

DEPARTMENT OF LAW ENFORCEMENT

Administration of Aircraft,
Selected Information Technology Controls,
and Prior Audit Follow-Up



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Executive Director of the Department of Law Enforcement

The Department of Law Enforcement is established by Section 20.201, Florida Statutes. The head of the Department is the Governor and Cabinet. The Executive Director of the Department is appointed by the Governor, with the approval of the Cabinet, and subject to confirmation by the Senate. Richard L. Swearingen served as Executive Director during the period of our audit.

The team leader was Ryan Marlar, CPA, and the audit was supervised by Joshua Barrett, CPA.

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SUMMARY

This operational audit of the Department of Law Enforcement (Department) focused on the administration of aircraft and selected information technology controls. The audit also included a follow-up on the finding noted in our report No. 2017-034 related to the Firearm Purchase Program. Our audit disclosed the following:

Administration of Aircraft

Finding 1: Department flight records were not sufficient to determine whether passengers were traveling on official State business and were not otherwise subject to transportation charges. Additionally, contrary to State law, the Department had not established transportation charges for flight hours based on the fixed and variable costs associated with the ownership, operation, and use of Department aircraft.

Finding 2: Certain Department controls related to aircraft access need improvement.

Information Technology Controls

Finding 3: The Department did not conduct periodic reviews of Automated Investigative Management System (AIMS) user access privileges. Additionally, the Department did not always timely remove AIMS user access privileges upon an employee's separation from Department employment or when the access privileges were no longer required.

Finding 4: The Department utilized a service organization to retain text messages sent and received using Department-provided cellular devices in accordance with State law. However, the Department did not take steps to reasonably ensure that the service organization's controls relevant to text message retention were suitably designed and operating effectively. In addition, Department policies and procedures did not prohibit Department employees from using their personal devices to send or receive text messages pertaining to official State business or, alternatively, provide for the retention of such messages.

Firearm Purchase Program

Finding 5: As similarly noted in prior audit reports, most recently in our report No. 2017-034, State Clerks of Court (Clerks) records related to adjudications of mental defectiveness and court-ordered mental institution commitments were not always timely entered into the Florida Mental Competency (MECOM) application. In addition, Department controls for communicating with Clerks for which no MECOM application records are entered for certain months need enhancement.

BACKGROUND

Pursuant to State law,¹ the Department's mission is to promote public safety and strengthen domestic security by providing services in partnership with local, State, and Federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida's citizens and visitors. In carrying out this mission, the Department is charged with delivering a range of investigative, forensic, information system, and transportation and protective services to the State's criminal justice community. The Department provides these services through five divisions: Executive Direction and Business Support; Criminal Justice Information; Criminal Justice Professionalism; Florida Capitol Police; and the Criminal Investigations and Forensic Science Program. For the 2019-20 fiscal year, the Legislature appropriated approximately \$303 million to the Department and authorized 1,933 positions.²

FINDINGS AND RECOMMENDATIONS

ADMINISTRATION OF AIRCRAFT

The Department established the Aviation Team within the Criminal Investigations and Forensic Science Program (IFS) to provide operational aircraft and aviation-trained special agents for investigative support. As of February 2019, the Department had four operational aircraft and the Aviation Team included one Special Agent Supervisor, four pilots, and two reserve pilots. Beginning January 2019, the Aviation Team was also responsible for the air transport of the Governor and other authorized persons.

Finding 1: Aircraft Services Records and Charges

State law³ specifies that aircraft owned, leased, or operated by a State agency may only be used for official State business. State law⁴ and Department of Management Services (DMS) rules⁵ provide that individuals who are not traveling on official State business may be transported on a space available basis on a State aircraft when approved by and accompanying the Governor, the Lieutenant Governor, a member of the Cabinet, the President of the Senate, the Speaker of the House of Representatives, or the Chief Justice of the Florida Supreme Court on official State business. The accompanying individuals are to pay a transportation charge established by the applicable State agency that reflects a prorated share of all fixed and variable expenses (costs) related to the ownership, operation, and use of the State aircraft. The Department uses the Automated Investigative Management System (AIMS) to, among other things, record and track flight information, including passenger and flight cost information. According to Department records, Department fixed and variable expenditures associated with the ownership, operation, and use of Department aircraft during the period July 2017 through February 2019 totaled approximately \$1.9 million.

¹ Chapter 943, Florida Statutes.

² Chapter 2019-115, Laws of Florida.

³ Section 287.17(1), Florida Statutes.

⁴ Section 287.17(5) and (6), Florida Statutes.

⁵ DMS Rules 60B-4.003 and 60B-4.004, Florida Administrative Code.

State law⁶ requires the Department to submit an annual report to the Governor, Legislature, and Cabinet that details all transportation and protective services provided to the Governor, the Governor's immediate family, and other approved persons. The report is to include a detailed accounting of the cost of such services, including the names of the persons provided transportation and protective services and the nature of the State business performed.

