

Audit Report

Department of State Police

February 2007



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA
Legislative Auditor

February 13, 2007

Delegate Charles E. Barkley, Co-Chair, Joint Audit Committee
Senator Nathaniel J. McFadden, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Department of State Police (DSP) for the period beginning May 16, 2003 and ending April 30, 2006.

Our audit disclosed a number of issues pertaining to DSP's collection, analysis, and recording of DNA samples that could negatively impact the timely identification of individuals who have committed crimes. For example, DNA samples that were collected from as many as 25,100 imprisoned individuals were not analyzed and/or recorded in the State's DNA database in a timely manner. In addition, DSP had not collected DNA samples from certain individuals as required (for example, certain individuals placed on parole and probation).

We also noted that improvement was needed in several other public safety areas. For example, DSP had not established sufficient procedures to ensure that all case information, such as child support warrants and protective orders, was entered into State and national databases by local jurisdictions, as required. Our audit also disclosed that procedures for monitoring firearm sales were not adequate to ensure that background checks were performed for all gun sales or that guns sold contained the required safety devices.

We also identified a number of findings related to the DSP's Aviation Command unit as well as various fiscal matters that will require corrective action by DSP relating to indirect cost recoveries, grants, purchasing and disbursements, property, cash receipts, and information systems security. For example, because of the way DSP's indirect cost plan was developed and implemented, at least \$4.5 million of indirect costs, attributable to services provided to other entities, were not recovered by DSP.

In our preceding audit report, dated June 28, 2004, we reported that DSP's accountability and compliance level was unsatisfactory in accordance with the rating system we established in conformity with State law. Based on the results of

our current audit, we have concluded that DSP has improved its fiscal and compliance operations and, accordingly, DSP's accountability and compliance level is no longer unsatisfactory. It is noteworthy that DSP satisfactorily resolved 18 of the 28 findings in our preceding audit report and, for many of the 10 findings repeated in this report, DSP had made significant progress toward implementing the recommendations contained in the preceding audit report.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

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Executive Summary

Legislative Audit Report on the Department of State Police (DSP) February 2007

- **Approximately 25,100 DNA samples collected from individuals who had been convicted of qualifying crimes and imprisoned were not analyzed and/or entered in the DNA database. In addition, DSP did not collect DNA samples from certain individuals as required and could not account for certain samples that had been collected.**

DSP should ensure that all individuals convicted of qualifying crimes submit DNA samples for analysis, and that the samples are promptly tested and entered in the DNA database. DSP should also periodically ensure that all DNA samples submitted to the lab are properly accounted for.

- **Procedures had not been established to help ensure that all civil child support warrants, protective orders, and reports on missing children were entered into the Maryland Interagency Law Enforcement System and National Crime Information Center system. These databases of criminal justice information are used by law enforcement personnel, and to conduct background checks.**

DSP should establish procedures to help ensure that all civil child support warrants, protective orders, and reports on missing children are recorded in these State and national databases.

- **DSP procedures for monitoring firearm sales did not provide assurance that background checks were performed for all gun sales, and that all guns sold contained the required safety devices. In addition, DSP did not ensure that shell casings for handguns sold were received and entered into the Maryland Integrated Ballistics Identification System (IBIS) as required.**

DSP should ensure that audits of firearm dealers include steps to verify that applicants who purchased handguns were subject to criminal background checks, and that guns sold contained the required safety devices. DSP should establish adequate procedures to ensure that all required shell casings are received and entered into IBIS as required.

- **DSP did not determine whether the use of a modified work schedule by Aviation Command employees was cost effective and had not determined if the method used to allocate costs to the Maryland Emergency Medical Systems Operations Fund (MEMSOF) was consistent with statutory restrictions. In addition, DSP did not have a policy for non-emergency use of DSP helicopters or for the recovery of certain Command costs.**

DSP should review its use of a modified work schedule to ensure it is cost effective. In addition, DSP should determine and ensure the proper use of MEMSOF funds in accordance with State law. In addition, DSP should establish policies for the use of DSP helicopters for non-emergency purposes as well as for the recovery of DSP costs as appropriate.

- **DSP did not ensure that jurisdictions participated in the Maryland Fire Incident Reporting System (MFIRS) as required by State law.**

In the future, DSP should work in conjunction with the Maryland Emergency Management Agency (MEMA) to ensure that jurisdictions participate in MFIRS as required by State law and notify MEMA when jurisdictions fail to report as required.

- **DSP did not adequately ensure the accuracy of crime data used in the Uniform Crime Report that was submitted by local jurisdictions.**

DSP should audit crime data submitted by local jurisdictions as required by federal regulations.

- **DSP did not submit indirect cost recovery plans to the federal government on a timely basis and did not maximize its indirect costs recoveries from various entities, resulting in costs of at least \$4.5 million not being recovered.**

DSP should submit indirect cost recovery plans in a timely manner and use a current indirect cost rate. DSP should also ensure that contracts related to reimbursable projects include provisions for the recovery of indirect costs, unless formal budgetary approval is obtained to otherwise authorize State subsidies for these projects.

- **Numerous internal control and recordkeeping deficiencies were noted with respect to DSP's operations, including grants, federal funds, purchasing and disbursements, property, cash receipts, working fund, and information systems security.**

DSP should take the recommended actions to improve controls in these areas.

Background Information

Agency Responsibilities

The Department of State Police (DSP) operates under the provisions of Title 2 of the Public Safety Article of the Annotated Code of Maryland. The Code provides that DSP shall safeguard the lives of all persons within the State, protect property, and assist in securing to all persons the equal protection of the law. DSP provides these services through a headquarters unit located in Pikesville, Maryland and 23 barracks and detachments located throughout the State. In addition, DSP includes the State Fire Marshal and the State Fire Prevention Commission. According to the State's records, during fiscal year 2006, DSP's operating expenditures totaled approximately \$297 million.

Current Status of Findings From Preceding Audit Report

We reviewed the current status of the 28 fiscal/compliance items from our preceding audit report dated June 28, 2004. We determined that DSP satisfactorily addressed 18 of these findings. The remaining 10 findings are repeated in this report.

In our preceding audit report, we reported that DSP's accountability and compliance level was unsatisfactory, in accordance with the rating system we established in conformity with State law. Based on the results of our current audit, we have concluded that DSP has improved its fiscal and compliance operations and, accordingly, DSP's accountability and compliance level is no longer unsatisfactory.

Findings and Recommendations

Program Areas

DNA Samples

Background

In accordance with Title 2 of the Public Safety Article of the Annotated Code of Maryland, if adequate fiscal resources are available, a person convicted of a qualifying crime is required to have a DNA sample collected upon intake to any prison or detention facility or, as a condition of sentence, if placed on probation. DSP's Crime Lab is responsible for collecting, maintaining, and analyzing the DNA samples. While DSP analyzes DNA for active criminal case investigations at the Crime Lab, samples collected from individuals convicted of qualifying crimes have generally been forwarded to an independent contractor for analysis. DSP records the DNA results in the statewide DNA database which is uploaded each week to the Federal Bureau of Investigation's Combined DNA Index System, a national DNA database which enables local, state, and federal crime labs to exchange and compare DNA profiles electronically to help solve crimes.

Finding 1

Approximately 25,100 DNA samples collected from individuals convicted of qualifying crimes and imprisoned were not analyzed and/or entered into the statewide DNA database.

Analysis

DNA samples were not genetically analyzed and/or entered into the statewide DNA database. Specifically, according to DSP records, as of May 2006, there were 21,400 DNA samples collected between May 2005 and May 2006 that had not been analyzed and accordingly had not been entered into the DNA database. In addition, as of May 2006, the results of the analysis of 3,700 samples received from the independent contractor between July 2004 and September 2005 had not been entered into the database.

DSP management advised us that the contract with the independent contractor to analyze DNA samples expired in July 2004 and that while some additional samples were sent to the contractor for analysis between July 2004 and May 2005 using Federal grant funds, no additional samples have been sent to the contractor since. DSP management provided us with several reasons for the delay in developing a new contract. For example, they were waiting for new technology

that would allow the samples to be processed for significantly less than the previous contract price and the new technology required extensive validation which delayed the development of a new contract. We were advised that a new contract was awarded in August 2006 which requires a 60-day turn around time and shipment sizes of up to 2,000 samples monthly. However, given the importance of the DNA analysis process, we believe that alternate measures, such as continuing to process samples using the old contract to the extent funding was available, should have been taken to ensure the timely analysis and entry of DNA data into the database.

A similar condition was commented upon in our two preceding audit reports. The timely analysis and input of DNA samples is significant since the perpetrators of unsolved crimes currently in a State facility might not be identified because their DNA was not subject to matching on the database. In this regard, according to our review of Department of Public Safety and Correctional Services (DPSCS) records (the validity of which we did not verify), approximately 2,200 of the persons for which DNA samples were collected from May 2005 through June 2006 but had not yet been analyzed had subsequently been released from State correctional institutions.

Recommendation 1

We again recommend that DSP take the necessary steps to eliminate the backlog of DNA samples that have not been analyzed and ensure that the results of these analyses are entered into the statewide DNA database in a timely manner.

Finding 2

DSP did not collect DNA samples from certain individuals as required and could not account for certain samples that had been collected.

Analysis

DSP did not collect DNA samples from certain individuals as required and could not account for certain samples that had been collected. Specifically, our review disclosed the following conditions:

- According to a report prepared by DPSCS (the validity of which we did not verify), as of May 2006, DNA samples had not been obtained from approximately 1,700 individuals convicted of a qualifying crime and imprisoned. A similar condition was noted in our preceding audit report. In response to our preceding report, DSP signed a memorandum of

understanding (MOU) with DPSCS and several county detention centers to delegate the collection of DNA samples to correctional staff. Although the implementation of this agreement has significantly improved the collection process, additional efforts are needed to eliminate the backlog.

