

**Division of Youth Corrections
Department of Human Services**

**Performance Audit
November 2011**



**OFFICE OF THE
STATE AUDITOR**

**LEGISLATIVE AUDIT COMMITTEE
2011 MEMBERS**

Senator Lois Tochtrop
Chair

Representative Cindy Acree
Vice-Chair

Representative Deb Gardner
Senator Lucia Guzman
Representative Jim Kerr

Senator Steve King
Representative Joe Miklosi
Senator Scott Renfroe

OFFICE OF THE STATE AUDITOR

Dianne E. Ray
State Auditor

Jonathan Trull
Deputy State Auditor

Sarah Aurich
Legislative Audit Manager

Mindy Gates
Kate Shiroff
Aaron Thomas
Kara Trim
Legislative Auditors

The mission of the Office of the State Auditor is to improve the efficiency, effectiveness, and transparency of government for the people of Colorado by providing objective information, quality services, and solution-based recommendations.



November 29, 2011

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Department of Human Services, Division of Youth Corrections. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Division of Youth Corrections.



We Set the Standard for Good Government

This page intentionally left blank.

TABLE OF CONTENTS

	PAGE
Glossary of Terms and Abbreviations	ii
Report Highlights.....	1
Recommendation Locator.....	3
Chapter 1: Overview of the Division of Youth Corrections	5
The Division of Youth Corrections’ Role in the Juvenile Justice System.....	5
Division of Youth Corrections Organization	8
Committed Youth	10
Revenue and Expenditures	11
Audit Scope and Methodology.....	13
Chapter 2: Safety	17
Youth Room Assignments.....	17
Behavior Management Programs	23
Youth Rights.....	28
Chapter 3: Monitoring	37
Sexual Contact Reporting.....	38
Youth Surveys	42

Glossary of Terms and Abbreviations

Department – Department of Human Services

Division – Division of Youth Corrections

FTE – Full-time-equivalent staff

PREA – Prison Rape Elimination Act of 2003

Trails – Department of Human Services case management database



DIVISION OF YOUTH CORRECTIONS

Performance Audit, November 2011

Report Highlights



Dianne E. Ray, CPA
State Auditor

Division of Youth Corrections
Department of Human Services

PURPOSE

To evaluate the processes used by the Division of Youth Corrections (the Division) to ensure the safety of youth, facility staff, and the community.

BACKGROUND

- The Division's mission is to protect, restore, and improve public safety through services and programs for youth offenders, ages 10 through 21. The Division's five key strategies state that it will provide the right services at the right time, delivered by quality staff, using proven practices, in safe environments, embracing restorative community justice principles.
- The Division oversees 11 state-operated secure facilities and 51 contractor-operated facilities that provide secure, staff-secure, and community-based settings.
- In Fiscal Year 2011, the Division spent more than \$132 million on state- and contractor-operated facilities. The average daily population of youth for Fiscal Year 2011 was 1,391.

OUR RECOMMENDATIONS

The Division should ensure that:

- Room assignments are appropriate by improving implementation of the vulnerability assessment instrument.
- Behavior management programs used by all facilities follow proven models.
- All facilities afford youth due process protections; stop the use of inappropriate disciplinary practices at one facility; and take personnel action, as appropriate, to discipline staff who implemented the inappropriate practices.
- Facilities properly document and report incidents involving sexual misconduct.
- Youth surveys are standardized and administered confidentially.

The Division agreed with all of these recommendations.

EVALUATION CONCERN

The Division could do more to ensure that (1) youth are safe in both state- and contractor-operated facilities, (2) youth are receiving treatment that is based on proven practices, and (3) youth's due process rights are protected.

KEY FACTS AND FINDINGS

- In some cases, youth safety is compromised because facilities do not ensure that youth are placed with a suitable roommate. For example, facility policies at 44 percent of facilities we visited do not prohibit potential victims and aggressors from being housed in the same sleeping room. Additionally, facility staff do not always complete the vulnerability assessment accurately or consistently.
- The Division should take a leadership role in ensuring that all facilities use proven behavior management models. One facility implemented a behavior management program that led to an environment of bullying and intimidation among the youth. Additionally, depending on the facility in which youth are placed, some youth may be able to complete the first level of their behavior management program more than five times faster than other youth without performance benchmarks to determine if the various programs are successful.
- Facilities do not always ensure that youth are afforded due process rights. Specifically:
 - Of 32,669 major rule violations documented for Fiscal Years 2006 through 2010, 24 percent of youth were not notified timely that they were being cited for a major rule violation. In 59 percent of cases, youth did not receive sufficient advance notice of the disciplinary hearing associated with the violation.
 - One facility was using a disciplinary process that violated both state statute and Division policy on the use of seclusion as a disciplinary measure. Entire housing units were subjected to this process, and for an average of 4 days, youth were placed in the most intensive part of the process, which can include being locked in their rooms and allowed only very limited programming, such as education or interaction with other staff and youth. Youth were not provided any opportunity to appeal this disciplinary action and were not given written notice of the action, as required by Division policy.

For further information about this report, contact the Office of the State Auditor
303.869.2800 - www.state.co.us/auditor

This page intentionally left blank.

RECOMMENDATION LOCATOR**Agency Addressed: Division of Youth Corrections**

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
1	22	Ensure room assignments are appropriate by (a) revising Division policies to clarify how facilities are expected to respond to vulnerability assessment questions and guide facility staff on interpreting results, including identifying acceptable criteria for overrides, and (b) providing additional and ongoing training to staff members on the purpose of vulnerability assessments and how to administer the tool and interpret the results.	Agree	a. February 2012 b. June 2012
2	27	Ensure that behavior management programs used by all state- and contractor-operated facilities follow proven models by (a) developing an inventory of evidence-based practices in behavior management programs used at facilities, (b) identifying proven models to make available for facility use, (c) ensuring facilities properly implement proven models by instituting quality assurance reviews of behavior management programs as a part of the annual monitoring process, and (d) developing key performance indicators for behavior management programs and requiring facilities to report on these measures at least annually.	Agree	a. July 2013 b. July 2012 c. July 2012 d. July 2013
3	35	Increase the scope and depth of quality assurance and monitoring reviews of facilities' adherence to due process controls for major rule violations and special management programs. Additionally, take immediate action to stop the identified facility from using the staff control special management program, and take personnel action, as appropriate, to hold staff responsible for implementing staff control programs.	Agree	July 2012

RECOMMENDATION LOCATOR**Agency Addressed: Division of Youth Corrections**

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
4	41	Improve its handling of sexual contact incidents by (a) ensuring facilities document incidents involving sexual misconduct in Trails so that incidents can be identified and included in the required Prison Rape Elimination Act of 2003 reports, and training staff to ensure the appropriate use of the “other” category for incidents and rule violations and that all notification and follow-up fields are complete, and (b) requiring facilities to report all sexual misconduct incidents to the Facility Director, including consensual incidents.	Agree	a. February 2012 b. June 2012
5	44	Improve its methods of collecting and analyzing data on the safety, security, and service needs of all detained and committed youth by (a) developing standardized survey questions for the youth survey on sexual contact for contractor-operated facilities, (b) requiring a standardized youth survey of youth service needs at state-operated and contractor-operated facilities, and (c) ensuring that the youth survey on sexual contact is administered confidentially.	Agree	a. July 2012 b. February 2012 c. Implemented d. December 2012

Overview of the Division of Youth Corrections

Chapter 1

The Colorado juvenile justice system protects, restores, and improves public safety by sanctioning youth offenders while taking into consideration the best interests of the youth and the community. The system is decentralized and organized to distribute the functions among several state and county entities. The Judicial Branch tries and sentences youth and manages youth probation; the Department of Public Safety oversees community diversion programs; county departments of social services administer youth sentenced to out-of-home placements in the child welfare system; and the Division of Youth Corrections (the Division) oversees youth detention, commitment, and parole.

Division of Youth Corrections' Role in the Juvenile Justice System

The Division is operationally located in the Department of Human Services, Office of Children, Youth and Families. The Division's mission is to protect, restore, and improve public safety through services and programs that:

- Effectively supervise youth offenders.
- Promote offender accountability to victims and communities.
- Build the skills and competencies youth need to become responsible citizens.

The Division further defines its mission in five key strategies. Specifically, the Division states that it (1) will provide the right services at the right time, (2) delivered by quality staff, (3) using proven practices, (4) in safe environments, (5) embracing restorative community justice principles.

The Division oversees youth between the ages of 10 and 21 who have been detained, committed, or paroled. Detained youth are in the Division's physical custody but not legal custody. Typically, detained youth are youth who have been arrested but not yet adjudicated. However, youth can also be sentenced to up to 45 days in detention. Committed youth are those youth who have been convicted of a crime in juvenile court, and their legal custody has been transferred to the Division. Finally, paroled youth are those who have been committed to the

Division's custody and later released into the community with some remaining oversight by the Division.

The Division oversees the operation of state- and contractor-operated detention, commitment, and community-based facilities that house detained and committed youth. The Division directly operates 11 secure facilities, including five multipurpose facilities that house detained and committed youth, three commitment-only facilities, and three detention-only facilities. Four of the five multipurpose facilities perform initial assessments of each youth committed to the Division to determine what state- or contractor-operated facility can best meet the youth's needs. Relative to the contractor-operated facilities, the state-operated facilities house youth with a higher risk of recidivism and greater treatment needs. All 11 state-operated facilities are secure, which means they are designed to prevent escape with locked doors, fencing, and perimeter inspections.

The Division also contracts with private contractors (contractor-operated facilities) that operate secure, staff-secure, and community-based facilities to house and provide services to detained and committed youth. In Fiscal Year 2011, 51 contractor-operated facilities provided services to detained and committed youth through these contracts with the Division. Three of the contractor-operated facilities operate their programs in state-owned buildings and facilities. Similar to state-operated secure facilities, contractor-operated secure facilities have locked doors and a secure perimeter. Staff-secure facilities can have unlocked exit doors or exit doors on a 30- to 90-second delayed timer so that youth can still leave the building on their own. At staff-secure facilities, staff have a 24-hour line-of-sight observation of the youth. Community-based facilities are the least secure type of facility and house both youth with the lowest risk of reoffending and youth transitioning back into the community. These facilities are located in residential areas and do not have locked doors.

The table below shows the average daily population of committed and detained youth in the different types of facilities. In Fiscal Year 2011, there was an average daily population of 1,039 committed youth in the Division's custody and an average daily population of 352 detained youth located in state- and contractor-operated facilities.

