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September 17, 2014

Karen St. Hilaire, County Administrator
St. Lawrence County Court House
48 Court Street
Canton, New York 13617

Report Number: S9-14-25

Dear Ms. St. Hilaire, Sheriff and Members of the County Legislature:

The Office of the State Comptroller works to help local government officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of six cities and nine counties throughout New York State. The objective of our audit was to determine if local law enforcement entities are taking action to help enforce the State's Sex Offender Registration Act (SORA). We included St. Lawrence County (County) – specifically, the St. Lawrence County Sheriff's Office (Department) – in this audit. Within the scope of this audit, we examined the Department's policies and procedures and reviewed the record of actions taken to enforce SORA for the period January 1, 2008 through August 28, 2013.

This report of examination letter contains our findings and recommendations specific to the Department. We discussed the findings and recommendations with Department officials and considered their comments, which appear in Appendix A, in preparing this report. Department officials acknowledged our recommendations and indicated they will take corrective action. At the completion of our audit of the 15 cities and counties, we prepared a global report that summarizes the significant issues we identified at all of the jurisdictions audited.

Summary of Findings

Although the Department has adopted policies and procedures (Policy) for managing sex offenders, Department personnel do not always follow the Policy.

We found the Department did take follow up action when the State's Division of Criminal Justice Services (DCJS) notified them that an offender did not return their address verification form.

However, the Department does not always take action when DCJS notifies it that a sex offender needs to report to the Department to have a photograph taken or when an offender failed to comply with SORA's photograph provision. We found the Department does not use these communications to ensure offender compliance. As a result, 29 of the County's moderate- to high-risk offenders had outdated Sex Offender Registry (Registry) photographs.

In addition, SORA and the Policy require the Department to process a change-of-address form when it incarcerates a sex offender and to update the address prior to the offender's release. We found that in 15 out of 24 cases we reviewed the Department did not update the offender's address, as required.

Background and Methodology

St. Lawrence County (County) is governed by a 15-member County Legislature and has a population of approximately 112,000, including 324¹ moderate-high risk sex offenders of which 167² report to the Department. The County's fiscal year 2013 budgeted appropriations totaled \$235 million, including \$11.7 million for the Department's budgeted appropriations.

Megan's Law,³ a federal law enacted May 17, 1996, is intended to protect the public from sexually violent offenders. It requires states to release relevant information necessary to protect the public concerning registered, convicted sex offenders. To comply with this law, assist local law enforcement agencies and protect the public, the State enacted SORA.⁴

SORA requires DCJS to establish and maintain the Registry and a Subdirectory. The Subdirectory, which is available on the DCJS website, provides the public with information about moderate- and high-risk "sex offenders"⁵ residing in their communities. SORA provides that the Subdirectory include, among other things, the sex offender's name, age, exact address, employment address, photograph, physical description and distinctive markings.

When convicted of a sex offense and certified by the court as a sex offender, an individual is required to register with DCJS and abide by the specific registration requirements.⁶ Prior to sentencing, the State Board of Examiners of Sex Offenders makes a risk-level recommendation to the sentencing court based on the degree of risk of repeat offense for each sex offender and a recommendation as to whether the offender warrants designation as a sexual predator, sexually violent offender or predicate sex offender.⁷ The assigned risk levels, determined by examining certain risk factors associated with the sex offender are Level 1 (low risk of repeat offense), Level

¹ 187 Level 3 sex offenders, 137 Level 2 sex offenders

² 69 Level 3 sex offenders, 98 Level 2 sex offenders

³ Megan's Law (PL 104-145) is named for Megan Nicole Kanka, a seven-year-old murdered in 1994 near her New Jersey home by a neighbor who was a convicted sex offender. Megan's Law amended the 1994 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, which had the effect of requiring states to implement and maintain registries of certain sex offenders and offenders convicted of certain crimes against minors.

⁴ SORA; Article 6-C of the Correction Law, effective January 21, 1996

⁵ Under SORA, a "sex offender" is defined as any person who is convicted of any of the offenses set forth in Correction Law §168-a(2) or (3).

⁶ General requirements are detailed in Appendix B. Specific requirements are set forth in Correction Law Article 6-C.

⁷ See definitions in Appendix B.

2 (moderate risk of repeat offense) or Level 3 (high risk of repeat offense and threat to public safety).

