

2022

**Report of the Auditor General
to the Nova Scotia
House of Assembly**



**Oversight and Management
of Individuals Serving
Community-Based Sentences:
Department of Justice**



Performance Report
Independence • Integrity • Impact

Intentionally Left Blank

May 17, 2022

Honourable Keith Bain
Speaker
House of Assembly
Province of Nova Scotia

Dear Sir:

I have the honour to submit herewith my Report to the House of Assembly under Section 18(2) of the Auditor General Act, to be laid before the House in accordance with Section 18(4) of the Auditor General Act.

Respectfully,



Kim Adair, FCPA, FCA, ICD.D


Auditor General of Nova Scotia

5161 George Street
Royal Centre, Suite 400
Halifax, NS B3J 1M7
Telephone: (902) 424-5907
www.oag-nb.ca

 [/company/oag-nb](https://www.linkedin.com/company/oag-nb)

 [@OAG_NB](https://twitter.com/OAG_NB)

 [/OAGNS](https://www.facebook.com/OAGNS)

 [@nsauditorgeneral](https://www.instagram.com/nsauditorgeneral)

Intentionally Left Blank

Table of Contents

1	Oversight and Management of Individuals Serving Community-Based Sentences	7
	Reference Guide – Key Findings and Observations.....	9
	Recommendations and Responses.....	10
	Background.....	13
	Electronic Supervision Not Properly Monitored or Used.....	15
	Policies for Monitoring Individuals Serving Community-Based Sentences (ISCBS) Not Followed.....	17
	Significant Weaknesses in Management Oversight of Community Corrections Offices.....	21
	Community Corrections Staff Have Not Completed Required Training	24
	Appendix I: Reasonable Assurance Engagement Description and Conclusions.....	28

Intentionally Left Blank

Oversight and Management of Individuals Serving Community-Based Sentences

Department of Justice

Key Messages

- Public safety is at increased risk when:
 - Probation officers do not hold individuals to the conditions of their community-based sentences; and
 - Department fails to hold electronic supervision service provider to terms of contract.
- Public confidence in the Department of Justice's ability to properly manage individuals serving community-based sentences may be compromised when essential monitoring fails.

Why We Did This Audit

- Proper monitoring of individuals serving community-based sentences is essential to hold them accountable for their offences while protecting public safety.
- As of March 1, 2020, management told us:
 - There were 4,700 individuals serving community-based sentences compared to 456 in Nova Scotia correctional facilities; and
 - The average daily cost to supervise an individual serving a community-based sentence is \$7/day compared to \$300/day if incarcerated.

Policies for Monitoring Individuals Serving Community-Based Sentences Not Followed

- Audit testing found probation officers often fail to perform required monitoring of individuals serving community-based sentences:
 - In 26 of 49 cases the probation officer did not meet with individuals on community-based sentences at the required frequency
 - In 25 of 49 cases risk assessments of individuals serving community-based sentences were not completed properly or on time; and
 - In five of 30 cases probation officers did not impose consequences when conditions of the court order were violated. In another eight of 30 cases, consequences were not imposed in a timely manner.
- The requirement to report to a probation officer for some individuals on probation was removed without proper approval in 10 of 10 cases reviewed.

Electronic Supervision Not Properly Monitored or Used

- Department is not monitoring performance of the electronic supervision service provider.
- Service provider responsible for electronic supervision is not fulfilling its responsibilities.
- In 20 of 30 cases tested, service provider did not follow response protocol despite indicating they had done so.
- No explanation why electronic supervision was not used or removed for some conditional sentences.

Significant Weaknesses in Management Oversight of Community Corrections Offices

- Significant improvements needed in supervisor file review process to assess whether probation officers are monitoring individuals serving community-based sentences in compliance with policies.
- Department of Justice has not established goals or performance indicators for community corrections.
- Management not collecting sufficient information to monitor performance.

Community Corrections Staff Have Not Completed Required Training

- Staff training not always completed or completed late. Issues consistent with our 2018 Correctional Facilities audit.
- No orientation process for new hires.
- Courses significant to the role of probation officers not mandatory.






Reference Guide – Key Findings and Observations

Paragraph	Key Findings and Observations
<i>Electronic Supervision Not Properly Monitored or Used</i>	
1.9	Department failed to identify that the electronic supervision service provider was not fulfilling the terms of their contract, potentially jeopardizing public safety
1.14	No explanation given for not using or removing electronic supervision for some conditional sentence orders
<i>Policies for Monitoring Individuals Serving Community-Based Sentences (ISCBS) Not Followed</i>	
1.18	Inadequate meeting frequency due to late or incomplete risk assessments
1.22	Probation officers not meeting with ISCBS at the required frequency
1.24	Rehabilitative programming noted in probation and conditional sentence orders not completed
1.27	Consequences for failure to comply with court orders sometimes lacking or delayed
1.31	ISCBS reporting to probation officers was suspended without appropriate approval
1.33	Non-compliance with policies for supervising ISCBS not a result of the COVID-19 pandemic
<i>Significant Weaknesses in Management Oversight of Community Corrections Offices</i>	
1.36	Supervisor file reviews not completed consistently, and some issues identified were not addressed
1.40	Weaknesses identified in the supervisor file review process
1.44	No performance indicators established for community corrections
1.45	Management not collecting sufficient information to monitor performance
1.50	No changes to management oversight as a result of COVID-19
<i>Community Corrections Staff Have Not Completed Required Training</i>	
1.52	Required training not completed or completed late
1.59	No orientation for new probation officers
1.61	Gaps in training requirements



Recommendations and Responses

Recommendation	Department Response
<p>1.1 We recommend the Department of Justice develop and implement a process to determine if the electronic supervision service provider is fulfilling the terms of its contract. This must include verifying alerts are properly addressed.</p> <p>See paragraph 1.9</p>	<p>✓ Department agrees</p> <p>📅 Target Date for Implementation: May 2023</p>
<p>1.2 We recommend the Department of Justice properly document the approval and rationale to not use electronic supervision despite it being included in a conditional sentence order.</p> <p>See paragraph 1.14</p>	<p>✓ Department agrees</p> <p>📅 Target Date for Implementation: May 2023</p>
<p>1.3 We recommend the Department of Justice comply with all policies for the monitoring of individuals serving community-based sentences including:</p> <ul style="list-style-type: none"> • completing risk assessments, • conducting meetings at the correct frequency • completing directed rehabilitation programming and • acting in a timely and appropriate manner when conditions of probation and conditional sentence orders are violated. <p>If policy requirements cannot be met, court directed programming not completed, or conditions of court orders violated without consequences there must be clear documentation to explain why, including approval as required.</p> <p>See paragraph 1.18</p>	<p>✓ Department agrees</p> <p>📅 Target Date for Implementation: May 2023</p>
<p>1.4 We recommend the Department of Justice move individuals serving probation orders to administrative inactive status only when they meet all eligibility criteria and have been appropriately approved. The required approval must be clearly documented.</p> <p>See paragraph 1.31</p>	<p>✓ Department agrees</p> <p>📅 Target Date for Implementation: May 2023</p>

