

Arizona Criminal Justice Commission



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The Reporting of Sexual Assault in Arizona, CY 2001-2010

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The Reporting of Sexual Assault in Arizona, CY 2001-2010

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EXECUTIVE SUMMARY

Arizona Revised Statute (A.R.S.) §41-2406, which became law in July 2005, requires the Arizona Criminal Justice Commission (ACJC) to maintain information obtained from disposition reporting forms submitted to the Arizona Department of Public Safety (DPS) on sexual assault (A.R.S. §13-1406) and the false reporting of sexual assault involving a spouse (A.R.S. §13-2907.03). Utilizing DPS disposition data, ACJC is mandated to provide an annual report briefing the governor, the president of the senate, the speaker of the house, the secretary of state, and the director of the Arizona state library, archives, and public records on sexual assault in Arizona. According to statute, the report is to contain the total number of police reports filed, the number of charges filed, the number of convictions, and the sentences assigned for sexual assault, sexual assault involving a spouse, and false reporting of sexual assault involving a spouse separately. All data for sexual assault involving a spouse must include whether or not the victim and the victim's spouse were estranged at the time of the assault. The disposition data come from an extract of the Arizona Computerized Criminal History (ACCH) record system provided by DPS to ACJC in January 2012. By statute, the ACCH repository is populated with arrest and disposition reporting form information for all felony, sex offense, driving under the influence, and domestic violence-related charges submitted to DPS by local law enforcement, prosecuting attorneys, and the courts. This report focuses on data from calendar years (CY) 2001 to 2010 and updates data reported in *The Reporting of Sexual Assault in Arizona, CY2008-2009* report.

Sexual Assault

The sexual assault data included in this report were obtained from the arrest and disposition reports available in the ACCH as of January 2012. Arrest and subsequent disposition data for CY 2010 were given at least one year and no more than two years and one month for entry into the ACCH while CY 2009 and prior records were given two or more years for entry into the ACCH repository. Even though the ACCH contains a significant number of arrests with missing disposition data, the data may be more complete for earlier years. Data for CY 2011 are not included because sufficient time did not transpire (at least 180 days for disposition finalization) for all CY 2011 arrests and subsequent criminal justice system activity to be completed and case disposition information to be submitted to the ACCH.

The total number of arrests involving at least one sexual assault charge decreased from 303 arrests in CY 2001 to 275 in CY 2010, a decrease of 9.2 percent. Although the number of arrests decreased, the total number of sexual assault charges increased during the same time by 16.2 percent from 537 in CY 2001 to 624 in CY 2010. Over the ten-year period, the number of sexual assault charges per arrest increased from 1.8 charges per arrest in CY 2001 to 2.3 in CY 2010. The total number of arrest charges resulting in sexual assault convictions nearly doubled from 96 in CY 2001 to 185 in CY 2009 before dropping to 166 convictions by CY 2010. It is important to note that of all sexual assault charges in the ACCH that occurred during CY 2001 to CY 2010, 23.5 percent had no case disposition information available as of January 2012.

Arrestees for sexual assault were predominately white/Caucasian males. More than 98 percent of arrestees from CY 2001 to CY 2010 were male, and white/Caucasian arrestees ranged between 76.1 percent and 82.2 percent of the total number of sexual assault arrestees. Black

arrestees ranged between 10.8 percent and 15.9 percent of arrestees from CY 2001 to CY 2010, American Indian/Alaskan Native arrestees ranged between 4.8 percent to 8.1 percent, and Asian/Pacific Islander arrestees ranged from 0.3 percent to 1.7 percent of arrestees over the ten-year period. One percent or less of arrestees was part of the unspecified race category over this period.

Irrespective of the arrest charge and the date of arrest, the total number of sexual assault disposition charges finalized for the ACCH increased by 71.8 percent from CY 2001 to CY 2010. With the exception of CY 2009, sexual assault charges were more likely to lead to court dismissals than any other outcome. In CY 2009, the most common outcome of a sexual assault arrest charge was a conviction. Court dismissals made up 41.9 percent of sexual assault disposition charges entered into the ACCH in CY 2001, and the percentage increased to 50.6 percent in CY 2010. Convictions increased from 26.2 percent of all sexual assault disposition charges entered in CY 2001 to 34.0 percent in CY 2010, and acquittals fell from 2.7 percent of sexual assault disposition charges in CY 2001 to 2.3 percent of charges entered in CY 2010. Similarly, charges not filed or referred to prosecution decreased from 27.2 percent in CY 2001 to 12.5 percent of sexual assault disposition charges entered in CY 2010, and pleas to other charges decreased over this same period.

Probation was the most prevalent sentence associated with sexual assault convictions. Probation sentences ranged from 66.7 percent of convictions in CY 2009 to 88.9 percent of convictions in CY 2007. Prison sentences rose from 42.3 percent of sexual assault convictions in CY 2001 to 48.9 percent in CY 2010, and jail sentencing fell from 32.1 percent to 2.9 percent over the same period. Fines fluctuated, but increased, from 6.4 percent to 9.2 percent of all convictions over the ten-year period, and community service sentences increased slightly from 1.3 percent to 1.7 percent, and restitution sentences were first seen associated with a sexual assault conviction in CY 2008 and increased to 1.7 percent by CY 2010. Suspended sentences increased over the study period from 38.5 percent in CY 2001 to 44.3 percent in CY 2010. Finally, a significant percentage of sexual assault convictions resulted in "other" sentences¹, ranging between 23.6 percent up to 62.0 percent over the ten years.

Sexual Assault Involving a Spouse

One of the reporting requirements of A.R.S. §41-2406.C is to identify sexual assault charges involving a spouse. In August 2005, the sexual assault involving a spouse statute (specifically A.R.S. §13-1406.01) was repealed by Senate Bill 1040 from the state statutes. In the absence of a specific statute for sexual assault involving a spouse in Arizona's criminal code, the arrest and disposition reporting forms do not provide the victim and offender relationship information necessary for ACJC to report all of the information outlined by A.R.S. §41-2406.C. Despite the repeal of A.R.S. §13-1406.01 as a criminal code, three cases of sexual assault of a spouse were reported in CY 2007 and CY 2008. No cases were reported in CY 2009 and CY 2010.

From CY 2001 to CY 2005, arrests including at least one charge for sexual assault involving a spouse decreased from 22 in CY 2001 to 18 in CY 2005. Additionally, during this same time the number of arrest charges decreased from 30 to 24. Of the 113 charges for sexual assault

¹ The ACCH repository maintains an "other" variable for disposition agencies to identify whether an additional form of sentencing was imposed.

involving a spouse from CY 2001 to CY 2005, 14 led to convictions for sexual assault involving a spouse. Two resulted in convictions for sexual assault, and seven led to convictions for crimes other than sexual assault. A total of 35 arrest charges were missing case disposition information in the ACCH as of January 2012. All arrestees for sexual assault involving a spouse were male, and more than 84 percent were white/Caucasian from CY 2001 to CY 2005. With the exception of CY 2004, at least 42.9 percent of arrestees were between the ages of 25 and 34.

The number of sexual assault involving a spouse charges with final disposition information was 11 in CY 2001 and increased to 18 in CY 2004 before dropping to zero in CY 2009 after the repeal of A.R.S. §13-1406.01. From CY 2001 to CY 2008, 36 finalized dispositions (50.7 percent) were court dismissals, 17 (23.9 percent) were convictions, and 17 (23.9 percent) were not filed or referred to prosecution. One disposition charge for sexual assault involving a spouse resulted in acquittal in CY 2001.

At least 50 percent of convictions for sexual assault involving a spouse resulted in a probation sentence from CY 2001 to CY 2006. Seven of the 17 convictions from CY 2001 to CY 2006 resulted in a prison sentence, four resulted in a jail sentence, three sentences were for community service, and two included fines. Sentences were suspended for eight convictions, and five convictions resulted in unspecified sentences.

When reporting the charges for sexual assault of a spouse, A.R.S. §41-2406.C mandates that ACJC report whether the victim and offender were estranged at the time of the offense. Except for a general indication of whether an offense involved domestic violence, there is no field on the disposition reporting form that describes the relationship between the victim and the offender or the status of the relationship at the time of the offense. Instead, the arrest information for all sexual assault-related² charges flagged for domestic violence is provided.

The total number of arrests including at least one charge of a sexual assault-related offense flagged for domestic violence increased from 22 in CY 2001 to 29 in CY 2010, and the number of arrest charges increased from 36 in CY 2001 to 54 in CY 2010. Arrest charges that led to sexual assault-related convictions increased from 2 in CY 2001 to 14 in CY 2010. Over the entire ten-year period, 88 (24.5 percent) of the 359 sexual assault-related arrest charges flagged for domestic violence were missing subsequent case disposition information as of January 2012.

Violent Sexual Assault

In order to more completely understand sexual assault in Arizona, this report includes data on violent sexual assault (A.R.S. §13-1423). From CY 2005 to CY 2010, a total of 12 arrests were entered into the ACCH that included at least one violent sexual assault charge. These 12 arrests led to 16 total violent sexual assault charges, and none of the charges resulted in a conviction for violent sexual assault. Three led to convictions for sexual assault, and one resulted in a conviction for a non-sex offense. Five of the 16 total charges did not have subsequent case disposition information available in the ACCH as of January 2012.

² For the purposes of the report, all references to "sexual assault-related" arrest and disposition information includes charges for sexual assault, sexual assault involving a spouse, and violent sexual assault.

All violent sexual assault arrestees were male. Seven of the 12 arrestees were white, two were black, two were American Indian/Alaskan Native, and one was Asian/Pacific Islander. Seven arrestees were between the ages of 35 and 44, two arrestees were 24 and under, two were between the ages of 45 and 59, and one arrestee was between 25 and 34.

When looking at all violent sexual assault disposition charges in the ACCH regardless of the originating arrest charge, a total of seven charges were finalized from CY 2005 to CY 2008. According to the ACCH data, six of the violent sexual assault charges were not filed or referred to prosecutors, and the additional charge was dismissed by the court. No charges resulted in a violent sexual assault conviction from CY 2001 to CY 2010.

False Reporting of Sexual Assault Involving a Spouse

In CY 2005, the false reporting of a sexual assault involving a spouse (A.R.S. §13-2907.03) became a part of Arizona's criminal code. Even though false reporting of a sexual assault involving a spouse is now a specific crime in Arizona's criminal code, there were no charges of false reporting of sexual assault involving a spouse in the ACCH repository until CY 2010. One arrest charge for false reporting of sexual assault involving a spouse was reported to DPS in CY 2010, but as of January 2012, no disposition data for the arrest charge has been entered into ACCH. It is important to note that the false reporting charge is a class one misdemeanor, which is not statutorily mandated for inclusion in the ACCH repository, per A.R.S. §41-1750.A.1.

Limitations of the Data

Criminal history records in the ACCH continue to experience both improvement and ongoing challenges in record timeliness and completeness. For example, the percentage of annual arrest counts with disposition information in the ACCH by the end of the following calendar year improved from 57.4 percent of the total number of CY 2005 arrest counts in the ACCH by the end of CY 2006 to 65.7 percent of CY 2009 arrest counts entered in the ACCH by December 31, 2010³. Despite the improvement, more than 34 percent of the arrest counts from CY2009 were missing disposition data in the ACCH at least one year after the arrest. ACJC, in conjunction with many state and local agencies throughout Arizona, continues to use National Criminal History Improvement Program (NCHIP) funding and other funding sources to improve the quality of criminal history records. Accurate and complete criminal history record information is important for assessing the functions of Arizona's criminal justice system, but more importantly, it is critical for effective criminal justice decision-making, police officer and public safety, background checks, and firearms purchases.

