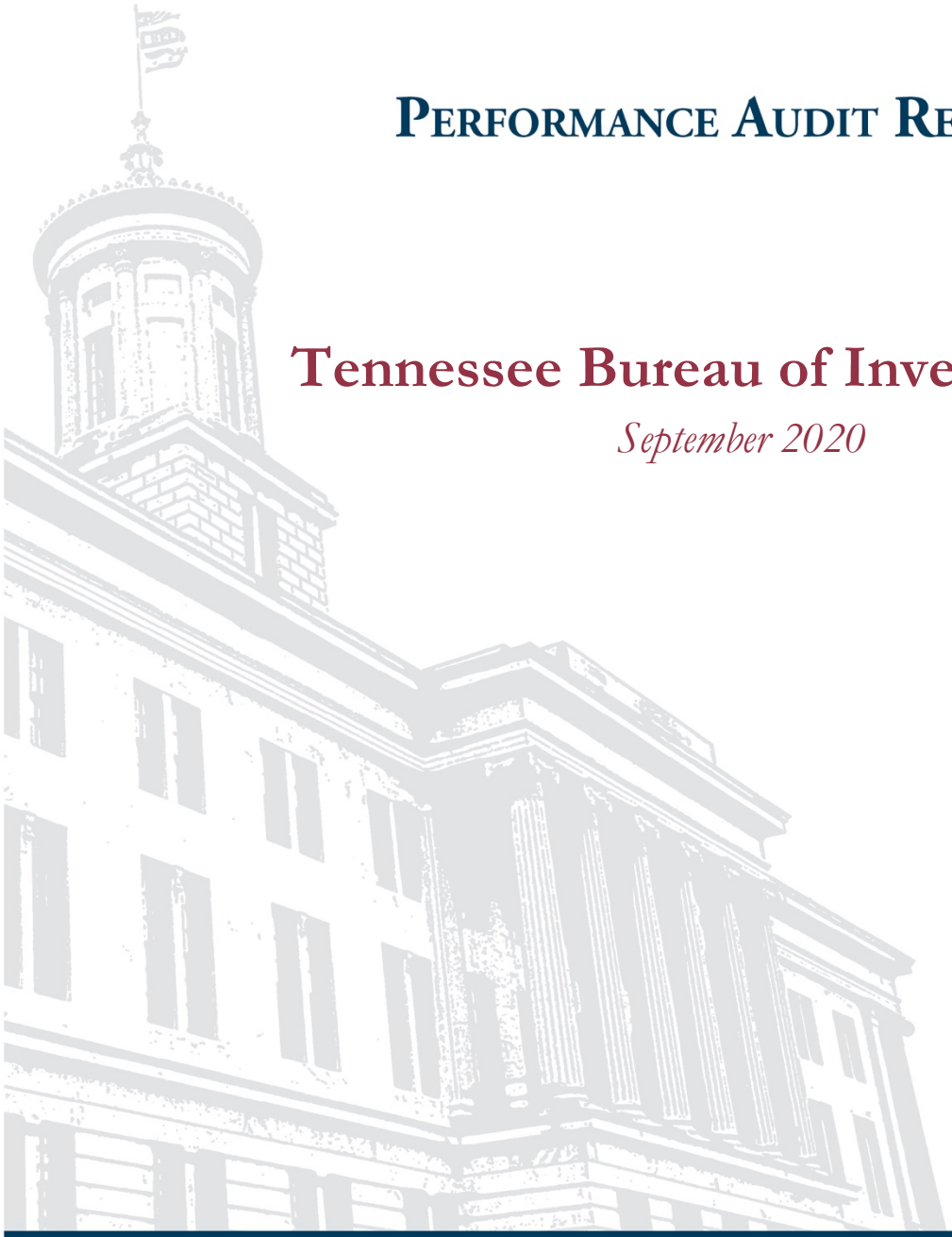

Performance Audit Report

Tennessee Bureau of Investigation

September 2020

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Comptroller of the Treasury

Division of State Audit

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TENNESSEE COMPTROLLER OF THE TREASURY

JUSTIN P. WILSON
Comptroller

JASON E. MUMPOWER
Deputy Comptroller

September 2, 2020

The Honorable Randy McNally
Speaker of the Senate
The Honorable Cameron Sexton
Speaker of the House of Representatives
The Honorable Kerry Roberts, Chair
Senate Committee on Government Operations
The Honorable Martin Daniel, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, TN 37243
and
Mr. David Rausch, Director
Tennessee Bureau of Investigation
901 R.S. Gass Boulevard
Nashville, TN 37216-2639

Ladies and Gentlemen:

We have conducted a performance audit of selected programs and activities of the Tennessee Bureau of Investigation for the period August 1, 2017, through May 31, 2020. This audit was conducted pursuant to the requirements of the Tennessee Governmental Entity Review Law, Section 4-29-111, *Tennessee Code Annotated.*

Our audit disclosed certain findings, which are detailed in the Audit Conclusions section of this report. Management of the bureau has responded to the audit findings; we have included the responses following each finding. We will follow up the audit to examine the application of the procedures instituted because of the audit findings.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the bureau should be continued, restructured, or terminated.

Sincerely,

Deborah V. Loveless

Deborah V. Loveless, CPA, Director
Division of State Audit

DVL/ss
20/066

Division of State Audit

Tennessee Bureau of Investigation

Performance Audit
September 2020

Our mission is to make government work better.

AUDIT HIGHLIGHTS

Tennessee Bureau of Investigation's Mission Statement
That guilt shall not escape nor innocence suffer.

We have audited the Tennessee Bureau of Investigation for the period August 1, 2017, through May 31, 2020. Our audit scope included a review of internal controls and compliance with laws, regulations, policies, and procedures in the following areas:

Scheduled Termination Date:
June 30, 2021

- bureau management oversight,
- Drug Offender Registry,
- billing for the Sex Offender Registry administrative fees,
- aircraft,
- information systems, and
- staff turnover analysis.

KEY CONCLUSIONS

FINDINGS

- As noted in the prior audit, management did not ensure that the bureau had comprehensive, up-to-date policies and procedures, resulting in ineffective internal controls in several areas (page 8).
- The bureau did not notify the National Association of Drug Diversion Investigators when it removed drug offenders from the state registry, as required by statute (page 19).
- As noted in the prior two audits, the bureau did not provide adequate internal controls in two specific areas (page 34).

OBSERVATIONS

The following topics are included in this report because of their effect on the operations of the Tennessee Bureau of Investigation and the citizens of Tennessee:

- To ensure the bureau's risk assessment addresses all potential risks and mitigating controls, the Director should ensure that management understands the risk assessment's purpose and value (page 6).

- Management should improve controls over the Drug Offender Registry to ensure staff accurately enter and appropriately delete offender information, and management should document registry processes in the registry's policies and procedures (page 17).

- The state's court clerks did not comply with statute when submitting qualifying drug offender judgments to the bureau (page 21).

- The bureau should consider additional information system controls to ensure the Sex Offender Registry is accurate (page 27).

- Registering agencies are not following the bureau's instructions for recording offender fees (page 28).

- The Board of Parole did not remit the bureau's portion of administrative fees or submit indigent fee waiver forms (page 29).

MATTERS FOR LEGISLATIVE CONSIDERATION

The General Assembly may wish to consider statutory changes to reflect that the bureau has no authority over those responsible for removing the state's drug offenders from the national database (page 21) and to improve the accuracy of the Drug Offender Registry (page 23).

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INTRODUCTION

AUDIT AUTHORITY

This performance audit of the Tennessee Bureau of Investigation was conducted pursuant to the Tennessee Governmental Entity Review Law, Title 4, Chapter 29, *Tennessee Code Annotated.* Under Section 4-29-242, the bureau is scheduled to terminate June 30, 2021. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the agency and to report to the Joint Government Operations Committee of the General Assembly. This audit is intended to aid the committee in determining whether the bureau should be continued, restructured, or terminated.

BACKGROUND

In March 1951, the Tennessee Bureau of Criminal Identification was established within the Department of Safety. The organization was renamed the Tennessee Bureau of Investigation (the bureau) and became an independent agency in 1980. Tennessee law grants the bureau the authority to investigate any criminal violation upon the request of the District Attorney General for the judicial district in which the offense occurred. The bureau also has original jurisdiction to investigate the following crimes without a formal request: fugitives; Medicaid fraud; electronic victimization of children; organized crime activities; narcotics and drug violations; arson and reckless burning; crimes involving employees or prospective employees of the bureau or the Tennessee Department of Safety and Homeland Security; and investigations pertaining to domestic terrorism that the bureau receives under a government information security classification. The bureau also assists local law enforcement agencies in joint investigations and maintains the Tennessee Information Enforcement System network, the computer information system for law enforcement in the state.

> The bureau's mission statement is "that guilt shall not escape nor innocence suffer."

For further background information on the bureau, see **Appendix 3** for information on bureau operations and **Appendix 4** for the bureau's organizational chart.

AUDIT SCOPE

We have audited the Tennessee Bureau of Investigation for the period August 1, 2017, through May 31, 2020. Our audit scope included a review of internal controls and compliance with laws, regulations, policies, and procedures in the following areas:

- bureau management oversight,
- Drug Offender Registry,

- billing for the Sex Offender Registry administrative fees,
- aircraft,
- information systems, and
- staff turnover analysis.

Management of the bureau is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, policies, and procedures.

We provide further information on the scope of our assessment of internal control significant to our audit objectives in **Appendix 1**. In compliance with generally accepted government auditing standards, when internal control is significant within the context of our audit objectives, we include in the audit report (1) the scope of our work on internal control and (2) any deficiencies in internal control that are significant within the context of our audit objectives and based upon the audit work we performed. We provide the scope of our work on internal control in the detailed methodology in **Appendix 5** and in **Appendix 1**, and we identify any internal control deficiencies significant to our audit objectives in our audit conclusions, findings, and observations.

For our sample design, we used nonstatistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient appropriate audit evidence to support the conclusions in our report. Although our sample results provide reasonable bases for drawing conclusions, the errors identified in these samples cannot be used to make statistically valid projections to the original populations.

We conducted our audit 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.

PRIOR AUDIT FINDINGS

REPORT OF ACTIONS TAKEN ON PRIOR AUDIT FINDINGS

Section 8-4-109(c), *Tennessee Code Annotated,* requires that each state department, agency, or institution report to the Comptroller of the Treasury the action taken to implement the recommendations in the prior audit report. The Tennessee Bureau of Investigation's prior audit report was dated January 2018 and contained five findings. The bureau filed its report with the Comptroller of the Treasury on July 31, 2018. We conducted a follow-up of the prior audit findings as part of the current audit.

RESOLVED AUDIT FINDINGS

The current audit disclosed that the Tennessee Bureau of Investigation resolved the following previous audit finding concerning

- the bureau's lack of documentation over its aircraft use and staff not following the requirements in its written policy.

We reported the results in the applicable section of this report.

TENNESSEE BUREAU OF INVESTIGATION AUDIT FINDINGS

January 2018 Performance Audit

5 findings

September 2020 Performance Audit

Resolved 1 of 5 prior audit findings

Partially resolved 4 of 5 findings

1 new finding

PARTIALLY RESOLVED AUDIT FINDINGS

The current audit disclosed that the Tennessee Bureau of Investigation partially resolved four previous audit findings:

- *The bureau's lack of up-to-date written policies and procedures in identified areas and not ensuring that staff followed existing policies*
  We found that management still did not include critical processes in the bureau's written policies and procedures (see **Finding 1**).
- *The bureau's noncompliance with the Drug Offender Registry's policies and procedures*
  We found that management still did not fully implement controls over the registry and did not document its processes in policies and procedures (see **Observation 2**). Furthermore, county court clerks still are not submitting judgments or are not submitting judgments timely to the bureau (see **Observation 3**).
- *The bureau's noncompliance with the Sex Offender Registry procedures and lack of sufficient procedures for invoicing registering agencies for fees*
  We found that management still did not fully implement controls over the database and did not document critical processes in the bureau's written policies and procedures; furthermore, information system controls and noncompliance by registering agencies contribute to the bureau's issues (see **Observation 4, Observation 5, Observation 6,** and **Results of Other Audit Work**).
- *Two of the four areas over information systems*
  We found that management still did not resolve two areas (see **Finding 3**).

OTHER RELATED REPORTS

The 2017 Appropriations Act required the Comptroller's Office to perform a comprehensive review of the Tennessee Bureau of Investigation's accounting and budget processes, as well as a general review of how the bureau should implement best practices in fiscal management to maximize its effectiveness. A May 2017 letter from the chair of the Senate Finance Committee provided additional details on the expectations for this comprehensive review. The special report was issued in January 2018 and can be found at https://comptroller.tn.gov/content/dam/cot/sa/advanced-search/2018/tbi_special_jan_2018.pdf.

AUDIT CONCLUSIONS

BUREAU MANAGEMENT OVERSIGHT

To carry out the Tennessee Bureau of Investigation's (the bureau) responsibilities, the Director and management team must establish adequate internal controls to provide reasonable assurance that the bureau can achieve objectives related to its operations, fiscal duties, and reporting, as well as that it complies with laws, regulations, and policies. Effective internal controls mitigate the risks of noncompliance, errors, fraud, waste, and abuse. In addition to performing and documenting a risk assessment, it is management's ongoing responsibility to design, implement, and monitor effective controls as a way to mitigate any identified risks.

