



A REPORT  
TO THE  
MONTANA  
LEGISLATURE

LEGISLATIVE AUDIT  
DIVISION

22P-02

PERFORMANCE AUDIT

***FWP Enforcement  
Division: Managing  
Resources and Culture***

*Department of Fish, Wildlife & Parks*

AUGUST 2023

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**PERFORMANCE AUDITS**

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

Performance audits are conducted at the request of the Legislative Audit Committee, which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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# LEGISLATIVE AUDIT DIVISION

Angus Maciver, Legislative Auditor  
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August 2023

The Legislative Audit Committee  
of the Montana State Legislature:

This is our performance audit of the Enforcement Division within the Department of Fish, Wildlife & Parks (FWP).

This report provides the legislature information about the operations and culture of the Enforcement Division. This report includes recommendations for improving the Enforcement Division's data management and work culture. A written response from Fish, Wildlife & Parks is included at the end of the report.

We wish to express our appreciation to FWP personnel for their cooperation and assistance during the audit.

Respectfully submitted,

*/s/ Angus Maciver*

Angus Maciver  
Legislative Auditor



## TABLE OF CONTENTS

Figures and Tables.....	iii
Appointed and Administrative Officials .....	iv
Report Summary .....	S-1
<b>CHAPTER I – INTRODUCTION AND BACKGROUND .....</b>	<b>1</b>
Introduction .....	1
Enforcement Is Responsible for Patrolling a Diverse State .....	1
Audit Scope and Objectives .....	3
Audit Methodologies.....	3
Issues for Further Study .....	4
<b>CHAPTER II – DATA IS UNDERUTILIZED IN DECISION MAKING BY THE ENFORCEMENT DIVISION.....</b>	<b>5</b>
Introduction .....	5
The SmartCOP Computer System Tracks Warden Duties.....	5
Assessing SmartCOP Reliability .....	6
Warden Survey Confirmed Issues Identified in Data Analysis and Regional Visits.....	7
Inconsistent Activity Hour Tracking Highlights the Importance of Data Management .....	8
Funding Change Drives Some Warden Activities.....	8
Individual Activity Group Hours Show Decreases in Most Traditional Warden Activities.....	9
Citations and Warnings Are Another Indicator of Enforcement Prioritization .....	10
Stakeholder Contacts, an Indicator of Enforcement Outreach, Have Declined.....	10
Enforcement Metrics Do Not Align With Other Recreation Data.....	11
Data-Based Resource Allocation .....	12
Enforcement Does Not Have a Data Management Strategy.....	13
Current Implementation of the SmartCOP System Has Led to Errors.....	13
Enforcement Does Not Have Sufficient Policy for SmartCOP .....	13
Enforcement Needs a Data Management Plan .....	14
<b>CHAPTER III – PRIORITIZING OF WARDEN DUTIES.....</b>	<b>17</b>
Introduction .....	17
Multiple Factors Have Clouded the Appropriate Scope of Warden Duties .....	17
Inconsistent Guidance on Warden Responsibilities and MOUs Have Led to Cultural and Enforcement Differences .....	18
Neither Enforcement nor the Director’s Office Has Formally Defined Game Warden’s Duties.....	18
Montana Statute and Other States Provide Guidance on Scoping Wardens Duties .....	19
<b>CHAPTER IV – LEADERSHIP AND HUMAN RESOURCES IMPACT COMMUNICATION AND TRUST.....</b>	<b>21</b>
Introduction .....	21
Cultural Issues Have Damaged Trust Between Regional and Helena Staff.....	21
Communication Issues Contributed to a Fear of Retaliation and Intimidation.....	22
Wardens Did Not Have Trusted Communication Channels to Raise Issues With Leadership.....	22
Best Practices Encourage Open Communication for Addressing Grievances and Changing Culture.....	23

Negative Perceptions of Hiring Exacerbated by Hiring Document Retention Issues.....24  
Lack of Trust in Hiring Processes Further Damages Enforcement Culture.....25  
Enforcement Not Adhering to Agency Policy and a Lack of Oversight Have Led to  
Hiring Issues .....25  
FWP Hiring Policy Needs to Be Followed to Ensure Proper Enforcement Hiring and  
Documentation.....26

**APPENDIX.....27**  
Client Survey Response Rate and Results .....27

**DEPARTMENT RESPONSE**  
Department of Fish, Wildlife & Parks ..... A-1

## FIGURES AND TABLES

### Figures

Figure 1	FWP Regional Map, Offices, and Warden Counts.....	2
Figure 2	Warden Duties Tracked in SmartCOP .....	6
Figure 3	SmartCOP Survey Questions Show Lack of Understanding and Guidance.....	7
Figure 4	Activity Log Accuracy Survey Question .....	7
Figure 5	Decrease in PR Funded Activities Caused Decline in Total Activity Hours .....	8
Figure 6	Percentage Change in Activity Hours 2019-2021 .....	9
Figure 7	Number of Citations by Region 2019-2021 .....	10
Figure 8	Percentage Change in Metrics 2019-2021 .....	11
Figure 9	Warnings and Citations Issued by Wardens Concentrated Around Urban Areas .....	12
Figure 10	Wardens Without an MOU Do Not See Them as Necessary .....	17
Figure 11	§87-1-502 & 506, MCA, Outlines Wardens' Powers and Duties .....	19
Figure 12	Wardens See Communication and Cultural Improvements With New Leadership.....	23

## APPOINTED AND ADMINISTRATIVE OFFICIALS

### **Department of Fish, Wildlife & Parks**

Dustin Temple, Director (June 2023)

Henry “Hank” Worsech, Director (January 2021 through June 2023)

Ron Howell, Chief, Enforcement Division (December 2022)

Dave Loewen, Chief, Enforcement Division (January 2017 through  
November 2022)

J.D. Douglas, Assistant Chief, Enforcement Division

Phillip Kilbreath, Program Specialist, Enforcement Division

### **Fish and Wildlife Commission**

Lesley Robinson, Chair, Region 6

Patrick Tabor, Vice Chair, Region 1

Jeff Burrows, Region 2

Susan Kirby Brooke, Region 3

KC Walsh, Region 4

Brian Cebull, Region 5

William Lane, Region 7





# MONTANA LEGISLATIVE AUDIT DIVISION

## PERFORMANCE AUDIT

FWP Enforcement Division: Managing Resources and Culture  
DEPARTMENT OF FISH, WILDLIFE & PARKS

A report to the Montana Legislature

### BACKGROUND

Montana Fish, Wildlife & Parks' mission is to provide stewardship of the fish, wildlife, parks, and recreational resources of Montana. Game wardens are charged with enforcement of laws and commission rules to protect our natural resources. Wardens work in seven regions across the state while using technology to track and report their activities.

**Agency:**  
Fish, Wildlife & Parks

**Director:**  
Dustin Temple

**Program:**  
Enforcement Division

**Program FTE:**  
120.5

**Program Budget Authority:**  
\$13.9 million

In a survey of game wardens, 50 percent indicated they have experienced intimidation or retaliation from the Enforcement Chief's office in the last five years. This, along with a lack of direction on data usage and the focus of warden duties, created cultural divides between wardens in the field and management in Helena. Cultural divides are exacerbated by increasing and changing recreation that affect warden responsibilities.

### KEY FINDINGS:

**Fish, Wildlife & Parks Enforcement Division (Enforcement) has not developed a plan for the data they gather on warden activities.**

Enforcement uses a computer system to gather data on warden activities, public contacts, warnings, and citations. They have not determined what data is important to gather, standardized its collection, or determined how the data will be used to distribute Enforcement resources. Wardens indicated they were unsure of what the data was being used for outside of a disciplinary tool against wardens when they made errors entering it into the system.

**Enforcement has not defined the scope of warden duties, while recreation has continued to expand and diversify in the state.**

State statute provides broad guidance of warden duties that focuses on protection, preservation, and propagation of game and fur-bearing animals, fish, and game birds. However, data and warden interviews described the enforcement of traffic laws, drug- and alcohol-related offenses. Enforcement leadership's messaging to wardens has been mixed on their preferred warden focus and varies between regions.

**Management practices and communication issues between regional warden staff and FWP Headquarters have negatively affected Enforcement culture.** Wardens described a lack of support for traditional warden activities such as natural resource preservation and working with landowners. They described a culture that did not support open communication. In some cases, wardens reported being retaliated against for speaking out on Enforcement issues.

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For the full report or more information, contact the Legislative Audit Division.

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**Missing hiring and personnel documentation made reviewing claims of hiring impropriety and improper management practices in Enforcement impossible.** Wardens across multiple regions believed there were unfair hiring practices and discussed issues with the management styles of leadership involved in these hiring practices. Neither Enforcement nor Fish, Wildlife & Parks (FWP) Human Resources could produce the requested documentation. This showed a lack of internal controls for the hiring process and document retention.

#### **RECOMMENDATIONS:**

In this report, we issued the following recommendations:

To the department: 4

To the legislature: 0

#### **RECOMMENDATION #1 (page 15):**

*System and information management*

We recommend the department develop and implement a data management plan for their data system.

**Department response: Concur**

#### **RECOMMENDATION #2 (page 20):**

*Management and operational effectiveness*

We recommend the department formally define, prioritize, and communicate warden duties based on statutory guidance and regional demands.

**Department response: Concur**

#### **RECOMMENDATION #3 (page 24):**

*Management and operational effectiveness*

We recommend the department provide training and oversight on wardens' ability to file a grievance and conduct a cultural survey of wardens.

**Department response: Concur**

#### **RECOMMENDATION #4 (page 26):**

*Management and operational effectiveness*

We recommend the department follow FWP hiring policy, including internal controls for hiring and personnel material retention.

**Department response: Concur**

# Chapter I – Introduction and Background

## **Introduction**

The Department of Fish, Wildlife & Parks (FWP) Enforcement Division enforces state laws and Fish and Wildlife Commission rules related to conservation, recreation, and property. Game wardens patrol state lands and waters, including state parks, fishing access sites, wildlife management areas, lakes, and rivers. Wardens also work with landowners on private lands. Much of wardens' patrol and work with landowners is focused on hunting and fishing.

