

New York State Comptroller
THOMAS P. DiNAPOLI

Division of Criminal Justice Services

Oversight of Adult Probation Services

September 2026 | Report 2023-S-46

Prepared by the Division of State Government Accountability

Audit Highlights

Objective

To determine whether the Division of Criminal Justice Services is overseeing probation services to adequately promote public safety and supervision. The audit covered the period from January 2019 through April 2026.

About the Program

Probation and community corrections professionals play a vital role in New York State's criminal justice system. They supervise, support, and serve individuals on probation, helping them build productive, law-abiding lives within their communities while enhancing public safety. The Division of Criminal Justice Services (DCJS) is responsible for strengthening these efforts by promoting practices that improve public safety, hold probationers accountable, and reduce recidivism. DCJS oversees and funds 58 probation departments across the State, covering 57 counties and New York City. As of March 2025, DCJS reported that there were 2,628 peace (probation) officers in the State. At the end of 2025, DCJS reported 66,282 adults under probation supervision.

Key Findings

DCJS should increase its monitoring and oversight to enhance the probation supervision practices provided by counties and maximize public safety for all State residents, and provide guidance that establishes a balance between the counties' expressed desire for standards and the need for flexibility from county to county. While DCJS has developed and implemented protocols to assist counties with their supervision responsibilities, we also found counties could use additional guidance and support from DCJS in areas such as training, caseload and review practices, drug and alcohol testing, completing required periodic probationer assessment reports (performed every 6 months on each probationer), sex offender supervision, and the management of ignition interlock devices, which measure the alcohol content in the breath of the operator of a vehicle and prevent the vehicle from being started until the operator provides an acceptable breath sample.

We found variations in how probationers are supervised throughout the State, as well as non-compliance with required contacts and court orders. For example:

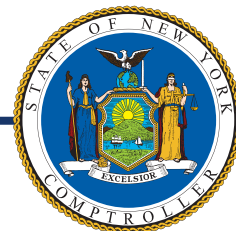
- Across the six counties we visited, risk ratings, which determine the number of contacts (e.g., home or office visits) probation offices must have with supervised individuals, varied, including for supervised individuals with similar offenses. County officials and employees raised, and DCJS acknowledged, concerns about DCJS' primary risk evaluation instrument accurately assessing certain probation populations related to

specialized groups, including sex offenses, domestic violence, and driving under the influence. Additionally, we found risk ratings for specific offenses varied from county to county. For example, one county will not allow sex offenders to be rated below the high-risk level, some counties will not allow ratings below the medium-risk level, while in other counties, sex offenders can be rated low risk. Lower risk ratings mean less supervision and, by default, potentially a greater risk of probation violations not being identified. Further, for the six probation departments we visited, we reviewed 105 case files to determine if contacts were being made as required and found 20 (19%) cases that had an insufficient number of probationer contacts based on risk level.

- Lack of guidance for caseload sizes may have contributed to uneven and high workloads across counties. One of the six counties we visited had caseload sizes for individual probation officers ranging from 20 to 60 cases. Another had caseloads ranging from 80 to 90. DCJS agrees that high caseloads in community corrections limit probation officers' ability to provide meaningful supervision of individuals on probation. When asked about their concerns in a survey we sent to counties, four specifically mentioned the desire for DCJS to establish a caseload standard.
- We reviewed 101 case files from the six counties we visited that had a court-ordered drug and/or alcohol condition, finding 27 (27%) supervised individuals with drug and alcohol conditions did not have any drug or alcohol tests administered. Additionally, we found testing that did occur ranged from one to 22 tests per individual. While court orders generally do not specify testing frequency, and DCJS stated that handling deficiencies in drug and alcohol testing is not part of its oversight role, there is nothing preventing DCJS from providing guidance on this issue in line with its mission to help with the supervision of individuals on probation.
- Of the 48 probation departments that responded to our survey, 41 (85%) reported that DCJS does not conduct monitoring visits to their counties on an annual or more frequent basis. Additionally, 13 of the probation departments (27%) that responded to the survey expressed a desire for DCJS to conduct additional monitoring visits to their respective departments. Of the six counties we examined through in-person visits, only one reported that DCJS conducted a monitoring visit. As these visits provide an opportunity for DCJS to review all aspects of counties' probation supervision efforts, more consistent visits could help DCJS identify where counties could use additional help or guidance and allow them to identify issues before they have a chance to become serious problems.
- Seventeen of the 48 (35%) probation departments that responded to our survey stated that DCJS does not provide its county with in-person training. While DCJS has provided training opportunities, as the oversight agency for counties, it has a vital role in making sure all employees have the necessary skills, as well as in providing employees with appropriate supervision, monitoring, and training to reasonably ensure the counties have the capability to carry out their work.

Key Recommendations

- Evaluate monitoring practices to ensure counties are receiving guidance as needed to improve public safety and to promote consistency with how individuals are supervised across the State. Practices to evaluate may include, but are not limited to, in-person site visits, training, drug and alcohol testing, caseload size, ignition interlock device management, and polygraph testing for sex offenders.
- Review and amend (as appropriate) current drug and alcohol testing requirements for adults under supervision to ensure court-ordered conditions are complied with.



**Office of the New York State Comptroller
Division of State Government Accountability**

September 30, 2026

Rossana Rosado
Commissioner
Division of Criminal Justice Services
Alfred E. Smith State Office Building
80 South Swan Street
Albany, NY 12210

Dear Commissioner Rosado:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Division of Criminal Justice Services entitled *Oversight of Adult Probation Services*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

Contents

Glossary of Terms	7
Background	8
Audit Findings and Recommendations	10
County Supervision Operations	10
General Oversight and Monitoring	14
Training	15
Recommendations	15
Audit Objective, Scope, and Methodology	17
Statutory Requirements	19
Authority	19
Reporting Requirements	19
DCJS Response and State Comptroller's Comments	20

Glossary of Terms

Term	Description	Identifier
DCJS	Division of Criminal Justice Services	<i>Auditee</i>
COMPAS-r	Correctional Offender Management Profiling for Alternative Sentencing-revised, a risk assessment tool	<i>Key Term</i>
Counties	County probation departments	<i>Key Term</i>
NYCRR	New York Codes, Rules and Regulations	<i>Regulations</i>

Background

Probation and community corrections professionals play a vital role in New York State's criminal justice system. They supervise, support, and serve individuals on probation, helping them build productive, law-abiding lives within their communities while enhancing public safety. The Division of Criminal Justice Services (DCJS) is responsible for strengthening these efforts by promoting practices that improve public safety, hold probationers accountable, and reduce recidivism. DCJS oversees and funds 58 probation departments across the State, covering 57 counties and New York City. Additionally, DCJS assists criminal justice professionals statewide by promoting effective policies, improving practices, and supporting programs rooted in evidence-based strategies. As of March 2025, DCJS reported that there were 2,628 peace (probation) officers in the State. At the end of 2025, DCJS reported 66,282 adults under probation supervision.