Risk Assessment

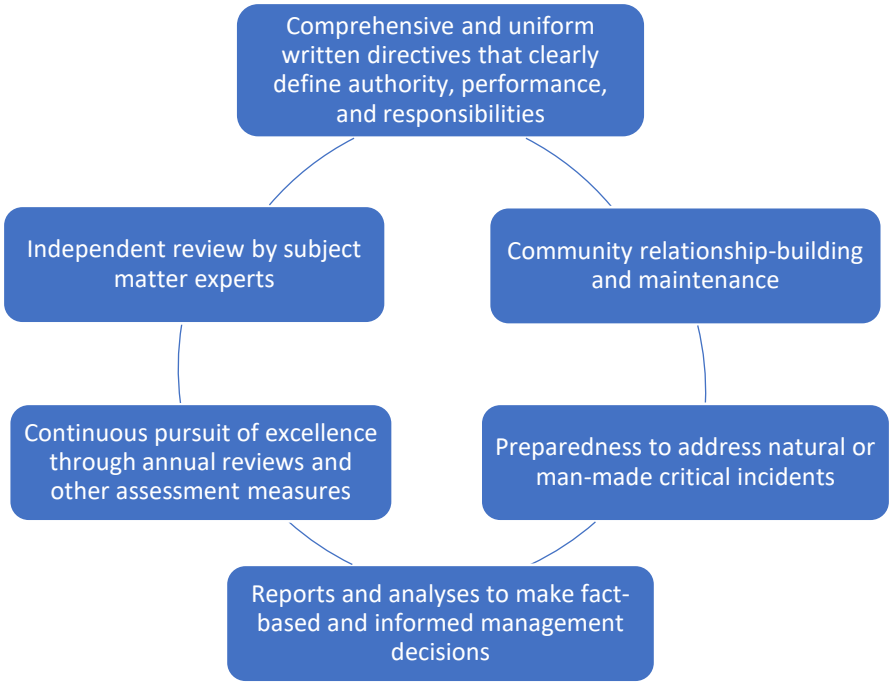
According to the bureau's Internal Audit Director, she facilitates the risk assessment documentation process and reviews applicable risk assignments. While the Internal Audit Director serves as a facilitator, senior managers are ultimately responsible for reviewing their division's prior-year risk assessment; updating the assessment based on any new or revised policies and procedures, as well as audit findings; and documenting the internal controls that mitigate the risks.

After the managers complete their divisional assessments, they submit them to the Internal Audit Director, who reviews and submits all assessments to the bureau's Director for approval. Once the Director approves the completed risk assessment, the Internal Audit Director submits a letter, signed by the Director, to the Commissioner of the Department of Finance and Administration and the Comptroller of the Treasury notifying them that the bureau completed its bureau-wide risk assessment and met its responsibilities relating to management's internal controls.

Policies and Procedures

As a law enforcement agency, the bureau is accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA). CALEA's accreditation program gives public safety agencies an opportunity to voluntarily demonstrate that they meet an established set of professional standards.

Exhibit 1
CALEA's Professional Standards



Source: Auditor created based on information from CALEA professional standards.

Written policies and procedures are critical for the bureau to maintain its CALEA accreditation and to fulfill its mission.

Results of Prior Audit

The bureau's January 2018 performance audit report included five findings that indicated management did not have sufficient controls relating to

- ☒ the appropriate use of the bureau's aircraft;
- ☒ the collection of Sex Offender Registry fees from registering agencies;
- ☒ criminal judgment updates to the Drug Offender Registry;
- ☒ comprehensive, up-to-date written policies and procedures and compliance with existing policies and procedures; and
- ☒ information systems.

In response to the prior audit finding, management concurred in part and stated they were revising their policies and procedures.

Current Audit

For the current audit, we reviewed the bureau's 2019 risk assessment and written policies and procedures to determine if management had identified the risks and implemented effective

control activities for prior audit findings. We also evaluated management's risk assessment as it related to our current audit objectives.

Audit Results

1. **Audit Objective:** Did bureau management identify fiscal, operational, reporting, and compliance risks, as well as risks related to prior audit findings?

   Conclusion: Based on our review, we found that management only identified risks related to prior audit findings and did not consider other fiscal, operational, reporting, and compliance risks for the sections we reviewed. See **Observation 1**.

2. **Audit Objective:** Did bureau management identify and list control activities in their formal risk assessment to prevent or minimize risk for each risk item?

   Conclusion: Based on our review, we found that management identified and listed control activities; however, we determined that some of the activities were either insufficient or ineffective to reduce the risks for the sections we reviewed. See **Observation 1**.

3. **Audit Objective:** In response to the prior audit finding, did management have sufficient written policies and standard operating procedures?

   Conclusion: Based on our review, management did not establish sufficient controls and operational safeguards through its policies and procedures. See **Finding 1**.

4. **Audit Objective:** In response to the prior audit finding, did bureau personnel comply with written policies and standard operating procedures?

   Conclusion: Based on our audit work, we found that bureau personnel complied with written policies and procedures. However, we determined that staff did not comply with state information system policies and procedures. See **Finding 3**.

Observation 1 – To ensure the bureau's risk assessment addresses all potential risks and mitigating controls, the Director should ensure that management understands the risk assessment's purpose and value

An ongoing risk assessment process is a basic component of internal control. It allows management to eliminate or mitigate the risks that could affect the Tennessee Bureau of Investigation's (the bureau) overall mission, financial resources, or compliance with state law or other regulatory requirements. The U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government* provide a comprehensive framework for internal

control practices in federal agencies and serve as a best practice for other government agencies, including state agencies. According to Principle 7.02, "Identification of Risks,"

> Management identifies risks throughout the entity to provide a basis for analyzing risks. Risk assessment is the identification and analysis of risks related to achieving the defined objectives to form a basis for designing risk responses.

Management Did Not Identify Risks

Management did not expand the risk assessment to include the bureau's other fiscal, operational, reporting, or compliance risks areas beyond what we reported in prior audit findings. Management did not include pertinent risk areas, including

> "Management did not expand the risk assessment to include the bureau's other fiscal, operational, reporting, or compliance risks areas beyond what we reported in prior audit findings."

- noncompliance risks, such as removing offenders early or late from the Drug Offender Registry;
- fiscal and operational risks, such as duplicate billings;
- operational risks for aircraft, such as asset misappropriation or protection; and
- security risks for information systems (see **Finding 3**).

We also found several instances where management identified receiving a repeat audit finding as a risk, but they did not sufficiently identify the nature of the risks that caused the deficiencies we reported in prior audit findings or observations.

Management Did Not Implement Effective Mitigating Controls

For the risks that management did identify, management did not identify and list effective controls to mitigate risks for

- the Drug Offender Registry (see **Finding 2** and **Observation 2**);
- Sex Offender Registry fees (see **Observation 4** and **Results of Other Audit Work**); and
- information systems (see **Finding 3**).

For each area, bureau management provided the following explanations:

- Drug Offender Registry – The Assistant Director of the Drug Investigation Division stated that the division focused on the areas related to findings in the previous performance audit. They did not consider any other risks related to the Drug Offender Registry.

- Sex Offender Registry – The Accounting Manager in Fiscal Services and the Assistant Special Agent in Charge of the Criminal Intelligence Division stated they were unaware that they had not fully identified the risks or that their internal control was not effective.
- Aircraft – The Internal Audit Director stated that she worked with the Aviation Unit's Assistant Special Agent in Charge (ASAC) for months to complete the unit's risk assessment as it relates to bureau aircraft. The ASAC only identified one potential risk resulting from the finding in the prior performance audit. The Internal Audit Director also noted that most of the divisions focused on identifying areas related to prior audit findings.
- Information Systems – The Director of the Technology and Innovation Division stated that he was unaware that the risk assessment did not identify risks related to the bureau's information systems or that the internal control was not effective.

Overall, based on our review and discussions with management and staff, the management team did not fully comprehend their responsibilities for conducting a comprehensive risk assessment for each area. According to the bureau's Director and the Internal Audit Director, management likely did not understand how to complete the risk assessment. Without an effective risk assessment process, the bureau has a greater risk of not achieving its objectives, and its control environment is weakened (see **Finding 1**).

The Director should ensure that management completely understands their responsibilities to properly identify, analyze, and respond to the bureau's risks. Management and staff for each division should conduct a comprehensive risk assessment to identify risks within their division and should design and implement effective controls to mitigate the identified risks. Additionally, management should continue to address the risks we have noted in each new or repeated finding or observation of this report and update the bureau's risk assessment as necessary; assign staff to be responsible for ongoing monitoring of the risks and mitigating controls; and act if deficiencies occur.

Finding 1 – As noted in the prior audit, management did not ensure that the bureau had comprehensive, up-to-date policies and procedures, resulting in ineffective internal controls in several areas

To carry out the Tennessee Bureau of Investigation's (the bureau) responsibilities, management must establish the necessary operational processes for the bureau's functions, objectives, and goals. These key operational processes should include effective control activities, including management's own responsibility to oversee the processes. Control activities are the actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system, which includes the bureau's information system.

Condition and Cause

We noted several areas, some of which we noted in the prior audit, where management did not include critical processes in the bureau's policies and procedures:

> ". . . management did not include critical processes in the bureau's policies and procedures."

Drug Offender Registry

1. As noted in the prior audit, management did not update the *Drug Offender Registry Standard Operating Procedures and Reference Manual* to include procedures on how staff should document deviations between the registry and information listed on the court judgments sent by the county court clerks (see **Observation 2**).

   The Special Agent in Charge (SAC) of the Drug Investigation Division noted that management communicated the procedures to the staff responsible for updating the registry; however, he did not remember to update the written standard operating procedures.

2. The *Drug Offender Registry Standard Operating Procedures and Reference Manual* did not include procedures for a standardized supervisory review of registry information to ensure the accuracy of the registry (see **Observation 2**).

   The SAC stated that reviews of registry entries are difficult to conduct due to the limited number of staff.

3. The *Drug Offender Registry Standard Operating Procedures and Reference Manual* did not include the bureau's process of notifying the National Association of Drug Diversion Investigators when offenders are removed from the National Precursor Log Exchange, as required by Section 39-17-431, *Tennessee Code Annotated* (see **Finding 2**).

   The Special Agent in Charge of the Dangerous Drugs Task Force stated that the manual did not include notification procedures because his staff know the proper procedures for uploading the data.

   We offer that management should formally document all key processes to ensure business operations can continue through unexpected change or personnel turnover.

Sex Offender Registry

1. As noted in the prior audit, the *Tennessee Sex Offender Registry Standard Operating Procedures Manual* did not include written procedures for generating the monthly fees report to ensure business operations can continue through unexpected change or personnel turnover (see **Results of Other Audit Work**).

   According to the ASAC of the Criminal Intelligence Unit, due to the small number of staff, only one Intelligence Analyst is responsible for the monthly fees report. The registry's

written procedures do not include the process of creating the report because staff know how to perform the task. The ASAC stated that the bureau is not required to generate the report, but the process was created to address a prior audit finding about the lack of sufficient procedures for fee collection and to assist the registering agencies with remittance of the bureau's fees. Additionally, she does not believe that the process needs to be included in the standard operating procedures because the bureau has no power to force the registering agencies to pay the fees.

While we agree that the bureau cannot mandate that registering agencies pay outstanding fees, management does have responsibility to maintain sufficient policies and procedures over the bureau's operations.

2. The *Tennessee Bureau of Investigation Fiscal Services Standard Operating Procedures* does not include the bureau's process of following up on outstanding Board of Parole offender fees or indigent fee waiver forms. Properly following up on the fees and waivers forms provides management a record of outcomes for outstanding fees and waiver forms (see **Results of Other Audit Work**).

   According to the Accounting Manager of the Fiscal Services Unit, the follow-up process should have been included in the standard operating procedures but was not. They will review and revise the procedures to include the process.

3. The *Tennessee Sex Offender Registry Standard Operating Procedures Manual* lacks specific instructions to registering agencies about marking offenders as "indigent" in the registry's database system (see **Observation 4**).

   According to the ASAC, the bureau provides registering agencies with ongoing training, which includes verbal instructions to not use the indigent offender field in the registry. However, the ASAC stated that future standard operating procedures may need to be updated to include this instruction.

4. The *Tennessee Bureau of Investigation Fiscal Services Standard Operating Procedures* includes the bureau's process for following up on outstanding offender fees that registering agencies owe; however, it does not include follow-up documentation requirements (see **Results of Other Audit Work**).

   According to the Accounting Technician of the Fiscal Services Unit, when staff members follow up on past-due offender fees, they only retain documentation if the registering agency responds.

Information Systems

Additionally, as noted in the prior audit, management did not follow state information systems security policies and industry best practices regarding information systems controls in two areas (see **Finding 3**).

Criteria and Effect

The U.S. Government Accountability Office sets internal control standards for federal entities through its *Standards for Internal Control in the Federal Government* (Green Book). Green Book standards, which also serve as best practices for nonfederal government entities, give management the responsibilities of

- establishing an organizational structure;
- assigning responsibility;
- delegating authority to achieve the entity's objectives;
- developing and maintaining documentation of its internal control system;
- designing control activities to achieve objectives; and
- identifying, analyzing, and responding to risks related to achieving the defined objectives.

According to the Green Book, control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives to achieve the entity's objectives and address related risks. When management does not regularly reevaluate and update written policies and procedures, these documents do not reflect the changes in personnel, processes, systems, or regulations for which current management is able to take appropriate action when necessary. Written policies and procedures do not serve their intended purpose when they are outdated, incomplete, and unused.

Recommendation

Management has the responsibility to establish effective control activities, which includes sufficient policies and procedures that ensure staff comply with state statutes, protect state assets, and provide services to the state's citizens. Providing clear oversight by establishing and enforcing controls is one of management's primary responsibilities. The Director should ensure that bureau management understands the importance of comprehensive and up-to-date written policies and procedures. Management should review written policies and procedures annually or whenever a process changes.

