



**REPORT OF
THE
STATE AUDITOR**

**Department of Corrections
Youthful Offender System**

**Performance Audit
August 1999**

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Members of the Legislative Audit Committee;

This report contains the results of the performance audit of the Youthful Offender System of the Colorado Department of Corrections. This 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. This report presents our findings, conclusions, and recommendations, and the responses of the Department of Corrections and the Department of Public Safety, Division of Criminal Justice.

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**STATE OF COLORADO
OFFICE OF THE STATE AUDITOR**

REPORT SUMMARY

**J. DAVID BARBA, CPA
State Auditor**

**Department of Corrections
Youthful Offender System
August 1999**

Authority, Purpose, and Scope

This performance audit was conducted under the authority of Section 2-3-103, C.R.S., which authorizes the Office of the State Auditor to conduct performance audits of all departments, institutions, and agencies of state government. The audit was conducted in accordance with generally accepted auditing standards. As part of the audit, we reviewed documentation, conducted interviews and site-visits, reviewed YOS offender files, and analyzed data from the Department of Corrections' Information System (DCIS,) and the Judicial Department's Integrated Colorado Online Network (ICON). Audit work was conducted from June 1998 through February 1999.

The purpose of the audit was to evaluate the efficiency and effectiveness of the Youthful Offender System (YOS). Our audit work included assessments of:

- Program design and content.
- Outcome measurement and recidivism.
- Statutory mandates regarding sentencing and program policies.
- Changes in the YOS admissions' population.
- Management and administrative functions including training, data management, and the application of internal policies and procedures.

We gratefully acknowledge the assistance and cooperation of the management and staff from the Department of Corrections, the Judicial Department, and the judicial districts, including numerous District Attorneys from across the State. The following summary provides highlights of the audit findings and recommendations.

For further information on this report, contact the Office of the State Auditor at (303)866-2051.

Overview of the Youthful Offender System

The General Assembly created the Youthful Offender System (YOS) during the 1993 Special Legislative Session. The YOS targets juveniles between the ages of 14 and 18 who have been directly filed and convicted in district court of committing violent felonies. To be directly filed means the District Attorney makes the decision to prosecute the juvenile as an adult in criminal court. The Youthful Offender System is intended as a middle tier between the juvenile and adult correctional systems. It is organizationally located within the Department of Corrections. Two agencies within the department--YOS Institutional and the Division of Community Corrections--share responsibility for administering the program. In July 1998 the Department opened the new YOS facility in Pueblo. When construction is complete (estimated to be at the end of Calendar Year 1999) the facility will have beds for 408 youth.

Offenders convicted of Class 2, 3, 4, 5, and 6 felonies are eligible for YOS. Prior to the 1999 Legislative Session both Class 1 and 2 felons were excluded from YOS. During the 1999 Session, the General Assembly extended YOS eligibility to include some juveniles convicted of Class 2 felonies. In addition, statutes exclude offenders convicted of sexual offenses, the chronically mentally ill, and the developmentally disabled. Upon conviction as an adult and sentencing to the adult correctional system, the judge has the option, if the criteria are met, to suspend the adult sentence and impose a YOS sentence. Sentences to YOS range in length from two to seven years.

By the end of Fiscal Year 1998, 439 juveniles had been sentenced to YOS. The first offenders were admitted to the program in March of 1994. Nearly 70 percent of the 439 juveniles who had been sentenced to the program before the end of Fiscal Year 1998 were still in the program at that time. Of those 141 no longer in YOS, 74 had completed the program. This means they had fulfilled their YOS sentences and had been discharged. The remaining 67 offenders who were no longer in the program either had their sentences revoked or reconsidered which means they were removed from YOS by the sentencing judge before they could complete the program. In Fiscal Year 1999 another 86 youth were sentenced to the program bringing the total sentenced since 1994 to 525.

Program Design and Content Should Be Reassessed

We reviewed the program design and content of YOS. Overall, we found numerous areas for improvement. Most importantly, we found that if YOS is to be a viable alternative to other sentencing options for youthful offenders, several significant changes need to occur. First, in the past five years since YOS began operations, a number of changes have occurred that effect the program and the population sentenced to it. Yet the philosophy, mission, purpose, content, and design of the program remain relatively unchanged. We believe it is time that the Department thoroughly assess YOS programming content to address issues related to the statutory expansion of the eligible population, changes in YOS population demographics, and the effectiveness of some programming. Therefore, **we are recommending that the Department conduct a thorough review to ensure**

that YOS program content meets changing offender profiles and that the program's purpose is consistent with statutory provisions. We also found that the Department could make improvements to the transitional or pre-release phase (Phase II) of the program. Specifically, the three-month duration of Phase II may not be appropriate for all offenders. Some individuals are well-prepared and ready to move into the community in less than three months. In other cases, three months may be an insufficient amount of time to prepare the offender for a return to the community. Rather than focusing on individual needs, the Department has concentrated on the statutory three-month duration. Also, the current Phase II facility, located in unincorporated Adams County, is too small to accommodate demand. In May 1999 there were 23 juveniles designated as being in Phase II. However, the Department's Phase II contractor has beds for only 18. Relocating Phase II to the YOS-Pueblo facility could enhance pre-release services and also fill some of the vacant beds at the new YOS facility. Therefore, **we are recommending that the Department make changes to the transitional phase (Phase II) of the Youthful Offender System, including recommending statutory changes, if needed, to clarify or eliminate the time period specified for Phase II and moving Phase II to a location or location(s) such as the YOS-Pueblo facility that can accommodate the demand for transitional services and that is conducive to reentry into the community.**

There are also weaknesses in the Department's disciplinary procedures. By statute, discipline within YOS discipline is to be "tiered, swift, and strict." The Department has established three levels of discipline that appear to meet the requirement for a tiered system. However, we found that discipline is not always "swift and strict." First, the criteria for remediation and sentence revocation are not consistently applied. Second, criteria are often open to interpretation. In addition, the criteria do not specify how frequently offenders can commit certain acts before they are remediated or revoked. For example, we identified one offender who was remediated 12 times throughout his placement in YOS. His YOS sentence was never revoked. The inconsistent application of discipline criteria threatens the integrity of the program as well as diminishes the intent of remediation and revocation. These inconsistencies not only result in inequitable treatment of residents but can also pose a potential danger to the public. Therefore, **the Department should ensure that disciplinary actions are consistently and uniformly applied by clarifying the standards, developing guidelines where needed, informing offenders and staff of the standards, and reviewing to ensure that sanctions are applied in an appropriate and timely fashion.**

The revocation process is also excessively long. We found that offenders can wait for a decision on revocation for as little as two weeks to as long as 10 months. Most wait from between 1 and 6 months. Upon recommendation for revocation, the offender is segregated from the general YOS population. While in segregation, few privileges are allowed. The offender is locked down 23-hours per day and is allowed out for only one hour to exercise. The offender remains segregated until the court determines whether he or she will be revoked. The Department has taken some steps to alleviate this problem. However, we believe there is more that can be done. Therefore, **the Department should continue to identify and implement internal solutions to the problem of lengthy waits for revocations and work with the courts and other entities to speed up the**

process and/or find alternative placements for these offenders.

Sentencing Issues Need Resolution

There are several issues related to sentencing that need to be clarified. To do this, **we recommend the Department continue to improve communications with the judicial districts, including working with the State Court Administrator's Office and the District Attorneys' Council to develop training seminars, workshops, and other forms of disseminating information.** Some of the areas that could benefit from improved communications include incongruities and inconsistencies related to sentence lengths. For example, we found 12 offenders (of the 403 whose files we reviewed) who were given identical YOS and DOC sentences. The problem with identical sentences is that they can serve as disincentives for some offenders to participate in YOS. Also, few females are sentenced to the program. In fact, only 16 females have been sentenced to YOS since the program began. Although there are many possible explanations for the small number of females sentenced to the program, one reason may be due to misunderstandings about the appropriateness of placing females in YOS. Some district attorneys told us that they thought females were still being sent to out-of-state facilities. Others thought that YOS did not offer gender-specific services and programming for girls. Therefore, some district attorneys were less likely to consider YOS a viable sentencing alternative for female offenders. Also, we found that contrary to statute, sex offenders are sentenced to YOS. Between Fiscal Year 1994 and 1998, at least 20 juveniles with sex offender histories were sentenced to the program. Most of these juveniles' sex offense cases occurred prior to their YOS sentences, and, most of the 20 were not sentenced to YOS for a sex offense. However, we identified three juveniles who were sentenced to YOS for crimes directly involving sexual assaults. In one of these cases, the juvenile who was convicted of First Degree Sexual Assault was sentenced to the program over the objection of the probation officer. We believe **the Department should determine whether the Youthful Offender System is an appropriate, effective, and safe placement for sex offenders by evaluating costs, analyzing effects on the overall program, and making recommendations for statutory change, if needed.**

The Effectiveness of the Program Has Not Been Established Through Outcome or Recidivism Evaluations

Statutes clearly indicate that the General Assembly intended for YOS to be evaluated comprehensively, routinely, and independently. Despite these mandates, we found that the Department has not implemented an evaluation process for the program, the Division of Criminal Justice has not conducted an independent evaluation, and the studies that have been conducted have been very limited in scope and usefulness. More than five years have passed since the Youthful Offender System began accepting offenders. More than three years have passed since the first offenders were released. Yet, the Department has not evaluated the effectiveness of the program or measured its outcomes. Consequently, the overall effectiveness of the program is unknown. This is particularly troubling because YOS was intended to be an innovative approach to turning youthful

offenders around before it was too late--a second last chance. Considerable energy and resources have been committed in support of the program. It is one of the more costly correctional programs in the state.

During the 1999 Session, the General Assembly passed legislation that extends the program until at least Fiscal Year 2004. However, the Department can provide no real evidence that YOS has been successful in achieving the goals for which it was created. According to Department management and staff, the main reason they have not evaluated the program is because too little time has passed since the program began and too few offenders have completed their sentences. Therefore, they argue that any analysis would be unreliable and not representative of the program today. We disagree. Ample time has passed and data do exist for the Department to have been: a) monitoring changes in the demographics of the intake population such as age, gender, types of crimes, gang affiliations and prior criminal histories, b) assessing the effectiveness of various treatment and program components within YOS, and c) determining recidivism rates or relapses into crime for the offenders who have completed their sentences. **We recommend that the Department implement existing evaluation plans and models or develop a new evaluation plan that includes components for measuring outcomes as well as for monitoring ongoing operations.** Also, statutes require that the Department of Public Safety's Division of Criminal Justice (the Division) routinely evaluate and monitor the Youthful Offender System. The Division has not fulfilled this mandate. We believe **the Division of Criminal Justice should comply with the statutes related to this matter.**

The Department defines recidivism too narrowly. Specifically, the Department limits its measure of recidivism to convictions resulting in **recommitments** to Colorado's adult correctional facilities only. Therefore, according to the Department, the recidivism rate for YOS is less than 10 percent. In contrast, our analysis found that more than 30 percent of the offenders who were released from YOS between Fiscal Years 1996-1998 had been reconvicted of at least one offense by February 1999. Our definition of recidivism focused on **reconvictions** and not solely on whether an offender returned to an adult prison. We also found that more than 50 percent of the reconvictions were for felonies. Of those reconvicted, 80 percent committed the reoffense(s) either while still in YOS or within one year of their releases. Nearly 55 percent of the offenders who were reconvicted received sentences other than recommitments to the Department of Corrections. These other sentences included placement in the Intensive Supervision Program, Adult Probation, or county jails.

We believe the Department should broaden its definition of recidivism for the YOS population to more accurately capture and measure relapses into criminal activity. This would mean going beyond reviewing only for recommitments to adult correctional facilities. In fact, despite its current disagreement with our recommendation, the Department has indicated to the General Assembly that its definition of recidivism could be expanded. For example, in a January 1998 briefing before the Joint Budget Committee, the Department stated that its "current methodology for judging the success of the program is based upon the offender's...demonstrated ability over time to remain a law-abiding, pro-social member of the community." Also, in a June 1999 report to the General Assembly, the

Judicial Department reported that a multi-agency group including the Department of Corrections had agreed to a two-tiered definition of recidivism that includes pre-release recidivism (an adjudication or a conviction) and post-release recidivism (a filing or misdemeanor) within one year of termination from program placement.

Miscellaneous Issues and the Agencies' Responses

We also found areas for improvement related to critical incident reporting, training, and the need to plan for occupying vacant beds. For the most part, the Department of Corrections agrees or partially agrees with all of our recommendations, as does the Division of Criminal Justice. However, the Department of Corrections disagrees with our recommendations related to expanding the definition of recidivism and the need for a plan for filling vacant beds at YOS-Pueblo.

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
1	23	Conduct a thorough review to ensure that YOS program content meets changing offender profiles and that the program's purpose is consistent with statutory provisions.	Department of Corrections	Partially Agree	01/01/99
2	27	Make changes to the transitional phase of the program to include adopting goals and objectives for each offender, recommending statutory changes, as needed, revising existing policies, and relocating to a new site such as YOS-Pueblo.	Department of Corrections	Partially Agree	07/01/00
3	29	Ensure the proper utilization of a case management tool by reviewing the design and format of the Individual Program Plan, implementing a thorough file review process, and completing the computer database system.	Department of Corrections	Agree	01/01/00
4	33	Clarify disciplinary standards and develop a system to ensure standards are consistently administered.	Department of Corrections	Agree	01/01/00
5	37	Work with the courts to speed up the lengthy revocation process and find alternative placements for these offenders.	Department of Corrections	Agree	11/01/99
6	38	Impose fines for designated infractions or make changes to policies.	Department of Corrections	Agree	07/01/99
7	39	Enhance aftercare for YOS by making its regular reintegration services available to this population.	Department of Corrections	Agree	11/99

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
8	46	Continue to improve communications with the judicial districts to ensure consistent, appropriate, and timely application of sentencing and other YOS requirements.	Department of Corrections	Agree	Ongoing
9	48	Determine whether YOS is an appropriate, effective, and safe placement for sex offenders. This should include assessing the costs needed to provide treatment, analyzing the effects on the overall program, making recommendations for statutory change, if needed, and reporting to the General Assembly.	Department of Corrections	Agree	07/01/00
10	54	Ensure the comprehensive evaluation of the Youthful Offender System by implementing the 1994 evaluation plan and the 1996 evaluation model or adopting a new plan including components for measuring outcomes as well as for monitoring ongoing operations.	Department of Corrections	Agree	07/01/00
11	61	Expand its definition of recidivism for YOS to more accurately and comprehensively reflect relapses into criminal activity. This would mean assessing recidivism to include, at a minimum, all convictions, regardless of sentencing outcomes.	Department of Correction	Disagree	--
12	63	Maximize the use of data and data systems in the management of the Youthful Offender System by implementing systematic and accessible methods for collecting, reviewing, compiling, and analyzing data	Department of Corrections	Agree	07/01/00