The programs funded by DCJS aim to improve the State's criminal justice policies and provide specialized, research-backed services. The State supplies DCJS with funds, which are then distributed to county probation departments. These funds are allocated through the State Aid Probationary Service Block Grant, which has a fixed annual amount of \$44.7 million and is intended to help counties cover the costs of probation supervision services. According to Title 9, Subtitle H of the New York Codes, Rules and Regulations (NYCRR) Part 345 and DCJS policy, counties must submit an annual application outlining their probation plans and certifying that they have reviewed and comply with all relevant rules, laws, and regulations to receive funds from the grant. As specified in 9 NYCRR 345.4, DCJS may withhold funding for probation services from counties that do not comply.

9 NYCRR section 351.7 outlines the activities probation officers should perform when supervising probationers, and DCJS uses State Director's Memorandums to inform and guide counties. These memorandums often direct probation departments to specific regulations that DCJS expects counties to follow. For example, Memo 2020-7 directs county departments to NYCRR Part 358 for the management of ignition interlock cases. (Ignition interlock devices measure the alcohol content in the breath of the operator of a vehicle and prevent the vehicle from being started until the operator provides an acceptable breath sample.) Additionally, Memo 2008-2 encouraged counties to increase the use of polygraphs in managing sex offender probationers and highlighted additional State funding available to counties that adopt this tool.

The Correctional Offender Management Profiling for Alternative Sentencing (COMPAS) risk assessment tool is the primary risk evaluation instrument authorized by DCJS for use by probation departments with adult probationers. This tool was updated in July 2024 and is now called the COMPAS-revised (COMPAS-r). During the audit, probation officers used both versions of COMPAS to assess probationers and assign risk levels (e.g., greatest, high, medium, low). According to section 348.6 of title 9 of the NYCRR, risk assessments must be conducted at probation entry and every 6 months thereafter.

Section 351.6 of title 9 of the NYCRR establishes the required number of contacts for each probationer risk level. The number of in-person and collateral contacts (collateral contacts are any contacts to verify information regarding the probationer with someone or some source other than the probationer, including the probationer's compliance with conditions of probation and progress toward achieving the case plan goals), home visits, and monthly visits is outlined for each level. While DCJS mandates the minimum contact requirements, counties may conduct additional contacts if needed.

NYS Executive Law Section 243 requires DCJS to remain informed about the activities of probation officers statewide and to supervise the development, implementation, and utilization of plans and eligible programs funded by DCJS to monitor their performance and effectiveness. Additionally, pursuant to section 348.7 of title 9 the NYCRR, DCJS has the authority to access any case files, and probation departments are expected to provide copies of these files upon request. This allows DCJS to conduct monitoring visits to probation departments to review Critical Incident Reports, caseload assignments and sizes, departmental policies, probationers' supervision case files, and orders and conditions (court-mandated rules set prior to the start of probation, which probationers must adhere to during probation). A Critical Incident Report should be submitted for any event in which a probationer or a probation staff member is the perpetrator or victim of a homicide or the suspect in a kidnapping, has shot or injured an officer, or is involved in other high-profile events as determined by the head of the county's probation department. Counties are required to submit Critical Incident Reports to DCJS within 24 hours of the event. Once the incident is reported, DCJS reviews it. If the case requires further review, it will be elevated to a Level 1 or Level 2 review status. Both levels include additional review, and feedback is provided to the county. For Level 2 reviews, DCJS works with the probation department to develop a timeline and implement recommendations when systemic issues are identified.

Additionally, New York State Executive Law Section 242 requires certain DCJS employees to serve on and consult with the State Probation Commission. The Commission serves as an advisory body, providing DCJS with consultation on probation-related issues throughout the State. We found DCJS has fulfilled the statutory requirements related to the New York State Probation Commission, including member composition, meeting frequency and topics, attendance, and the provision of advisement and consultation to the DCJS Director. As a result, the audit team has reasonable assurance that the Probation Commission's objective is being achieved.

Audit Findings and Recommendations

While DCJS has developed and implemented protocols to assist counties with their probation supervision responsibilities and has recently developed a plan to conduct site visits to counties, we found variations throughout the State in probation supervision practices, including assignment of risk level, and, consequently, the number of required contacts with individuals on probation. We also found a lack of compliance with counties making required contacts with individuals on probation as well as some non-compliance with court orders. Surveyed counties indicated they could use additional guidance and support from DCJS related to training, caseload and review practices, drug and alcohol testing, probationer assessment reports, sex offender supervision, and ignition interlock devices. While not required by law, additional monitoring and guidance could help counties navigate the issues identified in this report and have a positive impact on the supervised individuals and public safety, in support of DCJS' mission and goals.

County Supervision Operations

DCJS has established practices and procedures to help counties supervise individuals. While we found that operations generally supported program delivery, our audit observations and comments from the counties indicate areas of opportunity for DCJS to evaluate whether additional or improved guidance or controls are necessary.

To assess the effectiveness of DCJS oversight, we visited six county probation departments and conducted interviews with agency and county officials, reviewed select adult probation case files, and analyzed Critical Incident Report data. We also sent a statewide survey to the 53 counties that we did not visit and received responses from 48.

Risk Ratings and Required Contacts

Risk ratings determine the number of contacts probation offices must have related to supervised individuals. DCJS has established a policy to determine how many contacts probationers must have with their probation officer each month and quarter based on their risk-level rating. Contacts range from one per month for low-risk individuals to 12 per month for the greatest-risk individuals.

Across the counties we visited, risk ratings varied, including for supervised individuals with similar offenses. While this alone is not an issue (as many factors besides the offense are considered when establishing a risk rating), we noted practices and system limitations that may result in some counties and probation offices providing less supervision than may be appropriate.

County officials and employees raised concerns about COMPAS-r, DCJS' primary risk evaluation instrument, accurately assessing certain probation populations, especially those with risks related to specialized offenses, including sex offenses, domestic violence, and driving under the influence. DCJS acknowledges COMPAS-r does not address specialized offenses. Further, according to county officials, COMPAS-r results rely heavily on factors such as housing and

employment, as well as probationer self-assessments. According to county officials, these factors can result in high-risk probationers being rated lower than they should be. For example, probationers who maintain stable employment and housing and who misrepresent their criminal history in their self-assessments can be viewed as lower risk and receive lower ratings, and thus receive a lower level of supervision, and, by default, pose a potentially greater risk of probation violations going undetected.

