

# Arizona Department of Corrections, Rehabilitation and Reentry

Department met some statutory objectives and purposes in the areas we reviewed, but did not release all inmates approved for the transition program 3 months early in 2020 and lacked a reliable process to ensure inmate grievances were processed according to its time frames

Performance Audit and  
Sunset Review

September 2021  
Report 21-119

A Report to the Arizona Legislature

Lindsey A. Perry  
Auditor General





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**Liam VanPelt**

## Contact Information

Arizona Auditor General  
2910 N. 44th St., Ste. 410  
Phoenix, AZ 85018-7271

(602) 553-0333

[contact@azauditor.gov](mailto:contact@azauditor.gov)

[www.azauditor.gov](http://www.azauditor.gov)



LINDSEY A. PERRY  
AUDITOR GENERAL

ARIZONA  
AUDITOR GENERAL

MELANIE M. CHESNEY  
DEPUTY AUDITOR GENERAL

September 30, 2021

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Mr. David Shinn, Director

Arizona Department of Corrections, Rehabilitation and Reentry

Transmitted herewith is the Auditor General's report, *A Performance Audit and Sunset Review of the Arizona Department of Corrections, Rehabilitation and Reentry*. This report is in response to a September 19, 2018, resolution of the Joint Legislative Audit Committee. This performance audit and sunset review 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 Corrections, Rehabilitation and Reentry agrees with all but 1 of the findings and plans to implement or implement in a different manner all but 1 of the recommendations.

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 Corrections, Rehabilitation and Reentry

Department met some statutory objectives and purposes in the areas we reviewed, but did not release all inmates approved for the transition program 3 months early in 2020 and lacked a reliable process to ensure inmate grievances were processed according to its time frames

### Audit purpose

To assess whether the Department released inmates from prison to the transition program 3 months early as statutorily required, determined inmate eligibility for the transition program according to statutory and Department requirements, documented IT security practices in written policies and procedures, and complied with State conflict-of-interest requirements, and to provide responses to the statutory sunset factors.

### Key findings

- The Department operates 10 State prison complexes and contracts for 6 private or privately managed prisons. It also oversees offenders conditionally released to the community. As of June 30, 2021, the Department was responsible for 35,954 inmates in Arizona's State and private prisons and 5,047 offenders on community supervision.
- The Department's transition program provides eligible inmates with transition services, such as counseling and job placement services, in the community. In calendar year 2020, the Department:
  - Did not release 313 of the 1,200 inmates (26 percent) 3 months early as required by statute, which may have resulted in longer prison stays and higher Department costs. Thirty inmates we reviewed were not timely released because of Department process delays and other factors.
  - Denied all 45 of the inmates we reviewed of the approximately 1,060 inmates denied for the transition program in line with statutory and Department requirements, such as having convictions that made them ineligible.
- The Department has not yet programmed its system with all eligibility requirements for the transition program and drug possession release. It relies on manual processes to identify eligible inmates, which takes additional staff time and increases the potential for errors. The Department is working with its vendor to automate these processes and expects changes to be completed between October 2021 and November 2022.
- The Department's conflict-of-interest policy and procedures align with some State requirements and recommended practices, but it lacks a special disclosure file as statutorily required and has not adopted some recommended practices, such as annually reminding its employees to submit new disclosure forms when circumstances change.
- The Department has established a process and time frames for resolving inmate grievances but does not have a reliable process for tracking and monitoring compliance with its time frames.

### Key recommendations

The Department should:

- Establish time frames for how quickly transition program eligibility reviews should be initiated and completed, and develop and implement a written procedure for monitoring, identifying, and addressing delays that affect releasing inmates 3 months early to the transition program; and continue working to automate eligibility processes.
- Develop and implement revisions to its conflict-of-interest policy and procedures to help ensure compliance with State requirements and to better align with recommended practices.
- Establish a centralized process to monitor compliance with its inmate grievance process time frames.



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The Arizona Auditor General has released the third in a series of 3 performance audit reports on the Arizona Department of Corrections, Rehabilitation and Reentry (Department) as a part of the Department's sunset review.<sup>1</sup> The first report focused on the Department's capital projects funding and finances and assessed whether Department spending was consistent with statutory and other requirements.<sup>2</sup> The second report determined whether inmates were enrolled in and completed 4 specific self-improvement or treatment programs based on their identified need for the programs.<sup>3</sup> This performance audit and sunset review assessed whether the Department released inmates from prison to the transition program 3 months early as statutorily required, determined inmate eligibility for the transition program according to statutory and Department requirements, documented IT security practices in written policies and procedures, and complied with State conflict-of-interest requirements; and provides responses to the statutory sunset factors.

## Mission and purpose

The Department was created in 1968 when the Legislature consolidated independently run prisons into a single department responsible for incarcerating offenders as directed by the courts. In accordance with its statutory purpose (see textbox), the Department's mission is to provide safer communities by implementing court-imposed sentences, housing inmates in appropriately secured environments, facilitating structured programming, and providing effective supervision of released inmates. The Department operates 10 State prison complexes and contracts for 6 private or privately managed prisons located throughout the State to house Arizona inmates.

It also oversees offenders conditionally released to the community through its community corrections program. As of June 30, 2021, the Department was responsible for 35,954 inmates in Arizona's State and private prisons and 5,047 offenders on community supervision. The Department's various statutory responsibilities include:

- Maintaining and administering institutions and programs for the custody, control, correction, treatment, and rehabilitation of all adult offenders who are committed to the Department.<sup>4</sup>
- Holding in custody all persons sentenced to the Department under the law and holding such persons for the term directed by the court.<sup>5</sup>

### Department's statutory purpose

"The Department shall have as its purpose the objective of encompassing the various institutions, facilities, and programs which are now or may become a part of the correctional program of the State, and to provide the supervisory staff and administrative functions at the State level of all matters relating to the institutionalization, rehabilitation, and community supervision functions of all adult offenders."

Source: Arizona Revised Statutes (A.R.S.) §41-1602(B).

<sup>1</sup> Prior to January 2020, the Department was called the Arizona Department of Corrections.

<sup>2</sup> Arizona Auditor General Report 20-109 *Arizona Department of Corrections, Rehabilitation and Reentry—Capital Projects Funding and Department Finances*.

<sup>3</sup> Arizona Auditor General Report 21-118 *Arizona Department of Corrections, Rehabilitation and Reentry—Review of Specific Self-Improvement or Treatment Programs*.

<sup>4</sup> A.R.S. §41-1604(A)(2).

<sup>5</sup> A.R.S. §31-201.01(A).

- Providing special education services, alcohol abuse treatment and rehabilitation services, transition programming, and a functional literacy program to qualifying prisoners.<sup>6</sup>
- Providing prisoners medical care and healthcare and, when applicable, providing psychiatric care and treatment by transferring prisoners displaying symptoms of mental disorder to the Arizona State Hospital or a licensed behavioral health treatment facility operated by the Department.<sup>7</sup>
- Administrating and executing all community supervision services, including those for adult offenders who are released in accordance with law.<sup>8</sup>

## Organization, division responsibilities, and staffing

The Department consists of 11 divisions that report to the director and 3 offices that support the director and 2 deputy directors. The Department reported having 10,801 full-time equivalent (FTE) staff positions for fiscal year 2021, of which 2,249.25 positions (21 percent) were vacant as of June 21, 2021. The Director's Office has 5 FTEs: the director, 2 deputy directors, and support staff. As reported by the Department, the responsibilities and staffing for its 11 divisions and 3 offices are as follows:

- **Prison Operations (9,116.50 FTEs, 1,896.25 vacancies)**—This division is responsible for the operations and security of State prisons, including classifying offenders referred to the Department into various custody levels and assigning them to a specific prison. The division is also responsible for calculating inmates' sentence lengths and release dates, monitoring the 6 private prisons' performance and adherence to Department policies and procedures, and ensuring the Department has emergency operations plans and continuity of operations plans for each prison complex and Department office building.
- **Inmate Programs & Reentry (335 FTEs, 97 vacancies)**—This division is responsible for various inmate programs provided at the State and private prisons. The Department provides programs in multiple areas, including work, education, self-improvement, addiction treatment, and sex offender treatment to help rehabilitate inmates and prepare them to return to their communities. See Arizona Auditor General Report 21-118 for additional information about inmate programs we reviewed.
- **Facilities Management (254 FTEs, 50 vacancies)**—This division is responsible for overseeing construction projects at the State prisons and private prisons; overseeing building maintenance and janitorial services for Department facilities; developing the Department's annual building capital renewal budget request, which provides information on the Department's capital improvement needs (see Arizona Auditor General Report 20-109 for additional information); and managing the Department's fleet services.<sup>9</sup>
- **Arizona Correctional Industries (ACI) (220 FTEs, 67 vacancies)**—ACI is a self-funded program that provides inmates with training and work experience to help prepare them for successful reentry and employment after release. ACI owns and operates businesses that use inmate labor to manufacture products and provide services, such as baked goods and license plates. ACI also contracts with private businesses and government agencies for inmate labor, such as Hickman's Egg Ranch and Taylor Farms Southwest (see Arizona Auditor General Report 20-109 for additional information).
- **Community Corrections (213 FTEs, 23 vacancies)**—This division is responsible for supervising offenders released to the community; returning to custody offenders who violate conditions of supervision and represent a serious threat to community safety; and administering responsibilities related to the Interstate Compact,

<sup>6</sup> A.R.S. §§15-764, 31-229, 31-255(C), and 31-281 through 287.

<sup>7</sup> A.R.S. §§31-201.01(D), 31-226(A), and 31-226.01.

<sup>8</sup> A.R.S. §41-1604(A)(3).

<sup>9</sup> The Department reviews and approves construction projects at the private prisons to ensure compliance with security and physical plant standards and will provide project management assistance and oversight when requested. In addition, although operated by contractors, the Department owns both the Marana and Kingman private prison facilities.

which is a formal agreement between member states that seeks to promote public safety by controlling the interstate movement of certain adult offenders.

- **Financial Services (185 FTEs, 45 vacancies)**—This division is responsible for establishing financial procedures to help monitor and enforce State, federal, and Department laws, policies, and regulations pertaining to financial activity; developing 10-year projections of future prison population growth and makeup and determining whether the State’s prison system has sufficient beds at the appropriate custody level based on the projected growth; and providing various financial and performance measure reports to federal agencies, the Governor’s office, the Legislature, and the Department.
- **Human Resources and Development Group (161.5 FTEs, 19 vacancies)**—This division is responsible for managing all staffing, recruitment, training, and employee assistance for Department employees. The Department provides training for entry-level correctional staff at its Correctional Officers Training Academy, located near Tucson.
- **Inspector General (109 FTEs, 12 vacancies)**—This division is responsible for investigating crimes that occur in prisons or on prison property and administrative allegations of impropriety or misconduct; conducting annual audits of each State and private prison and Community Corrections to evaluate compliance with Department policies and procedures; conducting pre-employment background checks of correctional officers or other persons performing work within the prisons; monitoring security threat groups, which are groups the Department has identified and documented as a threat to the safe, orderly operation of the prisons; and assessing threats on Department employees and providing protection when necessary.
- **Information Technology (70 FTEs, 18 vacancies)**—This division is responsible for providing technological solutions and support to Department staff to ensure the delivery of essential information technology services and maintaining the Arizona Correctional Information System (ACIS), the Department’s inmate management system.
- **Medical Services (49 FTEs, 6 vacancies)**—This division is responsible for ensuring compliance with all requirements related to inmate healthcare services, including contract provisions, applicable Department written instructions, and court orders. Laws 2011, Ch. 278, privatized healthcare services for inmates, including medical, mental health, and dental services, at the 10 State prisons with the first contract effective July 1, 2012 (see Sunset factor 12, page 21, for information about the Department’s contract for inmate healthcare).<sup>10</sup> The division is responsible for completing regular audits to ensure the contractor is delivering mandated comprehensive healthcare to inmates.