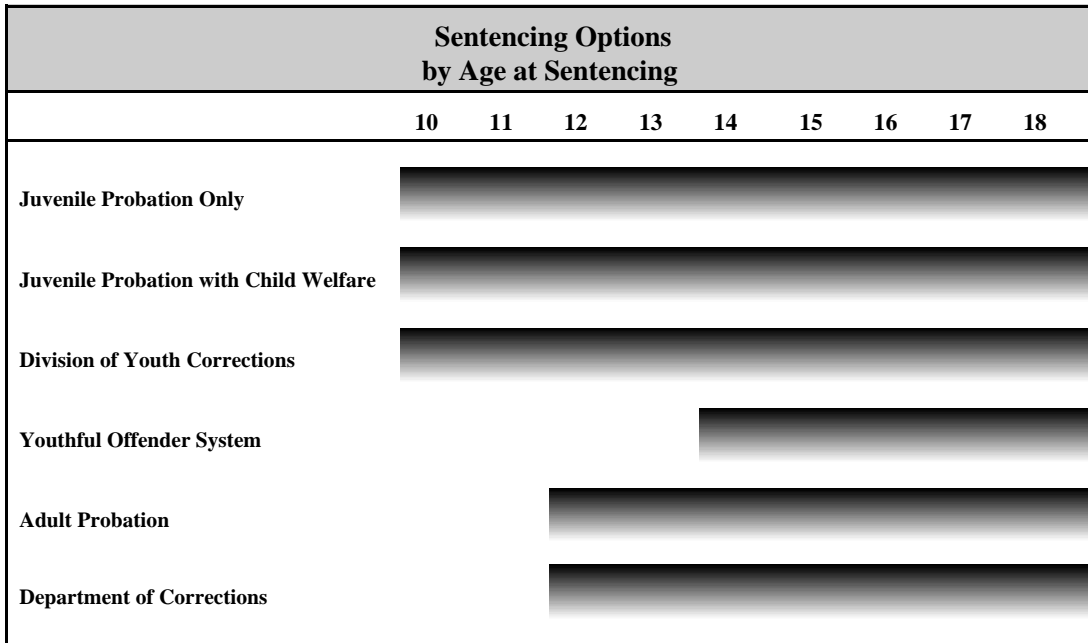
RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
13	64	Comply with statutes and conduct the required monitoring and evaluation of YOS.	Department of Public Safety Division of Criminal Justice	Partially Agree	07/01/00
14	66	Ensure the usefulness and comparability of the assessment tools used throughout all phases of YOS	Department of Corrections	Agree	01/01/00
15	68	Identify and define the designated security level(s) at the Youthful Offender System facility in Pueblo and ensure this is communicated to YOS management and staff as well as to the General Assembly.	Department of Corrections	Agree	--
16	72	Review its reportable offense policies and procedures to ensure their applicability to the YOS population. This would include adding policies and incorporating this information into the regular training for all staff.	Department of Corrections	Partially Agree	01/01/00
17	73	Determine the applicability of the Children's Code requirements for reporting circumstances or conditions of abuse and neglect within the YOS population.	Department of Corrections	Partially Agree	01/01/00
18	75	Communicate to the General Assembly how it intends to manage the approximately 200 vacant beds at YOS-Pueblo.	Department of Corrections	Disagree	--
19	77	Ensure all staff receive the required training prior to working the YOS population.	Department of Corrections	Agree	05/01/99

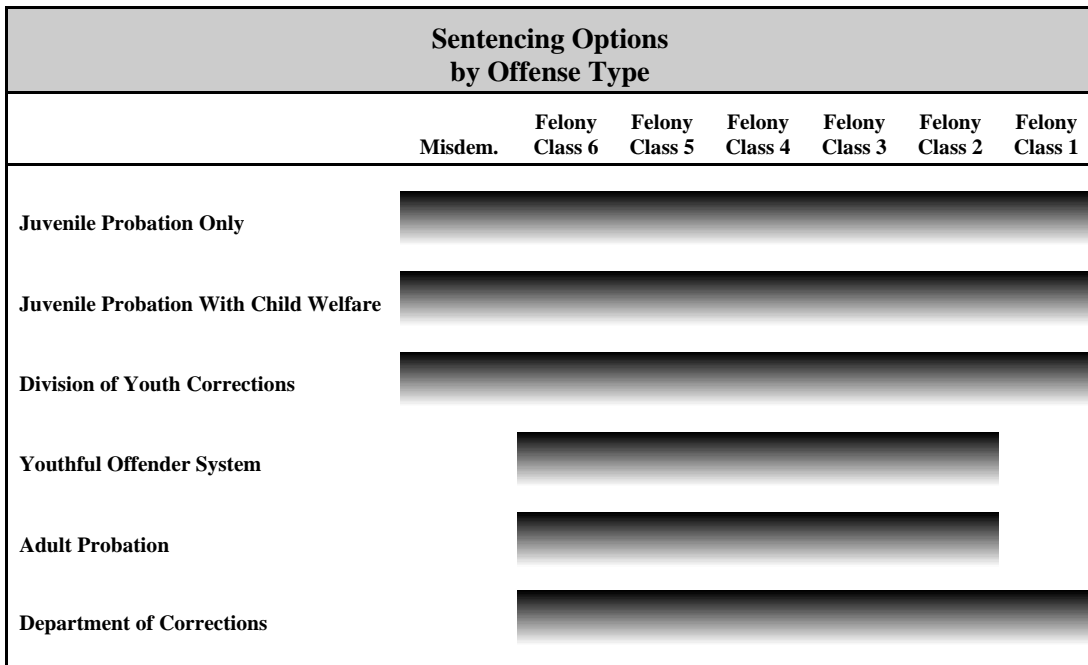
Overview of the Youthful Offender System

In Fiscal Year 1998 more than 11,570 Colorado youth under the age of 18 were serving some type of sentence for crimes they had committed. Of this total, 301 (2.6 percent) had been charged and convicted as adults. The vast majority of these approximately 278 had been sentenced to the Youthful Offender System. The remaining 23 youth had been sentenced to one of the State's adult prisons. Although the adult correctional system has held juveniles sentenced as adults since at least 1977, the numbers have generally been small. For example, in 1994 there were approximately 14 youth in adult prisons in Colorado. By 1998 there were only 24.

The numbers of juveniles in the adult correctional system did not begin to show significant growth until the creation of the Youthful Offender System. In addition, statutory changes during the last decade have lowered the age(s) at which juveniles can be charged for crimes in both the adult and juvenile systems. As the following chart shows, the youngest age at which a youth can be adjudicated a delinquent in the juvenile system is 10 and the minimum age for prosecution as an adult for some felonies, including murder, is 12. However, as the chart also shows, a juvenile cannot be sentenced to YOS if he or she is younger than 14.



As the following chart shows, both the juvenile and regular adult systems accept juveniles convicted of Class 1-6 felonies. By contrast, YOS is statutorily prohibited from accepting Class 1 offenders.



Youthful Offender System

The General Assembly created the Youthful Offender System (YOS) during the 1993 Special Legislative Session. The Special Session was called in response to concerns about a series of violent crimes committed by juveniles during the summer of 1993. The Youthful Offender System targets juveniles between the ages of 14 and 18 who have been directly filed and convicted in district court of committing violent felonies. To be directly filed means that the District Attorney makes the decision to prosecute the juvenile as an adult in criminal court. The Youthful Offender System is intended as a middle tier between the juvenile and adult correctional systems. Juveniles sentenced to YOS must be at least 14 and under the age of 18 when the crime is committed and under the age of 19 when sentencing occurs. In some cases this means an offender could be 25 years old at the time of his or her release from the program.

Offenders convicted of Class 2, 3, 4, 5, and 6 felonies are eligible for YOS. (See Appendix A for a brief listing of the crimes that fall within these classifications.) Prior to the 1999 Legislative Session both Class 1 and 2 felons were excluded from YOS. During the 1999 Session the General Assembly extended YOS eligibility to include some juveniles convicted of Class 2 felonies. However, to be eligible, Class 2 felons must be under the age of 16, must not have been previously convicted of a violent crime, and must not have pled down from a Class 1 felony. Juveniles convicted as adults of Class I felonies remain ineligible. In addition, statutes exclude offenders convicted of sexual offenses, the chronically mentally ill, and the developmentally disabled.

Upon conviction as an adult and sentencing to the adult correctional system, the judge has the option, if the criteria are met, to suspend the adult sentence and impose a YOS sentence. Sentences to YOS range in length from two to seven years. Corresponding adult sentences for YOS offenders have extended to 30 or more years. At any time during the juvenile's YOS confinement, the sentence may be revoked if the juvenile does not comply with program requirements. When revocation occurs, the original adult sentence is reimposed and the offender is transferred to an adult correctional facility.

Program Mission and Principles

According to Section 16-11-311 (1) (a), C.R.S., the Youthful Offender System program shall:

...benefit the state by providing as a sentencing option for certain youthful offenders, a controlled and regimented environment that affirms dignity of self and others, promotes the value of work and self-discipline, and develops useful skills and abilities through enriched programming.

To fulfill this intent, the statutes specify that YOS support the following six principles:

- Teaching offenders self-discipline by providing clear consequences for inappropriate behavior.
- Providing a daily regimen that involves offenders in physical training, self-discipline exercises, educational and work programs, and meaningful interaction.
- Using staff models and mentors to promote within an offender the development of socially accepted attitudes and behaviors.
- Instructing offenders in problem solving and reinforcing the use of cognitive behavior strategies that change offenders' orientations toward criminal thinking and behaviors.
- Promoting among offenders the creation and development of new group cultures resulting in positive peer influences promoting behavioral change.
- Providing offenders the opportunity to gradually reenter the community while demonstrating the capacity for self-discipline and the attainment of respect for the community.

Organizational Structure

The Youthful Offender System is organizationally located within the Department of Corrections. Two agencies within the department SYOS Institutional and the Division of Community Corrections share responsibility for administering the program. By statute, YOS consists of four distinct components: Intake - Diagnostic

- Orientation (IDO), Phase I - Institutional, Phase II - Transitional, and Phase III - Community. The following chart briefly describes each component.

Youthful Offender System Program Phases				
Phase	Length of Stay	Administered by	Facility Setting	Description of Activities
IDO Intake-Diagnostic-Orientation	30 to 45 days	YOS Institutional	Institutional - Secured Facility (YOS-Pueblo)	Consists of intake procedures, assessments, and intense physical regimentation (boot camp).
Phase I	8 months to more than 6 years, 3 months (Depending upon length of sentence)	YOS Institutional	Institutional - Secured Facility (YOS-Pueblo)	Includes a variety of program components such as educational/vocational courses, treatment classes, and guided group interaction (GGI) meetings. Residents are placed into positive peer groups of about 15 in size.
Phase II	3 months	Community Corrections	24- Hour Secured Residential Facility	Programming consists of education, treatment courses, job development, life skills courses, and community activities
Phase III	6 to 12 months	Community Corrections	Community-Based	Youth are placed with their families, in halfway houses, supervised apartments, or approved locations. Daily call-ins, electronic monitoring, urinalysis tests, and restitution payments may all be part of the requirements of this phase.

YOS Population

By the end of Fiscal Year 1998, 439 juveniles had been sentenced to YOS. The first offenders were admitted to the program in March of 1994. Nearly 70 percent of these 439 juveniles were still in the program at the close of Fiscal Year 1998. Of the 141 no longer in YOS, 74 had completed the program. This means they had fulfilled their YOS sentences and had been discharged. The remainder \$67\$ either had their sentences revoked or reconsidered, which means they were removed from YOS by the sentencing judge before they could complete the program. As the following chart shows, another 86 youth were sentenced to the program in Fiscal Year 1999, bringing the total sentenced since 1994 to 525.

Youthful Offender System Admissions Fiscal Years 1994 - 1999						
1994	1995	1996	1997	1998	1999	Total
24	107	111	108	89	86	525
Source: Office of the State Auditor analysis of Department of Corrections' data.						

Pueblo Facility

In July 1998 the Department opened the newly constructed YOS facility in Pueblo. Prior to the opening of YOS-Pueblo, the IDO phase took place at the Denver Reception and Diagnostic Center (DRDC). Although some juveniles remained at DRDC for Phase I, the majority were sent out of state to juvenile facilities operated by Youth Services International in Iowa, Missouri, and South Dakota. Currently Phase II is provided through a contract with an outside provider in a facility located in unincorporated Adams County. Phase III is administered by the Division of Community Corrections at various locations around the State, including Denver, Fort Collins, Colorado Springs, and Grand Junction.

The new YOS-Pueblo facility was under construction for nearly three years. Total construction costs were \$36.3 million. There are a number of structures on the YOS grounds, including dormitories, an IDO building, a cafeteria, a student center, an administrative building, and a gymnasium. Currently there are a total of 300 beds. When construction is complete (estimated to be at the end of Calendar Year 1999) the facility will have beds for 480 juveniles. As of the May 1999 there were 208 juveniles located at YOS-Pueblo.

Budget and FTE

As the following exhibit shows, the number of FTE employed by YOS-Institutional increased significantly between Fiscal Years 1998 and 1999. The primary reason for the increase is that prior to Fiscal Year 1999, YOS operated out of the Denver Reception and Diagnostic Center (DRDC) and through contracts with out-of-state facilities. The opening of the YOS-Pueblo facility in Fiscal Year 1999 necessitated the hiring of additional staff.

Youthful Offender System Budget and FTE		
Fiscal Year	Budget	FTE
1998	\$9,113,425	75.7
1999	\$10,036,684	217.3
2000	\$9,940,399	221.3

Source: Office of the State Auditor analysis of Joint Budget Committee data.

In addition, in Fiscal Year 1999 there were eight FTE employees assigned to YOS from the Division of Community Corrections. In Fiscal Year 2000 this figure increased to ten FTE.

Audit File Review

As part of our audit we conducted an extensive review of 403 YOS offenders' files. This figure represents 92 percent of the total 439 offenders who were sentenced to the program from its inception in 1994 through the close of Fiscal Year 1998. The data we reviewed were not limited to the information included in the Department of Corrections' Information System (DCIS) summary sheets. Rather, we reviewed the entire contents of each file. In doing so, we were able to ensure the accuracy and completeness of the data collected. In many instances we identified discrepancies in the files. However, the comprehensiveness of our review enabled us to clarify most of the discrepancies we found.

The findings of our file review are presented throughout this report. In addition, a summary may be found in Appendix B. At the close of the audit, we will be providing the Department with the databases we created from the file review so that staff may use them for further analysis and permanent documentation.

Program Design and Content

Chapter 1

Overview

The Youthful Offender System (YOS) is different from the regular adult correctional system in that it is built upon the premise that these youthful offenders can be rehabilitated; that their past criminal behaviors can be reversed; and that their futures can be positive and productive. Therefore, programming and expectations are intense. To be successful, the YOS youths must be more than just offenders serving their sentences. They must be active participants in programming designed to effect significant changes in their lives. The Youthful Offender System also differs from the juvenile correctional system in at least one very notable way. Specifically, although the YOS offenders are chronologically juveniles, they are considered adults in the criminal justice system. Therefore, they are not eligible for sentencing to the programs or commitment to the facilities designated for youth who are adjudicated in the juvenile justice system. It is because of these differences that the Youthful Offender System holds a distinct place in the State's correctional system.

The Youthful Offender System is frequently referred to as a sentencing option that provides a "second last chance" to certain violent juvenile offenders. The program was conceived as a means to reach youthful offenders who may not be career criminals but who, without appropriate intervention, are likely to become so. According to Department documents, the YOS program is calculated to...

...firmly and rigorously break down gang affiliations and negative peer influences, to instill a respect for self and for others affirming the dignity of all, and the value of work and self-discipline.

Department documents also state that this is to be accomplished by firm, disciplined regimentation with a full schedule of programs emphasizing academics, work, interpersonal relations, mentoring, and pre-vocational skills within a positive peer culture. Some of the program's goals include reductions in gang ties, recidivism, and substance abuse, the development of employment skills, and the enhancement of education and self-care.

We reviewed the program design and content of YOS. Overall, we found numerous areas for improvement. Most importantly, we found that if YOS is to be a viable

alternative to other sentencing options for youthful offenders, changes are needed related to program design and content.

It Is Time to Reassess Program Content

It has been five years since the program began. We believe it is not only a necessity but also an opportune time for the Department to reassess the programming content of YOS. In addition, the Youthful Offender System's place in the overall juvenile correctional system should be systematically reviewed. We arrived at these conclusions based on the following:

- **Statutory changes have expanded the population eligible for sentencing to YOS.** Specifically:

1994 Legislative Session - Juveniles classified as "habitual offenders" as defined by the Children's Code can now be tried and convicted as adults and are now eligible for the YOS program. The Children's Code defines a habitual offender as a juvenile who has twice previously been adjudicated a delinquent for separate acts arising out of separate and distinct criminal episodes constituting felonies. This change expanded the YOS population because "habitual offenders" do not necessarily have to be convicted of violent crimes.

1996 Legislative Session - Juveniles arrested and charged with vehicular homicide, vehicular assault, or any felonious arson were added to those who could be tried and convicted as adults and sentenced to YOS.

1999 Legislative Session - The General Assembly extended the YOS eligibility criteria to include certain Class 2 felons. As mentioned earlier, these Class 2 felons must be under the age of 16, must not have been previously convicted of a violent crime, and must not have pled down from a Class 1 felony. In conjunction with the inclusion of Class 2 felonies, the maximum YOS sentence was increased from six to seven years.

