

SEARCH FOR AND IDENTIFICATION OF MISSING PERSONS STUDY - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3056 ([Appendix A](#)) directs a study of the search for and identification of missing persons. Testimony in support of this resolution indicated that often missing persons investigations grow cold due to an inability of different jurisdictions to share resources and information when conducting investigations and identifying remains. The testimony indicated that a cohesive law among the states and cooperation with the federal government are needed to find missing persons and identify remains of unknown individuals.

NORTH DAKOTA LAW ENFORCEMENT

The search for and the identification of missing persons often involves cooperation and the sharing of information among federal, state, and local law enforcement agencies. The chief components of local law enforcement in North Dakota are city police departments and county sheriffs' offices. At the state level, law enforcement includes the Highway Patrol, game wardens, park rangers, and various divisions within the Attorney General's office, including the Bureau of Criminal Investigation.

The Highway Patrol enforces state law relating to the protection and use of the highways in the state and the operation of motor and other vehicles on North Dakota highways. In addition, under North Dakota Century Code (NDCC) Section 39-03-09, the Highway Patrol is required to exercise general police powers over all violations of law committed on state property.

The statutory duties of the Bureau of Criminal Investigation, which was established in 1965 as a division of the Attorney General's office, include the assisting of federal, state, and local law enforcement entities in the establishment and maintenance of a complete system of criminal investigation, serving as the state central repository for the collection, maintenance, and dissemination of criminal history record information; aiding in establishing a system for apprehension of criminals and detection of crime; on request, assisting and cooperating in investigation, apprehension, arrest, detention, and conviction of alleged felons as well as other duties (NDCC Section 12-60-07).

NORTH DAKOTA LAW AND PROGRAMS REGARDING MISSING PERSONS North Dakota Century Code

North Dakota Century Code Section 54-23.2-04.1 provides that the Division of State Radio has certain duties with respect to lost or runaway children and missing persons. This section provides:

The division shall:

1. Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost or runaway children and missing persons.
2. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information that can assist appropriate agencies in recovering lost or runaway children and missing persons.
3. Establish contacts and exchange information regarding lost or runaway children and missing persons with the national crime information center.
4. Notify all enforcement agencies that reports of lost or runaway children and missing persons must be entered as soon as the minimum level of data specified by the division is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the division immediately upon notification shall enter the information into the national crime information center file.
5. Compile and retain information regarding lost or runaway children or missing persons in a separate file, in a manner that allows the information to be used by law enforcement and other agencies considered appropriate by the division, for investigative purposes. The enforcement agency is responsible for maintaining the disposition of the case and periodically shall review the case with the reporting party and the division to ensure all available information is included and to determine the current status of the case.
6. Provide prompt confirmation of the receipt and entry of the lost or runaway children and missing persons report into the file system to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection 7.

7. Allow any parent, guardian, or identified family member to submit a missing persons report to the division which will be included in the division file system and transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.
8. Compile and maintain a historical data repository relating to missing persons for all of the following purposes:
 - a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of missing persons.
 - b. To provide a factual and statistical base for research which would address the problem of lost or runaway children and missing persons.

In addition, NDCC Section 54-23.2-04.2 provides for school enrollment procedures to aid in the identification and location of missing children. This section provides that if a child's parent, guardian, or legal custodian does not present certain proof identity within 40 days of enrollment or if the school does not receive the school records of the child within 60 days of enrollment, the school, licensed day care facility, or school superintendent of the jurisdiction is required to notify the missing person information program provided under Section 54-23.2-04.1 and a local law enforcement authority that proof of identity has not been presented for the child.

Amber Alert System

On August 30, 2002, Governor John Hoeven signed Executive Order 2002-06, which directed the Highway Patrol, in cooperation with the Division of Emergency Management, State Radio, and other state agencies, to implement a statewide Amber Alert system by January 1, 2003. Amber stands for America's Missing: Broadcast Emergency Response.

The Amber Alert system, which was created in Texas in 1996 in memory of Amber Hagerman, a nine-year-old girl who was abducted and murdered while riding her bike in Arlington, Texas, now exists in every state. The Amber Alert involves a system of news bulletins that broadcast information about a missing child over the airwaves and on highway alert signs to encourage the public to help law enforcement locate a kidnapped child. According to missing persons experts, the first hours following a child abduction are considered to be critical in terms of response.

According to the United States Department of Justice, Amber Alerts have helped bring home more than 200 abducted children nationwide. In 2004 the

federal Protect Act of 2003 was passed to provide funding to help coordinate the 50 state Amber plans.

