

Arizona Criminal Justice Commission



Statistical Analysis Center Publication

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The Reporting of Sexual Assault in Arizona, CY 2002-2011

August

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The Reporting of Sexual Assault in Arizona, CY 2002-2011

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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 compile 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.

The data used to complete this report were extracted from the Arizona Computerized Criminal History (ACCH) records system and provided to ACJC by DPS in January 2013. By statute, local law enforcement agencies, prosecutors, and the courts are required to submit to the ACCH repository information on all arrests and subsequent case disposition information for felonies, sexual offenses, driving under the influence offenses, and domestic violence offenses. This report focuses on data from calendar years (CY) 2002 to 2011 and updates data reported in the CY2001-2010 report.¹

The ACJC is required to report the law enforcement reporting, filings, and subsequent case disposition findings and sentencing of A.R.S. §13-1406 sexual assault charges. The following summarizes some of the findings of the research on sexual assault arrest and disposition charges across Arizona:

- The total number of arrests involving sexual assault increased from 265 arrests in CY 2002 to 275 in CY 2011, an increase of 3.8 percent. The total number of sexual assault charges increased by 23.1 percent from 442 in CY 2002 to 544 in CY 2011.
- More than 98 percent of arrestees from CY 2002 to CY 2011 were male, and the proportion that was White ranged between 75.8 percent and 81.8 percent of the total number of sexual assault arrestees.
- Convictions for sexual assault increased from 30.8 percent of all disposition findings for sexual assault in CY 2002 to 43.9 percent in CY 2011.
- The percentage of convictions that resulted in a sentence of probation ranged from a high of 88.9 percent in CY 2007 to a low of 67.4 percent in CY 2009. The percentage of convictions that resulted in a sentence to prison fell from 62.6 percent in CY 2002 to 54.0 percent in CY 2011, and sentences to jail fell from 5.7 percent to 2.7 percent over the same period.

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 from the state statutes by Senate Bill 1040. Despite the repeal of A.R.S. §13-1406.01 as a criminal code, three charges of sexual assault of a spouse were reported beyond CY 2005, two in CY 2007 and one in CY 2008. The following highlights the findings of A.R.S. §13-1406.01 arrest and disposition charges:

¹ Bileski, Matt. "The Reporting of Sexual Assault in Arizona, CY 2001-2010" August 2012. < http://www.azcjc.gov/ACJC.Web/Pubs/Home/2012%20ARS%2041-2406%20Report_Final.pdf>. March 22, 2013.

- From CY 2002 to CY 2005, the number of arrest charges increased from 17 to 24 charges.
- Arrestees for sexual assault involving a spouse were male, more than 84 percent were white/Caucasian, and except in CY 2004, the greatest percentage was between the ages of 25 and 34.
- The number of sexual assault involving a spouse finalized disposition charges was 12 in CY 2002 and increased to 18 in CY 2004 before dropping to two in CY 2008. From CY 2002 to CY 2008, the number of convictions ranged from five in CY 2003 down to zero in CY 2007 and CY 2008.
- At least 50 percent of convictions for sexual assault involving a spouse resulted in a probation sentence from CY 2002 to CY 2006. The percentage of convictions resulting in a prison sentence ranged from 0.0 percent in CY 2002 and CY 2004 to 60.0 percent in CY 2003, and jail sentencing ranged from 0.0 to 100.0 percent.

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 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, arrest and disposition information for all sexual assault-related² charges flagged for domestic violence is reported separately in the report.

In order to more comprehensively understand sexual assault in Arizona, this report includes data on violent sexual assault (A.R.S. §13-1423). The following violent sexual assault information is found in the report:

- Six arrest charges for violent sexual assault were reported in CY 2005, and the total fell to zero in CY 2011. No charges were reported in CY 2002 to CY 2004.
- From CY 2005 to CY 2010, all violent sexual assault arrestees were male, a majority was White, and a majority was between the ages of 35 and 44.
- A number of finalized violent sexual assault disposition charges were reported to the ACCH from CY 2005 to CY 2008, and none of the charges resulted in a conviction finding.

Even though false reporting of a sexual assault involving a spouse has been a specific crime in Arizona's criminal code since 2005, only one CY 2010 arrest charge of false reporting of sexual assault involving a spouse was reported to the ACCH repository during the ten-year period. No subsequent case disposition information was provided for this particular charge.

ACJC acknowledges that arrest and disposition reports from the ACCH do not provide all the information necessary to meet all reporting requirements, as outlined in A.R.S. §41-2406. As a result, every effort is made to include data pertinent to sexual assault in Arizona beyond the statutory mandates pursuant to A.R.S. §41-2406.

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.

INTRODUCTION

A.R.S. §41-2406 requires the ACJC to report the number of police reports, charges filed, convictions, and sentences obtained from disposition forms submitted to the Department of Public Safety (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. In addition, A.R.S. §41-2406 mandates that the report include the same information pertaining to sexual assault of a spouse and the number of charges where the victim/offender relationship was "estranged." ACJC is required to submit an annual report based on this information to 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.

The information in this report includes 1) the number of arrests and arrest charges, 2) the number of charges not referred for prosecution and not filed, 3) the charge outcomes for filed charges including the number of convictions that are obtained, and 4) the types of sentences that result from the convictions. Unfortunately, the relationship of the victim and the offender is not recorded or identifiable through the charge statute code.

The data used to compile this report was extracted from the ACCH repository by DPS and provided to ACJC researchers. The arrest and disposition reporting forms used by local, county, tribal, 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 repealed 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 a misdemeanor offense for which submission to the ACCH is not required according to A.R.S. §41-1750.A1. Although many criminal justice agencies across the state are providing arrest and disposition charges for misdemeanor offenses to the ACCH even when it is not required, it is unclear whether all false reporting of sexual assault involving a spouse charges are being recorded in the ACCH.

Limitations in the timeliness and completeness of records in the ACCH repository also present obstacles to the reporting of criminal justice system activity in Arizona. Arrest charges cannot be entered into ACCH when fingerprints are not taken properly or defendants bypass the booking process after being summonsed or cited to appear in court. In other cases, prosecution and court agencies do not effectively close out a criminal history record in the ACCH because they did not submit the final disposition form to DPS or the report was submitted but rejected by DPS due to errors in the information. In total, 27.5 percent of CY 2000 to CY 2012 ACCH arrest charges was missing subsequent case disposition information in January 2013.

ACJC recognizes that limitations exist when using ACCH data for providing a complete and accurate report of 1) sexual assault arrests, 2) arrests for sexual assault involving a spouse, 3) false reporting of sexual assault involving a spouse, and 4) subsequent criminal justice system activity for all sexual assault-related arrest charges. Nonetheless, this report provides the information that is available on the number of arrests and arrest charges related to sexual assault statutes (including those linked to domestic violence), the number and type of disposition outcomes including, but not limited to, charges not filed, charges not referred, and convictions obtained, along with the sentencing assigned to the convictions. The latest

enhancement to the previous sexual assault report is the addition of disposition information for sexual assault-related charges involving domestic violence.

