



Follow-Up— California Department of Justice

Delays in Fully Implementing Recommendations
Prevent It From Accurately and Promptly Identifying
All Armed Persons With Mental Illness, Resulting in
Continued Risk to Public Safety

Report 2015-504

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July 9, 2015

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The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

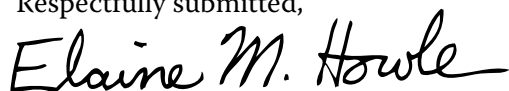
Dear Governor and Legislative Leaders:

This report presents the results of a follow-up audit of the California Department of Justice (Justice) related to recommendations made in 2013 by the California State Auditor (state auditor). In October 2013 the state auditor issued a report titled *Armed Persons With Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From Superior Courts Limit the Identification of Armed Persons With Mental Illness*, Report 2013-103. The 2013 audit report included recommendations aimed at ensuring Justice accurately and promptly identifies firearm owners in the State who are prohibited from owning or possessing a firearm due to a mental health-related event in their life (armed prohibited person).

This report concludes that Justice's delays in fully implementing certain recommendations result in continued risk to public safety. After more than 18 months Justice has not fully implemented seven of the eight recommendations that we reviewed from our 2013 report. For example, Justice continues to have errors related to its determinations of whether or not to prohibit individuals from firearm ownership due to a mental health-related event. In addition, Justice has not taken all steps to ensure that courts and mental health facilities are reporting all individuals for review to determine whether they should be designated an armed prohibited person. Although we recommended that Justice consider trends in court reporting and track reporting levels from mental health facilities, it has not done so. For example, we identified that 91—or 25 percent—of the 361 courthouses had declines of 30 percent or more in the number of prohibited persons reports in 2014; however, Justice had not identified the significant drops in reporting because it had not analyzed trends in court reporting. Similarly, Justice developed procedures to identify significant drops in a mental health facility's reporting levels, but did not always follow them. Because it had not conducted any trend analyses regarding court reports or followed up with mental health facilities that show significant drops in reports each quarter, Justice does not know whether persons with mental illness are going unreported or if some other factor caused the changes in reporting levels.

Additionally, Justice maintains backlogs in its two processing queues because it continues to redirect its Armed and Prohibited Persons unit staff to work on another priority for which there is a statutory deadline. Specifically, during the first quarter of 2015 the backlog in its daily queue was over 3,600 cases, which is six times higher than its goal of having a maximum of 600 or fewer cases in the queue. Further, as of April 2015 its historical backlog was over 257,000 potentially prohibited persons. Based on its current rate of reviewing its historical queue, we estimate that Justice may not meet its goal of clearing the backlog by December 2016. Instead, based on its current pace, we estimate that Justice may not be able to clear the backlog until sometime in 2022. The longer it takes Justice to review the records in its backlogs, the longer armed prohibited persons keep their firearms, which increases the risk to public safety.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

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Summary

Results in Brief

The California Department of Justice (Justice) has not fully implemented certain recommendations from our October 2013 report that prevents it from accurately and promptly identifying firearm owners in the State who are prohibited from owning or possessing a firearm due to a mental health-related event in their life (armed prohibited person).¹ As we described in our previous report, Justice attempts to identify these armed prohibited persons by matching its records of firearm owners against reports about individuals with mental illness that it receives from superior courts (courts) and mental health facilities. This identification process is critical for Justice to complete promptly so that it can confiscate firearms from armed prohibited persons and ensure public safety.

This follow-up audit focused on certain recommendations we made to Justice related to the accurate and timely identification of armed prohibited persons as well as its process for reaching out to courts and mental health facilities. In our October 2013 report we reported that Justice did not correctly identify three of eight persons we reviewed as armed prohibited persons nor did its Armed Prohibited Persons System (APPS database) always contain accurate information. We noted that of an additional 12 individuals prohibited from firearm ownership, Justice had omitted a mental health prohibition in the APPS database for one and for another Justice staff did not identify all of the individual's firearms in the APPS database. As a result of these errors, we recommended that Justice implement quality control procedures over its Armed and Prohibited Persons unit (APPS unit) staff determinations. Although Justice has partially implemented this recommendation, it needs to do more to ensure that it identifies all prohibited persons. Specifically, Justice developed and implemented quality control procedures for review of its staff determinations that individuals are prohibited from owning a firearm; however, it did not implement similar procedures over its staff determinations that individuals are not prohibited from owning a firearm. Despite our previous finding that APPS unit staff inaccurately identified some individuals as being *not* prohibited from firearm ownership, Justice interpreted our recommendation to be limited to determinations over individuals who are prohibited from firearm ownership. When we discussed our concern with Justice, it agreed that it is important to perform reviews of all staff determinations and in April 2015 took steps to put new procedures in place to do so.

¹ *Armed Persons With Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From Superior Courts Limit the Identification of Armed Persons With Mental Illness*, Report 2013-103 (October 2013).

Audit Highlights . . .

Our follow-up audit of the California Department of Justice's (Justice) progress in addressing certain issues we raised in our 2013 report highlighted the following:

- » *Although Justice has partially implemented our recommendation that it implement quality control procedures over its Armed and Prohibited Persons unit (APPS unit) staff determinations, Justice needs to do more to ensure that it identifies all armed prohibited persons.*
 - *It implemented a review process of its staff determinations that individuals are prohibited from owning a firearm, but did not do so for staff determinations that individuals are not prohibited from owning a firearm.*
 - *Justice does not have desk procedures or a checklist to assist the APPS unit staff in making correct prohibition determinations, as well as entering and reviewing information into the Armed Prohibited Persons System (APPS database).*
- » *Justice's daily processing queue—a queue that contains the daily events from courts and mental health facilities—during the first quarter of 2015 was over 3,600 cases, which is six times higher than its revised goal of no more than 600 cases.*
- » *Justice is unlikely to complete its review of events in the historical queue—a backlog of certain persons who have not yet been reviewed since Justice implemented the APPS database in November 2006—by its December 2016 goal.*
- » *Justice is not conducting trend analyses of mental health determinations made by the courts as a means to potentially identify instances of nonreporting or underreporting.*

Further, in our follow-up review of Justice's quality control procedures over its staff determinations that an individual is prohibited from firearm ownership, we identified two errors in the 10 cases we reviewed. Specifically, in one case we found that an APPS unit staff had incorrectly prohibited an individual from firearm ownership because the APPS unit staff member had not reviewed all pertinent information, such as the individual's Social Security number and address. When Justice makes this type of error, it inappropriately infringes upon an individual's right to own and possess firearms. In the other case, we determined that the APPS unit staff had not included all weapons belonging to the individual in the APPS database as required. Ensuring the APPS database contains accurate information is important because Justice agents who confiscate weapons from the armed prohibited persons use this information when planning firearm confiscations. These errors may have occurred because Justice does not currently have desk procedures or a checklist to assist the APPS unit staff in making correct prohibition determinations, as well as entering and reviewing all pertinent information into the APPS database.

Additionally, in our previous report we noted that Justice had backlogs in its two processing queues: a daily queue and a historical queue. During late 2012 and early 2013, Justice had a backlog of more than 1,200 matches pending initial review in its daily queue—the queue that contains the daily events from courts and mental health facilities that indicate a match and may trigger a prohibition for an individual to own a firearm. Because a backlog in this queue means that Justice is not reviewing these daily events promptly, we recommended that Justice establish a goal of no more than 400 to 600 cases in the daily queue. However, during this follow-up audit, we found that Justice's daily queue during the first quarter of 2015 was over 3,600 cases; this is six times higher than its revised goal of no more than 600 cases. Just as it did during the previous audit, Justice continues to cite its need to redirect staff to another Bureau of Firearms (bureau) priority, which has a statutory deadline, as the reason for this backlog. We believe that, if Justice had a statutory deadline on the initial processing of the matches in the APPS database, it would encourage Justice to avoid redirecting APPS unit staff. The chief of the bureau believes that seven days would be a reasonable time frame to complete an initial review of matches.

Furthermore, when we conducted this follow-up audit, we found that Justice is unlikely to complete its review of events in the historical queue by its December 2016 goal, a goal that we discussed in our October 2013 report. The former assistant bureau chief explained that the backlog in Justice's historical queue (historical backlog) consists of persons who registered an assault weapon since 1989 or acquired a firearm since 1996 and who have not yet been reviewed for prohibiting events since Justice implemented

the APPS database in November 2006. In our previous report we reported that as of July 2013, Justice's historical backlog was nearly 380,000 persons; now as of April 2015—over a year and a half later—its historical backlog is still over 257,000 potentially prohibited persons. Based on Justice's annual averages of reviewing the historical backlog since 2010, we estimate that Justice will not complete its review of the historical backlog until 2018 based on Justice's most productive year or 2022 based on Justice's current pace. The longer it takes Justice to review the records in historical backlog the longer armed prohibited persons keep their firearms, which increases the risk to public safety.