Division of Youth Corrections Facility Type and Average Daily Population Fiscal Year 2011				
Type of Facility	Description	Number of Facilities	Average Daily Population¹	State- or Contractor- Operated
Detention Secure Facility	Continuously locked doors, secure perimeter. Staff have the authority to physically prevent youth from leaving the facility.	8 ²	337	State-operated
Detention Staff-Secure Facility	24-hour staff line-of-sight observation of youth. Staff are prohibited from physically obstructing youth from leaving the facility.	4	15	Contractor-operated
Commitment Secure Facility	Continuously locked doors, secure perimeter. Staff have the authority to physically prevent youth from leaving the facility.	10 ³	493	State-operated and contractor-operated
Commitment Staff-Secure Facility	24-hour staff line-of-sight observation of youth. Staff are prohibited from physically obstructing youth from leaving the facility.	12	382	Contractor-operated
Commitment Community-Based Facility	Located in residential area, no locked doors. Staff are prohibited from physically obstructing youth from leaving the facility. Least secure commitment setting.	36	164 ⁴	Contractor-operated
Total		62⁵	1,391	
<p>Source: Office of the State Auditor's summary of information contained in the Division of Youth Corrections' Monthly Population Report for June 30, 2011.</p> <p>¹ Average daily population, by type of facility, in Fiscal Year 2011.</p> <p>² The Division operates 11 secure facilities, including five multipurpose facilities that house detained and committed youth, three detention-only facilities, and three commitment-only facilities. Therefore, there are eight state-operated facilities that house detained youth and eight state-operated facilities that house committed youth.</p> <p>³ Eight of the secure commitment facilities are state-operated, and two are contractor-operated.</p> <p>⁴ The average daily population for community-based commitment facilities includes an average daily population of 13 youth who were in other residential facilities, such as Job Corps, and mental health treatment programs in Fiscal Year 2011.</p> <p>⁵ Five state-operated and three contractor-operated facilities are both detention and commitment facilities.</p> <p>Note: The average daily populations identified above are not duplicative since detained and committed populations are noted by facility type.</p>				

It is important to note several distinctions between state- and contractor-operated facilities. All contractor-operated facilities are required to be licensed as residential child care facilities by the Department of Human Services, Office of Children, Youth and Families, Division of Child Care. State licensing regulations require contractor-operated residential facilities to have specific child-to-adult ratios, or the number of staff required to serve a specified number of youth. For instance, at contractor-operated facilities serving Division youth, one staff person cannot supervise more than 10 youth during daytime hours. State-operated facilities are not licensed by the Division of Child Care and, therefore, are not subject to these licensure requirements and regulations. Also, while all state-operated facilities house only Division detained and committed youth, not every contractor-operated facility the Division contracts with is operated for the Division's exclusive benefit and use. Some staff-secure and community-based facilities house detained and committed youth as well as youth who have been placed there by their legal guardians or county social services.

In addition to administering residential placements for detained and committed youth, statute (Section 19-2-209, C.R.S.) charges the Division with the administration of youth parole services, such as parole supervision and monitoring, and therapy and treatment for the youth. Additionally, the Division administers Senate Bill 91-94 programs, which are state-funded, locally administered programs that provide preadjudication services (services to youth who have not yet been convicted of a crime), such as intervention, treatment, and family counseling, to youth at risk of admission to a detention facility.

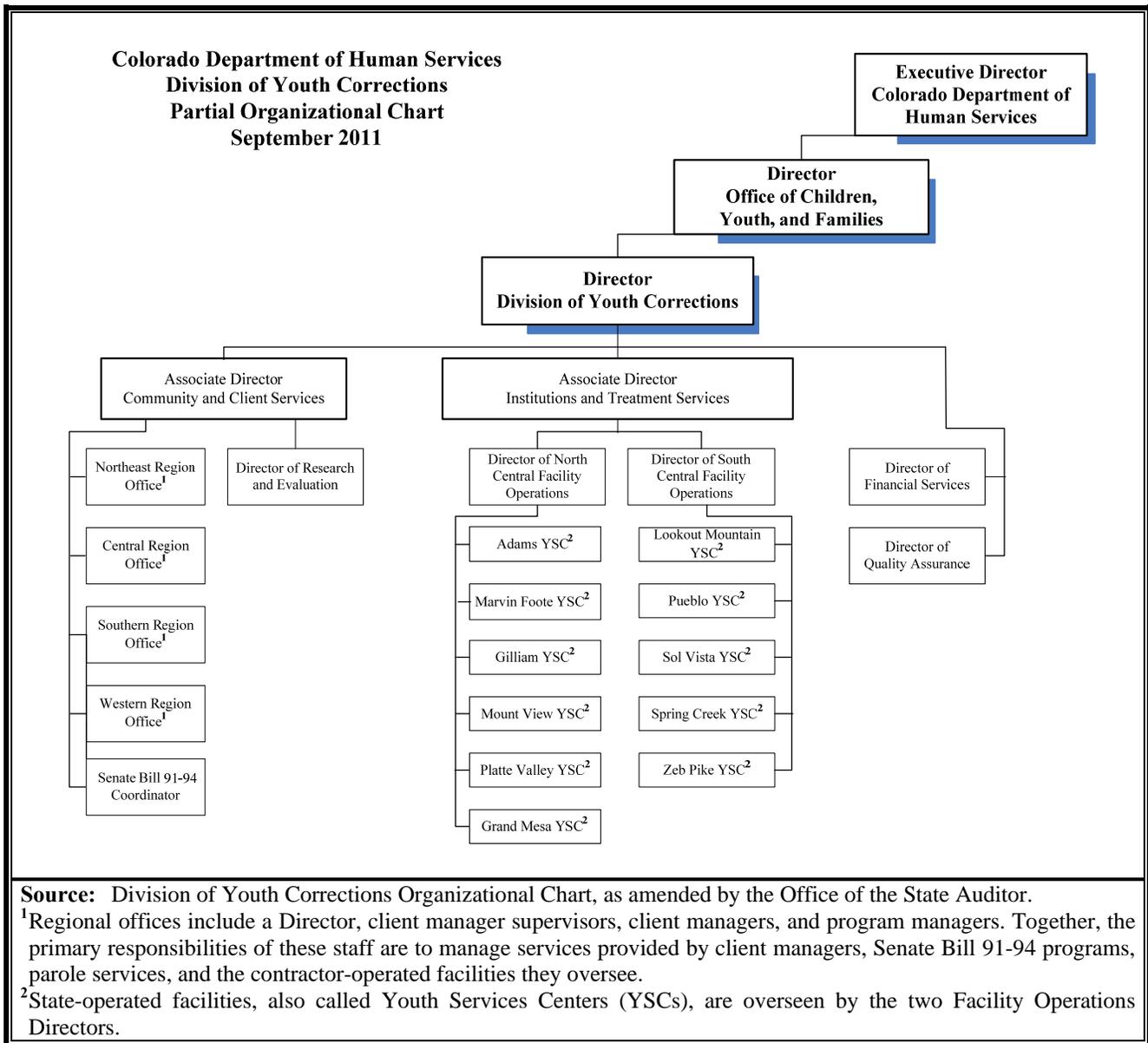
Division of Youth Corrections Organization

The Director of the Division is the appointing authority and therefore responsible for oversight and management of the Division. The Division's central office located in Denver consists of staff who serve Division-wide functions, such as education, food services, quality assurance, and research and evaluation. The Division also has two Associate Directors; one Associate Director oversees community-based Senate Bill 91-94 programs, regional offices, and contractor-operated facilities, and the other oversees the state-operated facilities. Additionally, the Division has two Directors of Facility Operations who directly oversee the facility directors at 11 state-operated detention and commitment facilities. Each facility director is responsible for oversight of the state-operated facility.

In addition to the central office and the state-operated facilities, the Division has four regional offices in the state: central, northeastern, southern, and western. The regional offices are responsible for the administration of contracts with private contractors, monitoring of residential and nonresidential programming, and

coordination of community programs in their region. Regional office directors are responsible for oversight of the contractor-operated facilities. Client managers who are assigned to manage a youth’s case from commitment through parole are also based out of the regional offices.

This information is further demonstrated in the following organizational chart:



Committed Youth

Not every youth who has been convicted of a crime in juvenile court is subsequently committed to the Division's custody. The presiding judge has several options when sentencing a delinquent youth. For instance, some youth are placed with county social services, fined, ordered to pay restitution, or sentenced to take anger management classes. According to statute (Section 19-2-601, C.R.S.), only juveniles convicted in juvenile court as aggravated offenders for committing a class 1 or 2 felony are *required* to be committed to the Division's custody. An aggravated offender is one who has been found guilty of committing (a) a class 1 or 2 felony; (b) a felony and is subsequently convicted of a crime of violence in juvenile court; or (c) felonious unlawful sexual behavior, incest, or aggravated incest. For all other aggravated offenders, and youth convicted of other crimes, judges have discretion as to whether to commit a youth to the Division or to identify another suitable sentence.

The type of offense a youth commits does not necessarily determine his or her sentence. Most of the youth (85 percent) sentenced to the Division in Fiscal Year 2010 were convicted of crimes against a person or property. However, about 15 percent of the youth sentenced during Fiscal Year 2010 were committed to the Division for other crimes including drug, weapons, or other offenses. Person offenses include crimes such as aggravated assault, criminal homicide, robbery, simple assault, and violent sexual assault. Property offenses include arson, burglary, and theft. The table below shows the types of offenses for which committed youth were sentenced during Fiscal Years 2008 through 2010.

Division of Youth Corrections Types of Offenses By Youth Sentenced Fiscal Years 2008 Through 2010¹				
Type of Offense	Fiscal Year			Percentage Change
	2008	2009	2010	
Person ²	325	300	333	2%
Property ³	338	315	300	(11)
Drug ⁴	49	39	46	(6)
Weapons ⁵	34	21	16	(53)
Other ⁶	49	85	48	(2)
Total	795	760	743	(7)%

Source: Office of the State Auditor's analysis of data contained in the Division of Youth Corrections' Fiscal Year 2010 Management Reference Manual.

¹This table represents only the youth sentenced during each fiscal year and not the average daily population of committed youth.

²Person offenses include aggravated assault, criminal homicide, robbery, simple assault, and violent sexual assault.

³Property offenses include arson, auto theft, burglary, and theft.

⁴Drug offenses include drug trafficking, use, and possession.

⁵Weapons offenses include use of a weapon during the commission of another crime.

⁶Other offenses include any offense that does not fit within another category or for which data were not available.