- **Programming may not be sufficiently responsive to changes in the YOS population.** We found the following changes in the YOS offender profiles:

Gang Affiliation - Although the majority of YOS offenders—more than 70 percent—have ties to gangs, the percentage of new admissions who are gang affiliated declined substantially between Fiscal Years 1996-1998. Specifically, almost 90 percent of the offenders admitted to the program in Fiscal Year

1996 had some association with a gang. In 1998, this figure had dropped to about 55 percent of the admission population.

Prior Adjudications - The percentage of the admittance population who were adjudicated for two or more felonies prior to their YOS sentence decreased from 35 percent in Fiscal Year 1994 to less than 20 percent in Fiscal Year 1998.

Use of weapons - A majority of the offenders used weapons in the commission of the crime(s) that brought them to YOS. However, this percentage has also dropped. In Fiscal Year 1996 more than 90 percent of the admittance population was convicted of a weapons-related charge. By Fiscal Year 1998 this figure had decreased to less than 75 percent.

Assault convictions - The number of juveniles sentenced to YOS for first-degree assault decreased annually from Fiscal Year 1995 to Fiscal Year 1998. In 1995, 19 juveniles were sentenced to YOS for first degree assault. In Fiscal Year 1998 four were sentenced for this reason. This is a decrease of almost 80 percent. It should be noted that first degree assault is one of the more serious and violent crimes for which an offender may be sentenced to YOS.

- **Some programming may not be meaningful or effective.** As we discuss in greater detail later in this chapter, the standard three-month length of Phase II may not be appropriate for all residents, depending upon their readiness for release back into the community. All offenders, however, are assigned to Phase II for a three-month period. We also found that for those offenders sentenced to longer sentences, some of the programming components such as Guided Group Interaction become repetitive and may lose their effectiveness over time.

Program Content Has Not Changed

Despite the changes described above, the philosophy, mission, purpose, and programming content of YOS have remained basically the same since the program began. For example, although the majority of offenders admitted to the program continue to have gang ties, this influence is not as prevalent as when the program began. Neither is the association with weapons. However, both of these factors are key components of the programming content. It is possible that some modification is in order. Also, as we discuss in Chapter 2, some offenders have specialized needs such as sex offense histories that are not addressed in the institutional phase.

Contrastingly, there are some services, such as substance abuse education, that are mandatory for all offenders, even those for whom substance abuse is not an issue.

In addition, some of the integral program components such as Positive Peer Culture (PPC) may need to be reassessed. For example, PPC is intended to reinforce positive and discourage negative behaviors through peer group influence. It is a means of teaching individuals that they are responsible for more than just themselves and that their behaviors affect others. However, it may not be as effective as originally thought. For example, in an internal fact finding report released following a December 1998 escape from the YOS-Pueblo facility, the Department stated:

...The YOS philosophy is that the positive peer pressure will prevent residents or at least counter negative actions such as escape. However, no process is in place to counter the lack of such pressure. It was clear prior to this incident and during the escape, that residents were aware of the intent of the three escapees. However, no one in the group addressed their intent or alerted staff until confronted in the unit. While the philosophy of "Positive Peer Pressure" as part of the YOS program may have some merit, there are no negative consequences when the peers do not intervene, such as in this case.

As part of a comprehensive evaluation, the Department also needs to take note of what is working. For example, education is a major part of the program. Statutes prescribe that YOS involve offenders in a daily regimen of educational and work programs. We found that 72 percent of the 74 offenders who had been discharged from the program by June 1998 had obtained either a GED or high school diploma while in YOS. Overall, the graduation and GED rates for YOS compare favorably with graduation rates in public schools statewide.

Finally, the statutory changes that have occurred in the program have gradually expanded the types of offenders eligible for the program. However, no one has systematically evaluated all of these statutory changes to ensure that they and the program's mission and purpose remain consistent with one another and that YOS retains its unique position in the criminal justice system.

Recommendation No. 1:

The Department of Corrections should conduct a thorough review to ensure that YOS program content meets changing offender profiles and that the program's purpose is consistent with statutory provisions. Plans should also be developed for implementing changes, as appropriate.

Department of Corrections Response:

Partially agree. The Department believes it has reviewed the YOS operations on many occasions since its inception. We do agree that such a program needs continuing review so that YOS meets its legislative expectations.

Improvements Are Needed in the Transitional or Pre-Release Phase

After completion of Phase I the institutional phase offenders move into the community phase through a three-month transitional or pre-release period Phase II. The Division of Community Corrections administers Phase II. Currently services are provided by a contract facility operated by Youthtrack, Inc. located in rural Adams County. After completion of Phase II, offenders transfer to an assisted-living facility or to a family member's home for the completion of their YOS sentence (Phase III). By statute, Phase II

...may be administered during the last three months of the period of institutional confinement and during which time the Department of Corrections is authorized to transfer a youthful offender to a twenty-four-hour custody residential program that serves youth.

The Department has interpreted this statutory provision to mean that Phase II will be required of all YOS residents, be three months (90 days) in duration, and be located in a separate contract facility. At the close of Fiscal Year 1998, Phase II was the most expensive phase in YOS. On average, it cost approximately \$10,980 per resident for the three-month period. This was a daily rate of \$122 compared with an average daily rate of \$102 for Phase I institutional and \$55 for community corrections. We reviewed Phase II and found there are several areas for improvement. These are discussed in the following sections.

Phase II Duration and Location Should Be Reevaluated

According to the contract with the Phase II provider, the primary goals of the Phase II Pre-Release Program include maintaining public safety, providing a safe, healthy, secure facility and environment, providing meaningful basic core programs, offering offenders access to community-based services, and providing supervised activities. Up to now, the focus of Phase II has been more on duration and location than on content and purpose. We believe the current goals of Phase II could be enhanced and the value of this pre-release phase increased if the Department were to address two issues. Specifically:

- **The three-month duration may not be appropriate in all cases.** According to staff who supervise the offenders in Phase I, some individuals are well-prepared and ready to move into the community in less than three months. In other cases three months may be an insufficient amount of time to prepare the offender for a return to the community. Rather than focusing on individual needs, the Department has concentrated on the statutory three-month duration. Consequently, because the emphasis has been on timing rather than content, there have been instances in which some offenders have completely skipped Phase II or have spent less time than the “prescribed” three months. These instances did not occur because staff made a determination that the offender required less time in Phase II. Rather, this situation typically has occurred when the court reconsiders a sentence. If the reconsideration results in a shortened sentence, the offender may have to pass over the transitional phase and move directly to Phase III the community phase to comply with new sentencing time lines.
- **The Phase II facility is too small** - Since 1997 the Department has contracted with Youthtrack, Inc. for an 18-bed facility located in unincorporated Adams County. However, the facility is not large enough to accommodate the entire Phase II population. Therefore, some offenders remain at the YOS-Pueblo facility until a bed is available in Phase II or until the three-month period expires and they move directly into the community. In May 1999 there were 23 juveniles designated as being in Phase II. Eighteen were located at the Youthtrack facility while the other five remained at YOS-Pueblo. Detaining juveniles in Phase I and not moving them when they are ready has several negative effects. For example, individuals may not have the ability to participate in some off-site activities offered in Phase II. In addition, morale can suffer when transfers are delayed.

It should be noted that the females in Phase II are not placed at the Youthtrack facility with the males. According to YOS personnel, the females in Phase II are placed in a group home facility also used by the Divisions of Youth Corrections and Child Welfare Services. Originally, the YOS males and females were located together in Phase II, but this living arrangement proved to be problematic.

Relocating Phase II Could Be Beneficial In More Than One Way

To ensure that a redesign of Phase II results in a more meaningful and effective transition period, the Department needs to:

- **Relocate the Phase II facility.** The existing Phase II facility is not large enough to accommodate demand. Furthermore, the location may not be as conducive to community reintegration as another location may be. There are several options the Department should consider. First, we believe the Department and the offenders could benefit by moving Phase II to YOS-Pueblo. This would address part of the existing surplus bed situation at the Pueblo facility, and the Pueblo location might be more suitable for providing transitional services. In such an arrangement, Phase II participants could be moved to a separate building on the YOS-Pueblo complex. This would allow them greater autonomy and a less restrictive environment than their Phase I counterparts. However, they would remain under the daily supervision of YOS personnel. Locating the Phase II offenders on the YOS campus might also serve to motivate Phase I offenders who see their senior counterparts earning greater freedom and privileges. Another possibility the Department might consider is to locate several smaller Phase II facilities around the State in communities where the offenders will be released.
- **Focus on the purpose and goals rather than on a set time period.** The Department needs to determine what is to be accomplished by the end of a transitional phase and how these accomplishments should be measured. For example, should the offender have a job, a driver's license, a high school diploma or equivalent, etc., before moving on to Phase III? How will the mental, emotional, and behavioral preparedness of the inmate be assessed? Focusing on goals and accomplishments rather than a finite time period will enable the Department to better address the individual needs of the offenders. Some offenders need little time after the institutional phase to adjust to community life. Others may require significantly more time. According to YOS personnel, individual goals are a focus of Phase II and the offenders progress is monitored. However, during our file review we found little evidence that this is the case.

- **Continue to explore opportunities for community service, recreation, and employment activities.** According to Department management, the statutory provision that Phase II be a 24-hour custodial arrangement limits the amount of freedom available to the offenders. Therefore, employment during Phase II is not really feasible because offenders must be accompanied by staff at all times. We believe that part-time employment during Phase II might be beneficial. The Department should consider making recommendations for statutory change, if needed, to allow for greater flexibility in the design and delivery of services in Phase II. In addition, the Department should continue looking for ways to encourage high-performing inmates through the use of weekend passes for family visits or other incentives.

The Department Needs To Redesign Phase II

The statutes do not prescribe exactly how Phase II is to be structured or administered. Rather, statutes allow the Department some creativity with Phase II design options. For example:

- **Section 16-11-311 (3.4)(a), C.R.S.,** - states that the Department may also “transfer a youthful offender to an appropriate facility for the purpose of accomplishing the offender’s redirection goals, as long as the transfer does not jeopardize the safety and welfare of the youthful offender.”
- **Section 16-11-311 (3.4)(b), C.R.S.,** - states that the Department may “operate an emancipation program and provide other support or monitoring services and residential placements for youthful offenders participating in phases II and III under the youthful offender system for whom family reintegration poses difficulties.”

Department management acknowledges that Phase II could be improved. However, they also point out that the statutes dictate that Phase II be three months in duration and that it be located in a 24-hour custody residential facility. Therefore, management believes they are limited in the amount of discretion or flexibility they have with regard to Phase II. If this is the case, then the Department should make recommendations for statutory change to permit it greater creativity and discretion. The YOS statutes were written prior to the opening of the program. The best information available at the time served as the basis for the program’s design. The experiences of past five years of operations should provide the Department with more timely and meaningful information. If statutory changes are in order, the Department has a responsibility to bring this to the attention of the General Assembly. Finally, the Department has indicated that it has had difficulty in attracting interest from outside providers for Phase II programming and services. Again, we believe that moving all

or part of Phase II to the YOS-Pueblo facility could solve this problem and is something the Department should give serious consideration to.

Recommendation No. 2:

The Department of Corrections should make changes to the transitional phase (Phase II) of the Youthful Offender System to include:

- a. Adopting goals and objectives for each offender to meet before transferring to the final, community phase of the program.
- b. Recommending statutory changes, if needed, to clarify or eliminate the time period specified for Phase II.
- c. Recommending statutory changes to allow greater flexibility in the services and activities available for offenders in phase II.
- d. Relocating Phase II to a location or location(s) such as the YOS-Pueblo facility that can accommodate the demand for transitional services and are conducive to reentry into the community.

Department of Corrections Response:

Partially agree. The DOC does not agree with the first part of recommendation as we believe that this is already in place. Phase II of the YOS program does have defined goals and objectives which are spelled out in the Request for Proposal (RFP) and the subsequent contract with the provider. The Department will be reviewing the Phase II process and will be recommending appropriate statutory changes in 2000 Legislative Session.

Individual Program Planning Is Inadequate

The Youthful Offender System has developed a tool for case managers to use in documenting individual offender assessment data and in planning and reviewing each offender's progress in the program. An Individual Program Plan (IPP) is to be created for each offender early in his or her sentence during the IDO phase. Case managers are responsible for completing annual plans and quarterly reviews to update and revise the original IPP. In addition to being a means of recording an offender's progress through the program, department management and staff told us that the IPP will be valuable for program evaluation purposes. Also, the YOS Annual Report refers to the IPP as one method for determining where problems exist.

The Department Does Not Use the Individual Program Plans As Designed

Whether it is with the Individual Program Plan as currently designed, or with some other case management tool, the Department needs to follow through on implementation and use. In our review, we found a number of weaknesses related to the Individualized Program Plans. These include:

- **Use for individual offender planning and monitoring purposes has been very limited.** In December 1998 department staff had completed IPPs for only 5 percent of YOS offenders. Progress reviews and annual updates were also not completed. Specifically, only about 4 percent of the inmates with initial IPPs in their files had an update completed by staff. Recently, YOS has been more vigilant in ensuring that staff complete the IPPs. By the end of February 1999, IPPs had been completed for about 87 percent of the Phase I population.
- **The Department has not used the IPPs for program evaluation purposes and does not appear to use them for effective case management.** The Department does not compile or analyze existing IPP data. Individual offender's files are the only place in which IPP data are located. Staff report that the computer network deemed necessary for IPP data compilation and analysis is not operational and no data have consistently been input for future use. In addition, in our file review we found little evidence that case managers actually use the IPPs to monitor accomplishment of goals. For example, we found cases in which an offender's goals included earning a high school diploma or GED before the community phase. However, this goal was not

always achieved. The offenders continued on to the community phase and there was no evidence in the files that case managers took corrective action, either to ensure these goals were met or to modify them.

- **Until recently the IPP did not extend to all program phases.** In December of 1998 the IPP was expanded to include a community component. Prior to that time it had only been implemented in the institutional phases (IDO and Phase I). According to the new design, when an offender transfers to the community corrections portion of YOS (Phases II and III), the plan's community transition components guide decisions about the offender's community reintegration. As of February 1999, only 9 percent of Phase I residents' IPPs contained a community section. Even fewer offenders had all of the required sections in their files.
- **The current IPP format is lengthy and cumbersome.** A complete IPP comprises a number of separate reports relating to physical and mental health, academics, community activities, etc. Each of these reports, as well as the overall plan, is to be updated periodically. According to staff, the IPP and the updates take about one hour to complete for each inmate. We estimate that if all IPP documents were completed as intended, an inmate serving a four-year sentence would have about 80 pages of IPP documents accumulated in his or her file. In our review we also noted that staff often do not provide all of the information requested on the IPP forms.

The Department Has Made Improvements

We are encouraged by the progress the Department has made in implementing a comprehensive case management documentation process. To further enhance efforts and maximize the usefulness of the case management tool, the Department should address other items. First, the Department should assess the current IPP format, determine its efficiency and effectiveness in capturing needed data, and make changes where appropriate. Second, an oversight process is needed. Supervisors need to review the work of their subordinates to ensure that IPPs are being completed in a comprehensive and timely manner.

Recommendation No. 3:

The Department of Corrections should ensure the proper utilization of a case management tool by:

- a. Reviewing the current design and format of the YOS Individual Program Plan to determine whether it is the most efficient and effective means to chart YOS offenders' progress and to develop program evaluation data.
- b. Implementing a thorough file review process by which supervisors would be made aware of the adequacy, accuracy, and timeliness of IPP completion.
- c. Completing the computer database to enable researchers and staff to retrieve and analyze data collected on YOS residents through the IPPs.

Department of Corrections Response:

Agree. The Department is reviewing several case management tools that are appropriate for YOS residents. A team of case management supervisors has reviewed all of the YOS records and made specific recommendations for change.