In our October 2013 report we also reported that many courts were not aware of a state law requiring them to report individuals to Justice when the courts make certain mental health determinations because Justice had not reached out to the courts to discuss reporting requirements and confirm instances of nonreporting or underreporting. As a result, we recommended that Justice coordinate with the Administrative Office of the Courts at least once per year to share information about court-reporting levels, including the trends in the number of reports each court sends. We also recommended that when Justice identifies a court that it determines may not be reporting all required information, it should request that the court forward all required case information. When we reviewed the changes Justice implemented since the previous audit, we determined that Justice was not conducting a trend analysis as we recommended. If Justice had conducted such an analysis, it would have found that 25 percent of the courthouses had a significant decline in the number of prohibited person reports in 2014. By not considering such trends, Justice cannot ensure that it has the necessary information to identify all armed prohibited persons with mental illness.

This audit focused on relevant actions Justice has taken related to selected recommendations we made in our October 2013 report. During our follow-up audit, we updated our evaluation of the status of these recommendations, and we noted conditions that indicate a need for additional recommendations to Justice. For example, Justice needs to better manage its competing priorities to ensure that it reviews potentially armed prohibited persons promptly. Additionally, it needs to implement quality control procedures over all of its determinations, regardless of whether the APPS unit staff determine that an individual is prohibited or not prohibited from firearm ownership. We believe that by fully implementing the recommendations from our prior report and fully implementing the additional recommendations we present in this report, Justice can ensure that it fulfills its responsibility of identifying armed prohibited persons.

Recommendations***Legislature***

To ensure that Justice fairly balances competing responsibilities and avoids redirecting APPS unit staff to competing priorities, the Legislature should require Justice to complete an initial review of cases in the daily queue within seven days.

Justice

To ensure that it accurately identifies all prohibited persons, Justice should implement its plan to develop a checklist by July 2015 and desk procedures by September 2015 to aid its analysts in making correct prohibition determinations.

To ensure staff can promptly address the daily queue and the historical backlog, by July 2016 Justice should identify and implement strategies, including pursuing funding, to staff its bureau operations to the level it needs.

Agency Comments

Justice agrees with our recommendations and outlined steps that it will take to implement them.

Introduction

Background

State law, enacted in 2001, mandated that the California Department of Justice (Justice) create a database to match information related to persons in the State who are prohibited from owning or possessing a firearm (prohibited persons) with its records of firearm owners to determine whether these individuals are prohibited from owning their firearms.² Justice implemented this database, commonly known as the Armed Prohibited Persons System (APPS database), in November 2006. The purpose of this database is to cross-reference all persons in California who are firearm owners and who are unlawfully in possession of a firearm because of a qualifying event in their life that prohibits them from owning a firearm (prohibiting event). Justice refers to these individuals as *armed prohibited persons*.

As we described in our October 2013 report, although different qualifying events can cause someone to become prohibited from owning a firearm, the scope of this audit is limited to prohibitions related to mental health.³ Because of the variety of prohibiting events, different entities throughout the State are required to report to Justice when a prohibiting event occurs. Mental health facilities are generally responsible for reporting prohibiting events related to mental health status. Superior courts are generally responsible for reporting events related to criminal proceedings, but they are also required to report information to Justice related to determinations concerning an individual's mental health. Additionally, state law requires local law enforcement to report to Justice any time a licensed psychotherapist reports that a patient has made a threat against an individual.

Process of Reporting Mental Health Firearm Prohibiting Events to Justice and Identifying Prohibited Persons

The Armed and Prohibited Persons unit (APPS unit) within Justice's Bureau of Firearms (bureau) is responsible for identifying armed persons with mental illness from a daily list of individuals who may meet the criteria. As of May 2015 the APPS unit employed

² State law directs Justice to identify persons who have ownership or possession of a firearm, as indicated by a record in Justice's Consolidated Firearms Information System (CFIS). CFIS contains records of firearm owners from information that Justice receives from sales and subsequent transfers of firearms as well as registered owners of assault weapons. Thus, we use the term *firearm owners* throughout the report to describe these individuals.

³ *Armed Persons With Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From Superior Courts Limit the Identification of Armed Persons With Mental Illness*, Report 2013-103 (October 2013).

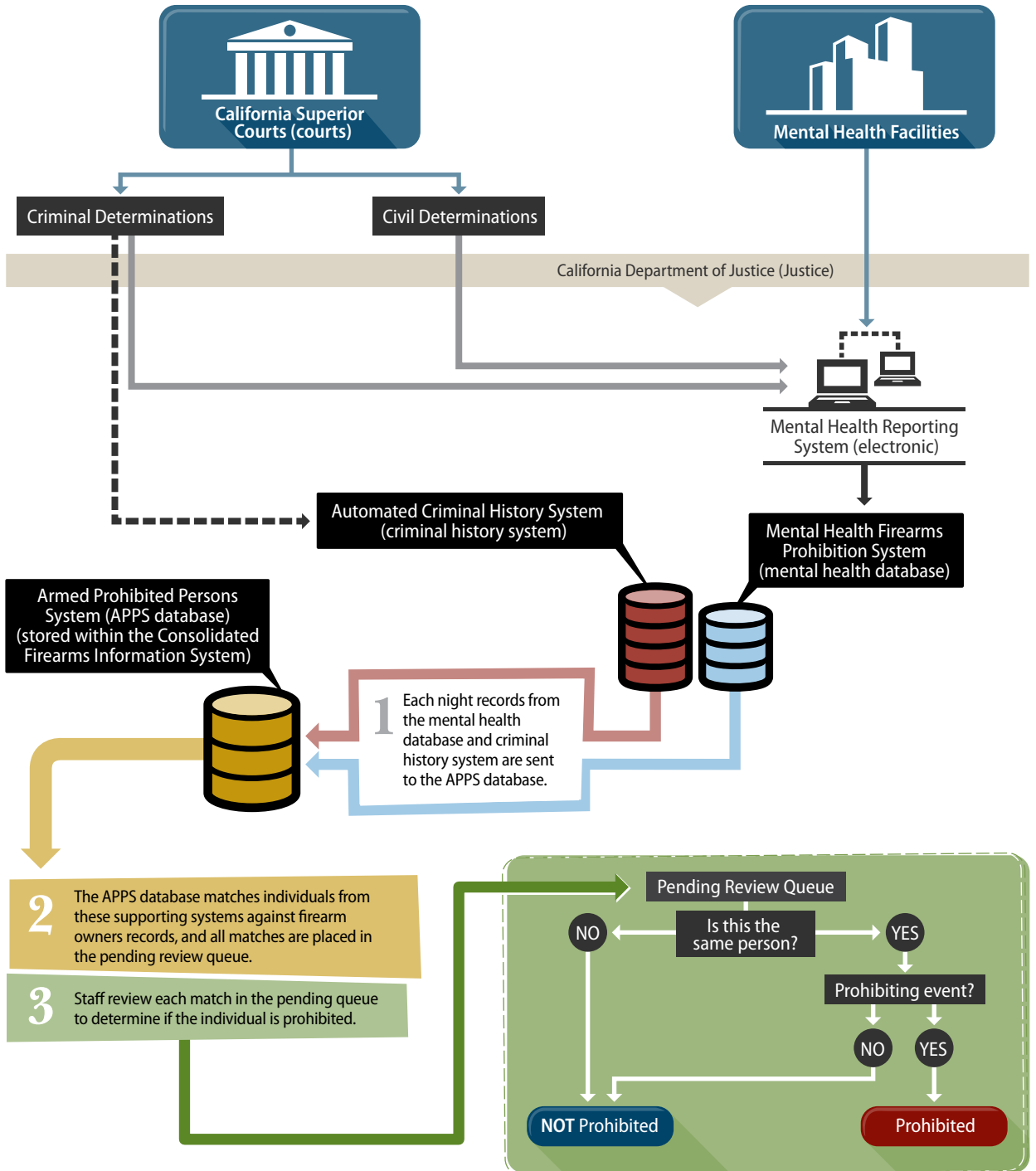
eight staff, one quality control staff, and a manager.⁴ As Figure 1 shows, Justice has an automated process that it runs each night, which matches the records in the Mental Health Firearms Prohibition System (mental health database) and the criminal history system with information in Justice's CFIS, which contains records of firearm owners in California since 1996 and of assault weapon owners since 1989. Specifically, Justice's automated process compares personal identifying information within the two systems, such as Social Security numbers, to identify individuals who own a firearm and who may have had a mental health prohibiting event logged into one of the two databases within the last 24 hours. All persons identified through this automated check are placed in a pending daily queue for APPS unit staff to review.

Staff in the APPS unit manually review each person in the pending daily and historical queues to determine whether the automated check has matched the correct individual. The APPS database matches prohibiting events with firearm owners, and then Justice's APPS unit staff review these matches and determine whether the individual is actually prohibited from possessing a firearm. Matches remain in the daily queue until an analyst completes an initial review of the match. For example, the automated check will match an individual with a recent prohibiting event with someone in CFIS who has the same personal identification number, such as a California driver's license number, but a different name and date of birth. Justice has implemented a manual review of these potentially prohibited persons so it does not incorrectly label firearm owners as prohibited persons by an automated process. In addition to verifying identity, staff also verify that the event that pulled the individual from the criminal history system or the mental health database is actually a prohibiting event. When staff determine that someone is a prohibited person, they identify that individual as prohibited in the APPS database and update his or her information, including address and firearm ownership information. In addition, the historical queue is a backlog of individuals who have not yet been reviewed for prohibiting events since Justice implemented the APPS database in November 2006.