A class-action lawsuit was filed in 2012 against the Department by the American Civil Liberties Union (ACLU), Arizona Center for Disability law, and other firms representing inmates.<sup>11</sup> The lawsuit contended that inmates received inadequate medical, mental health, and dental care at Department facilities. The Department reached a settlement in 2014 in which the Department agreed to comply with 103 performance measures designed to improve healthcare services at the 10 State prisons. The Department was required to file status reports with the United States District Court for the District of Arizona to show compliance with the settlement’s terms. The Department has been fined twice, totaling \$2.5 million, for failure to comply with the settlement terms. Subsequently, in July 2021, the Court rescinded the approval for the settlement and ordered the parties to be ready for trial by November 1, 2021. In August 2021, the Department filed a Notice with the Court that it intends to appeal the July 2021 Order.

- **Information and Public Affairs (35 FTEs, 8 vacancies)**—This division has various responsibilities, including coordinating and preparing legislation the Department promotes and monitoring legislation impacting the Department; handling internal and external communications, such as media requests for

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<sup>10</sup> Private prisons are required to have their own healthcare providers, and the Medical Services Division provides oversight, including monthly audits to assess private prisons’ compliance with contract obligations.

<sup>11</sup> The lawsuit was filed in the United States District Court for the District of Arizona in March 2012. See *Parsons v. Ryan*, No. 12-00601 (D. Ariz. Mar. 22, 2012).

information about the Department, as well as coordinating media appearances by the director and other Department employees; overseeing the Department's strategic planning process; receiving, reviewing, and responding to complaints from the public concerning inmate-related issues (see Sunset Factor 6, pages 19 through 20, for more information); and offering services to crime victims and survivors, such as victim notification and information about offender release, changes in inmate status or custody, and restitution.

The Department has 3 additional offices that report directly to a deputy director:

- **Office of the General Counsel (19 FTEs, 5 vacancies)**—This office is responsible for providing legal analyses and advice to the director and deputy directors and senior executive management on all aspects of Department operations and processing public records requests. It also provides support to the Attorney General's Office, ADOA Risk Management, and outside counsel on all litigation involving the Department.
- **Procurement Services (20 FTEs, 3 vacancies)**—This office is responsible for procuring Department goods and services, including construction, and ensuring that all purchases, contracts, agreements, inmate work contracts, leases, and expenditures of public monies comply with the Arizona Procurement Code. Under authority delegated by the State Procurement Office, this office is also responsible for providing management oversight, training, and monitoring of all procurement staff located at the Department's central office and prisons.
- **Policy & Research Unit (9 FTEs, 0 vacancies)**—This unit is responsible for establishing, reviewing, and updating Department policies, referred to as Department Orders, and for extracting, analyzing, organizing, and compiling data used for responding to internal and external information requests.

## Transition program

A.R.S. §31-281 requires the Department to establish a transition program that provides eligible inmates with transition services in the community for up to 90 days (see textbox).<sup>12</sup> To participate in the transition program, an inmate is released from prison to community supervision, and statute requires that inmates be released from confinement 3 months earlier than the inmate's earliest release date.<sup>13</sup>

A.R.S. §31-281 includes 2 sets of eligibility requirements (i.e., 2 pathways) for inmates to receive transition program services. Specifically:

- A.R.S. §31-281(B) outlines the original transition program minimum eligibility requirements that became effective January 1, 2004. The Department refers to this pathway as the standard transition program.
- A.R.S. §31-281(E) outlines alternative transition program eligibility requirements that became effective August 27, 2019, for inmates charged with possession or use of marijuana, dangerous drugs, narcotic drugs, or drug paraphernalia. The Department refers to this pathway as the drug transition program.

Table 1 (see page 5) provides examples of eligibility requirements to receive transition program services under the standard transition program and the drug transition program, as outlined in statute and Department Order 1002. As shown in the table, many of the requirements are the same, although there are some differences. Regardless of the pathway through which inmates qualify for and are released to the transition program, the process for

### Transition program services

Transition program services are provided through a department contractor and include case management services to identify and assist inmates in meeting identified needs. Services to address inmates' needs may include substance abuse treatment, anger management, parenting skills and family reunification training, further education, and job placement.

Source: A.R.S. §31-281 and Department contract information.

<sup>12</sup> Statute requires the Department to contract with private or nonprofit entities to provide transition program services, and the Department has contracted with Sage Counseling, Inc.

<sup>13</sup> A.R.S. §31-285(A).

receiving transition program services is the same. Specifically, after inmates are released from confinement, the contractor's case managers are required to meet with them to identify and evaluate the inmates' needs and develop individual case plans to provide services such as substance abuse counseling and anger management. Case managers also assist inmates with referrals to community resources that will help meet their identified needs, such as food, clothing, transportation, or legal services. The Department will pay its contractor for up to 90 days of transition program services for each inmate released to the transition program, regardless of how many days early the inmate is released from prison. The transition program is funded through cost savings the Department earns by releasing the inmate from prison early to participate in the transition program and a portion of inmates' income (see Arizona Auditor General Report 20-109, page a-17, for more information).

Finally, A.R.S. §31-281(D) requires the Department to submit an annual report to the Governor, Senate President, and Speaker of the House containing specific information about the transition program. According to the Department's fiscal year 2020 annual report, it released 1,083 inmates to participate in the transition program during the fiscal year. In addition, 1,654 inmates, including inmates released at the end of fiscal year 2019, received transition program services during fiscal year 2020.

**Table 1**  
**Examples of inmate eligibility requirements to receive transition program services**  
**As of June 30, 2021<sup>1</sup>**

	Standard transition program	Drug transition program
Has met the functional literacy standards <sup>2</sup>	✓	✗
Department has classified as a low-violence risk to the community	✓	✗
Has no violent crimes or domestic violence offense convictions	✓	✓
Has no sexual offense convictions	✓	✓
Has no felony detainers <sup>3</sup>	✓	✓
Has signed a transition program agreement	✓	✓
Department has classified as minimum or medium custody	✓	✓
Has not violated any major violent rule during current period of incarceration or violated any other major rule within the previous 6 months	✓	✓
Department has determined inmate complied with all his/her individualized corrections plan programming	✓	✓

✓ Required    ✗ Not required

<sup>1</sup> Laws 2021, Ch. 173, amends some of the statutory requirements for the standard transition program effective September 29, 2021. Specifically, it removes the requirement that inmates be classified as a low-violence risk to the community and allows for inmates to have convictions for some violent crimes, such as assault, aggravated assault, and some domestic violence offenses, to be eligible for the standard transition program.

<sup>2</sup> A.R.S. §31-229(K) defines functional literacy as the ability to read, write, and perform basic mathematical computations and processes at or above the identified grade level. A.R.S. §31-229.02 states that inmates who fail to achieve functional literacy at an eighth-grade literacy level shall not be released to begin the inmate's term of community supervision. Inmates do not have to meet the functional literacy standard to be eligible for the drug transition program if they are enrolled in a class to achieve functional literacy.

<sup>3</sup> The Department defines a detainer as a certified document from a jurisdiction that notifies an inmate of pending criminal charges and requests the Department to detain the inmate or notify the jurisdiction of the inmate's release.

Source: Auditor General staff review of A.R.S. §31-281(B) and (E) and Department Order 1002.

## Revenues and expenditures

As shown in Table 2 (see pages 6 through 8), the Department is primarily funded by State General Fund appropriations but also receives other revenues deposited in various Department funds established or authorized by statute. For fiscal year 2021, the Department's net revenues totaled an estimated \$1.3 billion and its expenditures and transfers out totaled an estimated \$1.3 billion. Most of the Department's expenditures were for payroll and related benefits, contracted services, and other operating expenditures, such as rent, utilities, and supplies. See Arizona Auditor General Report 20-109 for additional information about the Department's revenues and expenditures.

**Table 2**  
**Schedule of revenues, expenditures, transfers, and changes in fund balances<sup>1</sup>**  
**Fiscal years 2019 through 2021**  
(Unaudited)

	2019 <sup>2</sup> (Actual)	2020 (Actual)	2021 (Estimate)
<b>Revenues and transfers in<sup>3</sup></b>			
State General Fund appropriations	\$1,098,176,843	\$890,831,367	\$1,167,111,300
Luxury taxes <sup>4</sup>	36,052,001	35,760,079	41,833,333
Intergovernmental			
Federal pandemic aid <sup>5</sup>		281,140,177	22,562,607
Other <sup>6</sup>	2,478,319	25,158,742	4,634,040
Commissions <sup>7</sup>	15,076,321	18,294,637	17,914,506
Fines, forfeits, and penalties	12,296,822	11,928,716	11,791,971
Investment income	4,445,355	5,267,677	4,352,357
Rental income	2,246,354	2,841,169	2,999,884
Charges for goods and services	599,942	625,262	672,534
State Automation Projects Fund <sup>8</sup>	2,367,800		
Other	780,019	675,734	437,975
<b>Total revenues</b>	<b>1,174,519,776</b>	<b>1,272,523,560</b>	<b>1,274,310,507</b>
Transfers from Arizona Correctional Industries Revolving Fund <sup>9</sup>	1,000,000	1,000,000	1,000,000
<b>Total net revenues</b>	<b>1,175,519,776</b>	<b>1,273,523,560</b>	<b>1,275,310,507</b>
<b>Expenditures and transfers out</b>			
Payroll and related benefits			
Payroll			
State prisons	364,246,497	404,746,002	427,369,302
Central office	32,754,024	33,694,361	38,489,898
Other <sup>10</sup>	13,773,352	19,294,355	17,768,808
Total payroll	410,773,873	457,734,718	483,628,008
Related benefits	230,625,663	236,957,351	257,915,510
Total payroll and related benefits	641,399,536	694,692,069	741,543,518
Professional and outside services			
Medical services <sup>11</sup>	171,336,967	185,223,427	187,671,244
Institutional care <sup>12</sup>	147,504,352	153,353,960	150,908,948
Other <sup>13</sup>	11,448,462	12,645,254	12,453,787
Total professional and outside services	330,289,781	351,222,641	351,033,979
Travel	931,294	489,633	200,254
Food and related expenditures <sup>14</sup>	40,711,185	42,143,975	39,551,716
Aid to individuals <sup>15</sup>	150,320	161,995	117,190
Other operating			
Rent	42,173,205	39,055,944	39,038,630
Utilities	27,443,889	26,921,538	25,017,864

