

# Arizona Department of Public Safety

Department has met some of its statutory objectives and purposes but did not include information on the sex offender website for some offenders and included information it should not have for others we reviewed

Performance Audit and  
Sunset Review

September 2021  
Report 21-120

A Report to the Arizona Legislature

Lindsey A. Perry  
Auditor General





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September 30, 2021

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Colonel Heston Silbert, Director  
Arizona Department of Public Safety

Transmitted herewith is the Auditor General's report, *A Performance Audit and Sunset Review of the Arizona Department of Public Safety*. This report is in response to a September 19, 2018, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within this report a copy of the Report Highlights to provide a quick summary for your convenience.

As outlined in its response, the Arizona Department of Public Safety agrees with all but 1 of the findings and plans to implement all but 1 of the recommendations directed to it.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

*Lindsey A. Perry*

Lindsey A. Perry, CPA, CFE  
Auditor General

## Arizona Department of Public Safety

**Department has met some of its statutory objectives and purposes but did not include information on the sex offender website for some offenders and included information it should not have for others we reviewed**

### Audit purpose

To determine whether the Department maintained the sex offender website in compliance with statutory requirements, complied with State purchasing card and conflict-of-interest requirements, and followed its complaint-processing policies and procedures; and provide information on the Border Strike Force Bureau and responses to the statutory sunset factors.

### Key findings

- Department responsibilities include patrolling State highways, conducting criminal investigations, and regulating private investigators, security guards, school buses, and school bus drivers. Additionally, the Department maintains a central repository of criminal history records and a sex offender website.
- The Department is statutorily required to provide certain sex offenders' information to the public on the sex offender website. However, for some offenders we reviewed, the Department:
  - Did not but should have published names and photographs for 2 of 33 offenders on the website.
  - Published names and photographs for 3 of 12 offenders it should not have.
  - Did not update offenders' photographs for 2 of 15 offenders on the website.
  - Did not determine whether 26 of 72 offenders met website publication requirements.

Not publishing or updating offender information on the website may potentially put public safety at risk, and improperly publishing offender information may potentially result in unwarranted public scrutiny of those offenders.

- In 2019 and 2020, we notified the Department of 13 school districts that did not comply with the *Minimum Standards for School Buses and School Bus Drivers* (Minimum Standards), but the Department reported not following up on these instances of noncompliance. Although the Department conducted inspections on school buses at these school districts during 2019 and 2020 and found instances of noncompliance, some of the issues we identified and reported to the Department were not included within the scope of the Department's inspections.
- In 2015, the Department established the Border Strike Force, an enforcement initiative enacted to target border crimes. In fiscal year 2016, the Department created the Border Strike Force Bureau. To support the Border Strike Force Bureau's costs, the Department receives an appropriation to pay for 37 Department positions, 16 of which are assigned to the Border Strike Force Bureau with the remaining 21 positions assigned to other Department areas.

### Key recommendations

The Department should:

- Publish and update all statutorily required sex offender website information and develop and implement policies and procedures for verifying that offenders' risk levels are correctly recorded, offenders with convictions from other jurisdictions have been referred for legal review, and required information is published on the sex offender website.
- Review and follow up on the instances of noncompliance with the Minimum Standards for the 13 school districts that we reported to it during calendar years 2019 and 2020 and continue to develop and implement written policies and procedures to track, review, and follow up on instances of reported Minimum Standards noncompliance.



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The Arizona Auditor General has released the second of 2 audit reports of the Arizona Department of Public Safety (Department) as part of the Department's sunset review. The first performance audit (Report 21-110) assessed the Department's responsibility to maintain a complete collection of criminal history offense and disposition records in the Arizona central repository (central repository) as required by statute. This performance audit and sunset review determined whether the Department maintained the sex offender website in compliance with statutory requirements, complied with State purchasing card and conflict-of-interest requirements, and followed its complaint-processing policies and procedures, and provides information on the Border Strike Force Bureau and responses to the statutory sunset factors.

## Mission and responsibilities

The Department's mission is "to provide public safety to the State of Arizona." The Department's responsibilities include:

- **Enforcement**—The Department performs various enforcement activities, such as:
  - Patrolling Arizona highways to enforce State laws and investigating collisions. The Department reported that in fiscal year 2020, it conducted approximately 427,000 traffic stops, issued approximately 235,000 citations, made nearly 14,600 arrests, and responded to and investigated approximately 9,500 injury collisions.
  - Enforcing State laws related to drug trafficking, organized crime, vehicle theft, gangs, computer and financial crimes, and fugitive apprehension. The Department has several units and/or task forces that perform these enforcement activities, such as its Gang and Immigration Intelligence Team Enforcement Mission (GIITEM) and Vehicle Theft Task Force. In fiscal year 2020, the Department reported that GIITEM made 383 gang-related arrests and seized 184 weapons, 70 pounds of narcotics, and more than \$86,000. It also reported that its Vehicle Theft Task Force recovered approximately 1,500 stolen vehicles with a total value of over \$22 million.
- **Licensing and regulation**—The Department regulates private investigators, security guards, school buses, and school bus drivers, including:
  - Conducting fingerprint-based criminal history record checks of private investigator and security guard applicants, providing licensure for private investigator and security guard agencies, and certifying qualified individuals to work as private investigators or security guards. The Department reported that in fiscal year 2020, it processed over 19,000 security guard certificate applications, more than 1,000 private investigator certificate applications, 163 security guard agency license applications, and 418 private investigator agency license applications (see Sunset Factor 11, page 27, for additional information about the Department's regulation of the private investigator and security guard industry compared to other states).

- Establishing the *Minimum Standards for School Buses and School Bus Drivers* (Minimum Standards).<sup>1</sup> The Minimum Standards require (1) school bus owners, such as school districts, to demonstrate that their school buses receive systematic preventative maintenance and inspections and that (2) school bus drivers are certified to operate a bus, which includes possessing a valid fingerprint clearance card and passing both a physical examination and controlled substance and alcohol testing. The Department also conducts inspections and issues certificates of inspection for school buses operating in the State and issues bus driver certifications to qualified applicants. The Department reported that in fiscal year 2020, it conducted approximately 7,900 school bus inspections and issued more than 800 school bus driver certifications (see Sunset Factor 2, page 20, for additional information on the Department’s enforcement of the Minimum Standards and Sunset Factor 11, page 27, for additional information about the Department’s regulation of school buses and school bus drivers compared to other states).
- **Public services**—The Department is statutorily required to provide additional services that protect the public, such as:
  - Issuing fingerprint clearance cards to applicants after reviewing the applicant’s criminal history record and ensuring the applicant’s State and federal criminal history record does not contain any offense that would preclude them from receiving a fingerprint clearance card. The Department reported that in fiscal year 2020, it issued nearly 135,000 new fingerprint clearance cards. Additionally, the Department also conducts fingerprint-based criminal history records checks for persons and applicants who are seeking licenses from State agencies; employment with licensees, contract providers, and State agencies; or employment or educational opportunities with agencies that require fingerprint-based criminal history record checks (see Arizona Auditor General Report 21-110 *Arizona Department of Public Safety—Central Repository of Criminal History Records* for additional information about the Department’s responsibility for maintaining a central repository of criminal history records and the use of these records when issuing fingerprint clearance cards and conducting fingerprint-based criminal history checks).
  - Maintaining a sex offender website to provide sex offender information to the public. Specifically, the Department shall publish on the website registered sex offenders that meet specific criteria (see Finding 1, pages 8 through 14, for additional information). According to the Department’s sex offender database, as of June 2021, there were 15,590 registered sex offenders in Arizona, of which 8,901 were published to the sex offender website.
- **Support services**—The Department provides support services to criminal justice agencies, such as:
  - Operating the central repository to collect, store, and disseminate complete and accurate criminal history records (see Arizona Auditor General Report 21-110 *Arizona Department of Public Safety—Central Repository of Criminal History Records* for additional information about the Department’s statutory responsibility to maintain complete criminal history offense and disposition records in the central repository).
  - Operating the State-wide voice and data communications systems to facilitate the rapid exchange of information between the law enforcement agencies of this State, its counties and municipalities, other states, and the federal government (see Sunset Factor 2, page 18, for additional information).
  - Operating 4 regional crime laboratories located in Phoenix, Tucson, Flagstaff, and Lake Havasu City that provide scientific analysis of evidence, technical crime scene assistance, storage of evidentiary items, training, and testimony to criminal justice agencies in the State. In fiscal year 2020, the Department reported that its crime laboratories processed a monthly average of 359 DNA-related cases and 1,027 controlled-substance-related cases.

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<sup>1</sup> The Department establishes the Minimum Standards in consultation with the Arizona School Bus Advisory Council, which is responsible for advising and consulting with the Department on matters related to school bus safety and school bus driver certification and recommending curricula for school bus driver training and safety courses.



## Organization, division responsibilities, and staffing

As of July 2021, the Department reported having 1,990 full-time equivalent (FTE) positions and 492 vacancies assigned to its various divisions. The Department comprises the following 5 divisions:

- **Office of the Director (85 FTEs, 19 vacancies)**—The Office of the Director directs the Department’s day-to-day operations and oversees governmental relations, legal affairs, public affairs, internal affairs, inspections, executive security, and the budget office.<sup>2</sup> For example, the Office of the Director is responsible for protecting and securing members of the Legislature and the Governor. The Office of the Director also houses the Internal Affairs unit, which manages and/or investigates complaints against Department personnel. Additionally, the Office of the Director provides support to the Governor’s Office of Highway Safety, the Arizona Peace Officers Standards and Training Board, and the Law Enforcement Merit System Council.

Between April and September 2021, the Director served as the Interim Director for the Arizona Department of Liquor Licenses and Control. Additionally, 2 of the Department’s 85 FTE were assigned to the Arizona Department of Liquor Licenses and Control to assist the Director.

- **Highway Patrol Division (815 FTEs, 184 vacancies)**—The Highway Patrol Division (Highway Patrol) is responsible for patrolling Arizona highways (see Sunset Factor 2, pages 15 through 17, for additional information about the Department’s patrol coverage of the State’s highways). Additionally, Highway Patrol includes several units such as the Commercial Vehicle Enforcement Unit, which is responsible for enforcing rules and regulations governing the safety operations of motor carriers, shippers, and vehicles transporting hazardous materials. The division’s DUI Enforcement unit identifies and investigates drug and alcohol impaired drivers and provides support to local and county agencies through training and logistical support. Highway Patrol also includes the Roadside Motorist Assistance unit, which patrols Arizona’s highways in specially equipped vehicles that allow them to assist motorists by making minor repairs, changing tires/wheels, providing some fuel or short rides off the roadway, or calling a tow service for those in need.
- **Criminal Investigation Division (349 FTEs, 89 vacancies)**—The Criminal Investigation Division’s mission is to protect the public by deterring crime using investigative and enforcement strategies and resources. This division is responsible for performing criminal investigations and enforcing State laws over narcotic trafficking, organized crime, vehicle theft, gangs, computer and financial crimes, fugitive apprehension, and human trafficking.<sup>3</sup> The Criminal Investigation Division includes multiple bureaus, such as the Border Strike Force Bureau, which targets border crimes with a focus on identifying, deterring, disrupting, and dismantling transnational criminal organizations (see Questions and Answers, pages 28 through 31, for additional information about the Border Strike Force Bureau). The division also includes the Intelligence Bureau, which is responsible for the operation of the Arizona Counter Terrorism Information Center, which is a joint effort between the Department, the Arizona Department of Homeland Security, the Federal Bureau of Investigation, and other participating agencies to form a collective intelligence service to provide intelligence and investigative and technical support to local, tribal, State, and federal law enforcement agencies, as well as other agencies.
- **Technical Services Division (523 FTEs, 138 vacancies)**—The Technical Services Division oversees various functions of the Department such as enforcing laws related to the regulation of security guards and private investigators, scrap metal dealers, sex offenders, and job applicants for specific occupations that require statutorily mandated fingerprint-based criminal history record checks and fingerprint clearance cards. The division is also responsible for reviewing applications for and issuing licenses to security guard and private investigator agencies and certificates to security guards and private investigators. It may also discipline licensees based on recommendations provided by the Private Investigator and Security Guard Hearing Board (Board) (see textbox, page 4, for additional information about the Board). Additionally, the division oversees the Arizona Criminal Justice Information System, which is a criminal justice information

<sup>2</sup> The Department employs a general counsel who provides legal analyses and guidance.

<sup>3</sup> A.R.S. §41-1711(B) prohibits the Department from preempting the authority and jurisdiction of established law enforcement agencies of political subdivisions of the State.

system that houses several databases, including the central repository of criminal history records, and the Department's 4 regional crime laboratories that provide forensic services to all police agencies within the State of Arizona.

## Private Investigator and Security Guard Hearing Board

A.R.S. §32-2404 establishes a Private Investigator and Security Guard Hearing Board.<sup>1</sup> According to A.R.S. §32-2405, the Board is required to work with the Department; specifically, the Board is required to submit recommendations to the Department Director on disciplinary actions or the denial of licenses or registrations and determine good cause exceptions for the issuance of licenses or registrations. Also, the Board may annually review the security guard and armed security guard training curricula and make recommendations to the Department for modification of or update to the training courses. However, the Board does not have a prescribed sunset date and therefore is not subject to sunset review.

<sup>1</sup> The Board consists of 7 members and 1 alternate member who are appointed by the Department's director.

Source: Auditor General staff review of A.R.S. §§32-2404, 32-2405, and 41-2992.04 et seq.

- **Agency Support Division (218 FTEs, 62 vacancies)**—The Agency Support Division provides services for other governmental agencies and Department divisions. Several key functions are housed within this division such as aviation services, human resources, training, research and planning, Department records, fleet services, financial services, facilities, procurement, and logistics. For example, the Fleet Services Unit is responsible for procuring and maintaining the agency's full fleet, which includes patrol and undercover vehicles, motorcycles, tow trucks, and other specialty vehicles. Additionally, the Aviation Unit provides a State-wide air rescue response capability and a regional air transport service to respond to various missions and transport public safety personnel and equipment across the State and region. The Department reported that in fiscal year 2020, it conducted approximately 2,200 air rescue missions.

## Revenues and expenditures

Table 1 on pages 5 through 7 shows the Department's revenues, expenditures, and fund balances for fiscal years 2018 through 2021. The Department receives revenues from various sources, including motor vehicle, motor vehicle fuel, and insurance premium taxes; fees charged for licenses and permits; surcharges levied on fines, forfeitures, and penalties; State General Fund appropriations; and intergovernmental revenues, such as federal grants. For fiscal year 2021, the Department's net revenues totaled approximately \$460.8 million.