The APPS database identifies individuals who own firearms and whether they have a prohibition. State law specifically requires Justice to search its firearm records to determine whether the individual has had a prohibiting event. State law does not direct Justice to, nor is Justice attempting to, identify for purposes of the APPS database individuals who have prohibiting events, are unarmed, and are living at the same residence as firearm owners. Effective January 1, 2014, state law specifies that when firearm

⁴ There are two quality control staff positions, but as of May 1, 2015, one of the quality control positions is vacant.

Figure 1
 The Process of Reporting Mental Health Firearm Prohibiting Events to the California Department of Justice and Identifying Armed Prohibited Persons



Sources: Information provided by Justice's Bureau of Firearms and the Bureau of Criminal Information and Analysis.

Note: As described in the Background, local law enforcement agencies report whenever a licensed psychotherapist reports that a patient has made a threat against an individual. These reports are submitted manually and electronically through the Mental Health Reporting System. According to the manager of the mental health unit, Justice only expects to receive 500 of the reports submitted by local law enforcement agencies during 2015 compared to thousands of reports submitted by the courts and mental health facilities.

owners know or have reason to know that they reside with a prohibited person, they may not keep a firearm at the residence unless the firearm is maintained under specific conditions that state law prescribes, such as within a locked container. A violation of these requirements is a misdemeanor. According to the assistant bureau chief, the Justice agents that conduct firearm seizures will investigate whether any other firearms owners reside in the residence during their investigations. Further, the APPS unit is not responsible for background checks for firearm purchases. Another bureau unit, the Dealers' Record of Sale processing unit, is responsible for completing these background checks.

Scope and Methodology

This follow-up audit focused on certain recommendations we made to Justice in our October 2013 report related to the accurate and timely identification of prohibited persons as well as its process for reaching out to courts and mental health facilities.

Table 1
Selected Recommendations in the California State Auditor's Report 2013-103 and the Methods Used to Follow Up On Them

RECOMMENDATION	METHOD
<p>1 To ensure that it makes correct determinations about whether an individual is an armed prohibited person, by January 31, 2014, the California Department of Justice (Justice) should implement quality control procedures over Armed and Prohibited Persons unit (APPS unit) staff determinations. These procedures should include periodic supervisory review of staff determinations to ensure that staff decisions correctly identify all armed prohibited persons.</p>	<ul style="list-style-type: none"> • Reviewed Justice's quality control procedures over its APPS unit staff determinations identifying individuals as prohibited from firearm ownership (prohibition determinations). • Reviewed the prohibition determination review logs from June 2014 to March 2015, which staff use to track decisions identifying individuals as prohibited from firearm ownership to select test items. • Selected 10 cases from the prohibition logs to identify whether Justice staff determined that individuals were prohibited from firearm ownership correctly and that those determinations contain all pertinent information. • Interviewed staff to determine why Justice had not implemented quality control procedures for staff determinations that individuals are not prohibited from firearm ownership.
<p>2 To ensure that timely information is available for its efforts to identify armed prohibited persons and confiscate their firearms, Justice should manage staff priorities to meet both its statutory deadline for firearms background checks and its internal deadline for initially reviewing potential prohibited persons. Justice should report annually to the Legislature about the backlog of unreviewed potential prohibited persons and what factors have prohibited it from efficiently reviewing these persons.</p>	<ul style="list-style-type: none"> • Interviewed key staff to determine how Justice manages its staff priorities. • Obtained documentation to demonstrate actions Justice has taken to manage its staff priorities. • Reviewed the data compiled by the APPS unit manager from January 13, 2015, through March 25, 2015, of the Armed Prohibited Persons System (APPS database) daily queue to determine whether Justice is effectively managing staff priorities. • Reviewed and analyzed Justice's report to the Legislature to determine if it has reported about the backlog of unreviewed potential prohibited persons and what factors have prohibited it from efficiently reviewing these persons.

RECOMMENDATION	METHOD
<p>3 To ensure that potential armed prohibited person cases do not wait too long for their first review by the APPS unit, by December 31, 2013, Justice should revise its goal for the daily queue to a more challenging level of no more than a maximum of 400 to 600 cases. Justice should monitor its performance against this goal and manage staff priorities as needed to meet it.</p>	<ul style="list-style-type: none"> • Obtained documentation that demonstrates whether Justice is tracking the APPS database daily queue for the review of potential armed prohibited persons to monitor its goals to have no more than 600 cases in the queue at any one time. • Reviewed and analyzed data compiled by the APPS unit manager from January 13, 2015, through March 25, 2015, of the APPS database daily queue. • Assessed whether Justice has met its revised goal for the daily queue. • Determined the steps Justice intends to take to work toward meeting its goal for the daily queue.
<p>4 To ensure that it meets its goal of eliminating the historical backlog of reviewing firearms owners by the end of 2016, Justice should manage its staff resources to continually address the backlog, and should notify the Legislature if it believes that it will not be able to fully process this backlog by its goal date. To help guide this effort, Justice should establish benchmarks that will indicate whether it is on track to meet its goal.</p>	<ul style="list-style-type: none"> • Reviewed reports that demonstrate Justice's progress on eliminating the historical backlog. • Determined Justice's projected completion date for the historical backlog, based on Justice's progress eliminating the historical backlog.
<p>5 To ensure that it has the necessary information to identify armed prohibited persons with mental illness, Justice should coordinate with the Administrative Office of the Courts (AOC) at least once a year to share information about superior court (court) reporting levels and to determine the need to distribute additional information to courts about reporting requirements. In coordinating with the AOC about potential underreporting, at a minimum, Justice should consider trends in the number of reports each court sends and the number of reports that it might expect to receive from a court given the court's size, location, and reporting history. Whenever Justice identifies a court that it determines may not be reporting all required information, it should request that the court forward all required case information.</p>	<ul style="list-style-type: none"> • Interviewed Justice staff to determine whether it monitors the trends in court reporting of prohibited persons, and makes any effort to reach out to courts that do not report or are potentially underreporting prohibited persons. • Reviewed quarterly reports for 2013 quarter four through 2014 to determine the number of courts that reported prohibited persons to Justice and identify the associated trend in court-reporting levels. • Determined what actions Justice has taken to receive reports from courts that had a significant drop in their reporting levels.
<p>6 To ensure that it keeps an accurate and up-to-date list of all mental health facilities that are required to report individuals with mental illness, at least twice a year Justice should update its outreach list of mental health facilities by obtaining a list of facilities from the California Department of Health Care Services (Health Care Services).</p>	<ul style="list-style-type: none"> • Determined whether Justice's outreach list of mental health facilities was complete by obtaining an independent listing of mental health facilities, which Health Care Services maintains, and comparing it to the list Justice uses for outreach activities. • Interviewed Justice's management to determine the reason for any errors in Justice's list.
<p>7 As soon as it identifies mental health facilities that have not yet received information about reporting requirements and the online reporting system, Justice should send these facilities the related information.</p>	<ul style="list-style-type: none"> • Identified new mental health facilities since 2013. • For any new mental health facilities identified, determined what, if any, outreach Justice conducted to inform the facilities about reporting requirements.
<p>8 To ensure that it continues to receive information from facilities that currently report individuals with mental illness and that should continue to report such individuals, by January 31, 2014, and at least twice a year thereafter, Justice should implement a review of the number of reports it receives from individual mental health facilities. These reviews should focus on identifying any significant drops in a facility's reporting levels and include follow up with facilities that may require additional assistance in reporting.</p>	<ul style="list-style-type: none"> • Interviewed Justice staff to determine whether it monitors the trends in mental health facility reporting of prohibited persons, and makes any effort to reach out to facilities that are potentially underreporting prohibited persons. • Reviewed Justice's tracking sheet of quarterly reports for 2013 quarter four through 2014 to determine the number of mental health facilities that reported prohibited persons to Justice and the trend in facility reporting levels. • Interviewed Justice staff and reviewed key documents to determine what actions Justice has taken to receive reports from facilities that had a significant drop in their reporting levels.

Sources: Recommendations made in the report by the California State Auditor titled *Armed Persons With Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From Superior Courts Limit the Identification of Armed Persons With Mental Illness*, Report 2013-103 (October 2013), and information and documentation identified in the table column titled *Method*.

Assessment of Data Reliability

In performing this audit, we relied on electronic data extracted from Justice's APPS database and mental health database. The U.S. Government Accountability Office, whose standards we are statutorily required to follow, requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support our findings, conclusions, or recommendations. Consistent with our previous audit issued in October 2013, we did not perform accuracy and completeness testing of these data because the source documents required for this testing are stored by various entities, such as mental health facilities, courts, or firearm retailers located throughout the State, making such testing cost-prohibitive. Consequently, we found the data from the APPS and mental health databases were of undetermined reliability for the purposes of identifying the daily backlog, forecasting Justice's completion of the historical backlog, and identifying trends in court and mental health facility reporting. Although these determinations may affect the precision of the numbers we present, there is sufficient evidence in total to support our audit findings, conclusions, and recommendations.