We interviewed Department personnel, reviewed Department accounting and aircraft maintenance records, examined Department records related to 40 selected Department flights conducted during the period July 2017 through February 2019, including 8 flights that transported the Governor, and analyzed Department flight data for the period January 2019 through June 2019 to determine whether the Department had established an appropriate methodology for determining the total fixed and variable costs related to the ownership, operation, and use of the aircraft and whether such costs were properly prorated and charged to persons who were not flying on official State business in accordance with State law and DMS rules. Our audit procedures disclosed that:

- While Department records evidenced the number of passengers on each flight, the records did not denote the specific individuals transported on the flights or indicate whether such individuals were traveling on official State business. According to Department records, during the period January 2019 through June 2019, 1,311 passengers flew on 310 flights and, as of June 30, 2019, the Department had not charged any of the 1,311 passengers for the prorated costs of providing aircraft services.

In response to our audit inquiry, Department management indicated that the Federal Aviation Administration only requires the Department to provide the number of passengers on Department flights and all travel on Department aircraft is for official State business only. Additionally, Department management indicated that, when Department aircraft are used in accordance with the Department's responsibility to provide security or transportation services for the Governor, his immediate family, and others as requested and approved by authorized officials,⁷ the Department is not required to bill passengers accompanying the Governor on a space available basis.

We acknowledge that State law charges the Department with the responsibility to provide security and transportation services to the Governor and other authorized persons. However, State law⁸ and DMS rules⁹ also specify that authorized persons not on official State business who are transported on a space available basis on Department aircraft are to pay the State for all costs associated with the travel and that such travel is not official State business. Absent adequate records of the individual passengers on each Department flight and the purpose of each individual passenger's travel, the Department cannot demonstrate that all individuals were flying on official State business and therefore were not subject to applicable transportation charges, or that only those costs related to transportation and protective services provided for in State law are reported to the Governor, Legislature, and Cabinet.

- Although the Department had not charged any passengers for the prorated costs of providing aircraft services, the Department had established a methodology for determining the total fixed and variable costs related to the ownership, operation, and use of State aircraft. Our analysis of the Department's methodology for establishing charges for aircraft services found that, while the Department utilized actual flight hours to prorate costs related to the ownership, operation, and use of Department aircraft, the Department did not determine or use the actual fixed and variable

⁶ Section 943.68(9), Florida Statutes.

⁷ Section 943.68, Florida Statutes.

⁸ Section 287.17(5) and (6), Florida Statutes.

⁹ DMS Rules 60B-4.003 and 60B-4.004, Florida Administrative Code.

costs for each aircraft in making the proration. Instead, Department management indicated that, due to the infancy of the aviation team, a lack of historical data, and significant operational and responsibility changes, the Department established an average cost per flight hour for each aircraft based on cost estimates, by aircraft make and model, obtained from industry documents. However, the Department was unable to provide the industry documents used and acknowledged that such documents did not account for salaries, benefits, and other personnel-related costs.

- Notwithstanding the Department's use of estimated rather than actual fixed and variable costs to determine the cost per flight hour for each aircraft, AIMS records did not always accurately reflect the Department's established cost per flight hour. Specifically, AIMS records for 14 of the 40 selected flights reported a cost per flight hour between \$300 less than and \$300 more than the Department-established cost per flight hour, which ranged from \$75 to \$1,000, including 3 flights with recorded costs per flight hour of \$10, \$24, and \$26. In response to our audit inquiry, Department management indicated that AIMS flight cost records were not always accurate due to personnel oversights.

Adequate records of the individual passengers on each Department flight and the purpose of each individual passenger's travel would provide assurance that the transportation provided related to official State business and the use of actual fixed and variable costs to determine the costs of providing aircraft services and accurate cost records would better enable the Department to accurately report the costs of providing such services and facilitate the appropriately charging of individuals not flying on official State business.

Recommendation: We recommend that Department management enhance Department procedures to:

- **Require Department records evidence the individual passengers on each Department flight, including the purpose of each individual passenger's travel and whether the travel was for official State business.**
- **Ensure passengers not traveling on official State business are charged a prorated portion of the cost of each flight in accordance with State law.**
- **Ensure charges per flight hour are calculated based on actual fixed and variable costs related to the ownership, operation, and use of each Department aircraft.**
- **Ensure AIMS accurately reflects the Department's established cost per flight hour for each Department aircraft.**

Follow-Up to Management's Response

Department management indicated in their written response that the Department only allows passengers on its aircraft for law enforcement mission flights and to provide security and transportation for the Governor and the Governor's immediate family, pursuant to Section 943.68, Florida Statutes. Department management also indicated that, since the Department's aircraft missions are limited to these specific functions not contemplated by Section 287.17(5), Florida Statutes, the Department does not fly with seats available or on a cost-sharing basis and that all transportation on Department aircraft is for official State business only. Notwithstanding the Department's response, Section 287.17(2)(a) and (c), Florida Statutes, specifies that whether an aircraft is necessary to carry out State official or employee job assignments or whether the Department is providing security and transportation pursuant to Section 943.68, Florida Statutes, is to be considered when determining appropriate uses of aircraft. Consequently, the Department's use of aircraft is clearly contemplated by Section 287.17, Florida

Statutes, including subsection (5) that provides that persons not traveling on official State business must pay the State for the associated travel costs. While Department management asserted that all transportation on Department aircraft is for official State business, as indicated in the finding, DMS Rule 60B-4.003, Florida Administrative Code, provides that the transportation of authorized persons with others traveling on State business does not inherently constitute State business. The absence of Department records evidencing the specific individuals transported on Department flights or the purposes of their travels frustrates the ability to assess the Department's assertion that all transportation on Department aircraft is for official State business. Consequently, the finding and related recommendation stand as presented.