Revenue and Expenditures

The Division is primarily funded through the General Fund. However, the Division also receives some federal funds through grants and subgrants, including Medicaid and the federal School Breakfast and Lunch Program. As noted in the table below, in Fiscal Year 2011, the Division spent more than \$73 million for personal services, which includes Division administration, operation of its detention and commitment facilities, oversight of community parole programs, and case management for youth. In addition, the Division spent about \$33 million on contracts with private service providers for placing youth in contractor-operated secure, staff-secure, and community-based facilities. The Division also funds community-based, nonresidential services for youth through the Senate Bill 91-94 programs and parole program services. The following table shows the number of full-time-equivalent employees in the Division as well as Division revenue and expenditures for Fiscal Years 2007 through 2011.

**Division of Youth Corrections
Revenue and Expenditures
Fiscal Years Ending June 30, 2007, Through June 30, 2011**

	2007	2008	2009	2010	2011	Percentage Change FY 07-11
FTE¹	986.9	1,004.3	1,009.8	1,008	998.4	1%
Revenue						
General Fund	\$136,745,300	\$139,020,100	\$142,911,800	\$138,152,400	\$131,488,500	(4)%
Federal Funding ²	4,185,700	3,398,400	3,385,200	4,367,800	5,262,500	26
Recovery Act Funds ³	0	0	0	1,894,300	1,619,000	N/A
Miscellaneous Funds ⁴	1,260,300	602,700	381,200	264,400	750,100	(40)
Total Revenue	\$142,191,300	\$143,021,200	\$146,678,200	\$144,678,900	\$139,120,100	(2)%
Expenditures						
Personal Services ⁵	\$ 65,886,800	\$ 71,055,900	\$ 74,729,800	\$ 74,361,400	\$ 73,371,000	11%
Operating Expenses ⁶	5,631,300	4,893,700	5,299,200	5,626,800	5,647,900	0
Payments to Contractor-Operated Facilities ⁷	48,483,400	43,657,800	41,343,000	35,835,800	32,642,800	(33)
Senate Bill 91-94 Programs ⁸	10,407,700	12,458,000	13,228,000	13,238,600	12,926,400	24
Other Expenditures ⁹	5,680,300	7,183,900	7,937,000	7,221,600	7,566,200	33
Total Expenditures	\$136,089,500	\$139,249,300	\$142,537,000	\$136,284,200	\$132,154,300	(3)%

Source: Office of the State Auditor's analysis of information in the Colorado Financial Reporting System (COFRS) and the Joint Budget Committee's Appropriation Reports for Fiscal Years 2007 through 2011.

¹FTE means full-time-equivalent staff positions for the Division, as identified in the Joint Budget Committee's Appropriation Reports.

²Federal funding includes funding from Title IV-E of the Social Security Act; Medicaid; and federal grants for which the Division is a subrecipient from the Departments of Higher Education, Human Services, Education, and Public Safety.

³Federal American Recovery and Reinvestment Act of 2009 funds.

⁴Miscellaneous funds include the Arts in Public Places Fund, Capital Construction Fund, and facility trust funds, which include revenue generated from the facilities that must be used on juvenile programs.

⁵Personal services for Division administration, state-operated facilities, case management, and community programs.

⁶Operating expenses for Division administration, state-operated facilities, case management, and community programs.

⁷Payments to contractor-operated facilities to provide residential and treatment services in secure, staff-secure, and community-based facilities to detained and committed youth.

⁸Senate Bill 91-94 program funds are state-funded, locally administered programs that provide services to youth who have not yet been convicted of a crime. Services include intervention, treatment, and family counseling.

⁹Other expenditures include (1) Boulder Managed Care Project, a pilot program for which the Division pays Boulder County a capped dollar amount to serve a set number of detained and committed youth in Boulder County; (2) Parole Program Services for services such as tracking, day treatment, day reporting, and electronic monitoring designed to facilitate a successful transition from commitment to parole; and (3) miscellaneous expenses, including grants, insurance proceeds, and shipping related to donated food.

The Division's funding is appropriated in two separate line items for state-operated facilities and contractor-operated facilities, and the Division cannot fund beds at contractor-operated facilities out of the state-operated facilities budget. In Fiscal Year 2011, the Joint Budget Committee recommended funding the Division at a level consistent with 110 percent occupancy for committed youth in state-operated facilities. By filling state-operated facilities over capacity, the cost per youth housed at the facility decreases since many costs at state-operated facilities, such as staff salaries and utilities, are fixed. Moreover, exceeding capacity at state-operated facilities also reduces the Division's out-of-pocket expenditures for contractor-operated facilities since the Division no longer needs to pay for the beds at the contractor-operated facilities. A similar mandate was issued in Fiscal Year 2010 by the Office of the Governor through Executive Order D 2010-003, which required the Division to fill state-operated facilities to 120 percent capacity.

Audit Scope and Methodology

We conducted this performance audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. Audit work was performed from October 2010 through November 2011. We acknowledge the cooperation and assistance provided by Division staff.

The objective of our audit was to evaluate the processes used by the Division to ensure the safety of youth, facility staff, and the community. Specifically, our objectives were to determine whether:

- State- and contractor-operated detention and commitment facilities (1) adequately identify safety risks for youth, staff, and the community in which the facilities are located, and (2) maintain adequate controls to mitigate identified safety risks for youth and staff at the facilities as well as the communities in which they are located.
- The Division adequately ensures compliance with its safety policies and best practices at state- and contractor-operated facilities to protect youth, staff, and the community.
- The Division adequately monitors and oversees youth placement decisions to ensure the safety of youth, staff, and the community.

To accomplish the audit objectives identified above, we reviewed Division policies and facility-specific procedures, analyzed available electronic data and paper case files, and performed staff interviews. We also reviewed best practices identified by the U.S. Department of Justice, Office of Juvenile Justice and

Delinquency Prevention, the American Correctional Association, and industry academic journals and reports to develop criteria for audit recommendations. As part of our audit work, we visited five state-operated and five contractor-operated facilities. Our facility sample selection was designed to provide a cross-section of secure and staff-secure facilities located throughout the state and operated by both the State and private contractors. We considered the following criteria to select the facilities for site visits: the population served, average daily population of the facility, number of major rule violations and critical incidents reported, number of workers' compensation claims reported, and number of Division internal audit violations. For those facilities we visited, we selected several different samples. Specific information on each of the samples follows.

- **Case Files**—We judgmentally selected a nonstatistically valid sample of 186 facility-based case files for committed and detained youth. These files were spread across the five state-operated and five contractor-operated facilities contained in our site visit sample. We selected the files based on a review of records from the Department's case management database, Colorado Trails (Trails), for major rule violations and critical incidents that occurred at the facilities between Fiscal Years 2006 and 2010. Major rule violations are youth actions that pose a clear threat to the youth or others, such as a fight or intimidation. Critical incidents are serious life, safety, or security concerns to the juvenile or others, such as admission to a hospital or an escape. Because our site visits occurred in Fiscal Year 2011, and therefore the Trails data may not have included current facility residents, we also selected a small number of files at each location from the list of youth currently residing at the facilities.
- **Vulnerability Assessments**—We judgmentally selected a nonstatistically valid sample of 92 vulnerability assessments contained in case files at both the state- and contractor-operated facilities. A vulnerability assessment is the Division's tool for assessing a youth's risk of victimization or sexually aggressive behavior and overall risk upon entering a facility. The assessment is primarily used to make room assignments within a facility. Within the overall sample of 92 vulnerability assessments, we identified several subsets of samples that met one or more of the following criteria: (1) assessments that facility staff completed manually, (2) assessments that facility staff completed electronically in Trails, and (3) multiple assessments of the same youth.
- **Major Rule Violations**—We used two sets of data in our analysis of major rule violations. First, we reviewed the complete data set for all major rule violations reported to the Division in Fiscal Years 2006 through 2010 by all 11 state-operated and the three contractor-operated facilities that report major rule violations in Trails. Second, we judgmentally selected a nonstatistically valid sample of major rule violations from the

electronic data to review as part of our case file review at the five state-operated facilities. We selected the sample of major rule violations to review while on site at the state-operated facilities using the following criteria: the incident type and frequency at the facility, the description of the incident, and follow-up action reported to the Division.

- **Facility-Specific Implementation Procedures**—For all 10 facilities we visited, we reviewed all facility-specific implementation procedures related to the safety and security of youth, staff, and the community.
- **Youth Surveys**—At each of the 10 facilities we visited, we reviewed all available youth needs surveys and sexual contact prevention surveys conducted by the facilities between Fiscal Years 2008 and 2010.

The samples we took from Trails for major rule violations and security-level classifications contained the complete data set; therefore, these samples represent the entire population. The remaining samples were judgmentally selected using auditor judgment and risk assessment and, therefore, cannot be extrapolated to the entire population. These remaining samples were conducted to provide sufficient coverage of those areas, such as room assignments, disciplinary processes, staff safety, and quality assurance processes, which were significant to the objectives of this audit. Additional detail about audit samples and testing results is discussed in each of the individual audit findings and recommendations.

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.

This page intentionally left blank.

Safety

Chapter 2

The Division of Youth Corrections (the Division) is responsible for ensuring that both state- and contractor-operated facilities provide a safe environment for detained and committed youth. Without safe and secure facilities, the Division cannot carry out its mission to ensure community safety and rehabilitate youth. For this reason, the Division's policies and processes are largely focused on ensuring safety. For instance, Division Policy 13.1 states that youth should be free from corporal punishment, harassment, mental or physical abuse, personal injury, intimidation, property damage, threats, assault, and humiliation. A safe environment facilitates rehabilitation of youth, reduces litigation risks, and reduces workers' compensation expenses.

Ensuring Division-wide safety begins with the assessment and placement of youth in the proper facility and room and continues through provision of rehabilitative treatment and services that provide youth with appropriate levels of supervision, promote youth's accountability to victims and communities, and build youth's skills and competencies so they can become responsible citizens. As part of the Division's efforts to continuously improve its services and outcomes, in the spring of 2006, the Division launched the Continuum of Care initiative. The premise of the Division's Continuum of Care initiative is to provide each committed youth the "right services at the right time." Providing the right services at the right time involves assessing the youth to determine the appropriate placement, using evidence-based treatment programs, and offering effective community transition services.

We reviewed the Division's activities related to ensuring safety throughout its state- and contractor-operated facilities and identified problems in three areas: (1) youth room assignments, (2) youth treatment protocols specific to behavior management programs, and (3) youth rights. Our findings and recommendations are discussed below.