Audit Results

Although the California Department of Justice Has Implemented Quality Control Procedures Over Some of Its Prohibition Determinations, It Needs to Do More

In our October 2013 report we reported that the California Department of Justice (Justice) did not always properly identify persons in the State who are prohibited from owning or possessing firearms (prohibited persons) nor did its Armed Prohibited Persons System (APPS database) contain accurate information.⁵ Specifically, we reported that Justice should have identified three of the eight persons we reviewed as prohibited based on their mental health history.

Further, we reported that although Justice had reached appropriate determinations for 12 additional individuals prohibited from firearm ownership, the information in the APPS database about the individuals was not always accurate. Of these 12 individuals, Justice had omitted a mental health prohibition in the APPS database for one and for another Justice staff did not identify all of the individual's firearms in the APPS database. We also reported that the errors may have been, in part, a consequence of the Armed and Prohibited Persons unit (APPS unit) managers or supervisors not reviewing prohibition decisions. Thus, we recommended that by January 31, 2014, Justice should implement quality control procedures over its APPS unit staff determinations. We specified that these procedures should include periodic supervisory review of staff determinations to ensure that these determinations correctly identify all firearm owners in the State who are prohibited from owning or possessing a firearm due to a mental health-related event in their life (armed prohibited persons).

Justice has partially implemented our recommendation to implement quality control procedures over its APPS unit staff determinations. In response to the audit recommendation, Justice developed and implemented quality control procedures over its determinations that individuals were prohibited from owning firearms. Justice also added two quality control positions to its APPS unit to fulfill the audit recommendation to perform supervisory reviews of staff determinations. As part of the quality control procedures for prohibition determinations, APPS unit staff maintain manual logs of individuals who they identified as being prohibited from firearm ownership (prohibition logs). At the end of each workday, the staff submit the prohibition logs to the quality control staff. The quality control staff are responsible for reviewing at least 10 percent of each analyst's daily prohibition log activity to ensure

⁵ *Armed Persons With Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From Superior Courts Limit the Identification of Armed Persons with Mental Illness*, Report 2013-103 (October 2013).

Although Justice implemented supervisory reviews of prohibition decisions, it did not do the same for staff determinations where APPS unit staff concluded that the firearm owner did not meet the criteria to be an armed prohibited person.

staff made correct determinations relative to the firearm prohibition criteria and the quality control staff note their review on the prohibition logs. We reviewed the totals of the monthly prohibitions the APPS unit manager compiled based on the prohibition logs from June 2014 to March 2015 and found that, on average, quality control staff reviewed 21 percent of the APPS unit staff prohibition determinations, which exceeded Justice's goal of 10 percent.

Although Justice implemented supervisory reviews of prohibition decisions, we found that it did not implement the same type of review procedures of staff determinations where APPS unit staff concluded that the firearm owner did not meet the criteria to be an armed prohibited person. Our previous report described that in three of the eight determinations we reviewed, Justice incorrectly determined individuals should not be prohibited from firearm ownership when they should have been prohibited. However, Justice focused its quality control procedures on reviewing staff determinations of prohibited individuals exclusively. Justice explained that it only implemented quality control reviews of staff determinations to prohibit firearm ownership because it interpreted the California State Auditor's recommendation to be limited to those prohibition determinations. It is critical that Justice review its staff decisions that an individual is not an armed prohibited person because of the grave risk to public safety if it fails to properly identify armed individuals with mental illness who could potentially be involved in fatal shootings.

When we discussed our concern with Justice, it agreed that it is important to perform reviews of staff determinations both identifying individuals who are and are not prohibited from firearm ownership. Consequently, in April 2015 Justice requested that its information technology unit create an automated report that would generate a sampling of prohibited and nonprohibited persons determinations for the quality control staff to review.

Justice continues to have errors in its determinations of whether or not to prohibit individuals from firearm ownership related to mental health. Specifically, Justice staff did not use all available information to determine whether an individual should be prohibited from firearm ownership nor did it always ensure the APPS database contains updated information. Because Justice has not yet implemented quality control procedures for staff determinations that an individual was not a prohibited person, we focused our review on the accuracy and effectiveness of Justice's decisions to prohibit individuals from firearm ownership. In our review of 10 APPS unit staff determinations to prohibit individuals from firearm ownership, we identified two errors. In one case an analyst incorrectly prohibited an individual. In that case, the individual had the same name and date of birth as another individual who had prohibiting mental health events. However, the analyst failed to use other identifying information such as the

Social Security number and address of the individual that would have led her to make the correct determination. According to the APPS unit manager, the analyst could not remember why she had not used all available information. When we brought this concern to Justice's attention, it immediately corrected the mistake and changed the individual's status in the APPS database to *not prohibited*. As a result of this error, although Justice had not yet seized the individual's firearm, it inappropriately designated this individual as being an armed prohibited person for two months. When Justice incorrectly determines that an individual should be prohibited from firearm ownership, it inappropriately infringes upon a person's right to own and possess firearms.

In the other case, although the analyst correctly prohibited the individual, we found that she had not updated the information in the APPS database to include all weapons belonging to this person. In October 2014 Justice implemented a policy that requires staff to update or review all information, including weapons, in the APPS database if the date of the last review exceeded one year. When we asked the APPS unit manager about the error, he stated that the error was an oversight by the analyst due to a training issue. Specifically, he stated that the analyst did not know that a voluntary registration was an ownership record, which should be included in the APPS database. The APPS unit manager stated that he had a meeting with staff to address the issue and will create new procedures for voluntarily registered firearms by the end of July 2015. Finally, the APPS unit does not have desk procedures or a checklist to assist the analysts in conducting their reviews of potentially prohibited persons. Desk procedures or a checklist could assist staff to ensure they review all necessary information to make correct determinations and accurately update the APPS database. If Justice had desk procedures or a checklist in place, the analysts may not have made these two errors. After we discussed this concern with Justice, it decided to implement these items. As of June 2015 Justice expects the checklist will be complete in July 2015 and the desk procedures will be complete in September 2015. Ensuring that information contained in the APPS database is accurate is important because Justice agents who confiscate weapons from armed prohibited persons use information in the APPS database when planning firearm seizures.

In another case, although the analyst correctly prohibited the individual, she had not updated the information in the APPS database to include all weapons belonging to this person.

Justice Continues to Redirect Staff to Another Priority, Which Adversely Affects Its Ability to Promptly Review Prohibiting Events Matched With Firearm Owners

In our October 2013 report we noted that Justice's APPS database has two main processing queues that staff use to review and determine whether a firearm owner should be prohibited from

We previously reported that Justice had experienced significant delays in processing its APPS database daily queue and recommended that Justice monitor its performance against a revised goal of 400 to 600 cases in the daily queue.

owning a weapon: a daily queue and a historical queue.⁶ The APPS database matches prohibiting events with firearm owners, and then Justice's APPS unit staff review these matches and determine whether the individual is actually prohibited from possessing a firearm. Matches remain in the daily queue until an analyst completes an initial review. We also reported that during late 2012 and early 2013, Justice had a backlog of more than 1,200 matches pending initial review. At that time Justice had established a goal to maintain no more than 1,200 matches in the APPS database daily queue. Also, the former APPS unit manager stated that prohibiting event matches should not remain in the APPS database daily queue for longer than two days. By leaving a large number of matches unreviewed each day, Justice may not be able to conduct a timely initial review of these matches. Without a timely review of the matches, Justice agents cannot conduct timely confiscations. Therefore, we recommended that by December 31, 2013, Justice revise its goal for the daily queue to a more challenging level of no more than a maximum of 400 to 600 cases, so that matches do not wait too long for an initial review.

We also previously reported that Justice had experienced significant delays in processing its APPS database daily queue. At the time of our previous audit, Justice redirected staff from the APPS unit, focusing its efforts on addressing a rise in background checks, required by state law, of individuals attempting to purchase a firearm (Dealers' Record of Sale). This staff redirection resulted in an excessive backlog of the matches in the APPS database daily queue. The Dealers' Record of Sale unit processes these background checks, and state law requires Justice to complete them within 10 days of receipt of a completed application or fee for firearm purchases. However, there is no similar statutory time requirement for the completion of APPS unit staff determinations. Justice reported that it temporarily redirected APPS unit staff to assist with the Dealers' Record of Sale processing unit to perform background checks until Justice could hire additional staff. Therefore, we recommended that Justice monitor its performance against a revised goal of 400 to 600 cases in the daily queue and manage staff priorities as needed to meet that goal. Additionally, we recommended that Justice manage staff priorities to meet both its statutory deadline for firearm background checks as well as its internal deadline for initially reviewing potential prohibited persons. We also recommended that Justice report annually to the Legislature about the backlog of unreviewed potential prohibited persons and what factors have prevented it from efficiently making determinations regarding these persons' right to own a firearm.

⁶ We discuss the historical queue, or backlog, in the next section.