Recommendations and Responses (continued)

Recommendation	Department Response
<p>1.5 We recommend the Department of Justice update the file review process for community corrections to address key aspects of the supervision of individuals serving community-based sentences and include adequate documentation to confirm all policy requirements were properly reviewed and indicating how deficiencies are addressed.</p> <p>See paragraph 1.40</p>	<p>Correctional Services completes file reviews twice per year and regularly reviews its Policies and Procedures, updating as required. An updated File Review Process was implemented Fall 2021. The new File Review Process will ensure any recommended follow up occurs.</p> <p>✓  Target Date for Implementation: May 2023</p>
<p>1.6 We recommend the Department of Justice complete the required file reviews to assess probation officer compliance with Department policies for supervising individuals on community-based sentences and act to address instances of non-compliance with policies.</p> <p>See paragraph 1.36</p>	<p>SPOs are required to complete file reviews of all POs twice per year. Correctional Services will implement internal audit processes to ensure file reviews are completed in accordance with policy.</p> <p>✓  Target Date for Implementation: May 2023</p>
<p>1.7 We recommend the Department of Justice develop and implement a performance monitoring framework to improve management oversight of community corrections. This must include:</p> <ul style="list-style-type: none"> • defining the information needed to oversee the supervision of individuals serving community-based sentences by probation officers across the province, • outlining how this information will be collected and analyzed, • establishing meaningful performance indicators, • reporting regularly on performance, and • responding as required when deficiencies are identified. <p>See paragraph 1.44</p>	<p>While the File Review process achieves much of this recommendation, Correctional Services plans to implement internal audit processes to ensure risk assessments are completed, supervision standards are followed and file reviews are completed in accordance with policy.</p> <p>✓  Target Date for Implementation: May 2023</p>
<p>1.8 We recommend the Department of Justice identify community corrections staff that have not fulfilled training requirements and develop and implement plans so all required training is completed.</p> <p>See paragraph 1.52</p>	<p>Correctional Services maintains a training schedule calendar. Correctional Services will schedule additional required training to address any training gaps/delays.</p> <p>✓  Target Date for Implementation: May 2025</p>
<p>1.9 We recommend the Department of Justice develop and deliver an orientation program for new community corrections staff.</p> <p>See paragraph 1.59</p>	<p>A new On Boarding Process for administrative staff, Probation Officers, and Senior Probation Officers is currently in development to replace the current orientation program in use since 2008.</p> <p>✓  Target Date for Implementation: November 2023</p>

Recommendations and Responses (continued)

Recommendation	Department Responses
<p>1.10 We recommend the Department of Justice assess the training needs of community corrections staff, including determining what needs to be mandatory training for probation officers, to identify and implement improvements. Training requirements must be regularly reviewed with the results clearly documented.</p> <p>See paragraph 1.61</p>	<p>Correctional Services assesses the training needs of staff annually and training plans are developed. Correctional Services currently mandates the following training for all Probation Officers and Senior Probation Officers directly relating to the supervision of individuals serving community-based sentences: Core Correctional Practices (CCP), Level of Service/Case Management Inventory (LS/CMI), Youth Level Service/Case Management Inventory (YLS/CMI) training. It is important to note CCP includes a focus on Stages of Change, this information, combined with the Risk Assessment results informs responsive case planning for individuals serving community-based sentences.</p> <p>Correctional Services will develop processes to ensure training requirements and subsequent training plans are clearly documented.</p> <div>  Department agrees  Target Date for Implementation: May 2023 </div>

Questions Nova Scotians May Want to Ask

1. What changes has the Department of Justice made to its monitoring of the electronic supervision service provider to be certain alerts are being properly addressed?
2. What steps has the electronic supervision service provider taken to improve how they respond to alerts?
3. What information does management plan to obtain to assist in the oversight of community corrections offices and how will this information be used?
4. How does the Department of Justice plan to make sure the file reviews under the new process are completed and the deficiencies identified are properly addressed?
5. Does the Department of Justice plan to change any of the training requirements for probation officers based on the results of the audit?

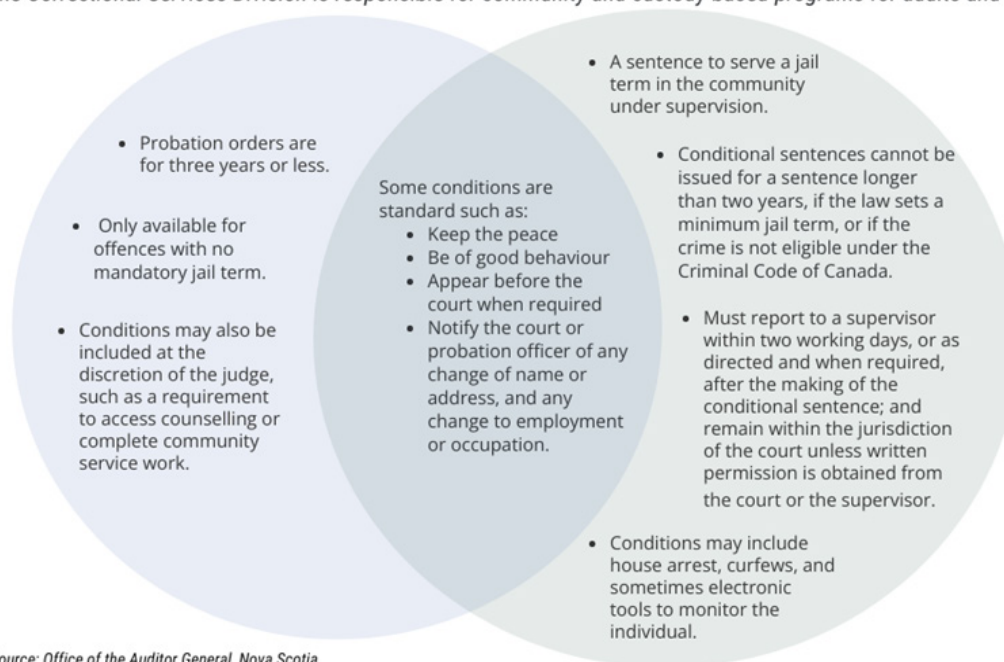
1 Oversight and Management of Individuals Serving Community-Based Sentences

Background

- 1.1 The Correctional Services Division of the Department of Justice is responsible for community and custody-based programs for adult and youth. While custody-based sentences require an individual to serve their sentence in a correctional facility, community-based sentences allow individuals to serve all or part of their sentence in the community, usually under the supervision of a probation officer. For the purposes of this report, we will refer to individuals serving community-based sentences by the acronym ISCBS. Community-based sentences include probation and conditional sentences. Community-based conditional sentences were introduced by Parliament in 1996 as a major sentencing reform to reduce the number of sentences of imprisonment and increase restorative justice. The judge sets the conditions that the ISCBS will follow for the duration of their sentence.