Youth Room Assignments

Providing a safe environment at all facilities begins with the assessment and placement of committed youth. Section 19-2-922(2), C.R.S., requires the Division to properly assess and place committed youth. Industry best practices also address the importance of proper youth placement. For example, Georgetown University's Center for Juvenile Justice Reform reports that an appropriate facility placement

ensures a youth's security-risk and treatment needs are met. Moreover, since the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention Programs reports that multiple-occupancy sleeping rooms are often sources of increased youth injuries and intimidation, an appropriate room assignment also mitigates safety concerns for the youth once placed at a facility. Placing a youth in accordance with his or her treatment and security needs is paramount to achieving youth, staff, and community safety.

There are two key placement decisions that must be made for each youth committed to the Division's custody. First, a multidisciplinary team of Division staff must choose the facility that best meets the youth's treatment, security, and other needs, such as proximity to family support systems. Second, the youth needs to be assigned to a specific room within the facility. We reviewed the Division's placement practices specific to the Division's facility placement decisions and room assignments within the facilities and identified problems with youth room assignments.

After the multidisciplinary team identifies the appropriate facility for a youth, facility staff must determine which housing unit and room within that unit to assign the youth. Each facility typically contains several housing units, and each housing unit contains anywhere from five to 36 rooms. Division Policy 16.1 requires state- and contractor-operated facilities to use formal assessment tools to determine the youth's housing unit and room assignments. This includes performing a vulnerability assessment and suicide risk assessment for each youth upon admittance. To classify the youth as high, medium, or low risk, the vulnerability assessment uses factors such as the youth's perception of his or her own safety, age, arrest history, history of abuse, and fit within the facility's culture. A risk score is identified in each of three risk categories: overall risk, vulnerability to victimization, and sexually aggressive behavior. Division Policy 9.19 further prohibits any youth with a vulnerability assessment that identifies the youth as high risk for vulnerability to victimization from being assigned to the same room as a youth whose vulnerability assessment identified that youth as being high risk for sexually aggressive behavior.

According to the vulnerability assessment instrument, if a youth receives a high score in any one of the three areas (overall risk, vulnerability to victimization, or sexually aggressive behavior), the youth is prohibited from having a roommate. However, some facilities, due to their room configuration or current capacity, do not have single occupancy rooms. In these cases, additional scrutiny of the vulnerability assessment scores is needed to ensure that youth who are at risk of being victimized are not placed with youth who are at risk for sexually aggressive behavior.

We evaluated youth room assignments by reviewing a total sample of 92 vulnerability assessments conducted for 60 youth at the 10 facilities in our

sample. We identified multiple concerns with some of the 92 vulnerability assessments we reviewed. Overall, we found that facilities are not always using the vulnerability assessment tool consistently or accurately, and, as a result, facilities cannot ensure that youth are placed with a suitable roommate. Specifically, we found:

- **Some staff did not always respond consistently to the questions contained on the vulnerability assessment.** Division Policy 9.19 requires all facilities to administer the vulnerability assessment when a youth first enters the facility and whenever the youth is involved in sexually inappropriate behavior at the facility. The vulnerability assessment evaluates *dynamic* factors, such as the youth's impressions of his or her safety, that should change based on when the instrument is administered and *static* factors, such as the youth's intellectual ability and physical appearance, that should not change significantly over time. Some factors are evaluated using a file review, while others are evaluated based on the assessor's interviews with the youth. Our sample of 92 vulnerability assessments included 60 youth. Of these 60, we found evidence in the case files that 21 youth had undergone two or more vulnerability assessments performed by two or more staff. Of these 21 youth, we identified 16 (76 percent) youth for whom two or more staff members administered separate vulnerability assessments for the same youth but responded differently to the static questions. Of these 16, the score discrepancy between the two different assessors for 10 of the youth was significant enough that the youth should have had a different outcome in terms of their room assignment. As an example, we identified one instance in which one staff member gave a youth an overall vulnerability assessment score of 17, which is considered a high-risk score, while another staff member, administering the instrument 1 month later, gave the same youth a score of 12, which is considered a medium-risk score. The score decrease resulted, in part, from differences in the two staff members' assessment of the youth's intellectual ability, which was based on their review of the youth's case file. Consequently, over the course of a month, the youth went from being classified as high risk and prohibited from having a roommate to medium risk and therefore allowed to have a roommate.
- **Some staff used an incorrect version of the vulnerability assessment tool.** The Division issued a new hard copy version of the vulnerability assessment tool in November 2009 to correct a scoring error contained in the previous version. The hard copy version is completed manually by staff at contractor-operated facilities who do not have access to the electronic version in Trails. The scoring error exaggerates or diminishes both the youth's overall risk score and the youth's vulnerability to

victimization score by two points, which can be enough to affect a youth's risk level. Of the 92 vulnerability assessments we reviewed, 22 were completed manually after the latest version of the vulnerability assessment was released. We reviewed the 22 vulnerability assessments, which were manually completed between November 2009 and March 2011, and found 16 (73 percent) instances in which the staff members administering the instrument did not use the most current version of the vulnerability assessment. Although we did not review the resulting room assignments, the point discrepancy in these cases could have affected whether a youth was considered high or low risk and, therefore, could have impacted the housing unit and sleeping room to which the youth was assigned.

- **Some staff members incorrectly interpreted the meaning of the vulnerability assessment's risk scores and failed to complete all parts of the vulnerability assessment form.** It is the responsibility of the staff member completing the vulnerability assessment to review the score totals for each of the three assessment areas; determine whether a youth has a high overall risk, high risk of victimization, or high risk of engaging in sexually aggressive behavior; and complete the "Results" section. Of the 92 vulnerability assessments in our sample, there were 78 for which staff had completed the "Results." For the remaining 14, the staff member completing the assessment left the "Results" section blank. We reviewed the "Results" section for these 78 vulnerability assessments and found that the staff member administering the instrument incorrectly interpreted the score for 26 (33 percent) of the assessments. For instance, one youth received a score of 16 for the sexually aggressive behavior subset of questions. Although 16 is the maximum number of points available in the sexually aggressive behavior segment of the vulnerability assessment, which therefore indicates the youth was high risk for sexually aggressive behavior, a staff member concluded on the vulnerability assessment form that the youth was not sexually aggressive.
- **Facilities lack criteria on when it is appropriate to override the vulnerability assessment scores.** Division Policy 1.5 requires all state- and contractor-operated facilities to develop their own implementing procedure for each Division policy. Division Policy 16.1 requires all facilities to use a formalized process for overriding the results of a vulnerability assessment. Although all 10 facilities we visited override vulnerability assessment scores, we found that none of the 10 facilities in our sample have written criteria in their implementing procedures for staff to use in determining when it is appropriate to override the results of the vulnerability assessment.

- **Procedures at most facilities with multiple-occupancy rooms could result in assigning potential victims and aggressors to the same sleeping room.** As noted above, Division Policy 9.19 prohibits placing a youth whom the vulnerability assessment has identified as having a high risk of vulnerability to victimization in the same sleeping room as a youth identified as having a high risk of being sexually aggressive. However, some facilities, due to the room configuration or facility capacity, cannot house each youth identified as high risk by the vulnerability assessment in a single room. Consequently, these facilities need to prohibit potential victims and aggressors from being housed in the same sleeping room. While each facility is required to have implementing procedures specifying how the facility will implement Division policies, we found that the implementing procedures at four (44 percent) facilities (one state-operated and three contractor-operated) of the nine facilities we visited with multiple-occupancy rooms do not prohibit assigning potential victims and aggressors to the same room. These facilities use only the vulnerability assessment's overall risk score for room assignment purposes and place youth with similar overall risk scores in the same room. As a result, these facilities are at risk for placing a youth with a high score for victimization in the same room with a youth who has a high score for being sexually aggressive.
- **An error in the Department's case management system, Trails, results in improper vulnerability assessment scores.** Access to Trails is primarily limited to staff at state-operated facilities. With a couple of exceptions, staff at contractor-operated facilities do not have access to Trails and therefore must complete all vulnerability assessments by hand. Staff members with access to Trails can input their responses to the vulnerability assessment directly into Trails, which scores the responses and produces an overall risk score, a vulnerability to victimization score, and a sexually aggressive behavior score. Of the 92 vulnerability assessments we reviewed, 48 were entered directly in Trails. We reviewed the 48 vulnerability assessments entered directly into Trails between August 2008 and April 2011 and found that 29 (60 percent) contained a scoring error. Question one of the assessment requires a "yes" or "no" response, and Trails reversed the point values assigned to the responses. As a result of this scoring error, the youth's score was either falsely exaggerated or diminished by two points, which could place the youth into a higher or lower risk category.

Overall, these errors decrease the safety of youth inside a facility. The decision about where to place a youth within a facility directly affects the safety of that youth. We reviewed the 79 instances of sexual violence (assault or abuse) between youth occurring in facilities between Fiscal Year 2006 and Fiscal Year

2010 and found that more than 29 percent occurred within youth sleeping rooms. As a result, youth are at greater risk of being the victim of acts of physical or sexual violence within their housing units than anywhere else within the facility.

We identified the following causes for the room assignment classification concerns we discussed above.

- **Unclear Instructions.** The vulnerability assessment form instructions are not clear. Of the three risk categories—overall risk, vulnerability to victimization, and sexually aggressive behavior—the Division’s vulnerability assessment form does not define what the threshold is for when a score places a youth in the “high risk” category for either sexually aggressive behavior or vulnerability to victimization. At the same time, the vulnerability assessment form instructs facility staff to not place a youth in a double room if the youth scored as a high risk for vulnerability for victimization or sexually aggressive behavior. These contradictions make it difficult for staff to properly interpret the scores and make appropriate room assignment decisions.
- **Lack of Criteria for Overriding Scores.** Division Policy 16.1 allows facility staff to override the outcome of the vulnerability assessment. However, while the policy requires facility staff to document the rationale for the override, neither Division policy nor policies at any of the 10 facilities we visited provide guidance on types of reasons that would be appropriate for overriding a vulnerability assessment score.
- **Lack of Training.** The Division has not provided sufficient guidance to intake staff on how to interpret the scores for the three areas of the vulnerability assessment. During interviews with intake staff, they stated that they have received very little training on how to administer the vulnerability assessment. Consequently, some facility staff may not fully understand what the vulnerability assessment is designed to measure or how to interpret the results.

Recommendation No. 1:

The Division of Youth Corrections (the Division) should ensure room assignments are appropriate by improving the implementation of the vulnerability assessment instrument. Specifically, the Division should:

- a. Revise Division policies related to the vulnerability assessment to clarify how facilities are expected to respond to the questions and to guide facility staff on interpreting results, including identifying acceptable criteria for overrides.