³ Bileski, Matt. "Timeliness and Completeness of Criminal History Records in Arizona: Fact Sheet." June 2011. <http://www.azcjc.gov/ACJC.Web/Pubs/Home/Timeliness_and_Completeness_of_Criminal_History_Records_in_Arizona.pdf>. April 20, 2012.

INTRODUCTION

A.R.S. §41-2406.B requires the ACJC to report information from disposition forms submitted to the DPS by Arizona criminal justice agencies on sexual assault (A.R.S. §13-1406) and false reporting of sexual assault involving a spouse pursuant to A.R.S. §13-2907.03. The information in this report includes the number of arrest reports and charges, the number and types of charges filed, the charge outcomes including the number of convictions that are obtained, and the types of sentences that result from the convictions. Pursuant to A.R.S. §41-2406.D, ACJC is required to submit an annual report based on this information, the specific contents of which are described in A.R.S. §41-2406.B, to the Governor, the President of the Senate, and the Speaker of the House. Additionally, a copy of the report is to be provided to the Secretary of State and the Director of the Arizona State Library, Archives, and Public Records.

The arrest and disposition reporting forms used by local, county, and state criminal justice agencies to report arrests and subsequent criminal justice system activity to the ACCH do not contain all the information needed to meet the reporting requirements of A.R.S. §41-2406. For example, A.R.S. §13-1406.01, which was the specific offense statute for sexual assault involving a spouse, was removed from the criminal codes in 2005. Further, A.R.S. §13-2907.03, the specific criminal code for false reporting of sexual assault involving a spouse, is an offense for which submission to the criminal history repository is not required according to A.R.S. §41-1750. Additionally, limitations in the timeliness and completeness of records in the Arizona Computerized Criminal History (ACCH) repository present obstacles to the accurate reporting of criminal justice system activity throughout the state of Arizona.

Although limitations exist in providing a complete and accurate report of sexual assault arrests, including arrests for false reporting of sexual assault involving a spouse, and subsequent criminal justice system activity, ACJC provides the information that is available on the number of arrests including sexual assault-related charges, the number of arrest charges by offense type, the number and type of disposition outcomes including convictions obtained, and the sentences imposed on convicted sexual assault-related offenders. An enhancement to the previous sexual assault report is the addition of arrests for violent sexual assault and subsequent case disposition information.

Reporting Requirements

A.R.S. §41-2406.B requires DPS to provide to ACJC “each applicable disposition reporting form relating to sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section §13-2907.03...” In turn, A.R.S. §13-2406.B (1-4) requires ACJC to, “...maintain the following records regarding sexual assaults pursuant to section §13-1406 and false reporting of sexual assault pursuant to section §13-2907.03 that are submitted to the commission by the department of public safety: 1) The number of police reports that are filed; 2) The number of charges that are filed and what charges are filed; 3) The number of convictions that are obtained; 4) The sentences that are imposed for each conviction.”

A.R.S. §41-2406 goes on to state that:

“...the records shall identify the total number of police reports, charges, convictions and sentences for all sexual assaults and the number of police reports, charges,

convictions and sentences for those sexual assaults that involved a spouse. For those sexual assaults that involved a spouse, the report shall identify whether the victim and the victim's spouse were estranged. The records shall also identify the total number of police reports, charges, convictions and sentences for all false reports that relate to sexual assault of a spouse pursuant to section §13-2907.03."

Building on the previous year's report, this report contains all available ACCH data on law enforcement arrest and charge information, disposition charge outcomes, convictions, and sentencing information for sexual assault-related offenses and the false reporting of sexual assault of a spouse that occurred from CY 2001 to CY 2010. The information in the ACCH replicates the information from the arrest and disposition reporting forms submitted by law enforcement, prosecutors, and the courts. The ACCH data used for this report were extracted by DPS at the beginning of January 2012.

SEXUAL ASSAULT-RELATED DATA, CY 2001-2010

This report summarizes the sexual assault-related arrest and disposition data in the ACCH associated with CY 2001 to CY 2010 arrests. The CY 2008 and CY 2009 data in this report update the data published in the 2009 report.⁴ The data provided to ACJC was extracted from the ACCH in January 2012, giving all CY 2010 and prior arrest counts a disposition processing time of at least twelve months from the arrest date. The data in this report include information that was entered into the ACCH as of January 2012.

Sexual Assault Arrests

According to the ACCH data, the total number of arrests involving at least one count of sexual assault (i.e., violations of A.R.S. §13-1406) fluctuated from year-to-year, but overall decreased, from 303 arrests in CY 2001 to 275 arrests in CY 2010 (Table 1). Arrest over the ten-year period ranged from a low of 264 in CY 2002 to a high of 328 in CY 2009. Overall, even though arrests decreased, the number of sexual assault arrest charges increased 16.2 percent.

The 281 individuals arrested for sexual assault during CY 2001 were charged with a total of 537 sexual assault charges. In CY 2010, 251 individuals were arrested for 624 sexual assault charges. The average number of charges per arrestee increased from 1.9 charges in CY 2001 to 2.5 charges in CY 2010. Over the ten-year period, the total number of sexual assault arrest charges leading to sexual assault convictions increased by 72.9 percent. In CY 2010, 166 of the 624 arrest charges for sexual assault led to convictions for the original charge of sexual assault. The remaining 19 convictions recorded were for sexual abuse, aggravated assault, kidnapping, sexual conduct with a minor, and child or vulnerable adult abuse. The percentage of sexual assault charges leading to sexual assault convictions was greatest in CY 2007 at 30.4 percent and lowest in CY 2001 at 17.9 percent.

The total number and percentage of sexual assault arrest charges missing subsequent case disposition information is also available in Table 1. In CY 2001, a total of 120 (22.3 percent) sexual assault arrest charges were missing disposition information. The total and percentage fluctuated through CY 2006 before dropping to a total of 83 (15.4 percent) by CY 2007. From CY 2008 to CY 2010, the total and percentage increased to 179 (28.7 percent). One plausible explanation for the increase in missing disposition data in the later years is that many court cases were not given the length of time for final case completion as afforded for cases in prior years. Thus, it is not necessarily surprising that the completion percentages are higher during the earlier years.

Uniform Crime Reporting Program

According to the latest Uniform Crime Reporting (UCR) statistics released by the Federal Bureau of Investigation, the number of forcible rapes reported to law enforcement in Arizona rose by 42.6 percent from CY 2001 to CY 2010.

A portion of the sexual assaults that occur in Arizona are reported as forcible rape to the UCR program. The increase in forcible rape reported in Arizona from CY 2001 to CY 2010 may partially explain the 16.2 percent increase in the number of sexual assault arrest charges reported in the ACCH repository over the same period.

⁴ Bileski, Matthew and Phillip Stevenson. "The Reporting of Sexual Assault in Arizona, CY 2008-2009." April 2011. <http://www.azcjc.gov/ACJC.Web/Pubs/Home/The_Reporting_of_Sexual_Assault_in_Arizona_CY2008-2009.pdf> April 13, 2012.

**Table 1. A.R.S. §13-1406 Sexual Assault Arrests
CY 2001-2010**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Sexual Assault Arrests	303	264	316	297	316	305	274	283	328	275
Sexual Assault Arrest Charges	537	435	610	509	662	569	540	522	735	624
Sexual Assault Arrest Charges Leading to Sexual Assault Convictions*	96	91	141	111	153	139	164	122	185	166
Sexual Assault Arrest Charges Leading to Sexual Assault Involving a Spouse Convictions	0	0	0	2	0	0	0	0	0	0
Sexual Assault Arrest Charges Leading to Convictions Not Related to Sexual Assault	18 ^a	20 ^b	14 ^c	18 ^d	24 ^e	22 ^f	26 ^g	13 ^h	16 ⁱ	19 ^j
Sexual Assault Arrest Charges Not Disposed in the ACCH (as of January 4, 2012)	120 (22.3%)	117 (26.9%)	133 (21.8%)	145 (28.5%)	134 (20.2%)	127 (22.3%)	83 (15.4%)	121 (23.2%)	189 (25.7%)	179 (28.7%)

- * One conviction in 2001 was overturned in the court appeals process while one 2007 conviction was reversed and remanded.
- ^a Eighteen 2001 arrest counts led to convictions for aggravated assault (4), sexual abuse (4), sexual conduct with a minor (4), kidnapping (3), indecent exposure, contributing to delinquency and dependency, and sex offender registration violation.
- ^b Twenty 2002 arrest counts led to convictions for aggravated assault (6), sexual abuse (6), molestation of a child (3), child or vulnerable adult abuse (2), indecent exposure, sexual conduct with a minor, and contributing to delinquency and dependency.
- ^c Fourteen 2003 arrest counts led to convictions for sexual conduct with a minor (6), aggravated assault (3), sexual abuse (3), unlawful imprisonment, and molestation of a child.
- ^d Eighteen 2004 arrest counts led to convictions for sexual abuse (9), aggravated assault (3), assault, unlawful imprisonment, sexual conduct with a minor, adultery, aggravated harassment, and bigamy.
- ^e Twenty-four 2005 arrest counts led to convictions for sexual abuse (9), aggravated assault (6), sexual conduct with a minor (5), assault (2), public sexual indecency, and molestation of a child.
- ^f Twenty-two 2006 arrest counts led to convictions for aggravated assault (7), sexual abuse (6), sexual conduct with a minor (3), kidnapping (2), molestation of a child (2), 2nd degree failure to appear, and a prescription-only drug offense.
- ^g Twenty-six 2007 arrest counts led to convictions for aggravated assault (8), sexual conduct with a minor (6), sexual abuse (5), child or vulnerable adult abuse (3), kidnapping (2), assault, and 1st degree criminal trespass.
- ^h Thirteen 2008 arrest counts led to convictions for sexual abuse (5), kidnapping (3), aggravated assault, sexual conduct with a minor, molestation of a child, disorderly conduct, and child or vulnerable adult abuse.
- ⁱ Sixteen 2009 arrest counts led to convictions for sexual conduct with a minor (7), aggravated assault (4), sexual abuse (2), kidnapping, molestation of a child, and child or vulnerable adult abuse.
- ^j Nineteen 2010 arrest counts led to convictions for sexual abuse (10), aggravated assault (6), kidnapping, sexual conduct with a minor, and child or vulnerable adult abuse.

Sexual Assault Involving a Spouse Arrests

From CY 2001 to CY 2005, the total number of arrests and charges for sexual assault involving a spouse fell by 18.2 percent and 20.0 percent, respectively (Table 2). By CY 2005, there were 18 arrests involving 24 charges for sexual assault involving a spouse, and four led to convictions on the same charge. Two additional convictions were for aggravated assault and sexual abuse. The decrease in arrests and arrest charges really did not affect the total number of sexual assault involving a spouse, which went from three in CY 2001 to four in CY 2010.

