

# Arizona Department of Juvenile Corrections

Department has established processes for the statutory responsibilities we reviewed, including assessing youths' educational needs, but had deficiencies in some processes, including not always following its requirements for supervising youth on parole and not ensuring that youth in its work incentive program were paid as required by statute

Sunset Review

October 2021  
Report 21-122

A Report to the Arizona Legislature

Lindsey A. Perry  
Auditor General





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October 1, 2021

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Mr. Jeff Hood, Director  
Arizona Department of Juvenile Corrections

Transmitted herewith is the Auditor General's report, *A Sunset Review of the Arizona Department of Juvenile Corrections*. This report is in response to a September 14, 2016, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within this report a copy of the Report Highlights to provide a quick summary for your convenience.

As outlined in its response, the Arizona Department of Juvenile Corrections agrees with all but 2 of the findings and plans to implement or implement in a different manner all 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 Juvenile Corrections

Department has established processes for the statutory responsibilities we reviewed, including assessing youths' educational needs, but had deficiencies in some processes, including not always following its requirements for supervising youth on parole and not ensuring that youth in its work incentive program were paid as required by statute

### Audit purpose

To respond to the statutory sunset factors and determine if the Department complied with statute and/or its policies and procedures or followed recommended practices for supervising youth on parole, compensating youth for work performed, protecting information technology (IT) systems/data, measuring/reporting youth recidivism, monitoring youth exclusions, addressing youth grievances, and investigating/resolving employee misconduct allegations.

### Key findings

The Department:

- Is responsible for the supervision, rehabilitation, treatment, and education of delinquent youth who pose a threat to public safety and have been committed to its care by the Superior Court of Arizona.
- Has processes for assessing youths' educational needs, preparing youth for release on parole, including developing youths' parole conditions and coordinating post release services, and providing specialized care for youth with mental illnesses.
- Did not always follow its requirements for supervising youth on parole, including not conducting all required contacts and ensuring youth were administered all required drug tests, or ensure that youth participating in its work incentive program were paid as required by statute but revised its policies to address some issues during the audit.
- Developed statutorily required IT security policies and a plan for implementing these policies during the audit.
- Has processes for measuring and reporting youth recidivism and reviewing compliance with its exclusion policy but can enhance these processes by further aligning its youth recidivism measurement and reporting with some additional practices recommended by literature and by using electronic data on the use of exclusion.
- Has a process for resolving youth grievances but did not timely assign and resolve some grievances and lacks a formal supervisory review process for staff who oversee youth grievances.

### Key recommendations

The Department should:

- Ensure that parole officers follow parole supervision requirements.
- Continue to implement its revised youth work experience policies and procedures and written plan for implementing its newly developed IT security policies.
- Evaluate and revise its method for measuring and reporting recidivism to further align it with additional practices recommended by literature and modify and implement its policies regarding youth exclusion.
- Follow its time frames for reviewing and resolving youth grievances and develop and implement youth grievance supervisory review policies and procedures.



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The Arizona Auditor General has released the third in a series of 3 audit reports of the Arizona Department of Juvenile Corrections (Department) as part of the Department's sunset review. The first performance audit determined whether the Department's use of Temporary Stabilization Units for delinquent youth committed to its care is consistent with Department policies and best practices for rehabilitating delinquent youth.<sup>1</sup> The second performance audit determined whether the Department's processes for evaluating its evidence-based treatment programs are consistent with recommended practices, including processes for assessing if its evidence-based treatment interventions are implemented as designed and for evaluating whether its youth treatment programming follows practices associated with reduced recidivism and is achieving its intended rehabilitative outcomes.<sup>2</sup> This sunset review determined whether the Department complied with statute and/or its policies and procedures or followed recommended practices in the following areas: supervision of youth on parole, compensating youth for work performed, safeguarding its information technology (IT) systems and data, measuring and reporting youth recidivism, monitoring youth placed in exclusion, addressing youth grievances, and investigating and resolving allegations of employee misconduct. This sunset review report also includes responses to the statutory sunset factors.

## History, mission, and responsibilities

The Department was established in 1990 when it separated from the Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) as a result of a federal lawsuit (see pages 4 through 5 for information on the federal lawsuit).<sup>3,4</sup> The Department is statutorily responsible for the supervision, rehabilitation, treatment, and education of delinquent youth who pose a threat to public safety and have engaged in a pattern of conduct characterized by persistent and delinquent offenses and who have been committed to the Department's care by the Superior Court of Arizona.<sup>5,6</sup> Consistent with statute and its mission, the Department's responsibilities include:

### Department mission statement

To rehabilitate the youth in our care by providing evidence-based treatment, prosocial activities, education, and career training that will lead them to become productive, healthy, law abiding members of society.

Source: The Department's fiscal year 2022 Strategic Plan.

<sup>1</sup> Arizona Auditor General Report 21-104 *Arizona Department of Juvenile Corrections—Use of Temporary Stabilization Units*.

<sup>2</sup> Arizona Auditor General Report 21-121 *Arizona Department of Juvenile Corrections—Youth Treatment Programming Evaluation*.

<sup>3</sup> Johnson v. Upchurch, CIV-86-195, U.S. Dist. Ct. for Dist. of AZ.

<sup>4</sup> Prior to January 2020, ADCRR was called the Arizona Department of Corrections.

<sup>5</sup> Arizona Revised Statutes (A.R.S.) §§41-2802 and 41-2816(A).

<sup>6</sup> Pursuant to A.R.S. §§ 41-2801 and 8-342, youth who are at least 14 years old and under the age of 18 years old, or under the age of 19 years old if subject to extended jurisdiction pursuant to A.R.S. §8-202(H), and have been adjudicated or previously adjudicated delinquent for a felony offense may be committed to the Department's care by the Superior Court of Arizona (see footnote 9, page 2, for information on extended jurisdiction). Youth who are at least 14 years old and under the age of 18 years old, or under the age of 19 years old if subject to extended jurisdiction pursuant to A.R.S. §8-202(H), seriously mentally ill, and adjudicated delinquent for any offense may also be committed to the Department's care. Additionally, pursuant to A.R.S. §13-501(A), youth between the ages of 15 and 17 years old who commit a violent felony offense, such as first- or second-degree murder or armed robbery, or are chronic felony offenders, are prosecuted as adults. Similarly, A.R.S. §13-501(B) authorizes county prosecutors to prosecute youth as adults who are at least 14 years old and who commit various felony offenses or are chronic felony offenders. A.R.S. §8-342 prohibits youth who are less than 14 years old from being committed to the Department. A.R.S. §8-341 outlines various commitment options for youth, including those who are less than 14 years old, and have been adjudicated delinquent, such as being committed to the care of the youth's parents, subject to the supervision of a probation department.

- **Operating a secure care facility**—The Department is statutorily required to operate and maintain or contract for secure care facilities for the custody, treatment, rehabilitation, and education of youth who pose a threat to public safety and, as demonstrated through the use of other alternatives, cannot be controlled in a less secure setting.<sup>7,8</sup> As of July 2021, the Department operated and maintained 1 secure care facility in the City of Phoenix, the Adobe Mountain School (Facility), where youth under the Department’s care reside until released (see pages 3 through 4 for more information on youths’ release from the Facility).<sup>9</sup> The Facility opened in 1971 and consists of various buildings and outdoor spaces, including youth housing unit buildings, education buildings, medical buildings, a cafeteria, an administration building, and outdoor recreation areas such as basketball courts and a swimming pool (see Arizona Auditor General Report 21-104 for additional information on the Facility, including a Facility map and photographs of Facility buildings and grounds).

The Facility is located on Arizona State Trust (State Trust) land the Department leases from the Arizona State Land Department, and the Department’s lease expires in November 2027.<sup>10</sup> According to the Department, it anticipates that the Arizona State Land Department will determine that selling the land on which the Facility is located is the most profitable use of the land, which would prevent the Department from continuing to maintain the Facility at its current site.<sup>11</sup> As a result, the Department has started to plan to relocate its secure care facility by 2027. In February 2021, the Department contracted with a consultant to help it plan for a new secure care facility within a metropolitan area in Arizona. The consultant is obligated to identify a minimum of 3 potential site locations for a new secure care facility. According to the Department, it expects the consultant to produce a draft report with potential site locations by the end of calendar year 2021.

- **Supervising youth in the Facility**—Department staff are charged with the supervision and security of youth committed to the Facility. For example, Department staff are responsible for managing youths’ schedules and supervising youth during the various activities in which they participate throughout the day, such as during educational classes, meals, and recreation (see Arizona Auditor General Report 21-104 for more information about youths’ daily schedules). Department staff also provide perimeter security at the Facility, transportation of youth within the Facility and to and from external locations such as to medical appointments and court, radio communications within the Facility, and other processes designed to maintain a safe and secure environment within the Facility. As of May 2021, Department staff supervised 136 youths residing in the Facility (see Figure 1, page 3, for the age and gender of the 136 youths in the Facility).

Consistent with Prison Rape Elimination Act (PREA) Standards, the Department’s policy and procedures require staff-to-youth ratios of 1-to-8 at all times during waking hours and 1-to-16 during sleeping hours for youth in the Facility.<sup>12</sup> All new youth corrections officers (YCOs) attend a 6-week, preservice training academy covering topics such as adolescent development, behavior management and conflict resolution, treatment programming, and procedures for managing youth housing units. Following the preservice training academy, new YCOs receive 2 weeks of on-the-job training.

<sup>7</sup> A.R.S. §41-2816(A).

<sup>8</sup> A.R.S. §41-2801 defines secure care as confinement in a facility that is completely surrounded by a locked and physically secure barrier with entrance and exit restrictions.

<sup>9</sup> A.R.S. §41-2818 authorizes the Department to release a youth from the Facility on parole (see pages 3 through 4 for more information), and A.R.S. §41-2820 requires the Department to discharge youth from its jurisdiction regardless of rehabilitative progress when they reach 18 years old, or 19 years old if the juvenile court retains extended jurisdiction over the youth. A.R.S. §8-202(H) requires the court to retain extended jurisdiction over a youth who is at least 17 years old and who has been adjudicated delinquent until the youth reaches 19 years old if the State filed a notice of intent to retain jurisdiction.

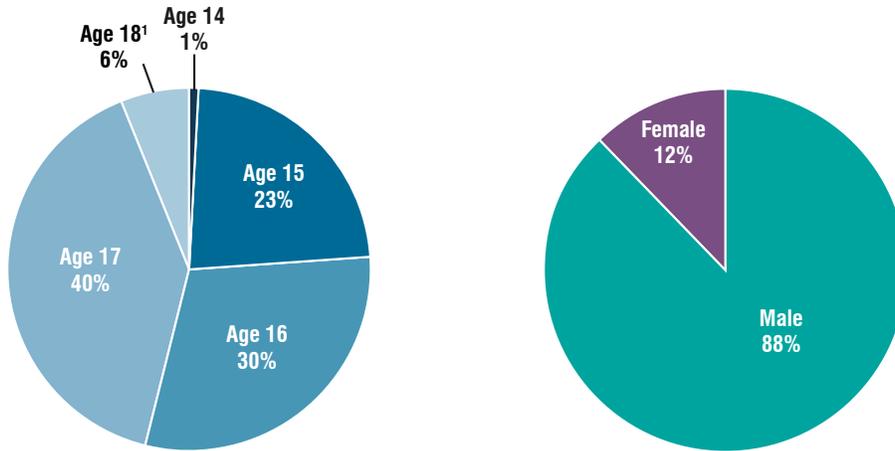
<sup>10</sup> The Department’s lease began in November 2017 and required an annual lease payment of \$753,000, increasing annually to \$1.5 million in 2022 through the end of the lease.

<sup>11</sup> The Arizona State Land Department has a constitutional obligation to maximize the value derived from State Trust land for the benefit of the State Trust’s beneficiaries. See Arizona Constitution. Art. X, §3.

<sup>12</sup> 28 CFR §115.313(c). According to the Department, waking hours for youth at the Facility are from 6:00 a.m. to 8:00 p.m., and sleeping hours are from 8:00 p.m. to 6:00 a.m. According to the Department, staff-to-youth ratios do not include staff who do not directly supervise youth, such as teachers and nonsupervisory administrative staff.

- Providing youth treatment programming**—Consistent with its statutory responsibility to provide treatment to youth, the Department provides various group and individual treatment programs to youth in the Facility under the supervision of licensed clinical staff based on youths’ assessed risk to recidivate and treatment needs.<sup>13,14</sup> For example, the Department has a treatment program designed for youth with aggressive and violent behavior and another treatment program for youth with moderate to severe substance use issues (see Arizona Auditor General Report 21-121 for information on the Department’s treatment programming and assessments of youths’ risk to recidivate and associated treatment needs).

**Figure 1**  
**Age and gender of the 136 youths residing in the Facility**  
**As of May 2021**  
 (Unaudited)



<sup>1</sup> A.R.S. §8-202(H) requires the Arizona Superior Court to retain extended jurisdiction over a youth who is at least 17 years old and has been adjudicated delinquent until the youth reaches 19 years old if the State filed a notice of intent to retain jurisdiction.

Source: Auditor General staff analysis of the Department’s May 2021 “Just the Facts” report.

- Providing youth education**—Statute requires the Department to provide an appropriate education to all youth committed to the Facility who have not received a high school diploma or a high school certificate of equivalency.<sup>15</sup> The Department operates a school at the Facility where youth participate in educational classes and vocational and career education programs, such as cosmetology and automotive technology. Youth can also earn school credit by participating in a work crew to learn vocational skills, including landscape maintenance and kitchen operations (see Sunset Factor 2, pages 9 through 10, for more information on the Department’s processes for providing youth with education to meet their needs).<sup>16</sup>
- Supervising youth on parole**—A.R.S. §41-2818 authorizes the Department to release a youth from the Facility on parole and to establish release conditions with which the youth must comply if it determines the youth is not likely to be a threat to public safety and the youth’s continued treatment, rehabilitation,

<sup>13</sup> A.R.S. §§41-2802, 41-2815, and 41-2816.

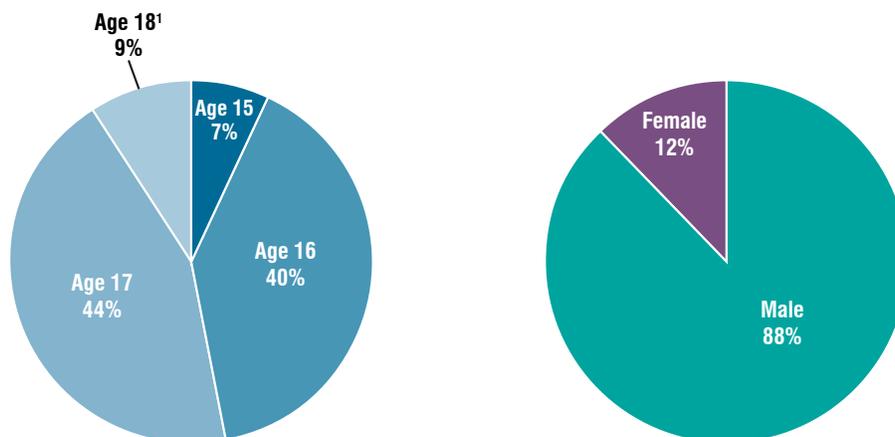
<sup>14</sup> Recidivism is defined as a relapse into criminal behavior. See Sunset Factor 2, pages 18 through 19, for more information on recidivism.

<sup>15</sup> According to A.R.S. §41-2831(A)&(E), the Department is required to provide all youth committed to its care with an appropriate education as required by State and federal laws, but statute does not further define an appropriate education. According to 34 CFR §104.33(b), an appropriate education is defined as the provision of regular or special education and related aids and services that are designed to meet individual educational needs of disabled students as adequately as the needs of nondisabled students and are based upon adherence to procedures that satisfy the requirements of CFR 34 §§104.34 through 104.36.