Discipline Is To Be Tiered, Swift, and Strict

By statute, the Department is to establish a discipline system within YOS that is "tiered, swift, and strict." In response to the requirement for a tiered system, the Department adopted three levels of discipline. From least to most severe these are:

1. **Privileges** - Taking away privileges is the most commonly applied sanction. For Phase I, a "level system" is used to give and take away privileges. On the basis of their behaviors, offenders may move up or down this system of six different status levels. The higher the level, the more privileges the resident is granted. Privileges include visitation rights, phone calls, additional gym time, and the opportunity to participate in the work program. Misbehavior can result in a regressive move as well as remediation and/or revocation. The Program Team (Phase I) determines where residents will move within the level system.
2. **Remediation** - When a resident is remediated, he or she is removed from the general YOS population and placed in boot camp for a few hours to as long as 30 days. The Department has developed criteria to determine when remediation is appropriate. The criteria include failure to meet program goals and objectives, refusal to participate in the program, threatening the safety and

security of the program or facility, possession or use of a controlled substance, and repeated curfew violations. For an offender to be remediated, the Program Team or Community Corrections Agent must determine that this is the most suitable disciplinary action and the YOS or Community Corrections Director must concur with the decision. Our file review revealed that more than 60 percent of the offenders have been remediated at least once.

3. **Revocation** - This is the most severe disciplinary action. When a resident is revoked, he or she is removed from the YOS program and placed in an adult prison. Residents are revoked for violations such as chronic misbehavior, refusal to participate, escape, and assaultive behavior. The program team initiates the recommendation for revocation. The YOS or Community Corrections Director as well as the Department's Executive Director must agree with the recommendation before it is forwarded to the District Attorney's Office where the offender was sentenced. The District Attorney is then responsible for arranging a hearing with the sentencing judge. In the meantime, the resident is placed in a segregation unit at the YOS facility until it is determined whether to revoke the resident.

As of June 30, 1998, 51 YOS offenders had had their sentences revoked. This is more than 10 percent of the residents admitted to the program from Fiscal Year 1994 through Fiscal Year 1998. Nearly 70 percent of the revocations occurred in the institutional phases (boot camp and Phase I). It is to be expected that more disciplinary actions will occur during the early stages of an offender's sentence. Many find the adjustment to the regimentation and order of IDO and Phase I difficult. Staff have indicated that they are apt to be more tolerant of infractions in the early stages of the program than in the community phases. As the offender progresses through the program, there is less tolerance for inappropriate behavior.

The most common reason for revocation was refusal to participate in the program. In addition, other reasons for which sentences have been revoked include escapes, assaultive/violent behaviors, gang involvement, new crimes, and chronic noncompliance. All of the recommendations for revocation that reached the court were upheld by the sentencing judge. That is, the sentencing judges revoked every case that came before them.

Weaknesses Exist in Disciplinary Procedures

The Department's three levels of disciplinary actions appear to meet the requirement for a tiered system. However, we found that the system is not always "swift and strict" as required in statute. Specifically, we found the following:

- **The criteria are not consistently applied.** We identified several instances in which staff did not remediate or revoke offenders who violated the rules. For example, in at least five cases, offenders displayed continuous aggressive and violent behavior while in the program. These offenders received minimal (or no) remediations or were not revoked for their behavior. By contrast, two offenders were remediated for "horseplay," a less serious situation.

Another offense in which offenders may be remediated or have their sentences revoked is possession and/ or use of alcohol or controlled substances. At least four residents were identified as possessing and/or using alcohol or controlled substances while in the program. They were neither remediated nor revoked. In one case the Department found an offender guilty on two occasions of possessing/using dangerous drugs. The offender was also found guilty of escape without force (location unknown for three days). Community Corrections staff began the revocation process. However, according to staff, the decision ultimately was made to allow the offender another chance in the program. Thus, a revocation recommendation was never forwarded to the District Attorney's Office.

- **The criteria are often open to interpretation.** We found that some of the criteria are ambiguous. For instance, "failure to progress" is one reason a resident may be revoked from the program. Although this may be a valid reason for revocation, "failure to progress" can be interpreted differently from staff member to staff member. In addition, the criteria do not specify how frequently offenders can commit certain acts before they are remediated or revoked. For example, we identified one offender who was remediated 12 times throughout his placement in YOS. His YOS sentence was never revoked.

Inconsistent application of discipline criteria threatens the integrity of the program as well as diminishes the intent of remediation and revocation. These inconsistencies not only result in inequitable treatment of residents but can also pose a potential danger to the public. Specifically:

- **Chronic misbehavior can be a precursor to more serious offenses.** For instance, the offender who was remediated 12 times while in YOS completed his sentence, and was released. Shortly thereafter, he was arrested, charged, and convicted of a violent crime. His remediations occurred throughout his YOS placement. They were often lengthy, ranging from 10 to 78 days. Usually they lasted more than two weeks. While in Phase I, it was recommended that he be revoked from the program. However, the revocation was never finalized and the offender progressed into Phases II and III, where he was remediated several more times.
- **Incongruities can create confusion as to the consequences for misbehavior.** The inconsistent application of discipline sends out mixed messages to YOS inmates. Some may feel they are being unfairly treated because they were punished for an infraction when others were not disciplined. Further, the unacceptable behavior of some residents may continue because they have not been disciplined for their previous actions.

Disciplinary actions are a fundamental component of the YOS program. Part of the program's philosophy is to teach "offenders self-discipline by providing clear consequences for inappropriate behavior." It is the responsibility of YOS management and staff to provide the best example possible of what is and is not acceptable conduct. To accomplish this, management and staff need to consistently communicate and administer disciplinary actions. Some discretion on the part of case managers and other staff is appropriate because no two cases or offenders are identical. However, checks and balances are needed to ensure that the fundamental principles of discipline are uniformly applied. Possibly, guidelines could be adopted for use in determining when remediations will be mandatory or when the number of remediations is excessive and revocation is in order. In addition, staff decisions about applying sanctions should be routinely reviewed.

Recommendation No. 4:

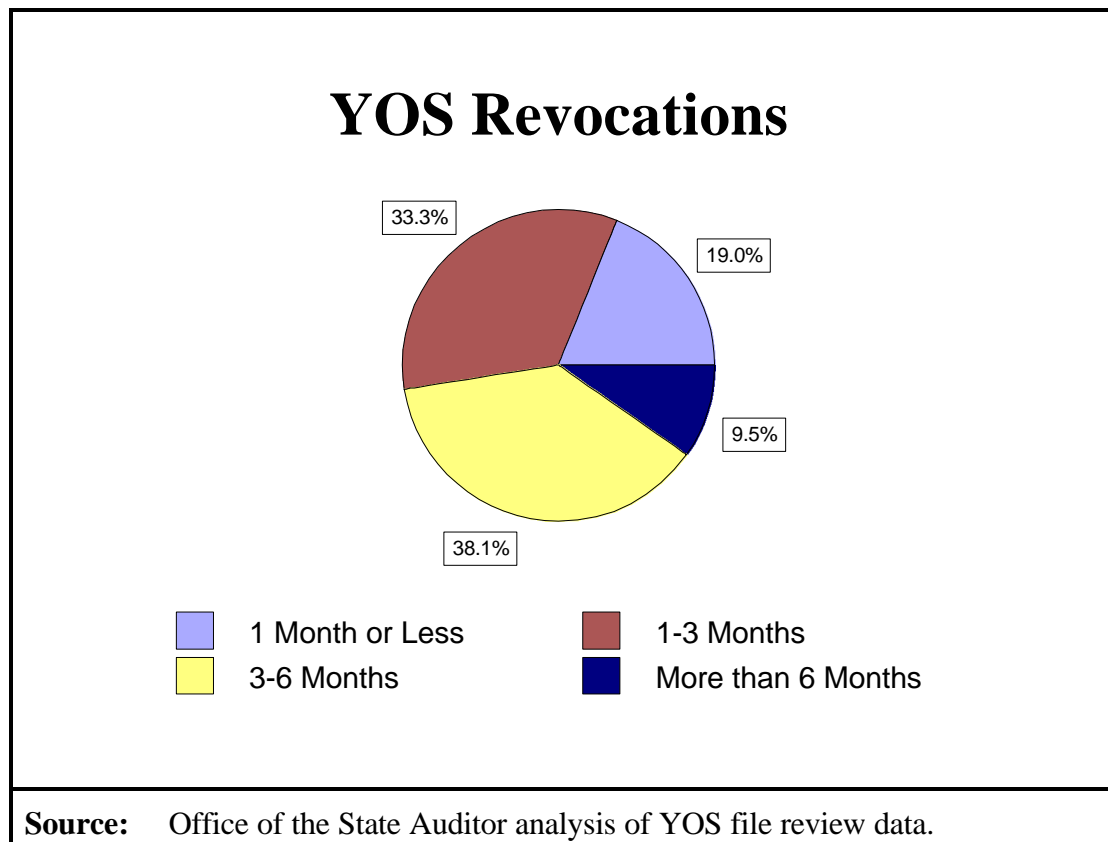
The Department should ensure that disciplinary actions are consistently and uniformly applied by clarifying the standards, developing guidelines where needed, informing offenders and staff of the standards, and reviewing to ensure that sanctions are applied in an appropriate and timely fashion.

Department of Corrections Response:

Agree. The Department has developed a three-tiered system for disciplinary sanctions. These include: loss of privileges, remediation and revocation. These new standards are being implemented currently.

The Revocation Process Is Excessively Long

Upon recommendation for revocation, the offender is segregated from the general YOS population. While in segregation, few privileges are allowed. The offender is locked down 23 hours per day and is allowed out for only one hour to exercise. The offender remains segregated until the court determines whether he or she will be revoked. We found that offenders can wait for a decision on revocation for as little as two weeks to as long as ten months. As the following chart shows, most wait from between one and six months. It is important to note that our findings on the lengths of waits are based on data for about 20 offenders. We were unable to find complete information on the other offenders whose sentences had been revoked.



Department personnel attribute the delays to the lengthy judicial process. Typically, it takes the Department about two weeks to complete its internal review and recommendation process. After receiving the recommendation for revocation, it is the responsibility of the District Attorneys' Offices to schedule court hearings and build the cases for revocation. This is often where the process lags. According to YOS staff, two reasons for the long waits may include backlogs in court dockets and actions taken by defense counsel.

In our file review, we found at least five cases in which the revocation process was begun, but for some reason, including the lengthy process, the offenders completed their sentences and were released back into the community before a disposition on their revocation was reached. This means that the Department believed the behavior of these offenders was serious or negative enough to justify reimposition of the adult sentences and placement in adult correctional facilities. However, time ran out before action was taken and the offenders were released. In three other cases in which the revocation process had begun, the offenders were also released from the program before the process was concluded. However, in these three cases the court still reimposed the adult sentences. That is, these three offenders had been released from the program before the dispositions on their revocations were final. Yet the court reinstated their original adult sentences even after they were discharged from YOS.

Lengthy Periods of Segregation Can Have Negative Consequences

Department management and staff recognize that delays in finalizing revocation cause problems within the YOS program. Residents awaiting revocation frequently become disruptive. Assaultive behavior and suicide attempts often occur among segregated offenders. We reviewed data pertaining to suicide attempts and self-injury incidents occurring from April 1998 through December 1998 and found that nearly 40 percent of the documented cases occurred while offenders were in segregation. According to the YOS psychologist,

One of the major sources of suicidal threats and actual attempts can be found in the removal from program (RFP) population. This is a group of residents who are awaiting revocation hearings and are not participating in any type of program. This group is locked down twenty three hours per day, often for an extended period of months. Adolescents have a much more difficult time with seclusion than do adults because of their developmental level and consequent need for stimulation.

The Department Recognizes That Waits Are Problematic

The Department has tried to alleviate some of the problems associated with the long revocation process. For example, in June 1998 the Department began allowing offenders in segregation to earn privileges if they exhibit appropriate behavior. Telephone use and visitations are among the privileges. The Department is also planning to provide some programming components such as educational courses. In addition, the Department is considering different placement options. One possibility is to place these offenders in county jails until the revocation process is complete. Department personnel believe that sheriffs' offices will expedite the revocation process because of shortages in county jail beds.

Recommendation No. 5:

The Department of Corrections should continue to identify and implement internal solutions to the problem of lengthy waits for revocations. The Department should also work with the courts and other entities to speed up the process and/or find alternative placements for these offenders.

Department of Corrections Response:

Agree. The Department is developing a specific form per the recommendation of judges which would allow a judge's signature to move the resident to be regressed back into a county jail.

Fines Are Not Routinely Imposed

Operating procedures authorize the YOS Program Team to impose fines for inappropriate/improper behavior or for chronic remediation. However, this policy is rarely applied. We identified only one instance in which an offender was fined \$90 for property damage to a footlocker. At least four other offenders have damaged YOS property, but no fines were assessed. According to YOS staff, these four offenders were not charged with any restitution due to internal procedural errors. In addition, the Department has never used its authority to fine for chronic remediations. Yet we identified several offenders with five or more remediations.

Central among the YOS guiding principles and goals is to teach self-discipline by providing clear consequences for behavior and to develop positive, socially accepted behaviors and attitudes. Furthermore, as stated previously, statutes specify that discipline be tiered, swift, and strict. Failure of the Department to assess fines, whether for the purpose of punishment or restitution, is inconsistent with statutory intent and YOS principles. The Department needs to use this method of holding offenders responsible for their actions and making them aware of the consequences. In addition, according to YOS management, assessing fines for chronic remediation is not an appropriate sanction. Therefore, management does not intend to use it for this purpose. If this is the case, then the Department needs to take steps to have this provision deleted from its policies and procedures.

Recommendation No. 6:

The Department of Corrections should follow its operating procedures and impose fines for designated infractions or make changes to the procedures.

Department of Corrections Response:

Agree. This is currently being implemented. The DOC will not assess fines for chronic remediation.

Expanding Aftercare Could Be Beneficial

Aftercare is a correctional approach that introduces treatment providers and resources to inmates prior to their release from an institutional or residential setting. Following release from the more restrictive environment, participants continue to receive services such as substance abuse treatment, family counseling, and educational or vocational training. In its mission statement, YOS is described as an individualized phased program followed by supportive aftercare. According to YOS personnel, during Phase II staff identify community resources that offenders may access when they are in the community. Also, during Phase III the Division of Community Corrections provides supervised community living, including some support services. This support ends, however, when the inmate's sentence is discharged. Yet the first few months to a year following release into the community may be the most critical time for aftercare services.

Both national statistics and our file review show that recidivism rates are highest within the first few months to about two years following release. Seventy-five percent of the YOS offenders in our file review who were reconvicted were reconvicted in the first year following their release from the program. More than 35 percent of these offenders had committed the crimes for which they were convicted while they were still in the community phase of the program. Staff and inmates at YOS indicated that continuing to provide support services for a period following discharge could be beneficial. Former inmates who have come to rely upon the supervision and order of YOS sometimes find it difficult to sustain positive behaviors when left on their own. Continuing interaction between YOS staff or other support personnel and services could provide the former offenders with the encouragement needed to succeed.

The Youthful Offender System is in a prime position to try new approaches at redirecting the lives of youthful offenders. Developing additional aftercare services is in keeping with the innovative nature of YOS. The Department has a program that provides community reintegration services to its regular adult population. Among the services and resources available are education, job training, and mental health and substance abuse referrals. The Department should, at a minimum, extend its reintegration program to YOS offenders also.

Recommendation No. 7:

The Department of Corrections should enhance aftercare for YOS by making its regular reintegration program services available to this population.

Department of Corrections Response:

Agree. The Department will make its reintegration services available to the YOS residents who are discharging their sentence.

Sentencing

Chapter 2

Overview

As previously stated, YOS targets juveniles ages 14 to 18 who are prosecuted and convicted as adults for crimes classified as Class 2S6 felonies. Typically, to be eligible for YOS, youth have to be convicted of crimes that are violent and/or involve the use of a weapon. Class 1 felons, sex offenders, the developmentally disabled, and the chronically mentally ill are excluded from YOS. The data on the following page describes some sentencing aspects of YOS that we identified in our review of offender files (data are for Fiscal Years 1994-1998).