The Department's expenditures and transfers totaled more than \$494.1 million in fiscal year 2021. Most of the Department's expenditures were for payroll and related benefits; aid to organizations such as local governments and nonprofits that provide services to crime victims; and other operating costs, such as rent, telecommunication charges, software support, and office supplies. Additionally, in fiscal year 2021, the Department transferred an estimated \$51.6 million to the State General Fund in accordance with various laws (see Table 1, footnote 16, page 7). Because the Department's expenditures and transfers exceeded its revenues in fiscal year 2021, the Department's fund balance decreased by more than \$33.3 million to approximately \$130 million.

**Table 1**  
**Schedule of revenues, expenditures, and changes in fund balances**  
**Fiscal years 2018 through 2021**  
(Unaudited)

|  | 2018                | 2019                | 2020                 | 2021                 |
|--|---------------------|---------------------|----------------------|----------------------|
| <b>Revenues</b>  |                     |                     |                      |                      |
| Taxes <sup>1</sup>   | \$27,770,460        | \$137,688,128       | \$238,568,402        | \$221,485,741        |
| State General Fund appropriations <sup>2</sup>                                       | 110,567,278         | 105,011,449         | 81,177,346           | 88,850,304           |
| Intergovernmental  |                     |                     |                      |                      |
| Crime Victim Assistance <sup>3</sup>   | 25,295,718          | 43,385,002          | 44,846,294           | 45,930,851           |
| Federal pandemic aid <sup>4</sup>  |                     |                     | 76,933,541           | 13,404,346           |
| Other <sup>5</sup>   | 31,415,681          | 29,082,317          | 34,402,039           | 34,047,880           |
| Other appropriations <sup>6</sup>  |                     |                     |                      |                      |
| Arizona Department of Administration Risk Management Fund                            | 1,314,200           | 1,345,300           | 1,349,300            | 1,408,600            |
| Arizona Department of Transportation (ADOT) Motor Vehicle Liability Enforcement Fund |                     | 1,250,000           | 1,250,900            | 1,302,700            |
| Arizona Attorney General's Office State Aid to Indigent Defense Fund                 | 749,959             | 816,543             | 678,528              | 668,926              |
| ADOT State Highway Fund  | 8,704,723           | 8,941,440           | 211,152              | 318,200              |
| Governor's Office of Highway Safety Motorcycle Safety Education Fund                 | 205,000             | 205,000             | 205,000              | 205,000              |
| Arizona Board of Fingerprinting Fund   |                     |                     | 2,709,000            |                      |
| ADOT Highway User Revenue Fund   | 99,283,764          | 15,181,210          |                      |                      |
| Arizona Criminal Justice Commission Resource Center Fund                             |                     | 758,100             |                      |                      |
| Fines, forfeits, and penalties <sup>7</sup>  | 39,237,538          | 39,280,115          | 36,011,959           | 28,819,390           |
| Licensing and permit fees <sup>8</sup>   | 20,004,220          | 20,218,816          | 17,098,708           | 19,494,892           |
| Charges for goods and services   | 1,396,395           | 1,271,271           | 1,509,590            | 1,159,821            |
| Other <sup>9</sup>   | 3,396,314           | 3,183,942           | 3,789,337            | 4,608,778            |
| <b>Total gross revenues</b>  | <b>369,341,250</b>  | <b>407,618,633</b>  | <b>540,741,096</b>   | <b>461,705,429</b>   |
| Remittances to the State General Fund <sup>10</sup>                                  | (3,047,166)         | (336,103)           | (1,264,823)          | (901,628)            |
| <b>Total net revenues</b>  | <b>366,294,084</b>  | <b>407,282,530</b>  | <b>539,476,273</b>   | <b>460,803,801</b>   |
| <b>Expenditures and transfers<sup>11</sup></b>                                       |                     |                     |                      |                      |
| Payroll and related benefits   | 243,172,246         | 243,349,307         | 267,326,451          | 281,840,926          |
| Professional and outside services <sup>12</sup>                                      | 3,638,595           | 6,036,467           | 7,167,414            | 5,218,467            |
| Travel   | 1,571,644           | 1,471,103           | 1,202,409            | 780,860              |
| Aid to organizations <sup>13</sup>   | 32,513,807          | 45,248,865          | 44,572,659           | 43,408,947           |
| Other operating <sup>14</sup>  | 47,950,025          | 49,316,443          | 51,825,381           | 57,623,884           |
| Capital and noncapital purchases <sup>15</sup>                                       | 28,207,576          | 26,866,557          | 37,107,576           | 37,728,003           |
| <b>Total expenditures</b>  | <b>357,053,893</b>  | <b>372,288,742</b>  | <b>409,201,890</b>   | <b>426,601,087</b>   |
| Transfers to the State General Fund <sup>16</sup>                                    | 3,000,000           | 868,800             | 16,339,100           | 51,627,665           |
| Transfers to the State Automation Projects Fund <sup>17</sup>                        | 4,843,000           | 4,056,200           | 2,711,000            |                      |
| Transfers of federal monies to other agencies <sup>18</sup>                          | 797,612             | 6,201,313           | 9,653,255            | 12,831,869           |
| Transfers to other State agencies for various purposes <sup>19</sup>                 | 3,438,948           | 5,975,712           | 6,288,136            | 3,090,822            |
| <b>Total expenditures and transfers out</b>  | <b>369,133,453</b>  | <b>389,390,767</b>  | <b>444,193,381</b>   | <b>494,151,443</b>   |
| Net change in fund balance   | (2,839,369)         | 17,891,763          | 95,282,892           | (33,347,642)         |
| Fund balance, beginning of year  | 52,983,357          | 50,143,988          | 68,035,751           | 163,318,643          |
| <b>Fund balance, end of year<sup>20</sup></b>  | <b>\$50,143,988</b> | <b>\$68,035,751</b> | <b>\$163,318,643</b> | <b>\$129,971,001</b> |

<sup>1</sup> Tax revenues included motor vehicle, motor vehicle fuel, and insurance premium taxes that are subject to the State's appropriation process. The tax revenues substantially increased in fiscal year 2019 because of Laws 2018, Ch. 265, §1, which became effective in January 2019 and established a new highway safety fee, collected at the time a vehicle is registered and restricted to paying for the Highway Patrol budget. The

## Table 1 continued

- fee generated approximately \$107 million in fiscal year 2019, \$207 million in fiscal year 2020, and \$188.5 million in fiscal year 2021. Laws 2019, Ch. 268, §3, repealed this fee effective June 30, 2021.
- <sup>2</sup> State General Fund appropriations decreased in fiscal year 2020 primarily because the highway safety fee that became effective in January 2019 (see footnote 1 for additional information), replaced some of the appropriations the Department historically received from the State General Fund.
  - <sup>3</sup> During fiscal years 2018 through 2021, the Department's Crime Victim Assistance intergovernmental revenues consisted of Crime Victim Assistance federal grant monies, which is an annual grant provided by the U.S. Department of Justice, Office for Victims of Crime, to each state and eligible territories for the financial support of services to crime victims by eligible crime victim assistance programs.
  - <sup>4</sup> The Department received federal pandemic aid revenues resulting from federal legislation in response to the COVID-19 pandemic. Fiscal year 2020 and 2021 revenues were composed of monies from the Coronavirus Relief Fund that was established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. These monies should be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
  - <sup>5</sup> Other intergovernmental revenues primarily included other federal grant monies the Department received. For example, during fiscal years 2018 through 2021, the Department received \$9.7 million, \$9.3 million, \$10.5 million, and \$9.1 million, respectively, in Motor Carrier Safety Assistance federal grant monies, a grant provided by the U.S. Department of Transportation to states to reduce the number of and severity of crashes and hazardous materials incidents involving commercial motor vehicles.
  - <sup>6</sup> Other appropriations were appropriations the Department received from various funds administered by other State agencies. The appropriation amounts from these funds have changed from year to year. For example, in fiscal year 2018, the Department received over a quarter of its revenues from an appropriation from the Highway User Revenue Fund (HURF), a fund administered by ADOT, that receives transportation-related licenses, taxes, fees, penalties and interest revenues. The highway safety fee that became effective in January 2019 (see footnote 1 for additional information), replaced the HURF appropriation to pay for the Highway Patrol budget beginning in fiscal year 2019. Similarly, the fee replaced most of the appropriation the Department received from the ADOT State Highway Fund. Further, some of the appropriations were for one-time purposes such as the \$2.7 million received in fiscal year 2020 from the Arizona Board of Fingerprinting Fund for remote housing replacement costs and to construct a radio communications tower in accordance with Laws 2019, Ch. 264, §§14 and 15.
  - <sup>7</sup> Fines, forfeits, and penalties revenue were monies the Department received from various legal-related activities in accordance with statutes. For example, the Department received a portion of monies from the Criminal Justice Enhancement Fund, a fund administered by the Arizona State Treasurer, during fiscal years 2018 through 2021 in accordance with A.R.S. §41-2401. The Fund consists of surcharges levied on every fine, penalty, and forfeiture imposed and collected by the courts for criminal offenses, civil penalty for civil traffic violations, motor vehicle statute violations, local ordinances violations relating to certain vehicle operations, or game and fish statute violations. In addition, fines, forfeits, and penalties included monies obtained from seizures and forfeiture under the Racketeering Influenced and Corrupt Organization (RICO) laws. According to the Department, the amount of RICO revenues varied each year based on the amount seized or forfeited and were reduced by distributions to legal entities such as the Arizona Attorney General's Office and Arizona county attorneys' offices based on forfeiture-related court orders and, to a lesser extent, the asset owner. In fiscal year 2021, the Department distributed approximately \$2.2 million more from prior year seizure monies than it seized during the fiscal year, thereby reducing the amount of fines, forfeits, and penalties revenues presented for fiscal year 2021.
  - <sup>8</sup> The Department collected various licensing and permit fees for various Department activities including issuing concealed weapons permits, processing fingerprint clearance cards, and licensing private investigators and security guards. In addition, it includes the fees the Department collected from political subdivisions for the costs of processing Department reports and photographs of traffic accident scenes, and criminal and noncriminal justice fingerprint cards through the federal government.
  - <sup>9</sup> Other revenues primarily included reimbursements of officer salaries the Department received for oversized-overweight, officer-assisted vehicle escort services which ADOT collected from trucking companies on behalf of the Department.
  - <sup>10</sup> Remittances to the State General Fund in fiscal year 2018 primarily consisted of court assessment fines and penalties collected pursuant to A.R.S. §41-1723 that the Department received, including driving under the influence assessments, but were required to be remitted to the State General Fund. However, beginning in fiscal year 2018, Laws 2017, Ch. 303, §6, required the Arizona State Treasurer to deposit the State General Fund's portion of these fees directly into the State General Fund instead of the monies flowing through the Department first. Consequently, the Department made the last remittances of these monies in fiscal year 2018. The remittances in fiscal years 2019 through 2021 primarily consisted of remittances of monies from older cases with unclaimed monies, penalties from suspended license plate violations in accordance with A.R.S. §28-4139, and older, unspent grant monies from projects that had not previously been closed out.
  - <sup>11</sup> Transfers in this table do not include transfers out from Department funds to other Department funds. For example, the Department used a clearing account to pay for most of its annual operating appropriations. Transfers were made from other funds into the clearing account and the monies were expended in the account. As required by the annual General Appropriations Act, the Department transferred any monies remaining in the account back to each fund in direct proportion to the amounts appropriated. Including these transfers would inflate the amount of monies the Department expended and received.
  - <sup>12</sup> Professional and outside services consisted of expenditures paid for external services that varied from year to year depending on the Department's needs. For example, in fiscal years 2019 and 2020, the Department paid approximately \$438,000 and \$3.5 million, respectively, to acquire information and technology services for upgrades to its Arizona Criminal Justice Information System (ACJIS). ACJIS is the State's central repository for criminal history information including criminal history records, wanted persons, stolen vehicles, stolen property, and other information used in criminal history record checks.

## Table 1 continued

- <sup>13</sup> Aid to organizations consisted of monies the Department passed through to other entities such as local governments and nonprofit entities that provide services to crime victims. Over half of fiscal year 2018 through 2021 expenditures were related to distribution of the Crime Victim Assistance federal grant (see footnote 3 for additional information).
- <sup>14</sup> Other operating expenditures included various expenditures such as rental; utilities; telephone; insurance; automotive fuel and supplies; operating, medical, and security supplies; repair and maintenance; software programming, support, and maintenance; fingerprinting and background checks; and uniforms. Expenditures for some of these categories varied significantly from year to year.
- <sup>15</sup> Capital and noncapital purchases consisted of various purchases including vehicles, equipment, and furniture. The expenditures varied each year based on the Department's needs. For example, the Department spent approximately \$6.3 million, \$9.2 million, \$13.3 million, and \$8.1 million to purchase or lease vehicles in fiscal years 2018, 2019, 2020, and 2021, respectively.
- <sup>16</sup> Transfers to the State General Fund for fiscal years 2018 through 2021 were made as required by Laws 2018, Ch. 276, §§139, 140, and 143, and Laws 2021, Ch. 408, §125, to provide adequate support and maintenance for State agencies. In addition, the Department transferred approximately \$15.5 million in both fiscal years 2020 and 2021 from the excess highway safety fee revenue (see footnote 1 for additional information about the fee) to the State General Fund as required by Laws 2019, Ch. 263, §169, and Laws 2020, Ch. 58, §113. Further, in fiscal year 2021, the Department transferred approximately \$11.9 million to the State General Fund from the Department's clearing account in accordance with Laws 2020, Ch. 58, §76, that required any monies remaining in the account be reimbursed proportionally to any funds that contributed to the account (see footnote 11 for additional information).
- <sup>17</sup> Transfers to the Automations Projects Fund during fiscal years 2018 through 2020 were transfers for the ACJIS upgrade (see footnote 12 for additional information), a communications system upgrade from analog to digital technologies, and a concealed weapon tracking system as required by Laws 2017, Ch. 305, §141; Laws 2018, Ch. 276, §118, as amended by Laws 2019, Ch. 263, §4; and Laws 2019, Ch. 263, §126.
- <sup>18</sup> Transfers of federal monies to other agencies were distributions of the Crime Victim Assistance federal grant to the Arizona Department of Economic Security; Arizona Attorney General's Office; Arizona Department of Corrections, Rehabilitation and Reentry; Arizona Department of Child Safety; Arizona Supreme Court; Arizona Secretary of State; and Arizona Department of Juvenile Corrections.
- <sup>19</sup> Transfers to other agencies consisted of transfers to State agencies for various purposes such as interagency agreements. For example, the Department transferred \$2.4 million to the Arizona Department of Administration in fiscal year 2020 for an agreement to replace remote housing for officers who are assigned to patrol remote sections of Arizona's highways in accordance with Laws 2019, Ch. 264, §15.
- <sup>20</sup> The Department's ending fund balance was composed of monies from various funds that were subject to statutory requirements, and most were subject to the State's appropriation process. Some of the monies were also subject to external requirements from the federal government or other local governments based on agreements. In fiscal year 2020, the Department's ending fund balance increased by approximately \$96 million, primarily because the Department received a payment of approximately \$76.9 million from the Coronavirus Relief Fund (see footnote 4 for additional information) to be used for eligible costs during the period that began on March 1, 2020, and ends on December 31, 2021. The Department's fiscal year 2021 ending fund balance decreased by approximately \$33.3 million primarily because the Department transferred monies to the State General Fund (see footnote 16 for additional information).

