

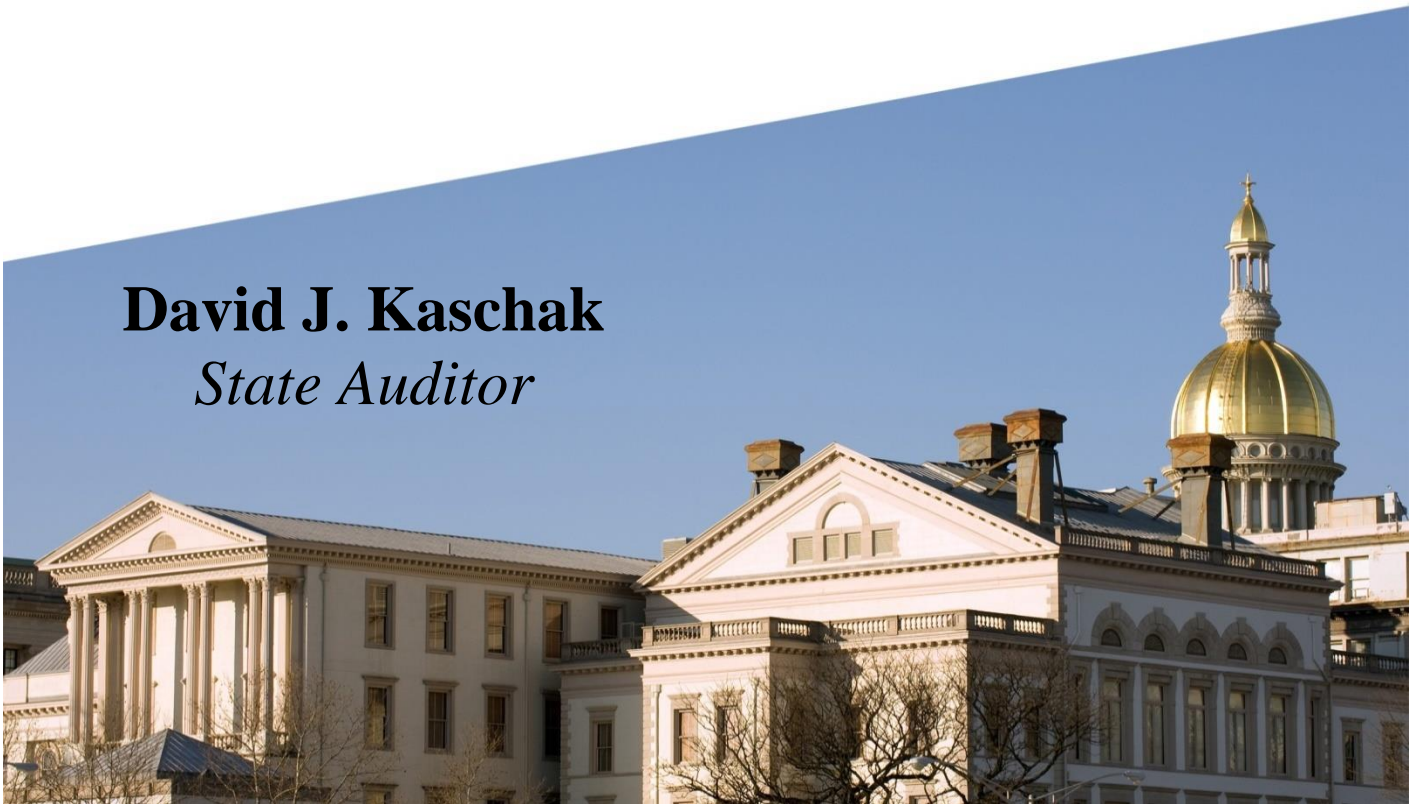


*New Jersey Legislature*  
★ *Office of* LEGISLATIVE SERVICES ★  
**OFFICE OF THE STATE AUDITOR**

Department of Human Services  
Office of Program Integrity and Accountability  
Office of Performance Management  
Critical Incident Management Unit

July 1, 2021 to June 30, 2024

**David J. Kaschak**  
*State Auditor*



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OFFICE OF THE STATE AUDITOR  
125 SOUTH WARREN ST. • P.O. BOX 067 • TRENTON, NJ 08625-0067  
[www.njleg.state.nj.us](http://www.njleg.state.nj.us)