Finding 2: Aircraft Access Controls

Department controls are intended to protect, among other things, access to Department aircraft. Our audit disclosed that certain Department aircraft access controls need improvement. We are not disclosing the specific details of the issues in this report to avoid the possibility of compromising Department resources. However, we have notified appropriate Department management of the specific issues.

Without adequate Department aircraft access controls, the risk of inappropriate access to Department aircraft is increased.

Recommendation: We recommend that Department management strengthen certain aircraft access controls.

INFORMATION TECHNOLOGY CONTROLS

State law¹⁰ requires State agencies to establish information security controls to ensure the security of agency data, information, and information technology (IT) resources. Additionally, Agency for State Technology (AST)¹¹ rules¹² establish minimum security standards for ensuring the confidentiality, integrity, and availability of State agency data, information, and IT resources.

As noted in Finding 1, the Department uses AIMS to manage and track criminal investigations, including aircraft-related missions. To track aircraft mission information, such as the number of passengers, mission type, fuel expenditures, maintenance and repair expenditures, and flight hours, the Department created the Aircraft Mission Module within AIMS. The Aircraft Mission Module provides users the ability to view, create, modify, review, or approve aircraft mission data based on their user role. For example, the Aircraft Mission Role allows users the ability to view, create, modify, review, and approve aircraft mission data.

¹⁰ Section 282.318(4), Florida Statutes.

¹¹ Effective July 1, 2019, Chapter 2019-118, Laws of Florida, created the Division of State Technology within the Department of Management Services (DMS) and transferred the existing powers, duties, functions, personnel, records, property, and funds of the Agency for State Technology (AST) to the Division of State Technology.

¹² AST Rules, Chapter 74-2, Florida Administrative Code. Effective July 1, 2019, AST Rules, Chapter 74-2, Florida Administrative Code, were transferred to DMS Rules, Chapter 60GG-2, Florida Administrative Code. AST Rules, Chapter 74-2, were in effect during our audit period (July 2017 through January 2019).

As part of our audit, we also evaluated selected Department administrative activities and controls, including those related to mobile devices. The Department established policies and procedures¹³ regarding the acceptable use of IT resources and, among other things, the policies and procedures permitted employees to use the texting function of Department-provided cellular devices for nonpersonal transitory messages.¹⁴ The Department utilized a service organization¹⁵ to retain text messages in accordance with State law.

Finding 3: AIMS Access Privilege Controls

AST rules¹⁶ require State agencies to periodically review user access privileges for appropriateness and ensure that IT access privileges are removed when access to an IT resource is no longer required. Prompt action to remove access privileges is necessary to help prevent misuse of the access privileges.

To maintain the security of AIMS data, Department policies and procedures¹⁷ required the AIMS Application Access Administrator (AIMS Administrator) to conduct semiannual audits of user access privileges. Additionally, the Office of Human Resources (OHR) was to notify the AIMS Administrator of employee status changes monthly and supervisors of non-Department personnel were to notify the Department, Office of Information Technology Services, and the AIMS Administrator when user access privileges were no longer required. The AIMS Administrator was responsible for removing AIMS access privileges. As of April 8, 2019, 902 Department employees and 48 non-Department personnel had AIMS access privileges, including 8 Department employees with Aircraft Mission Role access privileges.

As part of our audit, we evaluated user access privilege controls for AIMS and examined Department and People First¹⁸ records to determine whether AIMS user access privileges were timely removed upon an employee's separation from Department employment or when the access privileges were no longer required. Our audit procedures disclosed that:

- The AIMS Administrator did not conduct semiannual AIMS user access privilege audits during the period July 2017 through February 2019.
- Although, during the period July 2017 through February 2019, 130 Department employees with AIMS access privileges separated from Department employment, AIMS user access privileges were not always timely removed upon an employee's separation from Department employment. Specifically:
 - As of April 8, 2019, AIMS user access privileges for 9 employees remained active although 194 to 444 business days (an average of 238 business days) had elapsed since the employees' separation dates.
 - AIMS user access privileges for 79 employees were not removed until 2 to 67 business days (an average of 12 business days) after the employees' separation dates. Additionally, the

¹³ Department Policy 2.6, *Acceptable Use of Information Technology*.