Reporting Requirements

A.R.S. §41-2406.A 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.C 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 charging information, case disposition information including convictions, and sentencing information for sexual assault-related offenses and the false reporting of sexual assault of a spouse that occurred from CY 2002 to CY 2011. Additional data is provided for sexual assault-related charges linked to domestic violence as well as offender characteristics of individuals arrested for sexual assault-related charges. The information in the ACCH is populated from 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 2013.

ACCH Data Concerns

Challenges to the timeliness and completeness of criminal history records in the ACCH repository continue to be identified and discussed among criminal justice stakeholders. According to a recent ACJC data brief, 28.0 percent of CY 2011 arrest charges entered in the ACCH by the end of CY 2012 was missing subsequent case disposition information by the end of 2012³. Missing disposition data continues to be a concern regarding the ACCH repository and should be considered when taking the data in this report into account. Also, the relationship

³ Bileski, Matt. “Completeness of Criminal History Records in Arizona, CY2002-2011 Data Brief” March 2013. <<http://www.azcjc.gov/ACJC.Web/Pubs/Home/Completeness%20of%20Criminal%20History%20Records%20in%20Arizona,%20CY2002-2011.pdf>>. March 20, 2013.

between victim and offender is not recorded in the ACCH data. The best indicator was the sexual assault involving a spouse statute, which was repealed in 2005.

SEXUAL ASSAULT-RELATED DATA, CY 2002-2011

This report summarizes the sexual assault-related arrest and disposition data in the ACCH for arrests and dispositions processed during CY 2002 to CY 2011. The data that occurred from CY 2002 through CY 2010 has been updated from the previous report published in 2012.⁴ The data provided to ACJC was extracted from the ACCH in January 2013, giving all CY 2011 and prior arrest charges a case 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 2013.

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, ranging from a low of 265 arrests in CY 2002 to a high of 328 in CY 2009 (Table 1). Overall, the number of sexual assault arrests increased by 3.8 percent during the ten-year period while the number of sexual assault arrest charges increased 23.1 percent.

The 265 individuals arrested for sexual assault during CY 2002 were charged with a total of 442 sexual assault charges. In CY 2011, 275 individuals were arrested for 544 sexual assault charges. The average number of sexual assault charges per arrest increased from 1.7 charges in CY 2002 to 2.0 charges in CY 2011.

From CY 2002 to CY 2011, the total number of sexual assault charges leading to sexual assault convictions decreased by 10.3 percent. In CY 2011, 87 of the 544 sexual assault charges led to convictions for the original charge of sexual assault. In addition, 25 convictions were obtained for sexual abuse, aggravated assault, child or vulnerable adult abuse, sexual conduct with a minor, kidnapping, unlawful imprisonment, child molestation, stalking, and prescription-only or narcotic drug offenses. The percentage of sexual assault charges leading to sexual assault convictions was highest in CY 2007 at 31.8 percent and lowest in CY 2011 at 16.0 percent.

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 40.8 percent from CY 2002 to CY 2011.

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 2002 to CY 2011 may partially explain the 23.1 percent increase in the number of sexual assault arrest charges reported in the ACCH repository over the same period.

The total number and percentage of sexual assault arrest charges missing subsequent case disposition information is also available in Table 1. From CY 2002 to CY 2010, the percentage of

⁴ Bileski, Matthew and Phillip Stevenson. "The Reporting of Sexual Assault in Arizona, CY 2001-2010." August 2012. <<http://www.azcjc.gov/ACJC.Web/Pubs/Home/2012%20ARS%2041-2406%20Report.Final.pdf>> August 17, 2012.

arrest charges with missing dispositions ranged from a high of 26.3 percent in CY 2004 to a low of 10.8 percent in CY 2007. Not surprisingly, the highest number and percentage of arrests missing disposition information were reported from CY 2009 to CY 2011. One explanation for the increase in missing disposition data over the last three years is that many of the more recent arrests did not have sufficient time for final case completion and submission of disposition information to DPS.

**Table 1. A.R.S. §13-1406 Sexual Assault Arrests
CY 2002-2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Arrests Including a Charge for Sexual Assault	265	316	297	316	306	271	280	328	279	275	2,933
Sexual Assault Arrest Charges	442	612	509	684	571	537	512	753	646	544	5,810
Sexual Assault Arrest Charges Leading to Sexual Assault Convictions*	97 (21.9%)	144 (23.5%)	112 (22.0%)	156 (22.8%)	139 (24.3%)	171 (31.8%)	122 (23.8%)	194 (25.8%)	179 (27.7%)	87 (16.0%)	1,401 (24.1%)
Sexual Assault Arrest Charges Leading to Sexual Assault Involving a Spouse Convictions	0 (0.0%)	0 (0.0%)	2 (0.4%)	0 (0.0%)	2 (0.0%)						
Sexual Assault Arrest Charges Leading to Convictions Not Related to Sexual Assault	20 ^a (4.5%)	15 ^b (2.5%)	18 ^c (3.5%)	24 ^d (3.5%)	22 ^e (3.9%)	27 ^f (5.0%)	13 ^g (2.5%)	21 ^h (2.8%)	21 ⁱ (3.3%)	25 ^j (4.6%)	206 (3.5%)
Sexual Assault Arrest Charges Not Disposed in the ACCH (as of January 2013)	109 (24.7%)	126 (20.6%)	134 (26.3%)	99 (14.5%)	115 (20.1%)	58 (10.8%)	99 (19.3%)	142 (18.9%)	150 (23.2%)	219 (40.3%)	1,251 (21.5%)

* Two convictions resulting from arrests in 2007 and 2008 were reversed and remanded.

^a Twenty 2002 arrest charges 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.

^b Fifteen 2003 arrest charges led to convictions for sexual conduct with a minor (6), sexual abuse (4), aggravated assault (3), unlawful imprisonment, and molestation of a child.

^c Eighteen 2004 arrest charges led to convictions for sexual abuse (9), aggravated assault (3), assault, unlawful imprisonment, sexual conduct with a minor, adultery, aggravated harassment, and bigamy.

^d Twenty-four 2005 arrest charges 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.

^e Twenty-two 2006 arrest charges 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.

^f Twenty-seven 2007 arrest charges led to convictions for aggravated assault (8), sexual conduct with a minor (6), sexual abuse (6), child or vulnerable adult abuse (3), kidnapping (2), assault, and 1st degree criminal trespassing.

^g Thirteen 2008 arrest charges 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.

^h Twenty-one 2009 arrest charges led to convictions for sexual conduct with a minor (10), aggravated assault (5), sexual abuse (3), kidnapping, molestation of a child, and child or vulnerable adult abuse.

ⁱ Twenty-one 2010 arrest charges led to convictions for sexual abuse (10), aggravated assault (6), kidnapping (3), sexual conduct with a minor, and child or vulnerable adult abuse.

^j Twenty-five 2011 arrest charges led to convictions for sexual abuse (6), aggravated assault (5), child or vulnerable adult abuse (4), sexual conduct with a minor (3), kidnapping (2), unlawful imprisonment, molestation of a child, stalking, a prescription-only drug offense, and a narcotic drug offense.

