

STATE OF COLORADO

COLORADO DEPARTMENT OF CORRECTIONS

2862 South Circle Drive
Colorado Springs, CO 80906-4195
Phone: (719) 579-9580
Fax: (719) 226-4755
Web: www.doc.state.co.us




John W. Hickenlooper
Governor

Tom Clements
Executive Director

MEMORANDUM

DATE: November 10, 2011

TO: All Department of Corrections Staff

FROM: Tom Clements, Executive Director 

SUBJECT: Department of Corrections' Response: Vera Institute of Justice's *Oversight Final Report Regarding the Colorado Department of Corrections: A Report of the Corrections Support and Accountability Project (April 2011)*

Background. In 2009 and 2010, the Department of Corrections participated in the Vera Institute of Justice's *Corrections Support and Accountability Project*. This project included two states and three counties in an effort to identify potential oversight mechanisms to improve correctional practices. The Vera Institute worked collaboratively with the Colorado Department of Corrections (CDOC) in an effort to understand the numerous oversight mechanisms already in place. Additionally, the Vera Institute identified some potential changes to improve transparency and oversight of CDOC operations.

Vera Institute of Justice Findings. In late August 2011, the Department was notified that the Vera Institute of Justice published a report of its findings for the Department of Corrections (see the attached report *Oversight Final Report Regarding the Colorado Department of Corrections: A Report of the Corrections Support and Accountability Project, April 2011*). The report highlighted many of the existing oversight mechanisms (see pages 6 through 20 of the report). Additionally, the report included 12 recommendations for consideration. Many of these recommendations make good business sense, and we have taken steps to change our operations accordingly. This memorandum is intended to communicate the Department's plan to improve our operations in light of the recommendations. The recommendations from the report are as follows:

1. Develop specific departmental goals and performance measures, and make them publicly available.
2. Tailor CDOC's internal data tracking and reporting system to performance measures and goals.
3. Implement a regular meeting to report and review data related to performance measures and goals; and increase involvement of line and program staff in data reporting process.

4. Compare data over time to identify trends and patterns, and formalize a system for following up on goals that are not met.
5. Incorporate changes to the staff survey.
6. Introduce “quality of confinement” survey for inmates to give another layer of feedback on prison operations.
7. Consider convening a community stakeholder meeting regularly.
8. Revise the inmate handbook to include information on contacting external advocacy organizations.
9. Revise the Colorado Department of Corrections mission statement to reflect the commitment to collaboration with external stakeholders.
10. Consider allowing an independent, external party to participate in Step 3 level review of inmate grievances.
11. Consider implementing a formal review process of inmate complaints received by third-party entities.
12. Develop a regularly updated dashboard of limited data points to be made publicly available on CDOC website.

Colorado Department of Corrections Implementation Plan. The Colorado Department of Corrections continues to be committed to improving its operations. Consistent with this approach and philosophy, the Department has taken the following steps to implement recommendations contained in the Vera Report.

Recommendation #1. **Develop specific departmental goals and performance measures, and make them publicly available.**

Department Response. Beginning in April 2011, the Department initiated a strategic planning process to develop and establish departmental goals and performance measures. The Department convened a group of 70 senior managers from throughout the Department to establish departmental goals in each area of the Department. Eight working groups analyzed current DOC practices to make initial recommendations to improve departmental efficiency, effectiveness, and/or customer service. Also at this session the Department’s new vision, mission, and values statements were established.

In September 2011, the Department convened a second strategic planning session with 150 internal and external stakeholders to identify opportunities for improving offender re-entry services. This effort was a collaborative effort with the Department of Public Safety, the Department of Human Services, the Department of Labor and Employment, and other external stakeholders.

In October 2011, the Department hired a strategic planner who is assisting working groups to implement the Department’s strategic plan. The Department’s goals will be included in the Department’s FY 2011-12 strategic plan, which will be published on the Department’s web site (www.doc.state.co.us) later in November 2011.

Recommendation #2. Tailor CDOC's internal data tracking and reporting system to performance measures and goals.

Department Response. Through the Department's strategic planning process, the Department has developed a series of dashboard measures – to include performance measures – that are posted monthly on the Department's web site (www.doc.state.co.us). The Department will be adding performance measures from the Department's strategic plan to the dashboard measures. The development of additional internal tracking measures is an ongoing process. The Department's strategic planner will monitor progress in this area for inclusion in next year's plan.

Recommendation #3. Implement a regular meeting to report and review data related to performance measures and goals; and increase involvement of line and program staff in data reporting process.

Department Response. The Department holds monthly executive management meetings with division directors and their direct reports. These meetings include discussions regarding the Department's progress in achieving goals established through the strategic planning process.

In addition, effective December 2011, the Department will be holding annual meetings with staff across the Department to communicate the Department's strategic plan, organizational performance data, and other important issues facing the Department. These meetings will create an additional venue for executive staff to seek feedback from line staff.

Recommendation #4. Compare data over time to identify trends and patterns, and formalize a system for following up on goals that are not met.

Department Response. The Department's strategic planning process, including the use of dashboard measures, will enable the Department to identify relevant trends and patterns. The strategic planner is responsible for briefing the Executive Management Team to bring issues to their attention. The Executive Management Team is responsible for establishing processes to follow up on goals that are not met.

Recommendation #5. Incorporate changes to the staff survey.

Department Response. The Department continues to survey staff on an annual basis. Additionally, a staff survey was used to assist the Department in its strategic planning sessions. The Department of Personnel and Administration also administered an employee engagement survey to all state employees in September 2011. Furthermore, the Corrections Training Academy surveys staff on an annual basis to assist in the development of curriculum changes to improve training services available to staff. The results of these surveys will be integrated into the Department's strategic planning process.

Recommendation #6. Introduce “quality of confinement” survey for inmates to give another layer of feedback on prison operations.

Department Response. The Department is developing a quality of confinement survey for inmates. The Department intends to have the survey developed, including policy changes to the Department’s Administrative Regulations, by the Spring of 2012.

In addition , in September of 2008, the Division of Adult Parole, Community Corrections and the Youthful Offender System (YOS) implemented the Parole Discharge Survey, a one-page, anonymous questionnaire. This survey asks successfully discharged offenders about the following: (a) their experience regarding factors they believed were the most significant in completing parole; (b) barriers to their success during supervision; (c) their assigned community parole officer (CPO) may have done to make succeeding easier or more difficult; (d) suggestions they had to better assist offenders on parole; (e) advice they would give to newly released offenders to aid in their success; (f) changes they would recommend in the parole system; (g) the office they were most recently supervised from; and (h) any additional comments.

Recommendation #7. Consider convening a community stakeholder meeting regularly.

Department Response. Effective January 2012, the Department will conduct external stakeholder meetings three times per year.

Recommendation #8. Revise the inmate handbook to include information on contacting external advocacy organizations.

Department Response. The Department is identifying external advocacy organizations for inclusion in the inmate handbook. This information will be posted in facilities and will be available to offenders in facility libraries. The Department anticipates including this information in the handbook in December 2011.

Recommendation #9. Revise the Colorado Department of Corrections mission statement to reflect the commitment to collaboration with external stakeholders.

Department Response. As a part of the strategic planning process, the Department established nine Department of Corrections’ organizational value statements. These include statements that reflect the Department’s commitment to exceptional customer service and the linkage between its success and mission-focused collaboration.

Recommendation #10. Consider allowing an independent, external party to participate in Step 3 level review of inmate grievances.

Department Response. The Department has taken steps to enhance its inmate grievance system; Administrative Regulation 850-04 was revised on July 15, 2011. The

Department will evaluate the impact of these recent changes to determine if further changes, including involvement of a third party, are warranted. The revised process includes more communication and involvement with wardens and Prison Operations' deputy directors.

In the initial steps of the grievance process, our staff respond to allegations presented in the grievance. In subsequent steps, supervisors review the actions and the response of their staff. In the new Grievance Tracking System (GTS) and per revised AR 850-04, the appropriate Wardens and/or Assistant Directors in the Division of Adult Parole, Community Corrections, and the Youthful Offender System (YOS) must review and approve all Step 2 responses. The Wardens and Assistant Directors are therefore made aware of issues within their facilities and can take appropriate remedial action where warranted.

The Step 3 review determines whether the actions of the Department were taken in accordance with the pertinent administrative regulations, state statutes, and relevant case law. The Step 3 grievance officer is a CDOC employee but operates autonomously in the Step 3 grievance officer position. All Step 3 grievances are independently evaluated by the grievance officer. The Director of Prisons and the Director of Adult Parole, Community Corrections, and YOS are consulted when a recommendation for relief is recommended by the grievance officer.

Recommendation #11. **Consider implementing a formal review process of inmate complaints received by third-party entities.**

Department Response. Through the Department's strategic plan, the Department has established a constituent services coordinator. This position is responsible for promptly following up on complaints received by third-party entities. The creation of this position will ensure that concerns raised by third parties are appropriately investigated and responded to in a timely manner.

Recommendation #12. **Develop a regularly updated dashboard of limited data points to be made publicly available on CDOC website.**

Department Response. The Department has developed a series of dashboard measures and began placing these measures on the Department's web site (www.doc.state.co.us) in June 2011. These measures will be evaluated on an ongoing basis to determine if additional measures should be included in the future.



OVERSIGHT FINAL REPORT REGARDING
THE COLORADO DEPARTMENT OF CORRECTIONS

A Report of the Corrections Support and Accountability Project

APRIL 2011

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Executive Summary

The Vera Institute of Justice is pleased to present this report of the Corrections Support and Accountability Project. The project partners us with five jurisdictions—two states and three counties—to help each partner jurisdiction develop meaningful oversight of its prisons or jails specifically tailored to its needs.

This report, and the recommendations outlined below, is the result of a committed partnership with several Colorado state agencies, including the Colorado Department of Corrections (CDOC) and the Colorado Department of Public Safety, as well as the participation of other individuals and agencies, including the Colorado State Legislature, the Governor’s Office, Office of the Colorado State Public Defender, and the Division of Probation Services, among many others. With the help of these participants we investigated the current mechanisms of correctional accountability and transparency already in place in the CDOC. This process included visits to prisons, research of policies and practices, and dozens of interviews and meetings with CDOC staff, administrators and a range of diverse stakeholders, including advocates, Colorado general assembly members, and judges. Learning about the current mechanisms enabled us to determine the most pressing oversight needs of Colorado’s correctional system.¹ In addition, thanks to a number of CDOC executive staff members and their willingness to supplement our original findings, we have revised our findings and recommendations to reflect this additional information.

CDOC has already made progress implementing some of the recommendations detailed below, and had certain mechanisms in place that they believe complete the goals of a number of other recommendations. However, we believe that, with time and the cooperation of other Colorado stakeholders, implementing the remaining recommendations will enable the state to better evaluate its use of resources to support CDOC, identify inefficiencies, manage risk, measure the success and failures of programs and policies to guide future decision-making, build public confidence and public interest in CDOC, and promote good governance and professionalism. It is to be noted also that Colorado, like many other states, is facing a budget crisis that will unavoidably slow the department’s ability to implement many of the recommendations here.

The recommendations are provided in summary below for convenience. We encourage a full review of the report to understand the context and reasoning behind each of the recommendations.

¹ See Appendix B for a list of people in Colorado interviewed by Vera staff.

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Introduction

All public entities are subject to external oversight and are expected to have meaningful internal mechanisms of accountability. Oversight has tremendous benefits, though the degree to which these benefits are realized varies greatly. The public tends to call for improved oversight when our public institutions and leaders fail us, on the assumption that oversight will prevent such failures in the future. It is rare that the public or a particular industry reflects upon the proper role and functioning of oversight in the absence of a crisis; following a crisis, woeful speculation about the role oversight might have played in preventing failure in the first place comes too late.