<sup>16</sup> To participate in a work crew, youth must complete an application, and the Department reported that youth will complete an interview with Department staff from the area in which the youth applied to work. Youth receive school credit for participating in a work crew during their scheduled school hours.

and education in a less restrictive setting are consistent with protecting the public's safety and interest. Accordingly, Department staff provide supervision for youth released from the Facility on parole (see Sunset Factor 2, pages 12 through 14, for more information on the Department not always following its policies for supervising youth on parole). As of May 2021, Department staff supervised 73 youths released from the Facility on parole (see Figure 2 for the age and gender of the 73 youths released from the Facility on parole).<sup>17,18</sup>

**Figure 2**  
**Age and gender of the 73 youths released from the Facility on parole**  
**As of May 2021**  
(Unaudited)



<sup>1</sup> A.R.S. §8-202(H) requires the Arizona Superior Court to retain extended jurisdiction over a youth who is at least 17 years old and has been adjudicated delinquent until the youth reaches 19 years old if the State filed a notice of intent to retain jurisdiction.

Source: Auditor General staff review of Department-provided information.

## Previous federal lawsuits and investigation alleged civil rights violations

Previous federal lawsuits and an investigation related to the care of delinquent youth alleged civil rights violations, as follows:

- 1986 federal lawsuit alleged various civil rights violations**—As previously stated (see page 1), the Department was established in 1990 when it separated from ADCRR as a result of a 1986 federal lawsuit.<sup>19</sup> The lawsuit alleged ADCRR violated youths' civil rights by using punitive isolation as well as failing to rehabilitate them, denying them a free and appropriate public education, and failing to provide due process for parole revocation. In 1993, the Department entered into a court-approved consent decree to address the plaintiff's claims, agreeing to the following:

<sup>17</sup> According to the Department's May 2021 "Just the Facts" document, 34 youth, or 15 percent of the total combined youth population in the Facility and on parole, are dually involved. According to the Georgetown University Center for Juvenile Justice Reform, dually involved youth have involvement with the juvenile justice and child welfare systems concurrently.

<sup>18</sup> In addition, the Department supervises youth from other states in Arizona under the Interstate Compact for Juveniles. A.R.S. §8-361 requires the Department to supervise youth who have been placed on probation or parole by another state but reside in Arizona in accordance with the Interstate Compact for Juveniles. Likewise, other states supervise Arizona juveniles who have been placed on probation or parole but do not reside in Arizona. As of May 2021, the Department's parole officers supervised an additional 64 youth who had been placed on parole by another state but reside in Arizona. Another 49 youth were placed on probation or parole in Arizona but reside in another state.

<sup>19</sup> Johnson v. Upchurch, CIV-86-195, U.S. Dist. Ct. for Dist. of AZ.

- Limiting the use of isolation, including confining youth to their room and referring them to a separation unit, now known as a Temporary Stabilization Unit (TSU).<sup>20</sup>
- Developing treatment interventions to address youths' individual treatment needs.
- Developing individual treatment plans for youth and a plan to evaluate its treatment programs' effectiveness.
- Assessing youths' special education needs.
- Maintaining appropriate services for special education students.
- Providing youth with due process protections for parole revocation proceedings.

Based on the Department's compliance with the 1993 consent decree, the lawsuit was closed in 1998. The consent decree indicated that its terms were binding on the successors of the named defendants and on any successor agencies of State government that assumed all or part of their responsibilities.

- **2002 federal investigation found serious deficiencies**—In 2002, the U.S. Department of Justice began an investigation under the Civil Rights of Institutionalized Persons Act (CRIPA) to determine whether the civil rights of youth in the Department's custody were being violated.<sup>21</sup> This investigation was initiated in 2002 by the U.S. Department of Justice after the first of 3 suicides among youth in the Department's care.<sup>22</sup> The findings from the investigation included that the Department had inadequate suicide prevention policies and practices, failed to protect youth from physical and sexual abuse, failed to provide adequate due process procedures before isolating youth in Separation (now known as TSU), provided inadequate medical and mental healthcare services, and failed to provide special education services for youth. As a result of this investigation, the U.S. Department of Justice filed a lawsuit against the State in 2004.<sup>23</sup> The State entered into a Memorandum of Agreement (Agreement) with the U.S. Department of Justice to address the deficiencies identified in the investigation by implementing more than 120 mandatory provisions. Court-appointed consultants monitored the Department's implementation of the Agreement, and the Department was relieved of this monitoring in 2007 as a result of changes it made to its operations. The Agreement indicated that the State should ensure that all current and future Department employees implement the Agreement.

## Organization and staffing

As of August 2021, the Department reported having 434.75 filled full-time equivalent (FTE) positions and 84 vacancies assigned to its various units. The Department comprises the following 7 units:

- **Administration (55 FTEs; 6 vacancies)**—Provides Department-wide support and services, including fiscal management, procurement, human resources, information systems, research, staff development, and facilities administration. Administration also includes the Legal Systems Bureau, which provides legal expertise to the Department; youth hearing officers who are responsible for presiding over youth hearings, such as parole revocation hearings; and juvenile ombudsmen who are responsible for providing assistance to youth during hearings and facilitating a youth grievance process (see page 27 for more information about the youth grievance process). Additionally, Administration includes the Office of the Inspector General, which conducts investigations of Department staff or youth concerning any allegation of criminal activity, misconduct, and/or noncompliance with Department policy, and quality assurance inspections to monitor and review staff compliance with Department policies and procedures. Finally, Administration includes the

<sup>20</sup> For more information on the Department's TSUs, see Arizona Auditor General Report 21-104.

<sup>21</sup> In accordance with CRIPA, the U.S. Department of Justice is authorized to protect the rights of individuals in the care of state institutions, such as state and locally operated correctional facilities and mental health facilities. See 42 U.S.C. 1997.

<sup>22</sup> Between April 2002 and March 2003, 3 youth committed suicide while in the Department's care.

<sup>23</sup> United States of America v. The State of Arizona, et al., CV-04-01926, U.S. Dist. Ct. for Dist. of AZ.

Continuous Improvement Bureau, which prepares various reports compiling and analyzing Department data, such as youth recidivism rates, and develops and maintains Department policies.

- **Community corrections (29 FTEs; 1 vacancy)**—Provides supervision and coordination of community-based services for youth released from the Facility on parole.
- **Education (25 FTEs; 0 vacancies)**—Operates a school at the Facility where youth participate in educational classes and vocational and career education programs.
- **Facilities support (32 FTEs; 8 vacancies)**—Provides food for youth and janitorial and maintenance services for the Facility.
- **Health services (22 FTEs; 6 vacancies)**—Provides medical and psychiatric health services, nursing, pharmacy, and dental services and refers youth to off-site hospitals and specialty healthcare providers when necessary.
- **Secure care treatment (54.75 FTEs; 5 vacancies)**—Under the supervision of licensed psychologists, provides group and individual treatment programming for youth depending on youths' assessed risk to recidivate and treatment needs (see Arizona Auditor General Report 21-121, Appendix A, page a-1, for additional information on Department staff involved in treatment programming delivery).
- **Supervision and security (217 FTEs; 58 vacancies)**—Provides supervision and security of youth in the Facility.

In addition, the Department provides administrative support for 1 advisory committee, the Religious Services Advisory Committee (RSAC), established pursuant to A.R.S. §41-2804.01, which advises the Department Director on the provision of religious programs for youth in the Facility.<sup>24</sup>

## Revenues and expenditures

As shown in Table 1 (see pages 7 through 8), the Department has various revenue sources, including State General Fund appropriations, local cost sharing, and land earnings. The local cost sharing revenues the Department receives consist of Arizona county contributions to help pay for the Department's operational costs.<sup>25</sup> However, Laws 2019, Ch. 268, repealed this requirement for all counties except Maricopa and Pima Counties and also suspended the requirement for Maricopa and Pima Counties for fiscal year 2020. As a result, the Department did not receive any of these revenues in fiscal year 2020 but did receive these revenues from Maricopa and Pima Counties in fiscal year 2021.

The Department's expenditures include payroll and related benefits, professional and outside services, travel, food service for youth in the Facility, other operating expenses, and capital and noncapital purchases.

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<sup>24</sup> A.R.S. §41-2804.01 requires the Department to accommodate the religious faiths of youth in the Facility and directs the Department's Director to establish the RSAC to advise the Department Director regarding the provision of religious programs for all youth in the Facility who desire services.

<sup>25</sup> A.R.S. §41-2832 requires the Department to annually assess a committed youth confinement cost sharing fee to each county with a population of more than 500,000 persons.

**Table 1**  
**Schedule of revenues, expenditures, and changes in fund balances**  
**Fiscal years 2019 through 2021**  
(Unaudited)

	2019	2020	2021
<b>Revenues</b>			
State General Fund appropriations <sup>1</sup>	\$21,510,020	\$26,877,388	\$30,616,200
Local cost sharing <sup>2</sup>	11,260,000		8,450,900
Land earnings <sup>3</sup>	2,815,130	4,203,395	3,351,386
Intergovernmental			
Federal pandemic aid <sup>4</sup>		10,235,576	
Other <sup>5</sup>	2,080,442	2,622,975	2,537,662
Fines, forfeits, and penalties <sup>6</sup>	516,146	451,654	543,539
Institutional care	48,009	149,376	58,862
Other	32,110	39,100	46,780
<b>Total gross revenues</b>	<b>38,261,857</b>	<b>44,579,464</b>	<b>45,605,329</b>
Remittances to the State General Fund <sup>7</sup>	(92,791)	(66,484)	(39,401)
<b>Total net revenues</b>	<b>38,169,066</b>	<b>44,512,980</b>	<b>45,565,928</b>
<b>Expenditures and transfers</b>			
Payroll and related benefits <sup>1</sup>	31,413,014	34,058,226	38,243,228
Professional and outside services <sup>8</sup>	740,037	993,238	1,166,837
Travel	350,538	300,021	197,113
Food	546,189	668,155	545,299
Other operating <sup>9</sup>	4,436,765	5,546,037	5,186,410
Capital and noncapital purchases	701,221	641,973	596,600
<b>Total expenditures</b>	<b>38,187,764</b>	<b>42,207,650</b>	<b>45,935,487</b>
Transfers to other agencies <sup>10</sup>	131,501	113,533	534,575
<b>Total expenditures and transfers out</b>	<b>38,319,265</b>	<b>42,321,183</b>	<b>46,470,062</b>
Net change in fund balances	(150,199)	2,191,797	(904,134)
Fund balances, beginning of year	4,865,183	4,714,984	6,906,781
<b>Fund balances, end of year</b>	<b>\$4,714,984</b>	<b>\$6,906,781</b>	<b>\$6,002,647</b>

<sup>1</sup> The Department received an increase in State General Fund appropriations in fiscal year 2020 for employee salary increases and the repeal and suspension of the local cost sharing monies (see footnote 2 for additional information). In addition, the Department received approximately \$2.1 million of additional appropriations in fiscal year 2021 for employee benefit increases and one-time funding of an extra pay period that occurred in the fiscal year.

<sup>2</sup> Local cost sharing revenues were monies from each county for their share of a portion of the Department's operational costs as required by A.R.S. §41-2832. Laws 2019, Ch. 268, repealed this requirement for all counties except Maricopa and Pima Counties. This law also suspended the requirement for Maricopa and Pima Counties to provide these revenues for fiscal year 2020. As a result, the Department did not receive any of these revenues in fiscal year 2020 but did receive these revenues from Maricopa and Pima Counties in fiscal year 2021.

<sup>3</sup> Land earnings consisted of the Department's share of revenues from certain State lands, including the sale and lease of State Trust lands and interest earned on these monies, pursuant to A.R.S. §37-525.

<sup>4</sup> Federal pandemic aid revenues received in fiscal year 2020 consisted of monies received 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 Coronavirus Aid, Relief, and Economic Security (CARES) Act.

<sup>5</sup> Other intergovernmental revenues were primarily revenues the Department received from the Arizona Department of Education for various education-related programs such as K-12 Basic State Aid, Classroom Site Fund, Title I Program for Neglected and Delinquent Children, federal National School Lunch Program, and federal School Breakfast Program monies.

<sup>6</sup> Fines, forfeits, and penalties revenues were primarily the Department's portion of revenues from an assessment added to every fine, penalty, and forfeiture collected by the courts for criminal offenses and civil penalties imposed for traffic and motor vehicle violations that are deposited in the Criminal Justice Enhancement Fund established by A.R.S. §41-2401.

## Table 1 continued

- <sup>7</sup> According to the Department, remittances to the State General Fund were primarily reimbursements received from the Attorney General's Office from the Victims' Rights Program for expenditures the Department paid with State General Fund monies; therefore, the State General Fund was reimbursed for these expenditures when the monies were received.
- <sup>8</sup> Professional and outside services expenditures were payments for various services such as a temporary agency, behavioral healthcare, medical services, and education and training services. According to the Department, temporary agency services were primarily for information technology and nursing services; however, in fiscal years 2020 and 2021, the Department also expended monies for medical assistants to screen persons entering the Facility in response to the COVID-19 pandemic.
- <sup>9</sup> Other operating expenditures were for various expenditures, including building, land, and equipment rental; utilities and telephone; medical, housekeeping, security, and other supplies; repair and maintenance; insurance; and clothing expenditures.
- <sup>10</sup> Transfers to other agencies primarily consisted of transfers to the Arizona Health Care Cost Containment System (AHCCCS), Arizona's Medicaid program, for medical services; however, fiscal year 2021 also included a transfer of approximately \$313,000 to the Arizona Department of Administration to primarily pay for parking lot upgrades at the Facility.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2019 through 2021, the State of Arizona *Annual Financial Report* for fiscal years 2019 and 2020, and Department-provided information.



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 findings and associated recommendations.

**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.**

A.R.S. §41-2816(A) requires the Department to operate and maintain or contract for secure care facilities for the custody, treatment, rehabilitation, and education of youth who pose a threat to public safety and have engaged in a pattern of conduct characterized by persistent and delinquent offenses that, as demonstrated through the use of other alternatives, cannot be controlled in a less secure setting.<sup>26</sup> The Department is also statutorily responsible for the supervision, rehabilitation, treatment, and education of delinquent youth committed to its care.<sup>27</sup> As of July 2021, the Department operated and maintained 1 secure care correctional facility where youth committed to its care by the Superior Court of Arizona reside until released.

We contacted 5 states—Louisiana, New Mexico, North Carolina, Oregon, and Virginia—and found that none have privately operated secure care facilities for delinquent youth (see Appendix A, page a-3, for more information on how we selected these 5 states).<sup>28</sup> However, we identified some other states that contract with private companies to operate secure care facilities for committed delinquent youth.<sup>29</sup> For example, the Florida Department of Juvenile Justice contracts for the operation of all secure care facilities in Florida, and the Tennessee Department of Children’s Services, Office of Juvenile Justice, operates 1 secure care facility for delinquent youth and contracts for the operation of 2 other secure care facilities for delinquent youth. Both the Florida Department of Juvenile Justice and the Tennessee Department of Children’s Services, Office of Juvenile Justice, reported having processes for monitoring and overseeing these privately operated secure care 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 has established various processes related to the statutory responsibilities we reviewed. These included processes for assessing youths’ educational needs and providing education classes based on their assessed needs and assigning each youth committed to its care a parole officer to coordinate services for and supervise the youth while on parole. Specifically, the Department has established processes for:

- **Assessing youths’ educational needs to provide education based on these needs**—Statute requires the Department to establish an educational system for committed youth and provide youth an appropriate

<sup>26</sup> A.R.S. §41-2801 defines secure care as confinement in a facility that is completely surrounded by a locked and physically secure barrier with entrance and exit restrictions.

<sup>27</sup> A.R.S. §41-2802.