Probation Order vs Conditional Sentence

The Correctional Services Division is responsible for community and custody-based programs for adults and youth.



Source: Office of the Auditor General, Nova Scotia

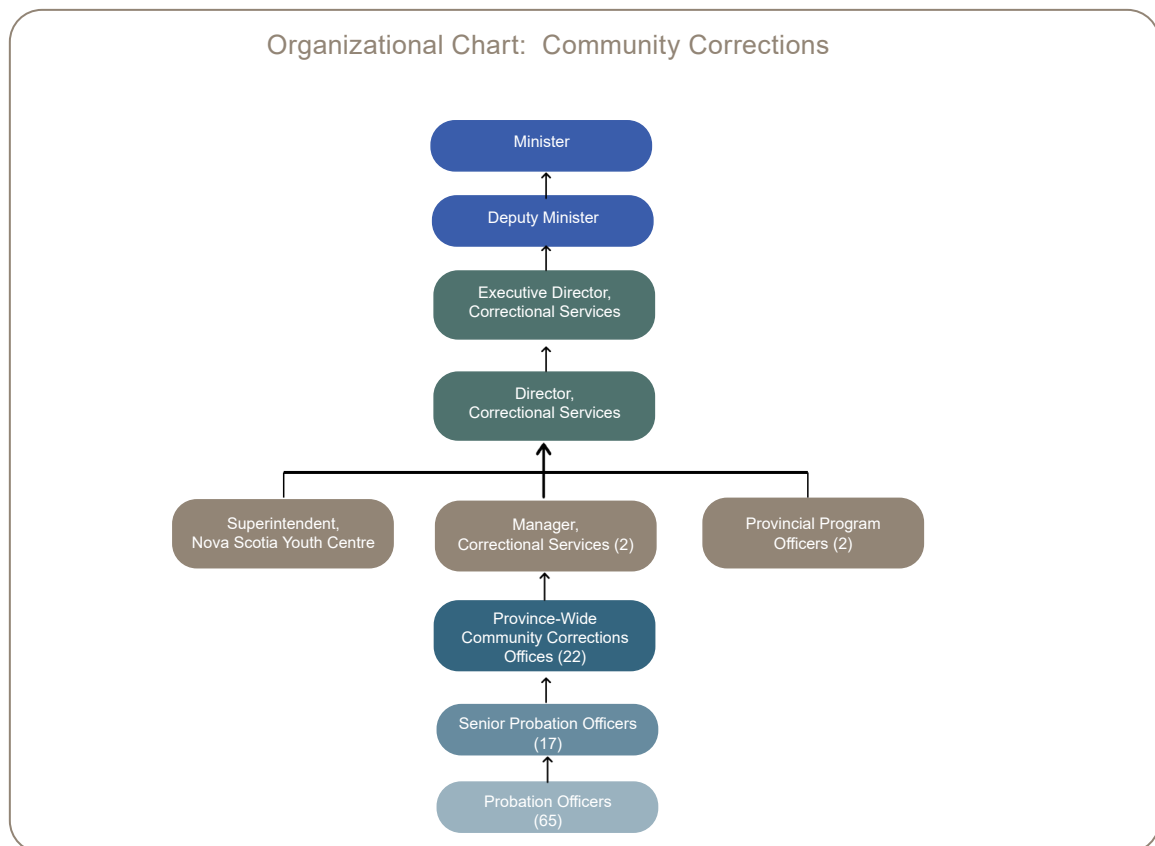
- 1.2 Overall spending for the Correctional Services Division of the Department of Justice in 2020-21 was \$78 million, with community corrections accounting for \$13.8 million of the spending.

Year	Expenditures Correctional Services*	Expenditures Community Corrections*	% of Expenditures
2020-21	\$78,000,000	\$13,800,000	18%
2019-20	\$76,500,000	\$12,400,000	16%
2018-19	\$72,700,000	\$12,000,000	17%
2017-18	\$71,700,000	\$12,100,000	17%
2016-17	\$69,500,000	\$12,500,000	18%

Source: SAP and Department of Justice* Rounded, unaudited

Management indicated on March 1, 2020, there were 4,700 ISCBS in Nova Scotia at a daily cost to the province of \$7 per person. On the same date 456 people were serving custody in Nova Scotia's correctional facilities at daily cost of \$300 per person, significantly higher than the cost of supervising an ISCBS. The number of ISCBS combined with the cost of incarcerating people highlights the need for a properly functioning community corrections system.

- 1.3 There are 22 community corrections offices across the province, staffed with approximately 65 probation officers and 17 senior probation officers with supervisory responsibilities within each community corrections office. Probation officers are responsible for helping to maintain public safety by holding ISCBS accountable to the conditions of their probation or conditional sentence order.



Source: Office of the Auditor General, Nova Scotia

- 1.4 Probation officers have other responsibilities that are not included in the scope of our audit, including the supervision of temporary absences from correctional facilities, supervision of community-based sentences for youth, and the preparation of court reports.

- 1.5 The COVID-19 pandemic did present challenges for the Department of Justice and the supervision of ISCBS. At points during the pandemic, probation officer meetings with ISCBS were conducted via phone. While probation officers indicated this was not ideal, it was necessary to protect the health of all parties. Our review of probation and conditional sentence orders examined samples from both before and during the pandemic.

Electronic Supervision Not Properly Monitored or Used

- 1.6 Conditional sentence orders may include a requirement for an ISCBS to be placed under electronic supervision, for instance through the use of a GPS monitoring device. If the ISCBS violates conditions such as a curfew during which they must remain in their residence or enters geographic areas in which they are not permitted, an alert is generated. The service provider contracted by the Department of Justice to monitor ISCBS under electronic supervision must follow a response protocol. Examples of alerts and the protocol to be followed are provided in the table below.