Sexual Assault Involving a Spouse Arrests

From CY 2002 to CY 2005, the total number of arrests and charges for sexual assault involving a spouse increased by 28.6 percent and 41.2 percent, respectively (Table 2). In 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 arrests for sexual assault involving a spouse in CY 2005 resulted in convictions for aggravated assault and sexual abuse. In total, the number of convictions for sexual assault involving a spouse increased from one in CY 2002 to four in CY 2005.

Table 2. Arrests for Repealed A.R.S. §13-1406.01 Sexual Assault Involving a Spouse CY 2002-2011*

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Arrests Including a Charge for Sexual Assault Involving a Spouse	14	20	11	18	0	2	1	0	0	0	66
Sexual Assault Involving a Spouse Arrest Charges	17	22	20	24	0	2	1	0	0	0	86
Sexual Assault Involving a Spouse Arrest Charges Leading to Sexual Assault Involving a Spouse Convictions	1 (5.9%)	4 (18.2%)	2 (10.0%)	4 (16.7%)	N/A	0 (0.0%)	0 (0.0%)	N/A	N/A	N/A	11 (12.8%)
Sexual Assault Involving a Spouse Arrest Charges Leading to Sexual Assault Convictions	0 (0.0%)	1 (4.5%)	1 (5.0%)	0 (0.0%)	N/A	0 (0.0%)	0 (0.0%)	N/A	N/A	N/A	2 (2.3%)
Sexual Assault Involving a Spouse Arrest Charges Leading to Convictions Not Related to Sexual Assault	0 (0.0%)	2 ^a (9.1%)	1 ^b (5.0%)	2 ^c (8.3%)	N/A	0 (0.0%)	0 (0.0%)	N/A	N/A	N/A	5 (5.8%)
Sexual Assault Involving a Spouse Arrest Charges Not Disposed in the ACCH (as of January 2013)	7 (41.2%)	1 (4.5%)	6 (30.0%)	7 (29.2%)	N/A	0 (0.0%)	0 (0.0%)	N/A	N/A	N/A	21 (24.4%)

* 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 charges led to one unlawful imprisonment conviction and one sexual abuse conviction in 2003.

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

^c Two A.R.S. §13-1406.01 arrest charges 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 seven (41.2 percent of total charges) in CY 2002 to one (4.5 percent) in CY 2003 before increasing back to seven (29.2 percent) in CY 2005.

As of 2006, the Arizona Revised Statutes no longer include a specific charge for sexual assault involving a spouse. Thus, it is not surprising that the ACCH contains little data on sexual assaults involving a spouse from 2006 to the present. Yet, despite the fact that sexual assault involving a spouse is no longer an offense unique from sexual assault, 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.

Violent Sexual Assault Arrests

Despite being 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, information on four arrests was submitted to the ACCH involving a total of six violent sexual assault arrest charges. The number of arrests and number of charges for violent sexual assault were lower during the subsequent five years, and in CY 2011, no arrests were submitted to the repository involving 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 convictions for sexual assault. One arrest charge in CY 2005 also resulted in a conviction for child molestation. Finally, in CY 2011, one (33.3 percent) of all violent sexual assault arrest charges reported to the ACCH was missing subsequent case disposition information, a decrease from two (33.3 percent) in CY 2005.

**Table 3. A.R.S. §13-1423 Violent Sexual Assault Arrests
CY 2002-2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Arrests Including a Charge for Violent Sexual Assault	0	0	0	4	1	2	2	1	2	0	12
Violent Sexual Assault Arrest Charges	0	0	0	6	1	2	3	1	3	0	16
Violent Sexual Assault Arrest Charges Leading to Violent Sexual Assault Convictions	N/A	N/A	N/A	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	N/A	0 (0.0%)
Violent Sexual Assault Arrest Charges Leading to Sexual Assault Convictions	N/A	N/A	N/A	1 (16.7%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (66.7%)	N/A	3 (18.8%)
Violent Sexual Assault Arrest Charges Leading to Convictions Not Related to Sexual Assault	N/A	N/A	N/A	1 ^a (16.7%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	N/A	1 (6.3%)
Sexual Assault Arrest Charges Not Disposed in the ACCH (as of January 2013)	N/A	N/A	N/A	2 (33.3%)	0 (0.0%)	1 (50.0%)	0 (0.0%)	1 (100.0%)	1 (33.3%)	N/A	5 (31.3%)

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

False Reporting of Sexual Assault Involving a Spouse

In CY 2011, no arrest or disposition charges were reported for 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 as of January 2013, there was no case disposition information for the charge in the ACCH. Prior to CY 2010, there were no arrest charges in the ACCH for false reporting of sexual assault involving a spouse. Importantly, 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 information on this misdemeanor offense to be entered into the ACCH repository. Therefore, the absence of arrest and subsequent case disposition information on false reporting of sexual assault involving a spouse in the ACCH does not necessarily mean that no additional arrests for false reporting of sexual assault involving a spouse 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-related 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 and allows for the identification of repeat domestic violence offenders. It is important to note that Arizona, like many other states, defines domestic violence offenses as those that occur in many relationship contexts, including marriage, but also dating, familial, and co-habiting relationships.⁵

**Table 4. Sexual Assault-Related Arrests Flagged for Domestic Violence
CY 2002-2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Sexual Assault-Related Arrests Flagged for Domestic Violence	22	18	19	25	20	27	29	34	29	33	256
Sexual Assault-Related Arrest Charges Flagged for Domestic Violence	27	27	27	30	32	33	39	52	54	65	386
Number of Arrest Charges Flagged for Domestic Violence that Led to Sexual Assault-Related Convictions	1 (3.7%)	7 (25.9%)	3 (11.1%)	8 (26.7%)	6 (18.8%)	6 (18.2%)	7 (17.9%)	7 (13.5%)	18 (33.3%)	5 (7.7%)	68 (17.6%)
Number of Arrest Charges Flagged for Domestic Violence that Led to Convictions Not Related to Sexual Assault	3 ^a (11.1%)	2 ^b (7.4%)	0 (0.0%)	2 ^c (6.7%)	2 ^d (6.3%)	3 ^e (9.1%)	1 ^f (2.6%)	1 ^g (1.9%)	0 (0.0%)	0 (0.0%)	14 (3.6%)
Sexual Assault Arrest Charges Flagged for Domestic Violence and Not Disposed in the ACCH (as of January 2012)	5 (18.5%)	3 (11.1%)	4 (14.8%)	4 (13.3%)	4 (12.5%)	3 (9.1%)	8 (20.5%)	14 (26.9%)	10 (18.5%)	25 (38.5%)	80 (20.7%)

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

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

^c Two arrest charges led to aggravated assault convictions in 2005.

^d Two arrest charges led to kidnapping convictions in 2006.

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

^f One arrest charge led to a kidnapping conviction in 2008.

^g One arrest charge 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 statutory definition of domestic violence.

The total number of arrests involving at least one sexual assault-related arrest charge flagged for domestic violence increased from 22 in CY 2002 to 33 in CY 2011 (Table 4). The total number of sexual assault-related charges flagged for domestic violence also increased from 27 in CY 2002 to 65 in CY 2011. The number of charges per arrest increased from 1.2 in CY 2002 to 2.0 in CY 2011.