Management's Comment

In Response to the Drug Offender Registry

We concur in part with the finding. We were noting on individual judgments when a correction was needed if information was sought from the applicable county court clerk. However, at times the information missing from the judgment (driver's license number, social security number, etc.) would not be information to which a county court clerk has access. We have access to different law enforcement databases to obtain missing information in order to enter it into the Drug Offender Registry (DOR). We feel we are meeting our due diligence by obtaining the required information, especially if this information is a requirement for the DOR. In addition, if a

drug charge is coded as a misdemeanor on a judgment, but through our professional judgment and experience, we know the charge is a felony, we make that change. Otherwise we would not be putting correct information into the DOR. We have updated our processes and the analyst will note any correction to the judgment, whether that correction is solved through a call to the applicable county court, through a search on a law enforcement source(s), or a clarification on distinction between a felony or misdemeanor. Any change is noted in a spreadsheet with identifying information. This documentation is sent to the Special Agent in Charge (SAC) on a weekly basis. The SAC will note his review of this document as part of the Intelligence Analyst's alternative work solution (AWS) on a weekly basis. This documentation will be maintained for review and audit purposes.

Regarding the recommendation of a SAC review of all registry entries, the SAC will review the corrections made on a weekly basis. However, another analyst will spot check entries into the DOR and document this in a monthly memorandum to the SAC. All of these procedures have been updated in the *Drug Offender Registry Standard Operating Procedures and Reference Manual.*

We added the process of notifying the Executive Director of the National Association of Drug Diversion Investigators (NADDI) when offenders are removed to the Standard Operating Procedure (SOP). We have established a personal contact with the Executive Director of NADDI. One of our Drug Investigation Division's Intelligence Analysts emails a list of deleted offenders from the Drug Offender Registry each business day. However, we have no authority over those responsible for the National Precursor Log Exchange (NPLEx) or the ultimate removal of Tennessee offenders from the national database as required by Section 39-17-431, *Tennessee Code Annotated.* We concur with the **Matter for Legislative Consideration** (noted on page 21 in the audit report) requesting that the portion regarding notifying the NPLEx be removed.

<u>In Response to the Issues With the Sex Offender Registry</u>

We concur in part with this finding. The *Tennessee Sex Offender Registry Standard Operation Procedures Manual* does not have specific instructions for marking offenders as "indigent" in the registry's database system. However, the bureau conducts regular training with registering agencies regarding the registry's database system and how to correctly update the database. The SOR Unit also provides training for new users. The training includes step-by-step instructions on how to register an offender and how to enter fee payment information. Even if the *Tennessee Sex Offender Registry Standard Operation Procedures Manual* included instructions for marking offenders as indigent, the bureau lacks the authority to limit the registering agencies access to enter offender information in the database. The bureau lacks the authority because 40-39-205(b) tasks the registering agencies with the responsibility "to verify the accuracy and completeness of all information contained in the offender's SOR."

The bureau currently has Standard Operating Procedures (SOP) for agency collection of sex offender registry administrative costs. The SOP explains that the costs are annual, when the costs are to be paid, the duty of registering agencies to determine an offender's ability to pay, and guidance on how to determine ability to pay. In addition, the SOP provides clarity on several important issues surrounding the collection of the administrative costs. It is noted within the SOP

that the costs are not to be waived without proof of indigency, the registering agency must complete an "Indigent Fee Waiver Form", and that the entire $150 fee must be collected at the designated time. In addition, the SOP explains the procedures that registering agencies are to undertake in order to record the payment of the administrative costs, both within the registry's database system and within the registering agencies' own accounting. Lastly, the SOP spells out the internal procedure that is conducted by the SOR analyst and the TBI Fiscal Services Unit each month to assist in the remittance of the administrative costs to the bureau.

As noted in the last audit, Tennessee Department of Finance and Administration's Policy 23 requires state agencies to "make a reasonable effort to collect all receivables on a systematic and periodic basis." The bureau believes that we have made more than a reasonable effort to collect the annual administrative costs. We have exercised due diligence in assisting registering agencies by establishing a procedure for the remittance of the administrative costs to the bureau and by sending monthly billing statements based on the information that is provided by the agencies. We are, however, limited in our effort by the information that is entered into the registry's database system. We lack the authority to audit registering agencies and must submit the monthly billing statements based on what the registering agencies input in the database. As stated above, the registering agencies are tasked with the responsibility to verify the information in the offender's SOR. The registering agencies are the appropriate entities to take on this task as they are designated by statute to register offenders pursuant to 40-39-205(c)(1), submit the bureau's portion of the administrative costs to the bureau pursuant to T.C.A 40-39-201(b)(7), and issue warrants for failure to pay the administrative costs pursuant to T.C.A. 40-39-208(5).

Public Chapter 668

We feel it is important to point out the bureau is no longer permitted to receive any of the administrative costs paid annually by offenders on the Tennessee Sex Offender Registry. The monies that were previously remitted to the TBI from the registering agencies are now designated to the state treasury pursuant to the passage of Public Chapter 668. This became law on April 2, 2020. Public Chapter 668 amended T.C.A. 40-39-201(b)(7) and T.C.A. 40-39-204(b) and (c). The amendment of T.C.A. 40-39-201(b)(7) removed the language requiring the remittance of the fees to the TBI's sex offender registry and substituted in its place the following language: "…with the remaining fifty dollars ($50) of fees to be remitted to the *state treasury to be deposited into the general fund…*" Likewise, T.C.A. 40-39-204(b) removed the language instructing registering agencies to submit the remaining fifty dollars ($50) of the administrative costs to the TBI and submitted in its place the following language: "…the remaining fifty dollars ($50.00) shall be submitted by the registering agency to the *state treasury to be deposited in the general fund of the state."*

DRUG OFFENDER REGISTRY

Pursuant to Section 39-17-436, *Tennessee Code Annotated*, the Tennessee Bureau of Investigation's (the bureau) Drug Investigation Division is responsible for using information submitted by the state's court clerks to maintain the Drug Offender Registry. The registry's purpose is to prevent registered drug offenders from purchasing any over-the-counter or prescription drug that can be used to manufacture methamphetamine (the bureau refers to these items as immediate methamphetamine precursors). The registry includes the offender's name, date of birth, county of conviction, offense, and conviction date. The registry is available online for public inquiry.[1]

Timeline of Statutorily Required Activities and Changes to the Drug Offender Registry

September 1, 2005
- Public Acts 2005, Chapter 18 created the Methamphetamine Registry for offenders convicted of certain methamphetamine-related qualifying offenses. Offenders were required to remain on the registry for seven years.

July 1, 2011
- Public Acts 2012, Chapter 292 required all Tennessee pharmacies to have access to the National Precursor Log Exchange by January 1, 2012.

July 1, 2014
- Public Acts 2014, Chapter 732 expanded the definition of "qualifying offense" to include non-methamphetamine drug offenses and required offenders to remain on the registry for 10 years. The registry was renamed the Drug Offender Registry.

July 1, 2017
- Public Acts 2014, Chapter 732 resumes deletions from the registry. Offenders eligible for deletion at July 1, 2014, are now eligible again.

The Drug Investigation Division developed the *Drug Offender Registry Standard Operating Procedures and Reference Manual* (SOPs Manual) to provide guidelines to the Drug Offender Registry Administrator and staff for updating and maintaining the registry. In accordance with statute, management should remove offenders from the registry 10 years after the offender's most recent conviction date.

The division's current process is designed so that when the Administrator initially adds offenders to the state's registry, the registry system automatically populates the 10-year expiration date based on the conviction date on the offender's judgment. Upon the expiration date, the division's Intelligence Analyst is responsible for removing the offender from the state's registry. At the beginning of each calendar year, the Intelligence Analyst runs a deletion report from the registry system to forecast which offenders will be eligible for removal based on their expiration dates. The Intelligence Analyst also runs a daily report from the registry that indicates which offenders to remove. Additionally, the system automatically prompts the Intelligence Analyst if an offender is not removed at the appropriate time.

[1] The registry's website is https://apps.tn.gov/methor/.

National Database

According to Section 39-17-431, *Tennessee Code Annotated*, pharmacies must have access to and use the National Precursor Log Exchange (NPLEx)[2] before selling any immediate methamphetamine precursors. NPLEx is administered by the National Association of Drug Diversion Investigators (NADDI) and tracks sales of over-the-counter medications containing immediate methamphetamine precursors. Pharmacists enter a customer's information from a government-issued identification into NPLEx. If the individual is found in NPLEx, the system will issue a "stop-sale alert," and the pharmacy must refuse the sale. The bureau is required to notify NADDI at least every seven days of any person placed on the state's Drug Offender Registry. To accomplish this, the Drug Investigation Division's Dangerous Drugs Task Force analysts upload the updated registry information weekly to a secure system, which can be accessed by the vendor that manages NPLEx.

Qualifying Judgments

Section 39-17-436, *Tennessee Code Annotated*, requires court clerks' offices to submit qualifying judgments (convictions that require individuals to be placed on the registry) to the bureau within 45 days of the judgment. Each month, court clerks submit qualifying judgments to the bureau by mail, fax, or encrypted email, and the Administrator reviews each judgment to ensure it is complete and legible. If information is missing or illegible, the SOPs Manual requires the Administrator to contact the court clerk's office or the district attorney's office to obtain the necessary information. After determining the judgment requires entry in the registry, the Administrator enters the required offender information into the registry from the judgment sheet, which is retained in the division's paper files.

County court clerks send the bureau **qualifying judgments,** or notices of convictions that require individuals to be placed on the Drug Offender Registry.

Section 39-17-436, *Tennessee Code Annotated*, also requires the bureau to maintain the Drug Offender Registry based on information supplied by county clerks. The clerks must provide the person's name, date of birth, offense(s) requiring the person's inclusion on the registry, conviction date, and county of conviction. Additionally, the *Drug Offender Registry Standard Operating Procedures and Reference Manual* requires the Administrator to enter other information[3] for each registry entry.

On the first day of each month, the Administrator receives a report, generated from the registry, that lists all offenders added to the registry in the preceding month. Using this

[2] According to the vendor Appriss Health's website, NPLEx is a real-time electronic compliance system that tracks sales of over-the-counter cold and allergy medications that contain pseudoephedrine, which is a precursor to the illegal drug methamphetamine. When states pass electronic tracking legislation, NPLEx is free for state agencies and its users, including pharmacies, retailers, and law enforcement.

[3] This includes information such as the person's sex; race; Social Security number; indictment offense and classification; amended charge (if applicable); offense date; drug code; statute for the conviction offense; sentence imposed date; and conviction offense and classification. The public cannot view information that is deemed confidential.

information, the Administrator prepares a monthly summary report by county with the number of offenders added. This monthly summary report is provided to the Assistant Director of the Drug Investigation Division, the division's Special Agent in Charge, and the Staff Attorney in the Professional Standards Unit, who use the report to internally track which court clerks have submitted judgments. The report also provides statistics as to the readiness of judgments for entry into the registry.

Results of Prior Audit

In the bureau's January 2018 performance audit report, we found that county court clerks were not submitting judgments to the bureau within 45 days, information in the Drug Offender Registry did not always match offenders' judgments, and management did not have policies and procedures in place to maintain the registry. In response to the prior audit finding, management concurred in part and stated that they would review and revise the registry's standard operating procedures and that they would retain documentation of differences between the registry and judgments.

Audit Results

1. Audit Objective: In response to the prior audit finding, did Drug Offender Registry management establish adequate internal control procedures to properly maintain the registry and include such procedures in the governing policy manual?

Conclusion: Based on our review, management did not establish a documented review process to ensure the accuracy of the registry and did not maintain adequate policies and procedures to maintain the registry. See **Observation 2**.

2. Audit Objective: In response to the prior audit finding, did staff ensure that the registry information matched the information contained in the county clerks' qualifying judgments?

Conclusion: Based on our testwork, we found that the registry did not contain the same information as the qualifying judgments. See **Observation 2**.

3. Audit Objective: In response to the prior audit finding, did court clerks submit qualifying judgments to the bureau within 45 days of the date of judgment, as required by Section 39-17-436(d), *Tennessee Code Annotated*?

Conclusion: Based on our testwork, we found that some court clerks did not submit any qualifying judgments to the bureau, and some clerks did not submit judgments within 45 days. See **Observation 3**.

The General Assembly may wish to consider action for improving the accuracy of the registry. See **Matter for Legislative Consideration**.

4. Audit Objective: Did registry management establish adequate internal control procedures to properly remove offenders from the registry, as required by Section 39-17-436(e), *Tennessee Code Annotated*?

Conclusion: Based on our review, management did not establish adequate internal control procedures to ensure offenders were removed from the state and national registries. See **Observation 2** and **Finding 2**.

Furthermore, we found that staff did not notify the national registry when offenders were removed from the state registry, as required by statute. See **Finding 2**.

The General Assembly may wish to consider changes to statute to clarify the responsibility of the state for removing offenders from the state and national registry. See **Matter for Legislative Consideration**.

Observation 2 – Management should improve controls over the Drug Offender Registry to ensure staff accurately enter and appropriately delete offender information, and management should document registry processes in the registry's policies and procedures

Overall Effect and Management's Responsibility for Internal Control

The Assistant Director and the Special Agent in Charge of the Drug Investigation Division should evaluate the internal controls over the registry and include a documented supervisory review in their written policies and procedures to ensure the accuracy of registry information. Additionally, the policies and procedures should require staff to document and retain any follow-up with court clerks as a result of any incorrect or incomplete information on the submitted judgments to validate any changes from the judgment information.

Without comprehensive written policies and procedures and effective mitigating controls over the Drug Offender Registry, the Tennessee Bureau of Investigation risks not complying with statute and allowing drug offenders easier access to methamphetamine precursors.

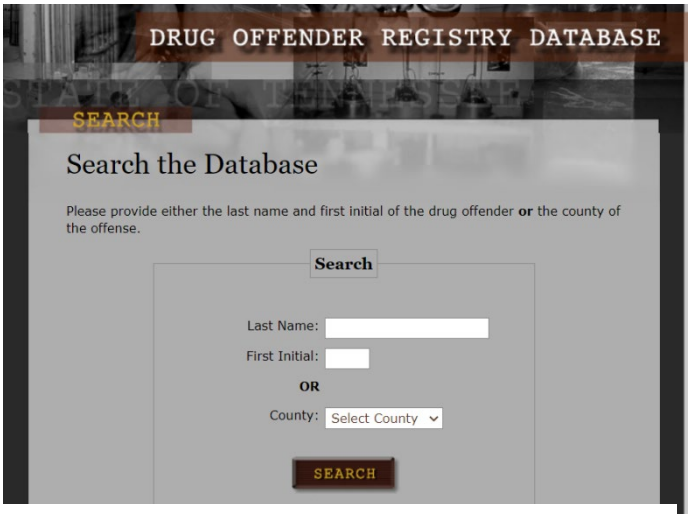
> ". . . the bureau risks . . . allowing drug offenders easier access to methamphetamine precursors."