**Table 2 continued**

	2019 <sup>2</sup> (Actual)	2020 (Actual)	2021 (Estimate)
Operating supplies	20,862,235	19,935,074	22,770,732
Information technology services	10,813,857	10,563,625	9,031,467
Payments to inmates	10,411,721	10,275,982	9,166,641
Other <sup>16</sup>	26,207,406	25,288,796	27,123,019
Total other operating	137,912,313	132,040,959	132,148,353
Capital and noncapital purchases			
Building improvements <sup>17</sup>	7,336,638	21,654,587	6,514,063
Equipment	3,981,280	2,053,509	4,580,584
Adult Inmate Management System (AIMS) replacement <sup>8</sup>	1,930,329	4,389,790	
Other	2,528,894	2,726,911	2,690,511
Total capital and noncapital purchases	15,777,141	30,824,797	13,785,158
<b>Total expenditures</b>	<b>1,167,171,570</b>	<b>1,251,576,069</b>	<b>1,278,380,168</b>
Transfers to the State General Fund <sup>18</sup>	2,525,200		
Transfers to the Arizona Health Care Cost Containment System (AHCCCS) for inmate medical services	1,195,541	2,087,999	2,090,000
Transfers to the other agencies <sup>19</sup>	5,267,488	8,652,587	1,870,677
<b>Total transfers out</b>	<b>8,988,229</b>	<b>10,740,586</b>	<b>3,960,677</b>
<b>Total expenditures and transfers out</b>	<b>1,176,159,799</b>	<b>1,262,316,655</b>	<b>1,282,340,845</b>
Net change in fund balances	(640,023)	11,206,905	(7,030,338)
Fund balances, beginning of year	49,405,130	48,765,107	59,972,012
<b>Fund balances, end of year</b>	<b>\$48,765,107</b>	<b>\$59,972,012</b>	<b>\$52,941,674</b>

- <sup>1</sup> This table includes financial activity from all Department funds except for (1) the Prisoner Spendable Accounts Fund, also referred to as inmate trust accounts, because these monies were held for inmates and were not available for the Department's use and (2) the ACI Revolving Fund because ACI was managed as a self-supporting operation.
- <sup>2</sup> Fiscal year 2019 information was updated as reported in Table 1 of the Arizona Auditor General Report 20-109 *Arizona Department of Corrections, Rehabilitation and Reentry—Capital Projects Funding and Department Finances* for activity related to fiscal year 2019 that occurred subsequent to the report publish date, and some adjustments were made for consistency between fiscal years.
- <sup>3</sup> The table does not include monies the Department collected that were directly remitted to the State General Fund. Specifically, the Department received monies in fiscal years 2019 and 2020 from the U.S. Department of Justice for the State Criminal Alien Assistance Program for a grant that provided federal payments to states and localities that incurred correctional officer costs for incarcerating undocumented criminal aliens with at least 1 felony or 2 misdemeanor convictions for violations of State or local law, and who were incarcerated for at least 4 consecutive days. The Department remitted \$5.8 million and \$13.3 million of the monies received in fiscal years 2019 and 2020, respectively, directly to the State General Fund, and the remaining monies were deposited in the Department's Indirect Cost Fund, but the Department had not received any of these monies in fiscal year 2021 at the time of this audit. In addition, the Department collected \$4.8 million, \$3.8 million, and \$2.4 million in fiscal years 2019, 2020, and 2021, respectively, that were remitted directly to the State General Fund in accordance with statute. Most of these monies were collected from inmates for room and board as required by A.R.S. §31-254(E)(4) and remitted to the State General Fund in accordance with A.R.S. §41-1674(B)(3).
- <sup>4</sup> Luxury taxes were a portion of taxes collected on alcohol and tobacco products and deposited into the Department's Corrections Fund and Revolving Fund.
- <sup>5</sup> Federal pandemic aid revenues were monies received in fiscal years 2020 and 2021 from the Coronavirus Relief Fund to pay for costs of public safety employees substantially dedicated to mitigating or responding to the COVID-19 public health emergency. The Coronavirus Relief Fund was established by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.
- <sup>6</sup> Other intergovernmental revenues included federal grants and monies received from other State agencies. The revenues increased in fiscal year 2020 because the Department received approximately \$20.5 million from the Arizona Department of Administration (ADOA) related to an interagency services agreement for a project upgrading locking, fire suppression, and HVAC systems at the Lewis and Yuma State prisons. The Department transferred approximately \$24 million to the ADOA during fiscal years 2019 and 2020 consisting of \$9.2 million from the Inmate Stores Proceeds Fund and \$14.8 million from the ACI Revolving Fund. ADOA expended approximately \$3.5 million for overseeing the project before returning the remaining \$20.5 million of unspent monies in fiscal year 2020 to the Department, which assumed project oversight.
- <sup>7</sup> The Department received a portion of commissary revenues and commissions from the sale of phone minutes to inmates. The Department contracted with a vendor to operate prison commissaries that sell various items to inmates and received 17 percent of all sales revenues. Similarly, the Department contracted with a vendor to provide phone services to inmates and received 75.3 percent commission on all phone revenues.

## Table 2 continued

- <sup>8</sup> The Department received monies from the State Automation Projects Fund to replace its Adult Inmate Management System (AIMS). Beginning in fiscal year 2018, the Department's General Fund also contributed monies to replace AIMS. In fiscal year 2017, the Department was required to transfer \$8 million to the State Automation Projects Fund, including \$1 million from its ACI Revolving Fund, in accordance with Laws 2016, Ch. 117, §158(B), for the AIMS replacement. The AIMS replacement capital and noncapital expenditures are presented in the table; however, the project also incurred expenditures from other categories not specifically identified, such as payroll and related benefits, professional and outside services, and other operating expenditures. According to the Department, as of June 30, 2020, AIMS replacement expenditures were approximately \$29.9 million for all expenditure categories, and the project was completed during fiscal year 2020.
- <sup>9</sup> Transfers from the ACI Revolving Fund were made to the Department's Building Renewal Fund in accordance with A.R.S. §41-1624(B).
- <sup>10</sup> Other payroll expenditures were payments to Department employees who worked at various locations such as ACI, community corrections offices, parole offices, private prisons, and the Correctional Officer Training Academy.
- <sup>11</sup> Medical services expenditures were primarily for healthcare costs of inmates in Department-operated prisons. These expenditures also included substance abuse and behavioral modification programs and healthcare costs over \$10,000 for inmates in a private prison.
- <sup>12</sup> Most of the institutional care expenditures were payments to private prison providers.
- <sup>13</sup> Other professional and outside services expenditures included various external services, such as inmate education and training, legal services, project consultants for the Governor's initiative to reduce waste and the Department's AIMS replacement, drug testing, recovery housing, electronic monitoring, and veterinary services.
- <sup>14</sup> Food and related expenditures were primarily contracted food services for inmates and offenders; however, it also included about 1 percent for contracted food services for the correctional officer cadets at the Correctional Officer Training Academy.
- <sup>15</sup> Aid to individuals expenditures were for the costs of discharging inmates, such as paying for release clothing and reimbursing private prison providers for similar costs.
- <sup>16</sup> Other operating expenditures comprised various expenditures, including insurance, repair and maintenance, officer uniforms, and inmate clothing costs.
- <sup>17</sup> Building improvements costs increased in fiscal year 2020 because of the Department's project for upgrading locking, fire suppression, and HVAC systems at the Lewis and Yuma State prisons (see footnote 6, page 7, for additional information). Approximately \$14 million was spent in fiscal year 2020 for these upgrades.
- <sup>18</sup> Transfers to the State General Fund in accordance with Laws 2018, Ch. 276, §140(5).
- <sup>19</sup> Transfers to other agencies included transfers to State agencies for various purposes, such as interagency service agreements and compliance with specific laws that required the transfers. These transfers included: (1) \$3.5 million and \$5.7 million in fiscal years 2019 and 2020, respectively, to ADOA for the upgrade project at the Lewis and Yuma State prisons (see footnote 6, page 7, for additional information); (2) \$750,000 in fiscal year 2020 to ADOA for transfer to Yavapai County, as required by Laws 2019, Ch. 263, §131; (3) \$500,000 in each of fiscal years 2019 through 2021 to the Arizona Criminal Justice Commission as required by Laws 2018, Ch. 342; (4) \$513,100, \$608,100, and \$593,000 during fiscal years 2019, 2020, and 2021, respectively, that was expended by the ADOA from its Corrections Fund appropriation; and (5) \$527,248, \$729,118, and \$700,749 to the Arizona State Hospital for use of a secured facility located on the Hospital's grounds during fiscal years 2019, 2020, and 2021, respectively.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* for July 1, 2018 through February 28, 2021; State of Arizona *Annual Financial Report* for fiscal years 2019 and 2020; and Department-provided information, including estimates for fiscal year 2021.

## In 2020, Department did not release a quarter of inmates approved for transition program the full 3 months early as statutorily required, which may lengthen their prison stays, thereby increasing Department costs

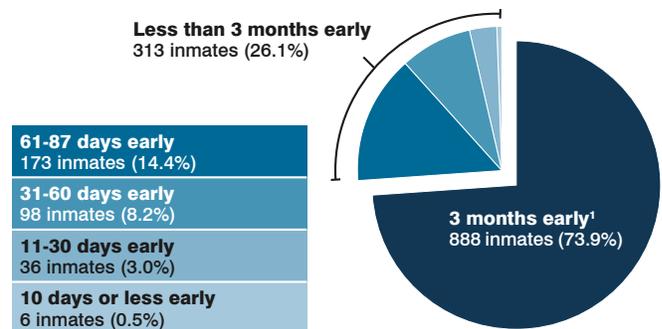
### 26 percent of inmates approved for transition program were not released in 2020 the full 3 months early as statutorily required, which may result in longer prison stays and higher Department costs

As discussed in the Introduction, the Department is statutorily required to establish a transition program, which provides eligible inmates with transition services, such as counseling and job placement services, in the community for up to 90 days (see Introduction, pages 4 through 5, for more information).<sup>14</sup> In addition, A.R.S. §31-285 states that inmates participating in the transition program shall be released from prison 3 months earlier than the inmates' earliest release date.

However, as shown in Figure 1, our analysis of Department data for the approximately 1,200 inmates who were released to the transition program and received transition program services during calendar year 2020 found that the Department did not release more than 300 inmates, or 26 percent, for the statutorily required full 3 months prior to their earliest release date.<sup>15</sup> Specifically, instead of being released 3 months early, the inmates were released from 4 days to 87 days early.

The inmates who are eligible for the transition program but not released 3 months early may remain in prison longer than statute requires, delaying their return to the community. The Department also incurs higher costs when their incarceration is extended. For example, the Department reported that in fiscal year 2020, it paid \$74.77 per day for each incarcerated inmate but only \$11.24 per day for each inmate on community supervision.