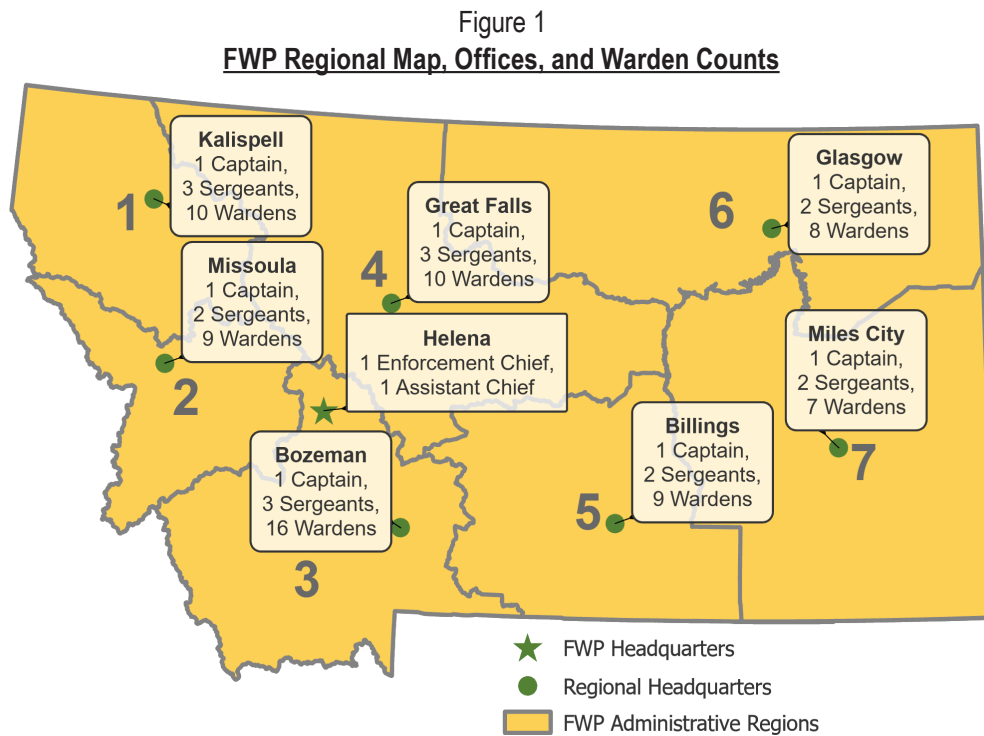
Based on sales data from FWP, license sales for hunting and fishing increased by 3 percent in 2021, to over \$68 million. According to the federal Bureau of Economic Analysis, Montana's outdoor recreation sector grew by over 18 percent in 2021. The growth has included diversification, with increases in state parks visitation, recreational vehicle camping, tourism, and alternative usage of fishing access sites and other state lands. This diversification has resulted in an expanding scope of responsibilities for game wardens.

To effectively adjust to the changing recreational landscape and increased use of Montana's wild lands, Enforcement must have a healthy culture, with resource allocation decisions driven by properly managed data.

## **Enforcement Is Responsible for Patrolling a Diverse State**

Montana has game wardens positioned across the state among FWP's seven administrative regions. Enforcement leadership is located in Helena and the regional offices. The chief, assistant chief, and other members of the management team are located in Helena. In each of the regions, one warden captain oversees all regional Enforcement staff. Multiple sergeants operating under the captain in each region manage three to four wardens each. Wardens are assigned to warden districts within a region and are responsible for patrolling the area within the district's boundaries.

The following figure represents the current number of wardens at each level in the regions.



Source: Created by the Legislative Audit Division.

Most funding for Enforcement comes from the sale of hunting and fishing licenses. According to statute (§87.1.701-708, MCA), this revenue may only be spent on fish and wildlife management. Enforcement also receives limited funding from federal sources for water enforcement, education, and non-enforcement activities. In fiscal year (FY) 2022, Enforcement's expenditures were \$12.9 million, with 6 percent of expenditures funded by federal sources. Personal services accounted for 77 percent of FY 2022 expenditures. Enforcement uses federal and state funding to operate the following programs:

- ◆ Recreational Boating Safety
- ◆ Criminal Investigations Section
- ◆ TIP-MONT
- ◆ Statewide Law Enforcement
- ◆ Hiring and Training
- ◆ Aviation Bureau

These programs operate in varying environments across the state. For example, regions in western Montana are more likely to confront urban wildlife issues than those in eastern Montana. In general, wardens are responsible for a wide variety of duties. They must prioritize which activities to focus on, based in part on the biggest activities and risks in their respective regions.

## **Audit Scope and Objectives**

Due to broad interest in the evolving nature of recreation managed by FWP and concerns over workplace culture, the Legislative Audit Committee prioritized a performance audit of the Enforcement Division in 2021. Audit assessment work included visiting a regional office and contrasting the views about Enforcement's direction between the chief's office and the wardens. During early interviews with wardens, it became clear there was a perceived disconnect between the regions and the direction of the chief's office in Helena. Part of the disconnect centered on the collection and the use of data generated by Enforcement. This led us to focus on how Enforcement uses data, the guidance provided to wardens on data collection, and warden buy-in to generating data to record their duties. Assessment work also found cultural issues developing around data collection that stretched into broader management and trust issues between leadership and wardens.

Wardens feared retaliation and intimidation when asked about management concerns. This suggested that personnel matters had also contributed to cultural issues expressed by wardens. Personnel issues included reluctance by wardens to approach FWP Human Resources (HR) as a resource to voice management issues. This led us to focus on the culture of Enforcement while still addressing the strain being placed on wardens by expanding recreation and determining whether supervisors are effectively using data management to inform efficient resource allocation decisions.

We developed the following objectives for examining the use of enforcement data and ability of Enforcement to adapt to changing recreation:

- ◆ Is FWP Enforcement Division using all available data to make management decisions on the distribution of resources?
- ◆ How do agency structure and culture affect FWP Enforcement's ability to serve increasingly diverse recreationists statewide?

## **Audit Methodologies**

To address this objective, we completed the following methodologies:

- ◆ Reviewed relevant policy, rule, commission regulation, and statute related to Enforcement duties.
- ◆ Reviewed data related to Enforcement duties and other recreational activities. This included warden activity hours, stakeholder contacts, license sales, and park visitation from 2019 to 2021. We reviewed data on warnings and citations from 2017 to 2021.
- ◆ Interviewed employees responsible for operating the systems that manage the reviewed data.
- ◆ Compared datasets to each other to determine if Enforcement has adjusted their focus areas along with other recreation indicators.
- ◆ Interviewed regional Enforcement staff to discuss regional priorities, culture, relationship with the Chief's Office, and data usage.
- ◆ Conducted optimization analysis on regional warden placement. Used geographic information system (GIS) mapping to determine hotspots for warnings and citations across the state compared to warden placement.

- ◆ Conducted a survey of all 106 game wardens to determine the consistency of data entry, system understanding, warden culture, and regional issues. We received 78 responses.
- ◆ Reviewed stakeholder group meetings, including the Fish & Wildlife Commission to determine the issues they face and Enforcement's involvement.
- ◆ Reviewed training and hiring practices and held interviews with wardens running those programs.
- ◆ Interviewed FWP HR to determine hiring, document retention, and grievance procedures are implemented.
- ◆ Interviewed other law enforcement such as sheriffs, Montana Highway Patrol, and Forest Service law enforcement to determine their working relationship with Enforcement.
- ◆ Reviewed Enforcement equivalents in other states (Colorado, Idaho, North Dakota, and Wyoming) to determine how they use data, scope activities, and adjust to changing recreation.

### **Issues for Further Study**

We identified the Human Resource unit of FWP as an area that may warrant further study. We found a lack of trust in HR by wardens contributed to HR not being used as a resource by wardens. This, along with other factors, led to cultural issues and a lack of communication in Enforcement. We also found that HR did not comply with the Secretary of State's retention schedule for many personnel documents related to hiring and performance reviews. These issues took place during a time of continual turnover in leadership of the HR unit. Further study would determine what effect this has had on other divisions of FWP outside of Enforcement. Current practices in HR could open FWP up to risk of litigation.

## Chapter II – Data Is Underutilized in Decision Making by the Enforcement Division

### Introduction

Wardens routinely patrol remote areas of Montana, and the importance of accountability through management information is mandated in statute (§87-1-502, MCA). The decentralized nature of the Enforcement Division (Enforcement) increases the importance of effectively gathering management information on wardens' work. SmartCOP is a law enforcement computer system Enforcement uses to gather management information. Managers rely on wardens to consistently enter SmartCOP data to accurately represent their duties. Data generated by SmartCOP should provide Enforcement leadership in Helena with information about what activities are being prioritized in each of the seven regions. Without this information, managers rely on anecdotal information from wardens, sergeants, and captains. We found information from regional staff does not always align with the corresponding regional data. Enforcement management indicated many variables can affect the data and emphasized the importance of ongoing communication with regional staff.

### **The SmartCOP Computer System Tracks Warden Duties**

The Department of Fish, Wildlife & Parks (FWP) acquired the SmartCOP system in 2015. The system allows wardens to record tracked duties through laptops in their patrol vehicles. SmartCOP was implemented in phases starting with recording warnings and citations in 2017. Data from this system we reviewed for the audit falls into three categories.

- ◆ **Activities**
  - ◇ A list of warden activities that Enforcement management determined they want to track the time spent on, such as fishing access site patrol and training.
  - ◇ Each activity contains information such as the wardens name, region, activity group code (ex. criminal investigation), and activity location.
  - ◇ 416,462 activity hours recorded from 2019 to 2021
- ◆ **Contacts**
  - ◇ Tracked interactions between wardens and stakeholders to measure Enforcement outreach.
  - ◇ 383,072 contacts from 2019 to 2021
- ◆ **Warnings and Citations**
  - ◇ Recorded instances and details of wardens addressing violations.
  - ◇ Warnings and citations entries include information such as officer name, region, statute, or rule violated, violation description, and location information.
  - ◇ 14,423 warnings from 2017 to 2021
  - ◇ 13,156 citations from 2017 to 2021

SmartCOP has the potential to provide Enforcement with substantial and meaningful management information. The department needs management information and feedback from staff and stakeholders in the regions to make holistic decisions on resource distribution. The following figure provides examples of the types of data available in SmartCOP.

Each data set provides information on how wardens are spending their time. However, wardens are not expected to record every moment of the day. It is the department's role to determine which duties they want recorded in the data. In some cases, the trends in the data were counterintuitive compared to known increases in recreation, such as park visitation and recreational license sales.

### Assessing SmartCOP Reliability

To determine if SmartCOP was a reliable repository of information about warden duties, we first had to determine the data's accuracy.

Enforcement management told us they review warning, citation, and activity data in an ad-hoc manner. This is predominantly done at the regional levels by sergeants and captains who review the weekly data reports for their wardens. However, there is no specific policy outlining how this review should occur or what quality threshold warden data must meet. Regional management said if errors are identified, correcting them in the system is difficult. There is no process for back-end review and correction of the data in a holistic way. Instead, FWP information technology staff charged with managing the system described a more case-by-case approach to dealing with system and individual issues with wardens' computers and access to SmartCOP.