SORA assigns a “local law enforcement agency having jurisdiction” (i.e., chief law enforcement officer of a town, village or city; or if none, the chief law enforcement officer of the county) to each convicted offender based on their residence. A designated individual, as a part of his regular duties, primarily monitors the jurisdiction’s sex offender population and provides sex offender information to DCJS. However, other Department personnel help monitor the Department’s offender population.

DCJS mails a non-forwarding annual Address Verification Form to each sex offender’s last reported address. The sex offender must sign and return the form to DCJS within 10 days of receipt. If an offender fails to do so, DCJS notifies the offender’s jurisdiction that the offender failed to comply with the annual verification requirement and asks the jurisdiction to follow up. DCJS also notifies the sex offender and the jurisdiction when the offender is required to have the Registry photo updated.

In addition to verifying that they still reside at their last reported address each year, sex offenders must register with DCJS within 10 days of any change of address. Level 1 and Level 2 offenders also must have their Registry photo updated every three years at the local law enforcement agency having jurisdiction. Level 3 offenders must have their Registry photo updated each year. Additionally, Level 3 offenders and sex offenders designated as sexual predators must personally report to the local law enforcement agency having jurisdiction every 90 days to verify their address. Level 2 and Level 3 offenders are also required to annually state that they are still employed at the last reported address.

To complete our audit objective, we conducted interviews with designated law enforcement personnel and reviewed adopted policies and procedures. We also reviewed offender information maintained in the Registry, and information that the Department maintained for the offender records we sampled. We examined DCJS communications to ensure appropriate follow-up actions were taken and tested local policies to confirm compliance. We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix C of this report.

Audit Results

Policies and Procedures – The Department has a Policy for the management of sex offenders. It requires designated personnel to monitor and track offenders, maintain a permanent file for each sex offender and ensure that addresses given by resident sex offenders are accurate. The Policy requires corrections personnel to provide an offender with a change-of-address form when the offender is incarcerated and again when the offender is released from jail. Department personnel are required to process the forms. The Policy also requires Department personnel to take appropriate enforcement action for non-compliance with SORA’s registration requirements.

The Department does not consistently follow the Policy regarding sex offender management. For example, Department personnel do not always process a change-of-address form when they

incarcerate an offender and when they release the offender from jail, as required by the Department's Policy and SORA.

DCJS Notifications – DCJS notifies sex offenders when they must report to the Department to update their Registry photograph, and notifies the Department when to expect each sex offender who needs the Registry photograph updated. DCJS also maintains a list of offenders who did not update their photograph as required and makes this list available to the Department through an online system.

However, the Department does not always act on the DCJS notification or the DCJS list of non-compliant offenders to ensure each offender complies with SORA's photograph provision. As a result, the Department did not respond in a timely manner to a DCJS report that identified 16 of the jurisdiction's Level 3 offenders and 11 Level 2 offenders who did not update their photograph in accordance with the law. A sex offender is subject to arrest for failing to provide a photograph, a felony offense. Up-to-date Registry photographs help to ensure that law enforcement and the public can recognize sex offenders.

In addition, although the Department had photographs in compliance with SORA for 14 of the offenders in their local computer system, Department officials indicated that these photographs failed to upload to DCJS. The file format for all future photographs has been adjusted to prevent this issue in the future, but there was no evidence of any further action by the Department on those 14 photographs.

DCJS also notifies the Department when an offender who lives in its jurisdiction fails to return the annual address verification form. In such cases, DCJS asks the Department to determine if the offender still resides at the reported address. Our examination of 27 notifications found that the Department verified the addresses or performed other follow-up action. Department personnel confirmed 25 offenders continue to live at their registered address. One offender moved to another state and Department personnel arrested another offender for failing to report his new address when the offender moved.

Correctional Facilities: Change of Address – SORA also requires local correctional facilities to facilitate processing a change-of-address form when they incarcerate a sex offender and to change the address of the offender prior to the offender's release from the correctional facility. The Department's Policy requires corrections officers to provide a change-of-address form to a sex offender when admitted into the facility and to change the sex offender's address prior to releasing the offender from the facility.

We tested 24 offender incarcerations to determine if Department personnel processed a change-of-address form as required. We found in 15 of 24 incarcerations Department personnel did not follow Department policy or SORA. One offender did not have a change-of-address form when admitted to jail and another offender did not have a change-of-address form when released from the jail. Additionally, for 13 incarcerations, Department personnel did not update the offender's address prior to releasing them. As a result of not changing the address of an offender prior to releasing them, the Registry could continue to report that the County has the offenders incarcerated at its facility, when they are not. These reporting omissions could potentially place the public at an increased risk of harm.