**Figure 1**  
**Number of days inmates were released early to the transition program**  
**Calendar year 2020**  
 (Unaudited)



<sup>1</sup> Per Department Order, the Department does not release inmates to community supervision on weekends or holidays. As a result, inmates released 3 months early are released between 88 and 92 days early.

Source: Auditor General staff analysis of Department data on inmates who were released to the transition program and received transition program services in calendar year 2020.

<sup>14</sup> A.R.S. §31-281.

<sup>15</sup> We assessed the reliability of the Department's data and found it to be sufficiently reliable for our audit purposes (see Appendix A, pages a-1 through a-2, for more information).

## Inmates we reviewed were not timely released to transition program due to Department process delays and other factors

Our review of a random sample of 30 inmates who were released to the transition program up to 60 days before their earliest release date (instead of 3 months early as required by statute) found that Department delays in performing some of its reviews was a key contributing factor for why some inmates were not timely released to the transition program.<sup>16</sup> Other factors contributed to inmates not being released 3 months early to participate in the transition program, including some inmates who were not in Department custody for a full 3 months before they were released.<sup>17</sup> Specifically:

- **Delayed Department staff review affected the timely release of some inmates to the transition program**—Department staff use a report that lists all inmates that ACIS has deemed potentially eligible for the transition program to identify inmates for their review (see textbox for description of the Department's 2-part process for determining inmates' eligibility for the transition program). According to the Department, this report is generated daily, and staff prioritize the list of inmates for review based on the inmates with the earliest projected release dates. However, Department staff did not review 5 inmates ACIS deemed potentially eligible for the transition program until between 47 and 131 days after the ACIS review, which may have impacted these inmates' timely release to the transition program. Department staff also took between 19 and 42 days to review 3 inmates with prison stays of less than 3 months (see bullet on page 12). The Department could not explain why the reviews were delayed and has not established a specific time frame requirement for when staff should begin and complete their review after ACIS deems inmates as potentially eligible for the transition program. In addition, the Department does not have a process for identifying and monitoring when and why Department staff reviews are delayed.

### Department 2-part process for determining inmates' eligibility for the transition program

- **Automated system review**—ACIS performs an automated review of inmate records against statutory criteria programmed in it to determine whether inmates are potentially eligible for the transition program. ACIS will either deem inmates eligible for further Department staff review of eligibility (see next bullet) or deem inmates ineligible based on the programmed criteria. If an inmate is deemed ineligible, ACIS will continue checking for potential eligibility when the inmate's data, specific to transition program eligibility, changes.
- **Manual staff review**—For those inmates ACIS determines are potentially eligible for the transition program, Department staff perform a manual review of inmate records to ensure all eligibility criteria are met (see Introduction, page 5, for examples of eligibility requirements). If all criteria are not met, Department staff will follow up with prison staff to obtain the necessary information or documentation to complete the review process. Department staff will then make the final decision to approve, if all criteria are met, or deny the inmate for the transition program.

Source: Auditor General staff review of Department Orders and information in ACIS, as well as observation and discussion with Department staff.

<sup>16</sup> We randomly selected 30 inmates from the 140 inmates who were released to the transition program and received transition program services during calendar year 2020 but who were released up to 60 days early.

<sup>17</sup> An inmate's early release to the transition program can be impacted by multiple factors, some of which are in the Department's control, such as ensuring Department staff perform in a timely manner the various actions needed to approve and release an inmate to the transition program. For example, release to the transition program involves multiple staff across various Department divisions, including time computation staff who review inmates' eligibility and calculate release dates, correctional officers who work with inmates to complete required documents, and community corrections staff who approve inmates' planned housing in the community. However, some factors are not in the Department's control. For example, inmates must agree to and sign various documents before they are released; if they refuse to sign or do not sign the documents until late in the release process, this can also impact their ability to be released 3 months early.

- **Inmates' qualification for drug possession release and some delayed Department staff reviews affected the timely release of some inmates to the transition program**—Laws 2019, Ch. 310, which became effective June 2019, revised statute to allow certain inmates to be released after serving 70 percent of their sentences in prison if they meet specific criteria (see textbox), whereas the State's sentencing laws generally require inmates to serve at least 85 percent of their sentences in prison. The earlier release under this law is referred to as drug possession release. When the Department determines that an inmate qualifies for drug possession release, the inmate's earliest release date is recalculated and moved up. Once their new release date is determined, inmates who are also eligible for the transition program may have less than 3 months remaining in prison before their new release date. This happened for 7 of the 30 inmates we reviewed.

### Inmate eligibility criteria for drug possession release

- Must have been convicted of 1 of 4 qualifying drug possession or use charges.
- Cannot have been previously convicted of a violent or aggravated felony as defined in A.R.S. §13-706.
- Must successfully complete a drug treatment program or other major self-improvement program while imprisoned.

Source: Auditor General staff review of Department Order 1002 and A.R.S. §41-1604.07(B)(1).

However, 5 of these 7 inmates might have been released to the transition program closer to the full 3 months early had the Department been more timely in determining that these inmates qualified for drug possession release.<sup>18</sup> Specifically, Department staff did not make the determination that these inmates qualified for drug possession release until between 74 and 264 days after the inmates had met the criteria for it. This delayed the recalculation of their earliest release date, which in turn affected how early they could be released to the transition program.<sup>19</sup>

The Department's processes for identifying inmates who may qualify for drug possession release and recalculating their new release dates if they qualify are not automated. According to the Department, ACIS was implemented prior to the enactment of the law establishing drug possession release, and ACIS has not been reprogrammed to address the law change. Instead, the Department has developed separate processes to identify and track inmates who qualify for drug possession release and must manually calculate their release dates. In October 2020, the Department submitted a change request to the ACIS vendor to automate these processes and expects the change to be implemented by November 2022 (see Sunset Factor 2, page 16, for more information on additional ACIS changes that are needed).

- **Other factors affected how early some inmates were released to the transition program**—We identified additional specific factors that affected 9 of the 30 inmates' untimely release to the transition program. These may have been issues within the Department's control, outside of the Department's control, or possibly both. For example:
  - 1 inmate was incarcerated during the transition from the Department's previous inmate management system to ACIS. ACIS should have performed an automated review for all inmates on November 30, 2019, when ACIS was implemented. However, ACIS did not appear to perform its automated review for this inmate until more than 5 months after that date.
  - 1 inmate was not given the educational assessment to establish his functional literacy level for nearly 2 months after entering Department custody.<sup>20</sup> This assessment normally occurs within the inmates'

<sup>18</sup> The Department was timely in determining the other 2 inmates qualified for drug possession release, which was within 3 months of their drug possession release date.

<sup>19</sup> Additionally, 1 of the 5 inmates also had a delayed staff review for transition program eligibility of 142 days after the inmate was determined to be eligible for the drug possession release.

<sup>20</sup> A.R.S. §31-229(K) defines functional literacy as the ability to read, write, and perform basic mathematical computations and processes at or above the identified grade level. A.R.S. §31-229.02 states that inmates who fail to achieve functional literacy at an eighth-grade literacy level shall not be released to begin the inmate's term of community supervision.

first few days in Department custody during the intake process.<sup>21</sup> The 2-month delay in his assessment delayed the automated ACIS approval for his participation in the transition program.

- 1 inmate had an erroneous dangerous crime against children placed on his record for 15 days.<sup>22</sup> This resulted in ACIS deeming the inmate ineligible for the transition program.
- 1 inmate had a detainer placed on his record from an Arizona county court that deemed him ineligible.<sup>23</sup> The county later canceled the detainer, and the inmate had less than 3 months until his release to the transition program.

- **Department could not release some inmates to the program 3 months early because they were incarcerated for less than 3 months**—Some inmates who are eligible for the transition program have short sentences or have earned jail credits for their time served in a county jail, which shortens their time in Department custody. Once committed to the Department, they may have less than 3 months of incarceration prior to their earliest release date. As a result, they are not in Department custody long enough for the Department to release them to the transition program 3 months early. Nine of the 30 inmates we reviewed had these short prison stays. For example, 1 inmate had 97 days of jail credits and, as a result, was required to be in Department custody for only 21 days to complete his sentence. Therefore, the Department could not release him to the transition program 3 months prior to his earliest release date, as statutorily required.

## Recommendation

1. To help ensure inmates are timely released 3 months early to the transition program, as statutorily required, the Department should:
  - a. Establish time frames in its staff procedures for how quickly the eligibility reviews for the transition program and drug possession release should be initiated and completed and prioritize for review those inmates who are closest to release.
  - b. Develop and implement a written procedure for monitoring, identifying, and addressing delays in transition program processes that are within the Department's control.
  - c. Continue to work on automating the process for identifying inmates who may qualify for drug possession release and calculating their potential drug possession release dates.

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

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<sup>21</sup> According to Department intake staff, because of the COVID-19 pandemic, many assessments were performed after the inmate was transferred from the intake facility to his or her assigned prison unit.

<sup>22</sup> A.R.S. §13-705 defines a dangerous crime against children as committing an act, such as aggravated assault or kidnapping, against a minor who is under 15 years of age.

<sup>23</sup> The Department defines a detainer as a certified document from a jurisdiction that notifies an inmate of pending criminal charges and requests the Department to detain the inmate or notify the jurisdiction of the inmate's release.



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 created in 1968 when the Legislature consolidated independently run prisons into a single department responsible for incarcerating offenders as directed by the courts. The Department's statutory purpose is to serve as the correctional program for the State and to provide staff and administration relating to the institutionalization, rehabilitation, and community supervision functions of all adult offenders. The Department's statutory responsibilities include holding in custody persons sentenced to the Department, facilitating structured programming designed to rehabilitate inmates, and providing supervision for adult offenders who are released to community supervision.

According to Bureau of Justice Statistics information, all 50 states have a correctional authority that maintains jurisdiction over inmates.<sup>24</sup> However, 31 states, including Arizona, use private prison facilities to house some inmates. As of December 31, 2019, about 116,000 inmates, or 7 percent of all state inmates and 16 percent of all federal inmates, in the U.S. were housed in private prison facilities. Additionally, at the end of calendar year 2019, the Department had the 3rd largest number of inmates housed in private prison facilities. According to Department information, as of June 2021, the Department housed 7,195 inmates, or 20 percent of its inmate population, in private prison facilities.

**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 is meeting or has taken or is taking steps to meet some of its statutory objectives and purposes in the areas we reviewed. For example:

- **Department expenditures and transfers we reviewed were supported and allowable**—Our high-level review of the Department's fiscal year 2019 expenditures and transfers found that the Department's use of its funds' monies appeared consistent with their statutory purposes, other legal requirements, or allowable uses of State appropriations. Our more detailed review of 88 judgmentally selected expenditures from (1) various expenditure categories, including payroll, professional and outside services, travel, food, capital and noncapital equipment, and other operating expenses, and (2) purchasing card and central travel account transactions found they were properly reviewed, supported, and approved, and were generally allowable expenditures from the funds to which they were charged (see Arizona Auditor General Report 20-109).<sup>25</sup>
- **Department making upgrades to nonfunctioning locks and other upgrades at Lewis and Yuma State prison complexes**—As discussed in our Capital Projects Funding and Department Finances performance audit report released in October 2020, multiple media stories reported in April 2019 that nonfunctioning locks

<sup>24</sup> Carson, E.A. (2020). *Prisoners in 2019*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. Retrieved 3/31/21 from <https://bjs.ojp.gov/content/pub/pdf/p19.pdf>.