<sup>28</sup> The Virginia Department of Juvenile Justice reported that the most serious youth offenders in Virginia are generally placed in a state-run, secure facility. However, as an alternative to commitment in a state-run, secure facility, youth offenders in Virginia may be placed in contracted alternative placements, such as local detention centers, group homes, and residential treatment centers, some of which are also considered secure facilities (see Sunset Factor 12, page 29, for more information on the use of contracting by other state juvenile justice agencies).

<sup>29</sup> Because the 5 states we initially contacted did not have privately operated secure care facilities for delinquent youth, we conducted additional research to determine if privately operated secure care facilities for delinquent youth exist in other states.

education as required by State and federal law.<sup>30</sup> Consistent with these requirements, the Department has established a process to assess youths' educational needs when they arrive at the Facility, place them in school coursework based on their assessed needs and educational history, and monitor their educational progress during their time residing in the Facility. In addition, the Department offers general education and vocational classes consistent with State high school graduation requirements and employs State-certified teachers to deliver academic content as required by A.R.S. §41-2831(B).<sup>31</sup> Finally, consistent with State and federal law, the Department has developed policies and procedures for identifying youth with disabilities and providing these youth with educational accommodations.<sup>32</sup>

Two entities have conducted 3 compliance reviews of the Department's education function since 2016, and all 3 reviews identified instances of noncompliance. In response, the Department implemented corrective action plans to address the reported noncompliance, and the investigators/compliance reviewers in each case found that these actions brought the Department into compliance with the applicable requirements (see Table 2, page 11, for further explanation of these compliance reviews).

- **Preparing youth for release on parole**—Statute authorizes the Department to release a youth from the Facility to parole and to establish conditions with which the youth must comply (parole conditions) if the youth's continued treatment, rehabilitation, and education in a less-restrictive setting are consistent with the public's safety and interest.<sup>33</sup> Department policy requires that youth be assigned a parole officer when they arrive at the Facility and requires parole officers to participate in periodic meetings with other Department staff to learn about youths' treatment and educational needs and rehabilitative progress. Additionally, the Department has policies and other guidance documents instructing Department staff to communicate with a youth's guardian and other relevant parties to coordinate postrelease services, such as group home placements or outpatient behavioral health treatments. Further, prior to a youth's release, the Department has processes for developing the youth's parole conditions. As required by statute, youth receive and sign a copy of these conditions (see textbox for examples of parole conditions).<sup>34</sup>

### Examples of parole conditions

Parole conditions may include but are not limited to the following:

- Follow parent's, guardian's, or group home's rules/conditions.
- Abstain from possessing/using intoxicants, controlled substances, and weapons.
- Enroll in school, obtain employment, and attend counseling services, when applicable.

Source: Auditor General staff review of Department's conditions of supervision form.

- **Revoking youth parole**—Statute authorizes the Department to revoke youth parole if it determines that a youth has violated 1 or more parole conditions and the youth's return to the Facility is in the best interest of the public.<sup>35</sup> Statute requires the Department to establish policies and procedures for revoking youth parole.<sup>36</sup> Consistent with this requirement, the Department has established policies and procedures for parole revocations, which include processes for conducting parole revocation hearings to determine whether youth who have violated parole conditions will be returned to the Facility. We reviewed case plans and other documents for 4 youths whose parole was revoked as a result of parole revocation hearings held in July 2020

<sup>30</sup> A.R.S. §41-2831(A)&(E). See footnote 15 on page 3 for more information on the definition of an appropriate education.

<sup>31</sup> Arizona Administrative Code (AAC) R7-2-606 requires applicants for teacher certification by the Arizona Department of Education to demonstrate proficiency in professional teaching standards and in their chosen subject area.

<sup>32</sup> Some federal education laws with which the Department must comply include Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.), and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), along with related federal regulations (34 CFR 104.31 et seq. and 34 CFR 300.1 et seq.). Some relevant State statutes and regulations with which the Department must comply include A.R.S. §15-761 et seq. and AAC R7-2-401 et seq.

<sup>33</sup> A.R.S. §41-2818(A)&(B).

<sup>34</sup> A.R.S. §41-2818(B).

<sup>35</sup> A.R.S. §41-2819(A).

<sup>36</sup> A.R.S. §41-2819(B).

and found that the revocations were consistent with Department policies and procedures, including following processes for conducting parole revocation hearings.<sup>37</sup>

**Table 2**  
**External compliance reviews of the Department’s education function**  
**2016 through 2019**  
(Unaudited)

Entity that performed compliance review	Purpose of review	Examples of findings of noncompliance/deficiencies identified	Department corrected deficiencies?
Arizona Department of Education (ADE), Exceptional Student Services (2016)	To review Department’s compliance with federal and State requirements for providing educational services to students with disabilities.	<ul style="list-style-type: none"> <li>Department’s process for identifying students with disabilities needs revision.</li> <li>Individualized Education Program (IEP) paperwork does not meet State or federal guidelines.<sup>1</sup></li> <li>Special education teachers lack child-specific data from general education teachers.</li> </ul>	Yes
U.S. Department of Education, Office for Civil Rights (2018)	To review the Department’s compliance with federal laws related to providing students with disabilities a free and appropriate public education.	<ul style="list-style-type: none"> <li>Department did not provide special education, related services, and accommodations that are designed to meet the individual needs of students with disabilities, in violation of federal law.</li> </ul>	Yes
ADE, Career and Technical Education (2019)	To review the Department’s compliance with the terms of federal grant agreements for monies it received to improve its career and technical education programming.	<ul style="list-style-type: none"> <li>Student career guidance needs to be strengthened.</li> <li>Grant funds are not expended as required by the end of the fiscal year for which funds were made available.</li> <li>Inventory control and documentation for grant-funded equipment is lacking.</li> </ul>	Yes

<sup>1</sup> An IEP is a written statement for providing special education and related services to a student with a disability.

Source: Auditor General staff review of U.S. Department of Education and ADE compliance reports of the Department’s education function and the Department’s corrective action plans.

- Providing specialized care for youths with significant mental illnesses**—In calendar year 2020, the Department had 13 youths with significant mental illnesses in the Facility.<sup>38</sup> The Department reported that it has seen an increase in the number of youths with significant mental illnesses, in part because there are limited services in Arizona for youths with mental illnesses needing a secure treatment environment. For example, the closing of the adolescent unit of the Arizona State Hospital in September 2009 removed a secure treatment option for these youth.

<sup>37</sup> At the time of our review, the most recent information available from the Department was for youth who were returned to the Facility between July 31 and August 31, 2020, as a result of parole revocation hearings held in July 2020. We reviewed documentation for all 4 youth who the Department reported were returned to the Facility during this time period because of parole revocation.

<sup>38</sup> According to A.R.S. §8-342, youth who are seriously mentally ill and have been adjudicated delinquent for any offense may be committed to the Department’s care. The term “seriously mentally ill” as used in A.R.S. §8-342 does not have the same meaning as the Seriously Mentally Ill designation individuals who are at least 18 years old can attain through AHCCCS pursuant to A.R.S. §36-550 (see page 12 for more information on this designation). The Department generally classifies youths committed to its care with serious mental illnesses pursuant to A.R.S. §8-342 as “significantly impaired,” meaning the youths have mental illnesses that cause significant impairment such that they are unable to function in a standard secure care environment and require psychiatric and/or psychological services. The Department reported that all youths with significant mental illnesses in the Facility in calendar year 2020 had a felony adjudication.

The Department has developed several processes to meet the needs of youths with significant mental illnesses in its care. For example, the Department operates and maintains a specialized mental health housing unit in the Facility for youths with significant mental illnesses.<sup>39</sup> According to the Department, the mental health housing unit is staffed by individuals who have received training to work with youths with mental illnesses, such as training on trauma-informed practices and de-escalation methods. According to the Department, the mental health housing unit houses fewer youth than other housing units to help reduce stimuli, such as noise from other youth, which can cause distress and agitation for youth in this unit. Additionally, Department policy requires clinical staff to provide a minimum of 1 individual therapy session per week to youths with significant mental illnesses. Further, the Department reported that it has developed a process to help youth apply for and attain a Seriously Mentally Ill designation through AHCCCS before release from the Facility, which enables these youth to access mental health services through AHCCCS after release from the Facility, including case management, medication management, and inpatient and outpatient mental healthcare.<sup>40</sup>

To identify how juvenile justice agencies in other states meet the needs of youths with significant mental illnesses in their care, we contacted 5 states—Louisiana, New Mexico, North Carolina, Oregon, and Virginia. The juvenile justice agencies in all 5 states we contacted reported having youths with significant mental illnesses committed to their care, although New Mexico’s juvenile justice agency reported that it is rare to have mentally ill youth committed to its care. Additionally, all 5 states reported employing clinical staff to provide care for these youth. Three states, Oregon, Louisiana, and Virginia, reported having specialized housing units for youth with significant mental health needs, similar to the Department. North Carolina and New Mexico reported having alternative placement options, such as residential treatment facilities for youth if the youth’s needs are greater than the resources available at their juvenile correctional facility. For example, in New Mexico, male youth with high mental health needs may be placed at a residential treatment center operated by the New Mexico Department of Health. Virginia also reported having alternative placement options for youth if the youth is determined to be better served in a noncorrectional setting.

- **Preventing youth suicides**—Our September 2009 performance audit of the Department’s efforts to prevent suicide among youth in its care found that the Department had improved its suicide prevention practices but should make some minor improvements to these practices.<sup>41</sup> Additionally, the audit found that since 2003, no suicide attempt had resulted in death, and between January 2007 and September 2009, the number of serious suicide attempts averaged less than 1 per month.<sup>42</sup> As of June 2012, the Department had implemented all 5 recommendations from our September 2009 performance audit report to further improve its suicide prevention practices (see Arizona Auditor General Report 09-09 *30-month Follow-up Report*). However, in May 2010, a youth under the Department’s care committed suicide. As of June 2021, the Department reported that no youth suicide attempt in the Facility had resulted in death since 2010, the Facility had 9 serious and life-threatening youth suicide attempts during calendar year 2019, and 7 serious and life-threatening youth suicide attempts during calendar year 2020.<sup>43</sup>

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

- **Did not always follow its requirements for supervising youth on parole**—Although the Department has implemented policies and procedures for supervising youth on parole, Department staff did not always adhere to the youth supervision requirements outlined in these policies. Specifically, prior to a youth’s release,

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<sup>39</sup> Female youth are not placed in a separate specialized mental health housing unit because of the small population of female youth at the Facility. However, according to Department policy, female youth with specialized treatment needs, such as the need for psychiatric and/or psychological services, should still receive treatment for those needs while residing in the female housing unit.

<sup>40</sup> Individuals must be at least 17 years and 6 months old to apply for the Seriously Mentally Ill designation.

<sup>41</sup> See Arizona Auditor General Report 09-09 *Arizona Department of Juvenile Corrections—Suicide Prevention and Violence and Abuse Reduction Efforts*.

<sup>42</sup> At the time Arizona Auditor General Report 09-09 was issued, Department policy defined a serious suicide attempt as a suicide attempt that required medical treatment and/or hospitalization.

<sup>43</sup> Department policy defines serious and life-threatening suicide attempts as suicide attempts that require, or would have required, emergency or lifesaving medical care or that would result in death if not for circumstances beyond the youth’s control.

the Department has a process for administering an assessment to determine a youth's risk to recidivate, which determines the frequency of contact parole officers should have with youth on parole. Further, the Department has developed a parole officer manual that outlines parole officer responsibilities and supervision requirements, including updating youths' case plans monthly with information on their progress, administering drug tests when applicable, and documenting the details of required contact the parole officers have with youth or with other relevant parties, such as youths' counselors or parents, as determined by youths' risk level. Documenting these points of contact provides the Department with additional assurances that youth are complying with the terms of their parole and are making progress in their postrelease rehabilitation.

However, our review of youth case plans and parole officer notes for a random sample of 5 youths on parole found that although parole officers updated case plans for these 5 youths consistent with Department policy, they did not always follow other Department supervision requirements for these youth.<sup>44</sup> Specifically, the case plans we reviewed indicated that parole officers did not always conduct required in-person contact with 2 of 5 youths; did not always contact youths' parents or guardians as required for 3 of 5 youths; did not always contact other relevant parties, such as a youth's counselor or employer, for all of these 5 youths; and did not ensure all required drug tests were administered for 3 of 5 youths. For example, 1 youth in our sample was employed at a grocery store, but the parole officer did not document any contact with the youth's employer to verify that the youth was regularly attending work, as required by the youth's parole conditions. In addition, another youth in our sample was required to be drug tested 3 times per week, but during the period we reviewed, the parole officer did not drug test this youth more than 1 time per week and did not complete any drug tests during some weeks.

The Department's guidance for supervising parole officers does not outline a specific process for ensuring that parole officers follow all youth supervision requirements, which may have contributed to these issues. Specifically, the Department's parole supervisor manual requires parole officer supervisors to ensure that parole officers document completing required contacts in youth case plans. However, the parole supervisor manual does not outline procedures and time frames for conducting reviews of all youth supervision requirements, documentation requirements for these reviews, or how any noncompliance with youth supervision requirements should be addressed. For example, for 2 of the previously mentioned youth whose parole officers did not follow employer contact and drug testing requirements, Department records indicate that parole supervisors reviewed the parole officers' documentation of required contact completion in these 2 youths' case plans, but the supervisors did not note any noncompliance with these requirements.

In addition, the parole officer manual lacks information on the intent of required contacts and does not specify what interactions would meet that intent. For example, 2 parole officers who did not meet employer contact requirements explained that they do not always communicate directly with a youth's employer because they fear that doing so might lead to the employer firing the youth or because the youth was not comfortable with the parole officer contacting their employer. Instead, the parole officers explained that they may discreetly observe the youth working in person. However, the parole officers did not document these observations in the case plans, and the parole officer manual does not indicate whether observing a youth at work is sufficient to meet the intent of a required employer contact. Further, although the parole officer manual states that any time parole officers cannot meet contact requirements they should discuss the details with their supervisor and document the discussion in youths' case plans, the 2 parole officers who did not meet employer contact requirements did not document any discussions with their supervisors.

Finally, although the Department's parole officer manual instructs parole officers to discuss with their supervisors situations where they cannot meet contact requirements, it lacks similar guidance on how parole officers should address extenuating circumstances that may prevent them from meeting drug testing requirements. For example, in 1 of the cases where parole officers did not ensure youth met drug testing requirements, the parole officer reported that the youth was not able to travel to a drug testing site. In this case, the parole officer had to administer the drug tests, but the parole officer explained that there was not always time to administer the required number of drug tests. Although Department policy allows for revisions

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<sup>44</sup> We randomly selected 5 youths from the 33 youths who had been on parole for at least 2 months as of October 31, 2020.

to parole conditions if a youth's circumstances or needs change, it does not authorize parole officers to not enforce drug testing requirements when extenuating circumstances prevent the officer from ensuring a youth has received all required drug tests as required by the parole conditions that are in place.

- **Did not always ensure that youth participating in its Work Incentive Pay Program (WIPP) were paid based on the quality and quantity of work performed and skill required for the work, as required by statute**—A.R.S. §41-2822 requires the Department to establish a work program for youth in the Facility and requires the compensation for the program to be in accordance with a graduated schedule based on quality and quantity of work performed and skill required for its performance. Our review of the Department's WIPP payments made for a judgmental sample of 4 of the 66 WIPP deposits made between July 1, 2017 and March 31, 2020, found that some youth were not paid for all the work they performed, and the Department lacked documentation to demonstrate that some youths' pay was consistent with their skill level. Specifically, the Department did not pay 16 youth for all the hours they worked, (a total of 186 hours not paid) because Department staff had incorrectly recorded these hours in the Department's internal accounting system. Additionally, because these 16 youth did not get paid for all the hours they worked, they were not able to pay restitution to their victims and to the Department to help offset the costs of their room and board.<sup>45</sup>

The Department also lacked documentation to demonstrate that youth were compensated in accordance with a graduated schedule based on skill level. Specifically, the Department was unable to provide documentation, such as youth job applications and other personnel documents, demonstrating that youths' work assignments and pay rates in the pay periods we reviewed were based on skill level, as required by statute. Additionally, we identified inconsistencies in how different Department units determined the level of skill and pay for youth work assignments. For example, 1 unit determined level of pay for work assignments based on youths' level of education, whereas another unit had no criteria for determining youths' level of pay.