Justice has partially implemented our recommendation to reduce its goal for the daily queue; however, its actions to implement our recommendation to manage its staff priorities are still pending. Although Justice issued a memorandum to staff revising its goal to a maximum of 600 cases, Justice is not meeting that goal. In its one-year update in October 2014 on the status of implementing this recommendation, Justice reported that it had maintained 600 or fewer cases in its daily queue since July 2014. Therefore, at that time, we considered this recommendation fully implemented. However, during this audit when we reviewed data compiled by the current APPS unit manager—who was hired in December 2014—from January 13, 2015, to March 25, 2015, the average daily queue has been over 3,600 cases pending initial review; this is six times higher than Justice’s revised goal. According to the Bureau of Firearms (bureau) assistant chief (assistant bureau chief), the bureau was able to maintain a daily queue with 600 or fewer cases during the summer when it did not have to redirect staff to conduct background checks. However, beginning in November 2014, the Dealers’ Record of Sale transactions increased requiring the bureau to once again redirect APPS unit staff.

The assistant bureau chief told us that the bureau will not be able to meet this revised goal of no more than 400 to 600 cases remaining in the daily queue without additional staff in its Dealers’ Record of Sale unit to process background checks. Based on a staffing analysis the bureau conducted, it believes it needs an additional 13 positions—35 positions in total—within the Dealers’ Record of Sale unit to handle the background check workload without redirecting APPS unit staff. As of May 2015, of the 22 positions authorized for the Dealers’ Record of Sale unit, four positions are vacant. Therefore, the bureau believes it would need to hire 17 additional staff in total—four vacant and 13 new positions—to handle the background check workload. The assistant bureau chief believes that if the Dealers’ Record of Sale unit was fully staffed, the current staffing level in the APPS unit would be sufficient to complete its workload. According to the assistant director of the Administrative Services Division (administrative services), Justice has not sought these additional positions because it currently does not have sufficient funds in its budget to pay for additional positions and is currently unable to access funds from other potential sources. He further indicated that Justice and the bureau are looking internally at other long-term funding options to support the bureau.

Justice’s continued redirection of APPS unit staff to meet the statutory deadlines for the Dealers’ Record of Sale background checks negatively impacts its ability to ensure that APPS database matches do not wait too long for their initial review. We believe that if Justice also had a statutory deadline for the initial processing of the matches in the APPS database, it would encourage Justice to avoid

Although Justice issued a memorandum to staff revising its goal to a maximum of 600 cases, Justice is not meeting that goal—from January 13, 2015, to March 25, 2015, the average daily queue has been over 3,600 cases pending initial review.

Justice has not yet implemented our recommendation to report to the Legislature about the daily queue of unreviewed potential prohibited persons and what factors have prevented it from efficiently reviewing these persons.

redirecting APPS unit staff. Although during our previous audit the former APPS unit manager indicated that matches in the APPS database should not wait longer than two days for the initial review, the bureau chief believes that seven days is a more realistic time frame. He stated that the volume of events causing an individual to be prohibited is unpredictable. Further, according to the bureau chief, the number of potential prohibited persons increased because of an increase in gun sales and a state law that became effective January 2014—Assembly Bill 809 (Chapter 745, Statutes of 2011)—requiring firearm owners to register long guns, which increases the number of potential matches in the APPS database.

Justice has not yet implemented our recommendation to report to the Legislature about the daily queue of unreviewed potential prohibited persons and what factors have prohibited it from efficiently reviewing these persons. Since May 2013 when the Legislature appropriated new funding to Justice for the purpose of increasing its efforts to remove firearms from armed prohibited persons through Senate Bill 140 (SB 140)—Chapter 2, Statutes of 2013—Justice has broadened its focus to include a greater emphasis on confiscation of firearms. In its six-month and one-year updates on the status of its outstanding recommendations, Justice indicated it would report to the Legislature in March 2015 through its required SB 140 report. However, when Justice submitted that report, it focused solely on the SB 140 reporting requirements and did not include information about the daily queues and the factors that have prohibited it from efficiently reviewing these persons. When we asked Justice why it had not reported information about the daily queues within the SB 140 report as it indicated it would, Justice explained that the information was excluded because of an oversight. It indicated that the bureau and administrative services have noted the oversight and will ensure that it is included in subsequent reports. When Justice delays the timely identification of armed prohibited persons, it cannot conduct timely confiscation of these firearms and, therefore, increases the risk to public safety.

At Its Current Pace, Justice Will Not Meet Its Goal of Eliminating the Historical Backlog of Firearm Owners

In addition to the backlog and delays that Justice's APPS unit has experienced in the daily queue, Justice has also faced difficulty in remaining on pace to complete its review of a historical backlog of individuals by its goal of December 2016. As we discussed in our previous audit, according to the former assistant bureau chief, the historical backlog was initially about one million firearm owners and consists of persons who registered an assault weapon since 1989 or acquired a firearm since 1996 and who have not yet been

reviewed for prohibiting events since Justice implemented the APPS database in November 2006. In fiscal year 2006–07 Justice received funding to address the backlog and, according to the former assistant bureau chief, Justice indicated it could complete the backlog by the end of 2016. We reported that as of July 2013, nearly 380,000 persons remained in Justice’s historical backlog, and we estimated that it would not complete its entire backlog until 2019. As a result, we recommended that Justice manage its staff resources to continually address the backlog, and notify the Legislature if it believes that it will not be able to fully process this backlog by its goal date of December 2016. To help guide this effort, we recommended that Justice establish benchmarks to indicate whether it is on track to meet its goal.

In response to our recommendation, in September 2014, the bureau chief directed his nine APPS unit staff to complete 11,500 historical cases each month for the next 25 months to meet its goal of eliminating the backlog by the end of 2016. He authorized the APPS unit staff to use whatever overtime or resources necessary to achieve this goal on or before the end of 2016.

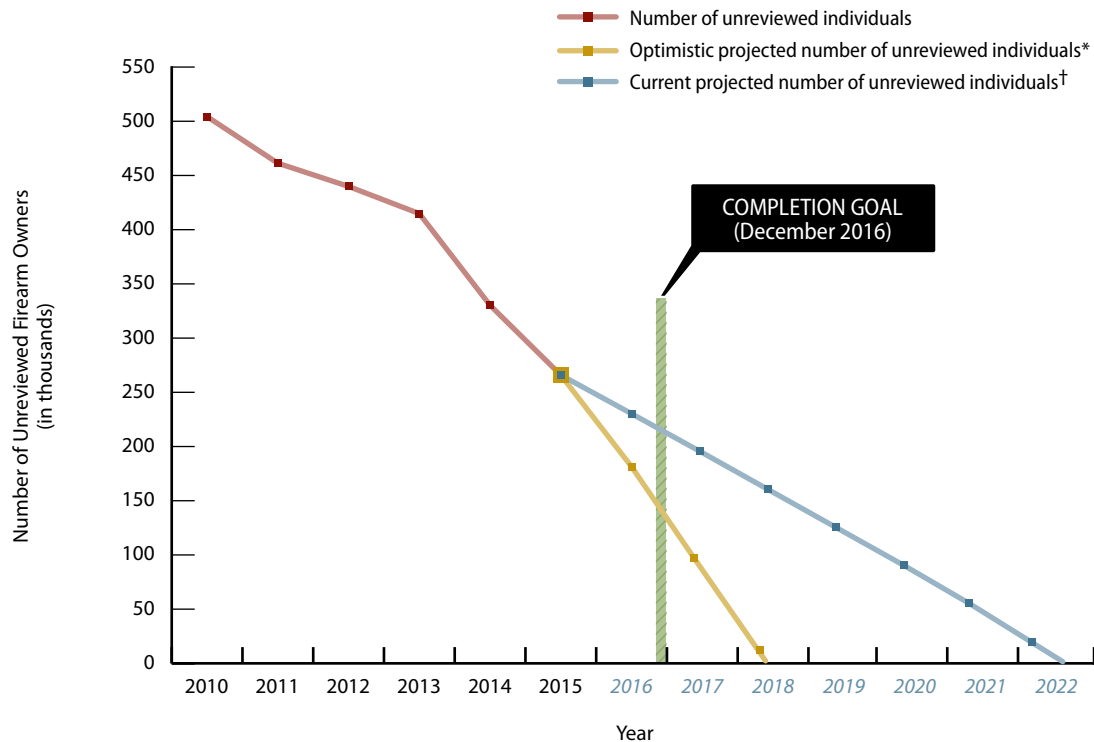
Although it has reduced the historical backlog since our previous report, Justice is still not on schedule to eliminate the backlog by its goal of December 2016. As of April 1, 2015, Justice’s historical backlog of unreviewed firearm owners was 257,115 persons. As shown in Figure 2 on the following page, we projected Justice’s estimated annual reduction of its APPS database historical backlog using its highest annual reduction since 2010—84,546—which occurred in 2013. Even if Justice reduced its backlog at this pace, we estimate that it will not finish addressing the backlog until 2018.