Alert Type	Response Protocol
Exclusion zone enter alert – the ISCBS enters a geographic area where they are not permitted.	<ol style="list-style-type: none"> 1. Call victim 2. Call police 3. Call ISCBS 4. Log a casenote in IT tracking system 5. Email copy of casenote to probation officer and supervisor
Failed to enter inclusion zone - the ISCBS did not return to a required area (i.e. home) as scheduled.	<ol style="list-style-type: none"> 1. Call ISCBS 2. Call probation officer or supervisor 3. If 15 minutes passes without the ISCBS entering the inclusion zone, call police 4. Log a casenote in IT tracking system 5. Email copy of casenote to probation officer and supervisor
Tracker battery low – the battery for a GPS tracking device is low.	<ol style="list-style-type: none"> 1. Call ISCBS 2. Log a casenote in IT tracking system

Source: Department of Justice Alert Response Protocol

- 1.7 During our audit period (January 1, 2019 to December 31, 2020) we identified 249 ISCBS who were under electronic supervision at some point.
- 1.8 Between 2016-17 and 2020-21 the Department of Justice spent on average over \$250,000 per year on electronic monitoring services. The initial contract, awarded in 2016, was a three-year term, and the province has exercised its option for two additional two-year extensions.



Department failed to identify that the electronic supervision service provider was not fulfilling the terms of their contract, potentially jeopardizing public safety.

- 1.9 The Department of Justice is not adequately overseeing the service provider contracted to monitor ISCBS under electronic supervision and this lack of oversight may increase the risk to public safety.
- 1.10 The service provider submits daily reports to the Department of Justice that include a sample of 10 alerts and an assessment of whether each alert was properly addressed per the response protocol or not. We reviewed 30 of these reports and found the service provider indicated the

response protocol had been followed for all alerts. However, the Department of Justice did not verify whether the service provider's assessment was accurate. While we would not expect the Department of Justice to review every alert, proper oversight should include a system to determine whether information from the service provider is correct and that it is meeting its responsibilities.

- 1.11 In light of the Department's failure to properly assess these reports, we decided to test a sample of 30 alerts included in the daily reports. We identified 20 cases – two-thirds of our sample – where the service provider did not follow the response protocol despite indicating they had done so. In most of the cases, the service provider failed to contact the ISCBS or probation officer when the alert was received. We also found three instances where the police should have been, but were not, contacted. In each of these cases, the ISCBS was not home as prescribed by court order, and the service provider failed to contact the police despite the requirement in the response protocol.
- 1.12 Electronic supervision is the highest form of monitoring for an ISCBS. If this is not properly managed, public safety could be at risk, particularly if an ISCBS enters locations where they are not permitted such as a victim's residence or place of employment.
- 1.13 Given the seriousness of this issue, we communicated our concerns to the Department of Justice immediately. The Department indicated the matter was then discussed with the service provider. Specifically, the service provider indicated changes will be made to the process for assessing whether alerts are properly addressed. No matter what changes are made by the service provider, the Department of Justice must implement a process to assess whether the information provided by the service provider is accurate.

Recommendation 1.1

We recommend the Department of Justice develop and implement a process to determine if the electronic supervision service provider is fulfilling the terms of its contract. This must include verifying alerts are properly addressed.

Department of Justice Response: Agree. Correctional Services will implement an audit process for Electronic Supervision (ES) to ensure policy is followed, contract provider is fulfilling agreement and decisions are properly documented. This work was delayed by the pandemic. Target Date: May 2023



No explanation given for not using or removing electronic supervision for some conditional sentence orders

- 1.14 Electronic supervision was not always installed when included in conditional sentence orders. We reviewed 10 conditional sentence orders that included electronic supervision and found three cases in which the ISCBS was not placed under electronic supervision. In another case, the electronic monitoring device was faulty and had to be removed but was not replaced despite 15 months remaining on the ISCBS's sentence.
- 1.15 Management indicated there can be valid reasons why an ISCBS is not placed under electronic supervision even when it is included in the conditional sentence order. For example, electronic supervision may not be appropriate if wearing a monitoring device could pose an occupational health and safety risk. However, for the cases identified above where electronic supervision was not used or removed and not replaced, there was no documentation to explain why.
- 1.16 In three of the cases where electronic supervision was not used or removed, the ISCBS's conditional sentence order included the requirement to not have contact with a specific person, and to not attend the person's residence or place of employment. Electronic supervision would

ensure that if these conditions were violated, the appropriate alerts would be triggered, and immediate action taken. The lack of electronic supervision could put the safety of the court-protected person at risk.

Recommendation 1.2

We recommend the Department of Justice properly document the approval and rationale to not use electronic supervision despite it being included in a conditional sentence order.

Department of Justice Response: Agree. ES may not be appropriate for all individuals where ES is a condition included in a Court Order. Probation Officers (PO) complete Risk and ES Assessments to determine what level of ES, if any, is required. Correctional Services will ensure clearly documented reasons for employing or not employing ES are provided in the Justice Enterprise Information System (JEIN). Target Date: May 2023

Policies for Monitoring Individuals Serving Community-Based Sentences (ISCBS) Not Followed

- 1.17 Community-based sentences are intended to impose restrictions on people convicted of criminal offences so they can remain in the community. The Department of Justice has policies that provide clear expectations for probation officers when supervising ISCBS. Despite clear policy guidance, we found numerous instances where probation officers were not complying with the policies, resulting in poor supervision of ISCBS and ISCBS not always being held accountable to the conditions of their probation or conditional sentence orders.



Inadequate meeting frequency due to late or incomplete risk assessments

- 1.18 Risk assessments are to be completed for all ISCBS within 30 days of the start of their probation or conditional sentence order and updated at least every six months. The frequency of meetings with a probation officer is based on the ISCBS's risk assessment and whether they are serving a probation order or a conditional sentence order.

Risk Level	Required Meeting Frequency	
	Probation Order	Conditional Sentence Order
Maximum Enhanced	2 meetings per month	2 meetings per month
Maximum	1 meeting per month	2 meetings per month
Medium	1 meeting every 2 months	1 meeting per month
Minimum	1 intervention mode every 3 months (i.e. meeting, phone call, counselling session)	1 meeting every 28 days

Source: Department of Justice, Correctional Services Division policies

- 1.19 Risk assessments are not being completed on time and probation officers are not meeting with ISCBS at the correct frequency. We identified issues in over half of the cases (25 of 49) we reviewed for ISCBS serving either a probation order or a conditional sentence order. The risk assessments were either not completed on time, or the ISCBS was assigned the wrong risk rating, which can lead to the probation officer not meeting with the ISCBS at the correct frequency.
- 1.20 One probation officer did not complete the initial risk assessment for an ISCBS until almost six months after the start of the sentence. Until a risk assessment is completed, ISCBS are supposed to be assigned the maximum rating; however, in this case, the ISCBS was supervised based on a

minimum risk classification. In another case, an ISCBS serving a probation order was classified as medium risk when they should have been maximum risk because of the nature of their offence. Errors such as these may result in probation officers not seeing ISCBS assigned to them at the frequency dictated by the Department's policy.