- As of May 2006, DSP had not attempted to notify qualifying individuals placed on parole and probation of the requirement to submit a DNA sample for approximately two years. During this period, we estimated that approximately 50,000 individuals were placed on parole and probation. DSP could not readily advise us as to the number of these individuals that were required to submit a DNA sample since each case must be manually reviewed to determine if the applicable crime required the submission of a DNA sample and/or whether a DNA sample had previously been obtained from the individual. We were advised that historically, at most, 30 percent of the individuals placed on parole and probation are required to submit a DNA sample. This condition is significant since it is considered a violation of probation if an individual is notified of the requirement to submit a DNA sample and fails to do so. A similar condition was noted in our two preceding audit reports.
- Approximately 730 DNA samples reported as being collected from convicted individuals by DPSCS were not recorded on DSP's tracking system used to account for the DNA samples received at the crime lab. Our further review of 10 of these samples disclosed that all but one was obtained from an individual convicted of a qualifying crime. DSP personnel at the crime lab provided us with several possible reasons why these samples were not recorded (such as, the sample was not from an individual convicted of a qualifying crime) but could not readily determine the disposition of the specific cases identified by our analysis. In this regard, according to our analysis of DPSCS records, 391 of these individuals were no longer incarcerated.

As a result of the aforementioned conditions, the perpetrators of unsolved crimes may not be identified because their DNA was not obtained and registered on the State and national databases. State law requires that, if adequate fiscal resources are available, a DNA sample be obtained at the time of intake to prison for individuals convicted of qualifying crimes and imprisoned, or if convicted and placed on probation, a DNA sample must be provided as a condition of probation. This law further requires that an individual who was previously convicted of a qualifying crime who remains in a correctional facility after October 1, 1999 is also required to submit a DNA sample to DSP if adequate fiscal resources are available.

Recommendation 2

We again recommend that DSP continue its efforts to ensure that a DNA sample is collected upon intake from all qualifying individuals. We also again recommend that DSP notify all individuals on parole and probation who are required to submit DNA samples of this requirement, and notify the Division of Parole and Probation (DPP) of those individuals who fail to provide a sample as required so that DPP can process the parole/probation violation. Finally, we recommend that DSP, in conjunction with DPSCS, determine the disposition of the aforementioned missing samples and periodically reconcile DPSCS records of individuals who submitted a DNA sample to the related DSP records and investigate any discrepancies.

Maryland Interagency Law Enforcement and National Crime Information Center Systems

Finding 3

DSP lacked procedures to help ensure that all civil child support warrants, protective orders, and reports on missing children were entered into the Maryland Interagency Law Enforcement System and National Crime Information Center system, as required by law.

Analysis

DSP had not established procedures to help ensure that all civil child support warrants, protective orders, and reports on missing children were entered into the Maryland Interagency Law Enforcement System (MILES) and the National Crime Information Center (NCIC) system. State law requires various entities—such as local child support enforcement offices and local law enforcement agencies—to enter this information into MILES in accordance with procedures adopted by DSP.

MILES is the State’s database of criminal justice information that is updated by State and local law enforcement agencies, local child support enforcement offices, and courts. Criminal justice information entered into MILES that has national implications (that is, any extraditable offense) is automatically interfaced into NCIC, the federal counterpart of MILES. These systems are used to conduct background checks (such as, to process applications for handgun purchases) and by law enforcement personnel during their ongoing operations (such as, during traffic stops).

DSP biennially audits the entities entering data into MILES to verify the accuracy of the data entered in the system; however, these procedures were not sufficient since they did not ensure that all required data was in fact entered. For example, the audits did not determine whether all protective orders issued had been entered into MILES or whether the entity had its own procedure to ensure that all required entries were made.

This condition was noted in our preceding audit report. In response to that report, DSP sent questionnaires to 30 local law enforcement agencies inquiring as to their data entry procedures. The 27 agencies that responded generally did not address the procedures for ensuring that all civil child support warrants, protective orders, and reports on missing children are entered into MILES and NCIC as required by law. During our current audit, DSP stated that it would evaluate the local law enforcement agencies' procedures during their biennial audits.

Recommendation 3

We again recommend that DSP establish procedures and controls to help ensure that all civil child support warrants, protective orders, and reports on missing children are entered into MILES and NCIC as required by law.

Firearms Sales

Finding 4

DSP's procedures and controls for monitoring firearm sales were not adequate to ensure background checks were performed for all gun sales, that the guns sold contained the required safety devices, or that shell casings were received and entered into Maryland Integrated Ballistics Identification System as required.

Analysis

DSP's procedures and controls for monitoring firearm sales were not adequate to ensure background checks were performed for all gun sales, that the guns sold contained the required safety devices, or that shell casings were received and entered into Maryland Integrated Ballistics Identification System (IBIS) as required. Specifically, our review disclosed the following conditions:

- DSP audits of firearm dealers did not include a comparison of each dealer's records of gun sales with DSP's records of approved handgun applications to ensure that all individuals purchasing firearms were subject to the required background checks. Similar conditions were noted in our two preceding audit

reports. In response to our preceding report, DSP indicated that such verifications would be performed.

- The audits did not adequately verify that each handgun sold contained the required handgun safety device. Although DSP's audit procedures included steps to verify that the safety device was included in the sale, adequate documentation was not always obtained to support dealer compliance. Specifically, auditors accepted dealer comments (written on an invoice and verbal assertions) to support the dealer's compliance. We further noted that the application for the purchase of a handgun still did not include an attestation as to whether an external safety device (if applicable) was included with the sale. As a result, there was a lack of assurance that the required safety device was included with the sale. A similar condition was noted in our preceding audit report.
- DSP did not have a formal policy establishing the frequency of firearm audits. Our test of 10 audits disclosed that the audit intervals ranged from 2 to 4 years. For example, as of April 2006, one dealer had not been audited since calendar year 2002. During our previous audit periods, DSP conducted annual audits of the firearm dealers.
- DSP did not ensure that a shell casing was received by the crime lab and entered into IBIS for all qualifying handguns sold after October 1, 2000 as required by State law. Rather, DSP relied on dealer assurances on the handgun applications that the required casings were submitted. IBIS is an image analysis system used by DSP to acquire, store, and analyze the images of spent cartridge casings for use in criminal investigations. While DSP had the ability to track whether or not the required shell casing was submitted, it did not monitor the receipt of shell casings and their subsequent entry into IBIS. A similar condition was noted in our prior audit report.

State law requires dealers to submit a handgun application to DSP prior to a sale. DSP performs a criminal background check and records the information in an automated system. Once the application is processed and the sale is completed, the dealer is further required to submit the details of the sale to DSP for recordation in the system. State law further provides that a dealer may not sell, offer for sale, rent, or transfer a handgun unless it contains an external safety lock and prohibits the sale of any handgun manufactured after December 31, 2002, unless it contains an integrated mechanical safety device. Effective October 1, 2000, State law required handgun manufacturers that ship or transport a handgun to the State to include with the handgun a shell casing of a projectile fired from

that gun, which is to be forwarded to DSP by the dealer upon the sale of the handgun. The law further required DSP to establish a database of these casings for use in subsequent criminal investigations.

Recommendation 4

We again recommend that DSP audits of firearm dealers include steps to ensure that applicants who purchased handguns were subject to criminal background checks, and that guns sold contained the required safety devices. We also recommend that DSP establish a formal policy to address the frequency of audits of firearm dealers. Finally, we again recommend that DSP establish adequate procedures and controls to ensure that all required shell casings are received and entered into IBIS as required.

Aviation Command

Background

DSP's Aviation Command has a fleet of twelve helicopters and two fixed wing aircraft used to maintain eight operational sections across the State. The majority of the Command's activity involves the transport of critically injured citizens to trauma centers within the Maryland Institute for Emergency Medical Services Systems. The Command also provides aerial support for the DSP and allied public safety agencies, conducts search and rescue operations, aids criminal investigation and traffic control, and provides transportation for the extradition of prisoners.

Finding 5

DSP did not determine whether the modified work schedule used by Command employees was cost effective, possibly resulting in excessive overtime payments.

Analysis

DSP did not determine whether the modified work schedule used by Command employees was cost effective, possibly resulting in excessive overtime payments. The majority of the Command's employees work a modified work schedule of either 10 or 12 hour days. In this regard, we were advised that as of April 2006, 36 Command employees were working 10 hour days while 62 Command employees were working 12 hour days. State law authorizes DSP to use alternative workdays if authorized by the Secretary of State Police. DSP policy

further provides that the use of the modified work schedule will be limited to operations where the quality of service, cost effectiveness, and flexibility needed to deal with specific work requirements will be improved.

Although the required approval to use the alternative workday was obtained in December 2003, no analysis has been done to determine whether the modified work schedule was cost effective. In this regard, our review of the timesheets for several Command employees with the highest overtime payments disclosed that the modified work schedule used may not have been cost effective. For example, one employee who, according to the State's records, earned \$25,328 in overtime during calendar year 2005 was scheduled to work a modified workday of 10 hours but routinely worked 12 hour shifts resulting in almost daily overtime payments. DSP had not analyzed if there were other ways to provide the required coverage without the use of overtime.

Department management advised us that the excessive overtime expenditures were the result of a lack of personnel to maintain scheduling requirements. While we acknowledge that staffing shortages may have contributed to the excessive overtime expenditures, we continue to believe that a comprehensive analysis of the modified work schedule is warranted to ensure its cost effectiveness. According to the State's records, Command payroll expenditures, including fringe benefits, totaled approximately \$12 million during fiscal year 2006, and overtime contributed to the Command exceeding its appropriation for salaries and benefits by almost \$700,000. Command overtime has consistently exceeded the amount budgeted for overtime for the past several fiscal years. For example, for fiscal year 2006, overtime totaled approximately \$1 million and exceeded the overtime budget by approximately \$667,000.

Recommendation 5

We recommend that DSP review the Command's use of the modified work schedule to ensure that it is cost effective. We further recommend that DSP periodically reassess the use of the modified work schedule to ensure that it is still functioning as intended.

Finding 6

DSP had not determined if the method used to allocate costs to the Maryland Emergency Medical Systems Operations Fund was consistent with statutory restrictions governing the use of the Fund.