**Table 2. Arrests for Repealed A.R.S. §13-1406.01 Sexual Assault Involving a Spouse
CY 2001-2010***

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Sexual Assault Involving a Spouse Arrests	22	14	20	11	18	0	2	1	0	0
Sexual Assault Involving a Spouse Arrest Charges	30	17	22	20	24	0	2	1	0	0
Sexual Assault Involving a Spouse Arrest Charges Leading to Sexual Assault Involving a Spouse Convictions	3	1	4	2	4	N/A	0	0	N/A	N/A
Sexual Assault Involving a Spouse Arrest Charges Leading to Sexual Assault Convictions	0	0	1	1	0	N/A	0	0	N/A	N/A
Sexual Assault Involving a Spouse Arrest Charges Leading to Convictions Not Related to Sexual Assault	2 ^a	0	2 ^b	1 ^c	2 ^d	N/A	0	0	N/A	N/A
Sexual Assault Involving a Spouse Arrest Charges Not Disposed in the ACCH (as of January 4, 2012)	13 (43.3%)	8 (47.1%)	1 (4.5%)	6 (30.0%)	7 (29.2%)	N/A	0 (0.0%)	0 (0.0%)	N/A	N/A

* Sexual assault involving a spouse (formerly A.R.S. §13-1406.01) was repealed from state statutes on August 11, 2005.

^a Two A.R.S. §13-1406.01 arrest counts led to assault convictions in 2001.

^b Two A.R.S. §13-1406.01 arrest counts led to one unlawful imprisonment conviction and one sexual abuse conviction in 2003.

^c One A.R.S. §13-1406.01 arrest count led to a deferred sentencing outcome for assault in 2004.

^d Two A.R.S. §13-1406.01 arrest counts led to one aggravated assault conviction and one sexual abuse conviction in 2005.

The total number and percentage of sexual assault involving a spouse arrest charges with missing disposition information fell from 13 (43.3 percent) in CY 2001 to seven (29.2 percent) in CY 2005. Only one arrest count in CY 2003 was missing disposition data when the extract was pulled in 2012.

As of 2006, the Arizona Revised Statutes no longer included a specific charge for sexual assault involving a spouse. Thus, the most current data is not available in the ACCH on sexual assaults involving a spouse. Despite the absence of a current statute, two CY 2007 arrest charges and one CY 2008 arrest charge were entered into ACCH using the repealed statute citation for sexual assault involving a spouse. All sexual assault-related arrest and disposition data include the CY 2007 and CY 2008 charges for sexual assault involving a spouse.

Violent Sexual Assault Arrests

Although introduced into state statute as a criminal code in 1999, no violent sexual assault arrests (i.e., A.R.S. §13-1423) were submitted to the ACCH until CY 2005. In CY 2005, four

arrests were made involving a total of six violent sexual assault arrest charges. These totals were lower during the subsequent five years, and in CY 2010, two arrests were made that included three total violent sexual assault charges. None of the violent sexual assault arrest charges from CY 2005 to CY 2010 led to a conviction for violent sexual assault. One arrest charge in CY 2005 and two in CY 2010 resulted in sexual assault convictions. One arrest charge in CY 2005 also resulted in a conviction for molestation of a child.

**Table 3. A.R.S. §13-1423 Violent Sexual Assault Arrests
CY 2001-2010**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Violent Sexual Assault Arrests	0	0	0	0	4	1	2	2	1	2
Violent Sexual Assault Arrest Charges	0	0	0	0	6	1	2	3	1	3
Violent Sexual Assault Arrest Charges Leading to Violent Sexual Assault Convictions	N/A	N/A	N/A	N/A	0	0	0	0	0	0
Violent Sexual Assault Arrest Charges Leading to Sexual Assault Convictions	N/A	N/A	N/A	N/A	1	0	0	0	0	2
Violent Sexual Assault Arrest Charges Leading to Convictions Not Related to Sexual Assault	N/A	N/A	N/A	N/A	1 ^a	0	0	0	0	0
Sexual Assault Arrest Charges Not Disposed in the ACCH (as of January 4, 2012)	N/A	N/A	N/A	N/A	2 (33.3%)	0 (0.0%)	1 (50.0%)	0 (0.0%)	1 (100.0%)	1 (33.3%)

^a One violent sexual assault arrest count led to a conviction charge for molestation of a child in 2005.

Of the 16 total violent sexual assault arrest charges reported to the ACCH from CY 2005 to CY 2010, five (31.3 percent) were missing subsequent case disposition information as of January 2012.

False Reporting of Sexual Assault Involving a Spouse

During CY 2010, there was one arrest charge for false reporting of sexual assault involving a spouse, and the subsequent case disposition information for the charge was not present in the ACCH as of January 2012. Prior to CY 2010, there were no reported arrest charges for false reporting of sexual assault involving a spouse. The charge of false reporting of sexual assault involving a spouse (A.R.S. §13-2907.03) is a class one misdemeanor and A.R.S. §41-1750.A.1 does not require this misdemeanor offense to be entered into the ACCH repository. Therefore, the absence of arrest or disposition information on false reporting of a sexual assault involving a spouse in the ACCH does not necessarily reflect that no arrests for this offense took place during the ten-year reporting period.

Sexual Assault-Related Arrests Involving Domestic Violence

In order to better understand the criminal justice processing of sexual assault cases that occur in the context of a domestic relationship, this section reviews sexual assault arrests that were flagged for domestic violence. Domestic violence is not an official statutory offense; rather, an offender is charged with an eligible domestic violence offense (e.g., sexual assault, aggravated assault, etc.), and the arrest record is flagged for domestic violence. The domestic violence flag subsequently impacts the court's decision at sentencing. It is important to note that Arizona, like other states, defines domestic offenses as those that occur in many relationship contexts, including marriage, but also dating, familial, and co-habiting relationships.⁵

The total number of arrests involving at least one sexual assault-related arrest charge flagged for domestic violence increased from 22 in CY 2001 to 29 in CY 2010 (Table 4). The total number of sexual assault-related charges flagged for domestic violence also increased from 36 in CY 2001 to 54 in CY 2010. The number of charges per arrest increased from 1.6 in CY 2001 to 1.9 in CY 2010.

**Table 4. Sexual Assault-Related Arrests Flagged for Domestic Violence
CY 2001-2010**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Sexual Assault-Related Arrests Flagged for Domestic Violence	22	22	18	19	25	20	27	29	34	29
Sexual Assault-Related Arrest Charges Flagged for Domestic Violence	36	27	27	27	30	32	33	39	54	54
Number of Arrest Charges Flagged for Domestic Violence that Led to Sexual Assault-Related Convictions	2	1	7	3	8	6	6	7	7	14
Number of Arrest Charges Flagged for Domestic Violence that Led to Convictions Not Related to Sexual Assault	2 ^a	3 ^b	2 ^c	0	2 ^d	2 ^e	3 ^f	1 ^g	1 ^h	0
Sexual Assault Arrest Charges Flagged for Domestic Violence and Not Disposed in the ACCH <i>(as of January 4, 2012)</i>	13 (36.1%)	6 (22.2%)	3 (11.1%)	4 (14.8%)	4 (13.3%)	4 (12.5%)	5 (15.2%)	11 (28.2%)	17 (31.5%)	21 (38.9%)

^a Two arrest counts led to assault convictions in 2001.

^b Three arrest counts led to two aggravated assault convictions and one sexual abuse conviction in 2002.

^c Two arrest counts led to one sexual conduct with a minor conviction and one molestation of a child conviction in 2003.

^d Two arrest counts led to aggravated assault convictions in 2005.

^e Two arrest counts led to kidnapping convictions in 2006.

^f Three arrest counts led to an aggravated assault conviction, a kidnapping conviction, and a sexual abuse conviction in 2007.

^g One arrest count led to a kidnapping conviction in 2008.

^h One arrest count led to a conviction for molestation of a child in 2009.

⁵ See *A.R.S. 13-3601* in the Appendix section for Arizona's definition of domestic violence.

The total number of sexual assault-related arrest charges flagged for domestic violence that led to sexual assault-related convictions increased from two in CY 2001 to seven in both CY 2008 and CY 2009 before doubling to a ten-year high of 14 in CY 2010. Over the ten-year period, sixteen arrest charges resulted in convictions for assault, aggravated assault, sexual conduct with a minor, molestation of a child, kidnapping, and sexual abuse.

In CY 2001, a total of 13 arrest counts (36.1 percent) for sexual assault in the context of a domestic relationship were missing final case disposition information in the ACCH as of January 2012. The number of arrest counts fell to four from CY 2004 to CY 2006 before increasing to 21 missing dispositions (38.9 percent) in CY 2010. Again, this increase in the later years may be due to the limited time allowed for disposition completion compared to earlier years.

Sexual Assault and Violent Sexual Assault Offender Characteristics

Data was also compiled on the gender, race, and age group of sexual assault, sexual assault involving a spouse, and violent sexual assault arrestees from CY 2001 to CY 2010 (Tables 5, 6, and 7). According to the arrest data available in the ACCH, an overwhelming majority of arrestees were male over the entire ten-year period. More than 98 percent of sexual assault arrestees were male during each year of the study period (Table 5).

The Federal Bureau of Investigation reporting guidelines require states to collect information on race according to the following categories: white/Caucasian, black, American Indian/Alaskan Native, Asian/Pacific Islander, and unknown. Guidance is provided to states to record individuals of Latino ethnicity within an available racial category that best represents the arrestee. In other words, the data in the ACCH does not provide detail regarding the ethnicity of arrestees.

Table 5. Demographics of Individuals Arrested for Sexual Assault CY 2001-2010										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<i>Gender</i>										
Male	98.2%	99.2%	99.0%	98.9%	99.0%	99.3%	99.6%	100.0%	99.4%	99.6%
Female	1.8%	0.8%	1.0%	1.1%	1.0%	0.7%	0.4%	0.0%	0.6%	0.4%
<i>Race</i>										
White/Caucasian	81.1%	79.8%	80.2%	78.8%	77.3%	79.0%	76.1%	79.9%	82.2%	77.3%
Black	12.8%	11.6%	11.7%	13.7%	13.7%	13.4%	14.7%	13.4%	10.8%	15.9%
Asian/Pacific Islander	1.1%	0.8%	1.3%	1.1%	0.3%	1.7%	1.2%	1.1%	0.6%	1.2%
American Indian/Alaskan Native	5.0%	7.4%	6.4%	6.1%	7.7%	4.8%	8.1%	5.6%	5.7%	5.6%
Unknown	0.0%	0.4%	0.3%	0.4%	1.0%	1.0%	0.0%	0.0%	0.6%	0.0%
<i>Age at Arrest</i>										
24 and Under	32.0%	33.3%	32.6%	34.5%	33.4%	34.8%	34.4%	34.3%	27.7%	28.3%
25-34	29.9%	31.4%	33.9%	34.2%	31.8%	30.3%	32.8%	28.0%	31.5%	27.5%
35-44	24.6%	23.6%	19.1%	21.2%	21.1%	17.2%	18.5%	16.8%	25.2%	25.9%
45-59	11.7%	9.3%	11.7%	10.1%	11.7%	15.5%	12.0%	19.0%	13.7%	15.1%
60 and Older	1.8%	2.3%	2.7%	0.0%	2.0%	2.1%	2.3%	1.9%	1.9%	3.2%
Total Individuals Arrested	281	258	298	278	299	290	259	268	314	251

White/Caucasian sexual assault arrestees made up between 76.1 and 82.2 percent of all sexual assault arrestees from CY 2001 to CY 2010 (Table 5). Black arrestees ranged from 10.8 percent in CY 2009 to 15.9 percent in CY 2010. American Indian/Alaskan Natives ranged from a low of 4.8 percent of arrestees in 2006 to a high of 8.1 percent in CY 2007. Asian/Pacific Islanders ranged from a low of 0.3 percent of arrestees in 2005 to a high of 1.7 percent in CY 2006, and each year 1.0 percent or less of arrestees were of “unknown” race.