- 1.21 Probation officers need to complete risk assessments correctly and in a timely manner so supervision can be matched to the ISCBS risk and needs. When risk assessments are not completed on time, or the ISCBS is assigned the wrong risk classification, ISCBS may be either over-supervised or under-supervised and resources may not be properly allocated to the highest risk cases.

Probation officers not meeting with ISCBS at the required frequency

- 1.22 In 26 of the 49 probation orders and conditional sentence orders reviewed, we found the probation officer did not have the required number of meetings with the ISCBS they were supervising during the period we tested. While in some cases only one of the required meetings was missed, the examples listed below highlight instances where the probation officer had no contact with the ISCBS for extended periods of time:

- No contact for approximately six months when the probation officer should have met with the ISCBS once every two months.
- A period of approximately two months where the probation officer did not meet with the ISCBS when there should have been two meetings per month.
- Only one meeting between the probation officer and the ISCBS over an eight-month period when there should have been meetings every two months.

- 1.23 Meetings at the appropriate frequency are critical to supervising community-based sentences. Not only is it a requirement of probation and conditional sentences orders but it also provides an opportunity for probation officers to assess an ISCBS's physical and mental condition, review the requirements of court orders, and discuss the consequences if the ISCBS does not comply with the conditions of the court orders. Without these meetings, the Department of Justice is not upholding the requirements of the probation and conditional sentence orders or holding the ISCBS accountable for their offences. Failure to do so could ultimately erode the effectiveness of the community corrections system.

Rehabilitative programming noted in probation and conditional sentence orders not completed

- 1.24 In our testing, we found approximately one-quarter of the files did not satisfy the rehabilitation programming activities included in the probation or conditional sentence orders for ISCBS. Community-based sentences often include counselling in areas such as addictions, mental health, or anger management for the ISCBS to complete at the direction of their probation officer.
- 1.25 Of the 49 probation and conditional sentence orders reviewed, 34 included rehabilitation programming. In seven of these cases, we could not determine if the ISCBS completed the programming. Management and staff indicated that probation officers may determine the programming activities outlined in an ISCBS's probation or conditional sentence order is not needed or not appropriate for the ISCBS, or there may be challenges in finding space in the necessary programs. The COVID-19 pandemic also resulted in fewer options, as some programs

were forced to close. While there may be legitimate reasons why the rehabilitation programming is not completed, this must be clearly documented by the probation officer. Similarly, when programming is completed, there needs to be clear documentation to verify the completion.

- 1.26 If probation officers do not ensure ISCBS are completing the programming activities, it may signal to ISCBS that they do not need to comply with the conditions of their court orders. It could also lead to missed opportunities to provide treatment that may assist ISCBS with their rehabilitation. These failures may further undermine the effectiveness of the community corrections system.



Consequences for failure to comply with court orders sometimes lacking or delayed

- 1.27 ISCBS do not always face consequences when they fail to comply with the conditions of their probation or conditional sentence orders. In 30 of the 49, or almost two-thirds of probation or conditional sentences tested, we found the ISCBS failed to meet the conditions of the order. In five of these cases, the ISCBS faced no consequences for their actions. While probation officers have some discretion to issue a warning or a breach to an ISCBS for failing to comply with the conditions of their probation or conditional sentence order, in these cases we feel action by the probation officer was warranted.
- 1.28 In these cases, the ISCBS failed to report to their probation officer as required. For example, one ISCBS failed to report for five months despite numerous requests to do so from their probation officer. Despite a clear violation of the conditions of the probation order, a breach of probation was not issued by the probation officer.
- 1.29 We also found examples where probation officers did not take timely enforcement action against ISCBS who did not comply with the conditions of their court order. In eight of the 30 probation and conditional sentences orders reviewed where the ISCBS violated the conditions of the order, we found too much time passed before the probation officer acted. For example, an ISCBS serving a conditional sentence order left Nova Scotia without informing their probation officer in advance, but no action was taken by the probation officer. A breach was only issued when the probation officer was told the ISCBS had been arrested in another province, approximately three weeks after the probation officer was first made aware of the ISCBS leaving the province.
- 1.30 Failure to take timely and appropriate consequences may reduce the incentive for ISCBS to comply with conditions of their probation and conditional sentence orders. The lack of consequences means ISCBS are not held accountable for their actions, may result in the inconsistent treatment of people, and potentially undermine the effectiveness of the community corrections system. If a probation officer feels action is not necessary when an ISCBS violates the terms of their probation or conditional sentence order, the rationale needs to be clearly documented.

Recommendation 1.3

We recommend the Department of Justice comply with all policies for the monitoring of individuals serving community-based sentences including:

- completing risk assessments,
- conducting meetings at the correct frequency
- completing directed rehabilitation programming and
- acting in a timely and appropriate manner when conditions of probation and conditional sentence orders are violated.

If policy requirements cannot be met, court directed programming not completed, or conditions of court orders violated without consequences there must be clear documentation to explain why, including approval as required.

Department of Justice Response: Agree. The Court typically includes conditions to attend programming or treatment on Probation and Conditional Sentence Orders as may be directed by the PO. PO use the Level of Service/Case Management Inventory (LS/CMI) Risk Assessment tool to determine risk and form the basis for case plans, programs and treatment referrals.

Additionally, we employ Core Correctional Practices (CCP) to ensure individuals are at the proper Stage of Change for success when referred to a treatment program.

Correctional Services uses a restorative approach in determining the need to initiate formal breach proceedings or to use another approved method to address the violation. Correctional Services collaborates with other stakeholders to ensure conditions of Court Orders protect public safety while providing a realistic opportunity for individuals to address criminogenic needs. Acting when conditions are violated in a timely and appropriate manner can include a variety of actions by the PO based on severity of breach and Stages of Change.

Clear documentation regarding case management decisions as well as discussions with Senior Probation Officer (SPO) where required by policy should be provided. An audit process will be implemented to ensure proper documentation and policy is followed. Target Date: May 2023



ISCBS reporting to probation officers was suspended without appropriate approval

- 1.31 Lower risk ISCBS that complete at least one-third of their probation and meet other criteria can be placed on administrative inactive status, meaning they no longer must report to a probation officer for the remainder of their sentence. Per Departmental policy, all administrative inactive status classifications must be approved by a senior probation officer, but we found this was not always happening.
- 1.32 We reviewed 10 ISCBS placed on administrative inactive status and found that none was approved by a senior probation officer. While most of these appeared to meet the requirements to become inactive, we did note one case in which the ISCBS should not have been placed on administrative inactive status because they had not yet served one-third of their probation order. This is an example of what can happen if ISCBS are placed on administrative inactive status without an adequate review by a senior probation officer. Reporting to a probation officer is a key component of a community-based sentence and the requirement should only be suspended if the ISCBS meets the criteria.

