



Privacy Commissioner  
Te Mana Matapono Matatapu

## Review of statutory authorities for information matching

Report by the Privacy Commissioner to the Minister of Justice pursuant to section 106 of the Privacy Act 1993 relating to a review of the operation of authorised information matching programmes:

- BDM(Deaths)/INZ Deceased Temporary Visa Holders
- Citizenship/INZ Entitlement to Reside
- Corrections/INZ Prisoners
- Customs/Justice Fines Defaulters Alerts
- INZ/Justice Fines Defaulters Tracing
- IR/Justice Fines Defaulters Tracing.

September 2012

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### Abbreviations and acronyms

The main abbreviations and acronyms used in this report are:

BDM	Births, Deaths and Marriages
Citizenship	Department of Internal Affairs – Citizenship Office
CoFaA	Collection of Fines at Airports
Corrections	Department of Corrections
Customs	New Zealand Customs Service
INZ	Immigration New Zealand
IR	Inland Revenue
Justice	Ministry of Justice

## 1. Executive Summary

### 1.1 Section 106 periodic reviews

Section 106 of the Privacy Act 1993 ("the Act") requires the Privacy Commissioner to carry out reviews of operating information matching programmes and to consider whether:

- the authority conferred by each enabling provision should be continued
- any amendments to the enabling provision are necessary or desirable.

In this report we assess the ongoing value and suitability of the following active programmes:

- BDM(Deaths)/INZ Deceased Temporary Holders Programme
- Citizenship/INZ Entitlement to Reside Programme
- Corrections/INZ Prisoners Programme
- Customs/Justice Fines Defaulters Alerts Programme
- INZ/Justice Fines Defaulters Tracing Programme
- IR/Justice Fines Defaulters Tracing Programme

### 1.2 BDM(Deaths)/INZ Deceased Temporary Holders Programme

This programme helps INZ to identify and remove or update the records of deceased people on its overstayer and temporary permit holders databases.

The programme has been operating efficiently and complies with information matching rules. INZ could enhance its data quality by running matches more frequently which would incur minimal additional costs.

#### We recommend:

- this programme should continue to operate
- INZ should consider operating this programme more frequently.

### 1.3 Citizenship/INZ Entitlement to Reside Programme

This programme helps INZ to identify and remove from its overstayer records the names of people who have been granted New Zealand citizenship.

The programme has been operating efficiently and complies with information matching rules. INZ could enhance its data quality by running matches more frequently which would incur minimal additional costs.

#### We recommend:

- this programme should continue to operate
- INZ should consider operating this programme more frequently.

### 1.4 Corrections/INZ Prisoners Programme

This programme helps INZ to identify prisoners liable for deportation as a result of their criminal convictions or because their visa to be in New Zealand has expired.

The programme is successful in the early identification of prisoners who may meet the deportation requirements under the Immigration Act. The scale of matching raises no concern, and processes to confirm prisoner identity are robust.

**We recommend:**

- this programme should continue to operate and we have no suggested amendments to its operation.

**1.5 Customs/Justice Fines Defaulters Alerts Programme**

This programme is the cornerstone of the 'collection of fines at airports' (CoFaA) initiative, helping Justice recover outstanding fines and reparation through the interception of serious fines defaulters (on an alerts list) as they pass through Customs.

A review of the CoFaA initiative after its first year resulted in improvements to reduce the risk of action against innocent individuals. Following these improvements, the programme has operated efficiently, complied with the information matching rules, and is within the agreed parameters.

The programme provides a positive cost/benefit outcome through payments from individuals intercepted at the border, and from voluntary payments made as a result of advertising the risk of being stopped at the border for unpaid fines and reparation.

**We recommend:**

- this programme should continue to operate and we have no suggested amendments to its operation.

**1.6 INZ/Justice Fines Defaulters Tracing Programme**

This programme helps Justice to locate serious fines defaulters so that it can arrange payment of outstanding fines and reparation. It forms part of the 'CoFaA' initiative.