- b. Provide additional and ongoing training to staff members on the purpose of vulnerability assessments and how to administer the tool and interpret the results.

Division of Youth Corrections Response:

Agree.

- a. Implementation date: February 2012.

The Division of Youth Corrections will revise Division Policy 9.19 – Sexual Contact Prevention Policy and Policy 16.1 – Admission, Reception and Orientation Policy to reflect procedural expectations for administering the vulnerability assessment instrument. Division Policy 9.19 – Sexual Contact Prevention includes the vulnerability assessment instrument as an attachment. The Division will include specific instructions on how to interpret the results of the vulnerability assessment and will also develop criteria for overriding, when necessary, the results of the instrument. All newly hired direct care staff receive training on the vulnerability assessment instrument in the Division’s pre-service training academy.

- b. Implementation date: June 2012.

The Division’s Office of Staff Development will review and strengthen the initial pre-service vulnerability assessment training and will also update the Division’s Prison Rape Elimination Act (PREA) training curriculum, which will be provided annually to staff in facilities to include further training on administering, interpreting, and designating room assignments through use of the vulnerability assessment. As the Division continues to make improvements to, and provide additional training on, the vulnerability assessment process, the Division will continue to use the vulnerability assessment instrument, which mandates that a youth not be assigned a roommate if a youth scores high for either risk of victimization or risk for sexually aggressive behavior.

Behavior Management Programs

Nationwide, youth correctional facilities use behavior management programs to manage the behavior of committed and detained youth. A behavior management program is generally set up as a progressive process with a number of prescribed

levels and objectives at each level that youth need to accomplish to proceed to the next level, and eventually to progress to eligibility for parole. Depending upon the structure of the facility's behavior management program, the length of time it takes for a youth to progress through each of the levels can vary significantly. Behavior management programs help staff provide youth with tools to make good decisions, exhibit self control, and understand the consequences of inappropriate behavior. According to *Reclaiming Children and Youth*, a research journal that highlights best practices in youth offender treatment, effective behavior management programs promote order in facilities by setting up a clearly defined structure and supporting youth by incentivizing positive behaviors and requiring youth to follow rules. Behavior management programs also help youth to build trust in the facility and treatment providers, because the programs help ensure that disciplinary practices are consistent.

During our audit, we identified one facility that improperly implemented a behavior management program called Positive Peer Culture, which led to an environment of bullying and intimidation among the youth. A Positive Peer Culture Program is intended to promote individual responsibility, respect for others, and positive social behavior. According to the Winter 2007 issue of the journal *Reclaiming Children and Youth*, to successfully use the Positive Peer Culture Program, it must be used in a facility with a climate that:

- Is safe, and where adults and youth respect each other.
- Where each youth has a connection to at least one adult staff member.
- Where youth are required to bring serious concerns to the attention of adult staff members.
- Where youth try to help friends and peers who are in distress.

In our review of documents supporting the use of the Positive Peer Culture model at one facility, we found that youth were not always encouraged to bring serious concerns to the attention of staff members. Instead, the facility deviated from the guidelines of the program by having youth determine when other youth were exhibiting negative behaviors and then requiring the youth to "call out" other youth on problem behaviors and issue appropriate punishments. In addition, some youth participating in this program had committed violent crimes and, as a result, used the program to bully and target other youth rather than contribute to a respectful environment where the youth were helping friends and peers in distress. Staff at one facility reported that some youth in the program whose typical behavior style was of a bullying nature were using the Positive Peer Culture Program model to bully, tease, or intimidate other youth as revenge for some action that the other youth had taken.

Further, evidence-based practice guidelines published by the California Clearinghouse, a nationally recognized organization that disseminates information

on evidence-based practices related to child welfare issues, indicate that Positive Peer Culture Programs should be implemented in small groups of between eight and 12 youth, and the program should last between 6 and 9 months. However, we found that the detained youth at the facility that implemented this program were housed in large housing units with as many as 20 youth and had an average length of stay of only about 12 days. In conclusion, this particular facility was not a good candidate for the use of the Positive Peer Culture Program model.

As a result of concerns identified with one facility's behavior management program, and based on inconsistencies observed while visiting 10 state- and contractor-operated facilities, we selected a sample of three state-operated facilities at which to compare practices regarding behavior management plans. We selected these facilities specifically because they serve similar populations of youth. We reviewed the behavior management programs at these three facilities to determine if the programs provided similar opportunities to youth, and if the programs complied with other Division policies and statutes relevant to the use of administrative seclusion and disciplinary actions. We found a wide variation in behavior management programs among these three facilities. For example, we found that the length of time it takes for a youth to complete a behavior management program was significantly different depending on the facility. Specifically, we found that the programs had three to four different levels through which the youth should progress, and the length of time that youth are required to spend at the lowest level varied anywhere from 4 days to 3 weeks, depending on the type of program. Consequently, depending on which state facility the youth are placed in, some youth may be able to complete the first level of their behavior management program more than five times faster than other youth, giving those youth significant advantages in terms of increased privileges, including obtaining outside employment or being eligible for parole.

We found similar results for youth at three contractor-operated facilities that serve similar populations of youth. At these facilities, the behavior management programs had between three and five different levels, and the length of time youth are required to spend at Level 1 of the program is 2 weeks at one facility and 21 days at the second facility. At the third facility, completion of Level 1 is dependent upon the youth's completion of all objectives in his or her behavior management plan and varies from youth to youth.

The Division does not have performance measures for these programs to determine whether these variances are warranted and in the best interests of the youth being served, or alternatively, if programs should be made more consistent for facilities serving similarly situated youth. Moreover, the Division does not currently oversee the effectiveness of the behavior management programs as implemented at the facilities to make sure that all of its facilities' programs are being implemented appropriately.

Due to the concerns with the behavior management program at one facility and wide variation among the programs at the three similar state facilities and at the three similar contractor-operated facilities, we asked the Division whether it has reviewed behavior management models to determine if facilities are using proven models (evidence-based models that are developed using treatment protocols that industry research has identified as effective and as the best practice for treating youth in the juvenile justice system), whether the Division has performance measures to determine whether the models are operating effectively, and whether the Division approved the models currently used by all state- and contractor-operated facilities. For behavior management programs, using proven models means identifying programs that are based on treatment protocols that industry research has identified as effective and as the best practice for treating youth in juvenile justice systems. The Division reports that it has developed a process for evaluating the degree to which programs and facilities align with evidence-based practices. The evidence-based practice inventory examines the application of programs and practices determined to be evidence-based through years of independent research, ensuring fidelity of the program design and delivery to the appropriate client type. The evidence-based practice inventory is focused on a broad range of program activities, including behavior management. At the time of our audit, the Division reports that it had completed inventories for about 40 percent of all programs at state- and contractor-operated facilities, and it continues to work with a contract consultant to build internal capacity to continue this process.

The Division is a decentralized organization with multiple facilities located throughout the state. As such, ensuring that all state- and contractor-operated facilities are using proven models requires that the Division take a leadership role in identifying the types of behavior management programs that have proven to be most effective in rehabilitating youth, requiring facilities to use proven behavior management programs, training facilities on the appropriate use of those behavior management programs, and monitoring the implementation of the programs to ensure they adhere to the model. As the Division continues in its efforts to develop best practices in behavior management programs, it will be important for the Division to require facilities to use best practice models. Post-implementation review of the model will also be important to ensure the models are functioning properly.

The Division's approach of providing the right services at the right time anticipates that youth will move to less secure facilities as they progress through their treatment. As a result, most youth will reside at multiple facilities while committed to the Division's custody. For these reasons, it is important that the Division do more to ensure that all facilities follow proven behavior management models.

Recommendation No. 2:

The Division of Youth Corrections (the Division) should ensure that behavior management programs used by all state- and contractor-operated facilities follow proven models. Specifically, the Division should:

- a. Develop and maintain an inventory of evidence-based practices in behavior management programs used at facilities.
- b. Identify proven models to make available to facilities to use.
- c. Ensure facilities properly implement proven models by instituting quality assurance reviews of behavior management programs as a part of the annual monitoring process.
- d. Develop key performance indicators for behavior management programs and require facilities to report on these measures at least annually. The Division should use these performance indicators to determine whether behavior management programs are effective and identify areas for improvements at facilities.

Division of Youth Corrections Response:

Agree. The Division agrees that it is beneficial to identify proven models of behavior management and to inventory current practices within facilities. The Division also agrees that an ongoing assessment is necessary to ensure fidelity to the models in use by facilities. The Division currently utilizes an Evidence-Based Practice Inventory to evaluate state- and contractor-operated program adherence to evidence-based practices.

- a. Implementation date: July 2013.

The Division will compile and maintain an inventory of evidence-based practices in behavior management in use in facilities through the administration of the Division's internally developed Evidence-Based Practice Inventory instrument. The Evidence-Based Practice Inventory is a comprehensive program assessment that covers all aspects of programming, including behavior management. Currently, the Division has inventoried approximately 40 percent of all state- and contractor-operated programs using the Evidence-Based Practice Inventory. Through its work with an outside consultant, the Division will continue to train internal staff to ensure that the Division can

complete the remaining inventories and have the internal capacity to continue this process in the future.

b. Implementation date: July 2012.

The Division agrees to identify evidence-based practices and evidence-based models related to behavior management programs and provide this information to both state- and contractor-operated programs. The Division will use a variety of venues to keep providers informed of emerging best practices, including the Division's Provider Council and quarterly provider meetings, as well as posting information on the Division's website. As stated in the Division's response to part c below, the Division will also continue to gather information about facility practices and provide technical assistance to both state- and contractor-operated programs.

c. Implementation date: July 2012.

The Division will continue to utilize the Evidence-Based Practice Inventory instrument and/or program assessments to analyze practices at state- and contractor-operated facilities. The Division will identify specific elements of the Evidence-Based Practice Inventory instrument that can be aggregated and compared across programs, and will include these elements in its program monitoring process to ensure that programs are implementing these practices appropriately.

d. Implementation date: July 2013.

The Division agrees to utilize the Evidence-Based Practice Inventory to develop and track performance indicators for state-operated and contract facilities. Information will be gathered through the use of the Evidence-Based Practice Inventory, program assessments, and monitoring visits. The Division will implement collection and tracking of these indicators once the most effective elements of the instrument have been identified and field tested through the monitoring process.

Youth Rights

The 14th Amendment to the U.S. Constitution affords all individuals in the United States the right to due process protections. In the context of youth corrections, due process protections are any mechanisms designed to allow youth to refute allegations against them prior to receiving disciplinary sanctions. Division policies prescribe due process protections that ensure that facility safety and

security practices, such as using administrative seclusion, are not used for disciplinary purposes and do not unduly deprive a youth of access to education, treatment, or religious practices. There are three common processes in youth corrections in which due process protections are typically invoked.