¹⁴ Transitory messages are records that are created primarily to communicate information of short-term value, such as reminders to employees about scheduled meetings or appointments. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt.

¹⁵ Service organizations provide services to user entities, some of which may be relevant to the user entities' internal control over financial reporting.

¹⁶ AST Rule 74-2.003(1)(a), Florida Administrative Code.

¹⁷ Department Policy 2.5, *Information Security*.

¹⁸ People First is the State's Web-based human resource information system.

user accounts for 2 of the 79 employees were accessed 1 and 68 days, respectively, after the employees' separation dates.

- Although no longer required, the Department did not remove the AIMS Aircraft Mission Role user access privileges assigned to 2 users until after our audit inquiry. Specifically, the Department removed the access privileges on April 29, 2019, 111 and 563 business days, respectively, after the user access privileges were no longer required.

According to Department management, the Department had not established a process to remind the AIMS Administrator to perform the user access privilege audits, which contributed to the deficiencies noted on audit. Additionally, Department management indicated that user accounts were not always timely removed due to: the OHR notifying the AIMS Administrator of employment terminations monthly, rather than as they occurred; the lack of responsibility for removing AIMS user access privileges being assigned to another employee when the AIMS Administrator was unavailable; and the Aviation Team Special Agent Supervisor and AIMS Administrator not being aware that the Aircraft Mission Role user access privileges were no longer required. Department management noted that one of the two accounts accessed after employment separation was accessed by an administrator to test a system enhancement, but management was unable to identify who accessed the other user account or explain for what purpose the account was accessed.

Periodic reviews of AIMS user access privileges would provide Department management assurance that user access privileges are authorized and remain appropriate. Additionally, as unauthorized access can occur at any time, timely removal of AIMS user access privileges when such privileges are no longer necessary limits the potential for unauthorized disclosure, modification, or destruction of Department data and IT resources by former employees or others.

Recommendation: We recommend that Department management enhance controls to ensure that periodic AIMS user access privilege reviews are performed and documented in Department records. We also recommend that Department management enhance procedures to provide for the immediate notification of employment separations and removal of corresponding AIMS user access privileges and designate a position responsible for ensuring that AIMS user access privileges are removed when the AIMS Administrator is unavailable.

Finding 4: Retention of Text Messages

State law¹⁹ requires the Department to maintain public records in accordance with the records retention schedule²⁰ established by the Department of State, Division of Library and Information Services. The schedule specifies that the retention periods for electronic communications, including text messages, are based on the content, nature, and purpose of the messages and that transitory messages are to be maintained until obsolete, superseded, or administrative value is lost. As previously noted, the Department allows employees to use the texting function of Department-provided cellular devices for nonpersonal transitory messages only; however, Department management indicated that instances can occur where employees receive nontransitory text messages, for example, from another law enforcement agency.

¹⁹ Section 119.021(2)(b), Florida Statutes.

²⁰ State of Florida *General Records Schedule GS1-SL for State and Local Government Agencies*.

As the Department relies on a service organization to retain Department text messages in accordance with State law, it is incumbent upon the Department to take steps to reasonably ensure that service organization controls relevant to text message retention are suitably designed and operating effectively. Such steps may include requiring the service organization to provide a service auditor's report²¹ on the effectiveness of the controls established by the organization or, alternatively, Department monitoring of the effectiveness of relevant service organization controls.

As part of our audit, we interviewed Department management and examined selected Department service organization purchase orders and related records to determine whether the Department took steps to reasonably ensure that service organization controls were suitably designed and operating effectively. We found that the Department had not monitored the relevant service organization controls, the purchase orders did not include a provision requiring the service organization to provide the Department a service auditor's report, and, as of May 2019, the Department had not requested or received service auditors' reports on the effectiveness of the controls at the service organization. In response to our audit inquiry, Department management indicated that Department personnel involved in procuring and overseeing text message retention services were not aware of the need for service auditor reports and that going forward language would be added to purchase orders requiring the service organization to provide a service auditor's report.

Subsequent to our audit inquiry, the Department obtained and reviewed the service auditors' reports and noted that the service auditors found issues regarding certain service organization network security controls. Department management indicated that the service auditors' findings were reviewed by the Department, Office of Information Technology Services, and, as of September 12, 2019, the Department continued to rely on the service organization to retain Department text messages.

We also examined Department policies and procedures designed to ensure compliance with the records retention schedule and noted that Department policies and procedures do not prohibit Department employees from using their personal devices to send or receive text messages pertaining to official State business or, alternatively, provide for the retention of such messages.

Absent the timely evaluation of relevant service organization controls and policies and procedures to either prohibit Department employees from using their personal devices to send or receive text messages pertaining to official State business or to provide for the retention of such messages, Department management has reduced assurance that relevant controls supporting the retention of text messages in accordance with State law are in place and functioning effectively.