Analysis

DSP had not determined if the method used to allocate costs to the Maryland Emergency Medical Systems Operations Fund was consistent with statutory restrictions governing the use of the Fund. State law provides that the Fund may be used for the Command's medically oriented functions. DSP routinely charged 80 percent of the total Command costs (or \$15.8 million during fiscal year 2005) to the Fund based on calculations for previous years that indicated that 80 percent of the DSP helicopter activity was for medical transports. However, DSP included costs that were not medically oriented in the calculation. For example, the cost of fixed wing aircraft which were not used for medical transports were included in the calculation. In addition, payroll costs totaling \$114,000 were included in the calculation for two employees who had no Command or medically oriented duties. For example, 80 percent of one employee's salary was still being charged to the Fund even though we were advised that the employee had been transferred to another division at least two years earlier. DSP management advised us that they believed the Fund could be used for certain costs not directly related to medical functions, although they had not sought legal advice to clarify the proper use of the Fund. We believe that the use of the Fund for activity that is not medically related is not consistent with the restrictive statutory language.

The Maryland Emergency Medical Systems Operations Fund was established under Title 13 of the Transportation Article of the Annotated Code of Maryland. Certain motor vehicle registration surcharges and charges for accident scene transports and interhospital transfers of patients are deposited to the Fund. The money in the Fund is used for medically oriented functions of the DSP Aviation Command and certain other emergency medical services such as the Maryland Institute for Emergency Medical Services Systems.

Recommendation 6

We recommend that DSP determine the intent of the State law regarding the use of the Fund (such as by obtaining an opinion of the Attorney General) and, after determining the proper use of the Fund, ensure that the methodology used to allocate costs to the Fund is in accordance with the legal

intent. In addition, we recommend that DSP determine the necessity of reviewing expenditures previously charged to the Fund and processing correcting entries to remove any improperly applied expenditures.

Finding 7 (Policy Issue)

DSP did not have a policy for non-emergency use of DSP helicopters or for the recovery of certain Command costs.

Analysis

DSP did not have a policy for non-emergency use of DSP helicopters or for the recovery of certain Command costs. Specifically, our review disclosed the following conditions:

- DSP lacked procedures for the use of DSP helicopters for non-emergency purposes and for recovering related costs. As previously noted, DSP primarily used its 12 helicopters for medical transports and law enforcement initiatives. However, the helicopters were also sent to certain non-emergency functions such as public demonstrations. These services were provided at no charge at the discretion of Command management. We attempted to quantify the cost of the non-DSP related missions, but DSP did not separately track these costs.

The use of the helicopters for non-emergency functions impacts the helicopter's availability for emergency missions. Specifically, since the helicopters are subject to numerous inspections and scheduled maintenance after a fixed number of flight hours, the use of the helicopters for non-emergency purposes reduces available flight time for emergency missions and increases maintenance costs.

- Although DSP routinely used DSP airplanes for the extradition of prisoners on behalf of local jurisdictions, no attempt was made to recover the costs of the extraditions (such as personnel, fuel, and maintenance costs). DSP estimated that the cost of the extraditions performed on behalf of the local jurisdictions totaled approximately \$248,000 during fiscal years 2005 and 2006. DSP management further advised us that DSP may be subjected to certain federal laws if it attempts to recover costs associated with the flights, although they have not obtained legal advice regarding such recoveries. DSP does recover costs from local jurisdictions related to other services provided such as the resident trooper program.

Recommendation 7

We recommend that DSP establish policies for the use of aircraft for non-emergency purposes as well as for any recovery of costs associated with non-DSP related missions. In this regard, we recommend that DSP obtain an opinion of the Attorney General as to whether costs associated with extraditions can be recovered.

Maryland Fire Incident Reporting System

Finding 8

DSP did not ensure that jurisdictions participated in the Maryland Fire Incident Reporting System as required by State law.

Analysis

DSP did not ensure that jurisdictions participated in the Maryland Fire Incident Reporting System (MFIRS). MFIRS is a computer database used to accumulate statistics on fire department activity (such as, number and type of dispatched emergencies). These statistics are then reported to the United States Fire Administration of the Department of Homeland Security and compiled with statistics from other states. State law requires that local jurisdictions participate in MFIRS in order to receive grants from the William H. Amoss Fire, Rescue, and Ambulance Fund. However, according to DSP records, as of April 27, 2006, 12 of the State's 24 jurisdictions had either not reported, or had only partially reported, monthly MFIRS statistics for calendar years 2003 to 2005. During fiscal year 2005, these 12 jurisdictions received grant funds from DSP totaling approximately \$3.1 million, ranging from \$200,000 to \$364,000 per jurisdiction.

Chapter 100, Laws of Maryland 2005 transferred the administration of the Senator William H. Amoss Fire, Rescue, and Ambulance Fund from DSP to the Maryland Emergency Management Agency (MEMA) effective October 1, 2005. However, DSP continues to be responsible for monitoring the MIFRS program. DSP did not take any follow-up action (for example, withhold funding) to ensure grantees complied with the MIFRS reporting prior to the transfer of the Fund to MEMA, nor has it notified MEMA of the noncompliance since the transfer of the Fund to MEMA so that appropriate follow-up action can be implemented.

Recommendation 8

We recommend that DSP, in conjunction with MEMA, ensure that jurisdictions participate in MFIRS as required by State law. We further recommend that DSP notify MEMA when jurisdictions fail to report as required.

Uniform Crime Reports

Finding 9

DSP did not adequately ensure the accuracy of crime data submitted by local agencies for inclusion in the annual Uniform Crime Report to the General Assembly.

Analysis

DSP did not adequately ensure the accuracy of crime data submitted by local agencies (such as, county police and sheriff’s offices) for use in the annual Uniform Crime Report (UCR) to the General Assembly. This data is also submitted to the Federal Bureau of Investigation (FBI) for reporting of national crime statistics. DSP could only document it had conducted audits of the crime data for 4 of the 156 local agencies submitting UCR data. Furthermore, these four agencies were among the smallest of the reporting agencies and represented less than one percent of the total reported offenses.

A similar condition was noted in our preceding audit report. The FBI’s *Uniform Crime Reporting Handbook* requires DSP to have adequate field staff assigned to conduct audits of the crime data submitted by local agencies. In addition, a December 2001 federal audit recommended that DSP schedule routine statewide audits of local agencies to improve the quality and credibility of the data.

Recommendation 9

We again recommend that DSP audit crime data submitted by local agencies as required by federal guidelines.

School Bus Safety Enforcement Fund

Finding 10 (Policy Issue)

DSP lacked sufficient policies and procedures to ensure that School Bus Safety Enforcement grant funds were being used as intended and effectively.

Analysis

DSP lacked sufficient policies and procedures to ensure that School Bus Safety Enforcement grant funds were being used as intended and effectively. Specifically, our review of the grant program disclosed that DSP did not use surplus funds accumulated from previous fiscal years' unawarded and/or unspent grant funds. As of June 30, 2005, DSP had accumulated surplus School Bus Safety Enforcement grant funds totaling approximately \$841,800. Furthermore, DSP's "Conditions of Grant Awards" governing the use of the funds did not specify what qualified as an appropriate use of grant funds. For example, the procedures did not address whether time spent performing administrative duties would qualify for grant funds. Additionally, DSP did not consider the actual performance results of grantees to help ensure the funds were effectively used.

State law governing the School Bus Safety Enforcement Fund stated that DSP can annually award grants to law enforcement agencies to assist in addressing the problem of drivers illegally failing to stop for school vehicles. This law specifies that if money remains available in the Fund after grants are initially awarded, DSP may make supplemental grants to law enforcement agencies. DSP was appropriated \$600,000 annually, of which, \$550,000 was to be awarded to law enforcement entities and \$50,000 was to be used to administer the program.

Recommendation 10

We recommend that DSP establish policies and procedures that address the appropriate use of the grant funds. We also recommend that DSP consider performance results to help ensure that grant funds are effectively allocated. Finally, we recommend that DSP, in conjunction with the Department of Budget and Management, determine the most appropriate action for the accumulated surplus (for example, supplemental grants, reversion to the General Fund).

Fiscal Operations

Indirect Cost Recovery

Finding 11

DSP did not submit indirect cost recovery plans to the federal government on a timely basis and did not maximize its indirect costs recoveries from various entities, resulting in costs of at least \$4.5 million not being recovered.

Analysis

DSP did not submit indirect cost recovery plans to the federal government on a timely basis and did not maximize its indirect cost recoveries from various entities, resulting in lost revenue of at least \$4.5 million. DSP collected indirect costs related to various services (such as the resident trooper program) provided to Federal, State, local and private entities. Our review of DSP's procedures for collecting these costs disclosed the following conditions:

- DSP had not submitted indirect cost recovery plans to the federal government for fiscal years 2004 and 2005. In addition, although a cost recovery plan for fiscal year 2003 was submitted, it was not submitted until March 2005, 15 months after the December 2003 due date. DSP uses an indirect cost rate approved by the Federal government for recovering costs from certain entities since many of the State, local, and private entities use funding from the Federal government to pay DSP costs.
- Although the federal grantor agency approved the proposed 2003 indirect cost rate of 34 percent, DSP continued to use the old rate of 18.97 percent, which was approved by the federal grantor agency in May 2003, because it thought the newly approved rate was too high. During fiscal year 2006, DSP billed and recovered costs totaling approximately \$31.5 million related to services provided to various State and local entities which included \$4.6 million in indirect costs. Based on our calculations, had DSP used the newly approved rate to recover indirect costs from these entities in fiscal year 2006, it would have billed approximately \$4 million in additional costs.
- Contracts for State troopers to provide security at Motor Vehicle Administration (MVA) facilities did not include provisions for the recovery of indirect costs. Specifically, while the contracts specified an hourly rate for the actual troopers' services, the rate on the contracts did not consider all costs, and did not provide for the reimbursement of indirect costs. In this regard,

troopers often used State resources (such as their assigned motor vehicles) when providing these services. During fiscal year 2006, DSP billed the MVA \$1.3 million for security services. Using the new approved indirect cost rate (34 percent), we calculated that approximately \$456,000 in additional costs were not billed.

- DSP did not recover indirect costs from certain federal grants even though it had approval to do so. Consequently, federal funds that could have been used to cover certain indirect costs of administering these grants instead were either distributed to sub-grantees or used for direct program costs. The extent of such potential indirect cost recoveries could not be readily determined. The Department of Budget and Management regulations require that all State agencies participating in federal grants recover associated costs (direct and indirect costs) of administering the grants. During fiscal year 2005, federal fund expenditures totaled \$6.2 million.