The Department's lack of policies and procedures for its work program likely contributed to the errors and inconsistencies we found. Specifically, the Department lacked policies and procedures that outline a process for entering hours from hard copy time sheets into the Department's IT system and completing a review and approval of entries. This contributed to the error discussed above regarding youth who did not get paid for all hours worked. For example, 13 of the 16 youth were not paid for all the hours they worked because those hours were coded in the Department's IT system as "donated hours," which caused the error. Department accounting staff indicated they were unaware of the "donated hours" code and/or why it is an option. Additionally, the Department lacked policies and procedures that require Department staff to maintain documentation, such as job applications and other personnel documents, demonstrating that youth work assignments are based on skill level. For example, when asked why the Department could not provide job applications and other documentation, Department staff reported that their interpretation of the Department's records retention schedule was that youth personnel documents did not need to be maintained. Lastly, the Department lacked policy and procedures that outlined a graduated compensation schedule based on quality and quantity of work performed and skill required for its performance, as required by statute. However, during the audit, the Department revised its youth work experience policy and procedures to address these issues.

- **Did not comply with some State accounting policies for reimbursing employee travel**—The Department did not comply with some *State of Arizona Accounting Manual* (SAAM) requirements for reimbursing employees' travel expenses.<sup>46</sup> Specifically:
  - Our review of all 39 statements from July 1, 2017 through March 31, 2020, for the Department's 5 employee travel card (ETC) holders identified various areas of noncompliance with SAAM, including the Department

<sup>45</sup> A juvenile court may order a youth to pay restitution to victims of offenses for which the juvenile was adjudicated delinquent. According to A.R.S. §41-2822(F) and (G), a minimum of two-thirds of any compensation youth earned working in the committed youth work program shall be paid to the clerk of the superior court to satisfy any juvenile court restitution order or to satisfy a monetary assessment. Additionally, if a youth is not subject to a restitution order or a monetary assessment, A.R.S. §41-2822(H) requires two-thirds of any compensation earned by youth working in the committed youth work program be used to defer the costs of room and board for maintaining the youth at the secure care facility.

<sup>46</sup> SAAM is the policies and procedures manual for the central accounting functions of the State of Arizona published by the Arizona Department of Administration's General Accounting Office in accordance with statute.

failing to maintain copies of account statements, some cardholders carrying outstanding balances, and a late payment charge for 1 card holder.

- The Department did not ensure that 4 of the 8 employee travel reimbursements we reviewed were properly supported and in compliance with SAAM.<sup>47</sup> For example, the Department did not always obtain the conference brochure information to support the cost of employees' lodging. As such, we were unable to determine if the employees were reimbursed for the least expensive single room rate, as required by SAAM.
- The Department did not ensure that 5 of the 17 Central Travel Account (CTA) transactions we reviewed were properly supported and in compliance with SAAM and Department policy and procedures.<sup>48</sup> For example, the Department did not always obtain conference brochure information and Director approval memos for employee travel.

The Department has not developed some policies and procedures for reimbursing employees' travel expenses as required by SAAM, such as policies and procedures for conducting monthly and annual reviews of ETC charges and payments. Additionally, the Department has not developed policy and procedures for conducting reviews of ETC and CTA travel reimbursement documentation to help ensure all required documents are obtained and requested reimbursement amounts comply with SAAM requirements. Written policies and procedures help employees better understand their duties and responsibilities regarding the use and management of public monies and can help mitigate against assets being lost, stolen, or misused.

- **Has not developed some procedures to address payroll control deficiencies it identified**—In calendar years 2016, 2017, and 2018, the Department paid a now-former employee approximately \$94,000 for hours the employee did not work but was on call and available to work if needed. The Department identified this issue, conducted criminal and administrative investigations of these payments, and determined the employee believed that he/she was allowed to be paid for being on call and therefore was only required to work if needed. Although Department policy during this time period did not specifically prohibit paying employees for being on call, the Department also determined that the employee's former supervisor failed to clearly communicate work expectations for the position and allowed the employee to be on call rather than working the number of hours for which he/she was being paid, contrary to Department management's expectations. Additionally, contrary to Department policy, the supervisor rather than the employee had entered the employee's hours into the Department's time accounting system, but the Department lacked monitoring processes for identifying this issue. The Department took steps to address the causes of this incident and to ensure that it was isolated and not indicative of a more systemic problem, including developing written procedures outlining the number of hours employees are expected to work for all positions and implementing a monitoring process for supervisors who enter their employees' hours into the time accounting system. In addition, during the audit, the Department revised its payroll policy to require payroll staff to complete the monitoring process every pay period and developed a guidance document for this new monitoring process. However, the policy and guidance document do not include detailed steps for completing this process.
- **Developed statutorily required IT security policies during the audit but has not yet fully implemented some of these policies**—Arizona State agencies are statutorily required to develop IT security-specific policies and procedures consistent with State-wide policies developed by the Arizona Department of Administration, Arizona Strategic Enterprise Technology Office (ASET). 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. During the audit, the Department had some informal IT security practices that aligned with recommended IT security practices in some areas and it had some written IT security policies; however, it lacked written policies and procedures in all areas required by ASET. For example, the Department had vulnerability management and configuration management policies, but these policies did not include all

<sup>47</sup> We reviewed a judgmental sample of 8 of 147 employee travel reimbursements the Department made from July 1, 2017 through March 31, 2020.

<sup>48</sup> We reviewed a judgmental sample of 17 of 219 CTA transactions the Department made from July 1, 2017 through March 31, 2020.

elements required by ASET.<sup>49</sup> Additionally, we performed detailed testing on the Department's vulnerability management process and found that 97 percent of the vulnerabilities the Department had identified but had not remediated were configuration related, indicating issues with both its vulnerability management and configuration management practices. When IT systems are not properly configured, they may be more susceptible to attacks, errors may occur, and system functionality may be inhibited.

During the audit, as of December 2020, the Department developed IT security policies in the areas ASET requires. Our review of 3 of 15 newly developed policies, including vulnerability and configuration management policies, found the policies were generally consistent with ASET's policies. In addition, the Department developed a written plan for implementing its newly developed policies that included 44 action items, the status of the items, and anticipated completion dates. In January 2021, the Department reported that 14 of 44 action items were completed. Our review of a judgmental sample of 4 of 14 action items the Department reported as complete found it had completed all 4 of the action items. As of July 2021, the Department reported that 37 of 44 action items were completed.

- **Has not always complied with TSU referral requirements and does not review all uses of TSU over 24 hours**—The Department has established 2 TSUs (1 for males and 1 for females) to isolate and stabilize youth who are a danger to themselves or others. Department policy and procedures indicate that TSU should only be used as a last resort when a youth is an imminent danger of inflicting serious physical harm to themselves or others and after all appropriate and practical interventions have been taken to safely stabilize and de-escalate the youth's behavior. Department policy and procedures also outline youth de-escalation, TSU referral, check-in, and admission procedures and time frames, and the Department regularly reviews for compliance with several of these procedures. However, we found that the Department has not always complied with some requirements related to its use of TSUs. Specifically:
  - **Our June 2021 performance audit found that the Department's TSU policy for referring youth to TSU is consistent with best practices but it did not always follow its policy and procedures for referring youth to TSU**—Best practices and other standards for juvenile justice indicate youth isolation in correctional facilities should be minimized because it can potentially have a range of negative consequences for youth and juvenile justice agencies. Although the Department's TSU policy is consistent with best practices, we found that it did not follow its TSU referral policy and procedures for 12 of 30 referrals we reviewed. Department staff's noncompliance with TSU referral policy and procedures may increase youth exposure to isolation, which can potentially have a range of negative consequences, including psychological, physical, and developmental harm for youth, and undermining youth rehabilitation. When youth are referred to TSU, they are also subject to strip searches and, in many cases, mechanical restraints (most often handcuffs), both of which can cause youth trauma and have other negative impacts. The Department did not review TSU referrals to help ensure compliance with TSU policy and procedures but identified and implemented revised documentation requirements and supervisory approval procedures for some TSU referrals during our audit. We recommended that the Department develop or update and implement its TSU policy and procedures to include procedures for reviewing compliance with the Department's de-escalation and TSU referral procedures, address any differences between policy and standard practice as needed, and ensure its staff are trained on any TSU policy and procedure revisions. See Arizona Auditor General Report 21-104 *Arizona Department of Juvenile Corrections—Use of Temporary Stabilization Units* for more information.
  - **Department does not review all uses of TSU over 24 hours as agreed to in 2004 lawsuit agreement**—The Department reported that its TSU policy and procedures were largely developed in response to federal lawsuits and an investigation alleging civil rights violations, including the 2002 investigation by the U.S. Department of Justice related to CRIPA (see Introduction, pages 4 through 5, for more information on the lawsuits and investigation). The investigation related to CRIPA was intended

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<sup>49</sup> Vulnerability management is the process of identifying and remediating security vulnerabilities within IT systems, including scanning and simulating attacks on IT systems. Configuration management is the process of ensuring IT systems have appropriate configurations, or settings that control how these systems operate, to maintain the integrity of information on these systems. For example, configuration management could include specifying the software that is appropriate to install on a server versus an individual computer or workstation.

to determine whether the civil rights of youth in the Department's custody were being violated and found that the Department failed to provide adequate due process procedures before isolating youth and that youth were kept in isolation for extended and inappropriate periods of time. The U.S. Department of Justice filed a lawsuit against the State in 2004, and the State entered into a Memorandum of Agreement (Agreement) with the U.S. Department of Justice to address the deficiencies identified. The Agreement included provisions for the Department to ensure that youth confined in TSU for more than 24 hours received a due process hearing and that a Department Quality Assurance (QA) team would review all uses of TSU over 24 hours.<sup>50</sup>

Consistent with the Agreement, for a youth to remain confined in TSU longer than 24 hours, Department policy requires the youth to receive a due process hearing conducted by a TSU hearing officer to determine whether the youth's TSU admission was appropriate and if the youth continues to engage in behavior that warrants further confinement.<sup>51</sup> Additionally, Department policy and procedures require that youth be offered assistance from an advocate to represent them or be present at the youth's TSU hearing. However, Department QA staff do not review all TSU referrals that result in TSU stays for more than 24 hours. Specifically, QA staff review records for all youth referred to TSU on specific days and review up to 20 days of referrals each month. Therefore, TSU referrals that result in stays over 24 hours are reviewed only if they occurred on the up to 20 days chosen for review during that month. Additionally, the Department's policies and procedures do not include a requirement for QA staff to review all uses of TSU that last more than 24 hours.

- **Has not implemented some recommended practices for evaluating its youth treatment programming**—Our October 2021 performance audit found that although the Department has established some processes to assess the delivery and effectiveness of its youth treatment programming, it has not followed some recommended practices for evaluating treatment programs. Specifically, the Department:
  - Has established a process to monitor if its group treatment interventions for youth are delivered as designed, also known as fidelity, as recommended by literature. However, it has not assessed some treatment intervention components necessary to ensure its group treatment interventions are delivered with fidelity, which could increase the risk of providing youth with less-effective treatment interventions.
  - Has evaluated the quality of its treatment programming for youth using the Evidence-Based Correctional Program Checklist (CPC), as recommended by literature. However, it has not ensured that some CPC evaluation report recommendations for improving its programming were implemented, potentially impacting its treatment programming's effectiveness in reducing youth recidivism. During the audit, the Department revised its CPC evaluation policy to address some of the issues we identified.
  - Has not tracked a comprehensive set of treatment programming outcomes or conducted outcome evaluations, which are recommended practices for determining whether treatment programming is achieving its intended outcomes. As a result, the Department may not have all the information it needs to assess how effectively its treatment programming is helping to rehabilitate youth in its care.

We recommended that the Department develop and/or revise and implement policies and procedures for comprehensively monitoring treatment intervention fidelity and correcting identified fidelity deficiencies, continue to revise and implement its CPC evaluation policy and procedures, develop and implement a plan for establishing additional outcome measures and conducting outcome evaluations related to its treatment programming, and establish outcome measures and conduct outcome evaluations as appropriate. See Arizona Auditor General Report 21-121 *Arizona Department of Juvenile Corrections—Youth Treatment Programming Evaluation* for more information.

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<sup>50</sup> The Agreement required the State to ensure that all current and future Department employees understand and implement the terms of the Agreement.

<sup>51</sup> A TSU hearing officer can authorize the youth to remain in TSU for an additional 24 hours based on this determination. Facility administrators are authorized to approve extended confinement in additional 24-hour increments up to 120 hours, and the Department Director is authorized to approve extended confinement indefinitely until the TSU Supervisor or another qualified mental health professional determines the youth is stable and cooperative to be released.

Finally, we identified 2 areas where the Department has established but can further enhance its processes. Specifically, the Department:

- **Has established a process for measuring and reporting youth recidivism information but can enhance this process by further aligning it with some additional practices recommended by literature**—Youth recidivism rates are generally considered the main long-term indicator of a juvenile justice system’s success in preventing youths’ further criminal behavior (see textbox for a definition of recidivism).<sup>52</sup>

The Department measures and tracks recidivism for youth released from its custody. Specifically, the Department defines recidivism as a subsequent offense or parole violation following a youth’s release from a first commitment to the Facility that results in a youth’s return to custody with the Department or to ADCRR’s custody.<sup>53</sup> The Department monitors whether youths have been returned to the Department’s or ADCRR’s custody at intervals of 1, 2, and 3 years following youths’ release from their first commitment to the Facility.

**Recidivism**—Defined as a relapse into criminal behavior. Recidivism is measured in terms of an interaction with the justice system, known as a recidivating event. Recidivating events generally include adjudication by a juvenile court or conviction by an adult court for new charges and commitment to a juvenile or adult correctional facility following an adjudication/conviction.

Source: Council of State Governments Justice Center, 2014; Harris, Lockwood, Mengers, & Stoodley, 2011.

To help juvenile justice agencies measure and report on recidivism, juvenile justice literature recommends various practices for measuring, analyzing, collecting, reporting, and using recidivism data for youth involved with the juvenile justice system (see textbox for recommended practices for measuring and reporting youth recidivism).<sup>54</sup> Literature also recommends that juvenile justice agencies develop recidivism measures in coordination with policy makers and other stakeholders and use recidivism data to inform juvenile justice system policy and funding decisions.<sup>55</sup>

## Recommended practices for measuring and reporting youth recidivism

Juvenile justice agencies should:

- Report multiple recidivism measurements based on different recidivating events, but at least measure youth recidivism defined as adjudication/conviction for a new crime.
- Report recidivism measurements based on probation or parole violations separately from new offenses.<sup>1</sup>
- Report additional information about recidivating youth, including demographics, assessed risk to recidivate, and other relevant information to provide context for recidivism measurements and identify trends.

<sup>1</sup> Probation/parole violations indicate that youth have not complied with some condition of probation/parole but do not necessarily mean that youth committed a new criminal offense.

Source: Council of State Governments Justice Center, 2014; Harris, Lockwood, Mengers, & Stoodley, 2011.

<sup>52</sup> See Arizona Auditor General Report 21-121 Introduction, page 2, for additional information on the goals of the juvenile justice system to reduce youth recidivism and protect public safety.

<sup>53</sup> Parole violations include instances where a youth violated parole conditions, such as a failure to attend required counseling or a positive drug test, but do not involve a new delinquent offense. The Department reports 1 recidivism rate that accounts only for the rate of new offenses and a separate recidivism rate that combines the rate of new offenses and the rate of parole violations.