Recommendation: To ensure that text messages are retained in accordance with State law, we recommend that Department management make or obtain independent and periodic assessments of the service organization's relevant internal controls. In addition, the Department should enhance policies and procedures to either prohibit Department employees from using their

²¹ A service auditor's report, as described by the American Institute of Certified Public Accountants, AT-C Section 320, *Reporting on an Examination of Controls at a Service Organization Relevant to User Entities' Internal Control Over Financial Reporting*, provides information and auditor conclusions related to a service organization's controls. Service organizations make service auditor reports available to user organizations to provide assurances related to the effectiveness of the service organization's relevant internal controls. AT-C Section 320.04 states that the guidance provided in AT-C Section 320 may be helpful in reporting on controls at a service organization other than those that are likely to be relevant to user entities' internal control over financial reporting.

personal devices to send or receive text messages pertaining to official State business or provide for the retention of such messages.

FIREARM PURCHASE PROGRAM

The Department is responsible for administering the State's Firearm Purchase Program. State law²² requires that, before selling or transferring a firearm, all licensed importers, manufacturers, or dealers in the State obtain certain information from a potential buyer, including the buyer's name, date of birth, and social security number or other identifying information, as well as verify the buyer's identity through the inspection of a government-issued photo identification. Dealers are to provide the Department the identifying information obtained about the potential buyer and the Department is to utilize the information to conduct a background check based on information included in the Florida Crime Information Center, National Crime Information Center, the Computerized Criminal History Information System, Interstate Identification Index, and National Instant Criminal Background Check System. The Department is also to review the records included in the Florida Mental Competency (MECOM) application to determine whether the potential buyer has been adjudicated mentally defective²³ or has been committed to a mental institution by a court or as otherwise specified by State law. The purpose of these checks is to determine whether information has been recorded that would disqualify the potential buyer pursuant to State or Federal law. As indicated in State law, one of the findings that may disqualify a potential buyer is a finding that the buyer has been adjudicated mentally defective or has been committed to a mental institution.

Finding 5: Mental Competency Application Records

Pursuant to State law,²⁴ the Department established and maintains the MECOM application and its associated records of persons who are prohibited from purchasing a firearm based on court adjudications of mental defectiveness or commitments to mental institutions. State law specifies that State Clerks of Court (Clerks) are to electronically submit to the Department, within 1 month after the rendition of an adjudication or commitment, court records of an adjudication of mental defectiveness or commitment to a mental institution. Clerk staff enter court records into the MECOM application or submit court records to the Department for entry into the MECOM application. According to Department records, during the period July 2017 through January 2019, 34,379 records²⁵ were added to the MECOM application related to adjudications of mental defectiveness and court-ordered mental institution commitments.

In previous audit reports, most recently in our report No. 2017-034 (Finding 1), we noted that records of adjudications of mental defectiveness and commitments to mental institutions were not always timely entered into the MECOM application and that the Department did not document communications with Clerks who reported no mental defectiveness adjudications or court-ordered mental institution

²² Section 790.065, Florida Statutes.

²³ Section 790.065(2)(a)4.a., Florida Statutes, defines adjudicated mentally defective as a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. It also includes persons with a judicial finding of incapacity, persons charged with a criminal offense who have been acquitted by reason of insanity, or criminal defendants found not competent to stand trial.

²⁴ Section 790.065(2)(a)4.c., Florida Statutes.

²⁵ Excludes continuing involuntary placements, which are renewed court-ordered mental institution commitments.

commitments. As part of our follow-up audit procedures, we reviewed Department procedures, analyzed the 34,379 records entered into the MECOM application during the period July 2017 through January 2019, and examined Department records related to communications with 20 of the 36 Clerks who reported no adjudications of mental defectiveness or court-ordered mental institution commitments for certain months during the period July 2017 through January 2019. Our audit procedures disclosed that:

- 3,112 of the records (9 percent) were entered into the MECOM application more than 1 month after an adjudication or commitment. As shown by Table 1, 481 of these records were entered into the MECOM application more than 180 days after the date of adjudication or commitment.

Table 1
Timeliness of MECOM Application Record Entry
For Adjudications or Court-Ordered Commitments
July 2017 Through January 2019

Number of Days	Number of Records
31 to 60	1,994
61 to 90	241
91 to 120	183
121 to 180	213
181 to 365	395
366 to 496	86
Total	<u>3,112</u>

Source: MECOM application records.

In response to our audit inquiry, Department management indicated that the Department does not have the statutory authority to require Clerks to timely record adjudications or commitments to the MECOM application and indicated that numerous reasons contribute to delays in adjudication or commitment records being entered. For instance, a Clerk's office may conduct special projects or internal audits where adjudications and orders older than 1 month are found and entered as soon as the discovery is made.