In other words, oversight is too often a reaction to a crisis or negative press. The recent failing of our financial markets has brought tremendous scrutiny to the efficacy of governmental regulation of those markets, driving efforts to significantly increase regulation and external oversight by the federal government. Periodically, academic or journalistic research will uncover high rates of medical errors in our hospitals or neglect in our nursing homes. The consistent response is to look to both internal quality assurance systems and external oversight to determine how we can do better and prevent future catastrophe. While these reactions are understandable, and certainly wise, there are few examples of an industry, institution, or agency that voluntarily advances oversight through careful planning in the absence of a crisis.

Vera's "Corrections Support and Accountability Project" is driven by the conviction that individual corrections departments have an opportunity to strengthen oversight in a thoughtful way, in the absence of crisis. Recent developments have drawn increased attention to conditions in our prisons and jails and the challenges facing those who run them. That attention has led to appeals by a number of national commissions, professional organizations, and government leaders for stronger oversight of our prisons and jails, as described below. In these calls for better oversight, similar themes have emerged, revealing the beginnings of a consensus about what a comprehensive and effective system of correctional oversight could look like.

- 1) In April 2006, the University of Texas at Austin hosted a conference titled, "Opening up a Closed World: What Constitutes Effective Prison Oversight," organized by the Lyndon B. Johnson School of Public Affairs Adjunct Professor Michele Deitch, one of the country's leading experts on correctional oversight. The conference brought together corrections leaders, academics, and prisoners' rights advocates to advance the dialogue about what forms of oversight are most effective for ensuring safe and secure correctional institutions.

The conference began with a presentation by Professor Deitch, “Distinguishing the Various Functions of Prison Oversight,”² in which she introduced her conception of the distinct functions of oversight that, together, form a layered and complete system designed to serve complementary constituencies and their goals. In Fall 2010, Deitch published a paper based on the presentation in Austin, including an additional function of oversight.³ These seven functions of oversight provide a helpful starting point for mapping the strengths and weaknesses of a given correctional system’s array of oversight. Section II of this report will describe these functions in greater detail, but, briefly, they are regulation, audit, accreditation, investigation, legal (*i.e.*, courts), reporting, and inspection/monitoring.

2) In June 2006, Vera’s Commission on Safety and Abuse in America’s Prisons concluded that although, “[c]orrections leaders work hard to oversee their own institutions and hold themselves accountable, . . . their vital efforts are not sufficient and cannot substitute for external forms of oversight.”⁴ The Commission made nine recommendations all aimed at creating greater accountability and transparency for our correctional institutions. Among these, the Commission recommended that:

- Every state should create an independent agency to monitor prisons and jails;
- The investigation and enforcement activities of the U.S. Department of Justice should be expanded, and states should build similar capacity;
- Prisons and jails should develop meaningful internal complaint systems for both prisoners and staff;
- Prisons and jails should create opportunities for individual citizens and organized groups, including judges and lawmakers, to visit facilities; and
- The media should have access to facilities, prisoners, and correctional data.

² Michele Deitch, “Distinguishing the Various Functions of Prison Oversight” (presentation at “Opening up a Closed World: What Constitutes Effective Prison Oversight?”, a conference hosted by the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin, April 23-26, 2006, <http://www.utexas.edu/lbj/archive/prisonconference> (accessed November 4, 2009)).

³ Michele Deitch, *Distinguishing the Various Functions of Effective Prison Oversight*, 30 Pace L. Rev. 1438 (2010), <http://digitalcommons.pace.edu/plr/vol30/iss5/3> (accessed January 25, 2011).

⁴ The Commission on Safety and Abuse in America’s Prisons, *Confronting Confinement* (New York: CSAAP, 2006), 16. For a full copy of the report or to read testimony from the Commission’s public hearings, visit www.prisoncommission.org.

- 3) In August 2008, the American Bar Association’s Criminal Justice Section adopted a resolution urging oversight of correctional and detention facilities. The resolution called for the establishment of public entities— independent of any correctional agency—to monitor regularly and report publicly on the conditions in all adult and juvenile confinement facilities operating in a given jurisdiction. The resolution lays out 20 key requirements for the effective monitoring of correctional and detention facilities. Some of these requirements are independence, a duty to conduct regular inspections and authority to examine and issue reports on particular problems, and a responsibility to work collaboratively with administrators and legislators to improve living and working conditions inside the institutions being monitored.⁵
- 4) In June 2009, the National Prison Rape Elimination Commission released its Final Report and proposed Standards, stressing the importance of audits, internal data collection and analysis, transparency, and external oversight of its standards to maintain prisons, jails, and juvenile, community corrections, and immigration detention facilities that protect prisoners from sexual abuse.⁶

The recommendations in this report emphasize many of the same principles, without describing a single vision for the oversight of the entire corrections field. Each of the recommendations is grounded in experience with the positive outcomes of court-ordered monitoring and is driven by an articulated belief that oversight has measurable benefits—that it is necessary to ensure safe and humane institutions, is vital for identifying failures and inefficiencies, and can help strong managers improve operations and gain access to the resources they need.

There is also agreement on how to accomplish these goals. The recommendations all acknowledge that effective oversight requires layers of accountability and transparency, as well as both internal and external checks. To simply score corrections systems according to a checklist of oversight functions would not get us very far. We believe that for most corrections systems, it is essential to assess the extent to which they are achieving the benefits of good oversight. As a starting point, however, Professor Deitch’s list of the oversight functions provides a helpful roadmap to the mechanisms that together can achieve optimal benefits without unduly burdening it. It is important that they are well designed and work in concert to help strong managers make more informed

⁵ ABA Resolution 104 B Urges Oversight of Correctional and Detention Facilities. For the full text of the resolution and the Key Requirements for the Effective Monitoring of Correctional and Detention Facilities, see Appendix B. American Bar Association, Criminal Justice Section, *Report to the House of Delegates* (Washington, DC: ABA, 2008), <http://www.abanet.org/crimjust/policy/am08104b.pdf> (accessed November 13, 2009).

⁶ National Prison Rape Elimination Commission, *Report* (Washington, DC: 2009). The report and information about the Commission are available at www.nprec.us (accessed November 13, 2009).

decisions. Of course, no single mechanism of correctional oversight can provide all of the benefits that a layered system offers. A well planned and layered system of both internal and external oversight should help a corrections department to successfully accomplish the following:

- Ensure safe and healthy working and living conditions for staff and inmates;
- Evaluate the use of existing resources and the need for new resources, and help leadership make the case for resources;
- Identify inefficiencies (and ultimately save money);
- Manage risk (and ultimately save money);
- Measure the success and failures of programs and policies in order to guide future decision-making;
- Build public confidence and public interest;
- Promote good governance and professionalism.

In this status report, Vera has mapped the current internal and external oversight of the Colorado Department of Corrections (CDOC) to assist the department in considering ways to improve its oversight. The report includes an analysis of the strengths we have identified, the benefits of the existing mechanisms of oversight in Colorado, and areas where opportunity for improvement exist. It also includes recommendations for strengthening some of the existing internal accountability measures and identifies the potential for the development of new external mechanisms of oversight in light of the gaps that currently exist.

Existing Mechanisms of Oversight in Colorado

This section provides a brief description of the existing oversight mechanisms in the Colorado Department of Corrections as organized by Michele Deitch's "functions" of oversight: regulation, audits, accreditation, investigations, reporting and monitoring, as well as research and technical assistance.⁷ These functions of correctional oversight, along with Deitch's concept of "layering" to achieve greater accountability and transparency in corrections, offer a useful framework for understanding and evaluating the CDOC's oversight mechanisms. Using Deitch's framework, Vera has mapped out the mechanisms of oversight in CDOC, and in the process, has identified several gaps, which will be addressed by our recommendations.

⁷ At the suggestion of the CDOC, this section includes a discussion of the roles of research and technical assistance in achieving the goals of oversight.

A. Regulation

Any body that has the authority to mandate and enforce rules or standards for correctional agencies to follow performs a regulatory function. External regulation of corrections—whether carried out by a legislative, budget, or other entity—can help corrections leaders ensure safe and healthy conditions in their facilities as well as help identify inefficiencies.

In Colorado, the administrative regulations, which outline specific or general departmental policy and procedures, undergo an internal and external review process at least annually. CDOC's budget requests are also subject to internal and external scrutiny and, in the case of apportioning the budget, the state's judicial and executive branches review the department's strategic plan before the budget is approved.

Administrative Regulation Approval and Review Process. Administrative regulations outline the department's policies and procedures covering everything from investigations and inmate health care to staff training and flag protocol. In Colorado, an office of primary responsibility (OPR) is assigned to draft the department's administrative regulations, based on subject matter. The OPR's draft is posted for review, and comments are submitted through the chain of command. Following the review period, the draft is reviewed and approved by the division director. The executive director has the final authority for review and approval of each regulation. While the executive director has the latitude to make executive directives as needed, the director must submit administrative regulations to the head of the judiciary and to the governor for outside approval. The Policy Administration Unit of the CDOC coordinates the development and review of the department's administrative regulations.

Colorado Commission on Criminal and Juvenile Justice. The Colorado Commission on Criminal and Juvenile Justice (Crime Commission) was established by legislation in 2007 to enhance public safety, to ensure justice, and to ensure protection of the rights of victims through the cost-effective use of public resources. The work of the Commission is focused on evidence-based recidivism reduction initiatives and the cost-effective expenditure of limited criminal justice funds. During its first year of work, the commission focused on improving policies and practices related to the reentry of individuals from jail and prison into the community. This work included 66 recommendations for removing barriers to successful reentry. Some of these recommendations were translated into legislation.

Colorado Department of Human Services. The Division of Behavioral Health (DBH) of the Department of Human Services licenses substance abuse treatment services and requires that services meet specific standards be met. During the licensing process, DBH reviews the agency's policies and documentation. DBH staff perform an on-site licensing visit every three years, and may audit or investigate a complaint at any time to ensure

compliance with established licensing regulations. DBH has the authority to withdraw a license for serious infractions.

Professional Licensing. The Colorado Department of Regulatory Agencies (DORA) certifies, licenses, and regulates individuals and organizations who provide professional services to consumers in the state of Colorado. CDOC professional staff must adhere to the same regulatory and licensing standards that apply to professionals in the community, or risk discipline including stripping of credentials. Among those staff subject to DORA's credentialing authority are nurses, addiction counselors, social workers, psychologists, and psychiatrists. Inmates have the right to file a complaint with DORA. CDOC's pharmacy is licensed by DORA and, as a result, is inspected annually by a Board of Pharmacy Inspector. Internally, each outlet is inspected quarterly by the pharmacist listed on the license.

Additionally, the Colorado Department of Education licenses CDOC teachers. CDOC offers a competency-based education program that requires every inmate lacking basic communication skills and function literacy skills to complete a prescribed set of coursework. Individuals who teach GED, adult basic education, or English as a Second Language must be licensed. This credentialing is audited and overseen by the Colorado Community College System for the department.

General Assembly. Colorado's system of checks and balances also provides regulatory oversight of the CDOC. The General Assembly can pass laws affecting how the CDOC operates. CDOC must comply with these laws, codified as the Colorado Revised Statutes, which may require modification of departmental policies. In addition, the legislature can subpoena CDOC staff to testify before the body at any time to ask questions about CDOC policies and procedures. The General Assembly also holds the power of the purse, affecting operations indirectly through greater or lesser appropriations. Finally, the General Assembly has established committees of reference for each state agency—CDOC is required to meet and report annually to a joint session of the House and Senate Judiciary Committees.