North Dakota Criminal Justice Information Sharing

North Dakota criminal justice information sharing (CJIS) is a statewide program with the mission to improve public safety by enhancing decisionmaking of law enforcement and other public safety officials. Criminal justice information sharing enables the components of the state's justice systems, including state and local law enforcement, courts, state's attorneys, and corrections agencies to share justice information. In the CJIS system, justice agencies and entities maintain control of their information and make the information available to authorized users. Current CJIS information systems include the:

- CJIS hub portal, which enables authorized criminal justice personnel to search the following data bases via a virtual private network: criminal history, parole and probation information, offender registration, concealed weapons, motor vehicle, and driver's license records and photographs. In addition, this system includes notification capabilities that facilitate the tracking of offenders for law enforcement.
- Law enforcement records management system, which is a centralized web-based law enforcement records management system available to North Dakota law enforcement. The system allows electronic storing and sharing of case reports. Currently, 30 agencies use the system.
- State's attorney record management system, which is a statewide system offered to state's attorneys to automate business processes, enable workflows and allow information sharing with other agencies. The system allows electronic storing of case documents and reports. It provides electronic prosecution and disposition reporting to the Bureau of Criminal Investigation.

NATIONAL MODEL LEGISLATION

According to the National Institute of Justice, which is the research division of the United States Department of Justice, at any given time there are as many as 100,000 active missing persons cases in the United States. According to the National Institute of Justice, due in part to sheer volume, missing persons and unidentified human remains cases are a tremendous challenge to state and local law enforcement agencies. The report indicates that more than 40,000 sets of human remains that cannot be identified through conventional means are held in the evidence rooms of medical examiners throughout the country. According to the report, only 6,000 of these cases have been entered into the Federal Bureau of

Investigation's National Crime Information Center data base.

The National Institute of Justice reports that efforts to solve missing persons cases are further hindered because many cities and counties continue to bury unidentified remains without attempting to collect DNA samples. According to the National Institute of Justice, many labs may not be equipped to perform DNA analysis of human remains, especially when the samples are old or degraded. The National Institute of Justice report noted that compounding this problem is the fact that many of the country's 17,000 law enforcement agencies do not have access to or are unaware of their own state's missing persons clearinghouse or the four federal data bases--the National Crime Information Center; combined DNA index system for missing persons; integrated automated fingerprint identification system; and violent criminal apprehension program.

In 2005 the United States Department of Justice established a task force of representatives from local, state, and federal law enforcement; forensic medicine; and victim advocacy organizations to study ways to improve the use of federal DNA data bases. With the assistance of the task force, the National Institute of Justice developed model state legislation that is intended to provide guidance to states on the entire process surrounding missing persons. The model legislation ([Appendix B](#)):

- Requires all law enforcement agencies to accept any report of a missing person and to share it within the state and region.
- Requires law enforcement officers to notify the family about how the case will be handled.
- Suggests ways to improve the collection of information about missing persons and prioritizes high-risk cases.
- Ensures prompt dissemination of critical information to other law enforcement agencies and the public that can improve the likelihood of a safe return.
- Lays out an approach for collecting data that can later be used to help identify human remains.
- Suggests ways to improve death scene investigations and ensure the delivery of human remains to the proper examining entity.
- Ensures the timely reporting of identifying information to national data bases. DNA samples must be taken within 30 days and uploaded to all relevant national, state, and local DNA missing persons data bases.

RECENT MISSING PERSONS LEGISLATION IN OTHER STATES

A number of states recently have enacted legislation to address the issue relating to missing persons. For example:

- In April 2006 Colorado passed House Bill No. 1122. This bill creates a missing persons program and related DNA data base. The bill requires coroner or medical examiners to submit DNA samples of missing persons to the National Crime Information Center data base.
- In June 2006 Louisiana passed House Bill No. 1140. This legislation creates the Louisiana repository for unidentified and missing persons information program. The bill requires law enforcement to obtain DNA from families of missing persons and DNA from unidentified persons.
- In June 2006 Minnesota passed House Bill No. 2656. The bill requires coroners to provide missing persons specimens suitable for DNA analysis to the Bureau of Criminal Apprehension. Minnesota also passed House Bill No. 4162, which appropriated \$100,000 to address the backlog of unidentified remains, including DNA analysis.
- In March 2006 Washington passed House Bill No. 2805. This legislation requires the collection of DNA samples from known missing persons and requires timely submission of the samples for analysis. The bill requires immediate analysis if criminal activity is suspected. The bill also requires the state to maintain DNA samples collected for newborn screening to be used for missing persons identification.
- In July 2007 Indiana passed House Bill No. 1306. This bill requires a law enforcement agency that receives a report of a missing person to take certain steps to locate the missing person. The bill also requires a coroner having custody of unidentified human remains to take certain steps to attempt to identify the remains.

SUGGESTED STUDY APPROACH

The committee, in its study of the search for and identification of missing persons, may wish to approach this study as follows:

- Receive information and testimony regarding current procedures and issues regarding the search for and identification of missing persons;
- Receive information and testimony from the Attorney General, the Bureau of Criminal Investigation, and the law enforcement associations regarding the missing persons issues;
- Review the model missing persons legislation and the legislation of other states; and
- Develop recommendations and prepare legislation necessary to implement the recommendations.

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