Recommendations

Department officials should:

1. Ensure that they take action when notified by DCJS that an offender's photograph will expire.
2. Comply with the Department's Policy and DCJS requirements; specifically, provisions that require the correctional facility to facilitate a change of address when an offender is admitted to the facility and change the address of an offender prior to releasing them.
3. Use all DCJS notifications and resources to manage the sex offender population under their jurisdiction.

The County Legislature has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Legislature to make this plan available for public review in the Clerk of the Legislature's office.

We thank the officials and staff of the St. Lawrence County Sheriff's Office for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following pages.



SHERIFF'S OFFICE

ST. LAWRENCE COUNTY



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SHERIFF

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SCOTT F. BONNO
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Correctional Facility
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Barb Carbone – Secretary to Sheriff

Civil Division
Mike MacCue-Chief Civil Officer
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(315) 379-0162 - Fax

May 21, 2014

Ann C. Singer, Chief Examiner
State Office Building, Suite 1702
44 Hawley Street
Binghamton, NY 13901-4417

Dear Ms. Singer,

Several months ago The St. Lawrence County Sheriff's Office was audited by your Office in regards to our Office's interaction with and compliance with the State's Sex Offender Registration Act (SORA). The period of time covered by the audit was January 1, 2008 through August 28, 2013. We were one of 9 counties and 6 cities to be asked to participate. Please consider the information below as the initial response to the draft report that was generated by the audit. Although I do not agree with all of the findings and do dispute some of the information that is being presented I do assure you that we take the responsibilities that are mandated onto us by the SORA very seriously and do everything we can possibly do to protect our public and make notifications as required. We, as the local law enforcement agency, found the audit staff from your agency to be professional, open to questions and also appropriately inquisitive as to how the process from this State mandate actually works in practice.

Response to the listed findings:

- The St. Lawrence County Sheriff's Office does have an accepted set of policy and procedures in regards to the NYS Sex Offender Registration Act (SORA), these plans have been reviewed several times through the NYS DCJS Accreditation process and been found to meet the standard.
- The St. Lawrence County Sheriff's Office maintains and funds a separate website service to enhance its abilities to provide the vulnerable portion of our public with additional information and resources in regards to sex offender notifications.

- The St. Lawrence County Sheriff's Office does provide a 24/7, 365 official location for registered sex offenders to be able to change their addresses and reportable information and to update their photographs. This is completed at the Sheriff's Correctional Facility venue at 17 Commerce Lane, Canton, NY.
- The issues with the Sheriff's Correctional staff not collecting 100% of the changes of address for the outgoing / released inmate that is a registered sex offender has been corrected and tightened up. It is acknowledged that this is an area that can be tightened up but it is also an area that is hard for any Sheriff's Office to correct completely due to the fact that many times these individuals are homeless or have no permanent address upon release from custody and also because the SORA allows for the person to be without a permanent address for up to 10 days. That being said it is our responsibility to submit the change of address form to the State, with an offenders signature and we will make every effort to do this.
- In regards to sex offender photo updates the Sheriff's Office does utilize the State supplied information to monitor Offenders who owe photos and we also receive these notifications through the State supplied portal sex offender inbox. Many times photos are taken and sent to DCJS and the photo is not updated at their end. We take updated photos as many times as we possibly can when the Offender presents himself to us at the Correctional Facility for whatever reason just for the purpose of having photos that are recent for the case where someone does not come in a timely manner.
- The St. Lawrence County Sheriff's Office is 100% on locating, verifying and tracking down Sex Offenders in our responsibility area. This is shown by DCJS records and was acknowledged by the audit.

We, the St. Lawrence County Sheriff's Office, acknowledge all of the Comptrollers Audit recommendations and have already made changes and improved practices to implement those recommendations and will always work to be in compliance with this State mandate.

The St. Lawrence County Sheriff's Office looks forward to the completion of this audit process and please accept this letter as our Appendix response to the draft audit report for St. Lawrence County.

Sheriff Kevin M. Wells

APPENDIX B

Definitions, Registration Requirements, Convictions in Other Jurisdictions and the SORA Website

Definitions (from Correction Law §168-a)

Sex Offender: Includes any person who is convicted of any of the offenses set forth in subdivision two (2) or three (3) of Article 6-c, Section 168-a of the NYS Correction Law.

