold cases and to clear CODIS hits. The allowable travel costs provide some evidence that investigators were working to achieve both of these goals. Once suspects were identified, investigators would identify the location of the suspect and travel to that location to attempt to obtain a DNA confirmation sample using a buccal swab, in order to move forward with prosecution. The progress report narratives included eligible cases that were cleared under this award. While we did not verify the accuracy of the information reported, the description of the work performed appeared to align with the third goal. Again, it was not possible for us to determine the amount of time spent on

the eligible cases versus ineligible cases, meaning we cannot make an assessment regarding what portion of efforts and resources the eligible cases represent.

Based on the information outlined above, we determined that the goals of the program were severely limited by Kansas City's review of ineligible cases. Therefore, in our judgment Kansas City failed to achieve the program goals and significantly overstated its program accomplishments. Because the cooperative agreement has ended, we are not making a recommendation related to this issue. However, the questioned costs related to Kansas City's review of ineligible cases are addressed in the Expenditures section of this report.

Post End Date Activity

According to the *OJP Financial Guide*, award recipients have 90 days after the end date of the award to close out the award. Award recipients must also provide a cash reconciliation, make the final drawdown, and submit all required final reporting to the granting agency. The cooperative agreement reached the project end date on June 30, 2013, meaning Kansas City had until September 28, 2013 to close out the award. We did not find any exceptions while verifying post end date activities.

Conclusion

The purpose of this audit was to determine whether reimbursements claimed for costs under the cooperative agreement were allowable, supported, and in accordance with applicable laws, regulations, guidelines, terms and conditions of the cooperative agreement, and to determine whether the program goals and objectives were implemented. We examined Kansas City's accounting records, budget documents, financial and progress reports, and operating policies and procedures. We found:

- \$440,232 in unallowable costs associated with the review of ineligible cases;
- Kansas City's FFRs were not accurate;
- performance metrics reported to NIJ did not match the supporting documentation and were not accurate; and
- Kansas City did not meet its program goals.

Recommendations

We recommend that OJP:

1. Remedy the \$440,232 in unallowable questioned costs associated with the review of ineligible cases.

2. Obtain a final progress report that includes the corrected performance metrics based on eligible cases under the program.

OBJECTIVES, SCOPE, AND METHODOLOGY

The purpose of the audit was to determine whether reimbursements claimed for costs under the cooperative agreement were allowable, reasonable, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the cooperative agreement, and to determine program performance and accomplishments. The objective of our 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, (6) program performance and accomplishments, and (7) post end date activity. We determined that monitoring of contractors and subrecipients, property management, indirect costs, program income, and matching were not applicable to this award.

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. This was an audit of NIJ Cooperative Agreement 2011-DN-BX-K526 awarded to the Kansas City, Missouri Board of Police Commissioners (Kansas City). Our audit concentrated on, but was not limited to September 12, 2011, the award date for Cooperative Agreement 2011-DN-BX-K526, through August 13, 2013. Kansas City had drawn down a total of \$452,293, the entire award, as of July 12, 2013.

We tested compliance with what we consider to be the most important conditions of the cooperative agreement. Unless otherwise stated in our report, the criteria we audit against are contained in the *OJP Financial Guide* and the award documents.

In conducting our audit, 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 system as a whole. We analyzed computer based data provided by Kansas City 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.

APPENDIX II

SCHEDULE OF DOLLAR-RELATED FINDINGS

<u>QUESTIONED COSTS</u> ⁶	<u>AMOUNT</u>	<u>PAGE</u>
Personnel and Fringe Benefits:		
Unallowable Costs – Ineligible Cases	\$436,688	5-8
Other Direct Costs:		
Unallowable Costs – Ineligible Cases	\$3,544	8
TOTAL QUESTIONED COSTS	\$440,232	
TOTAL DOLLAR-RELATED FINDINGS	\$440,232	

⁶ **Questioned Costs** are expenditures that do not comply with legal, regulatory, or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

KANSAS CITY, MISSOURI BOARD OF
POLICE COMMISSIONERS RESPONSE

Police
KC/MO

Darryl Forté
Chief of Police

Chief's Office
1125 Locust
Kansas City, Missouri 64106
www.kcpd.org

Office (816) 234-5010
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February 10, 2014

U.S. Department of Justice
Office of the Inspector General
Mr. David M Sheeren
Regional Audit Manager
Denver Regional Audit Office
1120 Lincoln, Suite 1500
Denver, CO 80203

Re: Grant Award Number 2011-DN-BX-K526

Mr. Sheeran:

This letter will clarify issues regarding the referenced award to the Kansas City, Missouri Police Department (KCPD). KCPD is in receipt of a *Draft Audit Report* from the Office of Justice Programs, National Institute of Justice, and believes the information included below, attached schedules, and reformatted/reorganized Sex Crimes Unit – Laboratory – Prosecutors (SCULP) database will address concerns found during the audit.