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2018 through 2021 and the State of Arizona *Annual Financial Report* for fiscal years 2018 through 2020.



## For some offenders we reviewed, Department did not publish or update, or should not but did publish their names, photographs, or other information on the sex offender website, and for some others it did not determine whether they should be published, potentially increasing public safety risk

### Department is statutorily required to maintain sex offender website to provide certain sex offenders' information to public

A.R.S. §13-3827 requires the Department to maintain an internet sex offender website to provide sex offender information to the public (see textbox for more information about Arizona's sex-offender-monitoring process).

#### Arizona sex-offender-monitoring process

The monitoring process includes:

- **Registration**—Individuals who have been convicted of certain offenses, such as sexual conduct with a minor and sexual assault, are statutorily required to register with their respective county sheriff within 10 days of their conviction or within 10 days of entering and remaining in any Arizona county.<sup>1</sup> The county sheriffs enter sex offender registration information into a Department sex offender database.
- **Annual identification renewal**—Sex offenders must obtain a new identification document or a driver license from ADOT's Motor Vehicle Division (MVD) annually.<sup>2</sup> Additionally, MVD must annually provide the updated offenders' photographs to the Department.
- **Risk assessment and community notification**—The agency that had custody or supervision of the convicted sex offender, such as ADCRR or a county probation department (supervising agencies), and/or a local law enforcement agency completes a standard sex offender risk assessment, which evaluates 19 different criteria that predict sex offenders' risk of recidivism. Each criterion is evaluated and totaled to determine a risk level of 1, 2, or 3. Supervising agencies and law enforcement agencies must enter sex offenders' risk levels into Department databases. Local law enforcement agencies are also required to notify communities of the presence of risk level 2 and 3 offenders and may notify individuals with whom risk level 1 offenders reside. For example, for level 2 and 3 offenders, statute requires local law enforcement agencies to notify communities by providing offender information in a nonelectronic format, such as flyers, to the surrounding neighborhood, area schools, appropriate community groups, and prospective employers.

<sup>1</sup> For individuals sentenced to the Arizona Department of Correction, Rehabilitation and Reentry (ADCRR) for committing any of these offenses, ADCRR, in conjunction with the Department and each county sheriff, is required to complete the sex offender's registration.

<sup>2</sup> An offender who fails to obtain an identification document or driver license annually is guilty of a class 6 felony and subject to a \$250 fine.

Source: Auditor General staff analysis of A.R.S. §13-3821 et seq. and Arizona sex offender assessment screening profile for regulatory community notification.

Specifically, statute requires the Department to publish on the sex offender website all sex offenders with a risk level of 2 or 3, and those who have been convicted of committing certain Arizona sex offenses or the same or substantially similar offenses committed in other jurisdictions regardless of risk level (see textbox for offenses that require convicted offenders to be published on the sex offender website regardless of risk level). Further, the Department is required to include on the sex offender website the applicable offender's name, address, age, current photograph, the offense committed, and risk level if a risk assessment was completed. Finally, statute requires the Department to annually update offenders' names, addresses, and photographs on the sex offender website.

### Offenses that require convicted offenders to be published on the sex offender website regardless of risk level

- Sexual assault.
- Sexual exploitation of a minor if the offender is at least 21 years of age.
- Commercial sexual exploitation of a minor.
- Sexual abuse if the victim is under 12 years of age.
- Molestation of a child under 12 years of age.
- Sexual conduct with a minor under 12 years of age.
- Child prostitution committed before August 9, 2017.
- Child sex trafficking committed on or after August 9, 2017.
- Taking a child for the purpose of prostitution if the child is under 12 years of age.
- Luring a minor for sexual exploitation if the victim is under 12 years of age.
- Aggravated luring of a minor for sexual exploitation if the victim is under 12 years of age.
- Continuous sexual abuse of a child if the child is under 12 years of age.

Source: Auditor General staff review of A.R.S. §13-3827.

## For some offenders we reviewed, Department did not publish or update, or should not but did publish their names, photographs, or other information on the sex offender website, and for some others it did not determine whether they should be published

Our review of several samples or populations of sex offenders found the Department met the sex offender website publication requirements for many offenders we reviewed but that it did not meet the requirements for some other offenders we reviewed.<sup>4</sup> Specifically, the Department:

- **Complied with sex offender website publication requirements for 83 offenders we reviewed, as required by statute**—Our review of files for all 83 offenders we reviewed with Arizona convictions who were classified as risk level 1, were adjudicated in juvenile court, or had been convicted of a sex offense committed prior to June 1996 and had not been assigned a risk level, and whose information was not published on the sex offender website found that the Department was in compliance with sex offender website publication

<sup>4</sup> Based on the various sex offender classifications, characteristics, and statutory requirements for publishing sex offender names, photographs, and other information, we reviewed separate samples or populations of sex offenders (see Appendix A, page a-1, for more information on the samples and populations).

requirements.<sup>5,6</sup> Specifically, none of these 83 offenders met the statutory requirements to be published on the sex offender website.

- **Did not publish required offender information on the sex offender website for 2 of 33 offenders we reviewed, as required by statute**—

We found that the Department had not, but should have, published the names, photographs, and other information for 2 of all 33 offenders with Arizona convictions who had no risk level assigned in the database and whose information was not published on the sex offender website as of April 2021 because they met sex offender website publication requirements. Specifically, documentation in 1 offender's file showed that the offender had been assigned a risk level of 3 by a supervising agency, requiring the publication of the offender's information on the sex offender website. Additionally, documentation in the other offender's file showed that the offender was convicted of having committed sexual conduct with a minor under 12 years of age, which is an offense for which statute requires publication of the offender's information on the sex offender website regardless of risk level. Although for up to 7 months the Department had access to the information in the files that indicated that these offenders' required information should be published on the sex offender website, it had not done so until we brought these offenders to its attention.



- **Improperly published offender information for 3 of 12 offenders we reviewed on the sex offender website, contrary to statute**—

We found that the Department should not have, but had, improperly published information, including names, photographs, and other information, for 3 of all 12 offenders on its sex offender website who had no risk level assigned as of April 2021 because the Department did not have documentation to show these offenders met statutory sex offender website publication requirements. After we brought these 3 offenders to the Department's attention, in April 2021, the Department removed the offenders' information from the sex offender website. This information had been published on the sex offender website between 7 months and 3 years and 4 months.



- **Did not update offenders' photographs for 2 of 15 offenders we reviewed, as required by statute**— We found that the Department did not update offenders' photographs annually for 2 of 15 randomly sampled offenders whose information was on the sex offender website as of February 2021, as statutorily required.<sup>7</sup> For the first offender, although the Department had a current photograph for the offender, it was not published

<sup>5</sup> In addition to classifying offenders by risk level in its sex offender database, the Department also classifies offenders as being adjudicated in juvenile court and being convicted of a sex offense committed prior to June 1996 and not assigned a risk level because these offenders are subject to additional considerations when evaluating community notification and sex offender website publication requirements. Specifically, according to A.R.S. §13-3825(L), community notification does not apply to offenders adjudicated by a juvenile court unless ordered by the court. In accordance with this requirement, the Department reported that it does not publish offenders adjudicated in a juvenile court on the sex offender website. Additionally, prior to 2004, offenders convicted of a sex offense committed prior to June 1996 were not subject to community notification. However, as of 2004 and in accordance with A.R.S. §13-3825(M), nonjuvenile offenders convicted of a sex offense committed prior to June 1996 are subject to community notification if a supervising agency or the court that convicted the offender performs a risk assessment. Further, these offenders are subject to sex offender website publication if they were convicted of an offense for which statute requires the sex offender to be published on the sex offender website.

<sup>6</sup> We queried the Department's sex offender database and found that, as of April 2021, there were 5,041 offenders classified as having a risk level of 1, having been adjudicated in juvenile court, or having been convicted of sex offenses committed prior to June 1996 but not been assigned a risk level, and whose information was not published to the sex offender website. We selected a random sample of 135 of the 5,041 offenders and found that of the 135 offenders sampled, 83 had Arizona convictions and 52 had convictions from other jurisdictions.

<sup>7</sup> We reviewed a random sample of 15 of the 8,679 offenders whose information was published on the sex offender website as of February 2021. Although the random sample was not designed to be generalized to the population of all offenders published on the sex offender website, the methods we used to select the sample provide reasonable assurance that the problem we identified is not isolated to the sample we reviewed.



on the sex offender website. For the second offender, the Department reported that it did not receive an updated photograph from MVD to publish on the sex offender website. In April 2021, after we brought these 2 offenders to the Department's attention, the Department updated the offenders' photographs on the sex offender website. The Department had updated the other 13 offenders' photographs on the sex offender website within the last year.

- **Did not make a determination whether or not 26 of 72 offenders we reviewed met sex offender website publication requirements**—We found that the Department did not make a determination whether or not it should publish the names, photographs, and other information on the sex offender website for 26 of 72 offenders we reviewed with convictions from other jurisdictions.<sup>8</sup> Specifically:
  - For 11 of these offenders, although the Department had the relevant conviction documents, contrary to its process, it had not referred these offenders' files with these documents for legal review to assess whether the offenders met sex offender website publication requirements (see textbox for more information on the Department's process for assessing offenders with convictions from other jurisdictions). After we brought the 11 offenders to the Department's attention, the Department reported that it prepared and/or referred the offenders' files for legal review.
  - For 3 of the offenders, the Department had documented that it had prepared the offenders' files for legal review but could not demonstrate that they were legally reviewed or that it determined whether the offenders met sex offender website publication requirements. The Department reported that it prepared and/or sent the offenders' files to be reviewed after we inquired about these offenders.
  - For 4 of the offenders, the Department did not have conviction documents and could not demonstrate it had requested these documents from other jurisdictions.
  - For 8 of the offenders, the Department had requested conviction documents from other jurisdictions but had not received any or enough documentation to refer these offenders for legal review. Some of these requests had been outstanding for up to 4 years.
  - For the remaining 46 offenders, the Department determined that the offenders did not meet sex offender website publication requirements.

### Department process for assessing offenders with convictions from other jurisdictions

Statute requires the Department to publish on the sex offender website information, including names, photographs, and other information of registered offenders who have been convicted in other jurisdictions of committing offenses that are the same or substantially similar to certain Arizona offenses.<sup>1</sup> The Department has a legal review process to assess whether offenders with convictions from other jurisdictions meet sex offender website publication requirements. When preparing offender files for legal review, prior to July 20, 2021, the Department included conviction documentation and other relevant documentation to facilitate the review.<sup>2</sup> The Department requested offenders' conviction documentation from other jurisdictions as part of preparing offender files for legal review.

<sup>1</sup> A.R.S. §13-3827.

<sup>2</sup> As of July 20, 2021, the Department reported that if conviction documentation was unavailable, it could still prepare offender files for legal review with other relevant documentation. The Department reported that it plans to update its process to reflect this change.

Source: Auditor General staff review of A.R.S. §13-3827, Department policy, and Department staff interviews.

<sup>8</sup> We reviewed a stratified random sample of 72 offenders with convictions from other jurisdictions. Specifically, we queried the Department's sex offender database and found that, as of April 2021, there were 149 offenders with convictions from other jurisdictions that had no risk level assigned and whose information had not been published to the sex offender website and reviewed a random sample of 20 of these offenders' files. The additional 52 offenders we reviewed as part of this sample had convictions from other jurisdictions and were part of the random sample of 135 of the 5,041 offenders explained in footnote 6, page 10. Although the random sample was not designed to be generalized to the population of all registered sex offenders, the methods we used to select the sample provide reasonable assurance that the problem we identified is not isolated to the sample we reviewed.

## **Not publishing or updating offender information on sex offender website may potentially put public safety at risk, and improperly publishing offender information may potentially result in unwarranted public scrutiny of those offenders**

According to Department guidance provided to the public, it is impossible to notify every citizen about a sex offender's presence in their community, whereas the sex offender website provides information to the public so individuals can search for sex offenders in their area and take appropriate precautions. Additionally, according to the Department, supplying the public with information regarding convicted sex offenders is a critical step toward encouraging the public to protect themselves from potential future acts by sex offenders. However, by not publishing or updating offender information on the sex offender website as statutorily required, the Department limits the public's ability to find and/or to be informed of high-risk sex offenders who reside near their home, school, and/or work. As a result, the public may potentially lack information to take precautions to protect themselves from potential future acts by sex offenders. Additionally, the Arizona Department of Real Estate provides information to the public about topics to research before buying a home, which includes information about how to access the sex offender website. However, because the Department has not published some offenders' required information, including names, photographs, and other information, or updated some offenders' information on the sex offender website, this information may not be available to potential homebuyers.

Additionally, the Department recommends that the public show photographs of sex offenders from the sex offender website to family members so they are aware of and can recognize sex offenders in their communities. However, because the Department has not annually updated some offenders' photographs on the sex offender website, the public cannot view the most recent photograph of the sex offenders who may reside near their home, school, and/or work and therefore may not recognize them in their community.

In addition, offenders whose information, including names, photographs, and other information, is published to the sex offender website although they do not meet sex offender website publication requirements may experience unwarranted public scrutiny.

## **Department has not established some oversight and accountability mechanisms to help ensure compliance with sex offender website statutory responsibilities, staff have not followed some Department policies, and MVD did not send Department offender information it needed to update website**

Oversight and accountability mechanisms help ensure that the Department's operations are consistently conducted in accordance with applicable laws and regulations. However, the Department has not established some oversight and accountability mechanisms to ensure that it meets its statutory responsibilities for publishing and updating sex offender information in the sex offender website. Specifically, the Department has not developed all needed policies and procedures to verify, track, and update information to maintain the sex offender website as required by statute. For example, the Department does not have documented processes to:

- Verify, as part of its quality control review, that offenders' risk levels are correctly recorded in the sex offender database, offenders with convictions from other jurisdictions have been referred for legal review to assess whether the offenders meet sex offender website publication requirements, and that the required information for offenders who meet publication requirements is published on the sex offender website.<sup>9</sup> Additionally, it has not established a time frame for conducting these reviews.
- Track and follow up on conviction documents it requests from other jurisdictions, such as other states.

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<sup>9</sup> As of June 2021, the Department had executed an agreement with its sex offender database and website vendor that included automating offender risk level assignments recorded in its sex offender database by using the risk assessments uploaded by supervising and law enforcement agencies.

- Annually publish updated sex offender photos to the sex offender website.