The failure to maximize the recovery of indirect costs, in effect, resulted in the State subsidizing these entities, without the subsidy being specifically identified in DSP's budget. Similar conditions were noted in our preceding audit report. In response to that report, DSP advised us that it would recover indirect costs for all applicable billings.

Recommendation 11

We recommend that DSP submit indirect cost recovery plans in a timely manner. In addition, we again recommend that DSP use the current indirect cost rate for all grants. We also again recommend that DSP ensure that contracts related to reimbursable projects include provisions for the full recovery of indirect costs, unless formal budgetary approval is obtained to otherwise authorize State subsidies for these projects.

Federal Funds

Finding 12

Reimbursement requests for federal funds were not submitted timely, resulting in a loss of interest income of approximately \$73,000.

Analysis

DSP did not always submit reimbursement requests for federal grant funds on a timely basis. Specifically, our test of 12 reimbursement requests processed during fiscal years 2004 to 2006 totaling approximately \$8.3 million disclosed that for 10

requests, totaling approximately \$7.4 million, the federal funds were received from 2 to 22 months after DSP reported the expenditures to the federal grantor agency. For example, in June 2004, DSP reported to the federal grantor agency that it had incurred costs totaling \$2.4 million during the period from April 2004 through June 2004. However, the related drawdown was only processed for \$2.1 million and was not processed until January 2005. The remaining \$300,000 was not requested until May 2006.

Due to the failure to request the funds in a timely manner, State funds were used to finance the expenditures. We estimated that the State lost interest income of approximately \$73,000 because of these delays. DSP's federal fund expenditures totaled approximately \$6.2 million during fiscal year 2005.

Recommendation 12

We recommend that DSP ensure that reimbursement requests for federal funds are accurate and submitted in a timely manner (for example, monthly).

Purchasing and Disbursements

Finding 13

Procedures and controls over the processing of purchasing and disbursement transactions were inadequate.

Analysis

Procedures and controls over the processing of purchasing and disbursement transactions were inadequate. During fiscal year 2005, DSP processed disbursements totaling approximately \$115 million. Our review disclosed the following conditions:

- DSP divided certain procurements, bypassing applicable control entity approval. For example, during the period July 1, 2003 to December 31, 2005, DSP spent \$629,200 on temporary personnel services procured from the same three vendors on a case-by-case basis rather than by consolidating the procurements. Accordingly, these procurements were not subject to Department of Budget and Management and/or Board of Public Works approvals as required and potentially prevented DSP from obtaining lower fees as a high-volume purchaser. A similar condition was commented upon in our two preceding audit reports.

- Certain purchase orders were prepared after the related invoices and/or the goods or services had been received. Specifically, we identified 9 procurements totaling \$179,000, where the purchase orders were created after the related invoices and/or the goods or services had been received.
- DSP did not fully use the security features available on the State's Financial Management Information System (FMIS) to establish proper internal control over purchases and disbursements. Specifically, ten employees could both initiate and approve certain purchasing and disbursement transactions. Consequently, unauthorized transactions could be processed which may not be readily detected. A similar condition has been commented upon in our three preceding audit reports.
- Invoices were not always properly approved. Specifically, our test of 15 invoices totaling approximately \$593,000 disclosed 3 invoices totaling approximately \$335,800 that were not approved as required. For one of these invoices totaling \$156,900, DSP could not document that it received a 40 percent vendor discount as provided for in the contract and another invoice included charges totaling \$19,000 that had previously been paid (DSP subsequently received a credit for the overpayment on a later invoice). Independent approval of these invoices before being paid may have identified these deficiencies.

State procurement regulations require that contracts valued at \$25,000 or more be subject to DBM approval. These regulations also prohibit procurements from being intentionally split to circumvent procurement requirements. In addition, the regulations generally require that all procurements over \$2,500 be competitively bid and supported by written contracts and/or purchase orders.

Recommendation 13

We again recommend that DSP comply with State procurement regulations by consolidating procurements and obtaining the required control agency approvals. In addition, we recommend that DSP prepare written purchase orders in accordance with applicable State regulations. We further again recommend that DSP fully use the available FMIS security features by establishing independent on-line approval requirements for all critical purchasing and disbursement transactions. Finally, we recommend that DSP ensure invoices are properly approved.

Property

Finding 14

Proper controls over DSP's property had not been established.

Analysis

Proper controls were not established over DSP's property. As of June 30, 2005, the book value of the DSP's property, as reported to the Comptroller of the Treasury and the Department of General Services, totaled approximately \$219 million (equipment - \$132 million, land - \$4 million, buildings - \$83 million). Our review disclosed that independent control accounts were not maintained for certain equipment items (firearms, computer equipment, motor vehicles), land, buildings, and improvements. In addition, annual inventories of sensitive equipment items (for example, computers) were not conducted as required. According to DSP records, as of May 2006, the fiscal year 2005 physical inventories of sensitive equipment had not been completed for 72 of the 88 DSP locations. Furthermore, our test of 10 acquisitions, totaling approximately \$869,000, purchased during fiscal years 2005 and 2006, disclosed that 4 of the purchases, totaling approximately \$96,300, were not recorded in the equipment records. Similar conditions have been commented upon in our three preceding audit reports.

The Department of General Services' *Inventory Control Manual* requires the maintenance of an independent control account for all categories of property, and the recordation of all capital equipment items in the detail equipment records for identification and control purposes. In addition, the *Manual* requires that periodic physical inventories be conducted and related documentation be retained for audit and verification purposes.

Recommendation 14

We again recommend that the DSP comply with the requirements of the *Inventory Control Manual*.

Cash Receipts

Finding 15

DSP lacked adequate procedures over State Fire Marshal collections.

Analysis

DSP had not established adequate procedures to ensure that State Fire Marshal (SFM) collections were properly accounted for and controlled. During fiscal year 2005, SFM collections totaled approximately \$1.2 million primarily for fire inspection fees for buildings, day care/foster care facilities, and sprinkler systems. Our review of the procedures and controls over these collections disclosed the following conditions:

- Collections were not recorded or restrictively endorsed immediately upon receipt to establish accountability over the funds and were not properly secured prior to deposit.
- Independent verifications were not performed to ensure that all amounts initially received were subsequently deposited.
- Employees responsible for processing SFM collections were also responsible for updating the related accounts receivable records.

The Comptroller of the Treasury's *Accounting Procedures Manual* requires that cash receipts be immediately recorded and restrictively endorsed upon receipt, be adequately stored and safeguarded until they are deposited, and that an employee independent of the collections function ensure that all collections were subsequently deposited. The *Manual* further requires that the cash receipt and accounts receivable responsibilities be separated.

Recommendation 15

We recommend that DSP comply with the Comptroller of the Treasury's *Accounting Procedures Manual*.

Payroll

Finding 16

DSP did not attempt to recover questionable administrative disability leave paid to one employee and did not report the case to appropriate State officials as required.

Analysis

DSP did not attempt to recover questionable administrative disability leave paid to one employee during the period April 2004 to October 2004 and did not report the case to appropriate State officials as required. Specifically, during the period April 2004 to October 2004 DSP paid one employee approximately \$17,000 in administrative disability leave for a work related medical condition. In this regard, the employee submitted a letter from a medical professional indicating that the employee was unable to return to work due to a disability. In October 2004, the Maryland Injured Worker's Insurance Fund (IWIF) conducted an independent evaluation of the employee at which time it was disclosed that the employee had been engaged in secondary full-time employment for several months in which the duties were similar to those at DSP. The IWIF evaluation concluded that it appeared that the employee embellished the medical condition in order to be awarded medical disability.

Based on the IWIF evaluation, DSP immediately discontinued the administrative disability leave and the employee subsequently resigned effective January 7, 2005. However, DSP made no attempt to further investigate this incident or to recover any of the leave previously paid to the employee during the time in question. Furthermore, DSP did not refer the case to the Office of the Attorney General-Criminal Investigation Division or the Governor's Chief Counsel as required by Executive Order.

Recommendation 16

We recommend that DSP pursue collection of the administrative disability leave paid to the aforementioned employee. We also recommend that DSP report all instances of possible criminal conduct or questionable activity, including the aforementioned incident, in accordance with the aforementioned Executive Order.

Working Fund

Finding 17

Internal control over the working fund was inadequate.

Analysis

Internal control over the working fund was inadequate. Specifically, the employee who maintained the working fund records also received and processed certain related cash receipts. According to the records of the Comptroller of the Treasury, DSP's working fund advance totaled \$195,000, and consisted of a checking account and advances to various barracks and units. During calendar year 2005, working fund disbursements totaled \$722,000.

A similar condition has been commented upon in our five preceding audit reports dating back to April 14, 1992. In response to our preceding audit report, DSP agreed to take corrective action.

Recommendation 17

We again recommend that the employee who maintains the working fund records not have access to the related cash. We advised DSP on accomplishing the necessary separation of duties using existing personnel.

Information Systems

Security and Control

Background

DSP's Information Technology Division is responsible for information technology and communications management in support of field troopers, investigators, support personnel, allied law enforcement agencies, state and local government agencies, and the citizenry. The DSP's information technology environment includes an integrated computer network that provides connections to a number of servers and workstations. Key network resources include email and the Combined DNA Index System, which enables federal, state, and local crime labs to exchange and compare DNA profiles electronically. Other key network resources include Internet connectivity and firewalls used to protect segments of the network; and the DSP's website that functions as an entry point to many of the DSP's services. The majority of our review for critical server and network controls was conducted at the DSP headquarters facility.

Finding 18

The DSP headquarters' computer network was not adequately secured and controls on its headquarters' firewall need improvement.

Analysis

The DSP headquarters' computer network was not adequately secured and controls on its headquarters' firewall need improvement:

- DSP did not use either intrusion detection or intrusion prevention systems on its headquarters' network. Such systems gather and analyze network traffic to identify potential network security breaches and attacks and can alert network administrators to these situations. Furthermore, intrusion prevention systems can also block inappropriate traffic.
- An untrusted third party had a direct connection to the DSP headquarters' internal network and resulting traffic was not filtered by any DSP network devices (for example, a firewall). Accordingly, this untrusted third party could access all servers and workstations on DSP headquarters' internal network.
- The headquarters firewall's logging features were disabled. As a result, the firewall's security related events (examples of which include denial of network traffic, attempts to directly access the firewall, and instances of changes to the firewall configuration) were not logged or monitored.
- An unsecured connection protocol was used for administrative access to the headquarters' firewall.