Fair Labor Standards Act. The Fair Labor Standards Act (FLSA) is a federal statute setting forth minimum standards for compensation, overtime, and record keeping, among other things. Failure to comply can result in a monetary penalty to the department. The CDOC is in the process of completing a FLSA audit with the U.S. Department of Labor and the Office of the Attorney General.

Office of State Budget and Planning and Joint Budget Committee. CDOC submits its budget for approval by the Governor's Office of State Budget and Planning (OSBP), as do all state agencies. The governor determines the overall budget package that ultimately is submitted to the legislature. OSBP provides detailed examination and

recommendations regarding the budget for all state agencies, including CDOC. OSBP assigns a staff person to each agency who makes recommendations to the governor regarding the agency's budget.

OSBP helps the department create a strategic plan that includes up to five core goals and performance measures, which align with the governor's priorities. OSBP submits this information to the legislature, along with its performance-based evaluation of the CDOC's proposed budget.

After review by OSBP, the Joint Budget Committee (JBC) of the legislature reviews the budget again before presenting it for a vote before the whole body. JBC staff present recommendations to the committee after research into the rationale for the proposed budget. Because JBC has moved towards performance-based budgeting, the department is required to submit data to show whether or not they meet the benchmarks outlined in the strategic plan. The data that are submitted, including the performance data, become public when submitted to the legislature. Additionally, because the budget is structured by line item, CDOC must spend its money as it is allocated. CDOC can be required to testify at any point in the process.

State Personnel Board. State statute delegates authority to the State Personnel Board to create administrative procedures for all state personnel, including CDOC employees. State employees who complain of discrimination or who want to dispute a corrective or disciplinary action can seek a review outside of the Department through the State Personnel Board. The State Personnel Board also adopts administrative procedures on topics such as compensation, selection and status, leave, performance management, corrective actions, and disciplinary actions through a formal rule-making process.

Taskforce on Mental Illness. For the last decade, CDOC has worked with the Legislative Oversight Committee for the Continuing Examination of the Treatment of Persons With Mental Illness Who Are Involved in the Justice System to have dialogues on issues related to mentally ill persons in prison and, specifically, how to enhance the delivery of treatment services to inmates in administrative segregation.

B. Audits

The auditing function is a management tool whereby an internal unit or external body checks compliance with established standards, rules, or policies. Audits help corrections leaders manage risk and identify inefficiencies, as well as areas of excellence. They can also help promote professionalism by holding staff accountable for compliance.

The Colorado Department of Corrections undergoes both internal and external audits, described below.

External Audits

American Correctional Association. The department is 100% accredited by the American Correctional Association (ACA), a national, voluntary, membership organization. To maintain this status, ACA conducts audits of the department every three years. ACA accredits juvenile and adult facilities, jails, detention centers, community corrections facilities, electronic monitoring programs, and probation and parole agencies. The accreditation process is entirely voluntary and takes approximately 12-18 months to complete. Once granted, accreditation lasts for a period of three years. To become accredited, facilities must comply with 100% of the standards classified as “mandatory” and 90% of non-mandatory standards. The cost of the accreditation process varies by size. As of 2006, ACA accreditation of an average adult institution cost a correctional agency approximately \$10,000.

Colorado Department of Public Health and Environment (CDPHE). CDPHE conducts inspections of CDOC facilities to protect the health and safety of CDOC inmates and staff. CDPHE standards cover the water supply and plumbing system, solid waste and sewage disposal, insect and rodent control, food service sanitation, and housing of inmates, including ventilation, lighting, and cell size. Following a CDPHE inspection, it reports required corrective actions within fifteen calendar days.

Corrections Training Academy (CTA). CDOC’s Corrections Training Academy provides basic training to all CDOC employees. Trainings include a minimum of forty hours for each staff member, competency exams on all content areas, as well as specific training on suicide prevention and intervention. CTA audits staff trainings on an ongoing basis. CTA also oversees the proper delivery of proprietary training programs.

Department of Personnel and Administration. The Department of Personnel and Administration (DPA) audits the CDOC Human Resources department at least annually. The DPA verifies that salaries, performance increases, and employee plans and evaluations are implemented as required by DPA’s regulations. In addition, the DPA audits the CDOC hiring process to ensure that the CDOC follows DPA guidelines for the job announcement, recruitment, examination administration and scoring, interviews, and selections. The DPA audits the department’s management of the staff grievance process and maintenance of inventory records of items such as inmate uniforms and items used in correctional industry.

Escape Review. As a result of the escape from the Sterling Correctional Facility on August 22, 2010, the CDOC invited three external groups to review operations to ensure facility security and public safety. Sandia National Laboratories reviewed the perimeter fence; MGT of America analyzed policies, procedures, staffing, and training to evaluate

escape prevention measures; and the Colorado Department of Homeland Security examined the incident command structure as well as how the department interacted with the media during the incident.

Interstate Commission for Adult Offender Supervision (ICAOS). ICAOS created the compliance audit to provide independent assurance that member states manage the interstate transfer process efficiently, in compliance with ICAOS rules and in a manner consistent with furthering the goals of the compact. As part of the process, auditors review interstate compact offender tracking system, routine correspondence, incident reports, formal complaints and dispute resolution, privacy policy, ICAOS rules and policies, and interstate compact statutes and bylaws. ICAOS began conducting compliance audits on July 1, 2010. Colorado completed its first ICAOS audit in August 2010.

Office of the State Auditor (OSA). OSA performs financial audits of the department each fiscal year. The Colorado constitution authorizes the State Auditor to conduct post audits of all financial transactions and accounts kept by or for all agencies of the State.⁸ OSA also recently audited CDOC's Contracts Unit.

Internal Audits

The department conducts internal audits in a variety of areas to maintain safety, security, and sound correctional standards in the facilities. CDOC trains department staff to perform regular internal audits, in addition to their normal duties. To maintain neutrality, no auditor performs an audit of the facility in which he or she works. All wardens are required to participate in at least one audit a year. Audits cover numerous areas including: security, ACA preparation, clinical/education, medical, and fiscal. Additionally, to maintain ACA accreditation, the department must complete life safety and case management audits. For the clinical/education assessment, staff auditors observe classes held in the facilities. A quality assurance program is designed to ensure that adequate medical care is provided to inmates. An emergency management coordinator oversees the security audits and trains staff to perform vulnerability assessments. According to Administrative Regulation 300-53, which governs security audits, the standards on which the internal audits are based are the mandatory ACA standards and, generally, "sound correctional standards." CDOC also undergoes internal control audits, as outlined in Administrative Regulation 200-16. These audits address issues of financial, operating, or compliance control.

CDOC also monitors and audits all areas of private prison operations in Colorado.

⁸ These audits are located at <http://www.leg.state.co.us/OSA/coauditor1.nsf/AboutOSA>.

Office of Inspector General. The CDOC Office of Inspector General (OIG) has the authority to audit facilities “for cause,” in response to an identified problem or significant incident. In addition, the OIG conducts regular compliance audits to make certain that a division or unit is following all administrative regulations and other mandatory policies. The OIG has responsibility for reviewing criminal history and driver’s license information of randomly selected CDOC staff each month, and is responsible for pre-employment background checks.

The inspector general and OIG staff have access to records, data, inmates, and all parts of the facilities at any time of day or night, and can perform unannounced audits as they see fit. The OIG does not have a full-time team for inspections and audits. The inspector general assembles an appropriate team to conduct each inspection and audit, including OIG staff and a “borrowed” auditor, who may be an officer from a different CDOC facility.

Following an audit, the inspector general briefs the facility warden, or appointing authority, and submits the report to the CDOC executive director. If necessary, the executive director assigns the appropriate director to respond and report back. If the audit uncovers an area of noncompliance with a given standard, the appropriate appointing authority decides the consequences. The OIG also reviews information collected during the course of an audit to identify any inefficiencies. Support staff can be sent out to help correct the areas in question, and a re-audit can be completed if necessary.

After a significant incident, the executive director or inspector general can initiate a post-incident review. In a post-incident review, the inspector investigates the facts and circumstances surrounding the incident. The OIG provides post-incident review findings to the executive director.

C. Accreditation

Accreditation formalizes the successful result of certain auditing or inspections processes, memorialized by a certification of compliance or other official stamp of approval. As mentioned above, all CDOC facilities are ACA-accredited, as well as the central office and the Division of Parole. For this, the department has received ACA’s Gold Eagle Award.

To maintain its ACA accreditation, the department has tasked a state accreditation administrator to oversee the accreditation process and has selected an accreditation manager at each facility. Under the supervision of the accreditation manager, each facility performs internal audits as described above to ensure compliance with ACA standards. CDOC is also beginning to implement performance-based standards internally, in keeping with ACA’s move toward performance-driven standards.

D. Investigations

Investigations conducted in correctional settings are similar to investigations in the community into alleged misconduct, criminal or otherwise. They are a reactive tool for uncovering facts relating to an allegation of wrongdoing, with the goal of holding perpetrators accountable. Prison facilities in Colorado, like those in states across the country, are subject to investigations by federal and state entities like the U.S. Department of Justice, the U.S. Equal Employment Opportunity Commission and analogous state agencies, and the Colorado Attorney General. Similarly, the protection and advocacy agency for Colorado, The Legal Center for People with Disabilities and Older People, has federal statutory authority to represent and advocate for people with disabilities, including those who are incarcerated, to ensure the protection of their civil and legal rights.

Additionally, the department's OIG, staff ombudsman, staff grievance officer, and multi-level offender grievance systems address the accusations, allegations, and complaints of criminal and administrative wrongdoing of both staff and inmates. The department has internal structures in place for ensuring that routine investigations of staff complaints are conducted in a fair, thorough, and timely manner. Administrative Regulation 1450-24 outline the duties, purpose, and scope of responsibilities for the staff ombudsman and grievance officer. In addition, staff can also direct complaints to the state ombudsman's office, which accepts complaints from any state employee.⁹ Staff can also access the Department of Personnel and Administration (DPA), discussed above, as a neutral external organization for grievance resolution. DPA can also provide assistance with counseling and other tools. The roles of the OIG, staff ombudsman, staff grievance system, and offender grievance systems are discussed in more detail below.

Office of the Inspector General. The Office of the Inspector General is comprised of three divisions, organized geographically, and an intelligence unit. In addition to conducting internal inspections and audits (discussed above), the OIG investigates all unexpected or unattended inmate deaths. Additionally, the OIG directs investigations into, and gathering of intelligence on, criminal activity occurring within the department; however, OIG refers criminal cases to the appropriate prosecuting authority. OIG's Professional Standards Unit is also responsible for investigating staff violations of administrative policies. OIG then turns over substantiated cases of administrative violations to the appropriate internal appointing authority. Professional Standards Investigations involve employee violations of statute or administrative regulations, including sexual harassment/discrimination issues and employee misconduct.

The OIG is also responsible for enforcing minimum standards outlined in CDOC's Administrative Regulation 100-40, *Prison Rape Elimination Procedures*, requiring CDOC to identify, monitor, counsel, and track offenders "who have a propensity for

⁹ See Code Colo. Regs. 1450-24.

committing sexual assaults/rapes, or sexual misconduct, or possible vulnerability to being a victim” of those crimes. The OIG trains CDOC staff to recognize warnings and behaviors, and provides a mechanism for pursuing and tracking criminal prosecution.

Staff Ombudsman. The department’s ombudsman’s office is designed as a neutral conflict-resolution service to help ensure that staff are treated fairly. The primary role of the staff ombudsman is to help an employee “identify rules, policy, [and] procedure relevant to their situation and help them understand their options,” according to the CDOC employee currently serving as ombudsman. Most often these issues are resolved through mediation with the ombudsman.