With the exception of CY 2003 and CY 2009, the largest percentages of sexual assault arrestees were 24 years old and under, ranging from 27.7 percent to 34.8 percent of arrestees each year. The next highest percentages of arrestees were individuals 25 to 34 years old. Approximately half of arrestees were 34 years old or younger each year--arrestees older than 35 years of age never made up more than 44.2 percent of the total number of sexual assault arrestees.

When looking at arrestees for at least one charge of sexual assault involving a spouse, all individuals arrested for this offense were male (Table 6). In most years, the majority of arrestees were white/Caucasian. Only two arrestees were Asian/Pacific Islander and American Indian/Alaskan Native, both in CY 2001. No arrestees had a reported race of “unknown.”

**Table 6. Demographics of Individuals Arrested for Sexual Assault Involving a Spouse
CY 2001-2010***

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<i>Gender</i>										
Male	100.0%	100.0%	100.0%	100.0%	100.0%	N/A	100.0%	100.0%	N/A	N/A
Female	0.0%	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A
<i>Race</i>										
White/Caucasian	85.7%	84.6%	89.5%	90.9%	88.9%	N/A	50.0%	100.0%	N/A	N/A
Black	4.8%	15.4%	10.5%	9.1%	11.1%	N/A	50.0%	0.0%	N/A	N/A
Asian/Pacific Islander	4.8%	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A
American Indian/Alaskan Native	4.8%	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A
Unknown	0.0%	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A
<i>Age at Arrest</i>										
24 and Under	9.5%	7.7%	0.0%	9.1%	11.1%	N/A	0.0%	0.0%	N/A	N/A
25-34	42.9%	46.2%	63.2%	27.3%	50.0%	N/A	50.0%	0.0%	N/A	N/A
35-44	33.3%	15.4%	31.6%	27.3%	38.9%	N/A	50.0%	0.0%	N/A	N/A
45-59	14.3%	30.8%	5.3%	36.4%	0.0%	N/A	0.0%	100.0%	N/A	N/A
60 and Older	0.0%	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A
Total Individuals Arrested	21	13	19	11	18	0	2	1	0	0

* Sexual assault involving a spouse (formerly A.R.S. §13-1406.01) was repealed from state statutes on August 11, 2005.

During the time period examined, males who were 25 to 34 years of age at the time of arrest comprised the largest percentage of arrestees for sexual assault involving a spouse, except for CY 2004 and CY 2008 (Table 6). In CY 2004 and CY 2008 the highest percentage of arrestees by age were 45 to 59 years of age. The 24 and under age range reported significantly lower percentages, and the 60 and older age range did not account for any arrestees for sexual assault involving a spouse. The total number of arrestees dropped after CY 2005 because the sexual assault involving a spouse statute was repealed during that year.

Looking at individuals arrested for at least one charge of violent sexual assault from CY 2005 to CY 2010, all arrestees were male. The majority of arrestees (58.3 percent) over the six-year period were white/Caucasian, two (16.7 percent) were black, two (16.7 percent) were American Indian/Alaskan Native, and one was Asian/Pacific Islander.

**Table 7. Demographics of Individuals Arrested for Violent Sexual Assault
CY 2001-2010**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<i>Gender</i>										
Male	N/A	N/A	N/A	N/A	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Female	N/A	N/A	N/A	N/A	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<i>Race</i>										
White/Caucasian	N/A	N/A	N/A	N/A	75.0%	0.0%	50.0%	50.0%	100.0%	50.0%
Black	N/A	N/A	N/A	N/A	25.0%	0.0%	0.0%	0.0%	0.0%	50.0%
Asian/Pacific Islander	N/A	N/A	N/A	N/A	0.0%	100.0%	0.0%	0.0%	0.0%	0.0%
American Indian/Alaskan Native	N/A	N/A	N/A	N/A	0.0%	0.0%	50.0%	50.0%	0.0%	0.0%
Unknown	N/A	N/A	N/A	N/A	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<i>Age at Arrest</i>										
24 and Under	N/A	N/A	N/A	N/A	25.0%	100.0%	0.0%	0.0%	0.0%	0.0%
25-34	N/A	N/A	N/A	N/A	0.0%	0.0%	0.0%	50.0%	0.0%	0.0%
35-44	N/A	N/A	N/A	N/A	75.0%	0.0%	0.0%	50.0%	100.0%	100.0%
45-59	N/A	N/A	N/A	N/A	0.0%	0.0%	100.0%	0.0%	0.0%	0.0%
60 and Older	N/A	N/A	N/A	N/A	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total Individuals Arrested	0	0	0	0	4	1	2	2	1	2

The largest percentage (58.3 percent) of violent sexual assault arrestees from CY 2005 to CY 2010 were between the ages of 35 and 44. Both the 24 and younger and the 45 to 59 year old age groups each made up 16.7 percent of all arrestees over the six-year period. One arrestee was between the ages of 25 and 34 in CY 2008.

From CY 2001 to CY 2004, there were no violent sexual assault arrest charges reported to the ACCH repository. The violent sexual assault criminal code has existed in the Arizona Revised Statutes since 1999, despite no arrest charges present in the ACCH until 2005.

Sexual Assault and Violent Sexual Assault Dispositions, Convictions, and Sentencing

The following section summarizes sexual assault-related disposition, conviction and sentencing data associated with arrests available in the ACCH. Criminal history records were extracted from the ACCH in January 2012 giving the more recent records less time than earlier records for completion of the case and submission of disposition information.⁶ The sexual assault-related disposition charges reported in this section do not necessarily result from the sexual assault-related arrest charges reported in the previous sections. The sexual assault dispositions may have resulted from an arrest for any violation of the criminal code available in state statutes.

⁶ Percentages of missing disposition information are available in Tables 1, 2, 3 and 4.

**Table 8. Sexual Assault Disposition Charges by Outcome
CY 2001-2010**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Dismissed by the Court	125	172	148	223	133	219	159	203	188	259
Not Filed/Not Referred	81	82	83	58	103	91	68	110	78	64
Acquitted/Not Guilty	8	11	1	4	16	11	16	14	25	12
Plea to Other Charges	6	4	5	2	1	1	9	2	4	3
Conviction*	78	119	76	108	120	122	108	151	213	174
Total Submitted to ACCH	298	388	313	395	373	444	360	480	508	512

* One conviction was later overturned in 2004 while another conviction was reversed and remanded in 2007.

From CY 2001 to CY 2010, the total number of sexual assault disposition charges dismissed by the court increased from 125 to 259, a 107.2 percent increase (Table 8). Charges not filed or not referred decreased by 21.0 percent from 81 in CY 2001 to 64 in CY 2010. Acquittals fluctuated, but increased overall from eight in CY 2001 to 12 in CY 2010, and pleas to other charges decreased from 6 in CY 2001 to 3 in CY 2010.

Convictions for sexual assault also increased over the ten-year period from 78 in CY 2001 to 174 in CY 2010. The increase in the number of convictions for sexual assault during this time (123.1 percent) was the largest percent change over time of all disposition outcomes; however, court dismissals constituted more than 50 percent of all charge outcomes for sexual assault in CY 2010. Convictions made up 34.0 percent of all sexual assault charge outcomes during CY 2010.

**Table 9. Percentage of Sexual Assault Convictions by Sentence Type(s)
CY 2001-2010**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Fines	6.4%	1.7%	2.6%	9.3%	5.8%	4.9%	3.7%	4.0%	3.3%	9.2%
Probation	85.9%	70.6%	82.9%	79.6%	75.8%	83.6%	88.9%	78.1%	66.7%	77.0%
Jail	32.1%	5.9%	9.2%	11.1%	7.5%	5.7%	6.5%	2.6%	4.7%	2.9%
Prison	42.3%	63.9%	43.4%	50.0%	53.3%	45.1%	41.7%	49.7%	56.3%	48.9%
Community Service	1.3%	6.7%	1.3%	1.9%	4.2%	1.6%	0.9%	1.3%	0.5%	1.7%
Restitution	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	2.3%	1.7%
Suspended Sentence	38.5%	25.2%	48.7%	31.5%	32.5%	49.2%	46.3%	45.7%	39.9%	44.3%
Other Sentence	56.4%	37.0%	57.9%	62.0%	31.7%	47.5%	42.6%	29.8%	31.5%	23.6%

When looking at the sentences associated with sexual assault convictions, it is important to point out that the sentence information is not mutually exclusive. In other words, the sentencing information contained in the ACCH may include multiple sanctions imposed on a single conviction for sexual assault.

During the time period examined, at least two-thirds of sexual assault convictions led to probation sentences (Table 9). Sexual assault convictions leading to a probation sentence ranged from a high of 88.9 percent of convictions in CY 2007 to a low of 66.7 percent in 2009. Prison sentences ranged between 41.7 percent of convictions in CY 2007 to 63.9 percent in CY 2002. Jail sentences ranged between 2.6 percent of convictions in CY 2008 to 32.1 percent of convictions in CY 2001.

The imposition of other sentence types on individuals convicted of sexual assault increased during the time period examined. The percentage of convictions for which the offender was given a fine rose from 6.4 percent in CY 2001 to 9.2 percent in CY 2010. Community service sentences increased from 1.3 percent to 1.7 percent during the ten-year period, and restitution sentences were not used until CY 2008 and reached 1.7 percent of convictions in CY 2010. Finally, suspended sentencing occurred in 38.5 percent of sexual assault convictions during CY 2001, with the percentage increasing to 44.3 percent in CY 2010.

Sentence types that did not fall within the sentencing categories reported above were reported in the "other sentence" category. The percentage of sexual assault convictions assigned other sentences fell from 56.4 percent to 23.6 percent over the ten-year period.

**Table 10. Sexual Assault Involving a Spouse Disposition Charges by Outcome
CY 2001-2010***

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Dismissed by the Court	2	5	3	14	5	6	0	1	N/A	N/A
Not Filed/Not Referred	5	5	3	1	1	0	1	1	N/A	N/A
Acquitted/Not Guilty	1	0	0	0	0	0	0	0	N/A	N/A
Plea to Other Charges	0	0	0	0	0	0	0	0	N/A	N/A
Conviction	3	1	5	3	2	3	0	0	N/A	N/A
Total Submitted to ACCH	11	11	11	18	8	9	1	2	0	0

* Sexual assault involving a spouse (formerly A.R.S. §13-1406.01) was repealed from state statutes on August 11, 2005.

