

**Tennessee Bureau of Investigation
April 2004**

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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

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John G. Morgan
Comptroller

April 7, 2004

The Honorable John S. Wilder
Speaker of the Senate
The Honorable Jimmy Naifeh
Speaker of the House of Representatives
The Honorable Thelma M. Harper, Chair
Senate Committee on Government Operations
The Honorable Mike Kernell, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the performance audit of the Tennessee Bureau of Investigation. This audit was conducted pursuant to the requirements of Section 4-29-111, *Tennessee Code Annotated*, the Tennessee Governmental Entity Review Law.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the commission should be continued, restructured, or terminated.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/dw
04-023

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Performance Audit
Tennessee Bureau of Investigation
April 2004

AUDIT OBJECTIVES

The objectives of the audit were to review the bureau's legislative mandate, the extent to which the bureau has carried out that mandate efficiently and effectively, and to develop possible alternatives for legislative and administrative actions that could result in more efficient and effective operations of the bureau.

FINDINGS

The bureau does not have original jurisdiction to enforce sex offender registration and can update information in the sex offender registry only when the information is supplied by the offender

Despite the popular misconception that the bureau enforces sex offender registration because it is responsible for maintaining the sex offender registry, the bureau does not have such statutory authority. Nor does the bureau have the statutory authority to correct information in the registry it has discovered to be erroneous unless the sex offender informs the bureau (page 10).

There are conflicts between statutes and between statute and bureau practice regarding fees charged for non-criminal fingerprint-based background checks

In one place, statute states that the fee amount for background checks is fixed by the FBI, while at the same time, in another place, it states specific fees that are not the FBI rate billed to the bureau. The bureau also does not collect statutorily

required fees from a vendor that provides electronic fingerprinting services (page 11).

The bureau does not know the disposition of most arrests since 1995

In the bureau's criminal history database, of 1,958,781 arrests since 1995, 77% lack a case disposition. In only 454,906 arrest cases is the final disposition known (page 14).

The bureau is not adhering to internal and federal policies regarding the frequency of data integrity and compliance audits of agencies' Tennessee Incident Based Reporting System (TIBRS) data and Tennessee Information Enforcement System (TIES) agencies

Fifty-three percent of a sample of TIBRS-certified agencies and 10% of a sample of TIES agencies had been audited or were scheduled (or not scheduled) to be audited such that the time period between audits was or would be greater than the internal and federal policy of biennial audits (page 17).

OBSERVATIONS AND COMMENTS

The audit also discusses the following issues: an annual crime report; laboratory evidence processing times; the statutory number of fingerprint sets to send to the TBI; salaries of special agent criminal investigators and forensic scientists (page 5).

ISSUES FOR LEGISLATIVE CONSIDERATION

The General Assembly should consider revising *Tennessee Code Annotated*, Title 40, Chapter 39, to specifically assign enforcement authority regarding sex offender registration to the bureau or other designated agency (page 21).

The General Assembly may wish to consider revising Section 8-8-201(35)(A) and Section 8-4-115(c)(1-4), *Tennessee Code Annotated*, to reflect the advent of and growing use of electronic submission of criminal fingerprint cards. Distinctions need to be made for the law enforcement agencies submitting fingerprint cards electronically as a second set of fingerprints is no longer needed because the first electronic copy can be copied to the FBI (page 21).

The General Assembly may wish to eliminate the differences between Sections 38-6-103(d)(1)(C) and 38-6-109(d), *Tennessee Code Annotated*, regarding the fees charged by the state for federal non-criminal fingerprint background checks and create a fee structure reflecting the shift from paper to electronic fingerprint submission and its subsequent effect on the bureau's workload (page 21).

Performance Audit

Tennessee Bureau of Investigation

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Performance Audit Tennessee Bureau of Investigation

INTRODUCTION

PURPOSE AND AUTHORITY FOR THE AUDIT

This performance audit of the Tennessee Bureau of Investigation was conducted pursuant to the Tennessee Governmental Entity Review Law, *Tennessee Code Annotated*, Title 4, Chapter 29. Under Section 4-29-225, the Tennessee Bureau of Investigation is scheduled to terminate June 30, 2004. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the agency and to report to the Joint Government Operations Committee of the General Assembly. The audit is intended to aid the committee in determining whether the Tennessee Bureau of Investigation should be continued, restructured, or terminated.

OBJECTIVES OF THE AUDIT

The objectives of the audit were

1. to determine the authority and responsibility mandated to the bureau by the legislature,
2. to determine the extent to which the bureau has met its legislative mandate,
3. to evaluate the efficiency and effectiveness of the bureau's programs and activities, and
4. to develop recommendations for bureau or legislative action that might result in more efficient and/or more effective operation of the bureau.

SCOPE AND METHODOLOGY OF THE AUDIT

The bureau's activities were reviewed for the period July 2000 through October 2003. The audit was conducted in accordance with government auditing standards generally accepted in the United States of America and included

1. a review of applicable statutes, regulations, policies, and procedures;
2. an examination of bureau files, documents, data, and reports;
3. a review of prior performance audits; and

4. interviews with bureau staff, representatives of the District Attorneys General Conference, and the Tennessee Association of Chiefs of Police.

STATUTORY RESPONSIBILITIES

The Tennessee Bureau of Investigation (TBI) is responsible for assisting the district attorneys general and local law enforcement agencies in the investigation and prosecution of criminal offenses. The bureau has original jurisdiction over violations of narcotics laws, fugitive investigations, organized crime, public corruption, and official misconduct. In addition, the bureau has statutory authority to investigate any criminal violation upon the request of district attorneys general. Executive Order Number 47 gave the bureau responsibility in the area of Medicaid Fraud investigations. Between July 1, 1996, and June 16, 2003, the bureau was responsible for Workers' Compensation Fraud investigations.

The bureau is also responsible for receiving all criminal, law enforcement applicant, and civil applicant fingerprint information and checking this information against state and federal criminal records; other associated records functions including processing of final court dispositions, applications for pre-trial diversions, and court orders for expungement of criminal records; and other matters of clerical maintenance of information in the records repository. Upon the Governor's request, the bureau also has the responsibility for conducting background investigations on potential appointees to sensitive state positions.

The bureau has the authority to establish a system of intrastate communication of vital statistics and information relating to crime, criminals, and criminal activity. In addition, the bureau is bound by administrative rules promulgated in March 2002 establishing a criminal justice information system for use by government and private sectors.

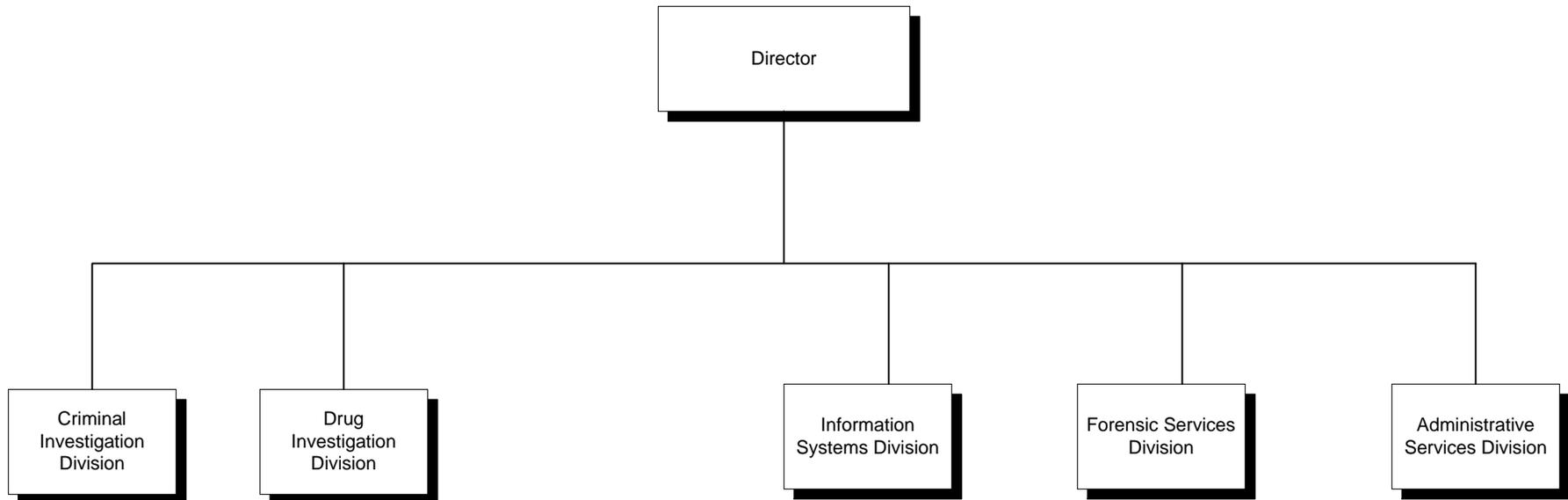
BUREAU ORGANIZATION

The bureau's operations are organized into five divisions with a total of 419 staff as of June 30, 2003: Administrative Services (40), Criminal Investigations (148), Drug Investigations (42), Forensic Services (107), and Information Systems (82). (See organization chart on the following page.)