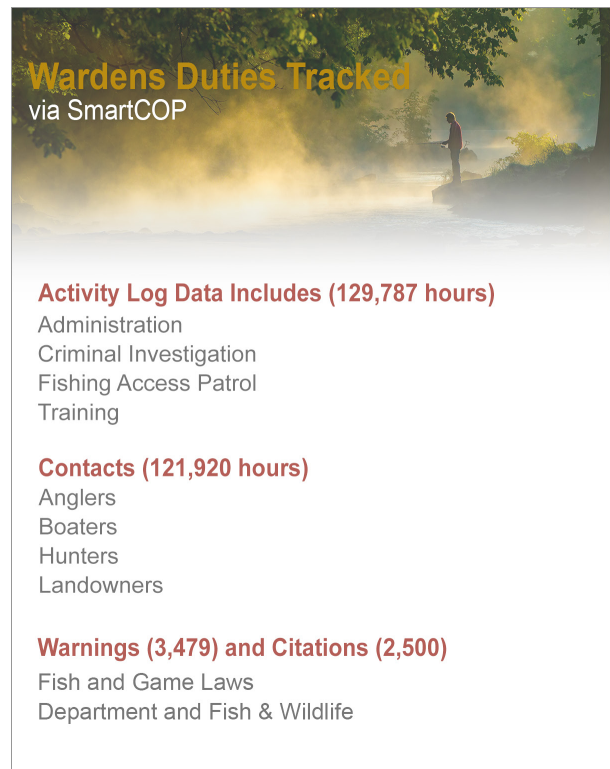
To assess the reliability of the data, we reviewed SmartCOP data by taking a random sample of activities, warnings, and citations. The following describes the reliability testing conducted on each dataset and examples of errors identified:

#### ◆ Activities

- ◇ Randomly sampled 45 distinct activity entries from all activity entry data from 2019 to 2021.
- ◇ Identified inaccurate use of activity group codes.
- ◇ Identified issues in data affecting the entire activity dataset including 6,800 entries with mislabeled officer IDs that determine the regional location of the activity.
- ◇ To the extent possible, we corrected the issues affecting the entire dataset.

Figure 2

### Warden Duties Tracked in SmartCOP



**Source:** Created by the Legislative Audit Division.

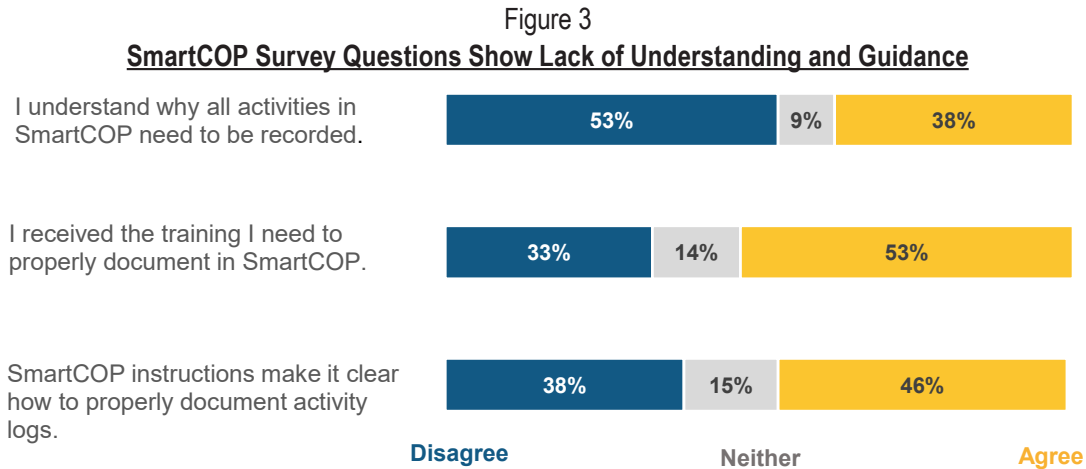


- ◆ **Warnings and Citations**
  - ◇ Randomly sampled 30 warnings and 30 citations.
  - ◇ We identified multiple issues in the sampled data including five citations where the latitude and longitude did not match the location description.
  - ◇ FWP staff indicated that all warnings and citations should have a corresponding activity log entry indicating which activity group the warning or citation related to.
    - » We found that 9 of 30 warnings and 4 of 30 citations did not correspond with an activity in the activity log.

## Warden Survey Confirmed Issues Identified in Data Analysis and Regional Visits

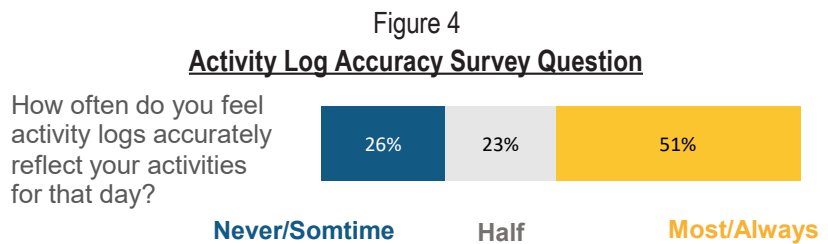
Our audit work included a survey of all wardens in the state. One goal of the survey was to understand whether wardens believe the SmartCOP data was accurate based on their entry of information. The survey revealed further uncertainty about data accuracy and inconsistency in entering data among regions. For more information on the survey and all of the responses received from wardens, reference the appendix.

Instructions for the SmartCOP system provided by management did not list all activity groups in SmartCOP or provide guidance for when and how to record all activities. These issues identified during audit work corresponded with questions in the survey resulting in the following responses from wardens and Enforcement management.



Source: Created by the Legislative Audit Division from survey data.

Testing, survey responses, and interviews all indicated problems with accuracy and consistency in the warden activity data. However, without analyzing the data, we would be relying entirely on anecdotal information about how warden duties have shifted



Source: Created by the Legislative Audit Division from survey data.

concerning changing recreation. Our data analysis was based on the best available information and corrected wherever possible with corroborating information.

### Inconsistent Activity Hour Tracking Highlights the Importance of Data Management

When accurately recorded, activity code hours directly represent the time spent on specific tracked activities in the field. Enforcement managers have continuously changed which activities they assign activity codes. Regional managers indicated there was a lack of planning behind which activities to track, and the list of activity codes has expanded over the years. However, despite changes in which activities are tracked year to year, some have been tracked continuously from 2019 to 2021. We used those activity codes to determine trends in warden activities over that period. Activity data provides general information about what wardens do outside general patrol.

### Funding Change Drives Some Warden Activities

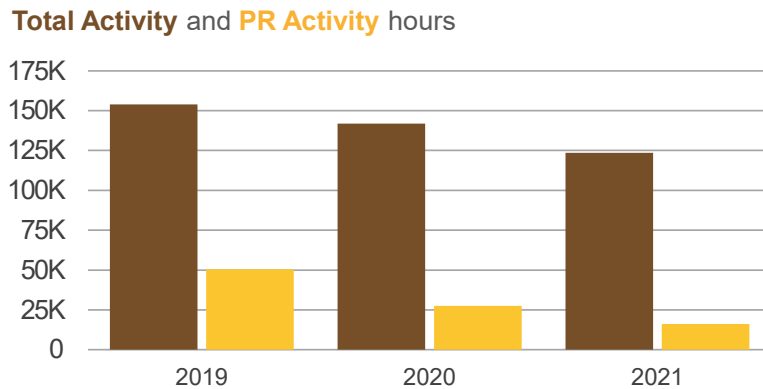
Pittman Robertson (PR) is a federal funding source for wildlife management that, by law, may not be used for law enforcement activities. However, in the 2017 Legislative Session, the legislature increased the amount of PR funding used to support the Enforcement Division. As a result, Enforcement had to increase its time spent doing activities such as managing the game damage program and urban wildlife issues, which are allowable activities for PR funding. PR funding required activity time reporting on these non-enforcement activities.

The level of PR funding for Enforcement was significantly reduced by the legislature from 2019 to 2021 and replaced with state special revenue, increasing overall appropriations. As a result of the decrease in PR funding, Enforcement charged 68 percent less time to PR activities in 2021. This should have allowed wardens to replace the PR activity time with other tracked

activities. However, we saw an 18 percent decrease in hours charged to all activities from 2019 to 2021. The lack of active management and analysis of the data by FWP makes it unclear where the time previously dedicated to PR activities has been redistributed.

Some wardens we interviewed indicated the decrease in hours might be attributed to the low morale. We will discuss cultural issues in the next chapters that may be a factor affecting the motivation of wardens to dedicate themselves to a challenging and largely self-driven career.

Figure 5  
**Decrease in PR Funded Activities Caused Decline in Total Activity Hours**



Source: Created by the Legislative Audit Division from FWP data.

## Individual Activity Group Hours Show Decreases in Most Traditional Warden Activities

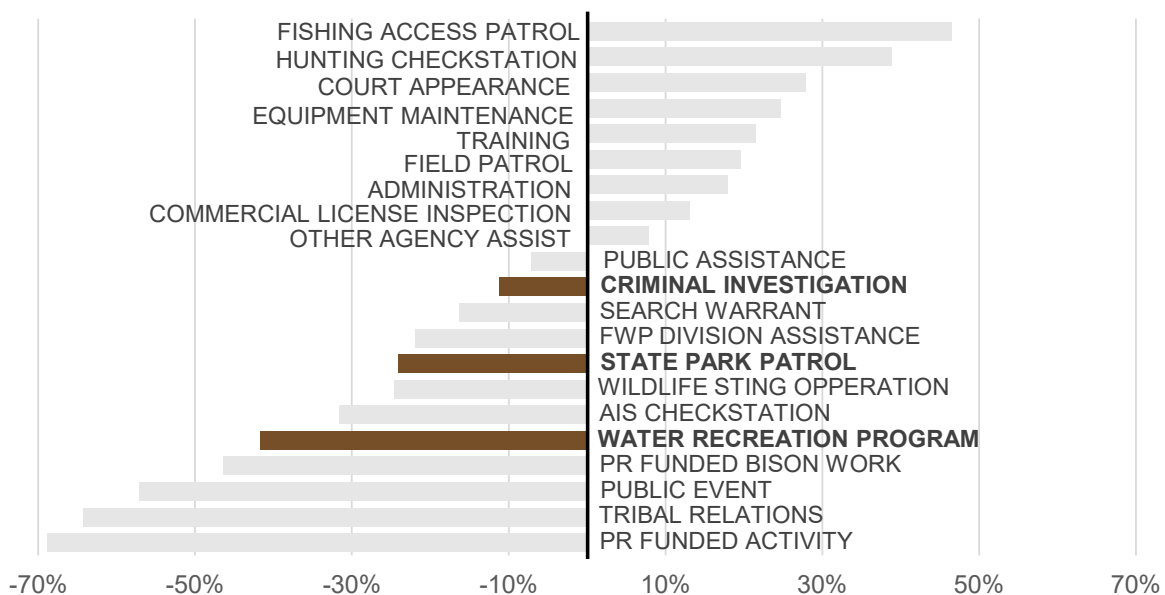
The amount of time spent on different activities varied greatly from 2019 to 2021. Six different activities had a greater than 30 percent decrease in hours. The biggest decreases in actual hours from 2019 to 2021 were criminal investigation (down 2,590 hours, 11 percent) and park patrol (1,276 hours, 24 percent). Tribal relations and public event activity groups also saw large percentage decreases, but had relatively few hours charged to those activity groups. Managers in the Enforcement Division were not aware of these decreases. Enforcement does not provide Parks and Recreation Division management with activity hour data, so they were also unaware of the reduced patrol time in state parks. The decreases surprised Enforcement management, and they generally claimed a decrease in staff was the reason for decline in these areas. However, the division had only about 4.5 fewer full-time employees in 2021 compared to 2019, which would not account for all the decreases we observed in the activity data.