A total of 71 dispositions for sexual assault involving a spouse cases were entered into the ACCH from CY 2001 to CY 2008 (Table 10). Approximately 50 percent of the dispositions for sexual assault involving a spouse were a court dismissal (One dismissal occurred in CY 2008, and the charge originated from a sexual assault involving a spouse arrest charge made for an offense committed after the August 11, 2005 repeal date.). Dispositions of charges not filed or not referred for prosecution accounted for 23.9 percent of all charges for sexual assault involving a spouse. The two no filings/referrals reported in CY 2007 and CY 2008 resulted from offenses that occurred after the statute repeal date. Only one charge resulted in an acquittal in CY 2001, and no pleas to other charges were reported.

Convictions for sexual assault involving a spouse fluctuated from CY 2001 to CY 2006 and constituted 25 percent of the total number of dispositions submitted to the ACCH over that six-year period. No convictions were reported after CY 2006, likely due to the repeal of the sexual assault involving a spouse statute.

Table 11. Percentage of Sexual Assault Involving a Spouse Convictions by Sentence Type(s), CY 2001-2010

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Fines	33.3%	0.0%	0.0%	0.0%	50.0%	0.0%	N/A	N/A	N/A	N/A
Probation	66.7%	100.0%	80.0%	100.0%	50.0%	66.7%	N/A	N/A	N/A	N/A
Jail	33.3%	100.0%	0.0%	33.3%	50.0%	0.0%	N/A	N/A	N/A	N/A
Prison	66.7%	0.0%	60.0%	0.0%	50.0%	33.3%	N/A	N/A	N/A	N/A
Community Service	66.7%	0.0%	0.0%	33.3%	0.0%	0.0%	N/A	N/A	N/A	N/A
Restitution	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	N/A	N/A	N/A	N/A
Suspended Sentence	0.0%	0.0%	40.0%	66.7%	50.0%	33.3%	N/A	N/A	N/A	N/A
Other Sentence	0.0%	0.0%	60.0%	33.3%	50.0%	0.0%	N/A	N/A	N/A	N/A

Looking only at those convictions for sexual assault involving a spouse from CY 2001 to CY 2006, at least half of the convictions each year led to probation sentences (Table 11). In fact, all convictions resulted in a probation sentence during CY 2002 and CY 2004. While a significant percentage of convictions also led to prison sentences during most calendar years, no prison sentences were assigned in CY 2002 and CY 2004. The same can be said of jail sentences with no jail time being assigned during CY 2003 and CY 2006.

Only two convictions for sexual assault involving a spouse led to fines, one in CY 2001 and another in CY 2005. Two convictions in CY 2001 and one in CY 2004 resulted in community service. No convictions led to restitution orders from CY 2001 to CY 2006. Suspended sentencing was not used in CY 2001 and CY 2002, but sentences were suspended in 33.3 percent to 66.7 percent of cases from CY 2003 to CY 2006. Finally, other unspecified sentences were assigned from CY 2003 to CY 2005. During this three-year period, 33.3 percent to 60.0 percent of convictions resulted in unspecified sentences.

A total of seven violent sexual assault disposition charges were submitted to the ACCH from CY 2001 to CY 2010 (Table 12). Six of the charges were not filed by prosecutors or not referred to prosecution. The other violent sexual assault charge resulted in a court dismissal in CY 2007.

Because no violent sexual assault charges led to convictions, sentencing information for violent sexual assault convictions is not included in this report. Despite the absence of conviction data within the ACCH, it is still possible that violent sexual assault disposition charges may have led to convictions in Arizona. In other words, it may be that disposition data on convictions was not present at the time the data was extracted from the ACCH in January 2012.

**Table 12. Violent Sexual Assault Disposition Charges by Outcome
CY 2001-2010**

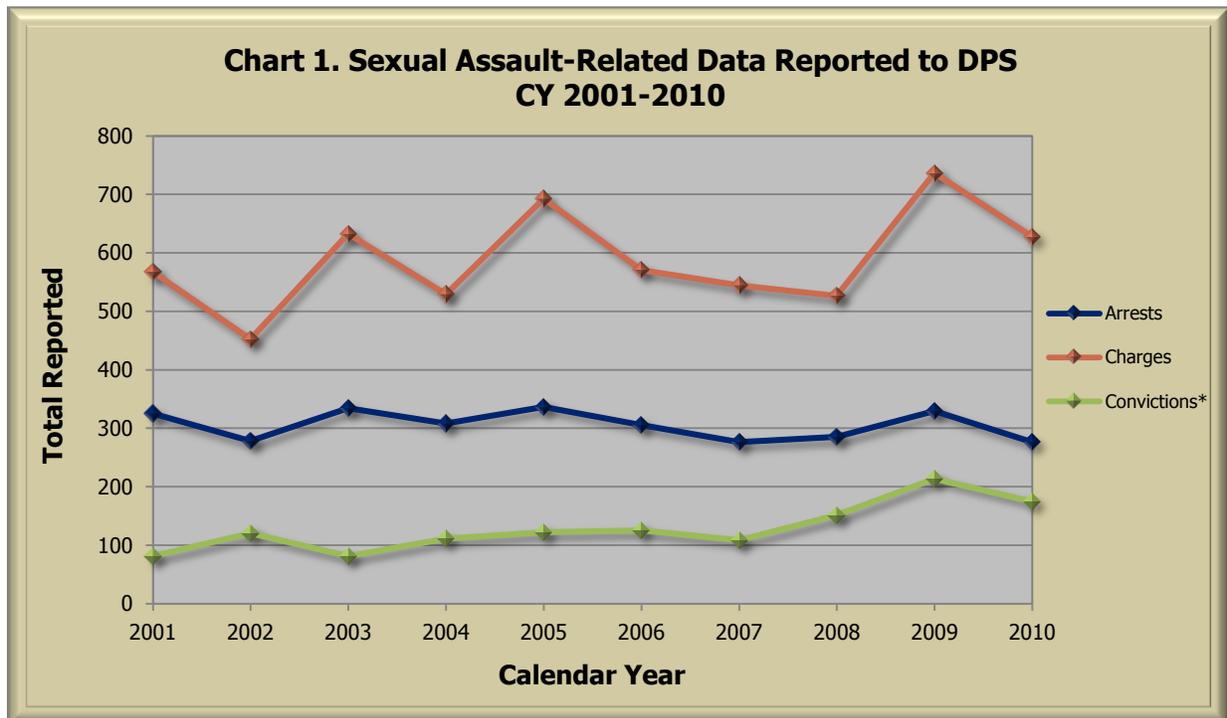
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Dismissed by the Court	N/A	N/A	N/A	N/A	0	0	1	0	N/A	N/A
Not Filed/Not Referred	N/A	N/A	N/A	N/A	2	1	0	3	N/A	N/A
Acquitted/Not Guilty	N/A	N/A	N/A	N/A	0	0	0	0	N/A	N/A
Plea to Other Charges	N/A	N/A	N/A	N/A	0	0	0	0	N/A	N/A
Conviction	N/A	N/A	N/A	N/A	0	0	0	0	N/A	N/A
Total Submitted to ACCH	0	0	0	0	2	1	1	3	0	0

TRENDS IN THE SEXUAL ASSAULT-RELATED DATA, CY 2001-2010

In addition to providing annual data associated with each sexual assault-related arrest charge from CY 2001 to CY 2010, this report includes ten-year trend analysis of sexual assault-related arrest incidents, charges, convictions, and sentence types. All sexual assault-related data reported in the trend analysis incorporates arrests and dispositions for sexual assault, sexual assault involving a spouse, and violent sexual assault. A.R.S. 13-1406.01, which was the statute citation for sexual assault involving a spouse, was repealed in August 2005. Three arrest counts in CY 2007 and CY 2008 were recorded as A.R.S. 13-1406.01 offenses despite the statute repeal. These arrests are included in the trend data that follows.

Sexual Assault-Related Arrests, Charges, and Convictions

Sexual assault-related arrest charges ranged from a low of 452 in CY 2002 to a high of 736 in CY 2009 (Chart 1). Over the entire ten-year period, the total number of sexual assault-related arrest charges increased from 567 in CY 2001 to 627 in CY 2010, an increase of 10.6 percent. Contrary to the number of arrest charges, the total number of arrests involving at least one sexual assault-related charge fluctuated, but decreased, from CY 2001 to CY 2010. In CY 2001, there were 325 arrests that included at least one charge of sexual assault, which then decreased by 15.1 percent to 276 arrests in CY 2010. The average number of sexual assault-related charges per arrest increased over the reporting period from 1.7 charges per arrest in CY 2001 to 2.3 in CY 2010.



* One sexual assault conviction was overturned in 2004 while another conviction was reversed and remanded in 2007.

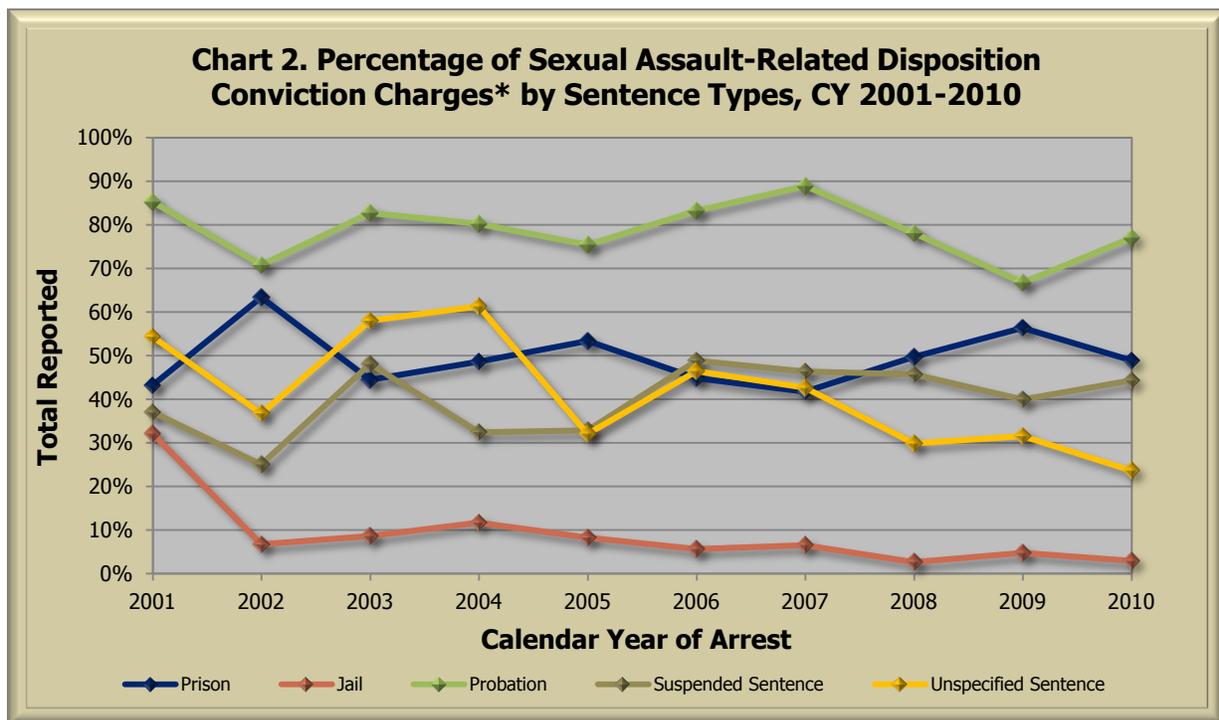
From CY 2001 to CY 2010, the number of convictions for sexual assault-related charges that were finalized for entry into the ACCH increased by 114.8 percent. The total number of convictions in CY 2001 was 81 and increased to 174 convictions in CY 2010. To clarify, the

number of annual convictions represents convictions resulting from arrest charges processed into the ACCH at any time prior to the date of disposition completion, not necessarily for arrest charges made within that same year. One sexual assault conviction was later overturned and another was reversed and remanded. These two convictions are included in the totals.