Additionally, Department staff have not followed policies that the Department has established. Specifically:

- The Department has policies for preparing and sending hard copy files for legal review, including preparing files of offenders with no risk level assigned. However, inconsistent with its policies, Department staff reported that prior to July 2021, it would wait for a law enforcement agency to provide it with the offender's risk level before referring the offender's file for legal review. Of the 11 offender files that the Department had not referred for legal review, 8 were for offenders who had not been assigned a risk level. Additionally, the Department reported that its staff were telecommuting in response to the COVID-19 pandemic between March 2020 and June 2021 and were unable to prepare hard copy files for legal review, as required by its policies. It reported that it did not refer for legal review 5 of the files we reviewed for this reason.
- Department policy also requires Department staff to log offender files referred for legal review and the legal review outcome. The Department uses a log to track offender files referred for review, including the date referred, the legal review outcome, and the date of the legal review outcome. However, Department staff did not always log the files referred for legal review and the outcome of these reviews. For example, 3 of the files we reviewed included documentation that the Department had prepared a file for legal review, however, its log did not include the date referred or the legal review outcome for 2 offenders and did not include any information for 1 of the offenders.

Finally, as previously reported (see textbox, page 8), MVD is required to annually provide registered sex offenders' updated photographs to the Department and does so by using an automated process. Specifically, MVD will automatically send updated offender photographs to the Department's sex offender database daily. However, for 1 of the offenders we reviewed, the Department reported that it had not received an updated photo from MVD through this process and had to manually obtain it. Additionally, the Department reported that, as of April 2020, it was not receiving some offenders' photographs from MVD as required. During the audit, the Department's Technical Services Division worked with MVD to resolve this issue and as of August 2021, MVD reported that it had fixed the programming issue that prevented the Department from receiving some offender information.

## Recommendations

The Department should:

1. Publish on the sex offender website offender information, including names, photographs, and other information of sex offenders, as statutorily required, for those offenders who meet statutory publication requirements.
2. Update on the sex offender website photographs of sex offenders, as required by statute.
3. Develop and implement policies and procedures to:
  - a. Verify, as part of its quality control review, that offenders' risk levels are correctly recorded in the sex offender database, offenders with convictions from other jurisdictions have been referred for legal review to assess whether the offenders meet sex offender website publication requirements, and that the required information for offenders who meet publication requirements is published on the sex offender website. Also, establish a time frame for conducting these reviews and monitor for compliance with the established time frame.
  - b. Track and follow up on the requests that it makes to other jurisdictions to obtain conviction documents.
  - c. Annually publish offenders' updated photographs to the sex offender website.
4. Update its policies and procedures for preparing and referring hard copy files for legal review, and ensure its staff comply with them.
5. Refer for legal review the files of sex offenders that it did not refer between March 2020 and June 2021.

6. Ensure that its staff follow its policy to track offender files referred to legal review and the legal review outcome, including logging the date referred, the outcome of the legal review, and the legal review outcome date.
7. Train applicable staff on its existing, updated, and newly implemented policies and procedures for publishing offender information on the sex offender website and quality control review process.

**Department response:** As outlined in its [response](#), the Department agrees with the finding and will implement the recommendations.



Pursuant to A.R.S. §41-2954(D), the legislative committees of reference shall consider but not be limited to the following factors in determining the need for continuation or termination of the Department. The sunset factor analysis includes additional findings and recommendations not discussed earlier in the report.

**Sunset factor 1: The objective and purpose in establishing the Department and the extent to which the objective and purpose are met by private enterprises in other states.**

The Department was established as a State-level law enforcement entity on July 1, 1969. According to A.R.S. §41-1711(A), the Department is responsible for creating and coordinating services for use by local law enforcement agencies in protecting public safety. The Department’s mission is “to provide public safety to the State of Arizona.” To accomplish its mission, the Department performs the following functions:

- **Enforcement**—The Department patrols Arizona highways to enforce State laws and investigate collisions that occur on Arizona highways. Additionally, the Department enforces State laws related to drug trafficking, organized crime, vehicle theft, gangs, computer and financial crimes, and fugitive apprehension. The Department also enforces rules and regulations governing the safe operation of motor carriers, shippers, and vehicles transporting hazardous materials.
- **Licensing and regulation**—The Department regulates private investigators, security guards, school bus drivers, and school buses. Specifically, the Department issues security guard and private investigator agency licenses, security guard and private investigator certificates, and school bus driver certificates, and establishes the *Minimum Standards for School Buses and School Bus Drivers* (Minimum Standards).
- **Public services**—The Department provides additional services that protect the public, including issuing fingerprint clearance cards to applicants and conducting fingerprint-based criminal history records checks for persons and applicants who are seeking licenses or public employment. Additionally, the Department maintains a sex offender website to provide sex offender information to the public.
- **Support services**—The Department operates the central repository to collect, store, and disseminate criminal history records. It is also responsible for operating a State-wide communications system to facilitate the rapid exchange of information between law enforcement agencies. Further, the Department operates 4 regional crime laboratories to provide scientific analysis of evidence, technical crime scene assistance, storage of evidentiary items, and expert testimony to criminal justice agencies in the State.

We did not identify any states that met the Department’s objectives and purposes through private enterprise.

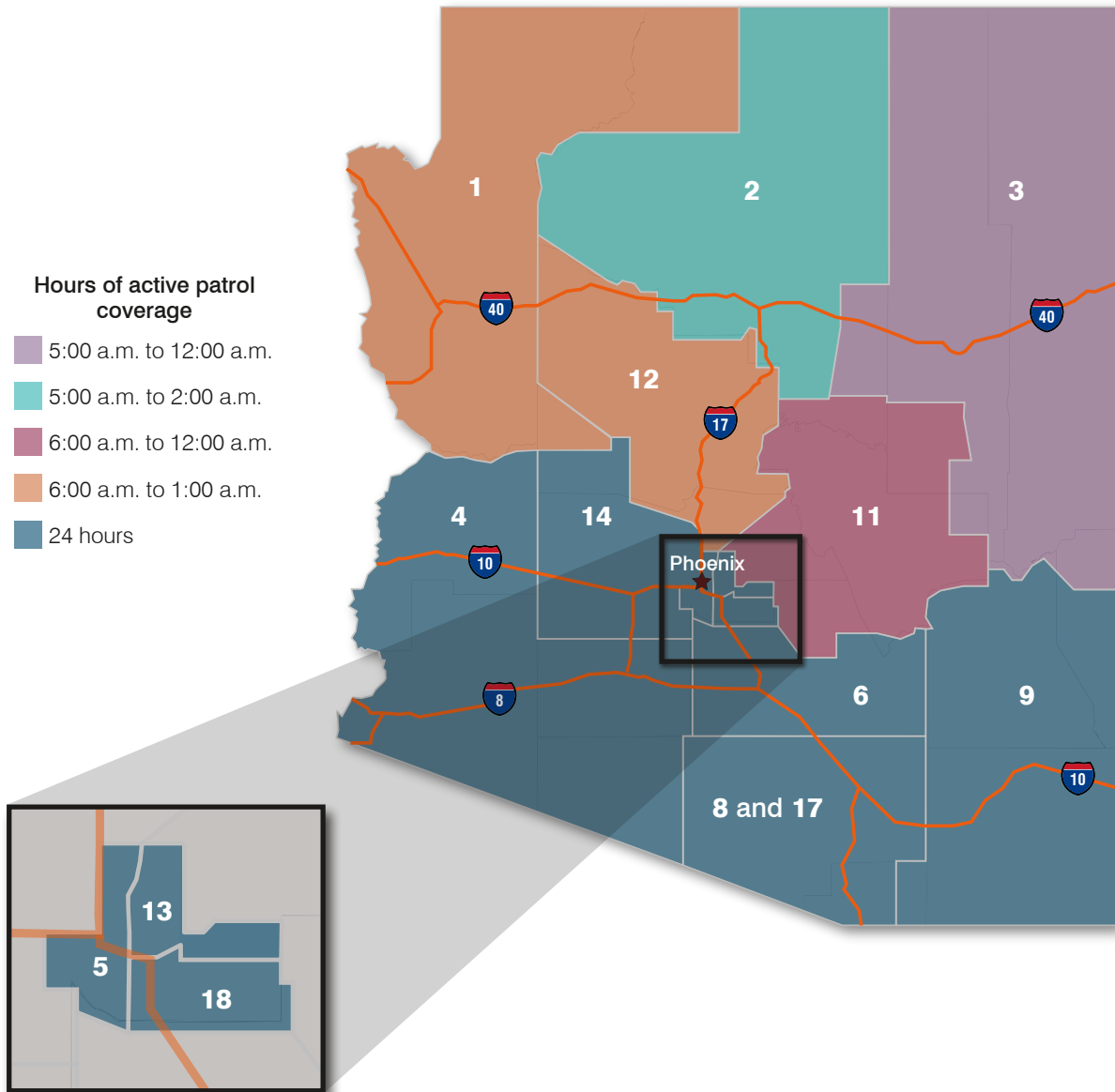
**Sunset factor 2: The extent to which the Department has met its statutory objective and purpose and the efficiency with which it has operated.**

The Department has taken steps to meet its statutory objectives and purposes for some areas we reviewed as follows:

- **Department patrols State highways**—A.R.S. §41-1743 requires the Department’s highway patrol division to patrol Arizona highways day and night, investigate accidents that occur on those highways, and enforce the laws of the State. To help meet this requirement, the Department has established 20 patrol districts within its highway patrol division and assigns its troopers to these patrol districts to provide patrol coverage in specific areas of the State (see Figure 1, page 16, for information about patrol district coverage).

# Figure 1

## Department-reported hours of active patrol coverage as of April 2021, by patrol district<sup>1,2,3</sup>



<sup>1</sup> Although the patrol hours presented reflect the Department's general highway coverage by patrol district, the Department reported that actual hours of coverage may differ for several reasons such as sick leave, time off, firearms training, military reserve leave, and vacancies, amongst other reasons.

<sup>2</sup> The Department reported that for patrol districts that do not have 24-hour patrol coverage, troopers are on call during the hours that the district does not provide patrol coverage.

<sup>3</sup> This figure does not present patrol districts 15 and 16 because they comprise the Department's Commercial Vehicle Enforcement Unit, which operates State-wide to enforce the rules and regulations governing the safety operations of motor carriers, shippers, and vehicles transporting hazardous materials. Additionally, this figure does not present patrol districts 7, 10, 19, and 20 because the boundaries of these patrol districts are included within other patrol districts.

Source: Auditor General staff reproduction of the Department's geospatial information system map of patrol districts, analysis of Department documents, and interviews with Department staff.

The Department assigns its troopers to these patrol districts based on several factors, including but not limited to:

- The number of enforcement actions by patrol district, such as the total number of traffic stops.
- The number of arrests by patrol district, such as the total number of arrests related to illegal drugs and driving under the influence.
- The number of collisions by patrol district, such as the total number of collisions resulting in fatalities.
- Staffing levels as calculated by its staffing allocation model called the Police Allocation Model (see textbox for more information about the Police Allocation Model).

The Department reviews some of this data on a monthly basis and reported that it may adjust the assignments of troopers to its patrol districts, as needed.<sup>10</sup> For example, the Department reported that it adjusted highway coverage to provide special event patrols, such as providing increased patrols at the State Capitol during the 2020 general election. As shown in Figure 1, page 16, the Department reported that it provides 24-hour patrol coverage in the Phoenix metropolitan area and in southern Arizona. However, the Department reported it does not provide active patrol coverage in some patrol districts during some hours of the night and early morning, such as patrol districts that include Interstate 40, which runs through various municipalities, including Holbrook, Flagstaff, and Kingman.<sup>11</sup>

According to Department budget requests and State appropriations reports, the Department requested and was appropriated monies for additional FTE positions to increase the number of troopers patrolling the Phoenix metropolitan area and southern Arizona, including Cochise, Graham, Greenlee, La Paz, Pima, Pinal, Santa Cruz, and Yuma Counties, in fiscal years 2019 and 2020.<sup>12</sup> These appropriations also included monies for associated equipment costs, such as vehicles and radios for these FTE positions. Specifically, the Department was appropriated:

- \$1,444,000 in fiscal year 2019 from the Highway Patrol Fund and \$1,468,800 in fiscal year 2020 from the State General Fund to support 12 additional FTE positions to patrol freeways in the Phoenix Metropolitan area from 8 p.m. to 6 a.m.
- \$2,924,100 in fiscal year 2019 from the Highway Patrol Fund and \$2,974,600 in fiscal year 2020 from the State General Fund to support 24 additional FTE positions to assign more troopers to patrol highways in southern Arizona.
- \$6,433,500 and 30 FTE positions in fiscal year 2020 from the State General Fund to patrol the newly constructed Loop 202 South Mountain Freeway extension in the Phoenix metropolitan area.

<sup>10</sup> The Department reported that it also reviews data from the Arizona Department of Transportation's *Average annual daily traffic report*.

<sup>11</sup> The Department reported that troopers are on call to respond to calls for service during the hours that the patrol district does not provide active patrol coverage.

<sup>12</sup> Based on our review of Department budget requests and State appropriations reports, the Department did not request and was not appropriated additional FTE positions and/or monies to increase the number of troopers patrolling Arizona highways in fiscal years 2021 and 2022.

## Police Allocation Model (model)

This is a model developed by Northwestern University in 1991 that uses historical data and agency policy decisions to determine the number of officers needed to meet an agency's goals for levels of coverage or service.<sup>1,2</sup> In addition to policy decisions, such as desired hours of patrol coverage, it considers workload data, such as the amount of time troopers spend responding to collisions, to calculate required staffing levels. The Department reported that it updates the workload data it uses in the model every 3 years and reviews its policy decisions every year.

<sup>1</sup> Northwestern University was contracted by the National Highway Traffic Safety Administration (NHTSA) to develop a police allocation model for use by state-wide law enforcement agencies. The Department reported that it adopted the model in 1993.

<sup>2</sup> NHTSA sponsored an update to the model in 2007, and the Department reported it uses the 2007 version of the model.

Source: Auditor General staff analysis of Department and NHTSA documents and interviews with Department staff.

- **Department provides for the exchange of information between law enforcement agencies**—A.R.S. §41-1749 requires the Department to provide for the rapid exchange of information between the law enforcement agencies of this State, its counties and municipalities, other states, and the federal government. To help meet this statutory requirement, the Department operates and maintains a State-wide communication system divided into 3 areas within the State—southern, northern, and western. This State-wide communications system enables radio communication between public safety personnel from multiple State agencies, as well as local, federal, and tribal agencies. A failure of this communications system could increase risk to the public as some public safety personnel would be unable to communicate in the field, such as exchanging information about crimes, violations, and suspects.