Major Rule Violations. The Division's Policy 14.3A defines major rule violations as actions that pose a clear threat to self, others, or property, and actions that are against the law, such as escape, assault, fighting, intimidation, or other similar behaviors. Whenever a youth is accused of a major rule violation, due process protections must be followed before staff take disciplinary action.

Special Management Programs. Division Policy 14.5 states that special management programs shall be provided for youth with serious behavior problems or youth requiring special care. Special management programs can involve the placement of a youth in a locked room as a therapeutic intervention to manage the youth's behavior. Whenever a youth is placed in a special management program, classification and due process considerations shall be met.

Administrative Seclusion. Division Policy 14.3B defines administrative seclusion as placement of a youth in a locked room. Administrative seclusion can be used by facilities to control behavior as a precaution when the youth poses a serious, probable, or imminent threat of bodily harm to self or others; when a youth poses an imminent threat to the security of the facility; for complying with a court order; or for protecting the youth's safety and well-being from others. Administrative seclusion shall occur only after the failure of less restrictive alternatives or a determination that such alternatives would be inappropriate or ineffective under the circumstances. Administrative seclusion shall never be used as a form of punishment. To ensure administrative seclusion is used appropriately, the Division policy includes due process protections for youth.

We reviewed major rule violations, special management programs, and the use of administrative seclusion at each of the 10 facilities we visited and found internal control weaknesses at some facilities that prevent facilities from ensuring that youth are afforded due process rights, specifically when facilities are addressing major rule violations and implementing special management programs. These problems are discussed below.

Major Rule Violations

According to Division Policy 14.3A, all youth have the right to due process in disciplinary proceedings. Therefore, when a youth is charged with violating a

major rule of the facility, which could result in a disciplinary action, the youth has the right to due process prior to any disciplinary sanctions being imposed. Division policy defines major rule violations as actions that pose a clear threat to self, others, or property, and actions that are against the law, such as escape, assault, fighting, intimidation, or other similar behaviors. Division Policy 14.3A identifies a series of steps facility staff must take prior to imposing disciplinary sanctions on youth accused of committing a major rule violation. Specifically, facility staff must take the following steps prior to imposing a disciplinary sanction on a youth.

- A youth must receive notice of a major rule violation within 24 hours of a staff member discovering the violation.
- Prior to any disciplinary action, the youth must receive a disciplinary hearing, unless the youth waives his or her right to a hearing in writing.
- All hearings for major rule violations must occur within 72 hours of discovery of the events constituting the violation.
- A youth must receive 24 hours' advanced notice of any disciplinary hearing unless the youth waives that right in writing.

These protections allow a youth accused of a major rule violation to exercise his or her right to gather evidence, identify witnesses, and obtain a staff representative for the hearing.

Overall, we found facilities could do more to ensure that due process protections contained in the Division's major rule violation policy are implemented properly. We took a two-step approach to the review of major rule violations. First, we reviewed all major rule violations reported in Trails between Fiscal Years 2006 and 2010. Second, we reviewed a sample of records at the five state-operated facilities we visited for 51 major rule violations. We did not review major rule violations at contractor-operated facilities because most contractor-operated facilities do not report major rule violations in Trails, and, as a result, our ability to sample major rule violations at those facilities was somewhat limited.

Trails Data Review

We reviewed Trails data for Fiscal Years 2006 through 2010, including all 32,669 major rule violations reported by the state-operated facilities and the three facilities that are state-owned and contractor-operated. We found that facilities did not always adhere to the due process protections related to major rule violations that are identified in Division Policy 14.3A. Specifically, we found that:

- **Notice of the major rule violation was not always timely.** We identified 7,896 (24 percent) major rule violations for which more than 24 hours elapsed between discovery of the events constituting the violation and the youth's receiving notice of the violation. The time period between discovery of the violation and notice ranged from 2 days to 30 days. In other words, for 24 percent of all major rule violations reported in Trails, youth were not given written notice that they were being cited with a major rule violation for anywhere from 2 to 30 days after the alleged event occurred.
- **In most cases, youth did not receive sufficient advanced notice of disciplinary hearings.** We identified 19,298 (59 percent) major rule violations for which the youth received less than 24 hours' advanced notice of the disciplinary hearing. For each of these violations, the youth received notice of the hearing on the same day as the hearing. This means that for 59 percent of all major rule violations, youth had less than a day to identify witnesses, gather evidence, and request staff representation at the hearing.

In all of the instances described above, youth accused of major rule violations were deprived of some of the protections designed to ensure youth have the opportunity to refute the accusations against them.

Facility Record Review

We also reviewed documentation related to a sample of 51 major rule violations and the resulting disciplinary actions at the five state-operated facilities we visited. The results of the documentation review confirmed the concerns identified in our review of Trails data. Specifically, we found that for 28 (55 percent) of the violations, facility staff did not adhere to the due process protections required by Division Policy 14.3A. These violations included failing to provide notice of the major rule violation within 24 hours of discovering the events, failing to provide 24 hours' advanced notice of a disciplinary hearing or obtain a written waiver from the youth waiving that right, and imposing disciplinary sanctions without providing the youth notice of the violation or holding a hearing.

The Division's oversight of facilities could include doing more to identify due process violations and prevent facilities from continuing to engage in such violations. The Quality Assurance Office's audit standards require that the Division's internal audit team review major rule violations, including verifying that due process items such as youth notification and hearings were carried out. However, the sheer volume of due process violations we identified—more than 27,000 due process violations in just fewer than 33,000 reported major rule

violations—indicates that this is an area in which the quality assurance processes should be strengthened.

Special Management Programs

Section 26-20-103, C.R.S., prohibits the use of seclusion, or placing youth behind a locked door, for disciplinary purposes. However, when youth behavior becomes an imminent risk to the youth, others, or the security and/or order of the facility, statute (Section 26-20-103, C.R.S.) and Division Policies 14.3B and 14.5 provide the Division with tools, including administrative seclusion and special management programs, that facilities can use to gain control over extreme behavior.

Specifically, when youth are placed in administrative seclusion, the facility must adhere to the following due process protections.

- A staff member must document the rationale for the seclusion.
- A staff member must evaluate the youth's status at least every 15 minutes while the youth is secluded.
- If the seclusion lasts longer than 24 hours, the Facility Director, or the Facility Director's designee, must review the seclusion.
- If the seclusion lasts longer than 72 hours, a team of facility staff must review the seclusion.

These protections ensure that the seclusions are justified and continue for only as long as the youth present a serious or imminent risk of harm to themselves or others.

Division Policy 14.5 provides similar due process protections for a youth being considered for a special management program. A special management program is a behavior management program designed specifically for one youth due to that youth's safety risk or specialized needs. Generally, a special management program involves the suspension of all or part of normal facility programming. Normal facility programming includes school, group therapy sessions, recreational activities, and meal times outside of the housing unit. Youths who have exhibited repeated violent behavior, are escape risks, have severe mental health needs, or have refused life-sustaining medication can be placed in a special management program. However, prior to implementing the special management program, the facility must take the following steps.

- The facility must provide the youth written notice that he or she is being considered for a special management program.
- A team of facility staff must consider the appropriateness of placing the youth in a special management program.
- The facility must ensure the special management program complies with the youth's treatment plan.
- Once the program is instituted, the facility must provide the youth a written copy of the special management program and provide an opportunity for the youth to appeal the program.

The mechanisms in place for implementing a special management program ensure that facilities balance the overall safety and security of the facility with the need to ensure youth are not unduly deprived of regular programming without justification.

To evaluate the implementation of due process protections related to special management programs, we reviewed the disciplinary practices of the 10 facilities in our sample. We found one state-operated facility with a disciplinary practice that did not adhere to the due process controls related to special management programs and seclusion. Specifically, one of the facilities we visited was using a disciplinary process called "staff control." Staff control was used by this facility as a behavior management technique that restricts the movement and programming (e.g., school, lunch, group therapy, etc.) for an entire housing unit, which could include as many as 21 youth. The housing unit staff start the staff control process with the "intensive phase," which begins with locking the residents in their sleeping rooms to perform a thorough safety investigation. Facility implementing procedure states that youth should remain locked in their rooms for no more than 3 hours. After the safety and security investigation is completed, youth should be released from their rooms, but the "intensive phase" may continue for some or all of the youth in the housing unit. During the intensive phase, normal programming is suspended. While programming is suspended, residents are confined to the housing unit (sometimes locked in their rooms), and classroom education instruction is reduced and conducted only in the housing unit, rather than in facility classrooms. Additionally, communication among residents is limited, youth's movement within the housing unit's common area is restricted, and all meals are served on the housing unit, rather than in the facility cafeteria. On an individual basis, youth should be moved to the "transitional phase." During the transitional phase, youth participate in the facility's behavior management program; however, it is conducted in a highly structured environment with staff involvement. At staff discretion, youth in the transitional phase may leave the housing unit for education and meals. According to the

facility implementing procedure, the entire staff control process should typically last no more than 7 days. This type of seclusion of youth and removal from normal programming is not permissible for disciplinary purposes. Seclusion can be used only to regain control and protect safety in a facility. None of the other nine facilities we visited used special management programs similar to the “staff control” model used at this one state-operated facility.

We reviewed seven staff control programs conducted between June 2009 and November 2010 at this one facility and found the following violations of state statute related to seclusion and Division Policies 14.3B and 14.5.

- **Staff sometimes used seclusion, by locking youth in their rooms, as a disciplinary sanction in violation of state statute.** According to state statute and Division policy, seclusion cannot be used for disciplinary purposes. However, documentation for all seven staff control programs stated that youth were being placed on staff control—i.e., in their room behind locked doors—as a disciplinary measure for problematic behaviors that had occurred during the prior month. For these seven staff control programs, the “intensive phase” lasted for an average of 4 days. However, the facility’s documentation did not specify whether the youth were locked in their sleeping rooms for this entire time.
- **Notice and appeal protections were not provided.** Division policy related to special management programs requires that youth receive notice of the staff’s intent to use a special management program, receive a copy of the plan, and have the right to appeal a special management program. Staff control is akin to a special management program for an entire housing unit, since all youth in the housing unit are locked in their sleeping rooms and receive modified programming during the staff control process. However, prior to implementing the staff control program, the facility did not adhere to the due process protections for a special management program. Specifically, the housing unit residents did not receive written notice that staff members were considering placing the unit under staff control, did not receive a copy of the staff control plan once it was implemented, and did not receive an opportunity to appeal the staff control plan.