Additionally, we found risk ratings for specific offenses varied from county to county for the six counties we visited. For example, one county will not allow sex offenders to be rated below the high-risk level, some counties will not allow ratings below the medium-risk level, while in other counties, sex offenders can be rated low risk. We found similar circumstances at counties that had established specialized units for domestic violence, where a county would not rate domestic abusers below a medium-risk level, while others could rate them as a low-risk level.

Further, for the six probation departments we visited, we reviewed 105 case files to determine if contacts were being made as required. Of the 105 case files reviewed across the six counties, we found 20 (19%) cases had an insufficient number of probationer contacts (e.g., home visits, office visits, collateral contacts) based on risk level. While DCJS guidelines establish the minimum number of visits required, DCJS may not be aware of the extent of non-compliance due to the limited monitoring visits it has conducted.

Probation officers have discretion over reporting or following certain aspects of orders and conditions. In one of these areas, we found three instances in two different counties we visited where a sex offender on probation had a specific order and condition requiring polygraph tests, but no tests had been given. In another area, we found seven violations of court-ordered conditions without a probation violation being filed with the court.

While the counties do not have defined guidelines for many aspects of probation supervision, they are also not consistently following what guidance they do have, as demonstrated by the lack of compliance with required contacts and court orders. As consistency enables management to identify and analyze risks associated with achieving the defined objectives as part of the control environment, its absence undermines DCJS' ability to more effectively monitor the counties' probation supervision efforts.

Reinforcing requirements where they exist and providing additional guidance would help ensure individuals on probation are treated more consistently, county to county, and offer greater reassurance to the public that DCJS is providing the structure necessary to help keep individuals from violating their probation.

DCJS' position is that a consistent county approach to probation is not the most effective, and that a consistent but impersonal style can feel controlling or oppressive, reducing the probationer's motivation to participate in change and leading to stagnation in case management and missed opportunities for meaningful intervention. We acknowledge that counties in the State vary in size, needs, and resources, and rather than a one-size-fits-all approach, suggest that certain aspects should be consistent while providing the counties with flexibility to tailor their supervision to the needs of individual probationers. Additionally, we shared with DCJS the issues

identified by the counties that would improve efficiency and strengthen their operations—steps that can be taken while maintaining the flexibility needed to address local needs and individual circumstances.

Drug and Alcohol Testing and Ignition Interlock Devices

Due to DCJS' limited site visits and no additional controls to determine compliance with court-ordered testing, DCJS has no ability to determine if counties are properly administering drug and alcohol tests. Drug and alcohol testing can help deter drug and alcohol use and misuse in probationers and may contribute to better outcomes.

We reviewed case files to determine whether mandated drug and alcohol testing was conducted. For the 105 case files from the six counties we visited, 101 (96%) had a court-ordered drug and/or alcohol condition. We found 27 (27%) supervised individuals with drug and alcohol conditions had zero tests administered. Additionally, for the 101 individuals in our sample, we found anywhere from one to 22 tests were administered. Seventeen probationers only had one test conducted during our scope of review.

Generally, court orders related to drug and alcohol testing do not specify testing frequency, leaving this to the discretion of the probation officer. DCJS officials also stated they have not developed standard guidance related to drug and alcohol testing and said handling deficiencies in drug and alcohol testing is not part of DCJS' oversight role. Consequently, we found the frequency and consistency of alcohol and drug testing varied across the six counties we visited, as detailed above.

In response to our preliminary findings, DCJS officials stated they do not have the authority to alter conditions set by the court. However, considering the variance in testing, DCJS should consider providing resources that inform decision-making—in line with its mission to help individuals on probation avoid reverting to criminal behavior.

Additionally, we found DCJS has a policy in place for ignition interlock devices and their management. DCJS conducts a minimum of six site visits each year to selected counties to check management of these devices, including review of case files to ensure departments are abiding by required practices. DCJS also conducts an annual two-part webinar series outlining device restrictions as well as the rules and regulations regarding this practice. An in-person conference is also held annually, and DCJS is available at this conference to answer questions.

During our audit scope, DCJS officials stated they had completed a total of 31 ignition interlock device site visits to various counties throughout the State. However, we found instances when device installations did not occur. We reviewed 18 case files with an installation condition across the six counties visited. Of the 18 case files, only eight probationers had access to a vehicle during the review period. Of those eight cases, we found four (50%) did not have an ignition interlock device installed. This could result in probationers driving without the alcohol content of their breath being monitored as required by court order and driving under the influence of alcohol because the device was not installed as required.

Caseloads

A lack of guidance for caseload sizes may have contributed to uneven and high workloads across counties. When caseloads are increased, officers cannot give personalized attention to each probationer, decreasing successful reintegration. DCJS agrees that high caseloads in community corrections limit probation officers' ability to provide meaningful support.

One of the six counties we visited had caseload sizes ranging from 20 to 60 cases. Another had caseloads that ranged from 80 to 90. The other counties in our sample ranged from 40 to 80 cases per individual probation officer. When asked about other concerns (in the survey we sent), four counties specifically mentioned the desire for DCJS to establish a caseload standard.

We found five of the six counties visited have established specialized units to address specific types of offenses, which county officials said allows the officers in these units to become familiar with the needs and patterns of certain probation groups. However, caseload sizes in these counties still varied significantly, even across specialized units. In the remaining county, cases were assigned to probation officers regardless of case type because the county has not established specialized units.

DCJS officials stated they have not developed or implemented a standard because caseloads are impacted by individual counties' financial situations. DCJS also cited 9 NYCRR section 351.4 as the guide for probation officers' case assignment. However, that includes only vague language about assigning applicable cases to specialized units' caseloads, where available. Additionally, DCJS stated that prescribed caseload sizes—often set by policy or funding formulas—can fail in supervision because they do not account for the variability in supervision needs, officer capacity, and the complexity of cases.

DCJS also recognizes that caseload size guidance is available from the American Probation and Parole Association. Officials also said case assignment is based on risk and need scores, "a method that is well researched and most effective in NYS." And while officials said using workload standards (measuring hours per task) can better match officer capacity to supervision demands, workload metrics are harder to communicate to funding bodies and the public. Therefore, officials stated counties know their needs best and DCJS lets them make their own decisions on caseloads. However, several counties express the desire for additional guidance in this area. DCJS should consider if they can provide guidance that provides a balance between the counties' expressed desire for standards but still leaves room for flexibility county to county.