In 2001, we reported that the Department’s communications system was operating on obsolete analog technology that was no longer being supported by the manufacturer and should be replaced.<sup>13</sup> We recommended that the Department plan for a digital conversion as soon as possible. In 2011, we reported that although the Department had made progress, it had not completed its digital conversion. Since 2001, the Department has requested and received monies for upgrading parts of its communications system. Specifically, the Department completed upgrades to the southern and western areas of the communications system in fiscal years 2011 and 2018, respectively. However, Department staff reported that because it had not received sufficient monies to do so, the northern area has not been upgraded and continues to rely on obsolete analog technology.

#### Advantages of digital technology

- Superior audio quality.
- Preferred technology of telecommunications companies.
- Increased vendor support.
- Highly efficient data transport.
- Decreased maintenance costs.

Source: Arizona Auditor General Report 01-05.

The Department contracted with a consultant to assess the condition of the remaining analog components of its communications system. According to its 2017 risk assessment, the consultant reported that the communications system in the northern area was at an extreme risk of failure and that the replacement components may be unavailable to continue maintaining the obsolete analog system in the event of a system failure. In 2019, the Department’s consultant issued another report on the northern area design, estimating that upgrading the communications system’s northern area would cost more than \$40 million. To address these concerns and upgrade its communications system, the Department requested a \$17.2 million appropriation to support the first year of a 3-year, \$49.2 million project to complete the upgrade of the communications system’s northern region in its fiscal year 2022 budget request to the Governor. Laws 2021, Ch. 408, §119, appropriated the Department approximately \$48 million in fiscal year 2022 from the Highway Patrol Fund to upgrade its communication system.<sup>14</sup>

However, the Department can better meet its statutory objective and purpose and/or improve its efficiency in the following areas:

- **For some offenders we reviewed, Department did not publish or update, or should not but did publish their names, photographs, or other information on the sex offender website, and for some others it did not determine whether they should be published**—Statute requires the Department to maintain a sex offender website for the purpose of providing sex offender information to the public, such as sex offenders’ names, addresses, and photographs.<sup>15</sup> However, we found that the Department had not, but should have, published the required information for 2 of 33 sex offenders whose information was not published

<sup>13</sup> See Arizona Auditor General Report 01-05 *Arizona Department of Public Safety—Telecommunications Bureau* and Arizona Auditor General Report 11-01 *Arizona Department of Public Safety—Followup on Specific Recommendations from Previous Audits and Sunset Factors*.

<sup>14</sup> Laws 2021, Ch. 408, §119, requires the Department to annually report to the Joint Legislative Budget Committee the expenditures and status of the upgrade to the Department’s communication system until the upgrade’s completion. The appropriation for this upgrade does not lapse until the purpose has been accomplished or abandoned, or the appropriation stands for 1 fiscal year without being used.

<sup>15</sup> A.R.S. §13-3827.



on the sex offender website because they met sex offender website publication requirements. Additionally, the Department should not have but had improperly published information, including names and photographs, for 3 of 12 offenders we reviewed because it did not have documentation to show these offenders met statutory sex offender website publication requirements. Further, the Department did not update offenders' photographs for 2 of 15 offenders we reviewed, as required by statute. Finally, the Department did not make a determination whether or not it should publish the required information on the sex offender website for 26 of 72 offenders we reviewed. By not publishing required sex offenders' information on the sex offender website, the Department limits the public's ability to find and/or to be informed of high-risk sex offenders who reside near their home, school, and/or work. Additionally, offenders whose information is published on the sex offender website although they do not meet sex offender website publication requirements may potentially experience unwarranted public scrutiny (see Finding 1, pages 8 through 14).

- **Department did not maintain a complete and accurate central repository of criminal history records**—The Department is statutorily responsible for collecting, storing, and disseminating complete and accurate criminal history records for any individual arrested and/or charged in Arizona with any felony offense or a misdemeanor offense involving domestic violence, a sexual offense, or driving under the influence.<sup>16</sup> The FBI and criminal justice agencies in Arizona and other states rely on the criminal history records in the Arizona central repository, as well as other state and national repositories, to help make decisions that impact public safety. Specifically, the Department uses criminal history records from the central repository, the FBI, and other states when determining to issue a fingerprint clearance card to an applicant. It also conducts fingerprint-based criminal history records checks for authorized entities, such as regulatory agencies or public employers, so that these entities may assess an applicant's fitness to perform duties for which they are seeking licensure or employment, including working with children or other vulnerable populations. Further, criminal justice agencies use criminal history records when making decisions that could help deter further offenses, such as decisions regarding bail, plea bargains, and sentencing repeat offenders.

Although the Department and other criminal justice agencies in the State share statutory responsibility for ensuring the central repository includes complete and accurate criminal history records, the central repository is missing some fingerprint-based offense and disposition records and may be missing more records, which potentially puts public safety at risk. Specifically, criminal justice agencies have not reported and the Department has not entered some records in the central repository. Additionally, the Department could unknowingly issue and has not suspended some fingerprint clearance cards because statute does not require certain offenses to be reported to the central repository. Further, the central repository includes some misdemeanor offenses not authorized for inclusion, which increases the risk of inequitable employment or licensure denials. We recommended that the Department work with criminal justice agencies to collect missing offense and disposition records and continue to research, correct, and/or enter records it receives. We also recommended that the Legislature consider whether all fingerprint clearance card precluding offenses and any additional misdemeanor offenses should be required to be reported to and included in the central repository and modify statute accordingly (see Arizona Auditor General Report 21-110 *Arizona Department of Public Safety—Central Repository of Criminal History Records*).

- **Department used its purchasing and travel cards consistent with Department's and State's accounting policies and procedures for all but 3 of 86 transactions we reviewed**—Our review of 86 fiscal year 2020 purchasing and travel card transactions totaling \$72,564 found that Department staff purchased items that benefited the Department and adhered to Department policies and procedures and the *State of Arizona Accounting Manual* (SAAM) for all but 3 of these purchases.<sup>17,18</sup> Specifically, for 3 transactions, 1 of the Department's divisions did not comply with these policies and procedures, nor did the supervisor

<sup>16</sup> A.R.S. §41-1750.

<sup>17</sup> We judgmentally identified and reviewed 86 fiscal year 2020 purchasing and travel card transactions we determined required further examination for potential noncompliance, fraud, waste, or abuse. These transactions had high-risk characteristics, such as even dollar transactions, transactions occurring outside the standard working days, and transactions close to the threshold for supervisory review.

<sup>18</sup> SAAM is the policies and procedures manual the Arizona Department of Administration (ADOA) General Accounting Office published for the central accounting functions in accordance with statute.

responsible for reviewing the purchase card transactions identify these instances of noncompliance. The Department's purchasing card policy limits transaction amounts to a maximum of \$1,000 and does not allow the purchase to be split to circumvent the limit. For those 3 transactions we reviewed, Department staff circumvented the Department's purchasing card individual transaction limit by charging 3 separate purchasing cards on June 30, 2020, for \$875 each—amounts below the \$1,000 transaction limit—to make a purchase totaling \$2,625 for tactical knives. According to the Department's policy, these items should have been purchased as 1 transaction through its established procurement procedures, such as using a purchase order or obtaining a written quote. Because transaction limits are designed to identify transactions that should go through a competitive procurement process, splitting these purchases circumvented that process and thus, the Department may not have received the most advantageous price when purchasing these tactical knives. The Department reported that some of its staff who performed and reviewed these transactions were unfamiliar with some purchasing card policies, including the prohibition on splitting purchases, and that it would provide purchasing card training to the division staff who made and reviewed these transactions.

- **Department did not follow up on school bus and school bus driver noncompliance that we reported to it**—As required by statute, the Department has developed Minimum Standards for school buses and school bus drivers, including Minimum Standards for the maintenance of school buses and certification of school bus drivers; however, it has not always enforced them.<sup>19</sup> The Department reported that it enforces the Minimum Standards by conducting annual school bus inspections and auditing school bus driver certification records.<sup>20</sup> Although the Department reported conducting approximately 7,900 school bus inspections in fiscal year 2020, it did not specifically follow up on some instances of noncompliance with the Minimum Standards that we identified through performance audits of various school districts in the State and reported to the Department. Specifically, in calendar years 2019 and 2020, we notified the Department of 13 school districts that did not comply with the Minimum Standards, and the Department reported that it took no action as a result of these notifications.<sup>21</sup> These instances of noncompliance included school districts not systematically performing preventative maintenance on their school buses, transporting students in unallowable buses, and not conducting random drug and alcohol tests of their bus drivers. The Department conducted inspections on school buses at these 13 school districts during calendar years 2019 and 2020 and found instances of noncompliance with the Minimum Standards. However, some of the noncompliance issues we identified and reported to the Department were not included within the scope of the Department's inspections. In May 2021, during this performance audit and sunset review of the Department, the Department reported that it modified its procedures to ensure that future school district performance audit notifications are provided to the appropriate enforcement unit for review and potential followup. Additionally, the Department reported that it developed procedures to better track reported noncompliance with the Minimum Standards from our Office or the public.

## Recommendations

The Department should:

8. Train staff who use purchasing cards and supervisory staff responsible for reviewing purchasing card purchases to ensure that purchasing card transactions comply with the Department's policies and procedures and with the SAAM.
9. Review and follow up on the instances of noncompliance with the Minimum Standards for the 13 school districts that we reported to it during calendar years 2019 and 2020.

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<sup>19</sup> A.R.S. §§28-900 and 28-3228.

<sup>20</sup> A.R.S. §28-984 and Arizona Administrative Code R13-13-108 require the Department to inspect each school bus registered in the State annually.

<sup>21</sup> See Arizona Auditor General reports 19-205—*Parker Unified School District*, 19-206—*Solomon Elementary School District*, 19-207—*Camp Verde Unified School District*, 19-208—*Wellton Elementary School District*, 19-209—*Santa Cruz Elementary School District*, 19-210—*Continental Elementary School District*, 19-211—*Douglas Unified School District*, 19-212—*Sunnyside Unified School District*, 20-202—*Topock Elementary School District*, 20-204—*Gadsden Elementary School District*, 20-205—*Hackberry Elementary School District*, 20-207—*Cochise Elementary School District*, and 20-211—*Saddle Mountain Unified School District*.

10. Continue to develop and implement written policies and procedures to track, review, and follow up on instances of noncompliance with the Minimum Standards that are reported to it.

**Department response:** As outlined in its [response](#), the Department agrees with the findings and will implement the recommendations.

### **Sunset factor 3: The extent to which the Department serves the entire State rather than specific interests.**

The Department serves the entire State by promoting public safety State-wide. Specifically, the Department patrols the State's highways, conducts criminal investigations, and responds to and investigates collisions that occur on Arizona highways. Additionally, the Department performs regulatory functions that serve the entire State. For example, the Department licenses and investigates complaints against private investigators and security guards and certifies school bus drivers and inspects school buses. Further, the Department provides services to the public, such as issuing fingerprint clearance cards and conducting fingerprint-based criminal history records checks for applicants seeking licensure or employment from State agencies (see Arizona Auditor General Report 21-110 *Arizona Department of Public Safety—Central Repository of Criminal History Records* for additional information about the Department's responsibility for maintaining a central repository of criminal history records and the use of these records when issuing fingerprint clearance cards and conducting fingerprint-based criminal records checks). According to the Department's fiscal year 2020 annual report, it performed the following activities:

- Patrolled 27,000 State highway miles and conducted approximately 427,000 traffic stops.
- Responded to and investigated more than 9,500 injury collisions.
- Responded to 164 calls for service to investigate vehicular crimes, such as collisions involving serious felony violations.
- Performed 383 gang-related arrests.
- Issued approximately 135,000 fingerprint clearance cards.
- Issued 418 private investigator agency licenses and 1,058 private investigator certificates.
- Issued 163 security guard agency licenses and 19,100 security guard certificates.
- Inspected nearly 7,900 school buses.

Additionally, the Department has generally complied with statutory conflict-of-interest requirements. A.R.S. §38-503 requires public officers and employees of public agencies to make known in the agency's official records any substantial interest and to refrain from participating in decisions in which they have a conflict of interest (see textbox for key terms). In addition, A.R.S. §38-509 requires public agencies to maintain a special file of all documents necessary to memorialize all disclosures of substantial interest, and to make this file available for public inspection.

To help comply with statute, the Department has established a policy and process for its employees to disclose conflicts of interest and maintained a special file memorializing conflict-of-interest disclosures. However, the Department's conflict-of-interest policy does not reflect the Department's conflict-of-interest disclosure process. For example, although the Department's policy directs employees to complete a Department-developed conflict-of-interest form, in practice, employees complete an ADOA conflict-of-

#### **Key terms**

- **Substantial interest**—Any direct or indirect monetary or ownership interest that is not hypothetical and is not defined in statute as a "remote interest."
- **Remote interest**—Any of several specific categories of interest defined in statute that are exempt from the conflict-of-interest requirements. For example, an employee or public officer who is reimbursed for actual and necessary expenses incurred while performing official duties.

Source: Auditor General staff review of A.R.S. §38-502 and the *Arizona agency handbook*. Arizona Office of the Attorney General. (2018). *Arizona agency handbook*. Phoenix, AZ. Retrieved 4/9/2019 from <https://www.azag.gov/outreach/publications/agency-handbook>.

interest form.<sup>22</sup> This outdated policy may cause confusion among Department employees regarding expectations related to conflict-of-interest disclosures.

Further, in response to conflict-of-interest noncompliance and violations investigated in the course of our work, such as employees/public officers failing to disclose substantial interests and participating in matters related to these interests, we have recommended several practices and actions to various school districts, State agencies, and other public entities.<sup>23</sup> Our recommendations are based on guidelines developed by public agencies to manage conflicts of interest in government and are designed to help ensure compliance with State conflict-of-interest requirements by reminding employees/public officers of the importance of complying with the State's conflict-of-interest laws.<sup>24</sup> Specifically, conflict-of-interest recommended practices indicate that all public agency employees and public officers complete a disclosure form annually and that the form include a statement where the public officer or employee can affirm that he or she does not have any conflicts if no conflict exists.

However, the Department's policy only requires Department employees to disclose a conflict of interest when the employees identify the conflict. Based on our review of the Department's special file it maintains in accordance with A.R.S. §38-509, as of April 2021, the file included only 2 conflict-of-interest forms disclosing substantial interests. Finally, although the ADOA conflict-of-interest form requires employees to affirm that they have no conflicts, the Department-developed conflict-of-interest form does not.

## Recommendations

The Department should:

11. Update its policy and procedures to reflect its conflict-of-interest disclosure process and requirements, and train Department employees on its updated process.
12. Remind all employees at least annually to complete a new disclosure form when their circumstances change, such as by requiring its employees to complete annual conflict-of-interest disclosure forms that include a statement where its employees can affirm that they do not have any conflict if no conflict exists.

**Department response:** As outlined in its [response](#), the Department agreed with the Finding and will implement Recommendation 11, but disagreed with the Finding and will not implement Recommendation 12.