The total number of sexual assault-related arrest charges flagged for domestic violence that led to sexual assault-related convictions increased from one in CY 2002 to five in CY 2011. In most years during this time, there were fewer than 10 arrests for sexual assault flagged for domestic violence that resulted in a conviction for sexual assault except for CY 2010 when there was a total of eighteen flagged arrest offenses that led to sexual assault-related convictions. Over the ten-year period, fourteen arrest charges related to sexual assault that were flagged for domestic violence resulted in convictions for aggravated assault, sexual conduct with a minor, child molestation, kidnapping, and sexual abuse.

In CY 2002, five arrest charges (18.5 percent) for sexual assault-related offenses flagged for domestic violence were missing case disposition information in the ACCH as of January 2013. Arrest charges missing disposition information fell to a low of three (9.1 percent) in CY 2007 before increasing to 25 (38.5 percent) in CY 2011. Again, the increase in missing disposition information in 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 of sexual assault, sexual assault involving a spouse, and violent sexual assault arrestees from CY 2002 to CY 2011 (Tables 5, 6, and 7). According to the arrest data available in the ACCH, an overwhelming majority of arrestees were male. At least 98.0 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.

White/Caucasian sexual assault arrestees made up between 75.8 and 81.8 percent of all sexual assault arrestees from CY 2002 to CY 2011 (Table 5). Black arrestees ranged from a low of 11.2 percent in CY 2009 to a high of 18.8 percent in CY 2011. American Indian/Alaskan Natives ranged from a low of 4.8 percent of arrestees in CY 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 CY 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, during the study period the largest percentages of sexual assault arrestees were 24 years old and under, ranging from 27.8 percent to 34.7 percent of arrestees each year. The next highest percentages of arrestees were individuals 25 to 34 years old. In CY 2011, one-third of arrestees were 24 years of age or younger,

approximately one-fourth were between 25 and 34, 18.4 percent were between 45 and 59 years of age, 17.2 percent were between 35 and 44, and 3.5 percent were 60 or older.

**Table 5. Demographics of Individuals Arrested for Sexual Assault
CY 2002-2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
<i>Gender</i>											
Male	99.2%	99.0%	98.9%	99.0%	99.3%	99.6%	100.0%	99.4%	99.2%	98.0%	99.2%
Female	0.8%	1.0%	1.1%	1.0%	0.7%	0.4%	0.0%	0.6%	0.8%	2.0%	0.8%
<i>Race</i>											
White/Caucasian	79.9%	80.2%	78.8%	77.3%	79.0%	76.2%	80.1%	81.8%	77.3%	75.8%	78.7%
Black	11.6%	11.7%	13.7%	13.7%	13.4%	14.6%	13.1%	11.2%	16.0%	18.8%	13.7%
Asian/Pacific Islander	0.8%	1.3%	1.1%	0.3%	1.7%	1.2%	1.1%	0.6%	1.2%	0.4%	1.0%
American Indian/Alaskan Native	7.3%	6.4%	6.1%	7.7%	4.8%	8.1%	5.6%	5.8%	5.5%	5.1%	6.2%
Unknown	0.4%	0.3%	0.4%	1.0%	1.0%	0.0%	0.0%	0.6%	0.0%	0.0%	0.4%
<i>Age at Arrest</i>											
24 and Under	33.6%	32.6%	34.5%	33.4%	34.7%	34.2%	34.1%	27.8%	28.5%	33.6%	32.7%
25-34	30.9%	33.9%	34.2%	31.8%	30.6%	33.1%	28.1%	31.6%	27.3%	27.3%	31.0%
35-44	23.9%	19.1%	21.2%	21.1%	17.2%	18.5%	16.9%	25.2%	25.8%	17.2%	20.6%
45-59	9.3%	11.7%	10.1%	11.7%	15.5%	11.9%	19.1%	13.4%	15.2%	18.4%	13.6%
60 and Older	2.3%	2.7%	0.0%	2.0%	2.1%	2.3%	1.9%	1.9%	3.1%	3.5%	2.2%
Total Individuals Arrested	259	298	278	299	291	260	267	313	256	256	2,777

When looking at individuals arrested for 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, and the remaining arrestees were black. No arrestees had a reported race of Asian/Pacific Islander, American Indian/Alaskan Native, or "unknown."

Unlike for sexual assault, arrestees for sexual assault involving a spouse were more likely to be over the age of 24 (Table 6). While the largest percentage of arrestees were between 25 and 34 over the entire study period, the majority of arrestees in CY 2004 and CY2008 were between 45 and 59. 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.

**Table 6. Demographics of Individuals Arrested for Sexual Assault Involving a Spouse
CY 2002-2011***

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
<i>Gender</i>											
Male	100.0%	100.0%	100.0%	100.0%	N/A	100.0%	100.0%	N/A	N/A	N/A	100.0%
Female	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A	N/A	0.0%
<i>Race</i>											
White/Caucasian	84.6%	89.5%	90.9%	88.9%	N/A	50.0%	100.0%	N/A	N/A	N/A	87.5%
Black	15.4%	10.5%	9.1%	11.1%	N/A	50.0%	0.0%	N/A	N/A	N/A	12.5%
Asian/Pacific Islander	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A	N/A	0.0%
American Indian/Alaskan Native	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A	N/A	0.0%
Unknown	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A	N/A	0.0%
<i>Age at Arrest</i>											
24 and Under	7.7%	0.0%	9.1%	11.1%	N/A	0.0%	0.0%	N/A	N/A	N/A	6.3%
25-34	46.2%	63.2%	27.3%	50.0%	N/A	50.0%	0.0%	N/A	N/A	N/A	48.4%
35-44	15.4%	31.6%	27.3%	38.9%	N/A	50.0%	0.0%	N/A	N/A	N/A	29.7%
45-59	30.8%	5.3%	36.4%	0.0%	N/A	0.0%	100.0%	N/A	N/A	N/A	15.6%
60 and Older	0.0%	0.0%	0.0%	0.0%	N/A	0.0%	0.0%	N/A	N/A	N/A	0.0%
Total Individuals Arrested	13	19	11	18	0	2	1	0	0	0	64

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

Looking at individuals arrested for violent sexual assault from CY 2005 to CY 2010, all arrestees were male (Table 7). Higher percentages of arrestees show that the majority of arrestees were white/Caucasian, followed by black and American Indian/Alaskan Natives, and Asian/Pacific Islanders.

Although not always the highest percentage each year, the majority of violent sexual assault arrestees across the ten years were between 35 and 44 years old. The second-most represented age categories of all arrestees during the study period were the 24 and under and the 45 to 59 year old age groups. A single arrestee was between the ages of 25 and 34 in CY 2008. No arrests for violent sexual assault were reported from CY 2002 to CY 2004 and in CY 2011. The violent sexual assault criminal code has existed in the Arizona Revised Statutes since CY 1999.