Recommendation 18

We recommend that the DSP employ intrusion detection/prevention systems on its network. We also recommend that the DSP properly secure its network from all untrusted third parties and configure its firewall to adequately filter traffic. Furthermore, we recommend that DSP enable the firewall's logging features and that regular documented reviews of the related logs be performed. Finally, we recommend that administrators use a secure means to access the firewall.

Finding 19**DSP did not have an information technology disaster recovery plan.****Analysis**

DSP did not have an information technology disaster recovery plan (DRP) for recovering from disaster scenarios (for example, a fire). In accordance with the Department of Budget and Management's (DBM) *IT Disaster Recovery Guidelines*, dated July 2006, a complete information systems disaster recovery plan should, at a minimum, address the following requirements:

- **DRP overview** – which should include a plan purpose and objectives, organization applicability, scope provisions for various situations and conditions, and record of changes.
- **Concept of operations** – which should include system descriptions, detailed roles and responsibilities of both the disaster teams and the recovery teams, and line of succession.
- **Notification and activation** – which should include notification procedures, damage assessment, and plan activation.
- **Recovery strategies** – which should include consideration of alternate sites, equipment replacement, restoration of network connectivity, and prioritization of systems/applications for recovery.
- **Reconstitution procedures** – which are needed to transition back to normal operations once the original or replacement system is ready to resume normal operations.

Without a formal information technology disaster recovery plan, a disaster could cause significant delays (for an undetermined period of time) in restoring operations above and beyond the expected delays that would exist in a planned recovery scenario. This same condition was commented upon in our prior report.

Recommendation 19

We again recommend that, in accordance with the aforementioned *IT Disaster Recovery Guidelines*, DSP develop and implement a comprehensive information systems disaster recovery plan that covers all of DSP's critical functions. At a minimum, the plan should address the required items noted above.

Finding 20**Backup procedures were not adequate for the email server.****Analysis**

We were advised that as of August 2006 DSP had not performed a full backup of the email server data since March 2006. Should the email server hard drive fail, the DSP would be unable to readily recover the email. Furthermore, the backup tapes of the email server configuration were not stored at a secure offsite location. As a result, both the original and backup configuration files could be lost due to the same disaster thereby delaying reconfiguration of the email system.

Recommendation 20

We recommend that DSP perform backups of its email server on a frequent (for example, daily) basis. We also recommend that the DSP store backup copies of email server configuration files at an appropriately secure offsite location.

Audit Scope, Objectives and Methodology

We have audited the Department of State Police (DSP) for the period beginning May 16, 2003 and ending April 30, 2006. The audit was conducted in accordance with generally accepted government auditing standards.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine DSP's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the current status of the findings contained in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of DSP's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

Our audit scope was limited with respect to DSP's cash transactions because the Office of the State Treasurer was unable to reconcile the State's main bank accounts during the audit period. Due to this condition, we were unable to determine, with reasonable assurance, that all DSP cash transactions were accounted for and properly recorded on the related State accounting records as well as the banks' records.

DSP management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect DSP's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also included significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to DSP that did not warrant inclusion in this report.

In our preceding audit report, we reported that DSP's accountability and compliance level was unsatisfactory, in accordance with the rating system we established in conformity with State law. Our current audit disclosed DSP has improved its fiscal and compliance operations and, accordingly, DSP's accountability and compliance level is no longer unsatisfactory. Our rating conclusion has been made solely pursuant to the aforementioned law and rating guidelines approved by the Joint Audit Committee. The rating process is not a practice prescribed by professional auditing standards.

DSP's response to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise DSP regarding the results of our review of its response.

APPENDIX



MARTIN O'MALLEY
GOVERNOR

ANTHONY G. BROWN
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THOMAS E. "TIM" HUTCHINS
SECRETARY

February 9, 2007

Mr. Bruce A. Myers, CPA
Legislative Auditor
Department of Legislative Services
Office of Legislative Audits
301 West Preston Street, Room 1202
Baltimore MD 21201

Dear Mr. Myers:

Thank you for the opportunity to review the draft findings, comments and recommendations for the final audit report for the Department of State Police. Based on my review of the draft audit report, I find the information contained in the draft to be factually accurate.

I can assure you that the Department of State Police appreciates the work and efforts of your audit team in recommending ways to improve the security and the efficiency of operations within the Department. Our own internal audit unit, the Inspections and Compliance Division, has worked very closely with the audit team to ensure that appropriate corrective actions are taken to remedy the documented audit findings. In fact, in advance of this draft report, the Department has corrected several of the findings already and we continue to implement audit recommendations to correct the remaining findings.

Please be assured of our continued support on areas of mutual concern. Through the work of state partnerships such as this, we can ensure that all state agencies remain fiscally responsible and responsive to the needs of the citizens we serve.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas E. Hutchins".

Thomas E. Hutchins
Secretary

TEH:RFB:jkh

"Maryland's Finest"

**DEPARTMENT OF STATE POLICE
RESPONSE TO FINDING AND RECOMMENDATIONS
OF DRAFT AUDIT REPORT – MAY 16, 2003 TO APRIL 30, 2006**

Finding #1

Approximately 25,100 DNA samples collected from individuals convicted of qualifying crimes and imprisoned were not analyzed and/or entered into the statewide DNA database.

DSP RESPONSE

The Department concurs with the finding and recommendations. The Forensic Sciences Division has been making process in collections, analysis and entry of convicted offender sample profiles as fiscal resources and available trained and qualified personnel have allowed.

It should be understood that that the backlog cited in this finding is not the same backlog cited in previous audit reports. Samples continue to be collected, processed and uploaded however, new offenders enter the system every day (approximately 1,500 monthly). The backlog remains due to the fact that new offenders are constantly entering the system, despite ongoing collection efforts and the continued entry of profiles. Limited resources and available trained and qualified personnel is the other reason for the backlog.

The Governor has authorized an independent external study to assess the needs of the FSD. This study is designed to review both the business areas and forensic disciplines while assessing the needs of the FSD in regards to decreasing backlogs. This study is on-going at this time.

The DLS analysis mentions that the DSP experienced delays in developing a new DNA contract. The fact is that the new contract was developed and a vendor selection had been made when it was decided that it was in the best interest of the State to terminate that contract and create a new second contract for the new more time efficient and less expensive technology. A timeline of these events was provided to the auditors. This new technology for DNA that became available just before the first contract went into place would have saved a considerable amount of time on the analysis end and saved the State a considerable amount of money for testing.

During the period of time that the auditors cite that there was no DNA contract, and DNA samples were not being sent to a lab for analysis, the Department continued to conduct quality assurance reviews on the backlog of samples that were already analyzed. In addition, samples continued to be uploaded into the CODIS system. Although the lack of a contract prevented new samples from being analyzed, the analysis of new samples received would have increased the already existing backlog of samples waiting for the required quality assurance reviews and uploading. It must be pointed out that while the Department sought a new contract that would be more efficient and timely in the analysis

portion, combined with a significant cost savings to the State, work continued on quality reviews and uploading of profiles to CODIS.

The new contract was awarded on August 30, 2006 and the first shipment of samples was sent out in September. The terms of this new contract require a 60-day turn around time and shipment sizes of up to 2000 samples monthly.

The continued backlogs that are mentioned can also be contributed to the lack of qualified trained staff to conduct the required FBI 100% review of data prior to CODIS uploading as well as the lack of staff for the collection/processing stages. Each sample that returns from testing must go through a quality assurance check which is required by the FBI before being loaded into CODIS. These quality assurance checks may be only performed by trained and highly qualified personnel and take a considerable amount of time for each sample received. The 3,700 samples referred to as not being entered into the database have been entered into the system to date.

As of January 2, 2007, 57,395 convicted offender samples have been collected. In addition, 32,588 convicted offender samples have been sent to the contract lab for analysis, 1,101 samples have been returned and are awaiting uploading to CODIS, and 21,155 convicted profiles have been entered.

Finding #2

DSP did not collect DNA samples from certain individuals as required and could not account for certain samples that had been collected.

DSP RESPONSE

The Department concurs with the findings and recommendations. As of October 10, 2006, DNA samples had not been obtained from approximately 805 individuals convicted of a qualifying crime from the inmate populations in the Division of Corrections. As of January 2, 2007, 57,395 convicted offender samples have been collected. In addition, 32,588 convicted offender samples have been sent to the contract lab for analysis, 1,101 samples have been returned and are awaiting uploading to CODIS, and 21,155 convicted profiles have been entered.

In regards to contacting qualified offenders who are on probation, the Forensic Sciences Division (FSD) is in the process of obtaining an electronic means by which to receive lists from Parole & Probation of those individuals on probation. This electronic software will allow FSD to determine who has already been collected thus preventing a duplication of collections. In the past, the list provided by Parole and Probation had to be manually searched and edited for those individuals who had previously provided a sample and then a determination had to be made on each individual listed as to who qualified for sample collection. This process which was conducted by FSD personnel was time and manpower intensive, and caused further delays in the process, however, at the time it was the only method available.

FSD has sent and continues to send letters to those on parole and probation, as time and staffing permits. However, many of these letters of notification were returned because of address changes. Despite this fact, FSD does receive calls daily to schedule collections from convicted offenders as a result of these letters.

The DSP had made substantial progress in the area of collections from convicted offenders. The DSP has entered into an agreement with other state agencies, including DPSCS and numerous counties and sheriffs offices around the State. These agencies are assisting the DSP with the collection of samples upon qualifying convictions. The DSP has regular meetings with Parole and Probation (P&P) and agrees to continue to work with P&P to reduce this number. The DSP agrees to continue to collect and process samples from convicted offenders. In December 2006, the Department entered into an agreement with P&P. This agreement provides that P&P urine collectors will be trained by DSP and will assist in collecting DNA samples from convicted offenders on parole or probation. To date, the DSP has provided training to six (6) P&P locations and scheduled training at fourteen (14) more. DSP has made significant progress in these areas since the last DLS audit and continues to partner with other state and county agencies to collect, analyze and upload DNA samples.