### Sunset factor 4: The extent to which rules adopted by the Department are consistent with the legislative mandate.

Our review of the Department's statutes and rules found that the Department has adopted rules when statutorily required to do so.

### Sunset factor 5: The extent to which the Department has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

The Department has encouraged input from the public before adopting rules. Specifically, the Department informed the public of its recent rulemakings and their expected impacts and provided opportunities for public input as part of the rules it finalized in January 2020 and June 2020 related to tow trucks, alcohol testing, and fingerprint

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<sup>22</sup> Both the Department's and ADOA's conflict-of-interest forms instruct employees to record their substantial interests.

<sup>23</sup> See, for example, Arizona Auditor General reports 21-402 *Higley Unified School District—Criminal Indictment—Conspiracy, Procurement Fraud, Fraudulent Schemes, Misuse of Public Monies, False Return, and Conflict of Interest*, 19-105 *Arizona School Facilities Board—Building Renewal Grant Fund*, and 17-405 *Pine-Strawberry Water Improvement District—Theft and Misuse of Public Monies*.

<sup>24</sup> Recommended practices we reviewed included: Organization for Economic Cooperation and Development (OECD). (2003). *Recommendation of the council on guidelines for managing conflicts of interest in the public service*. Paris, France. Retrieved 3/27/2019 from <https://legalinstruments.oecd.org/public/doc/130/130.en.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of Interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 3/27/2019 from <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; and Controller and Auditor General of New Zealand (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 3/5/2021 from <https://oag.parliament.nz/2020/conflicts/docs/conflicts-of-interest.pdf>.

processing fee payment methods. For these rulemakings, the Department published notices of its proposed rulemakings in the Arizona Administrative Register and included a statement detailing these proposed rules' impact on the public. Additionally, the Department provided contact information in the notices for Department staff who would receive public input about the proposed rulemaking and allowed the public to submit written comments on proposed rule changes for at least 30 days after it published the first notice. The Department did not receive public input for the rulemakings we reviewed.

**Sunset factor 6: The extent to which the Department has been able to investigate and resolve complaints that are within its jurisdiction and the ability of the Department to timely investigate and resolve complaints within its jurisdiction.**

The Department receives written and verbal complaints alleging misconduct by its employees. Specifically, the Department receives external complaints—complaints from the public alleging misconduct by Department employees—and internal complaints—complaints submitted by Department employees alleging misconduct by other Department employees. The Department has established complaint and discipline policies and procedures that include steps for receiving, investigating, and resolving complaints alleging employee misconduct. Based on our review of a sample of 20 employee misconduct complaints—14 complaint inquiries and 6 sustained complaints—the Department received in fiscal years 2018 through 2020, the Department (see textbox for additional information about these 2 types of complaints):<sup>25</sup>

**Complaint inquiry**—A complaint alleging a Department employee's misconduct, which can sometimes be resolved by the complainant having an opportunity to discuss the complaint with a Department supervisor, or which necessitates a preliminary review to determine if an investigation is warranted.

**Sustained complaint**—A complaint where the Department finds sufficient facts to support the alleged misconduct.

Source: Auditor General staff analysis of Department's complaint and discipline policies and procedures.

- **Adjudicated complaints within 180 days for complaints we reviewed**—The Department's complaint and discipline policies and procedures state that complaints should be adjudicated in less than 180 days. For the 20 complaints we reviewed, all were adjudicated within 180 days.
- **Did not document reviewing some employees' disciplinary history**—The Department's complaint and discipline policies and procedures state that when disciplining an employee whose complaint has been sustained, it should consider the employee's 10-year disciplinary history. For 3 of 4 sustained complaints that required a review of the employees' 10-year disciplinary history, the complaint files did not include evidence that the employees' disciplinary history was reviewed.<sup>26</sup> These complaints, involving 3 different Department employees, included sustained allegations of performing an improper procedure, discourteous treatment, and dishonesty and commission of a crime. In response to these sustained allegations, the Department disciplined the 3 employees by reprimanding 2 employees—1 who performed the improper procedure and 1 who was discourteous—and terminating the third employee who was dishonest and had allegedly committed a crime. However, absent any documentation, it is unknown if the Department considered prior disciplinary history when disciplining these 3 employees. Our review of these 3 employees' disciplinary history found that the Department previously disciplined these employees by issuing them letters of reprimand and/or instruction for sustained allegations that included performing an improper procedure, inefficiency, misuse of State property, and discourteous treatment.<sup>27</sup>

<sup>25</sup> We selected a stratified random sample of 15 of 486 Department employees with complaints between fiscal years 2018 and 2020 and reviewed their most recent complaint. Additionally, we selected a judgmental sample of 5 Department employees from the 486 employees that had complaints in fiscal years 2018 through 2020, selecting employees that had a previous sustained complaint—a complaint where the Department finds that there are sufficient facts to support the alleged misconduct—and reviewed a subsequent sustained complaint.

<sup>26</sup> The other 2 sustained complaints did not require a review of prior disciplinary history because, during the investigation, the employees had been terminated.

<sup>27</sup> The Department's complaint and discipline policies and procedures define a letter of reprimand as a written form of severe censure and a letter of instruction as a written form of counseling designed to direct a course of corrective action.

- **Did not document resolution of some complaint inquiries we reviewed**—The Department's complaint and discipline policies and procedures state that a supervisor shall provide a brief written account of how a complaint inquiry was resolved. This includes the supervisor discussing the complaint with the complainant and resolving the complaint to the complainant's satisfaction through this discussion or by Department staff conducting a preliminary review to determine that an investigation is not warranted.<sup>28</sup> Based on our review of the 14 complaint inquiries, 12 were resolved to the complainant's satisfaction through a discussion with a Department supervisor, or a preliminary review determined that an investigation was not warranted. However, 2 of the complaint inquiries did not have sufficient information documented to determine if they had been resolved to the complainant's satisfaction or whether they did or did not merit further investigation.
- **Department notified all but 1 external complainant of complaint resolutions for complaints we reviewed**—The Department's complaint and discipline policies and procedures states that all external complainants should be notified of the complaint's outcome. Twelve of the 20 complaints we reviewed required this external notification; however, the Department lacked documentation indicating that 1 external complainant had been notified.

## Recommendations

The Department should:

13. Ensure a review of disciplinary history is conducted and documented when applicable, as required by its complaint and discipline policies and procedures.
14. Document how complaint inquiries were resolved, as required by its complaint and discipline policies and procedures.
15. Notify external complainants of the outcome, as required by its complaint and discipline policies and procedures, and document the complainant notification.

**Department response:** As outlined in its [response](#), the Department agrees with the finding and will implement the recommendations.

### Sunset factor 7: The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under the enabling legislation.

The Attorney General serves as the Department's legal advisor and provides legal services as the Department requires, according to A.R.S. §41-192(A)(1). Additionally, the Attorney General and county attorneys have the authority to prosecute cases that the Department investigates.

### Sunset factor 8: The extent to which the Department has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

According to the Department, there are no deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

### Sunset factor 9: The extent to which changes are necessary in the laws of the Department to adequately comply with the factors listed in this sunset law.

As part of the Department's sunset review, we identified various statutory changes that would enable the Department to better protect public safety and welfare. Specifically, statute allows the Department to issue fingerprint clearance cards to individuals if they have not been convicted of or are not awaiting trial for some offenses

<sup>28</sup> The preliminary review can also reveal misconduct that warrants an investigation, and if the complaint is investigated, it would no longer be classified as a complaint inquiry.

(precluding offenses), such as abuse of a vulnerable adult, first degree murder, child abuse, and shoplifting.<sup>29,30</sup> A fingerprint clearance card applicant must submit a completed fingerprint clearance card application, which includes identifying the agency or agencies that require the individual to obtain a fingerprint clearance card, such as licensing agencies or public employers (sponsoring agencies). To issue fingerprint clearance cards, the Department reviews the applicant's criminal history record in its central repository to identify offenses that would preclude the applicant from receiving a fingerprint clearance card (see Arizona Auditor General Report 21-110 *Arizona Department of Public Safety—Central Repository of Criminal History Records* for information on the Department's review of criminal history records to issue fingerprint clearance cards).<sup>31</sup> The Department can then deny or issue a fingerprint clearance card based on its review of an applicant's criminal history record.<sup>32</sup> If a clearance cardholder is arrested for certain driving under the influence offenses or a precluding offense or convicted of a precluding offense, statute requires the Department to place driving restrictions on, suspend, or revoke the individual's fingerprint clearance card, respectively.<sup>33</sup> Further, the Department is required to notify the sponsoring agency if it places a driving restriction on, suspends, or revokes an individual's fingerprint clearance card.

However, statute does not require a fingerprint clearance cardholder to notify the Department if his or her sponsoring agency changes.<sup>34</sup> For example, if an individual initially applied for and obtained a fingerprint clearance card to qualify for employment at the Arizona Department of Economic Security and subsequently the individual obtains employment at the Arizona State Hospital using his or her existing fingerprint clearance card to qualify for employment, the individual is not required to notify the Department of the new sponsoring agency. Therefore, if a cardholder is arrested for certain driving under the influence offenses or a precluding offense or convicted of a precluding offense, the Department may not have the information it would need to notify the individual's current sponsoring agency. As a result, licensing agencies and public employers may be unaware that a current licensee or employee no longer holds a valid fingerprint clearance card and thus, is no longer qualified to hold a license or be employed by the public employer.

Additionally, as part of our performance audit of the Department's central repository of criminal history records, we recommended that the Legislature consider 3 statutory changes that would enable the Department to better protect public safety and welfare (see Arizona Auditor General Report 21-110 *Arizona Department of Public Safety—Central Repository of Criminal History Records*). Specifically:

- As previously discussed, statute allows the Department to issue fingerprint clearance cards to individuals if they have not been convicted of or are not awaiting trial for some precluding offenses. However, the Department could unknowingly issue fingerprint clearance cards to and has not suspended fingerprint clearance cards of ineligible individuals because statute does not require at least 28 precluding misdemeanor offenses to be reported to and included in the central repository. As a result, the public could potentially be at risk if ineligible individuals are allowed to work in positions for which they are no longer qualified, including positions that involve vulnerable populations. We recommended that the Legislature 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, then modify statute accordingly.

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<sup>29</sup> A.R.S. §§41-1758.03 and 41-1758.07.

<sup>30</sup> Fingerprint clearance cards are valid for 6 years.

<sup>31</sup> The Department also uses criminal history records from the FBI to assess the eligibility of fingerprint clearance card applicants.

<sup>32</sup> The Department is required to place a driving restriction on a fingerprint clearance card if the applicant is awaiting trial or who has been convicted of committing or attempting to commit certain driving under the influence offenses within 5 years from the date of applying for a fingerprint clearance card. Clearance cardholders with a driving restriction are precluded from driving any vehicle to transport the employing agency's employees or clients as part of their employment.

<sup>33</sup> A.R.S. §41-1758.04.

<sup>34</sup> Although clearance cardholders are not required to notify the Department of sponsoring agency changes, the Department has a process to add or remove sponsoring agencies when clearance cardholders notify it of sponsoring agency changes.

- Statute authorizes law enforcement agencies to report felony offenses and misdemeanor offenses involving driving under the influence, sexual offenses, or domestic violence to the central repository and requires the Department to maintain complete and accurate records in the repository.<sup>35</sup> However, our review of central repository data from fiscal year 2019 identified thousands of statutorily classified misdemeanor offenses that were included but were not expressly authorized to be included in the central repository. Maintaining misdemeanor offense records in the central repository that are not expressly authorized by statute to be included increases the risk that individuals may be denied employment or licensure. Specifically, if these offenses are included in the central repository, the Department reported that it discloses these offenses as part of a fingerprint-based criminal history records check that would be conducted as part of some employment application or licensing application decisions. We recommended that the Legislature consider whether additional misdemeanor offenses should be reported to and included in the central repository and modify statute accordingly.
- Statute requires law enforcement agencies to report to the central repository offenses for all individuals who have been arrested for, convicted of, or summoned to court as criminal defendants for felony offenses or misdemeanor offenses involving driving under the influence, sexual offenses, or domestic violence.<sup>36</sup> However, law enforcement agencies have reduced statutory felonies to misdemeanors at the time of arrest and/or citation, and therefore, those felonies were not reported to the central repository. If felony offenses are reduced to misdemeanor offenses and not reported to the central repository, the Department, other agencies, and employers that rely on criminal history records in the central repository could potentially issue, or not suspend, a fingerprint clearance card and license or hire an ineligible individual. We recommended that the Legislature consider revising statute 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.

## Recommendation

16. To help ensure that the Department notifies the appropriate fingerprint clearance card sponsoring agencies of clearance card driving restrictions, suspensions, and revocations, the Legislature should consider revising statute to require fingerprint clearance cardholders to notify the Department of changes in fingerprint clearance card sponsoring agencies.

### **Sunset factor 10: The extent to which the termination of the Department would significantly affect the public health, safety, or welfare.**

Terminating the Department would affect public health, safety, and welfare if its responsibilities were not transferred to another entity. For example, the Department is responsible for enforcing State laws while patrolling the State's highways and working to decrease collisions and fatalities by issuing repair orders, warnings, or citations. Additionally, the Department's Gang Enforcement and Border Strike Force Bureaus investigate criminal activities and enforce State laws related to drug trafficking, organized crime, and human trafficking. The Department operates 4 regional crime laboratories that provide critical services to Arizona law enforcement agencies such as processing sexual assault evidence kits and providing technical crime scene assistance. The Department issues fingerprint clearance cards and conducts criminal history records checks to ensure individuals are safe to work with vulnerable populations, such as children, the elderly, and those with disabilities. Further, the Department maintains the central State repository of criminal history records and the sex offender website.

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<sup>35</sup> A.R.S. §41-1750.

<sup>36</sup> A.R.S. §41-1750.



**Sunset factor 11: The extent to which the level of regulation exercised by the Department compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.**

The level of regulation exercised by the Department appears appropriate and is generally similar to the level of regulation exercised by 3 other states that we judgmentally selected and contacted—California, Nevada, and Virginia.<sup>37</sup> Specifically, Arizona and the 3 other states regulate similar areas, including security guards, private investigators, school buses, and school bus drivers. However, we identified some differences in regulatory structure and frequency of regulation. For example:

- **Regulatory organizational structure**—Although each state we contacted has a state law enforcement agency, some of the Department’s regulatory responsibilities are overseen by different agencies in other states. For example, California, Nevada, and Virginia have separate regulatory agencies that license security guards and private investigators. Additionally, the Nevada State Board of Education and the Virginia Board of Education are responsible for regulating school bus drivers in their respective states.
- **School bus inspections**—The Department, the California Highway Patrol, and Virginia State Police are responsible for performing school bus inspections at least annually. However, the Nevada Department of Public Safety is responsible for performing school bus inspections biannually.
- **School bus owner maintenance requirements**—The Department has established the Minimum Standards, which require that school bus owners, such as school districts, demonstrate that their school buses receive systematic preventative maintenance and inspections, including periodic oil changes, tire and brake inspections, and inspections of safety signals and emergency exits. Further, Virginia requires bus owners to inspect and perform maintenance on school buses at least once every 45 school days or every 5,000 miles. Additionally, California requires bus owners to perform preventative maintenance inspections every 3,000 miles or 45 calendar days. However, neither Nevada’s minimum school bus standards and specifications nor the Department’s Minimum Standards establish a specific frequency for preventative maintenance based on time frames or mileage intervals.