Case Reviews

We also found differences in the quality assurance practices for case files across the six counties we visited. Three counties each had a dedicated staff member to oversee quality assurance, which involved reviewing probation case files to address deficiencies in supervision and ensure accurate documentation. However, no quality assurance designation existed in the other three counties.

According to section 348.6 of title 9 of the NYCRR – Periodic Reassessments, case reviews must be conducted at probation entry and every 6 months thereafter. They document compliance

with contact requirements during the supervision period and progress toward case plan goals, objectives, and action steps during the supervision period. However, four of the six counties we visited experienced delays in completing these assessments, leading to late submissions. Of the 105 cases reviewed, 17 (16%) had overdue Periodic Reassessment Case Reviews, with completion times ranging from 7 to 19 months. These reviews must be done timely because they include a reevaluation of the probationer's risk level and updates on the progress made toward case plans. Any changes to the probationer's risk level, based on DCJS' review, could impact the level of supervision required for that probationer (whether increased or decreased supervision).

According to the United States Government Accountability Office's Generally Accepted Government Auditing Standards, the public interest is served by the consistent performance of quality management, which provides reasonable assurance that objectives are met and risks are reduced to an acceptably low level. Consistent requirements or improved standards for case review would provide greater assurance that individuals on probation were receiving similar quality supervision to help reduce the rate of recidivism and ensure public safety.

General Oversight and Monitoring

Of the 48 probation departments that responded to our survey, 41 (85%) reported that DCJS does not conduct monitoring visits to their counties on an annual or more frequent basis. Additionally, 13 of the probation departments (27%) that responded to the survey expressed a desire for DCJS to conduct additional monitoring visits to their respective departments. Of the six counties we examined through in-person visits, only one reported that DCJS conducted a monitoring visit. Although there is no required frequency for the monitoring visits, these visits provide an opportunity for DCJS to review all aspects of counties' probation supervision efforts, and more consistent visits would help DCJS identify where counties could use additional help or guidance.

Our review of 11 Critical Incident Reports related to probationers found DCJS' process for review and identification and advised recommendation actions was appropriate. However, improvements could be made when striving to identify Critical Incident Reports related to probation department staff. DCJS management stated that they do not thoroughly review staff-related Critical Incident Reports, nor do they have an independent process to identify such events. Instead, DCJS limits its review of staff-related Critical Incident Reports to the details reported by counties.

DCJS officials noted that staffing has decreased significantly since the DCJS merger with the Division of Probation and Correctional Alternatives in fiscal year 2010–11, resulting in a reduction from 140 personnel to fewer than 40 in recent years. Officials stated this resulted in DCJS' decision to end routine monitoring visits at county probation departments for compliance checks, which included a general compliance review and the provision of technical assistance. We asked if DCJS had done anything to remedy the staffing issue, and officials provided us with some anecdotal information, but nothing to support any actions they have taken.

In February 2026, DCJS established its current protocol for conducting technical assistance site visits. Its plan is to conduct visits to two different counties in 2026, then to four different counties

each year moving forward. DCJS has a Technical Assistance/Quality Assurance protocol, an in-person on-site guide that includes information on conducting these site visits; reviewing documents such as Critical Incident Reports, Periodic Reassessments, Case Reviews, and Violation of Probation and Supervision Case Plans; and exploring issues or concerns. Following each site visit, DCJS provides a summary and action plan to the probation department. One of the goals states “If a department starts to make positive changes and caseload size decreases, evaluate whether this caseload size decrease provides more opportunities for better contacts and more involved work.” Information like this, if utilized, could provide DCJS with critical data points to effectively manage and monitor this area of concern for counties. In response to our preliminary findings, DCJS stated it recognizes the need to be more physically present in the county probation departments and, as noted above, has recently implemented a plan to do so. As this was implemented toward the end of our audit, we did not have a chance to measure its impact. Officials also said DCJS will evaluate its process for reviewing staff-related Critical Incident Reports.

Training

Seventeen of the 48 (35%) probation departments that responded to our survey stated that DCJS does not provide their county with in-person training. In response to this finding, DCJS officials stated this expectation is unrealistic and unneeded, as training is provided at regional locations where departments can send staff to attend. However, various county officials commented on the lack of availability of DCJS training in their counties, and expressed there is limited funding for sending officers to regional training facilities for required courses.

DCJS has provided various training courses through its five Regional Training Academies, including Basic Probation, DWI/Ignition Interlock, Sex Offenders, and Risks/Needs Assessments. During the audit scope, officials informed us that DCJS facilitated the delivery of 347 in-person and 594 virtual training sessions to 29,444 community corrections professionals. While DCJS has provided training opportunities, the counties continue to seek additional training. As the oversight agency for counties, DCJS has a vital role in making sure all employees have the necessary skills, as well as a role in providing employees with appropriate supervision, monitoring, and training to reasonably ensure the counties have the capability to carry out their work.

Recommendations

1. Evaluate monitoring practices to ensure counties are receiving guidance as needed to improve public safety and to promote consistency with how individuals are supervised across the State. Practices to evaluate may include, but are not limited to, in-person site visits, training, drug and alcohol testing, caseload size, ignition interlock device management, and polygraph testing for sex offenders.

2. Review and amend (as appropriate) current drug and alcohol testing requirements for adults under supervision to ensure court-ordered conditions are complied with.
3. Evaluate the process for reviewing staff-related Critical Incident Reports.

Audit Objective, Scope, and Methodology

The objective of our audit was to determine whether DCJS is overseeing probation services to adequately promote public safety and supervision. The audit covered the period from January 2019 through April 2026.

To accomplish our objective and assess related internal controls over DCJS' oversight of probation services, we reviewed relevant laws and regulations, DCJS policies and standards, and program reports. We conducted on-site assessments at six county probation departments and completed audit tests to evaluate specific adult probation practices and processes. This testing consisted of interviewing probation officials at various levels (management, supervisors, and senior probation officers), reviewing county-specific policies, and assessing the completeness of case files via CaseLoad Explorer. We also sent a statewide survey to the 53 counties we did not visit and received responses from 48 (91%) counties (five departments did not respond). The other five counties we visited for on-site assessments were selected using a risk-based analysis that considered several factors, including Critical Incident Report analysis, ignition interlock analysis, county and probation population size, and internal audit compliance reviews.