A review of the CoFaA initiative after its first year of operation resulted in improvements to this programme to reduce the risk of action against innocent individuals. With the exception of one further problem during the 2009/10 year when staff failed to follow proper procedure, the programme has operated efficiently, complies with the information matching rules, and within the agreed parameters.

While the forecast recoveries have not generally been met, the programme still provides Justice with a modest cost/benefit result.

**We recommend:**

- this programme should continue to operate and we have no suggested amendments to its operation.

**1.7 IR/Justice Fines Defaulters Tracing Programme**

This programme helps Justice to locate people who have outstanding fines in order to enforce payment.

Despite our reported concerns about the quality of reporting and how Justice calculates the results attributable to the programme, we think it is an effective tool enabling Justice to locate people and negotiate the repayment of outstanding fines and reparation.

The programme has been operating efficiently and complies with information matching rules. Justice is unlikely to achieve the same results by other means as many of the people that Justice is looking for are employed and IR is the best source of information about taxpayers and their employers.

**We recommend:**

- this programme should continue to operate and we have no suggested amendments to its operation.

A handwritten signature in black ink, appearing to read "Marie Shroff". The signature is fluid and cursive, with the first name "Marie" written in a larger, more prominent script than the last name "Shroff".

Marie Shroff  
Privacy Commissioner  
September 2012

## **2. BDM(Deaths)/INZ Deceased Temporary Holders Programme**

### **2.1 Programme objective**

To identify and remove or update the records of people who are deceased from the Immigration New Zealand (INZ) database of overstayer and temporary permit holders.

### **2.2 Recommendations**

We recommend this programme should continue to operate, but INZ should consider running it more frequently.

### **2.3 Programme assessment**

#### *Assessment summary*

The programme has been operating efficiently and complies with information matching rules. Increased data quality could be achieved by running matches more frequently which would incur minimal additional costs.

#### *Financial cost/benefit and other outcomes*

This programme contributes to INZ's obligation to maintain accurate client information and uphold the overall integrity of INZ data. Cleansing the data of deceased individuals enables INZ to:

- remove deceased persons from the INZ database
- more accurately report on overstayer numbers
- help prevent a deceased client's identity from being used fraudulently.

The results achieved by the programme are very close to the estimated results forecast by the agency based on testing prior to the programme going live. The historical match run was successful in removing about five percent of the overstayer population from INZ records.

#### *Compliance/operational difficulties*

We believe the programme complies with information matching rules. No operational issues have been brought to our attention either by the agency or through other channels. In response to detailed questions put to INZ about the programme, INZ provided information to support its assertion that the programme is complying with information matching rules.

#### *Scale of matching process*

This programme operates twice per year. A modest increase in matching frequency would help INZ maintain more accurate records with minimal additional staff time and other costs. Having accurate and up-to-date records is important not only for INZ but for other agencies using INZ data to fulfil their functions. In comparison, MSD, NZTA and the Ministry of Health process death records from DIA on a weekly, fortnightly and monthly frequency respectively.

#### *Alternative methods to achieve results*

We believe that receiving information directly from DIA is the most appropriate and efficient way for INZ to collect this information.

INZ reports that a review of the programme will soon take place due to recent organisational changes and the up-coming replacement of its core computer system.

## 2.4 Programme history

The programme started in 2007/08 with three matches completed, including a match against historic death records. Since 2009 there has been a regular cycle of bi-annual matches, each covering deaths in the preceding six month period.

Programme results						
Year of match	2008			2009	2010	2011
Death records for the period	1/1/76 - 31/7/06	1/8/06 - 31/7/07	1/8/07 - 31/1/08	1/2/2008- 31/1/09	1/2/09 - 31/1/10	1/2/10- 31/1/11
Records received	820,621	28,512	14,779	29,119	28,959	28772
Possible matches	3,095	307	151	296	374	925
Records marked as deceased - overstayer list	1,794	135	52	145	121	117
Records marked as deceased - temporary visa holders list	11	23	56	83	68	79
Total records updated as deceased	1,805	158	108	228	189	196

## 2.5 Programme operation

Twice a year BDM provides INZ with death records for the preceding six months. Each record of a deceased person can include the full name at birth, full name at death, date of birth, gender, birth place, death date, and number of years lived in New Zealand.