<sup>54</sup> Council of State Governments Justice Center. (2014). *Measuring and using juvenile recidivism data to inform policy, practice, and resource allocation*. New York, NY. Retrieved 3/2/2020 from <https://csgjusticecenter.org/publications/measuring-juvenile-recidivism/>; Harris, P.W., Lockwood, B., & Mengers, L. (2009). *A CJA white paper: Defining and measuring recidivism*. Braintree, MA: Council of Juvenile Correctional Administrators. Retrieved 5/7/2020 from <http://cjca.net/wp-content/uploads/2018/02/CJCA-Recidivism-White-Paper.pdf>; Harris, P.W., Lockwood, B., Mengers, L., & Stoodley, B.H. (2011). Measuring recidivism in juvenile corrections. *Office of Juvenile Justice and Delinquency Prevention (OJJDP) Journal of Juvenile Justice*, 1(1), 1-16.

<sup>55</sup> Council of State Governments Justice Center, 2014; Harris, Lockwood, Mengers, & Stoodley, 2011.

Consistent with recommended practices, the Department's recidivism rate accounts for new offenses separately from parole violations. However, the Department's analysis and reporting of recidivism does not include other practices recommended by literature. Specifically, the Department's recidivism definition does not include adjudications/convictions for new crimes that do not result in a youth's return to custody with the Department or ADCRR, which literature considers an important measure of youths' subsequent involvement with the justice system. For example, the Council of Juvenile Justice Administrators indicates that because youth adjudication/conviction is the point at which a youth's guilt is proven, it is the measure of recidivism that best reflects correctional goals.<sup>56</sup> Further, the Department does not report other information about recidivating youth, which literature indicates can help provide context for recidivism measurements and identify trends, such as reporting the recidivism rates of specific youth subpopulations based on youth demographics or assessed risk to recidivate.

We reviewed recidivism reports from 5 other state juvenile justice systems to determine the extent to which they had adopted recommendations from literature.<sup>57,58</sup> Although these states varied in the extent to which they had adopted the recommendations from literature, none had adopted all the recommendations. Specifically:

- Unlike Arizona, none of the other states we reviewed appear to report recidivism measurements based on probation or parole violations separately from new offenses.
  - Similar to Arizona, Louisiana measures recidivism based on a youth's commitment to a juvenile or adult correctional facility and does not report other factors related to its recidivism rates, such as youth demographics or risk level.
  - Oregon reports youth recidivism as any felony adjudication/conviction for a new crime that results in a subsequent return to formal supervision, including probation or commitment to a juvenile or adult correctional facility.
  - Colorado, North Carolina, and Virginia all report youth recidivism as an adjudication/conviction for a new crime, regardless of whether the adjudication/conviction resulted in commitment to a juvenile or adult correctional facility.
  - North Carolina and Virginia also report additional recidivism measures, such as a measure that includes only adjudication/conviction for a new crime that results in commitment to a juvenile/adult correctional facility.
  - Colorado, North Carolina, Oregon, and Virginia all include additional youth information in their recidivism reports, such as recidivism rates broken down by youth demographics, treatment needs, recidivating offense, and/or recidivism risk level.
- **Has established a process for reviewing compliance with its exclusion policy, which is important for youth safety, but can enhance this process by using electronic data on youths' movements within the Facility**—In accordance with Department policy, staff can use a behavior management technique called exclusion, which involves placing youth in their rooms (see textbox for a definition of exclusion). Department policy limits

**Exclusion**—A behavior management technique that involves removing the youth from regular programming and contact with other youth by placing them in their locked room for up to 60 minutes. While a youth is in exclusion, Department staff are required to observe the youth in staggered intervals at least every 15 minutes to ensure their safety.

Source: Auditor General staff review of Department policy.

<sup>56</sup> Harris, Lockwood, Mengers, & Stoodley, 2011.

<sup>57</sup> These 5 states included Colorado, Louisiana, North Carolina, Oregon, and Virginia. See Appendix A, page a-2, for additional information.

<sup>58</sup> Juvenile justice literature cautions against comparing recidivism rates between different juvenile justice systems because of differing state laws, youth populations, and definitions of and methodologies used to measure recidivism. See Butts, J.A., & Schiraldi, V. (2018). *Recidivism reconsidered: Preserving the community justice mission of community corrections*. Cambridge, MA: Harvard Kennedy School. Retrieved 5/7/20 from <https://johnjayrec.nyc/2018/03/15/recidivism-reconsidered/>; Harris, Lockwood, & Mengers, 2009; Harris, Lockwood, Mengers, & Stoodley, 2011.

use of exclusion to a maximum of 60 minutes and requires Department staff to regularly observe youth while in exclusion, which are important provisions for ensuring youth safety.<sup>59</sup> Department policy also requires staff to track the exclusion on a paper time sheet, including noting the time the youth was placed in their room, the times of required safety observations by staff, and the time the youth was removed from their room. Additionally, Department policy requires staff to document the start and end times of each exclusion in a housing unit logbook and to electronically record youths' movements into and out of their rooms using handheld scanners, including when they place a youth in or remove a youth from exclusion.<sup>60,61</sup>

Department QA staff conduct a monthly review of all exclusions for each housing unit by reviewing paper time sheets to assess whether Department staff followed the Department's exclusion policy, including assessing whether the time sheets indicate that youth did not spend more than 60 minutes in exclusion, as required by Department policy. Department QA staff also review exclusions listed in each housing unit's logbook and compare them to the paper time sheets to identify any discrepancies. QA staff reported they may review surveillance camera recordings to verify the accuracy of time sheet information.

Although QA staff reported they sometimes use electronic movement system data to double check the times listed in time sheets and logbooks, their ability to use the data for compliance monitoring is limited. Specifically, Department policy requires staff to electronically record youths' movements into and out of their rooms, but the policy does not require staff to specifically note in the electronic movement system the reason for moving youths into their rooms, including for the purpose of exclusion.<sup>62</sup> According to the Department, when some Facility housing units place a youth in exclusion, they classify it as an exclusion in the electronic movement system, but not all Facility housing units do this. As a result, the Department's electronic movement data does not include complete information on all exclusions that occurred in the Facility. Having complete electronic data on all exclusions that occurred in the Facility could help QA staff better identify potential discrepancies between the electronic data and the paper time sheets, which might require further review. Finally, the use of complete electronic data could also enable the Department to more systematically track information on the use of exclusion in the Facility, such as the frequency of exclusions, the average length of time youth spend in exclusion, and how often its various housing units use exclusion.

## Recommendations

The Department should:

1. Ensure that parole officers are following parole supervision requirements.
2. Revise and implement its parole supervisor manual to include a process for reviewing parole officers' compliance with requirements for supervising youth, including outlining procedures and time frames for conducting reviews, documentation requirements, and how noncompliance should be addressed.
3. Revise and implement its parole officer manual to explain the intent and expectations for requirements for supervising youth, including how parole officers should handle any extenuating circumstances that would prevent them from meeting any youth supervision requirements.

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<sup>59</sup> Literature indicates that room confinement can have negative effects on youth. For example, according to a national survey of youth suicides in public and private juvenile facilities that occurred over a 4-year period, more than half of the suicides occurred while youth were confined to their rooms, and nearly two-thirds of the youth had a history of room confinement prior to their death. See Hayes, L. (2009). *Juvenile suicide in confinement: A national survey*. Washington, DC: OJJPD. Retrieved 7/16/2021 from <https://www.ojp.gov/pdffiles1/ojdp/213691.pdf>.

<sup>60</sup> The Department uses handheld scanners to record youths' movements throughout the Facility. Youth in the Facility wear barcoded identification wristbands, and specific buildings and rooms also contain identifying barcodes. Department staff use handheld scanners to track a youth's movement by scanning a youth's barcoded wristband and the barcode for a specific building and/or room where they are located.

<sup>61</sup> To electronically record the youth's movement into and out of their room for exclusion, Department staff scan a youth's barcoded wristband and the youth's room door frame when they enter and exit their room. Exclusion paper time sheets track the date and time the exclusion started and ended and other information not recorded in electronic movement data, such as the reason for the exclusion, the time of each required safety observation, and the youth's behavior and actions at the time of the observations, such as if the youth is acting out or sleeping.

<sup>62</sup> Department policy allows staff to move youths into their rooms for various reasons other than exclusions, including when youths are transitioning between activities. The Department's electronic movement system allows staff to classify the movement of youths into their rooms as exclusions, but Department policy does not require staff to do so.

4. Provide training to parole supervisors and parole officers on any revisions to the parole supervisor and parole officer manuals.
5. Continue to implement its revised youth work experience policy and procedures.
6. Revise and implement policies and procedures for reimbursing employees' travel expenses, including:
  - a. Conducting monthly and annual reviews of ETC charges and payments as required by SAAM.
  - b. Conducting reviews of ETC and CTA travel reimbursement documentation to help ensure all required documents are obtained and requested reimbursement amounts comply with SAAM requirements.
7. Revise and continue to implement its policies and procedures related to its new process for monitoring employee time entries to include detailed steps for completing this process.
8. Continue to implement its written plan for implementing its newly developed IT security policies and regularly review and update the plan, as appropriate, based on progress.
9. Revise and implement its QA policies and procedures to ensure its quality assurance team reviews all uses of TSU over 24 hours.
10. Evaluate and revise its method for measuring and reporting recidivism to further align it with additional practices recommended by literature, such as reporting youth recidivism defined as adjudication/conviction for a new crime and other recidivating events and reporting recidivism data by youth demographics, recidivism risk, and/or other factors that may provide important context.
11. Modify and implement its policies and procedures to:
  - a. Require Department staff to electronically record youth movement as an exclusion when youth are placed in their rooms for exclusion.
  - b. Use the electronic exclusion data to follow up on any discrepancies between the electronic exclusion data and paper exclusion time sheets and to track information on the use of exclusion in the Facility, as needed.

**Department response:** As outlined in its [response](#), the Department agrees with the findings and will implement or implement in 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 operating a secure care facility and providing parole services for the supervision, rehabilitation, and education of delinquent youth committed to its care by the Superior Court of Arizona, which has juvenile courts located in all 15 counties in the State. The Department has 1 facility in Phoenix that serves youth who have been committed to its care by juvenile courts throughout the State (see Figure 3, page 22, for the committing county for youth in the Facility as of May 2021). The Department has also developed processes intended to help ensure youth committed to its care receive services and support to meet their individual needs. For example:

- **Department has processes to facilitate connections between youth in the Facility and families located throughout the State**—Although the Department's 1 facility is in Phoenix, youth committed to the Department's care and placed in the Facility can come from all 15 counties in the State, which may present a difficulty for some families to travel and visit youth. According to the Department, this geographic distance between some families and the Facility often reduces the amount of family visitation for youth from counties other than Maricopa. To keep youth connected to their families, the Department primarily uses phone, mail, and in-person visitation. The Department reported also using video visitation as an alternative for families who are unable or unwilling to travel to visit with youth and has increased its use of video visitation since limiting

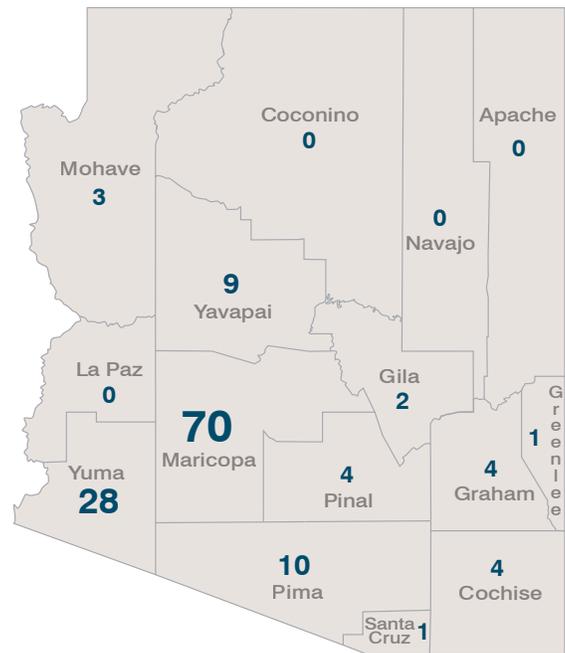
in-person visitation in response to the COVID-19 pandemic. According to the Department, it expects that the increase in video visitation will continue after the COVID-19 pandemic is over.

- Department has processes for providing care to pregnant youth and a parenting class for youth who are parents**—According to the Department, from 2017 through 2020, there were 2 youth in the Facility who were pregnant. To assist in the care of these youth, Department policy requires a licensed health care professional to identify pregnant youth during the admission process and develop a treatment plan for the youth; advise on levels of activity, safety precautions, nutrition, and counseling; coordinate with a community hospital for delivery; and provide postpartum care.<sup>63</sup> Additionally, Department policy and procedures state that staff are prohibited from using restraints on a pregnant youth in active labor or postpartum recovery unless there is a significant risk of escape and the Department’s medical director or designee has approved the use of restraints. Lastly, while the youth is in the hospital, the Department’s policy requires its staff to provide continuous, uninterrupted supervision of the youth and restricts the youth’s visitors to only the youth’s parents and/or guardians.

According to the Department, 30 of the youth in the Facility in calendar year 2020 were parents. The Department offers an optional parenting class that teaches youth skills in effective parenting, teaching, and nurturing of children.<sup>64</sup>

- Department has processes for providing all youth with representation during parole revocation hearings**—Consistent with statute, the Department has established policies and procedures for conducting parole revocation hearings to determine whether youth who have violated parole conditions will be returned to the Facility.<sup>65</sup> In addition, the Department has established processes for providing all youth the assistance of a juvenile ombudsman during parole revocation hearings and also allows youth to obtain outside counsel at their own expense instead of receiving assistance from a juvenile ombudsman.<sup>66</sup> We contacted Louisiana, New Mexico, North Carolina, Oregon, and Virginia to determine the extent to which youth are afforded representation in those states during parole revocation proceedings and found:
  - Similar to Arizona, Oregon’s juvenile justice agency is designated by state law as the entity responsible for conducting parole revocation hearings. However, the agency does not provide youth representation during revocation hearings, although Oregon law provides youth the right to retain outside counsel at their own expense.

**Figure 3**  
**Committing county for the 136 youth residing in the Facility**  
**As of May 2021**  
 (Unaudited)



Source: Auditor General staff analysis of the Department’s May 2021 “Just the Facts” report.

<sup>63</sup> The Department’s definition of licensed healthcare professionals includes physicians, physician assistants, nurse practitioners, and nurses. Department policy and procedures require the treatment plan to be developed by a physician, physician assistant, or nurse practitioner, and the other processes described are to be completed by any licensed healthcare professional.

<sup>64</sup> This parenting class is an elective class available to parenting and nonparenting youth as part of their education coursework. The Department does not track how many youth who take this class are parents.

<sup>65</sup> A.R.S. §41-2819(B) requires the Department to establish procedures for revoking youth parole.

<sup>66</sup> As part of the Johnson v. Upchurch lawsuit consent decree, the Department agreed to make available an attorney or an advocate acting under an attorney’s direct supervision to assist youth at parole revocation hearings (see Introduction, pages 4 through 5, for more information about the lawsuit).