Page 14 of the *Draft Audit Report* reflects the Conclusion and Recommendations. KCPD understands the basis for the Conclusion and Recommendations and offers the following explanations:

Recommendations

We recommend that OJP:

1. Remedy the \$440,232 in unallowable questioned costs associated with the review of ineligible cases.

KCPD Response:

KCPD's primary focus for the *Solving Cold Cases with DNA* grant was to use funding to accomplish goal 1 from page 3 of the *Solicitation* which was "to identify, review, and prioritize violent crime cold cases that have the potential to be solved using DNA analysis (by appropriate persons such as prosecutors, public defenders, law enforcement personnel, forensic scientists, and medical examiners) in order to determine whether DNA analysis of any existing biological evidence could help solve the crime."

In order to meet this goal, KCPD determined there were 3,995 cases (1,448 for 2005 and earlier, and 2,547 for 2006 and forward) that "had evidence" as stated in our grant Application (Pages 8-9). The evidence recovered from these cases could have belonged to other jurisdictions with which KCPD has mutual aid agreements and maintains the evidence

for custodial purposes for these jurisdictions. This evidence was stored in either the evidence storage cabinets and/or freezers at the Crime Lab or on shelves at the Property Room. Whether or not every case may have contained biological evidence, especially those at the Property Room, was not known with certitude; but the list was developed by querying KCPD's database for cases where the offense met the criteria for the *Application*. Therefore, KCPD believed the numbers presented in its *Application* represented cases containing biological evidence. As stated on page 3 of the *Application*, KCPD used to have "approximately 5,500 cold sex crime cases where biological evidence potentially existed for the years 1972-1992," but had reduced this number to approximately 1,448 through an earlier grant. "KCPD believes potential biological evidence that can be tested for DNA will be found...but is unable to predict how many that may be," only that it potentially existed based upon information in the SCULP database for all cases.

Attachment A provides a summary of the data now available through SCULP after it has been reformatted and reorganized. Of the cases for the period 2005 and older shown on the revised SCULP data, 91% were reviewed. KCPD feels this shows KCPD complied with the *Application* involving cases for 2005 and older since 91% of these were reviewed, which allowed time for KCPD to move on to cases for 2006 and forward. KCPD in the grant application (Page 15) indicated detectives "could start reviewing the year 2006 and forward" if detectives were able to review the older cases faster.

As discussed in KCPD's grant *Application* (Page 12), KCPD's approach to the *Solicitation* envisioned coordinating detective and prosecutor analysis to prioritize cases and to "test evidence using instrumentation that did not exist when evidence in the cold cases were originally analyzed." Cases with potential DNA evidence could become cold/inactive due to the technology KCPD could afford to employ when the case occurred, or from bottlenecks resulting from the sheer number of cases which would require prioritization using other factors such as whether witnesses/victims are accessible.

In terms of technological changes and KCPD's ability to afford to deploy them, there have been three main areas of advancement that can play a role in the assessments of an older case. The bulk of the advancements were validated in 2009 and thus did not come fully online until 2010, which meant many older cases could now be reviewed to see if potential DNA evidence existed as outlined in KCPD's *Application*. The new technological areas are the quantitation of the DNA, the amplification it used, and the loci available for testing:

- A. KCPD's Crime Lab validated a new quantitation system that was more sensitive and accurate as well as incorporated the ability to specifically quantitate male DNA.
- B. The Crime Lab validated a new amplification kit that was more sensitive allowing the required amount of input DNA to be lowered by a half. This has a large impact on the samples that can be tested. Samples that previously did not have sufficient DNA, may now be amendable for testing.
- C. The Crime Lab also validated Y-STR testing which targets DNA from the Y chromosome (or male DNA). This is particularly useful in sexual assault cases with female victims and male assailants. Y-STR testing requires less input DNA and is more sensitive, allowing the Crime Lab to target samples/cases with previously insufficient amounts of DNA from probative samples.