OFFICE OF THE  
STATE AUDITOR  
609-847-3470  
Fax 609-633-0834

David J. Kaschak  
State Auditor

Brian M. Klingele  
Assistant State Auditor

Thomas Troutman  
Assistant State Auditor

The Honorable Philip D. Murphy  
Governor of New Jersey

The Honorable Nicholas P. Scutari  
President of the Senate

The Honorable Craig J. Coughlin  
Speaker of the General Assembly

Ms. Maureen McMahon  
Executive Director  
Office of Legislative Services

Enclosed is our report on the audit of the Department of Human Services, Office of Program Integrity and Accountability, Office of Performance Management, Critical Incident Management Unit for the period of July 1, 2021 to June 30, 2024. If you would like a personal briefing, please call me at (609) 847-3470.

A handwritten signature in black ink that reads "David J. Kaschak".

David J. Kaschak  
State Auditor  
November 13, 2024

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## *Scope*

We have completed an audit of the Department of Human Services (department), Office of Program Integrity and Accountability, Office of Performance Management, Critical Incident Management Unit (CIMU) for the period July 1, 2021 to June 30, 2024. Our audit included operational activities of the CIMU for reported critical incidents (incidents) occurring in facilities, agencies, and programs licensed, regulated, or funded by the department. In addition, we reviewed calls received by the department's Division of Developmental Disabilities (DDD), Office of Risk Management (ORM) Abuse and Neglect Hotline, which is available 24 hours a day, 365 days a year, for any person who is notified or suspects that an individual with an intellectual or developmental disability has been a victim of abuse, neglect, or exploitation.

## *Objectives*

The objectives of our audit were to determine whether internal controls related to the tracking of, management of, and response to all reported incidents were adequate and whether the CIMU was in compliance with department Administrative Order (A.O.) 2:05 and the New Jersey Incident Reporting and Management System (NJ-IRMS) manual.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

## *Methodology*

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

In preparation for our testing, we studied legislation and policies of the department. Provisions we considered significant were documented, and compliance with those requirements was verified by interview, observation, and through our testing of incident reporting. We also interviewed department personnel to obtain an understanding of the programs and the internal controls. In order to achieve our objectives, we performed various tests and analyses, as we determined necessary. Additional detail regarding our methodology and work performed can be found in the Appendix.

A nonstatistical sampling approach was used. Our samples were designed to provide conclusions on our audit objectives, as well as internal controls and compliance. Sample populations were sorted, and incidents were judgmentally and randomly selected for testing. Because we used a nonstatistical sampling approach for our tests, we cannot project the results to the respective populations.

### ***Data Reliability***

We assessed the reliability of incident data obtained from NJ-IRMS by interviewing department officials knowledgeable about the data and cross-referencing incident information to the initial incident report and other supporting documentation. We determined that the data were sufficiently reliable for the purposes of this report.

### ***Conclusions***

We found the internal controls related to the tracking of, management of, and response to all reported incidents were adequate, and the CIMU was in compliance with A.O. 2:05 and the NJ-IRMS manual. In making those determinations, we made observations concerning delays in incident reporting and Division of Aging Services incidents not being maintained in the NJ-IRMS.

### ***Background***

The CIMU facilitates and oversees the appropriate tracking of, management of, and organizational response to all reported incidents occurring in facilities, agencies, and programs licensed, regulated, or funded by the department, as required by A.O. 2:05. The order establishes policies and procedures for reporting, managing, and responding to incidents (i.e., allegations and events) affecting the health, safety, and well-being of individuals receiving services from and/or through the department (recipients) using the comprehensive incident management application NJ-IRMS. An *allegation* is an assertion that someone has committed an act of abuse, neglect, or exploitation against a recipient. An *event* is an occurrence that affects the health, safety, or well-being of a recipient.

A.O. 2:05 includes timeframes for reporting incidents, parameters for the timely and appropriate response to reported incidents, standards for closing incidents, and the facilitation of individual and aggregate data analyses, including identifying patterns and trends that can assist in prevention strategies related to incidents on an individual and/or systemic level.

The CIMU consists of 13 quality assurance specialists and three supervisors who work with department, division, and agency staff to ensure information within incident reports informs important decisions regarding recipient safety and well-being, particularly the DDD and the Division of Mental Health and Addiction Services (DMHAS).