The two largest increases in activity hours from 2019 to 2021 were *administration* (5,368 more hours, 18 percent) and *training* (3,321 hours, 21 percent). Enforcement management suggested that due to reductions in PR-funded hours, wardens may have reported less administration under the *PR activity* group and more in the general *administration* group code. Wardens indicated Enforcement management placed an increasing focus on administrative tasks related to SmartCOP during our analysis period. They believe this came at the detriment of traditional warden activities. Wardens said management asked for more detail and more granular reporting on activities. Wardens continually discussed this as a cultural shift that affected morale within the division. Another factor cited was inconsistency among wardens regarding which activities they believed should be recorded under administration. These factors, combined with a lack of proactive oversight by Enforcement management, make it unclear why hours charged to these tasks rose while more traditional warden activities such as criminal investigation, park patrol, and the water recreation program received fewer hours.

Figure 6

### Percentage Change in Activity Hours 2019-2021

Activity hours have **decreased** in many areas with increasing recreation.



Source: Created by the Legislative Audit Division from FWP data.

## Citations and Warnings Are Another Indicator of Enforcement Prioritization

Citation and warning levels vary by year. For example, Enforcement may issue fewer citations in a year due to inclement weather affecting hunting or fishing seasons. Enforcement management notes that using citation data in a quota system for law enforcement is illegal. Still, the data can be used to gather information on the types and frequency of violations wardens are encountering in the field and determine where to deploy resources most effectively. The busiest year for warnings (3,635) and citations (3,263) issued by wardens was 2020. Citing the pandemic, management and regional staff said many of the new recreationists in 2020 came from out of state or were Montana residents with lower knowledge of rules and regulations. They believe this factored into the higher level of almost every type of warning and citation. Warnings grew steadily, peaking in 2020 and declining slightly in 2021. Citations had more variability from year to year. Wardens throughout the state emphasized their discretion in deciding when to issue a warning versus a citation and using a warning as an educational tool.

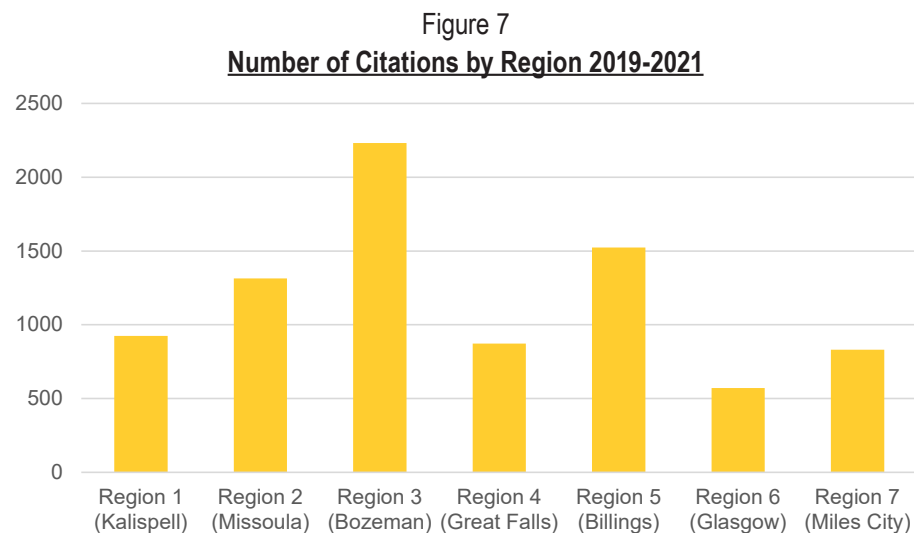
Hunting-related warnings and citations are the most commonly issued by wardens, followed by fishing and water safety. Wardens also issue warnings and citations for violations related to traffic, alcohol, stream access, and outfitting violations.

Regional citation data shows that Region 3 (Bozeman) issues the most citations. Region 3 issued 42 percent more citations than Region 5 (Billings), which had the next highest total from 2017 to 2021. In interviews Region 3 was consistently discussed as the region facing the most pressure due to expanding recreation. Region 3 sees a high amount of recreation

with several popular hunting districts in the Dillon area; the Madison, Gallatin, and Jefferson rivers; and Canyon Ferry Lake. The region issues significantly higher citations for hunting, fishing, and water safety violations. Region 3 also has almost twice as many wardens compared to other regions.

## Stakeholder Contacts, an Indicator of Enforcement Outreach, Have Declined

FWP tracks game warden contacts with anglers, boaters, recreationists on DNRC land, hunters, landowners, off-highway vehicle users, state parks users, snowmobilers, and trappers. Enforcement management expressed inconsistent views on the importance of stakeholder contact data. Initially,



Source: Created by the Legislative Audit Division from FWP data.

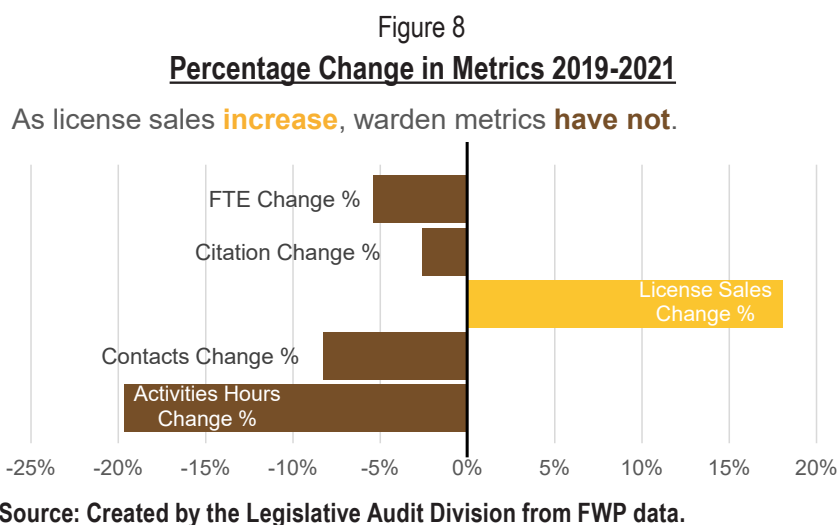
these were described as the best indication of a game warden's outreach efforts to the public. However, after we discussed issues with consistency between regions in defining what constitutes a contact, management expressed skepticism in the reliability of the data and did not see a use for it. Despite this dismissal, it remains the best information available to illustrate one of Enforcement's main goals, to interact with the public. Overall contacts declined by 5.9 percent from 2019 to 2021. The largest decrease was 18 percent in landowner contacts during that time. Enforcement management indicated this is an area of focus for them going forward. Contacts are an excellent way to see if initiatives such as increasing landowner interaction are being carried out in the field. Contacts represent another data set underused by Enforcement, and the department's lack of ongoing analysis makes determining its significance difficult.

## Enforcement Metrics Do Not Align With Other Recreation Data

We compared the available data to understand how different datasets relate to each other. This is an example of the type of analysis Enforcement could do to determine if warden duties are being prioritized appropriately across the state. For example, if license sales increase, we expect a corresponding increase in citations and licensee contacts. We looked at the overall changes in activity hours, contacts, license sales, citations, and Enforcement FTE from 2019 to 2021. License sales in this analysis are used as an indicator of recreation. The results show increases in license sales from 2019 to 2021. With an increase in recreational license sales, we expect to see increased activity hours, contacts, and citations to show wardens adapting to the increased recreation. However, 2019-2020 was the only period in which contacts and citations increased. From 2019 to 2021, we saw a decrease in every dataset except license sales.

The decrease in wardens from 2019 to 2021 accounts for some, but not all, of the decrease in the data sets. Enforcement management also said hiring new wardens could reduce activity hours, contacts, and citations because new wardens are being trained and paired with another warden who serves as a field training officer. The number of new game wardens was close to the five-year average of 4.8 from 2019 to 2021.

Generally, Enforcement management was unaware of the data trends and spoke anecdotally about potential causes. Ongoing analysis by the department is needed to definitively answer what is driving these divergent trends.



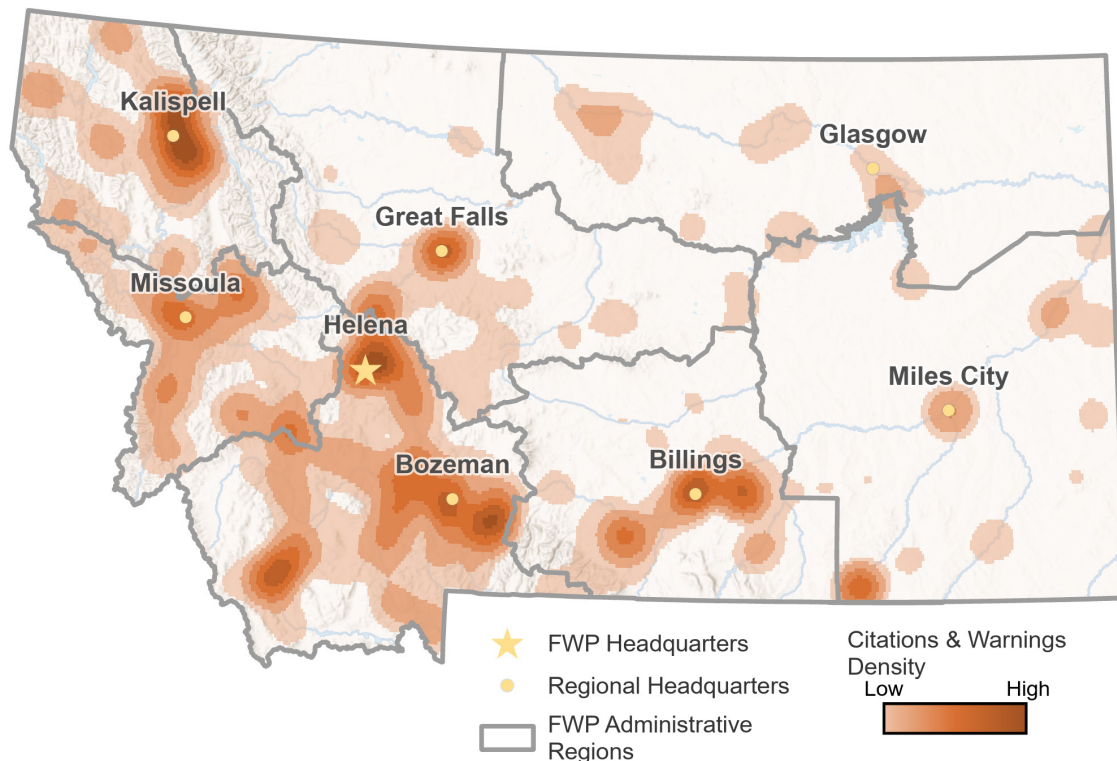
## Data-Based Resource Allocation

The main resource distribution for the Enforcement Division is the distribution of wardens. To further show how data can be used to drive Enforcement decisions, we conducted an optimization analysis of the number of wardens placed in each of the seven regions in the state. Using activity hour, contact, warning, and citation data from 2021, we found the number of wardens assigned to each region was generally in line with the results of our analysis.