The Administrative Services Division provides overall direction and support for the bureau. This area performs internal audit, safety and security, legal, accreditation, training, personnel, payroll, fiscal, and administrative support services for the agency.

The Criminal Investigation Division was created to provide expertise in investigative support to district attorneys and state and local law enforcement agencies. The division serves as an independent investigative body for investigating public corruption and misconduct at all levels of government, as well as investigating provider fraud and patient abuse with the Medicaid/TennCare system. Additionally, the division is responsible for gathering and disseminating intelligence on criminal activity, concentrating in

TENNESSEE BUREAU OF INVESTIGATION
Organization Chart
February 2004



Source: Tennessee Bureau of Investigation

major offenders, fugitive apprehension, Homeland Security, the registration of sex offenders, traditional and emerging gangs, the Violent Criminal Apprehension Program, organized drug trafficking operations, and missing and exploited children.

The Drug Investigation Division was created by statute in 1998 and initiates and investigates its own cases, targeting significant violators, drug distribution organizations, and lower-level violators where local conditions require external investigative support. In addition, the division's agents provide many kinds of support to the drug enforcement community, including technical assistance, legal assistance, and personnel support to other agencies from the local to the federal level. The division also has a leadership role in several programs that are integral to Tennessee's drug enforcement community. The federally funded HIDTA (High Intensity Drug Trafficking Area) program enhances and coordinates drug control efforts among local, state, and federal law enforcement agencies. The Appalachia HIDTA (AHIDTA) comprises 65 counties located within the states of Kentucky, Tennessee, and West Virginia; 30 of these counties are in Tennessee. The TBI was designated as the lead agency in forming a Middle Tennessee Task Force within AHIDTA. The TBI is also an integral member of the Governor's Task Force on Marijuana Eradication, working with the Tennessee Alcoholic Beverage Commission, the Tennessee Highway Patrol, and the Tennessee National Guard.

The Forensic Services Division provides forensic examination for the law enforcement community and medical examiners statewide. These examinations are performed at laboratories located in Nashville, Knoxville, and Memphis. The laboratories conduct drug chemistry, DNA/serology, toxicology, latent fingerprint examination, firearms identification, blood alcohol, and microanalysis (i.e., arson and gunshot residue) testing. This division has become increasingly involved in the investigation of violent crimes, where the value of physical evidence is of paramount importance. Toward that end, TBI has three specially designed crime scene vehicles equipped with the most advanced forensic equipment and materials available. These crime scene vehicles are regionally located in Memphis, Nashville, and Knoxville and are being used by the TBI to assist local law enforcement agencies in processing homicide crime scenes.

The Information Systems Division provides support to investigative activities through records management, systems operations, fingerprint identification, and uniform crime reporting. The operation of these services is housed in the Tennessee Crime Information Center, along with various computer systems for criminal, investigative, and forensic information.

TBI has been internationally accredited through the Commission on Accreditation for Law Enforcement Agencies (CALEA) since November 19, 1994. The commission was established as an independent accrediting authority in 1979 by the four major law enforcement membership associations: the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, and the Police Executive Research Forum. The Forensic Services Division maintains national accreditation by the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB). The ASCLD Laboratory Accreditation program is a voluntary program in

which any crime laboratory may participate to demonstrate that its management, operations, personnel, procedures, equipment, physical plant, security, and personnel safety procedures meet certain national standards.

The bureau has provided information regarding its current compliance with Title VI of the Civil Rights Act of 1964, and this information can be found in Appendix A.

REVENUES AND EXPENDITURES

The bureau had estimated total expenditures of \$45,150,100 for the year ended June 30, 2003. The budget for the fiscal year ending June 30, 2004, is \$41,263,600. In that budget, \$24,933,700 (60%) will be funded from state appropriations, \$7,472,300 (18%) will be federal revenue, and \$8,857,600 (22%) will come from current services and interdepartmental revenue.

OBSERVATIONS AND COMMENTS

The topics discussed below did not warrant a finding but are included in this report because of their effect on the operations of the Tennessee Bureau of Investigation and on the citizens of Tennessee.

ANNUAL CRIME REPORT

Since at least 1980, Section 38-10-104, *Tennessee Code Annotated*, has required the TBI to compile and submit to the Governor and the General Assembly an annual report based on reports of state, county, and municipal law enforcement and correction agencies and courts on their activities in connection with law enforcement and criminal justice, including uniform crime reports. A copy of this report is also to be furnished to law enforcement; prosecuting, judicial, and correctional authorities; and other appropriate law enforcement and criminal justice agencies.

The 1995 performance audit of the bureau found that no uniform crime report had been prepared since 1980. The bureau concurred, stating that on July 1, 1995, it had secured an \$821,700 federal grant and were in the process of establishing a statewide Uniform Crime Reporting program to replace the one terminated in 1979 when federal funding for the project ended, leaving Tennessee as one of only five states not participating in the FBI's crime statistics program. The bureau anticipated full implementation by July 1997.

However, it was not until July 1998 that the bureau was certified by the FBI's National Incident-Based Reporting System program. Finally, on September 23, 1999, the bureau was notified that it had qualified for recognition by the FBI as a state Uniform Crime Reporting

program. The bureau's first annual report did not appear until July 17, 2002, when crime statistics for calendar year 2001 were reported.

LABORATORY EVIDENCE PROCESSING TIMES

Forensic science, the application of science to the law, has emerged as a major force in the attempts of the criminal justice system to control crime and to ensure a high quality of justice. The TBI Forensic Scientists possess a wide array of analytical skills, and they direct their expertise to problems of reconstructing criminal acts, identifying and comparing physical and biological evidence, linking offenders with their victims, and exonerating falsely accused persons. The TBI's Forensic Services Division (Crime Laboratory System) provides forensic science services to any law enforcement agency or medical examiner in the state.

The TBI Forensic Services Division is comprised of a central laboratory in Nashville and two regional laboratories in Memphis and Knoxville. Specialized units of these laboratories provide forensic analysis of biological, chemical, and physical evidence. The Drug Chemistry Unit analyzes any substance seized in violation of laws regulating the sale, manufacture, distribution, and use of abusive-type drugs. The Firearms Identification Unit's principle function is to determine if a bullet, cartridge case, or other ammunition component was fired from a particular weapon to the exclusion of all others. However, the science of firearms identification includes knowledge of the operation of all types of weapons, the restoration of obliterated serial numbers, the detection and characterization of gunpowder residues, and the estimation of muzzle-to-garments distance. The Latent Print Examination Unit provides analysis of physical evidence for invisible fingerprints and/or palm prints and comparison of latent prints developed with the inked impressions of suspects. The Microanalysis Unit examines and compares various types of evidence through fire debris analysis, gunshot residue analysis on hands and objects, shoe and tire impression comparisons, paint analysis and comparison, glass fracture analysis and comparison, fiber comparisons, indented impressions, speedometer analysis, composite imagery, tape comparisons, and physical comparisons. The Serology/DNA Unit performs identification and characterization of blood and other body fluids, namely semen and saliva, present in a form to suggest a relation to the offense or persons involved in a crime. The Toxicology Unit conducts analysis of blood and other body fluids for alcohol, drugs, or poisons, in conjunction with persons arrested for traffic charges or to assist medical examiners in death investigations. On May 1, 2003, because of budgetary reductions, the Jackson Crime Laboratory was consolidated into the Memphis Crime Laboratory, and the Chattanooga Crime Laboratory was consolidated into the Knoxville Crime Laboratory.