- New Mexico state law requires that parole revocation proceedings be conducted either by New Mexico’s juvenile justice agency or a neutral hearing officer contracted by the agency. New Mexico’s juvenile justice agency reported that it requires youth to be represented by counsel during parole revocation proceedings.
- In Louisiana, North Carolina, and Virginia, state laws require parole revocation proceedings to be conducted by the courts. In Louisiana and North Carolina, state laws require youth to be represented by counsel during parole revocation proceedings. In Virginia, although state law does not specifically address a youth’s right to counsel for parole revocation proceedings, it does allow a court to appoint counsel for youth at its own discretion.
- **Complied with State conflict-of-interest requirements we reviewed and can enhance its conflict-of-interest process by adopting some additional 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>67</sup> These laws require employees/public officers 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 statutory requirements, the Arizona Department of Administration’s (ADOA) State Personnel System employee handbook and conflict-of-interest disclosure form (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. The ADOA disclosure form also requires State employees to attest that they do not have any of these potential conflicts, if applicable, also known as an “affirmative no.” In addition, A.R.S. §38-509 requires public agencies to maintain a special file of all documents necessary to memorialize all disclosures of substantial interest and to make this file available for public inspection.

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>68</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>69</sup> Specifically, conflict-of-interest recommended practices indicate that all public agency employees and public officers complete a disclosure form annually and that the form include a field for the employee/public officer to provide an “affirmative no,” if applicable. These recommended practices also indicate that agencies develop a formal remediation process to help ensure that identified conflicts are appropriately addressed.

We found that the Department complied with State conflict-of-interest requirements we reviewed by requiring its staff to complete the ADOA disclosure form when hired and maintaining a special file as required by statute. Additionally, as discussed in the Introduction (see page 6), the Department provides administrative support for RSAC, an advisory committee.<sup>70</sup> During the audit, the Department revised its policies to require

<sup>67</sup> A.R.S. §38-503.

<sup>68</sup> See, for example, Arizona Auditor General Reports 21-402 *Higley Unified School District—Criminal Indictment—Conspiracy, Procurement Fraud, Fraudulent Schemes, Misuse of Public Monies, False Return, and Conflict of Interest*; 19-105 *Arizona School Facilities Board—Building Renewal Grant Fund*; and 17-405 *Pine-Strawberry Water Improvement District—Theft and misuse of public monies*.

<sup>69</sup> Recommended practices we reviewed included: Organization for Economic Cooperation and Development (OECD). (2003). *Recommendation of the council on guidelines for managing conflicts of interest in the public service*. Paris, France. Retrieved 4/16/2020 from <https://legalinstruments.oecd.org/public/doc/130/130.en.pdf>; Ethics & Compliance Initiative (ECI). (2016). *Conflicts of interest: An ECI benchmarking group resource*. Arlington, VA. Retrieved 4/16/2020 from <https://www.ethics.org/knowledge-center/conflicts-of-interest-report/>; and Controller and Auditor General of New Zealand (2020). *Managing conflicts of interest: A guide for the public sector*. Wellington, New Zealand. Retrieved 3/4/2021 from <https://oag.parliament.nz/2020/conflicts/docs/conflicts-of-interest.pdf>.

<sup>70</sup> RSAC consists primarily of representatives from the religious community who are responsible for advising the Director on the religious programming for youth in the Facility.

RSAC members, who are public officers, to complete disclosure forms if a member has a conflict and RSAC members completed disclosure forms.

The Department can further enhance its conflict-of-interest process by adopting some additional recommended practices. Specifically, although the Department has required its staff to complete disclosure forms when hired, it does not require them to submit disclosure forms annually thereafter. In addition, although RSAC members completed disclosure forms during the audit, the disclosure forms did not include an “affirmative no” attestation or require disclosure of substantial decision-making interests. Further, the Department’s revised policies do not require all RSAC members to complete disclosure forms when they are appointed to the committee by the Department Director and annually thereafter. Finally, the Department has not established a process to review and remediate any disclosed conflicts.

## Recommendation

12. The Department should enhance its conflict-of-interest process to help ensure compliance with State conflict-of-interest requirements by revising and implementing its policies and procedures to:
  - a. Remind its employees/public officers at least annually to complete a new disclosure form when their circumstances change, such as by requiring its employees and RSAC members to complete an annual conflict-of-interest disclosure form.
  - b. Require RSAC members to complete a disclosure form when they are appointed to the committee by the Department Director that includes an “affirmative no” attestation and requires disclosure of substantial decision-making interests.
  - c. Establish a process for remediating any disclosed conflicts of interest.

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

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

According to A.R.S. §41-1005(A)(7), the Department is exempt from following the statutorily required rulemaking process but is allowed to promulgate rules. According to the Department, it has determined rules are not necessary to meet its legislative mandate.

### 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.

Our evaluation of the extent to which the Department has informed the public of its actions and their expected impact on the public found the following:

- **Department has taken steps to inform the public of its actions**—Although the Department is exempt from the rulemaking process (see Sunset Factor 4 for information on the rule exemption), its internal policies, procedures, and other actions affect the public, its staff, and the youth in its care. The Department has taken some steps to inform the public of its actions. For example:
  - The Department’s policies and procedures are available on its website.
  - The Department provided information about its response to the COVID-19 pandemic on its website through a series of publications specifically addressed to parents and guardians, volunteers, attorneys, and Arizona Department of Child Safety staff who work with youth in the Department’s care. Information reported in these publications included restrictions the Department placed on visitation and measures taken within the Facility to ensure the safety of youth and staff, such as quarantining newly arrived youth and establishing and providing a quarantine housing unit for youth who tested positive.

- Department's RSAC did not comply with State open meeting law requirements, but Department reported during the audit it no longer believes RSAC is subject to these requirements**—As discussed in the Introduction (see page 6), the Department supports RSAC, which advises the Department Director on the provision of religious programs for youth in the Facility. At the beginning of the audit, the Department reported that RSAC was required to comply with the State's open meeting law. However, in August 2021, after we completed work to assess RSAC's compliance with open meeting law, the Department reported that it had performed additional legal research and no longer believed that RSAC was required to comply with open meeting law. Specifically, according to the Department, because RSAC was established by the Department Director and not by a public body, the Department does not believe it meets the statutory definition of an advisory committee that is subject to open meeting law.<sup>71</sup> In addition, the Department cited an Arizona Attorney General opinion that concluded advisory committees created by the Governor pursuant to executive order and for the purpose of advising the Governor are not subject to open meeting law, and stated RSAC was similarly established by the Department Director for the purpose of advising the Director.<sup>72</sup>

However, the Arizona Office of the Attorney General's (Attorney General's Office) *Arizona Agency Handbook* suggests that an advisory committee created pursuant to statute and established by the single head of an agency is subject to open meeting law.<sup>73,74</sup> Additionally, in discussing the legislative intent in establishing Arizona's open meeting law, the *Arizona Agency Handbook* states that any uncertainty related to open meeting law should be resolved in favor of openness in government, and any question about whether open meeting law applies should be resolved in favor of applying the law.<sup>75</sup> Accordingly, RSAC may be required to comply with open meeting law because statute directs the Department Director to establish RSAC and doing so would promote openness for the public's access to information regarding the provision of religious programs to all youth in the Facility.<sup>76</sup> Properly classifying RSAC's status related to open meeting law is important so the public is clear regarding its ability to access RSAC meetings. The Solicitor General's Office within the Attorney General's Office, which is responsible for enforcing open meeting law, could help the Department determine if RSAC is required to comply with open meeting law.<sup>77</sup>

As previously mentioned, we assessed RSAC's compliance with several open meeting law provisions for a meeting held in October 2020 and determined that RSAC complied with only 1 of the provisions we reviewed by not discussing any topics during the meeting that were not listed on the agenda.<sup>78</sup> The Department did not include a disclosure on its website stating where all RSAC meeting notices will be posted and did not post the meeting notice for the October 2020 meeting on its website at least 24 hours prior to the meeting, as required

<sup>71</sup> A.R.S. §38-431(1) defines an advisory committee as any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body. According to A.R.S. §38-431(6), public bodies include the Legislature, all boards and commissions of the State or its political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of the State or its political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by the State or a political subdivision.

<sup>72</sup> Op. Ariz. Att'y Gen. 192-07 (July 31, 1992).

<sup>73</sup> Arizona Attorney General. (2018). *Arizona agency handbook*. Phoenix, AZ. Retrieved on 9/16/20 from <https://www.azag.gov/outreach/publications/agency-handbook>. See §7.3.5.

<sup>74</sup> The *Arizona Agency Handbook* is a reference source produced by the Attorney General's Office that provides guidance by setting forth and explaining major State laws that govern State agencies.

<sup>75</sup> Arizona Attorney General, 2018, §7.2.2; see also A.R.S. §38-431.09(A).

<sup>76</sup> A.R.S. §41-2804.01(A).

<sup>77</sup> The Solicitor General's Office oversees the Attorney General's Office's Open Meeting Law Enforcement Team, which is responsible for investigating public complaints of open meeting law violations and working with public bodies to bring them into compliance with the law.

<sup>78</sup> We attended the RSAC meeting held on October 20, 2020. The meeting included a remote attendance option, and we attended via video conference.

by statute.<sup>79</sup> Additionally, the meeting agenda and written meeting minutes did not include all statutorily required elements. For example, the meeting agenda listed generic topics to be discussed, such as “Director update” and “religious program update” but did not include additional information about the specific matters to be discussed for these items.<sup>80</sup> The meeting minutes also did not specify the place/time of the meeting or provide an accurate record of the votes taken, and the Department did not make meeting minutes or a recording of the meeting available for public inspection within 3 working days after the meeting as statutorily required. Finally, although not statutorily required, the Department did not provide instructions in its meeting notice on how the meeting could be accessed remotely in accordance with guidance from the Attorney General’s Office.<sup>81</sup> However, during the audit, in the meeting notice for the RSAC meeting held in January 2021, the Department provided information on how the public could access the meeting remotely, including via telephone or video conference link. The Department did not have a policy or procedures outlining how the Department will comply with open meeting law, which likely contributed to the issues we found.

As of September 1, 2021, the Department continued to post RSAC public meeting notifications on its website that indicated the notifications were posted pursuant to specific open meeting law statutes.

## Recommendations

The Department should:

13. Consult with the Solicitor General’s Office within the Attorney General’s Office to determine if RSAC is required to comply with open meeting law.
14. Do the following if it determines RSAC is required to comply with open meeting law:
  - a. Include a disclosure on its website stating where all public meeting notices will be posted.
  - b. Develop and implement policies and procedures for complying with open meeting law, including posting meeting notices at least 24 hours prior to meetings, ensuring meeting agendas and meeting minutes contain all necessary elements, and making public meeting minutes or meeting recordings available for public inspection within 3 working days after the meeting, as required by statute.
15. Discontinue actions that could lead the public to believe it is legally permitted to attend RSAC meetings, such as citing open meeting law in RSAC meeting notices, if it determines RSAC is not required to comply with open meeting law.

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

### **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 is not a regulatory board, and it does not have statutory responsibility for investigating and resolving complaints. However, the Department has established processes for receiving and resolving youth

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<sup>79</sup> Although the Department posted a physical meeting notice and agenda in the lobby of its administrative offices for the meeting at least 24 hours prior to the meeting, posting this physical meeting notice did not satisfy the statutory meeting notice requirement because it had not included a disclosure on its website stating where all public meeting notices would be posted.

<sup>80</sup> A.R.S. §38-431.02(H) requires public meeting agendas to list the specific matters to be discussed. Additionally, according to the Attorney General’s Office’s *Arizona Agency Handbook*, this requirement does not permit the use of generic agenda items unless the specific matters or items to be discussed are separately identified in conjunction with the general terms. See Arizona Attorney General, 2018, §7.7.2.

<sup>81</sup> Op. Ariz. Att’y Gen. I20-002 (March 13, 2020) states that where a public body chooses to hold a remote meeting, advance notice would include such information as a website location for a video conference or a conference call number for telephonic meetings. A remote option was available for the meeting, and several RSAC members joined the meeting via video conference.

grievances and for investigating allegations of criminal violations or misconduct committed by its staff. We identified areas of improvement for both these processes. Specifically:

- **Department has established a policy and procedures for resolving youth grievances, which it generally followed for the grievances we reviewed, but it lacks a formal supervisory review process for staff who oversee youth grievances**—The Department receives multiple types of youth grievances related to treatment or living conditions; allegations of basic rights violations, which include issues of discrimination and due process; and allegations of abuse, including physical, sexual, mental, and verbal abuse. To address these grievances, the Department’s youth grievance policy and related procedures include requirements for its Juvenile Ombudsman (JO) to assign grievances for review and resolution by Department staff within specific time frames depending on the nature of the grievance.<sup>82</sup> For example, grievances alleging abuse are required to be immediately forwarded to the Department’s Inspector General for review and investigation. The Department’s youth grievance procedures also require Department staff and the JO to meet with youths to discuss concerns raised in grievances and to discuss proposed resolutions and inform the youths of their right to appeal proposed grievance resolutions to a higher supervisory level if they are not satisfied with resolutions.

Our review of a random sample of 20 grievances youth submitted from January 2019 through August 2020 found that the Department followed some of its policy and procedures for reviewing and resolving the grievances but did not follow its policy and procedures in 2 key areas.<sup>83</sup> First, the Department did not assign and resolve some grievances in a timely manner. Specifically, 5 of 20 grievances we reviewed were not assigned for review within 2 business days and/or resolved within 6 business days, as required by Department policy. Although according to Department staff, an extension had been granted for the resolution of 3 of these grievances, these 3 grievances did not meet the extension requirements. Specifically, the youth grievance policy authorizes the JO to grant a 1-time extension of up to 5 business days to resolve a grievance and requires this extension be documented. However, 2 of these extensions were not documented, and 1 extension was granted for longer than 5 business days. Compliance with time frames for resolving youth grievances helps ensure that grievances are reviewed and issues resulting in the grievance are timely addressed and is also important to help demonstrate continued compliance with the CRIPA Agreement, in which the Department agreed to establish an effective, reliable process for youth to raise grievances (see page 5 for more information on the CRIPA Agreement).

Second, the Department lacks a documented and comprehensive supervisory review process to ensure compliance with its youth grievance policy and procedures. According to the Department, its supervisory review process consists of the JO and their supervisor holding informal review sessions to review specific grievances, as needed. However, this process is not documented in policy and does not specify roles and responsibilities for reviewing grievances for compliance with the Department’s policy and procedures and time frames for these reviews. A lack of a formal review process poses a risk that noncompliance with the Department’s youth grievance policy and procedures is not being identified and addressed, such as those noted above regarding timeliness and the documentation of extensions.

- **Department had an informal process for reporting and investigating allegations of criminal violations and misconduct by its employees, but the Department did not consistently document actions taken in response to investigation findings**—According to the Department, any Department employee can submit an administrative incident report (AIR), which is a confidential report for reporting allegations of criminal violations, misconduct, or performance infractions committed by employees. The Department followed an informal process for investigating and resolving allegations made in AIRs that was not documented in policy and procedures. As part of this process, reported allegations were typically reviewed by a facility administrator and then, if applicable, assigned to the direct supervisor of the principal

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<sup>82</sup> The JO is a Department staff member who serves as a liaison between Facility staff and youth committed to the Department’s care. The JO’s responsibilities include informing youth of their rights and facilitating the youth grievance process.

<sup>83</sup> We randomly sampled 20 of the 114 grievances youth submitted to the Department from January 2019 through August 2020. See Appendix A, page a-2, for more information about the sample design.

employee named in the AIR for follow up. For serious acts of misconduct, which could result in criminal prosecution, AIRs may have triggered an administrative and/or criminal investigation, which was conducted by investigators overseen by the Department's Inspector General.

We reviewed Department documentation related to 4 AIRs—3 submitted in April 2020 and 1 submitted in June 2020—and any associated administrative investigation documentation, if applicable.<sup>84</sup> Department staff followed the Department's informal process for these 4 AIRs. However, for 1 of the AIRs, which included allegations against 4 Department employees, the Department documented a disposition and corrective action, if applicable, for only 2 of the employees. Failure to document the disposition and corrective actions may limit the Department's ability to appropriately consider these dispositions and corrective actions when determining progressive discipline if the employee has future substantiated allegations, including repeat offenses. The Department's lack of policies and procedures outlining its informal AIR process may have led to this lack of documentation.