We used a non-statistical sampling approach to provide conclusions on our audit objectives and to test internal controls and compliance. We selected judgmental samples. However, because we used a non-statistical sampling approach for our tests, we cannot project the results to the respective populations. Our samples, which are discussed in detail in the body of our report, include:

- A judgmental sample of one of five counties that did not respond to our survey based on risk determinations in 12 probation service areas to determine compliance with New York State adult probation practices and processes.
- A judgmental sample of five of 46 county probation departments based on risk determinations in 12 probation service areas to verify compliance with New York State adult probation practices and processes
- A judgmental sample of 11 of 638 probationer-involved Critical Incident Reports at the six counties we visited, selected based on risk related to the case level or event profile to test for accuracy and completeness.
- A judgmental sample of 105 of 14,977 case files at the six counties we visited based on risk level and time and duration of probation sentencing to test for compliance with the court orders, conditions, and DCJS-established policies.

We obtained data from DCJS Critical Incident Reports and about active adult probation cases at each of the six counties visited based on CaseLoad Explorer and assessed the reliability of that data by reviewing existing information and interviewing officials knowledgeable about those systems. We determined that the data from these systems was sufficiently reliable for the

purposes of this report. Certain other data in our report was used to provide background information. Data that we used for this purpose was obtained from the best available sources, which were identified in the report. Generally accepted government auditing standards do not require us to complete a data reliability assessment for data used for this purpose.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

We conducted our 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties could be considered management functions for the purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of DCJS' oversight and administration of probation services.

Reporting Requirements

A draft copy of this report was provided to DCJS officials for their review and formal comment. We considered their comments in preparing this final report, and they are attached in their entirety at the end of it. DCJS generally agreed with two of our recommendations and disagreed with one recommendation. However, officials took exception to some findings and statements in our report. Our State Comptroller's Comments addressing certain remarks are embedded within OTDA's response.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Division of Criminal Justice Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

DCJS Response and State Comptroller's Comments



**Division of Criminal
Justice Services**

KATHY HOCHUL

Governor

ROSSANA ROSADO

Commissioner

September 21, 2026

Nadine Morrell, CISM
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Re: Draft Audit Report 2023-S-46, Oversight of Adult Probation Services, issued August 21, 2026

Dear Director Morrell:

The New York State Division of Criminal Justice Services (DCJS) has received and reviewed the Office of the State Comptroller's (OSC) draft audit report 2023-S-46, *Oversight of Adult Probation Services*. The audit's stated objective was to determine whether DCJS is overseeing probation services to adequately promote public safety and supervision. DCJS' responses to the report's three recommendations are enclosed. This letter addresses the conduct of the audit and a series of findings that misstate the law, DCJS' role, or the evidence OSC itself collected. DCJS seeks to flag these items, so that they may be corrected.

Probation in New York is delivered by 58 county and New York City probation departments. DCJS does not supervise anyone on probation. Its role, established in Executive Law § 243 and implemented through Title 9 of the New York Codes, Rules and Regulations (NYCRR), is to set statewide supervision standards by regulation, fund county departments through State Aid, train the probation workforce, and provide technical assistance and review. The conditions of each individual's probation, including whether drug and alcohol testing, polygraph examination, or an ignition interlock device is required, are set by the sentencing court, not by DCJS and not by the county probation department.

State Comptroller's Comment – We agree that DCJS is not responsible for and does not have the authority to amend court orders. However, our report highlights opportunities for DCJS to improve its oversight of county probation offices to provide assurances that probationers are in compliance with the terms of court orders.

The draft report's own findings confirm that DCJS operates within that framework as intended. In the draft report, OSC found that DCJS has fulfilled its statutory obligations regarding the State Probation Commission and that county "operations generally supported program delivery," and it describes the additional monitoring and guidance it recommends as "not required by law." Yet the Key Findings open by stating that DCJS should increase its oversight to "maximize public safety for all State residents," a conclusion the audit did not test. As far as DCJS is aware, OSC did not analyze recidivism, violations, or any other public safety outcome.

State Comptroller's Comment – DCJS' own mission (to build safer and stronger communities) and website (New York's state agency enhancing every facet of public safety) reference the work it does to enhance public safety. Our audit reviewed core functions of DCJS and determined that any improvement in these functions, particularly increase in oversight, would thus improve safety for New Yorkers.

The conduct of this audit also warrants comment. The audit engagement began nearly three years ago in 2023 and the audit scope reaches back to January 2019. During the audit, DCJS was repeatedly asked by OSC to provide information it had already provided and regularly revisited foundational questions that we had already answered, including that probation supervision is administered by counties, that terms and conditions of supervision are ordered by sentencing courts, and how New York's risk-and-need model of supervision works.

State Comptroller's Comment – DCJS is mischaracterizing the audit work. The audit was materially impacted by delays in receiving information necessary to perform and complete the audit work. Numerous requests were required, as the responses even to standard audit questions took more than a month to fulfill. For example, a simple request for the number of full-time equivalent (FTE) staff assigned to the program took more than 3 months, and a request for routine reports DCJS develops on an annual basis took more than a year to provide. We were also never provided with the risk assessment we requested related to our audit objective. In this audit, even routine requests for basic information were outstanding for extended periods. Under audit standards, when even standard information is subject to such limitations, additional procedures may be necessary and may require auditors to take steps such as revisiting prior work due to questions that arise from information received late. An audited entity has an obligation to cooperate with the audit process and provide requested records and information in a timely manner. When information necessary to support findings or resolve outstanding issues is delayed, the audit cannot be completed and still meet required standards. Accordingly, the length of an audit should be considered in the context of DCJS' responsiveness to the information requested. Only once the necessary information was provided and the audit work completed were we able to finalize the report.

DCJS staff participated in dozens of meetings and responded to considerable document requests over the course of the audit engagement. Despite our diligence, the draft retains characterizations that DCJS corrected throughout the audit. The cost of this inefficiency has fallen on DCJS' Office of Probation and Correctional Alternatives (OPCA), whose staffing, as the report notes, has declined from 140 to fewer than 40 since 2010, and whose time would otherwise have been spent supporting the very departments this audit examined.

State Comptroller's Comment – Based on DCJS' own timeline, this would equate to one or less meeting a month and, as we noted previously, even standard information was either delayed or not provided at all.

The report's evidence does not support its statewide conclusions. OSC visited six of 58 probation departments and arbitrarily selected 105 case files from a population of more than 66,000 adults under supervision. OSC acknowledges that, because of this approach, it "cannot project the results to the respective populations." The Highlights nonetheless present the sample results, 19 percent of cases with insufficient contacts and 27 percent with no drug or alcohol test, as findings about probation supervision writ large in New York State.

