



ARIZONA DEPARTMENT OF PUBLIC SAFETY

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“Courteous Vigilance”

DOUGLAS A. DUCEY
Governor

HESTON SILBERT
Director

August 10, 2021

Ms. Lindsey A. Perry, Auditor General
Arizona Auditor General’s Office
2910 N. 44th St., Ste. 410
Phoenix, AZ 85018

Dear Ms. Perry:

As requested, enclosed is the Department’s response to the 2021 Central Repository of Criminal History Records Audit. The responses address the findings outlined in the preliminary report draft as well as the decision to implement the recommendation made by the Arizona Auditor General’s Office.

Sincerely,

Heston Silbert, Colonel
Director

Enclosure

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

Recommendation 1: The Department should maintain a complete criminal history records repository that includes all applicable fingerprint-based offense records and their associated dispositions by continuing its efforts to fill the 10 vacant FTE positions in its criminal history records unit.

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

Recommendation 2: The Department should maintain a complete criminal history records repository that includes all applicable fingerprint-based offense records and their associated dispositions by continuing to research, correct, and/or enter the backlogged offense and disposition records it has received.

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

Recommendation 3: The Department should maintain a complete criminal history records repository that includes all applicable fingerprint-based offense records and their associated dispositions by developing and implementing a formal process for regularly requesting missing offense records, such as sending a letter to the criminal justice agencies that will be audited in a given year, to request the agency send any paper offense records to the Department to be entered into the central repository.

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

Recommendation 4: The Department should maintain a complete criminal history records repository that includes all applicable fingerprint-based offense records and their associated dispositions by enhancing its audits of criminal justice agencies by establishing and implementing a process, policies, and procedures to:

Recommendation 4a: Notify all criminal justice agencies at fault for not reporting a disposition record.

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

Recommendation 4b: Depending on the severity of missing disposition records, request that the prosecuting agencies and courts undertake a more comprehensive review of their disposition records to ensure they meet the statutory requirement to report disposition records to the repository.

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

Recommendation 5: The Department should maintain a complete criminal history records repository that includes all applicable fingerprint-based offense records and their associated

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

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

Recommendation 6: The Department should maintain a complete criminal history records repository that includes all applicable fingerprint-based offense records and their associated dispositions by developing and implementing a risk-based approach using calculated disposition reporting rates to identify criminal justice agencies that have the highest rate of missing dispositions and working with these criminal justice agencies to improve the completeness of the central repository by providing focused training and guidance to address gaps.

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

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

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

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

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

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

Recommendation 9: The Department should continue to monitor proposed legislation that may impact what fingerprint clearance card precluding offenses are required to be reported to and included in the central repository and work with the Legislature as needed 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.

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

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

Recommendation 10a: Modify its practice to ensure all fingerprint clearance card precluding offenses are reported to and included in the central repository.

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

Recommendation 10b: Notify its troopers and criminal justice agency liaisons of any changes to the fingerprint clearance card precluding offenses that are required to be reported to and included in the central repository.

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

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

Recommendation 11: The Legislature should consider whether additional misdemeanor offenses should be reported to and included in the central repository and modify A.R.S. §41-1750, accordingly.

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

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

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

Recommendation 13: The Department should:

Recommendation 13a: Modify its practice to include in the central repository only offenses expressly authorized by A.R.S. §41-1750, including any changes the Legislature makes as proposed in recommendation 11.

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

Response explanation: Limiting the reporting requirements to the four mandatory reportable offenses will not accurately portray one's criminal history and will have an adverse impact to public safety and the criminal justice system as a whole. There are numerous misdemeanor offenses which precludes an individual from obtaining a fingerprint clearance card license or employment with vulnerable populations. Arizona's criminal justice system relies on the full range of offenses listed in the central repository

for sentencing, charging and licensing decisions. Additionally, the Department will modify its practices to align with any future changes to the law(s).

Recommendation 13b: Update its training so that criminal justice agencies are required to report only what is expressly authorized in statute.

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

Response explanation: The Department's current training accurately reflects the statutory mandate.

Recommendation 13c: Notify its troopers and criminal justice agency liaisons of the change in which offenses will be reported to and included in the central repository.

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

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

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

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

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

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