Where an individual on a temporary visa appears to have died, INZ marks the record as 'deceased'. This prevents the record from passing from the temporary visa list onto the overstayer list once the temporary visa expires. Where a match identifies a deceased individual already on the overstayer list, the record is updated to 'deceased' so that no further enforcement effort is made to locate that person.

## 2.6 Programme authorisation

The programme was authorised on 27 September 2001 by inserting section 78A (and Schedule 1A) into the Births, Deaths, and Marriages Registration Act 1995.

The authorisation allows for the Registrar of Births, Deaths, and Marriages to disclose death information to INZ so it can identify deceased holders of temporary entry class visas.

### 3. Citizenship/INZ Entitlement to Reside Programme

#### 3.1 Programme objective

To identify and remove from the Immigration New Zealand (INZ) overstayer records the names of people who have been granted New Zealand citizenship.

#### 3.2 Recommendations

We recommend this programme should continue to operate, but INZ should consider running it more frequently.

#### 3.3 Programme assessment

##### *Assessment summary*

The programme has been operating efficiently and complies with information matching rules. Further data quality benefits could be achieved by operating this programme more frequently which would incur minimal additional costs.

##### *Financial cost/benefit and other outcomes*

The programme helps INZ to maintain accurate client information and uphold the overall integrity of INZ data. Cleansing the data protects individuals who have New Zealand citizenship but might otherwise be targeted by INZ staff as overstayers.

The programme also reduces the chance that out-of-date data is shared and acted on by other agencies. For example, the Electoral Enrolment Centre uses overstayer information to identify unqualified voters and remove them from the electoral roll.

The results achieved from this programme have exceeded INZ's expectations. INZ continues to identify and remove a steady number of individuals from their overstayer records.

DIA provides Citizenship data to INZ at no cost, and a match run takes a staff member one day to process.

##### *Compliance/operational difficulties*

We believe the programme complies with information matching rules. No operational issues have been brought to our attention either by the agency or through other channels. In response to detailed questions put to INZ about the programme, INZ provided information to support its assertion that the programme is complying with information matching rules.

##### *Scale of matching process*

The programme runs three times per year. Processing current records takes a staff member one day while the historical match takes four days. A modest increase in matching frequency would help INZ maintain more accurate records which would incur minimal additional costs. The enhanced data quality would benefit not only INZ but other agencies using INZ data to fulfil their functions (such as the Ministry of Health).

##### *Alternative methods to achieve results*

We believe that receiving information directly from the NZ Citizenship Office is the most appropriate and efficient way for INZ to collect this information.



INZ reports that a review of the programme will shortly take place due to recent organisational changes and the up coming replacement of their core computer system.

### 3.4 Programme history

Programme results							
	2005	2006	2007	2008	2009	2010	2011
Match runs	2	3	2	3	3	3	3
Records received	462,741	225,287	87,499	940,210	1,013,867	1,075,685	1,135,611
Removal from overstayers list	625	466	261	835	428	387	373

In each of the last four years INZ has run two matches covering grants of citizenship in the current period, and one match run covering historical records dating back to 1986. The purpose of processing citizenship records previously received is to re-identify individuals who have been granted Citizenship but continue to travel using their non-New Zealand passport (these travellers subsequently have a temporary visa granted in their name based on the passport presented).

### 3.5 Programme operation

DIA transfers citizenship records to INZ using an encrypted and password protected CD. Each citizenship record includes the full name, gender, date of birth, country of birth, and citizenship person number.

INZ compares the citizenship information with information it holds about overstayers. Each match result is manually reviewed by INZ staff before being accepted or rejected. No notices of adverse action (s.103) are sent out because individuals matched successfully benefit from being removed from the overstayers list and unsuccessful matches do not give rise to any adverse action.

### 3.6 Programme Authorisation

The programme was authorised on 27 September 2001 by inserting section 26A (and Schedule 4A) into the Citizenship Act 1977.