The Judicial Districts Need To Be Kept Informed About YOS

The quality and frequency of communication between the Department and the judicial districts has been inconsistent since the creation of the program. In the beginning, YOS staff frequently interacted with judges and district attorneys. During the program's first year, YOS management provided training seminars to judges, district attorneys, and defense attorneys. In addition, the District Attorneys' Council was integrally involved in the design and development of the program. However, communication between YOS and the judicial districts has declined over time. For instance, within the last three years, the Department has not updated judicial districts about legislative and other changes. Consequently, we found that the courts and court personnel may not have the most current or accurate information. We identified areas of misinformation, misunderstanding, and a lack of clarity regarding the YOS target population, eligibility, and sentencing. For example:

YOS SENTENCING DATA

Fiscal Years 1994-1998

Most frequently occurring crimes:

- | | |
|-----------------------|----------------|
| 1. 2nd Degree Assault | (66 offenders) |
| 2. Aggravated Robbery | (65 offenders) |
| 3. 1st Degree Assault | (47 offenders) |

Most Common Felony Classification: Class 4 Felony (181 offenders)

More than 80 percent (303) of the offenders (from a total of 366 for whom data were available) ***used a weapon*** in the commission of their YOS crime.

DOC Sentence: (Refers to the adult-DOC sentence the offender received. This sentence was suspended and a YOS sentence was imposed.)

Sentence Range	1 to 32 years
Most Frequent Sentence	6 years
Average Sentence	9.7 years

YOS Sentence:

Sentence Range	1 to 6 years
Most Frequent Sentence	3 years
Average Sentence	3.8 years

Top Three Sentencing Counties:

- | | |
|----------------------------|-------|
| 1. Denver (92 offenders) | 22.8% |
| 2. El Paso (81 offenders) | 20.1% |
| 3. Arapahoe (65 offenders) | 16.1% |

Denver-Metro Area Counties (Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson) ***sentenced nearly 60 percent of all YOS offenders*** from Fiscal Year 1994 through Fiscal Year 1998.

Urban Counties in the state sentenced about 95 percent of all YOS offenders between Fiscal Years 1994 - 1998.

Source: Office of the State Auditor analysis of 403 YOS offender files.

- **Lengths of Sentences** - We identified a number of incongruities and inconsistencies related to sentence lengths. For example, we found 12 offenders (of the 403 whose files we reviewed) who were given identical YOS and DOC sentences. The problem with identical sentences is that they can serve as disincentives for some offenders to participate in YOS. The Youthful Offender System has a reputation for being a much more difficult sentence than doing time in the regular adult system. Less is expected of adult inmates in terms of program participation than is expected of YOS offenders. Therefore, some youth have chosen to forego YOS for the adult system. In fact, we identified several offenders who wanted out of YOS because their adult sentences would be easier to complete and possibly shorter because of parole. We also identified one offender who received a longer YOS sentence (three years) than his DOC sentence (one year). He is still serving his YOS sentence.
- **Sex offenders** - As we discuss later in this chapter, contrary to statute, sex offenders have been sentenced to YOS. In one case, this was over the objection of probation personnel familiar with the offender's case.
- **Females** - Few females are sentenced to the program. In fact, only 16 females have been sentenced to YOS since the program began. Currently there are ten females in the program, representing three percent of the total YOS population. There are many possible explanations for the small number of females sentenced to YOS. National as well as Colorado statistics show that fewer offenders are women. According to the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP), only 26 percent of all juvenile arrests nationwide in 1997 involved a female. In addition, the national juvenile male arrest rate for Violent Crime Index offenses (murder, non negligent manslaughter, forcible rape, robbery, and aggravated assault) was five times greater than the rate for females. However, OJJDP reports that violent and property crime rates among female juveniles are rising faster than they are for juvenile males.

Indeed, criminal activities among juvenile females appear to be on the rise in Colorado also. Staff at the Division of Youth Corrections (DYC) and at least 12 of the 18 District Attorneys we talked to told us they are seeing more and more adolescent females in their systems. For example, the number of girls committed to DYC increased by 110 percent between Fiscal Years 1995 and 1998. We also found that females in YOS are receiving longer sentences. Specifically, the average YOS sentence for females was 4.4 years compared with an average sentence of 3.8 years for the male population. Corresponding sentences to the adult system were also longer for the females in YOS than for

the males. The females received an average 12-year sentence to DOC while the males received an average 9.6 years.

Another reason why few females are sentenced to the program may be due to misunderstandings about the appropriateness of placing females in YOS. Some district attorneys told us that they thought females were still being sent to out-of-state facilities. Others thought that YOS did not offer gender-specific services and programming for girls. Therefore, some district attorneys were less likely to consider YOS a viable sentencing alternative for female offenders. The Department needs to clarify these kinds of misunderstandings and ensure that district attorneys and judges have up to date and accurate information about the program as it relates to female offenders.

- **Revocations** - As we discuss in detail in Chapter 1, the revocation process is often very lengthy. For example, we found that offenders spend an average of three months in segregation awaiting a disposition on their revocation. According to Department management, delays are often the result of backlogs in the judicial process.
- **Non citizens** - Non citizens may not be appropriate for YOS. According to Federal Immigration and Naturalization Service (INS) laws, non citizens, 18 years or older, who are convicted of felonies, will likely be deported upon completion of their incarcerations in correctional facilities. This means that YOS inmates who are not U.S. citizens may be deported once they enter the community phases of their sentences. For YOS, this could be as early as the completion of the institutional phase, prior to Phase II. Further, it is likely they will be deported.

It is important to remember that one of the primary goals of YOS is to reintegrate offenders into the community. When this goal cannot be met, placing these offenders in the program defeats its purpose. It is also not cost effective to place offenders who are not U.S. citizens in YOS. The YOS program is among the more expensive correctional programs in the state. It is difficult to calculate the total cost differences between the two systems because of differing sentencing lengths, including parole. However, we estimate that sentencing non citizens to YOS costs at least \$40 more per day than if they had been sentenced to another adult correctional facility in the state.

Few non citizens have been sentenced to the program. Specifically, we identified seven offenders who are not U.S. citizens who were sentenced to YOS between Fiscal Years 1994 and 1998. Three are currently in the program, two have been revoked, one reconsidered, and one completed the program. So far, the Immigration and Naturalization Service (INS) has issued detainers on five of the seven. This means that the INS has already, or, in future will take custody of these five when they have completed their institutional sentences. Possibly the Department should communicate to the courts that other correctional placements would be more appropriate for these individuals.

We also found that a number of district attorneys are curious about the program's operations and its effectiveness. For example, 10 of the 18 district attorneys we talked to had questions or concerns about the transition to the YOS-Pueblo complex and the rumored changes in staffing and programming.

Sentencing Guidelines Would Be Beneficial

In the regular adult system, certain crimes carry with them certain sentences. For example, a conviction for First Degree Assault (a Class III felony and a crime of violence) would mandate a minimum sentence of 8 years to a maximum of 24 years in the adult system. In this case the minimum eight years is longer than the maximum YOS sentence of seven years. Contrastingly, a Class V felony with no extraordinary circumstances would carry with it a minimum one-year to maximum three-year sentence. In this case an offender could receive a longer sentence to YOS because the minimum YOS sentence is two years compared with the one-year low end on the regular adult scale.

As previously mentioned, these kinds of sentencing incongruities and inconsistencies can cause confusion and problems for the YOS program and for the offenders sentenced to it. Judges need to be made aware of the impacts of some of their sentencing decisions. A YOS sentence should not be viewed in isolation. It should be evaluated within the context of the corresponding adult sentence. Guidelines for use in setting appropriate YOS sentences could be beneficial for this purpose. Currently there are no statutes or judicial guidelines for setting the length of YOS sentences. The Department should take the lead and work with the State Court Administrator's Office, prosecutors, and defense attorneys to develop these guidelines. Possibly, Supreme Court Directives could be adopted.

General Communication Improvements Are Needed

We recognize the courts have discretion with regard to sentencing. However, the Department needs to be proactive in informing the judiciary of sentencing and other issues that impact YOS and the quality of its programming. Improved communications could include routine training sessions and workshops in conjunction with the State Court Administrator's regular training for the courts. Possibly, the Department could develop methods of interacting with the District Attorney's Council on a regular basis. According to Department of Corrections' management, they are planning a series of meetings with judicial personnel to update them on the program. We encourage the Department to follow through with these meetings and identify and develop other ways to ensure timely, ongoing interaction and exchanges of information with those integrally involved in the judicial process.

Recommendation No. 8:

The Department of Corrections should continue to improve communications with the judicial districts to ensure consistent, appropriate, and timely application of sentencing and other YOS requirements. This should include working in cooperation with the State Court Administrator's Office and the District Attorney's Council to develop sentencing guidelines, training sessions, workshops, and other forms of ongoing communication.

Department of Corrections Response:

Agree. All District Judges in the State have recently been invited to tour YOS to learn more about this sentencing option. The Executive Director will continue to address these issues with Judges and District Attorneys.

Contrary to Statute, Sex Offenders Are Sentenced to YOS

Section 19-2-517(3)(a)(2), C.R.S., specifically excludes juveniles convicted of any sexual offense from YOS. Accordingly, the program was not designed to admit and treat sex offenders. Yet, between Fiscal Year 1994 and 1998, at least 20 juveniles with sex offender histories were sentenced to the program. Most of these juveniles'

sex offense cases occurred prior to their YOS sentences, and, most of the 20 were not sentenced to YOS for a sex offense. Some of the pre-YOS histories includes arrests and/or convictions for 1st, 2nd, and 3rd degree sexual assault, sexual assault on a child, and sexual assault on a sibling. However, we identified three juveniles who were sentenced to YOS for crimes directly involving sexual assaults. In one of these cases, a probation officer formally recommended to the court that the juvenile who was convicted of First Degree Sexual Assault not be sentenced to YOS. The court did not follow this recommendation and, instead, sentenced the youth to a five-year YOS sentence.

The Department Should Determine If It Can Treat Sex Offenders

The Department is not responsible for the courts sentencing sex offenders to the program. As stated above, in at least one case, the court sentenced a sex offender to YOS despite recommendations to the contrary. However, the Department does have a responsibility to ensure that it provides offenders with suitable treatments and services. In addition, the Department has a responsibility to provide for the safety and security of offenders in the program as well as for the general public.

Department staff are aware that some YOS offenders have sex offense histories. Even if no offenders were sentenced to YOS specifically for a sex crime, it is likely there will always be some offenders sentenced to the program who have histories of sex offenses. To date, the Department has not proactively addressed this issue. Specifically,

- **The Department has not determined how it will deal with sex offenders in the program.** We identified only one case in which staff recommended the removal of an offender with extreme sex offender problems. Staff reasoned that YOS could not provide the appropriate treatment for this resident. However, the offender remained in the program, and no treatment was provided until he reached Phase III.
- **The Department is not meeting the individual needs of residents who have sex offense histories.** The Youthful Offender System mission statement declares that the program was designed to provide individualized programming that meets the needs of offenders. Currently, comprehensive and specialized treatment is not provided for sex offenders in YOS. In fact, specialized treatment is not offered until offenders reach the community portions of the program--Phases II and III. Although the sex offender treatment provided by Community Corrections may serve to reduce the chances of reoffense, this treatment is provided too late in the process.

Treatment should begin long before residents are released into the community. For example, a report from the Texas Council on Sex Offender Treatment found that most sex offending begins during adolescence and the earlier treatment is offered, the more likely it is to prevent continual sex offending.

Also, in its Fiscal Year 1999 Budget Request, the Department of Corrections said the following about the Sex Offender Treatment Program offered to its regular adult population.

...Sex offender treatment differs from traditional mental health treatment. Included in the treatment is accountability and monitoring behaviors. There is not a cure for sex offenders, and they will always remain a high risk to reoffend. However, with specialized treatment, motivated sex offenders learn to control offending behaviors.

There are several steps the Department needs to take to address this issue. First, the Department needs to determine how it can best treat offenders with sex offense issues. This would include a determination of the costs and resources needed to provide comprehensive treatment. Second, the Department should determine whether YOS can be an appropriate placement for offenders convicted of sex crimes. If it is determined that YOS can effectively and safely serve this population without jeopardizing the overall program or the well being of the other offenders, then recommendations for statutory change should be made. If the Department determines that the best interests of the YOS population and of the public will not be served by sentencing sex offenders to the program, then the Department needs to take steps to reinforce the existing statutory prohibition. This could include working with Judicial Department to communicate with the courts and developing internal policies for dealing with sex offenders sentenced to the program. Finally, the Department should keep the General Assembly informed of its decision(s) and of future issues related to this population.

Recommendation No. 9:

The Department of Corrections should determine whether the Youthful Offender System is an appropriate, effective, and safe placement for sex offenders. This should include:

- a. Determining the costs and resources needed to provide comprehensive treatment.

- b. Analyzing the effects on the overall program, including program content and the safety and well-being of the offender population.
- c. Communicating with the courts about the appropriateness of sentencing sex offenders to YOS.
- d. Adopting internal policies and procedures.
- e. Making recommendations for statutory change, if needed or reinforcing current laws on sex offenders.
- f. Including information regarding sex offenders in its regular reports about YOS to the General Assembly.

Department of Corrections Response:

Agree. The Department will evaluate the cost and appropriateness of delivering sex offender treatment at YOS.

Program Outcomes and Evaluation

Chapter 3

Overview

Statutes clearly indicate that the General Assembly intended for the Youthful Offender System (YOS) to be evaluated comprehensively, routinely, and independently. Specifically:

- **Section 16-11-311(9), C.R.S.**, requires that on or before November 1, 1993, the Department of Corrections and the Division of Criminal Justice are to develop, and the Department is to implement, a process for monitoring and evaluating YOS.
- **Section 16-11-311 (10)(a), C.R.S.**, requires the Department to submit annual reports concerning YOS to the House and Senate Judiciary Committees. These reports are to contain a summary of the recidivism rates for five years following the release of the offenders, an accounting of the amount spent on each offender in the program, and an evaluation of the operations of YOS.
- **Section 16-11-311 (10)(c), C.R.S.**, requires the Division of Criminal Justice to independently monitor and evaluate YOS according to the criteria specified above.

National research also emphasizes the importance of establishing and implementing program evaluation systems for criminal justice programs. For example, one study found that evaluations help to foster accountability, determine whether programs make a difference, and give staff the information needed to improve service delivery. Despite all of these mandates, we found that the Department has not implemented an evaluation process for the program, the Division of Criminal Justice has not conducted an independent evaluation, and the studies that have been conducted have been very limited in scope and usefulness.

The Effectiveness of the Program Has Not Been Demonstrated

More than five years have passed since the Youthful Offender System began accepting offenders. More than three years have passed since the first offenders were released. Yet the Department has not evaluated the effectiveness of the program or measured its outcomes. Consequently, the overall effectiveness of the program is unknown. This is particularly troubling because YOS was intended to be an innovative approach to turning youthful offenders around before it was too late—a second last chance. Considerable energy and resources have been committed in support of the program. It is one of the more costly correctional programs in the State. For Fiscal Year 1999, the Department estimates that the average daily cost for an offender in Phase I of YOS was \$124. This compares with an with average daily cost in the regular adult system of \$62 in 1998 (data were not available for 1999.) In addition, although the average daily costs for YOS and the Division of Youth Corrections are fairly comparable, the average YOS sentence is longer than the average DYC commitment. Therefore, total costs for a YOS placement are considerably higher than the total costs for a DYC placement.

Also, the new YOS-Pueblo facility was built at a cost of more than three years and \$36 million. During the 1999 Session, the General Assembly passed legislation that extends the program until at least Fiscal Year 2004. However, the Department can provide no real evidence that YOS has been successful in achieving the goals for which it was created. According to Department management and staff, the main reason they have not evaluated the program is because too little time has passed since the program began and too few offenders have completed their sentences. Therefore, they argue any analysis would be unreliable and not representative of the program today. We disagree. Ample time has passed and data do exist for the Department to have been:

- Monitoring changes in the demographics of the intake population such as age, gender, types of crimes, gang affiliations, and prior criminal histories.
- Assessing the effectiveness of various treatment and program components within YOS such as anger management or substance abuse treatment.
- Determining recidivism rates or relapses into crime for the offenders who have completed their sentences. Data show that most offenders who reoffend do so within one to two years of their release.

