

The September 2021 Arizona Department of Public Safety—Central Repository of Criminal History Records performance audit found that the Department and other criminal justice agencies share statutory responsibility for ensuring central repository includes accurate criminal history records, but incomplete records may potentially put public safety at risk. We made 16 recommendations to the Department and 3 recommendations to the Legislature, and the Department's and Legislature's status in implementing the recommendations is as follows:

Status of 16 Department recommendations

Implemented	4
In process	7
Not yet applicable	2
No longer applicable	3

Status of 3 Legislature recommendations

Implemented	2
Not implemented	1

We will conduct a 24-month followup with the Department on the status of the recommendations that have not yet been implemented.

Finding 1: Department's incomplete criminal history records may potentially put public safety at risk

The Department should maintain a complete criminal history records repository that includes all applicable fingerprint-based offense records and their associated dispositions by:

- Continuing its efforts to fill the 10 vacant FTE positions in its criminal history records unit.
Implementation in process—The Department has continued its efforts to fill the vacant FTE positions in its criminal history records unit, such as posting the open positions on job boards. As of November 2022, the Department reported that it has filled 2 of 10 vacant FTE positions.
- Continuing to research, correct, and/or enter the backlogged offense and disposition records it has received.
Implementation in process—As noted in the audit report, the Department estimated it had approximately 58,500 backlogged offense and disposition records that needed to be researched, corrected, and/or entered in the central repository. According to the Department, it is utilizing 11 employees and/or temporary staff to intermittently process this backlog of records. Our review of Department records found it has processed at least 13,000 of them. We will further assess the Department's efforts to research, correct, and/or enter the backlogged offense and disposition records during our 24-month followup.
- Developing and implementing a formal process for regularly requesting missing offense records, such as sending a letter to the criminal justice agencies that will be audited in a given year, to request the agency send any paper offense records to the Department to be entered into the central repository.
Implementation in process—In November 2022, the Department began developing and implementing a formal process for regularly requesting missing offense records from criminal justice agencies. Specifically, the

Department has developed draft language for a letter that it plans to send to all criminal justice agencies annually, beginning in January 2023, requesting the agency send any unreported arrests and/or offenses to the Department. As of November 2022, the Department had not yet developed and implemented formal policies, procedures, or guidance directing staff on the distribution of these letters but reported that it would do so in early 2023. We will further assess the Department's efforts in developing and implementing this process for requesting missing offense records during our 24-month followup.

4. Enhancing its audits of criminal justice agencies by establishing and implementing a process, policies, and procedures to:

a. Notify all criminal justice agencies at fault for not reporting a disposition record.

Implementation in process—The Department modified its criminal justice agency triennial audit policies and procedures to provide audited agencies with a list of all offense records that do not have a final disposition that are the responsibility of the audited agency. The Department reported that this process will be used to notify agencies of any offense records without an associated disposition. However, the Department did not provide documentation of completed audits to demonstrate that it has implemented these changes to its audit policies and procedures. We will further assess the Department's implementation of its modified audit policies and procedures during our 24-month followup.

Additionally, there are some criminal justice agencies, such as city and municipal courts, that may be responsible for reporting a disposition record that are not included in the list of Department-audited agencies and therefore would not be notified by the Department of missing disposition records. According to the Department, it relies on the Arizona Supreme Court, Administrative Office of the Courts (AOC), to communicate missing disposition records to these courts when AOC conducts its audits of these courts. However, the Department did not provide documentation demonstrating it has a process for notifying AOC of missing disposition records or how it ensures AOC is providing missing disposition record information to these courts. We will further evaluate the Department's process of relying on AOC to notify some criminal justice agencies of missing disposition records during our 24-month followup.

b. Depending on the severity of missing disposition records, request that the prosecuting agencies and courts undertake a more comprehensive review of their disposition records to ensure they meet the statutory requirement to report disposition records to the central repository.

Implementation in process—According to the Department's modified policies and procedures, all audited agencies are instructed during their audit to conduct a comprehensive review of their disposition records, regardless of the severity of the missing disposition records, to help ensure compliance with the statutory reporting requirement. The policies and procedures also require the Department to issue a formal letter to the audited agency, upon completion of the audit, discussing the open dispositions. However, as discussed in the explanation for Recommendation 4a, these modified procedures would not include some courts, such as city and municipal courts, that may have missing disposition records but are not audited by the Department. We will further assess the Department's implementation of its modified audit policies and procedures during our 24-month followup.

5. Developing and implementing a process to periodically send all criminal justice agencies a list of offense records from their agency that do not have a disposition and request the criminal justice agency to report any dispositions they have to the central repository.

Implementation in process—See explanation for Recommendation 4a.

6. Developing and implementing a risk-based approach using calculated disposition reporting rates to identify criminal justice agencies that have the highest rate of missing dispositions and working with these criminal justice agencies to improve the completeness of the central repository by providing focused training and guidance to address gaps.