During the audit, as of August 2021, the Department developed a policy and procedures formalizing its informal AIR process that also incorporates guidance on documenting the dispositions for all employees with allegations included in an AIR.

## Recommendations

The Department should:

16. Follow the time frames for reviewing and resolving youth grievances outlined in its youth grievance policy and procedures.
17. Develop and implement a youth grievance supervisory review policy and procedures that outlines roles and responsibilities for reviewing grievances for compliance with the Department's policy and procedures and time frames for these reviews.
18. Continue to implement its AIR policy and procedures.

**Department response:** As outlined in its [response](#), the Department agrees with 1 finding and disagrees with 1 finding and will implement the recommendations.

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

The Attorney General serves as the Department's legal advisor and provides legal services as the Department requires, according to A.R.S. §41-192(A)(1).

### **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.

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<sup>84</sup> We originally reviewed these 4 AIRs to obtain evidence related to our 2 performance audits of the Department. Subsequently, we reviewed these 4 AIRs to assess the Department's process for addressing allegations made against Department staff.

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

Terminating the Department would affect the public's safety if its responsibilities were not transferred to another entity. The Department helps promote public safety by operating a secure care correctional facility for supervising, educating, and rehabilitating youth who pose a threat to public safety or who have engaged in a pattern of conduct characterized by persistent and delinquent offenses that cannot be controlled in a less secure setting. The Department also helps protect public safety by supervising youth on parole, including assisting youth in accessing counseling services, and by ensuring youth comply with parole conditions, such as not using drugs, possessing weapons, or contacting their victim(s). The Department is also statutorily responsible for supervising youth from other states placed on probation or parole in Arizona under the Interstate Compact for Juveniles (see Introduction, footnote 18, for more information on the Interstate Compact for Juveniles).<sup>85</sup> These functions help protect the public from delinquent youths' potentially harmful behaviors.

**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.**

This sunset factor does not apply because the Department is not a regulatory agency.

**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 has contracted with private companies to perform various functions, such as providing medical and mental health services and special education services for committed youth. In addition, the Department has contracted with various community-based service providers for youth on parole, such as for outpatient counseling, drug testing, and out-of-home residential placements.<sup>86</sup> We compared the Department's use of contractors to that of juvenile justice agencies in Louisiana, New Mexico, North Carolina, Oregon, and Virginia and found the following:

- Similar to Arizona, Louisiana, North Carolina, and Oregon reported that they contract for some medical and mental health services for committed youth. In addition, similar to Arizona, New Mexico, Oregon, and Virginia reported that they contract for some services for youth released to the community, such as outpatient treatment providers.<sup>87</sup>
- Virginia reported that it contracts with certain facilities to house committed youth as an alternative to placement in state-run, secure facilities.<sup>88</sup>
- Louisiana reported that it contracts with its state Department of Education through an interagency agreement to provide educational services to committed youth with disabilities, and Oregon reported that it contracts for providing general youth education.

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

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<sup>85</sup> A.R.S. §§8-361.

<sup>86</sup> Some of these contracts are managed by the Arizona Department of Child Safety, and the Department is named as a party in these contracts.

<sup>87</sup> Virginia reported that it contracts with 2 organizations known as regional service coordinators that are responsible for analyzing system needs and for selecting and subcontracting various services for youth, including treatment and therapy.

<sup>88</sup> According to a report published by the Virginia Department of Juvenile Justice, contracted alternative placements for committed youth in Virginia include secure and nonsecure options, such as group homes and residential treatment centers. Further, as of June 30, 2020, this report indicated that only 3 percent of its committed youth population was housed in a contracted alternative placement.



# SUMMARY OF RECOMMENDATIONS

## Auditor General makes 18 recommendations to the Department

The Department should:

1. Ensure that parole officers are following parole supervision requirements (see Sunset Factor 2, pages 9 through 21, for more information).
2. Revise and implement its parole supervisor manual to include a process for reviewing parole officers' compliance with requirements for supervising youth, including outlining procedures and time frames for conducting reviews, documentation requirements, and how noncompliance should be addressed (see Sunset Factor 2, pages 9 through 21, for more information).
3. Revise and implement its parole officer manual to explain the intent and expectations for requirements for supervising youth, including how parole officers should handle any extenuating circumstances that would prevent them from meeting any youth supervision requirements (see Sunset Factor 2, pages 9 through 21, for more information).
4. Provide training to parole supervisors and parole officers on any revisions to the parole supervisor and parole officer manuals (see Sunset Factor 2, pages 9 through 21, for more information).
5. Continue to implement its revised youth work experience policy and procedures (see Sunset Factor 2, pages 9 through 21, for more information).
6. Revise and implement policies and procedures for reimbursing employees' travel expenses, including:
  - a. Conducting monthly and annual reviews of ETC charges and payments as required by SAAM.
  - b. Conducting reviews of ETC and CTA travel reimbursement documentation to help ensure all required documents are obtained and requested reimbursement amounts comply with SAAM requirements (see Sunset Factor 2, pages 9 through 21, for more information).
7. Revise and continue to implement its policies and procedures related to its new process for monitoring employee time entries to include detailed steps for completing this process (see Sunset Factor 2, pages 9 through 21, for more information).
8. Continue to implement its written plan for implementing its newly developed IT security policies and regularly review and update the plan, as appropriate, based on progress (see Sunset Factor 2, pages 9 through 21, for more information).
9. Revise and implement its QA policies and procedures to ensure its quality assurance team reviews all uses of TSU over 24 hours (see Sunset Factor 2, pages 9 through 21, for more information).
10. Evaluate and revise its method for measuring and reporting recidivism to further align it with additional practices recommended by literature, such as reporting youth recidivism defined as adjudication/conviction for a new crime and other recidivating events and reporting recidivism data by youth demographics, recidivism risk, and/or other factors that may provide important context (see Sunset Factor 2, pages 9 through 21, for more information).

11. Modify and implement its policies and procedures to:
  - a. Require Department staff to electronically record youth movement as an exclusion when youth are placed in their rooms for exclusion.
  - b. Use the electronic exclusion data to follow up on any discrepancies between the electronic exclusion data and paper exclusion time sheets and to track information on the use of exclusion in the Facility, as needed (see Sunset Factor 2, pages 9 through 21, for more information).
12. Enhance its conflict-of-interest process to help ensure compliance with State conflict-of-interest requirements by revising and implementing its policies and procedures to:
  - a. Remind its employees/public officers at least annually to complete a new disclosure form when their circumstances change, such as by requiring its employees and RSAC members to complete an annual conflict-of-interest disclosure form.
  - b. Require RSAC members to complete a disclosure form when they are appointed to the committee by the Department Director that includes an “affirmative no” attestation and requires disclosure of substantial decision-making interests .
  - c. Establish a process for remediating any disclosed conflicts of interest (see Sunset Factor 3, pages 21 through 24, for more information).
13. Consult with the Solicitor General’s Office within the Attorney General’s Office to determine if RSAC is required to comply with open meeting law (see Sunset Factor 5, pages 24 through 26, for more information).
14. Do the following if it determines RSAC is required to comply with open meeting law:
  - a. Include a disclosure on its website stating where all public meeting notices will be posted.
  - b. Develop and implement policies and procedures for complying with open meeting law, including posting meeting notices at least 24 hours prior to meetings, ensuring meeting agendas and meeting minutes contain all necessary elements, and making public meeting minutes or meeting recordings available for public inspection within 3 working days after the meeting, as required by statute (see Sunset Factor 5, pages 24 through 26, for more information).
15. Discontinue actions that could lead the public to believe it is legally permitted to attend RSAC meetings, such as citing open meeting law in RSAC meeting notices, if it determines RSAC is not required to comply with open meeting law (see Sunset Factor 5, pages 24 through 26, for more information).
16. Follow the time frames for reviewing and resolving youth grievances outlined in its youth grievance policy and procedures (see Sunset Factor 6, pages 26 through 28, for more information).
17. Develop and implement a youth grievance supervisory review policy and procedures that outlines roles and responsibilities for reviewing grievances for compliance with the Department’s policy and procedures and time frames for these reviews (see Sunset Factor 6, pages 26 through 28, for more information).
18. Continue to implement its AIR policy and procedures (see Sunset Factor 6, pages 26 through 28, for more information).



## Scope and methodology

The Arizona Auditor General has conducted this sunset review of the Department pursuant to a September 14, 2016, 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 study the issues addressed in this sunset review of the Department. These methods included reviewing the Department's statutes, website, policies and procedures, and reports, and interviewing Department staff. In addition, we used the following specific methods to meet the audit objectives:

- To assess the Department's compliance with its policies and procedures for supervising youth on parole, we reviewed case plans and parole officer notes for a random sample of 5 of 33 youth who had been on parole for at least 2 months as of October 31, 2020. In addition, to assess whether the Department revoked youth parole consistent with its policies and procedures, we reviewed conditions of supervision forms, parole officer notes, warrants, and parole revocation hearing minutes for a judgmental sample of 4 youth whose parole had been revoked as a result of parole revocation hearings held in July 2020.<sup>89</sup>
- To assess the Department's compliance with legal requirements for providing education to youth with disabilities, we reviewed applicable State and federal education laws and regulations.<sup>90</sup> In addition, to determine whether the Department had complied with the recommendations resulting from external compliance reviews related to its provision of education to youth, we reviewed 3 external compliance reviews the Department had undergone since 2016 and the Department's associated corrective action plans.<sup>91</sup>
- To assess the Department's compliance with statutory requirements for compensating youth who participate in WIPP, we reviewed the Department's WIPP payments made for a judgmental sample of 4 of 66 WIPP deposits made between July 1, 2017 and March 31, 2020.
- To assess the Department's internal controls related to reimbursing employees' travel expenses, we reviewed SAAM; all 39 bank statements for the Department's ETC holders from July 1, 2017 to March 31, 2020; and supporting documentation for a judgmental sample of 8 of 147 employee travel reimbursements and 17 of 219 CTA transactions the Department made during the same time period.<sup>92</sup>
- To evaluate 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

<sup>89</sup> At the time of our review, the most recent information available from the Department was for youth who were returned to the Facility between July 31, 2020 and August 31, 2020, as a result of parole revocation hearings held in July 2020. We reviewed documentation for all 4 youth who the Department reported were returned to the Facility during this time period because of parole revocation. Subsequently, the Department revised its information on youth returned to the Facility because of parole revocation to include 2 additional youth returned to the Facility between July 31, 2020 and August 31, 2020, because of parole revocation, who we did not review.

<sup>90</sup> Some federal education laws with which the Department must comply include Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.), and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), along with related federal regulations (34 CFR 104.31 et seq. and 34 CFR 300.1 et seq.). Some relevant State education statutes and regulations with which the Department must comply include A.R.S. §15-761 et seq. and AAC R7-2-401 et seq.

<sup>91</sup> We reviewed compliance reviews of the Department conducted by ADE in 2016 and 2019, and by the U.S. Department of Education in 2018.

<sup>92</sup> SAAM is the policies and procedures manual for the central accounting function of the State of Arizona published by the Arizona Department of Administration's General Accounting Office in accordance with statute.

requirements. Specifically, we interviewed Department staff to obtain information about the Department's IT security practices in place as of September 2020, compared 3 of 15 IT security policies the Department developed as of December 2020 to ASET requirements, reviewed the Department's implementation plan for the newly developed policies, and assessed implementation of 4 of 14 action items from the Department's implementation plan that it reported were completed. Additionally, we reviewed the Department's vulnerability scanning results conducted between April 14, 2020 and May 26, 2020, and assessed whether Department staff remediated identified vulnerabilities consistent with ASET policy.

- To evaluate the Department's measurement and reporting of youth recidivism rates, we reviewed juvenile justice literature related to youth recidivism measurement and reporting and obtained information on other states' youth recidivism measurement and reporting.<sup>93,94</sup>
- 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 employee standards policy, and the Department's disclosure forms.<sup>95</sup>
- To assess the Department's compliance with the State's open meeting law requirements, we reviewed the Attorney General's Office's *Arizona Agency Handbook* and Arizona Attorney General opinions, and attended 1 RSAC meeting held in October 2020 and reviewed this meeting's notice, agenda, and minutes.<sup>96,97</sup> We also reviewed the notice of the RSAC meeting held in January 2021 to determine whether the Department had provided information on how to remotely access the meeting.
- To evaluate the Department's processes for resolving youth grievances, we reviewed a random sample of 20 of 114 grievances youth submitted to the Department from January 2019 through August 2020. The sample of 20 grievances was stratified based on grievance type as follows: 5 minor issues with employees, 5 programming and treatment issues, 5 abuse allegations, and 5 grievances that we selected from all other grievance types.
- To evaluate the Department's AIR process, we reviewed 4 AIRs that we originally reviewed to obtain evidence related to our 2 performance audits of the Department—3 submitted in April 2020 and 1 submitted in June 2020—and any associated administrative investigation documentation.<sup>98</sup> Subsequently, we reviewed these 4 AIRs to assess the Department's process for addressing allegations made against Department staff.

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<sup>93</sup> Butts, J.A., & Schiraldi, V. (2018). *Recidivism reconsidered: Preserving the community justice mission of community corrections*. Cambridge, MA: Harvard Kennedy School. Retrieved 5/7/20 from <https://johnjayrec.nyc/2018/03/15/recidivism-reconsidered/>; Council of State Governments Justice Center. (2014). *Measuring and using juvenile recidivism data to inform policy, practice, and resource allocation*. New York, NY. Retrieved 3/2/20 from <https://csgjusticecenter.org/publications/measuring-juvenile-recidivism/>; Harris, P.W., Lockwood, B., & Mengers, L. (2009). *A CJCA white paper: Defining and measuring recidivism*. Braintree, MA: Council of Juvenile Correctional Administrators. Retrieved 5/7/2020 from <http://cjca.net/wp-content/uploads/2018/02/CJCA-Recidivism-White-Paper.pdf>; Harris, P.W., Lockwood, B., Mengers, L., & Stoodley, B.H. (2011). Measuring recidivism in juvenile corrections. *Office of Juvenile Justice and Delinquency Prevention (OJJDP) Journal of Juvenile Justice*, 1(1), 1-16.

<sup>94</sup> We judgmentally selected Louisiana, New Mexico, North Carolina, Oregon, and Virginia because these states varied in the extent to which they followed recommended practices for measuring and reporting youth recidivism, and all had publicly available recidivism reports. However, because New Mexico's juvenile justice agency reported that its recidivism measurement methodology was undergoing changes, we replaced New Mexico with Colorado, which similar to New Mexico is a western state and also had publicly available recidivism reports.

<sup>95</sup> Organization for Economic Cooperation and Development (OECD). (2003). *Recommendation of the council on OECD 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>.

<sup>96</sup> Arizona Attorney General. (2018). *Arizona agency handbook*. Phoenix, AZ. Retrieved on 9/16/20 from <https://www.azag.gov/outreach/publications/agency-handbook>.

<sup>97</sup> Op. Ariz. Att'y Gen. 192-07 (July 31, 1992) and Op. Ariz. Att'y Gen. 120-002 (March 13, 2020).

<sup>98</sup> See Arizona Auditor General Report 21-104 *Arizona Department of Juvenile Corrections—Use of Temporary Stabilization Units* and Arizona Auditor General Report 21-121 *Arizona Department of Juvenile Corrections—Youth Treatment Programming Evaluation*.