Mapping the location of warnings and citations allowed us to determine if they were issued in any specific pattern across the state. The results showed distinct clusters, largely but not entirely around urban centers in the state. This aligned with wardens telling us in interviews that the wildlife urban interface around urban centers in Montana demands an increasing amount of their time. They indicated they have been unable to spend as much time in backcountry areas, and management indicated they have concentrated wardens around urban centers to handle the workload.

Figure 9

### Warnings and Citations Issued by Wardens Concentrated Around Urban Areas



Esri, USGS

Source: Created by the Legislative Audit Division from FWP data.

FWP Enforcement has staffed most urban warden districts in the state with multiple wardens. Rural warden districts typically have one warden assigned. This naturally leads to more warnings and citations in those urban areas. It is unclear whether most violations do occur in proximity to urban areas or whether more offenders are cited in these areas due to more warden coverage closer to urban centers. The analysis in this chapter illustrates the type of information Enforcement could gather from their data. However, they need to ensure the quality of the data and define how they want to use it.

## **Enforcement Does Not Have a Data Management Strategy**

Regional and Helena Enforcement management said they use SmartCOP data in an ad-hoc manner. They do not use it as a tool to drive decision-making within Enforcement. We presented our data analysis to them. In most cases, managers were unaware of the trends we presented even though they published Enforcement data in the annual report to the public, stakeholders, and legislators. The annual Enforcement report uses warning, citation, and contact data but rarely refers to activity hours. We asked Enforcement management about the data in the report, and they indicated there are likely errors. For example, in the 2021 report, none of the published contact counts align with the data provided to us by FWP. Management said they likely could not reproduce the numbers due to system errors, reporting errors, and other system issues. Management said the report should include a statement saying the numbers are an estimation and not guaranteed to accurately represent warden duties. The data in the Enforcement annual report should be considered unreliable.

## **Current Implementation of the SmartCOP System Has Led to Errors**

The inaccuracy and inconsistency of the data presented in the annual Enforcement report make it unclear if the data reported by Enforcement should be considered for resource distribution decisions. The legislature also relies on this information to determine resource needs for Enforcement. Enforcement could be over or under-funded without accurate information because the legislature is basing its decisions on inaccurate or insufficient information.

Many wardens think of SmartCOP data entry, specifically activity reports, as an administrative task. There is a lack of understanding from wardens about why they are tasked with the administrative burden of gathering SmartCOP data. This contributes to a lack of buy-in. We also received reports that some wardens (but not others) face discipline for data entry errors, creating a feeling the process of gathering data is being used against. This has led to a disconnect where wardens feel their administrative SmartCOP work is valued more than their conservation work in the field.

## **Enforcement Does Not Have Sufficient Policy for SmartCOP**

The division policy for SmartCOP operation is limited to an instruction sheet describing the SmartCOP system's functional operation and guidance about operating the computers in warden vehicles. The policy is insufficient and does not include or define some activity group codes. In interviews, wardens gave different answers when asked what should be included under the *administration* activity group. Some thought the group code applied only to checking emails and phone calls, while others believed report writing and SmartCOP entry also counted as *administration*. We also found the lack of guidance created this type of inconsistency for how different types of activities should be defined and recorded.

At the management level, Enforcement has failed to formally decide what data is needed to create performance measures to drive resource and other decision-making. In many cases, enforcement management did not know why activities were originally tracked. They indicated past leadership would often add an activity group to the tracking list without a clear message for what would be done with the data. Also, management has not established which data trends would be most meaningful to monitor over time. Growth and change in recreation across the state makes this increasingly important to ensure Enforcement adjusts to its recreational surroundings.

Further, current policy does not include any steps for ensuring data accuracy. There is no back-end review or quality standards established for the data. This led to many of the issues we had to address to provide the analysis above, including inaccurate location data and incorrect activity groups. Management has taken the data at face value and reported that information, while acknowledging to us the limitations and inaccuracy of what is being reported to the legislature and the public.

## **Enforcement Needs a Data Management Plan**

Best practices in developing and implementing a data management plan at the organization level include:

- ◆ A clear data management strategy
- ◆ Defined roles and responsibilities
- ◆ Consistent terms and definitions
- ◆ Communication to all relevant staff

The Information Systems Audit and Control Association (ISACA) is a global association that helps enterprises manage technology and information. It produces Control Objectives for Information Technology (COBIT), a best-practice framework to assist in designing and implementing IT systems. COBIT guides organizations to achieve and sustain effective management of enterprise data assets across the data life cycle. The guidance outlines the need to define and communicate the organization's data management strategy, roles, and responsibilities. This includes defining and maintaining a business glossary to promote consistent use of business terms and definitions. COBIT talks about establishing a level of data quality necessary to support business goals and objectives and quality assessment. This includes identifying errors and quality improvement efforts.

The Montana Highway Patrol (MHP) uses the same SmartCOP system as Enforcement. MHP uses Smart COP in trooper performance reviews and resource distribution decisions, such as trooper placement around the state. MHP uses the data compiled in SmartCOP for very specific performance measures. MHP management indicated SmartCOP's administrative burden is reasonable compared to the value of data they collect and use to drive decision-making. MHP described how important it is to have accurate and complete data to monitor productivity and to be able to illustrate how they are using the resources they are provided. However, MHP did not have a data management plan or detailed policy outlining this procedure.

FWP Enforcement has a statutory responsibility to record warden activities. However, gathering, using, and reporting data is only as valuable as the quality of that data. Buy-in from the wardens entering that information is necessary to produce quality data. The lack of communication about the purpose of the administrative burden of SmartCOP has contributed to data quality issues and to the cultural issues we will continue to discuss in the rest of this report.



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**RECOMMENDATION #1**

*We recommend the Department of Fish, Wildlife & Parks:*

- A. *Develop and implement a SmartCOP data management plan to determine the appropriate data to gather, how to define the data, how to analyze the data, and data quality standards.*
  - B. *Provide training to wardens on the data management plan to ensure it is universally understood and implemented by Enforcement staff.*
-



## Chapter III – Prioritizing of Warden Duties

### Introduction

Wardens have a long tradition in Montana as law enforcement and goodwill ambassadors for the Department of Fish, Wildlife & Parks (FWP). They provide community outreach through working with landowners, instructing in hunter education programs, and continual education and interaction with the recreating public. Wardens are also responsible for enforcing the state fish and game laws and the Fish and Wildlife Commission and department rules. The balance between those responsibilities and recent emphasis on duties outside of traditional warden roles have created a cultural divide between wardens and the chief's office and at times among wardens themselves.

### Multiple Factors Have Clouded the Appropriate Scope of Warden Duties

In interviews with wardens at every level, the discussion quickly turned to the idea of “cops versus cowboys.” There is a widespread perception that past leadership of the Enforcement Division (Enforcement) wanted to move the division toward taking on more law enforcement duties typically handled by sheriff's offices and other law enforcement agencies. This includes a more active role in policing violations like drug and alcohol crimes on state lands (“cops”). Taking on more of these duties is seen in contrast to the traditional role of wardens in providing wildlife management, public outreach, and landowner relations (“cowboys”). Wardens believe this traditional description of their duties allows them to focus on being primarily a fish and wildlife law enforcement presence for the agency.

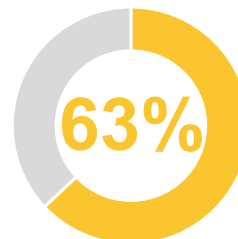
Some warden captains in the regions have entered into memorandums of understanding (MOUs) with sheriff's offices that deputize wardens working in that county. MOUs give wardens all the enforcement power of a sheriff's deputy. Statewide we observed some counties that have MOUs between sheriffs and game wardens and some that do not, creating a patchwork of different authority and inconsistency regarding what laws a warden is expected to enforce from one county to the next. MOUs are most prominent in FWP Region 3, which includes the Bozeman area. In Region 3 MOUs are in place between wardens and sheriffs in Lewis and Clark, Jefferson, Madison, Broadwater, and Gallatin counties.

Common reasons for entering into MOUs, stated by regional management, are to be able to enforce things like alcohol use, drug use, and traffic offenses. Wardens indicated that without an MOU, they could not enforce these offenses on state land and must hold perpetrators until other law enforcement can respond. Other wardens said they do not think those offenses are within their duties. They do not believe hunter and angler dollars, a primary funding source for Enforcement, should be spent on enforcing those laws. In our survey, we asked wardens who did not currently have an MOU in place about the benefits of entering into one.

Figure 10

#### Wardens Without an MOU Do Not See Them as Necessary

Over **63% of wardens without an MOU** do not believe entering into one would improve their ability to carry out their duties.



Source: Created by the Legislative Audit Division from survey data.

In interviews, we learned that FWP management in Helena was not aware of multiple MOUs that are in place between wardens and sheriffs across the state. Enforcement management and sheriff's offices said MOUs are often the result of individual wardens working closely with a sheriff or sheriff's deputy. To facilitate this working relationship, the warden can ask the regional captain to enter into an MOU with the sheriff's office in a county they work in. However, Enforcement management indicated there was no formal process for entering into MOUs or reporting such agreements to management in Helena. There is also no statewide tracking of MOUs.

Outside of "cops versus cowboys," wardens commonly discussed how their duties constantly expand with changing, increasing, and increasingly diverse recreation in the state. Urban wildlife issues are a commonly discussed activity demanding a lot of warden time in western Montana. When a large or dangerous animal, such as an elk, bear, or lion, comes into an urban area, it is FWP's responsibility to remove that animal. If there is a threat to public safety with an urban wildlife issue, Enforcement responds. If there is no imminent public safety threat, these issues may be handled by staff (biologists or wildlife technicians) in the department's Wildlife Division. However, wardens described how the responsibility for responding to these issues often falls to whoever is closest at the time of the call, regardless of a public safety threat, which often takes the warden off their patrol.