The last three performance audits of the bureau (the last in 1995) found substantial delays in evidence processing at the bureau's laboratory. Since the 1995 audit, the volume of test work being conducted by the bureau's laboratories has tremendously increased (see table below), though the number of forensic scientists conducting such testing has only increased from 53 in 1993 to 67 in 2003. In addition to laboratory testing, forensic scientists also staff crime response teams (four to five persons) that respond to requests from local law enforcement for assistance in gathering evidence at crime scenes. This service decreases the amount of time forensic scientists

have in the laboratory processing evidence. In the Nashville lab, an average of 125 hours a month and 197 hours a month were spent working crime scenes in fiscal years 2002 and 2003, respectively.

**TBI Forensic Services
Volume of Tests Conducted by TBI Forensic Laboratories**

	1994 Volume	2003 Volume	Percent Increase
Blood Alcohol	9,506	12,679	33%
Drug Chemistry	24,132	100,031	315%
Firearms	471	561	19%
Latent Prints	2,864	22,078	671%
Microanalysis	NA	19,623	--
Arson	NA	1,379	--
Serology/DNA	886	45,637	5,051%
Toxicology	4,215	31,161	639%

NA= not conducted in 1994

The auditors contacted national and other state agencies to compare the TBI Forensic Laboratory turnaround time with other standards. The National Criminal Justice Reference Service indicated that they knew of no national standards. The American Society of Crime Laboratory Directors Laboratory Accreditation (ASCLD/LAB) stated that the accreditation program standards are related to quality of work rather than quantity or turnaround time and was not aware of any standards for turnaround time. When compared with information obtained from the Georgia Bureau of Investigation (GBI) Forensic Laboratory staff, the TBI labs have a better turnaround time in the areas of blood alcohol, drug chemistry, microanalysis, arson, and serology. The GBI lab had a better turnaround time for firearms and latent prints. Both labs had similar turnaround times in the areas of gunshot residue analysis and toxicology. The TBI lab had better turnaround times when compared with Kentucky in the areas of drug chemistry, firearms, microanalysis, serology, and toxicology.

**Comparison of Forensic Services
Average Turnaround Time (In Weeks)
Average for All TBI Forensic Laboratories**

	TBI CY 2001	TBI CY 2002	TBI CY 2003 (as of Sept.)	Georgia Turnaround Time	Kentucky Turnaround Time *
Blood Alcohol	1.68	2.38	1.76	6 - 7	3 - 8
Drug Chemistry	12.15	7.12	6.26	36 - 52	16 - 52
Firearms	16.9	8.0	11.6	4 - 8	52 or more
Latent Prints	19.8	18.3	19.1	4	No Info
Microanalysis	16.6	9.3	10	26 - 52	8 - 52

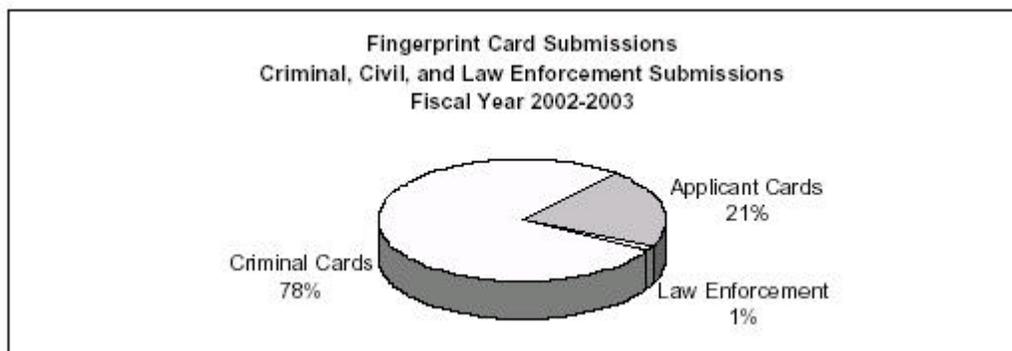
Arson	3.2	2.55	3.7	6	No Info
Gunshot Residue Analysis	3.9	3.7	4.1	4 – 6	4 or less
Serology/DNA	15.07	9.3	5.55	16 – 20	20 – 32
Toxicology	20.0	19.33	9.16	8 – 12	8

* Kentucky has 6 Forensic Laboratories

To aid in reducing turnaround times, the bureau’s Forensic Services Division has obtained federal grants to pay for overtime and to outsource DNA testing of no-suspect cases. Effective January 1, 2003, the bureau also stopped testing non-criminal case evidence for medical examiners. (Medical examiners can use private laboratories.)

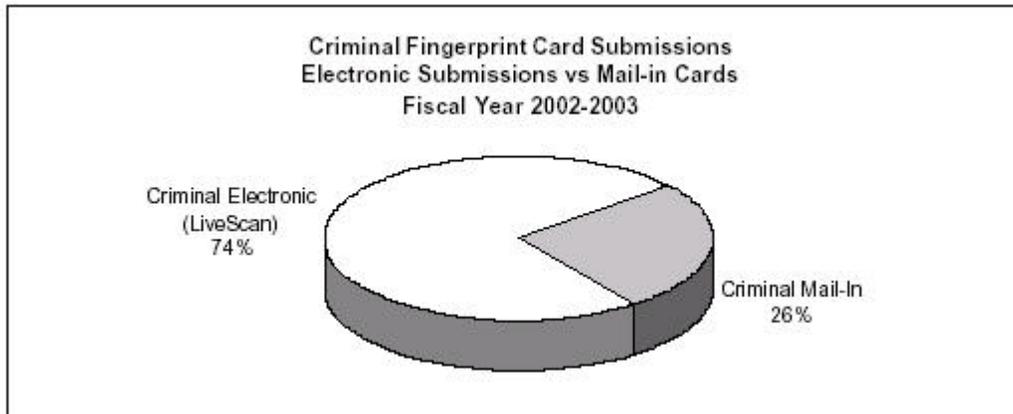
STATUTORY NUMBER OF FINGERPRINT SETS SUBMITTED TO TBI

According to Section 8-8-201(35)(A) and Section 8-4-115(c)(1-4), *Tennessee Code Annotated*, law enforcement agencies and particularly sheriffs are to take two full sets of fingerprints of each person arrested for an offense which results in the person’s incarceration or the person’s posting of a bond to avoid incarceration. Both sets of fingerprints are to be sent to the TBI, which retains one and sends the other to the FBI. These criminal fingerprint cards account for 78% of all fingerprints cards received by the bureau in fiscal year 2002 - 2003.



The use of equipment that allows for electronic capture and submission of fingerprint images and associated data to the Tennessee Automated Fingerprint Information System (AFIS) has increased among law enforcement agencies in Tennessee. Electronic submission also includes the ability for TBI to return the identity of the subject to the submitting agency in minutes. This electronic submission is automatically passed on for immediate inclusion of the arrest information in the Tennessee Criminal History Repository and forwarded to the FBI, where it is added to the federal criminal history database. At the end of fiscal year 2002 - 2003, 78

booking agencies were submitting fingerprint and arrest information via electronic means. Of the criminal card submissions for the fiscal year, 209,231 fingerprint cards, or 74% of the submissions, were submitted electronically.



The above-mentioned statutes need to be revised to reflect the advent of and growing use of electronic submission of criminal fingerprint cards. Distinctions need to be made for the law enforcement agencies submitting fingerprint cards electronically as a second set of fingerprints is no longer needed because the first electronic copy can be copied to the FBI.