Sexual Assault-Related Sentencing

The ACCH data contains information about eight different types of sentences. For the trend analysis, only the five most frequently used sentence types (prison, jail, probation, suspended sentencing, and other sentencing) for sexual assault-related convictions are included in the analysis. Each conviction for a sexual assault-related charge may include more than one sentence type. The overturned conviction and the reversed and remanded conviction mentioned above were included in the percentage calculations but did include sentencing information for the original conviction.

Chart 2 shows the ten-year trends for each of the five primary sentences resulting from sexual assault-related convictions. Prison sentences fluctuated from year-to-year, but increased over the entire time period, from 43.2 percent in CY 2001 to 48.9 percent in CY 2010. Jail sentences decreased substantially early in the ten-year period from 32.1 percent in CY 2001 to 6.7 percent in CY 2010, and the percentage dropped further to 2.9 percent in CY 2010. Convictions were most likely to receive a probation sentence, ranging from 66.7 percent of dispositions in CY 2009 to 88.9 percent of all convictions in CY 2007. Sentences were suspended for 37.0 percent of dispositions in CY 2001 and increased to 44.3 percent in CY 2010. Other unspecified sentences fell overall from 54.3 percent in CY 2001 to 23.6 percent in CY 2010. Not included in Chart 2 are fines, community service, and restitution sentencing for sexual assault-related convictions. Data for all eight sentence types are available by offense type in Tables 9 and 11.



* Convictions overturned or reversed and remanded were included in the percentage calculations.

DISCUSSION

According to data in the ACCH, sexual assault-related arrest charges have increased by 10.6 percent from CY 2001 to CY 2010 despite a single-year decrease from 736 charges in CY 2009 to 627 charges in CY 2010. Similarly, arrests involving at least one sexual assault-related charge also decreased from 325 in CY 2001 to 276 in CY 2010. As a result, the average number of sexual assault-related charges per arrest increased from 1.7 charges per arrest in CY 2001 to 2.3 charges per arrest in CY 2010. In addition, the total number of sexual assault-related arrest charges flagged for domestic violence increased over the ten-year period from 36 charges in CY 2001 to 54 in CY 2010.

When looking at arrestees of sexual assault-related charges, the vast majority of arrestees were white males. In CY 2010, 99.2 percent of arrestees were male, and the percentage of white/Caucasian arrestees was 77.1 percent. Arrestees by age group were more evenly distributed with 28.1 percent of arrestees in CY 2010 24 years of age or younger, 27.3 percent between 25 and 34 years old, and 26.5 percent between 35 and 44 years of age. Additionally, 15.0 percent of arrestees in CY 2010 were between the ages of 45 and 59 while 3.2 percent were 60 years of age or older.

With the exception of CY 2009, sexual assault-related disposition charges from CY 2001 to CY 2010 were most likely to result in a court dismissal. In CY 2009, sexual assault-related disposition charges were most likely to result in a conviction. Overall, convictions for sexual assault-related charges increased from 81 in CY 2001 to 174 in CY 2010, an increase of 114.8 percent.

Sentences associated with sexual assault-related convictions were also examined. From CY 2001 to CY 2010, prison sentences for sexual assault-related convictions fluctuated from a low of 41.7 percent in CY 2007 to a high of 63.3 percent in CY 2002. In CY 2010, the percentage of convictions leading to a prison sentence was 48.9 percent. The percentage of convictions leading to a jail sentence started out relatively high in CY 2001 at 32.1 percent of convictions, but dropped significantly in CY 2002 and since then has ranged from 2.6 percent in CY 2008 to 11.7 percent in CY 2004. Probation was assigned in at least two-thirds of convictions over the ten-year period, and in CY 2010, 77.0 percent of convictions resulted in a probation sentence.

Additional sentencing options included fines, community service, restitution, and other unspecified sentences. Fines fluctuated over time, but increased, from 7.4 percent of convictions in CY 2001 to a ten-year high of 9.2 percent in CY 2010. Conversely, community service also fluctuated over time, but decreased, from 3.7 percent of convictions in CY 2001 to 1.7 percent in CY 2010. Restitution was not reported for any convictions until CY 2008, and in CY 2010 the percentage of convictions resulting in a restitution order was 1.7 percent. Finally, the other unspecified sentence category was used for 54.3 percent of convictions in CY 2001 but dropped to a ten-year low of 23.6 percent of convictions in CY 2010.

The percentage of convictions for sexual assault-related offenses where sentences were suspended ranged from 25.0 percent in CY 2002 to a high of 48.8 percent in CY 2006. Overall, the percentage increased from 37.0 percent in CY 2001 to 44.3 percent of convictions in CY 2010.

Data Availability Issues

Utilizing information available from ACCH disposition reporting forms is a promising approach for understanding patterns of criminal offending and the overall performance of the criminal justice system. However, not all of the information necessary to meet the requirements of A.R.S. 41-2406 is currently captured by the ACCH repository. The repealing of A.R.S. 13-1406.01 continues to hamper ACJC's ability to determine when a sexual assault involved a spouse, as required by A.R.S. 41-2406.C. Also mandated in A.R.S. 41-2406.C, the status of the relationship between the victim and offender (i.e., cohabitating, estranged, etc.) is not a specific field on the arrest and disposition reporting forms. The only ACCH field that details the victim/offender relationship is the domestic violence indicator. According to statute, domestic violence is not restricted to instances where the victim and offender are married and can include any of the following:

- The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household;
- The victim and the defendant have a child in common;
- The victim or the defendant is pregnant by the other party;
- The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister, or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law;
- The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant; or
- The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. Factors for consideration are the type and length of the relationship, the frequency of interaction, and the length of time since the relationship was terminated.

Nonetheless, sexual assault-related charges flagged for domestic violence were analyzed in a separate section of this report. The analysis is included to enhance the reader's understanding of sexual assault within the context of domestic relationships.

Further complicating ACJC's ability to report all of the information required by A.R.S. 41-2406.C, specifically the information on false reporting of sexual assault involving a spouse, are the fingerprinting requirements for individuals arrested in Arizona as described in A.R.S. 41-1750. A first charge of false reporting of sexual assault involving a spouse (A.R.S. 13-2907.03) is a class one misdemeanor and is not an offense type that requires fingerprinting and the submission of arrest and subsequent case information to ACCH. In CY 2010, one arrest charge was submitted using the A.R.S. 13-2907.03 criminal code and no subsequent disposition information was available in the extract. Prior to CY 2010, no arrest counts were entered into the ACCH using the A.R.S. 13-2907.03 code.

Data Quality Concerns

Finally, there is significant interest at the local, state, and federal level in improving the quality of information in criminal history record repositories. Ongoing efforts are being made in Arizona

to improve the timeliness, completeness, and overall quality of the criminal history records available through the ACCH repository for law enforcement purposes, for employment background checks, and for qualifying firearms purchases. Unfortunately, a total of 180 sexual assault-related arrest charges reported in CY 2010 were missing subsequent case disposition information as of January 2012. When accounting for the total number of sexual assault-related arrest charges in CY 2010, 28.7 percent of the charges were missing disposition information in the ACCH. Identifying and capturing the missing disposition information would not only improve the quality of ACCH data but also our understanding of sexual assault case processing within Arizona's criminal justice system.

APPENDIX

13-1406. Sexual assault; classification; increased punishment

A. A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.

B. Sexual assault is a class 2 felony, and the person convicted shall be sentenced pursuant to this section and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted. If the victim is under fifteen years of age, sexual assault is punishable pursuant to section 13-705. The presumptive term may be aggravated or mitigated within the range under this section pursuant to section 13-701, subsections C, D and E. If the sexual assault involved the intentional or knowing administration of flunitrazepam, gamma hydroxy butyrate or ketamine hydrochloride without the victim's knowledge, the presumptive, minimum and maximum sentence for the offense shall be increased by three years. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable. The term for a first offense is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
5.25 years	7 years	14 years

The term for a defendant who has one historical prior felony conviction is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
7 years	10.5 years	21 years

The term for a defendant who has two or more historical prior felony convictions is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
14 years	15.75 years	28 years

C. The sentence imposed on a person for a sexual assault shall be consecutive to any other sexual assault sentence imposed on the person at any time.

D. Notwithstanding section 13-703, section 13-704, section 13-705, section 13-706, subsection A and section 13-708, subsection D, if the sexual assault involved the intentional or knowing infliction of serious physical injury, the person may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until at least twenty-five years have been served or the sentence is commuted. If the person was at least eighteen years of age and the victim was twelve years of age or younger, the person shall be sentenced pursuant to section 13-705.

13-2907.03. False reporting of sexual assault involving a spouse; classification

A person who intentionally makes a false report of sexual assault involving a spouse knowing the report is false or a person who coerces another person to make a false report of sexual assault involving a spouse knowing the report is false is guilty of a class 1 misdemeanor.

13-3601. Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure

A. "Domestic violence" means any act that is a dangerous crime against children as defined in section 13-705 or an offense prescribed in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1502, 13-1503, 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
2. The victim and the defendant have a child in common.
3. The victim or the defendant is pregnant by the other party.
4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.
5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.
6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:
 - (a) The type of relationship.
 - (b) The length of the relationship.
 - (c) The frequency of the interaction between the victim and the defendant.
 - (d) If the relationship has terminated, the length of time since the termination.

B. A peace officer, with or without a warrant, may arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and whether the offense was committed within or without the presence of the peace officer. In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer shall arrest a person, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil

liability except pursuant to section 12-820.02. In order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.

C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm that is owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

D. If a firearm is seized pursuant to subsection C of this section, the peace officer shall give the owner or possessor of the firearm a receipt for each seized firearm. The receipt shall indicate the identification or serial number or other identifying characteristic of each seized firearm. Each seized firearm shall be held for at least seventy-two hours by the law enforcement agency that seized the firearm.

E. If a firearm is seized pursuant to subsection C of this section, the victim shall be notified by a peace officer before the firearm is released from temporary custody.

F. If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim, the person who reported the assault or threat or another person in the household, the prosecutor shall file a notice of intent to retain the firearm in the appropriate superior, justice or municipal court. The prosecutor shall serve notice on the owner or possessor of the firearm by certified mail. The notice shall state that the firearm will be retained for not more than six months following the date of seizure. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure or to request an earlier return date. The court shall hold the hearing within ten days after receiving the owner's or possessor's request for a hearing. At the hearing, unless the court determines that the return of the firearm may endanger the victim, the person who reported the assault or threat or another person in the household, the court shall order the return of the firearm to the owner or possessor.

G. A peace officer is not liable for any act or omission in the good faith exercise of the officer's duties under subsections C, D, E and F of this section.

H. Each indictment, information, complaint, summons or warrant that is issued and that involves domestic violence shall state that the offense involved domestic violence and shall be designated by the letters DV. A domestic violence charge shall not be dismissed or a domestic violence conviction shall not be set aside for failure to comply with this subsection.