Regarding the 730 DNA samples mentioned by the auditors, the Department did provide the DLS auditors with several reasons why the two lists would not coincide. To date, the DSP has investigated every one of the cited 730 DNA samples to identify the specific reason as to why there was a discrepancy. 149 samples have been collected, 185 convicted offenders remain in DOC and these samples are being collected. Letters have been sent out to the remainder of the offenders that are required to provide samples. Subsequent to the FSD investigating the reason for the discrepancies, it was determined in that in most cases, DPSCS provided documentation to the FSD indicating that a DNA sample had been taken from these individuals when in actuality it had not. FSD is currently working with DPSCS to address these issues that have caused the discrepancies. DSP continues to ensure that a DNA sample is collected when required. DSP and the Department of Parole and Probation is in the process of notifying all individuals on parole and probation who are required to submit a sample. DSP agrees to continue the reconciliation of the stated 730 samples and to periodically reconcile DPSCS records which are submitted to the DSP and investigate any discrepancies.

Finding #3

DSP lacked procedures to help ensure that all civil child support warrants, protective orders, and reports on missing children were entered into the Maryland Interagency Law Enforcement System (MILES) and National Crime Information Center (NCIC) system, as required by law.

DSP RESPONSE

The Department does not concur with this finding, but agrees to implement the recommendations. Entry of civil child support warrants, protective orders and reports of missing children are required by law, by the law enforcement agency who receives the

report. The Department does not have the responsibility or the authority to ensure the initial entry of these records.

The Department's function is to ensure the timeliness, accuracy and completeness of the information after it is entered into these systems. The completeness of the record is ensured during the audit process. This process does ensure that all of the required data, plus all other available data is included in the entry. Records are audited bi-annually, with the exception of protective orders, which are audited quarterly.

The Department conducts audits of information entered into the system for quality control purposes. It is impossible, however, for the Department or its audit teams to ensure that all data was in fact entered by every agency as recommended by the DLS auditors. Furthermore, the DSP audit teams can only audit information and orders that are actually in the computer systems, since the DSP does not receive paper copies of the orders themselves. Subsequent to the last DLS audit, the DSP sent questionnaires to 30 local law enforcement agencies that entered these orders. The questions contained on the questionnaire were reviewed and approved by the same DLS auditors that cited this finding during the last audit. Although only 27 of the 30 responded, the information received did assist the Department's audit team with quality control issues. After review of the returned questionnaire sheets, the DSP was satisfied that local entering agencies had sufficient policies and procedures in place for the entries of orders based on the information received.

As of April 2006, information such as how the orders are received from the court, how they are logged in as received from the court, how they are assigned for service and how they are tracked for data entry have now been included in the audit process. The information contained in missing children reports is already captured in the Department's current audit process.

The Department does not have universal procedures in place that regulate how local agencies enter orders. Each local agency has adopted its own procedures that are unique to its individual agency, county, policies and operational procedures for the entry of orders. The Department also receives information on the entry of these orders during the audits.

The Department believes that based on the questionnaires received, the audits that are performed and additional information that is now being requested during the audits, that the Department will be able to document that there are adequate policies in place to ensure that orders are entered as required by law.

The DSP maintains that if the DSP were to assume a responsibility for initial entry of all civil child support warrants, protective orders and reports on missing children, a responsibility not expressly assigned or implied by statute, DSP could assume vicarious liability for the actions or inactions of other local agencies.

The Department again maintains that it has no legal authority over local agencies, or sanctions that it can impose to ensure that local agencies enter these orders. Current law requires the receiving agency to enter the order. The DSP provides training, assistance and audit oversight to ensure that the processes used by local agencies are sufficient. For these reasons, the DSP contends that it is meeting its mandates under the law. The DSP does agree to ensure that during its audits of local entering agencies, that DSP auditors inspect local agency regulations and or policies that regulate the entry of these orders and procedures for ensuring cases are entered as required. Based on the audit, DSP agrees to make recommendations to local agencies if these policies are deemed inadequate.

Finding #4

DSP's procedures and controls for monitoring firearm sales were not adequate to ensure background checks were performed for all gun sales, that the guns sold contained the required safety devices, or that shell casings were received and entered into Maryland integrated Identification System as required..

DSP RESPONSE

The Department does not concur with this finding, however, it agrees with the recommendations. The Maryland State Police Licensing Division has limited statutory authority regarding quality control checks (audits) of firearms dealers. Under Public Safety Title 5, Firearms, Subtitle 113, the Department of State Police (DSP) is only permitted to conduct the following examinations during dealer audits: 1) a check of the dealer's license to ensure that the license is conspicuously displayed; 2) that the license identifies the licensee and the location of the licensee's place of business. This was an initiative that MSP launched subsequent to the 1996 Gun Violence Act which enhanced the Maryland regulated firearms program but did not include auditing provisions.

In compliance with COMAR and Public Safety Title 5, the DSP Licensing Division created a dealer audit form which captures the above sections for notation resulting in a quality compliance review. During a dealer review, the business name, location, licensee's name, regulated firearms dealer number, display of the State of Maryland license, the federal firearms license, the trader's license and the Maryland tax license are verified. A quality review of the firearms applications occurs, comparing the dealer's firearm applications against the data DSP entered into the Maryland Automated Firearms Services Section (MAFSS) noting compliance with DSP's limited authority as outlined in Title 5 and COMAR. An inventory of the dealer's regulated firearms is also conducted. All three of these sections are captured on the MSP Form 20-1 (Maryland State Police Firearms Enforcement Division Dealer Audit Unit Compliance Inspection Report).

According to the Federal Bureau of Alcohol, Tobacco and Firearms, only an ATF officer is permitted to have right of entry and examination of a firearms dealer's records or documents, ammunition, inventory of firearms, and any firearms curios or relics or

ammunition kept or stored by any licensed collector at the dealer's premises. DSP does not have this administrative or statutory authority.

There is a fundamental misunderstanding regarding audits of firearms dealers. The DSP has no statutory authority to conduct what the DLS auditors are suggesting the DSP should be doing. DSP works closely and in cooperation with the ATF criminal enforcement officers and administrative regulators to help ensure that there are no rogue dealers in Maryland. The ATF has long had primary responsibility for such complete compliance audits. Maryland's program is geared towards reducing gun violence. DSP does have some oversight that includes the proper processing of 77R's to ensure that the forms are complete and accurate and submitted in timely fashion and properly processed, but the DSP does not have statutory authority to conduct the compliance inspections that the DLS auditors are recommending. The DSP, as a matter of policy, does request to see every guns dealer's records on a voluntary basis. This practice will continue and should address one of the DLS recommendations, although absent specific legal authority, DSP cannot mandate this as suggested by DLS.

The DLS auditors acknowledged that the DSP modified its audit procedures to include steps to verify that the safety device was included in the sale. In June of 2005, the Licensing Division created and distributed a letter to all firearms dealers advising them to 1) retain an invoice, bill of sale, or other documentation regarding the installment of an external safety device on any regulated firearm transferred; 2) to attach said invoice, bill of sale, or other documentation to the dealer's copy of all paperwork retarding the transfer; 3) to provide for the review of said invoice, bill of sale, or other documentation during a regular audit visit. Despite this action by the DSP, the DLS auditors stated that adequate documentation was not always obtained to support dealer compliance. When adequate documentation was not obtained from a dealer, this would trigger a follow-up response from the DSP for non-compliance. It should be noted that a revision has been made to the application to purchase a handgun to include an attestation to the external safety lock and integrated mechanical safety device.

At the time of the last DLS audit, an inventory of the applications to purchase a regulated firearm (77R) was conducted at the DSP Quartermaster Division to find that there were approximately 40,000 applications remaining in stock. At the cost of one dollar per page, it was not cost effective to destroy the 40,000 applications for a new printing of the revised 77R when the Licensing Division already had steps in place to check for the sale of the external safety device. To date, these new 77R forms which contain this attestation have been printed and disseminated to local gun dealers.

Only in the federal regulations of the Federal Bureau of Alcohol, Tobacco and Firearms does it state that the ATF officer is to conduct audits of firearms dealers yearly. There is no statutory requirement that applies to the DSP in regards to the frequency of audits. In January 2005, the DSP Licensing Division created Special Order #29-05-001, Firearm Dealer Compliance Inspections, to establish policies and procedures for firearms dealer compliance inspections. The Licensing Division currently has only one full-time employee whose sole responsibility is to conduct dealer compliance inspections. Of the

233 firearms dealers in Maryland, 150 of them underwent a compliance inspection in 2005 and as of October 1, 2006, 119 compliance inspections have been completed. The DSP does agree to incorporate a policy to address the frequency of audits of firearms dealers into the current policy.

The Forensic Sciences Division has a tracking system that captures the information from the shell casings that have been received into the laboratory for entry into the MD-IBIS. Data from this system could be compared to that from the Maryland Automated Firearms Service System. The Department agrees to establish procedures to ensure that shell casings that are received and entered into IBIS are compared with firearms sold, to ensure that the DSP receives shell casings from all firearms that are subject to current laws.

The Department points out that there is still no way to positively ensure that the shell casing which is received by the DSP, and is submitted and entered into IBIS is indeed from the actual gun sold.

Finding #5

DSP did not determine whether the modified work schedule used by Command employees was cost effective, possibly resulting in excessive overtime payments.

DSP RESPONSE

The Department concurs with this finding and recommendations. The Aviation Command must cover shifts 24-hours a day, 365 days per year, regardless of what type of shift is scheduled. Employees still work the same number of hours (normally 2080/year). Staffing shortages are the prime reason for overtime costs. Overtime has increased in the past two fiscal years, in part because in FY 05 and FY 06, the Command has had at least four (4) and as many as nine (9) full time employees on deployment to active military service. These positions remain encumbered and cannot be filled, yet at the same time essential services must be maintained. Our direction has been to avoid closures of aviation sections whenever possible.

The DSP is in the process of reviewing and analyzing the modified work schedule to determine the benefits and effectiveness of the existing schedule. The DSP agrees to continue to monitor the work schedule, manpower requirements, overtime allocations and requested overtime budgets to ensure the most efficient and cost effective methods are used while maintaining the required emergency services.