- To obtain additional information for the sunset factors, we judgmentally selected 5 states—Louisiana, New Mexico, North Carolina, Oregon, and Virginia—and contacted these states’ juvenile justice agencies.<sup>99,100</sup> Specifically, we contacted representatives from these states to evaluate the extent to which private companies operate secure care facilities for delinquent youth in these states and to obtain information on how these states’ juvenile justice agencies care for youth with significant mental illness, provide youth representation during parole revocation proceedings, and use private contractors in the performance of their duties.<sup>101</sup>
- To obtain information for the Introduction, we reviewed staffing information the Department provided and compiled and analyzed unaudited information from the Arizona Financial Information System *Accounting Event Transaction File* for fiscal years 2019 through 2021, the State of Arizona *Annual Financial Report* for fiscal years 2019 and 2020, and Department-provided information. In addition, we reviewed sections of the Arizona State Constitution related to State Trust lands and documentation related to federal lawsuits and an investigation involving the Department that began in 1986 and 2002.<sup>102,103</sup>
- Our work on internal controls, including information system controls, included reviewing the Department’s policies and procedures and, where applicable, testing the Department’s compliance with these policies and procedures; testing the Department’s compliance with SAAM; and comparing the Department’s IT security policies, procedures, and practices to ASET requirements. We reported our conclusions on applicable internal controls in Sunset Factors 2, 3, 5, and 6 (see pages 9 through 28).

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

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

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<sup>99</sup> We selected these 5 states to determine how other state juvenile justice systems measure and report youth recidivism and contacted these same states to obtain information on how juvenile justice agencies in other states operate.

<sup>100</sup> We contacted staff from the Louisiana Office of Juvenile Justice; the New Mexico Children, Youth and Families Department; the North Carolina Department of Public Safety; the Oregon Youth Authority; and the Virginia Department of Juvenile Justice.

<sup>101</sup> Because the 5 states we initially contacted did not have privately operated secure care facilities for delinquent youth, we conducted additional research to determine if privately operated secure care facilities for delinquent youth exist in other states and, based on this work, identified and contacted staff from 2 additional juvenile justice agencies: the Florida Department of Juvenile Justice and the Tennessee Department of Children’s Services, Office of Juvenile Justice.

<sup>102</sup> Arizona Constitution, Art. X, §3.

<sup>103</sup> Johnson v. Upchurch, CIV-86-195, U.S. Dist. Ct. for Dist. of AZ; United States of America v. The State of Arizona, et al., CV-04-01926, U.S. Dist. Ct. for Dist. of AZ.



## 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 our recommendations. However, the Department's response includes a statement that necessitates the following clarification.

1. In the Department's explanation of its response to Recommendation 18, it makes the following statement related to its process for investigating and resolving allegations made in administrative incident reports (AIRs) (see Department's response, page 9):

"The report incorrectly concludes 'failure to document disposition and corrective actions may limit the Department's ability to appropriately consider these dispositions and corrective actions when determining progressive discipline...' (p. 28). Although ADJC agrees that the development of AIR policy and procedures is necessary, ADJC uses the performance management system, not the AIR system, when determining progressive discipline."

We disagree with the Department's statement regarding our conclusion. Specifically, as discussed in Sunset Factor 6 (see pages 27 through 28), for 1 of 4 AIRs we reviewed, which included allegations against 4 Department employees, the Department documented a disposition and corrective action for only 2 of the employees. The Department reported that it uses its performance management system when determining progressive discipline. However, despite repeated requests during the audit, the Department did not provide documentation of the dispositions and/or corrective actions for the other 2 employees either from its performance management or AIR system. Therefore, as we correctly concluded in our audit report, the Department's failure to document disposition and corrective actions may limit the Department's ability to appropriately consider these dispositions and corrective actions when determining progressive discipline.

# DEPARTMENT RESPONSE



DOUGLAS A. DUCEY  
Governor

JEFF HOOD  
Director

September 28, 2021

Ms. Lindsey A. Perry, Auditor General  
Arizona Office of the Auditor General  
2910 N. 44th Street, Suite 410  
Phoenix, AZ 85018

Re: Sunset Factors Audit

Dear Ms. Perry:

Attached please find our response to the statutory sunset factors audit report. We appreciate the critical role that the Office of the Auditor General (OAG) plays in ensuring state agencies are performing at the highest level and in accordance with statutory requirements and national standards.

The Arizona Department of Juvenile Corrections (ADJC) plays a critical role in advancing the safety of the citizens of Arizona and rehabilitating seriously delinquent youth. ADJC prioritizes the use of evidence-based programs and works to consistently align ourselves with nationally recognized best practices.

ADJC regularly engages with other juvenile justice leaders across the nation and remains apprised of the prevailing research and identified best practices to ensure we provide youth with the necessary care and rehabilitative programming they need to become productive, healthy, law-abiding members of society. Over the past several years, ADJC has implemented a number of leading best practices and our own innovative improvements specifically tailored to produce the best possible outcomes for the youth in our care. For example, ADJC has expanded individual treatment sessions for youth at Adobe, implemented a self-paced credit recovery tool for students to make up missing educational credits, developed custom programming to integrate the Positive Behavior Interventions and Supports (PBIS) system into our portable scanning technology, implemented Eye Movement Desensitization Reprocessing (a leading therapy designed to

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September 28, 2021

Re: Sunset Factors Audit

treat trauma), and launched an initiative to help youth obtain state-issued photo ID cards prior to their release from secure care to assist with their transition into the community.

ADJC is committed to continuous improvement. We thank you for the work you performed in reviewing our agency. Many of your recommendations have already been implemented and others are in the process of being implemented.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Hood". The signature is stylized with a large initial "J" and "H" and a trailing flourish.

Jeff Hood

Director

**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 1:** The Department should ensure that parole officers are following parole supervision requirements.

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

Response explanation: ADJC has revised its parole officer manual to clarify parole supervision requirements.

**Recommendation 2:** The Department should revise and implement its parole supervisor manual to include a process for reviewing parole officers' compliance with requirements for supervising youth, including outlining procedures and time frames for conducting reviews, documentation requirements, and how noncompliance should be addressed.

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

Response explanation: ADJC has revised the parole supervisor manual and GAR inspection process to outline procedures for reviewing parole officer compliance, the timeframes for conducting these reviews, documentation requirements, and addressing any non-compliance. These updates have already been implemented.

**Recommendation 3:** The Department should revise and implement its parole officer manual to explain the intent and expectations for requirements for supervising youth, including how parole officers should handle any extenuating circumstances that would prevent them from meeting any youth supervision requirements.

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

Response explanation: ADJC strives to promote youth success in the community by providing youth with the necessary support to become law-abiding citizens. To this end, parole case plans sometimes require flexibility. ADJC has revised the parole officer manual to explain the intent and expectations for supervising youth and to provide guidance as to how parole officers can address extenuating circumstances.

**Recommendation 4:** The Department should provide training to parole supervisors and parole officers on any revisions to the parole supervisor and parole officer manuals.

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

Response explanation: ADJC parole officers and parole supervisors have been trained on all revisions to the parole manuals.

**Recommendation 5:** The Department should continue to implement its revised youth work experience policy and procedures.

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

Response explanation: As the audit pointed out, 186 hours were incorrectly coded when inputting hard copy timesheets into ADJC's IT system as a result of human error. ADJC acknowledges the importance of ensuring youth are always paid for all hours worked and that a portion of these payments are to be used to offset the cost of room and board and to pay restitution to victims, if there are any, as noted in the report. We would like to note that the total value of these 186 hours was \$47.64, \$30.64 should have been used to offset the cost of room and board and \$1.12 should have been used to pay restitution. ADJC has already updated and implemented its revised youth work experience policy and procedures to address this error.

**Recommendation 6:** The Department should revise and implement policies and procedures for reimbursing employees' travel expenses, including:

**Recommendation 6a:** Conducting monthly and annual reviews of ETC charges and payments as required by SAAM.

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

Response explanation: ADJC's travel policy and procedures have been revised and implemented and include a process for conducting monthly and annual reviews of ETC charges.

**Recommendation 6b:** Conducting reviews of ETC and CTA travel reimbursement documentation to help ensure all required documents are obtained and requested reimbursement amounts comply with SAAM requirements.

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

Response explanation: ADJC's travel policy and procedures have been revised and implemented and include a process for conducting reviews of ETC and CTA travel reimbursement documentation to ensure all required documents are obtained and retained and requested reimbursement amounts comply with SAAM requirements.

**Recommendation 7:** The Department should revise and continue to implement its policies and procedures related to its new process for monitoring employee time entries to include detailed steps for completing this process.

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

Response explanation: Policy and procedures related to ADJC's new process for monitoring employee time entries, including detailed steps for monitoring employee time entries, have been revised and implemented.

ADJC would like to emphasize that, prior to the initiation of this audit, ADJC discovered that two now former employees had an agreed-upon arrangement that was not authorized but resulted in the payment to an employee for being "on call." ADJC identified, investigated, and had appropriately and effectively addressed this personnel matter before the audit began.

**Recommendation 8:** The Department should continue to implement its written plan for implementing its newly developed IT security policies and regularly review and update the plan, as appropriate, based on progress.

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

Response explanation: ADJC has completed 93% of the action items in the IT security action plan. The remaining action items are on track to be completed by December, 2021.

**Recommendation 9:** The Department should revise and implement its QA policies and procedures to ensure its quality assurance team reviews all uses of TSU over 24 hours.

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

Response explanation: In addition to the due process measures already in place, ADJC has updated QA policies and procedures to ensure quality assurance staff review all uses of TSU over 24 hours.

**Recommendation 10:** Evaluate and revise its method for measuring and reporting recidivism to further align it with additional practices recommended by literature, such as reporting youth recidivism defined as adjudication/conviction for a new crime and other recidivating events and reporting recidivism data by youth demographics, recidivism risk, and/or other factors that may provide important context.

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

Response explanation: ADJC regularly reports recidivism rates because we recognize recidivism as a fundamental performance measure, as the report points out. ADJC has evaluated our recidivism measures in response to this recommendation and has already completed the preliminary steps for adopting suggestions from national organizations in order to expand our recidivism measures. Once the expanded measures and breakouts are drafted, they will be reviewed, and we will consider incorporating data into our recidivism report. However, due to the possibility of small sample sizes that may be encountered when creating demographic breakouts, some breakouts may not be valid and will therefore be excluded from any reports. Additionally, the ability to produce rates on differing recidivating events relies upon a variety of interagency data sharing agreements and collaboration, data availability, and accurate data matching with multiple outside agencies. Efforts to establish these agreements are already underway.

**Recommendation 11:** The Department should modify and implement its policies and procedures to:

**Recommendation 11a:** Require Department staff to electronically record youth movement as an exclusion when youth are placed in their rooms for exclusion.

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

Response explanation: ADJC agrees that recording exclusions electronically could provide valuable information. We will pilot a new process on select units that will require staff working in these units to electronically record exclusions using a scanner. After completing this pilot, ADJC will evaluate the use of the scanners to electronically record exclusions and determine whether it is feasible to employ this approach agency-wide and whether there are any obstacles that need to be resolved in order to effectively record exclusions electronically without creating a safety risk or other unmanageable operational burdens.

**Recommendation 11b:** Use the electronic exclusion data to follow up on any discrepancies between the electronic exclusion data and paper exclusion time sheets and to track information on the use of exclusion in the Facility, as needed.

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: ADJC will pilot a process on select units that will require staff to electronically record exclusions using a scanner. During the pilot, ADJC will use the electronic data to auto-populate exclusion timesheets and logbook entries and determine whether it is feasible to employ this approach agency-wide. The use of scanners to electronically record exclusions may eliminate the need to record exclusions on paper timesheets in which case, continuing to record exclusions using both tools would be duplicative and could be operationally burdensome.

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

**Recommendation 12:** The Department should enhance its conflict-of-interest process to help ensure compliance with State conflict-of-interest requirements by revising and implementing its policies and procedures to:

**Recommendation 12a:** Remind its employees/public officers at least annually to complete a new disclosure form when their circumstances change, such as by requiring its employees and RSAC members to complete an annual conflict-of-interest disclosure form.

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

Response explanation: Although ADJC has complied with all of the state's conflict-of-interest requirements, ADJC has revised and implemented policies and procedures related to

conflict-of-interest disclosure. Although not required by law, ADJC has implemented a requirement that the Human Resource Bureau formally remind employees annually about the need to disclose conflicts of interest and the requirement to submit a new conflict-of-interest disclosure if a conflict arises.

**Recommendation 12b:** Require RSAC members to complete a disclosure form when they are appointed to the committee by the Department Director that includes an “affirmative no” attestation and requires disclosure of substantial decision-making interests.

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

Response explanation: ADJC revised its policy and procedures to require RSAC members to complete a disclosure form that includes an “affirmative no” when they are appointed to the committee and requires disclosure of substantial decision-making interest. ADJC has collected disclosure forms from all current RSAC members consistent with this requirement.

**Recommendation 12c:** Establish a process for remediating any disclosed conflicts of interest.

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

Response explanation: ADJC has revised its policy and procedures to make clear the process by which disclosed conflicts are remediated.

**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.

**Recommendation 13:** The Department should Consult with the Solicitor General’s Office within the Attorney General’s Office to determine if RSAC is required to comply with open meeting law.

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

Response explanation: As the report notes, ADJC conducted a legal analysis of the Religious Services Advisory Committee and determined that the committee was not subject to open meeting law, and public postings indicating otherwise have since been removed. Per the recommendation, ADJC will consult with the Office of the Attorney General.

**Recommendation 14:** The Department should do the following if it determines RSAC is required to comply with open meeting law:

**Recommendation 14a:** Include a disclosure on its website stating where all public meeting notices will be posted.

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

Response explanation: ADJC's legal analysis indicates that RSAC is not subject to open meeting law requirements; if it is determined that RSAC is required to comply with open meeting law, ADJC will ensure it complies with all aspects of the law, including publishing a disclosure on the website stating where all public meeting notices will be posted.

**Recommendation 14b:** Develop and implement policies and procedures for complying with open meeting law, including posting meeting notices at least 24 hours prior to meetings, ensuring meeting agendas and meeting minutes contain all necessary elements, and making public meeting minutes or meeting recordings available for public inspection within 3 working days after the meeting, as required by statute.

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

Response explanation: ADJC will consult with the Office of the Attorney General to determine whether RSAC is required to comply with open meeting law. If it is determined that RSAC is required to comply with open meeting law, ADJC will develop and implement policies and procedures for complying with open meeting law.

**Recommendation 15:** The Department should discontinue actions that could lead the public to believe it is legally permitted to attend RSAC meetings, such as citing open meeting law in RSAC meeting notices, if it determines RSAC is not required to comply with open meeting law.

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

Response explanation: ADJC does not believe RSAC is required to comply with open meeting law and has removed meeting notices citing open meeting law. ADJC will consult formally with the Office of the Attorney General to determine whether RSAC is required to comply with open meeting law. If it is determined that RSAC is not required to comply with open meeting law, ADJC will continue to not cite open meeting law in RSAC meeting notices.

**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 16:** The Department should follow the time frames for reviewing and resolving youth grievances outlined in its youth grievance policy and procedures.

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

Response explanation: ADJC has revised its policy and procedures to ensure time frames for reviewing and resolving youth grievances are followed.

**Recommendation 17:** The Department should develop and implement a youth grievance supervisory review policy and procedures that outlines roles and responsibilities for reviewing grievances for compliance with the Department's policy and procedures and time frames for these reviews.

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

Response explanation: ADJC has updated its policies and procedures, and implemented a youth grievance supervisory review process that outlines roles and responsibilities for reviewing grievances for compliance with policy and procedures and the time frames for these supervisory reviews.

**Recommendation 18:** The Department should continue to implement its revised AIR policy and procedures.

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

Response explanation: The report incorrectly concludes “failure to document disposition and corrective actions may limit the Department’s ability to to appropriately consider these dispositions and corrective actions when determining progressive discipline...” (p. 28). Although ADJC agrees that the development of AIR policy and procedures is necessary, ADJC uses the performance management system, not the AIR system, when determining progressive discipline. ADJC has already implemented policy and procedures formalizing the AIR process and has incorporated suggestions from the OAG that the policy and procedures include a process for documenting a disposition for all employees for whom an allegation of misconduct was made or for whom misconduct was discovered during the course of an investigation.