No Documented Review of New or Deleted Registry Entries

Based on our walkthrough of the Drug Investigation Division's process for ensuring the accuracy of the Drug Offender Registry information, we found that supervisors do not document a review to determine the accuracy of registry information. According to the division's Intelligence Analyst, she performs spot checks for a small number of judgments each month, but she does not document which entries she reviewed or whether she found any issues with the entries into the registry. Although she checks the data in Microsoft Access to make sure, for instance, that offenders' birth dates or conviction dates were entered correctly, this review is not

documented. None of the Intelligence Analyst's informal processes are included in the registry's written policies and procedures.

Furthermore, division management did not have proper internal controls over deleting offenders from the registry. According to the Intelligence Analyst, she is the only person in the division with responsibility to delete offenders from the registry. She also stated that there is no documented review or reconciliation process to ensure deletions are made based on and supported by the daily deletion reports. Without this review, staff could mistakenly delete offenders from the registry or keep offenders on the registry when they should be deleted.



Source: https://apps.tn.gov/methor-app/search.

Inaccuracies in Registry Information

Lack of Sufficient Policies and Procedures

As previously noted in the prior audit, we found that management's policies and procedures for the registry still did not include how staff document deviations between judgment sheets and the registry. Specifically, when the county court clerks provide judgments with missing or potentially inaccurate information, registry staff attempt to obtain information from the county court clerks, the National Crime Information Center,[4] or other sources of information. Staff can also use their law enforcement expertise when judgments do not contain explicit information. However, registry staff did not always document their attempts to contact these sources or include documentation of the updated information they successfully obtained to complete or correct missing or inaccurate information. As a result, we found discrepancies between the registry's information and offenders' judgments. Part of management's corrective action plan for the prior audit finding stated that they would include this data retrieval process in their standard operating procedures, but we found that management had still not included the process in their established manual.

Documentation Issues Involving Registry Information and County Court Clerks' Judgments

We tested a sample of 50 offender judgments to determine if the Administrator entered all information into the registry as required by state statute and the Drug Investigation Division's *Drug Offender Registry Standard Operating Procedures and Reference Manual*. We also reviewed these judgments to ensure that the information on offenders' judgments matched the information in the registry. From our testwork, we found overlapping issues with 3 of 50 judgments tested (6%). For these 3 judgments, we found conflicting information between the registry's information

[4] The National Crime Information Center tracks nationwide crime-related data, which criminal justice agencies can access online.

and the offender's judgment. Additionally, staff did not identify the source when they obtained updated offender information when it differed from the original judgment.

- For 1 of the 3 judgments, we found that the offender's conviction class on the registry did not match the information on the offender's judgment. The county court clerk did not list the offender's conviction class on the judgment, and bureau staff did not document the deviation on the judgment.
- For 1 of the 3 judgments, we found that the registry's listed statute for the conviction offense did not match the statute citation on the judgment, and bureau staff did not document the deviation on the judgment.
- For 2 of the 3 judgments, the offender was assigned a felony or misdemeanor indictment class in the registry, but the court clerks did not include the indictment class on the offender judgment. By design, the registry's system requires a selection of either "felony" or "misdemeanor"; the field cannot remain blank. Additionally, for all 3 of the judgments, we found that the offender's felony or misdemeanor conviction class in the registry did not match the offender's judgment. For 2 offenders, neither "felony" nor "misdemeanor" was listed on the judgment. The other offender's judgment listed the conviction as a misdemeanor, but the registry listed the class as a felony.

Overall Criteria

Bureau management is responsible for establishing internal controls over the registry. The U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government* (Green Book) sets internal control standards and is considered best practice for nonfederal entities. Green Book Principle 10.03, "Design of Appropriate Types of Control Activities," states that management should divide key duties among different people to reduce the risk of error, misuse, or fraud. Principle 12.02, "Documentation of Responsibilities Through Policies," states, "Management documents in policies the internal control responsibilities of the organization." Furthermore, Principle 12.03 explains that management should document its responsibility for the objectives and related risks of operational processes, and that each unit should document its policies to allow management to effectively monitor the control activity.

Finding 2 – The bureau did not notify the National Association of Drug Diversion Investigators when it removed drug offenders from the state registry, as required by statute

Background and Condition

To achieve the reporting requirements to the National Association of Drug Diversion Investigators (NADDI), management has designed the Drug Offender Registry system to produce a weekly automated query that extracts only new and updated offenders' names and information. The system generates the report and emails it to the Dangerous Drugs Task Force. Analysts with the task force then upload and send the extract file to NADDI's vendor responsible for the national drug offender database.

Based on our review, we found that bureau and division management did not specifically notify NADDI when staff removed offenders from the state's Drug Offender Registry. Instead, the bureau and division management consider the weekly extract file as the official record of notification to NADDI of offenders removed from the state's system. By considering this weekly update of "new and updated offenders" as adequate notice of the state's offender "removal," the bureau places the burden on NADDI to identify the actual offender deletions.

We also found that the bureau performs no other procedures to ensure that NADDI removes Tennessee offenders from the national registry, as required by statute. Additionally, management has not documented the current notification procedures in the Drug Offender Registry's written policies and procedures.

Criteria

According to Section 39-17-431(l)(l) & (2), *Tennessee Code Annotated,* the bureau is required to notify NADDI when it removes an offender who is eligible for removal from the Drug Offender Registry.[5] When removed from the National Precursor Log Exchange, the person is again allowed to purchase methamphetamine precursors.

Additionally, the U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government*, Principle 12.03, explains that management should document its responsibility for the objectives and related risks of operational processes, and that each unit should document its policies to allow management to effectively monitor the control activity.

Cause

According to the Special Agent in Charge of the Dangerous Drugs Task Force, he believes the statute does not specify when staff should notify NADDI of removals from the registry. He also believes the current process is sufficient since it is mostly automated, except when task force analysts send NADDI the extract file. The Special Agent stated that the task force did not have written procedures in place because his staff know the proper procedures for uploading the extract file.

We offer that management should formally document all key processes to ensure business operations can continue through unexpected events, changes, or personnel turnover.

Effect

By not providing the NADDI vendor with clear information on drug offenders' statuses, such as the fulfillment of their sentence under the law and their removal from the state drug offender registry, NADDI may not promptly remove former offenders from the national database. Without proper removal notification as the statute intended, the bureau increases the risk that Tennessee citizens who lost the ability to purchase over-the-counter medications will not have their rights restored.

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[5] Section 39-17-436(e), *Tennessee Code Annotated*, states that offenders are eligible for removal from the registry 10 years after their last conviction date.

Recommendation

To ensure compliance with statute, bureau management should develop a formal process for notifying NADDI when offenders are removed from the state registry. Additionally, management should document the complete notification process in the bureau's written policies and procedures.

Management's Comment

We concur. We have updated our process and now have established a personal contact with the Executive Director of the National Association of Drug Diversion Investigators. One of our Drug Investigation Division's Intelligence Analysts emails a list of deleted offenders from the Drug Offender Registry each business day.

MATTER FOR LEGISLATIVE CONSIDERATION

This performance audit identified areas in which the General Assembly may wish to consider statutory changes to Section 39-17-431(l)(2), *Tennessee Code Annotated,* by removing this portion of the sentence: "When notified, the person shall be removed from NPLEx". Although the Tennessee Bureau of Investigation is currently responsible for notifying the National Association of Drug Diversion Investigators when staff remove offenders from the state's Drug Offender Registry, the bureau has no authority over those responsible for the National Precursor Log Exchange or over the ultimate removal of Tennessee's offenders from the national database.

Observation 3 – The state's court clerks did not comply with statute when submitting qualifying drug offender judgments to the bureau

Section 39-17-436(d), *Tennessee Code Annotated,* requires court clerks to forward a copy of the qualifying judgment and the date of birth of the offender for all applicable drug offenses within 45 days of the judgment. However, we found issues with certain county court clerks not submitting the offender judgments to the Tennessee Bureau of Investigation in accordance with statute.

Court Clerks Did Not Submit Qualifying Judgments Within 45 Days

For 8 of 50 qualifying judgments we tested (16%), we found the court clerks did not forward a copy of the judgment to the bureau within 45 days from the date of judgment, as required by statute. The clerks forwarded the judgments to the bureau between 3 and 73 days after the 45-day requirement had passed, for an average of 19 days late. See **Table 1**.

Table 1
Late Drug Offender Judgments Submitted
From August 1, 2018, Through January 22, 2020

County of Conviction	Date of Judgment	Date Judgment Received	# of Days Over 45 Days
Wilson	1/10/2019	5/8/2019	73
Putnam	1/28/2019	4/4/2019	21
Wilson	9/21/2018	11/21/2018	16
Cumberland	10/4/2018	11/29/2018	11
Tipton	10/31/2019	12/26/2019	11
Dickson	9/17/2019	11/12/2019	11
Dickson	7/19/2019	9/9/2019	7
Sumner	6/6/2019	7/24/2019	3

Source: Qualifying judgments submitted by court clerks.

Court Clerks Did Not Submit Qualifying Drug Offender Judgments

Based on our analysis of the monthly summary reports, we determined that three county court clerks did not submit any qualifying judgments in 2018, and five county court clerks did not submit any qualifying judgments in 2019. See **Table 2**. Additionally, we requested and obtained documentation from the Administrative Office of the Courts that confirmed that these counties had qualifying judgments.

Table 2
Court Clerks That Did Not Submit Any Qualifying Drug Offender Judgments
for 2018 or 2019

Calendar Year	Counties
2018	Hancock, Moore, Pickett
2019	Bledsoe, Dyer, Hancock, Houston, Moore

Source: Monthly summary reports created by the Administrator from data pulled from the registry.

Court Clerks Submitted Limited Numbers of Qualifying Drug Offender Judgments

We also found that several county court clerks submitted very few qualifying judgments to the bureau for entry into the registry. During calendar year 2019, the court clerks submitted an average of 143 judgments. For the period January 1, 2018, through February 29, 2020, court clerks submitted between 0 and 2,349 judgments. During this same period, 9 county court clerks submitted less than 20 qualifying judgments, which appeared unusually low compared to the rest of the court clerks' number of submitted judgments. See **Table 3**.

Table 3
Court Clerks That Submitted Less Than 20 Qualifying Drug Offender Judgments
From January 1, 2018, Through February 29, 2020

County	Number of Judgments
Bledsoe	4
Carter	15
Dyer	2
Hancock	0
Houston	1
Marshall	13
Moore	0
Pickett	4
Van Buren	3

Source: Monthly summary reports created by the Administrator from data pulled from the registry.

According to the Intelligence Analyst for the Drug Investigation Division, county court clerks are likely not submitting the judgments or are submitting the judgments late because the counties are smaller. They operate with a smaller number of staff and have other responsibilities besides drug offender judgments. According to the Court Clerk Liaison for the Administrative Office of the Courts, most of these counties have newer clerks and staff, which may have contributed to the issue.

When court clerks do not submit qualifying judgments or submit them late, the bureau cannot ensure that all applicable offenders are included on either the state's Drug Offender Registry or, ultimately, the national database. Pharmacies rely on the national database to conduct the appropriate checks; therefore, when information is not updated timely, convicted drug offenders who should be prevented from purchasing methamphetamine precursors may be allowed to purchase them.

Bureau management should continue to communicate with all county court clerks and with the Administrative Office of the Courts to ensure all court clerks understand their duty to report both accurate and timely judgments for inclusion in the Drug Offender Registry. The bureau and the Administrative Office of the Courts should work with local court systems to consider how various courts can share information more efficiently and effectively, such as a shared information system or application. Additionally, the two entities should regularly work together to communicate changes in statute and to train court clerk staff on existing registry requirements under the law.

MATTER FOR LEGISLATIVE CONSIDERATION

Although the Tennessee Bureau of Investigation is responsible for maintaining the Drug Offender Registry, the registry's accuracy also depends on the efforts of court clerks and district attorneys regarding the timely and accurate submission of the drug offender judgments. The General Assembly may wish to consider how to improve the coordination between the county

clerks and the bureau to ensure both the state and the national drug registries are up-to-date and accurate.

SEX OFFENDER REGISTRY

The Tennessee Bureau of Investigation's (the bureau) management uses the electronic sex offender database to maintain the registration of all sexual offenders within the state. The Sex Offender Registry section within the bureau's Criminal Intelligence Unit is responsible for maintaining the database.[6] According to the bureau's most recent annual report, the Sex Offender Registry section is also responsible for providing training and support to registering agencies, including ensuring the accuracy of sex offender classifications and registrations.

The bureau does not have the authority to enforce sex offender registration. According to Section 40-39-205, *Tennessee Code Annotated*, that responsibility falls to the registering agencies. Registering agencies include sheriff's offices, municipal police departments, metropolitan police departments, campus law enforcement agencies, the Department of Correction, the Tennessee Board of Parole, and any private contractor with the Department of Correction. Statute requires registering agencies to enter offender information into the database no more than 12 hours after an offender's registration, and to verify the accuracy and completeness of all information contained in the offender's sex offender registration. Registering agencies are responsible for updating the database with any changes relating to offenders' information.

The bureau publishes information from the database on the Sex Offender Registry website to ensure the public has access to accurate and up-to-date information.[7] According to Section 40-39-201(b), *Tennessee Code Annotated*, the website's purpose is to provide information about sex offenders so that the public can adequately protect themselves, their children, and other vulnerable populations.