The authorisation allows for the Secretary of Internal Affairs to disclose citizenship information to INZ so it can verify a person's citizenship status and their entitlement to remain in New Zealand.

## **4. Corrections/INZ Prisoners Programme**

### **4.1 Programme objective**

To provide a reliable and timely way of identifying prisoners liable for deportation because of their criminal convictions, or because their visa to be in New Zealand has expired.

Early identification of liable prisoners provides the opportunity to complete deportation processes prior to their release back into the community.

### **4.2 Recommendations**

We recommend that this programme continue and have no suggested amendments to its operation.

### **4.3 Programme assessment**

#### *Assessment summary*

The results show the programme is successful in the early identification of prisoners who meet deportation requirements under the Immigration Act. The scale of matching raises no particular concerns and the matching processes to confirm prisoner identity are robust.

#### *Financial cost/benefit and other outcomes*

In 2005 INZ ran a test match and found it was not aware of 45% of individuals shown to be potentially liable for removal or deportation. INZ is satisfied, and we concur, that the programme is achieving the original objective and that it delivers considerable benefits both to INZ and to the public.

INZ report that all costs associated with the programme come from existing baselines. The combined staffing requirement to operate the programme is about one FTE but may increase with the inclusion of home detention and community-based prisoner records.

#### *Compliance/operational difficulties*

Apart from one instance where INZ appeared to be in breach of the information matching rules (now resolved), we believe INZ has operated the programme in compliance with the information matching rules.

There have been some technical problems. INZ initially had problems with how its system extracted sentence-length data provided by Corrections. INZ has also had problems with discrepancies between sentencing information provided by Corrections and that held by the Court, and differences between information provided by Corrections and that held by Police.

In March 2011 we met with INZ and Corrections officials to be briefed on the steps taken to resolve data-matching anomalies. INZ and Corrections now have arrangements in place for anomalies to be dealt with as they are detected.

#### *Scale of matching process*

The current scale of matching raises no particular concerns. To further improve the efficiency of the programme, INZ is working with Corrections to include the records of prisoners on home detention or community-based sentences. The expanded programme will incorporate lessons learned, both from trial data matching exercises and from anomalies discovered in the current programme.

#### *Alternative methods to achieve results*

We believe this programme is the best way for INZ to obtain information to identify prisoners liable for deportation as the alternatives would involve riskier, piecemeal practices.

Prior to the operation of this programme INZ had ad hoc methods of obtaining information about offenders. This included scanning newspapers for court reports, or receiving information from personal contacts or police officers. INZ found these methods to be unreliable. Many offenders were unable to be deported in time or were not identified before being released into the community.

#### **4.4 Programme history**

<b>Programme results</b>						
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Match runs	47	51	49	52	51	51
Cases considered for removal or deportation	168	58	56	46	50	51
Removals and deportations completed	10	24	32	34	26	29

Despite the operational difficulties mentioned above, the programme has achieved steady results over the last five years.

#### **4.5 Programme operation**

Each week, Corrections transfers details of all newly admitted prisoners to INZ. Each prisoner record includes the prisoner name, date of birth, gender, citizenship, and details about their offence and sentence information.

INZ matches the prisoner information with the details it holds about people in New Zealand unlawfully or on temporary visas. Match results are manually checked before a notice of adverse action (s.103 notice) is sent to the prisoner. To confirm that the correct person is identified INZ also interviews the prisoner.

Prisoners have access to statutory rights of appeal against deportation. When a prisoner has no further rights of appeal, INZ supplies Corrections with details about the proposed deportation action. This helps Corrections to make appropriate decisions about the prisoner's management.

#### **4.6 Programme authorisation**

The programme was authorised on 1 June 2004 by inserting s.181 into the Corrections Act 2004. At the same time, s.141AC was inserted into the Immigration Act 1987 (now Immigration Act 2009, s.294) to allow INZ to disclose information to Corrections about immigration action to be taken against a prisoner.