Staff Grievance System. Apart from the staff ombudsman, CDOC’s Human Resources Employee Relations Unit has a dedicated grievance officer who tracks grievances and facilitates responses to staff grievances related to discipline, duty assignments, employee relationships, and working conditions, among other issues. Staff may not, however, grieve issues related to their performance evaluations or compensation through this office.¹⁰ While a grievance officer in the Employee Relations Unit can process most grievances, certain complaints, such as those that include an allegation of discrimination, are forwarded to the OIG.

The role of the grievance officer is to track grievances at Step 1 and assist the “appointing authority” (a term designating an employee higher up the chain of command) at Step 2. After an employee files a grievance, a supervisor with the authority to grant relief tries to resolve it at Step 1. The policy encourages the lowest-level official with authority to address a grievance to do so. The staff resource coordinator sends the grievance to the grievance officer for tracking, who notes whether it was resolved.

If an employee is not satisfied with the Step 1 response, he or she may appeal, initiating Step 2. The appointing authority can attempt to resolve the issue with the employee or elect to assemble a panel of the employee’s peers. At that point, the grievance officer assembles the panel, scheduling and attending the Step 2 panel interviews to ensure that procedures are followed. The grievance officer sends the findings to the appointing authority who notifies the employee of the decision. The decision is maintained in the employee’s file.

¹⁰ If an employee’s complaint concerns the performance management process or compensation, an employee may seek review from the state personnel director pursuant to in C.R.S. 24-50-118, Chapter 6 of the State Personnel Board Rules, and the department’s Administrative Regulation 1450-02, Performance Management Program (PMP). Employees past their probationary period have the right to grieve or appeal matters directly to the Board for review or, if the matter alleges discrimination, to have the matter reviewed by the Colorado Civil Rights Division.

An employee who remains dissatisfied with the decision can appeal one last time to the State Personnel Board.

Offender Grievance System. A meaningful grievance system can help a corrections department remedy and track problems before they turn into crises. A system that is trusted by both inmates and staff can ease tensions within the inmate population and can improve relations between inmates and staff.

Like the staff grievance process, Colorado's offender grievance system has three steps, with two levels of appeal. As with most inmate grievance systems, inmates are encouraged first to attempt to resolve the problem at the lowest level, with the line officer on duty or staff stationed where the grievance arose. An inmate who is dissatisfied with the attempt for informal resolution may begin the formal grievance process by submitting a grievance to a supervisor, which is Step 1 of the formal procedure.

Following an incident, an inmate has 30 days to file a grievance. Once an inmate has submitted a written grievance, policy requires staff to provide the inmate a written response within twenty-five days for Steps 1 and 2. If an inmate does not receive a timely response, policy permits the inmate to appeal to the next level without waiting for a response. If the inmate is unsatisfied with the response, an appeal of that decision must be filed within five days. The inmate can appeal to the facility warden, or other appointing authority, in Step 2. An inmate unsatisfied with the Step 2 response may appeal for the final time to Step 3, in which the offender grievance officer, a CDOC attorney who reports to the executive director, reviews the grievance. The Step 3 grievance officer makes a recommendation to the executive director either to grant relief or dismiss the claim, if the officer determines that relief is unwarranted. At Step 3, policy states that an inmate should have a response to a grievance within forty-five days.¹¹

While there is no separate grievance system for complaints relating to medical or mental health care, the assistant director for clinical services is responsible for ensuring that medical grievances receive appropriate responses.

For all grievances, policy requires the offender grievance officer to record each grievance, with a tracking number, in an electronic database called DOCnet immediately upon receipt, and clinical staff to tally clinical/medical grievances separately, in the same format. Policy mandates that records be maintained in the database for statistical purposes, including records of the grievances at each step of review.¹²

The Legal Center for People with Disabilities and Older People. As the protection and advocacy agency for Colorado, the Legal Center for People with Disabilities and Older People, an independent nonprofit organization, has federal statutory authority to access any facility where a person with disabilities or mental illness may be found in order to

¹¹Sec Code Colo. Regs. 850-04.

¹² Ibid.

protect or advocate for that person's civil rights. The Legal Center's Protection and Advocacy for Individuals with Mental Illness Program (PAIMI) addresses systemic issues in the criminal justice system that disproportionately impact individuals with mental illness. It also specializes in the investigation of complaints about the treatment of people with mental illness in Colorado's county jails and state prisons, including the San Carlos Psychiatric Prison, as well as people with mental illness on parole or probation.

Like many state protection and advocacy agencies, the Legal Center has somewhat limited resources and must prioritize its efforts. With the cooperation of prison officials, PAIMI is currently focusing its efforts on addressing the needs of the most acutely mentally ill inmates. PAIMI staff correspond by mail with about two inmates per facility to solicit information about the inmates' problems and work with facility staff in an attempt to formulate remedies.

Because of limited time and resources, facility visits are infrequent. While the Legal Center is statutorily authorized to perform a more proactive monitoring role, its current activities are limited and primarily complaint-driven.

E. Legal

Though often lengthy and expensive, the legal process and the courts provide an enforceable form of external oversight of prisons and jails, mandating redress or corrective action. Michele Deitch writes that, "the legal function, like the investigation function, is reactive in nature, though the ongoing supervision of the legal system is designed to fix an unacceptable set of conditions and not just punish wrongdoing."¹³

State and federal courts provide an important layer of oversight. Inmates and their attorneys can raise issues regarding the legality and constitutionality of conditions to the courts. If the courts find that CDOC has violated the law, the department may then be required to change its policies and procedures in order to come into compliance with the court order. Additionally, the Civil Rights of Institutionalized Persons Act of 1980 (CRIPA) gives the Department of Justice authority to initiate civil lawsuits to remedy egregious conditions in prisons and jails; however, court-ordered consent decrees that would require improvement have decreased in number in recent years.¹⁴

F. Reporting

Any external body that publishes information on prison conditions or management issues fulfills the reporting function of oversight. Traditionally, civil or human rights groups like the American Civil Liberties Union (ACLU) and the media have been the primary

¹³ Michele Deitch, *Distinguishing the Various Functions of Effective Prison Oversight*, 30 Pace L. Rev. 1438 (2010), <http://digitalcommons.pace.edu/plr/vol30/iss5/3> (accessed January 25, 2011).

¹⁴ The Commission on Safety and Abuse in America's Prisons, *Confronting Confinement* (New York: CSAAP, 2006), 83. For a full copy of the report or to read testimony from the Commission's public hearings, visit www.prisoncommission.org.

educators of the public on prison and jail issues. In Colorado, the ACLU could report on the state prisons if they chose to do so. A number of nonprofit, community organizations with an active interest and involvement in criminal justice issues, such as the Colorado Criminal Justice Reform Coalition (CCJRC) and Colorado-CURE, also disseminate information through newsletters and websites. Traditional media like television and newspapers offer limited coverage of prison issues. Local Denver paper *Westword*¹⁵ and new media such as the blogs *Think Outside the Cage*¹⁶ and *The Real Colorado Department of Corrections*,¹⁷ written anonymously by a purported former CDOC staff member, often offer a more critical perspective. While there are some national blogs that have become mainstream news media sources, it is important to evaluate the credibility of each source on an individual basis. By including the aforementioned blogs, Vera does not claim to affirm their credibility.

Colorado Criminal Justice Reform Coalition. CCJRC was established in 1999 as a nonprofit, community-based member organization whose stated mission is to reduce the growth of the Colorado prison population. CCJRC does not provide direct services, but focuses instead on community organizing, community resources, and policy reform. The organization also supports inmates reentering the community, having recently published a *Getting On After Getting Out: A Reentry Guide for Colorado*, for inmates being released into the community.¹⁸ CCJRC refers recently released individuals or their families to community resources to help them find housing, employment, or resolution to problems with probation officers. While the organization does not address conditions issues in the prisons, it purports to receive over one thousand complaints per year from inmates and their family members. CCJRC staff attempt to resolve issues or directs those with complaints to the appropriate authority.

Over the last decade, CCJRC staff have been involved in criminal justice initiatives coming out of the governor's office, including the governor's advisory committees, as well as sitting on various task forces of Colorado's Commission on Criminal and Juvenile Justice.

CURE. Citizens United for Rehabilitation of Errants (CURE) is a national nonprofit that was formalized in 1975 as an organization working on criminal justice system reform, and became a national membership organization in 1985. Though it has its origins in death penalty abolition, the national organization has a long list of priorities, as well as a

¹⁵ *Westword*, <http://www.westword.com> (accessed July 18, 2010).

¹⁶ *Think Outside the Cage*, <http://thinkoutsidethecage2.blogspot.com> (accessed July 18, 2010).

¹⁷ *The Real Colorado Department of Corrections*, <http://realcdoc.blogspot.com> (accessed July 18, 2010).

¹⁸ Carol Peeples and Christie Donner, *Getting On After Getting Out: A Reentry Guide for Colorado* (Colorado: Colorado Criminal Justice Reform Coalition, 2007).

history of weighing in on legislation that would impact its efforts. CURE has many local chapters, including Colorado-CURE (CO-CURE), that determine their own priorities.

CO-CURE was established in 1990 to provide information and support to inmates and their families. In addition, CO-CURE works to reform sentencing laws and advocates for improved reentry by pushing for greater job training and education for prisoners and working to eliminate racial profiling and employment discrimination of convicted felons.¹⁹

CO-CURE leadership has established a close, collaborative working relationship with the Colorado Department of Corrections. CDOC holds quarterly meetings with CO-CURE members in an open, public forum, giving them an opportunity to voice concerns about procedures, to seek clarification on policy, and, on a more individual level, to ask specific questions about issues facing a particular incarcerated family member or friend. CDOC staff and leadership, as well as CO-CURE members, regard these meetings as constructive and effective.

G. Monitoring

According to Michele Deitch's oversight framework, monitoring involves regular review and inspection of a correctional facility by an outside entity. The defining characteristics of monitoring are: 1) unfettered access to facilities for routine inspections in order to prevent problems and recommend improvements, 2) inspections conducted by an independent, external body, 3) a focus on facility conditions, and 4) recommendations that are advisory, rather than compulsory, in nature.²⁰ While the OIG fulfills all of these requirements save externality, the external characteristic of monitoring is a fundamental one because it ensures freedom from conflicts of interest with the agency being monitored. Therefore, under Deitch's framework, the OIG is not a true monitor. Nevertheless, this office's monitor-like functions are discussed below. Additionally, although CDOC facilities, like all state-run facilities, are subject to independent, external inspection of food service, sanitation, and water supply as discussed previously, CDOC has no relationship with an entity that could monitor overall operations or conditions.

Office of Inspector General. Though the OIG serves primarily audit and investigation functions, discussed above, other powers of the office are similar to a monitoring function. The administrative regulation outlining the inspection authority of the OIG states that: "In order to support, assist, and facilitate continuous quality improvement, the

¹⁹ Colorado-CURE, "Mission Statement," <http://www.coloradocure.org/About.aspx> (accessed April 1, 2010).

²⁰ Michele Deitch, "Comments for the Commission on Safety and Abuse in America's Prisons" (Los Angeles, California: February 8, 2006), at 5-6. Available at http://prisoncommission.org/statements/deitch_michele.pdf (accessed December 28, 2009).