SALARIES OF SPECIAL AGENT CRIMINAL INVESTIGATORS AND FORENSIC SCIENTISTS

In October 2003, the bureau completed a Special Agent Criminal Investigator and Forensic Scientist Salary Survey, comparing bureau salaries and job requirements to similar positions in other Tennessee agencies (state and local) and agencies in other states. The survey was used by TBI management to help it determine whether to request an improvement in the salaries for commissioned agents. (The results of the survey were presented to the Governor's office.) Auditors verified a sample of figures presented in the salary survey. The results of the survey show that the salary ranges of the bureau's special agents (both criminal investigators and forensic scientists) are below that of comparable positions in other local and state agencies, particularly the Tennessee Highway Patrol (THP). The survey also shows, particularly in relation to comparable positions in the THP, that bureau agents make one of the lowest salaries after ten years service. In the past few years, the primary turnover has come in the criminal investigator 2 and forensic scientist 2 positions. The fiscal year 2002 - 2003 turnover rates for the criminal investigator and forensic scientist positions were

- Criminal Investigator 1: 9% (2 out of 22 active positions)
- Criminal Investigator 2: 10% (10 out of 99 positions)
- Forensic Scientist 1: 0% (6 positions)
- Forensic Scientist 2: 8% (5 out of 61 positions)

For details of the bureau's salary survey, see Appendix B.

FINDINGS AND RECOMMENDATIONS

- 1. The bureau does not have original jurisdiction to enforce sex offender registration and can update information in the sex offender registry only when the information is supplied by the offender**

Finding

Despite the popular misconception that the Tennessee Bureau of Investigation (TBI) enforces sex offender registration because it is responsible for maintaining the sex offender registry, the bureau does not have such statutory authority. Nor does the bureau have the statutory authority to correct information in the registry it has discovered to be erroneous unless the sex offender informs the bureau. As of November 5, 2003, the location of 1,179 sex offenders (19% of the total registered) was listed as unknown in the registry. Another 17% (1,077) were out of compliance because they returned monitoring forms late, did not sign the monitoring form, etc., or a monitoring form had been “returned to sender” for the first time.

The sex offender registry was initially implemented in January 1995 as mandated by Section 40-39-101, *Tennessee Code Annotated*. The current database was implemented in 1999. All offenders convicted of a qualifying sex offense on or after January 1, 1995, must comply with the requirements of the program. Initial registration is to occur at the time of release from incarceration or when released on probation or parole or some other alternative to incarceration. Wardens, probation/parole or other supervisory officers, and courts (if the offender is released unsupervised) are required to provide registration forms, to assist offenders in completing the form, and to deliver the forms to TBI headquarters. Offenders receive quarterly mandatory monitoring forms from the TBI that must be returned within a specified time. If two consecutive quarterly monitoring forms are returned to the bureau as undeliverable to the person who furnished the address, the address is removed from the registry and the person’s address listed as “unknown.” Names of offenders who fail to comply are furnished to local district attorneys who decide whether or not to prosecute. The bureau states that district attorneys pursue few offenders for failure to comply with registration requirements because the penalty is minor. If a first offense, the penalty for failure to register or return monitoring forms is a Class A misdemeanor punishable by confinement in the county jail for not less than 180 days. A second offense under this statute results in a Class E felony and, if on probation or parole, it constitutes sufficient grounds for revocation of probation, parole, or other alternatives to incarceration.

According to the bureau, the database created in 1999 and used to maintain the information from registered sex offenders is antiquated and does not have the components necessary to enter data easily, perform easy statistical information retrieval, track and process affidavits for District Attorneys General and law enforcement agencies, and manage an ever-growing population.

A work group consisting of representatives of the bureau, the District Attorneys General Conference, the Board of Probation and Parole, and other law enforcement groups is working to identify and solve weaknesses in all areas related to successfully registering and tracking sex offenders. A bill has recently been introduced in the General Assembly that would strengthen sex offender registration and enforcement statutes.

Recommendation

The General Assembly should consider revising *Tennessee Code Annotated*, Title 40, Chapter 39, to specifically assign enforcement authority to the bureau or another designated agency. It should also consider changing state law to make failure to comply with registration requirements a more serious crime and to give TBI authority to make changes in the registry when it discovers wrong information.

The bureau should continue to work with the other agencies involved with sex offenders to establish a system that will successfully register and track sex offenders in Tennessee. The bureau should also pursue upgrading or replacing the existing database to effectively handle all aspects of tracking, monitoring, and enforcement activities regarding sex offender registration statutes.

Management's Comment

We concur in part that we do not have original jurisdiction to enforce sex offender registration. It is not the duty of the TBI to enforce registration, but it is the responsibility of the TBI per Section 40-39-106, *Tennessee Code Annotated*, to establish, maintain, and update a centralized record system of sexual offender registration and verification information.

We do not concur with the finding in its entirety because, as the explanation of the finding itself admits, the problems mentioned are inherent in the law, not in the bureau. The recommendations lack improvement ideas that have not been undertaken. Our pursuit of upgrading the database is evident in the fiscal note that we prepared for Senate Bill 3217/House Bill 3467, the rewrite of the sex offender registry law that we co-drafted.

2. There are conflicts between statutes and between statute and bureau practice regarding fees charged for fingerprint-based background checks

Finding

Statutory Conflict

Section 38-6-103(d)(1)(C), *Tennessee Code Annotated*, states that the amount charged to individuals or employers for fingerprint-based background checks is to be fixed by the FBI. The

FBI only charges most states (including Tennessee) and territories \$22 and \$16 (rather than the \$24 and \$18 still charged to only a handful of states/territories) for a paid and volunteer applicant fingerprint-based background check, respectively, allowing \$2 to be retained by the state to offset administrative costs. U.S. Code Title 42, Chapter 67, Subchapter VI, Section 5119(e), also provides that the volunteer fees can be no more than \$18 or cost, whichever is less. However, Section 38-6-109(d), *Tennessee Code Annotated*, fixes the fee charged by the bureau to individuals and employers for a paid and volunteer TBI and FBI background check at \$24 and \$18 each, respectively. This is what the TBI charges. The bureau's deputy director states that the bureau's fees were set up to mirror the FBI's fees and not recover cost. Between June 2002 and September 2003, the TBI retained \$227,556 from fees for federal fingerprint background checks because of the difference between what the TBI charges individuals and employers and what the FBI bills the TBI.

Conflict Between Statute and Bureau Practice

Tennessee Code Annotated mandates fingerprint-based criminal history record checks for a wide variety of occupational and licensing applicants. As of the end of fiscal year 2002 - 2003, the following areas require fingerprint-based background checks:

Childcare Providers	Mental Health and Retardation
Daycare Workers	Development Disability Facility Employees
Adoption	Development Disability Facility Volunteers
After School Care	
Child Care Agency Licensee	Department of Safety
Kinship Foster Care	Handgun Carry Permits
Prescribed Child Care Centers	
Teachers	Tennessee Supreme Court
Bus Drivers	Court Interpreters
Custodial Workers	
Substitute Teachers	Welfare
Cafeteria Workers	Home Health/Hospice
Postsecondary/Higher Education Employees	Adult Day Care Facility
Youth Clubs/Youth Sports	
	Department of Transportation
Department of Commerce & Insurance	Highway Response Operators
Alarm System Contractor Licensees	
Alarm System Contractor Applicants	Other
Private Investigators	Vehicles for Hire drivers
Armed Guards	County Employees
Unarmed Guards	Municipal Employees
Contract Security/Private Protective Services	Private Process Servers
	Horse Racing License & Employees
	Adult Oriented Establishment License & Performer Applicants

In the past, TBI's Records and Identification Unit (RIU) processed these requests from paper fingerprint card submissions by authorized agencies. In July 2002, the Tennessee Applicant Processing Services (TAPS) program began, which provides applicants with the option of statewide electronic fingerprinting and transmission to the TBI for processing of background checks. Applicants may still submit paper fingerprint cards and applicant information directly by mail to the TBI, if allowed by the agency with whom an applicant is seeking work. However,

with this method, fingerprints take longer to process. Applicants submitting by paper pay only the statutorily set fees (see table following); those submitting electronically through TAPS pay an additional \$8. The TAPS program is accomplished exclusively through a contract with Sylvan/Identix Fingerprinting Centers, LLC, of Springfield, Ill., which specifies that Sylvan/Identix will collect fees from applicants, and the bureau will invoice Sylvan/Identix monthly for the amount due to the TBI for fingerprint-based background checks. However, the bureau is collecting from Sylvan/Identix \$8 less per background check than statutorily required. This difference represents revenue of \$473,216 between July 1, 2002, and September 1, 2003, that the bureau could have generated.

