§ 838. Identification of unknown dead and missing persons. 1. Every county medical examiner and coroner shall promptly furnish the division and the National Missing and Unidentified Persons System created by the Office of Justice Program's National Institute of Justice, with copies of fingerprints on standardized eight inch by eight inch fingerprint cards or the equivalent digital image, personal descriptions and other identifying data, including date and place of death, of all deceased persons whose deaths are in a classification requiring inquiry by the medical examiner or coroner where the deceased is not identified or the medical examiner or coroner is not satisfied with the decedent's identification. The division shall promptly make available personal descriptions and other identifying data, including date and place of death, of such deceased persons to all law enforcement agencies in the state, and upon request, to law enforcement agencies outside of the state.

2. In any case where it is not physically possible to furnish prints of the ten fingers of the deceased, prints or partial prints of any fingers with other identifying data shall be forwarded by the county medical examiner or coroner to the division.

3. In addition to the foregoing provisions of this section, the county medical examiner or coroner shall cause a dentist authorized to practice pursuant to article one hundred thirty-three of the education law or a dental student in a registered school of dentistry in this state to carry out a dental examination of the deceased. The medical examiner or coroner shall forward the dental examination records to the division on a form supplied by the division for that purpose.

4. The division shall compare the fingerprints received from the county medical examiners or coroners to fingerprints on file with the division for purposes of attempting to determine the identity of the deceased. Other descriptive data supplied with the fingerprints shall also be compared to records maintained by the division concerning missing persons. The division shall submit the results of the comparisons to the appropriate medical examiner or coroner and if a tentative or positive identification is made, to the law enforcement

authority which submitted the report of the missing person.

5. (a) (i) When any person makes a report of a missing person to a law enforcement authority, the authority shall request a member of the family or next of kin of the missing person to authorize the release to the division of the dental records of the person reported missing. The release shall be on a form supplied by the division. If the person reported missing is still missing thirty days after the report is made, the law enforcement authority shall deliver the release to the dentist or dentists of the missing person, and request the dentist or dentists to deliver such records, including dental x-rays, to the division within ten days. The form of such request shall also include means by which the law enforcement authority shall be notified of the delivery of such records.

(ii) When the person reported missing has not been found within thirty days and no family or next of kin exists or can be located, the law enforcement authority may execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted, and that the dental records are necessary for the exclusive purpose of furthering the investigation. Such written declaration, signed by a peace officer, is sufficient authority for the dentist or dentists to release the missing person's dental records, including dental x-rays, to the division.

(b) Upon receipt of a properly executed release and request or declaration, the dentist or dentists shall forward the dental records, including dental x-rays, to the division, where a file shall be maintained concerning persons reported to it as missing and who have not been reported to it as found. The file shall contain dental records and such other information as the division finds to be relevant to assisting in the location of a missing person. The law enforcement authority shall be notified of the delivery of such records.

6. The division shall compare the dental records received from the county medical examiners or coroners to dental records of missing persons on file with the division. The division shall submit the results of the comparison to the appropriate medical examiner or coroner and if a tentative or positive identification is made, to the law enforcement

authority which submitted the report of the missing person.

7. (a) When a person previously reported missing has been found, the superintendent of state police, sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall erase all records with respect to such person and/or destroy any documents which are maintained pursuant to this section and shall report to the division that the person has been found and that the records and documents have been so erased or destroyed. After receiving such a report, the division shall erase all records with respect to such person and/or destroy any documents which are maintained pursuant to this section.

(b) Nothing in paragraph (a) of this subdivision shall be construed as prohibiting law enforcement agencies from maintaining case files relating to vulnerable adults, as defined in section eight hundred thirty-seven-f-one, who were reported missing, provided, however, that any DNA, fingerprints and/or dental records acquired in the course of such investigation shall be erased and/or destroyed in accordance with paragraph (a) of this subdivision after the person previously reported missing has been found.

(c) (i) Notwithstanding the provisions of paragraph (a) of this subdivision, if a vulnerable adult, as defined in section eight hundred thirty-seven-f-one of this article, previously reported missing has been found, the division shall maintain a sealed record of the case file for a period of ten years, after which it shall be erased and/or destroyed. The sealed record shall be unsealed if the individual to whom the record pertains is reported missing on a subsequent occasion or if needed for evidentiary purposes in any civil litigation against the division or its personnel that arises from the investigation. However, in the event that there are grounds for a criminal action arising from the investigation, nothing in this subdivision shall be interpreted as prohibiting the division from allowing such records to remain unsealed until such criminal action is concluded or otherwise resolved.

(ii) The division shall establish rules and regulations relating to the unsealing of records. Such rules and regulations shall require that, pursuant to subparagraph (i) of this paragraph, the process of unsealing such records shall take no longer than two hours from the time the division receives a report that a vulnerable adult, for whom there is a

previous record, is missing.

8. The information contained in the division's missing person files shall be made available by it to law enforcement agencies attempting to locate missing persons.

9. Notwithstanding any other provision of law, no criminal justice agency shall establish or maintain any policy which requires the observance of a waiting period before accepting and investigating a missing child report. Upon receipt of a report of a missing child, criminal justice agencies shall make entries of such report to the register in the manner provided by section eight hundred thirty-seven-e of this article.

10. Notwithstanding any other provision of law, no criminal justice agency shall establish or maintain any policy that requires the observance of a waiting period before accepting and investigating a report of a missing vulnerable adult as defined in section eight hundred thirty-seven-f-one of this article. Upon receipt of a report of such missing vulnerable adult, criminal justice agencies shall make entries of such report in the manner provided by subdivision eleven of this section.

11. Whenever a criminal justice agency determines that a person is a missing vulnerable adult, as defined in section eight hundred thirty-seven-f-one of this article, or that an unidentified living person may be a missing vulnerable adult, such criminal justice agency shall enter the report of such missing vulnerable adult in any database of missing persons maintained by the division and the federal government.