## 5. Customs/Justice Fines Defaulters Alerts Programme

### 5.1 Objective

To improve the enforcement of fines by identifying and intercepting serious fines defaulters as they cross New Zealand borders, and to increase voluntary compliance through publicity about the programme targeted at travellers.

### 5.2 Recommendations

We recommend that this programme continue and have no suggested amendments to its operation.

### 5.3 Programme assessment

#### *Assessment summary*

We were initially concerned about the impact this programme might have on innocent individuals. A review identified operational shortcomings and new processes were implemented to remedy these. Since then, the programme has been operating efficiently, complies with information matching rules, and is within agreed parameters. The programme is generating positive returns and is considered necessary to support the continuing 'collection of fines at airports' (CoFaA) campaign.

#### *Financial cost/benefit and other outcomes*

The CoFaA initiative is providing Justice with a positive cost/benefit outcome as well as satisfying the need to make monetary penalties a credible and enforceable sanction.

Based on trial data matches, the Regulatory Impact Statement for the CoFaA initiative (encompassing this programme and the INZ/Justice Fines Defaulters Tracing programme) forecast \$1.5 million in annual debt recoveries with an extra \$1 million expected through increased voluntary compliance, as a result of publicity.

This programme was forecast to contribute up to \$300,000 of the \$1.5 million in annual recoveries. Actual recoveries have exceeded \$300,000, except in 2010 when \$254,000 was collected or remitted. From 2007 to 2011 Justice attributes \$1.53 million in payments and remittals to this programme with costs, mostly for 24 hour contact centre staffing, estimated at \$1.05 million. Original set up costs were \$535,000.

Justice report that tracking of voluntary compliance from the start of the initiative (September 2006) to 30 June 2009 shows that two thirds of payments received for fines and reparations was due to CoFaA publicity. Justice stopped tracking the results of voluntary compliance due to CoFaA publicity as at 30 June 2009 when it considered the initiative to be part of its business as usual processes.

#### *Compliance/operational difficulties*

In the first year of operation (2006/07) we said that we were unable to confirm the programme's compliance until the facts surrounding certain incidents reported by Justice had been fully investigated. This prompted an inter-agency review of the programme.

The review concluded that the matching algorithm was operating correctly and that there were no issues with the interception process used by Police and Justice. But the review also found that multiple sources of documentation within Justice contributed to issues in the

management of identity, the interception of fines defaulters no longer subject to an alert, and errors in reporting to this office. The review resulted in several technical and procedural changes to improve the operation of the programme.

#### *Scale of matching process*

The scale of the programme raises no particular concerns. The criteria for inclusion in this programme are primarily determined by the definition of 'serious default' in the Customs and Excise Act, and by an agreed maximum number of alerts allowed to be stored on the Customs system. The amount of information exchanged about each individual is limited to the information necessary to operate the programme.

On 30 June 2011 there were 2,888 fines defaulters who had interception alerts recorded on Customs database, up from 1,763 alerts on 30 June 2007.

#### *Alternative means to enforce payment*

Justice uses a variety of methods to locate fines defaulters including other matching programmes. Targeting fines defaulters as they cross the border is an additional means of obtaining contact details and taking enforcement action. The new Credit Check of Fines initiative, which allows Justice to release overdue fines information as part of a credit report, in turn provides Justice with another source of potential new contact information.

## **5.4 Programme history**

<b>Programme results</b>					
	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Silent alerts triggered	1,321	1,554	1,821	2,035	4,102
People subject to silent alerts	986	1,146	976	1,062	1,808
Intercept alerts triggered	98	105	79	97	150
People intercepted	78	89	65	64	129
On departure	17	26	12	14	29
On arrival	61	63	55	50	113
Incorrect intercepts	4	9	6	17	18
Fine already paid	1		1	1	6
Wrong person	3	9	5	16	12
Interception not completed	?	7	4	16	7
Fines received	\$176,535	\$89,975	\$106,465	\$76,256	\$88,154
Reparation received	\$107,307	\$127,308	\$121,877	\$116,241	\$101,367
Amount under a current time to pay arrangement	\$48,982	\$116,818	\$212,614	\$397,249	\$71,502
Remittals/alternative sentence imposed	\$37,496	\$84,212	\$115,759	\$61,868	\$140,458

The 2010 figures for the 'wrong person intercepted' and 'interception not completed' are higher than other years because of the failure of a new Justice team to follow proper procedure. The new team failed to follow up with Police about the results of interception alerts and was incorrectly recording the outcomes of some alerts. For 2010 Justice could not conclusively report whether or not fines defaulters were intercepted at the border.