Inspector General's Office shall conduct internal reviews to recognize best practices and to identify opportunities for improvement in policies, systems, and practices."²¹

The inspector general determines there is a need for these internal reviews in a number of ways. One method for identifying an area of vulnerability is through the work of the OIG intelligence unit or by the regular review and threat assessment of cases that come through the office. On an informal level, the inspector general solicits feedback from wardens and other staff by occasionally attending wardens' meetings and shift changes. The inspector general also has received anonymous letters alerting the office to an area in need of review that can trigger an internal review. Once alerted to an area of perceived vulnerability, the OIG conducts a review of randomly selected facilities to assess vulnerability concerns; the scope of the reviews can range from security of the armory to food to equipment. The executive director approves such reviews prior to allowing OIG entry into the facilities.

Similar to a monitor, the office has unfettered access to any facility at any time, albeit with the scope of its inspection limited to a pre-determined area of concern, in response to an identified problem. In addition, inspections of any facility or unit operation can be conducted at the request of the executive director or inspector general. Inspections may be unannounced or announced.²²

All inspections must be documented by written observations of certain pre-selected subjects on various areas of interest.²³ As part of the OIG's review of a facility, it is afforded access to records, documents, files, and any staff member or inmate. Upon completion of the review, OIG staff brief facility administrative heads, and a preliminary post action report follows. Ultimately, OIG staff prepare a final post action report. Aside from making recommendations for remedy and improvement, the inspector general can and does make recommendations for policy change to the executive director when necessary.

H. Other Oversight: Research and Technical Assistance

An essential component of oversight is access to reliable, meaningful and timely data and information so that administrators have the tools they need to manage prisoners and supervise officers effectively by identifying patterns, trends, and opportunities for improvement. In addition to the work done by the Office of Research and Statistics in the Department of Public Safety's Division of Criminal Justice, CDOC also engages the outside expertise of organizations and universities to provide technical assistance and research.

²¹ See Code Colo. Regs. 1100-06.

²² Ibid.

²³ These include staff appearance and adherence to the Uniform Dress Code; morale of CDOC employees, contract workers, and volunteers; proficiency and performance of safety and security practices; facility/unit cleanliness; and the offender population.

Research. The Office of Research and Statistics conducts research on programs and operations of CDOC. Each year, the Office of Planning and Analysis also approves approximately twelve proposals by external researchers to conduct research in their area of interest. In addition, CDOC has a 20-year research relationship with the University of Colorado and a 15-year research partnership with National Development and Research Institutes (NDRI). These research partners provide a measure of objectivity when research focuses on inmates. In collaboration with NDRI and the university, CDOC has evaluated a number of programs including therapeutic communities, Treatment Accountability for Safer Communities (TASC) programs for parolees, and inmates with mental illness in administrative segregation.

CDOC also permits and supports external research conducted by other state agencies, university students and professors, and other organizations interested in criminal justice issues. CDOC makes its research results available to the public and uses findings to improve programs and operations.

Technical Assistance. CDOC has consulted with outside experts on programming, medical services, and trainings and skill building initiatives for CDOC staff. The department has received assistance from the National Institute of Corrections, Johns Hopkins University, and Clinical Solutions among others, as they introduce new programs, develop existing programs, and implement evidence-based practices—and have seen marked improvements as a result. For example, after consulting with Clinical Solutions and introducing operational efficiencies in the pharmacy, dispensing and delivery times of medications to inmates have been reduced from 10-14 days to same day and next day delivery, while maintaining the quality of the service.

Analysis of Existing Oversight Mechanisms and Recommendations for Improvement

During the course of our multiple visits to Colorado since February of 2008 and the dozens of phone interviews conducted with CDOC employees and other criminal justice stakeholders since then, we have reached a number of conclusions about what is working well in Colorado and where there are opportunities for innovative, but crucial, improvements. This section provides our recommendations for stronger measures of oversight going forward.

Our criteria for analysis incorporates Michele Deitch's framework, the benefits of oversight outlined in the Introduction, and areas of concern identified by those employed and affected by CDOC in the course of our research. As discussed previously, the seven functions of oversight are useful for mapping the layers of prison oversight that exist in Colorado and identifying gaps at the systems level. For example, while CDOC has a number of mechanisms for scrutinizing itself internally, many of the internal mechanisms yield information that remains in silos without a way to bring together the various data points and players for regular review of facilities and the overall system. Furthermore, while CDOC is subject to some external oversight by the legislature and conducts regular meetings with CURE, it could benefit from greater citizen involvement. As we assessed Colorado's current oversight mechanisms, we considered whether they were designed for and optimally used to achieve one or more of the following goals:

- To ensure safe and healthy working and living conditions for staff and inmates;
- To evaluate the use of existing resources, the need for new resources, and help leadership make the case for new or existing resources;
- To identify inefficiencies (and ultimately save money);
- To manage risk (and ultimately save money);
- To measure the success and failures of programs and policies in order to guide future decision-making;
- To build public confidence and public interest; and
- To promote good governance and professionalism.

Internal Recommendations

The Colorado Department of Corrections has several internal accountability mechanisms on which it relies to help ensure rigorous internal investigations, resolve inmate and staff grievances in a timely and fair manner, gather current and accurate information about the inmate population, and ascertain whether safety and security measures and internal standards are being adequately followed, among other critical internal processes.

The importance of communication within the department is something that is discussed frequently in this report. While CDOC holds regular wardens' meetings, often with a formal agenda, there is no structure for ensuring regular reporting and review of standardized, analogous data from each facility as a tool of internal accountability.

A. Recommendations for Additional Internal Oversight: Develop a System for Regular Reporting and Review of Data

Law enforcement agencies commonly rely on a Compstat system to report and review data, statistics and trends about performance and crime activity. Compstat systems have helped improve police departments' performance by increasing internal accountability, as well as communication to the public. After the success of Compstat in police departments, jail and prisons systems across the country are beginning to consider adapting a similar process, tailored to the corrections setting.

We recommend that CDOC, an agency that already keeps data and statistics, consider creating a Compstat-like performance management system to assess comparable performance data across all CDOC facilities. A version of Compstat at the state level would enhance internal accountability by providing the director and his deputies standardized information by which to compare and evaluate staff performance, facility safety, and to identify potential trouble areas before crises arise, among other benefits. The Association of State Correctional Administrators (ASCA) has developed a list of suggested performance indicators that state corrections systems monitor internally—the Performance-Based Management System (PBMS). The “performance-based standards” cover public safety, institutional safety, mental health, substance abuse, offender profile/contextual data, health care, and education. ASCA articulates the value of using this type of evaluation, explaining their system as “performance standards, measures, and key indicators of critical practices . . . designed to translate the missions and goals of correctional agencies into a set of measurable outcomes.”²⁴

²⁴ Association of State Correctional Administrators, *Performance-Based Measures System Resource Manual – November 2009* (Middletown, CT: ASCA, 2009).

CDOC has begun to implement PBMS. As the department does so, it will be important to keep in mind that performance measures or indicators are only effective if the department has defined a clear set of goals; having done so, CDOC can use the measures to help determine the extent to which the department is meeting those goals.

Implementing a Compstat-like process would also produce a good deal of readily available information about the performance of the department that could be pushed out to other government agencies and the public. This has the potential to improve public understanding of correctional operations, as well as help the director garner support for improving the areas of the department that continue to lag.

One example of a Compstat-like process in use at the state level is the California Department of Corrections and Rehabilitation's partnership with the Los Angeles Police Department to adapt the jail Compstat system. This effort was aimed to help CDCR address its management and performance problems. The Center for Evidence-Based Corrections at University of California, Irvine, published *COMPSTAT for Corrections*, a helpful resource on the value of a Compstat-like process in a state corrections setting.²⁵

Another example of statewide performance measures is Maryland's StateStat system, adapted from Baltimore City's CitiStat performance-measurement tool. This tool won the esteemed "Innovations in Government" award from Harvard University's Kennedy School of Government and was one reason cited by *Governing Magazine* for selecting Governor Martin O'Malley as a "public official of the year" in 2009.²⁶ StateStat requires participating state agencies to brief the governor on key performance indicators. The StateStat office tracks and follows trends, and when the office or the governor identifies areas of concern, government can work together to make targeted changes to improve performance. For Maryland's Department of Public Safety and Correctional Services, StateStat has enabled the department to reduce overtime as well as more efficiently utilize treatment bed space and education seats. This has allowed the department to increase programs, education, skill training, drug treatment, prison industry jobs, public service, and other reentry related efforts.²⁷

These examples show that an effective performance measurement system has the following features: 1) a manageable number of concrete goals that are measurable and are actually measured; 2) a regular, robust question and answer process related to the goals; and 3) a formal follow-up process when units or divisions fall short of their expected

²⁵ Jesse Janetta, *COMPSTAT for Corrections* (Center for Evidence-Based Corrections, University of California, Irvine, 2006), available at <http://ucicorrections.seweb.uci.edu/pdf/COMPSTATforCorrectionsWorkingPaper.pdf>.

²⁶ *Governing Magazine*, "2009 Public Officials of the Year: Driven By Data—Martin O'Malley," <http://www.governing.com/poy/Martin-OMalley.html> (accessed July 19, 2010).

²⁷ Gary Maynard, Secretary of Maryland Department of Public Safety and Correctional Services, telephone interview by Juliene James, May 14, 2010.

goals. An additional, essential element is 4) administrative and staff buy-in from the top down. Our recommendations cover these main points below.

Recommendation 1. Develop specific departmental goals and performance measures and make them publicly available.

Taking into account CDOC's mission and the values articulated broadly in the annually updated strategic plan, the department can determine its core priorities and distill a set of specific goals "translating the 'what' of the mission statement into 'how' they are conducting business."²⁸ Once goals have been set, the department must decide how it plans to achieve them. This process should result in determining which performance measures would most appropriately illustrate success or failure. Performance measures should be tailored to reflect the overall goals and mission of the department.²⁹ For example, if the department's mission is public safety, one of its goals may be to reduce new crimes committed by individuals released from its custody. The department may determine the best way to contribute to reducing recidivism is to improve inmate programming that address criminogenic factors, such as substance abuse, anger management, education, or lack of vocational training. Performance measures in this case may include how many inmates are enrolled in and successfully complete programming.

Meaningful performance measures would help CDOC determine objectively and specifically areas in which they are excelling as well as where there is room for improvement. The question of whether to set concrete numerical goals is a complicated one, faced by California Department of Corrections and Rehabilitation as they customized Compstat. As discussed in *COMPSTAT for Corrections*, although a qualitative goal can be appropriate in some scenarios, "a numerical target is much more powerful in terms of both external accountability for the executive leadership, and in terms of internal clarification of the mission, but it is also harder to achieve."³⁰

While a Compstat-like process is primarily an internal accountability tool, CDOC should consider making the department's goals and the outcomes of its performance measures publicly available on its website. This would create additional incentives for staff and management to ensure they are succeeding. As a related benefit, if there are areas in which the department is underperforming due to staffing shortages or limited funding, CDOC management may be in a better position to request adequate resources if the legislature knows that the public is watching.

²⁸ Harry Wilson and Kathleen Gnull, *Performance Measures and Strategic Planning for Corrections* (Washington, DC: National Institute of Corrections, 2000, NIC 018615).

²⁹ Ibid.

³⁰ Jannetta, 2006. p. 8.

Recommendation 2. Tailor CDOC's internal data tracking and reporting system to performance measures and goals.

Once CDOC has reached consensus on its priorities and has determined a set of appropriate but ambitious goals with measurable indicators of performance, the department can turn its attention to the data collection and review process. Capturing timely and accurate data is an integral part of building a reliable system of internal accountability. Having access to such data is essential for time-sensitive and sound internal decision-making, maintaining security of facilities for prisoners and staff, maximizing efficiency of correctional resources, and promoting good governance and professionalism. As mentioned above, performance measures not only illustrate what is really happening in a department, *e.g.*, the actual number of inmates in segregation, but also give an indication of how close the department is to meeting the benchmarks to which it strives, for example, did the department succeed in seeking to reduce the segregated population by 10% each month, a hypothetical goal.