<u>Transaction Type</u>	<u>Sylvan/Identix Fees Collected From Applicant</u>	<u>State Statutorily Required Fees</u>	<u>TBI Amounts Collected from Sylvan/Identix</u>	<u>Amount TBI remits to FBI</u>
TBI Background Transaction – Paid Employee	\$32	\$24	\$16	-
TBI & FBI Background Transaction – Paid Employee	\$56	\$48	\$40	\$22
TBI Background Transaction – Volunteer Employee	\$26	\$18	\$10	-
TBI & FBI Background Transaction – Volunteer Employee	\$44	\$36	\$28	\$16

Each agency or organization signs a user agreement with the bureau specifying whether their authorized submissions will be paper, electronic, or both. In fiscal year 2002 - 2003, 58% of civil applicant cards (43,596 of 75,412) were processed through TAPS. In the last quarter of fiscal year 2002 - 2003, 75% of all applicant requests were processed electronically through TAPS. According to the bureau, the advent of TAPS has not resulted in a reduction in staff or expenditures because submissions have increased. The bureau states that it has analyzed background check costs and appears to have studied the impact of electronic submission on overtime costs when it developed the contract for TAPS. However, with increasing electronic submission, the bureau should study the fee structure to determine if it should be revised because of the shift from paper to electronic fingerprint submission and apply this fee analysis to future contracts and contract extensions for this service.

Recommendation

The bureau should periodically analyze the cost of conducting applicant background checks for both paper and electronically submitted fingerprints in relation to the current fees charged. Then, the bureau should submit legislation to the General Assembly to eliminate the differences between Sections 38-6-103(d)(1)(C) and 38-6-109(d), *Tennessee Code Annotated*;

create a fee structure reflecting the shift from paper to electronic fingerprint submission and its subsequent effect on the bureau's workload; and apply this fee analysis to future contracts and contract extensions for this service.

Management's Comment

We concur in part with this finding. The FBI charges \$22 and \$16 for an applicant and volunteer fingerprint-based background check. To encourage electronic submission, the fee is reduced to \$22 and \$16 for fingerprints submitted via Livescan. As stated in the Observations and Comments section of the audit report, "the statutes should be revised to reflect the advent of and growing use of electronic submission" of applicant as well as criminal fingerprints.

The electronic submission of applicant fingerprints is a benefit for all parties. Results are generated in hours and responses returned in two to three days as opposed to two to three weeks when submitted by mail. When negotiating the contract with Sylvan/Identix to provide this service, it was obvious that the \$16 additional cost for electronic submission could be a burden and possibly a deterrent to many applicants/departments. Electronic submission reduces the amount of manual processing by TBI personnel, and it was determined that a reduction in the fee of \$8 is still cost-effective. Please note (as mentioned above) that the FBI reduced their fee by \$2 for electronically submitted fingerprints. Electronic submission provides a way for results to be returned efficiently and effectively for a slight additional cost without burdening the citizen or department. This process lays the groundwork for the anticipated influx of additional legislation requiring or allowing fingerprint-based background checks for applicant purposes. The current state legislative session has several pending bills that could require or allow for new fingerprint-based background checks for applicant purposes. Even more legislative changes are pending at the national level.

3. The bureau does not know the disposition of most arrests since 1995

Finding

Of 1,958,781 arrests since 1995 in the bureau's criminal history database, 77% lack a disposition. The database indicates the final disposition for only 454,906 arrests. Without accurate and up-to-date historical information, bureau activities such as background checks for law enforcement agencies and routine civil applicant and gun purchase background checks can be unnecessarily delayed or can come to an erroneous conclusion. Missing dispositions is a national problem according to the U.S. Department of Justice, which has established a National Criminal History Improvement Program (NCHIP). In 2001, twenty-four states, Puerto Rico, and the Virgin Islands, representing 59% of the nation's criminal history records, reported that approximately 40% of arrests in their entire databases did not have final dispositions recorded. The goal of NCHIP is to ensure that accurate records are available for use in law enforcement, including sex offender registry requirements, and to permit states to identify ineligible firearm purchasers; persons ineligible to hold positions involving children, the elderly, or the disabled;

and persons subject to protective orders or wanted, arrested, or convicted of stalking and/or domestic violence. NCHIP provides direct funding and technical assistance to the states to improve the quality, timeliness, and immediate accessibility of criminal history and related records. Between 1995 and 2002, Tennessee has received approximately \$6 million from the NCHIP program, including \$2 million received by the bureau since 1998.

As an example of the impact of missing dispositions, Tennessee's Instant Check Systems (TICS) performs background checks of any person seeking to purchase a firearm or redeem a firearm from pawn from a licensed firearm dealer. To accomplish these background checks, TICS accesses federal and state databases, including the bureau's own criminal history database. If the background check reveals an arrest for a potentially disqualifying offense with no disposition, bureau rules require that the transaction be denied. To find out why a transaction was denied, the applicant must appeal to the bureau, which responds with the reason for denial. The applicant must then furnish the necessary documentation to support the appeal. If documentation is sufficient, the appeal will be overturned and the transaction approved. The bureau will then update the database with the documented information. In calendar year 2003, TICS approved 112,430 transactions and denied 4,863. Of those denials, 2,325 (48%) were appealed, with 1,679 (35% of appeals) being reversed. While required by Section 39-17-1316(j), *Tennessee Code Annotated*, to daily expunge personal data and denial reasons, according to bureau management and information from open appeals, the vast majority of denials are for missing dispositions.

Section 38-10-101 through 103, *Tennessee Code Annotated*, establishes the bureau as the collection point for all of the vital information relating to crimes, criminals, and criminal activities, thereby establishing a criminal justice information system for substantive use by all participants and statistical analysis and use by the government and private sectors.

Currently, the bureau receives mostly paper dispositions from law enforcement agencies and court clerks. Some, such as Metro Nashville/Davidson County, are now submitting dispositions electronically via tape, with others (Hamilton County, Shelby County, Memphis, Knoxville) agreeing to submit court dispositions electronically in the future. When the bureau receives a disposition, the name and social security number are run through the criminal history database to find the corresponding arrest record. If a link is made between an arrest and disposition, the disposition information is added to the database, and the state control number on the arrest record is added to the disposition record. If no arrest record awaiting disposition is found, the disposition is rejected and returned to the appropriate court clerk or law enforcement agency. The bureau does not keep track of the number of dispositions it rejects and returns.

The manager of the Records and Identification Unit states that part of the problem is that there is confusion as to who is supposed to send dispositions to the bureau. However, Section 16-3-812, *Tennessee Code Annotated* passed in 1999, reads "The administrative office of the courts shall be responsible for making available to the Tennessee bureau of investigation in a mutually agreeable form all information such office receives from the various courts regarding disposition of cases." According to Supreme Court Rule 11-2(c)(1), upon issuance of a final order disposing of all charges in a civil or criminal case, the clerk of the court is required to

complete the disposition portion of the Civil or Criminal Cover Sheet in full, and the portion of the cover sheet containing this disposition information shall then be forwarded to the Administrative Office of the Courts (AOC) on a monthly basis. Each clerk of a circuit, criminal, chancery, probate, general sessions', or municipal court with general sessions' jurisdiction is responsible for submitting the forms required by this rule to the AOC no later than 15 days after the close of the month in which the case was filed and also the month in which it was disposed.