Justice has stated that the significant increase in interception alerts triggered in 2011 was probably a result of a large number of new people becoming eligible for the programme, following Justice's reviews of fines defaulter records.

### **5.5 Programme operation**

Each day, Justice sends Customs details of serious fines defaulters to create "interception alerts" or "silent alerts" in the Customs system (CusMod). The most serious cases attract an "interception alert", which result in the traveller being intercepted at the airport. The other cases involve a "silent alert", which uses information about the traveller for enforcement action after their entry or (re-entry) to the country.

As an individual passes through the border, a Customs official scans their passport. The matching programme converts details from the passport into an alpha-numeric code for matching against alerts. Matches triggering an interception alert are directed to a Customs official who notifies Police. Police conduct an interview with the individual to confirm their identity and that they are the person whom the alert relates to.

If the facts are verified the individual, through a phone call with a Justice official, is given an opportunity to pay the outstanding amount or to enter into an arrangement to pay. If no payment is made or arrangement entered into, the Police have discretion to execute an arrest warrant, in which case the individual will be stopped from travelling and brought before a court.

### **5.6 Programme authorisation**

The programme was authorised on 10 April 2006 by inserting the new section 280D into the Customs and Excise Act 1996.

The authorisation allows Justice to supply to Customs identifying information about a person who is in serious default. If Customs has information relating to that person it may disclose to Justice identifying information, passport number, nationality, and travel details.

## **6. INZ/Justice Fines Defaulters Tracing Programme**

### **6.1 Objective**

To enable Justice to locate serious fines defaulters in order to enforce payment of outstanding fines and reparation.

### **6.2 Recommendations**

We recommend that this programme continue and have no suggested amendments to its operation.

### **6.3 Programme assessment**

#### *Assessment summary*

The operation of this programme has provided Justice with a modest financial cost/benefit outcome. Combined with the on-going CoFaA advertising campaign, the programme helps ensure that fines remain a credible and enforceable sanction. The programme has generally been operating efficiently, complies with information matching rules, and within agreed parameters.

#### *Financial cost /benefit and other outcomes*

Based on trial data matches, the Regulatory Impact Statement for the CoFaA initiative (encompassing this programme and the Customs/Justice Fines Defaulters Alerts programme) forecast \$1.5 million in annual debt recoveries with an extra \$1 million expected through increased voluntary compliance as a result of publicity.

The programme was expected to contribute \$1.2 million of the forecast \$1.5 million in recoveries. This was achieved in 2011 but in previous years about half the forecast amount was recovered. While the forecast recoveries have not generally been met, the programme still provides Justice with a positive cost/benefit result.

Between 2007 and 2011 Justice attributes \$3.3 million in payments and remittals to this programme with costs of \$108,000. Additionally, there was a \$535,000 set up cost.

Justice report that tracking of voluntary compliance from the start of the initiative (September 2006) to 30 June 2009 shows that two thirds of payments received for fines and reparations was due to CoFaA publicity. Justice stopped tracking the results of voluntary compliance due to CoFaA publicity as at 30 June 2009 when it considered the initiative to be part of its business as usual processes.

#### *Compliance/operational difficulties*

This programme was included in an inter-agency review of the CoFaA initiative after we raised concerns about the operation of the sibling Customs/Justice Fines Defaulters Alerts Programme which feeds information into this programme. The review resulted in several improvements - the automated sorting of silent and interception alerts, a single source of documentation, and the establishment of a CoFaA operations working group.