## **Inconsistent Guidance on Warden Responsibilities and MOUs Have Led to Cultural and Enforcement Differences**

In interviews, some wardens wanted to shift toward becoming a more traditional law enforcement division. Still, a majority believe that enforcement beyond fish and wildlife laws is outside the scope of their duties. Those wardens prefer a traditional role focusing on wildlife management and public outreach. This has led to conflicts surrounding seemingly insignificant decisions, such as changes in wardens' uniforms from denim to green pants. Decisions like this have become more problematic due to a perception that Enforcement management emphasizes and rewards enforcement of things like drug and alcohol crimes and places less emphasis on wildlife management.

Citation data illustrates differences in how wardens prioritize their duties. From 2017 to 2021 wardens gave out a total of 57 traffic citations. Forty-eight of those came from wardens in Region 3, which has the most MOUs in place between sheriffs and wardens. That region also leads the state in drug and alcohol citations issued by wardens. Region 3 accounts for 75 percent of the 81 drug, alcohol, and traffic citations by wardens from 2017 to 2021. This shows the inconsistency in enforcing those types of offenses from region to region and among counties, depending upon whether an MOU is in place.

## **Neither Enforcement nor the Director's Office Has Formally Defined Game Warden's Duties**

Enforcement has policies on traffic stops, emergency and pursuit driving, critical incident response, and ballistic vests that define how more traditional law enforcement activities should be handled. These policies were created in the last three years and highlighted the shift in the chief's office focus described by many wardens. During that period, the division has not formally prioritized warden activities. Without formal scoping of their duties, wardens have turned to changes in the uniform policy, focus on SmartCOP administrative tasks and creation of the policies above as their guidance for the expected direction of Enforcement. The use of MOUs on a case-by-case basis and a lack of statewide guidance

have created inconsistency among regions, and in some cases, among warden districts regarding which laws and duties are being prioritized for enforcement. In the face of increasing recreation and population growth in Montana, it becomes more important for Enforcement to have a policy that provides wardens consistent guidance on prioritizing their workload.

## **Montana Statute and Other States Provide Guidance on Scoping Wardens Duties**

Other states have prioritized in law or guidance to staff what enforcement areas should be their focus. Each state we reviewed (Wyoming, Idaho, North Dakota, and Colorado) has personnel separate from their game wardens assigned to state park enforcement specifically. In three states, state parks were a separate agency. This is not how FWP is organized in Montana but highlights the need for prioritization in Montana due to the breadth of warden duties. Other states also did not use MOUs with sheriff's offices. Other states emphasized the workload issues that make it important for wardens to focus on their statutory fish and wildlife responsibilities. Wyoming mandates a minimum requirement of a wildlife degree and focuses on hiring individuals with that background because law enforcement takes only about 40 percent of their time.

Montana statute outlines the qualifications, powers, and duties required of a warden. It lists the official duties wardens shall devote their time to.

Statute provides Enforcement with adequate guidance when determining how to prioritize warden activities. The statute focuses on the enforcement of fish and game laws and rule. It also highlights a warden's role in assisting in the protection, conservation, and propagation of fish, game, animals, and birds. In an Enforcement captain and sergeant meeting we observed during fieldwork, division management announced various scoping decisions for warden activities to align with statute more closely. However, wardens indicated decisions like this are often announced at meetings or sent via email without being formalized in policy that can be consistently implemented in the regions.

Statewide consistency in Enforcement is important and prioritization of warden duties needs to happen statewide. However, regional priorities will vary in some instances and regions may have different activities that receive a lower priority. Regions have started

Figure 11

### **§87-1-502 & 506, MCA, Outlines Wardens' Powers and Duties**



Source: Created by the Legislative Audit Division.

to define Enforcement priorities in their areas. For example, Region 1 fields many urban wildlife calls. That region engages specialists from the Wildlife Division to respond to urban wildlife calls. Wardens are only called for urban wildlife issues if there is a specific safety concern.

Factors including scoping warden duties, declining activity hours, and cultural issues discussed throughout the report have affected wardens' ability to serve diverse recreation in the state. Leadership and human resources issues in the following chapter represent more acute examples of cultural issues facing Enforcement.

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**RECOMMENDATION #2**

*We recommend the Department of Fish, Wildlife & Parks formally prioritize and communicate warden duties based on the statutory emphasis on wildlife enforcement and conservation, and regional recreation demands.*

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## Chapter IV – Leadership and Human Resources Impact Communication and Trust

### **Introduction**

The Enforcement Division (Enforcement) organizational structure was centralized starting in 2020. Previously, Enforcement leadership at the regional level reported to each regional administrator. Now, wardens report directly to Enforcement management in the Helena office through regional captains and sergeants. This streamlined the chain of command within the division but limited communication channels between wardens in the field and Enforcement management in Helena. It also led to greater involvement from Helena in tasks previously handled by regional staff, such as warden hires. Communication issues combined with recurring accusations by wardens of retaliation and intimidation by management have affected the culture of the Enforcement Division.

### **Cultural Issues Have Damaged Trust Between Regional and Helena Staff**

One of the main ways regional staff can communicate their concerns to Helena is at the quarterly captain and sergeant meetings when regional management gathers in Helena to discuss issues their wardens are facing. Captains and sergeants we interviewed in the regions described a change under previous leadership from a culture of open communication in those meetings to limited discussion and a lack of tolerance for dissenting opinions. Wardens described a retaliatory environment if they spoke out in disagreement with management decisions. During our audit, some wardens we spoke to were apprehensive about providing information due to lingering fear of retaliation. In some cases, wardens felt uncomfortable providing us with documentation over email on their Fish, Wildlife & Parks (FWP) laptops fearing Enforcement leadership may find out. The Legislative Audit Act protects state employees from retaliation from the department for disclosing information. However, wardens in some cases still chose not to provide discussed documentation.

FWP HR and legal staff described a breakdown of trust between wardens and the HR department over the past decade. We learned that how some complaints were handled in the past led to a schism between HR and Enforcement. We reviewed documented allegations of a past inappropriate relationship that likely contributed to the lack of trust in HR by wardens. An interview also referenced a situation where details of a warden's confidential complaint to HR were leaked. FWP HR has had five department managers in the last decade and is currently hiring after the previous manager was in the position for less than a year. This rate of turnover makes continual improvement of the relationship with wardens difficult. Current HR staff claimed they could not speak to Enforcement issues or complaints under previous HR directors because these complaints were not documented or tracked. The lack of trust between HR and Enforcement has contributed to communication issues affecting the division's culture.

## Communication Issues Contributed to a Fear of Retaliation and Intimidation

Communication issues led to a fear of retaliation, job dissatisfaction, and cultural and management issues that went unreported in Enforcement. Some wardens we interviewed talked about considering early retirement or a career change if they did not see a change in leadership. In our survey, 50 percent of wardens believed they had experienced retaliatory behavior or intimidation by the chief's office in the last five years. Perhaps due to the apparent warden reticence, FWP HR was unaware of any complaints from Enforcement about division leadership during that time, despite evidence throughout our audit of job dissatisfaction among wardens.

In the last year, HR regional visits and allegations from outside Enforcement led to contracted third-party investigations by a law firm into three members of the Enforcement leadership team. These investigations resulted in allegations of intimidation and retaliation by management against game wardens who spoke out against their leadership style. Those management employees, including the chief, were placed on administrative leave in 2022. The chief retired from FWP with a settlement payment, the other two employees were reinstated to positions in Enforcement.

Prior to the third-party investigation, FWP HR looked at the Enforcement Division's Special Investigation Unit to understand the effect of the recent centralization of the investigative positions. HR found leadership issues, and combined with the eventual third-party investigation, led to the unit being decentralized, with investigators returning to the regions. Those reviews found issues such as cultural problems and mismanagement that were not reported to HR and not acknowledged by Enforcement leadership prior to the investigation. After the previous chief was placed on administrative leave, a committee of wardens was formed to review and propose changes to Enforcement policy. The interim Enforcement chief, who was recently hired permanently, said he wanted to make wardens feel like they are important and to reprioritize to focus on them and their statutory duties.

*“ ...50 percent of wardens believed they had experienced retaliatory behavior or intimidation...”*

-Legislative Audit Division from survey of wardens

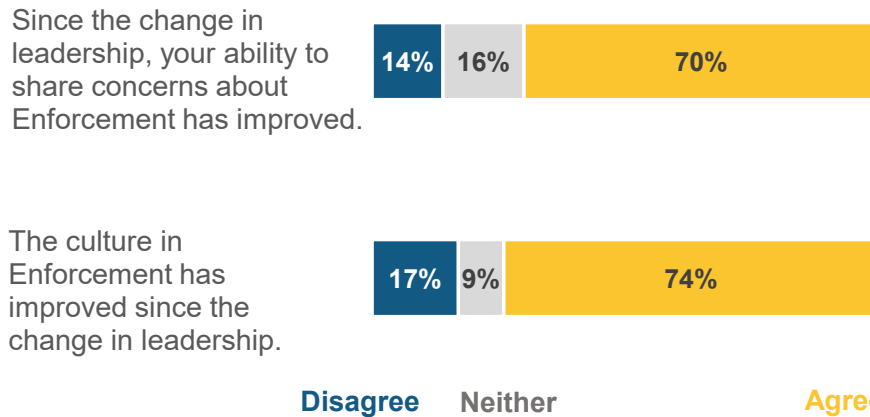
## Wardens Did Not Have Trusted Communication Channels to Raise Issues With Leadership

The breakdown in communication and the cloud of perceived retaliation in the captains' and sergeants' meetings eliminated what many believe was the main way for regional staff to communicate with the chief's office. In interviews, wardens consistently expressed a lack of guidance from Helena and felt wardens were being targeted if they did not agree with the former Enforcement chief's direction. Wardens also indicated that morale had taken a major hit. Our survey results highlighted these issues with past leadership and a feeling that communication is improving with new leadership.



Figure 12

**Wardens See Communication and Cultural Improvements With New Leadership**



Source: Created by the Legislative Audit Division from survey data.

More than two-thirds (68 percent) of wardens agreed the ability to share concerns has improved since the change in leadership. Wardens also discussed the potential effect of morale issues on the decline in activity hours discussed in the second chapter.

In trying to review the details of events that led to several members of Enforcement management being placed on administrative leave, we learned HR claimed to have lost their performance reviews or they were never completed at all by Enforcement and the director’s office. This makes it unclear how Enforcement management was evaluated and contributed to why the issues we have described did not come to the attention of FWP leadership. According to testimony from the management placed on leave, they had copies of their performance reviews that FWP had lost. They indicated they were positive without any mention of the issues found during the audit. This shows the director’s office, Enforcement management, and HR lacked awareness of management issues in the third-party review. Awareness of formalized communication channels is important for employees and for management to have the information necessary to drive change.