The deputy director and staff of the AOC confirm that court clerks send civil and criminal case dispositions to the AOC electronically and on paper every month. AOC staff state that the bureau felt the information was not in a useful format for them, particularly since the dispositions did not have the state control number on them that links the disposition to a particular arrest. AOC staff also state that court clerks do not have the state control number available to them. However, as stated earlier, now the bureau does not get that identifying control number on the dispositions it receives from court clerks, and staff must add it themselves when they make a link to an arrest.

The AOC is currently in the midst of implementing a new statutorily authorized trial court level case management system (estimated completion date December 1, 2004) integrating the case tracking and accounting functions for court clerks that will enable better transfer of data. AOC staff state that they are trying to incorporate the state control number into electronic forms and to make it easier for clerks to have access to such numbers. The AOC and bureau are also taking part in a project (currently in the planning phase) that will ultimately result in an integrated criminal justice information system.

Recommendation

The bureau should continue to work with the Administrative Office of the Courts to obtain dispositions from the AOC rather than from individual law enforcement agencies and court clerks as it will take quite some time to put in place an integrated criminal justice information system.

Other alternatives, as practiced by many states, would be for the bureau to generate lists of arrests with missing dispositions as a means of monitoring disposition reporting. This list could be used to provide notice to criminal justice agencies in order to obtain the missing dispositions. Also, when dispositions are received where no arrest record can be found or an arrest cannot be definitively linked to the disposition, the bureau should consider modifying the criminal history database to be able to enter unlinked dispositions. Then the bureau could notify the respective criminal justice agencies that the arrest record is missing and needs to be provided.

Management's Comment

We concur in part. Over the past two and a half years, TBI has continued to work extensively on this issue. A Final Disposition Summit was held August 13-14, 2003, to discuss a

process by which Tennessee could improve its ability to link corresponding arrest and final disposition information within the computerized Criminal History Database. During the summit, the current and proposed process was evaluated and concerns and/or issues raised by summit participants were resolved in a group setting. Upon conclusion of the summit, the general consensus was that the proposed process for automated final disposition reporting should and will be pursued within the respective jurisdictions of the summit participants. Summit participants included representatives from every stakeholder in the process.

As the finding states, Metro Nashville/Davidson County agreed to pilot the automated final disposition reporting process. We are currently receiving 100% of their dispositions entered. Prior to this process, Metro did not report any dispositions.

Over the past two and a half years, the AOC has been a major participant in the State's Integrated Criminal Project and worked in coordination with the bureau, to make possible automated final disposition reporting. We are currently working to bring Hamilton, Shelby, and Knox counties on board. Those counties submit data directly to TBI (like Metro Nashville does now) and the remaining counties, data will come through the AOC, once its new computer system is complete.

As noted correctly in the finding, the disposition information collected by the AOC does not match individual charges in the Tennessee Criminal History Database. In addition, some of the information received has no correlation to data and is not useful to the bureau. It is inefficient and ineffective to spend scarce resources (time, personnel) to try to correlate disposition information. We feel the AOC agrees and through our joint efforts will make the automated final disposition process a reality.

4. The bureau is not adhering to internal and federal policies regarding the frequency of data integrity and compliance audits of agencies' Tennessee Incident Based Reporting System data and Tennessee Information Enforcement System agencies

Finding

Laws governing the operation of the bureau require the development, maintenance, and dissemination of certain information relating to crime and criminal activities for the benefit of all criminal justice agencies in Tennessee. Controls resulting from state and federal privacy and restriction laws governing the possession, exposure, use, and dissemination of various kinds of criminal information are imposed on the bureau's automated systems by the bureau's policies and procedures.

Tennessee Incident Based Reporting System (TIBRS)

Audits of local law enforcement agencies' crime statistics data have not always been completed or scheduled to be completed every two years as required by internal and federal

policies. Without such audits, the bureau cannot attest to the accuracy of the criminal statistics used by local, state, and federal authorities to set policy and budgets.

Tennessee's 456 certified law enforcement agencies (LEAs) and 82 certified colleges and universities report their crime statistics to the TIBRS program, which reports to the FBI's national program (NIBRS). The FBI's uniform crime reporting (UCR) certification program requires that state programs must audit the data received from their LEA. However, no specific frequency is required. The FBI does not enforce this requirement, and there are no sanctions. According to the assistant director of the Crime Statistics Unit (CSU), who is also president of the national UCR association, Tennessee is one of the few states that audit their data. The FBI does run error reports on its NIBRS data, forwarding the information to the state program to forward to the respective LEA. CSU produces automatic monthly error reports for each agency from its data submitted. This error report is sent to the respective LEA for the agency to make corrections to its data. Every quarter another error report is run to find any remaining outstanding errors, which the TBI follows up on for correction. Agencies with error rates of 3.9% or higher for four consecutive months risk losing their TIBRS certification and grant money from the Office of Criminal Justice Programs.

Audits are conducted biennially (triennially starting January 1, 2004) by staff in the Crime Statistics Unit. Audit frequency follows the lead of the FBI's Criminal Justice Information System (CJIS), which had mandated biennial audits in the past for agencies using the Tennessee Information Enforcement System (TIES) and has recently gone to triennial audits. This intent to follow CJIS' lead has not been codified in bureau policy or rule.

In a file review of 26% of TIBRS-certified agencies (146 of 559), 51% of agencies had audits that did not conform in one or more ways to the bureau's unwritten policy of following the lead of the FBI's biennial audit cycle. It took the Crime Statistics Unit (CSU) three to six years to conduct the first audit of 46 agencies (32%) following their certification in the TIBRS (Tennessee Incident Based Reporting System) program. Another 21 agencies (14%) had audits that were more than two years apart. Fifteen agencies (10%) audited in 2001 were not scheduled for another audit until 2004 or later.

Tennessee Information Enforcement System (TIES)

Audits of TIES agencies were not always audited or scheduled to be audited as required by the FBI. Without periodic audits, persons without authorized clearance could access law enforcement data or the data itself could be used in unauthorized ways.

The TBI is the control terminal agency for the TIES network. The TIES (Tennessee Information Enforcement System) network allows criminal justice agencies at the local, state, and federal levels computerized, interstate, and intrastate communication capabilities to the TBI's Tennessee Criminal History repository, the FBI's National Crime Information Center (NCIC), and the National Law Enforcement Telecommunications System. Additionally, TIES provides access to information contained in Tennessee's Department of Safety databases and several in-state "hot" files such as wanted persons, missing children, and protection orders.

All agencies with access to TIES must establish a user agreement with TBI in which the TBI verifies the agency's right to access this information and the agency agrees to abide by all referenced federal and state laws and policies. Most of the agencies have been online with TIES for many years. However, no specific record is kept by the Law Enforcement Support Unit (LESU) on when an agency came online and entered the audit cycle.

In the late 1980s, the FBI's CJIS (Criminal Justice Information System) unit began an auditing program whereby CJIS audits a sample of local law enforcement agencies and requires the state control terminal agency to audit all TIES agencies in that state on a regular basis. For Tennessee, effective January 1, 2003, CJIS mandates LESU conduct triennial audits of TIES agencies; before, the audit cycle was biennial. CJIS does not audit the TBI to make sure LESU is conducting audits of TIES agencies on a biennial or triennial basis. Instead, CJIS chooses some 10 local law enforcement agencies to visit and audit.

The bureau's audits check for, among other things, compliance with policies regarding terminal agency coordinator and operator requirements; personnel background screening; certified operators; user agreements; manuals & procedures; TIES network security; NCIC and TCIC entries, general information; NCIC and TCIC wanted persons files; NCIC missing person and TCIC missing children of Tennessee; NCIC protection orders and stop records; NCIC stolen vehicle file; NCIC and TCIC record validation procedures; second (and third) party checks; dissemination of TIES information; criminal history information; and general information.

In a file review of 25% of TIES agencies (86 of 338), 9 of 86 (10%) had been audited, were scheduled to be audited, or had not yet been scheduled to be audited after January 1, 2000, such that the audit cycle did not or would not meet the required biennial cycle effective until January 1, 2003. Two agency audits last conducted in calendar year 2001 had no scheduled audit date in calendar year 2003; five audits last conducted in calendar year 2001 were not scheduled for audit until calendar year 2004; two audits last conducted in calendar year 2001 were not scheduled for audit until calendar year 2005. When questioned about the agencies audited in calendar year 2001 and not scheduled again until after 2003, management stated that there appeared to be confusion about how the transition from biennial and triennial audits affected the audit schedule.