The CIMU is also the administrator for the department's Risk Management System, which publishes a quarterly Licensed Provider Report Card utilizing performance data from each adult-serving DDD-licensed provider agency across various DHS systems, including licensing, investigations, and critical incident reporting. The purpose of the system is to promote a positive quality of life for all adults with developmental disabilities by ensuring their safety and well-being. The system seeks to identify factors that may increase risk(s) and actively promotes practices that will keep risk as low as possible. The Licensed Provider Report Card serves as a

resource for the DDD, community providers, stakeholders, recipients and their families, and the general public to better navigate residential and day program services.

Any individual can report concerns of abuse, neglect, or exploitation involving a recipient. All concerns and complaints from the public shall be reviewed and processed for response and follow-up as identified in A.O. 2:05. The order further states:

*All [department] employees and any person employed or volunteering in a program, facility, community care residence, or living arrangement licensed or funded by [the department], directly or indirectly, or a person providing community-based services funded by [the department], as applicable, having reasonable cause to believe that an individual receiving services from [the department] has been subjected to abuse, neglect, or exploitation by a caregiver shall report the same to [the department].*

Failure to report acts of abuse, neglect, or exploitation may result in discipline and criminal or civil penalties.

A.O. 2:05 requires compliance with any existing federal and state laws and regulations mandating the reporting of incidents to other units or agencies as applicable, including but not limited to: the Human Services Police, Centers of Medicaid and Medicare Services, Department of Children and Families, Office of the Long-Term Ombudsman, Office of the Ombudsman for Individuals with Intellectual and Developmental Disabilities and their Families, Disability Rights New Jersey, and the Division of Criminal Justice.

#### *Penalties and Enforcement Measures*

Various statutes and regulations govern the reporting of incidents and investigations in department facilities and programs, specifically Stephen Komnino's Law (P.L.2017, c.238) and Danielle's Law (N.J.S.A. 30:6D-5.1 et seq.), which carry the potential for civil penalties and monetary fines. Under the Stephen Komnino's Law, any employee or volunteer in a department-licensed or funded program, facility, or service for individuals with developmental disabilities who fails to report suspected abuse, neglect, or exploitation is a disorderly person and will be fined \$350 for each day the violation goes unreported. Under Danielle's Law, staff at facilities and agencies serving individuals with developmental disabilities or traumatic brain injury must call 911 in life-threatening emergencies and report the call to the department. Those who violate the provisions shall be liable to a civil penalty of \$5,000 for the first offense, \$10,000 for the second offense, and \$25,000 for the third and each subsequent offense, to be sued for and collected in a summary proceeding by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

#### *ORM Abuse and Neglect Hotline*

The ORM Abuse and Neglect hotline provides an additional avenue to promptly report incidents. Any person, including a guardian or family member, who suspects abuse, neglect, or exploitation

(physical and/or emotional) of an adult with an intellectual or developmental disability can call the hotline 24 hours a day, 365 days a year. Suspected abuse can be reported anonymously, or the caller can provide his/her name and request that it not be identified to the provider agency.

## **Observations**

### **Incident Reporting**

**Delays in incident reporting to the CIMU can hinder timely investigations when required and pose risks to the health, safety, and well-being of recipients.**

Attachment A of A.O. 2:05 categorizes incidents as Level A or Level B based on severity and the required timeliness of reporting. Level A incidents include, but are not limited to, physical abuse, verbal psychological abuse, sexual abuse, major or moderate injuries from physical assault, sexual assault, financial and personal exploitation, injury, elopement, and death. Those incidents must be reported to the department as soon as possible and no later than the end of the business day. Level B incidents include, but are not limited to, minor injuries from physical assault, possession of contraband, criminal conduct, professional misconduct, rights violations, and overdose, and must be reported within one business day.

A business day is defined as Monday through Friday, 8:00 am to 6:00 pm, except state holidays. If an incident occurs on a weekend or holiday, reporting may take place on the next business day. If an incident falls into more than one level, it shall be assigned the higher reporting level. Any delay in incident reporting, regardless of reporting level, must be explained in the initial incident report. Level A incidents shall be entered into the NJ-IRMS upon receipt, and Level B incidents shall be entered by the end of the workday or as soon as possible on the next business day. The CIMU and the DDD are responsible for entering incidents into the NJ-IRMS.