CDOC would need to develop a template, along with definitions, guidelines for counting, and training, so that each facility could collect and report uniform data in the same way. This would make facility-to-facility comparisons possible where appropriate and desired. CDOC already has capacity in this area: dedicated research staff collect and analyze departmental data. CDOC's Office of Planning and Analysis is currently responsible for compiling and analyzing data and issuing official inmate and departmental statistics and reports. The office also tracks and assesses inmate treatment needs and the efficacy of treatment programming. Staff in this office might be uniquely qualified to start developing a tight set of data points to be used in a Compstat process.

While greater emphasis will be placed on some areas or others depending on the goals of a given department, some of the basic points that are typically included in corrections performance measures include escapes, recidivism, inmate-on-inmate assaults, inmate-on-staff assaults, inmate suicides and attempts, random cell searches, findings of contraband, uses of force, grievances, disciplinary reports, administrative segregation and protective custody, and sick calls.

Finally, the department should formalize a process for reviewing such data, as discussed below.³¹

Recommendation 3. Implement a regular meeting to report and review data related to performance measures and goals; and increase involvement of line and program staff in data reporting process.

³¹ The Wyoming Department of Corrections made its template available through ASCA's PBMS website. It can be accessed at <http://www.asca.net/documents/WYDOC.xls> (accessed July 19, 2010).

Data reporting and review at regular meetings would provide a forum for executive management, wardens, and staff to identify and discuss issues and concerns—an important line of communication often difficult to engage from bottom to top. The first line of review should be localized at the facility level for quick response to facility-specific issues as they arise.

Ideally, these departmental review meetings would be designed to identify trends and areas of concern and to develop solutions. As such, they would function as an internal accountability measure that would help senior management coordinate resources and programs, achieving a number of the benefits of oversight, including ensuring a safe prison environment, identifying inefficiencies, managing risk, and measuring the success and failure of programs and initiatives.

As mentioned previously, any number of areas can be included for review, but emphasis will be placed on issues that have been prioritized by the department. Including benchmarks and targets will help illustrate progress or identify issue areas a facility or entire department may face. For example, if one of the performance measures is percentage of inmates enrolled in appropriate programming, the department may decide that 80% of inmates should be enrolled. Upon review, it may be revealed that only 60% of inmates are enrolled. A regular review meeting provides an opportunity to discuss why the target has been missed. This example is based on a scenario faced by another department of corrections; the department determined that there were not enough teachers that month to include the targeted number of inmates. The department was then able to focus on finding a solution to that specific problem, addressing the shortfall. With this kind of information in hand, leadership may be able to request additional funding to hire staff to run programming by arguing that there is a need for adequate programming to support safe and successful reintegration of released inmates.

In order to have a successful performance management system it is critical to have staff buy-in. In its Performance-Based Measures System resource guide, ASCA lists staff buy-in as one of the key components to implementing the system. Relatedly, the results of a National Jail Workforce Survey, funded by the U.S. Department of Justice, Bureau of Justice Assistance, showed that after corrections staff's basic economic needs are met, they are most concerned with having better communication with management, clear expectations and objective performance measures, and personal recognition from caring supervisors.³² Clear communication helps staff feel that they are valued stakeholders in the process, leading to increased zeal and motivation,³³ and better overall department performance. Including a selection of line officers and program staff at data reporting

³² Jeanne B. Stinchcomb, Susan W. McCampbell, and Leslie Leip. *The Future Is Now: Retaining, and Developing the 21st Century Jail Workforce*. (Naples, FL: Center for Innovative Public Politics, Inc., 2009).

³³ Wilson and Gnall, 2000.

meetings would provide an important opportunity for communication between staff and management about expectations, performance, and recognition of progress.

During the course of our interviews with senior management in CDOC, we often heard about the importance of open communication with staff and the various informal ways senior officials go about seeking staff input. For example, the executive director sends staff a weekly newsletter about current developments and programs. The performance measurement process provides an opportunity for an enhanced dialogue to improve staff relations and more meaningful commitment to the mission of the organization, particularly during the process of developing goals and performance measures. Including line officers and program staff would provide the valuable perspective of those on the ground to command staff and management who, try though they may, cannot be in all places at all times. The California Department of Corrections and Rehabilitation includes not only correctional officers but also staff from various department functions such as education, programs, substance abuse, and research, so that they can answer questions directly about their areas of work.

As long as it is clear that these meetings are not for airing individual grievances, staff could provide specific, constructive feedback related to the goals and measures, and insight into why they may or may not be succeeding. Allowing them to participate in a question-and-answer process related to the goals and measures in a formally sanctioned meeting would provide a space for honest and practical conversation about the strengths and weaknesses of the department's operations. It would also be a time for managers to show recognition and appreciation of exemplary work where goals have been met.

Recommendation 4. Compare data over time to identify trends and patterns, and formalize a system for following up on goals that are not met.

Reporting data monthly and at other intervals is a feature common to law enforcement and corrections Compstat or data review processes. By reporting data at regular intervals and comparing them with data from previous time periods, department management is able to identify and assess trends or alarming fluctuations. For example, New York City Department of Correction (NYDOC) facility wardens and their designees meet monthly with senior NYCDOC staff to present year-to-date Total Efficiency Accountability Management System (TEAMS) data that are compared with the same period in other years. Likewise, the Los Angeles County Sheriff's Department discusses Sheriff's Critical Information Forum (SCIF) data during monthly staff meetings at the division level, and the data are continually available for the preceding four years. Monthly and quarterly reports are also available to the division chief, who presents data to the Sheriff or his designee during yearly SCIF meetings.

Implementing a Compstat-like process will allow greater internal accountability, helping staff at all levels see progress over time and what weaknesses need to be

addressed. For example, because grievances can serve as a kind of early warning system for issues or patterns requiring attention, a report of grievances should be included at the regular meetings along with outcomes and any patterns or trends indicated by the grievances. Likewise, number or geographic concentration of cell shakedowns can be an indicator of a problem unit, or possibly overzealous staff. Once it is determined what the issue is, an appropriate remedy, such as inmate transfers or targeted staff training, can be implemented.

Without a formal process for following up on goals that are not met, a Compstat-like data review and reporting process may fall short of assuring strong accountability. The director and his deputies should follow up formally with wardens and other appointed authorities whose facilities do not meet the goals or benchmarks within a predetermined time frame, and with a specified course of action. Creating a formal follow-up process will ensure that identified problems are corrected swiftly by a responsible party.

Recommendation 5. Incorporate changes to the staff survey.

A staff survey is another tool for achieving many of the goals of Recommendation 3—increasing involvement of line and program staff in the data reporting process. Research suggests that employees are more satisfied and committed if the organizational culture supports collaboration with management and input into operations.³⁴ During interviews with CDOC staff members, we often heard that staff would like to have better, more open lines of communication with upper level management. By engaging staff and soliciting feedback through a staff survey, CDOC management will have a more comprehensive understanding of what is working well and where they might be able to provide better support to employees, including identifying opportunities for training, among other things.³⁵

In addition to being an important management tool, providing the director and his deputies with information about the challenges and needs of line staff, a survey would signal to staff that their input is valued. Staff surveys provide a valuable opportunity to boost morale, identify root causes of workplace attitudes and in turn improve performance and commitment to the organization.³⁶ Conducting an anonymous survey provides a way for line officers to express concerns in a comfortable, non-confrontational way. The results of the staff surveys would also be instructive as CDOC continues to refine and reviews departmental goals and performance measures.

³⁴ Seble Getahun, Barbara Sims, and Don Hummer, "Job Satisfaction and Organizational Commitment Among Probation and Parole Officers: A Case Study," *Professional Issues in Criminal Justice* 3, no. 1 (2008).

³⁵ National Business Research Institute, Inc., "Employee Surveys," http://www.nbrii.com/Employee_Surveys/ (accessed July 9, 2010).

³⁶ *Id.*

CDOC currently conducts a staff survey, overseen by Human Resources. The survey is a tool used to measure employee satisfaction as well as the organizational climate. We suggest implementing suggestions for improvements we heard from CDOC staff, such as including questions designed to gauge the employee's commitment to the organization, as well as the employee's impression of the organization's commitment to them, and questions about the employee's relationship with the appointing authority. Vera encourages the inclusion of these additional considerations.

Recommendation 6. Introduce a "quality of confinement" survey for inmates to give another layer of feedback on prison operations.

In addition to seeking feedback from staff, CDOC should consider developing and administering a "quality of confinement" survey to inmates. Inmate feedback can serve as a valuable source of information regarding the quality of security and care provided in correctional facilities. The survey could be designed to seek feedback in such areas as: safety, housing assignments, interactions with corrections officers and supervisors, satisfaction with the complaint/grievance process, adequacy of medical care, adequacy of the commissary, availability of programs and jobs, noise, and food quality, among others.

The Federal Bureau of Prisons (FBOP), as well as the Jacksonville Sheriff's Office and the Miami-Dade Department of Corrections and Rehabilitation, make use of these types of surveys. In a FBOP report, *Using Inmate Survey Data in Assessing Prison Performance: A Case Study Comparing Private and Public Prisons*, researcher Scott Camp writes, "While surveys will and should never replace operational reviews and audits, we demonstrate that they can be effectively used to obtain information about operational differences between prisons." Some steps were taken to ensure meaningful responses to the FBOP survey. First, data were only compared among prisons at the same security level because this affects how inmates are managed in prison. Next, socio-economic controls were used, and inmates were coded for ages, race, marital status, education level and citizenship, as well as for criminal history and disability.

To address concerns that feedback from inmates is unreliable, Camp argues that there are two things needed to determine if the survey results are of value: "first, that the average responses provided by staff and inmates at prisons actually differ, and, second, that the differences are independent of the individual characteristics of the inmates and staff providing the evaluations."³⁷

With these kinds of controls, inmate surveys can provide helpful feedback on management and operational issues across systems.

³⁷ Scott D. Camp, *Do Inmate Survey Data Reflect Prison Conditions? Using Surveys to Assess Prison Conditions of Confinement* (Federal Bureau of Prisons, Office of Research and Evaluation and Data, Washington, DC: August 21, 2000), 18-19. Available at http://www.bop.gov/news/research_projects/published_reports/cond_envir/oreprecamp_pj3.pdf (accessed December 28, 2009).

External Recommendations

Oversight by governmental bodies, individuals, and organizations external to the Colorado Department of Corrections plays a role in enhancing the accountability of the department by shining a light behind closed doors. CDOC is subject to some external review by the entities discussed below in greater detail and, with varying degrees of authority, they help ensure that CDOC has the information, resources, policies, and procedures in place to maintain safe, secure facilities. We believe CDOC could benefit from allowing greater external review of its operations, as described in the recommendations below.

As a body that regularly audits minimum standards, the American Correctional Association (ACA) stands out as the primary form of external oversight of Colorado's prisons. The ACA acts as both auditor and accreditor. The standards and audits help the department manage risk by ensuring that prison conditions are in line with basic health and safety standards, and thereby help to ensure safe and healthy working and living conditions for staff and inmates. ACA's audits, in conjunction with the internal audits the department completes in preparation for ACA accreditation audits, also can illuminate inefficiencies and failures, which alert the department's management to areas that require attention and corrective action. Finally, as a general matter, ACA accreditation promotes good governance and professionalism by providing an independent, objective check on how well the system is functioning according to its standards. The drawbacks, however, are that its audits only take place every three years, so there is not a consistent, external presence on the ground working with the department to give the combined value of a layered system of oversight comprising external and internal checks and balances.