Recommendation

The bureau needs to codify its TIBRS/TIES audit program in policy or rule. The bureau also needs to rework the audit schedule to make sure that agencies audited in calendar years 2001 and 2002 that fall under the biennial cycle are audited again in calendar years 2003 and 2004. Following the completion of these audits under the biennial cycle and in light of the January 1, 2003, effective date for triennial audits, management should design audit schedules that ensure compliance with the triennial audit cycle required by the FBI and internal bureau policy. To make sure agencies receive their first audit at the proper time, management should also record when an agency comes online and, therefore, enters the audit cycle.

Management's Comments

TIBRS

We concur in part. A new audit cycle was begun on January 1, 2003, and originally was planned to be a biennial cycle. The FBI changed its audit cycle to three years in the spring of 2003, which also coincided with the loss of three of our staff including one full time auditor from the unit due to the 9% budget reduction in 2003. Because of these two factors, the end date of the audit schedule that began in January 2003 was extended from December 31, 2004, until December 31, 2005. Each of the remaining three auditors had to absorb responsibility of additional agencies in response to the loss of an auditor in the middle Tennessee area. In addition to auditing, these staff had to also assume responsibility for these agencies regarding technical assistance visits as well as on-site audits.

TBI also just completed an extensive review of all of the data errors reported from the FBI for 2003, both resolved and unresolved. This review took place at our request with FBI staff present here for three days. We were only the second state to conduct this type review. It was discovered that 97% of all errors generated at the FBI in 2003 could be corrected by programming changes by our repository vendor. Some of the submissions were incorrectly formatted, and the vendor must make these changes instead of an agency re-submitting the incident. This information has already been forwarded to the vendor for necessary action.

We concur with the statement "it took the Crime Statistics Unit three to six years to conduct the first audit of 46 agencies (32%) following their certification in the TIBRS program." We discovered in mid-2002 that some agencies had been overlooked in the audit process. This was in part due to staff turnover and an inefficient tracking system for audits. A new system was implemented and six-month reviews (at a minimum) were also incorporated to ensure that all agencies were audited according to our unit guidelines and timetable.

We concur that "21 agencies (14%) had audits that were more than two years apart." The audit schedule was adjusted in the spring and summer of 2004 to reflect the new cycle, and some agencies that would have been audited in 2003 were migrated to the later part of 2003 or even the first six months of 2004, causing their audit interval to be greater than two years. The four largest cities were postponed from summer of 2003 until spring and summer of 2004 since they require three to four staff for a week at a time to complete the review. With reduced staff in the unit, it was more efficient to conduct audits for smaller size agencies in 2003 and to allow sufficient time for the auditors to incorporate a week of their time for each of the four largest agencies.

TIES

The audit states, "the manager of the Law Enforcement Support Unit stated that there appeared to be confusion about how the transition from biennial and triennial audits affected the audit schedule." During the transition, the bureau contacted the FBI on several occasions concerning this issue. It has since provided clarification, and the audit schedule has been

adjusted. Since we were operating under the guidance of the FBI, and the FBI policy, there was no problem. The FBI dictates TBI policy, and until it provides clarification, the TBI policy remains unchanged.

Currently, the Law Enforcement Support Unit records when an agency comes online.

RECOMMENDATIONS

LEGISLATIVE

This performance audit identified areas in which the General Assembly may wish to consider statutory changes to improve the efficiency and effectiveness of the Tennessee Bureau of Investigation's operations.

1. The General Assembly should consider revising *Tennessee Code Annotated*, Title 40, Chapter 39, to specifically assign enforcement authority to the bureau or another designated agency. It should also consider changing state law to make failure to comply with registration requirements a more serious crime and to give TBI authority to make changes in the registry when it discovers wrong information.
2. The General Assembly may wish to consider revising Section 8-8-201(35)(A) and Section 8-4-115(c)(1-4), *Tennessee Code Annotated*, to reflect the advent of and growing use of electronic submission of criminal fingerprint cards. Distinctions need to be made for the law enforcement agencies submitting fingerprint cards electronically as a second set of fingerprints is no longer needed because the first electronic copy can be copied to the FBI.
3. The General Assembly may wish to eliminate the differences between Sections 38-6-103(d)(1)(C) and 38-6-109(d), *Tennessee Code Annotated*, regarding the fees charged by the state for applicant fingerprint-based background checks.

ADMINISTRATIVE

The Tennessee Bureau of Investigation should address the following areas to improve the efficiency and effectiveness of its operations.

1. The bureau should continue to work with the other agencies involved with sex offenders to establish a system that will successfully register and track sex offenders in Tennessee. The bureau should also pursue upgrading or replacing the existing database to effectively handle all aspects of tracking, monitoring, and enforcement activities regarding sex offender registration statutes.

2. The bureau should periodically analyze the cost of conducting applicant background checks for both paper and electronically submitted fingerprints in relation to the current fees charged. Then, the bureau should submit legislation to the General Assembly to eliminate the differences between Sections 38-6-103(d)(1)(C) and 38-6-109(d), *Tennessee Code Annotated*; create a fee structure reflecting the shift from paper to electronic fingerprint submission and its subsequent effect on the bureau's workload; and apply this fee analysis to future contracts or contract extensions for this service.
3. The bureau should continue to work with the Administrative Office of the Courts to obtain all arrest dispositions from the AOC rather than the individual law enforcement agencies and court clerks currently submitting dispositions to the bureau as it will take quite some time to put in place an integrated criminal justice system. Other alternatives, as practiced by many states, would be for the bureau to generate lists of arrests with missing dispositions as a means of monitoring disposition reporting. This list could be used to provide notice to criminal justice agencies in order to obtain the missing dispositions. Also, when dispositions are received where no arrest record can be found or an arrest cannot be definitively linked to the disposition, the bureau should consider modifying the criminal history database to be able to enter unlinked dispositions. Then the bureau could notify the respective criminal justice agencies that the arrest record is missing and needs to be provided.
4. The bureau needs to codify its TIBRS/TIES audit program in policy or rule. The bureau needs to rework the audit schedule to make sure that agencies audited in calendar years 2001 and 2002 that fall under the biennial cycle are audited again in calendar years 2003 and 2004. Following the completion of these audits under the biennial cycle and in light of the January 1, 2003, effective date for triennial audits, management should design audit schedules that ensure compliance with the triennial audit cycle required by the FBI and internal bureau policy. To make sure agencies receive their first audit at the proper time, management should also record when an agency comes online and, therefore, enters the audit cycle.

APPENDIX A

TITLE VI INFORMATION

All programs or activities receiving federal financial assistance are prohibited by Title VI of the Civil Rights Act of 1964 from discriminating against participants or clients on the basis of race, color, or national origin. In response to a request from members of the Government Operations Committee, we compiled information concerning federal financial assistance received by the Tennessee Bureau of Investigation and the bureau's efforts to comply with Title VI requirements. The results of the information gathered are summarized below.

Federal monies fund 75% of the bureau's Medicaid Fraud Control Unit and 100% of the bureau's Task Force on Marijuana Eradication, Statistical Analysis Center, Social Security fraud agents, Meth Lab Forensic Chemists, DNA Backlog Reduction Program, High Intensity Drug Trafficking Area (HIDTA) program, and Regional Organized Crime Information Center. The bureau is required to file an annual Implementation Plan/Update with the Comptroller of the Treasury each year in June. Currently, the bureau has seven sole source contracts with five entities for \$11,854,579: (1) FBI—federal background checks; (2) Printrak International—maintenance of the Automated Fingerprint Identification System (AFIS); (3) Sent Software—maintenance of the Tennessee Information Enforcement System (TIES) and computer and hardware support for the criminal history repository and criminal case file system; (4) JusticeTrax—software and services to complete installation, implementation, and support of a statewide Laboratory Information Management System (LIMS); (5) Sylvan—electronic fingerprinting services and processing. The ethnicity of these contractors is not available from TBI.