<sup>25</sup> Arizona Auditor General Report 20-109 *Arizona Department of Corrections, Rehabilitation and Reentry—Capital Projects Funding and Department Finances*.

at the Lewis State prison had contributed to assaults/injuries of inmates and Department staff. A report on the subsequent investigation of the situation indicated that repairing the locking systems at the Lewis prison was included in the Department's capital improvement plans from fiscal years 2011 through 2013, but not for its plans from fiscal years 2014 and 2020. In June 2019, the Department requested and received approval from the Joint Committee on Capital Review (JCCR) to replace locking, fire, and evaporative cooler systems at the Lewis and Yuma State prisons. The Department later modified the original project scope in April 2020 with JCCR approval to include installing swinging doors instead of electronic sliding doors and replacing evaporative coolers with air conditioning units (see Arizona Auditor General Report 20-109). As of June 2021, the Department reported that it had installed 486 of 536 doors in 1 unit and completed various other work in 3 housing units at the Lewis prison, including installing air conditioning systems and security lighting. The Department stated it anticipated completing the work at the Lewis prison in March 2022 and starting and completing work at the Yuma prison between February 2022 and July 2022.

- **Department received additional appropriated funding in fiscal year 2022 to address capital needs and has prioritized life and safety deferred maintenance projects**—The Department has a capital improvement process for annually requesting capital funding for various needs, which includes a prioritized list of both capital and building renewal projects. As discussed in our Capital Projects Funding and Department Finances performance audit report released in October 2020, the Department had received less than 5 percent of its requested capital funding, resulting in increased safety and security risks and at least \$125 million in deferred maintenance costs. In addition, Arizona had provided less capital funding for its corrections department than other states we reviewed. However, for fiscal year 2022, the Department received approximately \$54 million (100 percent) of its requested building renewal and capital funding. According to the *State of Arizona Executive Budget* for fiscal year 2022, this will allow the Department to address numerous deferred maintenance projects, with priority being given to fire and life safety projects, such as fire systems and locks.
- **Department denied inmates we reviewed for the transition program based on not meeting all statutory and/or Department requirements**—Our review of a stratified random sample of 45 inmates Department staff denied for the transition program in calendar year 2020 found that the Department denied these inmates because they had not met all statutory and Department requirements for the transition program.<sup>26</sup> For example, the Department denied inmates because they had convictions, such as assault or domestic violence, that made them ineligible for the transition program or had major violation of a prison rule in the 6 months prior to release (see Introduction, Table 1, page 5, for examples of eligibility requirements). Additionally, 6 of 45 inmates we reviewed had not completed other requirements to be released to the transition program—such as having an approved home plan (an approved agreement regarding where inmate will live once released) or signing a transition agreement—which made them ineligible for the transition program. However, the Department lacked documentation indicating why these 6 inmates had not completed these required steps in time to be released to the transition program. Recommendations made in Finding 1 (see pages 9 through 12), such as developing and implementing a written procedure for monitoring, identifying, and addressing delays in transition program processes, can help ensure the Department provides inmates with the opportunity to complete documents that are needed for transition program release.
- **Department taking steps to address correctional officer staffing issues**—The Department is required to submit reports to the Joint Legislative Budget Committee (JLBC) detailing its progress in meeting correctional officer staffing needs, including the number of filled and vacant correctional officer positions.<sup>27</sup> According to the Department's March 2021 report, 1,104.25 of the 6,655 State prison correctional officer positions (about 16.6 percent) were vacant. Notably, the vacancy rates at 3 State prisons (Florence, Eyman, and Winslow) ranged from approximately 22 percent to 37 percent. According to the report, correctional officer positions are hard to fill at these 3 prisons because of unsafe conditions for staff and inmates as these prisons house

<sup>26</sup> We reviewed a stratified random sample of 45 of 1,064 inmates Department staff denied eligibility for the transition program in calendar year 2020, selecting inmates from 10 of the 16 denial reasons we identified in Department data.

<sup>27</sup> Laws 2020, Ch. 58, §20, required the Department to report this information quarterly in fiscal year 2021. Laws 2021, Ch. 408, §21, changed the reporting requirement from quarterly to semiannually.

inmates classified as higher risk to both the public and staff. The report noted that since July 2019, the Department has taken steps to bolster its recruitment and retention efforts, including implementing part-time schedule accommodations for correctional officers, streaming recruitment ads on multiple media platforms, and expanding recruitment efforts to local high schools. In addition, according to its March 2021 report, the Department approved a 25 percent hazardous duty pay stipend and 8 percent critical services pay stipend in May 2020 to recognize staff working during the COVID-19 pandemic, which it continued through the 3rd quarter of fiscal year 2021. Further, the Department received increased appropriations for both fiscal years 2020 and 2022 to fund 10 and 5 percent pay raises for correctional officers.

However, we identified the following deficiencies in Department processes. Specifically, the Department:

- **Had not addressed outstanding reconciliations of inmate account and bank statement balances—**As discussed in our Capital Projects Funding and Department Finances performance audit report released in October 2020, most deductions from inmate accounts we reviewed were accurate and supported. However, the Department had not reconciled inmate account and bank statement balances since November 2019 because of data issues related to its new inmate management system, which increased the risk of incorrect balances or unaccounted-for monies. In addition, the Department had not yet resolved approximately 480 reconciliation items dating from at least January 2015 through January 2019 with an absolute dollar value of approximately \$992,400. As of August 2021, the Department had implemented 2 of the 3 report recommendations and had reviewed and begun resolving the unreconciled items (see Arizona Auditor General Report 20-109 and Initial Follow-up Report).
- **Did not provide 3 of 4 programs we reviewed to most inmates who needed them, and many inmates who were enrolled in the programs did not complete them—**As discussed in our performance audit report released in September 2021, we reviewed the extent to which inmates were enrolled in and completed the following 4 specific self-improvement or treatment programs based on their identified need for these programs: cognitive restructuring, moderate substance abuse (SA) treatment, intensive SA treatment, and driving-under-the-influence (DUI) treatment.<sup>28</sup> Our analysis of Department data for approximately 35,200 inmates released between January 2017 and November 2019 found that most inmates who needed cognitive restructuring or SA treatment were not enrolled in these programs, whereas most inmates who needed DUI treatment were enrolled in this treatment. Reduced recidivism and other program benefits cannot be achieved from these programs when they are not offered to inmates. Staffing and other limitations have affected the Department's capacity to provide these programs to inmates, although the Department was taking steps to address those limitations. For example, the Department has limited counseling staff to meet inmates' SA treatment needs and, as a result, does not provide SA treatment at all prisons. To help address this issue, the Department requested and received an additional \$5 million appropriation from the State General Fund in fiscal year 2022 to contract for and expand the provision of SA treatment services to additional inmates and has begun using technology to provide SA treatment to inmates assigned to State prisons where it has no licensed counselor. We recommended that the Department continue these and other efforts to increase its capacity to provide the programs we reviewed.

Department data also shows that many of the inmates who were enrolled in the programs we reviewed did not complete them. For example, our analysis of all enrollments in the 4 programs during calendar years 2017 through 2020 found that for 37 to 58 percent of the total enrollments in each program, inmates did not complete the program. Common reasons for not completing programs included inmates being transferred to a different prison unit while enrolled in a program or administratively discharged from the program, such as for medical and mental health issues or court obligations. The Department is taking steps to help reduce program noncompletions, including condensing the time frames for providing SA treatment programs, with the goal of reducing program noncompletions because of transfers, administrative discharges, or release during a program, and implementing a new process to review and not approve transfers to allow inmates to complete programs. In addition to continuing these efforts, we recommended that the Department use its

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<sup>28</sup> Arizona Auditor General Report 21-118 *Arizona Department of Corrections, Rehabilitation and Reentry—Review of Specific Self-Improvement or Treatment Programs*.

enrollment data to monitor program noncompletions to identify trends and research and address causes of program noncompletions.

- **Did not release some inmates 3 months early to its transition program as statutorily required**—About 26 percent of the approximately 1,200 inmates who were released to the transition program and received transition program services in calendar year 2020 were not released 3 months early as required by statute. When inmates are not released 3 months early, they remain in prison longer than statute requires, and the Department may incur higher costs. Based on our review of 30 inmate files, we found that Department delays in performing some of its reviews was a key contributing factor for why some inmates were not released in a timely manner to the transition program.<sup>29</sup> Other factors contributed to inmates not being released 3 months early to participate in the transition program, including some inmates who were not in Department custody for a full 3 months before they were released. We recommended that the Department establish time frames and monitor delays in its transition program processes (see Finding 1, pages 9 through 12).
- **Has not yet programmed ACIS with all eligibility requirements for the transition program**—In reviewing the Department's process for determining transition program eligibility, we found that ACIS has not yet been programmed to include the eligibility requirements for the drug transition program, which became effective August 27, 2019. As a result, the Department relies on manual processes to identify inmates who may be eligible for the drug transition program, which takes additional staff time and increases the potential for errors. Specifically, Department staff run and review a report listing all inmates who have a qualifying conviction for the drug transition program to determine if these inmates are eligible for the drug transition program by researching items, such as whether the inmates are enrolled in a program to achieve functional literacy (see Introduction, pages 4 through 5, for more information on eligibility requirements). As of July 2021, the Department was working with its ACIS vendor to develop an automated process for identifying inmates who may be eligible for the drug transition program so that it does not have to rely on manual processes. The Department expects this change to be completed by August 2022.

Additionally, Laws 2021, Ch. 173, which is effective September 29, 2021, makes several changes to the eligibility requirements for the standard transition program, including expanding eligibility to inmates who have convictions for some violent crimes, such as assault, aggravated assault, and some domestic violence offenses. These expanded eligibility criteria need to be programmed into ACIS to ensure ACIS identifies all inmates who may be eligible for the standard transition program based on these changes. As of July 2021, the Department was working with its ACIS vendor to incorporate these revised eligibility requirements for the standard transition program, which it expects to be completed by October 2021. In the meantime, the Department has created a list of all inmates who may be eligible under these expanded criteria and reported it is including notes on the inmates' files in ACIS about their potential transition program release and manually setting their transition program release dates.

- **Had not documented or updated informal IT practices into written policies and procedures**—State agencies are required to develop IT security-specific policies and procedures consistent with Arizona Department of Administration's Arizona Strategic Enterprise Technology Office's (ASET) State-wide policies and credible industry standards. ASET's policies are intended to help State agencies implement recommended IT security practices and to protect the State's IT infrastructure and the data contained therein. Although the Department had some IT security practices during the audit, it had not documented or updated most of these practices in written policies. For example, prior to the audit, the Department did not have up-to-date vulnerability management policies that required detected vulnerabilities to be remediated based on risk. We performed detailed testing on the Department's vulnerability management process and found that from March to April 2020, the Department had not remediated 55 percent of its critical vulnerabilities and 57 percent of its high vulnerabilities, as identified by the industry and specific IT scanning tool used. By not following its vulnerability management policies and procedures, the Department is at risk of being susceptible to attacks and may face a significant likelihood of having its systems compromised.