It is not uncommon for victims of sexual assault to be undecided/unable/unavailable and then change their minds years later. Even though DNA evidence in the form of rape kits may have originally been available, the victims' reluctance/ability to cooperate oftentimes resulted in their cases being set aside in order to move forward with other more solvable/prosecutable cases. One of the undertakings of KCPD's grant *Application* was to revisit these cases since they have become cold in nature.

2. Obtain a final progress report that includes the corrected performance metrics based on eligible cases under the program.

KCPD Response:

KCPD understands the basis of this conclusion based on the SCULP data provided. Modifications to the SCULP data, discussions with detectives working the grant, and correspondence with OJP (Attachment B) lead KCPD to believe the final progress report is correct with the exception of the number of CODIS hits indicated on the report.

KCPD offers the above information and attached documents to support its work done pursuant to the *Solving Cold Cases with DNA* grant. KCPD is of the belief it has complied with the program requirements outlined in the *Solicitation* and is ready to discuss this in more detail.



Major Diane Mozzicato
Commander
Fiscal Division

Attachment A – SCULP Data Summary
Attachment B – Progress Report Correspondence with OJP
Attachment C – Missouri State Statute of Limitation
Attachment D – Review and Investigative Process Guidelines
Attachment E – Revised SCULP Database

OFFICE OF JUSTICE PROGRAMS RESPONSE



U.S. Department of Justice

Office of Justice Programs

Office of Audit, Assessment, and Management

FEB - 5 2014

Washington, D.C. 20531

MEMORANDUM TO: David M. Sheeren
Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General

FROM: 
LeToya A. Johnson
Acting Director

SUBJECT: Response to the Draft Audit Report, *Audit of the Office of Justice Programs, National Institute of Justice, Solving Cold Cases with DNA Cooperative Agreement Awarded to the Kansas City, Missouri Board of Police Commissioners*

This memorandum is in reference to your correspondence, dated January 7, 2014, transmitting the above-referenced draft audit report for the Kansas City, Missouri Board of Police Commissioners (Kansas City). We consider the subject report resolved and request written acceptance of this action from your office.

The draft report contains **two** recommendations and **\$440,232** in questioned costs. The following is the Office of Justice Programs' (OJP) analysis of the draft audit report recommendations. For ease of review, the recommendations are restated in bold and are followed by our response.

1. **We recommend that OJP remedy the \$440,232 in unallowable questioned costs associated with the review of ineligible cases.**

OJP agrees with the recommendation. We will coordinate with Kansas City to remedy the \$440,232 in unallowable costs associated with the review of ineligible cases.

2. **We recommend that OJP obtain a final progress report that includes the corrected performance metrics based on eligible cases under the program.**

OJP agrees with the recommendation. We will coordinate with Kansas City to obtain a final progress report, which reflects corrected performance metrics based on eligible cases under the Solving Cold Cases with DNA Program.

We appreciate the opportunity to review and comment on the draft audit report. If you have any questions or require additional information, please contact Jeffery A. Haley, Deputy Director, Audit and Review Division, on (202) 616-2936.

cc: Jeffery A. Haley
Deputy Director, Audit and Review Division
Office of Audit, Assessment, and Management

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**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 Kansas City, Missouri Board of Police Commissioners (Kansas City) and the Office of Justice Programs (OJP). Kansas City's response is included as Appendix III and OJP's response is included as Appendix IV 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. Remedy the \$440,232 in unallowable questioned costs associated with the review of ineligible cases.

Resolved. OJP agreed with our recommendation to remedy the \$440,232 in unallowable questioned costs associated with the review of ineligible cases. In its response, OJP stated that it will coordinate with Kansas City to remedy the questioned costs.

In its response, Kansas City provided additional information and documentation that it believes supports that it is in compliance with the program requirements outlined in the solicitation. We reviewed this information but still do not agree that Kansas City has demonstrated compliance with the program requirements. Kansas City's response summarizes the work it proposed to complete in its award application. In its response, Kansas City stated that of the 3,995 cases identified with biological evidence in its FY 2011 award application, 2,547 were cases from 2006 and forward. However, the FY 2011 application identifies all 3,995 cases as being from the 1972 through 2005 timeframe, as stated on page 7 of this report.

Kansas City also provided a modified version of the database we used to determine that 95 percent of the cases reviewed by Kansas City were not eligible under this program and that there were over 1,000 cases from the 1972 through 2005 timeframe cited in its application that had yet to be reviewed. According to Kansas City, the revised database shows that it addressed 91 percent of the cases from 2005 and prior, in order to demonstrate that it was permissible for it to begin reviewing cases from 2006 forward. As stated on page 7 of this report, Kansas City's FY 2011 application states that if it completed its review of the 1,448 cold cases for crimes committed between 1972 through 2005, it might begin to review cases from 2006 and forward.