Recommendation 1.4:

We recommend the Department of Justice move individuals serving probation orders to administrative inactive status only when they meet all eligibility criteria and have been appropriately approved. The required approval must be clearly documented.

Department of Justice Response: Agree. SPOs are required to review cases monthly to determine if administrative inactive status (AIS) is appropriate. PO must have SPO approval to move individuals to AIS. These decisions should be well documented. The individual and PO sign the AIS form which is to be uploaded to JEIN. Correctional Services will include an audit of PO compliance with AIS Policy in the Correctional Services internal audit schedule. Target Date: May 2023

Non-compliance with policies for supervising ISCBS not a result of the COVID-19 pandemic

- 1.33 The ongoing COVID-19 pandemic did present challenges to the Department of Justice in supervising ISCBS. All meetings between probation officers and ISCBS were supposed to be completed via phone during some phases of the pandemic to protect the health of all parties.
- 1.34 While staff indicated phone meetings were not ideal, many ISCBS they supervise do not have access to other technology. Our examination of probation officers' supervision of ISCBS included samples from both before the onset of COVID-19 and during the pandemic. Overall, the issues we identified were consistent across the entire audit period. We did not identify any additional concerns with the Department of Justice's supervision of ISCBS because of the COVID-19 pandemic.

Significant Weaknesses in Management Oversight of Community Corrections Offices

- 1.35 Management at the Department of Justice is not adequately overseeing the work in community corrections offices throughout the province. There are significant weaknesses in the supervisor file review process to assess whether probation officers are supervising ISCBS in compliance with departmental policies. Performance indicators for community corrections have not been established and when information is available to management that could aid in oversight, the information is not analyzed. These deficiencies may further undermine the overall effectiveness of the community corrections system.

Supervisor file reviews not completed consistently, and some issues identified were not addressed

- 1.36 File reviews are supposed to be completed by supervisors at least twice per year for all probation officers. We examined the file reviews for 15 probation officers during 2019 and 2020 and found 10 of the officers, two-thirds of those tested, did not have the required number of file reviews completed. For two of those probation officers, no file reviews were completed over the two-year period.
- 1.37 Furthermore, when file reviews were completed, the issues identified were not always addressed. The file reviews for five of the 15 probation officers we examined identified issues that needed to be addressed by the next review, but there was no documentation to confirm this was completed.
- 1.38 For example, one file review identified an ISCBS that potentially should have been assessed as a higher risk, but the subsequent file review noted this issue as still outstanding after six months. In another file review, the probation officer needed to confirm whether the ISCBS was attending anger management counselling but there was no documentation in the subsequent file review to confirm this was addressed.
- 1.39 Consistent completion of the required reviews, along with timely correction of issues identified, is imperative to confirm the ISCBS are properly supervised and the public is protected as intended. When file reviews are not completed, or when instances of non-compliance are identified but not addressed, areas for improvement may not be identified to hold probation officers accountable for their work. This could lead to the inconsistent treatment of ISCBS as well as the possibility that people are not held accountable to the conditions of their probation or conditional sentence orders.



Weaknesses identified in the supervisor file review process

- 1.40 Even when the file review process is carried out, we identified weaknesses that impact the ability of the Department of Justice to assess the quality of a probation officer's work. Specifically, we found the file review process does not assess whether probation officers are meeting at the correct frequency with the ISCBS they are responsible for supervising. We also noted a lack of documentation to confirm what policy requirements were assessed as part of the file review process and how final conclusions on policy compliance were determined. These gaps further erode the value of the file review process in ensuring probation officers are holding ISCBS accountable to the conditions of their community-based sentences and contributing to the public safety as intended.
- 1.41 Regular probation officer meetings with ISCBS are a key component of supervision. However, the file review process does not assess whether probation officers are meeting with individuals at the frequency dictated by the ISCBS's risk assessment. This is a significant step we expected to be included in the file review process. We identified a number of instances where probation officers did not meet with ISCBS at the required frequency. This is evidence the file review process needs to include this component.
- 1.42 The file review policy outlines a list of requirements to be assessed, and the results documented on a file review form. However, we found file review forms did not have sufficient documentation to confirm whether all requirements were assessed. In some cases, the file review concluded ISCBS were supervised in compliance with policies, but the notes included on the file review form suggested there were deficiencies that needed to be addressed. To identify where improvements are needed, there needs to be clear documentation including:
- What was examined in the file review
 - Sufficient information to support why a probation officer did not meet the policy
 - What must be done to address any instance of non-compliance, as well as
 - Documentation to confirm the required improvements were eventually completed.
- 1.43 Many of the issues identified in our audit should have been detected and addressed by a thorough file review process. Improvements to the current process would provide opportunities for management to identify issues sooner, to reinforce policy requirements with staff, and to provide additional training when necessary. Over time, a proper review process should improve the overall supervision of ISCBS and the quality of files.

Recommendation 1.5

We recommend the Department of Justice update the file review process for community corrections to address key aspects of the supervision of individuals serving community-based sentences and include adequate documentation to confirm all policy requirements were properly reviewed and indicating how deficiencies are addressed.

Department of Justice Response: Agree. Correctional Services completes file reviews twice per year and regularly reviews its Policies and Procedures, updating as required. An updated File Review Process was implemented Fall 2021. The new File Review Process will ensure any recommended follow up occurs. Target Date: May 2023

Recommendation 1.6

We recommend the Department of Justice complete the required file reviews to assess probation officer compliance with Department policies for supervising individuals on community-based sentences and act to address instances of non-compliance with policies.

Department of Justice Response: Agree. SPOs are required to complete file reviews of all POs twice per year. Correctional Services will implement internal audit processes to ensure file reviews are completed in accordance with policy. Target Date: May 2023



No performance indicators established for community corrections

- 1.44 The Department of Justice has not established program goals or performance indicators for community corrections. Our 2006 Correctional Services audit identified similar concerns and yet, despite over 15 years between the audits, the issues remain. Without pre-established expectations for community corrections, it is difficult for management to identify areas of success and where improvements are needed.