Further, we noted that Justice’s rate of completion significantly slowed in the first quarter of 2015. According to the APPS unit manager, Justice’s progress on the historical backlog had slowed because Justice redirected staff away from the historic backlog due to an increased number of Dealers’ Record of Sale background checks and potential prohibited persons in the daily queue, just as it did during our previous audit in October 2013. He also stated that Justice prioritizes the background checks over the APPS database daily queue and historical backlog because state law requires Justice to conduct these background checks within 10 days. If this slower rate of completion continues, we estimate that Justice may not complete the backlog until sometime in 2022. The longer it takes to review the records in the historical backlog the longer armed prohibited persons keep their firearms, which increases the risk to public safety. Despite Justice’s slowed pace in reviewing the historical backlog, according to the assistant bureau chief, Justice has not reported the status of the historical backlog to the

Although it has reduced the historical backlog since our previous report, Justice is still not on schedule to eliminate the backlog by its goal of December 2016.

Legislature because Justice still plans to eliminate this backlog by December 2016. She could not tell us how Justice plans to do this, but indicated that it is exploring all possible options.

Figure 2
Number of Unreviewed Firearm Owners in the Armed Prohibited Person System Historical Backlog



Sources: Summary reports from the California Department of Justice's (Justice) Armed Prohibited Persons System.

* This projection uses Justice's highest annual rate of reduction since 2010, which was 84,546 in 2013.

† This projection uses Justice's 2015 rate of reduction as of April, 2015, which is projected to be 35,108 annually.

Justice Does Not Know If Courts Are Reporting All Potential Armed Prohibited Persons

In our October 2013 report we reported that many superior courts (courts) were not aware of a state law requiring them to report individuals to Justice when the courts make certain mental health determinations, as shown in the text box on the following page. The 34 courts we surveyed at that time indicated they had not collectively reported about 2,300 of these determinations over a three-year period. Before our audit, Justice had not reached out to the courts to remind them about the reporting requirements, and it had not followed up with nonreporting courts to confirm that they

had no reportable determinations. We recommended that Justice coordinate with the Administrative Office of the Courts (AOC) at least once a year to share information about court-reporting levels, and to determine the need to distribute additional information to courts about reporting requirements and the manner in which to report. In coordinating with the AOC about potential underreporting, at a minimum, we recommended that Justice consider trends in the number of reports each court sends and the number of reports that it might expect to receive from a court given the court's size, location, and reporting history. Further, we recommended that whenever Justice identifies a court that it determines may not be reporting all required information, it request that the court forward all required case information.

For its one-year update on the status of implementing recommendations in our 2013 report, we designated its status of the recommendation to monitor court reporting as *fully implemented* because Justice provided procedures that satisfied this recommendation. However, upon further review during this follow-up audit, we determined that Justice had only partially implemented this recommendation. Although Justice had provided the AOC with the number of quarterly reports sent by each court, it has not conducted the trend analysis as we recommended. Following the October 2013 report, Justice developed procedures to identify significant drops in the number of reports provided by each court, and to provide the AOC, at least once per year, with a listing of all courts that are, or are not, in compliance with reporting mental health prohibitions. The procedures Justice developed did not contain criteria for identifying a significant drop. However, during this audit Justice revised its procedures to specify that it considers a reporting drop of 30 percent or more to be significant in the number of reports provided by a facility. When we asked if Justice had implemented its procedures, Justice provided an example of the quarterly court reporting that it had sent the AOC, but acknowledged that it had not considered the reporting trends because of management turnover in its mental health unit. Justice did not provide any further explanation for its failure to conduct an analysis of court reporting trends.

If Justice had considered trends in court reporting, it would have identified that there are significant drops in a specific court's reporting that may indicate that the same courts are not forwarding all cases to Justice for review. For example, we identified that 91— or 25 percent—of the 361 courthouses had declines of 30 percent

Determinations That Superior Courts Must Report to the California Department of Justice

An individual has been found by a superior court (court) to be:

- A danger to others as a result of a mental disorder or illness, which results in a court-ordered commitment to a treatment facility.
- Not guilty by reason of insanity or has regained his or her sanity.
- Mentally incompetent to stand trial or has regained his or her competency.
- Gravely disabled due to a mental disorder or impairment by chronic alcoholism and requiring a conservator, and the possession of a firearm would present a danger to himself or herself or others.
- No longer gravely disabled and requiring a conservator or the court has found that the possession of a firearm would no longer present a danger to himself or herself or others.

Source: California Welfare and Institutions Code, sections 8103, 5300, and 6500.

or more in the number of prohibited persons reports in 2014. Although these courthouses may have valid reasons for the decrease in reports, if Justice does not identify them for follow-up, it will not know whether persons with mental illness are going unreported or if some other factor caused the facility to stop reporting these individuals.

Because it is not considering such trends, Justice cannot ensure that it has the necessary information to identify all armed prohibited persons with mental illness and, therefore, cannot ensure public safety. Justice's current mental health unit manager—who has held the position since February 2015—stated that Justice plans to implement its revised procedures, which includes sending AOC a list of courts with reporting drops of 30 percent or more, for the quarter ending June 30, 2015.

Justice Lacks Sufficient Processes for Updating Its List of Mental Health Facilities

In our previous report, we identified 22 mental health facilities that Justice had not contacted about reporting requirements and we recommended that at least twice a year it should update its outreach list of mental health facilities; Justice has only partially implemented this recommendation.

In our previous report we identified 22 mental health facilities that Justice had not contacted about reporting requirements. Mental health facilities are an essential provider of the information Justice uses to identify individuals who are prohibited from owning firearms for mental health reasons, such as an involuntary hold because they present a danger to themselves or others. Although Justice must rely on mental health facilities to report individuals with mental illness so that it can determine whether the individuals are prohibited from being armed, our 2013 report explained that Justice did not verify that the list of mental health facilities it used included all facilities that should be reporting potential firearm prohibitions. As a result of not having a complete list, Justice did not communicate with those facilities missing from the list about its expectations for reporting or which individuals the facilities should report. Therefore, we recommended that at least twice a year Justice should update its outreach list of mental health facilities by obtaining a list of facilities from the California Department of Health Care Services (Health Care Services)—the entity responsible for approving these facilities. We also recommended that as soon as it identifies mental health facilities that have not yet received information about reporting requirements and the online reporting system, Justice should send these facilities the related information.

For its one-year response, we designated its status of the recommendation to update its outreach list as *fully implemented* because Justice provided procedures that satisfied this recommendation. However, upon further review during our follow-up audit, we determined that Justice had only partially implemented this recommendation. Although Justice compared

its list of mental health facilities to the list from Health Care Services, it had not identified all of the differences between the lists. Specifically, Justice's procedures state that twice a year it will obtain a list of mental health facilities from Health Care Services and ensure that all facilities required to report are reporting accordingly. Justice staff identified 16 differences when comparing the information on the lists between July and November 2014, such as incorrect names, addresses, or phone numbers for facilities. However, we identified 10 additional differences that Justice overlooked, including one facility that was missing from its list and nine facilities with incorrect addresses or phone numbers.

Although Justice has procedures to update its list of mental health facilities, the procedures do not include supervisory review to ensure Justice's staff completely updates its list. When we asked Justice how it planned to ensure errors such as those that we found do not occur in the future, the assistant bureau chief stated that the mental health unit plans to change its tracking spreadsheet to allow staff to note discrepancies between the lists. In the event of discrepancies, the analyst will contact the mental health facility and verify the correct information and then indicate the follow-up actions in the comment section of the tracking spreadsheet. The assistant bureau chief also agreed to implement a supervisory review of the updated list to ensure that staff identified discrepancies and took appropriate steps to update the list. When Justice fails to ensure that it has a complete and accurate list of all reporting mental health facilities, Justice increases the risk that it will not identify individuals who should be prohibited from possessing a firearm and will not be able to confiscate firearms that these individuals possess. Also, Justice may not provide important information about reporting requirements to mental health facilities missing from the list.

Additionally, Justice fully implemented our previous recommendation that as soon as it identifies mental health facilities that have not yet received information about reporting requirements and the online reporting system, Justice should send these facilities the related information. Justice explained that when a new mental health facility contacts Justice, it sends the facility information on the reporting requirements and how to submit reports. Further, if Justice identifies a new mental health facility through its review of the Health Care Services list, it will send the facility the necessary information. Justice identified six new mental health facilities licensed since February 2013. Although Justice did not maintain documentation that it sent reporting requirement information to these facilities, each new facility had provided it with prohibited persons reports. The mental health unit manager stated that going forward, Justice will maintain documents to show that it sends reporting requirement information to new facilities.

Although Justice staff identified 16 differences when comparing the information on the mental health facilities lists between July and November 2014, we identified 10 additional differences that Justice overlooked, including one facility that was missing from its list and nine facilities with incorrect addresses or phone numbers.