I. A person who is arrested pursuant to subsection B of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. Any order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other

specifically designated persons and may provide for additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant.

J. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of the victim including:

1. An order of protection pursuant to section 13-3602, an injunction pursuant to section 25-315 and an injunction against harassment pursuant to section 12-1809.
2. The emergency telephone number for the local police agency.
3. Telephone numbers for emergency services in the local community.

K. A peace officer is not civilly liable for noncompliance with subsection J of this section.

L. An offense that is included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified. If the defendant committed a felony offense listed in subsection A of this section against a pregnant victim and knew that the victim was pregnant or if the defendant committed a felony offense causing physical injury to a pregnant victim and knew that the victim was pregnant, section 13-709.04, subsection B applies to the sentence imposed.

41-1750. Central state repository; department of public safety; duties; funds; accounts; definitions

A. The department is responsible for the effective operation of the central state repository in order to collect, store and disseminate complete and accurate Arizona criminal history records and related criminal justice information. The department shall:

1. Procure from all criminal justice agencies in this state accurate and complete personal identification data, fingerprints, charges, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as a criminal defendant for a felony offense or an offense involving domestic violence as defined in section 13-3601 or a violation of title 13, chapter 14 or title 28, chapter 4.
2. Collect information concerning the number and nature of offenses known to have been committed in this state and of the legal steps taken in connection with these offenses, such other information that is useful in the study of crime and in the administration of criminal justice and all other information deemed necessary to operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.
3. Collect information concerning criminal offenses that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.
4. Cooperate with the central state repositories in other states and with the appropriate agency of the federal government in the exchange of information pertinent to violators of the law.

5. Ensure the rapid exchange of information concerning the commission of crime and the detection of violators of the law among the criminal justice agencies of other states and of the federal government.
6. Furnish assistance to peace officers throughout this state in crime scene investigation for the detection of latent fingerprints and in the comparison of latent fingerprints.
7. Conduct periodic operational audits of the central state repository and of a representative sample of other agencies that contribute records to or receive criminal justice information from the central state repository or through the Arizona criminal justice information system.
8. Establish and enforce the necessary physical and system safeguards to ensure that the criminal justice information maintained and disseminated by the central state repository or through the Arizona criminal justice information system is appropriately protected from unauthorized inquiry, modification, destruction or dissemination as required by this section.
9. Aid and encourage coordination and cooperation among criminal justice agencies through the statewide and interstate exchange of criminal justice information.
10. Provide training and proficiency testing on the use of criminal justice information to agencies receiving information from the central state repository or through the Arizona criminal justice information system.
11. Operate and maintain the Arizona automated fingerprint identification system established pursuant to section 41-2411.
12. Provide criminal history record information to the fingerprinting division for the purpose of screening applicants for fingerprint clearance cards.

B. The director may establish guidelines for the submission and retention of criminal justice information as deemed useful for the study or prevention of crime and for the administration of criminal justice.

C. The chief officers of criminal justice agencies of this state or its political subdivisions shall provide to the central state repository fingerprints and information concerning personal identification data, descriptions, crimes for which persons are arrested, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as criminal defendants for felony offenses or offenses involving domestic violence as defined in section 13-3601 or violations of title 13, chapter 14 or title 28, chapter 4 that have occurred in this state.

D. The chief officers of law enforcement agencies of this state or its political subdivisions shall provide to the department such information as necessary to operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.

E. The chief officers of criminal justice agencies of this state or its political subdivisions shall comply with the training and proficiency testing guidelines as required by the department to comply with the federal national crime information center mandates.

F. The chief officers of criminal justice agencies of this state or its political subdivisions also shall provide to the department information concerning crimes that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.

G. The director shall authorize the exchange of criminal justice information between the central state repository, or through the Arizona criminal justice information system, whether directly or through any intermediary, only as follows:

1. With criminal justice agencies of the federal government, Indian tribes, this state or its political subdivisions and other states, on request by the chief officers of such agencies or their designated representatives, specifically for the purposes of the administration of criminal justice and for evaluating the fitness of current and prospective criminal justice employees.
2. With any noncriminal justice agency pursuant to a statute, ordinance or executive order that specifically authorizes the noncriminal justice agency to receive criminal history record information for the purpose of evaluating the fitness of current or prospective licensees, employees, contract employees or volunteers, on submission of the subject's fingerprints and the prescribed fee. Each statute, ordinance, or executive order that authorizes noncriminal justice agencies to receive criminal history record information for these purposes shall identify the specific categories of licensees, employees, contract employees or volunteers, and shall require that fingerprints of the specified individuals be submitted in conjunction with such requests for criminal history record information.
3. With the board of fingerprinting for the purpose of conducting good cause exceptions pursuant to section 41-619.55.
4. With any individual for any lawful purpose on submission of the subject of record's fingerprints and the prescribed fee.
5. With the governor, if the governor elects to become actively involved in the investigation of criminal activity or the administration of criminal justice in accordance with the governor's constitutional duty to ensure that the laws are faithfully executed or as needed to carry out the other responsibilities of the governor's office.
6. With regional computer centers that maintain authorized computer-to-computer interfaces with the department, that are criminal justice agencies or under the management control of a criminal justice agency and that are established by a statute, ordinance or executive order to provide automated data processing services to criminal justice agencies specifically for the purposes of the administration of criminal justice or evaluating the fitness of regional computer center employees who have access to the Arizona criminal justice information system and the national crime information center system.
7. With an individual who asserts a belief that criminal history record information relating to the individual is maintained by an agency or in an information system in this state that is subject to this section. On submission of fingerprints, the individual may review this information for the purpose of determining its accuracy and completeness by making application to the agency operating the system. Rules adopted under this

section shall include provisions for administrative review and necessary correction of any inaccurate or incomplete information. The review and challenge process authorized by this paragraph is limited to criminal history record information.

8. With individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement if the agreement specifically authorizes access to data, limits the use of data to purposes for which given and ensures the security and confidentiality of the data consistent with this section.

9. With individuals and agencies for the express purpose of research, evaluative or statistical activities pursuant to an agreement with a criminal justice agency if the agreement specifically authorizes access to data, limits the use of data to research, evaluative or statistical purposes and ensures the confidentiality and security of the data consistent with this section.

10. With the auditor general for audit purposes.

11. With central state repositories of other states for noncriminal justice purposes for dissemination in accordance with the laws of those states.

12. On submission of the fingerprint card, with the department of economic security to provide criminal history record information on prospective adoptive parents for the purpose of conducting the preadoption certification investigation under title 8, chapter 1, article 1 if the department of economic security is conducting the investigation, or with an agency or a person appointed by the court, if the agency or person is conducting the investigation. Information received under this paragraph shall only be used for the purposes of the preadoption certification investigation.

13. With the department of economic security and the superior court for the purpose of evaluating the fitness of custodians or prospective custodians of juveniles, including parents, relatives and prospective guardians. Information received under this paragraph shall only be used for the purposes of that evaluation. The information shall be provided on submission of either:

(a) The fingerprint card.

(b) The name, date of birth and social security number of the person.

14. On submission of a fingerprint card, provide criminal history record information to the superior court for the purpose of evaluating the fitness of investigators appointed under section 14-5303 or 14-5407, or guardians appointed under section 14-5206.

15. With the supreme court to provide criminal history record information on prospective fiduciaries pursuant to section 14-5651.

16. With the department of juvenile corrections to provide criminal history record information pursuant to section 41-2814.

17. On submission of the fingerprint card, provide criminal history record information to the Arizona peace officer standards and training board or a board certified law enforcement academy to evaluate the fitness of prospective cadets.

18. With the internet sex offender web site database established pursuant to section 13-3827.

19. With licensees of the United States nuclear regulatory commission for the purpose of determining whether an individual should be granted unescorted access to the protected area of a commercial nuclear generating station on submission of the subject of record's fingerprints and the prescribed fee.

20. With the state board of education for the purpose of evaluating the fitness of a certificated teacher or administrator or an applicant for a teaching or an administrative certificate provided that the state board of education or its employees or agents have reasonable suspicion that the certificated person engaged in conduct that would be a criminal violation of the laws of this state or was involved in immoral or unprofessional conduct or that the applicant engaged in conduct that would warrant disciplinary action if the applicant were certificated at the time of the alleged conduct. The information shall be provided on the submission of either:

(a) The fingerprint card.

(b) The name, date of birth and social security number of the person.

21. With each school district and charter school in this state. The state board of education and the state board for charter schools shall provide the department of public safety with a current list of e-mail addresses for each school district and charter school in this state and shall periodically provide the department of public safety with updated e-mail addresses. If the department of public safety is notified that a person who is required to have a fingerprint clearance card to be employed by or to engage in volunteer activities at a school district or charter school has been arrested for or convicted of an offense listed in section 41-1758.03, subsection B or has been arrested for or convicted of an offense that amounts to unprofessional conduct under section 15-550, the department of public safety shall notify each school district and charter school in this state that the person's fingerprint clearance card has been suspended or revoked.

22. With the child protective services division of the department of economic security as provided by law, which currently is the Adam Walsh child protection and safety act of 2006 (42 United States Code section 16961), for the purposes of investigating or responding to reports of child abuse, neglect or exploitation. Information received pursuant to this paragraph from the national crime information center, the interstate identification index and the Arizona criminal justice information system network shall only be used for the purposes of investigating or responding as prescribed in this paragraph. The information shall be provided on submission to the department of public safety of either:

(a) The fingerprints of the person being investigated.

(b) The name, date of birth and social security number of the person.

H. The director shall adopt rules necessary to execute this section.

I. The director, in the manner prescribed by law, shall remove and destroy records that the director determines are no longer of value in the detection or prevention of crime.

J. The director shall establish a fee in an amount necessary to cover the cost of federal noncriminal justice fingerprint processing for criminal history record information checks that are authorized by law for noncriminal justice employment, licensing or other lawful purposes. An additional fee may be charged by the department for state noncriminal justice fingerprint processing. Fees submitted to the department for state noncriminal justice fingerprint processing are not refundable.

K. The director shall establish a fee in an amount necessary to cover the cost of processing copies of department reports, eight by ten inch black and white photographs or eight by ten inch color photographs of traffic accident scenes.

L. Except as provided in subsection O of this section, each agency authorized by this section may charge a fee, in addition to any other fees prescribed by law, in an amount necessary to cover the cost of state and federal noncriminal justice fingerprint processing for criminal history record information checks that are authorized by law for noncriminal justice employment, licensing or other lawful purposes.

M. A fingerprint account within the records processing fund is established for the purpose of separately accounting for the collection and payment of fees for noncriminal justice fingerprint processing by the department. Monies collected for this purpose shall be credited to the account, and payments by the department to the United States for federal noncriminal justice fingerprint processing shall be charged against the account. Monies in the account not required for payment to the United States shall be used by the department in support of the department's noncriminal justice fingerprint processing duties. At the end of each fiscal year, any balance in the account not required for payment to the United States or to support the department's noncriminal justice fingerprint processing duties reverts to the state general fund.

N. A records processing fund is established for the purpose of separately accounting for the collection and payment of fees for department reports and photographs of traffic accident scenes processed by the department. Monies collected for this purpose shall be credited to the fund and shall be used by the department in support of functions related to providing copies of department reports and photographs. At the end of each fiscal year, any balance in the fund not required for support of the functions related to providing copies of department reports and photographs reverts to the state general fund.