Sexual Predator: A sex offender who has been convicted of a sexually violent offense as defined in subdivision three (3) of Section 168-a of the NYS Correction Law and who suffers from a mental abnormality that makes such person likely to engage in predatory sexually violent offenses.

Sexually Violent Offender: A sex offender who has been convicted of a sexually violent offense defined in Subdivision three (3) of Section 168-A of the NYS Correction Law.

Predicate Sex Offender: A sex offender who has been convicted of an offense set forth in subdivision two (2) or three (3) of Section 168-a of the NYS Correction Law, when the offender has been previously convicted of an offense set forth in subdivision two (2) or three (3) of section 168-a of the NYS Correction Law.

Registration Requirements

An offender's basic obligations are as follows. Sexual predators, sexually violent offenders and predicate sex offenders all must register for life and:

- Report annually where they live by signing and returning an annual verification form to DCJS within 10 days after receiving it.
- Notify DCJS in writing of a new address no later than 10 days after moving.
- Report in person to a local police agency to have a current photograph taken every three years (Level 1 and 2 offenders) or every year (Level 3 offenders and offenders labeled as a sexual predator).
- Notify DCJS in writing of any institution of higher education they are attending and enrolled in, confirming they are living and indicating whether they are employed. Any change in status must be reported to DCJS no later than 10 days after the change.
- Provide in writing Internet service providers, Internet screen names and email accounts.

Level 3 offenders and offenders with a sexual predator designation must personally verify their addresses every 90 days with law enforcement. Law enforcement may at that time photograph a Level 3 offender if that offender's appearance has changed.

Note: The preceding is a basic list of responsibilities; please refer to Correction Law Article 6-C for more information.

Convictions in Other Jurisdictions

(Source: DCJS website: <http://www.criminaljustice.ny.gov/nsor/sortab1.htm>)

Individuals convicted in another jurisdiction (federal, military, or another state or country) who reside in New York State are required to register if:

- (1) the individual is convicted of an offense equivalent to a New York State registerable sex offense; or
- (2) the individual is convicted of a felony requiring registration in the conviction jurisdiction; or
- (3) the individual is convicted of:
 - *18 U.S.C.A. 2251* (sexual exploitation of children)
 - *18 U.S.C.A. 2251A* (selling or buying of children)
 - *18 U.S.C.A. 2252* (certain activities relating to material involving the sexual exploitation of minors)
 - *18 U.S.C.A. 2252A* (certain activities relating to material constituting or containing child pornography)
 - *18 U.S.C.A. 2260* (production of sexually explicit depictions of a minor for importation into the United States)
 - *18 U.S.C.A. 2422(b)* (coercion and enticement)
 - *18 U.S.C.A. 2423* (transportation of minors) or
 - *18 U.S.C.A. 2425* (use of interstate facilities to transmit information about a minor).

SORA Website

The public may obtain information about sex offenders from the New York State Division of Criminal Justice Services' Sex Offender Subdirectory at:

http://www.criminaljustice.ny.gov/SomsSUBDirectory/search_index.jsp

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

We conducted this performance audit in accordance with GAGAS. 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.

To determine if the Department takes action when DCJS notifies it of an offender's non-compliance with SORA in regards to address verification, we sat down with the Sheriff and had him provide 4 incident reports for each year from 2008-2012 as well as every incident report in 2013 (seven total) that were created due to receipts of notices of an offender failing to verify their address with DCJS. We used those incident reports to determine the action the jurisdiction took based on notices from DCJS.

To determine if the Department was responding to DCJS notifications regarding offenders with photographs to be due soon and if the Department was utilizing DCJS provided resources that identified offenders with expired photographs; examiners had the Sheriff's Office provide a list pulled from eJusticeNY,⁸ which is generated by DCJS, of offenders who had expired photographs. Examiners utilized information from the Sex Offender Registry to gather information on offenders indicated by the list. Examiners met with Department staff to determine why each photograph was out of date and to see if they had a more up to date photograph in their County computer system.

To determine if the Department is facilitating a change of address for an offender into the correctional facility and changing the address for an offender out of the facility before release, we utilized a list for each year (2008-2013) that held the names of all sex offenders who had contact with the jail, specifically selecting those who were admitted to the facility. Examiners then selected a sample of four incarcerations per year, obtaining the admission date and release date from the facility and then obtaining the hard copy change of address form from the offender's file.

⁸ eJusticeNY is a browser-based application designed to give users from qualified agencies a single point of access to computerized information within and beyond New York State.