Justice Did Not Always Follow Up With Mental Health Facilities When Reporting Levels Dropped

In our October 2013 report we noted that Justice did not track reporting levels from mental health facilities. Our analysis indicated that 146 facilities each submitted more than 100 prohibition reports to Justice during 2012, but four of these facilities stopped submitting reports by the end of the year. In addition to those four facilities, 10 more facilities had decreases in their reporting levels of more than 50 percent from the first quarter of 2012 to the last quarter of the year. We concluded that at that time the facilities with significant drops in reporting may have valid reasons for the decrease in reports, but if Justice does not follow up with these mental health facilities, it cannot know whether persons with mental illness are going unreported or if some other factor caused the facility to stop reporting these individuals. As a result, we recommended that Justice implement a review of the number of reports it receives from individual mental health facilities at least twice per year. These reviews should focus on identifying any significant drops in a facility's reporting levels and include follow up with facilities that may require additional assistance in reporting.

For its one-year response, we designated its status of the recommendation to follow up with mental health facility reporting levels as *fully implemented* because Justice provided procedures that satisfied this recommendation. However, upon further review during our follow-up audit, we determined that Justice had only partially implemented this recommendation. Although Justice developed procedures to identify significant drops in a mental health facility's reporting levels, Justice did not always follow them. Justice's procedures state that at least twice a year it will review the number of reports received from individual mental health facilities, identify all significant drops, and follow up with the facilities. Although Justice does not have formal criteria for identifying a significant drop, the mental health unit manager stated that, as with the courts, the department considers a reporting drop of 30 percent or more to be a significant drop in the number of reports provided by a facility, and warrants follow-up. As shown in Table 2, Justice identified significant drops in mental health facility reporting each quarter. However, it did not identify all drops of 30 percent or greater. For example, in the fourth quarter of 2014, of the 31 mental health facilities whose reporting dropped more than 30 percent, Justice only identified 23 of them.

The mental health unit manager stated that missing some of the significant reporting drops was an oversight on behalf of the mental health unit staff. Because staff did not identify certain significant drops, they did not reach out to those facilities to investigate the reason for the drop in reporting. The manager also stated that

Although Justice developed procedures to identify significant drops in a mental health facility's reporting levels per our recommendation, Justice did not always follow them.

the department will evaluate and implement enhanced quality assurance measures to avoid missing these types of errors in the future. Specifically, the assistant bureau chief stated that Justice will modify its procedures to include a manager’s secondary review of the trending report to ensure that staff identified and followed up on all reporting drops.

Table 2
Number of Significant Reporting Drops in Prohibited Persons Reports for Mental Health Facilities in 2014

	QUARTER 2	QUARTER 3*	QUARTER 4
Number of significant reporting drops [†]	15	19	31
Number of drops the California Department of Justice (Justice) identified	12	17	23
Significant drops Justice did not identify	3	2	8
Number of facilities Justice contacted	0	12	0

Source: Justice’s Mental Health Reporting System.

* Justice contacted mental health facilities that had a significant drop in reporting in this quarter only.

† Justice defines a significant drop in prohibited event reporting as a change of 30 percent or greater between reporting periods.

Furthermore, Justice’s methodology for contacting mental health facilities is incomplete because it does not investigate all reporting drops that occur during the year. For example, Justice only contacted facilities with drops between the second and third quarter of 2014, even though it identified 12 significant drops between quarter one and two. When we discussed our concerns with Justice, the assistant bureau chief indicated that Justice would modify its methodology to follow up on all reporting drops for all four quarters. When it does not reach out to mental health facilities with significant drops in reporting, Justice risks being unable to identify all armed prohibited persons because the mental health facilities may not know about all of the reporting requirements.

Conclusion

This audit focused on relevant actions Justice has taken related to selected recommendations we made in our October 2013 report regarding the accurate and timely identification of prohibited persons as well as its process for reaching out to courts and mental health facilities. During this follow-up audit, we updated our evaluation of the status of the recommendations as shown in the Appendix beginning on page 27, and we noted conditions that indicate a need for additional recommendations to Justice.

We believe that by fully implementing the recommendations from our prior report and fully implementing the additional recommendations we present in this report, Justice can ensure that it fulfills its responsibility of identifying armed prohibited persons.

Recommendations

Legislature

To ensure that Justice fairly balances competing responsibilities and avoids redirecting APPS unit staff to conduct Dealers' Record of Sale background checks, the Legislature should require Justice to complete an initial review of cases in the daily queue within seven days and periodically reassess whether Justice can complete these reviews more quickly.

Justice

To ensure that it accurately identifies all prohibited persons, Justice should implement its plan to develop a checklist by July 2015 and desk procedures by September 2015 to aid its analysts in making correct prohibition determinations.

To ensure staff can promptly address the daily queue and the historical backlog, by July 2016 Justice should identify and implement strategies, including pursuing funding, to staff its bureau operations to the level it needs.

To fully implement our previous recommendation and ensure that it keeps an updated accurate list of all mental health facilities, by July 2015 Justice should implement supervisory review of its analyst's comparison of Justice's mental health facilities list and Health Care Services' list to ensure staff identified and corrected all discrepancies.

To fully implement our previous recommendation and ensure that it investigates all significant drops in mental health facility reporting, Justice should revise its procedure to consider drops between each quarter.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the information specified in the Scope and Methodology section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Date: July 9, 2015

Staff: Tammy Lozano, CPA, CGFM, Audit Principal
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For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

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Appendix

Status of Actions Taken in Response to Selected Recommendations in the California State Auditor's Report 2013-103

As Table A shows, this follow-up audit found that the California Department of Justice (Justice) has not fully implemented several of the selected recommendations we reviewed from our October 2013 report that we believe will ensure it can accurately and promptly identify armed prohibited persons with mental illness. Specifically, these recommendations relate to Justice identifying all firearm owners in the State who are prohibited from owning or possessing a firearm due to a mental health-related event in their life, eliminating its daily and historical backlogs, as well as conducting outreach to potentially nonreporting or underreporting superior courts and mental health facilities.

Table A
Status of Actions Taken in Response to Selected Recommendations in the California State Auditor's Report 2013-103

RECOMMENDATION	STATUS	PAGES WHERE RECOMMENDATIONS AND ACTIONS ARE DISCUSSED
To ensure that it makes correct determinations about whether an individual is an armed prohibited person, by January 31, 2014, the California Department of Justice (Justice) should implement quality control procedures over the Armed and Prohibited Persons unit (APPS unit) staff determinations. These procedures should include periodic supervisory review of staff determinations to ensure that staff decisions correctly identify all armed prohibited persons.	Partially Implemented*	11–13
To ensure that timely information is available for its efforts to identify armed prohibited persons and confiscate their firearms, Justice should manage staff priorities to meet both its statutory deadline for firearms background checks and its internal deadline for initially reviewing potential prohibited persons. Justice should report annually to the Legislature about the backlog of unreviewed potential prohibited persons and what factors have prohibited it from efficiently reviewing these persons.	Pending	13–16
To ensure that potential armed prohibited person cases do not wait too long for their first review by the APPS unit, by December 31, 2013, Justice should revise its goal for the daily queue to a more challenging level of no more than a maximum of 400 to 600 cases. Justice should monitor its performance against this goal and manage staff priorities as needed to meet it.	Partially Implemented	13–16
To ensure that it meets its goal of eliminating the historical backlog of reviewing firearms owners by the end of 2016, Justice should manage its staff resources to continually address the backlog, and should notify the Legislature if it believes that it will not be able to fully process this backlog by its goal date. To help guide this effort, Justice should establish benchmarks that will indicate whether it is on track to meet its goal.	Partially Implemented	16–18
To ensure that it has the necessary information to identify armed prohibited persons with mental illness, Justice should coordinate with the Administrative Office of the Courts (AOC) at least once a year to share information about court-reporting levels and to determine the need to distribute additional information to courts about reporting requirements and the manner in which to report. In coordinating with the AOC about potential underreporting, at a minimum, Justice should consider trends in the number of reports each court sends and the number of reports that it might expect to receive from a court given the court's size, location, and reporting history. Whenever Justice identifies a court that it determines may not be reporting all required information, it should request that the court forward all required case information.	Partially Implemented*	18–20

continued on next page...

RECOMMENDATION	STATUS	PAGES WHERE RECOMMENDATIONS AND ACTIONS ARE DISCUSSED
To ensure that it keeps an accurate and up-to-date list of all mental health facilities that are required to report individuals with mental illness, at least twice a year Justice should update its outreach list of mental health facilities by obtaining a list of facilities from the California Department of Health Care Services.	Partially Implemented*	20–21
As soon as it identifies mental health facilities that have not yet received information about reporting requirements and the online reporting system, Justice should send these facilities the related information.	Fully Implemented	20–21
To ensure that it continues to receive information from facilities that currently report individuals with mental illness and that should continue to report such individuals, by January 31, 2014, and at least twice a year thereafter, Justice should implement a review of the number of reports it receives from individual mental health facilities. These reviews should focus on identifying any significant drops in a facility's reporting levels and include follow-up with facilities that may require additional assistance in reporting.	Partially Implemented*	22–23

Sources: Selected recommendations made in the report by the California State Auditor (state auditor) titled *Armed Persons with Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From Superior Courts Limit the Identification of Armed Persons With Mental Illness*, Report 2013-103 (October 2013) and the state auditor's analysis of Justice's actions related to the recommendations.