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<sup>29</sup> We randomly selected 30 inmates from the 140 inmates who were released to the transition program and received transition program services during calendar year 2020 but who were released up to 60 days early.

The Department revised its policies for the ASET-required areas as of February 2021, including revising its vulnerability management policies. We reviewed the newly revised IT security policies for 4 IT security areas and determined that the policies generally aligned with the required ASET areas. Additionally, the Department reported that it performed a risk assessment on one of its systems in December 2020 and, as of August 2021, had revised its IT policies to require risk assessments to be performed annually, as required by ASET. However, the Department was still implementing its processes for the newly revised policies, including implementing an entity-wide risk-assessment process.

## Recommendations

The Department should:

2. Continue to work on automating the processes for identifying inmates who may qualify for or meet the drug transition and September 2021 standard transition program eligibility requirements.
3. Evaluate and prioritize developing all ASET-required IT security policies based on its IT environment and mission. The Department should then use this information to guide its efforts to develop and implement written IT security procedures in line with ASET requirements and credible industry standards, focusing on the IT security areas with the highest security risks first.
4. Create a written action plan for implementing Recommendation 3 that includes specific tasks, the status of those tasks, and their estimated completion dates, as well as a process for regularly reviewing and updating the plan based on its progress.

**Department response:** As outlined in its [response](#), the Department agrees with the findings and will implement or implement in a different manner 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 confining offenders from all 15 counties as directed by the courts. It operates 10 State prisons and contracts for 6 private or privately managed prisons. These facilities are located throughout the State, although inmates are placed according to their custody level and are not allowed to request placement at a particular facility. Confinement contributes to public safety and benefits Arizona citizens by removing offenders convicted of crimes from society and preventing them from further victimizing the public. The Department also offers various types of programs to help rehabilitate inmates in prison, such as various work programs and addiction treatment programs.

The Department also serves the entire State by supervising inmates who are released on community supervision throughout the State. Department staff and offices are located in 11 cities across the State: Douglas, Flagstaff, Florence, Kingman, Mesa, Phoenix, Prescott Valley, Safford, San Luis, Snowflake, and Tucson. Department community corrections officers ensure that offenders have a suitable residence upon release and meet with released offenders to ensure that they understand and follow the terms of their release, such as the need to find employment, abstain from alcohol and drugs, and remain law-abiding. Offenders who are unable or unwilling to follow the terms of their release may have their community supervision revoked and be returned to prison.

However, the Department has not complied with a State conflict-of-interest requirement and could further enhance its conflict-of-interest practices by adopting some recommended practices. Statute requires public officers and employees of public agencies to avoid conflicts of interest that might influence or affect their official conduct.<sup>30</sup> These laws require employees to disclose substantial financial or decision-making interests and then refrain from participating in matters related to the disclosed interests. To help ensure compliance with these requirements, the Arizona Department of Administration's State Personnel System employee handbook and conflict-of-interest disclosure form require State employees to disclose if they have any business or decision-making interests, secondary employment, and relatives employed by the State at the time of initial hire and anytime there is a

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<sup>30</sup> A.R.S. §38-503.

change. Finally, 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.

Additionally, 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>31</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>32</sup> Specifically, conflict-of-interest recommended practices indicate that disclosure forms should be signed annually and require an affirmative statement indicating whether or not a conflict exists, also known as an "affirmative no." These recommended practices also indicate that agencies should develop a formal remediation process to ensure that identified conflicts are addressed.

Although the Department's conflict-of-interest policy and procedures align with some State conflict-of-interest requirements and recommended practices, the Department:

- **Does not remind all staff at least annually to submit disclosure forms when circumstances change**—The Department requires employees to complete a conflict-of-interest disclosure statement that includes an affirmative statement indicating whether or not a conflict exists when they are hired. Additionally, the Department requires employees considering secondary employment to complete a form notifying the Department of the secondary employment and attesting that it is not a conflict with the employee's role at the Department. However, the Department does not remind its employees at least annually to submit new disclosure forms when their circumstances change.
- **Lacks a special disclosure file**—The Department does not have a special disclosure file to store disclosures of substantial interest for public inspection, as required by statute, and instead retains completed disclosure statements in each employee's personnel file instead of in a special disclosure file as required by statute. As a result, the Department lacks a method to track how many employees, and which employees, disclosed a substantial interest and make this information available to the public.
- **Lacks a formal process for remediating disclosed conflicts other than secondary employment**—The Department has documented policies and procedures for remediating issues with employee's secondary employment if the employment affects the employee's job duties. However, the Department does not have documented policies and procedures for remediating other disclosed conflicts. According to the Department, if a conflict is disclosed when an employee begins their employment with the Department, the issue is referred to the new employee's supervisor to ensure the appropriate measures are taken to address the conflict, such as transferring the employee to a new unit. However, this process is not documented.

## Recommendation

The Department should:

5. Develop and implement revisions to its conflict-of-interest policy and procedures to help ensure compliance with State conflict-of-interest requirements and better align its policy and procedures with recommended practices, including (1) reminding Department employees at least annually to complete a new conflict-of-interest disclosure form when their circumstances change; (2) maintaining a special disclosure file of all

<sup>31</sup> For example, see 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>32</sup> Recommended practices we reviewed included: Organization for Economic Cooperation and Development (OECD). (2003). *Recommendation of the council on OCED guidelines for managing conflicts of interest in the public service*. Paris, France. Retrieved 8/4/2020 from <http://www.oecd.org/gov/ethics/2957360.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 8/4/2020 from <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; Controller and Auditor General of New Zealand. (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 8/17/2021 from <https://oag.parliament.nz/2020/conflicts>.

required documentation, such as disclosures of substantial interest; and (3) documenting its process for remediating any disclosed conflicts of interests.

**Department response:** As outlined in its [response](#), the Department disagrees with the finding and will not implement the recommendation.

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

A.R.S. §41-1005 exempts the Department from following the statutorily required rule-making process. Although the Department does not promulgate rules, it establishes operational procedures, including processes for meeting statutory requirements, in Department Orders. For example, Department Orders prescribe the Department’s procedures for determining earned release credit dates required by statute and authorizes the Department to charge a \$2 monthly utility fee to inmates with personal appliances, such as a radio or fan, consistent with A.R.S. §31-239.

**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.**

As discussed in Sunset factor 4, A.R.S. §41-1005 exempts the Department from the statutorily required rulemaking process. Although the Department is exempt from promulgating rules, it includes Department Orders, which implement statutory requirements, on its website for public viewing.

**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 grievances from inmates and inquiries from the public and has established processes, including time frames, to investigate and resolve these grievances and inquiries. Specifically:

- **Inmate grievances**—According to its Department Order and interviews with Department staff, inmates are required to first resolve their grievances informally with corrections staff. According to its Department Order, an inmate can file a formal grievance if he/she is unable to resolve his/her grievance informally. If the inmate is not satisfied with the formal response to the grievance, he/she can escalate the grievance, up to appealing to the Director for nonmedical grievances and to the Contract Facility Health Administrator for medical grievances. For example, the Director’s Legal Office reviews and investigates appealed grievances on the Director’s behalf, and decisions from the Director are considered final. According to Department records, the Department received over 3,500 inmate grievances in fiscal year 2021, with the majority related to healthcare or property grievances—1,261 and 606 grievances, respectively (see Table 3 for the top 6 types of grievances).

Additionally, its Department Order establishes time frames for the various steps in the formal inmate grievance handling process with an overall time frame of 120 calendar days to resolve formal grievances from initiation to final disposition. However, the Department does not have a reliable process for tracking and monitoring compliance with its time frames. According to its Department Order, each prison unit manually tracks formal inmate grievances

**Table 3**  
**Top 6 inmate grievance types**  
**Fiscal year 2021**

Category	Number
 Healthcare	1,261
 Property	606
 Staff	370
 Department Orders <sup>1</sup>	313
 Conditions of confinement	202
 Commissary/Store	151

<sup>1</sup> Includes grievances about Institution and Department Orders, policies, and procedures.

Source: Auditor General staff analysis of Department-provided inmate grievance information for fiscal year 2021.

using paper forms. Based on our review of fiscal year 2021 paper forms from the Eyman and Perryville State prisons and a random sample of 10 grievances listed on the paper forms, we identified various inaccuracies on the paper forms for 7 grievances and, thus, could not use the information to assess the Department's compliance with its inmate grievance processing time frames.<sup>33</sup> For example, Department staff reported that 3 of 10 grievances did not belong on the forms because they were not formal grievances. In addition, Department staff indicated that the processing of 1 grievance was not accurately reflected on the form.

In addition, the Department lacks a process to centrally monitor compliance with its time frames, including the 120-day overall time frame. For example, although ACIS includes a module to track inmate grievances, according to the Department, the module is not working correctly. The Department reported that it is working with the ACIS vendor to fix the grievance module. However, by not centrally monitoring compliance with its time frames, the Department cannot ensure that inmate grievance information, including time frames, is accurate, and without accurate information, cannot identify and address potential issues related to processing grievances within required time frames.

- **Public inquiries**—The Department's Constituent Services Office (CSO) investigates inquiries (which can include concerns) from the general public and inmates' friends and family regarding various issues, such as visitation, mail, time computation, and healthcare. According to the CSO, it has established time frames to respond to inquiries, which differ based on the nature of the inquiry. For example, allegations of retaliation have a 24-hour response time frame, while other inquiries have a response time frame of up to 7 days. In fiscal years 2019 and 2020, the CSO reported handling 42,855 and 38,061 public inquiries, respectively. We reviewed 12,311 inquiries the CSO received between January 1, 2021 and August 17, 2021, and found that the Department responded to 57 percent of the inquiries within the same day and 34 percent of inquiries within 1 day.<sup>34</sup> For the remaining 9 percent of the inquiries, the Department responded in 2 days for 6 percent of them and took between 3 and 13 days for the remaining 3 percent of the inquiries.

## Recommendations

The Department should:

6. Establish a process for ensuring that the Department, including prison units, have complete and accurate formal inmate grievance information.
7. Establish a centralized process to monitor compliance with its time frames for the various steps in its inmate grievance handling process, including the overall 120-day time frame for resolving grievances, to help identify and address potential issues related to processing inmate grievances within required time frames.

**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.

A.R.S. §41-192(A)(1) requires the Attorney General to act as the Department's legal advisor and to provide all legal services the Department requires.

Additionally, the Department reported that between calendar years 2018 and 2020, it referred an average of 235 cases annually to county attorneys. Cases referred to a county attorney typically involve criminal acts alleged to have been committed in or on prison property by inmates, Department employees, volunteers, or visitors. For cases referred to county attorneys between calendar years 2018 and 2020, there are 361 open cases under review or being prosecuted by county attorneys.

<sup>33</sup> We randomly selected 7 of approximately 340 and 3 of 15 inmate grievances from the Eyman and Perryville State prisons, respectively, that appeared to have been open for more than 120 days or took longer than 120 days to close in fiscal year 2021.