**Sunset factor 12: The extent to which the Department has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.**

As of December 2020, in the performance of its mission-critical activities, the Department used private contractors for crime laboratory services, including DNA analysis, toxicology analysis, and trace analysis. We contacted 3 other states—California, Nevada, and Virginia—to obtain information regarding their state public safety entity’s use of private contractors for mission-critical activities. Two of these states reported that they did not use private contractors for mission-critical activities, and we found that 1 state did not use private contractors for mission-critical activities. Additionally, Nevada reported that it did not have a state crime laboratory and uses local law enforcement agencies’ laboratories, and in Virginia, a separate state entity from its public safety entity oversees the crime laboratory. Virginia’s crime laboratory reported occasionally using private contractors for DNA analysis and controlled substance testing.

We did not identify any additional areas where the Department should consider using private contractors.

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<sup>37</sup> See Appendix A, page a-2, for more information about how we selected these states.



## Border Strike Force history, special appropriations and use, and Department-reported activities

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### Question 1: What is the Border Strike Force?

A.R.S. §41-1711(B) directs the Department to establish services for the prevention of crime, apprehension of violators, and the promotion of public safety. In 2015, at the direction of Governor Doug Ducey, the Department established the Border Strike Force, an enforcement initiative enacted to target border crimes with a focus on identifying, deterring, disrupting, and dismantling transnational criminal organizations. The Department reported its Border Strike Force provides a collaborative approach to conducting enforcement operations designed to intercept, disrupt, and/or deter criminal activity through partnerships with other law enforcement agencies, such as Arizona county sheriff’s offices and the U.S. Marshals Service.

In fiscal year 2016, the Department restructured its Narcotics and Investigations Bureau to create the Border Strike Force Bureau, which includes:

- **Canine District**—This district operates State-wide, and its mission is to detect and apprehend criminal offenders and drug traffickers using 29 trained canines.
- **Southern Investigations District**—This district operates in Arizona’s southern counties, including counties on the Arizona-Mexico border, and is responsible for investigating border-related smuggling, including narcotics and weapons, and associated crimes, such as drug trafficking; conducting narcotics distribution investigations; and responding to calls for investigative assistance from the Highway Patrol and Canine District.
- **Vehicle Theft Task Force**—The task force operates primarily in Maricopa and Pima Counties, and its mission is to identify, apprehend, and prosecute individuals and criminal organizations that profit from the theft of motor vehicles and associated crimes.

As of April 2021, the Border Strike Force Bureau included 109 full-time equivalent (FTE) positions consisting of Department and other agency staff, such as deputies from Pima and Cochise County Sheriff’s Offices.<sup>38</sup>

<sup>38</sup> The Department reported that as of April 2021, 23 of 109 FTE positions are from other agencies.

The Department receives special appropriations from the Legislature to support 16 of these FTE positions—5 troopers in the Canine District, 1 sergeant and 9 troopers/detectives in the Southern Investigations District, and 1 administrative assistant assigned to the entire Border Strike Force Bureau—and to pay for some costs associated with local law enforcement’s participation in the Border Strike Force Bureau (see Question 2 for information about the special appropriations). Further, the Department reported it uses monies from the State General Fund and other funds, such as the Arizona Highway Patrol fund, to support FTE positions within the Border Strike Force Bureau.

## Question 2: Does the Department receive special appropriations to support FTE positions within the Border Strike Force Bureau?

Since fiscal year 2017, to support the ongoing Border Strike Force Bureau’s costs, the Department has received the following 2 annual State General Fund special appropriations that support 2 different functions:<sup>39</sup>

- Ongoing special appropriation**—The Department receives a special appropriation from the State General Fund to pay for 37 Department FTE positions and associated operating costs. As reported in Table 2, the Department received more than \$8 million in fiscal year 2021 to pay for these positions. As previously mentioned, 16 of these FTE positions were part of the Border Strike Force Bureau. The remaining 21 positions were assigned to work in other areas of the Department (see Question 3, page 30, for information on how the Department uses the 21 FTE positions supported by this ongoing special appropriation).
- Local support special appropriation**—The Department also receives another State General Fund special appropriation to pay for some costs associated with local law enforcement’s participation in the Border Strike Force Bureau and to provide grants to local governments. As shown in Table 2, the Department received \$1.26 million annually in fiscal years 2017 through 2021 for these costs. The Department used these appropriated monies to pay for up to 75 percent of personal services and employee-related expenses for positions filled by officers from local law enforcement agencies who agreed to participate in Border Strike Force activities. Additionally, a portion of the appropriation was used to provide grants to local governments for the prosecution and imprisonment of individuals charged with crimes such as drug trafficking, human smuggling, and illegal immigration.

**Table 2**  
**Special annual appropriations to support Border Strike Force Bureau**  
**Fiscal years 2017 through 2021**

| Appropriation                       | 2017           | 2018           | 2019           | 2020           | 2021           |
|-------------------------------------|----------------|----------------|----------------|----------------|----------------|
| Ongoing special appropriation       | \$6.8 million  | \$7.06 million | \$7.10 million | \$7.90 million | \$8.60 million |
| Local support special appropriation | \$1.26 million | \$1.26 million | \$1.26 million | \$1.26 million | \$1.26 million |

Source: Auditor General staff review of the State appropriations reports for fiscal years 2017 through 2021.

<sup>39</sup> In fiscal year 2017, the Department also received a one-time total appropriation of \$18.6 million from the State General Fund, Automobile Theft Authority Fund, and the Drug and Gang Prevention Resource Center Fund to support initial costs, which included purchasing additional patrol vehicles, a helicopter, and other equipment.

### Question 3: How does the Department use the FTE positions supported by the ongoing special appropriation within other Department areas?

In 2016, as required by Laws 2016, Ch. 117, §87, the Department prepared and submitted an expenditure plan for the Joint Legislative Budget Committee’s (JLBC) review and approval prior to spending any of its fiscal year 2017 ongoing special appropriation monies.<sup>40</sup> JLBC reviewed and approved the Department’s expenditure plan for these monies, including the use of the 37 FTE positions, some of which JLBC approved to be assigned to other areas. Specifically, the approved Department expenditure plan included assigning some positions to the Department’s Highway Patrol Division to enhance patrol coverage in southern Arizona, to its Aviation Bureau to provide medical support to border security efforts, and to other Department areas.<sup>41</sup> Consistent with its expenditure plan, as of March 2021, the Department had assigned 16 of these FTE positions to its Border Strike Force Bureau and the remaining 21 FTE positions to other Department areas. See Table 3 for additional information about each of the 21 FTE positions that are assigned to other Department areas.

**Table 3**  
**21 Department FTE positions supported by the ongoing special appropriation assigned to Department areas other than Border Strike Force Bureau<sup>1</sup>**  
**As of March 2021**

| FTE                                     | Position description            | Department area                             |
|---|---------------------------------|---|
| <b>Agency Support Division</b>          |                                 |   |
| 1                                       | Administrative services officer | Aviation Bureau                             |
| 1                                       | Aircraft technician             | Aviation Bureau                             |
| 1                                       | Fixed wing pilot                | Aviation Bureau                             |
| 1                                       | Rotary wing pilot               | Aviation Bureau                             |
| 1                                       | State trooper                   | Aviation Bureau                             |
| <b>Criminal Investigations Division</b> |                                 |   |
| 1                                       | Administrative services officer | Budget staff                                |
| 2                                       | Criminal intelligence analyst   | Intelligence Bureau                         |
| <b>Highway Patrol Division</b>          |                                 |   |
| 1                                       | Sergeant                        | Southern Highway Patrol Bureau <sup>2</sup> |
| 11                                      | State trooper                   | Southern Highway Patrol Bureau <sup>2</sup> |
| <b>Technical Services Division</b>      |                                 |   |
| 1                                       | Forensic scientist              | Scientific Analysis Bureau                  |

<sup>1</sup> As previously discussed, the Department has assigned 16 additional FTE positions supported by the ongoing special appropriation to the Border Strike Force Bureau.

<sup>2</sup> The Southern Highway Patrol Bureau is responsible for providing highway patrol coverage for the counties along the State’s southern border.

Source: Auditor General staff review of Department documents.










<sup>40</sup> The Department was not required to prepare an expenditure plan prior to spending ongoing special appropriations monies for fiscal years 2018, 2019, 2020, and 2021.

<sup>41</sup> During its review of the Department’s expenditure plan, JLBC reported that the planned allocation of these FTE positions was similar to the legislative intent for the expenditure of these monies.

## Question 4: What are some of the Border Strike Force Bureau activities?

As previously reported, the Border Strike Force Bureau conducts enforcement operations designed to intercept, disrupt, and/or deter criminal activities, and its operations include activities in Arizona’s southern counties and other parts of the State. According to the Department’s fiscal year 2020 annual report, these efforts have resulted in arrests, recovery of stolen vehicles, and the seizure of narcotics, firearms, vehicles, and currency.<sup>42</sup> The Department annually reports its Border Strike Force Bureau activities, which are not exclusive to positions supported by its ongoing special appropriation. Additionally, based on our review of Department records, some reported Border Strike Force Bureau activities are not limited to activities in the 4 Arizona counties that border Mexico. For example, the Department’s fiscal year 2020 Border Strike Force Bureau reported activities included seizures of narcotics in Mohave and Greenlee Counties. See Table 4 for fiscal year 2020 Border Strike Force Bureau seizure activities as reported by the Department.

**Table 4**  
**Border Strike Force Bureau seizure activities, as reported by the Department**  
**Fiscal year 2020**  
(Unaudited)

| Seizures  | Southern Investigations | Canine District | Total          |
|---|-------------------------|-----------------|----------------|
|  Ammunition        | 45,126 rounds           | 66,522 rounds   | 111,648 rounds |
|  Currency          | \$504, 095              | \$7,405,725     | \$7,909,820    |
| <b>Narcotics</b>  |                         |                 |                |
|  Cocaine           | 117 lbs.                | 189 lbs.        | 306 lbs.       |
|  Fentanyl         | 81 lbs.                 | 54 lbs.         | 135 lbs.       |
|  Heroin          | 13 lbs.                 | 36 lbs.         | 49 lbs.        |
|  Marijuana       | 1,300 lbs.              | 3,741 lbs.      | 5,041 lbs.     |
|  Methamphetamine | 2,469 lbs.              | 1,287 lbs.      | 3,756 lbs.     |
|  Vehicles        | 93                      | 0               | 93             |
|  Weapons         | 145                     | 37              | 182            |

Source: Auditor General staff review of Department’s fiscal year 2020 annual report.

<sup>42</sup> In fiscal year 2020, the Department reported its Vehicle Theft Task Force was responsible for the recovery of 1,512 stolen vehicles valued at over \$22 million.



# SUMMARY OF RECOMMENDATIONS

## Auditor General makes 15 recommendations to the Department and 1 recommendation to the Legislature

The Department should:

1. Publish on the sex offender website offender information, including names, photographs, and other information of sex offenders, as statutorily required, for those offenders who meet statutory publication requirements (see Finding 1, pages 8 through 14, for more information).
2. Update on the sex offender website photographs of sex offenders, as required by statute (see Finding 1, pages 8 through 14, for more information).
3. Develop and implement policies and procedures to:
  - a. Verify, as part of its quality control review, that offenders' risk levels are correctly recorded in the sex offender database, offenders with convictions from other jurisdictions have been referred for legal review to assess whether the offenders meet sex offender website publication requirements, and that the required information for offenders who meet publication requirements is published on the sex offender website. Also, establish a time frame for conducting these reviews and monitor for compliance with the established time frame.
  - b. Track and follow up on the requests that it makes to other jurisdictions to obtain conviction documents.
  - c. Annually publish offenders' updated photographs to the sex offender website (see Finding 1, pages 8 through 14, for more information).
4. Update its policies and procedures for preparing and referring hard copy files for legal review, and ensure its staff comply with them (see Finding 1, pages 8 through 14, for more information).
5. Refer for legal review the files of sex offenders that it did not refer between March 2020 and June 2021 (see Finding 1, pages 8 through 14, for more information).
6. Ensure that its staff follow its policy to track offender files referred to legal review and the legal review outcome, including logging the date referred, the outcome of the legal review, and the legal review outcome date (see Finding 1, pages 8 through 14, for more information).
7. Train applicable staff on its existing, updated, and newly implemented policies and procedures for publishing offender information on the sex offender website and quality control review process (see Finding 1, pages 8 through 14, for more information).
8. Train staff who use purchasing cards and supervisory staff responsible for reviewing purchasing card purchases to ensure that purchasing card transactions comply with the Department's policies and procedures and with the SAAM (see Sunset Factor 2, pages 15 through 21, for more information).
9. Review and follow up on the instances of noncompliance with the Minimum Standards for the 13 school districts that we reported to it during calendar years 2019 and 2020 (see Sunset Factor 2, pages 15 through 21, for more information).

10. Continue to develop and implement written policies and procedures to track, review, and follow up on instances of noncompliance with the Minimum Standards that are reported to it (see Sunset Factor 2, pages 15 through 21, for more information).
11. Update its policy and procedures to reflect its conflict-of-interest disclosure process and requirements, and train Department employees on its updated process (see Sunset Factor 3, pages 21 through 22, for more information).
12. Remind all employees at least annually to complete a new disclosure form when their circumstances change, such as by requiring its employees to complete annual conflict-of-interest disclosure forms that include a statement where its employees can affirm that they do not have any conflict if no conflict exists (see Sunset Factor 3, pages 21 through 22, for more information).
13. Ensure a review of disciplinary history is conducted and documented when applicable, as required by its complaint and discipline policies and procedures (see Sunset Factor 6, pages 23 through 24, for more information).
14. Document how complaint inquiries were resolved, as required by its complaint and discipline policies and procedures (see Sunset Factor 6, pages 23 through 24, for more information).
15. Notify external complainants of the outcome, as required by its complaint and discipline policies and procedures, and document the complainant notification (see Sunset Factor 6, pages 23 through 24, for more information).