Between September 2009 and July 2010, Justice failed to comply with privacy rules by prematurely releasing information derived from the matching programme to District Courts. Justice identified 37 people who had enforcement documents issued against them prematurely, including 24 warrants to seize and five warrants to arrest.

### *Scale of matching process*

The scale of this programme raises no particular concerns. The criteria for inclusion in this programme are primarily determined by the definition of 'serious default' in the Customs and Excise Act, and by an agreed maximum number of alerts allowed to be stored on the Customs system. The amount of information exchanged about each individual is limited to the information necessary to operate the programme.

### *Alternative means to enforce payment*

Justice uses a variety of methods to locate fines defaulters including the use of other matching programmes. Targeting fines defaulters as they cross the border is an additional means of obtaining contact details and taking enforcement action. The new Credit Check of Fines initiative, which allows Justice to release overdue fines information as part of a credit report, in turn provides Justice with another source of potential new contact information.

### **6.4 Programme history**

The programme began operating in September 2006. The reduced value of payments in 2010 resulted from more tightly defined criteria for attributing payments to this programme. Justice suggests that in 2011 payments increased because new people became subject to the programme following projects to review fines defaulter profiles.

<b>Programme results</b>					
	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Records sent to INZ	1,382	1,512	1,820	1,939	3,922
Notices sent	706	598	747	784	1,276
Successful challenges	15	5	0	1	16
Payment received for fines	\$162,523	\$418,203	\$625,134	\$285,883	\$585,858
Amounts under a current time to pay arrangement	\$275,540	\$174,118	\$787,652	\$616,983	\$396,917
Remittals/alternative sentence	\$39,667	\$110,418	\$258,308	\$280,954	\$613,183

### **6.5 Programme operation**

This programme is linked to the Customs/Justice Fines Defaulters Alerts Programme as 'silent alert' information provided from the Customs/Justice programme and is used by Justice to match with arrival and departure information held by INZ.

Each day, Customs sends Justice silent alert notifications for fines defaulters who have left or returned to New Zealand. Justice extracts details from these notifications and sends INZ a weekly file transfer containing details about people who have recently travelled.

INZ manually extracts the relevant arrival or departure card for each requested individual and sends contact details back to Justice. If the address information from INZ is new, Justice sends out a notice of adverse action (s.103 notice) to the local address supplied. If no challenge is received in response to the notice, the individual's profile becomes available for action at the Collections Unit nearest to the recently supplied address.

### **6.6 Programme authorisation**

The programme was authorised on 9 April 2006 by inserting the new sections 141AD and 141AE into the Immigration Act 1987 (now Immigration Act 2009, s.295) to allow INZ to disclose information to Justice to enable it to locate serious fines defaulters.



## 7. IR/Justice Fines Defaulters Tracing Programme

### 7.1 Objective

To enable the Ministry of Justice to locate people who have outstanding fines in order to enforce payment.

### 7.2 Recommendations

We recommend that this programme continue and have no suggested amendments to its operation.

### 7.3 Programme assessment

#### *Assessment summary*

Despite concerns about the quality of reporting and the way Justice calculates the results attributable to this programme, we believe the programme is an effective tool enabling Justice to locate people and arrange for repayment of outstanding fines and reparation.

The programme complies with the information matching rules and the scale of matching is reasonable as Justice only targets selected fines defaulters. Justice is unlikely to achieve the same results by other means as many of the people that Justice are looking for are employed and IR is the best source of information about taxpayers and their employers.

#### *Financial cost/benefit and other outcomes*

Justice attributes the collection of \$138M of fines and reparation to this programme between 2005 and 2011. Costs over the same period are reported to be \$3.02M. The collection figure encompasses all payments received during the 12 month period following a notice of adverse action (s.103 notice) being sent. From 2011, the attribution period was reduced to six months. While this should more accurately reflect the estimated impact of the programme, the calculation still seems generous.

Results from the new daily matching process (since October 2011) far exceed Justice's expectations with \$16.1M collected during the first seven months of operation from the IR and MSD tracing programmes.

#### *Compliance/operational difficulties*

Despite expressing concerns since the inception of the programme in 2002 about the reliability of reporting, we have reported that the programme has operated in compliance with information matching rules.