- While the Department enhanced the MECOM application to provide Clerks with on-demand reports to monitor the time frames in which adjudication and commitment records were entered, Department management indicated that Department staff did not utilize the on-demand reports to monitor Clerks' compliance with statutory reporting time frames. Instead, subsequent to fiscal year end, Department staff were to send verification letters to Clerks who had not entered into the MECOM application any adjudications or commitments for the prior fiscal year, resulting in instances in which unreported MECOM records could remain undetected for more than a year. Our examination found that, as of September 20, 2019, the Department had not communicated with 4 of the 20 Clerks who had not reported any adjudications or commitments in July 2018. Subsequently, on September 23, 2019, the Department communicated with the 4 Clerks and confirmed that no adjudication or commitment records from July 2018 were omitted. Additionally, subsequent to our audit inquiry in May 2019, 1 of the 20 Clerks who had not previously reported any adjudications or commitments in July 2017 entered 44 records for that month into the MECOM application.

The timely entry of adjudication of mental defectiveness and court-ordered mental institution commitment records into the MECOM application provides better assurance that prospective firearms buyers, who

have been adjudicated mentally defective or who have been committed to a mental institution by a court, will be subject to timely identification.

Recommendation: We recommend that Department management enhance procedures to monitor the timeliness of entries into the MECOM application and continue to work with the Clerks to ensure that adjudication of mental defectiveness and court-ordered mental institution commitment records are timely entered into the MECOM application as required by State law. In addition, we recommend that Department management enhance controls to ensure that Department records evidence timely communication with Clerks who do not report adjudications of mental defectiveness or court-ordered mental institution commitments.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from February 2019 through June 2019 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.

This operational audit of the Department of Law Enforcement (Department) focused on the administration of aircraft and selected information technology controls. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies noted in our report No. 2017-034.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, rules, Federal regulations, Department policies and procedures, and other guidelines, and interviewed Department personnel to obtain an understanding of Department processes for administering aircraft.
- Obtained an understanding of selected Department information technology (IT) controls, assessed the risks related to those controls, evaluated whether selected general IT controls for the Automated Investigative Management System (AIMS) were in place, and tested the effectiveness of the controls.
- Interviewed Department management and, from the population of six aircraft repair and maintenance purchase orders, totaling \$557,614, issued during the period July 2017 through February 2019, examined Department records for three selected purchase orders, totaling \$547,346, to determine whether the Department procured aircraft parts, maintenance, and other services from qualified vendors in accordance with State law, Department of Management Services (DMS) rules, Department policies and procedures, and applicable contract terms.
- Interviewed Department management and examined selected Department records to determine whether the Department had established certain aircraft access controls.
- Examined Department records for the 3 helicopters, with acquisition values totaling \$375,397, procured and disposed of through the United States Department of Defense, Law Enforcement Support Office (LESO), during the period July 2017 through February 2019, to determine whether the Department procured and disposed of the helicopters in accordance with Federal and State laws, DMS rules, and Department policies and procedures.
- From the population of 1,546 aircraft-related expenditure transactions, totaling \$1,168,448, made during the period July 2017 through February 2019, examined Department records for 56 selected expenditure transactions, totaling \$770,815, to determine whether aircraft parts, maintenance, and other services expenditures were made in accordance with State law, DMS rules, Department policies and procedures, and applicable contract terms.
- From the population of 609 Department flights conducted during the period July 2017 through February 2019, examined Department records for 40 selected flights to determine whether: the

Department ensured that State aircraft were only used for official State business or approved airborne support for law enforcement functions; pilot log books were timely updated and complete; pilots did not exceed maximum allowable work hours; and other State agencies, entities, and persons receiving aircraft transportation services were appropriately charged in accordance with State law, Federal regulations, DMS rules, and Department policies and procedures.

- Interviewed Department management and examined Department flight and expenditure records for the period July 2017 through February 2019 to determine whether the Department established reasonable charges for flight hours or aircraft services furnished to other State agencies, entities, and persons in accordance with State law and DMS rules.
- From the population of seven Department pilots serving as pilot-in-command during the period July 2017 through February 2019, examined Department, pilot, and Federal Aviation Administration (FAA) records for four selected pilots to determine whether Department pilots were trained and qualified to operate Department aircraft in accordance with FAA regulations, DMS rules, and Department policies and procedures.
- Examined Department and FAA records for the four aircraft owned and operated by the Department as of February 28, 2019, with acquisition costs totaling \$4,229,120, to determine whether the Department appropriately recorded, registered, and inspected the aircraft in accordance with State law, DMS rules, and FAA regulations. Additionally, from the population of 80 months of Department flights, maintenance activities, and repairs conducted during the period July 2017 through February 2019, examined Department flight, maintenance, and repair records for 8 selected months (2 months for each aircraft) to determine whether the Department ensured that all aircraft were maintained in accordance with FAA regulations, DMS rules, and Department policies and procedures.
- Evaluated Department actions to correct the finding noted in our report No. 2017-034. Specifically, we:
 - Reviewed applicable laws, rules, and Department policies and procedures, and interviewed Department management to gain an understanding of Department controls for maintaining the Florida Mental Competency (MECOM) application and communicating with State Clerks of Court (Clerks) who report no adjudications of mental defectiveness or court-ordered mental institution commitments.
 - Analyzed Department records related to the 34,379 adjudications of mental defectiveness and court-ordered mental institution commitments entered into the MECOM application during the period July 2017 through January 2019 to determine whether:
 - The Clerks entered all statutorily required information into the MECOM application within 30 calendar days of the adjudication or commitment date.
 - MECOM application records included data from Clerks in each county.
 - MECOM application status reports agreed with MECOM application data.
 - From the population of 36 Clerks who did not submit MECOM records for at least 1 month during the period July 2017 through January 2019, examined Department records for 20 selected Clerks and selected months to determine whether the Department confirmed with the Clerks that no adjudications of mental defectiveness or court-ordered mental institutions commitments had occurred in their county for the applicable month.
 - Evaluated the MECOM application user guide and training materials to determine whether the Department provided sufficient guidance, including training and reference materials, to Clerks to ensure that MECOM application records were timely and accurately added for all adjudications of mental defectiveness and court-ordered mental institution commitments.