**Table 7. Demographics of Individuals Arrested for Violent Sexual Assault
CY 2002-2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
<i>Gender</i>											
Male	N/A	N/A	N/A	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	N/A	100.0%
Female	N/A	N/A	N/A	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	N/A	0.0%
<i>Race</i>											
White/Caucasian	N/A	N/A	N/A	75.0%	0.0%	50.0%	50.0%	100.0%	50.0%	N/A	58.3%
Black	N/A	N/A	N/A	25.0%	0.0%	0.0%	0.0%	0.0%	50.0%	N/A	16.7%
Asian/Pacific Islander	N/A	N/A	N/A	0.0%	100.0%	0.0%	0.0%	0.0%	0.0%	N/A	8.3%
American Indian/Alaskan Native	N/A	N/A	N/A	0.0%	0.0%	50.0%	50.0%	0.0%	0.0%	N/A	16.7%
Unknown	N/A	N/A	N/A	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	N/A	0.0%
<i>Age at Arrest</i>											
24 and Under	N/A	N/A	N/A	25.0%	100.0%	0.0%	0.0%	0.0%	0.0%	N/A	16.7%
25-34	N/A	N/A	N/A	0.0%	0.0%	0.0%	50.0%	0.0%	0.0%	N/A	8.3%
35-44	N/A	N/A	N/A	75.0%	0.0%	0.0%	50.0%	100.0%	100.0%	N/A	58.3%
45-59	N/A	N/A	N/A	0.0%	0.0%	100.0%	0.0%	0.0%	0.0%	N/A	16.7%
60 and Older	N/A	N/A	N/A	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	N/A	0.0%
Total Individuals Arrested	0	0	0	4	1	2	2	1	2	0	12

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 that were made from CY 2002 to CY 2011 and are in the ACCH. 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 any arrest ranging from CY 2000 through CY 2011 for any arrest violation of the criminal code available in state statutes and local ordinances.

**Table 8. Sexual Assault Disposition Charges by Outcome
CY 2002-2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Not Referred	2	1	9	5	2	5	7	4	0	2	37
Not Filed	83	84	51	101	91	74	109	99	85	71	848
Dismissed by the Court	177	152	230	139	240	195	205	195	286	197	2,016
Acquitted/Not Guilty	11	1	4	16	11	16	15	25	12	15	126
Plea to Other Charges	4	5	2	1	1	9	2	4	3	1	32
Conviction*	123	80	111	124	122	108	150	221	174	224	1,437
Total Submitted to ACCH	400	323	407	386	467	407	488	548	560	510	4,496

* One conviction was later overturned in 2004 while two convictions were reversed and remanded in 2007 and 2011.

Charges not referred fluctuated, but remained at 2 in CY 2002 and CY 2011, and sexual assault charges not filed decreased by 14.5 percent from 83 in CY 2002 to 71 in CY 2011 (Table 8). Although there is significant year-to-year variation in the number of sexual assault charges dismissed by the court, from CY 2002 to CY 2011, the number of sexual assault disposition charges dismissed by the court increased from 177 to 197, an 11.3 percent increase. Acquittals fluctuated, but increased overall, from 11 in CY 2002 to 15 in CY 2011, and pleas to other charges decreased from four in CY 2002 to one in CY 2011.

Convictions for sexual assault increased over the ten-year period from 123 in CY 2002 to 224 in CY 2011. The percentage increase (82.1 percent) in the number of convictions for sexual assault was the largest percent increase of all disposition outcomes over the entire study period.

**Table 9. Percentage of Sexual Assault Convictions by Sentence Type(s)
CY 2002-2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Fines	1.6%	2.5%	9.0%	5.6%	4.9%	3.7%	4.0%	3.2%	9.2%	8.5%	5.5%
Probation	73.2%	82.5%	84.7%	76.6%	83.6%	88.9%	82.0%	67.4%	79.9%	82.6%	79.3%
Jail	5.7%	8.8%	10.8%	7.3%	5.7%	6.5%	2.7%	4.5%	2.9%	2.7%	5.1%
Prison	62.6%	45.0%	49.5%	52.4%	45.1%	41.7%	49.3%	57.9%	46.6%	54.0%	51.3%
Community Service	6.5%	1.3%	1.8%	4.0%	1.6%	0.9%	1.3%	0.5%	1.7%	0.4%	1.8%
Restitution	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	2.3%	1.7%	0.4%	0.7%
Suspended Sentence	26.8%	47.5%	32.4%	33.1%	49.2%	46.3%	46.0%	38.5%	46.6%	42.9%	41.0%
Other Sentence	39.8%	53.8%	64.0%	33.9%	46.7%	40.7%	33.3%	32.1%	32.2%	30.4%	38.3%
Total Convictions*	123	80	111	124	122	108	150	221	174	224	1,437

* All overturned and reversed and remanded convictions noted in Table 8 are included in the total convictions count.

When looking at the sentences associated with sexual assault convictions, it is important to point out that the sentence information in Table 9 is not mutually exclusive. In other words, the sentencing information contained in the ACCH may include multiple sanctions imposed as a result of a single sexual assault conviction.

During the time period examined, at least two-thirds of sexual assault convictions each year 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 67.4 percent in CY 2009. Prison sentences ranged from 41.7 percent of convictions in CY 2007 to 62.6 percent in CY 2002. Jail sentences ranged from 2.7 percent of convictions in CY 2008 and CY 2011 to 10.8 percent of convictions in CY 2004.

The imposition of fines, restitution, and suspended sentencing on individuals convicted of sexual assault increased during the time period examined. The percentage of convictions for which the

offender was given a fine increased from 1.6 percent in CY 2002 to 8.5 percent in CY 2011. Restitution sentencing was not used until CY 2008 and increased to 2.3 percent of convictions in CY 2009 before falling to 0.4 percent of convictions in CY 2011. Finally, suspended sentencing occurred in 26.8 percent of sexual assault convictions during CY 2002, increasing to 42.9 percent in CY 2011.

Community service sentences declined from 6.5 percent in CY 2002 to 0.4 percent in CY 2011. The percentage of sexual assault convictions assigned "other" unspecified sentences⁶ fell from 39.8 percent to 30.4 percent over the ten-year period.

**Table 10. Sexual Assault Involving a Spouse Disposition Charges by Outcome
CY 2002-2011***

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Not Referred	0	0	1	0	0	0	0	N/A	N/A	N/A	1
Not Filed	6	3	0	1	0	1	1	N/A	N/A	N/A	12
Dismissed by the Court	5	3	14	5	6	0	1	N/A	N/A	N/A	34
Acquitted/Not Guilty	0	0	0	0	0	0	0	N/A	N/A	N/A	0
Plea to Other Charges	0	0	0	0	0	0	0	N/A	N/A	N/A	0
Conviction	1	5	3	2	3	0	0	N/A	N/A	N/A	14
Total Submitted to ACCH	12	11	18	8	9	1	2	0	0	0	61

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

A total of 12 finalized dispositions for sexual assault involving a spouse cases were entered into the ACCH in CY 2002, increased to 18 in CY 2004, and dropped to zero from CY 2009 to CY 2011 (Table 10). Only one charge was not referred in CY 2004. Six charges for sexual assault involving a spouse were not filed in CY 2002, and only one was not filed in CY 2008. The two no filings reported in CY 2007 and CY 2008 resulted from offenses that occurred after the statute repeal date. More than half of the dispositions for sexual assault involving a spouse were court dismissed, ranging from zero in CY 2007 to 14 in CY 2004. No sexual assault involving a spouse charges resulted in acquittals or pleas to other charges.