State Comptroller's Comment – DCJS' depiction of how our conclusions are drawn is inaccurate. Consistent with auditing standards, we used judgmental (non-statistical) sampling to focus our audit resources on the highest areas of risk where non-compliance with relevant laws, regulations, and program requirements was most likely. Our intent was not to project results to the entire population, as noted on page 17 of our audit report. This targeted approach allowed us to obtain evidence most likely to impact public safety and supervision. The use of a judgmental sample was both appropriate and necessary to meet the audit's objectives in an efficient manner. In addition, we incorporated all relevant information provided to us during our audit. Our findings and conclusions are based on evidence made available by DCJS officials. As we documented throughout the report, when stating how we came to our conclusions, DCJS fails to mention the numerous interviews on site, the survey responses from 48 additional counties, and the in-person site visits to six counties. In total, we reviewed information for 54 of the 58 probation departments.

One of the six departments was selected not on the basis of risk but because it did not respond to OSC's survey.

State Comptroller's Comment – DCJS is incorrect and seems confused about the concept of risks when auditing. The sole fact that the department highlighted by DCJS did not respond to our repeated attempts to obtain information about its operations is in itself a high risk.

Although the audit scope extends to April 2026, OSC's Critical Incident Report data ends in 2024, and the report states that OSC did not measure the impact of the technical assistance site visit protocol DCJS established in February 2026. DCJS requests that the final report state the sampling limitation wherever these percentages appear in the Highlights.

State Comptroller's Comment – This protocol was not provided until June 2026 after field work was concluded. However, we nonetheless acknowledge this updated protocol on page 15 of our

report. If DJCS wanted this protocol evaluated, it should have provided it when it was completed rather than waiting until auditors had concluded fieldwork. DCJS also misunderstands the meaning of the audit scope. Under audit standards, the audit scope covers the full period under review, as well as the scope of each sample tested. Each sample is described on page 17 of this report. Individual samples may cover shorter periods selected for particular audit tests. Further, we are pleased that while our audit work was ongoing, DCJS proactively made improvements to its protocols.

Beyond these structural concerns, several specific findings misstate the law or DCJS' role. DCJS addressed each of the following with the audit team during the engagement.

Risk ratings. The report cites variation in risk ratings among individuals with similar offenses as evidence of inconsistent supervision, while conceding that this variation "alone is not an issue" because "many factors besides the offense are considered when establishing a risk rating." That concession is correct and should apply broadly to the entire finding. New York supervises according to the Risk-Need-Responsivity model, under which a validated assessment of risk and need, not the offense of conviction, determines the level of supervision and the contacts it requires (9 NYCRR §§ 351.5 and 351.6). Two people convicted of the same offense can, and should, present different levels of risk. Assigning supervision by offense would run counter to modern, evidence-based probation practice, shifting resources away from the individuals most likely to reoffend and toward those least likely to, which research shows can actually increase recidivism among lower-risk individuals.

State Comptroller's Comment – OSC never states that people convicted of the same crime should be assigned the same risk level. However, based on our testing, we identified inconsistencies with risk ratings, as we highlighted on pages 10 and 11 of our report. An example of the inconsistencies we noted is a standard at one county for sex offenders to remain high risk, but another county lacks that standard, and sex offenders can be (and are) low risk.

Self-reported criminal history. The report states that probationers who "misrepresent their criminal history in their self-assessments can be viewed as lower risk." The report attributes this assertion to county officials, presents it without testing it, and it is incorrect. Criminal history used in risk assessment is drawn from official criminal history records, not from self-report. This statement should be removed.

State Comptroller's Comment – DCJS' comment is incorrect. We reported the issue as our audit team received the information from probation officers we interviewed during our site visits. Further, this instance was included in our preliminary report in June 2026. In its response, DCJS stated COMPAS-r is a validated risk tool that has built-in software that can conduct validity checks for inconsistent responses. However, it provided no evidence to show if this was done, nor anything else to disprove the statements from county officials we cited. As noted in our findings, there are several situations present in the counties that are not aligned with DCJS guidance that it was not aware of or appropriately monitoring. We encourage DCJS to investigate this issue and to determine the extent of the issue.

Specialized populations. The report notes that COMPAS-R does not assess risk specific to sex offenses, domestic violence, or impaired driving, without noting that the instrument was never

designed to do so. DCJS provides departments with specialized assessments for each of those populations which must be considered alongside COMPAS-R in assigning a supervision level.

Defined requirements. The report states that “the counties do not have defined guidelines for many aspects of probation supervision.” That is not accurate. DCJS has promulgated regulations, with the force of law, that establish the core requirements of adult supervision: risk and need assessment and reassessment, case planning, case assignment, contact standards by risk level, case recordkeeping, and ignition interlock monitoring (9 NYCRR Parts 348, 351, and 358).

State Comptroller’s Comment – Simply issuing regulations does not mean DCJS has laid out how to perform or carry out the oversight contained within those regulations. As we have highlighted throughout the report, there are many aspects of probation supervision that do not have defined guidelines. In fact, DCJS has itself agreed to this fact in its responses, highlighting areas without guidelines such as standardized caseload size, risk ratings, and drug testing.

Where OSC found departments short of those requirements, such as the 20 of 105 sampled cases with fewer contacts than required, the finding is one of county compliance with clearly defined standards, not an absence of guidance. Identifying and correcting that kind of shortfall is precisely the purpose of DCJS’ technical assistance and quality assurance site visits.

State Comptroller’s Comment – DCJS is misrepresenting our findings. On page 11 of our report, we clearly state “While DCJS guidelines establish the minimum number of visits required, DCJS may not be aware of the extent of non-compliance because of the limited monitoring visits it has conducted.” There are some issues caused by lack of appropriate guidance and some issues that go unnoticed because of lack of sufficient oversight by DCJS. Further, while DCJS did update its technical assistance and quality assurance site visits in February 2026, it failed to mention that this update was done until after preliminary findings were issued to the agency. However, we are always pleased to see improvements made to issues we identify for agencies.

Caseload size. The report states that a lack of caseload guidance “may have contributed to uneven and high workloads” and cites four counties that asked DCJS to set a standard, four of the 48 departments that responded to OSC’s survey. DCJS has provided extensive guidance on this subject. Under the risk-need model, workload is driven by the contact and case-planning requirements attached to each risk level, which differ substantially from one case to the next, so a fixed caseload number measures the wrong thing. Caseloads also reflect local staffing and resources that DCJS does not control, supported in part by a State Aid appropriation the report notes has been fixed at \$44.7 million annually. OSC itself concludes that probation should not follow a “one-size-fits-all approach” and that counties need “flexibility to tailor their supervision.” That is precisely the model DCJS has built.

State Comptroller’s Comment – We never stated in the report that DCJS should establish a fixed caseload number. DCJS can, however, provide guidance as to how much work is too much, without setting specific caseload sizes or limits. On page 13 of our report, we highlighted inconsistencies we found and that some counties desired additional guidance in this area.