Due process protections are in place to ensure youth are not deprived of their rights without justification or an opportunity to refute allegations against them. By failing to adhere to Division policies, the facility involved in the inappropriate staff control practices and facilities discussed earlier that had problems with due process protections related to major rule violations undermined the safeguards designed to protect youth while they are in the physical and legal custody of the Division. Due process controls also ensure consistent processes are used for each youth, which promotes equity. According to the U.S. Department of Justice,

Office of Juvenile Justice and Delinquency Prevention, when youth believe the discipline process is fair, they are more willing to accept the outcome of the process. As a result, due process controls further the orderly administration of discipline within a facility and, therefore, help facilitate safety for the youth, facility staff, and community.

A breakdown occurred in the Division's oversight of the facility where staff control was used. A staff person responsible for monitoring programs at the facility was aware that the facility was using the staff control programs, yet that individual misunderstood the policy requirements related to those programs and did not question their use. In addition, neither quality assurance staff, who perform the annual on-site audit of the facility, nor Division administration, who oversee the facility, were aware that the staff control program was occurring and had not evaluated the program. As a result, the staff control process continued without review or evaluation.

Recommendation No. 3:

The Division of Youth Corrections (the Division) should ensure that both state- and contractor-operated facilities are affording youth due process protections prior to initiating disciplinary sanctions or suspending normal programming by increasing the scope and depth of quality assurance and monitoring reviews of facilities' adherence to due process controls for major rule violations and special management programs. Additionally, the Division should take immediate action to stop the facility discussed above from using the staff control special management program, and take personnel action, as appropriate, to hold staff responsible for implementing staff control programs.

Division of Youth Corrections Response:

Agree. Implementation date: July 2012.

In order to ensure due process protections, the Division's state-operated facilities will develop standardized key performance indicators, reported on a monthly basis, outlining facilities' compliance with due process protections for youth. The Division will work with the Governor's Office of Information Technology to complete a Trails revision to ensure full documentation of due process procedures. Additionally, the Division's Quality Assurance Unit will incorporate a review of key performance indicators and documentation in its regular monitoring processes to ensure that both state- and contractor-operated facilities are in compliance with all relevant due process requirements.

Upon receiving information from the audit staff, the Division immediately discontinued use of the one specific staff control program cited in the report, and through its monitoring process, the Division will ensure that this approach is not used by any facility in the future. At this particular facility cited in the audit report, the Division will use the performance management process to ensure appropriate use of behavior management programming, and will continue enhanced monitoring of this facility as long as needed. Additionally, the Division will develop implementing procedures within state-operated facilities for the use of modified programming as a milieu management tool, and will ensure that these procedures meet all federal, state, and local laws in addition to complying with Department of Human Services and Division policy. Implementing procedures for modified programming will be reviewed and approved by the Division's Directors of Facility Operations, and the Division will ensure compliance through its monitoring process.

Monitoring

Chapter 3

The Division of Youth Corrections' (the Division) five key strategies state that it will provide the right services at the right time, and that those services will be delivered in safe environments by quality staff using proven practices that embrace restorative community justice principles. Proper oversight and monitoring of all state- and contractor-operated facilities by the Division is critical to ensuring the safety of youth, staff, and the community. Typically, a system of effective oversight includes a continuous improvement process that involves collecting crucial data and performance indicators for Division management to use in evaluating the success of state- and contractor-operated facilities in meeting the Division's mission. The Division also should provide sufficient technical assistance to facilities to be sure they are adhering to Division policies and procedures and meeting best practice standards.

As the appointing authority, the Division Director is responsible for the overall management of the Division. The Division Director has a leadership team that consists of two Associate Directors; two Directors of Facility Operations, who oversee the administration of the 11 state-operated detention and commitment facilities; the Director of Financial Services; and four Regional Directors, who oversee Division contracts with 51 contractor-operated secure, staff-secure, and community-based facilities. The leadership team meets regularly and uses Division data to identify and address safety and security concerns throughout the Division. The Quality Assurance Office also plays a key role by auditing and monitoring the Division's state-operated and contractor-operated facilities to ensure they adhere to the State's laws and Division's policies and procedures. Collectively, this group of staff is responsible for ensuring that facilities provide youth with appropriate and effective services in a safe environment and achieve the Division's mission. We reviewed the Division's policies and procedures related to the types of performance indicator data that are collected by the Division, as well as the Division's oversight and monitoring of facilities, and found problems with the underlying data available for the Division to make decisions and provide quality oversight and technical assistance. Specifically, we identified problems with reporting of sexually inappropriate behavior and youth surveys.

Sexual Contact Reporting

Investigating and reporting inappropriate sexual behavior is an important component of ensuring youth safety within a facility. According to Congressional findings contained in the U.S. Prison Rape Elimination Act (PREA) of 2003 (42 USC 15601, et seq.), young first-time offenders are at an increased risk of sexual victimization. According to PREA, sexual victimization can lead to severe physical and psychological effects, which can hinder victims' ability to reintegrate back into society and lead to increased violence, insurrection within facilities, and recidivism.

In Colorado, state- and contractor-operated facilities have three distinct reporting responsibilities for sexually inappropriate behavior involving youth. First, statute (Section 19-3-304, C.R.S.) requires staff at all state- and contractor-operated facilities to report all allegations of physical and sexual abuse of youth under age 18 to county departments of social services and law enforcement. Second, Division Policy 9.19 requires facility staff to notify the Facility Director whenever youth sexual misconduct or staff sexual misconduct occurs. Youth sexual misconduct includes all sexual behavior within a facility, including consensual and nonconsensual behavior. Staff sexual misconduct includes all sexual behavior directed toward a youth by a facility staff member. Third, PREA requires all youth correctional facilities to track and report to the U.S. Department of Justice, Bureau of Justice Statistics all instances of prison rape. PREA broadly defines prison rape to include any nonconsensual sexual contact within an adult or juvenile justice facility.

We examined whether state- and contractor-operated facilities complied with the three reporting requirements. We found that the Division could improve its tracking of sexual contact between youth and reporting of these incidents to facility directors. In addition, reporting required under PREA may not be accurate because of problems with how facilities report sexual contacts in Trails.

We used a three-pronged approach to examine reporting of sexual contact at the state- and contractor-operated facilities. First, we examined the policies and procedures at 10 facilities (five state-operated and five contractor-operated) to determine whether the procedures complied with PREA, state statutes, and Division policies. Second, we reviewed Trails data for major rule violations and critical incidents to determine whether facilities had complied with the notification requirements contained in Division policy and with the PREA reporting requirements for reporting incidents of prison rape to the U.S. Bureau of Justice Statistics. Third, we reviewed a sample of 42 incident records in Trails, as reported by both state- and contractor-operated facilities, to determine compliance with Division policies and procedures. Overall, we found the Division's data on sexual misconduct do not provide adequate assurance that incidents were properly

reported in accordance with Division policy and state statute, and that all incidents that should have been reported to the U.S. Bureau of Justice Statistics were reported. Specifically, we found problems in the following two areas.

- **Facilities do not always correctly complete fields in Trails for sexual misconduct.** As stated above, Division Policy 9.19 requires staff to report all youth and staff sexual misconduct to the Facility Director and, if necessary, all allegations of abuse to county departments of social services and local law enforcement. Trails contains three types of fields that could be used to document notification and follow up related to sexual misconduct incidents. First, there are three notification fields that staff should use to document who they notified about the incident, what that person's position or title is, and when the notification occurred. Second, there is one follow-up field to document any action taken after the incident occurs. Third, Trails includes a description field intended for facilities to record important details about each incident or major rule violation. However, Division policy does not specify where in Trails staff should record information on notifications and follow-up actions taken related to incidents. We reviewed Trails data on 1,027 major rule violations labeled as inappropriate sexual behavior that occurred between Fiscal Years 2006 and 2010 to determine how staff documented the notifications. We found 448 (44 percent) sexual misconduct incidents reported in Trails for which staff used the notification or follow-up fields to identify all people or entities contacted after an incident was discovered, including the Facility Director, medical personnel, the youth's case manager, law enforcement, and county social services personnel. However, for the remaining 579 (56 percent) incidents, the notification and follow-up fields in Trails were blank. Instead of using the notification fields, we found that staff sometimes identified any entities contacted within the incident description field.

We also reviewed the Trails description field for a random sample of 42 of the 579 Trails records classified as inappropriate sexual behavior that had blank notification and follow up fields. We found of the 42 incidents we reviewed, 32 (76 percent) instances in which there was no discussion of anyone having been notified of the events in the description field. For another 5 (12 percent) incidents, the description field indicated that the shift supervisor had been notified, but provided no reference that the facility director had been notified. The type and severity of the sexual behavior, such as grooming (priming a person for further victimization), indecent exposure, unlawful sexual contact or consensual sexual contact, did not appear to be a factor in staff making required notifications, or where in Trails staff chose to document notifications if made.

- **Facilities classify some major rule violations and critical incidents involving inappropriate sexual behavior as “other” in Trails.** We reviewed 470 major rule violations and critical incidents that were labeled as “other” in Trails and occurred between Fiscal Years 2006 and 2010. We found that 36 (8 percent) should have been labeled as inappropriate sexual behavior. Appropriate classification of inappropriate sexual behavior is critical because the Division’s Research and Evaluation Office relies on staff categorization of major rule violations and critical incidents to identify the events that will be reported to the U.S. Bureau of Justice Statistics. Events classified as “other” are not reviewed by the Research and Evaluation Office. Instead, only events labeled as inappropriate sexual behavior, sexual abuse, or sexual assault are reviewed and reported, when appropriate, for the purposes of complying with PREA reporting requirements.

The Division’s policies on reporting consensual and nonconsensual sexual contact are confusing, and, as a result, facilities do not adhere to the requirement for reporting all youth sexual contact to facility directors, or their designees. Specifically, we identified two problems with Division policies. First, Division Policy 9.19 requires staff to report all sexual misconduct to the Facility Director, or his or her designee, and report any nonconsensual contact or staff sexual misconduct to county departments of social services and/or local law enforcement. However, the policy does not specify where in Trails that notification should be documented. As a result, staff do not consistently use the notification and follow-up fields to identify the entities they contact, and staff sometimes report the entities notified in the incident description field. The incident description field is a large, unrestricted text field that does not lend itself to efficient review by the Division. If staff do not complete the notification and follow-up fields in Trails, for the Division to determine whether sexual misconduct incidents were handled appropriately, the Division must review the entire incident description field to identify the entities notified.