Finding #6

DSP had not determined if the method used to allocate costs to the Maryland Emergency Medical Systems Operations Fund was consistent with statutory restrictions governing the use of the Fund.

DSP RESPONSE

The Department concurs with this finding and recommendations. Current statute is silent as far as the methodologies for the application of this Fund. In the past, the current appropriation of funds by the DSP has been approved by DBM, overseen and approved by the EMS Board, and subsequently approved by the Legislature through the approvals of DSP's budgets and budget language. For approximately the last 10 years, DBM and various legislative committees have requested supporting flight data from the DSP regarding the number of medically related flights versus non-medically related flights.

The current 80/20 split under current law was changed by the Legislature as a result of the DSP being able to show in the past that approximately 80% of all helicopter flights were medically related. This methodology that allows the DSP to charge 80% of all helicopter flights to MEMSOF was based on data presented to legislative committees and subsequently approved through the Legislature's approval of the DSP's budget and associated language.

DSP and the Aviation Command do comply with MEMSOF requirements. Quarterly review of budgetary operations with the EMS Board ensures appropriate management of the DSP portion of the fund in accordance with MEMSOF requirements. Fixed-wing operations have been separated and 100% of fixed-wing operations are charged to general funds. The two employees mentioned were former Aviation Command full time employees and were reassigned to the Command because both had Aviation Command background. Since the analysis, one of the employees has retired, and the second has been transferred. The DSP has identified that portion of time that was classified as "non-aviation related" and has reimbursed MEMSOF for these two identified employees.

The DSP contends that hanger costs, heating, air conditioning, light, etc, is needed to support the helicopters and medivac program and as such, is and always has been an allowable expense. The recommendations made by DLS have been reviewed by the DSP, however, authorization and approval for these expenses has always come from the Legislature, and any changes to this methodology or process should continue to come from this governing body through the budget process. The DSP agrees to continue to look for specific language or documentation to prove that the current methodology used is and has been approved.

Finding #7 (Policy Issue)

DSP did not have a policy for non-emergency use of the DSP helicopters or for the recovery of certain Command costs.

DSP RESPONSE

The Department concurs with this finding and agrees with some of the recommendations. The Command has procedures and formal rules in place through the Director of Flight Operations regarding procedures for non-emergency purposes. Any

type of off-site training and education is documented on a flight request form and forwarded to the Director of Flight Operations for approval and assignment. Hours flown on training and education missions may actually reduce the overall flight time due to a reduction in accidents among the public and especially at risk age groups. Overall costs to the state for medical payments may also be reduced based on education received at such functions. All of these missions are DSP related, and are analogous to other public outreach initiatives provided by all State agencies at all levels. Such expectation of cost recovery is not prudent nor necessary based on the overall educational experience.

In addition, the Aviation Command flies homeland security missions and surveillance for infrastructure protection in conjunction with these flights. Suspending these flights would reduce the number of homeland security checks that are conducted. Based on the recommendations, the DSP does agree to implement general criteria or guidelines for non-emergency flights when requests are made.

As far as recovering the costs for the extradition of prisoners from local agencies, local jurisdictions do provide funds for lodging, meals, and vehicles; these are the limits of the reimbursable items allowable by law.

The DSP contends and documentation has been submitted to DBM, that based on current operational procedures, and applicable federal laws, charging other agencies for the direct costs of operating an aircraft for extradition missions is not allowed. FAA guidelines and exemptions regarding specific rules and regulations are part of the submitted documents. By charging for these services, the DSP would essentially become in a sense a “commercial carrier” under FAA rules that would subject the DSP to all types of regulations and restrictions that would negatively impact current flight operations.

There is also statutory language within State law regarding what the State Police can and cannot charge local jurisdictions for services. The DSP does agree to seek an Attorney General’s Office opinion regarding federal FAA guidelines and regulations as they relate to DSP flight operations and the potential consequence of requiring payment for services provided to local agencies.

Finding #8

DSP did not ensure that jurisdictions participated in the Maryland Fire Incident Reporting System as required by State Law.

DSP RESPONSE

The Department concurs with this finding. The Department and more specifically, the Office of the State Fire Marshal (OSFM) will work with the Maryland Emergency Agency (MEMA) to encourage each “county” as well as individual fire departments within each county to participate in the Maryland Fire Incident Reporting System (MFIRS) in accordance with State law.

The OSFM has continually sought MFIRS reporting from the fire service using a number of avenues. These efforts include everything from having OSFM supervisors making personal contact with individual fire departments to advising groups of local fire officials while attending county and State meetings. The OSFM provides regular updates to fire service organizations concerning fire departments that have not submitted MFIRS reports to the OSFM, including posting information on the OSFM website. In regular briefings to Maryland fire service organizations, including the Maryland State Firemen's Association (MSFA), the Maryland Metropolitan Fire Chiefs Council, the Maryland Fire, Rescue, Education and Training Commission (MFRETC), the Maryland Fire Chiefs Association (MFCA) and the Maryland State Fire Prevention Commission, the OSFM frequently reports on MFIRS participation. These organizations are repeatedly reminded about MFIRS reporting requirements and the potential loss of Senator Amoss funds for non-compliance. Eventually with continued reminders and coaching, nearly all MFIRS reports are received by the OSFM.

Additionally, in conjunction with a FY2004 audit of the Senator Amoss Fire, Ambulance and Rescue Fund conducted by the Department of State Police (DSP) Finance Section, notices were sent to the counties to let them know about the Senator Amoss Fund being transferred to MEMA. These notices included a reminder about MFIRS and Maryland Ambulance Information System (MAIS) reporting requirements. In order to receive Senator Amoss Fund distributions, current law requires each "county" to participate in MFIRS and MAIS. It is important to note in most counties, the volunteer fire departments operate independent of county government. In some cases, counties have withheld funds from individual fire departments that have not submitted MFIRS and/or MAIS reports; therefore, it appears these counties would be in compliance with State law, so long as no funds are distributed to non-reporting fire departments.

The OSFM will continue to provide MEMA with appropriate MFIRS reporting data by posting on the OSFM website and by hard copy mailed to the MEMA Director on a quarterly basis. In addition, the OSFM will make regular contact with MEMA to ensure effective and timely communications in this area. This information will assist MEMA in determining if counties meeting the MFIRS reporting requirements specified by State law.

Finding #9

DSP did not adequately ensure the accuracy of crime data submitted by local jurisdictions for inclusion in the annual Uniform Crime Report to the General Assembly.

DSP RESPONSE

The Department does not concur with this finding but will implement the recommendations to the extent resources are available. The Department administers the Maryland Uniform Crime Reporting Program in accordance with Public Safety Article 2 Sub Section 2-306 thru 2-308 which mandates the

collection, analysis and dissemination of crime statistics. This statute does not require or mandate the DSP to conduct audits. There is no state law or requirement for the Department to conduct audits of UCR data at submitting agencies.

The FBI's Uniform Crime Reporting Handbook requires "Quality Assurance Reviews" of submitting agencies, but does not specify the number of reviews to be conducted, the frequency or the size of the agency to be reviewed. The Department contends that quality assurance reviews of submitting agencies are being conducted and therefore, the Department is in compliance with state statutes as well as the FBI's UCR Program.

The Department agrees that additional quality assurance reviews could be conducted if additional staffing was available. As stated in the FBI's UCR Handbook (Page 4), state programs must have adequate field staff assigned to conduct audits and assist contributing agencies with crime reporting procedures. The Central Records Division has lost field auditors through position reductions. In spite of these position reductions, the Department has continued to conduct quality assurance reviews, provide regular training and assistance to submitting agencies, and has proactively implemented other quality assurance initiatives to ensure the accuracy of crime data received, to the extent possible.

In 2005, the Central Records Division (CRD) implemented a procedure of self inspection to reach the 155 agencies submitting crime data. The completed questionnaires from the agencies were sent back to CRD for review and also allowed CRD to determine what types of training were needed. The self inspection consisted of a UCR Questionnaire which included a UCR Self Inspection Checklist to identify the level and experience of the supervisor of the law enforcement agency's UCR Program, the number of personnel assigned to perform UCR coding and required training, and the point of processing where offenses are classified and scored. This self inspection questionnaire allows the State UCR Program to identify the shortcomings of an agency and schedule visits to address these issues.

The Central Records Division provides UCR training sessions and has direct contact with all MD law enforcement agencies through routine field visits. It is the responsibility of those Maryland law enforcement agencies that participate in the State UCR Program to identify personnel assigned to this program and ensure attendance at the scheduled UCR training. These trained personnel, who are responsible for each agency's UCR training, coding and crime data submissions, are responsible for ensuring that their agency accurately reports UCR data.

The Central Records Division selects the law enforcement agency where a Quality Assurance Review (QAR) will be conducted based upon identified problems within UCR guidelines. Since 2004, due to staffing reductions, CRD

conducts four QAR/Audits in the Fall and conducts UCR training in the Spring. Additionally, the Incident Reporting Section of the Central Records Division, inform the Field Liaison Staff of statistical data submitted that contain discrepancies. The Field Liaison Staff schedule visits to those agencies based upon this notification.

As a result of past Legislative Auditor's recommendations, in 2006, a Mail-In Quality Assurance Review/Audit process was developed and modeled after the National FBI UCR Mail-In Quality Assurance Review process. The Mail-In QAR consists of a questionnaire on reporting practices, crime scenarios to be coded along with a request for a random sampling of 100 police criminal investigations reports. This process provides the Central Records Division with the ability to conduct a QAR of all police contributors regardless of the size of the agency. Ten agencies thus far have received a Mail-In QAR Packet and this Division is in the process of reviewing the completed packets as returned. It should be noted that the aforementioned process will be an addition to the normal QARs that are performed in the field.

The Department contends that it is conducting Quality Assurance Reviews as required, however, since there is no minimum standard set by the FBI, the Department is in compliance with federal regulations. The Department conducts and provides training to local submitting agencies as required. The Department has also implemented additional quality assurance initiatives to provide better quality control. The Central Records Division Maryland State Police will continue to make every effort to ensure the quality of the Maryland Uniform Crime Reporting Program.