According to Sex Offender Registry section management, as of May 1, 2020, there were 12,937 active registered sex offenders in Tennessee.

Sex Offender Registry Fee

Any individual convicted of a sexual offense is required to report to a registering agency periodically[8] and pay an annual administrative fee of $150. The registering agencies must remit $50 from each fee to the bureau for the maintenance of the Sex

Of the $150 annual administrative fee that offenders pay, the bureau receives $50 for the maintenance of the Sex Offender Registry.

[6] The database is accessed through a non-public viewing website, which requires the user to be registered and designated as a user of the database. The database was upgraded in August 2018 to streamline the process of initially registering sex offenders, updating offender information, and noting if an agency collected fees from offenders.

[7] Information on the website includes the offender's complete name, as well as any aliases, date of birth, convicted sexual offenses, address, race, gender, a recent photograph, and whether the offence was committed against a child.

[8] The offender's reporting frequency is dependent upon the offender's conviction type, health status, and residence status, as set out in Sections 40-39-203 and 40-39-204, *Tennessee Code Annotated*; however, all offenders must report at least annually. Offenders pay administrative fees annually, even if they must report more frequently.

Offender Registry; 321 organizations registered and collected fees from offenders as of January 30, 2020. In some cases, registering agencies determine that offenders are indigent and unable to pay the administrative fees. If an offender is unable to pay, the bureau's *Tennessee Sex Offender Registry Standard Operating Procedures Manual* states that registering agencies must submit indigent fee waiver forms to the bureau and may consider a variety of items as proof, such as pay stubs, proof of unemployment, or Social Security benefits.

Our audit focused on the bureau's billing process for its portion of the administrative fee. See **Table 4** for the bureau's revenue sources.

Table 4
Bureau's Revenue From Sex Offender Registry Fees

Fiscal Year	2018	2019
Fees Collected	$374,050	$385,708

Source: Bureau management.

The Bureau's Fee Billing Process for Registering Agencies[9]

At the beginning of each month, an Intelligence Analyst in the bureau's Sex Offender Registry section generates a monthly fees report based on queries from the registry's database, which initiates the process to collect the bureau's portion of offenders' administrative fees from registering agencies. This report lists all sex offenders who were required to pay administrative fees in the previous month.[10]

Once the Intelligence Analyst generates the monthly fees report, the Fiscal Services Unit's Accounting Technician uses the report to invoice registering agencies. In the event the registering agency has an unpaid balance from the previous billing, the Accounting Technician attaches any outstanding invoices to the current invoice in an effort to collect the past-due amounts.

The Tennessee Board of Parole (BOP), which operates approximately 35 registering agencies, accounted for 30% of registered offenders in calendar 2019. The Accounting Technician also uses the monthly fees report to bill the BOP quarterly for the bureau's portion of the administrative fee.[11] The Fiscal Services Unit processes and records the fees when registries agencies pay them.

Given that the Fiscal Services Unit has not successfully collected outstanding fee balances from the registering agencies, the Accounting Technician also prepares a quarterly collection report of all registering agencies that owe the bureau administrative fees. Fiscal Services Unit management designed the report to include the invoice numbers, outstanding amounts, and number of days since the invoice was created. As of January 15, 2020, bureau management had outstanding uncollected fees totaling $59,342 from registering agencies.

[9] During the majority of our audit scope period, this was the bureau's billing process; however, as a result of the enactment of Public Chapter 668, the bureau will be making changes.
[10] Offenders excluded from administrative fees include incarcerated, incapacitated, juvenile, and indigent offenders.
[11] As a state agency, the BOP is billed through an interunit journal entry in Edison, the state's accounting system.

Although management's collection report does not include outstanding BOP items, the Fiscal Services Unit does track unpaid BOP fees. The Fiscal Services Unit also uses the monthly fees report to prepare a list of monthly indigent fee waivers needed that BOP has not provided a fee waiver. For calendar year 2019, the outstanding balance of uncollected fees from BOP totaled $39,450.

For calendar year 2019, the bureau had a total outstanding balance of $39,450 from the Tennessee Board of Parole.

Results of Prior Audit

In the bureau's January 2018 performance audit report, we found that the Criminal Intelligence Unit and the Fiscal Services Unit either did not have written policies or did not comply with existing policies. As a result, the units did not ensure the bureau received its share of fees from registering agencies. In response to the prior audit finding, management concurred in part; they stated that they would review and revise their policies but reiterated that they do not have the enforcement authority to ensure the bureau collects its portion of fees.

Audit Results

1. **Audit Objective:** In response to the prior audit finding, did the Criminal Intelligence Unit and the Fiscal Services Unit establish and implement written policies and procedures for billing registering agencies for the bureau's share of Sex Offender Registry fees?

   Conclusion: Based on our review, we found that the Criminal Intelligence Unit did not establish appropriate internal controls over its preparation of the monthly fees report or update its policies and procedures for billing registering agencies for the bureau's share of the registry fees. While the Fiscal Services Unit did update its procedures for invoicing registering agencies, its follow-up procedures were incomplete. See **Results of Other Audit Work**.

2. **Audit Objective:** In response to the prior audit finding, did Fiscal Services Unit staff invoice registering agencies for the bureau's share of administrative fees?

   Conclusion: Based on our testwork, we found that Fiscal Services Unit staff generated invoices from the monthly fees report and invoiced registering agencies for the bureau's share of administrative fees. However, because of the deficiencies we identified in the registry database and monthly fees report process, management could not prove, and we could not determine, if all registering agencies were billed appropriately. See **Observation 4** and **Observation 5.**

3. **Audit Objective:** In response to the prior audit finding, did Fiscal Services Unit staff attempt to follow up on past-due administrative fees from registering agencies?

Conclusion: Based on our testwork, we found that Fiscal Services Unit staff did not document follow-up attempts or outcomes in seeking collection of outstanding past-due fees from registering agencies. See **Results of Other Audit Work**.

Additionally, we found that the Board of Parole had not remitted fees or submitted the appropriate indigency forms, as required. See **Observation 6**.

Observation 4 – The bureau should consider additional information system controls to ensure the Sex Offender Registry is accurate

Limitations on Reporting Capabilities

The Sex Offender Registry's database was created to capture information on convicted sex offenders, as required by the registry policies and procedures and statute. However, bureau staff can only generate offender information from the registry based on a selected date in time. According to the Assistant Special Agent In-Charge (ASAC) of the Criminal Intelligence Unit (CIU), staff can access an offender's profile at any time to see that offender's complete history and data. However, management is unable to generate either global historical reports (such as data trends) or ad-hoc reports (such as population reports) for all offenders so that both internal and external users, including those with audit purposes, can review and analyze the overall statistics and trends of the offender population.

System Control Deficiencies

We found that the registry's database does not contain appropriate edit checks, and as such, registering agencies may not include necessary offender fee payment dates or be able to input incorrect payment dates. Given the unmitigated risk of these data input errors, both the bureau and the registering agencies are responsible for potentially inaccurate and unreliable system data. We discuss how registering agencies contribute to this problem in **Observation 5**.

Edit checks are programmed computer controls that are built into a system to prevent users from entering incorrect data.

For indigent offenders, when a registering agency submits an indigent fee waiver form, the bureau's Sex Offender Registry staff are responsible for marking the offender as indigent in the database. However, as the system is currently designed, registering agencies have access to modify this information; they could mark an offender as indigent without submitting the fee waiver form and without the bureau's knowledge. Conversely, they could mark offenders who can pay as indigent, which could lead to the state not receiving these fees. Due to the lack of system controls, management could not provide a reliable report of indigent offenders. Additionally, the *Sex Offender Registry Standard Operating Procedures Manual* does not include any instruction for the registering agencies to not mark an offender as indigent in the database.

According to management, in order to require registering agencies to enter the date the fees were paid at the appropriate time and/or to prevent the registering agencies from making unauthorized changes to the database, the bureau would have to request and pay the vendor to modify the system. Based on our discussion with the ASAC, CIU management utilizes grant funding to make updates to the registry, and such a change in the database would be costly. Furthermore, according to the ASAC, the database's current design and reporting capabilities are adequate.

The ASAC also stated that the bureau has thoroughly instructed registering agencies, via training with the bureau's analysts and online training, to not use the field for marking the offenders as indigent; however, she stated that they might update the standard operating procedures to include this instruction in the future.

The bureau's responsibility for information recorded in the Sex Offender Registry is outlined in Section 40-39-204(a), *Tennessee Code Annotated.* The statute states that the bureau should provide registering agencies with viewing and limited editing access, and the registering agencies should enter original, current, and accurate data. Furthermore, the U.S. Government Accountability Office's *Federal Information System Controls Audit Manual,* "Business Process Controls," Section 4.2, Critical Element BP-1, states that poor data quality can lead to a failure of system controls, process inefficiencies, and inaccurate management reporting.

Recommendations for Improvement

The Sex Offender Registry provides critical information to the public, management, registering agencies, other key stakeholders. Management should evaluate the Sex Offender Registry database's deficiencies and identify risks related to inaccurate updates to the database. If they cannot make system design changes, management should establish other mitigating controls to ensure the accuracy and reliability of the data. Management should also update the standard operating procedures to include clearer instructions for registering agencies regarding indigent offenders. Finally, management should continue to encourage registering agencies to submit fees owed to the state and to comply with all current and updated standard operating procedures.

Observation 5 – Registering agencies are not following the bureau's instructions for recording offender fees

When offenders report to a registering agency, they must provide any updated offender information and pay an annual $150 administrative fee or provide proof of indigence to the registering agency. When the offender pays the fee, registering agency staff are instructed to enter the date of collection into the database. However, due to a lack of edit checks in the Sex Offender Registry system (as detailed in **Observation 4**), registering agency staff do not have to enter a date of collection or could enter incorrect information. Of 57 offenders invoiced in 2019 that we tested, the registering agencies did not enter or update the date the fee was paid in the database for 21 offenders (37%). Sections 40-39-208(a)(5) and (b), *Tennessee Code Annotated,* state that offenders who do not remit payment, if financially able, have committed a Class E felony. An

offender violating this part will not be eligible for suspension of sentence, diversion or probation until the minimum sentence is served in its entirety.

When registering agencies fail to enter or update the dates of offender fee payments in the database, it limits the accuracy of the database and hinders the ability to identify potential noncompliant offenders. Also, Tennessee Bureau of Investigation staff are unable to run complete and accurate reports, such as the monthly fees report, from the database for analysis or billing purposes.

According to the Assistant Special Agent In-Charge (ASAC) of the Criminal Intelligence Unit, through standard operating procedures and annual training, the registering agencies have been made aware of their responsibility for entering and updating the dates of offender payments. The ASAC is not sure why registering agencies are failing to enter this information. The bureau has no enforcement authority to require agencies to update database information according to the bureau's instruction.

Management should continue to instruct registering agencies on the appropriate way to enter offender information into the registry. Registering agencies should comply with standard operating procedures and instructions from the bureau to enter accurate and reliable offender information into the database.

Observation 6 – The Board of Parole did not remit the bureau's portion of administrative fees or submit indigent fee waiver forms

According to the Tennessee Bureau of Investigation's standard operating procedures, registering agencies must submit payment or original copies of indigent fee waiver forms for each offender required to submit fees during the billing cycle.

Sexual offenders can register with the Board of Parole's (BOP) registering agencies, and BOP remits the bureau its portion of administrative fees through an interunit journal voucher. Quarterly, the Fiscal Services Unit (FSU) Accounting Technician generates and sends the monthly fees reports listing the BOP offenders' administrative fees to BOP staff. BOP staff mark any offender that is incorrectly included or that has an indigent fee waiver form and return the reports to the Accounting Technician. The Accounting Technician forwards the updated report to the Criminal Intelligence Analyst, who researches to determine whether the designated offenders need to be removed from the monthly fees reports or whether BOP needs to provide any waiver forms. Once the Criminal Intelligence Analyst completes his review, the Accounting Technician forwards the Analyst's determinations to BOP staff.

For 4 of 18 offenders (22%) tested, we determined that BOP did not pay the bureau its portion of administrative fees in 2019. BOP marked these offenders as indigent (on the monthly fees reports) for the following reasons:

- the offender was registered in a different county,
- the offender was in jail,

- the offender was exempt from the fee due to Social Security disability, and
- the offender was exempt from the fee due to Social Security retirement.

However, bureau staff told us that even though BOP staff marked these offenders as indigent, BOP staff failed to submit indigent fee waiver forms for the offenders to the bureau.

According to the FSU Accounting Manager, the bureau provides standard operating procedures and training to make the registering agencies aware of the need to submit payment or provide indigent fee waiver forms; however, she is unsure why they fail to do so at times.

When BOP fails to either pay the bureau its portion of the offender administrative fees or submit the indigent forms, the bureau has no authority to force the BOP (or its agencies) to pay or submit waiver forms. As a result, the state loses out on revenue intended to fund the maintenance of the Sex Offender Registry database and impedes the bureau's ability to track and report the most current offender information. Management at the Board of Parole should ensure that staff follow proper procedures by either paying administrative fees or providing indigent fee waiver forms to the bureau as required.

Results of Other Audit Work

Subsequent Event

On April 2, 2020, the legislature enacted Public Chapter No. 668, which shifted the responsibility of submitting the Sex Offender Registry administrative fees from the bureau to the state treasury. Instead of collecting fees to maintain the registry, the bureau will receive an appropriation in the budget each fiscal year.

Since April 2020, registering agencies have been holding on to the fees as instructed by the bureau, and the bureau is no longer billing the registering agencies. Statute is unclear as to which state agency is now responsible for ensuring the collection of the fees. According to the bureau, it is also unknown who will be responsible for collecting any outstanding receivables. In the meantime, funds owed to the state remain at the respective registering agencies.

Due to the passage of this legislation, we are reporting the results of our other audit work below for informational purposes only.