The long-established relationship between CDOC and the prisoner advocacy organization Colorado-CURE (CO-CURE) is an admirable partnership that provides some degree of external accountability and transparency, benefiting both the department as well as concerned family and community members. The relationship demonstrates both the department's commitment to transparency and CO-CURE's commitment to productive communication with the department. While these two bodies could have an adversarial relationship, both recognize that this would be unproductive for CURE as an organization, the people it serves, and the department. There are a number of other ways the department could expand and improve its collaboration with other organizations that have a similar role. For example, the department could foster a stronger relationship with Colorado's protection and advocacy organization, the Legal Center for People with Disabilities and Disabled People. It could also consider developing innovative partnerships with other organizations to expand inmate complaint and grievance review and visitation programs. Allowing easy access to additional approved external

organizations could improve the public's regard for the department, as well as provide CDOC management with an additional layer of feedback from independent parties.

CDOC has recently added many reports, statistics, and other documents to its website. This level of transparency, coupled with the extent of the information provided, sends a positive message to the public and provides useful information to interested parties. A regular snapshot, in the form of a dashboard, summarizing the various charts, tables, and reports could take this effort one step further to make the information more easily digestible for the interested public.

To take full advantage of the range of benefits that may be achieved from external oversight, we recommend strengthening external information sharing and partnerships so that CDOC can build more public support and confidence and take advantage of additional means for effective management.

A. Building Community Trust and Confidence Through Citizen Engagement and Enhanced Public Understanding

As mentioned above, to the credit of the director of CDOC, and with the support and participation of staff, CDOC has a fifteen-year history of collaboration with prisoner advocacy organization Colorado-CURE. The relationship provides a measure of external oversight with CO-CURE acting as a voice for inmate and family concerns; however, the association of CO-CURE and CDOC has never been formalized.

Both department management and CO-CURE members have observed that this has been an important, valued, and constructive partnership, with corrections staff at all levels confirming this sentiment. Regular meetings have allowed both parties to elucidate issues for one another. Through fair, constructive criticism, CO-CURE has established itself as a reliable link to the inside, offering information and a point of view that serves to bridge the gap between corrections officials, inmates, and inmates' loved ones.

While it takes time to build partnerships of this kind, the department is in an excellent position to expand upon current practice, given the success it enjoys with CO-CURE. CDOC will voluntarily meet with organizations such as ACLU, and recently has begun meeting with Victims Organized in Correctional Exchange (VOICE), providing victims with a regular opportunity to engage with DOC officials about DOC operations from a victim's perspective. CDOC also engages with citizens during town hall meetings. While the CO-CURE/CDOC meetings are, in fact, open to the public and announcements are posted on CO-CURE's website, CDOC could consider officially convening a multi-stakeholder community meeting on a regular basis.

Recommendation 7.

Consider convening a community stakeholder meeting regularly.

A number of organizations in Colorado have an interest in what goes on in CDOC, including Colorado's protection and advocacy group, the Legal Center for People with Disabilities and Older People, which focuses on inmates with mental health diagnoses. Despite the Legal Center's limited resources and staff, CDOC could improve its access and involvement. Currently, because of these limitations, the Legal Center only takes on about ten cases at a time. An increased commitment from the department could prove beneficial, as the Legal Center could alert CDOC to emergent issues with particular inmates and work to divert the most mentally ill inmates to more appropriate settings. This would take the burden off of staff and other inmates in facilities not equipped to handle severely mentally ill inmates.

To ensure a constructive use of the time of both the department staff involved as well as the community organizations, and to avoid conflict, a trusted partner such as CURE could facilitate the community groups' involvement. Colorado Criminal Justice Reform Coalition, the ACLU of Colorado, and the King's Crossing Foundation, among others, are some of the organizations that could be included in an expanded public forum.

In a similar vein, CDOC could open itself up to more citizen involvement by taking an active role in helping to alert inmates to the existence of external organizations, some named above, that have the capacity to advocate for individual inmates, or generally provide support to inmates and their families and loved ones. While conducting interviews with CDOC inmates, we were informed that knowledge of CO-CURE, CDOC and the inmates' most constructive mutual ally, is not widespread among inmates. CDOC could include resources on inmate advocacy organizations in the inmate handbook.

Recommendation 8. Revise the inmate handbook to include information on how to contact external advocacy organizations.

Implementing this recommendation may have a modest impact on public confidence in the system and would send a positive message to inmates. Moreover, it has the potential to reduce staff time spent on attempting to resolve inmates' issues. It could also result in improved reporting, so that more issues are addressed at an earlier stage. This recommendation echoes recommendations made by the Commission on Safety and Abuse in America's Prisons and in the National Prison Rape Elimination Commission's proposed Standards for Adult Prisons and Jails, which both recommend facilitating inmates' access to an external organization to voice concerns or complaints.

Recommendation 9. Revise Colorado Department of Corrections mission statement to reflect commitment to collaboration with external stakeholders.

Clarity of an organization's mission is a paramount to its success. Recommendations 1 and 2 emphasize the importance of setting goals and crafting related performance measures based on the mission of the organization, re-engaging staff at all levels in the process. Updating the mission statement to reflect, in particular, the commitment the department has made to actively collaborating with the community, while reevaluating the way the organization approaches its priorities and measures its successes would be an opportunity to advance the progressive values and methods of the department.

B. Legitimize Inmate Grievance Procedure by Including External Review

According to policy, every grievance should be given a tracking number and be entered into an electronic database at the facility by the time it rises to Step 2 level review. It should then be addressed within a given timeframe, as described above. In interviews with inmates, Vera staff heard concerns about whether CDOC employees regularly respond to inmate grievances in a timely manner. In some cases, Vera staff heard claims that inmates had waited up to four months for a first written response. Whether these claims are accurate is uncertain; however, their consistency reflects a general dissatisfaction with the system. The recommendations that follow will suggest how tools of oversight can target and address the challenges management faces when trying to maximize the efficacy and utility of an inmate grievance procedure. Some are more moderate and could be incorporated into the current system, while other recommendations would require greater change.

Recommendation 10. Consider allowing an independent, external party to participate in Step 3 level review of inmate grievances.

While inmate grievances are currently addressed by both informal and formal processes within the facilities and the department, adding an external, disinterested party has the potential to increase the confidence of both inmates and the public. As is common in most departments of correction, there is discontent with and mistrust of the grievance system in the inmate population. Allowing an independent party to participate in the grievance review process at Step 3 would enhance legitimacy of the process in the eyes of inmates, simultaneously taking some of the onus off of department staff. Step 3 appeals already are external to the facilities—an attorney who reports to the director conducts these reviews. The inclusion of an external individual at the highest level of review would not affect staff's decision-making authority at the facility level or the wardens' ability to make operational decisions.

CDOC has informed Vera that the department has tried this in the past and determined that there was no indication that it increased the confidence of inmates, or in turn-around time for grievances. The inclusion of a set of questions in a "quality of

confinement” survey of inmates could help elucidate what may successfully improve the grievance process, a challenge for most departments.

Recommendation 11. Consider implementing a formal review process of inmate complaints received by third-party entities.

Many of the non-profit organizations mentioned in this report already receive complaints from CDOC inmates. For example, the Colorado Criminal Justice Reform Coalition claims to respond to over one thousand complaints annually, whether or not they are able to provide a solution or suggestion for remedy to the inmate. Since many organizations already serve a de facto role accepting grievances, formalizing a process for an external entity to regularly report complaints to the department for departmental analysis and review would allow the department to get a more complete picture of its challenges. It may also increase public confidence in the department’s willingness to fairly address legitimate inmate issues. This process would not replace the formal grievance system, but would give contour and sanction to a practice that is already occurring on an informal level. A further step worth consideration would be to create an ombudsman position, delegating formally to an individual or organization the responsibility of resolving inmate and family complaints. This position also would work alongside, rather than as a replacement for, the formal inmate grievance system.

C. Improve Public Understanding of CDOC Through Information Sharing

CDOC has recently expanded the information available on its website: it now includes dozens of reports, charts, and other documents providing informative facts and statistics to the interested public. In developing the resources on the website, CDOC should continue to make its resources user-friendly.

Recommendation 12. Develop a regularly updated dashboard of limited data points to be made publically available on CDOC website.

Montgomery County, Maryland’s CountyStat program requires all department heads, including the Director of the Montgomery County Department of Correction and Rehabilitation (MCDCCR), to submit data on department-level performance measures on a quarterly basis to the CountyStat office, an executive office of the county. Examples of the measures include number of security incidents, per diem cost per inmate, percentage of total bed needs met, percent of accreditation standards met, and percent of prisoners participating in self growth and development programs. All of the department-level performance measures are published on the county’s website in a searchable database

called the performance measurement dashboard.³⁸ The dashboard shows whether the department's outcomes are meeting, falling behind, or exceeding its goals.

To promote greater transparency and public understanding of prison operations in Colorado, CDOC should consider developing a similar performance dashboard to share a limited set of its performance measures on the department's website. It would serve as a quick reference for overall performance, taking what the department is already doing by publishing lengthy and detailed reports and statistics one step further, in an accessible format. This would be a great tool for communicating successes to the public and showing where weaknesses might be corrected with additional resources. It also might help the department deflect run-of-the-mill requests for information, giving staff the ability to redirect interested individuals to the website.

³⁸ See Montgomery County, Maryland, "Montgomery County Government Performance Dashboard," <http://www2.montgomerycountymd.gov/countystat/> (accessed Apr. 20, 2011).

Conclusion

The external and internal oversight mechanisms discussed in the preceding sections provide a number of benefits to the Colorado Department of Corrections. The ACA accreditation process, internal auditing practices, and CDOC's relationship with CO-CURE are examples of oversight mechanisms that help CDOC manage risk and identify inefficiencies. However, Vera believes that CDOC could benefit from some additional mechanisms of oversight. Internally, we recommend that CDOC use data to build and refine a strong performance measurement system to help leaders more effectively manage risk, identify inefficiencies, and assess the success and failure of programs and initiatives. A strong performance measurement system based on data obtained from multiple sources, including staff and inmate surveys, contributes to safe and healthy facilities by alerting managers to problems that need corrective action, providing accurate and time-sensitive data for sound internal decision-making, effectively engaging staff at all levels, improving morale and performance, and maximizing resources where they are needed. Additionally, the continued publication of departmental reports and statistics support CDOC's efforts towards building public confidence.

We also encourage CDOC to develop its positive relationship with external stakeholders even further, and recommend including external parties in the grievance process. Additionally, we recommend formalizing the department's long-standing relationship with CO-CURE and institutionalizing a practice of meeting regularly with community partners that has served both CO-CURE and CDOC well. CDOC should consider updating its mission statement to reflect its commitment to working with external stakeholders.

Appendix A

American Bar Association, Criminal Justice Section, Recommended Resolution Urging Oversight of Correctional and Detention Facilities

104B Urges Oversight of Correctional and Detention Facilities

(Submitted by CJS) Approved

RESOLVED, That the American Bar Association urges federal, state, tribal, local, and territorial governments to develop comprehensive plans to ensure that the public is informed about the operations of all correctional and detention facilities (facilities for the confinement of individuals for alleged or adjudicated crimes or delinquent acts) within their jurisdiction and that those facilities are accountable to the public.

FURTHER RESOLVED, That the American Bar Association urges federal, state, tribal, and territorial governments to establish public entities that are independent of any correctional agency to regularly monitor and report publicly on the conditions in all prisons, jails, and other adult and juvenile correctional and detention facilities operating within their jurisdiction.