Management not collecting sufficient information to monitor performance

- 1.45 There is limited formal information reporting to community corrections management at head office. At the start of the audit, we requested information on the number of community-based sentences being supervised and the number of cases where an ISCBS violated the conditions of their community sentence during our audit period. This is basic information we would expect management to have readily available, but management needed time for it to be compiled.
- 1.46 Information provided to management at head office in Halifax includes the results of file reviews and biannual statistics on the number of community-based sentences being supervised by community corrections offices throughout the province. However, little appears to be done with this information. The results of file reviews may provide management with an opportunity to identify areas for improvement in the supervision of ISCBS and take proactive steps to address any concerns, yet we saw no evidence of this being completed.
- 1.47 As noted earlier in the chapter, the Department of Justice receives a daily sample of alerts from the service provider of the electronic monitoring system. These are received by a senior probation officer in one of the community corrections offices, but this information is not forwarded to management at head office in Halifax. This information could provide an opportunity to see how and when ISCBS are violating the conditions of their conditional sentence orders and assess if probation officers are taking timely and appropriate action.
- 1.48 While there are regular meetings between management at head office and staff from the community corrections offices to discuss staffing, caseloads, and the supervision of ISCBS, there is no analysis of the information available to identify themes or patterns. Thorough and regular analysis would provide an opportunity for management to identify trends in the supervision of ISCBS. Management may be able to identify staff training needs as well as policies that need revision to proactively address issues before they become significant.
- 1.49 There are currently 22 adult community corrections offices and approximately 80 probation officers and senior probation officers spread throughout the province. With one central headquarters located in Halifax, management needs detailed and regular information to assess the amount and quality of work completed, including whether probation officers are adequately supervising ISCBS. The kind of issues we have identified in our audit should have already been identified by management through proper oversight of the system.

Recommendation 1.7

We recommend the Department of Justice develop and implement a performance monitoring framework to improve management oversight of community corrections. This must include:

- defining the information needed to oversee the supervision of individuals serving community-based sentences by probation officers across the province,
- outlining how this information will be collected and analyzed,
- establishing meaningful performance indicators,
- reporting regularly on performance, and
- responding as required when deficiencies are identified.

Department of Justice Response: Agree. While the File Review process achieves much of this recommendation, Correctional Services plans to implement internal audit processes to ensure risk assessments are completed, supervision standards are followed and file reviews are completed in accordance with policy. Target Date: May 2023



No changes to management oversight as a result of COVID-19

- 1.50 Other than having virtual meetings, there were no changes to the Department's management oversight practices during the COVID-19 pandemic. As outlined above, management oversight of community corrections needs significant improvement to monitor whether ISCBS are being properly supervised and held accountable to the conditions of their probation or conditional sentence orders. This oversight was likely even more important during periods of the pandemic where community corrections staff were required to work remotely.

Community Corrections Staff Have Not Completed Required Training

- 1.51 Many community corrections staff have not completed training required by the Department of Justice, or they completed the training later than required. Not only could this impact a probation officer's ability to supervise ISCBS, but it may also put the safety of staff at risk. We were surprised to find that not only is there no orientation process for new probation officers, but training directly related to the supervision of ISCBS was not available or mandatory during our audit period. The lack of orientation and weaknesses in training may have contributed to issues identified in this chapter.



Required training not completed or completed late

- 1.52 We reviewed the training records for 22 staff hired between January 1, 2018 and December 31, 2020, to determine if 14 required courses had been completed. We found none of the 22 staff had completed all training courses, with each staff member missing at least one and one staff member failing to take eight of the 14 courses.

Number of Courses not Completed	Number of Staff
1 course	2
2 courses	2
3 courses	5
4 courses	6
5 courses	1
6 courses	3
7 courses	2
8 courses	1
	22 staff

Source: Office of the Auditor General, Nova Scotia

1.53 Examples of courses not completed include:

Course	Number of staff that did not complete the course	Purpose of course (Source: Correctional Services Division Training Matrix)
Diversity and Inclusion	16 of 22 staff	Required training for all provincial government employees that helps staff become comfortable and current about language concepts of diversity and inclusion.
The Working Mind (mental health training)	9 of 22 staff	To increase the understanding of mental illness.
Domestic Violence Education	9 of 22 staff	To educate staff on domestic violence in Nova Scotia.
Verbal Crisis Intervention	7 of 22 staff	To help staff acquire and practice verbal intervention skills to assist in intervening and de-escalating in conflict situations.

Source: Office of the Auditor General, Nova Scotia

- 1.54 In addition to courses not completed at all, we also found examples of courses not completed within the required timeframe. Many of the courses are to be completed by staff within their first six to 12 months of employment, but we found 13 of 22 staff had at least one course that was completed late. For example, all provincial government employees are required to complete an Occupational Health and Safety Orientation course within the first six months of employment. However, we identified four probation officers that did not complete the course until 13 to 22 months past the deadline.
- 1.55 Despite clearly defined training requirements for community corrections staff and a system in place to track the completion of staff training, the Department of Justice has struggled to provide required training to all community corrections staff. Furthermore, this is another area where management at head office responsible for community corrections does not formally collect information regarding staff's completion of required training.
- 1.56 The COVID-19 pandemic has created additional challenges for staff training. Management indicated when possible, training was provided during the pandemic, but courses were cancelled or delivered to smaller groups of staff to allow for physical distancing and to comply with public health requirements. Going forward, management indicated the Department will be exploring options for delivering training in a virtual environment.
- 1.57 Many of the training issues within the Correctional Services Division of the Department of Justice existed prior to the pandemic. Our May 2018 Correctional Facilities audit also identified significant shortcomings with the training of staff at correctional facilities. That audit included a recommendation for the Department of Justice to complete a review of all staff that had not met training requirements and ensure training is completed. However, as reported in our 2022 Follow-Up Report of 2017, 2018 and 2019 Performance Audit Recommendations, the Department of Justice has not implemented this recommendation.
- 1.58 If training is not completed, or not completed within the required timeframes, staff may not have the necessary skills to safely interact with ISCBS or provide adequate supervision to hold ISCBS accountable to the conditions of their probation or conditional sentence orders.

Recommendation 1.8

We recommend the Department of Justice identify community corrections staff that have not fulfilled training requirements and develop and implement plans so all required training is completed.

Department of Justice Response: Agree. Correctional Services maintains a training schedule calendar. Correctional Services will schedule additional required training to address any training gaps/delays. Target Date: May 2025



No orientation for new probation officers

- 1.59 The Department of Justice does not have an orientation process for new probation officers. As noted above, many of the required training courses must be completed within the first year of employment. While many probation officers enter the role from other positions within the Department of Justice and are mentored by more experienced staff, they are still expected to immediately start supervising ISCBS with little training or community corrections experience of their own.
- 1.60 Some probation officers we interviewed stated a formal orientation process for new hires would be beneficial. This could provide a consistent approach to training new probation officers and communicating policy requirements and expectations.