* The state auditor originally considered these recommendations to be fully implemented based on documentation submitted by Justice that indicated it had fully implemented our recommendation. However, when we conducted our follow-up audit we determined that Justice had not implemented the recommendations as its documentation led us to believe. Therefore, we have changed the status of these recommendations to be partially implemented.

July 2015

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



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June 24, 2015

Elaine M. Howle, CPA
State Auditor
Bureau of State Audits
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Re: BSA Report 2015-504

Dear Ms. Howle,

The Department of Justice (DOJ) has reviewed the Bureau of State Audits' (BSA) draft report titled "Follow-Up – Department of Justice: Delays in Fully Implementing Recommendations Prevent It From Accurately and Promptly Identifying All Armed Persons With Mental Health Illness, Resulting in Continued Risk to Public Safety" and appreciates the opportunity to respond to the report.

As stated in our initial response to BSA Report 2013-103 titled "*Department of Justice - Mentally Ill Prohibited Persons*," we will start our response with a brief background of the Department's Armed Prohibited Persons System (APPS). In 1999, due to the proliferation of gang violence and mass shootings in both California and across the nation, DOJ began studying high profile shootings to identify ways to reduce the number of these violent events. The study revealed an important similarity in the cases—the shooter was often a law-abiding citizen when he or she purchased or acquired their firearm but subsequently became prohibited from possessing firearms due to a mental health determination, a criminal conviction, or becoming the subject of a restraining or protective order. DOJ soon realized that if it had the means (e.g., funding for personnel and database enhancements) and the legal authority to immediately determine whether persons who lawfully purchased firearms subsequently became prohibited from owning, the violence could be curtailed.

Accordingly, DOJ sponsored Senate Bill 950 (Brulte/Scott, 2001). This bill was ultimately signed into law and authorized DOJ to cross-reference its database of persons who own handguns as reflected in DOJ's Consolidated Firearms Information System (CFIS) with its databases of persons who are prohibited by law from doing so. In 2003, DOJ obtained spending authority to build the APPS database. In November 2006, development was completed and the APPS database was implemented. California is the only state in the nation with a program like APPS. The APPS program allows the DOJ to take a proactive approach on the prevention of firearm violence.

At the time of implementation, APPS immediately identified approximately 6,800 armed and prohibited persons. Since that time, APPS has grown to approximately 21,000 armed and

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prohibited persons and DOJ has conducted nearly 11,000 investigations, resulting in the seizure of over 12,000 firearms and nearly 1 million rounds of ammunition from armed and prohibited persons throughout California.

APPS grows by approximately 3,000 persons per year, but California local law enforcement does not have sufficient resources to proactively locate and contact armed and prohibited persons. To address this problem, Attorney General Harris sponsored Senate Bill 819 in 2011 to fund increased enforcement efforts. After its enactment, Attorney General Harris ordered a series of sweeps that successfully took firearms out of the possession of persons prohibited due to their criminal histories or mental health. After the success of these sweeps, Attorney General Harris sought and received additional resources from the Legislature in July 2013, via Senate Bill 140, to hire 36 additional agents for the APPS program. This has enabled the DOJ to conduct 13,313 APPS investigations from July 1, 2013, to May 30, 2015, and reduced the APPS subject backlog from an estimated 28,000 subjects (if not for the additional resources acquired via SB 140) to 15,797 APPS subjects as of June 19, 2015. That is a net reduction of more than 12,000 subjects.

In response to the BSA's specific recommendations identified in the report, DOJ submits the following responses:

CHAPTER 1 RECOMMENDATIONS:

BSA Recommendation:

To ensure that Justice fairly balances competing responsibilities and avoid redirecting APPS unit staff to conduct Dealers Record of Sale background checks, the Legislature should require Justice to complete an initial review of cases in the daily queue within seven days and periodically reassess whether Justice can complete these reviews more quickly.

DOJ Response:

DOJ agrees with this recommendation and looks forward to working with the Legislature on drafting language, identifying positions, funding, and information technology enhancements needed to achieve this goal.

BSA Recommendation:

To ensure that it accurately identifies all prohibited persons, Justice should implement its plan to develop a checklist by July 2015 and desk procedures by September 2015 to aid its analysts in making correct prohibition determinations.

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DOJ Response:

The DOJ agrees with this recommendation, and is in the final stages of adopting desk procedures and a quick reference checklist that covers the complex aspects of determining if an individual is armed and prohibited. The DOJ estimates the quick reference checklist and desk procedures will be completed, reviewed, and adopted by late July and September 2015, respectively.

BSA Recommendation:

To ensure staff can promptly address the daily queue and the historical backlog, by July 2016, Justice should identify and implement strategies, including pursuing funding, to staff its BOF operations to the level it needs.

DOJ Response:

DOJ is committed to eliminating the APPS historical backlog by December 2016. As previously indicated, the DOJ has continued to monitor and respond to workload fluctuations impacting APPS processing. Additionally, the DOJ did establish realistic goals to complete the backlog by December 31, 2016. However, the unforeseen loss of analytical staff, and the continued high level of firearms sales have forced the DOJ to redirect staff to meet the legislative time frames associated with completing background checks on firearm purchases in California. The DOJ agrees with this recommendation and is currently in the process of implementing a strategy to temporarily redirect staff from other areas of the department to assist with the historical backlog and for adding analytical staffing resources to the BOF to meet workload demands, thereby eliminating the need to redirect staff away from the goal of eliminating the APPS historical backlog by December 31, 2016.

BSA Recommendation:

To fully implement our previous recommendation and ensure that it keeps an updated accurate list of all mental health facilities, by July 2015, Justice should implement supervisory review of its analyst's comparisons of Justice's mental health facilities list and Health Care Services' list to ensure staff identified and corrected all discrepancies.

DOJ Response:

DOJ agrees with this recommendation and will continue notifying statewide mental health facilities of the state's reporting requirements by working with Department of Health Care Services (DHCS) to identify known mental health facilities operating within the state. Accordingly, the DOJ will continue its efforts in contacting DHCS and advocating that information about state mandated mental health facility reporting requirements be incorporated into the training materials and licensing conditions given to newly-licensed mental health facilities, as well as any information that is given to

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existing mental health facilities upon the renewal of their licenses, if applicable, by DHCS (who is the licensing authority). Finally, the DOJ will establish supervisory and management overview of analytical staff's comparisons of mental health facility lists between DHCS and the DOJ to ensure we have identified all operating mental health facilities.

BSA Recommendation:

To fully implement our previous recommendation and ensure that it investigates all significant drops in mental health facility reporting, Justice should revise its procedure to consider drops between each quarter.

DOJ Response:

While DOJ cannot compel mental health facilities to submit mental health determinations they are statutorily required to provide the information (see Welf. & Inst. Code, §§ 8103, subds. (f)(2)(B), (g)(2)(B), 8105, subd. (b)). The DOJ will continue to take the following steps to monitor and encourage the timely submission of mental health determinations: (1) Each quarter the DOJ will review each mental health facility's monthly reports to determine possible underreporting; (2) The DOJ will immediately notify both DHCS and the applicable mental health facility of our findings regarding possible underreporting; (3) The DOJ will seek a timely explanation from DHCS and the applicable mental health facility about the suspected underreporting; (4) The DOJ will offer training to mental health facilities and their employees regarding the timely reporting of mental health determinations to DOJ; and (5) The DOJ will keep records of its communications with DHCS and the applicable mental health facility regarding the suspected underreporting.

DOJ will continue to evaluate its available resources to determine whether additional staffing will be needed to fully implement these recommendations.

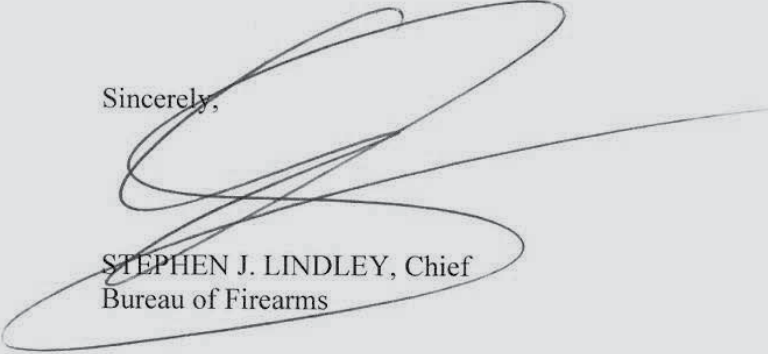
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Again, thank you for the opportunity to review and comment on this draft audit report. If you have any questions or concerns regarding this matter, you may contact me at the telephone number listed above.

Sincerely,



STEPHEN J. LINDLEY, Chief
Bureau of Firearms

For KAMALA D. HARRIS
Attorney General

cc: Nathan Barankin, Chief Deputy Attorney General
Venus Johnson, Associate Attorney General
Larry Wallace, Director, Division of Law Enforcement
Tammy Lopes, Director, Division of Administrative Support
Andrew Kraus, Director of the Office of Program Review and Audits
Martha Supernor, Assistant Bureau Chief, Bureau of Firearms
Allison Mendoza, Assistant Bureau Chief, Bureau of Firearms
Robert Wilson, Deputy Attorney General, Bureau of Firearms