Convictions for sexual assault involving a spouse fluctuated, and increased, from one in CY 2002 to three in CY 2006. No convictions were reported after CY 2006, likely due to the repeal of the sexual assault involving a spouse statute.

From CY 2002 to CY 2006, each year at least half of the convictions for sexual assault involving a spouse led to a probation sentence (Table 11). In fact, all convictions resulted in a probation sentence during CY 2002, CY 2004, and CY 2006. While a significant percentage of convictions also led to prison sentences during most years, no prison sentences were handed out to

⁶ The ACCH repository maintains an "other" unspecified sentencing variable for disposition agencies to identify whether an additional form of sentencing was imposed.

individuals convicted of sexual assault involving a spouse in CY 2002 and CY 2004. The same can be said of jail sentences with no jail time being assigned to convicted offenders during CY 2003 and CY 2006.

Table 11. Percentage of Sexual Assault Involving a Spouse Convictions by Sentence Type(s), CY 2002-2011

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Fines	0.0%	0.0%	0.0%	50.0%	0.0%	N/A	N/A	N/A	N/A	N/A	7.1%
Probation	100.0%	80.0%	100.0%	50.0%	100.0%	N/A	N/A	N/A	N/A	N/A	85.7%
Jail	100.0%	0.0%	33.3%	50.0%	0.0%	N/A	N/A	N/A	N/A	N/A	21.4%
Prison	0.0%	60.0%	0.0%	50.0%	33.3%	N/A	N/A	N/A	N/A	N/A	35.7%
Community Service	0.0%	0.0%	33.3%	0.0%	0.0%	N/A	N/A	N/A	N/A	N/A	7.1%
Restitution	0.0%	0.0%	0.0%	0.0%	0.0%	N/A	N/A	N/A	N/A	N/A	0.0%
Suspended Sentence	0.0%	40.0%	66.7%	50.0%	33.3%	N/A	N/A	N/A	N/A	N/A	42.9%
Other Sentence	0.0%	60.0%	33.3%	50.0%	0.0%	N/A	N/A	N/A	N/A	N/A	35.7%
Total Convictions	1	5	3	2	3	0	0	0	0	0	14

Only one conviction for sexual assault involving a spouse led to a fine in CY 2005. One conviction in CY 2004 resulted in a sentence of community service. Suspended sentencing was not used in CY 2002, but sentences were suspended in 33.3 percent to 66.7 percent of cases from CY 2003 to CY 2006. "Other" unspecified sentences were handed out from CY 2003 to CY 2005, ranging from 33.3 percent to 60.0 percent per year. No convictions led to restitution orders from CY 2002 to CY 2006.

Table 12. Violent Sexual Assault Disposition Charges by Outcome CY 2002-2011

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Not Referred	N/A	N/A	N/A	0	0	0	0	N/A	N/A	N/A	0
Not Filed	N/A	N/A	N/A	2	1	0	3	N/A	N/A	N/A	6
Dismissed by the Court	N/A	N/A	N/A	0	0	1	0	N/A	N/A	N/A	1
Acquitted/Not Guilty	N/A	N/A	N/A	0	0	0	0	N/A	N/A	N/A	0
Plea to Other Charges	N/A	N/A	N/A	0	0	0	0	N/A	N/A	N/A	0
Conviction	N/A	N/A	N/A	0	0	0	0	N/A	N/A	N/A	0
Total Submitted to ACCH	0	0	0	2	1	1	3	0	0	0	7

Two dispositions for violent sexual assault were submitted to the ACCH in CY 2005, one in both CY 2006 and CY 2007, and three in CY 2008 (Table 12). Six of the charges were not filed by prosecutors. The remaining 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 the report.

Dispositions, Convictions, and Sentencing for Sexual Assault Involving Domestic Violence

In the most recent DPS extract provided to ACJC, domestic violence flag information for all disposition charges was included. As a result, this report contains statistics regarding dispositions and subsequent sentences for all sexual assault-related disposition charges flagged for domestic violence in the ACCH.

Charges not referred by law enforcement were minimal with one charge in CY 2004, CY 2007, and CY 2009 (Table 13). Charges not filed fluctuated over the ten-year period but began and ended with ten charges in CY 2002 and CY 2011. Court dismissals for sexual assault-related disposition charges flagged for domestic violence ranged from five in CY 2003 and CY 2005 to 23 in CY 2010 and ended at 10 in CY 2011. A total of five dispositions were entered into the ACCH for acquittals with one reported in CY 2007 and four in CY 2011. Over the ten-year period, convictions increased from two in CY 2002 to ten in CY 2011.

Table 13. Sexual Assault-Related Disposition Charges Involving Domestic Violence by Outcome, CY 2002-2011

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Not Referred	0	0	1	0	0	1	0	1	0	0	3
Not Filed	10	4	4	3	9	13	15	12	12	10	92
Dismissed by the Court	9	5	19	5	16	8	9	18	23	10	122
Acquitted/Not Guilty	0	0	0	0	0	1	0	0	0	4	5
Plea to Other Charges	0	0	0	0	0	0	0	0	0	0	0
Conviction	2	2	6	5	3	3	3	4	10	10	48
Total Submitted to ACCH	21	11	30	13	28	26	27	35	45	34	270

According to the sentencing information for all sexual assault-related convictions involving domestic violence in the ACCH, between 66.7 percent and 100.0 percent of convictions led to a probation sentence (Table 14). In CY 2011, all convictions resulted in a probation sentence. From CY 2002 to CY 2011, three convicted offenders were sentenced to jail and between zero and 66.7 percent of convicted offenders were sentenced to prison.

Only a small number of convictions for sexual assault flagged for domestic violence led to fines and community service while restitution was not ordered at all over the ten-year period. One

conviction in CY 2009 resulted in an order to pay a fine, and two led to a sentence of community service in CY 2005.

Both suspended sentencing and "other" sentencing conditions were used from CY 2002 to CY 2011 for sexual assault-related convictions involving domestic violence. The percentage of convictions resulting in suspended sentencing ranged from a low of 0.0 percent in CY 2003 and CY 2004, to a high of 70.0 percent in CY 2010. "Other" unspecified sentencing conditions ranged from a low of 0.0 percent in CY 2009, to a high of 83.3 percent in CY 2004.