Our concern with Kansas City's assertion in its response that the modified database demonstrates that it actually addressed 91 percent of the cases it

planned to review from 1972 through 2005 is twofold. First, Kansas City's calculation for the percentage of cases reviewed from 2005 and prior was based on its removal of 874 cases from the original database provided to us. These were cases that Kansas City planned to review according to its application and it never notified NIJ of any changes in scope. Second, our concerns related to the eligibility of cases from 2006 and forward, as outlined in the Personnel and Fringe Benefits section of this report, are not addressed by Kansas City's modification of the database.

In addition, in its response, Kansas City stated that cases with biological evidence could become cold for two reasons: (1) due to the technology it could afford to employ or (2) "bottlenecks resulting from the sheer number of cases which would require prioritization using other factors such as whether witnesses/victims are accessible." As stated on page 5 of this report, program funds are not to be used for general casework backlog reduction. Kansas City's ability to fund DNA analysis and capacity to process a high volume of cases are both backlog issues.

Kansas City also outlines three advancements in DNA technology that its crime lab employed in 2009 and 2010. This included a more sensitive quantification system, an amplification kit that lowered the required DNA sample size, and the validation of Y-STR testing. Kansas City stated that the implementation of this technology could be applied to older cases, particularly for samples that previously did not have sufficient DNA. Employing this technology would have been an allowable use of funds, if Kansas City had demonstrated that the more recent cases reviewed as part of this program benefited from new technology because the technology available at the time the crime was committed was not sufficient to analyze the DNA. However, as stated in Kansas City's response, the decision not to pursue the biological evidence from the ineligible cases was not due to a lack of technology, but rather due to costs of the technology, a backlog related to the volume of cases, and the accessibility of victims and witnesses. We also did not see any indications in the case files we reviewed that Kansas City believed the cases would have benefitted from the technological advancements noted in its response.

Kansas City also stated that it is not uncommon for victims of sexual assault to be unwilling or unable to cooperate with an investigation and their willingness or ability to cooperate can change over time. This initial lack of cooperation can result in the case being set aside. Kansas City stated that readdressing these types of cases was one of its program goals laid out in the award application. While we understand that this is a justifiable reason for a case to be inactivated, as noted in this report, this program is not intended to be used for costs for investigations that do not have the potential to be solved through DNA analysis, such as those with victims unwilling or unable to cooperate. Again, our concerns regarding the eligibility of more recent cases reviewed as part of this program remain.

This recommendation can be closed when we receive documentation demonstrating that OJP has remedied the \$440,232 in unallowable questioned costs.

2. Obtain a final progress report that includes the corrected performance metrics based on eligible cases under the program.

Resolved. OJP agreed with our recommendation to obtain a final progress report that includes the corrected performance metrics based on eligible cases under the program. In its response, OJP stated that it will coordinate with Kansas City to obtain a final progress report.

In its response, Kansas City stated that it understood the basis of our conclusion; however, it believed the modifications to its database discussed previously, feedback provided by detectives paid using award funds, and correspondence with OJP summarized in an attachment to its response adequately address most of this finding. Specifically, Kansas City stated that based on the additional information provided, it believed the performance metrics included in the final progress report that we reviewed as part of the audit are correct, with the exception of reporting the number of CODIS hits.

We agree the CODIS hits metric reported by Kansas City still needs to be updated. We do not agree that the remaining metrics are correct. As discussed previously, the modifications made to Kansas City's database, in conjunction with any information provided by detectives funded by this program, do not address our concerns regarding the eligibility of the cases reviewed as part of this program. Also, while the updates to the database may address duplication within the database, it does not address duplication between Kansas City and its partnering agency, the Jackson County Prosecutor's Office, as outlined on page 11 of this report. It appears Kansas City provided us with its correspondence with OJP regarding its progress reports as evidence that NIJ accepted the figures reported in the final progress report. However, when NIJ accepts a progress report, it is not affirming that it agrees with the information in the report or attesting to its accuracy. Rather, NIJ's acceptance only signifies that it received a complete report.

This recommendation can be closed when we receive documentation demonstrating that OJP obtained a final progress report that includes the corrected performance metrics based on eligible cases.