#### *Scale of matching process*

The scale of matching has fluctuated year to year. From October 2011 Justice started sending records on a daily basis. This is considered reasonable as Justice only sends records for individuals that are in default where it lacks their current contact or employer information.

#### *Alternative means to enforce payment*

Justice has considered alternatives to running this programme and believes it cannot achieve the same outcomes through other means because IR holds the most complete information on taxpayers and their employers, and a large number of people who Justice seek are employed.

#### 7.4 Programme history

The programme first operated in May 2002. We expressed concern that initial reports showed that several thousand individuals had successfully challenged the validity of Justice's information. A review undertaken by Justice found this was a case of over-reporting the number of challenges. To remedy the problem, Justice implemented a new reporting system in January 2004, and the reported challenge-figures then fell to satisfactory levels.

There were far fewer records sent for matching in 2009, as a large number of fine defaulter records were already under other tracing action. In 2010 Justice sent very few records for matching due to technical problems. Staffing shortages and the reallocation of resources were also reasons cited by Justice for the reduced matching activity.

From October 2011, Justice started a new daily data matching process with IR. Results for the current period are not yet available; however a significant increase in activity is expected.

Programme results						
	2006	2007	2008	2009	2010	2011 (progress)
Match runs	8	13	11	7	3	6
Names sent for matching	307,230	474,709	343,200	129,476	32,152	65,095
Notices of adverse action	81,305	128,227	97,152	23,414	3,813	29,113
Collection instituted	29,666	43,033	35,036	13,495	2,593	7,458
Collections received	\$22,925,078	\$37,765,080	\$33,059,260	\$11,854,994	\$1,921,864	\$3,744,129
Challenges	55	83	81	52	47	94
Successful challenges	41	62	53	23	9	40

#### 7.5 Programme operation

Justice uses an encrypted CD to send the full name, date of birth, and unique identifier details of selected fines defaulters to IR. For matched records, IR returns an encrypted CD to Justice with details of the client address, the date the address was updated, telephone number(s), and the unique identifier information originally provided by Justice.

From October 2011, Justice started a new daily matching process with IR. At the same time, IR started including employer contact details (see programme authorisation below).

#### 7.6 Programme authorisation

The programme was authorised on 1 November 1998 by inserting s.85A into the Tax Administration Act 1994. The provision authorises IR to disclose the last known address and phone number of fines defaulters identified in their records.

On 23 July 2011, s.85A was amended to allow IR to include details about the fines defaulter's last known employer's name, address and contact number. For each item of information provided, IR must also supply the date when the information was most recently updated. This helps Justice determine if the information provided is more recent than the information it currently holds.

## **8. Background: Information matching**

Information matching involves the comparison of one set of records with another, usually to find records in both sets that belong to the same person. Matching is commonly used to detect fraud in social assistance programmes, or to trace people who owe debts to the Crown.

Oversight of this area of activity is important to safeguard individuals' and maintain transparency and trust in government. The Privacy Act regulates information matching through controls directed at:

- authorisation - ensuring only programmes clearly justified in the public interest are approved
- operation - ensuring that programmes operate within the information matching framework
- evaluation - subjecting programmes to periodic review.

### **8.1 Section 106**

Section 106 of the Privacy Act requires the Commissioner to undertake periodic reviews of the operation of each information matching provision and to consider whether:

- the authority conferred by each provision should be continued
- any amendments to the provision are necessary or desirable.

A periodic review is necessary to assess the on-going value and suitability of a programme, taking into account the experience of the programme operating. A programme may lose effectiveness over time if 'hit rates' have peaked or the wider context has changed.

To conduct this review, we have focused mainly on the information matching guidelines set out in section 98 of the Privacy Act. In particular we focus on whether each provision:

- continues to achieve its objective by providing significant monetary benefits or other comparable benefits to society
- raises concern because of the scale of matching (for example, because of the number of agencies involved, the frequency of matching, or the amount of personal information being disclosed)
- is operating within the information matching controls in the Privacy Act.