Recommendation 1.9

We recommend the Department of Justice develop and deliver an orientation program for new community corrections staff.

Department of Justice Response: Agree. A new On Boarding Process for administrative staff, Probation Officers, and Senior Probation Officers is currently in development to replace the current orientation program in use since 2008. Target Date: November 2023



Gaps in training requirements

- 1.61 Many of the issues identified throughout the audit related to the probation officers not complying with policies around the completion of risk assessments, the frequency of meetings with ISCBS, the use of electronic supervision, and the documentation of information. The number of issues identified indicate additional training on policy and documentation requirements may be needed.
- 1.62 We also found that training in some of these areas was not mandatory during the audit period (January 1, 2019 to December 31, 2020). Specifically, training in the completion of risk assessments and electronic supervision did not become mandatory until October 2020. Furthermore, there is no mandatory training on the information system used to document the supervision of ISCBS, despite the need for probation officers to use this system daily. It is possible that improved or additional training, including assessing the training needs of probation officers, could have prevented some the issues identified in the audit and lead to improvements in the supervision of ISCBS in the future.
- 1.63 Management indicated training for community corrections staff is regularly reviewed to ensure it remains current, but there was no documentation to support the completion or the outcome of any reviews. While we did see some evidence of management discussions around training and changes to the requirements during our audit period, documented support for why and what changes were made could not be provided. Training is important so probation officers have

the necessary skills to supervise ISCBS. Formal reviews of training requirements need to be regularly completed and documented to assess whether the training provided meets the needs of staff.

Recommendation 1.10

We recommend the Department of Justice assess the training needs of community corrections staff, including determining what needs to be mandatory training for probation officers, to identify and implement improvements. Training requirements must be regularly reviewed with the results clearly documented.

Department of Justice Response: Agree. Correctional Services assesses the training needs of staff annually and training plans are developed. Correctional Services currently mandates the following training for all Probation Officers and Senior Probation Officers directly relating to the supervision of individuals serving community-based sentences: Core Correctional Practices (CCP), Level of Service/Case Management Inventory (LS/CMI), Youth Level Service/Case Management Inventory (YLS/CMI) training. It is important to note CCP includes a focus on Stages of Change, this information, combined with the Risk Assessment results informs responsive case planning for individuals serving community-based sentences.

Correctional Services will develop processes to ensure training requirements and subsequent training plans are clearly documented. Target Date: May 2023

Reasonable Assurance Engagement Description and Conclusions

In May 2022, we completed an independent assurance report for the Department of Justice. The purpose of this performance audit was to determine whether the Department of Justice is taking the necessary steps to monitor individuals serving community-based sentences (ISCBS) so public safety is protected.

It is our role to independently express a conclusion about whether community corrections complies in all significant respects with the applicable criteria. Management at the Department of Justice has acknowledged its responsibility for community corrections.

This audit was performed to a reasonable level of assurance in accordance with the Canadian Standard on Assurance Engagements (CSAE) 3001 – Direct Engagements set out by the Chartered Professional Accountants of Canada; and sections 18 and 21 of the Auditor General Act.

We apply the Canadian Standard on Quality Control 1 and, accordingly, maintain a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Code of Professional Conduct of Chartered Professional Accountants of Nova Scotia as well as those outlined in Nova Scotia's Code of Conduct for public servants.

The objectives and criteria used in the audit are below:

Objective:

To determine if the Department of Justice has an effective process to ensure Community Corrections staff receive adequate, relevant, and timely training.

Criteria:

1. The Department of Justice should have clearly defined training requirements for Community Corrections staff.
2. The Department of Justice should have a process in place to monitor the completion of required training by Community Corrections staff.
3. The Department of Justice should ensure Community Corrections staff have completed all required training in a timely manner.
4. The Department of Justice should have plans in place to meet the training needs of Community Corrections staff during the COVID-19 pandemic.
5. The Department of Justice should regularly review training requirements for Community Corrections to assess whether training remains relevant and meets the needs of staff.

Objective:

To determine whether the Department of Justice is appropriately monitoring individuals serving community-based sentences.

Criteria:

1. The Department of Justice should have policies and procedures that outline expectations for monitoring individuals serving community-based sentences.
2. The Department of Justice should monitor individuals serving community-based sentences in compliance with departmental policies and procedures to ensure the conditions of court orders are satisfied.
3. The Department of Justice should ensure appropriate action is taken when individuals serving community-based sentences do not comply with the conditions of their court order.
4. The Department of Justice should have plans in place to ensure adequate monitoring of individuals serving community-based sentences during the COVID-19 pandemic.

Objective:

To determine whether the Department of Justice is adequately overseeing Community Corrections work throughout the province.

Criteria:

1. The Department of Justice should have a process to oversee work in Community Corrections offices across the province.
2. The Department of Justice should have a process to identify key performance indicators for Community Corrections and assess performance against these indicators.
3. The Department of Justice should take steps to improve performance within Community Corrections when issues are identified.
4. The Department of Justice should provide adequate oversight of contracted third party service providers involved in monitoring individuals serving community-based sentences.
5. The Department of Justice should have plans in place to ensure the oversight of Community Corrections offices and contracted third party service providers continues throughout the COVID-19 pandemic.

Generally accepted criteria consistent with the objectives of the audit did not exist. Audit criteria were developed specifically for this engagement. Criteria were accepted as appropriate by senior management at the Department of Justice.

Our audit approach consisted of interviews with management and staff of the Department of Justice, reviewing policy, examining processes for community corrections, and detailed file testing. We examined relevant processes, plans, reports, and other supporting documentation. Our audit period covered January 1, 2019 to December 31, 2020. We examined documentation outside of that period as necessary.

We obtained sufficient and appropriate audit evidence on which to base our conclusions on May 12, 2022, in Halifax, Nova Scotia.

Based on the reasonable assurance procedures performed and evidence obtained we have formed the following conclusions:

- Public confidence in the community corrections system may be compromised when essential monitoring fails.
- There is increased risk to public safety when probation officers do not hold individuals to account for the conditions of their community-based sentences.
- Poor management oversight by the Department of Justice undermines the community corrections system.
- Community corrections staff have not completed the required training.

• • • Office of the Auditor General • • •

5161 George Street, Royal Centre, Suite 400
Halifax, Nova Scotia
B3J 1M7

www.oag-nb.ca

[in/company/oag-nb](https://www.linkedin.com/company/oag-nb)

[@OAG_NB](https://twitter.com/OAG_NB)

[f/OAGNB](https://www.facebook.com/OAGNB)

[@nbaditorgeneral](https://www.instagram.com/nbaditorgeneral)