O. The department of economic security may pay from appropriated monies the cost of federal fingerprint processing or federal criminal history record information checks that are authorized by law for employees and volunteers of the department, guardians pursuant to section 46-134, subsection A, paragraph 15, the licensing of foster parents or the certification of adoptive parents.

P. The director shall adopt rules that provide for:

1. The collection and disposition of fees pursuant to this section.
2. The refusal of service to those agencies that are delinquent in paying these fees.

Q. The director shall ensure that the following limitations are observed regarding dissemination of criminal justice information obtained from the central state repository or through the Arizona criminal justice information system:

1. Any criminal justice agency that obtains criminal justice information from the central state repository or through the Arizona criminal justice information system assumes responsibility for the security of the information and shall not secondarily disseminate this information to any individual or agency not authorized to receive this information directly from the central state repository or originating agency.
2. Dissemination to an authorized agency or individual may be accomplished by a criminal justice agency only if the dissemination is for criminal justice purposes in connection with the prescribed duties of the agency and not in violation of this section.
3. Criminal history record information disseminated to noncriminal justice agencies or to individuals shall be used only for the purposes for which it was given. Secondary dissemination is prohibited unless otherwise authorized by law.
4. The existence or nonexistence of criminal history record information shall not be confirmed to any individual or agency not authorized to receive the information itself.
5. Criminal history record information to be released for noncriminal justice purposes to agencies of other states shall only be released to the central state repositories of those states for dissemination in accordance with the laws of those states.
6. Criminal history record information shall be released to noncriminal justice agencies of the federal government pursuant to the terms of the federal security clearance information act (P.L. 99-169).

R. This section and the rules adopted under this section apply to all agencies and individuals collecting, storing or disseminating criminal justice information processed by manual or automated operations if the collection, storage or dissemination is funded in whole or in part with monies made available by the law enforcement assistance administration after July 1, 1973, pursuant to title I of the crime control act of 1973, and to all agencies that interact with or receive criminal justice information from or through the central state repository and through the Arizona criminal justice information system.

S. This section does not apply to criminal history record information contained in:

1. Posters, arrest warrants, announcements or lists for identifying or apprehending fugitives or wanted persons.
2. Original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long-standing custom to be made public if these records are organized on a chronological basis.
3. Transcripts or records of judicial proceedings if released by a court or legislative or administrative proceedings.
4. Announcements of executive clemency or pardon.

5. Computer databases, other than the Arizona criminal justice information system, that are specifically designed for community notification of an offender's presence in the community pursuant to section 13-3825 or for public informational purposes authorized by section 13-3827.

T. Nothing in this section prevents a criminal justice agency from disclosing to the public criminal history record information that is reasonably contemporaneous to the event for which an individual is currently within the criminal justice system, including information noted on traffic accident reports concerning citations, blood alcohol tests or arrests made in connection with the traffic accident being investigated.

U. In order to ensure that complete and accurate criminal history record information is maintained and disseminated by the central state repository:

1. The arresting authority shall take legible ten-print fingerprints of all persons who are arrested for offenses listed in subsection C of this section including persons who are arrested and released pursuant to section 13-3903, subsection C. The arresting authority may transfer an arrestee to a booking agency for ten-print fingerprinting. The arresting authority or booking agency shall obtain a process control number and provide to the person fingerprinted a document that indicates proof of the fingerprinting and that informs the person that the document must be presented to the court.

2. The mandatory fingerprint compliance form shall contain the following information:

(a) Whether ten-print fingerprints have been obtained from the person.

(b) Whether a process control number was obtained.

(c) The offense or offenses for which the process control number was obtained.

(d) Any report number of the arresting authority.

(e) Instructions on reporting for ten-print fingerprinting, including available times and locations for reporting for ten-print fingerprinting.

(f) Instructions that direct the person to provide the form to the court at the person's next court appearance.

3. Within ten days after a person is fingerprinted, the arresting authority or agency that took the fingerprints shall forward the fingerprints to the department in the manner or form required by the department.

4. On the issuance of a summons for a defendant who is charged with an offense listed in subsection C of this section, the summons shall direct the defendant to provide ten-print fingerprints to the appropriate law enforcement agency.

5. At the initial appearance or on the arraignment of a summoned defendant who is charged with an offense listed in subsection C of this section, if the person does not present a completed mandatory fingerprint compliance form to the court or if the court has not received the process control number, the court shall order that within twenty calendar days the defendant be ten-print fingerprinted at a designated time and place by the appropriate law enforcement agency.

6. If the defendant fails to present a completed mandatory fingerprint compliance form or if the court has not received the process control number, the court, on its own motion, may remand the defendant into custody for ten-print fingerprinting. If otherwise eligible for release, the defendant shall be released from custody after being ten-print fingerprinted.

7. In every criminal case in which the defendant is incarcerated or fingerprinted as a result of the charge, an originating law enforcement agency or prosecutor, within forty days of the disposition, shall advise the central state repository of all dispositions concerning the termination of criminal proceedings against an individual arrested for an offense specified in subsection C of this section. This information shall be submitted on a form or in a manner required by the department.

8. Dispositions resulting from formal proceedings in a court having jurisdiction in a criminal action against an individual who is arrested for an offense specified in subsection C of this section or section 8-341, subsection V shall be reported to the central state repository within forty days of the date of the disposition. This information shall be submitted on a form or in a manner specified by rules approved by the supreme court.

9. The state department of corrections or the department of juvenile corrections, within forty days, shall advise the central state repository that it has assumed supervision of a person convicted of an offense specified in subsection C of this section or section 8-341, subsection V. The state department of corrections or the department of juvenile corrections shall also report dispositions that occur thereafter to the central state repository within forty days of the date of the dispositions. This information shall be submitted on a form or in a manner required by the department of public safety.

10. Each criminal justice agency shall query the central state repository before dissemination of any criminal history record information to ensure the completeness of the information. Inquiries shall be made before any dissemination except in those cases in which time is of the essence and the repository is technically incapable of responding within the necessary time period. If time is of the essence, the inquiry shall still be made and the response shall be provided as soon as possible.

V. The director shall adopt rules specifying that any agency that collects, stores or disseminates criminal justice information that is subject to this section shall establish effective security measures to protect the information from unauthorized access, disclosure, modification or dissemination. The rules shall include reasonable safeguards to protect the affected information systems from fire, flood, wind, theft, sabotage or other natural or man-made hazards or disasters.

W. The department shall make available to agencies that contribute to, or receive criminal justice information from, the central state repository or through the Arizona criminal justice information system a continuing training program in the proper methods for collecting, storing and disseminating information in compliance with this section.

X. Nothing in this section creates a cause of action or a right to bring an action including an action based on discrimination due to sexual orientation.

Y. For the purposes of this section:

1. "Administration of criminal justice" means performance of the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision or rehabilitation of criminal offenders. Administration of criminal justice includes enforcement of criminal traffic offenses and civil traffic violations, including parking violations, when performed by a criminal justice agency. Administration of criminal justice also includes criminal identification activities and the collection, storage and dissemination of criminal history record information.
2. "Administrative records" means records that contain adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and that are designed to furnish information to protect the rights of this state and of persons directly affected by the agency's activities.
3. "Arizona criminal justice information system" or "system" means the statewide information system managed by the director for the collection, processing, preservation, dissemination and exchange of criminal justice information and includes the electronic equipment, facilities, procedures and agreements necessary to exchange this information.
4. "Central state repository" means the central location within the department for the collection, storage and dissemination of Arizona criminal history records and related criminal justice information.
5. "Criminal history record information" and "criminal history record" means information that is collected by criminal justice agencies on individuals and that consists of identifiable descriptions and notations of arrests, detentions, indictments and other formal criminal charges, and any disposition arising from those actions, sentencing, formal correctional supervisory action and release. Criminal history record information and criminal history record do not include identification information to the extent that the information does not indicate involvement of the individual in the criminal justice system or information relating to juveniles unless they have been adjudicated as adults.
6. "Criminal justice agency" means either:
 - (a) A court at any governmental level with criminal or equivalent jurisdiction, including courts of any foreign sovereignty duly recognized by the federal government.
 - (b) A government agency or subunit of a government agency that is specifically authorized to perform as its principal function the administration of criminal justice pursuant to a statute, ordinance or executive order and that allocates more than fifty per cent of its annual budget to the administration of criminal justice. This subdivision includes agencies of any foreign sovereignty duly recognized by the federal government.
7. "Criminal justice information" means information that is collected by criminal justice agencies and that is needed for the performance of their legally authorized and required functions, such as criminal history record information, citation information, stolen property information, traffic accident reports, wanted persons information and system

network log searches. Criminal justice information does not include the administrative records of a criminal justice agency.

8. "Disposition" means information disclosing that a decision has been made not to bring criminal charges or that criminal proceedings have been concluded or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of an appellate review of criminal proceedings or executive clemency.

9. "Dissemination" means the written, oral or electronic communication or transfer of criminal justice information to individuals and agencies other than the criminal justice agency that maintains the information. Dissemination includes the act of confirming the existence or nonexistence of criminal justice information.

10. "Management control":

(a) Means the authority to set and enforce:

(i) Priorities regarding development and operation of criminal justice information systems and programs.

(ii) Standards for the selection, supervision and termination of personnel involved in the development of criminal justice information systems and programs and in the collection, maintenance, analysis and dissemination of criminal justice information.

(iii) Policies governing the operation of computers, circuits and telecommunications terminals used to process criminal justice information to the extent that the equipment is used to process, store or transmit criminal justice information.

(b) Includes the supervision of equipment, systems design, programming and operating procedures necessary for the development and implementation of automated criminal justice information systems.

11. "Process control number" means the Arizona automated fingerprint identification system number that attaches to each arrest event at the time of fingerprinting and that is assigned to the arrest fingerprint card, disposition form and other pertinent documents.

12. "Secondary dissemination" means the dissemination of criminal justice information from an individual or agency that originally obtained the information from the central state repository or through the Arizona criminal justice information system to another individual or agency.

13. "Sexual orientation" means consensual homosexuality or heterosexuality.

14. "Subject of record" means the person who is the primary subject of a criminal justice record.

41-2406. Sexual assault records; reports

A. The department of public safety shall provide a copy of each applicable disposition reporting form relating to sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section 13-2907.03 to the Arizona criminal justice commission.

B. The Arizona criminal justice commission shall maintain the following records regarding sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section 13-2907.03 that are submitted to the commission by the department of public safety:

1. The number of police reports that are filed.
2. The number of charges that are filed and what charges are filed.
3. The number of convictions that are obtained.
4. The sentences that are imposed for each conviction.

C. For the purposes of subsection A of this section, the records shall identify the total number of police reports, charges, convictions and sentences for all sexual assaults and the number of police reports, charges, convictions and sentences for those sexual assaults that involved a spouse. For those sexual assaults that involved a spouse, the report shall identify whether the victim and the victim's spouse were estranged. The records shall also identify the total number of police reports, charges, convictions and sentences for all false reports that relate to sexual assault of a spouse pursuant to section 13-2907.03.

D. The commission shall annually submit the report required by subsection B of this section to the governor, the president of the senate and the speaker of the house of representatives and shall provide a copy of this report to the secretary of state and the director of the Arizona state library, archives and public records. The commission may submit this report electronically.