Drug and alcohol testing. The report found that 27 of 101 sampled individuals with a testing condition had no test recorded, while acknowledging that court orders “generally do not specify

testing frequency,” leaving the timing of testing to the supervising officer as the court directed. The finding does not account for individuals who admitted use, which makes a test unnecessary to establish it, or for individuals tested by the treatment providers to which courts commonly refer them, whose results are reported to the probation department. Testing conditions are imposed by the sentencing court, and DCJS has no authority to alter them.

State Comptroller’s Comment – We are confused with DCJS’ statement, as DCJS stated it will review the guidance for documenting treatment-provider test results to determine if improvements are warranted. Also, while we did note that the frequency of testing was generally not noted in the court order, it does state tests are required to be completed. Therefore, DCJS should make sure those court orders are complied with. We are pleased that DCJS agrees there is a need to review guidance for this area.

Ignition interlock devices. Of 18 sampled cases with an interlock condition, OSC identified eight in which the individual had "access to a vehicle" and found that four of those eight had no device installed. Access alone does not establish noncompliance. Under Vehicle and Traffic Law § 1198, the interlock requirement applies to vehicles an individual owns or operates, and a court may find good cause for non-installation where the individual asserts under oath that they own no vehicle and will not operate one during the restriction period. The report does not indicate whether OSC examined the four cases for such assertions or findings. DCJS requests that OSC review those cases against the statutory standard before characterizing them as noncompliant.

State Comptroller’s Comment – We disagree with DCJS’ assertions. Our report never states that access alone establishes non-compliance. On page 12 of our report, we stated we identified eight instances where probationers had access to a vehicle according to case records. The audit team reviewed the information that was available to them within the case records and presented the specific findings to DCJS in our preliminary findings report in June 2026. However, DCJS provided no evidence to contradict the findings; instead, it provided only unsupported statements. We encourage DCJS to investigate these cases and take appropriate action based on the actual situations and conditions of the specific cases.

DCJS does not contend that county supervision needs no improvement or that its own oversight cannot be strengthened. During this audit, DCJS established a formal technical assistance and quality assurance site visit protocol, and in the enclosed response it commits to evaluating its review of staff-involved Critical Incident Reports. Those improvements build on the risk-need framework New York has developed over decades, a framework the draft report misunderstands at several points. OPCA’s staff bring more than 244 years of combined experience working directly in county probation departments. DCJS asks that OSC give that subject matter expertise, and the record DCJS provided throughout this engagement, appropriate weight in preparing its final report.

Sincerely,

A handwritten signature in black ink, appearing to read "Rossana Rosado", with a long horizontal flourish extending to the right.

Rossana Rosado
Commissioner

Cc: Joseph Popcun, Executive Deputy Commissioner
Annette Harris, Senior Deputy Commissioner for Community Justice & Prevention
Sharif Kabir, Senior Deputy Commissioner for Strategy & External Affairs
Colleen Glavin, Senior Deputy Commissioner & Counsel
Katie Anderson, Senior Deputy Commissioner for Finance & Administration
Matthew Charton, Deputy Commissioner, Office of Probation & Correctional Alternatives
Andrea Hersimtschuk, Chief Risk Officer
Panika Mahajan, Director, Office of Audit Services and Compliance



Division of Criminal Justice Services

KATHY HOCHUL
Governor
ROSSANA ROSADO
Commissioner

September 21, 2026

Nadine Morrell, CISM
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Re: Draft Audit Report 2023-S-46, Oversight of Adult Probation Services, issued August 21, 2026

Dear Director Morrell:

Thank you for the opportunity to respond to the draft report on the Office of the State Comptroller's (OSC) audit of the Division of Criminal Justice Services' (DCJS) *Oversight of Adult Probation Services* (2023-S-46). The Division's concerns regarding the audit's conduct, methodology, and factual characterizations are set out in the accompanying letter. For ease of review, each of OSC's recommendations is listed below, followed by DCJS' response.

1. ***Evaluate monitoring practices to ensure counties are receiving guidance as needed to improve public safety and to promote consistency with how individuals are supervised across the State. Practices to evaluate may include, but are not limited to, in-person site visits, training, drug and alcohol testing, caseload size, ignition interlock device management, and polygraph testing for sex offenders.***

DCJS has evaluated its monitoring practices, including each of the practice areas identified in the recommendation. DCJS oversees and supports county departments through technical assistance by phone, email, and video conference; review of monthly, quarterly, and annual data reports and county annual plans; Critical Incident Report reviews; regular meetings of the Council of Probation Administrators, the Interstate Commission for Adult Offender Supervision State Council, and the NYS Probation Commission; the DCJS Commissioner's statewide regional tour; probation-led workgroups; and regulation review and promulgation. This

structure sets consistent statewide requirements by regulation while preserving the local flexibility that OSC recognizes counties need. DCJS' conclusions for each practice area follow.

State Comptroller's Comment – Throughout our audit, and as far back as November 2023, we requested that DCJS provide auditors with any risk assessments related to probation services. DCJS did not provide any. Additionally, DCJS was directed, as part of its response to our preliminary findings, to include support for any statements in which they refuted information or had additional information not previously provided. However, DCJS did not provide support for any evaluations of its monitoring practices.

In-Person Site Visits

DCJS' evaluation identified routine on-site presence in county departments as the area where its oversight would benefit most from strengthening. In February 2026, DCJS established a formal Technical Assistance/Quality Assurance site visit protocol. Under that protocol, DCJS will conduct on-site reviews in two counties in 2026 and four counties each year thereafter. Each review examines Critical Incident Reports, periodic reassessments and case reviews, violations of probation, and supervision case plans, and concludes with a written summary and action plan for the department. These visits are the appropriate vehicle for identifying and correcting the county-level compliance issues the report describes, including required contacts, timely reassessments, and adherence to court-ordered conditions.

State Comptroller's Comment – As noted above, we asked for risk assessments related to our objective as far back as November 2023 and requested again in June 2026 support for any information that had not been previously provided. Despite the protocol being updated in February of 2026—more than 2 years after our audit started—DCJS did not provide it to us until June 2026—after our fieldwork was concluded. If DJCS wanted this protocol evaluated, it should have provided it when it was completed rather than waiting until auditors had concluded fieldwork.

Training

Each year, DCJS surveys probation departments on their training needs, including their preferences for in-person and remote delivery, and builds a statewide training plan around the results. DCJS offers training in basic probation, DWI and ignition interlock, sex offense supervision, and risk and need assessment, among other subjects. As the report notes, DCJS facilitated 347 in-person and 594 virtual training sessions reaching 29,444 community corrections professionals during the audit period. Only 17 of the 48 departments responding to OSC's survey reported that DCJS does not provide in-person training within their county. Delivering in-person training separately at each of 58 departments is neither feasible nor necessary; regional delivery gives departments of every size access to the same curriculum. DCJS will continue to build its training plan around the needs departments identify and will also assess expanding virtual delivery of certain courses to reduce the travel costs some departments reported.