Table 14. Percentage of Sexual Assault-Related Convictions Involving Domestic Violence by Sentence Type(s), CY 2002-2011

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Fines	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	25.0%	0.0%	0.0%	2.1%
Probation	100.0%	100.0%	100.0%	80.0%	100.0%	66.7%	66.7%	75.0%	100.0%	100.0%	91.7%
Jail	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	10.0%	6.3%
Prison	0.0%	50.0%	66.7%	20.0%	0.0%	66.7%	33.3%	50.0%	30.0%	30.0%	35.4%
Community Service	0.0%	0.0%	0.0%	40.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	4.2%
Restitution	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Suspended Sentence	50.0%	0.0%	0.0%	40.0%	66.7%	33.3%	66.7%	50.0%	70.0%	50.0%	45.8%
Other Sentence	50.0%	50.0%	83.3%	80.0%	33.3%	33.3%	33.3%	0.0%	40.0%	30.0%	43.8%
Total Convictions	2	2	6	5	3	3	3	4	10	10	48

TRENDS IN THE SEXUAL ASSAULT-RELATED DATA, CY 2002-2011

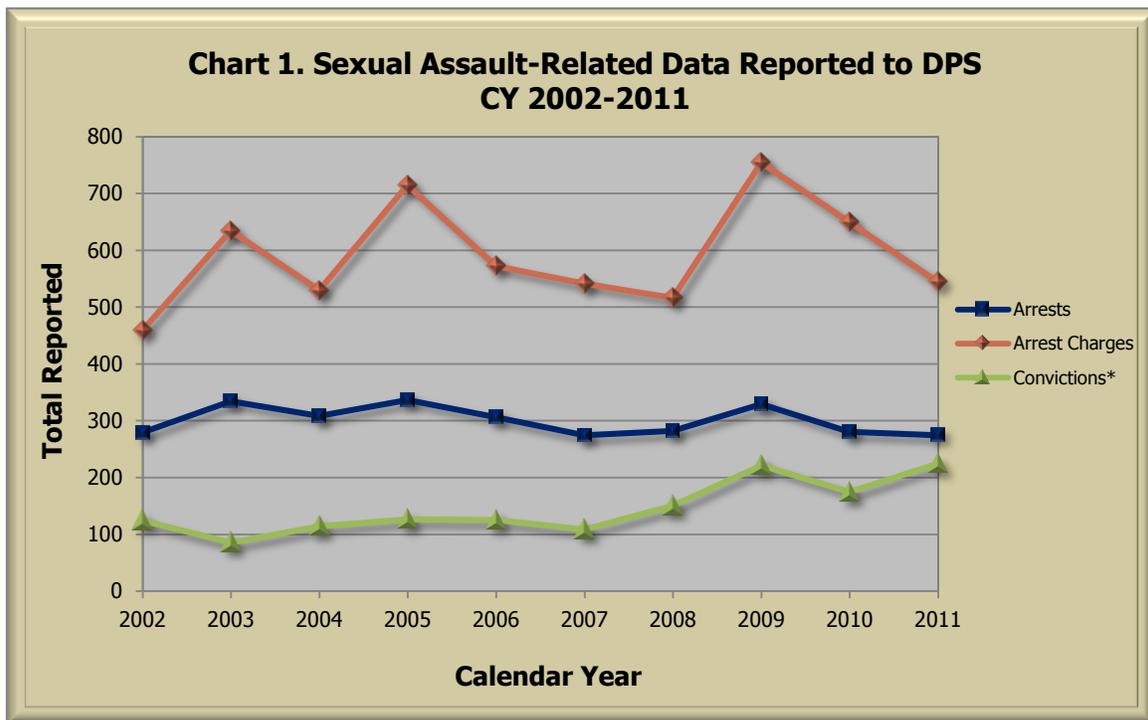
In addition to providing annual data associated with each sexual assault-related arrest charge from CY 2002 to CY 2011, this report includes ten-year trend analysis of sexual assault-related arrests, charges, convictions, and sentence types. All sexual assault data reported in the trend analysis incorporates arrests and dispositions in the ACCH 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 charges in CY 2007 and CY 2008 were recorded as A.R.S. 13-1406.01 offenses despite the statute repeal. These arrests and charges are included in the trend data that follows.

Sexual Assault-Related Arrests, Charges, and Convictions

The number of sexual assault-related arrest charges in the ACCH ranged from a low of 459 in CY 2002 to a high of 754 in CY 2009, before falling to 544 arrest charges in CY 2011 (Chart 1). This represents an 18.5 percent increase over the entire ten-year period. In contrast to the number of arrest charges, the total number of arrests involving at least one sexual assault-related charge decreased from CY 2002 to CY 2011. In CY 2002, there were 279 arrests

involving at least one sexual assault-related charge. In CY 2011 the number of arrests involving at least one sexual assault-related charge decreased by 1.4 percent to 275 arrests. The average number of sexual assault-related charges per arrest increased over the reporting period from 1.6 charges per arrest in CY 2002 to 2.0 charges in CY 2011.

From CY 2002 to CY 2011 the number of convictions for sexual assault-related charges that were entered into the ACCH increased by 80.6 percent, from 124 convictions in CY 2002 to 224 convictions in CY 2011. The total number of annual convictions represents convictions obtained during that calendar year resulting from any arrest dating back to CY 2000. Although one sexual assault conviction was later overturned in CY 2004 and two additional convictions were reversed and remanded in CY 2007 and CY 2011, these convictions are included in the annual totals.



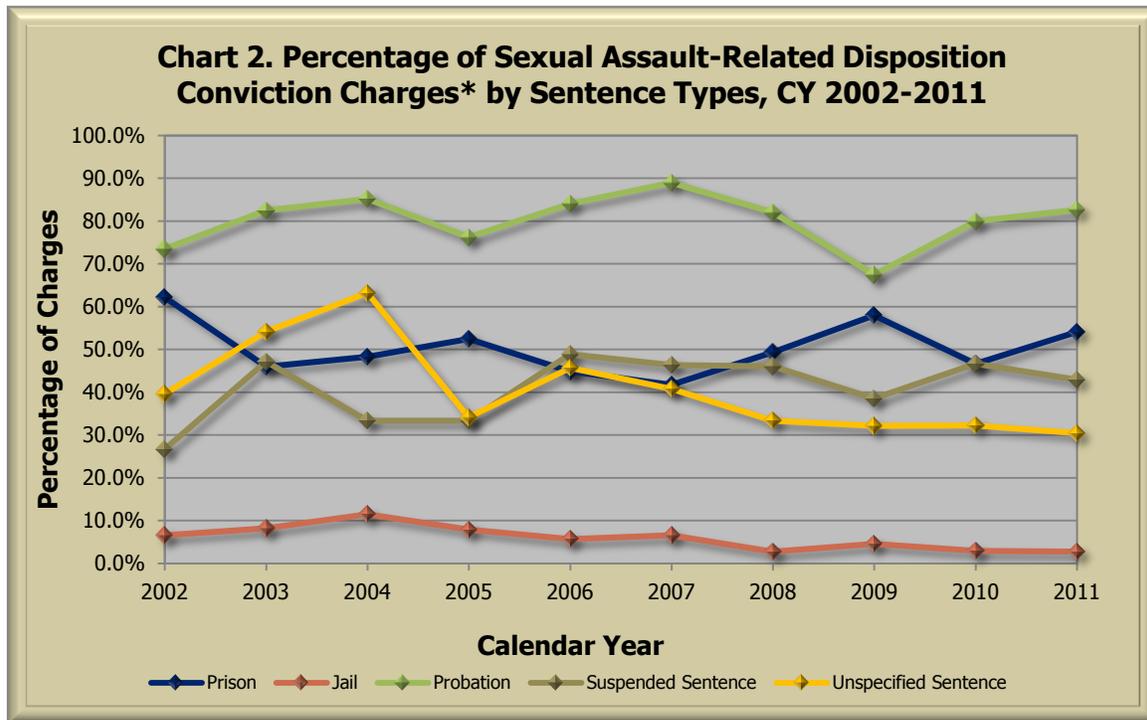
* One CY 2004 conviction was overturned, and two convictions from CY 2007 and CY 2011 were reversed and remanded.