FURTHER RESOLVED, That the American Bar Association adopts the “Key Requirements for the Effective Monitoring of Correctional and Detention Facilities”, dated August 2008, and urges that federal, state, tribal, local and territorial monitoring entities meet these Key Requirements as minimum standards.

FURTHER RESOLVED, That the American Bar Association recommends that the federal government:

- (1) Provide technical assistance and training to facilitate the establishment of monitoring entities that meet the “Key Requirements for the Effective Monitoring of Correctional and Detention Facilities.”
- (2) Require that jurisdictions receiving federal funds for correctional or detention facilities ensure that the facilities are monitored by at least one entity meeting these requirements.
- (3) Develop common definitions for the collection and reporting of key performance data by correctional and detention facilities.

KEY REQUIREMENTS FOR THE EFFECTIVE MONITORING OF CORRECTIONAL AND DETENTION FACILITIES

1. The monitoring entity is independent of the agency operating or utilizing the correctional or detention facility.
2. The monitoring entity is adequately funded and staffed.
3. The head of the monitoring entity is appointed for a fixed term by an elected official, is subject to confirmation by a legislative body, and can be removed only for just cause.
4. Inspection teams have the expertise, training, and requisite number of people to meet the monitoring entity’s purposes.

5. The monitoring entity has the duty to conduct regular inspections of the facility, as well as the authority to examine, and issue reports on, a particular problem at one or more facilities.
6. The monitoring entity is authorized to inspect or examine all aspects of a facility's operations and conditions including, but not limited to: staff recruitment, training, supervision, and discipline; inmate deaths; medical and mental-health care; use of force; inmate violence; conditions of confinement; inmate disciplinary processes; inmate grievance processes; substance-abuse treatment; educational, vocational, and other programming; and reentry planning.
7. The monitoring entity uses an array of means to gather and substantiate facts, including observations, interviews, surveys, document and record reviews, video and tape recordings, reports, statistics, and performance-based outcome measures.
8. Facility and other governmental officials are authorized and required to cooperate fully and promptly with the monitoring entity.
9. To the greatest extent possible consistent with the monitoring entity's purposes, the monitoring entity works collaboratively and constructively with administrators, legislators, and others to improve the facility's operations and conditions.
10. The monitoring entity has the authority to conduct both scheduled and unannounced inspections of any part or all of the facility at any time. The entity must adopt procedures to ensure that unannounced inspections are conducted in a reasonable manner.
11. The monitoring entity has the authority to obtain and inspect any and all records, including inmate and personnel records, bearing on the facility's operations or conditions.
12. The monitoring entity has the authority to conduct confidential interviews with any person, including line staff and inmates, concerning the facility's operations and conditions; to hold public hearings; to subpoena witnesses and documents; and to require that witnesses testify under oath.
13. Procedures are in place to enable facility administrators, line staff, inmates, and others to transmit information confidentially to the monitoring entity about the facility's operations and conditions.
14. Adequate safeguards are in place to protect individuals who transmit information to the monitoring entity from retaliation and threats of retaliation.
15. Facility administrators are provided the opportunity to review monitoring reports and provide feedback about them to the monitoring entity before their dissemination to the public, but the release of the reports is not subject to approval from outside the monitoring entity.
16. Monitoring reports apply legal requirements, best correctional practices, and other criteria to objectively and accurately review and assess a facility's policies, procedures, programs, and practices; identify systemic problems and the reasons for them; and proffer possible solutions to those problems.
17. Subject to reasonable privacy and security requirements as determined by the monitoring entity, the monitoring entity's reports are public, accessible through

the Internet, and distributed to the media, the jurisdiction's legislative body, and its top elected official.

18. Facility administrators are required to respond publicly to monitoring reports; to develop and implement in a timely fashion action plans to rectify problems identified in those reports; and to inform the public semi-annually of their progress in implementing these action plans. The jurisdiction vests an administrative entity with the authority to redress noncompliance with these requirements.
19. The monitoring entity continues to assess and report on previously identified problems and the progress made in resolving them until the problems are resolved.
20. The jurisdiction adopts safeguards to ensure that the monitoring entity is meeting its designated purposes, including a requirement that it publish an annual report of its findings and activities that is public, accessible through the Internet, and distributed to the media, the jurisdiction's legislative body, and its top elected official.

Appendix B

People in Colorado Interviewed by Vera Staff

Lacole Archuletta, Manager of Identification, Tracking and Prevention Unit, Office of the Inspector General, Colorado Department of Corrections

Lou Archuletta, Colorado Department of Corrections

Bonnie Barr, Director of General Statistics and Research, Office of Planning and Analysis

Carl Blesch, Program Director, Office of Community Corrections, Department of Public Safety

Neta Bruch, Staff Grievance Officer, Colorado Department of Corrections

Robert Canwell, Director of Prison Operations, Colorado Department of Corrections

Tony Carochi, Deputy Director of Prisons, Colorado Department of Corrections

Terrance Carroll, Speaker of the House, Colorado State Representative, District 7, Colorado General Assembly

Pam Clifton, Outreach Coordinator, Colorado Criminal Justice Reform Coalition

Phil Deeds, Major, Internal Investigations Bureau and Civil Liabilities, Denver Sheriff's Department

Christie Donner, Executive Director and Founder, Colorado Criminal Justice Reform Coalition

Kim English, Research Director, Colorado Commission on Criminal and Juvenile Justice

Shelley Gilman, Judge, 2nd Judicial District Court, Denver District Court

Gary Golder, former Director of Prisons, Colorado Department of Corrections

Tim Hand, Director, Parole, Colorado Department of Corrections

Scott Hall, Associate Warden, Colorado Department of Corrections

Paul Herman, Coordinator, Colorado Commission on Criminal and Juvenile Justice

Mark Ivandick, Denver office Managing Attorney, The Legal Center for People with Disabilities and Older People

Mary Ellen Johnson, Pendulum Foundation

Steven King, Colorado State Representative, District 54, Colorado General Assembly

Antoinette Lewis, Staff Ombudsman, Colorado Department of Corrections

Jeffrey Lin, Assistant Professor, University of Denver

Jana Locke, Department of Corrections Budget Analyst, Office of State Budget and Planning

Gerald Marroney, State Court Administrator, Colorado Judicial Department

Angel Medina, Warden, Colorado Department of Corrections

Jeaneene Miller, Director, Division of Adult Parole, Community Corrections, and YOS; Department of Corrections

Christine Murphy, Senior Policy Analyst, Policy and Initiatives, Governor's Office

Maureen O'Keefe, Director, Office of Planning and Analysis
Lisa Pasko, Assistant Professor, University of Denver
Alan Prendergast, Staff Writer, Westword
Tom Quinn, Director, Probation Services
Kathy Sasak, Deputy Executive Director, Colorado Department of Public Safety
Joan Shoemaker, Director of Clinical Services, Colorado Department of Corrections
Mark Silverstein, Legal Director, American Civil Liberties Union of Colorado
David Smith, Chief Investigator, Office of Inspector General, Colorado Department of Corrections
Jeanne Smith, Director of the Division of Criminal Justice, Department of Public Safety
Karl Spiecker, Director of Finance and Administration, Colorado Department of Corrections
Larry Soady, Community Alliance Network
Dianne Tramutola-Lawson, Chair, Colorado-CURE
Stephanie Villafuerte, Deputy Chief of Staff to Governor Bill Ritter
Peter Weir, Executive Director, Department of Public Safety
James Welton, Inspector General, Office of Inspector General
Douglas Wilson, Colorado State Public Defender
Bonnie Young, Kings Crossing Foundation
Aristedes Zavaras, Executive Director, Colorado Department of Corrections
CDOC corrections officers
CDOC inmates

Appendix C

Oversight Experts Interviewed by Vera Staff

Ann Arneill-Py, Executive Officer, California Mental Health Planning Council

Barbara Attard, San Jose Independent Police Auditor, Retired

Jack Beck, Director of the Prison Visiting Project, Correctional Association of New York

Robert Blanks, Sergeant, Los Angeles Sheriff's Department

John Bradley, Special Counsel to the District Attorney, Multnomah County District Attorney's Office

Murdina Campbell, Executive Director, Florida Correctional Medical Authority

Chris Cihlar, Montgomery County CountyStat Manager, Offices of the County Executive, Montgomery County, Maryland

Elyse Clawson, Executive Director, Community Resources for Justice, Crime and Justice Institute

Robert Cohen, M.D., Board Member, New York City Board of Correction

Fred Cohen, Consultant in Correctional Mental Health Care; Former Court-appointed Monitor for Ohio

Terry Collins, Director, Ohio Department of Rehabilitation and Correction

Mark Cranston, Deputy Chief of Staff, New York City Department of Correction

Lyndon Danzel, Deputy, Los Angeles Sheriff's Department

Michele Deitch, Adjunct Professor of Public Policy, University of Texas, Lyndon B. Johnson School of Public Affairs

Kathleen Dennehy, Former Director, Massachusetts Department of Correction

Bill DiMascio, Executive Director, Pennsylvania Prison Society

Henry Dlugacz, Consultant in Correctional Mental Health Care; Adjunct Professor of Law, New York Law School

Jimmy Dominguez, Chair of Hillsborough County Public Safety Coordinating Council and Chief Administrative Criminal Judge of Florida's 13th Judicial Circuit

Charles Fasano, Director, Prisons and Jails Program, The John Howard Association of Illinois

Robert Fleischner, Attorney, The Center for Public Representation

Chuck French, Senior Deputy District Attorney, Multnomah County District Attorney's Office

Michael Gennaco, Chief Attorney, Los Angeles County Office of Independent Review

Joe Goldenson, M.D., Medical Director, San Francisco Public Health Department, Jail Services

Marti Harkness, Staff Director for Criminal Justice, Office of Program Policy Analysis and Government Accountability (OPPAGA)

Brad Kaeter, Hennepin County Criminal Justice Coordinating Committee

James Knoll, M.D., Director of Forensic Psychiatry, SUNY Upstate Medical University

John Larivee, Chief Executive Officer, Community Resources for Justice

Steven Leifman, Associate Administrative Judge, Criminal Division of Miami-Dade County Court

Tom Lincoln, M.D., Director, Hampden County Correctional and Community Health Program

Christy Lopez, Court-appointed Independent Monitor of Oakland Police Department, Independent Assessment and Monitoring, Inc.

Martha Lyman, Director of Research, Hampden County Sheriff's Department

Gary Maynard, Secretary, Maryland Department of Public Safety and Correctional Services

Linda McInnis, Project Manager, Office of Information Technology, Florida Department of Corrections

William McSweeney, Chief, Los Angeles County Sheriff's Department

Jeff Metzner, Forensic Psychiatrist; Consultant in Correctional Medicine

Eleena Mitchell-Sadler, Assistant Ombudsman, Corrections, Iowa Office of Citizens' Aide/Ombudsman

Michael Mushlin, Professor of Law, Pace University Law School

Shirley Pope, Director, Ohio Correctional Institution Inspection Committee

Julie Ruhlin, Attorney, Los Angeles County Office of Independent Review

Margo Schlanger, Professor of Law, University of Michigan; Director, Civil Rights Litigation Clearinghouse

Ronald Shansky, M.D., Consultant in Correctional Medicine

Alexandra Smith, Soros Fellow, Urban Justice Center

Robert Trestman, M.D., Professor, University of Connecticut; Executive Director, Correctional Managed Health Care

Arthur Wallenstein, Director, Montgomery County Department of Correction and Rehabilitation

Kurt Wilson, Executive Director, Corrections Standards Authority, California Department of Corrections and Rehabilitation

Richard Wolf, Executive Director, New York City Board of Correction