<sup>34</sup> We received a spreadsheet from the Department with 12,343 inquiries the CSO received between January 1, 2021 and August 17, 2021. We removed 32 inquiries that did not include a completion date or included a date that occurred before the inquiry was received.

**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.**

We did not identify any needed changes to the Department's statutes.

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

Without transferring its duties to another agency, terminating the Department would affect the public's safety and welfare because the Department provides confinement and community supervision for felony offenders. Imprisonment contributes to public safety by removing felony offenders from society and preventing them from further victimizing the public. The Department also provides various programs to help rehabilitate inmates and prepare them to return to their communities. As of June 2021, the Department supervised nearly 36,000 incarcerated inmates and more than 5,000 offenders on community supervision. In addition, there were more than 29,000 program enrollments in inmate program areas such as education, addiction treatment, and work duties.

**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 Department is not a regulatory agency; therefore, this factor does not apply.

**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.**

The Department uses contractors for various functions, including inmate healthcare, private prisons, food services, rehabilitation services, counseling services, and educational/vocational training programs. We compared the Department's use of contractors for these services to those used by 4 states: Ohio, Texas, Virginia, and Washington.<sup>35</sup> As shown in Table 4 (see page 22), we found that the Department uses contractors to a similar or greater extent than the other 4 states.

According to the PEW Charitable Trusts, similar to Arizona, 19 other states use contractors to provide inmate healthcare.<sup>36</sup> The Department began using contracted healthcare services in July 2012. Its contract with the former inmate healthcare vendor, Corizon, Inc., terminated in 2019. Shortly before the contract terminated, the Department withheld \$1,455,000 in payment to Corizon, Inc. as reimbursement for a court-ordered judgment the Department paid in fiscal year 2018 for violations of the settlement agreement of an inmate healthcare lawsuit (see the Introduction, page 3, for additional information about the lawsuit). The Department granted a 2-year contract to Centurion of Arizona, LLC effective July 1, 2019, with three 1-year renewal options. In June 2021, the Department exercised the option for the 1-year renewal extending the contract until September 30, 2022, with a cost of over \$216 million.

Additionally, as discussed in Sunset factor 1 (see page 13), Arizona and 30 other states use private prison facilities to house some inmates in their jurisdictions.

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

<sup>35</sup> We selected these states based on several factors (both for similarities and differences), including overall prison population, prison population per 100,000 state residents, state spending on corrections agency, and regional location.

<sup>36</sup> The Pew Charitable Trusts. (2018). *State prisons and the delivery of hospital care*. Philadelphia, PA. Retrieved 4/9/21 from [https://www.pewtrusts.org/-/media/assets/2018/07/prisons-and-hospital-care\\_report.pdf](https://www.pewtrusts.org/-/media/assets/2018/07/prisons-and-hospital-care_report.pdf).

**Table 4**  
**Contract use by the Department and 4 other states**

	Arizona	Ohio	Texas	Virginia	Washington
Inmate healthcare	✓	✓ <sup>1</sup>	✓ <sup>2</sup>	✓ <sup>3</sup>	✓ <sup>4</sup>
Private prisons <sup>5</sup>	✓	✓	✓	✓	✗
Food services	✓	✓	✗	✗	✗
Rehabilitation and counseling services	✓	✗ <sup>6</sup>	✓	✓	✓
Educational/Vocational training programs	✓	✓ <sup>7</sup>	✓	✓	✓

- <sup>1</sup> Ohio reported it does not contract for general inmate healthcare but does contract for inmate vision and dental care.
- <sup>2</sup> Texas reported that it contracts with 2 state universities to provide inmate healthcare. However, Texas does not directly contract with private vendors to provide inmate healthcare.
- <sup>3</sup> Virginia reported that inmate healthcare is provided by both in-house staff and contracted third parties.
- <sup>4</sup> Washington reported that most inmate healthcare is provided by in-house staff. However, Washington does contract for some healthcare services.
- <sup>5</sup> Virginia reported having only 1 private prison facility, while Ohio and Texas reported having 3 and 10 private prison facilities, respectively.
- <sup>6</sup> Ohio reported that mental health services are provided in-house, and drug and alcohol rehabilitation programs are overseen by the Ohio Department of Mental Health and Addiction Services.
- <sup>7</sup> Ohio reported that it contracts for some educational and vocational training programs but that most are provided in-house.

Source: Auditor interviews with staff from state correctional departments in Ohio, Texas, Virginia, and Washington.



# SUMMARY OF RECOMMENDATIONS

## Auditor General makes 7 recommendations to the Department

The Department should:

1. Help ensure inmates are timely released 3 months early to the transition program, as statutorily required, by:
  - a. Establishing time frames in its staff procedures for how quickly the eligibility reviews for the transition program and drug possession release should be initiated and completed and prioritize for review those inmates who are closest to release.
  - b. Developing and implementing a written procedure for monitoring, identifying, and addressing delays in transition program processes that are within the Department's control.
  - c. Continuing to work on automating the process for identifying inmates who may qualify for drug possession release and calculating their potential drug possession release dates (see Finding 1, pages 9 through 12, for more information).
2. Continue to work on automating the processes for identifying inmates who may qualify for or meet the drug transition and September 2021 standard transition program eligibility requirements (see Sunset Factor 2, pages 13 through 17, for more information).
3. Evaluate and prioritize developing all ASET-required IT security policies based on its IT environment and mission. The Department should then use this information to guide its efforts to develop and implement written IT security procedures in line with ASET requirements and credible industry standards, focusing on the IT security areas with the highest security risks first (see Sunset Factor 2, pages 13 through 17, for more information).
4. Create a written action plan for implementing Recommendation 3 that includes specific tasks, the status of those tasks, and their estimated completion dates, as well as a process for regularly reviewing and updating the plan based on its progress (see Sunset Factor 2, pages 13 through 17, for more information).
5. Develop and implement revisions to its conflict-of-interest policy and procedures to help ensure compliance with State conflict-of-interest requirements and better align its policy and procedures with recommended practices, including (1) reminding Department employees at least annually to complete a new conflict-of-interest disclosure form when their circumstances change; (2) maintaining a special disclosure file of all required documentation, such as disclosures of substantial interest; and (3) documenting its process for remediating any disclosed conflicts of interests (see Sunset Factor 3, pages 17 through 19, for more information).
6. Establish a process for ensuring that the Department, including prison units, have complete and accurate formal inmate grievance information (see Sunset Factor 6, pages 19 through 20, for more information).
7. Establish a centralized process to monitor compliance with its time frames for the various steps in its inmate grievance handling process, including the overall 120-day time frame for resolving grievances, to help identify and address potential issues related to processing inmate grievances within required time frames (see Sunset Factor 6, pages 19 through 20, 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. The audit was conducted as part of the sunset review process prescribed in A.R.S. §41-2951 et seq.

We used various methods to address the audit's objectives. These methods included reviewing applicable statutes and session laws; reviewing information from the Department's website, including policies and guidelines, known as Department Orders; and interviewing the Department's management and staff. In addition, we used the following specific methods to meet the audit objectives:

- To determine whether inmates were released 3 months early to the transition program as statutorily required or denied according to program requirements, we reviewed statutory requirements and various Department Orders and interviewed and observed staff involved in determining eligibility and knowledgeable about the Department's inmate management system, ACIS, to understand how the transition program was being implemented or to obtain additional information about specific inmate files reviewed. We also analyzed Department-provided data on 1,201 inmates who were released to and received transition program services in calendar year 2020. Additionally, we randomly selected and reviewed 30 inmate files from the 140 inmates who were released to and received transition program services in calendar year 2020 but who were released up to 60 days early. We also reviewed a random stratified sample of 45 inmate files from the 1,064 that were denied for the transition program in calendar year 2020. We conducted work to assess the reliability of this data, including comparing Department-provided data on inmates released to the transition program in calendar year 2020 to data the transition program contractor maintained. We determined the data to be sufficiently reliable for the purposes of this audit, including reporting the number of days early inmates were released to the transition program in calendar year 2020.
- To assess the Department's compliance with the State's IT security requirements and credible industry standards, we compared the Department's IT security policies, procedures, and practices to ASET requirements. Specifically, we interviewed Department staff to obtain information about the Department's informal IT security practices in place as of September 2020 and compared 4 IT security policies the Department updated as of February 2021 to ASET requirements. Additionally, we reviewed the Department's vulnerability scanning results conducted between January 2020 and April 2020, and assessed whether Department staff remediated identified vulnerabilities consistent with ASET policy.
- To assess the Department's compliance with the State's conflict-of-interest laws and alignment with recommended practices, we reviewed statutes, recommended practices, the Department's conflict-of-interest policies, and the Department's disclosure form.<sup>37</sup>
- To assess the Department's processes for handling inmates' grievances and inquiries from the public, we conducted interviews with the Department's management and staff, reviewed relevant Department Orders, and obtained and reviewed Department-provided data. However, based on our review of fiscal year 2021

<sup>37</sup> Organization for Economic Cooperation and Development (OECD). (2003). *Recommendation of the council on OCED guidelines for managing conflicts of interest in the public service*. Paris, France. Retrieved 8/4/2020 from <http://www.oecd.org/gov/ethics/2957360.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 8/4/2020 from <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; Controller and Auditor General of New Zealand. (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 8/17/2021 from <https://oag.parliament.nz/2020/conflicts>.

paper forms listing formal inmate grievances from the Eyman and Perryville State prisons and a random sample of 7 of approximately 340 and 3 of 15 inmate grievances from the Eyman and Perryville State prisons, respectively, that appeared to have been open for more than 120 days or took longer than 120 days to close in fiscal year 2021, we determined that the formal inmate grievance information included on the paper forms was not sufficiently reliable for audit purposes and could not use the information to assess the Department's compliance with its inmate grievance processing time frames.

- To compare the Department's use of private contractors with other states' correctional departments, we identified 4 states—Ohio, Texas, Virginia, and Washington—for comparison based on several factors including overall prison population, prison population per 100,000 state residents, state spending on corrections agency, and regional location. We interviewed staff from these 4 states to obtain comparative information about their use of contracted services regarding these specific areas: (1) inmate healthcare, (2) private prisons, (3) food services, (4) rehabilitation and counseling services, and (5) educational and vocational training.
- To obtain additional information for the Introduction, we obtained staffing and vacancy information from the Department's staff and reviewed documentation from the Department's 2012 class-action lawsuit regarding inmate healthcare.<sup>38</sup> We also compiled and analyzed unaudited information from the Arizona Financial Information System *Accounting Event Transaction File* for July 1, 2018 through February 28, 2021; State of Arizona *Annual Financial Report* for fiscal years 2019 and 2020; and Department-provided information, including estimates for fiscal year 2021.
- Our work on internal control included reviewing Department Orders, testing compliance with these orders and statutory requirements, and interviewing and observing staff to assess how requirements were being implemented. Our work included reviewing the following components of internal control: control activities including the design of control activities, such as policies and procedures; information and communication related to the use of quality information that is complete and accurate; and internal control system monitoring. We reported our conclusions on applicable internal controls in Finding 1 and Sunset Factors 2, 3, and 6.