Second, Division Policy 9.19 reporting requirements are confusing. The policy alternates between the reporting requirements for consensual and nonconsensual sexual contact. For instance, the policy prohibits all sexual contact, including consensual sexual contact in state- and contractor-operated facilities, and the policy requires facilities to report all sexual contacts (including consensual and nonconsensual sexual contact between youth and consensual and nonconsensual contact between youth and staff) to the Facility Director. However, the policy also refers facilities to Division Policy 9.8 for handling nonconsensual sexual incidents, specifically instructing staff to report all nonconsensual contacts as critical incidents in Trails and requiring staff to report nonconsensual sexual contact to law enforcement and/or county departments of social services for investigation. As a result, staff have often overlooked the requirements in Policy 9.19 for all sexual contact, and specifically for consensual sexual contact, to be

reported to the Facility Director. In the facility environment, youth could have a number of reasons to falsely report sexual contact as consensual, including intimidation or fear of retribution from other youth or staff. Therefore, reporting consensual sexual contacts to the Facility Director for preliminary investigation and follow up would provide an additional layer of assurance that youth were not coerced into calling the contact consensual when it was really nonconsensual.

To mitigate the impact of exposure to sexual misconduct, such as grooming behaviors (priming someone else for further victimization), indecent exposure, sexual abuse, and unwanted sexual advances, the Division must ensure that all sexual contact is properly reported according to Division policies and other requirements, and that youth receive proper treatment services following the incident. Moreover, failure to properly classify inappropriate sexual behavior in Trails could cause the Division to under-report sexual contact incidents to the U.S. Department of Justice, as required by PREA.

Recommendation No. 4:

The Division of Youth Corrections (the Division) should improve its handling of sexual contact incidents. Specifically, the Division should improve its tracking and reporting of sexual contact incidents by:

- a. Ensuring that facilities document incidents involving sexual misconduct in Trails in a way that allows the incident to be identified as sexual misconduct and included in the required Prison Rape Elimination Act (PREA) of 2003 reports. Additionally, training staff to ensure they use the “other” category for critical incidents and major rule violations appropriately and complete notification and follow-up fields for all incidents related to sexual contact.
- b. Requiring facilities to report all sexual misconduct incidents to the Facility Director, including consensual incidents, to ensure that the Facility Director can investigate the consensual incidents; take action to report the incidents to county departments of social services and/or law enforcement if, in fact, the incidents are found to be nonconsensual; and provide treatment for youth when needed.

Division of Youth Corrections Response:

Agree.

- a. Implementation date: February 2012.

The Division will work with the Governor's Office of Information Technology to modify the pick list options for sexual incidents in the Trails database in order to significantly reduce the need to select the "other" category, and will improve tracking and reporting of sexual misconduct incidents for PREA purposes. The Division will also provide training to staff on the new pick list options and appropriate use of the "other" category. In addition, the Division will revise Division Policy 9.19 – Sexual Contact Prevention to include a specific location in Trails to document notification to the Facility Director, or his or her designee, regarding all sexual incidents as well as the location of all documentation in Trails regarding all follow-up information related to the incident.

- b. Implementation date: June 2012.

Modification of Division Policy 9.19 – Sexual Contact Prevention will include clarifying requirements to ensure that staff are reporting all sexual incidents to the Facility Director, or his or her designee. Pursuant to Section 19-3-304, C.R.S., Division Policy 9.17 – Reporting Alleged Child Abuse, and Division Policy 9.19 – Sexual Contact Prevention, Division staff are mandatory reporters in any case of suspected abuse. Thus, the Division currently follows this mandate and will continue to follow this mandate to report alleged sexual incidents to county departments of social/human services and/or law enforcement. The Division will also continue to provide safety planning and treatment services for youth when needed.

Youth Surveys

Comprehensive and consistent collection of data on youth safety and security concerns is an important management tool for the Division. Currently, the Division collects data on youth concerns through two separate youth surveys: (1) a sexual contact survey and (2) a youth needs survey. These surveys allow the Division to identify any safety concerns across all Division facilities.

Division Policy 9.19 requires facilities to conduct a sexual contact survey every 6 months to provide youth the opportunity to confidentially report sexual misconduct, including nonconsensual sex; abusive sexual contact; staff sexual misconduct; or juvenile sexual misconduct. Additionally, the sexual contact survey meets the PREA standard that requires juvenile facilities to annually conduct a confidential survey of youth regarding sexual incidents within the facility. Division Policies 17.1 and 17.7 also require all facilities to annually identify the service needs of the youth in the facilities' legal and physical custody by a youth needs survey or some other means, such as a youth council. As part of its annual audits, the Division's Quality Assurance Office ensures that facilities conduct the sexual contact survey and adequately identify and address youth service needs.

We reviewed documentation and compiled results for the sexual contact and youth service needs surveys for Fiscal Years 2008 through 2010 for the 10 facilities we visited. We identified the following three concerns with the Division's policies related to administration of these two surveys.

- **Surveys on youth sexual contact at some state-operated facilities were not anonymous.** Division Policy 9.19 requires that the youth's responses to the sexual contact survey be anonymous. However, we found that youth were required to put their names on the surveys at three of the five state-operated facilities we visited. In addition, at two of those facilities, staff followed up with individual youth about their survey results. Those youth reported having engaged in sexual misconduct at the facility. After the staff investigated the survey responses, the youth's responses were changed to indicate that they had not engaged in such conduct. According to the Division, it had begun implementing a revised procedure in Fiscal Year 2011 to address these issues. However, at the time of our audit, the Division was still reworking the process to ensure that it did, in fact, ensure survey anonymity.
- **Contractor-operated facilities do not use the same sexual contact survey as state-operated facilities.** In July 2010, the Division implemented a clear, consistent process for state-operated facilities to use in administering the Fiscal Year 2011 youth surveys on sexual contact. At that time, the Division's Research and Evaluation Office produced a uniform survey and provided 11 state-operated facility directors with specific instructions on how to administer the survey and collect the responses, including how to maintain confidentiality. While contractor-operated facilities typically will either perform their own sexual contact survey, or include a question on sexual contact on the youth service needs survey, the Division does not require contractor-operated facilities to use the same survey and methodology for administering the survey to detained and committed youth in their facilities. As a result, there are still no clear,

consistent data on youth sexual contacts in the contractor-operated facilities.

- **Annual surveys on youth service needs are not mandatory and are not standardized.** Division Policies 17.1 and 17.7 require facilities to identify youth service needs through one of three methods: (1) youth surveys, (2) youth interviews, and (3) soliciting feedback from the facility's youth council. Currently, the Division has several methods to collect data on youth safety at facilities, including discussions with case managers, monitoring visits, and annual audits. Additionally, facilities use youth surveys as a mechanism for collecting data on youth needs; however, each facility develops its own survey. Since the surveys are not uniform, the youth survey results cannot be aggregated to identify youth service needs Division-wide. However, none of these data are aggregated or analyzed Division-wide. As a result, the youth's concerns about safety may remain unrecognized. While the other data collection methods, youth interviews and obtaining feedback from youth councils, might provide useful supplemental information, these methods do not provide a comprehensive review of all youth's concerns. Taken as a whole, the flexibility in the Division's policy undermines the Division's ability to collect and analyze the needs of youth at all facilities and identify areas for improvement.

Overall, we found the Division could do more to maximize the use of survey data to discover gaps in youth services and identify staff training needs, as well as ensure that all facilities administer the sexual contact surveys consistently and confidentially. The Division's Quality Assurance Office, through its annual audits, ensures that each facility completes a youth needs and sexual contact survey. However, the Quality Assurance Office does not consistently track and utilize the youth survey data for all detained and committed youth in the Division. Without standard data from contractor-operated facilities, it is difficult and time-consuming to evaluate the safety and security needs of youth who reside in those facilities. Similar to youth served in state-operated facilities, the Division has a responsibility to ensure that youth served at contractor-operated facilities live in a safe environment. Further, without confidential surveys, youth are less likely to accurately report their safety and security concerns and incidents of sexual misconduct at the facility.

Recommendation No. 5:

The Division of Youth Corrections (the Division) should develop a clear, consistent method to collect and analyze data on the safety, security, and service needs of all detained and committed youth. Specifically, the Division should:

- a. Work with contractor-operated facilities to develop standardized survey questions for the youth survey on sexual contact so that those facilities' survey data can be comparable to data related to youth served in state-operated facilities.
- b. Revise Division policy to require a standardized youth survey of youth service needs at state-operated and contractor-operated facilities. In addition, the Division should ensure that those surveys include a question or series of questions about youth safety and security.
- c. Ensure that the youth survey on sexual contact is administered confidentially at state-operated facilities, in accordance with the Division's policy.
- d. Compile survey data for both the survey on youth service needs and survey on sexual contact and provide the data to the Division leadership team to use to identify trends and safety risks to be addressed at facilities.

Division of Youth Corrections Response:

Agree.

- a. Implementation date: July 2012.

The Division will require all contractor-operated facilities to use the same sexual contact survey currently in use at all state-operated facilities. This survey is consistent with the survey developed by the U.S. Department of Justice, Bureau of Justice Statistics and is aligned with the Prison Rape Elimination Act (PREA) of 2003. Survey report criteria and collection time frames will be consistent with state-operated facilities to ensure data analysis is comparable.

- b. Implementation date: February 2012.

The Division will revise its general youth survey currently in use at all state-operated facilities to include a standardized section on service needs. The Division will also revise Division Policy 17.1 – Scope of Programs and Services for Detention Facilities and Division Policy 17.7 – Scope of Programs and Services for Institutional Facilities, requiring all state- and contractor-operated facilities to use the revised youth survey and to conduct youth surveys at least once per year. The survey will continue to ask at least one specific question about youth safety.

c. Implementation date: Implemented.

Approximately 18 months ago, the Division implemented a revised procedure to ensure that all state-operated facilities administer sexual contact surveys through a confidential process. Consistent statewide protocols for collection methods are imposed on facilities to ensure the respondents' anonymity.

d. Implementation date: December 2012.

The Division will review and compile data for both the youth survey and the sexual contact survey to identify trends and safety risks to be addressed at facilities. The Division will collect these data from both state- and contractor-operated facilities on a quarterly or biannual basis (depending upon the survey and the population being surveyed), and the Division's Leadership Team will review the data at a minimum of once annually.

The electronic version of this report is available on the website of the
Office of the State Auditor
www.state.co.us/auditor

A bound report may be obtained by calling the
Office of the State Auditor
303.869.2800

Please refer to the Report Control Number below when requesting this report.

Report Control Number 2136

Report Control Number 2136