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. Not included in this section are fines, community service, and restitution sentences for sexual assault-related convictions (data for all eight sentence types are available by offense type in Tables 9 and 11). No sentencing information was provided for the overturned conviction and the reversed and remanded convictions identified in Chart 1.

Chart 2 shows the ten-year trends for each of the five most frequent sentences resulting from sexual assault-related convictions. The percentage of convicted offenders receiving prison sentences fluctuated, but decreased, over the entire period from 62.1 percent in CY 2002 to 54.0 percent in CY 2011. The number of convicted offenders receiving jail sentences decreased

over the ten-year period from 6.5 percent in CY 2002 to 2.7 percent in CY 2011. The sentencing outcome used most frequently was probation sentencing, ranging from 67.4 percent of convictions in CY 2009 to 88.9 percent of all convictions in CY 2007. Sentences were suspended for 26.6 percent of convictions in CY 2002 and increased to 42.9 percent in CY 2011. "Other" unspecified sentences fell overall from 39.5 percent in CY 2002 to 30.4 percent in CY 2011.



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

DISCUSSION

According to data in the ACCH, the number of sexual assault-related arrest charges has increased by 18.5 percent from CY 2002 to CY 2011 despite a recent decrease from 754 charges in CY 2009 to 544 charges in CY 2011. In contrast, the number of arrests involving at least one sexual assault-related charge decreased from 279 in CY 2002 to 275 in CY 2011. As a result, the average number of sexual assault-related charges per arrest increased from 1.6 charges per arrest in CY 2002 to 2.0 charges per arrest in CY 2011. Also important to note, the total number of sexual assault-related arrest charges flagged for domestic violence increased over the ten-year period from 27 charges in CY 2002 to 65 in CY 2011. Of all sexual assault-related arrest charges reported over the ten-year period, 21.6 percent of the charges were missing subsequent case disposition information in the ACCH as of January 2013.

When looking at those arrested for a sexual assault-related charge, the vast majority were white/Caucasian males. In CY 2011, 98.0 percent of arrestees were male and 75.8 percent were white/Caucasian. Approximately one-third of arrestees (33.6 percent) in CY 2011 were 24 years of age or younger, 27.3 percent were between 25 and 34 years of age, and 18.4 percent were between 45 and 59 years of age. Additionally, 17.2 percent of arrestees in CY 2011 were between the ages of 35 and 44 while 3.5 percent were 60 years of age or older.

From CY 2002 to CY 2010, sexual assault-related disposition charges were most likely to result in a court dismissal. In CY 2011, 38.6 percent of sexual assault-related disposition charges resulted in court dismissals and 43.9 percent resulted in a conviction (including 36 convictions affirmed and one reversed and remanded in appellate court in CY 2011). Overall, convictions for sexual assault-related charges increased from 124 in CY 2002 to 224 in CY 2011, an increase of 80.6 percent.

Information from the ACCH repository also included sentencing data associated with sexual assault-related convictions. From CY 2002 to CY 2011, prison sentences for sexual assault-related convictions fluctuated from a low of 41.7 percent in CY 2007 to a high of 62.1 percent in CY 2002. In CY 2011, the percentage of convictions leading to a prison sentence was 54.0 percent. The percentage of convictions leading to a jail sentence in CY 2002 was 6.5 percent but dropped to 2.7 percent in CY 2011. A probation sentence was assigned in at least two-thirds of convictions over the ten-year period, and in CY 2011, 82.6 percent of convictions resulted in a probation sentence.

Additional sentencing options included fines, community service, restitution, and "other" unspecified sentences. The use of fines increased from being assigned in 1.6 percent of convictions in CY 2002 to 8.5 percent in CY 2011. Conversely, the use of community service decreased from 6.5 percent of convictions in CY 2002 to 0.4 percent in CY 2011. Restitution was not ordered for any convictions until CY 2008, and in CY 2011 the percentage of convictions resulting in a restitution order was 0.4 percent. Finally, the "other" unspecified sentence category was recorded for 39.5 percent of convictions in CY 2002 but dropped to a ten-year low of 30.4 percent of convictions in CY 2011.

The percentage of convictions for sexual assault-related offenses where sentences were suspended ranged from a low of 26.6 percent in CY 2002 to a high of 48.8 percent in CY 2006.

Data Availability Issues

Utilizing information from arrest and 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 involves 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 of relationship, the length of the relationship, the frequency of the interaction between the victim and the defendant, and if the relationship has terminated, the length of time since the termination.⁷

Despite spousal relationship status not being available, 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 and arrest submission 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 submission of the arrest and subsequent case information to the ACCH repository. 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. Over the remaining ten-year period, no arrest charges were entered into the ACCH using the A.R.S. 13-2907.03 code.

Data Quality Concerns

Finally, previous research⁸ has revealed that there is a relatively large amount of missing case disposition information in the ACCH and the data on sexual assault is not immune from the problem of missing disposition information. During CY 2011, 40.3 percent of sexual assault-related 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.

⁷ Arizona domestic violence criteria, as outlined in *A.R.S. §13-3601.A*.

⁸ Bileski, Matt. "Completeness of Criminal History Records in Arizona, CY2002-2011 Data Brief" March 2013. <<http://www.azcjc.gov/ACJC.Web/Pubs/Home/Completeness%20of%20Criminal%20History%20Records%20in%20Arizona,%20CY2002-2011.pdf>>. March 20, 2013.

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.

13-1423. Violent sexual assault; natural life sentence

A. A person is guilty of violent sexual assault if in the course of committing an offense under section 13-1404, 13-1405, 13-1406 or 13-1410 the offense involved the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or involved the intentional or knowing infliction of serious physical injury and the person has a historical prior felony

conviction for a sexual offense under this chapter or any offense committed outside this state that if committed in this state would constitute a sexual offense under this chapter.

B. Notwithstanding section 13-703, section 13-704, section 13-705, section 13-706, subsection A and section 13-708, subsection D, a person who is guilty of a violent sexual assault shall be sentenced to life imprisonment and the court shall order that the person not be released on any basis for the remainder of the person's natural life.

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. If a person is convicted of an offense involving domestic violence and the victim was pregnant at the time of the commission of the offense, at the time of sentencing the court shall take into consideration the fact that the victim was pregnant and may increase the sentence.

M. 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, the maximum sentence otherwise authorized for that violation shall be increased by up to two years.

N. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer must determine if a minor is present. If a minor is present, the peace officer must conduct a child welfare check to determine if the child is safe and if the child might be a victim of domestic violence or child abuse.

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 by 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 and central registry exceptions pursuant to section 41-619.57.

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.

23. With a nonprofit organization that interacts with children or vulnerable adults for the lawful purpose of evaluating the fitness of all current and prospective employees, contractors and volunteers of the organization. The criminal history record information shall be provided on submission of the applicant fingerprint card and the prescribed fee.

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, paragraph 3. 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.