In department facilities, community residential settings, or day programs serving recipients with developmental disabilities, service providers or facilities must notify a recipient's guardian in person or by phone within two hours of any major, moderate, or minor physical injuries related to incidents of abuse, neglect, or exploitation. This requirement also applies to any moderate or major injury, regardless of the cause. If guardian notification cannot be provided within two hours for a legitimate reason, notification must be provided within eight hours and a written explanation of the cause for the delay must be provided to the guardian and the department within 14 days. For all other reportable incidents, a recipient's guardian shall be notified within one business day of the incident. Notification to guardians shall be documented in the incident report. Any incident in violation of the New Jersey Code of Criminal Justice shall be reported to law enforcement authorities.

The CIMU reviews incident investigation reports on lower level of abuse, neglect, exploitation, professional misconduct, injuries, choking, physical assault, and contraband incidents from the DDD's Office of Risk Management and the DMHAS. The OPIA's Office of Investigations is responsible for conducting civil investigations and issuing findings based on a preponderance of

evidence standard.

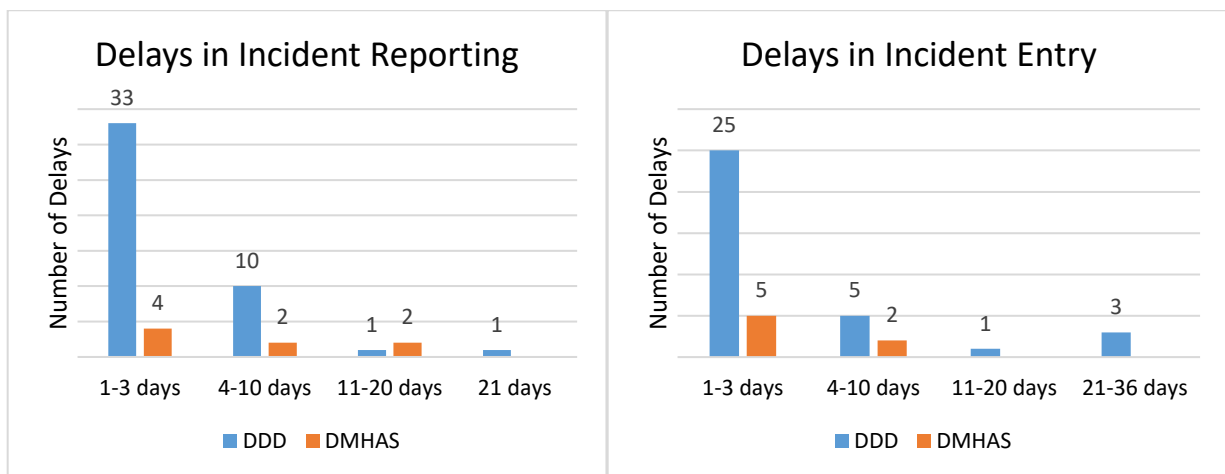
We obtained a database of all reported incidents for department developmental centers (DC), the DDD, and the DMHAS for the period of July 1, 2021 through January 31, 2024, which is summarized in the following chart:

	July – December 2021	CY 2022	CY 2023	January 2024	Totals	%
<b>DC</b>	702	1,502	1,369	143	3,716	6%
<b>DDD</b>	7,497	21,005	17,218	1,571	47,291	79%
<b>DMHAS</b>	1,771	3,654	3,186	295	8,906	15%
<b>Totals</b>	<b>9,970</b>	<b>26,161</b>	<b>21,773</b>	<b>2,009</b>	<b>59,913</b>	

We randomly selected 75 incidents for review and noted the following issues regarding timeliness of reporting:

	Total Tested	Total Exceptions	Exception %
<b>Incident was reported to the department timely</b>	75	53	71%
<b>Explanation of delay in reporting was documented</b>	53	47	89%
<b>Incident was entered into the NJ-IRMS timely</b>	75	41	55%
<b>One-day guardian notification</b>	61	5	8%
<b>Two-hour guardian notification</b>	13	2	15%
<b>Law enforcement notification</b>	4	1	25%

The charts below show the number of delays in incident reporting and incident entry across different time intervals for the DDD and the DMHAS for the 75 tested incidents:



While the department cannot control the timely reporting of incidents, any delay in incident reporting can impact timely investigations and poses a risk to the health, safety, and well-being

of recipients by preventing the department from issuing timely incident prevention recommendations and actions to minimize the risk to recipients.