The Legislature should:

1. To help ensure that the Department notifies the appropriate fingerprint clearance card sponsoring agencies of clearance card driving restrictions, suspensions, and revocations, consider revising statute to require fingerprint clearance cardholders to notify the Department of changes in fingerprint clearance card sponsoring agencies (see Sunset Factor 9, pages 24 through 26, for more information).



## Scope and methodology

The Arizona Auditor General has conducted a performance audit and sunset review of the Department pursuant to a September 19, 2018, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review process prescribed in A.R.S. §41-2951 et seq.

We used various methods to review the objectives and issues in this performance audit and sunset review. These included reviewing Department statutes, rules, and policies and procedures; interviewing Department staff; and reviewing Department documentation and information from the Department's website. We also used the following specific methods to meet the audit objectives:

- To determine whether the Department updated and maintained the sex offender website in compliance with statutory requirements, we reviewed/analyzed:
  - A random sample of 83 offenders with Arizona convictions who were classified as risk level 1, were adjudicated in juvenile court, or had been convicted of a sex offense committed prior to June 1996 and had not been assigned a risk level, and whose information was not published on the sex offender website.<sup>43</sup>
  - All 33 offenders with Arizona convictions who had no risk level assigned and whose information was not published on the sex offender website as of April 2021.
  - All 12 offenders whose names, photographs, and additional information was published on the sex offender website and who had no risk level assigned as of April 2021.
  - A random sample of 15 of 8,679 offenders whose information was published on the sex offender website as of February 2021.
  - A stratified random sample of 72 offenders with convictions from other jurisdictions.<sup>44</sup>
- To assess the Department's internal controls related to its use of purchasing and travel cards, we judgmentally identified and reviewed 86 fiscal year 2020 purchasing and travel card transactions we determined required further examination for potential noncompliance, fraud, waste, or abuse. These transactions had high-risk characteristics, such as even-dollar transactions, transactions occurring outside the standard working days, and transactions close to the threshold for supervisory review.

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<sup>43</sup> We queried the Department's sex offender database and found that, as of April 2021, 5,041 offenders were classified as having a risk level of 1, having been adjudicated in juvenile court, or having been convicted of committing a sex offenses prior to June 1996 but not been assigned a risk level, and whose information was not published on the sex offender website. We selected a random sample of 135 of the 5,041 offenders and found that, of the 135 offenders sampled, 83 had Arizona convictions.

<sup>44</sup> We queried the Department's sex offender database and found that, as of April 2021, there were 149 offenders with convictions from other jurisdictions that had no risk level assigned and whose information had not been published on the sex offender website and reviewed a random sample of 20 of these offenders' files. The additional 52 offenders we reviewed as part of this sample had convictions from other jurisdictions and were part of the random sample of 135 of the 5,041 offenders explained in footnote 43 above.



- To determine if the Department followed up with school bus and school bus driver noncompliance that we reported to it in calendar years 2019 and 2020, we reviewed statute, administrative rule, applicable Arizona Auditor General reports, and Department documentation.<sup>45</sup>
- To assess the Department's compliance with State conflict-of-interest requirements, we reviewed statute, the Department's conflict-of-interest policy, the Department's conflict-of-interest forms, and applicable recommended practices.<sup>46</sup>
- To assess the Department's complaint-resolution process, including timeliness of complaint resolution and compliance with its complaint and discipline policies and procedures, we reviewed a sample of 20 employee misconduct complaints the Department received in fiscal years 2018 through 2020.<sup>47</sup>
- To compare the Department's regulatory activities and use of private contractors with other states, we judgmentally selected 3 states—California, Nevada, and Virginia—for comparison to the Department.<sup>48</sup> We reviewed these states' statutes and websites and contacted staff in the 3 states to learn more about their regulatory responsibilities and/or use of contractors.
- To provide information on the Department's Border Strike Force Bureau, we reviewed the Department's annual reports, budget requests, Department-provided staffing information as of April 2021, Department-provided Border Strike Force Bureau activity information for fiscal year 2020, minutes from the June 2016 Joint Legislative Budget Committee meeting, and State appropriations reports for fiscal years 2017 through 2021.
- To obtain information for the Introduction, we obtained staffing and vacancy information from the Department and reviewed the Department's website, annual reports, and statute. In addition, we compiled and analyzed unaudited financial information from the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2018 through 2021 and the State of Arizona *Annual Financial Report* for fiscal years 2018 and 2020.
- Our work on internal controls included reviewing the Department's policies and procedures and, where applicable, testing the Department's compliance with these policies and procedures, testing compliance with statutory requirements, and interviewing Department staff. We also assessed the reliability of information published on the sex offender website by reviewing the Department's internal controls related to logical access for publishing sex offender information on the sex offender website. Our work included reviewing the following components of internal control:
  - Control environment—including the Department's oversight of its internal control system and holding individuals accountable for their internal control responsibilities.

<sup>45</sup> See Arizona Auditor General reports 19-205—*Parker Unified School District*, 19-206—*Solomon Elementary School District*, 19-207—*Camp Verde Unified School District*, 19-208—*Wellton Elementary School District*, 19-209—*Santa Cruz Elementary School District*, 19-210—*Continental Elementary School District*, 19-211—*Douglas Unified School District*, 19-212—*Sunnyside Unified School District*, 20-202—*Topock Elementary School District*, 20-204—*Gadsden Elementary School District*, 20-205—*Hackberry Elementary School District*, 20-207—*Cochise Elementary School District*, and 20-211—*Saddle Mountain Unified School District*.

<sup>46</sup> Recommended practices we reviewed included the following: Organization for Economic Cooperation and Development (OECD). (2003) *Recommendation of the council on guidelines for managing conflicts of interest in the public service*. Paris, France. Retrieved 3/27/2019 from: <https://legalinstruments.oecd.org/public/doc/130/130.en.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of Interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 3/27/2019 from: <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; and Controller and Auditor General of New Zealand. (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 3/5/21 from: <https://oag.parliament.nz/2020/conflicts>.

<sup>47</sup> We selected a stratified random sample of 15 of the 486 Department employees with complaints between fiscal years 2018 and 2020 and reviewed their most recent complaint. Additionally, we selected a judgmental sample of 5 Department employees from the 486 employees that had complaints in fiscal years 2018 through 2020, selecting employees who had a previous sustained complaint—a complaint where the Department finds sufficient facts to support the alleged misconduct—and reviewed a subsequent sustained complaint.

<sup>48</sup> We judgmentally selected these states based on their state-level law enforcement agency's organizational structure.

- Control activities—including the design of control activities, design activities for information systems, and implementing control activities through policies.
- Information and communication—including using quality information and communicating with external parties.

We reported our conclusions on these internal controls and, the efforts the Department needs to take to improve them in Finding 1 as well as Sunset Factors 2, 3, and 6 of the report.

We selected our audit samples to provide sufficient evidence to support our findings, conclusions, and recommendations. Unless otherwise noted, the results of our testing using these samples were not intended to be projected to the entire population.

We conducted this performance audit of the Department in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We express our appreciation to the Department Director and staff for their cooperation and assistance throughout the audit.



## Auditor General’s comments on Department response

We appreciate the Department’s response including its agreement with all but 1 of the findings and its plan to implement all but 1 of the recommendations. However, the Department has included certain statements in its response that necessitate the following clarifications:

Although the Department does not provide specific information, it makes a broad statement that “...some of the headings throughout the report are missing context and could be misleading” (see Department’s response, page 1). Further, even though the Department agrees with Finding 1 and plans to implement our recommendations, the Department’s response incorrectly states that, “Of the 14,932 registered sex offenders, the Auditor General found two instances where the Department did not publish two offenders, improperly published three offenders and did not update the photographs of two offenders” (see Department’s response, page 2).

**We disagree with the Department’s statement that our headings are missing context and could be misleading. Further, the Department’s statements appear to mischaracterize and minimize what we found. These findings are based on the results of our review and analysis of multiple random samples and populations of sex offenders as indicated in Finding 1 (see pages 8 through 14) and the Scope and methodology appendix (see page a-1). Specifically, we did not review the entire Department-reported population of 14,932 registered sex offenders as the Department suggests, but rather, we reviewed random samples from the population of registered sex offenders and found concerning deficiencies within those samples. Although the random samples we report in Finding 1 were not designed to be generalized to the population of registered sex offenders or the population of offenders published on the sex offender website, the methods we used to select these samples provide reasonable assurance that the problems we identified are not isolated to the samples we reviewed. Our report provides sufficient evidence to support our conclusions, clearly states the results of our review, and provides the necessary context to understand our findings.**

# DEPARTMENT RESPONSE



# ARIZONA DEPARTMENT OF PUBLIC SAFETY

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*“Courteous Vigilance”*

DOUGLAS A. DUCEY  
Governor

HESTON SILBERT  
Director

September 27, 2021

Lindsey A. Perry, CPA, CFE  
Auditor General  
Arizona Auditor General’s Office  
2910 N. 44<sup>th</sup> St., Suite 410  
Phoenix, AZ 85018-7271

Dear Ms. Perry:

Enclosed is the Arizona Department of Public Safety’s response to the Auditor General’s Sunset Factor Report. We appreciate the Auditor General incorporating some of our recommended changes. We would be remiss if the Department did not restate its concern that some of the headings throughout the report are missing context and could be misleading.

Sincerely,

Heston Silbert, Colonel  
Director

**Finding 1:** For some offenders we reviewed, Department did not publish or update, or should not but did publish their names, photographs, or other information on the sex offender website, and for some others it did not determine whether they should be published, potentially increasing public safety risk

**Recommendation 1:** The Department should publish on the sex offender website offender information, including names, photographs, and other information of sex offenders, as statutorily required, for those offenders who meet statutory publication requirements.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Of the 14,932 registered sex offenders, the Auditor General found two instances where the Department did not publish two offenders, improperly published three offenders and did not update the photographs of two offenders.

**Recommendation 2:** The Department should update on the sex offender website photographs of sex offenders as required by statute.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Of the 14,932 registered sex offenders, the Auditor General found two instances where the Department did not update the photographs of two offenders.

**Recommendation 3a:** The Department should develop and implement policies and procedures to verify, as part of its quality control review, that offenders' risk levels are correctly recorded in the sex offender database, offenders with convictions from other jurisdictions have been referred for legal review to assess whether the offenders meet sex offender website publication requirements, and that the required information for offenders who meet publication requirements is published on the sex offender website. Also, establish a time frame for conducting these reviews and monitor for compliance with the established time frame.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 3b:** The Department should develop and implement policies and procedures to track and follow up on the requests that it makes to other jurisdictions to obtain conviction documents.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 3c:** The Department should develop and implement policies and procedures to annually publish offenders' updated photographs to the sex offender website.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 4:** The Department should update its policies and procedures for preparing and referring hard copy files for legal review, and ensure its staff comply with them.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 5:** The Department should refer for legal review the files of sex offenders that it did not refer between March 2020 and June 2021.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 6:** The Department should ensure that its staff follow its policy to track offender files referred to legal review and the legal review outcome, including logging the date referred, the outcome of the legal review, and the legal review outcome date.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 7:** The Department should train applicable staff on its existing, updated, and newly implemented policies and procedures for publishing offender information on the sex offender website and quality control review process.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Sunset Factor 2:** The extent to which the Department has met its statutory objective and purpose and the efficiency with which it has operated.

**Recommendation 8:** The Department should train staff who use purchasing cards and supervisory staff responsible for reviewing purchasing card purchases to ensure that purchasing card transactions comply with the Department's policies and procedures and with the SAAM.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: DPS employees must attend the P-Card training before issuance of the cards. Additionally, DPS's Financial Services Bureau (FSB) posts any consistent issues with the P-Card usage on the DPS Portal for all employees to review. FSB also worked with all Divisions to review current P-Card holders in June 2021, reducing open accounts from 295 to 278. FSB and Procurement Bureau conducted training with employees who had compliance issues during GAO's review in 2021. Monthly, FSB reaches out to the employee, employee's supervisor, and the budget coordinator to train them if they are not in compliance. Finally, a DPS-specific P-Card Manual is in its final stage of GAO's review, providing better guidance to DPS employees. Procurement also presented information which included a segment on P-Cards during the Basic Supervisor School in August 2021. FSB will also be training at the Highway Patrol's Professional Staff summit in October 2021 to highlight details on P-Card usage.

**Recommendation 9:** The Department should review and follow up on the instances of noncompliance with the Minimum Standards for the 13 school districts that we reported to it during calendar years 2019 and 2020.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 10:** The Department should continue to develop and implement written policies and procedures to track, review, and follow up on instances of noncompliance with the Minimum Standards that are reported to it.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Sunset Factor 3:** The extent to which the Department serves the entire State rather than specific interests.

**Recommendation 11:** The Department should update its policy and procedures to reflect its conflict-of-interest disclosure process and requirements, and train Department employees on its updated process.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department has started the process to review General Order 2.1.20, *Conflict of Interest* for amendments. The order will be reviewed to ensure it reflects the conflict-of-interest disclosure process and requirements of the Department. Employees will be notified of the amendments when the new order is signed by the Director and published to the Department, as well as instruction to use the DPS-prescribed form and not the ADOA form.

**Recommendation 12:** The Department should remind all employees at least annually to complete a new disclosure form when their circumstances change, such as by requiring its employees to complete annual conflict-of-interest disclosure forms that include a statement where its employees can affirm that they do not have any conflict if no conflict exists.

Department response: The finding of the Auditor General is not agreed to and the recommendation will not be implemented.

Response explanation: The Department of Public Safety appreciates the Auditor General's Office recommendation. All employees receive conflict-of-interest training during new employee orientation. The changes to the policy will clarify when a conflict-of-interest disclosure is required. Currently, conflict-of-interest disclosures are signed by all personnel involved in every procurement process, and the current internal processes are determined to be sufficient. The agency notes that the Auditor General's Office did not find a conflict-of-interest incident during the audit process.



**Sunset Factor 6:** The extent to which the Department has been able to investigate and resolve complaints that are within its jurisdiction and the ability of the Department to timely investigate and resolve complaints within its jurisdiction.

**Recommendation 13:** The Department should ensure a review of disciplinary history is conducted and documented when applicable, as required by its complaint and discipline policies and procedures.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 14:** The Department should document how complaint inquiries were resolved, as required by its complaint and discipline policies and procedures.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

**Recommendation 15:** The Department should notify external complainants of the outcome, as required by its complaint and discipline policies and procedures, and document the complainant notification.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Provided the complainant is not anonymous, and the Department has contact information.

**Sunset Factor 9:** The extent to which changes are necessary in the laws of the Department to adequately comply with the factors listed in this sunset law.

**Recommendation 16:** To help ensure that the Department notifies the appropriate fingerprint clearance card sponsoring agencies of clearance card driving restrictions, suspensions, and revocations, the Legislature should consider revising statute to require fingerprint clearance cardholders to notify the Department of changes in fingerprint clearance card sponsoring agencies.

Response explanation: A Department response is not required since the recommendation is to the Legislature.