The Department Never Implemented Its Evaluation Plan or Model

In February 1994 the Department presented an extensive plan for the development and implementation of an evaluation process for YOS. The plan requires staff to collect various data on offenders, conduct ongoing assessments and comparative studies, and track the progress of offenders after they are released. The plan also identified six goals for YOS evaluation. These were to:

- Determine the effectiveness of the program in reducing criminal behavior, arrests, and commitments.
- Examine the cost-effectiveness of the program.
- Evaluate the YOS offenders' adjustment to the community in areas of employment, involvement in treatment, and the use of other community services.
- Assess the offenders' improvements through the YOS program.
- Identify offender characteristics predictive of positive outcomes during and following YOS to determine whether assessments and program interventions are provided as intended.
- Examine changes in the YOS program that occur over time.

In addition, as part of its 1996 Annual Plan, the Department introduced a program evaluation model for YOS that it submitted to the General Assembly. Both the Department's 1994 plan and its 1996 model serve as solid foundations for a comprehensive outcome evaluation process. However, the Department has not implemented a majority of the items listed in its model nor has it accomplished any of the evaluation goals.

Outcome Information Is Essential

Outcome measurement for YOS has been limited to two basic recidivism studies. While recidivism rates and an offender's relapse into criminal activity after some type of intervention are among the most common assessment tools to measure the success or failure of correctional programs, evaluators should not limit program analysis to recidivism alone. As we discuss later in this chapter, the Department does not obtain

criminal activity data, such as arrests, criminal filings, convictions, and placements in intervention programs or correctional facilities (other than DOC facilities) for offenders who are released from YOS. Data on subsequent employment, education, and continued gang involvement are also not collected or analyzed. In addition, as we discuss in Chapter 4, improvements are needed in the collection and reporting of critical incident data that can be used for ongoing program monitoring.

For some time the Department has been planning to hire a research analyst to address the program's monitoring and evaluation needs. However, the analyst has not yet been hired and the Department has not developed any alternative plans to address its program evaluation needs and mandates. At a minimum, the Department needs to provide the recidivism, cost, and operations data specified in statute. We believe it is time the Department fulfill its statutory mandate and develop the information and analysis needed to effectively manage the program and to provide policy makers with the data needed to make future funding and other decisions about the program and its outcomes.

Recommendation No. 10:

The Department of Corrections should ensure the comprehensive and meaningful evaluation of the Youthful Offender System and its outcomes by implementing the 1994 evaluation plan and the 1996 evaluation model, or developing a new evaluation plan that includes components for measuring outcomes as well as for monitoring ongoing operations.

Department of Corrections Response:

Agree. The Department agrees that a comprehensive evaluation is essential for YOS. A national consultant has been hired to set up a data collection system, program data, and develop a system of data continuity among the three phases of YOS. The DOC intends to review the 1994 and 1996 evaluation plans and redesign another evaluation plan with the best components of the two previously mentioned plans.

The Department Defines Recidivism Too Narrowly

According to the Department, the recidivism rate for YOS is less than 10 percent. In contrast, our analysis found that more than 30 percent of the offenders who were released from YOS between Fiscal Years 1996 and 1998 had been reconvicted of at least one offense by February 1999. In some cases the crimes for which these individuals were reconvicted occurred while they were still in YOS.

The discrepancy in rates is due to the use of differing definitions of recidivism. We believe the Department's definition is too narrow and, therefore, does not accurately reflect the continuing criminal activities of YOS graduates. Specifically, the Department limits its measure of recidivism to convictions resulting in **recommitments** to Colorado's adult correctional facilities only. We defined recidivism as any conviction for a criminal offense (petty crimes, misdemeanors, and felonies) that occurred while still in YOS or within three years following release. Our definition of recidivism focuses on **reconvictions** and not solely on whether an offender returned to an adult prison.

Although our definition is broader than the one used by the Department, we did not include all reoffenses. For example, we did not include status offenses, such as underage drinking or curfew violations. Neither did we include traffic offenses unless they were considered felonies. We did include petty offenses involving controlled substance violations. It should be noted, however, that we identified only one offender who was convicted of petty offenses that involved controlled substances.

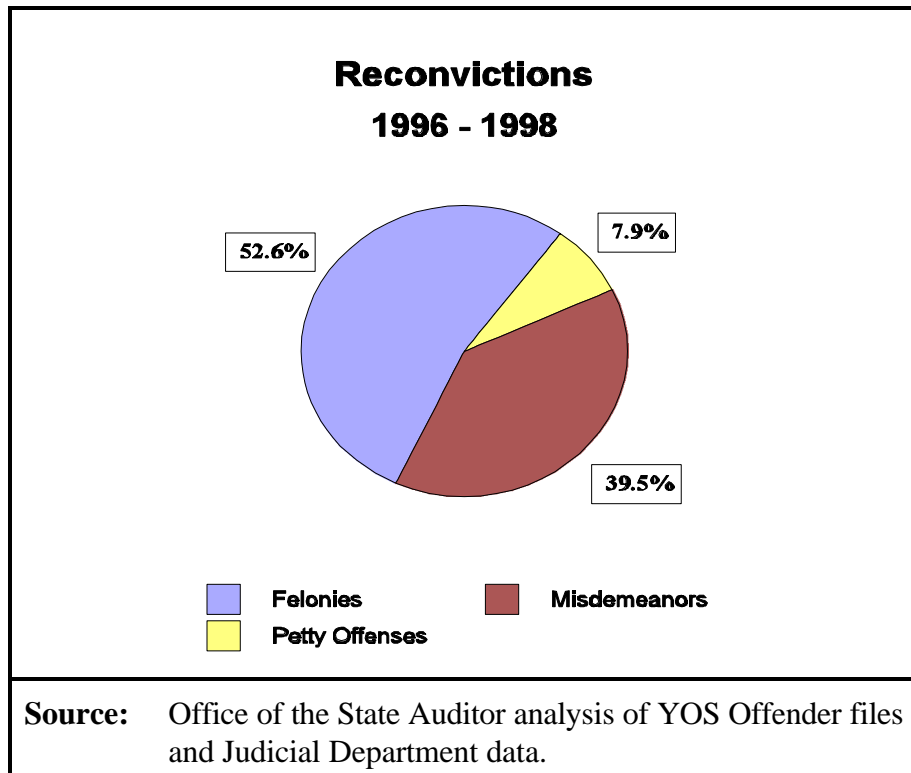
About One-Third of the Offenders Released From YOS Have Been Reconvicted

Our review of 403 offender files and data matches with the Judicial Department's Integrated Colorado Online Network (ICON) database revealed the following:

- **Thirty-two percent of the offenders who completed their YOS sentences between Fiscal Years 1996 and 1998 (24 of 74) had been reconvicted of additional crimes by February 1999.** We also identified eight other offenders who have criminal charges filed against them. If all eight are convicted, the recidivism rate will increase to more than 40 percent.
- **All four (100 percent) of the offenders released in 1996 have been reconvicted.** These four were also among the first sentenced to the program.

Reconviction Status								
Of 74 Offenders Who Have Completed YOS								
Status (as of 2/5/99)	Fiscal Year Released From YOS							
	1996		1997		1998		Total 1996-1998	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Not Reconvicted	0	0%	14	67%	28	57%	42	57%
Reconvicted	4	100%	7	33%	13	27%	24	32%
Pending Criminal Cases*	0	0%	0	0%	8	16%	8	11%
TOTAL RELEASED	4	100%	21	100%	49	100%	74	100%
<p>Source: Office of the State Auditor analysis of Judicial Department ICON data.</p> <p>* These eight offenders had been released from the program, had not yet been reconvicted, but had criminal cases pending as of February 1999.</p>								

- **More than 50 percent of the convictions were for felonies.** The 24 offenders who were reconvicted were charged with a total of 37 crimes. As the following chart shows, almost 53 percent of the convictions were for felonies.



- Of those who were reconvicted, 80 percent committed the reoffense(s) either while still in YOS or within one year of their releases.** As the following table shows, almost 40 percent or 9 of 24 offenders were reconvicted of crimes they committed while still in the program. These crimes were committed while the offenders were in the community phase (Phase III) of YOS. In at least five cases, the offenders were also arrested for these crimes while in Phase III. The crimes committed by these nine offenders included one sexual assault, two physical assaults, several felony thefts, and one burglary.

Recidivism								
Time Between Release and Reoffense								
Convictions as of February 5, 1999								
Reoffense Occurred	Fiscal Year Released From YOS							
	1996		1997		1998		Totals 1996-1998	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
While in YOS	0	0%	3	43%	6	46%	9	38%
During 1st Year After Release	3	75%	1	14%	6	46%	10	42%
During 2nd Year After Release	1	25%	3	43%	1	8%	5	21%
TOTALS	4	100%	7	100%	13	100%	24	*100%
Source: Office of the State Auditor analysis of Judicial Department and Department of Corrections' data. * Does not equal 100 percent due to rounding.								

- **Nearly 55 percent of the offenders who were reconvicted received sentences other than commitments to the Department of Corrections.** These other sentences included placement in the Intensive Supervision Program, Adult Probation, or county jails.
- **Assaults and controlled substance violations were the most common reoffenses.** Specifically, nearly 30 percent of the offenders were reconvicted of assault crimes (five for physical assault and two for sexual assault). In addition, about 20 percent (5 offenders) were convicted of controlled substance violations.

Dissimilar Definitions for Recidivism Exist Among Agencies

The Division of Youth Corrections (DYC), Office of Probation Services, and the Department of Corrections use recidivism rates as indicators of whether their programs are deterring further criminal activity. However, each agency interprets recidivism differently. The following chart compares the definitions of recidivism used by DYC, Probation Services, and DOC (includes YOS). As the exhibit shows, the Department of Corrections tracks recidivism longer than does either the Division

of Youth Corrections or the Office of Probation Services. However, what the Department tracks is more limited. Specifically, DOC only tracks recommitments to the adult correctional system. The other entities include court filings, adjudications, and convictions in their assessments of recidivism, regardless of the disposition or sentence.

Recidivism As Measured by Various Agencies			
Factor	Division of Youth Corrections	Office of Probation Services	Department of Corrections (Includes YOS)
Years Following Release	1 Year	1 Year	3 Years
Criminal Justice Activity Measured	Adjudications and Convictions	All Court Filings	Recommitments to DOC
Types of Offenses	Misdemeanors and Felonies	Misdemeanors and Felonies	Any criminal activity resulting in recommitment to DOC
Source: Office of the State Auditor analysis of data provided by the Division of Youth Corrections, Office of Probation Services, and the Department of Corrections.			

The Department Needs To Broaden Its Definition

As stated earlier in this Chapter, the General Assembly clearly intended for the Youthful Offender System to be comprehensively and regularly evaluated. Statutes prescribe that the Department track recidivism for YOS discharges for five years following their release. This is two years longer than the Department tracks recidivism for its regular adult offender population. In keeping with this extended time period for evaluation, we believe the Department should broaden its definition of recidivism for the YOS population to more accurately capture and measure relapses into criminal activity. This would mean going beyond reviewing only for recommitments to adult correctional facilities which, in fact, the Department has indicated to the General Assembly it does. Specifically, in a January 1998 briefing before the Joint Budget Committee, the Department stated that its “current methodology for judging the success of the program is based upon the offender’s...demonstrated ability over time to remain a law-abiding, pro-social member of the community.”

In addition, in our 1998 performance audit of the Office of Juvenile Probation, the Department of Corrections agreed to the following recommendation:

...The Judicial Branch should consult with the Department of Human Services, the Department of Public Safety, and the Department of Corrections to reassess the agreed-upon definition for juvenile post-release recidivism developed in 1993 and make any necessary changes or additions to ensure the definition is comprehensive and meets planning and decision-making needs. The agencies should use the definition in future studies of recidivism. These entities should also consider the possibility of establishing a statewide definition of recidivism that covers both juvenile and adult offenders. The Judicial Branch shall communicate the agreed-upon definition to the General Assembly and appropriate agencies by June 30, 1999.

In its June 1999 report to the General Assembly, the Judicial Department reported that the agencies, including the Department of Corrections, had developed a unified recidivism definition. The agencies recommended that a two-tiered definition of recidivism be adopted. Specifically:

1. **Pre-release recidivism** - an adjudication or conviction for a felony or misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.
2. **Post-release recidivism** - a filing or misdemeanor within one year of termination from program placement for a criminal offense.

A Broader Definition Would Provide a More Complete Picture

Our analysis shows that the majority of YOS discharges did not return to adult prisons as a result of their first reoffenses following release. However, the majority of those who reoffended were convicted of felonies. The serious nature of some of these crimes, including physical and sexual assaults, should not be overlooked simply because they may not have resulted in a return to the adult system. In addition, it is questionable whether the average citizen understands relapses into criminal activity as worthy of measure only if the offenders are resentenced to adult prisons. The costs to victims are felt whether the offender is incarcerated in a state facility or not. Furthermore, there are the actual law enforcement and judicial system costs associated with these criminal activities. Finally, it is important to remember that these juveniles were initially convicted of serious crimes that would have sent them to an adult penitentiary. As the graph in Appendix B-2 shows, their adult sentences averaged 9.7

years. One could argue, then, that less tolerance should be shown for their continuing criminal behaviors.

The Youthful Offender System is unique among the State's adult correctional programs. The offenders sentenced to the program do not yet meet the profile of the long-term adult offenders. The entire program design and purpose are different from any other in the adult system. The Youthful Offender System is in many ways an experiment. Nothing like it has ever existed in Colorado, and its history is limited nationwide. The General Assembly and the general public need to know if it is working. It is incumbent upon the Department to provide as much objective analysis and self-evaluation as possible. One of the most important ways it can do this is by providing a complete picture of the program's effectiveness and outcomes. If this means modifying its definition of recidivism as it has modified its definition of an adult correctional facility to address this population, then that is what the Department needs to do.

Recommendation No. 11:

The Department of Corrections should expand its definition of recidivism for the Youthful Offender System to more accurately and comprehensively reflect relapses into criminal activity. This would mean defining recidivism to include, at a minimum, all convictions, regardless of the sentencing outcome, occurring while residents are either in the program or for five years after their releases.

Department of Corrections Response:

Disagree. The department has maintained the same recidivism definition for a number of years. We have defined recidivism as a return to Colorado incarceration for a new felony conviction or a revocation from community supervision. The Department definition has always followed release cohorts for up to five years. When the Department reports recidivism the crimes for which an offender return to prison must be a felony. This report discusses crime as any offense from a petty offense to a felony. We find it difficult to compare the severity and risk to the public between a petty offense and a felony. The Department takes issue with the auditors with regard to the quoted percentages of recidivism. The small numbers of residents who have been released brings into question the validity of these data. Comparisons with the adult system recidivism rate would be impossible using differing definitions. The YOS population have been adjudicated as adults, thus, the Department sees no reason to treat them differently than the adult population.

Weaknesses Exist in Data Collection, Storage, and Reliability

Strong data management is an essential component for effective program evaluation and outcome measurement. Currently, the Department collects a wide array of data on offenders in Intake-Diagnostic-Orientation (IDO) and Phase I. Upon entry into the program, the Department creates a file that follows each resident throughout the program. Offender files contain basic demographic information as well as details about the offenders' criminal activities, assessment results (mental health, risks/needs, educational, substance use), program progress data, and critical incident reports. Although data collection activities in IDO and Phase I are thorough, we identified numerous problems with data management throughout all phases of the program. For the Department to be able to adequately monitor, manage, and assess the Youthful Offender System, these problems need to be addressed:

- **Data are often inaccurate or incomplete.** The Department has not developed an adequate process for reviewing data accuracy and completeness. During the audit we found numerous cases in which data were missing or inaccurate. For example, the Department of Corrections Information System (DCIS) database and the resident working files are used to track the number of remediations offenders receive. We compared data maintained in these two locations for 116 offenders and found remediation data were missing in nearly 25 percent of the working files. We also identified a number of cases in which remediations were not documented in the DCIS database.

Conflicting information within the files is also a problem. Almost 80 percent (287 out of 367 files for which data were available) of the narrative substance abuse assessments, which are conducted by YOS diagnostic staff during boot camp, contradict assessment scores on DCIS summary printouts. In most cases the DCIS summaries indicated little or no substance abuse problems. By contrast, the narrative assessments often revealed extensive histories of substance abuse. Also, more than 25 percent of the files contained conflicting data pertaining to prior criminal activity. For example, we found 94 cases (of 367 cases for which data were available) in which one document stated that the offender had little or no criminal history. Other documents in the same files detailed numerous arrests and/or prior adjudications.