- Observed, documented, and evaluated the effectiveness of selected Department processes and procedures for:
 - The assignment and use of motor vehicles. As of February 28, 2019, the Department was responsible for 514 motor vehicles with related acquisition costs totaling \$16,773,182.
 - The administration of corporate cards, purchasing cards, and fuel cards in accordance with applicable guidelines. The Department had 329 active corporate cards, 196 active purchasing cards, and 678 active fuel cards as of January 31, 2019, March 6, 2019, and May 1, 2019, respectively.
 - The administration of Department travel in accordance with State law and other applicable guidelines. Additionally, from the population of 32,232 Department travel expenditures, totaling \$4,622,787, made during the period July 2017 through February 2019, examined Department records for 25 selected travel expenditures, totaling \$22,581, to determine whether Department travel expenditures were sufficiently documented and complied with State law and applicable Department of Financial Services rules and memorandums.
 - The assignment and use of mobile devices with related costs totaling \$799,922 during the period July 2017 through February 2019. Additionally, interviewed Department management and examined Department records related to text message retention services received from a service organization during the period July 2017 through February 2019 to determine whether the Department made or obtained an independent and periodic assessment of the effectiveness of relevant service organization controls.
 - The acquisition and management of real property leases in accordance with State law, DMS rules, and other applicable guidelines. As of December 28, 2018, the Department was responsible for 42 real property leases.
 - The administration of hurricane-related contracting and purchasing activities. During the period July 2017 through February 2019, the Department expended \$2,377,078 related to hurricane activity impacting the Department for five Governor-declared emergencies.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



Florida Department of
Law Enforcement

Richard L. Swearingen
Commissioner

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Jimmy Patronis, *Chief Financial Officer*
Nikki Fried, *Commissioner of Agriculture*

November 18, 2019

Ms. Sherrill F. Norman, CPA
Auditor General
Claude Denson Pepper Building
Suite G74
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Ms. Norman:

Pursuant to Section 11.45(4)(d), Florida Statutes, I am providing the enclosed responses to the preliminary and tentative audit findings and recommendations on the operational audit of:

Florida Department of Law Enforcement
2019 Operational Audit
Administration of Aircraft, Selected Information Technology Controls,
and Prior Audit Follow-Up

I appreciate the efforts of you and your staff in assisting to improve our operations. If you require further information, please contact Inspector General Lourdes Howell-Thomas at 410-7241.

Sincerely,

A handwritten signature in black ink, appearing to read "Rich", is positioned above the printed name of the Commissioner.

Richard L. Swearingen
Commissioner

RLS/tlc

Attachment

Service • Integrity • Respect • Quality

Summary of Findings and Department Responses
Auditor General 2019 Operational Audit of the Department of Law Enforcement

Finding No. 1: Aircraft Services Records and Charges

Recommendation: We recommend that Department management enhance Department procedures to:

- Require Department records evidence the individual passengers on each Department flight, including the purpose of each individual passenger's travel and whether the travel was for official State business.
- Ensure passengers not traveling on official State business are charged a prorated portion of the cost of each flight in accordance with State law.
- Ensure charges per flight hour are calculated based on actual fixed and variable costs related to the ownership, operation, and use of each Department aircraft.
- Ensure AIMS accurately reflects the Department's established cost per flight hour for each Department aircraft.

Response:

- The Department only allows passengers on its aircraft for two purposes, both of which constitute official state business. The first purpose is for law enforcement mission flights. Current Department procedures only allow for non-agency passengers during law enforcement flights when approved by the Office of Statewide Investigative Services (OSIS) Special Agent in Charge (SAC) unless the passenger is employed by a law enforcement agency acting as a spotter or supporting transportation of a prisoner. The Department will continue to follow all FAA requirements. The Department's second mission, pursuant to F.S. 943.68, is to provide security and transportation for the Governor and the Governor's immediate family. The Department only flies staff of the Governor for official state business. Since the Department's aircraft missions are limited to these specific functions not contemplated by F.S. 287.17(5), the Department does not fly with seats available or on a cost sharing basis.
- The transportation mission of the Governor and other approved persons is considered an extension of Department authority under 943.68, F.S., to provide and maintain the transportation and security of the Governor and his immediate family and other persons as requested and approved by authorized officials. Otherwise, the Department only uses its aircraft for law enforcement-based missions and flights. All transportation on Department aircraft is for official state business only.
- The Department is committed to improving flight-hour cost estimating methodology and will consult with Department management and aviation experts to develop more accurate estimates. The development and use of a more accurate methodology is expected to be implemented by April 1, 2020.
- Immediately following the development and implementation of a more accurate cost estimating methodology, the Department will ensure AIMS accurately reflects the established cost per flight hour.