Drug and Alcohol Testing

Drug and alcohol testing conditions are set by the sentencing court. DCJS' response is provided under Recommendation 2.

Caseload Size

DCJS evaluated whether a statewide caseload standard would improve supervision and concluded that it would not. Case assignment is governed by regulation (9 NYCRR § 351.4) and driven by each individual's risk and need, which determine the contact and case-planning requirements of the case; because those requirements differ substantially by risk level, two officers with the same number of cases can carry very different workloads, and a fixed caseload number would obscure that difference rather than measure it. Departments also vary widely in size, supervised population, and community resources. DCJS' guidance directs departments to concentrate supervision on higher-risk individuals and to avoid over-supervising lower-risk individuals, a practice research has shown to be ineffective and potentially harmful (i.e., results in greater recidivism). Consistent with OSC's call for guidance that balances counties' interest in standards with local flexibility, DCJS will continue to provide guidance grounded in risk and need rather than a uniform caseload limit.

State Comptroller's Comment – At no point in our report do we question the regulation DCJS cites; rather, we suggest DCJS evaluate whether the area warrants change. Based on our findings, it is clear that counties are not opposed, and, in some cases, want additional guidance related to caseload size. In fact, DCJS officials provided auditors with a report that states “high caseloads and limited resources reduce the effectiveness of probation and parole services.”

Ignition Interlock Device Management

DCJS conducts a minimum of six quality assurance ignition interlock site visits each year, reviewing case files to confirm that departments are following required practices; as the report notes, DCJS completed 31 such visits during the audit period. DCJS also conducts an annual two-part webinar series on interlock restrictions and the governing rules, hosts an annual in-person interlock conference, and makes OPCA staff available to interlock monitors on an ongoing basis. As explained in the accompanying letter, the four cases the report cites should be reviewed against the ownership and attestation standard before being characterized as noncompliant. DCJS will continue its current program of interlock oversight while reviewing its use in the field for any areas of improvement.

State Comptroller's Comment – DCJS is mischaracterizing the issue. As noted in our report, our findings were based on the information that was available to us during our review and, as stated on page 12 of our report, we found eight probationers had access to a vehicle according to their records. Although we provided this information to DCJS in our preliminary findings report in June 2026, DCJS provided no evidence that our findings were inaccurate, even though DCJS was provided with the individual case information.

Polygraph Testing for Sex Offenders

The sentencing court, not DCJS or the county department, determines whether a polygraph examination is a condition of probation, and DCJS has no authority to add or change conditions. DCJS has long encouraged departments' use of polygraph examination in sex offense supervision (DCJS Memo 2008-2), collects annual data on the number of examinations each county conducts, and has issued Sex Offense Management Practitioner Guidance directing departments in cases where the court orders an examination. The three cases the report identifies, in which a court-ordered examination had not been administered, are matters of county compliance with an existing court order and existing DCJS guidance. DCJS will review adherence to court-ordered polygraph conditions as part of its Technical Assistance/Quality Assurance site visits.

State Comptroller's Comment – At no point in our report do we suggest DCJS add or change conditions. In fact, on page 12 of the report, we cited DCJS statements that they do not have the authority to do so. Based on our findings, we recommended DCJS analyze monitoring practices to provide assurance that orders and conditions are being adhered to as set by the sentencing court.

2. Review and amend (as appropriate) current drug and alcohol testing requirements for adults under supervision to ensure court-ordered conditions are complied with.

DCJS does not set drug and alcohol testing requirements for individuals on probation, and there is no DCJS requirement to amend. Testing is a condition imposed by the sentencing court, which DCJS has no authority to alter. As the report acknowledges, those orders generally do not specify testing frequency, leaving it to the supervising officer's discretion. Officers exercise that discretion given the totality of the full case, including an individual's admission of use and testing conducted by the treatment providers to which courts commonly refer individuals with these conditions, whose results are reported to the probation department. A statewide testing schedule imposed by DCJS would substitute an administrative rule for the judgment the court assigned to the officer. DCJS will review current guidance on case record documentation to ensure that treatment-provider test results, if known, and/or officers' reasons for testing are consistently documented.

State Comptroller's Comment – At no point in our report did we suggest it is DCJS' responsibility to set drug and alcohol testing requirements. As the recommendation states, we suggest reviewing policies to ensure drug and alcohol testing orders and conditions are adhered to by probation departments. In fact, DCJS states it will review guidance related to this.

3. Evaluate the process for reviewing staff-related Critical Incident Reports.

DCJS agrees. DCJS will evaluate its process for reviewing staff-involved Critical Incident Reports, including the level of review such reports receive and whether staff-involved incidents can be identified independently of county reporting, and will complete that evaluation as soon as practicable.

Please contact Panika Mahajan, Director, Office of Audit Services and Compliance, at (518) 457-7503 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Rossana Rosado", with a stylized, flowing script.

Rossana Rosado
Commissioner

Cc: Joseph Popcun, Executive Deputy Commissioner
Annette Harris, Senior Deputy Commissioner for Community Justice & Prevention
Sharif Kabir, Senior Deputy Commissioner for Strategy & External Affairs
Colleen Glavin, Senior Deputy Commissioner & Counsel
Katie Anderson, Senior Deputy Commissioner for Finance & Administration
Matthew Charton, Deputy Commissioner, Office of Probation & Correctional Alternatives
Andrea Hersimtschuk, Chief Risk Officer
Panika Mahajan, Director, Office of Audit Services and Compliance



Contact

Office of the New York State Comptroller
110 State Street
Albany, New York 12236

(518) 474-4044

www.osc.ny.gov

Prepared by the Division of State Government Accountability

Executive Team

Andrea C. Miller – Executive Deputy Comptroller
Tina Kim – Deputy Comptroller
Stephen C. Lynch – Assistant Comptroller

Audit Team

Nadine Morrell, CISM – Audit Director
Brandon Ogden – Audit Manager
Richard Podagrosi – Audit Supervisor
Danielle Rancy, MA – Examiner-in-Charge
Sedrick Nellis – Examiner-in-Charge
Nancy Hobbs – Examiner-in-Charge
Roland Paperman – Senior Examiner
Melissa Patnaude – Senior Examiner
Andrea Majot – Supervising Editor



FOLLOW US: osc.ny.gov/subscribe