**Best Practices Encourage Open Communication for Addressing Grievances and Changing Culture**

According to State Human Resources in the Department of Administration, one of the foundational roles of agency human resources (HR) is to develop a relationship with agency employees based on trust. Agency HR must be able to fairly represent both the agency and the employees simultaneously. This allows agency employees to use HR as a resource when experiencing real or perceived issues in the workplace and to balance the best interest of the employees and the agency.

Administrative rule (ARM) says agency managers may not retaliate, allow, condone, or encourage others to retaliate against any current or former employee for opposing unlawful, discriminatory practices, filing a discrimination complaint, or participating in a discrimination proceeding. ARM outlines the process for filing a grievance. A grievance can be filed based on any formal disciplinary action that results in suspension without pay, disciplinary demotion, or discharge. This formalized

three-step process starts with attempting an informal resolution. This process should be open to all staff without fear of repercussion. Based on the lack of reported issues to HR with retaliation and intimidation compared to our survey responses, wardens were either unaware or unwilling to file formal grievances against the Chief's Office. Best practices in corporate culture also indicate the strongest organizations are those in which employees are most open about sharing knowledge and skills with others in the organization. This includes ongoing assessment of culture through interviews and surveys. Our survey provided Enforcement management with information they found valuable. It provided wardens with an anonymous opportunity to voice their opinions on issues with SmartCOP and provided management with information on cultural issues. Formalized opportunities for communication and gathering information on current culture are the first tools Enforcement must implement as it looks to build a healthy culture going forward.

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**RECOMMENDATION #3**

*We recommend the Department of Fish, Wildlife & Parks:*

- A. *Provide training and oversee the Enforcement Division and Human Resources Unit's education of Enforcement employees on their right to file a grievance free from retaliation.*
  - B. *Conduct an annual cultural survey of the Enforcement Division and create a formal plan to respond to issue areas.*
- 

## **Negative Perceptions of Hiring Exacerbated by Hiring Document Retention Issues**

FWP policy requires a hiring plan that outlines the process for every new hire. The plan includes guidance for tasks including minimum qualification screening, ranking qualified applicants, and interviews. When a division has an open position, a hiring plan is developed, or an existing plan is followed to recruit and fill the opening. After the hiring process, the plan is completed. A hiring committee either decides on the successful applicant or recommends candidates for the second interview, where the hiring authority selects the candidate. FWP HR serves as oversight for Enforcement hiring processes. The Enforcement training sergeant handles the hiring process for new wardens in conjunction with FWP HR. Career advancement in Enforcement typically happens through the hiring process for sergeants, captains, and other management positions, drawn largely from internal pools of current wardens.

After hearing accusations of unfair hiring practices aired by multiple wardens, we requested to review all hiring documents for sergeants and captains for the last five years. HR staff indicated they could not locate those documents. They first believed they were on the laptop of the former training sergeant, who was on administrative leave at the time of our request. HR did not want to pursue the documents due to the ongoing administrative leave situation. We asked HR why hiring information was not stored in the HR department, and they then suggested it may be located with HR outside of the Helena office. We asked multiple times for those documents and never received them. A game warden not

involved in the hiring process provided scoring for one hiring process we had not received complaints about. We also learned through the third-party investigations of three members of Enforcement management that performance reviews for those employees were missing.

## **Lack of Trust in Hiring Processes Further Damages Enforcement Culture**

Enforcement has a history of hiring processes that do not follow policy. In 2017 the Enforcement chief was replaced by another candidate who was not originally hired for the position. This alternative candidate appealed the initial hiring decision and was offered the chief position based on a ruling by the Board of Personnel Appeals at the Department of Labor and Industry that FWP had not carried out the hiring process properly.

Regarding hiring for sergeants and captains, current and past wardens talked about hiring decisions they believed were biased toward candidates favored by the previous chief for reasons beyond those qualifications required in the position descriptions. Wardens familiar with the hiring process for sergeants said a second interview was added to the recruitment process. This effectively switched the hiring decision from the hiring committee to the chief, who conducted the second interview. There were accusations that the tone and questions given to candidates varied based on whether the chief liked the candidate or not. Given the lack of documentation retained by agency HR, we could not review these hiring processes and verify these claims.

Most wardens we spoke to had concern about the fairness of hiring decisions. The perception of unfair hiring has had a major negative cultural impact on wardens across the state. Wardens talked about promotions being based on a candidate being the previous chief's "type of warden" and situations where wardens retired due to not getting a promotion. During the audit, we were also alerted to issues with entry-level hiring for wardens. Under the previous training sergeant there was an incorrect calculation for veteran preference in the scoring that provided veterans with more points added to their score than is prescribed in statute. Missing documentation and improper hiring both point to a lack of oversight for the hiring process that has contributed to a lack of trust in the process.

## **Enforcement Not Adhering to Agency Policy and a Lack of Oversight Have Led to Hiring Issues**

FWP hiring policy outlines the control system that HR has in place for agency hiring processes regardless of division. Part of the policy is the hiring process checklist on which the hiring committee documents the reasons each candidate moved to the next step. The lone example from the hiring processes we requested available for review provided little information and does not serve as a meaningful internal control. Again, documents were missing and could not be provided for the hirings we had received complaints about. Even when documentation of internal controls was available, it did not show HR performing an active oversight role. A lack of internal controls in hiring processes leaves the opportunity for the type of bias in hiring that was alleged by many wardens during the audit. This leaves the department open to future litigation similar to what they have faced in past hiring processes.

FWP HR has recently implemented a new electronic system for hiring processes. This system provides some built-in internal controls, but a lack of documentation and ongoing complaints about Enforcement hiring process show existing policy has not been followed.

### **FWP Hiring Policy Needs to Be Followed to Ensure Proper Enforcement Hiring and Documentation**

FWP hiring policy requires HR to review and comment on steps such as creating the hiring plan, minimum qualification screening, and ranking qualified applicants. The person in charge of the hiring is required to keep a hiring process checklist that shows which candidates moved on from each step and why. An important part of the hiring process for management-level positions is to review past performance appraisals for those positions. Also, the secretary of state's record retention schedule says recruitment/selection process documentation and performance appraisals must be kept for three years after the selection. This highlights the importance of appropriate document retention.

The Montana Operations Manual (MOM) gives agency managers the responsibility for administering the resources entrusted to them to carry out government programs. Hiring decisions determine if a program has quality personnel, which are the biggest resource for any agency. MOM describes the need for internal control processes to safeguard agency resources. Hiring processes should have these controls in place to ensure the hiring policy is being implemented correctly and fairly. FWP needs to ensure Enforcement and Human Resources follow the internal controls outlined in the hiring policy to assure to their staff and the public that hiring processes are being carried out appropriately and without bias.

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#### **RECOMMENDATION #4**

*We recommend the Fish, Wildlife & Parks:*

- A. *Ensure the Human Resources Unit has documentation showing agency hiring policy is followed for Enforcement hirings, including documented independent oversight of hiring decisions.*
  - B. *Follow the Secretary of State's record retention schedule for documenting hiring, promotions, annual evaluations, and all other relevant personnel documentation.*
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## Appendix

### Client Survey Response Rate and Results

Our survey of all game wardens was designed to gather information related to issues we identified during fieldwork. The survey focused on SmartCOP, warden duties, contact definitions, and the culture of Enforcement. We worked with FWP management to generate the survey questions and ensure the questions would be clear to wardens. The results of the survey in these areas supplement information gathered from interviews, SmartCOP data review, and other methodologies. We had good participation from wardens.

- ◆ 106 surveys sent to all wardens including Enforcement management.
- ◆ 77 percent Response Rate
- ◆ 72 percent Completion Rate
- ◆ Field wardens' 65 percent response rate was the lowest of any rank but made up 62 percent of all responses.
- ◆ Sergeants had the highest response rate of 89 percent.

The following are the complete results from the survey. We did not break down the results any further to ensure the anonymity of the respondents

#### Question 1: What region are you located in?

Field	Choice Count	
Region 1	12.20%	10
Region 2	15.85%	13
Region 3	21.95%	18
Region 4	9.76%	8
Region 5	17.07%	14
Region 6	12.20%	10
Region 7	8.54%	7
Helena Headquarters	2.44%	2
<b>Total</b>		<b>82</b>

#### Question 2: How long have you been a game warden with FWP?

Field	Choice Count	
0-2 Years	13.41%	11
3-5 Years	12.20%	10
6-10 Years	28.05%	23
11+ Years	46.34%	38
<b>Total</b>		<b>82</b>

Question 3: Do you work in a district that includes a part of Billings, Bozeman, Butte, Helena, Kalispell, Great Falls, or Missoula?

Field	Choice Count	
Yes	53.66%	44
No	46.34%	38
<b>Total</b>		<b>82</b>

Question 4: What is your Job Title?

Field	Choice Count	
Game Warden	63.41%	52
Warden Sergeant	20.73%	17
Warden Captain	8.54%	7
Investigator	7.32%	6
Other	0.00%	0
<b>Total</b>		<b>82</b>

Question 5: SmartCOP/Mobile Forms instructions make it clear how to properly document CADs, warning, and citations.

Field	Choice Count	
Strongly disagree	12.82%	10
Somewhat disagree	15.38%	12
Neither agree nor disagree	16.67%	13
Somewhat agree	47.44%	37
Strongly agree	7.69%	6
<b>Total</b>		<b>78</b>

Question 6: SmartCOP/Mobile Forms instructions make it clear how to properly document activity logs.

Field	Choice Count	
Strongly disagree	15.38%	12
Somewhat disagree	23.08%	18
Neither agree nor disagree	15.38%	12
Somewhat agree	43.59%	34
Strongly agree	2.56%	2
<b>Total</b>		<b>78</b>

Question 7: I have received the training I need to properly document CADs, warnings, citations, and activities within SmartCOP/Mobile Forms.

Field	Choice Count	
Strongly disagree	15.38%	12
Somewhat disagree	17.95%	14
Neither agree nor disagree	14.10%	11
Somewhat agree	39.74%	31
Strongly agree	12.82%	10
<b>Total</b>		<b>78</b>

Question 8: I understand why all activities in SmartCOP/Mobile Forms need to be recorded.

Field	Choice Count	
Strongly disagree	26.92%	21
Somewhat disagree	25.64%	20
Neither agree nor disagree	8.97%	7
Somewhat agree	33.33%	26
Strongly agree	5.13%	4
<b>Total</b>		<b>78</b>

Question 9: How often do you feel activity logs accurately reflect your activities for that day? (Individual activity logs for wardens and investigators, or activity logs you oversee for Sergeants and Captains.)

Field	Choice Count	
Never	1.28%	1
Sometimes	24.36%	19
About half the time	23.08%	18
Most of the time	48.72%	38
Always	2.56%	2
<b>Total</b>		<b>78</b>

Question 10: How many times a week do SmartCOP/Mobile Forms/computer technical errors or lack of internet service interfere with your ability to use SmartCOP/Mobile Forms?