Internal Control Deficiencies Identified in the Monthly Fees Report

In the prior audit, we noted that Criminal Intelligence Unit (CIU) management did not document the procedures for generating the monthly fees report in the bureau's standard operating procedures. In our current audit, we found that management still did not include the procedures, and we identified additional control deficiencies related to the reports. We found that an Intelligence Analyst is solely responsible for creating the monthly fees report, which includes combining four query reports from the database and deleting any duplicate or unnecessary data.

The Intelligence Analyst does not maintain original database queries or records of data deletions, and she cannot recreate the data after it is altered. In addition, CIU management has not established mitigating controls, such as a supervisory review or an independent reconciliation of data, to compensate for the fact that the Intelligence Analyst has responsibility over the entire process. These mitigating controls should occur before the Fiscal Services Unit (FSU) uses the monthly fees report to invoice the registering agencies.

Lack of Documentation and Procedures for Collection of Past-Due Amounts

Upon receiving an invoice from the bureau, registering agencies should pay the bureau all outstanding fees or provide indigent fee waiver forms when unable to collect fees from offenders. According to the FSU Accounting Manager, registering agencies are aware of these responsibilities; however, some agencies do not submit the fees or provide waiver forms. When registering agencies do not pay the fees that are legally due to the bureau, FSU staff send those agencies past-due fee invoices along with any current invoices. As part of our audit review, we asked for documentation to support these collection efforts, but staff could not provide it. According to the FSU Accounting Technician, she only retains the communication if the registering agency responds. While the standard operating procedures include instructions for when to follow up with registering agencies, they do not require staff to document either the performance or the outcome of the follow-up. Without adequately documented instructions, management cannot ensure all attempts to collect fees owed to the bureau have been made.

We also identified deficiencies where the bureau indicated that the Board of Parole (BOP) did not submit the fees due to the bureau or did not provide indigent fee waivers forms when offenders could not pay their fees. We asked for documentation, but FSU staff could not provide us with evidence that they had followed up on outstanding fees or waivers, and management has not included the process for collecting outstanding BOP fees or fee waiver forms in the unit's standard operating procedures.

To be good stewards of the state's revenue, bureau management should pursue all methods and document all efforts made to recover fees due to the state.

AIRCRAFT

The Tennessee Bureau of Investigation (the bureau) owns and operates two aircraft:

- a Cessna 182 Skylane, purchased in February 1999; and
- a Pilatus PC-12NG, purchased in September 2017.

Aircraft Uses

The Cessna 182 Skylane accommodates one passenger with two pilots and can be used for crime scene documentation, pilot training, and limited surveillance. The Pilatus PC-12NG can transport five passengers and equipment and is used for surveillance and gathering intelligence.

The bureau also uses the Pilatus during time-sensitive and critical matters, such as homicides, child abductions, kidnappings, prison escapes, and other case-related matters that require quick transportation of bureau personnel to various locations.

In addition to law enforcement missions, the bureau also uses the planes for administrative purposes, such as transporting personnel to conferences and training. According to TBI Written Policy 8-6-006, which governs the bureau's aircraft, the Assistant Special Agent in Charge (ASAC) of the Aviation Unit, in consultation with the Deputy Director, should consider several factors when evaluating requests for the use of the planes:

- whether the use is cost-effective in relation to alternative transportation;
- the potential benefit to an ongoing investigation;
- the safety of criminal investigators, officers, and the public; and
- any adverse weather conditions that may exist.

Records and Reports

The bureau uses ZuluLog, a cloud-based flight management system, to schedule flights, create reports, view a plane's maintenance history, and track pilot flight hours. Bureau personnel prepare and maintain the following documentation regarding aircraft use:

- Flight logs are prepared by the pilot at the completion of the flight to serve as the bureau's official written report for each flight taken. The flight log includes fields for the pilot to document the date of the flight, the requestor's name, airport information, and aircraft flight hours. The log is designed so that the pilot can also include mission details: the case file number; which division or region used the flight; and the mission type (investigative, training, maintenance, or logistics). The pilot or the second in command enters the information from these handwritten flight logs into ZuluLog.
- Aircraft use reports are generated based on the data from the flight logs in ZuluLog. The reports provide information for each quarter of the year and summarize the types and regions of flights; which units and divisions used the flights; and the types of equipment used during the flights. The reports serve as another level of accountability and review of aircraft use.

Results of Prior Audit

In the bureau's January 2018 performance audit report, we found that bureau personnel did not follow certain policies and procedures for the use of bureau aircraft. Specifically, we found flight documentation that was inconsistent and did not support the uses of the aircraft. Additionally, the bureau's policy did not require pilots to maintain passenger lists for each flight. Management concurred in part with the finding and stated that they would revise the policy over the use of bureau aircraft and implement additional procedures for documenting aircraft usage.

Audit Results

1. Audit Objective: In response to the prior audit finding, did the Aviation Unit properly design and implement internal controls over the proper use of aircraft?

Conclusion: Based on our review, we found that the Aviation Unit properly designed and implemented controls over the use of the bureau's aircraft.

Management established in the bureau's Policy 8-6-006 that the Pilot in Command should ensure that a passenger list is emailed to Aviation Unit Chain of Command before each flight takes off. According to the ASAC of the Aviation Unit, the unit solely relies on the aircrew to follow policy; however, no one ensures that the emails containing the passenger lists were received by the intended recipients before takeoff. In the event of an aircraft incident, these passenger lists are vital; therefore, management should evaluate the sufficiency of the control to determine the risks to the bureau should noncompliance with the bureau's policy occur.

2. Audit Objective: In response to the prior audit finding, did the Aviation Unit maintain proper records, including flight logs, for all flights?

Conclusion: Based on our testwork, we found that the Aviation Unit maintained proper records for all flights.

INFORMATION SYSTEMS

General Background

The Tennessee Bureau of Investigation (the bureau) relies on various information systems, databases, and applications to maintain information that supports the bureau's activities. The Technology and Innovation Division's Information Systems Unit provides information technology and desktop support to the bureau's staff. The division is also responsible for the bureau's computer systems and network, which allows employees and other entities[12] access to the bureau's files. The Department of Finance and Administration's Division of Strategic Technology Solutions is also responsible for providing information technology and desktop support for state agencies, including the bureau.

Results of Prior Audit

In the bureau's January 2018 performance audit report, we found that the bureau did not follow state information system policies and industry best practices regarding information systems controls in four areas. Management concurred in part with the finding and indicated that they would address the issues through policy changes, additional procedures, and new applications.

[12] Other entities that may access the bureau's information systems include staff from local law enforcement agencies.

Audit Results

Audit Objective: In response to the prior audit finding, did management follow state information systems security policies and industry best practices regarding information systems controls?

Conclusion: Based on our review, we found that management corrected two of the four areas. For the two remaining areas, management did not follow state information systems security policies and industry best practices regarding information systems controls. See **Finding 3**.

Finding 3 – As noted in the prior two audits, the bureau did not provide adequate internal controls in two specific areas

The Tennessee Bureau of Investigation (the bureau) and the Department of Finance and Administration's Strategic Technology Solutions (STS) did not effectively design and monitor internal controls in two areas. For these areas, we found internal control deficiencies related to one of the bureau's systems where both the bureau and STS did not adhere to state policies.

Ineffective implementation and operation of internal controls increases the likelihood of errors, data loss, and unauthorized access to department information. Pursuant to Standard 9.61 of the U.S. Government Accountability Office's *Government Auditing Standards*, we omitted details from this finding because they are confidential under the provisions of Section 10-7-504(i), *Tennessee Code Annotated*. We provided the bureau and STS management with detailed information regarding the specific conditions we identified, as well as the related criteria, causes, and our specific recommendations for improvement.

Recommendation

Management should correct these conditions by promptly developing and consistently implementing internal controls in these areas. Management should implement effective controls to ensure compliance with applicable requirements; assign staff to be responsible for ongoing monitoring of the risks and mitigating controls; and take action if deficiencies occur.

Management's Comment: Tennessee Bureau of Investigation

We concur. We provided the Comptroller's office with our specific remarks in regard to the recommendations made. Through policy changes, additional procedures, and new applications, these issues are being addressed and will be monitored through the bureau's enterprise risk management.

Management's Comment: Department of Finance and Administration's Division of Strategic Technology Solutions

We concur. STS has revised certain processes and implemented additional internal controls to further mitigate the risk associated with this finding.

STAFF TURNOVER ANALYSIS

Bureau Separation Statistics

Separations from the Tennessee Bureau of Investigation include employees who died, retired, voluntarily resigned, or had an expired appointment. Total separations for years 2018 and 2019 included 136 employees, 41 of which (30%) were voluntary resignations. Employees with 0 to 5 service years had the highest number of employee separations, accounting for 10% of all separations. Retirements accounted for approximately 4% of the total separations. As of January 2020, the bureau had 575 employees.

Staff Turnover Rates
For Calendar Years 2018 and 2019

Fiscal Year	Separations	Average Employees Per Year	Turnover Rate
2018	73	545	13.4%
2019	63	548	11.5%

Source: Edison, the state's enterprise resource planning system.

Audit Results

Audit Objective: Did bureau staffing turnover indicate problems with the bureau's operations and inhibit its ability to meet its mission?

Conclusion: Based upon our analysis of the bureau's average turnover rates for calendar years 2018 and 2019, turnover did not appear to indicate problems with the bureau's operations or inhibit its ability to meet its mission.

APPENDICES

APPENDIX 1
Internal Control Significant to the Audit Objectives

The U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government* (Green Book) sets internal control standards for federal entities and serves as best practice for nonfederal government entities, including state and local government agencies. As stated in the Green Book overview,[13]

> Internal control is a process used by management to help an entity achieve its objectives . . . Internal control helps an entity run its operations effectively and efficiently; report reliable information about its operations; and comply with applicable laws and regulations.

The Green Book's standards are organized into five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. In an effective system of internal control, these five components work together to help an entity achieve its objectives. Each of the five components of internal control contains principles, which are the requirements an entity should follow to establish an effective system of internal control. We illustrate the five components and their underlying principles below:

Control Environment	
Principle 1	Demonstrate Commitment to Integrity and Ethical Values
Principle 2	Exercise Oversight Responsibility
Principle 3	Establish Structure, Responsibility, and Authority
Principle 4	Demonstrate Commitment to Competence
Principle 5	Enforce Accountability
Risk Assessment	
Principle 6	Define Objectives and Risk Tolerances
Principle 7	Identify, Analyze, and Respond to Risks
Principle 8	Assess Fraud Risk
Principle 9	Identify, Analyze, and Respond to Change

Control Activities	
Principle 10	Design Control Activities
Principle 11	Design Activities for the Information System
Principle 12	Implement Control Activities
Information and Communication	
Principle 13	Use Quality Information
Principle 14	Communicate Internally
Principle 15	Communicate Externally
Monitoring	
Principle 16	Perform Monitoring Activities
Principle 17	Evaluate Issues and Remediate Deficiencies

In compliance with generally accepted government auditing standards, we must determine whether internal control is significant to our audit objectives. We base our determination of significance on whether an entity's internal control impacts our audit conclusion. If some, but not all, internal control components are significant to the audit objectives, we must identify those internal control components and underlying principles that are significant to the audit objectives. In the following matrix, we list our audit objectives, indicate whether internal control was significant to our audit objectives, and identify which internal control components and underlying principles were significant to those objectives.

[13] For further information on the Green Book, please refer to https://www.gao.gov/greenbook/overview.

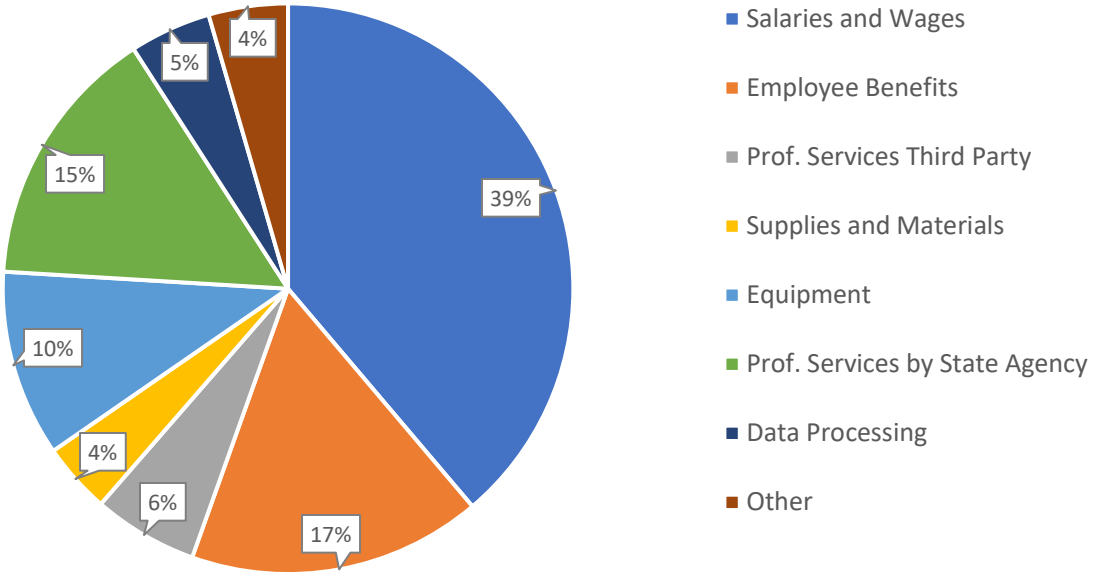
			Internal Control Components and Underlying Principles Significant to the Audit Objectives																
			Control Environment					Risk Assessment				Control Activities			Information & Communication			Monitoring	
	Audit Objectives	Significance	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
	Bureau Management Oversight																		
1	Did bureau management identify fiscal, operational, reporting, and compliance risks, as well as risks related to prior audit findings?	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2	Did bureau management identify and list control activities in their formal risk assessment to prevent or minimize risk for each risk item?	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
3	In response to the prior audit finding, did management have sufficient written policies and standard operating procedures?	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4	In response to the prior audit finding, did bureau personnel comply with written policies and standard operating procedures?	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Drug Offender Registry																		
1	In response to the prior audit finding, did Drug Offender Registry management establish adequate internal control procedures to properly maintain the registry and include such procedures in the governing policy manual?	Yes	No	No	No	No	No	No	No	No	No	Yes	No	Yes	No	No	No	No	No
2	In response to the prior audit finding, did staff ensure that the registry information matched the information contained in the county clerks' qualifying judgments?	Yes	No	No	No	No	No	No	No	No	No	Yes	No	Yes	No	No	No	No	No
3	In response to the prior audit finding, did court clerks submit qualifying judgments to the bureau within 45 days of the date of judgment, as required by Section 39-17-436(d), *Tennessee Code Annotated*?	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4	Did registry management establish adequate internal control procedures to properly remove offenders from the registry, as required by Section 39-17-436(e), *Tennessee Code Annotated*?	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	No	No	No	No	No
	Sex Offender Registry																		
1	In response to the prior audit finding, did the Criminal Intelligence Unit and the Fiscal Services Unit establish and implement written policies and procedures for billing registering agencies for the bureau's share of Sex Offender Registry fees?	Yes	No	No	No	No	No	No	No	No	No	Yes	No	Yes	No	No	No	No	No
2	In response to the prior audit finding, did Fiscal Services Unit staff invoice registering agencies for the bureau's share of administrative fees?	Yes	No	No	No	No	No	No	No	No	No	Yes	No	Yes	No	No	No	No	No
3	In response to the prior audit finding, did Fiscal Services Unit staff attempt to follow up on past-due administrative fees from registering agencies?	Yes	No	No	No	No	No	No	No	No	No	Yes	No	Yes	No	No	No	No	No