Summary of Findings and Department Responses
Auditor General 2019 Operational Audit of the Department of Law Enforcement

Finding No. 2: Aircraft Access Controls

Recommendation: We recommend that Department management strengthen certain aircraft access controls.

Response: In an effort to maintain and strengthen the security of Department aircraft, we will improve the aircraft access controls.

Finding No. 3: AIMS Access Privilege Controls

Recommendation: We recommend that Department management enhance controls to ensure that periodic AIMS user access privilege reviews are performed and documented in Department records. We also recommend that Department management enhance procedures to provide for the immediate notification of employment separations and removal of corresponding AIMS user access privileges and designate a position responsible for ensuring that AIMS user access privileges are removed when the AIMS Administrator is unavailable.

Response: The Department developed a new Application Access Administrator (AAA) module to address these recommendations. The module is accessible through the Department's Self Service Help Desk.

An additional feature will be added in the AAA module that triggers an email message to all AAA(s) that will serve as a reminder to conduct their semiannual review of user accounts. Application owners and AAA(s) will be responsible for processes used to complete those reviews.

Further, the AAA module allows supervisors to transmit requests for new application accounts or changes to application accounts. The module enables the Office of Human Resources to transmit notices to AAA(s) to terminate member access to applications. This module also maintains audit logs that can be used to validate date, time, and types of application access transactions.

The new module will be deployed for use by January 17, 2020. Department Policy 2.5, Network and Application Access, will be amended to reflect the changes described above.

With the new notification systems in place, the desk procedures for conducting the semi-annual audit of AIMS users was improved in July 2019. In addition, a secondary person has been added to the AAA list to serve as backup for the removal of users from AIMS.

Finding No. 4: Retention of Text Messages

Recommendation: To ensure that text messages are retained in accordance with State law, we recommend that Department management make or obtain independent and periodic assessments of the service organization's relevant internal controls. In addition, the Department should enhance policies and procedures to either prohibit Department employees from using their personal devices to send or receive text messages pertaining to official State business or provide for the retention of such messages.

Summary of Findings and Department Responses
Auditor General 2019 Operational Audit of the Department of Law Enforcement

Response: The Department will make or obtain independent and periodic assessments of controls in place by service organizations that store department data. The Office of Information Technology Resources will work with agency program areas to develop recommendations to address this finding. Recommendations will be submitted to Executive Management no later than March 31, 2020. In addition, a change in policy has been proposed to address the issue of personal cellular phone usage.

Finding No. 5: Mental Competency Application Records

Recommendation: We recommend that Department management enhance procedures to monitor the timeliness of entries into the MECOM application and continue to work with the Clerks to ensure that adjudication of mental defectiveness and court-ordered mental institution commitment records are timely entered into the MECOM application as required by State law. In addition, we recommend that Department management enhance controls to ensure that Department records evidence timely communication with Clerks who do not report adjudications of mental defectiveness or court-ordered mental institution commitments.

Response: Per F.S. 790.065(2)(a)4.c.I. and II, Clerks of Court are statutorily required to submit adjudication of mental defectiveness and court-ordered mental institution commitment records to the Department within 24 hours or 30 days, depending on the Judge's order. Therefore, the requirement for timely entry into Mental Competency Database (MECOM) falls on each county clerk's office as the Department is statutorily required to compile and maintain an automated database of these orders, per F.S. 790.065(2)(a)4.c. If, in the opinion of the Auditor General, the Department should have the authority to ensure the clerk's timely entry of these mental health orders, a legislative change would be required.

The Department has and will continue to work with all 67 Clerk's Offices in partnership to assist them with making sure these orders are entered and available for the sole purpose of determining if an individual is prohibited from purchasing a firearm. The Department has enhanced the MECOM database multiple times since its inception to provide the availability of specialized reports to the Clerk's Offices (i.e. Report showing the difference between the date of issuance and the date of entry). The Department applied for and was awarded federal grant funds to place positions within Clerk's Offices around the state for the sole purpose of assisting with MECOM records.

On July 3rd, 2019, the Department also distributed a memo to all 67 Clerks announcing that we have completed our Interface Control Document for MECOM Web Services. This will allow each Clerk's court maintenance system to communicate directly with MECOM for record entry and reduce their need to make mental health record entries into multiple systems and also assist them ensuring the entries are timely. Further, the Department has updated our standard operating procedures to contact each Clerk's Office at the beginning of each month when they had no entries in MECOM for the prior month. This communication is documented and maintained to evidence our timely correspondence.