- **Data are not easily accessible.** No single database or filing system contains all data on a resident throughout his or her placement in YOS. Rather, numerous files/databases exist which hold pieces of information. For example, to obtain complete data on a resident, staff would be required to

review at least six different files or databases. These include a working file (used by case managers), an education file (and database), a cognitive file, a mental health file, a medical/dental file, a Phase II file maintained by Youthtrack, and the DCIS. In addition, records on residents who are no longer in the program often require considerable effort to obtain. For example, files on offenders who completed YOS are maintained in DOC archives and must be retrieved by other departmental staff.

Staff told us that they are sometimes unaware of critical information about offenders because data are scattered among various locations. For example, detailed data on sex offense histories may not appear in the working file, but appear in the mental health file. Staff told us that these data would be helpful in determining which residents to house together. If a resident has a history of sexually deviant behavior, staff would not want to place this resident with another resident that is victim-prone. The Department needs to consolidate the various files. One possibility would be to create an electronic PC-database that maintains all information on each offender. This would allow greater accessibility by staff and provide better opportunities for program evaluation efforts.

Information Management Needs Improvement

Without adequate, accessible, and accurate data, attempts to assess outcomes and effectively manage the program are seriously inhibited. The Department needs to conduct a thorough review of the data needed to manage operations, make program changes, and evaluate program outcomes and effectiveness. This should involve instituting a quality control process to ensure file data are complete and accurate. Also, the Department should determine how it will make data more accessible to case managers and others who are responsible for the offenders in their charge. One possibility is the development of a PC-based system to allow for timely data input and retrieval regardless of the users' locations within the program.

Recommendation No. 12 :

The Department of Corrections should maximize its use of data and data systems in the management of the Youthful Offender System by implementing systematic and accessible methods for collecting, reviewing, compiling, and analyzing data.

Department of Corrections Response:

Agree. The Department intends to establish a stand alone database that captures the necessary data for management reports and the foundation for a complete program evaluation. The Department agrees that the current data is found in numerous locations and needs centralization. It is the intent of the Department to assure that collected data follows all phases of the program from IDO to Phase III. As mentioned in Recommendation No. 14, a researcher will be hired by September 1999, that, under the direction of the Research Office, will be responsible for these tasks.

The Division of Criminal Justice Has Not Evaluated the Program

By statute, the Department of Public Safety's Division of Criminal Justice (the Division) is to "independently monitor and evaluate the Youthful Offender System." The Division has not fulfilled this mandate. It is clear from the statutes that the General Assembly intended that YOS be reviewed regularly and by entities other than just the Department of Corrections. While ongoing internal evaluation is important, outside independent assessment also serves a critical purpose. Evaluation from outside the Department adds an element of objectivity and may enhance the credibility of findings.

The Division of Criminal Justice can provide an independent perspective as well as expertise in the field of criminal justice research and analysis. In its Annual Plan dated January 15, 1998, the Department of Corrections "urges the Division of Criminal Justice to seek both internal and external funding to fulfill its mandate to evaluate YOS." We agree that the Division of Criminal Justice needs to fulfill its statutory mandate or provide the General Assembly with its rationale for statutory change relieving it from this responsibility.

Recommendation No. 13:

The Department of Public Safety's Division of Criminal Justice should comply with statutes and conduct the required monitoring and evaluation of the Youthful Offender System.

Division of Criminal Justice Response:

Partially agree. The duties referenced in the Youthful Offender System statute were created during the 1993 Special Session. No resources were provided to complete this work, at that time, nor have any been added in the interim. While the identified tasks are consistent with similar efforts in other program areas, such work cannot be adequately performed without the necessary resources.

Since the creation of this statute, a number of reviews and audits have been completed of this program, by other entities within state government. The Department of Corrections has not sought the assistance of the Division in monitoring and/or evaluating this system.

The Division of Criminal Justice will attempt to obtain the necessary resources to complete this work or will seek to have this reference deleted by July 1, 2000.

Improvements Are Needed in the Design and Use of Assessment Tools

Assessment results are among the most useful and telling data collected about YOS offenders. These data are integral in determining the characteristics of the YOS population and its needs. However, we found several problems with the Department's selection and use of assessment tools. Specifically:

- **Different assessment tools are used from phase to phase.** For example, the YOS Institutional staff administers the Test for Adult Basic Education (TABE) assessment and the Wechsler Individualized Achievement Test (WIAT) to measure the education level of residents in IDO and Phase I. Community Corrections staff use the (WIAT) and Wide Range Achievement Test (WRAT) assessment tools for Phase II residents. According to staff, the TABE, the WIAT, and the WRAT are not comparable. Consequently, the ability to measure changes in offenders' educational levels is limited.
- **The CYO-LSI (risk/need) assessment is used only in IDO.** The Colorado Youth Offender Level of Service Inventory (CYO-LSI) was developed through a joint effort of YOS, the Office of Probation Services, and the Divisions of Youth Corrections, Criminal Justice, and Alcohol and Drug

Abuse. It is used to identify the needs of young offenders so that appropriate service and supervisory decisions can be made. At YOS it is used only in the IDO phase. It is not administered later in the program to determine more current needs and risks. A 1997 Technical Review of YOS conducted by the National Institute of Corrections (NIC) recommended that the CYO-LSI be completed during IDO and again at the discharge from Phase III for all youths.

- **Assessments to identify sex offenders are primarily administered in the latter phases of the program.** The YOS Institutional staff have not assessed all residents who have sex offender backgrounds to determine if specialized treatment or placement in another correctional program is necessary. By contrast, the Division of Community Corrections, which offers sex offender treatment, often refers inmates with sex offense histories to a certified psychologist.

The Department of Corrections needs to ensure that assessment tools provide a meaningful basis for measuring changes and comparing outcomes of various educational, treatment, and program activities. To do this, the Department will need to conduct a systematic review of the assessment tools currently in use. Decisions should be made about the most useful tools and steps taken to implement them throughout all phases.

Recommendation No. 14:

The Department of Corrections should ensure the usefulness and comparability of the assessment tools used throughout all phases of the Youthful Offender System.

Department of Corrections Response:

Agree. Our national consultant is working with the entire Youthful Offender System and will assist in standardizing all assessment tools across IDO, Phase I, Phase II, and Phase III. Some work has already been done on this as evidenced by the adoption of the Level of Supervision Inventory (LSI) which will be used for assessment in all phases because of its ability to assess dynamic factors in the offender. One aspect of the assessment in IDO will be to determine the severity of the resident who has a history of sex offenses and recommend the appropriate treatment.

Miscellaneous Issues

Chapter 4

The Designated Security Level at YOS-Pueblo Needs To Be Clarified

Between the time the YOS-Pueblo facility opened in July 1998 and December 1998, two separate escapes occurred involving a total of six offenders. Following the first escape in September, the Department conducted an internal security audit and found over 190 instances of noncompliance with Department regulations. Among the problems identified were security devices that were turned off, staff unaware that one of the juveniles had a history of runaways, and emergency planning that was not available. The review also found that ongoing construction activities at the facility made management of the population difficult. A follow-up audit two weeks later concluded that 99.5 percent of the earlier violations had been corrected. However, two months later, in December 1998, three more YOS offenders scaled the fences and escaped from the facility. All of the escapees in both incidents were quickly recaptured.

We Observed Improvements in Security

Since the last escape, the Department has made improvements in security conditions at YOS. The audit team observed this on recent visits to the facility. For example, in the fall of 1998 prior to the second escape, we noticed faulty security doors, a lack of timely response to signals for assistance, and an inadequate identification and/or search of visitors. We did not observe these problems on subsequent visits in 1999. However, in talking with YOS management and staff, we received conflicting responses about the designated custody and security levels at the facility. For example, different management and staff told us that security levels at the facility were classified as administrative-segregation, close, medium, low-medium, medium-restricted, minimum-restricted, and maximum.

According to Department of Corrections management, YOS-Pueblo is a mix of security levels. The most recent documentation provided by the Department indicates that the IDO building that houses the boot camp participants and offenders in segregation is classified as Close Security. The security level of the overall complex including the outside perimeter and living units is classified as Restricted Minimum.

Statutes do not prescribe the security level designation at YOS-Pueblo. They indicate only that YOS is to provide a “controlled and regimented” environment and that Phase II should be located in a 24-hour custody residential program. The Department needs to clearly establish and communicate the security level at the facility for several reasons:

- First, differing costs can be associated with the various levels of security. Both the Department and the General Assembly need to know what these may be. Also, the General Assembly and the public have an interest in knowing what to expect in terms of security measures at every state-operated correctional facility, including YOS.
- Second, the Department has indicated that it intends to apply for accreditation for the YOS facility from the American Correctional Association (ACA). Although the ACA does not require particular security levels, the Department needs to be clear about the designated security level or levels at YOS Pueblo.
- Third, management and staff at YOS need to be in agreement about the security measures they are responsible for applying.

The YOS-Pueblo facility is currently a mix of security levels. This does not seem inappropriate. The program itself is a hybrid. A mix of security levels could be effective, particularly if the Department incorporates the various phases on the same grounds. However, one of the primary functions of the Department is to ensure the public safety. In its Fiscal Year 2000 Youthful Offender System budget document, the Department states that its public safety function is designed to ensure the safety, security, and well-being of all individuals with YOS, the Department of Corrections, and the external community. In keeping with this position, the Department needs to clearly identify, define, and report on the security designation at the YOS-Pueblo facility.

Recommendation No. 15:

The Department of Corrections needs to clearly identify and define the designated security level(s) at the Youthful Offender System facility in Pueblo and ensure this is communicated to YOS management and staff as well as to the General Assembly.

Department of Corrections Response:

Agree. The Audit Team has been informed that one building on the YOS campus (IDO), is a close security (Level IV) building. This building resides in a minimum-restricted (Level II) environment for Phase I of the program.

Critical Incidents Were Not Reported in All Phases

According to the Department, the following reportable offenses or critical incidents occurred during Calendar Year 1998 at the various YOS facilities--DRDC, YOS-Pueblo, Phase I out-of-state contract facilities, Youthtrack Phase II, and Community Corrections.

Youthful Offender System Reportable Incidents Calendar Year 1998									
Facility	Staff Assaults	Inmate Assaults	Self-Injury	Fighting	Use of Force	Inmate Threats-Staff	Inmate Threats-Inmates	Escapes	Totals
DRDC	6	2	4	NR	12	2	NR	NR	26
YOS-Pueblo	2	3	10	5	3	2	1	6	32
Out of State Facilities (Phase I)	2	2	NR	3	13	1	NR	NR	21
Youthtrack (Phase II)	NR	NR	NR	NR	NR	NR	NR	NR	NR
Community Corrections	NR	NR	NR	NR	NR	NR	NR	5	5
TOTALS	10	7	14	8	28	5	1	11	84

Source: Office of the State Auditor analysis of data provided by the Department of Corrections.

Notes: (1) NR = None Reported. (2) There are also categories for inmate sex assaults, inmate deaths, and facility damage and arson. No incidents were reported in any of these categories. (3) In addition to the 11 escapes reported above, two offenders walked away from Community Corrections placements in Fort Collins in early 1999, resulting in a police chase in Denver several days later. Ultimately, the two offenders were found dead, presumably at their own hands.

In reviewing these data, however, we had some concerns about their accuracy and completeness. Consequently, we conducted a limited review of the offender case file data and identified the following incidents. These incidents were either not reported by the Department or are not considered reportable offenses within the Department's current policies and practices:

- **Drugs/Alcohol** - We found seven instances in which seven different offenders in DRDC, Phase I - out of state, and Phase III - Community Corrections were found either in possession of drugs and alcohol or under the influence of alcohol or drugs in Calendar Year 1998. The drugs in question included marijuana and cocaine.
- **Weapons** - One offender in Phase I - DRDC and one offender in Phase III - Community Corrections were found in possession of weapons during Calendar Year 1998.
- **Arrests** - We identified at least nine offenders who committed crimes while in Community Corrections. At least five of them were arrested while in the Community Corrections phase; one during Calendar Year 1998. None of these incidents appear in YOS critical incident reports.
- **Inappropriate Physical Contact** - In March 1998, a male offender and a female offender in Phase II at the Youthtrack facility were found engaging in sexual activity. According to the Phase II Program Plan, "touching of any kind, including sitting excessively close" will not be tolerated. However, as indicated in the chart on the preceding page, there were no critical incidents of any kind reported at the Phase II Youthtrack facility during Calendar Year 1998.

Improvements Are Needed in Critical-Incident Reporting

Recently, in Colorado, there have been a number of serious inquiries into and concerns raised about critical incidents within other State-run programs and facilities for juveniles such as the Division of Youth Corrections and the Division of Child Welfare Services. Although the Department of Corrections has adopted extensive policies and procedures to deal with reportable offenses, these were designed for the regular adult system. The Department needs to consider making some changes to ensure that any special needs or issues involving the youth now in its care, are adequately addressed. In addition, the Department needs to make improvements in existing practices to ensure that critical incidents are systematically and

comprehensively reported, compiled, and analyzed. Specifically, the Department should ensure:

- **Current definition of reportable offenses includes all appropriate categories.** As described above, we identified a number of incidents which are serious enough to merit remediation or revocation within YOS (possession of weapons and controlled substances). Yet, they are apparently not serious enough to be considered reportable offenses.
- **Policies and procedures are comprehensive** - We compared the Department's reportable offense procedures with critical-incident reporting in the juvenile correctional system (Division of Youth Corrections). We found a several areas the Department might consider addressing. For example, the Division of Youth Corrections' (DYC) form is much more comprehensive than that of the Department of Corrections. The DYC report form requires information about the unit census as well as the number of employees staffing the unit at the time of the incident. The Department does not require this information. The Division of Youth Corrections also requires each director of a DYC facility to annually analyze and report data regarding the facility's critical incidents. The Department of Corrections does not have such a data analysis policy.

Finally, the Division of Youth Corrections includes requirements regarding the reporting of alleged child abuse and neglect as specified in statutes. No such requirements appear in DOC policies. As discussed later in this chapter, it is not clear whether juveniles sentenced to YOS are considered "children" and thereby protected under the Children's Code with regard to abuse and neglect. Therefore, this is something the Department should investigate and resolve.

- **Policies and procedures are consistent and consistently applied among the various YOS phases.** We found some inconsistencies in the reporting among the various phases within YOS. In addition, during our audit, reportable offenses were not routinely compiled and analyzed. Each phase kept its own records and data were not centrally compiled or reviewed.

We recognize that no critical-incident reporting system is without flaws. As we reported in a recent audit of the Division of Youth Corrections, numerous problems exist within that system with regard to this issue. Administering a separate juvenile program is a new area of responsibility for the Department. As Department management and staff are aware, there are special considerations that do not necessarily apply to the regular adult population. Critical-incident reporting appears

to be one of those areas. Although classified as adults in the criminal justice system, YOS offenders remain juveniles chronologically. The Department needs to review its existing reportable offense policies and procedures to ensure that they adequately address the YOS population. Differences between YOS and the regular adult policies also need to be made known to staff through ongoing training, and standard, consistent policies need to apply to all phases of the program.

Recommendation No. 16:

The Department of Corrections should review its reportable-offense policies and procedures to ensure their applicability to the YOS population including adding additional categories of reportable offenses and routinely compiling and analyzing reports from all program phases.

Department of Corrections Response:

Partially Agree. The Department currently has an incident reporting system in place. This reporting system has set criteria and is reportable by the Department centrally. We agree that since the YOS population is different than the adult population we may consider additional offenses and reportable incidents in the YOS program.

The Applicability of the Children's Code Is Unclear

The Colorado Children's Code defines a child as a person less than eighteen years of age. The Children's Code also specifies that peace officers, including any officer, guard, or supervisory employee within the Department of Corrections, is required to report any circumstance or condition of abuse or neglect upon a child to the county department of social services or to local law enforcement. The Division of Youth Corrections has adopted specific policies and procedures to address this statutory requirement for the youth in its care. The Department of Corrections does not have comparable policies for its YOS population.