			Internal Control Components and Underlying Principles Significant to the Audit Objectives																
			Control Environment					Risk Assessment				Control Activities			Information & Communication			Monitoring	
	Audit Objectives	Significance	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
	Aircraft																		
1	In response to the prior audit finding, did the Aviation Unit properly design and implement internal controls over the proper use of aircraft?	Yes	No	No	No	No	No	No	No	No	No	Yes	No	Yes	No	No	No	No	No
2	In response to the prior audit finding, did the Aviation Unit maintain proper records, including flight logs, for all flights?	Yes	No	No	No	No	No	No	No	No	No	Yes	No	Yes	No	No	No	No	No
	Information Systems																		
1	In response to the prior audit finding, did management follow state information systems security policies and industry best practices regarding information systems controls?	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	No	No	No	No	No
	Staff Turnover Analysis																		
1	Did bureau staffing turnover indicate problems with the bureau's operations and inhibit its ability to meet its mission?	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

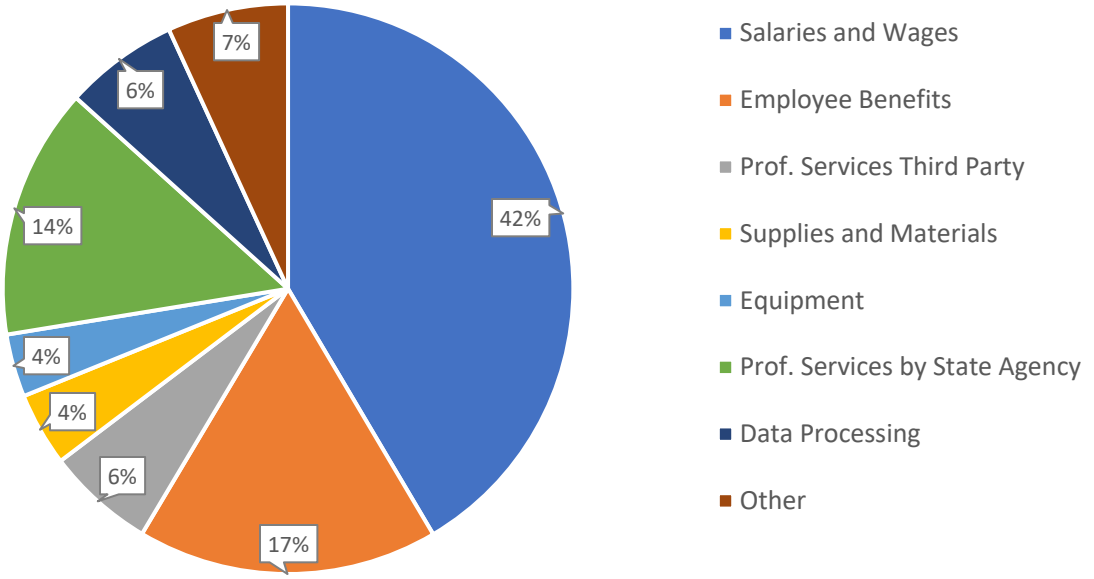
APPENDIX 2
Tennessee Bureau of Investigation
Expenditures and Revenues for Fiscal Years 2018 and 2019
UNAUDITED INFORMATION

Description	Fiscal Year	
Expenditures	**2018**	**2019**
Salaries and Wages	$ 34,562,620	$ 35,159,441
Employee Benefits	14,821,149	14,445,282
Travel	709,431	869,824
Printing and Duplicating	25,027	57,738
Utilities and Fuel	44,136	36,175
Communications	265,717	270,283
Maintenance and Repairs	420,724	561,794
Professional Services Third Party	5,287,253	5,196,314
Supplies and Materials	3,551,097	3,536,342
Rentals and Insurance	306,904	57,022
Motor Vehicle Operation	313,402	555,558
Awards and Indemnities	2,703	2,506
Grants and Subsidies	671,287	795,084
Unclassified	587,734	585,886
Equipment	9,418,718	3,021,357
Training	449,530	650,141
Data Processing	4,114,352	5,481,683
Professional Services by State Agency	13,297,777	12,068,487
Transfer Out	202,248	1,367,268
Total Expenditures	**$ 89,051,809**	**$ 84,718,185**
Revenues		
Expungement Fees TBI	$ 2,373,296	$ 2,268,598
TBI Fines for Convictions	509,796	467,052
Municipal Citation Bond Forfeit	1,429,336	1,420,646
Refund of PY Expenditures	5,000	-
Federal Revenue	7,681,788	9,022,687
Current Services	17,983,422	17,811,861
Interest Income	(2,835)	(7,615)
Interdepartmental	2,743,956	4,340,575
TBI Handgun Permit Fees	724,005	622,650
Licenses	374,050	385,708
Appropriations		
Work Program Original Entry	79,680,900	80,799,100
Carryforward Unencumbered Balance	1,487,134	766,365
Expansion from Reserve	1,152,387	-
Supplemental Appropriation	-	2,433,400
Revenue Expansion (Federal, Other)	4,186,396	4,177,202
Motor Vehicle Management	(202,248)	(1,367,268)
Total Revenues	**$ 120,126,383**	**$ 123,140,961**

2018 Chart of Expenditures



2019 Chart of Expenditures



APPENDIX 3
Tennessee Bureau of Investigation Operations

The Tennessee Bureau of Investigation is divided into the following eight divisions:

The **Criminal Investigation Division** was created to provide criminal investigation expertise for the District Attorneys General and state and local law enforcement agencies. The division is also responsible for investigating public corruption, human trafficking, fugitive apprehension, and criminal official misconduct at all levels of government. This division is composed of the following:

- The Field Investigation Unit investigates everything from high-profile murders and official misconduct of public officials to embezzlement cases and financial fraud.
- The Fire Investigators respond to statewide incidents of fire that destroy property or result in fatalities. They work closely with local jurisdictions to determine the cause, origin, and circumstances of fires. Staff operate the Arson Hotline,[14] which is dedicated to receiving information about suspicious and incendiary fires and is answered 24 hours a day. Support for the hotline is the result of an ongoing partnership between the bureau and the Tennessee Advisory Committee on Arson.[15]
- The Victims Services program ensures the victims and witnesses involved in bureau investigations know their rights, the bureau's investigative process, and the criminal justice process, as required by federal and state law.

The **Medicaid Fraud Control Division** investigates and prosecutes Medicaid provider fraud; patient abuse and neglect; and abuse or neglect of residents in nursing homes and "board and care" facilities.[16]

The **Drug Investigation Division** was created in 1998 in response to the General Assembly's concerns that a large percentage of crime in Tennessee was drug related. According to Section 38-6-202, *Tennessee Code Annotated*, the division investigates, gathers evidence, and assists in prosecuting "criminal offenses involving controlled substances, controlled substance analogues, narcotics, and other drugs," and it has "original jurisdiction over the investigation of all drugs." The division cooperates with local, state, and federal law enforcement agencies such as the Drug Enforcement Administration, the Federal Bureau of Investigation, and Tennessee's United States Attorney's offices. The division includes two task forces:

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[14] More information about the Arson Hotline (1-800-762-3017) is at http://tnarson.org/.

[15] The Tennessee Advisory Committee on Arson is led by a board of directors consisting of 9 officers and 12 directors elected from its membership. The committee's purpose is to foster relationships between public and private fire investigators; provide continuing education to its members; and support arson prevention and prosecution through the state's Arson Hotline.

[16] "Board and care" facilities are assisted-care living facilities, which provide room, board, and other services.

- The Tennessee Dangerous Drugs Task Force is a collaboration between federal, state, and local agencies[17] to reduce the availability and illegal use of harmful scheduled drugs, including methamphetamine, marijuana, prescription drug diversion, heroin, cocaine, fentanyl, and others.
- The Tennessee Alliance for Drug-Endangered Children is composed of federal, local, and state agencies that, according to the bureau's fiscal year 2019 annual report, work to "prevent drug related harm to children and rescue, shelter, and support Tennessee's children who suffer physical and psychological harm caused by the manufacture, distribution, sale, and abuse of prescription drugs and alcohol."

The division also has a leadership role in several programs that are integral to Tennessee's drug enforcement community: the Appalachia High-Intensity Drug Trafficking Areas (HIDTA) task forces; the Middle Tennessee HIDTA task force; the Gulf Coast HIDTA task force; and the Governor's Task Force on Marijuana Eradication.

The **Forensic Services Division** provides forensic science services for every law enforcement agency and medical examiner in Tennessee. The division has a central laboratory in Nashville and two regional laboratories in Memphis and Knoxville. The following units comprise the division:

- The Evidence Receiving Unit receives, inventories, distributes, and stores all evidence submitted to the laboratory.
- The Drug Chemistry Unit analyzes any substance seized in violation of laws regulating the sale, manufacture, distribution, and use of abusive drugs.
- The Toxicology Unit analyzes blood and other body fluids for alcohol, drug, or poison related to traffic charges (such as driving under the influence) and other crimes.
- The Breath Alcohol Unit administers and maintains Tennessee's breath alcohol testing program and certifies and calibrates breath alcohol instruments.
- The Latent Print Examination Unit analyzes fingerprints and palm prints and compares them with suspects' prints.
- The Firearms Identification Unit determines if a bullet, cartridge case, or other ammunition was fired from a particular weapon.
- The Microanalysis Unit examines and compares evidence involving fire debris, impressions, paint, glass, fiber, and gunshot residue.
- The Forensic Biology Unit identifies and characterizes blood and other body fluids to determine whether they are related to a crime.

[17] The task force's executive board is composed of representatives from the following organizations: Tennessee sheriffs; Tennessee chiefs of police; directors of judicial district drug task forces; District Attorneys General; Tennessee Bureau of Investigation; Tennessee Highway Patrol; Tennessee National Guard Counterdrug Task Force; Tennessee Department of Children's Services; Tennessee Department of Safety and Homeland Security; Tennessee Department of Health; Tennessee Department of Mental Health and Substance Abuse Services; Drug Enforcement Administration; Tennessee United States Attorney's offices; and Tennessee Department of Correction.

- The Combined DNA Index System Unit enables evidentiary DNA profiles to be searched against the database of convicted offenders and arrestees.
- The Violent Crime Response Teams are three regionally located vehicles equipped with advanced forensic equipment for homicide crime scenes.

The **Technology and Innovation Division's** units deliver the following services to the bureau's other divisions, as well as to local, state, and federal criminal justice agencies and to the public:

- The Information Systems Unit runs the bureau's data center and business technology; manages critical communications; and creates, deploys, and maintains systems for all of the bureau's components and many external customers.
- Technical Services Unit agents investigate a range of online harms, including internet crimes against children, life-threatening communication online, cyber-enabled fraud, and computer intrusions. The unit also deploys and gathers evidence from advanced technologies, including digital forensic analysis and communications and geolocation evidence, for the bureau's special agents and the Tennessee law enforcement community. Agents assigned to the Internet Crimes Against Children Task Force open dozens of cases related to identity theft, cyber scams, and the manufacturing and distribution of child pornography. The unit also assists with mobile command and radio communications.
- The Criminal Intelligence Unit is responsible for compiling, analyzing, and sharing statewide criminal intelligence, with an emphasis on organized crime, fugitives, terrorists, gang activity, missing children, sex offenders, and human trafficking. The employees assigned to this unit manage Tennessee's Fusion Center, the state's AMBER Alert program, the Tennessee Sex Offender Registry, and the bureau's Most Wanted Program.

The **Criminal Justice Information Services Division** serves as the liaison between all state law enforcement agencies and the Federal Bureau of Investigation. The division houses the state repository of criminal history records, supports criminal justice information traffic, conducts background checks for gun purchasers, and performs the following other duties:

- The Tennessee Instant Check System Unit processes point-of-sale background checks, which are required by law for firearm purchases, by accessing state and federal databases.
- The Tennessee Information Enforcement System Unit provides state and local law enforcement with information from the National Crime Information Center.[18]
- The Tennessee Incident Based Reporting System Unit collects and reports all crime data required by law.