Finding #10

DSP lacked sufficient policies and procedures to ensure that School Bus Safety Enforcement grant funds were being used as intended and effectively.

DSP RESPONSE

The Department does not concur with this finding, however, it does agree with the recommendations. Although the DSP does make the awards under this program, all of the funding requests, grant applications, performance reports and grant conditions are reviewed on at least a yearly basis by members of the law enforcement community, the school board, local county representatives and members of the pupil transportation board.

The accumulated surplus of \$841,800 is present due to the fact that in the initial year of this program, the DSP received two full years worth of funding within several months and then continued to receive annual funding every year thereafter. This surplus funding created a disproportionate amount of revenue that could not be spent by grantee agencies. At least on one occasion, the DSP tried to revert surplus funds under this program but was unsuccessfully. The DSP agrees that the accumulated surplus should be

reverted and agrees to work with DBM to ensure that unspent excessive funding be returned to the Fund.

The DSP always considers performance results as a factor in awarding new and or supplemental grant awards. In fact, in addition to the DSP, the State School Board, State Pupil Transportation Board, local law enforcement, MML, MACO, the Board of Education and other entities review grant performance each year and collectively decide, based on performance and other factors, on new and supplemental grant awards. Considering that most grantees use marked police cars to follow school buses on school routes, one would expect violations to decrease when a marked police car is present. Although the number of citations and or warnings issued is taken into consideration , it should not be the only factor considered when awarding grant funding. The DSP does agree to continue to monitor grant performance and consider grant performance as a factor for new and supplemental grant awards.

Regarding grant award conditions, the DSP has a list of grant general and special conditions that must be reviewed and signed by the agency that receives grant funding. These conditions are reviewed on a yearly basis, and any issues that arise during the year are addressed with the addition or modification of these conditions.

Additionally, grant conditions cannot and are never intended to address every possible question or circumstance. Grant conditions provide rules, guidance and procedures that must be followed when participating in grant programs. Based on the DLS recommendations, the DSP agrees to add another condition regarding commute time and administrative functions as they relate to this grant funding. The DSP maintains its position that the current grant conditions are more than sufficient to adequately administer this program and adequately qualifies what is an appropriate use of funds. This in combination with administrative oversight of this program by the DSP and review by outside agencies at least on a yearly basis ensures that the program is administered as intended.

Finding #11

DSP did not submit indirect cost recovery plans to the federal government on a timely basis and did not maximize its indirect cost recoveries from various entities, resulting in lost revenue of at least \$4.5 million.

DSP RESPONSE

The Department concurs with the findings. A corrected Indirect Cost Proposal for FY 2003 was submitted along with Proposals for FY 2004 and FY 2005 on July 3, 2006. The FY 2006 proposal is almost complete and will be submitted to DOJ. It is expected that the DSP will hear back from DOJ on these submitted proposals at any time. Due to the fact that the submission and final approvals of these indirect cost agreements take so long (up to one year), at the direction of DBM, a request to submit every 3 to 5 years will

accompany the 2007 proposal. Part of the reasoning for this request is the timing of the Statewide Allocation from Maximus which is never received in time for the six month deadline.

Although the DSP agreed to charge agencies indirect costs subsequent to the last DLS audit, the Secretary of DSP issued “waivers” to certain agencies because it was counter-productive and made no logical sense to charge other State agencies indirect costs for state services. In addition, some state agencies provide working space and office space to the DSP free of charge which may change if the DSP begins charging indirect costs to other state agencies. Based on DLS recommendations, the DSP is sending out letters to all agencies regarding reimbursable overtime informing them that the current indirect cost rate will be applied.

Finding #12

Reimbursement requests for federal funds were not submitted timely, resulting in a loss of interest income of approximately \$73,000.

DSP RESPONSE

The Department concurs with this finding. Starting with the current period, July 1 – September 30, 2006, the DSP’s Finance Section checks weekly for submitted reports so the DSP can apply for reimbursement in a timely manner.

Finding #13

Procedures and controls over the processing of purchasing and disbursement transactions were inadequate.

DSP RESPONSE

The Department agrees with this finding and recommendations. The DSP uses a variety of temporary services during the year, many of which cannot be anticipated. This makes it difficult to procure a contract for temporary services under one contract when the DSP does not know what it will actually need. Based on the recommendations, the DSP agrees to contact DBM for advice and or waivers in this area.

The DSP is currently addressing the issues involving procurement, including internal controls, the creation of purchase orders after the services have been received and the proper approval of invoices. In many cases, it was recognized that employees handling these procedures were not sufficiently educated on all state procurement regulations. Corrective action is already underway by the DSP to address these deficiencies. The DSP agrees to address these issues and implement the DLS recommendations.

Finding #14

Proper controls over DSP’s property had not been established.

DSP RESPONSE

The Department concurs with this finding. Control accounts have been set up for property, land and buildings, vehicles, guns as well as computers in the format in the Department of General Services' Inventory Control Manual. A full physical inventory of all DSP equipment is currently being conducted. The DSP agrees to create and maintain independent control accounts over these areas as outlined by the DGS Inventory Control Manual. DSP agrees with the recommendations and will ensure that the requirements of the Inventory Control manual are followed.

Finding #15

DSP lacked adequate procedures over State Fire Marshal collections.

DSP RESPONSE

The Department concurs with this finding and the recommendations. The Office of the State Fire Marshal has already implemented appropriate measures and actions to segregate financial duties and ensure proper procedures over collections received. A standard operating procedure which complies with the Comptroller of the Treasury's *Accounting Procedures Manual* has been developed and implemented to ensure that all OSFM collections are properly accounted for and controlled. Furthermore, all collections are now recorded immediately, independent verifications are now performed, and additional independent oversight of this process has been implemented.

Finding #16

DSP did not attempt to recover questionable administrative disability leave paid to one employee and did not report the case to appropriate State officials as required.

DSP RESPONSE

The Department does not concur with this finding but agrees with the recommendations. Subsequent to the DLS finding and recommendations, the Department performed further inquiry into this issue which revealed the following. The involved employee was involved in an on-duty incident and claimed post traumatic stress disorder which was supported by medical certification from a doctor. The employee filed and was properly granted administrative leave by the DSP Secretary. Although the employee's doctor insisted that he had this condition, another doctor examined the employee at the request of IWIF and rendered the "opinion" that he believed that the employee's condition was embellished. The DLS analysis states that "it was disclosed that the employee had been engaged in secondary full-time employment for several months in which the duties were similar to those at DSP." Although the employee's work duties and secondary employment were similar in nature, that is, they both involved computer work, the issue that provoked administrative leave was very different from the employee's secondary employment. Based on IWIF's opinion, the DSP immediately ended the employee's administrative leave. The case involving this employee was referred to the Attorney General's Office to determine if reimbursement of the

administrative leave was appropriate. The Attorney General's Office declined to seek reimbursement. The issues were also reviewed by the DSP's Internal Affairs Section, and there were no violations of administrative regulations regarding this particular issue.

The DSP maintains that it followed policies relating to the approval and use of administrative leave. Administrative leave was granted appropriately based on a certified doctor's opinion that the post traumatic stress was duty related. The DSP cancelled any further payments when it was learned that the IWIF doctor's opinion was that it was not duty related. The DSP as a matter of procedure does not demand restitution from the involved employee when the leave granted was appropriate and two doctors are in disagreement over a medical condition. Furthermore, the Attorney General's Office reviewed this case and based on the facts, declined to seek reimbursement for the State. The DSP does agree to continue to report all instances of possible criminal conduct or questionable activity as recommended by DLS.

Finding # 17

Internal control over the working fund was inadequate.

DSP RESPONSE

The Department concurs with this finding. Since October 12, 2006, the Director of the Budget and Finance Division has ensured that all Working Fund and cash receipts were put on the daily check log currently maintained by personnel who are not associated with the Working Fund, thus segregating duties and controls over this fund. Additionally, duties and controls over the Working fund will be segregated when required and will remain segregated in the future.

The \$500 of the working fund advance that could not "accounted for by the DSP as of July 2006" was due to an accounting error. These funds were previously returned to the State. Nevertheless, the funds will be identified and the fund balance corrected to reflect this.

Finding # 18

The DSP headquarters' computer network was not adequately secured and controls on its headquarters' firewall need improvement.

DSP RESPONSE

DSP concurs with this finding and has already implemented many of the recommendations. The DSP has installed an Intrusion Detection/Prevention System and has connected all DSP gateways to pass all traffic through this system.

The HQ firewall logging device has been enabled and an employee is being currently trained to monitor this system and the resulting reviews will be documented and retained. The unsecured connection protocol used for administrative access to the headquarters' firewall has been secured through the use of additional firewall protection.

The “untrusted third party” mentioned in the DLS analysis is another state agency. This agency has its own firewall system, and the DSP has its own firewall system and intrusion detection system which is monitored. The DSP believes that it meets current standards and believes that there is more than sufficient protection and security on these systems. The DSP does not feel that it needs to over secure these connections beyond what current standards require. Furthermore, the current systems and protections have been very successful in detecting and preventing and reporting attempts at unauthorized access. With the exception of this recommendation, the DSP has already implemented all other recommendations in this area.

Finding # 19

DSP did not have an information technology disaster recovery plan.

DSP RESPONSE

The Department concurs with this finding, however, it cannot implement the recommendations at this time. This issue has been discussed extensively among DSP information technology personnel. The development and implementation of such a plan would require a great deal of dedicated funding, personnel and expertise which is beyond the DSP’s capabilities at this time. The plan would require the identification of off site backup systems and security, all of which would require new equipment, substantial funding, expertise and manpower to implement and sustain. The DSP does agree to review DBM’s IT Disaster Recovery Guidelines and develop and implement what it can at this time. The DSP does have existing plans at each facility for the continuation of operations during disasters or times of emergency under the State’s COOP Plan. In addition, the DSP has redundant communications networks and other systems that would preserve functionality during disasters or emergencies.

Finding # 20

Backup procedures were not adequate for the email server.

DSP RESPONSE

The Department concurs with this finding. A full manual backup of the email server is now being performed on a daily basis. Power and bandwidth allocation is being looked into at another facility to house and backup data (email archive and configuration). This other facility is more than 5 miles away from the Pikesville location. The DSP agrees to continue to pursue these recommendations.

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