It is not clear whether the Children's Code applies to juveniles convicted as adults in the criminal justice system. However, U.S. Department of Justice documents indicate that although prosecuting juveniles as adults subjects them to conviction and sentencing in the same manner as adults, it does not change their legal status as

juveniles. The Department needs to resolve this issue. Failure to address statutory requirements in this area could pose problems for the Department. More important, the safety and well-being of these youth may not be well served. Staff need to be aware of their responsibilities for notifying the proper authorities if they witness or are aware of cases of child abuse and neglect either within YOS-Pueblo or within any facilities under contract to the Department. Determining the applicability of the statutory abuse/neglect reporting provisions might require the Department to obtain an Attorney General's opinion. If so, this should be done immediately.

Recommendation No. 17:

The Department of Corrections should determine the applicability of the Children's Code requirements for reporting circumstances or conditions of abuse and neglect within the YOS population.

Department of Corrections Response:

Partially Agree. Any potential criminal activity is reported and investigated per the policy of the Department. An Attorney General's opinion will be requested regarding the applicability of the Children's Code requirements for reporting abuse to the Department of Human Services.

There Are No Permanent Plans for Filling Vacant Beds

Currently there are 208 offenders housed at the Pueblo facility and 92 vacant beds. The second phase of construction is expected to be completed by the end of 1999. The completion of the second phase will add another 180 beds to the facility, bringing the total beds to 480. More than 270 of these will be empty. The regular YOS population is not growing at a rate sufficient to fill these beds at any time in the near future. In fact, the number of offenders admitted to the program in Fiscal Year 1999 declined by 6 from the 1998 figure of 92 admissions. It is not clear when, if ever, the YOS population alone will be large enough to fill all of the beds at the Pueblo facility. According to Legislative Council estimates reported by the Department, the current 300 bed capacity will be sufficient for YOS purposes through April 1, 2003. Consequently, for at least the next four years, the Department will have a significant surplus of beds at YOS-Pueblo. The Department has known for some time that there would be a significant number of excess beds at YOS-Pueblo. Yet no plans have been

developed to comprehensively deal with this situation. This is problematic for a number of reasons. First, even though the beds will remain empty, the building(s) in which they are located will need to be maintained. This means that vacant dormitories will have to be in working condition to avoid unnecessary deterioration. Electricity and water supplies will need to be functional. Grounds keeping and routine maintenance will also be necessary. According to Department staff, the annual costs for maintaining each empty building is approximately \$31,200. This is a total cost of almost \$125,000 per year to maintain the four dormitories for which there are no permanent occupancy plans. A second issue relates to warranty concerns associated with the empty structures. There is a limited time under which the construction contractors can be held liable for any structural or other problems. If the buildings are unoccupied, problems may not be identified before warranties expire. Consequently, costs that would have been assumed by the contractors would become the responsibility of the State.

Short-Term Proposals Have Been Introduced

At present the Department plans to move 60 adult female inmates to YOS-Pueblo beginning in early August 1999. Another 60 are planned for transfer in March 2000, if supplemental budget requests are approved. These are temporary measures, however. The first 60 adult women are to be transferred out of YOS-Pueblo to the Denver Women's Correctional Facility (DWCF) in June 2000. By May 2001 all of the women temporarily placed at YOS are expected to be moved to the DWCF when Phase III construction of that facility is complete. The Department also intends to partially occupy the vacant dormitories using current YOS residents. That is, the Department plans to shift about 20 youth from their current living quarters into each of the unoccupied dormitories until such time as other arrangements can be made.

Although these steps may address some of the vacancy issues, no permanent plans have been proposed or adopted. Department management and staff told us that they have encountered difficulties in finding solutions to this problem. According to the Department, part of the difficulty surrounds federal and state laws concerning the commingling of juvenile and adult offenders. For example, we suggested the possibility of working with the Division of Youth Corrections (DYC) to address some of that agency's facility needs. Specifically, during the 1999 Legislative Session, DYC requested approval to study the construction of a 40-bed facility to house some of its growing female offender population. With the excess capacity at YOS, we saw no need for another new facility. Therefore, we suggested that YOS-Pueblo be used in lieu of the State's construction of another juvenile facility at an estimated cost of more than \$5.5 million. However, Department of Corrections staff told us that this was not a feasible solution because it might involve commingling DYC juveniles with YOS juveniles who had been convicted as adults. This is in spite of the fact that the

two populations are both chronologically adolescents. We still believe this option should be explored, particularly as the Department is currently housing its Phase II females in the same group home facility with Division of Youth Corrections and Division of Child Welfare juveniles.

At one time the Department also considered contracting out beds to federal juvenile correctional programs. In addition, former YOS administrators told us that contracting with other states was a possibility. It does not appear, however, that these options have been thoroughly investigated. As we discuss in Chapter 1 we believe that moving Phase II from its current location to YOS-Pueblo would serve a number of purposes, including filling some of the empty beds. This could also be a permanent arrangement. However, the number of offenders in Phase II falls significantly short of the numbers needed to fill the empty beds. The Department needs to develop appropriate and cost effective solutions to this problem.

Recommendation No. 18:

The Department of Corrections should communicate to the General Assembly how it intends to manage the approximately 200 vacant beds at the YOS-Pueblo facility. This should include an analysis of:

- a. The costs associated with maintaining the vacant beds.
- b. Options for filling the beds and the associated costs.
- c. Timelines and YOS population projections.

Department of Corrections Response:

Disagree. The Department disagrees with the Auditors observation that plans have not been communicated to the General Assembly. The short-term plan for filling available beds at YOS has been articulated and presented to the auditors. The JBC has agreed and accepted the Department's plan in its budget recommendation for the Department and YOS for FY 1999-2000.

The Department Needs To Ensure that Staff Receive the Necessary Training

Youthful Offender System statutes mandate that YOS staff either have experience working with juveniles or receive the proper training prior to working with them. To meet this mandate, the Department has established a 63-hour training program for new staff. Among the courses included in the training are:

- Group Leader Process
- Therapeutic Aggression
- Leadership Reaction
- Interpersonal Relations
- Positive Peer Culture Training

The training package developed by the Department appears appropriate based upon our review of the American Correctional Association's (ACA) training guidelines. The ACA states that training should be responsive to position requirements. The position requirements for YOS staff currently include:

- Conducting weekly counseling sessions.
- Monitoring offenders' goals through assisting them in the development of their Individual Program Plans.
- Facilitating and observing Guided Group Interaction meetings.
- Acting as role models and mentors through consistent application of YOS philosophy.

Specialized Training Is Needed To Deal Effectively With This Population

Despite the apparent appropriateness of the Department's training components, we found that 50 percent of the staff did not meet prescribed training or experience requirements before beginning to work with the juveniles. According to Department staff, the primary reason for training problems is the significant number of new employees hired in a very short time span. Specifically, more than 80 percent of the staff was hired during the move to Pueblo. Nearly 30 percent of these employees were new hires and 50 percent were transfers from other Department of Corrections facilities. Some of the new hires and DOC transfer employees had experience with youth. Many others did not.

Juveniles pose unique problems and are more impressionable and vulnerable than their adult counterparts. Specialized training is needed to address the continuing physical, mental, social, and emotional development experienced by youth. In addition, experience in the adult correctional system is not necessarily transferable to YOS.

We recognize that hiring so many new employees at one time caused some turmoil. In addition, getting new employees “up and running” was critical to meet the influx of offenders moving to the new facility. However, the Department needs to ensure that all staff receive the required training in compliance with the statutes.

Recommendation No. 19:

The Department of Corrections should ensure that all staff receive the required training prior to working with the YOS population.

Department of Corrections Response:

Agree. At this time all YOS staff have been trained in these specific areas. The Department and YOS are in the process of reviewing the training curriculum and will update the training within a month. All staff will be trained on an annual basis.

Appendices

Appendix A

Crime	Felony Class					
	1	2	3	4	5	6
1 st Degree Murder	X					
2 nd Degree Murder		X	X			
1 st Degree Kidnapping	X	X				
Assault During Escape	X	X	X			
2 nd Degree Kidnapping		X	X	X		
1 st Degree Burglary		X	X			
Aggravated Robbery		X	X			
Escape		X	X	X	X	
Explosives or Incendiary Devices		X		X	X	X
Controlled Substance		X	X	X	X	
Vehicular Homicide			X	X		
1 st Degree Assault			X		X	
2 nd Degree Assault			X	X		X
1 st Degree Arson			X			
2 ND Degree Arson				X		
2 nd Degree Burglary			X	X		
Robbery				X		
Theft			X	X	X	X
Aggravated Motor Vehicle Theft			X	X	X	
Vehicular Eluding			X	X	X	
Fraud			X	X	X	X
Manslaughter				X		
Vehicular Assault				X	X	
Forgery					X	
Menacing					X	

Source: Office of the State Auditor's analysis of Legislative Council 1997 Listing of Statutory Crimes report.
 Note: Some crimes can have multiple felony classifications. The circumstances surrounding the crime influence the classification.

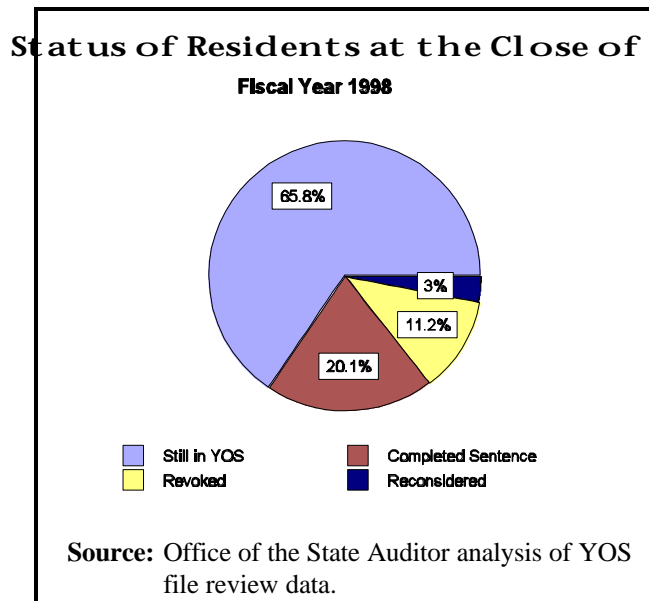
Appendix B

Youthful Offender System

From Fiscal Year 1994 through Fiscal Year 1998, a total of 439 juveniles were sentenced to the Youthful Offender System. We reviewed the case files of 403 of these offenders, or 92 percent of the total 439, sentenced during this period. Our file review revealed the following:

GENERAL DATA

- | | | |
|-----------------------|------------|-------|
| * Gender: | Male: | 96.5% |
| | Female: | 3.5% |
| * Ethnicity: | Hispanic: | 40.4% |
| | Black: | 30.8% |
| | White: | 25.3% |
| | Other: | 3.5% |
| * Average age: | 16.6 years | |
- * At the end of Fiscal Year 1998, the majority of those sentenced to YOS since 1994 were still in the program.



CRIMINAL ACTIVITY

- * **Most Common Offenses:**

Second Degree Assault	16.4%	
(Percent of all YOS offenders)	Aggravated Robbery	16.1%
	First Degree Assault	11.7%

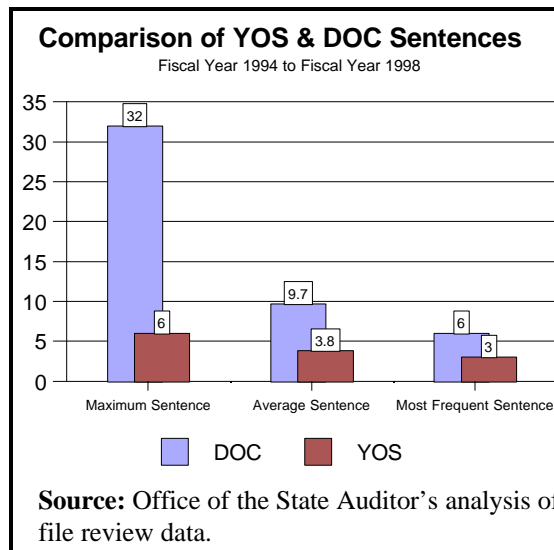
- * **Most Common Felony Classification:** Class 4 Felony 44.9%
 (Class 4 Felonies include manslaughter, vehicular homicide, criminal mischief, aggravated motor vehicle theft, and controlled substances.)

- * Nearly 70 percent of the offenders committed crimes that are statutorily defined as “**crimes of violence.**”

- * Almost 60 percent of the offenders were sentenced from **one of three counties:**

Denver	22.8%
El Paso	20.1%
Arapahoe	16.1%

- * The **longest DOC sentence** for a YOS offender was 32 years compared with the six-year maximum YOS sentence.



- * More than 70 percent of YOS offenders had **gang ties** prior to their sentences. We identified more than 50 different gangs in which these offenders had been affiliated. More than 60 percent of the gang-affiliated offenders were associated with one of three gangs—the Crips, the Bloods, or the Surenos.

- * Nearly 85 percent of the offenders were **adjudicated as juvenile delinquents** at least once prior to YOS.

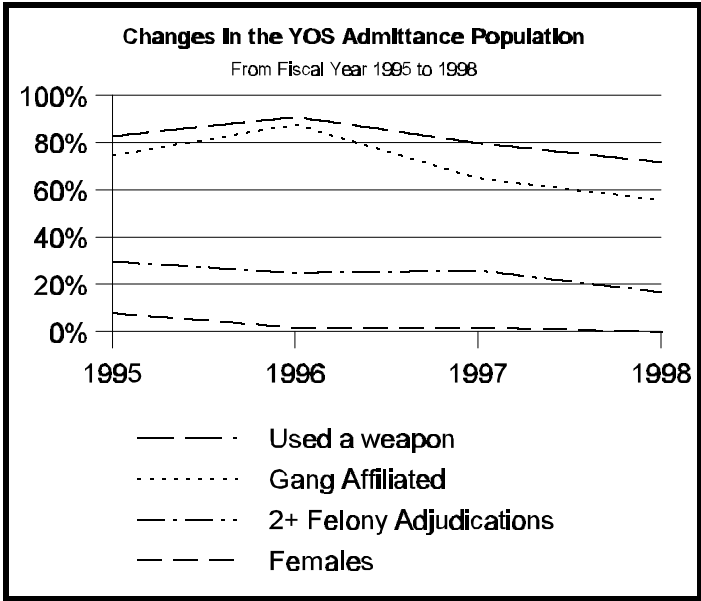
- * Of those adjudicated prior to YOS, nearly 30 percent were **adjudicated two or more times for felonious offenses**.
 - * **Prior commitments and placements:**
 - * More than 25 percent of the offenders were **committed to NYC** prior to YOS.
 - * More than 70 percent of the residents were placed on **Probation (only)** prior to YOS.
 - * About 5 percent were placed on **Probation With Child Welfare** services prior to YOS.
- Note:** Population size varied for each of the above, due to incomplete file information. However, the smallest sample consisted of 327 offenders.

PROGRAM DATA

- * About 60 percent of offenders were **remediated** at least once. The highest number of remediations for a single offender was 12. The average was 1.4 remediations per offender.
- * Almost 12 percent (51) of the offenders had been **revoked** as of June 30, 1998.

CHANGES OVER TIME

- * The **average sentence** decreased from 4.11 years in Fiscal Year 1995 to 3.76 years in Fiscal Year 1998.
- * The number of **females** sentenced to the program has decreased annually from five in Fiscal Year 1995 to zero in Fiscal Year 1998.
- * The percentage of the population adjudicated for **two or more felonies** prior to YOS decreased from Fiscal Year 1994 to Fiscal Year 1998. In Fiscal Year 1994 about 35 percent of the offenders had two or more felony adjudications. In Fiscal Year 1998 less than 20 percent had been adjudicated two or more times.
- * **Gang affiliation** declined from almost 90 percent in Fiscal Year 1996 to approximately 55 percent in Fiscal Year 1998.
- * The percentage of the admission population who **used weapons** in the commission of the crime(s) that sent them to YOS decreased from more than 90 percent in Fiscal Year 1996 to about 75 percent in Fiscal Year 1998.



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