[18] This database maintains files on wanted persons; protection orders; deported felons; people who may pose a threat to the president or others afforded protection by the U.S. Secret Service; foreign fugitives; people under supervision of the Federal Bureau of Prisons; convicted offenders on supervised release; and the Sex Offender Registry.

- The Biometrics Services Center houses three units:
    - The Fee Programs Unit processes and maintains the fingerprint-based criminal records database. This includes the Tennessee Application Process System, which provides criminal histories to employers based on applicants' fingerprints, and Tennessee Open Records Information Services,[19] which allows the bureau to provide third-party vendors with state criminal history for background checks.
    - The Criminal Records Unit processes expungement orders;[20] background checks for people under consideration for pre-trial or judicial diversions; and final court dispositions.
    - The Data Quality Unit updates the Automated Fingerprint Identification System with fingerprint submissions.

The **Administrative Services Division** provides technical and administrative support to all areas of the bureau and includes the following:

- The mission of the Internal Audit Office is to provide independent, objective assurance and consulting. Its scope of work includes risk management, internal control, compliance, efficiency, and process improvement. In addition, the office is responsible for ensuring the bureau maintains compliance with Commission on Accreditation for Law Enforcement Agencies and Tennessee Law Enforcement Accreditation standards.
- The Professional Standards Unit is responsible for legislative issues, internal affairs, and legal functions. The staff of attorneys ensures that the bureau's policies, decisions, and contracts are legally sound.
- The Human Resources Unit provides services in recruitment; onboarding; employee relations; leave and attendance; performance management; and classification and compensation. The unit also provides technical support for processing payroll, benefits, worker's compensation, and other transactions for employees. The Assistant Director of Talent Management implements and serves as the Coordinator of the Title VI and Title IX of the Civil Rights Act of 1964.
- The Fiscal Services Unit supports the bureau by preparing the budget; monitoring expenditures and revenues; processing accounts receivable and payable transactions; purchasing goods and services; and maintaining grants.
- The Executive Officer implements special projects and oversees naloxone[21] distribution.
- The Protective Services Unit (formally the Uniformed Officer section) was placed in the Administrative Services Division in April 2019. The officers are responsible for

[19] Tennessee Open Records Information Services background checks are only name-based checks; they provide Tennessee criminal history information to the requestor and do not involve the submission of fingerprints.
[20] Expungement orders are orders from criminal courts to remove specific information from an individual's criminal history.
[21] Nalaxone is used to treat emergency opioid overdoses.

the physical security of the bureau facilities, personnel, and all guests at the facilities. Additional duties include conducting background investigations for both full-time and temporary employees, interns, contract personnel, vendors, certain Tennessee Education Lottery employees, and all Governor appointments. The officers are also trained as certified emergency medical technicians capable of providing aid and comfort to the sick and injured persons on bureau properties until additional medical help and emergency transportation arrives.

- The Public Information Office is the central point of communication between the bureau and the public. The staff in this office act as the point of contact for the media.

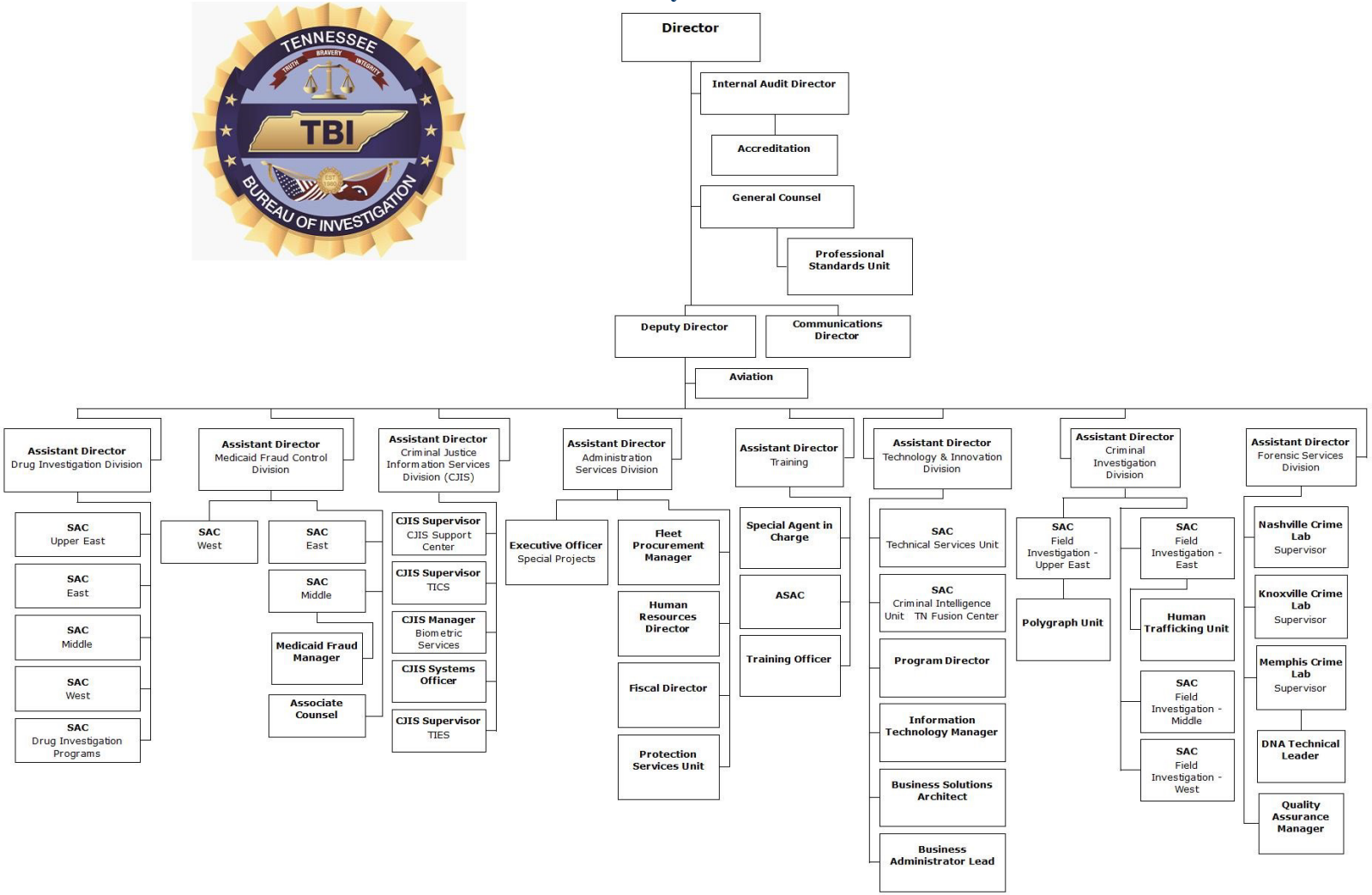
The mission of the **Training Division** is to provide oversight, guidance, and inspiration through excellence in training and research. The division's staff design, develop, revise, and implement the bureau's training programs to ensure that bureau personnel receive the training they require to perform their duties safely and effectively. More than 17,000 members of Tennessee law enforcement take these classes. The division also runs the Tennessee Bureau of Investigation's (TBI) Special Agent Academy, which is attended by all new special agents and personnel from several other state-level investigative agencies. The division's training and support services also include the following:

- The Tennessee Leaders of Tomorrow Internship Program is an unpaid internship opportunity for full-time college students who are interested in a criminal justice or forensic career and are pursuing a degree from an accredited college or university.
- The TBI State Academy provides advanced training courses in leadership, constitutional law, communications intelligence, financial investigations, and undercover investigations.
- The TBI Leadership Academy was created to enhance leadership training for Tennessee law enforcement executives.
- The TBI Director's Academy provides the bureau's future leaders with pre-supervisory leadership training.
- The TBI Citizens' Academy was designed to provide the public with a better understanding and awareness of the bureau through a hands-on approach.
- The TBI Peer Support Services program trains and allows bureau staff to obtain certification in critical incident stress debriefing, which allows them to provide intervention services to bureau staff who experience an event that overwhelms their usual effective coping abilities.[22] The bureau partnered with the Tennessee Public Safety Network to create this program.

The bureau's business unit code in Edison is 348.00.

[22] For more information on the program, see http://tennesseepublicsafetynetwork.com/critical_incident_stress_debriefings.html.

APPENDIX 4
Tennessee Bureau of Investigation Organizational Chart
February 2020



SAC – Special Agent in Charge
ASAC – Assistant Special Agent in Charge
Source: Tennessee Bureau of Investigation management.

APPENDIX 5
Audit Methodologies

BUREAU MANAGEMENT OVERSIGHT

To gain an understanding of and to document management's process for preparing the risk assessment, we interviewed the Director and the Internal Audit Director. We reviewed the Tennessee Bureau of Investigation's 2019 risk assessment and the risks management identified for the prior audit findings and the current audit objectives.

We obtained and reviewed the bureau's written policies and standard operating procedures that were relevant to our audit objectives. We performed interviews and walkthroughs, and observed staff performing their job duties. For each audit area, we inspected documentation as part of our testwork. We compared the results of our audit work to our expectations based on the written policies and procedures and our understanding of management's processes. Our objectives and testwork in each area are described in further detail in the applicable sections of our report.

DRUG OFFENDER REGISTRY

To assess management's design, implementation, and operating effectiveness of internal control as it relates to audit objectives 1 through 4, we interviewed management to obtain an understanding of relevant internal controls and performed walkthroughs, reviews of relevant policies and procedures, and testwork of management's control activities.

To determine whether management's procedures were sufficient to accurately maintain the registry, and to ensure that offenders were appropriately deleted from the state and national registries, we obtained and reviewed the *Drug Offender Registry Standard Operating Procedures and Reference Manual* (SOPs Manual) and applicable registry law; interviewed key bureau personnel; and performed walkthroughs of the control procedures.

We also obtained a list of new offenders' judgments from the registry for the period August 1, 2018, through January 22, 2020. To determine whether the registry's information matched the qualifying judgments provided by the court clerks, we tested a nonstatistical, random sample of 25 judgments from a population of 10,160 judgments. We also tested a nonstatistical, haphazard sample of 25 qualifying judgments from the paper files to determine whether the information on the judgment sheets matched the information in the registry. We tested all 50 judgments for compliance with *Tennessee Code Annotated* and the SOPs Manual and to determine whether court clerks submitted qualifying judgments to the bureau within 45 days, as required by Section 39-17-436(d), *Tennessee Code Annotated*.

We obtained and analyzed the monthly summary reports from January 1, 2018, through February 29, 2020, to determine whether court clerks submitted qualifying judgments to the bureau as required by Section 39-17-436(d), *Tennessee Code Annotated*.

We obtained a list of offenders deleted from the registry for the period August 1, 2018, through January 22, 2020. To determine whether staff properly deleted the offenders and

maintained deletion documentation, we selected a nonstatistical, random sample of 10 offenders from a population of 538 offenders. We also selected a nonstatistical, haphazard sample of 10 names on the daily deletion report paper files to determine whether the deletion actually occurred.[23] We used the same sample of offenders to test whether the offenders were properly removed from the NPLEx, in accordance with Section 39-17-436(e), *Tennessee Code Annotated*.

SEX OFFENDER REGISTRY

To assess management's design, implementation, and operating effectiveness of internal control as it relates to audit objectives 1, 2, and 3, we interviewed management to obtain an understanding of relevant internal controls, performed walkthroughs, reviewed relevant policies and procedures, and performed testwork of management's control activities.

We reviewed the *Tennessee Sex Offender Registry Standard Operating Procedures Manual,* dated November 30, 2015, and applicable registry laws; interviewed key personnel; and performed walkthroughs of the Criminal Intelligence Unit and the Fiscal Services Unit procedures.

We obtained the Criminal Intelligence Unit's monthly fees reports for 2019 to establish a population of offender administrative fees. From a population of 12,646 offender administrative fees, consisting of 3,798 Board of Parole (BOP) fees and 8,848 other registering agency fees, we selected a nonstatistical, random sample of 18 from BOP and 42 from other registering agencies. We tested this sample of 60 offender administrative fees to determine whether the Fiscal Services Unit followed the standard operating procedures for invoicing registering agencies for the bureau's share of administrative fees, and whether they attempted to follow up on past-due fees with registering agencies and BOP.

From our review of the Sex Offender Registry database and discussions with bureau management and staff, we determined that management could not provide us with complete and reliable fee and/or indigent form data for audit testwork; therefore, we could not expand our audit testwork and concluded based on the testwork we were able to complete.

AIRCRAFT

To assess management's design, implementation, and operating effectiveness of internal control as it relates to audit objectives 1 and 2, we interviewed management to obtain an understanding of relevant internal controls, performed walkthroughs, reviewed relevant policies and procedures, and performed testwork of management's control activities. To obtain an understanding of the procedures for management and staff to use bureau aircraft, we reviewed TBI Written Policy 8-6-006, "TBI Aircraft," and interviewed the Assistant Special Agent in Charge of the Aviation Unit. We also obtained a population of 197 flights recorded on the ZuluLog flight list during the period January 1, 2019, through January 22, 2020. We selected a random sample of 5 logistics flights, 5 investigative operations flights, 5 maintenance flights, and 5 training flights. We reviewed the flight logs, requests, and passenger lists to determine if bureau management used

[23] We originally planned to test 20 offenders that were deleted from the registry, but due to extenuating circumstances we were only able to test 16. We believe our conclusions are still appropriate based on the results of the 16 offenders tested.

the bureau's aircraft in accordance with its policies and procedures.

INFORMATION SYSTEMS

To assess management's design, implementation, and operating effectiveness of internal control, we interviewed management to obtain an understanding of relevant internal controls, performed walkthroughs, reviewed relevant policies and procedures, and performed testwork of management's control activities.

STAFF TURNOVER ANALYSIS

To gain an understanding of turnover trends, we reviewed the bureau's overall turnover rates and analyzed turnover rates by division and job title to find any outliers.