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 and sunset review 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's Director and staff for their cooperation and assistance throughout the audit.

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<sup>38</sup> *Parsons v. Ryan*, No. 12-00601 (D. Ariz. Mar. 22, 2012).



## Auditor General's comments on Department response

We appreciate the Department's response including its agreement with most of the audit findings and its plan to implement or implement in a different manner most of the recommendations. However, the Department's response includes some statements that necessitate the following clarifications:

1. In the Department's explanation of its response to Recommendations 1c and 2, it states the following (see Department's response, pages 2 through 3):

"The Department is currently working with the ACIS vendor to establish efficiencies in the sentence calculation process as originally funded. Specifically, funding already dedicated to Maintenance and Operation (M&O) improvements is being utilized to modify the system to better comport with legislative changes, post design and programming of ACIS in its current state. The recommended programming changes will exceed available M&O funding/hours and other critical already planned improvements to other ACIS vital functional areas will not occur. Additionally, these changes will delay the other functional improvements and will require additional funding. However, the Department will identify other collateral programs which perform sentence calculation and permit upload or communication of this information into ACIS which can be implemented with current Department funding. With anticipation of future legislative changes, the Department will identify future funding needs in budget requests."

**As discussed in Finding 1 (see page 11) and Sunset Factor 2 (see page 16), the Department reported that ACIS had not yet been programmed to include the drug possession release and transition program eligibility requirements, but the Department had begun working with its ACIS vendor to make these programming changes, and it expects them to be implemented between October 2021 and November 2022. Although the Department's response references the availability of funding to make improvements to ACIS, our recommendation is that the Department continue the automation efforts it has already initiated and for which it reported anticipated completion dates.**

2. The Department states that it disagrees with our finding regarding its adherence to State conflict-of-interest requirements and better aligning its conflict-of-interest policies and procedures with recommended practices (see pages 17 through 19), and it will not implement Recommendation 5. In the Department's explanation of its response to Recommendation 5, it states the following (see Department's response, page 4):

"The Department has already exceeded this recommendation with immediate evaluation of each participant during each individual procurement action throughout the entire year which meets and exceeds the legal requirements for this item as required for disclosures of substantial interest. Given the duties of more than 99 percent of Department employees, they have no involvement or ability to participate in procurement actions. Department Order 501, Employee Professionalism, Ethics and Conduct is specific to the requirements of general conflict of interest statutes, rules and policies and outlines the employee's responsibility and required actions. Department Order 601, Administrative Investigations and Employee Discipline establish procedures for conducting investigations and dispositions for allegations of non-compliance. As part of its procurement process, every participating member of an RFP committee discloses any potential conflicts-of-interest for each and every RFP issued. Initiating a requirement that all ADCRR staff must complete disclosures on an annual basis for contracting services which they have no authorized input into, is not only cumbersome but a misuse of state resources at a time when the Department focus must remain on recruitment and retention of Correctional Officers to meet its Public Safety mission."

The Department misinterprets our recommendation, and by stating it will not implement it, the Department indicates in part that it will not follow State law. Specifically, the Department's response explanation focuses on conflicts of interest related solely to procurement actions. However, conflicts of interest are not solely limited to procurement actions or activities. As discussed in Sunset Factor 3 (see pages 17 through 19), State laws require all employees to disclose substantial financial or decision-making interests and then refrain from participating in matters related to the disclosed interests. To help ensure compliance with these requirements and regardless of whether the employee has a procurement role, the Arizona Department of Administration's State Personnel System employee handbook and conflict-of-interest disclosure form require State employees to disclose if they have any business or decision-making interests, secondary employment, and relatives employed by the State at the time of initial hire and anytime there is a change.

Further, as discussed in Sunset Factor 3 (see page 18), we found that the Department lacked the required special disclosure file and a formal process for remediating disclosed conflicts other than for secondary employment. To help ensure compliance with State conflict-of-interest requirements and better align its policy and procedures with recommended practices, we recommended that the Department maintain a special disclosure file of all required documentation, such as disclosures of substantial interest, and document its process for remediating any disclosed conflicts of interests. The Department does not include in its response explanation any concerns with these recommendations. Therefore, it is unclear from the Department's response why it will not implement them.

Finally, although the Department requires employees to complete a conflict-of-interest disclosure statement that includes an affirmative statement indicating whether or not a conflict exists when they are hired, it does not follow recommended practices to remind its employees at least annually to submit new disclosure forms when their circumstances change. Providing such a reminder will help ensure all Department employees remain in compliance with the State's conflict-of-interest laws and requirements and potentially prevent the misuse of State resources that could result from any conflicts. Thus, in line with recommended practices, we recommended that the Department remind employees at least annually to complete a new conflict-of-interest disclosure form when their circumstances change. We did not recommend that the Department require all employees to complete disclosures on an annual basis as the Department's response explanation suggests.

# DEPARTMENT RESPONSE



DOUGLAS A. DUCEY  
GOVERNOR

# Arizona Department of Corrections Rehabilitation & Reentry

1601 WEST JEFFERSON  
PHOENIX, ARIZONA 85007  
(602) 542-5497  
[www.azcorrections.gov](http://www.azcorrections.gov)



DAVID SHINN  
DIRECTOR

September 22, 2021

Lindsey Perry, CPA, CFE  
Auditor General  
2910 N. 44th Street, Suite 410  
Phoenix, AZ 85018-7271

Re: Auditor General Report – Sunset Factors

Dear Ms. Perry:

Attached is the Arizona Department of Corrections, Rehabilitation and Reentry's response to the performance audit report, focusing on the Sunset Factors. Thank you for the opportunity to respond.

If you have any questions, please do not hesitate to contact my office.

Thank you

A handwritten signature in black ink, appearing to be "David Shinn", written over a horizontal line.

David Shinn  
Director

**Finding 1:** In 2020, Department did not release a quarter of inmates approved for transition program the full 3 months early as statutorily required, which may lengthen their prison stays, thereby increasing Department costs

**Recommendation 1:** To help ensure inmates are timely released 3 months early to the transition program, as statutorily required, the Department should:

**Recommendation 1a:** Establish time frames in its staff procedures for how quickly the eligibility reviews for the transition program and drug possession release should be initiated and completed and prioritize for review those inmates who are closest to release.

Department response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: As an immediate short-term solution, the Department will establish and ensure specific timeframes for its staff to review any newly eligible inmates for the transition programming. A long-term sustainable solution, the Department will partner with the sentencing courts, Prosecutors and Defense Bar to develop a process to determine eligibility at sentencing with a judicial recommendation and/or order. The Defense Bar will have the opportunity to present evidence of program eligibility with consideration of prosecutors concerns and consideration by the Court. This sustainable process provides the opportunity for full consideration of all known criminal history, offense conduct, and additional factors with the full input of victims, prosecutors, and the defense to codified eligibility in the sentencing order. This will eliminate both the time and need for the Department's eligibility determination and allow the focus on a final sentence calculation based program participation.

**Recommendation 1b:** Develop and implement a written procedure for monitoring, identifying, and addressing delays in transition program processes that are within the Department's control.

Department response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: Please see the above response to Recommendation 1a.

**Recommendation 1c:** Continue to work on automating the process for identifying inmates who may qualify for drug possession release and calculating their potential drug possession release dates.

Department response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: The Department is currently working with the ACIS vendor to establish efficiencies in the sentence calculation process as originally funded. Specifically, funding already dedicated to Maintenance and Operation (M&O) improvements is being utilized to modify the system to better comport with legislative changes, post design and programming of ACIS in its current state. The recommended programming changes will exceed available M&O funding/hours and other critical already planned improvements to other ACIS vital functional areas will not occur. Additionally, these changes will delay the other functional improvements and will require

additional funding. However, the Department will identify other collateral programs which perform sentence calculation and permit upload or communication of this information into ACIS which can be implemented with current Department funding. With anticipation of future legislative changes, the Department will identify future funding needs in budget requests.

**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 2:** The Department should continue to work on automating the processes for identifying inmates who may qualify for or meet the drug transition and September 2021 standard transition program eligibility requirements.

Department response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: Please see the above response to 1c.

**Recommendation 3:** The Department should evaluate and prioritize developing all ASET-required IT security policies based on its IT environment and mission. The Department should then use this information to guide its efforts to develop and implement written IT security procedures in line with ASET requirements and credible industry standards, focusing on the IT security areas with the highest security risks first.

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

Response explanation: The Department will partner with ASET and other state entities to develop and implement a statewide enterprise solution to its IT security assessment and risk management needs which other Departments can utilize. Ensuring the Department is aligned with industry standards and best practices as it relates to Information Technology, the process will be codified in a written procedure upon completion.

**Recommendation 4:** The Department should create a written action plan for implementing Recommendation 3 that includes specific tasks, the status of those tasks, and their estimated completion dates, as well as a process for regularly reviewing and updating the plan based on its progress.

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

Response explanation: In addition to the above Recommendation 3 response. The Department will apply the appropriate resources to develop formalized written action plans to monitor and implement recommendations into the necessary policies, which are regularly reviewed and updated.

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

**Recommendation 5:** The Department should develop and implement revisions to its conflict-of-interest policy and procedures to help ensure compliance with State conflict-of-interest requirements and better align its policy and procedures with recommended practices, including (1) reminding Department employees at least annually to complete a new conflict-of-interest disclosure form when their circumstances change; (2) maintaining a special disclosure file of all required documentation, such as disclosures of substantial interest; and (3) documenting its process for remediating any disclosed conflicts of interests.

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

Response explanation: The Department has already exceeded this recommendation with immediate evaluation of each participant during each individual procurement action throughout the entire year which meets and exceeds the legal requirements for this item as required for disclosures of substantial interest. Given the duties of more than 99 percent of Department employees, they have no involvement or ability to participate in procurement actions. Department Order 501, Employee Professionalism, Ethics and Conduct is specific to the requirements of general conflict of interest statutes, rules and policies and outlines the employee's responsibility and required actions. Department Order 601, Administrative Investigations and Employee Discipline establish procedures for conducting investigations and dispositions for allegations of non-compliance. As part of its procurement process, every participating member of an RFP committee discloses any potential conflicts-of-interest for each and every RFP issued. Initiating a requirement that all ADCRR staff must complete disclosures on an annual basis for contracting services which they have no authorized input into, is not only cumbersome but a misuse of state resources at a time when the Department focus must remain on recruitment and retention of Correctional Officers to meet its Public Safety mission.

**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 6:** The Department should establish a process for ensuring that the Department, including prison units, have complete and accurate formal inmate grievance information.

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

Response explanation: The Department agrees to this finding and has already acquired additional software to track, assess, and manage the vital inmate grievance process.

**Recommendation 7:** The Department should establish a centralized process to monitor compliance with its time frames for the various steps in its inmate grievance handling process, including the overall 120-day time frame for resolving grievances, to help identify and address potential issues related to processing inmate grievances within required time frames.

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

Response explanation: Please see the above response to recommendation 6.