According to the bureau, the Title VI Coordinator is Pam Busby, the Personnel Director, who is located in the Nashville office. Her duties are to advise division heads in ensuring Title VI compliance; to advise personnel in grantee programs, to review all reports and files relating to Title VI compliance and maintain all compliance records, and to develop the annual Title VI Implementation Plan.

To ensure it is meeting Title VI requirements and monitoring activities related to Title VI, the bureau states that each new employee receives a TBI Policy and Procedure Manual containing Policy 2-5-006 (Title VI Compliance) upon in-processing. Displays of Title VI rights and complaint procedures are posted in the reception area of all TBI facilities and a copy of the Title VI Implementation Plan is available at the reception area of all TBI facilities.

The bureau did not receive any Title VI complaints during the past two years.

Staff of the Tennessee Bureau of Investigation by Title, Gender, and Ethnicity

October 2003

<i>Title</i>	Gender		Ethnicity			
	<i>Male</i>	<i>Female</i>	<i>White</i>	<i>Black</i>	<i>Hispanic</i>	<i>Other</i>
Special Agents & Forensic Scientists	153	45	181	14	2	1
Asst Special Agent In Charge & Unit Supervisors	12	5	16	0	0	1
Special Agent In Charge & Regional Crime Lab Supervisors	12	2	13	1	0	0
Senior Management	5	0	4	1	0	0
Clerical	0	55	44	9	0	2
Technical	15	69	72	10	1	1
Professional	15	26	38	2	0	1
Executive	3	3	5	1	0	0
TOTAL	<u>215</u>	<u>205</u>	<u>373</u>	<u>38</u>	<u>3</u>	<u>6</u>
Percentage of Employees	51	49	89	9	1	1

APPENDIX B

TBI Special Agent Criminal Investigator Survey Conducted by TBI October 2003

*List is ranked by highest top salary to lowest top salary

AGENCY	TITLE	STARTING SALARY	TOP OUT SALARY
Florida Dept. of Law Enf.	Special Agent	\$39,739.00	\$99,348.00
Georgia Bureau of Inv.	Special Agent CI 1-3	\$34,533.00	\$73,323.00
S.C. Bureau SLED	Special Agent CI 1-3	\$26,378.00	\$72,254.00
Tenn. Dept. of Revenue	Special Agent 1-3	\$34,344.00	\$61,932.00
North Carolina SBI	Special Agent CI 1-4	\$29,508.00	\$59,658.00
Kansas Bureau of Inv.	Special Agent CI 1-2	\$39,936.00	\$58,980.00
Metro Nashville PD ***	Police Officer 2-3/Detective	\$35,472.00	\$56,284.00
Tenn. Dept. of Safety	Lieutenant	\$37,404.00	\$55,584.00
Tenn. Wildlife Resources	Criminal Investigator	\$34,332.00	\$53,316.00
Tenn. Dept. of Safety	Sergeant	\$33,180.00	\$49,308.00
Tenn. Dept. of Safety	CID Special Agent	\$32,772.00	\$48,708.00
Knoxville PD ***	Police Officer 1-4/Detective	\$27,900.00	\$46,800.00
TBI **	Special Agent CI 1-2	\$32,112.00	\$46,464.00
Oklahoma Bureau of Inv.	Special Agent CI 1-3	\$33,500.00	\$46,250.00
Memphis PD ***	Police Officer/Detective	\$30,327.00	\$45,247.00
Tenn. Dept. of Safety	Trooper	\$27,696.00	\$41,160.00
Chattanooga PD ***	Police Officer/Detective	\$29,437.00	\$40,988.00

** TBI Special Agent 1 starts at the 5th step of the salary range - \$32,112

***The four major police departments transfer Police Officers directly to the Detective Unit with no change in title or salary

**TBI Special Agent Criminal Investigator Survey Conducted by TBI
Actual Salary at Ten Years**

AGENCY	TITLE	SALARY AT TEN YEARS
S.C. Bureau SLED	Special Agent CI 1-3	\$55,654.00
Tenn. Dept. of Safety	Lieutenant	\$55,584.00
Florida Dept. of Law Enf.	Special Agent	\$54,851.00
Kansas Bureau of Inv.	Special Agent CI 1-2	\$53,484.00
Tenn. Wildlife Resources	Criminal Investigator	\$53,316.00
Tenn. Dept. of Safety	Sergeant	\$49,308.00
Tenn. Dept. of Safety	CID Special Agent	\$48,708.00
Metro Nash PD	Police Officer 1-3/Detective	\$47,070.00
Oklahoma Bureau of Inv.	Special Agent CI 1-3	\$46,250.00
Memphis PD	Police Officer/Detective	\$45,247.00
North Carolina SBI	Special Agent CI 1-4	\$45,000.00
Georgia Bureau of Inv.	Special Agent CI 1-3	\$43,810.00
Tenn. Dept. of Safety	Trooper	\$41,160.00
Chattanooga. PD	Police Officer/Detective	\$40,988.00
Tenn. Dept. of Revenue ***	Special Agent 1-3	\$39,000.00
TBI	Special Agent CI 1-2	\$37,020.00
Knoxville PD	Police Officer 1-4/Detective	\$36,000.00

***Revenue Special Agent-There are no Special Agents with ten years of service that are not supervisors. The surveyed position shows a Revenue Special Agent II with seven years of experience.

TBI Special Agent-Forensic Scientist Survey Conducted by TBI
 October 2003

*List is ranked by highest top salary to lowest top salary

AGENCY	TITLE	STARTING SALARY	TOP OUT SALARY
Miss.Dept of Public Safety	Forensic Biologist Trainee & 1-5	\$26,517.00	\$88,782.00
Georgia Bureau of Inv.	Crime Lab Scientist 1-3	\$34,533.00	\$80,545.00
South Carolina Bureau of Inv.	Criminalist 1-3	\$26,378.00	\$72,254.00
North Carolina SBI	Forensic Molecular Geneticists	\$32,425.00	\$64,745.00
Florida-FDLE	Crime Lab Analyst & Trainee	\$34,728.00	\$64,695.00
Kansas Bureau of Inv.	Forensic Scientist 1-3	\$30,888.00	\$63,417.00
Missouri Hwy. Patrol	Criminalist 1-3	\$27,060.00	\$52,320.00
Tennessee Bureau of Inv.**	Special Agent Forensic Scientist 1-2	\$32,112.00	\$46,464.00
Oklahoma Bureau of Inv.	Criminalist 1-3	\$33,500.00	\$46,250.00
Memphis P.D.	Latent Print Technician	\$30,405.00	\$45,607.00
Metro Nashville P.D.	Police ID Analyst	\$34,855.00	\$45,313.00

** TBI Special Agent Forensic Scientist 1 starts at the 5th step of the salary range - \$32,112

**TBI Special Agent-Forensic Scientist Survey Conducted by TBI
Actual Salary at Ten Years**

AGENCY	TITLE	SALARY AT TEN YEARS
North Carolina-SBI	Forensic Molecular Geneticists	\$57,622.00
Miss.Dept of Public Safety	Forensic Biologist Trainee & 1-5	\$50,733.00
Georgia Bureau of Inv.	Crime Lab Scientist 1-3	\$50,515.00
Missouri Hwy. Patrol	Criminalist 1-3	\$47,100.00
Oklahoma Bureau of Inv.	Criminalist 1-3	\$46,250.00
Kansas Bureau of Inv.	Forensic Scientist 1-3	\$46,233.60
South Carolina Bureau of Inv.	Criminalist 1-3	\$45,500.00
Memphis P.D.	Latent Print Technician	\$44,317.00
Florida-FDLE	Crime Lab Analyst & Trainee	\$42,254.00
Metro Nashville P.D.	Police ID Analyst	\$39,503.00
Tennessee Bureau of Inv.	Special Agent Forensic Scientist 1-2	\$37,020.00