Implementation in process—In November 2022, the Department reported it was analyzing data to calculate criminal justice agency missing disposition rates and that it would use this information to provide focused training

and assistance to those criminal justice agencies with the highest missing disposition rates. Additionally, the Department has developed draft language for a letter that it plans to send to all criminal justice agencies annually, beginning in January 2023, that will include each agency's calculated rate of missing disposition records and a reminder to submit all final dispositions to the Department. The Department reported that those agencies with the highest missing disposition rates would receive additional, specific followup, such as training, on how to improve their disposition rates. However, the Department had not yet developed and implemented formal policies, procedures, or guidance directing staff on the distribution of the letters or for selecting those agencies with the highest disposition rates for further training and assistance but reported it would do so in early 2023. We will further assess the Department's implementation of this recommendation during our 24-month followup.

Finding 2: Department could unknowingly issue and has not suspended fingerprint clearance cards of ineligible individuals due to statutory omission

The Legislature should:

7. Consider whether all fingerprint clearance card precluding offenses should be required to be reported to and included in the central repository to ensure the Department considers all statutorily specified precluding offenses when it issues fingerprint clearance cards and suspends the fingerprint clearance cards of cardholders who are no longer eligible and modify A.R.S. §41-1750, accordingly.

Implemented at 12 months—Laws 2022, Ch. 163, §1, amended A.R.S. §41-1750, effective December 31, 2022, to require all fingerprint clearance card precluding offenses to be reported to and included in the central repository.

The Department should:

8. Provide information to the Legislature related to recommendation 7, including information regarding statutorily specified precluding offenses for fingerprint clearance cards it should consider when assessing whether to modify A.R.S. §41-1750.

Implemented at 12 months

9. Continue to monitor proposed legislation that may impact what fingerprint clearance card precluding offenses are required to be reported to and included in the central repository and work with the Legislature as necessary to ensure the Department considers all statutorily specified precluding offenses when it issues fingerprint clearance cards and suspends the fingerprint clearance cards of cardholders who are no longer eligible.

Implemented at 12 months

10. If the Legislature modifies A.R.S. §41-1750 to require all fingerprint clearance card precluding offenses to be reported to and included in the central repository:

- a. Modify its practice to ensure all fingerprint clearance card precluding offenses are reported to and included in the central repository.

Not yet applicable—Laws 2022, Ch. 163, §1, amended A.R.S. §41-1750, effective December 31, 2022, to require all fingerprint clearance card precluding offenses to be reported to and included in the central repository. Because the law is not yet in effect, we will assess the Department's implementation of this recommendation during our 24-month followup.

- b. Notify its troopers and criminal justice agency liaisons of any changes to the fingerprint clearance card precluding offenses that are required to be reported to and included in the central repository.

Implemented at 12 months

Finding 3: Central repository contains misdemeanor offenses not expressly authorized by statute to be included, which provides additional criminal history information but increases risk of inequitable employment or licensure denials

The Legislature should:

11. Consider whether additional misdemeanor offenses should be reported to and included in the central repository and modify A.R.S. §41-1750 accordingly.

Implemented at 12 months—Laws 2022, Ch. 163, §1, amended A.R.S. §41-1750 to give criminal justice agencies the discretion to report criminal history records and related criminal justice information for violations that are not explicitly listed in A.R.S. §41-1750, and for the Department to include them in the central repository.

The Department should:

12. Provide information to the Legislature related to recommendation 11, including information regarding additional misdemeanor offenses it should consider when assessing whether to modify A.R.S. §41-1750.

Implemented at 12 months

13. The Department should:

- a. Modify its practice to include in the central repository only offenses expressly authorized by A.R.S. §41-1750, including any changes the Legislature makes as proposed in recommendation 11.

No longer applicable—Laws 2022, Ch. 163, §1, amended A.R.S. §41-1750 to allow the Department to include in the central repository criminal history records and related criminal justice information for violations that are not explicitly listed in A.R.S. §41-1750. As a result, the Department may include any offense in the central repository and no longer needs to modify its practices.

- b. Update its training so that criminal justice agencies are required to report only what is expressly authorized in statute.

No longer applicable—See explanation for Recommendation 13a.

- c. Notify its troopers and criminal justice agency liaisons of the change in which offenses will be reported to and included in the central repository.

No longer applicable—See explanation for Recommendation 13a.

Finding 4: Some statutorily classified felony offenses were reduced to misdemeanor offenses and not reported to central repository, which increases risk of ineligible individuals receiving fingerprint clearance card, license, or employment

14. The Legislature should consider revising A.R.S. §41-1750 to require law enforcement agencies to report to the central repository offense records for statutorily classified felonies that are reduced to misdemeanors at the time of arrest or citation.

Not implemented—As explained in recommendation 11, the Legislature revised A.R.S. §41-1750 to give criminal justice agencies and the Department the discretion to include in the central repository violations that are not explicitly listed in A.R.S. §41-1750, which may include felonies that are reduced to misdemeanors at the time of arrest or citation. However, these revisions do not require law enforcement agencies to report statutorily classified felonies that are reduced to misdemeanors at the time of arrest or citation. The Department reported that it may consider exploring this recommendation further with the Legislature. Therefore, we will further assess implementation of this recommendation during our 24-month followup.

15. If statute is revised, the Department should communicate the statutory changes to its troopers and criminal justice agency liaisons.

Not yet applicable—As described in the explanation for Recommendation 14, statute was not revised to require law enforcement agencies to report to the central repository offense records for statutorily classified felonies that are reduced to misdemeanors at the time of arrest or citation. As such, this recommendation is not yet applicable.