## **NJ-IRMS**

**Incidents reported to the department’s Division of Aging Services (DoAS) are not maintained in the NJ-IRMS.**

According to A.O. 2:05, the department will maintain all reported incidents in the NJ-IRMS, which is a web-based comprehensive incident management application designed to support a standardized process for reporting, tracking, managing, and analyzing incidents across all department divisions. Currently, the NJ-IRMS only maintains incidents related to developmental centers through the DDD and mental health programs under the DMHAS.

The DoAS administers several federal- and state-funded programs that make it easier for older adults to live in the community as long as possible with independence, dignity, and choice. The DoAS investigates allegations of abuse, neglect, and exploitation through the Adult Protective Services Program. The OPIA is currently in the process of integrating DoAS incidents into the NJ-IRMS. This integration will ensure the department’s compliance with federal regulation 42 CFR 441.302(a)(6)(i)(b), effective July 9, 2024, which requires states to have electronic critical incident systems that, at a minimum, enable electronic collection, tracking (including of the status and resolution of investigations), and trending of data on critical incidents. The department has five years from the effective date to comply with the federal regulation.



## *Appendix*

### **Methodologies to Achieve Audit Objectives**

To verify individuals determined to have abused or neglected an individual with a developmental disability were added to the department's Central Registry of Offenders, we reviewed 9 incidents from a random sample of 75 incidents related to allegations of abuse and neglect that had been substantiated.

To verify calls made to the DDD-ORM's Abuse & Neglect Hotline meeting the criteria of an incident were reported and if information from each call was included in the incident report, we reviewed all 87 calls received by the hotline for the following time periods: January 1, 2024 through January 8, 2024 and February 11, 2024 through February 18, 2024.

To verify the comprehensive application security plan and disaster recovery plan for the NJ-IRMS, we interviewed the department's information technology personnel.





PHILIP D. MURPHY  
Governor

**State of New Jersey**  
**DEPARTMENT OF HUMAN SERVICES**

SARAH ADELMAN  
Commissioner

TAHESHA L. WAY  
Lt. Governor

P.O. BOX 700  
TRENTON, NJ 08625-0700

November 6, 2024

Brian M. Klingele  
Assistant State Auditor  
Office of the State Auditor  
125 South Warren Street  
P.O. Box 067  
Trenton, NJ 08625-067

Dear Mr. Klingele:

The Department of Human Services (DHS) is in receipt of the Office of the State Auditor's (OSA) draft audit report titled "Department of Human Services Office of Program Integrity and Accountability Office of Performance Management Critical Incident Management Unit." DHS agrees with OSA's conclusion that the internal controls related to the tracking of, management of, and response to all reported incidents were adequate, and that CIMU was in compliance with A.O. 2:05 and the NJ-IRMS manual. DHS also generally agrees with OSA's observations and briefly responds to them below. DHS appreciates OSA's review and the opportunity to comment on the draft report.

Please accept the following responses to the draft audit observations:

**OSA Observation**

Delays in incident reporting to the CIMU can hinder timely investigations when required and pose risks to the health, safety, and well-being of recipients.

**Response**

CIMU recognizes that the detail involved in reporting incidents can affect timeliness, but will continue to work with providers on timely compliance with reporting requirements. CIMU will also work with division staff to ensure the timely entering of incidents into NJ-IRMS, which can be challenging due to the significant number of incidents reported every year.

**OSA Observation**

Incidents reported to the department's Division of Aging Services (DoAS) are not maintained in the NJ-IRMS.

**Response**

As OSA acknowledges in the audit report, OPIA is in the process of integrating DoAS incidents into NJ-IRMS. Staff meet regularly to work on this transition, and anticipate compliance by the federal deadline.

Thank you again for the opportunity to review and respond to OSA's draft audit report.

Sincerely,

Sarah  
Adelman

Digitally signed by Sarah  
Adelman  
Date: 2024.11.06  
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Sarah Adelman, Commissioner

C: Allan Brophy, Director, Office of Auditing  
Deborah Robinson, Director, Office of Program Integrity and Accountability