Field	Choice Count	
0	11.54%	9
1-3	41.03%	32
4-6	24.36%	19
7-9	10.26%	8
10+	12.82%	10
<b>Total</b>		<b>78</b>

Question 11: How many times in the last month has a lack of tech support outside of traditional business hours (M-F 8-5) affected your ability to carry out your duties?

Field	Choice Count	
0	42.31%	33
1-3	43.59%	34
4-6	8.97%	7
7-9	2.56%	2
10+	2.56%	2
<b>Total</b>		<b>78</b>

Question 12: In your opinion, which activities are important to track to demonstrate warden functions? (Choose all that apply.)

Field	Choice Count	
Administration	3.69%	30
Agency Assist	5.28%	43
AIS	3.56%	29
Checkstation	5.53%	45
Commercial/Admin Inspection	3.93%	32
Court Appearance	3.07%	25
Criminal Investigation	7.25%	59
Day Off	0.74%	6
Division Assist	3.93%	32
DNRC	4.30%	35
Equipment Maintenance	1.97%	16
Field Patrol	5.65%	46
Park Patrol	3.69%	30
PR Activity	7.74%	63
PR Bison Work	1.60%	13
Public Assist	4.05%	33
Public Event	2.95%	24
Saturation Patrol	1.47%	12
Search Warrant	6.02%	49
Simulated WL Operation	6.63%	54
Training	6.51%	53
Tribal Relations	0.98%	8
Warden Patrol Note	4.79%	39
Water Recreation Program	4.67%	38
<b>Total</b>		<b>814</b>



Question 13: Please describe the definition of a landowner contact.

Traditional ag/livestock landowner relations
FWP related conversation with a landowner
Personal contact with a large ag landowners
Talking in person/physical contact
Quick visit in passing
Doesn't have to be about FWP
Talking to a landowner while on patrol
No solid definition

Question 14: Please describe the definition of a recreationist (angler, boat, DNRC, hunter, landowner, OHV, parks, snowmobile, trapper) contact.

FWP Related Conversation
Personal Contact
Compliance Check
The recreationist must acknowledge your presence as a game warden.
Contacting a recreationist in the course of their specific activity. (Ex. Talking to campers ins a campground.)
A Contact include non-FWP related issues.
Texting a recreationist.
A contact to ensure compliance with state laws.
Any verbal interaction with a recreationist.

Question 15: What is the most inefficient aspect of SmartCOP when documenting a CAD, warning, citation, or activity log? (Please be as specific as possible.)

Confidential information or individual entered into a computer aided dispatch (CAD) with no violation.
Using a CAD for routine work.
Technical issues
Tracking activities for no purpose.
General Administrative Burden
GPS Not Working
No Service
Duplicating documentation of CAD and citations/warning.

Question 16: Do you have an MOU in place with your county sheriff's office in your district (region for Sergeants and Captains)?

Field	Choice Count	
No	70.00%	49
Yes	30.00%	21
<b>Total</b>		<b>70</b>

Question 17: Your current MOU improves your ability to carry out your duties.

Field	Choice Count	
Strongly disagree	9.52%	2
Somewhat disagree	9.52%	2
Neither agree nor disagree	14.29%	3
Somewhat agree	38.10%	8
Strongly agree	28.57%	6
<b>Total</b>		<b>21</b>

Question 18: Entering into an MOU with your county sheriff's office would improve your ability to carry out your duties.

Field	Choice Count	
Strongly disagree	38.78%	19
Somewhat disagree	24.49%	12
Neither agree nor disagree	12.24%	6
Somewhat agree	14.29%	7
Strongly agree	10.20%	5
<b>Total</b>		<b>49</b>

Question 19: You would like to see game wardens' authority expanded to include the enforcement of disorderly conduct at FWP owned properties.

Field	Choice Count	
Strongly disagree	38.78%	19
Somewhat disagree	24.49%	12
Neither agree nor disagree	12.24%	6
Somewhat agree	14.29%	7
Strongly agree	10.20%	5
<b>Total</b>		<b>49</b>

Question 20: The Enforcement Division works well with the other FWP divisions in your region.

Field	Choice Count	
Strongly disagree	1.32%	1
Somewhat disagree	6.58%	5
Neither agree nor disagree	7.89%	6
Somewhat agree	34.21%	26
Strongly agree	50.00%	38
<b>Total</b>		<b>76</b>

Question 21: The culture in the Enforcement Division has improved since the change in division leadership.

Field	Choice Count	
Strongly disagree	10.53%	8
Somewhat disagree	6.58%	5
Neither agree nor disagree	9.21%	7
Somewhat agree	30.26%	23
Strongly agree	43.42%	33
<b>Total</b>		<b>76</b>

Question 22: Warden performance is assessed based on their ability to carry out the statutory duties in 87-1-502 MCA.

Field	Choice Count	
Strongly disagree	7.89%	6
Somewhat disagree	23.68%	18
Neither agree nor disagree	21.05%	16
Somewhat agree	35.53%	27
Strongly agree	11.84%	9
<b>Total</b>		<b>76</b>

Question 23: Since the change in leadership, your ability to share concerns about the Enforcement Division has improved.

Field	Choice Count	
Strongly disagree	9.21%	7
Somewhat disagree	5.26%	4
Neither agree nor disagree	15.79%	12
Somewhat agree	32.89%	25
Strongly agree	36.84%	28
<b>Total</b>		<b>76</b>

Question 24: Do you feel you have experienced retaliatory behavior or intimidation by the Chief’s Office in the last five years?

Field	Choice Count	
No	50.00%	38
Yes	50.00%	38
<b>Total</b>		<b>76</b>

Question 25: Your district, or region for sergeants and captains, has the appropriate amount of resources to meet the demand for game warden services.

Field	Choice Count	
Strongly disagree	18.42%	14
Somewhat disagree	26.32%	20
Neither agree nor disagree	7.89%	6
Somewhat agree	35.53%	27
Strongly agree	11.84%	9
<b>Total</b>		<b>76</b>

Question 26: What resources (technology, FTE, equipment) are you lacking? (Please be as specific as possible.)

Urban Wildlife FTE
Warden FTE
Large Equipment (i.e. ATVs, Snowmobiles)
Truck Updates/Tires/Fleet Management Practices
Personal Equipment (Backpacks, First Aid Kits, Inclement Weather Gear)
Updated Radios/Satellite Communication
Appropriate Wages
Weekend IT Support
Horses

Question 27: Which job duty outside of hunting, fishing, parks, and recreation enforcement demands the most of your time? (Please be brief in your response.)

Administration
Urban Wildlife
Aquatic Invasive Species
Pittman Robertson Qualifying Work
Animal Tagging
Vehicle Maintenance

DEPARTMENT OF FISH,  
WILDLIFE & PARKS

DEPARTMENT RESPONSE



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FWP.MT.GOV



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THE **OUTSIDE** IS IN US ALL.

July 25, 2023

Angus Maciver  
Legislative Auditor  
Office of the Legislative Auditor  
State Capitol, Room 160  
Helena, MT 59620-1705

RECEIVED  
August 9, 2023  
LEGISLATIVE AUDIT DIV.

RE: Performance Audit of the Montana Fish, Wildlife & Parks Enforcement Division

Dear Mr. Maciver:

The Department of Fish, Wildlife & Parks has reviewed the Performance Audit completed by the Legislative Audit Division.

Our responses for each recommendation are as follows:

**Recommendation #1**

*We recommend the Department of Fish, Wildlife & Parks:*

- A. Develop and implement a SmartCop data management plan to determine the appropriate data to gather, how to define the data, how to analyze the data, and data quality standards.
- B. Provide training to wardens on the data management plan to ensure it is universally understood and implemented by Enforcement staff.

**Response:** We concur.

The Enforcement Division is in the process of developing and implementing a data management plan that has a clear management strategy that informs staff on how to determine the proper data to capture, how to define and analyze data and establish standards for data quality. This exercise has eliminated unnecessary data tracking categories in the SmartCop system, leaving only categories that re-emphasize our statutorily mandated duties, thus removing any ambiguity about what Wardens should be focusing on from day to day.

The Department will ensure that the data management plan is clearly communicated to Enforcement staff. Staff will be provided comprehensive training on the components of the plan to make certain that it is well understood and easily implemented.

**Recommendation #2**

*We recommend the Department of Fish, Wildlife & Parks:*

- A. Formally prioritize and communicate warden duties based on the statutory emphasis on wildlife enforcement and conservation, and regional recreation demands.

**Response:** We concur.

To reinforce the warden’s duties defined in Title 87 and provisions of Title 80 in Montana Code Annotated, the Department recognizes the need to improve the communication of warden duties and has taken significant steps towards addressing this recommendation by meeting with all Enforcement staff, in person, reiterating these statutorily mandated duties and making it clear that these duties are the priority of the Enforcement Division. The Department will not be entering into or renewing any Memorandums of Understanding (MOU) with local governments with regards to Enforcement authority. The Department has clearly communicated to Enforcement staff that they will not be citing any offenses that were authorized under the MOUs. Wardens encountering these types of crimes outside their authority have been instructed to contact the appropriate agency of jurisdiction for their assistance and response if necessary.

**Recommendation #3**

*We recommend the Department of Fish, Wildlife & Parks:*

- A. Provide training and oversee the Enforcement Division and Human Resources Unit’s education of Enforcement employees on their right to file a grievance free from retaliation.
- B. Conduct an annual cultural survey of the Enforcement Division and create a formal plan to respond to issue areas.

**Response:** We concur.

HR and Enforcement will work together to provide training on the grievance procedure to all Enforcement Division staff.

HR is currently engaged with Montana State University as a neutral third party to conduct an annual culture survey across the agency. Data will be aggregated so that analysis can be done by division including the Enforcement Division.

Enforcement Division leadership is committed to maintaining a culture of honesty, transparency, and inclusiveness. This same leadership is focused on building relationships with all staff built on trust.

**Recommendation #4**

*We recommend the Department of Fish, Wildlife & Parks:*

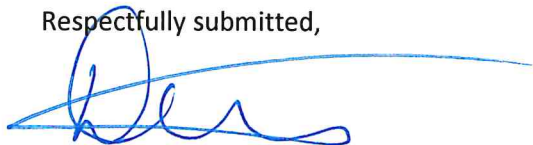
- A. Ensure the Human Resources Unit has documentation showing agency hiring policy is followed for Enforcement hirings, including documented independent oversight of hiring decisions.
- B. Follow the Secretary of State’s record retention schedule for documenting hiring, promotions, annual evaluations, and all other relevant personnel documentation.



**Response:** We concur.

HR and the Enforcement Division will work to continue to improve on communication, processes, and documentation ensuring that agency hiring policy is followed and independent oversight is maintained. Hence forward HR record retention shall align with the Secretary of State's record retention policy.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Dustin Temple', with a long horizontal flourish extending to the right.

Dustin Temple, Director